

# REPRINT

## **PETROLEUM (EXPLORATION) ACT (CAP. 44)**

**As in force at: 1 July 2010**

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For list of amendments see Endnotes

**AN ACT TO MAKE PROVISION FOR THE EXPLORATION OF PETROLEUM EXISTING IN ITS NATURAL STATE IN STRATA IN SOLOMON ISLANDS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO**

## **PETROLEUM (EXPLORATION) ACT (CAP. 44)**

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# PETROLEUM (EXPLORATION) ACT (Cap. 44)

As in force at: 1 July 2010

## PART I PRELIMINARY

### 1 Short title

This Act may be cited as the *Petroleum (Exploration) Act*.

### 2 Application

- (1) This Act shall apply to the offshore area and to such onshore areas of Solomon Islands as the Minister may, by notice published in the *Gazette*, declare.
- (2) For the purposes of this Act, **“offshore area”** means the area constituted by:
  - (a) the territorial waters of Solomon Islands as determined under section 5 of the *Delimitation of Marine Waters Act* and the seabed and subsoil thereof;
  - (b) the continental shelf of Solomon Islands as determined under section 2 of the *Continental Shelf Act* and section 7 of the *Delimitation of Marine Waters Act*; and
  - (c) the exclusive economic zone of Solomon Islands as determined under section 6 of the *Delimitation of Marine Waters Act*.

### 3 Interpretation

- (1) In this Act, unless the context otherwise requires:

**“block”** means a section of the surface of the earth demarcated in accordance with the regulations;

**“Board”** means the Petroleum Advisory Board appointed under section 6;

**“body corporate”** means a company or a corporation;

**“commercial field”** means a petroleum field in an area subject to a petroleum agreement which is determined to be commercial in accordance with procedures stipulated by such agreement;

**“company”** means a corporate body incorporated under the *Companies Act*;

**“conditions”** includes terms, limitations and stipulations;

**“contractor”** means a party who enters into a petroleum agreement with the Government under section 11;

**“corporation”** means a corporate body incorporated outside Solomon Islands;

**“crude oil”** means solid or liquid hydrocarbons under normal temperature and atmospheric conditions and includes condensates and distillates obtained from natural gas;

**“development area”** means the area that is subject to a petroleum development licence;

**“development operations”** means operations carried out in the course of recovering petroleum and includes the extraction, treatment, transport, storage and lifting of petroleum and all works and activities connected therewith, and any operation which is treated in a petroleum agreement as being included in development operations or production operations;

**“drilling”** means the perforation of the earth’s surface, and includes all operations for preventing the collapse of the sides of the hole or preventing the hole from becoming filled by extraneous materials (including water) and the fitting of wellheads, coring and logging, and any operations incidental to the foregoing;

**“field”** means one or more reservoirs contained in a single structural and/or stratigraphic geological feature in which proved petroleum is present;

**“good oilfield practices”** means all practices that are internationally accepted as good, safe and efficient in the carrying on of petroleum operations;

**“information”** means any document, book, record, writing, well log, map, magnetic tapes, sample and other geological and geophysical information acquired or made by a licensee in connection with prospecting operations or development operations or both;

**“inspector”** means a person appointed to be Chief Inspector or an inspector, pursuant to section 7;

**“land”** includes land beneath water;

**“licence”** means a petroleum prospecting licence or a petroleum development licence, or both, as the context requires;

**“licensee”** means the holder of a licence, and includes every person to whom a licence is lawfully assigned;

**“natural gas”** means all gaseous hydrocarbons under normal temperature and atmospheric conditions whether produced in association with crude oil or from gas wells, and includes wet gas, dry gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas;

**“offshore area”** has the meaning assigned to it by subsection (2) of section 2;

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

**“petroleum agreement”** means an agreement concluded under section 11;

**“petroleum development licence”** means a licence to carry out petroleum development operations granted under the provisions of section 21;

**“petroleum field”** means one or more petroleum bearing pools within a geologically defined trapping area;

**“petroleum operations”** means all prospecting operations, development operations and production operations;

**“petroleum prospecting licence”** means a licence to carry out petroleum prospecting operations granted under the provisions of

section 12;

**“petroleum reservoir”** means a porous and permeable formation, contained by impermeable layers, in which petroleum occurs or could occur, usually above formation water, in such a manner that these fluids are subject to a single system of pressure;

**“production operations”** means operations carried out after the date of commencement of commercial production, for the extraction, treatment, transport, storage and lifting of petroleum and includes all works and activities connected therewith;

**“prospecting area”** means the area that is subject to a petroleum prospecting licence;

**“prospecting operations”** means all geological, geophysical and geochemical surveys and the drilling of exploration wells which are carried out for the purpose of searching for and discovering petroleum-bearing structures and traps, and including further exploration and relevant appraisal work, including economic and technical feasibility studies, as may be carried out to determine whether such structures or traps constitute a commercial field;

**“well”** means a hole in land or beneath the surface of the land or in the seabed, made by drilling, boring or any other means, in connection with prospecting or development operations, but does not include a seismic shot hole.

- (2) In this Act, a reference to a year of the term of a licence is a reference to a period of one year commencing on the date from (and including) which the licence has effect or on any anniversary of that date.

#### **4 Ownership of petroleum in natural state**

- (1) Ownership of all petroleum existing in its natural state in strata in Solomon Islands, including its offshore area, the bed and subsoil of its territorial sea, its continental shelf and other area declared under section 2 to be within the maritime resource jurisdiction of Solomon Islands, vests in the State.
- (2) No person shall, except in accordance with the provisions of this Act and the regulations:

- (a) carry out prospecting or development operations; or
- (b) acquire any right, title, interest or estate in any petroleum which is owned by Solomon Islands.

## **PART II                    ADMINISTRATION**

### **5                    Minister responsible for exploration and development of petroleum**

- (1) For the purposes of this Act the Minister responsible for petroleum exploration and development (in this Act referred to as the “Minister”) shall exercise, in relation to petroleum owned by the State such powers and functions as are provided by this Act.
- (2) Subject to the provisions of this Act, the Minister may delegate to any public officer authority to carry out on his behalf such duties as he may determine.

### **6                    Petroleum Advisory Board**

- (1) There shall be a Petroleum Advisory Board, (hereinafter referred to as the “Board”) which shall advise the Minister on such matters, relating to the administration of the Act, as are referred to it by the Minister or are required by this Act.
- (2) The provisions of the Schedule shall have effect with respect to the constitution and operation of the Board and otherwise in relation thereto.
- (3) Without prejudice to the generality of subsection (1), the Board shall for the promotion of orderly and national development of petroleum resources in Solomon Islands advise the Minister on the following matters:
  - (a) the terms and conditions attached to the grant and renewal of licences;
  - (b) cancellation of licences or termination of agreements;
  - (c) amount of any royalty to be paid and the manner and conditions of payment of any royalty;

- (d) terms under which the State or its agency may acquire any interest in any venture for the recovery of petroleum; and
- (e) such other matters which the Minister may from time to time assign.

## **7 Appointment of Chief Inspector and other officers**

- (1) There shall be appointed for the purposes of this Act:
  - (a) a Chief Inspector of Petroleum; and
  - (b) such other officers as may be necessary for the due administration of the Act.
- (2) Any appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the *Constitution* but otherwise shall be made by the Minister.
- (3) The Chief Inspector appointed pursuant to subsection (1) shall as far as practicable, be an officer qualified by technical training in the field of geology and have practical experience in local petroleum prospecting and development affairs.

## **8 Prohibition of disclosure of information**

- (1) No person shall disclose any information obtained by him in, or in connection with, the administration of this Act except where the disclosure is made:
  - (a) for or in connection with the administration of this Act;
  - (b) to a person, being a consultant to or an officer employed by the Government, who is approved by the Minister to receive such information;
  - (c) for the purpose of any legal proceeding;
  - (d) for the purpose of preparing official statistics; or
  - (e) for any purpose which may be prescribed.
- (2) Subject to the provisions of this Act, and the provisions of a

petroleum agreement, nothing in subsection (1) shall operate to prevent the disclosure by or on behalf of the State of any geological information or matter.

- (3) Any person who contravenes any provision of subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.
- (4) In proceedings on a prosecution for an offence under this section, it shall be a sufficient defence if the accused person proves that the information disclosed was, prior to the disclosure, generally known.

## **9 Indemnity**

A person does not incur any liability in respect of the exercise or purported exercise or performance by him in good faith of any function for or in connection with the administration of this Act.

# **PART III LICENCES AND PETROLEUM AGREEMENT**

## **Division 1 General**

### **10 Restrictions on persons to whom licence may be granted**

No licence:

- (a) being a petroleum prospecting licence shall be granted to a body corporate unless it is:
  - (i) a company;
  - (ii) a corporation which has been registered as a overseas company under the *Companies Act 2009*; or
  - (iii) a corporation incorporated by or under an Act (other than the *Companies Act 2009*) in force in Solomon Islands;
- (b) being a petroleum development licence shall be granted to a body corporate unless it is:
  - (i) a company incorporated in Solomon Islands; or

- (ii) a corporation incorporated by or under an Act (other than the *Companies Act 2009*) in force in Solomon Islands.

## **11 Petroleum agreement with respect to a grant of licence**

- (1) The Minister may enter into a petroleum agreement (not inconsistent with this Act) with a licensee or a prospective licensee, embodying terms and conditions on which prospecting operations or development operations are to be carried out by such person.
- (2) The Minister may cause to be published in the *Gazette* a model petroleum agreement, and where such model agreement has been published, a petroleum agreement entered into under subsection (1) shall conform, as far as practicable, to such agreement.
- (3) A model petroleum agreement prescribed under subsection (2) shall include, *inter alia*, provisions in relation to the following matters:
  - (a) mandatory relinquishment in a phased manner, during a specified time period, of portions of the area originally covered by the petroleum agreement and of the entire area upon the expiration of a specified time period, unless a commercial field has been established, in which event the petroleum agreement shall provide that the area covered by the commercial field may be retained by the contractor in accordance with the regulations;
  - (b) minimum work obligations, in accordance with the regulations;
  - (c) minimum expenditure commitments and performance bonds or guarantees;
  - (d) prescribed rate of royalty;
  - (e) effective and adequate appraisal of any petroleum discovered during prospecting operations for the purpose of determining whether the discovery constitutes a commercial field;
  - (f) development by the contractor of a commercial field in accordance with the regulations;
  - (g) conduct of operations by a contractor with due diligence,

efficiency and economy, in accordance with the best international techniques and practices generally used in the petroleum industry and with due regard to the health and safety of persons to avoid pollution and ecological damage; and

(h) such other matters as the Minister may determine.

## **12 Grant of petroleum prospecting and development licences**

(1) Subject to the provisions of this Act, the Minister, on the advice of the Board, may:

- (a) on application being made in the prescribed manner or by tender;
- (b) on being satisfied that the applicant, the bidder or the tenderer, as the case may be, has sufficient technical knowledge, experience and financial resources to carry out proper petroleum prospecting and development operations, and having satisfied other requirements as may be stipulated in the regulations,

grant to the applicant, bidder or tenderer, as the case may be, a licence to carry out prospecting operations for petroleum or a licence to carry out development operations for petroleum.

- (2) An application for a licence under this Act shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.
- (3) The Minister may in writing require an applicant to furnish him with such other written information as he may require relating to the applicant or his business and the Minister may not proceed with the application until such information is furnished to him.
- (4) A tender under this Act shall be made in accordance with the regulations prescribed.

## **Division 2        Petroleum Prospecting Licence**

### **13        Disposal of application for petroleum prospecting licence**

Subject to the provisions of section 12, the Minister may grant or refuse to grant a petroleum licence in respect of any block.

### **14        Contents of petroleum prospecting licence**

A petroleum prospecting licence shall:

- (a) state the date of the grant of the licence;
- (b) identify the block or blocks to which the licence relates;
- (c) state the conditions on which the licence is granted, provided that, where applicable, such conditions shall be in accordance with the provisions of the relevant petroleum agreement; and
- (d) contain such other conditions as the Minister may deem fit to impose.

### **15        Rights conferred by petroleum prospecting licence**

- (1) A petroleum prospecting licence shall, so long as it remains in force, confer upon the licensee the exclusive right to carry out prospecting operations subject to:
  - (a) the provisions of this Act and any regulations made thereunder;
  - (b) the petroleum agreement; and
  - (c) the terms and conditions specified in the licence.
- (2) The rights conferred by subsection (1) shall not derogate from the power of the Minister to issue instruments of consent, under section 36 for the carrying out of scientific investigations or non-exclusive reconnaissance surveys.

### **16        Application for renewal of petroleum prospecting licence**

A licensee may apply for the renewal of a petroleum prospecting licence in accordance with the regulations.

## **17        Renewal of petroleum prospecting licence**

- (1) On application duly made pursuant to section 16 for the renewal of a petroleum prospecting licence, the Minister may, on the advice of the Board, grant a renewal of the licence upon such terms and conditions as are prescribed in the regulations and stipulated in the relevant petroleum agreement.
- (2) The Minister shall subject to subsection (1), refuse to grant a renewal of a petroleum prospecting licence if the licensee is in default, unless the Minister considers that special circumstances exist which justify the granting of the renewal notwithstanding such default.

## **18        Duties of licensee**

A licensee shall in accordance with the regulations and relevant petroleum agreement in or in relation to the prospecting area, meet the requirements with respect to work and expenditure stipulated in the licence and the petroleum agreement.

## **19        Relinquishment of land in prospecting area**

Mandatory relinquishment of the prospecting area shall be effected, if so required, in accordance with the regulations and as stipulated in the relevant petroleum agreement.

## **Division 3        Discovery of Petroleum**

### **20        Discovery of petroleum to be notified**

Where petroleum is discovered in a prospecting area, the licensee shall forthwith inform the Minister of the discovery, and shall, within the period prescribed in the regulations, furnish to the Minister, particulars in writing of the discovery, and carry out tests, studies and appraisals and all other matters required by or under the regulations and as stipulated in the relevant petroleum agreement.

## **Division 4        Petroleum Development Licence**

### **21        Application for petroleum development licence**

A person may apply for the grant of a petroleum development licence

in respect of a block or blocks, or part thereof, in accordance with the regulations and the relevant petroleum agreement.

## **22 Contents of petroleum development licence**

- (1) A petroleum development licence shall:
  - (a) state the date of the grant of the licence;
  - (b) identify the block or blocks to which the licence relates;
  - (c) state the conditions on which the licence is granted, provided, that where applicable such conditions shall be in accordance with the provisions of the relevant petroleum agreement; and
  - (d) contain such other terms and conditions as the Minister may determine.
- (2) There shall be included in a petroleum development licence provision with respect to the duty and the extent thereof, of the licensee to supply petroleum to meet the requirements of Solomon Islands.

## **23 Rights conferred by petroleum development licence**

A petroleum development licence, while it remains in force, confers on the licensee, subject to this Act, the relevant petroleum agreement and to the conditions specified in the licence, exclusive rights:

- (a) to carry on prospecting and development operations in the development area; and
- (b) to sell or otherwise dispose of petroleum recovered.

## **24 Application for renewal of petroleum development licence**

A licensee may apply for the renewal of a petroleum development licence in accordance with the regulations, the relevant petroleum agreement and the conditions specified in the licence.

## **25 Renewal of petroleum development licence**

On application duly made pursuant to section 24 for the renewal of a petroleum development licence, the Minister may grant a renewal of

the licence on such terms and conditions as he may determine.

## **Division 5        Miscellaneous**

### **26        Directions**

- (1) The Minister may, by notice in writing served on a person, give to the person directions, consistent with good oilfield practices, as to any matter with respect to which regulations may be made under section 41.
- (2) A person who fails or neglects to comply with a direction given under subsection (1) is guilty of an offence and liable on conviction to a fine of 1,000 penalty units, or in default of payment to a term of twelve months imprisonment.
- (3) In proceedings in a prosecution for an offence under subsection (2), it is a sufficient defence if the accused person proves that he promptly took all reasonable steps to comply with the direction.

### **27        Compliance**

- (1) Subject to subsection (1) of section 26, where a person fails or neglects to comply with a direction given to him under section 26, the Minister may cause to be done all or any of the things required by the direction to be done.
- (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction shall be a debt due by the person to whom the direction was given to the State and may be recovered in a court of competent jurisdiction.

### **28        Penalty for late payments**

- (1) Where the liability of a person under this Act or a licence to pay an amount is not discharged on or before the time when the amount is payable, there is payable by that licensee an additional amount calculated at the rate of one-third of one *per centum* per day, upon so much of that amount as from time to time remains unpaid, to be computed from the time that the amount became payable, until it is paid.

- (2) The Minister may, in a particular case, where in his opinion the circumstances so require, in consultation with the Board, waive or remit the whole or part of an amount payable under this section.

**29 Further information to be furnished etc.**

- (1) Where the Minister has reason to believe that a person is in a position to provide information or has in his possession books, documents, letters, accounts, invoices, statements (financial or otherwise) or other documents relating to petroleum obtained from a prospecting or development area, or the value of petroleum so obtained, he may by notice in writing served on such person, require that person:
- (a) to furnish that information to him within the period and in the manner specified in the notice;
  - (b) to attend before him or a person specified in the notice, at such time and place as is so specified, to answer any questions relating to the petroleum obtained or the value thereof; or
  - (c) to make available to a person specified in the notice, at such time and place as is so specified, books or other documents in his possession relating to the petroleum obtained or the value thereof.
- (2) A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this section on the ground that the information so furnished, the answer to the question, or the production of, or making available, any books or documents, might tend to incriminate him or make him liable to a penalty, but the information so furnished shall not be admissible in evidence against him in any proceedings other than proceedings for an offence against this section.
- (3) Where books or documents are made available pursuant to a requirement under subsection (1)(c), the person to whom the books or documents are made available may make copies of, or take extracts from, the books or documents.
- (4) Any person who:
- (a) refuses or fails to comply with a requirement in a notice under

subsection (1), to the extent to which he is capable of complying with it;

- (b) in purported compliance with such a requirement, knowingly or recklessly furnishes information that is false or misleading in any material particular;
- (c) when attending before the Minister or other person makes a statement or produces any books or other document that is false or misleading in any material particular; or
- (d) when making available books or documents in pursuance of such a requirement knowingly or recklessly makes available any books or other document that is false or misleading in any material particular,

is guilty of an offence and liable to a fine of 1,000 penalty units or in default of payment to a term of imprisonment not exceeding twelve months.

- (5) Any licensee who is found guilty under subsection (4) on more than one occasion shall be deemed to be in breach of a basic condition of his licence which may constitute a ground for the cancellation of a licence.

## **30 Cancellation**

- (1) Subject to this section, where the licensee is in default, the Minister may, by notice in writing served on the licensee, cancel his licence.
- (2) The Minister shall not, under subsection (1), cancel a licence on the ground of any default unless:
  - (a) the Minister has, by notice in writing served on the licensee, given not less than thirty days' notice of the Minister's intention to so cancel the licence on that ground;
  - (b) the Minister has, in the notice, specified a date before which the licensee may in writing submit any matter which he wishes the Minister to consider; and
  - (c) the Minister has taken into account:

- (i) any action taken by the licensee to remove that ground or to prevent the recurrence of similar grounds; and
  - (ii) any matters submitted to the Minister by the licensee pursuant to paragraph (b).
- (3) The Minister shall not under subsection (1), cancel a licence on the ground that the licensee has failed to pay any amount payable by him under this Act or his licence if, before the date specified in a notice referred to in subsection (2)(b), the licensee pays the amount of money concerned, together with any additional amount which may be payable pursuant to section 28.
- (4) The Minister may, by notice in writing served on the licensee, cancel the licence:
  - (a) if the licensee (being an individual) is:
    - (i) adjudged bankrupt; or
    - (ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or
  - (b) if, in the case of a licensee that is a body corporate, an order is made or a resolution is passed winding up the affairs of the body corporate, unless the winding up is for the purposes of amalgamation, and the Minister has consented to the amalgamation, or is for the purpose of reconstruction, and the Minister has been given written notice of the reconstruction.
- (5) On the cancellation of a licence, the rights of the licensee thereunder shall cease, but the cancellation does not affect any liability incurred before the cancellation, and any legal proceedings that might have been commenced or continued against the former licensee may be commenced or continued against him.

## **PART IV            FINANCIAL**

### **31            Royalty on petroleum obtained under licence**

- (1) Subject to the provisions of this Act, a person granted a petroleum

development licence shall, in accordance with his licence and this Act pay royalty in respect of petroleum obtained by him and such income tax and other taxes or levies as he may be liable to pay in accordance with the applicable law.

- (2) Where provision is made in a petroleum development licence for the payment of royalty in kind the word “pay” and cognate expressions in this Part shall be construed accordingly.

## **32 Prohibition on disposal of petroleum**

If a person granted a petroleum development licence fails to pay any royalty payable by him on or before the due date, or any extension thereof allowed by the Minister, the Minister may, by order served on the licensee, prohibit the removal of, or any dealings in or with, any petroleum from the development area concerned, or from any other development area held by that licensee, or from both, until all outstanding royalty has been paid or until an arrangement has been made and accepted by the Minister, for the payment of the royalty; and the licensee shall comply with the order.

## **33 Remission of royalty, etc.**

- (1) The Minister may, after consultation with the Minister responsible for Finance, remit, in whole or in part, any royalty payable on any petroleum obtained from a particular development area, for such period as he may determine, if he considers it expedient in the interests of the production of petroleum to do so.
- (2) The Minister may, on application made to him by the licensee, defer payment of any royalty due from the holder for such period and subject to such conditions as he may determine.
- (3) Where on an application made under subsection (2), the Minister permits the licensee to defer payment of any royalty, interest may be paid on such royalty that remains unpaid, at such rate, as the Minister may prescribe.

## **34 Security for compliance**

The Minister may, from time to time, make such arrangements as appear appropriate to him to secure that a licensee complies with

this Act and his licence, or either, and in particular may accept guarantees whether from shareholders or otherwise, in respect of that compliance.

**35 Recovery of royalty**

- (1) Royalty payable pursuant to section 31 or any tax or levy payable by the licensee under the applicable law shall be a debt due to the State and may be recovered in a court of competent jurisdiction.
- (2) A certificate of the Minister certifying that a specified amount of royalty is payable by a person specified in the certificate shall, in any proceedings instituted against that person for the recovery of any such royalty, be received as evidence in rebuttal.

**PART V GENERAL**

**36 Scientific investigations, etc.**

- (1) The Minister may, by instrument in writing, consent to any person carrying on a scientific investigation.
- (2) Without prejudice to the general effect of subsection (1), the Minister may by instrument in writing consent to the carrying on by any person of a non-exclusive reconnaissance activity in a prospecting area, provided that any such activity shall not unreasonably interfere with the rights granted under section 15 to a licensee in respect of the area.
- (3) An instrument of consent shall be subject to such conditions (if any), as specified in the instrument.

**37 Powers of an inspector**

- (1) The Minister may authorise an inspector to inspect petroleum prospecting and development operations in order to ensure that such operations are being carried out in conformity with the provisions of this Act and the conditions stipulated in the relevant licence.
- (2) An inspector shall at all times have access to any area, structure, installation, platform, vehicle, vessel, aircraft, building or facility that in his opinion, has been, is being or is to be used in connection with:

- (a) prospecting operations; or
  - (b) development operations.
- (3) An inspector may:
- (a) in writing issue directions or impose restrictions on the licensee or any other person employed by the licensee in respect of health and safety of persons employed by a licensee in, or in connection with any of the operations referred to in subsection (2);
  - (b) by instrument in writing:
    - (i) order the cessation of operations on or in, and the withdrawal of all persons from, any area, structure or building that is being used in connection with any of the operations referred to in subsection (2); or
    - (ii) order the discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until such action as is necessary for safety and specified in the instrument is taken and completed;
  - (c) make such inspections and inquiries as are necessary to ensure that the provisions of this Act, and any directions issued, restrictions imposed or orders made under this Act, are being complied with; and
  - (d) conduct or appear at inquests or inquiries and obtain and record statements from witnesses in relation to such inquests and inquires.
- (4) Any person who is aggrieved by a decision, direction or order made under this section may appeal in writing to the Minister who shall, as soon as practicable, determine and dispose of the appeal; the lodging of the appeal shall not however affect the execution and operation of the decision, direction or order, pending disposition of the appeal.
- (5) In exercising his powers under this section, an inspector may be assisted by any person who the inspector believes has special or

expert knowledge of any matter being inspected, tested or examined.

- (6) A person who is an occupier or person in charge of any building, structure or place or the person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (2), shall provide an inspector with all reasonable facilities and assistance (including the provision of necessary means of transport) for the effective exercise of the powers under this section.
- (7) Any person who:
  - (a) without reasonable excuse, obstructs, prevents or hinders an inspector in the exercise of his powers under this section;
  - (b) knowingly or recklessly makes a statement or produces a document that is false or misleading in any material particular to an inspector engaged in carrying out his duties and functions under this section; or
  - (c) with intent to mislead or deceive an inspector when so engaged does any act or withholds any information,

is guilty of an offence and liable on conviction to a fine not exceeding 1,000 penalty units or to a term of imprisonment not exceeding twelve months.

## **38 Miscellaneous offences**

Any person who:

- (a) in, or in connection with any application under this Act or his licence knowingly or recklessly gives information which is false or misleading in a material particular;
- (b) in any report, return or affidavit submitted in pursuance of any provision of this Act or his licence knowingly or recklessly includes or permits to be included any information which is false or misleading in a material particular,

is guilty of an offence and liable on conviction to a fine not exceeding 500 penalty units or to a term of imprisonment not exceeding six months.

### **39 Restrictions on prospecting etc.**

- (1) No person shall carry on in the offshore area prospecting or development operations otherwise than under and in accordance with a licence or an instrument of consent issued under section 36.
- (2) Petroleum shall not be removed from any area from where it has been obtained or disposed of in any manner except:
  - (a) subject to subsection (3), by a licensee, for the purpose of sampling or analysis;
  - (b) by a licensee in accordance with the terms of his licence or a written agreement with the State; or
  - (c) as otherwise permitted by this Act.
- (3) A licensee shall not take or send out of Solomon Islands any samples from the offshore area without the prior written consent of the Chief Inspector.
- (4) Any person who contravenes subsections (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding 500 penalty units or to a term of imprisonment not exceeding six months.

### **40 Orders for forfeiture in respect of certain offences**

- (1) Where a person is convicted of an offence against this Act a court may, in addition to any other penalty imposed, make:
  - (a) an order for the forfeiture of any vehicle, aircraft, vessel, equipment or apparatus used in the commission of the offence; and
  - (b) an order:
    - (i) for the forfeiture of petroleum recovered, in the course of the commission of the offence;
    - (ii) for the payment by that person to the State of an amount equal to the proceeds of the sale of petroleum so received; or

- (iii) for the payment by that person to the State of the value at the wellhead, assessed by the court in respect of the quantity so assessed, or petroleum so recovered or for the payment of such a part of that amount as the court may consider appropriate under the circumstances.
- (2) Where the court is satisfied that an order made under subsection (1)(b)(i) cannot for any reason be enforced, the court may, upon the application of the person by whom the proceedings were brought, set aside the order and make an order referred to in subsection (1)(b)(ii) or (iii).
- (3) The court may, before making an order under this section require notice to be given to, and to hear, such persons as the court thinks fit.

## **PART VI            REGULATIONS**

### **41            Regulations**

- (1) The Minister may make regulations prescribing all matters that are required or permitted to be prescribed or as the Minister may consider necessary or desirable to be prescribed for generally carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations:
  - (a) prescribing the forms to be used for applications;
  - (b) prescribing the manner in which and the persons by whom applications for the grant, renewal or assignment of licences under this Act may be made;
  - (c) prescribing the manner in which bidding and tendering may be carried out;
  - (d) prescribing the fees and annual charges to be paid;
  - (e) prescribing the amount of any royalty to be paid and the manner of payment of any royalty;

- (f) providing for the terms and conditions to be attached to licences;
  - (g) prescribing the amounts of all sums required to be deposited or secured;
  - (h) prescribing the accounting procedures to be used;
  - (i) prescribing the size, shape and location of the area in respect of which licences may be granted;
  - (j) requiring information to be furnished by an applicant, licensee or any other person;
  - (k) prescribing the care and custody of records and reports;
  - (l) regulating prospecting and development operations including the drilling for, and production of petroleum and the conservation of petroleum resources;
  - (m) for the safe conduct of operations and the health and welfare of persons;
  - (n) for the protection of the environment, including prevention of pollution;
  - (o) for the preservation of living and non-living resources;
  - (p) for the avoidance of interference with other activities in or about the area comprised in any licence.
- (3) Regulations made under this section may provide for penalties for any contravention of the regulations and such penalties may include a fine not exceeding 50 penalty units for each day on which any offence occurs or continues or to imprisonment not exceeding one year or to both such penalties.

## **SCHEDULE**

(Section 6(2))

### **THE PETROLEUM ADVISORY BOARD**

#### **Appointment of members**

- 1.-(1) The Board shall consist of not less than five nor more than seven members appointed by the Minister of whom one shall be appointed by the Minister to be Chairman of the Board.
- (2) The members of the Board shall be selected by the Minister from among persons appearing to him to have ability and experience in matters relating to petroleum.

#### **Tenure of office**

2. A member of the Board shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, but such member shall be eligible for reappointment.

#### **Temporary appointments**

3. Subject to paragraph 1(2), the Minister may appoint any person to act temporarily in place of the Chairman or a member of the Board in the case of absence or inability to act of the Chairman or such member, as the case may be.

#### **Resignation**

- 4.-(1) Any member of the Board, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of receipt by the Minister of such instrument, such member shall cease to be a member of the Board.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

#### **Revocation of appointment**

5. The Minister may at any time revoke the appointment of the Chairman (as such) and of any member of the Board (including the Chairman).

### **Publication**

6. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.

### **Remuneration**

7. The Chairman and other members of the Board or committees may be paid such remuneration whether by way of honorarium, fees, and such allowances as the Minister may determine.

### **Appointment of committees**

8. The Board may in the discharge of its duties appoint committees comprising of members of the Board or non-members or both and may assign to them such functions as the Board may determine.

### **Information**

9. The Board may invite any person to furnish or provide information, explanations, advice or express an opinion at any of its meetings.

### **Procedure and meetings**

- 10.-(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Board may determine.
- (2) The Chairman may at any time call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Board.
- (3) The Chairman shall preside at all meetings of the Board at which he is present, and in his absence from any meeting the members present and constituting a quorum shall elect a

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chairman from among their number to preside at that meeting.

- (4) The quorum of the Board shall be three.
- (5) The decisions of the Board shall be by a majority of votes and in addition to an original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.
- (6) Minutes in proper form of each meeting shall be kept.
- (7) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.
- (8) Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

#### **Disclosure of interest**

- 11.-(1) Any member of the Board who, otherwise than as such member, is directly or indirectly interested in a contract made or entered into, or proposed to be made or entered into, by the Board, or in the subject-matter of any proceeding before the Board shall soon as practicable after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under this paragraph shall be recorded in the minutes of the Board and the member:
  - (a) shall not take part after disclosure in any deliberation or decision of the Board relating to the contract or matter in question; and
  - (b) shall be disregarded for the purpose of forming a quorum of the Board for any such deliberation or decision.

#### **Immunity from action**

- 12.-(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or

execution or intended execution of this Act.

- (2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if the said member was a servant or agent of the Board.

**Office of Chairman etc. not public office**

13. The office of chairman or member of the Board shall not be a public office for the purpose of Chapter XIII of the *Constitution*.

## ENDNOTES

### 1

#### KEY

|                       |                               |
|-----------------------|-------------------------------|
| amd = amended         | Pt = Part                     |
| Ch = Chapter          | rem = remainder               |
| Div = Division        | renum = renumbered            |
| exp = expires/expired | rep = repealed                |
| GN = Gazette Notice   | Sch = Schedule                |
| hdg = heading         | Sdiv = Subdivision            |
| ins = inserted        | SIG = Solomon Islands Gazette |
| It = long title       | st = short title              |
| LN = Legal Notice     | sub = substituted             |
| nc = not commenced    |                               |

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 44 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 July 2010.

### 2

#### LIST OF LEGISLATION

##### ***Petroleum (Exploration) Act (Cap. 44)***

Constituent legislation: 12 of 1987 (Commencement 1 March 1996)

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

|             |                |
|-------------|----------------|
| Assent date | 29 July 2009   |
| Gazetted    | 1 October 2009 |
| Commenced   | 1 October 2009 |

##### ***Companies Act 2009 (No. 1 of 2009)***

|             |              |
|-------------|--------------|
| Assent date | 2 April 2009 |
| Gazetted    | 9 April 2009 |
| Commenced   | 1 July 2010  |

### 3

#### LIST OF AMENDMENTS

|      |                           |
|------|---------------------------|
| s 8  | amd by Act No. 14 of 2009 |
| s 10 | amd by Act No. 1 of 2009  |
| s 26 | amd by Act No. 14 of 2009 |
| s 29 | amd by Act No. 14 of 2009 |
| s 37 | amd by Act No. 14 of 2009 |
| s 38 | amd by Act No. 14 of 2009 |
| s 39 | amd by Act No. 14 of 2009 |

s 41                      amd by Act No. 14 of 2009