

Petroleum (Exploration and Production) Act, 2016 Act 919

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THE NINE HUNDRED AND NINETEENTH

# ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED

**PETROLEUM (EXPLORATION AND PRODUCTION)  
ACT, 2016**

AN ACT to regulate petroleum activities and to provide for related matters.

DATE OF ASSENT: *19th August, 2016.*

PASSED by Parliament and assented to by the President:

*General Provisions*

## **Scope of the Act**

1. This Act applies to petroleum activities within the jurisdiction of the Republic of Ghana, including activities in, under and upon its territorial land, inland waters, territorial sea, exclusive economic zone and its continental shelf.

## **Object of the Act**

2. The object of the Act is to provide for and ensure safe, secure, sustainable and efficient petroleum activities in order to achieve optimal long-term petroleum resource exploitation and utilisation for the benefit and welfare of the people of Ghana.

**Title to petroleum**

3. Petroleum existing in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf, is the property of the Republic of Ghana and is vested in the President on behalf of and in trust for the people of Ghana.

**Management of petroleum resources**

4. The management of petroleum resources by the Republic of Ghana shall be conducted in accordance with the principles of good governance, including transparency and accountability and the object of this Act.

**Conduct of petroleum activities**

5. Subject to section 11, petroleum activities shall be conducted only in an open area under a licence or petroleum agreement and in accordance with applicable enactments.

*Area Management*

**Reference map**

6. The Minister, shall in consultation with the Commission, prepare a reference map showing areas of possible accumulation of petroleum within the jurisdiction of Ghana and those areas shall in the map be divided into numbered areas, each of which shall be described as a block.

**Opening of an area**

7. (1) The decision to open an area for petroleum activities shall be made by the Minister.

(2) The Minister shall, in collaboration with the Commission and other agencies, undertake an evaluation of the various interests in the relevant area before the area is opened for petroleum activities.

(3) The Minister shall prepare a report on the evaluation which shall include a strategic assessment of

- (a) the impact of the petroleum activities on local communities,
- (b) the impact of petroleum activities on the environment, trade, agriculture, fisheries, shipping, maritime and other industries and risk of pollution, and
- (c) the potential economic and social impact of the petroleum activities.

(4) The Minister shall publish the evaluation report in the *Gazette* and in at least two state-owned daily newspapers and may publish the report in any other medium of public communication.

(5) The report shall specify the area proposed to be opened for petroleum activities, and the nature and extent of the petroleum activities.

(6) A person who has an interest in an area which is the subject of an evaluation report shall, within sixty days after the publication of the report, present the views of that person to the Minister.

(7) The Minister, having taken due consideration of the report and the views of an interested party, shall determine whether or not to open the area.

(8) The Minister shall publish the decision in the *Gazette* and in at least two state-owned daily newspapers and may publish the report in any other medium of public communication.

(9) The Minister may reserve a block, part of a block or a number of blocks in an open area for the Corporation.

#### **Closure and redefinition of area**

8. (1) The Minister may

(a) close an area; or

(b) redefine the boundaries of an area which has been declared open under section 7 but which is not covered by an existing petroleum agreement or authorisation.

(2) The Minister shall, before closing an area or redefining the boundary of an area, publish a notice of the decision to close the area or redefine the boundary of the area in the *Gazette* and in at least two state-owned daily newspapers and may publish the report in any other medium of public communication.

(3) A person who has an interest in the affected area may make a representation to the Minister on the closure or redefinition of the boundary within sixty days after the publication.

(4) The Minister shall, after taking due consideration of any representation made under subsection (3), determine whether or not to close an area or redefine the boundaries of the area.

(5) The Minister shall after the expiration of the sixty day period, publish the closure or redefinition of the boundaries of the area in the *Gazette* and in at least two state-owned daily newspapers and may publish the closure or redefinition of the boundaries in any other medium of public communication.

(6) The closure or redefinition of the boundaries of an open area shall not affect another area covered by a petroleum agreement or authorisation existing at the time of the decision.

*Reconnaissance Licence*

**Reconnaissance licence**

9. (1) The Minister may, in consultation with the Commission, grant to a person, a petroleum reconnaissance licence in respect of a defined area.

(2) A reconnaissance licence grants to the licensed person a non-exclusive right to undertake

(a) data collection including seismic surveying and shallow drilling, and

(b) processing and interpretation or evaluation of petroleum data in the area specified in the licence.

(3) The Minister may in a special case grant to a person an exclusive right to undertake reconnaissance activities in a defined area not covered by an existing reconnaissance licence, but the grant of that right does not affect any proprietary rights of the Republic to data or preclude the rights of the Commission or the Corporation to undertake reconnaissance or other petroleum activities within that area.

(4) The Republic may enter into a petroleum agreement with a person who has the requisite technical competence and financial capacity to fulfil the obligations of the reconnaissance activities and other requirements as prescribed.

(5) A reconnaissance licence shall be for a period of not more than three years but the Minister may, where necessary, extend the licence for a period not exceeding two years.

(6) A person shall not commence a reconnaissance activity in relation to petroleum unless that person has complied with

(a) the relevant statutory requirements on environmental protection prescribed in the Environmental Protection Agency Act, 1994 (Act 490); and

(b) any other applicable enactments.

(7) Subject to subsection (8), a reconnaissance licence shall not grant to a person a right to acquire data in an area covered by a petroleum agreement or an authorisation.

(8) The Minister may, in consultation with the contractor, grant to a person other than the contractor a reconnaissance licence for the acqui-



sition of data in an area covered by a petroleum agreement on condition that the reconnaissance activities of that person do not unreasonably interfere with the activities of the contractor.

(9) The Minister shall not be held liable by a third party for fees or for other losses that arise as a result of the reconnaissance licence granted to that third party under subsection (8).

(10) A petroleum agreement may be entered into with a third party in respect of an open area covered by a reconnaissance licence.

(11) Unless the Minister otherwise determines, the right granted under a reconnaissance licence to acquire new data in the open area referred to in subsection (10) shall terminate from the effective date of a petroleum agreement and an obligation to refund fees or liability for other losses shall not arise as a result of the termination.

*Petroleum Agreement*

**Petroleum agreement**

10. (1) A body corporate shall not, unless otherwise provided in this Act, engage in the exploration, development and production of petroleum except in accordance with the terms of a petroleum agreement entered into between that body corporate, the Republic of Ghana and the Corporation.

(2) A contractor shall, subject to the provisions of this Act, carry out petroleum activities in the contract area as provided in the petroleum agreement.

(3) A petroleum agreement shall only be entered into after an open, transparent and competitive public tender process.

(4) Despite subsection (3), the Minister may on stated reasons decide not to enter into a petroleum agreement after the tender process as prescribed.

(5) Where all or part of the area offered for tender in a public tender process has not become the subject of a petroleum agreement, but the Minister determines that it is in the public interest for that area to be subjected to a petroleum agreement, the Minister may initiate direct negotiations with a qualified body corporate for a petroleum agreement.

(6) The Minister shall publish an invitation to tender or an invitation for direct negotiations in the *Gazette* and in at least two state-owned daily newspapers and may publish the invitation in any other medium of public communication.

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(7) A body corporate who wishes to submit a bid or participate in negotiations shall submit an expression of interest to the Minister, as prescribed.

(8) Where the Minister receives more than one expression of interest, a tender process in accordance with subsection (3) shall be undertaken.

(9) Despite subsection (3), the Minister may, in consultation with the Commission, determine that a petroleum agreement may be entered into by direct negotiations without public tender, where direct negotiations represent the most efficient manner to achieve optimal exploration, development and production of petroleum resources in a defined area.

(10) The Republic may enter into a petroleum agreement with a body corporate that has the requisite technical competence and financial capacity to fulfil the obligations of the petroleum agreement and other requirements as prescribed.

(11) The Minister may require a consortium as a condition for entering into a petroleum agreement.

(12) The Minister shall represent the Republic of Ghana in the negotiation of the terms of a petroleum agreement and shall enter into a petroleum agreement on behalf of the Republic.

(13) A petroleum agreement entered into by the Minister shall not be effective if it is not ratified by Parliament in accordance with article 268 of the Constitution.

(14) A petroleum agreement shall contain a term that the Corporation shall

- (a) hold an initial participating carried interest of at least fifteen per cent for exploration and development, and
- (b) have the option to acquire an additional participating interest as determined in the petroleum agreement which
  - (i) may be exercised within a specified period of time following the declaration of commercial discovery, and
  - (ii) shall be a paying interest in respect of costs incurred in the conduct of petroleum activities other than exploration costs.

(15) Any borrowing exceeding the cedi equivalent of thirty million United States Dollars for the purpose of exploration, development and production shall be approved by Parliament and shall be in consonance with the Petroleum Revenue Management Act, 2011 (Act 815).

**Petroleum activities by the Corporation**

11. (1) Subject to the authorisation of the Minister and any terms stipulated by the Minister, the Corporation may undertake petroleum activities in an area opened under section 7 but which is not covered by a petroleum agreement.

(2) An authorisation by the Minister is not effective unless it is ratified by Parliament in accordance with article 268 of the Constitution.

(3) Where the Corporation undertakes petroleum activities, the operations of the Corporation shall

(a) be carried out in accordance with approvals or permits granted under this Act and applicable enactments, and

(b) be in accordance with a long-term exploration and production programme and annual programme drawn up by the Corporation and approved by the Minister, in consultation with the Commission, in respect of each area.

(4) The Corporation may employ sub-contractors to perform the functions of the Corporation but these sub-contractors are not entitled to any share of petroleum produced as a result of their operations.

(5) Where the Corporation conducts petroleum activities not in association with a contractor, a contractor may subsequently be included as a party under a petroleum agreement in accordance with section 10.

**Contract area**

12. The area subject to a petroleum agreement shall be specified in the petroleum agreement and may cover one or more blocks or parts of one or more blocks.

**Operator**

13. (1) The Minister shall approve the operator before the execution of a petroleum agreement under section 10.

(2) The Minister shall appoint an operator where the parties cannot agree on the choice of an operator.

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(3) An operator shall be a contractor, the Corporation, a body corporate owned by the Corporation or a body corporate owned by the contractor and the Corporation.

(4) The Minister may approve a change of an operator upon the request of a contractor or the Corporation.

(5) The Minister shall, in consultation with the Commission and the Corporation, change an operator in circumstances where that operator ceases to meet material requirements of this Act, other applicable enactments and a petroleum agreement.

**Duration**

14. (1) A petroleum agreement shall, subject to subsection (2), be for a period of not more than twenty-five years.

(2) Where production from a field is projected to extend beyond the original term of the petroleum agreement, the Minister may

- (a) approve an extension of the petroleum agreement on the terms agreed by the parties; or
- (b) execute a new petroleum agreement by direct negotiations in accordance with section 10, to ensure optimal production from the field.

(3) The extension of a petroleum agreement or the execution of a new petroleum agreement is subject to ratification by Parliament.

**Change of ownership**

15. A contractor or sub-contractor shall not transfer a share of that contractor's or sub-contractor's incorporated company in the Republic to a third party or affiliate without the written approval of

- (a) the Minister, in the case of a contractor, or
- (b) the Commission, in the case of a sub-contractor,

if the effect of the transfer would be to

- (c) give the third party or affiliate control of the company, or
- (d) enable the third party or affiliate to take over the interest of a shareholder who owns five per cent or more of the shares of the company.

**Assignment**

16. A contractor or a licensee shall not without the written approval of the Minister, directly or indirectly assign the interest of the contractor under a petroleum agreement, whether in whole or in part, to a third party or an affiliate.

**Sub-contracting**

17. (1) A contractor or sub-contractor shall not enter into a petroleum sub-contract without the written approval of the Commission.

(2) The Commission shall approve the threshold for the value of petroleum sub-contracts as prescribed.

(3) A sub-contractor shall register with the Commission as prescribed.

(4) A contractor shall not award a petroleum sub-contract to a company that is not registered with the Commission.

(5) A contractor shall not enter into an agreement with an affiliate for the lease of a petroleum facility to be used for petroleum activities without the written approval of the Commission.

(6) A person shall not without the written approval of the Commission directly or indirectly assign, whether in whole or in part, a right or obligation under a sub-contract to a third person or an affiliate.

**Pre-emption**

18. (1) Where a contractor enters into an agreement to dispose of all or part of the interest of that contractor directly or indirectly under a petroleum agreement, the Corporation shall have a pre-emption right to acquire the interest on the same terms as agreed with the potential buyer.

(2) Where the consideration agreed is not in monetary terms, the Corporation may pay the corresponding monetary value of that consideration.

(3) Where a contractor has entered into an agreement to dispose of all or part of the interest of that contractor under a petroleum agreement, the contractor shall notify the Minister, the Commission and the Corporation immediately of the consideration and other terms agreed.

(4) The Corporation shall notify the contractor of the election of the Corporation to exercise the pre-emption right within ninety days of the receipt of the notification.

**Transfer of assets to the Corporation**

19. (1) Ownership of physical assets purchased, installed or constructed by a contractor for petroleum activities shall be transferred to the Corporation at the option of the Corporation either when the full cost has been recovered in accordance with the terms of the petroleum agreement or when the petroleum agreement terminates.

(2) The contractor is entitled to further use of the assets for purposes of operations under the petroleum agreement and remains liable for maintenance, insurance and other costs associated with the use of the assets.

(3) The contractor is in any of the events specified under subsection (1) responsible for the decommissioning of the assets.

(4) A physical asset that is used by a contractor in a petroleum activity as a capital or financial lease shall be treated as a purchased asset.

(5) Where at least fifty percent of the cost of a physical asset has been recovered in accordance with the terms of an existing petroleum agreement, the Corporation may have the title to the asset transferred to the Corporation by the contractor on the payment by the Corporation of the unrecovered portion of the cost of the asset.

(6) A contractor is not required under this section to transfer to the Corporation, equipment or any other assets rented or leased by the contractor for use in petroleum activities and which are of the type customarily leased for use in accordance with petroleum industry practice.

(7) A lien, charge or an encumbrance on an asset shall lapse upon the transfer of that asset under this section, however, the rights of use established with the prior approval of the Minister shall remain in force.

#### **Review of terms and conditions**

20. (1) The terms of a petroleum agreement may be reviewed by the parties to the agreement where there is a material change in the circumstances that prevailed at

- (a) the time the agreement was executed, or
- (b) the last review of the agreement.

(2) A petroleum agreement that is reviewed under subsection (1) is subject to ratification by Parliament in accordance with article 268 of the Constitution, if the review results in material change.

#### *Exploration*

#### **Exploration period and extension**

21. (1) A petroleum agreement shall contain as a term of the agreement, a provision that specifies that the exploration period is, subject to subsection (5), not more than seven years from the effective date of the agreement.

(2) The exploration period shall consist of working periods, comprising an initial exploration period and up to three extension periods as provided for in the petroleum agreement, within the total exploration period.

(3) On the fulfilment of the work and expenditure obligations stipulated in a petroleum agreement for a relevant working period under subsection (2), the contractor may enter into the subsequent working period and shall exercise that option by written notification to the Commission before the expiration of the relevant working period.

(4) The Commission may extend each working period on application by the contractor and the extension shall be granted on the condition that the contractor has carried out substantial parts of the work programme stipulated in the petroleum agreement in a prudent manner and to the satisfaction of the Commission.

(5) The Minister in consultation with the Commission may extend the exploration period beyond seven years from the effective date of the petroleum agreement,

(a) where a discovery of petroleum is made in the last year of the exploration period, and an extension is necessary to enable a determination to be made of whether the discovery is a commercial discovery; or

(b) in exceptional situations as prescribed.

(6) An extension in subsection 5 (a) shall

(a) only apply to the reduced area encompassing the geological structure in which the discovery is located; and

(b) be limited to the time period necessary for the determination of whether the discovery is a commercial discovery.

(7) Where a contractor before the expiration of the exploration period has not submitted to the Minister, a declaration that the petroleum discovered in a contract area is a commercial discovery, the petroleum agreement shall terminate.

#### **Relinquishment of contract area**

22. (1) A contractor may submit to the Commission a proposal to relinquish a contract area or part of a contract area.

(2) The Commission may approve the proposal in accordance with prescribed conditions.

(3) Where the contractor elects to enter into the first extension period, the contract area as of the effective date of the petroleum agreement shall be reduced by at least fifty percent.

(4) Where the contractor elects to enter into the second or third extension period, the retained contract area shall not exceed twenty-five per cent of the contract area as of the effective date of the petroleum agreement.

(5) Relinquishment under subsections (3) and (4) shall occur at the end of each relevant working period despite any extension granted under section 21 (4).

(6) The Minister may, in exceptional cases and in consultation with the Commission, determine that the area to be relinquished should be smaller than the requirements set out in subsections (3) and (4).

(7) The determination under subsection (6) shall take into account the size, location or nature of the contract area.

(8) The area relinquished shall, unless otherwise determined by the Minister in consultation with the Commission, be contiguous and compact and of a size and shape that will permit the effective conduct of petroleum activities in the relinquished area.

(9) The area to be retained at the end of the exploration period to the extent possible shall include geological structures containing discoveries in the contract area and shall be of the size and shape approved by the Minister in consultation with the Commission.

#### **Minimum work obligation**

23. (1) A petroleum agreement shall include a term on the minimum work obligations, with a corresponding minimum expenditure amount, to be fulfilled by a contractor during each working period of the exploration phase.

(2) Where a contractor fails to fulfil the minimum work obligations within the time period stipulated in a petroleum agreement, and the Commission has not extended the duration of that working period as provided under section 21 (4), the contractor shall pay the Corporation the amount required to complete the unfulfilled portion of the work program for that working period.

(3) The Minister may in the circumstance specified under subsection (2) terminate the petroleum agreement.



**Exploration drilling**

24. (1) A contractor shall submit an application to the Commission for a permit to undertake exploration drilling.

(2) The contractor shall commence drilling operations after the contractor has received a drilling permit from the Commission.

(3) The contractor shall commence the exploration drilling after complying with the relevant statutory environmental requirements as prescribed in the Environmental Protection Agency Act, 1994 (Act 490) and other applicable enactments.

(4) Each well or field shall be identified by a unique designation assigned by the Commission.

(5) The contractor shall not change the designation, status or classification of a well or field without the written approval of the Commission.

(6) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Notification of petroleum discovery and appraisal**

25. (1) A contractor shall furnish information requested by the Minister or the Commission and submit periodic reports on any exploration carried out under a petroleum agreement as prescribed.

(2) Where exploration activities result in a petroleum discovery, the contractor shall

(a) within forty-eight hours after the discovery submit written notification of the discovery to the Minister before notification to a third party; and

(b) provide the full particulars of the discovery in writing to the Minister and the Commission as soon as practicable and in any event within one hundred days after the discovery, stating whether the discovery merits appraisal or not.

(3) The date of the written notification to the Minister shall be the discovery date.

(4) Where the contractor has stated in the particulars required by subsection (2) (b) that the discovery does not merit appraisal, the contractor shall with effect from the date of notification relinquish the contract area encompassing the geological structure in which the discovery is located.

(5) A contract area relinquished under subsection (4) shall not reduce the contract area to be retained in accordance with section 22.

(6) The delineation of the contract area to be relinquished is subject to the approval of the Commission.

(7) Where a contractor has indicated in the notification submitted to the Minister and the Commission under subsection (2)(b) that the discovery merits appraisal, the contractor shall prepare and submit to the Commission, with a copy to the Minister, a programme and schedule to carry out an adequate and effective appraisal of the discovery.

(8) The programme and schedule shall contain information that will enable the contractor to delineate the extent of the accumulation of petroleum and to determine whether the discovery constitutes a commercial discovery.

(9) The appraisal period shall be specified in the petroleum agreement and shall not exceed two years from the date of discovery.

(10) The Commission may in special cases recommend to the Minister to grant an extension of the appraisal period beyond two years and may stipulate conditions for the extension as prescribed.

(11) An appraisal programme is subject to the approval of the Commission and the Commission may stipulate conditions for approval as prescribed.

(12) Unless otherwise permitted by the Commission, a contractor shall not commence an appraisal programme or enter into binding obligations relating to an appraisal programme until the appraisal programme has been approved by the Commission.

(13) The contractor shall prepare and submit to the Commission not later than ninety days after completion of the appraisal programme the results of the appraisal programme stating whether the discovery is commercial or not, and the basis for the decision.

(14) Where a contractor declares a discovery not to be commercial, the contract area encompassing the geological structure in which the discovery is located shall be relinquished by the contractor by notification in writing to the Commission within five days from the date of the declaration that the discovery is not commercial.

(15) The contract area to be retained in accordance with section 22 shall not reduce on account of the relinquishment.

(16) The Commission shall approve the delineation of the contract area and relinquishment takes effect from the date of notification by the contractor as approved by the Commission.

(17) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1) and the Minister may determine the appraisal period, which may exceed the limitation set out in subsections (9) and (10).

*Development and Production*

**Prudent exploitation**

26. (1) A contractor shall develop and produce petroleum in a manner that will ensure the maximum long term recovery of the petroleum.

(2) The contractor shall ensure that development and production of petroleum is conducted in accordance with best international practice and sound economic principles, and in a manner that will ensure that waste of petroleum or loss of reservoir energy is avoided.

(3) The contractor shall conduct continuous evaluation of the depletion strategy and technical solutions to problems arising from the exploitation and shall take the necessary measures to optimise the petroleum resources.

(4) This section applies to the Corporation where it undertakes petroleum activities in accordance with section 11 (1).

**Plan of development and operation**

27. (1) A contractor shall, where a discovery is declared to be commercial, submit to the Minister for approval a plan of development and operation in respect of any petroleum field to be developed.

(2) The Minister shall set a deadline for the submission of the plan.

(3) The plan of development and operation shall contain a description of the development programme and production programme together with an environmental report approved by the appropriate institutions in accordance with applicable enactments.

(4) The description of the development and production programme shall provide detailed information on the economic, reserves,

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technical, operational, safety, commercial, local content and environmental components of the proposed development, including

- (a) a description of development strategy and concept;
- (b) an economic assessment of the different development methods, estimated investments, operational costs and selection criteria;
- (c) a plan covering the total development, where the development is proposed in two or more phases;
- (d) an assessment of the potential for development of further petroleum resources within the contract area to ensure the maximum long term recovery of the resources;
- (e) tie-ins with other petroleum fields where applicable;
- (f) area studies for the possibility of co-ordination of petroleum activities including the development of nearby petroleum fields;
- (g) proposed drilling and well completion plans;
- (h) geological parameters and reservoir engineering methodology;
- (i) facilities for production, storage, transportation and delivery of petroleum;
- (j) a development schedule;
- (k) a long-term production schedule;
- (l) a description of technical solutions including possible solutions for enhanced recovery;
- (m) a description of capacities of facilities;
- (n) solutions for the efficient use of energy, and the prevention and minimisation of environmentally harmful discharges and emissions;
- (o) the disposal and use of associated gas where applicable;
- (p) management systems, including information on the planning, organisation and implementation of the development;
- (q) operation and maintenance;
- (r) a description of fiscal metering systems;
- (s) petroleum marketing plan;
- (t) security plan;
- (u) a financing plan for the development;

- (v) a health and safety assessment report;
- (w) an emergency preparedness plan;
- (x) facilities for transportation, utilisation or treatment of petroleum;
- (y) decommissioning and disposal of facilities;
- (z) any applications for permits and licences required under applicable enactments in connection with petroleum activities related to the plan;
- (aa) a local content plan; and
- (bb) an employment and recruitment programme and a technology transfer plan.

(5) The Minister may require the contractor to ensure that a marginal field delineated before and after approval of the plan of development and operation, is optimally developed and produced.

(6) The plan of development and operation shall include details for the construction of facilities to avoid gas venting or flaring under normal operating conditions.

(7) In consultation with the Commission, the Minister may in the national interest limit the approval to the development and production of individual reservoirs or phases and the development and production may be subject to conditions determined by the Minister, including requirements relating to additional capacities for additional resources or third party access.

(8) The Minister may revise the long term production schedule if the revision is warranted by resource management considerations or significant socio-economic considerations.

- (9) Unless otherwise permitted by the Minister, a contractor shall not
- (a) enter into contracts relating to the plan of development and operation, or
  - (b) commence construction works

until the plan of development and operation has been approved by the Minister.

(10) A plan of development and operation becomes effective upon the prior written approval of the Minister.

(11) The contractor shall promptly notify the Minister in writing of any deviation from the assumptions and preconditions on which a plan has been submitted or approved.

(12) Any deviation or alteration to the plan of development and operation or material alteration to the facility requires the written approval of the Minister.

(13) The Minister may require a new or amended plan of development and operation to be submitted before the approval of any deviation or alteration.

(14) Where a contractor does not submit a plan of development and operation within the time limit set by the Minister in accordance with subsection (1), and the Minister has not extended the time limit, the area encompassing the field to be developed shall be relinquished by the contractor.

(15) This section applies to the Corporation where it undertakes petroleum activities in accordance with section 11 (1).

**Restrictions on approval of plan of development and operation**

28. (1) The Minister shall not approve a plan of development and operation unless

- (a) the plan would ensure efficient, beneficial and timely exploitation of the petroleum resources concerned;
- (b) the plan takes into account good petroleum industry practice and safety factors;
- (c) the contractor has adequate financial resources and technical and industrial competence and experience to undertake effective development and production operations;
- (d) the descriptions and proposals of the contractor under section 27 (4) are satisfactory to the Minister;
- (e) the contractor is able and willing to comply with the conditions on which a plan of development and operation is approved;
- (f) the local content plan, the proposed employment, recruitment and training of Ghanaian citizens and the technology transfer plan have been approved by the Commission; and
- (g) the contractor has adequate insurance cover; and
- (h) the Minister has received recommendation from the Commission and relevant agencies.

(2) A plan of development and operation shall not be approved if a contractor is in default under a petroleum agreement.

(3) Where a plan of development and operation is not approved, the Minister shall by written notice to the contractor state the reasons for non-approval.

(4) Where a plan of development and operation is not approved by the Minister, the area covered by the plan of development and operation shall be relinquished by the contractor.

(5) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Postponement of development**

29. (1) Where public interest or national interest requires, the Minister may, after consultation with the contractor, postpone the development of a field.

(2) In the event of a postponement under subsection (1), the term of the petroleum agreement shall be extended for the period of postponement, and the obligation to pay acreage fees during that period shall be suspended.

(3) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Commencement of petroleum production**

30. (1) Production of petroleum shall not commence without the written approval of the Commission.

(2) The Commission shall, before granting approval for the commencement of petroleum production, consider whether the contractor has developed the field in accordance with the plan of development and operation and with any conditions specified in the approved plan of development and operation.

(3) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Production programme and permits**

31. (1) A contractor shall not produce or inject petroleum if the contractor does not have an annual permit granted for that purpose by the Commission.

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(2) The annual permit shall be obtained by application in writing to the Commission.

(3) The form and content of the application for an annual production permit to produce and inject petroleum shall be as prescribed and shall include a long-term production forecast updated from the plan of development and operation.

(4) The Commission shall, upon receipt of the application from the contractor, issue an annual production permit stipulating the quantity of petroleum which may be produced or injected.

(5) The stipulation of the quantity specified in subsection (4) shall be based on the long-term production schedule in the plan of development and operation, unless new information on the reservoir or other new relevant circumstances warrant otherwise.

(6) The Commission may include in the production permit the permission to flare or vent petroleum as provided in section 33.

(7) The Commission may upon receipt of the application made by a contractor approve test production of a petroleum field and the duration, quantity and other conditions for the test production shall be determined by the Commission.

(8) The Commission may require a contractor to submit a report on field related matters, including alternative schemes for production and where applicable, the injection and the total recovery factor for the various schemes.

(9) The Commission may direct a contractor to take appropriate steps to increase or reduce the rate of petroleum production to a rate that will enhance optimum recovery of petroleum from the field and that will not exceed the capacity of existing production facilities.

(10) The Commission in consultation with the Minister may direct the modification of the long term production schedule approved in accordance with this section when the national interest so requires.

(11) The Minister shall, where the decision is related to several fields and requires a reduction in production, endeavour to apportion the reduction proportionately among those fields to the extent possible.

(12) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).



**Utilisation of associated natural gas**

32. (1) Any natural gas produced in association with crude oil may be used in petroleum activities as agreed between a contractor and the Corporation, in consultation with the Commission and in accordance with applicable enactments, good petroleum industry practice and approved production plans.

(2) This section applies to the Corporation where it undertakes petroleum activities under section 11(1).

**Restrictions on flaring**

33. (1) A person shall not flare or vent petroleum, unless that person is authorised under subsection (2) or (3).

(2) The Commission shall after consultation with the Environmental Protection Agency authorise a person to flare or vent petroleum where

- (a) it is necessary in the interests of normal operational safety of the petroleum activities;
- (b) it is necessary in order to comply with a requirement imposed under an Act; or
- (c) it is warranted by exceptional circumstances.

(3) In case of an emergency, and where there is insufficient time to request an authorisation from the Commission, a contractor may flare or vent petroleum without the approval of the Commission under subsection (2), but shall ensure that the flaring or venting is done in accordance with prescribed procedure and kept at the lowest level possible.

(4) Where petroleum has been flared or vented in an emergency, the contractor shall immediately inform the Minister, Environmental Protection Agency and the Commission of the event.

(5) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Co-ordination of petroleum activities and unitisation**

34. (1) Where an accumulation of petroleum extends beyond the boundaries of one contract area into one or more other contract areas, the Minister in consultation with the Commission may, for the purpose of ensuring optimum recovery of petroleum from the accumulation of petroleum, direct the relevant contractors, to enter into an agreement to develop and produce the accumulation of petroleum as a single unit.

(2) The agreement shall be entered into within a period specified by the Minister and shall be submitted to the Minister for approval.

(3) Where two or more accumulations of petroleum are in proximity to one another but are

(a) in different contract areas, or

(b) in one contract area and an area not covered by a petroleum agreement,

the Minister may require the accumulations of petroleum to be developed and produced in a coordinated manner in order to ensure efficient petroleum activities.

(4) Where an accumulation of petroleum extends beyond the boundaries of a contract area into an area not covered by a petroleum agreement or an authorisation under section 11 (1), the Minister may authorise the Corporation to enter into a contract for the development and production of the accumulation of petroleum, and require the accumulation of petroleum to be developed as a single unit.

(5) The Minister may stipulate conditions and make appropriate directions to the Corporation and the contractor as prescribed for the unitised development and such conditions, if significantly different from the conditions of the adjoining contract area, shall be ratified by Parliament.

#### **Cross-border cooperation and unitisation**

35. The Republic may, where an accumulation of petroleum extends onto the land or the continental shelf of another country, seek to reach agreement with that other country on the most efficient co-ordination of petroleum activities in connection with accumulation of petroleum as well as the apportionment of the accumulation of petroleum.

#### **Third party use of production facilities**

36. (1) The Commission may direct that facilities which are owned by a contractor or the Corporation may be used

(a) by others if warranted by considerations for efficient operation and resource management, or

(b) for the benefit of society where the use would not unreasonably interfere with the usage requirements of the contractor or the Corporation or of any person who has already been granted the right of use.

(2) An agreement on the use of facilities shall be submitted to the Commission for approval and the Commission may, as a condition for approval, modify the tariffs and other conditions agreed between the parties, having due regard to resource management considerations and a reasonable return on investments for the owner.

(3) The Commission may, where an agreement for use is not reached within a reasonable period of time, stipulate the tariffs and other conditions for use, having due regard to resource management considerations and a reasonable return on investments for the owner.

(4) Where required for resource management considerations, the Commission may alter the conditions of a previously approved agreement for third party use to ensure the implementation or continuation of projects.

(5) In stipulating new conditions, the Commission shall have due regard to resource management considerations and a reasonable return on investments for the owner.

(6) The rights and obligations of the contractor under this section apply to the Corporation where it undertakes petroleum activities under section 11 (1).

#### **Measurement of petroleum obtained**

37. (1) A contractor shall measure and analyse the petroleum produced, transported and sold from a field by a method customarily used in good international petroleum industry practice and in applicable enactments.

(2) The Commission shall after consultation with the Standards Authority approve the measurement system which may be verified as prescribed.

(3) A contractor shall not alter the  
(a) method of measurement, or  
(b) calibration of any equipment used for measurement without the written approval of the Commission.

(4) The Commission may require an alteration to be made only in the presence of a person authorised by the Commission.

(5) The Commission may direct that the method of measurement or the calibrated equipment be tested or examined by the relevant agency occasionally, or at the intervals and by the means prescribed.

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(6) A test or examination under subsection (5) may be done in the presence of a person authorised by the Commission.

(7) Where a measuring method or calibrated equipment is found to be incorrect, that method or calibrated equipment is considered to have existed in that condition during a period that is represented by half of the period from the last occasion when the method or equipment was tested or examined to the date when the method or equipment was found to be incorrect.

(8) Royalty and any other payments due to the Government, the Commission or the Corporation under the petroleum agreement for that period shall be adjusted accordingly.

(9) A contractor who knowingly uses an inaccurate measuring method or an uncalibrated equipment commits an offence and is subject to penalties under section 93.

(10) The Commission shall install facilities to monitor production.

(11) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

*Transportation, Treatment and Storage*

**\* Licence to install and operate facilities for transportation, treatment and storage of petroleum**

38. (1) A person shall not install or operate a facility for transportation, treatment or storage of petroleum without a licence granted by the Minister unless there is an existing right to install and operate the facility derived from the approval of a plan of development and operation.

(2) A person shall not commence installation and operation of a facility if that person does not have a permit granted by the Commission.

**Application to install and operate facilities**

39. (1) Subject to subsection (4), an application for a licence to install and operate a facility for transportation, treatment or storage of petroleum shall specify a description of the facilities and be supported with a scoping report approved in accordance with applicable enactments.

(2) The description shall contain detailed information on economic, resources, technical, operational, safety related, commercial, local content and environmental components of the proposed project and a scoping report approved in accordance with applicable enactments, including

- (a) information on the destination of pipeline, route, landing point, dimension and transportation capacity of the facility, as well as the relevant assumptions and selection criteria;

- (b) information on the ownership of the facility;
- (c) a description of technical solutions, including solutions to prevent and minimize environmentally harmful discharges and emissions;
- (d) information on management systems, including information on the planning, organisation and implementation of the development;
- (e) area studies for the possibility of third party access and use of facilities;
- (f) a development schedule;
- (g) a description of the capacities of facilities;
- (h) information on operation and maintenance;
- (i) information on management systems, including information on the planning, organisation and implementation of the construction project;
- (j) estimated investments and operational costs;
- (k) a financing plan;
- (l) information on project economics;
- (m) information on any applications for approvals, permits and licences required under other applicable enactments;
- (n) information as to how the facilities may be decommissioned when the petroleum activities have ceased;
- (o) a description of emergency preparedness;
- (p) information on other factors of importance to the resource management; and
- (q) other information required under the safety regulations of the applicant in force at any time.

(3) Where the information contained in the description provides a proposal for the implementation of an activity, the Minister may require the applicant to provide alternative proposals.

(4) The Minister may, in consultation with the relevant agencies, grant an exemption from a particular requirement under subsection (1) where the circumstances require.

(5) A material deviation or alteration of the terms and preconditions on which an application has been submitted or approved and a significant alteration of facilities shall require the prior written approval of the Minister and may require a new or amended application to be submitted for that approval.

(6) An applicant shall not enter into a contract of significant value or commence construction works until the licence has been granted by the Minister.

**Conditions for granting of a licence to install and operate facilities**

**40.** (1) A licence to install and operate a facility for transportation, treatment or storage of petroleum shall include

- (a) ownership of the facility;
- (b) the landing point, routing, dimension and capacity for other pipelines;
- (c) the main technical description and location for other facilities; and;
- (d) decommissioning plan.

(2) The Minister may, when granting a licence to install and operate a facility, and at any subsequent point in time

- (a) stipulate tariffs set by the Commission for use of the facility; and
- (b) direct
  - (i) the tie-in of the facility to another facility;
  - (ii) an increase in capacity of the facility;
  - (iii) a modification of the facility to enable its use for different types of petroleum; and
  - (iv) the type of petroleum to be transported, treated or stored.

(3) Directives in subsection (2) (b) shall not have the effect of unreasonably raising the costs or impeding the use of the facility as requested in the application or as granted by the Minister in an existing licence.

(4) The cost of implementation of the directives mentioned may be borne by the party in whose favour the directive was made or shall be taken into account when the tariff is stipulated.

(5) The Minister shall appoint one of the licensees as operator and may approve a change of operator upon the request of the licensees or when there are significant reasons to do so.

(6) The Minister shall grant the licence for a fixed period of time.

(7) The licence may be extended on similar or new terms on application to the Minister.

**Landing of petroleum**

41. For the purpose of this Act, the Minister may in consultation with the Commission and contractor, determine the manner and place in which petroleum is delivered by the contractor and the Corporation.

**Third party use of transportation, treatment and storage facilities**

42. (1) An owner and operator of a facility for the transportation, treatment or storage of petroleum shall grant third party access to the facility on fair, transparent and non-discriminatory terms.

(2) The access shall not be to the detriment of the needs of the owner, operator or other users who have already been granted a right of use.

(3) If the throughput capacity of the facility is insufficient to handle and transport the total production entitlements of all users, the owners of the facility shall have a preferential right to the available capacity in proportion to the ownership share.

(4) The remaining available capacity shall be shared between the users in proportion to the total production entitlement of each user which would otherwise be available for transportation.

(5) The owner or operator of a petroleum pipeline may charge a transportation tariff for the use of the pipeline by other persons.

(6) Unless otherwise determined by the Commission,

(a) the transportation tariffs shall cover the cost incurred by the owner of the pipeline in constructing, financing, operating and maintaining the pipeline and related facilities, including a reasonable rate of return on the investment, taking into account the risks assumed by the owner; and

(b) each user including the owner of the pipeline, shall pay a transportation tariff calculated in relation to the share of the petroleum transported.

(7) A person is not entitled to the use of a transportation, treatment or storage facility unless that person has entered into an agreement with the owner or operator of the facility.

(8) The parties shall submit an agreement on the use of transportation, treatment and storage facilities to the Commission for approval.

(9) The Commission in consultation with the Minister may, as a condition for approval, change the tariffs and other conditions agreed between the parties, having due regard to resource management considerations while allowing the owner reasonable returns, taking into account, investment and risks.

(10) Where an agreement for use is not reached within a reasonable period of time, the Commission in consultation with the Minister may determine the tariffs or other conditions for the use, having regard to resource management considerations while allowing the owner reasonable returns taking into account investments and risks.

(11) Where required for resource management considerations, the Commission in consultation with the Minister may alter the conditions of an approved agreement in order to ensure implementation or extension of projects.

(12) The Commission shall, in altering the conditions of an approved agreement have due regard to resource management consideration, investments and risks.

*Cessation, Decommissioning and Removal of Facilities*

**Decommissioning plan**

43. (1) A licensee or contractor who operates a petroleum facility shall submit a decommissioning plan to the Minister and the Minister shall seek the advice of the Commission.

(2) Except where the Minister determines otherwise, the decommissioning plan shall be submitted not more than five years and not later than two years before the date on which

- (a) the use of the petroleum facility to which the decommissioning plan relates is expected to permanently cease operation, or
- (b) the licence or the petroleum agreement to which the decommissioning plan relates will expire.

(3) Where the licence or the petroleum agreement is terminated earlier than its expiration date, the decommissioning plan shall be submitted by the licensee or contractor concerned in accordance with this section as soon as is practicable and in any event not later than ninety days after the termination.



(4) The licensee or contractor shall immediately give notice to the Minister if the use of the petroleum facility is expected to cease before the expiry of the licence or the petroleum agreement.

(5) The decommissioning plan shall contain a detailed proposal for  
(a) a shutdown of operations and disposal of petroleum facilities;  
or  
(b) further use in petroleum activities of the facilities in place.

(6) A disposal under subsection 5 (a) may include  
(a) removal of petroleum facilities for use elsewhere;  
(b) uses other than for petroleum activities; or  
(c) complete or partial removal or abandonment of the facilities.

(7) The plan shall contain information and evaluations necessary for the Minister to make a decision relating to disposal as provided in subsections (5) and (6) and an assessment of the environmental and social impact of the disposal.

(8) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Decision on the decommissioning plan**

44. (1) The Minister may approve the decommissioning plan and shall set out a schedule for implementation of the plan.

(2) Where the Minister disapproves of the decommissioning plan, the Minister shall notify the licensee or contractor in writing stating the reasons for the disapproval and request that

(a) certain conditions be satisfied by the contractor or licensee;  
or  
(b) a new or amended decommissioning plan be resubmitted to the Minister.

(3) In making the decision on the approval or disapproval of the decommissioning plan, the Minister shall consider the various interests involved, including the impact of the decision on local communities, agriculture, fisheries and other affected interests and the environmental, safety, technical and economic consequences of the disposal alternatives.

(4) A licensee or contractor who operates a petroleum facility that is the subject of an approved decommissioning plan shall ensure that the decommissioning plan is implemented in accordance with its terms and conditions as specified.

(5) A licensee or contractor who has implemented a decommissioning plan shall submit a report on the work carried out to the Minister.

(6) The obligations imposed under subsections (4) and (5) are binding on the licensee or contractor after the expiration of the applicable licence or the petroleum agreement.

(7) An assignor with a participating interest in a petroleum agreement or a holder of a licence assigned in whole or in part, shall have secondary liability for the financial obligations for the cost of implementing the decommissioning plan.

(8) The financial obligation is limited to costs related to petroleum facilities, including wells, which existed at the time of the assignment, and is limited to a share of the costs calculated on the basis of the size of the participating interest assigned.

(9) If a decommissioning plan is not implemented within the stipulated time limit and in accordance with the terms and conditions of the approval, the Minister, in consultation with the Commission may, take necessary measures for implementing the decommissioning plan for and on behalf of the licensee or contractor responsible for the disposal and on the account and risk of the licensee or contractor including the engagement of sub-contractors for carrying out of the plan.

#### **Decommissioning fund**

45. A licensee or contractor shall establish a decommissioning fund as prescribed.

#### **Plugging and abandonment of well**

46. (1) A contractor shall submit to the Commission an immediate notice of the decision of the contractor to abandon a well.

(2) A contractor who submits a notice under subsection (1) shall treat and plug the abandoned well.

(3) The closure or plugging of a well shall be carried out only with the prior written approval of the Commission and in the manner consistent with international best practice and approved by the Commission.

(4) A contractor shall conduct a survey of wells plugged and abandoned as prescribed.

(5) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Restoration of affected areas**

47. (1) A contractor or a licensee who operates a petroleum facility that affects an area shall after the termination of the petroleum activities restore the affected area and remove the causes of damage or danger to the environment in accordance with the applicable enactments.

(2) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Liability for decommissioning**

48. (1) A contractor or a licensee who is under an obligation to implement an approved decommissioning plan under section 44 is subject to strict liability towards the Republic for any loss or damage caused, in connection with the decommissioning of the facility or other implementation of the decommissioning plan.

(2) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Compliance**

49. (1) A licensee, contractor, sub-contractor, the Corporation and other persons engaged in petroleum activities under this Act shall comply with the Act, the Regulations, directives and requirements issued under this Act through the establishment, implementation and continuous development of an appropriate management system.

(2) A licensee, contractor, sub-contractor, the Corporation and any other person engaged in petroleum activities under this Act shall ensure compliance with the Regulations, directives and requirements issued pursuant to this Act and any other applicable enactment.

(3) A licensee, contractor, sub-contractor, the Corporation and any other person engaged in petroleum activities under this Act shall ensure that persons performing work directly or indirectly for them comply with the Regulations, directives and requirements issued under this Act.

*General Requirements for Petroleum Activities*

**Petroleum operating standards**

50. (1) A person conducting petroleum activities under this Act shall conduct petroleum activities in a prudent manner and in accordance with applicable enactments, standards, best international practice and sound economic principles.

(2) Prudent petroleum activities as prescribed in subsection (1) include reasonable steps to

- (a) optimise the ultimate recovery of petroleum from a petroleum field;
- (b) prevent waste of petroleum;
- (c) secure the health, safety and welfare of persons and communities; and
- (d) protect the environment and ensure its sustainability.

(3) Petroleum activities shall be conducted in accordance with directives given, restrictions imposed or requirements made by the Minister, the Commission and other relevant agencies.

#### **Supervision and inspection**

51. (1) The Commission may, in the performance of its functions, authorise a person to supervise or inspect petroleum activities to ensure that the activities are carried out in accordance with this Act.

(2) The Commission or the person authorised by the Commission under subsection (1) may

- (a) enter any area, structure, platform, vehicle, installation, vessel, aircraft, facility, office or building used for petroleum activities;
- (b) inspect, test or audit the works, equipment, operations, records, registers and financial accounts of a licensee, contractor, sub-contractor or the Corporation that is related to or used in petroleum activities;
- (c) in collaboration with relevant authorities, take or remove samples of petroleum, water or other substance for the purposes of analysis or testing;
- (d) inspect, take extracts from, or make copies of any document relating to the petroleum activities;
- (e) direct a vessel or a mobile facility to be brought to a port in Ghana when considered necessary for the purpose of supervision or inspection under this Act; or
- (f) conduct examinations, inquiries and relevant activities that are necessary to ensure that the provisions of this Act, the Regulations, the petroleum agreement and any licence are being complied with.

(3) A person subject to supervision or inspection under this Act shall, when so demanded by the Commission or a person authorised by the Commission and in spite of any requirement for confidentiality, provide information that is considered necessary for the performance of the supervision or inspection.

(4) A licensee, contractor, sub-contractor or the Corporation shall provide the Commission or the person authorised by the Commission under subsection (1) with reasonable facilities and assistance to enable the effective and timely performance of the supervisory or inspection functions under this section.

(5) The Commission may issue directives as are necessary for the implementation of this section.

(6) The Commission may require the licensee, contractor, sub-contractor or the Corporation being supervised or inspected under this section to bear the expenses related to the supervision or inspection.

#### **Ownership of petroleum data**

52. (1) Data and information obtained by a licensee, contractor, sub-contractor or the Corporation as a result of petroleum activities and the geological, geophysical, technical, financial and economic reports, studies, interpretations and analyses prepared by or on behalf of a licensee, a contractor, sub-contractor or the Corporation in connection with petroleum activities shall be the property of the Republic.

(2) Subject to section 53 (5), a licensee, contractor or sub-contractor may, for the duration of a licence or petroleum agreement, use the data and information under subsection (1).

(3) The licensee, contractor, sub-contractor or Corporation shall provide to the Commission data and information as well as the reports, studies, interpretations and analyses under subsection (1).

(4) The Commission may permit a licensee, contractor, sub-contractor or the Corporation to market the right of use to geological, geophysical and technical data, reports, studies and interpretations on terms to be agreed.

(5) The Commission may provide any data or information to the Corporation for its use.

**Samples, data and information**

53. (1) A licensee, contractor, sub-contractor and the Corporation shall maintain complete and accurate records in Ghana of the petroleum activities carried out by the licensee, contractor, sub-contractor or the Corporation shall also complete and keep accurate books of account, records and registers relating to these activities.

(2) A licensee, contractor, sub-contractor or the Corporation shall not export or permit the retention or exportation of data, documents or geological and reservoir samples including cuttings, cores, liquid and gas samples without the written approval of the Commission.

(3) At the expiry of a licence or petroleum agreement, the data and information under section 52 (1) shall be returned to the Commission.

(4) Where the data, documents or samples are exported, the contractor, sub-contractor or licensee shall return the data, documents or samples to this country forthwith at the written request of the Commission.

(5) A licensee, contractor, sub-contractor or the Corporation shall, where any interpretation or analysis is done outside the country, forward to the Commission not later than thirty days after the interpretation or analysis, copies of the reports on the interpretation or analysis.

(6) A licensee, contractor, sub-contractor or the Corporation shall keep confidential the data acquired and any existing data released by the Commission to the licensee, contractor, sub-contractor or the Corporation and shall not disclose the data to a third party without permission from the Commission except as may otherwise be provided in accordance with the terms of a petroleum agreement or petroleum sub-contract.

**Reporting**

54. (1) A contractor and a licensee shall, at the intervals determined by the Commission, submit to the Commission information as prescribed.

(2) This section applies to the Corporation where the Corporation undertakes petroleum activities under section 11 (1).

**Information concerning petroleum activities**

55. (1) The Minister or the Commission may request a person conducting petroleum activities to provide information relevant to the activities.

(2) The information shall be submitted to the Minister, the Commission or other relevant agency as designated by the Minister or the Commission, within the specified period.

(3) Information received under this section may be used only for the purposes prescribed.

**Petroleum register**

\* 56. (1) The Commission shall establish and maintain a register of petroleum agreements, licences, permits and authorisations as prescribed.

(2) The register shall be open to the public.

**Mortgaging of participating interest**

57. (1) A contractor or licensee shall not mortgage a participating interest under

(a) a petroleum agreement; or

(b) a licence under section 38 without the written approval of the Minister.

(2) A contractor or licensee shall not mortgage the participating interest under subsection (1) for the benefit of petroleum activities outside this country.

(3) The Minister may, in special circumstances, permit mortgaging of the participating interest for the benefit of petroleum activities in this country which is not related to the petroleum agreement or licence.

(4) The participating interest under subsection (1) comprises those rights which at any time arise from the petroleum agreement or licence as well as other rights in connection with activities carried out in accordance with the petroleum agreement or licence.

(5) A mortgage under this section shall be registered in the petroleum register.

(6) A mortgage registered under this section shall lapse if the facility mortgaged is decommissioned.

**Security for fulfilment of obligations**

58. A licensee, contractor or sub-contractor shall provide the Minister with the performance bonds or guarantees as the Minister may require for the fulfilment of the obligations undertaken by the licensee, contractor or sub-contractor and for possible liabilities arising out of the petroleum activities undertaken under the licence, petroleum agreement or petroleum sub-contract.

**Liabilities**

59. (1) Subject to subsection (2), licensee parties or contractor parties, who jointly hold a petroleum agreement or a licence are jointly and severally responsible to the Republic for the financial and other obligations and liabilities arising out of the petroleum activities.

(2) A contractor and a licensee are not jointly and severally responsible for payment of taxes, royalties in cash and additional oil entitlement.

(3) A licensee, contractor or sub-contractor shall keep the Republic and the Corporation indemnified against claims arising from the operations of the licensee, contractor or sub-contractor brought by a third party.

(4) Where third party liability is incurred by a person who undertakes a task for a licensee, contractor, sub-contractor or the Corporation, the licensee, contractor, sub-contractor or the Corporation is liable for damages to the same extent as, and jointly and severally with the person undertaking the task and if applicable, the employer of the person.

**Employment and training of Ghanaian citizens**

60. (1) A licensee, contractor, sub-contractor or the Corporation shall ensure that Ghanaian citizens who have the requisite expertise or qualifications in various levels of activities are employed in accordance with applicable enactments, the terms and conditions of the licence, petroleum agreement or petroleum sub-contract.

(2) A person carrying out petroleum activities shall be required to employ Ghanaian citizens in categories and functions as prescribed.

(3) Subject to subsection (2), a person carrying out petroleum activities shall not engage in discriminatory practices on grounds of race, tribe, nationality or gender in the conditions of service provided for personnel.

(4) A person carrying out petroleum activities shall in consultation with the Commission prepare and implement plans and programmes to train citizens in all aspects of petroleum activities in accordance with the Regulations and the terms of the licence, petroleum agreement or petroleum sub-contract.



**Use of Ghanaian goods and services**

61. (1) A licensee, contractor, sub-contractor or any other allied entity shall

- (a) acquire materials, equipment, machinery and consumer goods which are produced or provided for in the country by an indigenous Ghanaian company and which
  - (i) are of the same or similar quality as foreign materials, equipment, machinery and consumer goods, and
  - (ii) are available for sale and delivery in due time at prices which are not more than ten per cent higher than the imported items including transportation and insurance costs and customs charges due;
- (b) contract local service providers to the extent to which the services they provide are similar to those available on the international market and their prices, when subject to the same tax charges, are no more than ten per cent higher than the prices charged by foreign contractors for similar services.

(2) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Technology transfer**

62. (1) For the purposes of technology transfer, the Commission shall encourage and facilitate the formation of joint ventures, partnership and the development of licensing agreements amongst indigenous Ghanaian companies, foreign contractors and service or supply companies interested in the petroleum industry where applicable.

(2) This section shall not be interpreted to disable the licensee, contractor, sub-contractor or the Corporation from protecting its competitive position in the petroleum industry.

**Local content plan**

63. (1) A licensee, contractor or sub-contractor shall prepare and implement a local content plan as prescribed.

(2) The local content plan shall be submitted to the Commission for approval.

(3) The local content plan includes

- (a) a plan for fulfilling the applicable Ghanaian content requirements with respect to the provision of goods and services;
- (b) a plan for the transfer to the Corporation of technological know-how and skills related to petroleum activities; and
- (c) a detailed annual recruitment and training programme.

(4) The licensee, contractor or sub-contractor shall submit an annual report on the local content plan, describing the initiatives taken in the preceding year and their results.

**Establishment of the Local Content Fund**

64. There is established by this Act a Local Content Fund.

**Object of the Fund**

65. (1) The object of the Fund is to provide financial resources for citizens and indigenous Ghanaian companies engaged in petroleum activities.

(2) For the purposes of achieving the object of the Fund, moneys from the Fund shall be applied to

- (a) education, training, research and development in petroleum activities for Ghanaian citizens, indigenous Ghanaian companies and Ghanaian institutions of learning; and
- (b) loans on a competitive basis to small and medium scale enterprises to support their participation in petroleum activities.

**Sources of money for the Fund**

66. (1) The sources of money for the Fund include

- (a) contributions from a contractor as agreed in a petroleum agreement;
- (b) contributions from a sub-contractor of the sum of one per cent of the total consideration payable by the contractor or licensee for every contract;
- (c) moneys approved by Parliament; and
- (d) grants.

(2) The moneys of the Fund shall be paid into a bank account opened by the Board of the Commission with the approval of the Controller and Accountant-General.

(3) Payments from the Fund shall be signed by

- (a) the chairperson of the Board and the Chief Executive of the Commission; or
- (b) the chairperson of the Board and one other member of the Local Content Committee.

**Management of the Fund**

67. (1) The Fund shall be administered by the Minister and the Local Content Committee set up under section 8 of the Petroleum Commission Act, 2011 (Act 821).

(2) The Minister and the Local Content Committee shall for the purpose of administering the Fund

- (a) formulate policies to generate money for the Fund;
- (b) determine the allocations to be made towards the objectives of the Fund; and
- (c) determine the annual targets of the Fund.

(3) The Minister shall approve the annual budget of the Fund.

(4) The Local Content Committee may invest a part of the moneys of the Fund that it considers appropriate in the manner approved by the Minister in consultation with the Minister responsible for Finance.

(5) The Fund is exempt from the payment of tax.

**Accounts and audit**

68. (1) The Local Content Committee shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Commission shall submit the accounts of the Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Fund is the same as the financial year of the Government.

**Annual report and other reports**

69. (1) The Commission shall, within one month after the receipt of the audit report, submit an annual report covering the operations of the Fund for the year to which the report relates to the Minister.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

**Incorporation of local company**

70. (1) Except for licensees and sub-contractors that may by applicable enactments be exempted from the requirements of this subsection, a contractor, sub-contractor or licensee shall

(a) incorporate in this country under the provisions of the Companies Act, 1963 (Act 179), a company to carry out solely petroleum activities in respect of licences, petroleum agreements or petroleum sub-contracts and that company shall be

(i) the legal entity granted a licence, or

(ii) the signatory to the petroleum agreement or the petroleum sub-contract;

(b) maintain an office in this country from which the petroleum activities shall be managed;

(c) have in charge of the office a representative with full authority to act and to enter into binding commitments on behalf of the licensee, contractor or sub-contractor; and

(d) in respect of the petroleum activities, open and maintain an account with a bank in this country.

(2) The Minister may stipulate specific requirements in respect of the structure and the capital of the company incorporated in this country.

**Domestic supply requirement**

71. (1) Subject to subsection (5), a contractor may export from the Republic, petroleum which the contractor is entitled to export under the terms of a petroleum agreement.

(2) A contractor shall sell to the Republic at the prevailing market price as prescribed, for the same period a percentage of the petroleum to which the contractor is entitled, to meet domestic supply requirements as determined by the Minister.

(3) Domestic supply requirement is the difference between the total petroleum entitlements of the Republic and the Corporation and the total volume of petroleum in barrels of oil or mmscfd of gas equivalent of petroleum products required to meet the demand in the country.

(4) The volume of petroleum to be supplied by the contractor shall be calculated on the basis of the pro rata share of the petroleum to which the contractor is entitled, but each party's obligation to supply petroleum for domestic supply requirement shall not exceed the total of the entitlement of that party under the petroleum agreement.

(5) In the event of war or other emergency affecting energy supplies, the Minister may require a contractor or the Corporation to supply all or part of the quantity of petroleum produced at the prevailing market price to the Republic or any agency of the Republic.

**Interference with lawful activities, compensation and access to land**

72. (1) Where the conduct of petroleum activities is likely to affect any lawful economic or social interest or activity of the inhabitants of an area, the Corporation or in the case of a licensee, the Commission shall negotiate the appropriate permission required from the relevant authorities and interested persons and the licensee, the contractor or the Corporation shall pay the agreed compensation to the interested persons.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Corporation under the State Lands Act, 1962 (Act 125) and the Corporation shall bear the cost.

*Health and Safety, Security and Environment*

**Safety requirements and standards**

73. (1) Petroleum activities shall be conducted in a manner that ensures that a high level of safety is achieved, maintained and further developed in accordance with technological developments, best international practice and applicable enactments relating to health, safety and labour.

(2) A plan and related documents for implementation of safety measures of petroleum activities shall be submitted to the Commission before the commencement of the relevant petroleum activities.

(3) The plans and documents shall be updated as and when required.

**Safety precautions**

74. A licensee, contractor, sub-contractor and the Corporation shall  
(a) identify the hazards and evaluate the risks associated with any work performed in the course of petroleum activities which constitute a hazard to the health and safety

- (i) of persons employed for purposes of that work, and
  - (ii) of persons otherwise present at or in the vicinity of the facility, and the steps that need to be taken to comply with the provisions of this Act and Regulations;
- (b) ensure the safety of the persons referred to in paragraph (a) and prevent their exposure to the hazards or where prevention is not reasonably practicable, minimize their exposure; and
- (c) ensure that the persons referred to in paragraph (a) are duly informed of the safety precautions.

**Emergency preparedness**

75. A person conducting petroleum activities shall at all times

- (a) maintain efficient emergency preparedness to prevent, control, handle and minimize accidents and emergencies which may lead to loss of life or personal injury, pollution or major damage to property including fire, oil spills, gas leakages, blow-outs, accidents or other emergency situations; and
- (b) ensure that necessary measures are taken to prevent or reduce harmful effects, including the measures required to return the environment to the condition it was before the accident occurred.

**Emergency preparedness against deliberate attacks**

76. A licensee, contractor, sub-contractor or the Corporation shall implement and maintain preventive security measures, including control of personnel and goods, to protect their petroleum facilities and wells from deliberate attacks and shall have contingency plans to deal with those attacks.

**Safety zones**

77. (1) Every petroleum facility and well shall be surrounded by a safety zone, unless otherwise determined by the Commission.

(2) The Commission shall, in consultation with relevant authorities, determine the delimitation of the safety zone.

(3) Unauthorised vessels, vehicles, fishing gear or other objects or crafts shall not enter a safety zone established under this section.

(4) The Commission may permit lawful activities to take place in the zone or in parts of the zone if the activities can be conducted without threatening safety or interfering with the exercise of the petroleum activities.

(5) The Commission may determine and establish the boundaries of the safety zone as prescribed before the placement of petroleum facilities.

(6) In the event of accidents and emergencies, the Commission may establish or extend a safety zone under subsection (5).

(7) The Commission may decide that a safety zone shall be established for abandoned wells, abandoned or decommissioned facilities or parts of those facilities.

(8) The Minister may, with the advice of the Commission and any other relevant agency, determine that a safety zone should extend across the international boundary with another State and may initiate the appropriate processes for implementation.

(9) The Minister and the Commission shall consult the other relevant authorities and agencies for the purpose of establishing and managing a safety zone under this section.

#### **Suspension of petroleum activities**

78. (1) Where an accident or emergency may lead to or has resulted in loss of life or personal injury, pollution or major damage to property, the licensee, contractor, sub-contractor or the Corporation shall,

(a) to the extent necessary, suspend the petroleum activities for as long as required by the petroleum operating standards under section 50; and

(b) immediately but not later than forty eight hours, inform the Minister and the Commission of the suspension.

(2) In the event of emergencies or accidents under subsection (1), the Minister may, acting on the advice of the Commission,

(a) direct that petroleum activities be suspended to the extent necessary if required in the public or national interest; or

(b) impose particular conditions to allow continuation of the activities.

**Measures to ensure safety**

79. (1) Where a licensee, contractor, sub-contractor or the Corporation fails to conduct the activities in a safe manner in accordance with applicable enactments and best international practice, the Commission may take necessary measures to ensure safety and may recover the costs and expenses of doing so from the licensee, contractor, sub-contractor or the Corporation.

(2) The Commission may take measures under subsection (1) only after giving the contractor, sub-contractor, licensee or the Corporation reasonable notice.

**Qualifications**

80. The licensee, contractor, sub-contractor and the Corporation shall ensure that a person engaged in petroleum activities possesses the requisite qualifications and competence to perform the functions in a prudent manner.

*The Environment and Liability for Pollution Damage*

**Environmental principles and protection**

81. (1) A person who undertakes petroleum activities shall take into account and give effect to the environmental principles prescribed in the Environmental Protection Agency Act, 1994 (Act 490), subsidiary legislation made under that Act and any other applicable enactments.

(2) A licensee, contractor, sub-contractor or the Corporation undertaking petroleum activities shall

- (a) take necessary measures to ensure that petroleum activities are conducted in a safe and secure manner, free from accidents, waste dumping and pollution;
- (b) establish and implement effective and safe systems for
  - (i) the disposal and treatment of waste, and
  - (ii) the prevention of pollution

resulting from petroleum activities, in accordance with applicable enactments and best petroleum industry practice; and

- (c) establish a system to track the source, transport and destination of potential hazardous waste from petroleum activities.



**Impact assessment**

82. (1) A person shall not conduct petroleum activities in an area unless the required environmental impact assessment has been conducted or any other relevant environmental statutory requirement as prescribed in the Environmental Protection Agency Act, 1994 (Act 490) and other applicable enactments have been complied with including

- (a) reconnaissance activities under section 9;
- (b) exploration drilling under section 24;
- (c) development and operation under section 27;
- (d) construction of transportation, treatment and storage facilities under section 38;
- (e) decommissioning under section 43; and
- (f) plugging and abandonment of a well under section 46.

(2) A strategic impact assessment shall be undertaken before the opening of a new area under section 7.

**Liability for pollution damage**

83. (1) A licensee, contractor or the Corporation carrying out petroleum activities under section 11(1) is strictly liable for any pollution damage caused by or resulting from the petroleum activities.

(2) Where several licensees or contractor parties are involved in the petroleum activities, the parties are jointly and severally liable for any pollution damage caused by or resulting from the petroleum activities.

(3) Where pollution damage occurs as a result of petroleum activities conducted without proper authorisation

- (a) the person who conducted the petroleum activity; and
- (b) any other person who took part in the petroleum activity and who knew or should have known that the activity was conducted without proper authorisation.

are strictly liable for the damage.

(4) The licensee, contractor, sub-contractor or the Corporation shall institute the necessary measures to remedy any pollution caused.

(5) Where the remedial measures are not taken within the time limit set by the Commission or the Minister, a third party may be engaged for the performance of the measures, and the licensee, contractor, sub-contractor or the Corporation shall be liable for any related costs.

**Compensation for pollution damage**

84. (1) Where there are several contractor parties under a petroleum agreement or several licensees under one licence, a claim for compensation for pollution damage shall initially be made against the operator.

(2) Where there are several licensees or contractor parties and one of them fails to pay the share of the compensation, the unpaid amount shall be paid by the other licensees or contractor parties in proportion to their participating interest.

(3) Where an event of force majeure results in pollution damage, the Minister shall, on the advice of the Commission, assess the damage taking into account

- (a) the scope of the activity,
- (b) the measures taken to avoid or mitigate the effects of the force majeure event,
- (c) the situation of the party that has sustained the damage as a result of the force majeure event, and
- (d) the insurance opportunities for each party.

(4) On the basis of the assessment, the Minister shall require the person liable for the pollution damage to pay compensation.

*Fiscal Provisions*

**Payment of royalties**

85. (1) The contractor shall pay to the Republic royalty in respect of gross volume of petroleum produced and saved.

(2) The royalty to be paid is as prescribed, except that where the rates of royalty payable are not prescribed, royalty shall be paid as otherwise provided in accordance with the terms of a petroleum agreement in respect of the area to which the agreement relates.

(3) Royalty at the rate specified shall be delivered to the Republic in kind unless the Minister directs in writing that the royalty shall be paid in cash to the Republic.

(4) The Minister may instruct the contractor to undertake transportation, processing and storage of royalty petroleum in kind on terms and priority which are no less favourable than the contractor's own petroleum from the relevant contract area.

(5) The Corporation in carrying out petroleum activities under section (11) (1) is subject to the payment of royalty at the rates that may be prescribed.

(6) The Minister may determine that payment of royalty in kind shall be made to the Corporation on behalf of the Republic and the proceeds from the sale of the royalty shall be paid by the Corporation to the Republic as prescribed.

**Annual fee in respect of acreage**

86. (1) A contractor shall pay the Republic annual acreage fees.

(2) The Minister shall prescribe the amount to be paid, except that where the amount is not prescribed, the annual acreage fees shall be as provided in accordance with the terms of a petroleum agreement in respect of the area to which the agreement relates.

(3) This section applies to the Corporation where it undertakes petroleum activities under section 11 (1).

**Tax**

87. A licensee, contractor, sub-contractor and the Corporation shall pay taxes, including petroleum income tax and capital gains tax in accordance with applicable enactments.

**Bonus payments**

88. A contractor shall pay bonus to the Republic as may be prescribed, except that where the type and quantum of the bonus payable is not prescribed, the bonus shall be paid as otherwise provided in accordance with the terms of a petroleum agreement in respect of the area to which the agreement relates.

**Additional oil entitlement**

89. The Republic is entitled to a portion of a contractor's share of petroleum produced from each field on the basis of the after-tax inflation-adjusted rate of return that the contractor achieved with respect to each field.

*Miscellaneous Provisions*

**Natural resources other than petroleum resources**

90. (1) A petroleum agreement shall not affect the right of a person other than the contractor to undertake exploration for and production of natural resources other than petroleum, provided the grant does not unreasonably interfere with the petroleum activities.

(2) The right to undertake exploration for and production of natural resources other than petroleum includes the right to conduct scientific research.

(3) Where natural resources other than petroleum have been discovered in a contract area and the continued activities in respect of other natural resources cannot take place without unreasonably interfering with the conduct of petroleum activities, the Minister shall in consultation with the relevant authorities and the affected persons determine the extent to which any of the activities shall be postponed.

(4) In making the determination in respect of a postponement, the Minister shall take into account

- (a) the nature of the discovery made,
- (b) investments made,
- (c) the stage of the activities, and
- (d) the duration and extent of the activities and their economic and social impact.

(5) A contractor whose petroleum activities have been postponed may apply for extension of the petroleum agreement for a period of time corresponding to the period of postponement.

(6) Where the postponement only applies to a limited part of the petroleum activities the Minister may

- (a) stipulate a shorter period for the extension;
- (b) refuse the extension; or
- (c) grant the extension only for part of the contract area.

(7) Where the postponement delays the fulfilment of a work obligation within the stipulated time limit, under a petroleum agreement, the time limit for fulfilment of the work obligation shall be extended accordingly.

(8) Where petroleum activities under a petroleum agreement are postponed, the annual acreage fee for the extended period shall be waived or reduced at the discretion of the Minister but fees paid in advance shall not be refunded.

(9) The Minister may direct that the person authorised to maintain activities shall wholly or in part refund the costs incurred and other reasonable costs to the person that has to postpone or curtail activities.

(10) Where the exploration for and production of natural resources other than petroleum, affects the activities of a licensee the provisions of this section shall apply to the extent relevant.

**Transactions between contractor and affiliates**

91. Subject to this Act, a transaction between a contractor or sub-contractor and an affiliate in relation to petroleum activities to be carried out under this Act shall be on the basis of prevailing international competitive prices and other terms and conditions that would be fair and reasonable if the transaction had taken place between the contractor or sub-contractor and a non-affiliate.

**Insurance**

92. (1) Petroleum activities conducted under a petroleum agreement or under a transportation, treatment or storage licence shall be covered by insurance at all times and in accordance with the Insurance Act, 2006 (Act 724) and other applicable enactments.

- (2) The insurance shall include cover for
- (a) damage to petroleum facilities,
  - (b) pollution damage and other liability towards third parties,
  - (c) wreckage removal and cleanup resulting from accidents, and
  - (d) employees of the contractor or of the licensee engaged in the activities.

(3) A contractor, licensee or the Corporation shall ensure that a sub-contractor insures the employees of the sub-contractor to the same extent as the contractor or licensee insures their own employees.

(4) A contractor, sub-contractor and the Corporation or a licensee shall procure reasonable insurance cover under subsection (2) (a) to (c).

(5) The Commission in consultation with the National Insurance Commission may give approval to the contractor or the licensee to arrange another form of security other than insurance cover.

(6) A contractor or licensee shall at the beginning of each year submit to the Commission copies of existing insurance policies.

(7) The Commission may require additional insurance to be procured.

**Offences and penalties**

93. (1) A person who
- (a) interferes with or obstructs the
    - (i) Corporation,
    - (ii) a contractor, or
    - (iii) sub-contractor,
- or their agents or employees in the exercise of a right under this Act; or

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(b) wilfully obstructs, hinders or assaults any other person in the exercise of a right, power or in the performance of a function under this Act,

commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than ten thousand penalty units and, where the offence continues, to a fine of not more than one thousand penalty units for each day during which the offence continues or to a term of imprisonment of not less than one year and not more than three years or to both.

(2) Except as otherwise provided under this section, a person who undertakes petroleum activities in contravention of this Act, commits an offence and is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than fifty thousand penalty units and, where the offence continues, to a fine of not more than one thousand penalty units for each day during which the offence continues or to a term of imprisonment of not less than one year and not more than three years or to both.

(3) Where an offence under subsection (1) or (2) is committed by a body corporate or a partnership or other firm a director or officer of that body corporate or partnership or any person concerned with the management of the firm shall be deemed to have committed the offence.

(4) A person shall not be convicted of an offence under subsection (3), if it is proved that

(a) due diligence was exercised to prevent the commission of the offence; and

(b) the offence was committed without the knowledge, consent or connivance of that person.

(5) A person

(a) other than the Corporation who engages in the exploration, development or production of petroleum without a petroleum agreement commits an offence and is liable on summary conviction to a fine of not less than four hundred thousand penalty units and not more than five hundred thousand penalty units;

- (b) who assigns a petroleum agreement directly or indirectly either in whole or in part, without the approval of the Minister commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred thousand penalty units;
- (c) who commences to implement a plan of development and operation without the approval of the Minister
- (i) is, in the first instance liable to pay to the Commission an administrative penalty of the Ghana Cedi equivalent of one million United States Dollars for each day of the first ninety days that the operation is carried on without approval; and
  - (ii) after the ninety day period referred to in subparagraph (i), is liable to pay an additional administrative penalty of not more than eight hundred thousand penalty units and the petroleum agreement may be terminated; and
- where that person fails to pay the penalty under paragraphs (i) and (ii), that person commits an offence and is liable on summary conviction to a term of imprisonment of not less than two years and not more than five years;
- (d) who fails to submit a decommissioning plan as specified in section 43
- (i) is, liable to pay to the Commission an administrative penalty of the Ghana Cedi equivalent of one hundred and twenty thousand United State Dollars for each day of the first thirty days that the decommissioning plan is not submitted after the expiration of the period for the submission of the decommissioning plan or the implementation of the decommissioning plan; and
  - (ii) is, after the thirty days, liable on summary conviction to an additional fine of not less than two hundred thousand penalty units and not more than five hundred thousand penalty units or to a term of imprisonment of not less than one year and not more than three years or to both;

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- (e) who contravenes subsection (2) of section 23
  - (i) shall pay to the Commission an administrative penalty of the Ghana Cedi equivalent of one hundred thousand United States Dollars for each of the first thirty days that the amount becomes due to the Corporation in addition to the amount owed under subsection (2) of section 23; or
  - (ii) is, after the thirty day period, liable on summary conviction to a fine of not less than one thousand penalty units and not more than two hundred thousand penalty units in addition to the amount owed under subsection (2) of section 23;
- (f) who fails to pay the annual fees in respect of the acreage to which the petroleum agreement relates for the relevant period shall
  - (i) pay to the Commission an administrative penalty of five percent of the annual fee for each day of the first thirty days after the annual fee becomes due in addition to the outstanding annual fee; and
  - (ii) after the thirty day period referred to in subparagraph (i), pay to the Commission an administrative penalty of one hundred thousand penalty units in addition to the outstanding annual fee;
- (g) who fails to comply with a request to provide information under this Act within the period specified in the request, shall pay to the Commission an administrative penalty of ten thousand penalty units in the first instance and a further penalty of ten per cent of the penalty for each day that the information is not provided.

**Authority to issue Regulations, guidelines and stipulate conditions**

**94.** (1) The Minister may, by legislative instrument, make Regulations to prescribe for the matters that are necessary for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the Minister may make Regulations to provide for

- (a) matters to ensure the safe construction, maintenance and operation of installations, facilities and equipment used in connection with petroleum activities;
- (b) the health, safety and welfare of persons employed in or affected by petroleum activities;



- (c) environmental protection, including the prevention of pollution and pollution damage and the taking of remedial action to prevent pollution damage as a result of petroleum activities;
- (d) the inspection of areas in which petroleum activities are being carried out and of the plant, machinery and equipment within those areas;
- (e) reporting of and inquiries into accidents arising out of petroleum activities for record purposes;
- (f) keeping and inspection of records, accounts, statistics and plans with respect to petroleum activities;
- (g) submission of information;
- (h) the protection of fishing, navigation, and any other activities carried out within or in the vicinity of areas in which petroleum activities are being carried out;
- (i) the standards for petroleum and petroleum products and their transportation;
- (j) fiscal requirements, including terms and conditions for taxes, royalties, bonuses, fees, oil entitlement and, where applicable, ring-fencing;
- (k) area management, including the establishment of a reference map, the opening of new areas, and the closure and redefinition of areas;
- (l) procedures and conditions for the granting of petroleum agreements, including qualification requirements, terms and conditions for open and competitive tendering procedures and direct negotiations;
- (m) the determination of the value of crude oil and natural gas;
- (n) the determination of the domestic supply requirement;
- (o) the conservation of natural resources and the avoidance of waste, whether petroleum or otherwise, of the land to which this Act applies;
- (p) accounting procedures and reporting;
- (q) the minimum conditions of service for workers engaged in petroleum activities;
- (r) the terms and conditions of petroleum agreements;

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- (s) the rates or methods of setting the rates at which petroleum and water may be recovered from a well or a petroleum reservoir;
- (t) the methods to be used for the measurement of petroleum, water and other substances from a well;
- (u) the pressure maintenance in, or re-pressuring of, a petroleum reservoir and the recycling of petroleum;
- (v) the terms and conditions under which the Corporation shall undertake the exploration, development and production of petroleum in association with a contractor under section 11 (2);
- (w) the specified areas in which the exercise of rights of a contractor under this Act to carry out petroleum activities shall be restricted;
- (x) the penalties for offences against the Regulations;
- (y) local content and local participation;
- (z) matters of health, safety, environment and welfare of communities;
- (aa) contents of plan of development and operation, requirements and conditions for the plan and any other matter concerning the application and approval of the plan;
- (bb) decommissioning and decommissioning fund;
- (cc) the procedure to determine the payment of compensation to owners or occupiers of land where petroleum activities are carried out;
- (dd) the contents of an application for reconnaissance licence, licensee qualification requirements, the scope of the licence, the further conditions of the licence and the fee to be paid;
- (ee) exploration activities, including exploration period and extension, relinquishment, work obligations and exploration drilling;
- (ff) identification, designation and name of installations, facilities, wells and fields;
- (gg) measures and requirements for emergency preparedness;
- (hh) requirements relating to boundaries;
- (ii) conditions and terms for safety zones;

- (jj) conditions for reporting and licensing of data;
- (kk) conditions for the arrangement, contents of and keeping of the petroleum registry;
- (ll) the contribution of contractors to the provision of security of the State;
- (mm) the requirements relating to management systems;
- (nn) conditions for third party access and stipulation of tariffs;
- (oo) compensation for affected lawful activities including fisheries; and
- (pp) classifying companies as small or medium to achieve the object of this Act.

(3) The Minister may issue guidelines for the implementation of the provisions of this Act and the guidelines shall be published in the *Gazette*.

(4) In connection with individual administrative directives, other conditions, than those mentioned in this Act, may be stipulated when they are naturally linked with the measures or the activities to which the individual administrative directive relates.

### **Interpretation**

95. In this Act, unless the context otherwise requires,

“additional oil entitlement” has the meaning given to it in section 89;

“affiliate” means a shareholder of a contractor or sub-contractor who owns fifty per cent or more of the shares in the business of the contractor or sub-contractor or an entity which controls, is controlled by or is under common control with the contractor or sub-contractor;

“appraisal” means operations or activities carried out following a discovery of petroleum for the purpose of delineating the accumulations of petroleum to which that discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable petroleum and all operations or activities to resolve all uncertainties required for determination of commerciality of a discovery;

“associated gas” means natural gas produced from a well in association with crude oil;

“authorisation” means the approval granted by the Minister to the Corporation to undertake petroleum activities not in association with a contractor;

“block” means an area that is approximately six hundred and eighty-five square kilometres as depicted on the reference map prepared by the Minister in accordance with the provisions of this Act;

“capital or financing lease” means a lease that meets one or more of the following criteria

- (a) the lease term is greater than seventy-five per cent of the economic life of the asset,
- (b) the lease contains an option to purchase the asset for less than the fair market value,
- (c) the ownership of the subject of the lease is transferred to the lessee at the end of the lease term,
- (d) the present value of the lease payments exceeds ninety percent of the fair market value;

“commercial discovery” means the requirement on the part of the contractor to demonstrate to the government that a discovery would be sufficiently profitable for both the contractor and the Republic to merit development;

“Commission” means the Petroleum Commission established by the Petroleum Commission Act, 2011, (Act 821);

“communities” includes people living within the area where petroleum activities are being conducted and who are likely to be affected by the petroleum activities;

“contract area” means the area covered by the petroleum agreement in which a contractor is authorised to explore for, develop and produce petroleum but excludes portions of the area in respect of which a contractor’s rights are from time to time relinquished or surrendered;

“contractor” means a body corporate which has entered into a petroleum agreement with the Republic and the Corporation under this Act;

“Corporation means” the Ghana National Petroleum Corporation;

“crude oil” means a mixture of hydrocarbons which are liquid under normal atmospheric conditions and includes condensates and distillates obtained from natural gas;

“decommissioning fund” means a fund established under section 45 of this Act for the purposes of funding decommissioning activities upon termination of petroleum activities in an area under a relevant petroleum agreement;

“development” means the following activities carried out in connection with a development plan in the nature of the building and installation of facilities for production, drilling of development wells, construction and installation of equipment, pipelines, facilities, plants and systems, in and outside the contract area, which are required for achieving production, treatment, transport, storage and lifting of petroleum and preliminary production activities carried out prior to the date of commencement of commercial production and all related planning and administrative work and the construction and installation of approved secondary and tertiary recovery systems ;

“development period” means in respect of each development and production area, the period from the dates of commercial discovery until the date of commencement of commercial production;

“discovery” means finding within a well at the end of drilling during exploration operations, one or more accumulations of petroleum the existence of which, until that finding, was unproved by drilling, and which can be or is recovered at the surface in a flow measurable by conventional international petroleum industry testing methods;

“exploration” includes the search for petroleum by geological, geophysical and other methods and the drilling of exploration wells and any activity in connection with or in preparation of and any relevant processing and appraisal work in the nature of technical and economic feasibility studies, that may be carried out to determine whether a discovery of petroleum constitutes a commercial discovery;

“exploration costs” means the costs incurred in the search for petroleum by geological, geophysical and other methods, drilling of exploration wells and associated activities and appraisal;

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- “exploration period” means the period commencing on the effective date and continuing during the time within which the contractor is authorized to carry out exploration operations;
- “force majeure” means any event beyond reasonable control of the party claiming to be affected by the event which has not been brought about at the instance of the party including, earthquake, storm, flood, lightning or other adverse weather conditions, war, acts of terrorism, embargo, blockade, riot or civil disorder;
- “Fund” means the Local Content Fund established under section 64;
- “gross production” means the total amount of petroleum produced and saved from a development and production area during production or testing operations which is not used by the contractor in petroleum activities and is available for distribution to the parties according to the petroleum agreement and the relevant enactments;
- “indigenous Ghanaian company” means a company incorporated under the Companies Act, 1963 (Act 179) which
- (i) has at least fifty-one per cent of its equity owned by a citizen of Ghana; and
  - (ii) has Ghanaian citizens holding at least eighty per cent of executive and senior management positions and one hundred per cent of the non-managerial positions and other positions;
- “land” includes land beneath water, seabed and the subsoil;
- “licensee” means any person, firm, body corporate or other entity which has been granted a reconnaissance licence or a licence for transportation, treatment or storage of petroleum under this Act;
- “Minister” means the Minister responsible for Petroleum;
- “mmscfd” means million standard cubic feet a day;
- “natural gas” includes hydrocarbons which are gaseous under normal atmospheric conditions, and wet and dry gas;
- “non-associated gas” means natural gas produced from a well other than in association with crude oil;

“operator” means the company or the Corporation carrying out the petroleum activities on behalf of the contractors or the Corporation under a petroleum agreement or of the licensees under a licence, or the Corporation where it undertakes petroleum activities under section 11(1);

“petroleum” means crude oil or natural gas or a combination of both;

“petroleum activity” means any activity, engaged in within and outside the country related to the exploration for, development and production of petroleum in the nature of the acquisition of data, drilling, plugging and abandonment of wells, treatment, storage, pipeline transportation decommissioning and the planning, design, construction, installation, operation and use of any facility for the purpose of these activities;

“petroleum agreement” means an agreement entered into between the Republic, the Corporation and a contractor under this Act for the exploration, development and production of petroleum;

“petroleum facility” means an installation, a plant, or other equipment for petroleum activities, but does not include supply or support vessels or ships that transport petroleum in bulk but comprises among others a pipeline and a cable unless otherwise provided;

“petroleum product” means a product derived from petroleum by a refining or treatment process;

“petroleum resources” include

- (a) existing petroleum;
- (b) discovered petroleum reserves;
- (c) undiscovered petroleum reserves;
- (d) petroleum produced; and
- (e) petroleum under production;

“petroleum sub-contract” means a contract between the Corporation and a third party or between a contractor and a third party for the provision of goods and services for petroleum activities but does not include a petroleum agreement;

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- “pollution damage” means damage or loss caused by alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by discharging, emitting or depositing substances or wastes so as to affect any beneficial use adversely, cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause a contravention of any condition, limitation or restriction which is subject to a licence under this Act;
- “production” means the recovery and disposal of petroleum including any works and services connected with the discovery or disposal;
- “production costs” means costs incurred in the production of petroleum;
- “relevant agencies” means a government entity of the Republic under whose area of competence petroleum activities are conducted;
- “royalty” means the entitlement of the Republic to a portion of petroleum produced and saved and not utilized in petroleum activities from each field and which is calculated as a percentage of gross daily production rates without regard to any prior deductions;
- “small and medium enterprises” means an industry, project, undertaking or economic activity that employs not more than one hundred persons with an asset base that is not more than the Ghana Cedi equivalent of two million United States Dollars excluding land or buildings;
- “Standards Authority” means the Authority established under the Standards Authority Act, 1973 (NRCD 173);
- “sub-contractor” means a third party with whom the Corporation or a contractor has entered into a petroleum contract for the provision of goods and services for petroleum activities; and
- “third party” includes an entity other than the owner of the shares of the incorporated company at the time of the execution of a relevant petroleum agreement, affiliates, sister and parent companies.



**Transitional provisions**

**96.** (1) Petroleum agreements entered into before the commencement of this Act remain valid.

(2) A licensee, contractor, sub-contractor, the Corporation and any other person engaged in a petroleum activity shall comply with the relevant provisions of this Act.

**Repeal and savings**

**97.** (1) The Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) is hereby repealed.

(2) Despite the repeal of PNDCL 84, the Regulations, rules by-laws, notices, orders, directions, appointments or any act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall continue to have effect until revoked, cancelled or terminated.

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