

**THE PETROLEUM (EXPLORATION AND
PRODUCTION) ACT, 2008**

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GOVERNMENT OF ZAMBIA

ACT

No. 10 of 2008

Date of Assent: 24th September, 2008

An Act to revise the law relating to the exploration for, and the development and production of, petroleum in Zambia; to provide for title to and control of petroleum in Zambia; to provide for the continuation of the Petroleum Committee and revise its functions; to provide for the constitution of the Petroleum Technical Committee and define its functions; to establish a Petroleum Environmental Protection Fund; to provide for the registration of the National Petroleum Company; to establish the Petroleum Trust Fund; to repeal and replace the Petroleum (Exploration and Production) Act, 1985; and to provide for matters connected with or incidental to the foregoing.

[26th September, 2008

ENACTED by the Parliament for Zambia

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Petroleum (Exploration and Production) Act, 2008.

Short title

2. In this Act, unless the context otherwise requires—

Interpretation

“ access agreement ” means an agreement entered into between the holder of a licence and an owner or occupier of land over which the licence subsists, for the regulation of exploration or development and production operations authorised by the licence to be carried on upon the land;

“ block ” means a block constituted under section *eight*;

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- “ body corporate ” means a company or a corporation;
- “ commercial discovery ” means a discovery of petroleum which can be exploited commercially in accordance with good oil field practices in the international petroleum industry;
- “ Committee ” means the Petroleum Committee continued by section *eighty-seven*;
- “ company ” has the meaning assigned to it in the Companies Act;
- “ condition ” includes any term, prohibition, limitation and stipulation;
- “ corporation ” means a corporate body incorporated in or outside Zambia;
- “ crude oil ” means petroleum which is in liquid state at the well head or gas-oil separator or which is extracted from natural gas, including any distillate or condensate;
- “ development ” in relation to petroleum operations, means the mapping, siting, construction, drilling, testing, and commissioning of a production well;
- “ development and production area ” means an area of land, constituted by a block or blocks, and which is subject to a petroleum development and production licence;
- “ development and production operations ” means operations for or in connection with the development or production of petroleum;
- “ Director ” means the person appointed as Director under section *eighty-three*;
- “ discovery block ”, in relation to an exploration area, means a block in the exploration area in which a discovery of petroleum is located;
- “ discovery of petroleum ” means a discovery of petroleum, not previously known to have existed, recoverable at the surface in a flow which can be measured by conventional petroleum industry testing methods;
- “ drilling ” means the perforation of the earth’s surface, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled by extraneous materials (including water) and the filling of wellheads, or coring or logging, and any operations incidental thereto;

“ environment ” has the meaning assigned to it in the Environmental Protection and Pollution Control Act’

Cap. 204

“ environmental commitment plan ” means a plan to mitigate the adverse impact of the exploration, development or production operations on the environment;

“ exploration area ” means an area of land, constituted by a block or blocks, and which is subject to a petroleum exploration licence;

“ exploration operations ” means operations for or in connection with the exploration for petroleum;

“ Fund ” means the Petroleum Environmental Protection Fund referred to in section *seventy*;

“ good oilfield practices ” means those practices related to petroleum operations that are generally accepted by the international petroleum industry as good, safe, environmentally-friendly, economic and efficient in exploring for and producing petroleum;

“ holder ”, in relation to a licence, means the person to whom a petroleum exploration or a petroleum development and production licence is granted and, where a licence is granted to a person jointly with others, means every one of the persons to whom the licence is jointly granted, and includes every person to whom the licence or an interest therein is lawfully transferred;

“ licence ” means a petroleum exploration licence or a petroleum development and production licence;

“ licensee ” means the holder of a licence;

“ person ” includes a partnership;

“ petroleum ” means any naturally occurring

(a) hydrocarbon;

(b) mixture of hydrocarbons; or

(c) mixture of one or more hydrocarbons and any other substance;

whether in a gaseous, liquid or solid form, and includes any petroleum which has been returned to a natural reservoir, but does not include coal;

“ petroleum operations ” means the operations related to the exploration, development, extraction and production of petroleum;

- “petroleum reservoir” means a naturally occurring discrete accumulation of petroleum in any form;
- “prescribed” means prescribed by regulations made by the Minister;
- “production” in relation to petroleum operations means the recovery of petroleum from its natural *insitu* source up to the well head;
- “production well” means the infrastructure required for the recovery of petroleum from the natural resource up to the well head;
- Cap. 440 “repealed Act” means the Petroleum (Exploration and Production) Act;
- “resettlement plan” means a plan that outlines the actions to be undertaken by a holder of a licence in order to compensate and resettle persons displaced by petroleum operations;
- “Technical Committee” means the Petroleum Technical Committee constituted by section *ninety-one*;
- “Trust Fund” means the Petroleum Trust Fund referred to in section *one hundred and one*; and
- “well” means a hole made by drilling in land of the subsoil of land in connection with exploration or development operations, but does not include a seismic shot hole.
- Application **3.** (1) This Act applies to the exploration for, exploitation, conservation and management of petroleum existing in its natural condition in land in Zambia.
- Act No. 7 of 2008 (2) A right to search for or mine any mineral, as defined in section *two* of the Mines and Minerals Development Act, 2008, shall not be granted or exercised under this Act.
- Title to petroleum **4.** (1) The entire property in and control over petroleum and accompanying substances, in whatever physical state, located in any land in Zambia is hereby vested exclusively in the President on behalf of the State.
- (2) Notwithstanding the provisions of subsection (1), a licence issued under this Act may provide for a person to acquire property in, title to or control over any petroleum within the Republic.
- (3) The provisions of subsections (1) and (2) shall have effect notwithstanding any rights which any other person may possess in or over the soil on or under which petroleum is discovered.

PART II

RIGHTS TO CONDUCT PETROLEUM OPERATIONS

5. The State may carry out petroleum operations either on its own or in joint venture with a holder of a petroleum exploration licence or a petroleum development and production licence issued under this Act. State may conduct petroleum operations
6. (1) A person shall not search for in, or get from, any land in Zambia petroleum except— Prohibition of searching for or getting petroleum without licence
- (a) under and in accordance with a licence granted by the Minister under this Act; or
- (b) subject to subsection (2) of section *one hundred and four* under and in accordance with a contract entered into under the repealed Act before the commencement of this Act.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction—
- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding seven hundred thousand penalty units.
7. (1) A licence shall not be granted to any person except in accordance with the provisions of this Act. Certain persons disqualified from holding licence
- (2) A licence shall not be granted to, or held by—
- (a) an individual who—
- (i) is under the age of eighteen years;
- (ii) is or becomes an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any agreement or scheme of composition with creditors, or takes advantage of any legal process for the relief of bankrupt or insolvent debtors; or
- (iii) has been convicted, within the previous ten years, of an offence involving fraud or dishonesty, or of any

offence under this Act or any other law within or outside Zambia, and been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding fifty thousand penalty units; or

(b) a company—

- (i) which has not established an office in Zambia;
- (ii) unless, in the case of a petroleum development and production licence, the company is incorporated under the Companies Act;
- (iii) which is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company; or
- (iv) which has among its directors or shareholders any person who would be disqualified under paragraph (a).

Cap. 388

(2) A licence may be granted to two or more persons associated together in any form of joint arrangement, if each one of them is qualified to hold the licence under paragraph (a) of subsection (1).

(3) Where at any time, a licensee is constituted of two or more persons, the obligations to be observed and performed by the licensee under this Act shall be joint and several obligations, but without prejudice to any right of contribution which may exist between all or any of them.

Constitution
of blocks

8. (1) For the purposes of this Act, the territory of the Republic, or parts of it, shall be divided into blocks, according to a grid system, in accordance with regulations prescribed by the Minister, with the approval of the Committee.

(2) The Minister may reserve blocks to be exploited by the Government.

Bids

9. (1) Subject to the other provisions of this Act, the Minister may, by notice in the *Gazette* and in two newspapers of general circulation in the Republic, issue invitations for bids for the grant of a petroleum exploration licence in respect of any block or blocks specified in the notice.

(2) The notice referred to in subsection (1) shall include—

- (a) a description of the blocks for which the bids are to be solicited;

(b) the procedures and conditions relating to the submission of the bids; and

(c) the period within which the bids shall be submitted.

(3) A bid submitted pursuant to subsection (1) shall include—

(a) full information regarding the bidder's financial status, technical competence and experience;

(b) a description of the area constituted by the blocks in respect of which the bid is being made;

(c) the proposed programme of exploration operations and the estimated cost of the proposed exploration operations;

(d) the bidder's proposals with respect to the employment and training of citizens of Zambia;

(e) the bidder's proposals for the promotion of local business development;

(f) an environmental commitment plan;

(g) a tax clearance certificate issued under the Income Tax Act; and

(h) such further information as the Minister may, by statutory instrument, prescribe.

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(4) The area described in a bid under this section shall be constituted by blocks which —

(a) form a single area; and

(b) are such that each block in that area has a side in common with at least one other block in that area.

(5) The Minister shall, within five days of the expiry of the period referred to in paragraph (c) of subsection (2), refer all the bids submitted in accordance with this section to the Technical Committee for evaluation.

(6) The Technical Committee shall consider the matters referred to in paragraphs (a) to (h) of subsection (3) in evaluating the bids.

(7) The Technical Committee shall, where a bid complies with the requirements of this Act, recommend to the Committee that the bidder with the best proposed programme be granted a petroleum exploration licence in accordance with the provisions of this Act.

PART III

PETROLEUM EXPLORATION LICENCES

Application for petroleum exploration licence

10. (1) A person whose bid under section *nine* is successful may apply for a petroleum exploration licence to the Minister in the prescribed form upon payment of the prescribed fee.

(2) An application under subsection (1) shall include such information as the Minister may by statutory instrument, prescribe.

(3) The Minister shall, within five days of receiving—

(a) an application under subsection (1); or

(b) the information requested for under subsection (1) of section *eleven*; forward the application to the Technical Committee for consideration.

Power of Minister to obtain further information

11. (1) The Minister may, before forwarding an application referred to in subsection (1) of section *ten* to the Technical Committee, by notice served on an applicant for a petroleum exploration licence, direct the applicant to furnish to the Minister, in writing, within such reasonable time as may be specified in the notice—

(a) such further information relevant to the application as may be specified in the notice; and

(b) if the applicant, or any of the applicants, is a body corporate, such information as may be specified in the notice to enable the Minister to ascertain to what extent the controlling power, whether directly or indirectly, in the direction of the affairs of the body corporate is vested in a corporation, or an individual or individuals, resident outside Zambia.

(2) Where an applicant for a petroleum exploration licence fails to comply with the requirements of a notice served on the applicant under subsection (1) within the period specified in the notice, the application shall lapse.

Consideration of application for petroleum exploration licence

12. (1) The Technical Committee shall within thirty days of receiving an application forwarded to it under subsection (3) of section *ten*, consider such application and may, within that period, cause such investigations to be made or such consultations to be carried on as the Technical Committee may consider necessary to assess whether or not the criteria in subsection (2) has been met.

(2) The Technical Committee shall, in considering an application made under section *ten*, take the following into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective exploration operations;
- (b) that the proposed programme of exploration operations is adequate and makes proper provision for environmental protection;
- (c) that the proposed exploration area is not the same as, nor does it overlap an existing exploration area; and
- (d) if the applicant is a holder of another petroleum exploration licence, the applicant has not contravened any condition of the licence or any provision of this Act.

(3) The Technical Committee shall after considering an application under this section recommend to the Committee—

- (a) the grant of a petroleum exploration licence where the application meets the requirements of this Act; or
- (b) the refusal to grant a petroleum exploration licence where the application does not meet the requirements of this Act.

13. (1) The Minister shall, with the approval of the Committee, grant a petroleum exploration licence to the applicant where the application meets the requirements of this Act.

Grant of petroleum exploration licence

(2) A petroleum exploration licence shall be in such form as the Minister may determine and shall—

- (a) state the terms and conditions on which it is granted;
- (b) identify the block to which the licence relates;
- (c) include a description of the exploration area; and
- (d) state the date on which, and the period for which, it is granted.

(3) There shall be attached to a petroleum exploration licence the programme of exploration operations as approved by the Minister, which shall form part of the conditions of the licence.

(4) There may be included in an petroleum exploration licence a condition requiring the applicant to agree to the State or a person nominated on its behalf, on such terms as may be agreed, acquiring or having an interest in any venture to explore for petroleum in any block in the exploration area.

- (5) The Minister may specify in a petroleum exploration licence a period not exceeding six months from the date of the grant of the licence as the period to enable the applicant to make any necessary preparations to carry on exploration operations.
- Refusal to grant petroleum exploration licence
14. (1) The Minister shall not grant a petroleum exploration licence to an applicant where—
- (a) the applicant is disqualified from holding a petroleum exploration licence under section seven;
 - (b) the applicant is the holder of another exploration licence and is in breach of any condition of that licence or any provision of this Act; or
 - (c) the block for which the applicant has made the application, or a part of it, is compromised in a licence already granted.
- (2) The Minister shall, where the Minister rejects an application under subsection (1), inform the applicant of the rejection and give the reasons therefor.
- Duration of petroleum exploration licence
15. (1) Subject to the other provisions of this Act, a petroleum exploration licence shall be valid for a period of four years.
- (2) A petroleum exploration licence may, on its expiry, be renewed for two further periods not exceeding three years each
- Rights conferred by petroleum exploration licence
16. Subject to the provisions of this Act and to the conditions specified in the licence, a petroleum exploration licence confers on the holder of the licence exclusive rights to explore for petroleum in the exploration area and to carry on such operations and execute such works as are necessary for that purpose.
- Obligations of holder of petroleum exploration licence
17. (1) A holder of a petroleum exploration licence shall—
- (a) commence exploration operations within ninety days, or such further period as the Minister may allow, from the date of the grant of the licence;
 - (b) give notice to the Minister of the discovery of any petroleum of possible commercial value within thirty days of the discovery;
 - (c) expend on exploration operations not less than the amount prescribed or required by the terms and conditions of the exploration licence to be so expended;

- (d) carry on exploration operations in accordance with the programme of exploration operations;
 - (e) notify the Minister of the discovery of any minerals in the exploration area within a period of thirty days of such discovery;
 - (f) backfill or otherwise make safe any excavation made during the course of the exploration operations, as the Minister may specify;
 - (g) permanently preserve or otherwise make safe any borehole in the manner directed by the Minister and surrender to Government, without compensation, the boreholes and any water rights in respect thereof on termination;
 - (h) unless the Minister otherwise stipulates, remove, within sixty days of the expiry or termination of the exploration licence, any camp, temporary buildings or machinery erected or installed and repair or otherwise make good any damage to the surface of the ground occasioned by the removal, in the manner specified by the Minister;
 - (i) keep and preserve such records as the Minister may prescribe, relating to the protection of the environment; and
 - (j) submit to the Minister quarterly reports containing the information required under the licence and the Act.
- (2) A holder of a petroleum exploration licence shall keep full and accurate records at the holder's office, of the exploration operations which shall indicate—
- (a) the wells drilled;
 - (b) the strata penetrated, with detailed logs of such strata;
 - (c) the minerals and petroleum, if any, discovered;
 - (d) the number of persons employed;
 - (e) the costs incurred; and
 - (f) such other matters as may be prescribed by the Minister by statutory instrument;
- and shall furnish, at least once in every three months, digital and hard copies of the records to the Minister.

(3) A person who—

(a) fails to keep any record or information required to be kept under subsection (2);

(b) fails to supply any record or petroleum samples to the Minister; or

(c) supplies any false or misleading record or information;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(4) Where the holder of a petroleum exploration licence fails to carry out any part of the requirement with respect to work and expenditure stipulated in the petroleum exploration licence, or of each programme submitted by the holder pursuant to subsection (5), without prejudice to any other right which may be invoked by the Minister in respect of that failure, the relevant provision of the licence, if any, shall apply for the purpose of determining the liquidated damages payable to the State by the licensee on account of such failure.

(5) The requirement in subsection (4) with respect to an adequate programme with respect to work and expenditure shall be deemed to have been met in any case where the programme submitted pursuant to that subsection is consistent with the requirements, if any, with respect to work and expenditure contained in a petroleum exploration licence.

Discovery of minerals in exploration area to be notified

18. (1) Where, in the course of exercising the holder's rights under a petroleum exploration licence, the holder of the exploration licence discovers minerals, the holder shall, within thirty days immediately following such discovery, notify the Minister thereof in writing.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable, upon conviction—

(a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding one million penalty units.

19. (1) A holder of a petroleum exploration licence shall apply to the Minister, where the holder intends to make any amendments to the programme of exploration operations in the prescribed manner and form.

Amendment
of programme
of exploration
operations

(2) The Minister shall, upon receipt of an application under subsection (1), forward it to the Technical Committee for consideration.

(2) The Minister may, with the approval of the Committee—

(a) approve the proposed amendments with or without any modifications and on such terms and conditions as the Committee may determine; or

(b) reject the proposed amendments and give the applicant the reasons therefor.

20. (1) The holder of a petroleum exploration licence may at any time when the licence is in force, by giving notice to the Minister of not less than three months of the holder's intention to do so, relinquish any block or blocks in the exploration area identified in the notice.

Relinquishment
of exploration
area

(2) Any relinquishment under subsection (1) shall not relieve the holder of a petroleum exploration licence of any obligation incurred by the holder in respect of the area relinquished prior to the date of the relinquishment.

(3) Subject to the petroleum exploration licence referred to in subsection (1), any block or blocks relinquished under subsection (1) shall, unless the Minister otherwise directs, be such as to ensure that the remaining exploration area constitutes a continuous area.

(4) Where any block or blocks are relinquished under subsection (1), the exploration licence concerned shall cease to have effect from the date of the relinquishment with respect to that block or blocks.

21. (1) Subject to subsections (2) and (3), a petroleum exploration licence or any interest therein or any controlling interest in the holder thereof may be transferred to any other person.

Transfer of
petroleum
exploration
licence

(2) A holder of a petroleum exploration licence who intends to transfer the petroleum exploration licence or any interest therein shall notify the Minister not less than thirty days before the intended transfer.

(3) A holder of a petroleum exploration licence shall, in the notification referred to under subsection (2), give to the Minister such details of the transferee as would be required in the case of an application for a petroleum exploration licence under section ten.

(4) Where the Minister is satisfied that the transferee is not disqualified under any provision of this Act from holding a petroleum exploration licence, the Minister shall, with the approval of the Committee, authorise the transfer of the exploration licence or an interest therein and notify the applicant accordingly.

(5) Upon the transfer of a petroleum exploration licence, the transferee shall assume and be responsible for all the rights, liabilities and duties of the transferor under the petroleum exploration licence for the unexpired period of the licence.

(6) Any transaction purporting to transfer a petroleum exploration licence in contravention of this section is void.

Renewal of
petroleum
exploration
licence

22. (1) A holder of a petroleum exploration licence may, not later than three months before the expiry of the petroleum exploration licence, and not more than twice, apply to the Minister for the renewal of the licence in respect of any block in the exploration area upon payment of the prescribed fee.

(2) An application under this section shall be in the prescribed manner and form and—

(a) shall be accompanied by—

(i) particulars of the work carried out and the amount expended in respect of the exploration area during the term of the licence, or, where the application is for a second renewal of the licence, during the period of the previous renewal, up to and including the date of the application; and

(ii) adequate proposals concerning the work to be carried out and the minimum amount to be expended during the period of the renewal for which application is made; and

(b) may set out any other matter which the applicant may wish the Minister to consider.

(3) The Minister shall, within five days of receiving an application for the renewal of a petroleum exploration licence under subsection (1), forward it to the Technical Committee for consideration.

(4) The Technical Committee shall, within thirty days of receiving an application forwarded to it under subsection (3), consider the application and recommend to the Committee the renewal of the petroleum exploration licence where the holder of the licence—

- (a) is applying for the renewal of the licence for the first or second time;
- (b) is not in breach of any condition of the licence or any provision of this Act;
- (c) undertakes to carry out during the renewal period an adequate programme of exploration operations; and
- (d) relinquishes at least fifty per centum of the initial exploration area on the first renewal and at least fifty per centum of the balance on the second renewal.

(5) The Minister shall, with the approval of the Committee, renew a petroleum exploration licence, not more than twice, for such period not exceeding three years where the holder of the licence satisfies the requirements of paragraphs (a) to (d) of subsection (4).

(5) The Minister may, where the Minister considers it necessary for the completion of a feasibility study commenced by a holder of a petroleum exploration licence into the prospects for recovery of any petroleum and its commercial significance, renew the exploration licence for such further period as the Minister may, with the approval of the Committee, determine.

23. (1) Subject to subsection (2), the Minister shall, with the approval of the Committee, refuse to grant a renewal of a petroleum exploration licence—

- (a) where the applicant has applied for and been granted a renewal of the petroleum exploration licence twice before;
- (b) where the applicant is in breach of any condition of the licence or any provision of this Act, unless, the Minister considers that special circumstances exist which justify the granting of the renewal, notwithstanding the breach; or
- (c) where the proposals accompanying the application pursuant to subparagraph (ii) of paragraph (a) of subsection (2) of section *twenty-two* in respect of work and expenditure during the renewal period are not adequate.

Refusal of
renewal of
petroleum
exploration
licence

(2) The Minister shall not refuse to grant a renewal of a petroleum exploration licence on application being duly made under section *twenty-two*—

(a) before giving to the applicant notice in writing of the Minister's intention to do so, such notice to state particulars of the grounds for the intended refusal and the date before which the applicant may take remedial action or make representations in relation to such grounds; and

(b) where the applicant has, before the date specified in a notice under paragraph (a), remedied the breach or, by notice in writing to the Minister, made representations which, in the opinion of the Minister, remove the grounds for the intended refusal.

(3) Where an application for a renewal of a petroleum exploration licence has been duly made and the licence expires before the Minister grants or refuses to grant a renewal thereof the licence shall be deemed to continue in force until the Minister grants or refuses to grant a renewal of the licence, except where the licence is cancelled under this Act or the application for a renewal is withdrawn.

Directions
by Minister

24. (1) The Minister may, by notice served on the holder of a petroleum exploration licence, give to the holder any direction, consistent with good oilfield practices, as to any matter and any such direction shall be complied with within the time specified in the notice or, where the time within which the direction shall be complied with is not specified in the notice, with all convenient speed and as often as the occasion for such compliance arises.

(2) Where a holder of a petroleum exploration licence fails or neglects to comply with a direction given under subsection (1), the Minister may cause to be done all or any of the things required by the direction to be done, and the costs and expenses incurred in doing so shall be recoverable by the Minister in the same manner as revenues due to the State may be recovered.

PART IV

DISCOVERY OF PETROLEUM IN EXPLORATION AREA

25. (1) Where petroleum is discovered in an exploration area, the holder of the petroleum exploration licence in respect of the area shall—

Discovery of petroleum to be notified

- (a) forthwith notify the Minister of the discovery; and
- (b) within a period of thirty days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable, upon conviction—

- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding one million penalty units.

26. (1) On receipt of the information required under section *twenty-five*, the Minister shall, by notice in writing served on the holder of the petroleum exploration licence for the exploration area concerned, direct the holder to furnish to the Minister in writing, within such reasonable period as may be specified in the notice, particulars of the following:

Directions of Minister on discovery of petroleum

- (a) the chemical composition and physical properties of the petroleum;
- (b) the nature of the subsoil in which the petroleum occurs and the depth of the discovery;
- (c) the quantity of petroleum in the petroleum reservoir to which the discovery relates, or if part only of that petroleum reservoir is within the exploration area, in that part of the reservoir which is within the exploration area; and
- (d) any other matters relating to the discovery that are specified in the notice.

(2) The holder of a petroleum exploration licence referred to in subsection (1) shall, upon receipt of the direction given under that subsection, run tests in respect of the discovery and thereafter, by notice in writing, furnish to the Minister evaluated test results in respect of the discovery stating that the discovery is or, as the case may be, is not, in the opinion of the holder, a commercial discovery.

(3) Where a holder of a petroleum exploration licence referred to in subsection (1) fails or neglects to comply with the direction given by the Minister under subsection (1) within the period specified in the notice, the Minister shall—

- (a) by notice in writing to the holder cancel the petroleum exploration licence concerned; and

(b) cause to be done all or any of the things required by the direction to be done, and the costs and expenses incurred in doing so shall be recoverable by the Minister in the same manner as revenues due to the State may be recovered.

Commercial
discovery

27. (1) Where a notice served under subsection (2) of section *twenty-six* states that the discovery of petroleum in an exploration area is, in the opinion of the holder of the petroleum exploration licence, a commercial discovery, the holder may, unless the licence is sooner determined by surrender or cancellation under this Act, within a period of two years after the date on which such notice is so served or such further period as the Minister may allow, apply under subsection (1) of section *thirty-one*, for a petroleum development and production licence in respect of the discovery block.

(2) If the holder of a petroleum exploration licence fails within the period specified in subsection (1), or within such further period as the Minister may allow, to apply for a petroleum development and production licence for the whole or part of any discovery block, the Minister shall, if the petroleum exploration licence is in force in respect of the discovery block, by notice served on the holder, direct that the licence shall cease to have effect in respect of the whole or part, as the case may be, of the discovery block with effect from the date specified therein.

(3) Where the holder of a petroleum exploration licence referred to in subsection (1) fails to apply for a petroleum development and production licence within the period specified under subsection (1), the Minister shall invite applications for a petroleum development and production licence in respect of the discovery block in accordance with subsection (2) of section *thirty-one*.

Non-
commercial
discovery

28. (1) Where a notice served under subsection (2) of section *twenty-six* states that the discovery of petroleum in any discovery block is not, in the opinion of the holder of the petroleum exploration licence, a commercial discovery, the Minister may, if the petroleum exploration licence is in force in respect of the discovery block or blocks, direct, by notice in writing served on the holder, that the licence shall cease to have effect with respect to such discovery

block from the date specified in the notice, and thereupon the licence shall cease to have effect in respect of the discovery block with effect from the date so specified.

(2) The Minister shall not give a direction under subsection (1) unless—

- (a) the Minister has given to the holder, a notice of the Minister's intention to do so;
- (b) the Minister has specified in that notice a reasonable time within which the holder may make representation with respect to that notice; and
- (c) on evidence available to the Minister and after taking into account any representation made by the holder, the Minister is of the opinion that the discovery is a commercial discovery.

29. (1) Where the holder of a petroleum exploration licence has notified the Minister pursuant to subsection (2) of section *twenty-six* that a discovery of petroleum is, in the opinion of the holder, a commercial discovery, the Minister may, by notice in writing served on the holder, direct the holder to carry out, within a period specified in the notice, of not less than two years, such investigations and studies as the Minister considers necessary to assess the feasibility of the construction, establishment and operation of an industry for the recovery of petroleum from the discovery block.

Investigations

(2) The investigations and studies referred to in subsection (1) may include—

- (a) technical and economic feasibility studies relating to the recovery, processing and transportation of petroleum from the production area;
- (b) studies of proposed sites for facilities which would be required by the industry;
- (c) studies of roads, pipelines or other transportation facilities;
- (d) investigations into—
 - (i) suitable water facilities and reticulation systems for industrial and town purposes;
 - (ii) the location and design of a suitable airstrip and associated landing and terminal facilities, if so required, for the industry;

- (iii) the generation and transmission of electricity required for the industry; and
- (iv) the development, if required, of a suitable town for the industry, including the design of housing and associated civic, cultural and social facilities;
- (e) investigations of any other works, services or facilities in relation to the production area which may be required for the industry;
- (f) studies of future labour requirements for the industry;
- (g) physical impact studies into the possible effects of the industry on the environment; and
- (h) such other investigations and studies as the Minister may, by statutory instrument prescribe.

(3) A holder of a petroleum exploration licence shall furnish in writing to the Minister, within the period specified in a notice under subsection (1), such reports, analyses and data resulting from the investigations and studies carried out under this section as the Minister may, by notice in writing served on the holder, require.

Restriction on removal of petroleum

30. (1) A holder of a petroleum exploration licence shall not, without the written permission of the Minister and subject to such conditions as the Minister may, with the approval of the Committee determine, remove any petroleum from an exploration area except for the purposes of having such petroleum analysed, determining its value or conducting tests thereon.

(2) The Minister may, with the approval of the Committee, by statutory instrument, determine the quantities of petroleum samples to be removed from an exploration area for the purpose of analysis and conducting tests on the petroleum samples.

PART V

PETROLEUM DEVELOPMENT AND PRODUCTION LICENCES

Application for petroleum development and production licence

31. (1) A holder of a petroleum exploration licence whose licence is in force in respect of a discovery block may, within two years immediately following the date on which a commercial discovery was made, or such further period as the Minister may allow, apply for the grant of a petroleum development and production licence in respect of the discovery block or part thereof.

(2) Notwithstanding the provisions of subsection (1), a holder of a petroleum exploration licence may, during the term of the licence, apply for the grant of a development and production licence in respect of any block which is not part of a discovery block within the exploration area if the holder satisfies the Minister that the block contains a petroleum reservoir or part of a petroleum reservoir.

(3) Subject to the other provisions of this Act, where the holder of a petroleum exploration licence in respect of a discovery block fails to apply for a petroleum development and production licence under subsection (1), the Minister may, by notice in the *Gazette* and in two newspapers of general circulation in the Republic, issue invitations for the grant of a petroleum development and production licence in respect of any discovery block or blocks specified in the notice.

(4) The notice referred to under subsection (3) shall include—

(a) a description of the discovery block or blocks for which the applications are to be solicited;

(b) the procedures and conditions relating to the submission of the applications; and

(c) the period within which the applications shall be submitted.

(5) The Minister shall, within five days of receiving an application under subsection (1) or (3) forward the application to the Technical Committee for consideration.

(6) The Technical Committee shall, within thirty days of receiving an application forwarded to it under subsection (5), consider such application and may, within that period, cause such investigations to be made or such consultations to be carried on as the Technical Committee may consider necessary to assess whether or not the criteria in subsection (7) has been met.

(7) The Technical Committee shall, in considering an application made under subsection (1) or (3), take into account the matters referred to in paragraphs (a) to (m) of section *thirty-two*.

(8) The Technical Committee shall after considering an application under this section recommend to the Committee

(a) the grant of a petroleum development and production licence where the application meets the requirements of this Act: or

(b) the refusal to grant a petroleum development and production licence where the application does not meet the requirements of this Act.

Application
for petroleum
development
and
production
licence to be
made to
Minister

32. An application for a licence referred to in section *thirty-one* shall be made to the Minister in the prescribed form upon payment of the prescribed fee and shall contain the following particulars:

- (a) full information as to the applicant's financial status, technical competence and experience;
- (b) the number of the applicant's exploration licence, if applicable;
- (c) the form of petroleum which it is intended to produce;
- (d) a comprehensive report of the petroleum deposit, which report shall include a description of the petroleum reservoir or deposit, the form of the petroleum and an estimate of the petroleum reserves;
- (e) details, illustrated by an approved plan, of the area in respect of which the application is made;
- (f) a technological report on production and processing possibilities and the intention of the applicant in relation thereto;
- (g) a proposed programme of production and processing operations which shall include—
 - (i) the date by which the applicant intends to work for profit;
 - (ii) the capacity of production and scale of operations;
 - (iii) the estimated overall recovery of petroleum and by products,
 - (iv) the nature of the petroleum and by products,
 - (v) the marketing arrangements made for the sale of the petroleum and by-products, and
 - (vi) a detailed programme for the progressive reclamation and rehabilitation of lands disturbed by petroleum extraction and for the minimisation of the effect of such extraction on adjoining land or water area;
- (h) a detailed forecast of capital investment, operating costs and sales revenues and the anticipated type and source of financing;

- (i) proposals with respect to the employment and training of
Zambian citizens;
- (j) a report of the goods and services required for the
production and processing operations which can be
obtained within Zambia and the applicant's intention in
relation thereto;
- (k) details of expected infrastructure requirements;
- (l) a resettlement plan; and
- (m) such further information as the Minister may, by statutory
instrument, prescribe.

**33. (1) Subject to the provisions of section *thirty-four* on
application duly made under—**

Grant of
petroleum
development
and
production
licence

- (a) subsection (1) of section *thirty-one*, the Minister shall, on
such conditions as the Minister may, with the approval
of the Committee, determine, including a condition
requiring the applicant to agree to the Government or a
person nominated on its behalf, on such terms as may
be agreed, to acquire or have an interest in the production
and processing operations in the production area, with
the approval of the Committee, grant the development
and production licence; or
- (b) subsection (2) of section *thirty-one* the Minister may,
with the approval of the Committee, grant, on such
conditions as the Minister may, with the approval of
the Committee, determine, or refuse, with the approval
of the Committee, to grant a petroleum production
licence in respect of any block.

(2) To enable the Minister to dispose of an application for the
grant of a petroleum production licence the Minister may, by notice
in writing given to the applicant, require the applicant to furnish,
within a period specified in the notice, in addition or by way of
alteration to any proposals which have already been furnished, such
proposals as the Minister may specify, including proposals relating
to any matter referred to in subsection (2) of section *twenty-two*.

Restrictions
on grant of
petroleum
development
and
production
licence

34. (1) A petroleum development and production licence shall not be granted to an applicant unless—

- (a) the proposals of the applicant would ensure the most efficient, beneficial and timely use of the petroleum resources concerned;
- (b) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective development and production operations;
- (c) the applicant is able and willing to comply with the conditions on which a licence may be granted;
- (d) the applicant's proposals for the employment and training of citizens of Zambia are satisfactory; and
- (e) the applicant is not in breach of any provision of this Act or of a condition of a licence.

(2) The Minister shall not refuse an application for the grant of a petroleum production licence on any grounds under subsection (1) unless the Minister has—

- (a) given notice in writing to the applicant stating the grounds therefor; and
- (b) specified in the notice a date prior to which the applicant may make appropriate proposals to remove the grounds for refusal or make representations in relation thereto and the applicant has not, prior to such date, in writing made proposals or representations to the Minister.

Contents of
petroleum
development
and
production
licence

35. (1) A petroleum development and production licence shall specify—

- (a) the date of the grant of the licence;
- (b) the development and production area;
- (c) the development and conditions on which the licence is granted; and
- (d) particulars necessary for the purpose of giving effect to subsection (2).

(2) There may be included in a petroleum development and production licence such conditions as may be determined by the Minister in respect of the duty and the extent thereof of the holder of a petroleum development and production licence to supply petroleum or petroleum products to meet the requirements of Zambia.

36. (1) Subject to the provisions of this Act and to the conditions specified in the licence, a petroleum development and production licence shall confer on the holder of the licence exclusive rights—

Rights
conferred by
petroleum
development
and
production
licence

- (a) to carry on exploration, development and production operations in the development and production area; and
- (b) to carry on such operations and execute such work in the development and production area as may be considered necessary for the purpose of carrying into effect the provisions of this section.

(2) Where, in the course of exercising the holder's rights under a petroleum development and production licence, the holder of the licence discovers any other mineral, the holder shall, within thirty days immediately following such discovery, notify the Minister of the discovery in writing.

(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding one million penalty units.

37. (1) Subject to the provisions of this Act, a petroleum development and production licence shall be valid for such period, not exceeding twenty-five years, as may be specified therein.

Duration and
renewal of
petroleum
development
and production
licence

(2) The holder of a petroleum development and production licence may apply to the Minister, in the prescribed form and upon payment of the prescribed fee, for a renewal of the licence at any time not later than one year immediately prior to the expiry of such licence and subject to the provisions of subsection (4), the Minister shall grant a renewal of such licence.

(3) An application for the renewal of a petroleum development and production licence shall be accompanied by—

- (a) a proposed programme of production operations to be carried on in the period of renewal; and
- (b) details of—
 - (i) the latest proved, estimated and inferred petroleum and by products reserves;
 - (ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;
 - (iii) any expected changes in methods of production; and
 - (iv) such further information as the Minister may require; and shall be presented in such a way as to give a clear indication of any expected increase or reduction in the production activities and the estimated life of the reservoir.

(4) The Minister shall, within five days of receiving an application under subsection (2) forward the application to the Technical Committee for consideration.

(5) The Technical Committee shall, within thirty days of receiving an application forwarded to it under subsection (4), consider such application and may, within that period, cause such investigations to be made or such consultations to be carried on as the Technical Committee may consider necessary to assess whether or not the criteria in subsection (6) has been met.

(6) The Technical Committee shall, in considering an application made under subsection (2), take the following into account:

- (a) that the applicant is in breach of any provision of this Act or of a condition of a licence;
- (b) that the proposed programme of production operations to be carried out in the renewal period is adequate;
- (c) that the production of petroleum in the production area has proceeded with reasonable diligence;

- (d) that petroleum in workable quantities remains to be produced; and
 - (e) that the proposed programme or development and production area will ensure the most efficient and beneficial use of the petroleum resources in the production area.
- (7) The Technical Committee shall after considering an application under this section recommend to the Committee—
- (a) the renewal of a petroleum development and production licence where the application meets the requirements of this Act; or
 - (b) the refusal to renew a petroleum exploration licence where the application does not meet the requirements of this Act.
- (8) The Minister shall, with the approval of the Committee, reject an application for renewal where—
- (a) the applicant is in breach of any provision of this Act or of a condition of a licence;
 - (b) the Minister is not satisfied that—
 - (i) the production of petroleum in a production area has proceeded with reasonable diligence;
 - (ii) petroleum in workable quantities remains to be produced; or
 - (iii) the proposed programme or development and production area will ensure the most efficient and beneficial use of the petroleum resources in the production area.
- (9) The Minister shall not reject an application on the ground referred to in—
- (a) paragraph (a) of subsection (8), unless the applicant has been given details in writing of the breach and has failed to remedy the same within such reasonable time as the Minister may allow;
 - (b) subparagraph (i) or (ii) of paragraph (b) of subsection (8), unless the applicant has been given a reasonable opportunity to make written representations thereon to the Minister; or

(c) subparagraph (iii) of paragraph (b) of subsection (8), unless the applicant has in writing been so notified and has failed to propose amendments to the applicants proposed programme of production and processing operations satisfactory to the Minister within such time as the Minister may allow.

(10) The period of renewal of a petroleum development and production licence shall be for such period, not exceeding twenty years, as the Minister may, with the approval of the Committee determine to be reasonably necessary in accordance with good oilfield practices to recover from the production area, the maximum amount of petroleum.

(11) Where an application for a renewal of a petroleum development and production licence has been duly made and the licence expires before the Minister grants or refuses to grant a renewal thereof, the licence shall be deemed to continue in force until the Minister grants or refuses to grant a renewal of the licence, except where the licence is cancelled under this Act or the application for a renewal is withdrawn.

Unit
development

38. (1) For the purposes of this section “unit development”, in relation to a petroleum reservoir, means the co-ordination of operations for the recovery of petroleum being carried on, or to be carried on, in a development and production area, in which part of the reservoir is located, with operations for the recovery of petroleum being carried on, or to be carried on, in any other area in which another part of the same reservoir is located.

(2) A holder of a petroleum development and production licence may from time to time enter into an agreement in writing with one or more other holders of petroleum development and production licences for or in connection with the unit development of a petroleum reservoir and shall forthwith submit the agreement to the Minister for approval.

(3) For the purpose of securing a more effective recovery of petroleum from a petroleum reservoir, the Minister may, on the Minister's own motion, or on application made to the Minister in writing by the holder of a petroleum development and production licence in whose development and production area part of a petroleum reservoir is located, direct in writing that such holder—

- (a) enter into a written agreement with any other licensee, whose development and production area includes part of that petroleum reservoir, within the period specified by the Minister in the direction, for or in relation to the unit development of that petroleum reservoir; and
- (b) forthwith lodge the agreement with the Minister for approval.

(4) Where a holder of a petroleum development and production licence who is directed under subsection (3) to enter into an agreement for or in relation to the unit development of a petroleum reservoir—

- (a) fails to comply with the direction; or
- (b) complies with the direction but the agreement lodged with the Minister is not approved by the Minister;

the Minister shall, by notice in writing served on the holder, direct the holder to submit to the Minister, within the period specified in the notice, a scheme for or in connection with the unit development of the petroleum reservoir.

(5) The scheme submitted under subsection (4) and approved by the Minister with or without modifications shall be binding on every holder of a petroleum development and production licence whose development and production area includes part of the petroleum reservoir.

39. (1) A person shall not without a licence, in any development and production area, carry on any business for which a licence is required under the Trades Licensing Act without the consent of the Minister:

Trading in
development
and
production
area
Cap. 393

Provided that such consent shall not entitle any person to carry on any such business except under and in accordance with the provisions of the Trades Licensing Act.

Cap. 393

(2) A person shall not, in any development and production area, erect any building or other structure for the purpose of carrying on any such business without the consent of the holder of the licence.

PART VI

RESTRICTION ON EXERCISE OF RIGHTS UNDER LICENCES AND
SURFACE RIGHTS

Restrictions
on exercise
of rights by
holder

40. (1) A holder of a licence shall not exercise any rights under this Act or the licence—

(a) without the written consent of the appropriate authority, upon —

(i) any land dedicated as a place of burial whether in use or not;

(ii) any land containing any ancient monument or national monument, as defined in the National Heritage Conservation Commission Act;

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(iii) any land which is the site of or within ninety metres of any building or dam owned by the Republic; or

Cap. 444

(iv) any land forming part of a Government aerodrome as defined in the Aviation Act;

(b) without the written consent of the owner or legal occupier thereof or the duly authorised agent—

(i) upon any land which is the site of or which is within one hundred and eighty metres of any inhabited, occupied or temporarily uninhabited house or building;

(ii) within forty five metres of any land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or upon which farm crops are growing;

(iii) upon any land which is the site of or is within one hundred metres of any cattle dip, tank, dam or any private water as defined in the Water Act; or

Cap. 198

(iv) upon any land forming part of an aerodrome, other than an aerodrome referred to in subparagraph (iv) of paragraph (a):

Provided that where any consent required under this subsection is unreasonably withheld, the Minister may arrange for arbitration of the matter in accordance with section *forty-four*;

(c) upon land occupied as a village, without the written consent of the chief and the local authority for the district in which the village is situated;

(d) without the written consent of the railway administration, upon any land reserved for the purposes of any railway track or within one hundred metres of any railway track;

(e) without the written consent of the appropriate authority or the local authority concerned, upon any land within, or within sixty metres of the boundaries of, any city, municipality or district for which a council is established under the provisions of the Local Government Act;

Cap. 281

(f) without —

(i) the written consent of the appropriate authority, upon any land used as a forest nursery or plantation or as a timber depot, sawmill or other installation for working a forest; and

(ii) due compliance with the relevant provisions of the Forests Act, upon any land declared to be a national forest or local forest, as defined in that Act;

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(g) upon any street, road or highway, without the written consent of the appropriate authority or the public body which has the control thereof;

Act No. 12
of 1998

(h) upon any land comprised in a National Park without complying with the Zambia Wildlife Act;

Cap. 283

(i) upon any land that, under the Town and Country Planning Act, cannot be developed without permission, unless the requisite permission is first obtained.

(2) Any consent given for the purposes of this section by the Minister or the appropriate authority may be given unconditionally or subject to such conditions as are specified in the terms of the written consent.

(3) In this section, "appropriate authority", in relation to any matter, means the Minister responsible for that matter or such public officer as the Minister may authorise to give the requisite consent in that behalf.

Rights under
licence to be
exercised
reasonably

41. Subject to the terms of any access agreement, the rights conferred by a licence shall be exercised reasonably and, except to the minimum extent necessary for the reasonable and proper conduct of the petroleum operations, shall not be exercised so as to prejudice the interest of any owner or occupier of the land over which those rights extend.

Right to
access and
use of water
or graze
stock

42. Subject to the terms of any access agreement, the owner or occupier of any land within an exploration or production area shall retain the right to access and use water and to graze stock upon or to cultivate the surface of the land in so far as such use, grazing or cultivation does not interfere with the exploration or development operations in the area.

(2) In the case of a production area, the owner or lawful occupier of any land within such area shall not erect any building or structure thereon without the consent of the holder of the licence, or, if such consent is unreasonably withheld, the written consent of the Minister.

(3) The rights conferred by a licence shall be exercised reasonably so as to affect as little as possible the interests of any owner or lawful occupier of the land over which such rights are exercised and exploration or development operations shall be carried out in a proper manner.

43. (1) Subject to subsection (2), a holder of a licence who requires the exclusive or other use of the whole or any portion of the exploration or production area for the purpose of the licence may, in accordance with the laws relating to such acquisition, acquire a lease thereof or other right to use the same upon such terms as may be agreed between such holder and the owner or occupier of the land.

Acquisition
of use of
land by
holder of
licence

(2) A holder of a licence shall not purchase or obtain a lease of or other rights over any land specified in paragraph (a), or in paragraphs (c) to (h) of subsection (1) of section forty, except with the consent of the appropriate authorities mentioned in that section.

44. (1) Where there is any dispute as to—

Arbitration
of disputes

(a) whether or not paragraph (b) of subsection (1) of section forty applies in respect of any land, or the withholding of any consent under that subsection;

(b) the withholding of any consent under section forty; or

(c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument;

any party to the dispute may by consent of both parties, apply to the Minister to determine the dispute or the Minister may, require the parties to enter into a submission within the meaning of the Arbitration Act.

(2) Subsection (1) shall have effect subject to the terms of any access agreement.

Act No. 19
of 2000

45. (1) A holder of a petroleum exploration licence or a petroleum development and production licence shall, on demand being made by the owner or lawful occupier of any land subject to the licence, promptly pay the owner, or occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier and for any damage done to the surface of the land by the petroleum operations and shall, on demand being made by the owner of any crops, trees, buildings or works damaged during the course of the operations, pay compensation for the damage.

Compensation
for
disturbance
of rights, etc

(2) In assessing the compensation payable under subsection (1), account shall be taken of any improvement effected by the holder of the licence or by the holder's predecessor in title, the benefit of which has or will enure to the owner or lawful occupier thereof.

(3) The compensation payable for damage to the surface of any land shall be the extent to which the market value of the land (for which purpose it shall be deemed saleable) upon which the damage has occurred has been reduced by reason of such damage, but without taking into account any enhanced value due to the presence of petroleum.

(4) No demand made in terms of this section shall entitle the owner or lawful occupier to prevent or hinder the exercise by the holder of a licence pending the determination of compensation to be paid.

(5) Compensation shall not be payable under subsection (1) in respect of any indigenous wood or timber taken —

Cap. 199

(a) upon land that has been declared a local forest or a national forest under the provisions of the Forests Act; or

Cap. 198

(b) upon other land that has not been alienated by the President in accordance with the Lands Act.

Act No. 19 of
2000.

(6) Where a holder of a licence fails to pay compensation when demanded under the provisions of this section, or where the owner or lawful occupier of any land is dissatisfied with any compensation offered, the dispute shall be determined by arbitration in accordance with the Arbitration Act.

(7) A claim for compensation under the provisions of subsection (1) shall be made within a period of three years from the date when such claim has accrued, failing which, notwithstanding the provisions of any other written law, such claim shall not be enforceable.

Compulsory
acquisition
of land
Cap. 189

46. (1) Subject to the provisions of the Land Acquisition Act, where the President considers that any land is required to secure the development or utilization of the petroleum resources of Zambia, the President may compulsorily acquire such land.

Cap. 189

(2) The acquisition of land under this section shall be effected in accordance with the provisions of the Land Acquisitions Act.

PART VII

SURRENDER, CANCELLATION OR SUSPENSION OF LICENCES

47. (1) Subject to any condition in the holder's licence, the holder of a licence may surrender all or any of the blocks subject to the licence by—

Surrender of area or part of area covered by licence

- (a) giving to the Minister not less than three months' notice of the holder's intention to surrender all or any of the blocks concerned;
- (b) applying to the Minister for and obtaining a certificate of surrender; and
- (c) complying with such conditions as the Minister may determine.

(2) Where the application for a certificate of surrender is in respect of only some of the blocks in an area covered by the licence, the holder thereof shall—

- (a) in the application, specify the block or blocks to be surrendered and give the results of exploration operations carried out; and
- (b) where the application is approved, demarcate the remaining area in the prescribed manner.

(3) No surrender of any block covered by a licence shall be effective until the Minister has issued a certificate of surrender in respect of that block.

(4) A surrender shall be without prejudice to any liabilities or obligations incurred by the holder in relation to the block surrendered prior to the date of surrender.

(5) On the issue of a certificate of surrender the Minister shall, where the surrender is in respect of—

- (a) all the blocks in an area covered by a licence, cancel such licence; or
- (b) only some of the blocks in an area covered by the licence, amend the licence accordingly.

Minister's
power to
suspend or
cancel licence

48. (1) Subject to the provisions of this section, the Minister may, with the approval of the Committee, suspend or cancel a licence where the holder of the licence—

- (a) is in breach of any provision of this Act or of a condition of a licence;
- (b) dies or becomes insolvent or commits any act of bankruptcy or enters into any agreement or scheme of composition with the holder's creditors or takes advantage of any written law for the benefit of debtors or, in the case of a company, goes into liquidation, except as part of a scheme for the reconstruction or amalgamation of the holder;
- (c) makes any statement to the Government in connection with the holder's licence which the holder knows or ought to have known was false in a material particular; or
- (d) for any reason becomes ineligible to apply for a licence under the provisions of section *seven*.

(2) Before suspending or cancelling a licence under paragraph (a) of subsection (1), the Minister shall give the holder of the licence notice in writing specifying the provisions of this Act or the condition of any licence in respect of which the holder is in breach and calling upon the holder to remedy the breach within such period, being not less than thirty days, as may be specified in such notice.

(3) Where the holder of a licence fails to remedy any breach specified in paragraph (a) of subsection (1) within the period specified in a notice issued under subsection (2), or where there is an event specified in paragraph (b), (c) or (d) of subsection (1), the Minister may, by notice to the holder, cancel the licence forthwith.

(4) On cancellation of a licence under the provisions of this section, the rights of the holder of the licence shall cease but without prejudice to any liabilities or obligations incurred in relation to the licence prior to the date of cancellation.

PART VIII

TRANSFERS AND REGISTRATION

49. (1) The Minister shall cause to be kept a register, in such form as may be determined by the Minister, in which shall be recorded—

Register

- (a) the details of the holders of petroleum exploration licences and petroleum development and production licences granted under this Act; and
- (b) the date of issue and duration of the licences referred to in paragraph (a);
- (c) every programme of exploration and development and production operations and every amendment thereto;
- (d) every renewal of a licence referred to in paragraph (a) and the conditions of the renewal; and
- (e) every employment and training plan submitted under this Act.

(2) Any person may, upon payment of the prescribed fee, inspect the register kept under subsection (1) and may obtain certified copies of any document contained therein.

50. A legal or equitable interest in or affecting a licence shall not —

Interest in licence to be created by instrument in writing

- (a) be capable of being created, transferred, assigned or dealt with, whether directly or indirectly, except by instrument in writing; or
- (b) affect the liability of the holder of the licence for a breach of any condition of the licence or of any provision of this Act.

51. (1) Except where the Minister otherwise approves—

Transfer, etc., of licence to be approved by Minister

- (a) the transfer of a licence; or
- (b) an instrument by which a legal or equitable interest in or affecting a licence is created, assigned or dealt with, whether directly or indirectly, the transfer or the instrument shall be of no effect.

(2) An application for approval by the Minister under subsection (1) shall be made to the Minister in such form as may be prescribed or determined by the Minister.

(3) Subject to subsections (4) and (5), on application made under subsection (2) the Minister may give or refuse to give approval, or give approval subject to such conditions as the Minister considers necessary in the circumstances to impose.

(4) The Minister shall give approval to the transfer of a petroleum exploration licence where the transferee—

(a) is a person controlling, controlled by or under common control with the transferor; and

(b) is not a person disqualified under any provision of this Act from holding a petroleum exploration licence.

(5) Where the Minister gives approval under subsection (4), the Minister shall cause the name of the transferee to be recorded as the holder of the licence, and any legal proceedings which may be or have been commenced against that holder may be commenced or continued notwithstanding the transfer.

(6) For the purposes of paragraph (a) of subsection (1) a reference to the “transfer of a licence” shall include a transfer of a licence by operation of law.

Minister
may
require
additional
information

52. The Minister may require any person making application under section *fifty-one* to furnish the Minister in writing with such additional information as the Minister may require to enable the

Evidence

53. The Minister may issue a certificate in respect of any of the following matters:

(a) that a licence was granted, transferred, suspended or cancelled on or with effect from the date specified in the certificate;

(b) that a block, identified in the certificate, is or was on the date specified therein subject to a licence;

(c) that a certificate of surrender in respect of a particular block was issued on the date specified in the certificate;

(d) that the person named in the certificate is or was on the date specified in the certificate the registered holder of a licence;

(e) a direction, specified in the certificate, was, on the date specified therein, given to the person named in the certificate; or

(f) that a condition specified in the certificate—

(i) is or was on the date specified therein a condition of the licence; or

(ii) is a condition on which the certificate of surrender or on which the consent or approval, as specified, was issued or given, and, without prejudice to the right to adduce evidence in rebuttal, such a certificate shall be admissible as evidence of that fact in any proceedings before a court of competent jurisdiction or arbitral tribunal.

PART IX

GENERAL PROVISIONS RELATING TO HOLDERS OF LICENCES

54. (1) A holder of a licence shall—

(a) carry out in the exploration or development and production area exploration or development and production operations in a proper, safe and workmanlike manner and in accordance with good oilfield practices;

(b) take all reasonable steps necessary to secure the safety, health and welfare of persons engaged in operations in or about the exploration or development and production area; and

(c) comply with regulations and any direction given, restriction imposed or requirement requested by an inspector in the performance of the inspector's duties under this Act.

(2) Notwithstanding the generality of subsection (1), a holder of a licence shall—

(a) control the flow and prevent the waste or escape in the exploration or development and production area of petroleum gas (not being petroleum or water);

(b) prevent the escape in the exploration or development and production area of any mixture of water or drilling fluid and petroleum or any other substance;

Work
practices
for holder of
licence

- (c) prevent damage to petroleum bearing strata in an area in respect of which the licence is not in force;
- (d) keep separate in the manner prescribed—
 - (i) each petroleum reservoir discovered in the exploration or development and production area; and
 - (ii) such of the sources of water, if any, discovered in the exploration or development and production area, as the Minister may, by notice in writing served on the holder, direct;
- (e) except where required by and in accordance with good oilfield practices, prevent water or any other substance entering a petroleum reservoir through any well in the exploration or development and production area;
- (f) prevent the pollution of any water well, spring, stream, river, lake, reservoir or estuary by the escape of petroleum, salt water, drilling fluid, chemical additive, gas (not being petroleum) or any other waste product or effluent;
- (g) where a pollution occurs, treat or dispose of it in an environmentally acceptable manner; and
- (h) prior to the drilling of a well, furnish the Minister with a detailed report on the technique to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed in the drilling of the well.

(3) Where the consent in writing of the Minister has been obtained, nothing in this section shall prevent a holder of a licence from flaring natural gas in accordance with the terms of the notice of consent.

(4) Nothing in this section shall prevent a holder of a licence from flaring natural gas without the prior written consent of the Minister where, in an emergency, flaring is necessary to safeguard the health and safety of persons in the exploration or development and production area or to prevent damage to the property of any person in such area.

(5) A holder of a licence shall give the Minister notice in writing, in such form as may be prescribed or determined by the Minister, of the holder's intention to abandon a well, and the closure or plugging of a well shall be carried out only with the prior written consent of the Minister and in the manner prescribed or determined by the Minister.

55. (1) Where the Minister considers that the holder of a petroleum development and production licence is using wasteful production practices, the Minister may notify such holder accordingly and require the holder to show cause, within such time as the Minister shall specify, why the holder should not cease to use such practices.

Wasteful
productic
practices

(2) Where, within the time specified in any notice issued under subsection (1), the holder of a licence fails to satisfy the Minister that the holder is not using wasteful production practices, or that the use of such practices is justified, the Minister may order the holder to cease using such practices within such time as the Minister may specify.

(3) Where the holder of a licence fails, after being ordered to do so, to cease using wasteful production practices, the Minister may cancel the licence or may suspend such licence for such period as the Minister may, with the approval of the Committee determine.

56. (1) A holder of a licence shall—

Maintenance,
etc., of
property

(a) maintain in good condition and repair all structures, equipment and other property used in connection with the exploration or development and production operations in which the holder is engaged in the exploration or production area;

(b) remove from the exploration or development and production area concerned all structures, equipment and other property which are not used or to be used in connection with the exploration or development and production operations in which the holder is engaged; and

(c) take reasonable steps to warn persons who may be in the vicinity of any such structure, equipment or other property of the presence thereof and the possible hazards which may result therefrom.

(2) The provisions of subsection (1) shall not apply to a structure, equipment or other property which was, without the authority of the holder of the licence brought into the exploration or development and production area subject to a licence.

(3) A holder of a petroleum exploration licence or petroleum development and production licence who contravenes any provisions of subsection (1) commits an offence and is liable on conviction—

(a) in the case of an individual, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding one year, or to both; or

(b) in the case of a body corporate, to a fine not exceeding seven hundred thousand penalty units.

Drilling near
boundaries

57. (1) Except with the consent in writing of the Minister, a holder of a licence shall not drill a well any part of which is less than one thousand metres from a boundary of the area subject to the licence.

(2) Where a holder of a licence does not comply with subsection (1), the Minister may, by notice in writing served on the holder, direct that, within the period specified in the notice, the holder take one or more of the following actions:

(a) plug the well;

(b) close off the well;

(c) comply with any direction specified in the notice relating to the drilling or maintenance of the well.

(3) Any person who fails to comply with a direction under subsection (2) commits an offence and is liable on conviction —

(a) in the case of an individual, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding nine hundred thousand penalty units.

Removal of
property,
etc., by
holder

58. (1) A holder of a petroleum exploration or petroleum development and production licence over land that ceases to be subject to a petroleum exploration or development and production licence—

(a) may, within the prescribed period; and

(b) shall, if directed to do so by the Minister by notice in writing, within the period specified in the notice;

- (i) cause to be removed from the land any plant brought onto, or erected upon that land in the course of exploration or development and production operations carried out under the exploration or development and production licence;
- (ii) plug or close off, to the satisfaction of the Minister, all wells made in that area by the person engaged or concerned in the operations; and
- (iii) make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area.

(2) Any dam and the water impounded thereby shall be left intact and any machinery or equipment connected therewith may be removed only with the written consent of the Minister.

(3) Nothing in this section or in any direction given under it shall be construed as requiring any person who is or was the holder of a licence to do anything which is not, or to refrain from doing anything which is, in accordance with good oilfield practices.

(4) Any person to whom a direction is given under subsection (1) who fails to comply with the direction within the period specified in the notice commits an offence and is liable on conviction—

(a) in the case of an individual, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding six months, or to both; or

(b) in the case of a body corporate, to a fine not exceeding fifteen thousand penalty units.

(5) The Minister may give a direction under this section even though the prescribed period has not expired.

(6) In this section, “prescribed period” means a period of six months from the date on which the land ceased to be subject to the licence or such longer period as the Minister may allow.

59. (1) Where any plant is not duly removed under section *fifty-eight*, the Minister may direct that the plant be sold by public auction.

Sale of plant

(2) Any plant remaining unsold after the public auction under subsection (1) has been held, may be sold by private treaty.

(3) The following amounts shall be deducted from the proceeds of any sale under subsection (2):

- (a) the costs of the sale and of any matter incidental to or connected with the sale;
- (b) the costs of removing from the land any plant remaining unsold after the public auction;
- (c) any amount owing in respect of compensation payable under the Act; and
- (d) any other amount that the Minister certifies to be a deductible amount.

(4) Any balance remaining shall be paid to the Minister responsible for finance, who shall credit the same to a trust account, and who may, on application, pay it to any person who is lawfully entitled to it.

(5) Where no person applies to the Minister under subsection (4) within a period of ninety days, the balance shall be paid to the revenues of the Republic.

(6) Where the proceeds of sale are less than the amounts to be deducted—

- (a) the shortfall shall be a debt due to the Republic from the person to whom the relevant direction was given and shall be recoverable in any court of competent jurisdiction; and
- (b) the proceeds of sale shall be applied in meeting those amounts in such manner as the Minister may direct.

(7) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.

Survey of
wells, etc

60. (1) The Minister may at any time, by notice in writing served on a holder of a licence, direct the holder to—

- (a) demarcate and keep demarcated, in such a manner as may be prescribed, the production area, and submit to the Minister, within such time as may be prescribed, a diagram of the production area;
- (b) carry out a survey of the position of any well or of any structure or equipment; or
- (c) furnish to the Minister in writing, within a period specified in the notice, a report of the survey.

(2) Where the Minister is not satisfied with a report furnished by the holder under subsection (1), the Minister may, by notice in writing served on the holder of a licence, direct the holder to immediately furnish in writing such further information as the Minister may require.

(3) Where a person to whom a direction is given under subsection (1) fails to comply therewith, the Minister may cause to be carried out the survey specified in the notice containing the direction.

(4) Notwithstanding that a holder may be convicted of an offence under subsection (5), any costs or expenses incurred pursuant to subsection (3) shall be a debt due to the Government and recoverable in a court of competent jurisdiction.

(5) Any person to whom a direction is given under subsection (1) or (2) who fails or neglects to comply therewith commits an offence and is liable on conviction—

(a) in the case of an individual, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding three hundred thousand penalty units.

61. (1) A company that holds a licence shall not, after the date of the grant of the licence, without the written consent of the Minister—

Transfer of
control
of company

(a) register the transfer of any share or shares in the company to any particular person or that person's nominee; or

(b) enter into an agreement with any particular person, if the effect of doing so would be to give that person control of the company.

(2) On an application for consent under this section, the Minister may call for and obtain such information as is reasonably necessary, but such consent shall not be unreasonably withheld.

(3) For the purposes of this section—

(a) a person is deemed to have control of a company—

(i) if the person or that person's nominee holds, or the person and that person's nominee together hold, a total of fifty per centum or more of the equity shares of the company; or

(ii) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of Directors of the company; and

(b) "equity shares" has the meaning assigned to it in the Companies Act.

Cap. 388

Holder to have office in Zambia

62. (1) A holder of a petroleum exploration licence or a petroleum development and production licence shall maintain an office in Zambia to which communications may be sent and shall give notice to the Director of that address and of any changes of that address.

(2) The use by a holder of an office of a consultant or other agent of the holder for any purpose related to the requirements of this Act shall not be considered as an office for purposes of subsection (1).

Preference for Zambian products, etc.

63. (1) A holder of a licence issued under this Act, shall, in the conduct of petroleum operations under the licence, and in the purchase, construction and installation of facilities, give preference to the maximum extent possible consistent with safety, efficiency and economy, to—

(a) materials and products made in Zambia; and

(b) service agencies located in Zambia and owned by Zambian citizens or bodies corporate registered under the Companies Act.

Cap. 388

(2) A holder of a licence shall, in all phases of the holder's operations, give preference in employment to citizens of Zambia to the maximum extent possible consistent with safety, efficiency and economy.

(3) A holder of a licence shall, in the holder's operations, conduct training programmes in consultation with the Minister for the benefit of employees to enable the employees qualify for advancement.

Insurance and indemnities

64. (1) A holder of a petroleum exploration or a development and production licence shall—

(a) obtain, and maintain at all times during the lifetime of the petroleum exploration or development and production licence and for the prescribed period thereafter; and

(b) cause its contractors to obtain and maintain at all times;

insurance coverage, within the Republic, in such amounts and against such risks as may be prescribed by the Minister, by statutory instrument, and shall furnish to the Minister the certificates evidencing that such coverage is in effect and provide copies of any policies requested.

(2) A statutory instrument made under subsection (1) shall include requirements for such insurance coverage as is internationally recognised to obtain in the petroleum industry in accordance with good oilfield practices.

(3) A holder of a petroleum exploration licence or a petroleum development and production licence shall, if so directed by the Minister by a notice in writing, obtain and maintain in force in respect of the exploration or production operations carried on by the holder, such insurance cover as the Minister may consider reasonably necessary in the public interest.

(4) A holder of a petroleum exploration licence or petroleum development and production licence shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including, without limitation, claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of exploration or development and production operations by or on behalf of the holder.

(5) The indemnity referred to under subsection (4) shall not apply to the extent, if any, that any action, claim, demand, loss, damage or injury resulted from any direction given by, or wrongful act committed, on behalf of the Republic.

(6) Any person who contravenes subsection (1) or (3) commits an offence and shall be liable, upon conviction to a penalty of one million penalty units and to a further penalty of twenty thousand penalty units for each day the contravention continues.

65. Any person who, without reasonable excuse, obstructs, molests, hinders or prevents a holder of a licence in or from doing any act authorised to be done under the provisions of this Act commits an offence and is liable, on conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding twelve months.

Obstruction
of
holder of
licence

PART X

SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION

Environment and human health to be considered when granting exploration or development and production licences

66. The Minister shall, in deciding whether or not to grant an exploration or development and production licence, take into account—

(a) the need to conserve and protect—

(i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and

(ii) the features of cultural, architectural, archaeological, historical or geological interests; and

(b) the need to ensure that any exploration or production activity prevents any adverse socio-economic impact or harm to human health in or on the land over which the licence is sought, and the Minister may require the applicant to submit the results of any environmental impact studies conducted in accordance with or as required by the Environmental Protection and Pollution Control Act to enable such a decision to be made.

Cap. 204

Conditions for protection of environment and human health

67. (1) The conditions subject to which the licence is granted or renewed shall include such conditions as may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to

(a) the conservation and protection of —

(i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and

(ii) the features of cultural, architectural, archaeological, historical or geological interest; in or on the land subject to the licence;

(b) the protection of human health, in consultation with the Minister responsible for health;

(c) the rehabilitation, levelling, re grassing, re foresting or contouring of such part of the land over which the licence has effect as may have been damaged or adversely affected by exploration or development and production area; and

(d) the filling in, sealing or fencing off of wells.

(2) Any conditions of the kind referred to in subsection (1) shall—

(a) conform to specifications and practices established by national standards for the management of the environment as it is affected by exploration and development and production operations; and

(b) include requirements for the lodgment, by an applicant for the grant or renewal of a licence, of one or more cash deposits for securing the performance by such applicant of all or any such conditions.

68. (1) The Minister may cause to be served on a person who is or has been a holder of a licence, a written notice directing the person to take specified steps within a specified time, to give effect to any conditions included in an environmental plan, or otherwise attaching to the right, for the protection of the environment in accordance with the Environmental Protection and Pollution Control Act.

Direction to comply with conditions of licence

Cap. 204

(2) Any person who fails to comply with a direction served under subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units.

69. (1) The Minister may, where a person to whom a direction is given under section *sixty-eight* fails to comply with the direction, cause the necessary steps to be taken to execute it, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic.

Rehabilitation by Minister at holder's expense

(2) A certificate signed by the Minister stating that a specified amount is the amount of the debt so due shall be admissible as evidence in all courts for the recovery of debts due to the Republic under subsection (1).

(3) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.

70. (1) There shall be an Petroleum Environmental Protection Fund, which shall be administered and managed in such manner as the Minister may, by statutory instrument, prescribe.

Petroleum Environmental Protection Fund

(2) There shall be paid into the Fund the amount of any cash deposit referred to in paragraph (b) of section *sixty-seven*.

(3) Moneys from the Fund may be applied—

(a) at the expiry or termination of a licence by way of refund to the holder thereof of the amount of any cash deposits referred to in paragraph (b) of subsection (2) of section *sixty-seven* that were paid by the holder, to the extent that such moneys are not appropriated under paragraph (b); or

(b) to the payment of any debt due under this Part to the extent that the debt is not paid by or recovered from, the person from whom it is due, and regardless of whether proceedings have been taken against that person for an offence under this Part or for the recovery of the debt:

Provided that, in the case of any particular debtor, the amount of any moneys expended under this paragraph for or toward the satisfaction of the person's debts shall not exceed the amount of any cash deposits referred to in subsection (2) that were lodged by that person.

(4) Moneys standing to the credit of the Fund that are not immediately required for the purposes of the Fund may be invested in such manner as the Minister, with the approval of the Minister responsible for finance, may determine.

Liability and
redress

71. (1) A holder shall be strictly liable for any harm or damage caused by exploration or development and production operations and shall compensate any person to whom the harm or damage is caused.

(2) Liability shall attach to the person who directly contributes to the act or omission which results in the harm or damage.

(3) Where there is more than one person responsible for the harm or damage, the liability shall be joint and several.

(4) Where any harm or damage is caused to the environment or biological diversity, compensation shall include the cost of reinstatement, rehabilitation or clean-up measures which are incurred and where applicable, the costs of preventive measures.

(5) Liability shall also extend to—

- (a) any harm or damage caused directly or indirectly by the exploration and development and production operations to the economy or social cultural conditions;
- (b) any negative impact on the livelihood or indigenous knowledge systems or technologies of any community;
- (c) any disruption or damage to any production or agricultural system;
- (d) any reduction in yields of the local community;
- (e) any air, water or soil contamination or damage to biological diversity;
- (f) any damage to the economy of an area or community; or
- (g) any other consequential disorder.

(6) Notwithstanding any other law to the contrary, the right to bring any action in respect of harm caused by exploration or development and production operations shall lapse after a reasonable period from the date on which the affected person or the community could reasonably be expected to have learned of the harm or damage, taking due account of—

- (a) the time the harm or damage may take to manifest itself; and
- (b) the time that it may take to correlate the harm with the exploration or development and production operations, having regard to the situation or circumstance of the person or community affected.

(7) Any person, group of persons or private or state organisation may bring a claim and seek redress in respect of the breach or threatened breach of any provision relating to damage to the environment, biological diversity, human and animal health or to socio-economic conditions—

- (a) in that person's or group of person's interest;
- (b) in the interest of or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of, or on behalf of, a group or class of person whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment or biological diversity.

(8) No costs shall be awarded against any of the persons specified under subsection (7) who fail in any action if the action was instituted reasonably out of concern for the public interest or the interest of protecting human health, biological diversity and in general, the environment.

(9) Where any harm or damage is caused to human and animal health by exploration operations or development and production operations, compensation shall include—

- (a) any costs and medical expenses;
- (b) compensation for any disability suffered; and
- (c) compensation for loss of life.

PART XI

GOVERNMENT REVENUES

Income tax
Cap. 323 **72.** A holder of a petroleum development and production licence shall be liable for the payment of income tax in accordance with the Income Tax Act on the income deriving from petroleum operations.

Employee
taxation
Cap. 323 **73.** (1) The income of individuals who are employed by a holder of a licence, or who hire their services out to a holder shall be subject to the payment of income tax in accordance with the Income Tax Act.

Cap. 323 (2) A holder of a licence shall be obliged to withhold and pay to the State any income tax assessed on the taxable income of such individuals in accordance with and as required by the Income Tax Act.

Royalty or
production
payment **74.** (1) The Commissioner-General shall require a holder of a petroleum development and production licence to pay to the State a royalty or production payment in cash or in kind, at the option of the State, on the gross value or volume, as the case may be, of crude oil produced and saved in the production area after deducting the amount of crude oil used and consumed in the conduct of petroleum operations.

(2) The Commissioner-General shall require a holder of a petroleum development and production licence to pay to the State a royalty or production payment based on the gross value or volume, as the case may be, of natural gas produced, saved and sold from the production area after deducting the amount of natural gas used and consumed in the conduct of petroleum operations.

(3) The Minister responsible for finance shall, by statutory instrument, prescribe the amount of royalties payable by a holder of a petroleum development and production licence under this section.

75. (1) Where, for any reason, it is impractical to assess the amount of any royalty due, the Commissioner-General may assess a provisional royalty.

Provisional royalty

(2) When any royalty due has been ascertained, the holder of the petroleum and production licence concerned shall pay any sum which may be required to complete such ascertained royalty or be entitled to be repaid any sum paid in excess of the ascertained royalty.

76. (1) Where a holder of a petroleum development and production licence fails to pay any royalty or provisional royalty due in respect of that licence on or before the due date or any extension thereof, or where the Commissioner-General has reason to believe that petroleum has been produced from any area and royalties have not been paid in respect thereof, the Commissioner-General may, by order served on the holder of the licence, prohibit the disposal of, or any dealings in or with, any petroleum from the production area concerned, or from any other area held by such holder under a development and production licence until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Commissioner-General, for the payment of such royalties.

Prohibition on disposal of petroleum

(2) Any holder of a development and production licence who fails to comply with an order under this section or, contrary thereto, receives any petroleum from the area concerned, commits an offence and should be liable, on conviction to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Remission of royalty, etc. 77. (1) Where the Commissioner-General considers it expedient in the interests of the production of petroleum, the Commissioner-General may, for such period as the Commissioner-General may determine, remit, in whole or in part, any royalty payable on petroleum obtained from a particular production area.

(2) The Commissioner-General may, on application made by a holder of a development and production licence, defer, for such period and subject to such conditions as the Commissioner-General may determine, payment of any royalty due from the holder.

(3) The Commissioner-General may exempt from liability to pay royalty, samples of petroleum required for the purpose of analysis or other examination.

Recovery of royalty, etc. 78. (1) Any royalty, fee, rent or other payment which may become due in respect of any right under the provisions of this Act shall be a debt due to the Government and recoverable in a court of competent jurisdiction.

(2) Without prejudice to the right to adduce evidence in rebuttal, a certificate issued by the Commissioner-General certifying that a specified amount of royalty, is payable by a specified person shall, in any proceedings instituted against that person for the recovery of any such royalty, be received as evidence of that fact.

Annual fee in respect of licence 79. (1) There shall be payable to the Government by the holder of a licence an annual fee of such amount as may be determined by the Minister by statutory instrument.

(2) The annual fee payable pursuant to subsection (1) shall be payable on the grant of a licence and thereafter annually on the anniversary of the grant until the termination of the licence.

Security for compliance 80. The Minister may make such arrangements as appear appropriate to the Minister to secure the compliance of a holder with the provisions of this Act and, in particular may accept guarantees, whether from shareholders or otherwise, in respect of such compliance.

PART XII

THE HYDROCARBON UNIT

81. (1) There is hereby established a Hydrocarbon Unit which shall be based in the Ministry responsible for mines and which shall be under the control and supervision of the Minister.

Establishment
of Hydrocarbon
Unit

(2) The expenses of the Unit shall be charged on and issued out of the general revenues of the Republic.

82. (1) The Unit shall perform its functions so as attain the objectives of this Act.

Functions of
Unit

(2) Notwithstanding the generality of subsection (1), the Unit shall be responsible for—

(a) implementing Government policy relating to the exploration for, and the development and production of, petroleum;

(b) monitoring the conduct of petroleum operations by holders of licences under this Act;

(c) receiving and processing bids and applications for licences under this Act; and

(d) providing advice to, and information required by, the Minister.

83. (1) There shall be a Director for the Unit who shall be a public officer appointed by the Public Service Commission.

Director and
other public
officers

(2) The Director shall, subject to the general or specific directions of the Minister—

(a) be responsible for the administration of the Unit;

(b) be responsible to the Minister for matters concerning petroleum operations; and

(c) exercise the functions conferred or imposed upon the Director by or under this Act.

(3) There shall be appointed by the Public Service Commission such other officers of the Unit as shall be necessary to assist the Director in the performance of the Director's and the Unit's functions under this Act.

(4) Any function conferred on the Director by or under this Act may be performed by any person acting as Director if the Director is for any reason unable to perform any function of the office.

Public officer not to acquire or hold certain rights

84. (1) A public officer shall not, directly or indirectly acquire any right or interest in any licence issued under this Act, and any document or transaction purporting to confer any right or interest on any such officer shall be null and void.

(2) A public officer employed in the Ministry responsible for mines shall not acquire or retain any share in any company carrying on exploration or development operations in Zambia:

Provided that the Minister may authorise a departure from the provisions of this subsection where, in the Minister's opinion, the operations in Zambia of the company concerned form a negligible part of the total operations of that company.

(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

Indemnity of officers

85. No public officer shall be liable for anything done or omitted to be done in good faith in the performance, or purported performance of any function conferred on or delegated to that officer by or under this Act.

Prohibition of disclosure of information

86. (1) A person shall not disclose any information—

(a) obtained by that person in connection with the administration of this Act; or

(b) furnished by a holder of a licence under this Act without the consent of the licensee;

except where the disclosure is made—

(a) for or in connection with the administration of this Act;

(b) to a person, being an officer employed in the Hydrocarbon Unit or a consultant to the Government for the purpose of facilitating the performance by the consultant of any functions under the consultancy arrangement;

(c) for the purpose of any legal proceedings;

(d) for the purpose of preparing official statistics or publications relating to exploration or development and production operations;

(e) for the purpose of determining the licensee's liability to the State; or

(f) for any purpose which may be prescribed.

(2) Where an area has been but is no longer subject to a licence, nothing in subsection (1) shall, except where the Minister otherwise directs, operate to prevent the disclosure by or on behalf of the Government of any geological information or matter concerning that area.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(4) Where proceedings are instituted for an offence under this section, it shall be a sufficient defence where the accused person proves that the information disclosed was, prior to the disclosure, generally known.

PART XIII

PETROLEUM COMMITTEE

87. (1) The Petroleum Committee established under the repealed Act shall continue to exist as if established under this Act.

Continuation
of Petroleum
Committee

(2) The provisions of the Schedule shall apply to the Committee.

88. (1) The functions of the Committee are to—

Functions of
the
Committee

- (a) formulate policies relating to the exploration for, and the development and production of, petroleum in Zambia;
- (b) approve the constitution of blocks under this Act;
- (c) approve applications for licences and the renewal of licences under this Act;
- (d) determine conditions applicable to licences issued under this Act;
- (e) approve programmes of exploration operations or development and production operations;
- (f) approve the suspension, cancellation or transfer of licences issued under this Act; and
- (g) perform such other functions as are provided for under this Act.

(2) The Committee shall determine any application or matter before it within thirty days of receiving a recommendation on it from the Technical Committee.

(3) The Committee shall, in the performance of its functions under this Act, take into consideration the recommendations of the Technical Committee.

Composition
of Committee

89. The Committee shall consist of the following part-time members:

- (a) the Minister responsible for mines, who shall be Chairperson;
- (b) four Ministers appointed by the President, one of whom shall be designated Vice Chairman;
- (c) the Governor of the Bank of Zambia or in the Governor's absence the Deputy Governor;
- (d) not more than three other persons who shall be appointed by the President on such terms and conditions as the President may determine.

Secretary

90. (1) The Permanent Secretary in the Ministry responsible for mines shall be the Secretary to the Committee.

(2) The Secretary shall be responsible for the day to day affairs of the Committee under the general supervision of the Chairperson.

Petroleum
Technical
Committee

91. (1) There is hereby constituted the Petroleum Technical Committee which shall comprise the following part-time members appointed by the Minister:

- (a) the Permanent Secretary in the Ministry responsible for mines, who shall be the Chairperson;
- (b) a representative each of the following departments of the Ministry:
 - (i) Geological Survey Department;
 - (ii) Mines Development Department;
 - (iii) the Mines Safety Department; and
 - (iv) the Hydrocarbon Unit;
- (c) a representative of the Department of Energy of the Ministry responsible for energy;
- (d) a representative of the Environmental Council of Zambia;
- (e) a representative of the Bank of Zambia;
- (f) a representative of the Energy Regulation Board;
- (g) a representative of the School of Mines of the University of Zambia;

- (h) a representative of the Attorney-General;
- (i) a representative of the Zambia National Tender Board;
- (j) a representative of the Geological Society of Zambia;
- (k) a representative of the Engineering Institute of Zambia;
and
- (l) a representative of —
 - (i) the Ministry responsible for finance;
 - (ii) the Ministry responsible for local government and housing; and
 - (iii) the Ministry responsible for labour and social security.

(2) The Vice-Chairperson shall be elected by the members of the Technical Committee from among themselves.

(3) Subject to subsection (4), a member of the Technical Committee shall hold office for a period of three years from the date of appointment and may be re-appointed for a further period of three years.

(4) The office of a member shall become vacant—

- (a) upon the member's death;
- (b) if the member is adjudged bankrupt;
- (c) if the member is absent from three consecutive meetings of the Technical Committee of which the member has had notice, without the prior approval of the Chairperson;
- (d) upon the expiry of one month's notice of the member's intention to resign from office, given by the member in writing to the Minister;
- (e) if the member becomes mentally or physically incapable of performing the duties of a member of the Technical Committee;
- (f) if the member ceases to hold the office by virtue of which the member was appointed; or
- (g) if the member is convicted of an offence involving dishonesty or fraud under this Act or any other written law.

(5) A member may resign from office by giving not less than one month's notice in writing to the Minister.

(6) Where a vacancy occurs in terms of subsection (4), the Minister shall appoint another member in place of the member who vacates office in accordance with subsection (1), and such member shall hold office for the remainder of the term.

(7) Subject to the other provisions of this Act, the Technical Committee may regulate its own procedure.

(8) The Technical Committee shall meet for the transaction of business, at least once in every three months at such places and times as the Chairperson may determine.

(9) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Technical Committee and shall call a special meeting upon giving a shorter notice where the urgency of any particular matter so determines.

(10) The quorum at a meeting of the Technical Committee shall be half of the members of the Technical Committee.

(11) There shall preside at any meeting of the Technical Committee—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(12) A decision of the Committee on any question shall be by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(13) Where a member is for any reason unable to attend any meeting of the Technical Committee, the member may, in writing, nominate another person from the same organisation to attend such meeting in that member's stead and such person shall be considered to be a member for the purpose of that meeting.

(14) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Technical Committee but such person shall have no vote.

(15) The validity of any proceedings, act or decision of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.

(16) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.

(17) A member of the Technical Committee shall be paid such allowances as the Minister may determine.

(18) The Minister shall assign persons employed in the Hydrocarbon Unit to perform such secretarial and administrative functions in connection with the Technical Committee as may be necessary for the performance of its functions.

92. (1) The functions of the Petroleum Technical Committee are to advise the Petroleum Committee on all technical matters relating to petroleum and its development in Zambia.

Functions of
Petroleum
Technical
Committee

(2) Notwithstanding the generality of subsection (1), the Petroleum Technical Committee shall—

(a) evaluate applications for petroleum exploration licences and petroleum development and production licences;

(b) recommend the issuance or refusal of exploration licences and development and production licences;

(c) recommend the approval of work programmes and the expenditure budgets submitted by bidders for or holders of licences; and

(d) perform such other functions as are provided for under this Act or as maybe assigned to it by the Petroleum Committee or the Minister.

93. (1) A member or person who is present at a meeting of the Technical Committee at which any matter, in which that person or any member of the person's immediate family, is directly or indirectly interested in a private capacity, is the subject of consideration, shall, as soon as is practicable after the commencement of the meeting, disclose that interest and shall not, unless the Committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to, that matter.

Disclosure
of
interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

PART XIV

INSPECTION

Appointment
of inspectors

94. (1) The Minister shall appoint inspectors to monitor, inspect and enforce the provisions of this Act.

(2) The Minister shall issue an identity card to each inspector.

Powers of
inspectors

95. (1) An inspector shall have power, on production of an identity card issued to the inspector under subsection (2) of section *ninety-four*, to inspect the premises and records of a holder of a licence under this Act in order to ensure that the provisions of this Act are being complied with.

(2) An inspector may—

(a) at all reasonable times enter, inspect and examine any premises, area, building, structure, vehicle, vessel, aircraft or carriage of any description which the inspector has reason to believe has been, is being or is to be used in connection with exploration, development or production operations;

(b) inspect and test, or have tested by a qualified person, any machinery or equipment, which in the inspector's opinion has been, is being or is to be used in connection with exploration, development or production operations;

(c) take or remove samples of petroleum or water or any other substance for the purpose of analysis or testing or for use in evidence in connection with an offence under the provisions of this Act;

(d) inspect, make copies of or take extracts from any document, book or data relating to exploration, development or production operations;

(e) by notice in writing, issue directions to, or impose restrictions on, the holder of a licence to safeguard the health and safety of persons employed in connection with exploration, development or production operations;

(f) by notice in writing, direct—

(i) the cessation of operations in, and the withdrawal of all persons from, any area, building or structure which is being used in connection with exploration, development or production operations; or

- (ii) the discontinuance of the use of any machinery or equipment, which the inspector considers unsafe, until action necessary for safety is taken;
 - (g) make such examinations and enquiries necessary to ensure that the provisions of, and any direction issued or order made or restriction imposed under this Act are being complied with; and
 - (h) obtain and record statements from any witness, appear at or conduct any enquiry held in respect of any accident which may have occurred in the course of exploration, development or production operations.
- (3) An inspector may order any person in charge to produce for inspection or for purposes of obtaining copies or extracts, of any books, documents or records relevant to the administration of this Act.
- (4) An inspector shall ensure that adequate arrangements for the conduct of exploration or development and production operations have been made in accordance with this Act.
- (5) Any person who obstructs an inspector, appointed under subsection (1) of section *ninety-two*, in the exercise of that inspector's duty under this Part commits an offence and shall be liable upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding one year, or to both
- 96.** An inspector shall furnish the Minister with such reports and other information relating to an inspection as the Minister may direct.

Duty of
inspector to
report to
Minister

PART XV

APPEALS

Appeals in
relation to
licences
issued by
Minister

97. (1) Any person aggrieved by the decision of the Minister—

(a) to refuse the grant or renewal of a licence granted under this Act;

(b) as to the conditions imposed on any licence held by that person;

(c) to cancel or suspend any licence held by that person; or

(d) to refuse to consent to the transfer of any licence held by that person, or to the registration of shares or the entry into any agreement affecting control of a company;

may appeal to the High Court, which shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the High Court under this section may include such directions to the Minister as the Court considers appropriate for the disposal of the matter, and the Minister shall give effect to the directions.

Notification
of decisions

98. Whenever the Minister, makes a decision against which an appeal lies by virtue of a provision of this Act, the licensee or applicant affected by the decision shall be informed by notice in writing of the decision and of the reasons therefor and any such notice shall inform the person so notified of that person's right of appeal.

PART XVI

GENERAL PROVISIONS

99. (1) The Minister may, by notice in writing, consent, subject to such conditions, if any, as the Minister may determine, to the carrying on by any person of exploration operations for the purpose of scientific investigations.

Scientific investigations

(2) A notice of consent issued pursuant to subsection (1) shall authorise the person to whom it is issued to carry on, in the area specified in the notice, exploration operations for the purpose referred to in subsection (1).

100. (1) There shall be a National Petroleum Company which shall be a public company registered under the Companies Act.

National Petroleum Company

Cap. 388

(2) The Minister shall, by statutory instrument,—

(a) provide for the objects of the company;

(b) determine the share holding structure of the company, including the percentage of shares to be reserved for Zambians;

(c) provide for the management of the Company; and

(d) provide for such other matters connected with or incidental to the registration of the company in accordance with the Companies Act.

Cap. 388

101. (1) The Minister shall, by statutory instrument, establish a Petroleum Trust Fund for the purpose of developing communities within the areas in which petroleum exploration or development and production operations are conducted.

Petroleum Trust Fund

(2) The statutory instrument referred to in subsection (1) shall provide for the sources of the funds of the Fund, the management and administration of the Fund and for such other matters as the Minister may specify therein.

102. (1) Any person who—

Offences and penalties

(a) in any application under this Act; or

(b) in purported compliance with a requirement under this Act to furnish any information;

furnishes any information or makes any statement that is false or misleading in a material particular commits an offence.

(2) Any person who, in pursuance of a requirement under this Act, produces or makes available a document or any books, that the person knows to be false or misleading in a material particular commits an offence.

(3) Any person who, with intent to deceive—

(a) places or deposits, or is accessory to the placement or deposit of, any petroleum or material in any place; or

(b) mingles or causes to be mingled with any sample of petroleum any substance which will enhance the value or in any way change the nature of the petroleum;

commits an offence.

(4) A person convicted of an offence under this section shall be liable—

(a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both; or

(b) in the case of a body corporate or un-incorporate body, to a fine not exceeding one million penalty units.

Offence
committed
by body
corporate or
un-
incorporate
body

103. If a body corporate or un-incorporate body is convicted of an offence under this Act, every person who—

(a) is a director of, or is otherwise concerned with the management of, the body corporate or un-incorporate body; and

(b) knowingly authorised or permitted the act or omission constituting the offence;

shall be deemed to have committed the same offence and shall be liable, on conviction, to the penalty specified for that offence.

Transitional
provisions

104. (1) Any person who prior to the commencement of this Act is involved in the conduct of petroleum operations shall apply for a petroleum exploration licence or a petroleum development and production licence, as the case may be, under this Act within six months after the commencement of this Act.

(2) Any contract between the State and any person for the conduct of petroleum operations in the Republic shall cease to be binding on the Republic after six months from the date of commencement of this Act.

105. (1) The Minister may make regulations for carrying out the purposes of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may provide for the following matters:

- (a) the exploration for petroleum, including the carrying on of all operations and the execution of all works for that purpose;
- (b) the development and production of petroleum, including the carrying on of all operations and the execution of all works for that purpose;
- (c) conservation and prevention of the waste of petroleum or other natural resources;
- (d) the form and contents of, and conditions with respect to, an application for the grant or renewal of a licence;
- (e) the construction, erection, maintenance, operation or use of installations, machinery or equipment;
- (f) the control of the flow and the prevention of the escape of petroleum, water, gases (other than petroleum) or other noxious or deleterious matters;
- (g) the prevention of the escape of drilling fluid, or a mixture of drilling fluid and water or any other matter;
- (h) the removal of structures, machinery, equipment and other property brought into Zambia, in connection with the exploration for or the development and production of petroleum, from land that ceases to be subject to a petroleum exploration licence or a petroleum development and production licence;
- (i) the pressure maintenance in, or the re-pressuring of a petroleum reservoir and recycling of petroleum;
- (j) the secondary or tertiary recovery of petroleum from a petroleum reservoir and the methods to be used in such recovery;
- (k) the use of wells and the use of the sub-surfaces for the disposal of petroleum, water and other substances produced in association with the exploration for or the recovery of petroleum;
- (l) the methods to be used for the measurement of petroleum, water and other substances from a well;

- (m) safety and welfare standards, and the health and safety of persons employed in or in connection with the exploration for, or the development and production of, petroleum;
- (n) taking, preserving and furnishing to the Minister of samples of petroleum;
- (o) giving to the Minister reports, returns and other information;
- (p) the registration of instruments and the effect of the registration of, or failure to register, instruments;
- (q) the transfer of licences or interests in licences;
- (r) the taking of logs or directional surveys or making other down hole investigations;
- (s) annual charges;
- (t) fees;
- (u) the division of the geographic area of Zambia into blocks;
- (v) the participation of Zambians in the petroleum industry; or
- (w) any other matter that may be, or is required to be, prescribed by the Minister under this Act.

(3) The regulations may provide that any person who contravenes the provisions of any regulation commits an offence and shall be liable, on conviction—

- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both; or
- (b) in the case of a body corporate or un-incorporate body, to a fine not exceeding one million penalty units; and where the offence is a continuing one, to a further penalty not exceeding three thousand penalty units for each day during which the offence continues.

Repeal of
Cap. 440

106. The Petroleum (Exploration and Production) Act, 1985, is hereby repealed.

SCHEDULE

(Section 87 (2))

ADMINISTRATION OF PETROLEUM COMMITTEE

Tenure of
office and
vacancy

1. (1) Subject to the other provisions of this Schedule, a member of the Committee, shall hold office for a period of three years from the date of appointment and may be re-appointed for a further period of three years.

(2) Subject to the other provisions of this Schedule, a member shall, on the expiration of the period for which the member is appointed, continue to hold office until another member is appointed to succeed that member.

(3) The office of a member becomes vacant—

(a) upon the member's death;

(b) if the member is adjudged bankrupt;

(c) if the member is absent from three consecutive meetings of the Committee of which the member has had notice, without the prior approval of the Committee;

(d) upon the expiry of one month's notice of the member's intention to resign from office, given by the member in writing to the Committee;

(e) if the member becomes mentally or physically incapable of performing the duties of a member of the Committee; or

(f) if the member is convicted of an offence involving dishonesty or fraud under this Act or any other written law.

(4) A member may resign from office by giving not less than one month's notice in writing to the Minister.

(5) The Minister shall, where the office of a member becomes vacant, appoint another member in place of the member who vacates office, and such member shall hold office for the remainder of the term.

Proceedings
of Committee

2. (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure.

(2) The Committee shall meet for the transaction of business, at least once in every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Committee and shall call a special meeting upon receiving a written request from at least five members of the Committee.

(4) If the urgency of any particular matter does not permit the giving of the notice required under subparagraph (3), a special meeting may be called by the Chairperson upon giving a shorter notice.

(5) The quorum at a meeting of the Committee shall be half of the members of the Committee.

(6) There shall preside at any meeting of the Committee—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; and
- (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(7) A decision of the Committee on any question shall be by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(8) Where a member is for any reason unable to attend any meeting of the Committee, the member may, in writing, nominate another person from the same organisation to attend such meeting in that member's stead and such person shall be considered to be a member for the purpose of that meeting.

(9) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.

(10) The validity of any proceedings, act or decision of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.

(11) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee and every meeting of any sub-committee established by the Committee.

Sub-committees of Committee

3. (1) The Committee may, for the purpose of performing its functions under this Act, constitute any sub-committee and delegate to any such sub-committee such of its functions as it thinks fit.

(2) The Committee may appoint as members of a sub-committee constituted under sub-paragraph (1), persons who are or are not members of the Committee and such persons shall hold office for such period as the Committee may determine.

(3) A sub-committee of the Committee may regulate its own procedure.

Allowances of members

4. There shall be paid to members of the Committee or any sub-committee of the Committee such allowances as the Committee may, with the approval of the Minister, determine.

Disclosure of interest

5. (1) A member or person who is present at a meeting of the Committee or a sub-committee of the Committee at which any matter, in which that person or any member of the person's immediate family, is directly or indirectly interested in a private capacity, is the subject of consideration, shall, as soon as is practicable after the commencement of the meeting, disclose that interest and shall not, unless the Committee or the sub-committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to, that matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

6. (1) A person shall not, without the consent in writing given by or on behalf of the Committee, publish or disclose to any unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

Prohibition
of
publication
of, or
disclosure of
information
to
unauthorised
persons

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

