

**PETROLEUM (EXPLORATION AND PRODUCTION)
(GENERAL) (AMENDMENT) REGULATIONS, 2019**

ARRANGEMENT OF REGULATIONS

Regulation

1. Regulation 12 of L.I. 2359 amended
2. Regulation 19 of L.I. 2359 amended
3. Regulation 20 of L.I. 2359 amended
4. Regulation 25 of L.I. 2359 amended
5. Regulation 29 of L.I. 2359 amended
6. Regulation 30 of L.I. 2359 amended
7. Regulation 32 of L.I. 2359 amended
8. Regulation 40A inserted
9. Regulation 42 of L.I. 2359 amended
10. Regulation 61A inserted
11. Regulation 75 of L.I. 2359 amended
12. Regulation 78A inserted
13. Regulation 80 of L.I. 2359 amended
14. Third Schedule amended

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IN exercise of the power conferred on the Minister responsible for Petroleum by subsections (1) and (2) of section 94 of the Petroleum (Exploration and Production) Act, 2016 (Act 919), these Regulations are made this 19th day of November, 2019.

Regulation 12 of L.I. 2359 amended

1. The Petroleum (Exploration and Production) (General) Regulations, 2018 (L.I. 2359) referred to in these Regulations as the ‘principal enactment’ is amended in regulation 12 by the substitution for subregulations (2) and (3), of

“(2) Where a pre-qualification procedure has not been carried out, the invitation to tender shall, in addition to the requirements listed in subregulation (1), include all the requirements for an invitation to submit applications for pre-qualification.

(3) Where a pre-qualification procedure has been carried out, the Minister shall only invite pre-qualified bidders to submit tenders in accordance with subsection (3) of section 10 of the Act and all of the pre-qualified bidders shall be invited to tender.”.

Regulation 19 of L.I. 2359 amended

2. The principal enactment is amended in subregulation (6) of regulation 19 by the substitution for “subsection (5)” of “subsection (9)”.

Regulation 20 of L.I. 2359 amended

3. The principal enactment is amended in regulation 20 by the insertion after paragraph (p), of

- “(pa) crude oil lifting agreements;
- (pb) marketing agreements;
- (pc) projects of the Corporation including projects undertaken under the Corporate Social Responsibility Programmes of the Corporation;
- (pd) guidelines for selecting projects undertaken under the Corporate Social Responsibility Programmes of the Corporation; and
- (pe) the Corporate Social Responsibility strategy of the Corporation; and”.

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Regulation 25 of L.I. 2359 amended

4. The principal enactment is amended by the substitution for regulation 25, of

“Joint operating agreement

25. Where the Corporation or a subsidiary of the Corporation acquires a commercial interest in a petroleum agreement, the Corporation and each party constituting the contractor shall enter into a joint operating agreement.”.

Regulation 29 of L.I. 2359 amended

5. The principal enactment is amended by the substitution for regulation 29, of

“Application for extension or conduct of exploration activity within a development and production area

29. (1) The Commission may, in approving a development and production area after careful technical considerations determine that, where there is an existing prospect or accumulation outlying a commercial discovery which is considered marginal and cannot be developed on a stand-alone basis, the prospect or accumulation shall be made part of the development and production area.

(2) An application for an extension of an existing petroleum agreement in the form set out in Form Three of the First Schedule shall be submitted not later than five years before the expiry of the existing petroleum agreement unless otherwise determined by the Minister.

(3) Where a contractor wishes to carry out an exploration activity within the development and production area of an existing petroleum agreement, that contractor shall submit an application to the Minister to that effect.

(4) The Minister may, in consultation with the Commission, approve the application subject to the following conditions:

- (a) the contractor shall submit the details of the prospect to the Commission for evaluation and the Commission shall make an appropriate recommendation to the Minister; or

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(b) the cost of the exploration activities shall be ring fenced and recovered from the revenues that would accrue to the development and production of the prospect or accumulation.

(5) Cost emanating from the prospect shall not be charged to the existing commercial discovery or discoveries within the development and production area.

(6) Despite subregulation (4), in the event that there is a commercial discovery, the exploration cost shall be treated as petroleum cost.

(7) For the purpose of enhancing the interest of Government, the Minister may

- (a) increase the participating interest of the Corporation with respect to a new prospect;
- (b) impose a lump sum bonus payment to be determined based on the prospectivity; or
- (c) increase the participating interest of the Corporation with respect to a new prospect and impose a lump sum bonus payment to be determined based on the prospectivity.

(8) An application for the conduct of an exploration activity within the development and production area of an existing agreement shall not be made ten years or less to the expiry of the petroleum agreement.

(9) Where the development and production area includes a discovery that has not been declared commercial, the contractor shall

- (a) provide a specific timetable incorporating a definite work programme for bringing the discovery to development; and
- (b) comply with the timetable provided under paragraph (a).

(10) The timetable referred to in subregulation (9) shall not exceed twenty-four months.

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(11) For the purpose of this regulation, “prospect” means a geological feature or seismic anomaly which has the potential for economic accumulation of oil and gas and has been recommended for drilling.”.

Regulation 30 of L.I. 2359 amended

6. The principal enactment is amended in regulation 30

(a) by the substitution for the headnote, of “**Grant of extension or conduct of exploration activity within a development and production area**”;

(b) by the deletion of subregulation (6); and

(c) by the substitution for subregulation (7), of

“ (6) The Minister may, before the approval of the application for extension or conduct of an exploration activity within a development and production area of an existing petroleum agreement, request a contractor to

(a) submit an updated environmental impact assessment for the contract area subject to the proposal for extension or for the conduct of an exploration activity within a development and production area of an existing petroleum agreement; and

(b) provide any additional information.”.

Regulation 32 of L.I. 2359 amended

7. The principal enactment is amended in regulation 32 by the insertion after subregulation (6), of

“(6A) For the purpose of subparagraph (i) of paragraph (a) of subregulation (6), the total crude oil consumed in Ghana consists of crude oil for

(a) generating power,

(b) use as feed stock for industrial or petrochemical processes, or

(c) domestic or commercial purposes in Ghana.”.

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Regulation 40A inserted

8. The principal enactment is amended by the insertion after regulation 40, of

“Submission of work programme and budget

40A. (1) A contractor shall submit an annual work programme and budget to the Joint Management Committee for an initial approval.

(2) Where the Joint Management Committee grants an initial approval under subregulation (1), the contractor shall submit the approved annual work programme and budget to the Commission for a final approval.”.

Regulation 42 of L.I. 2359 amended

9. The principal enactment is amended in regulation 42 by the addition after subregulation (2), of

“(3) In determining the size of the contract area to be relinquished, the Commission shall, in advising the Minister pursuant to subsection (6) of section 22 of the Act, approve a corresponding work programme which provides for the drilling of at least one firm well.”.

Regulation 61A inserted

10. The principal enactment is amended by the insertion after regulation 61, of

“Decommissioning of a petroleum facility

61A. Pursuant to subsection (1) of section 43 of the Act, a licensee or contractor who operates a petroleum facility is responsible for decommissioning that petroleum facility.”.

Regulation 75 of L.I. 2359 amended

11. The principal enactment is amended in regulation 75 by the addition after subregulation (4), of

“(5) The calculation and filing of an additional oil entitlement calculation shall commence from the effective date of a petroleum agreement.”.

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Regulation 78A inserted

12. The principal enactment is amended by the insertion after regulation 78, of

“General requirement on the issue of performance bond or guarantee

78A. (1) Pursuant to section 58 of the Act, a bank, surety corporation, company or Government shall issue a performance bond or guarantee required for the fulfilment of the obligations of a licensee, contractor or sub-contractor.

(2) A bank, surety corporation, company or Government shall not issue a performance bond or guarantee unless that bank, surety corporation, company or Government has

- (a) a credit rating for long term debt of at least investment grade by Standard and Poor’s or Moody’s Investors Service; or
- (b) an equivalent rating by a comparable international credit rating agency in the event that Standard and Poor’s and Moody’s Investors Service no longer issue credit ratings; and
- (c) a net worth sufficient to meet the obligations of the licensee, contractor or sub-contractor in all reasonably foreseeable circumstances.

(3) The debt rating for a company or Government in respect of the issuance of a performance bond or guarantee may be determined by having regard to the ultimate parent company or sovereign rating.

(4) The Minister shall determine the specific investment grade rating referred to in paragraph (a) of subregulation (2).

(5) For the purposes of this regulation, a “performance bond or guarantee” means

- (a) an irrevocable standby letter of credit or irrevocable bank guarantee issued by a bank;

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- (b) an on-demand bond issued by a surety corporation; or
- (c) an irrevocable guarantee issued by a company or Government.”.

Regulation 80 of L.I. 2359 amended

13. The principal enactment is amended in regulation 80

- (a) by the substitution for the definition for “development and production area”, of

““development and production area” means that portion of the contract area under an approved plan of development and operation on the basis of available seismic and well data to cover the areal extent of an accumulation or accumulations of petroleum constituting a commercial discovery as well as extending beyond the perimeter of the accumulation with additional areas as approved by the Commission;” and

- (b) by the insertion of the following definitions where appropriate of:

““Joint Management Committee” means the committee established pursuant to a petroleum agreement between the Corporation and a contractor for the conduct of petroleum activities;

“joint operating agreement” means an agreement between the contractor parties with respect to a contract area and the respective rights and obligations of the contractor parties under a petroleum agreement;

“prospectivity” means the extent of the potential for the economic accumulation of oil and gas of a prospect; and

“surety corporation” means a corporation which is in the business of assuming responsibility and payment guarantee for the obligations of another person; ”.

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Third Schedule amended

14. The principal enactment is amended in the Third Schedule by the substitution for the formula after the table on Additional Oil Entitlement Thresholds and Tax Rates, of

$$FA_n = \frac{(FA_{n-1}(1+(0.15+i)))+NCF}{4}$$

$$SA_n = \frac{(SA_{n-1}(1+(0.20+i)))+NCF}{4}$$

In the calculation of SA_n , an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the Republic if reference were made only to FA_n .

$$TA_n = \frac{(TA_{n-1}(1+(0.25+i)))+NCF}{4}$$

In the calculation of TA_n , an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the Republic if reference were made only to FA_n and SA_n .

$$YA_n = \frac{(YA_{n-1}(1+(0.30+i)))+NCF}{4}$$

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In the calculation of YAn, an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the Republic if reference were made only to FAn, SAn, and TAn.”

MR. JOHN PETER AMEWU
Minister responsible for Petroleum

Date of *Gazette* notification: 21st November, 2019.

Entry into force: 23rd December, 2019.