

THE OFFSHORE PETROLEUM BILL
(No. XIV of 2021)

Explanatory Memorandum

The object of this Bill is to repeal the Petroleum Act, a legislation which dates back to the year 1970, and replace it with a new and more appropriate regulatory regime for the conduct of petroleum activities in the seabed and subsoil areas of the maritime zones of Mauritius, such as the prospecting, exploration, retention and production of petroleum.

2. The Department for Continental Shelf, Maritime Zones Administration and Exploration of the Prime Minister's Office shall, amongst its other functions, be the regulatory body for petroleum activities in the maritime zones of Mauritius and shall, inter alia –

- (a) regulate, monitor and oversee petroleum activities;
- (b) be responsible for the issue of prospecting permits, exploration licences, retention licences and production licences;
- (c) negotiate, on behalf of the Government, prospecting agreements and petroleum agreements;
- (d) facilitate the conduct of petroleum activities;
- (e) develop strategies and policies to minimise and manage the impacts of petroleum activities in the marine environment;
- (f) advise the Minister in the formulation, planning and management of policies in relation to petroleum activities; and
- (g) do such other things as may be necessary for the proper conduct of petroleum activities.

3. In addition, all sovereign rights to petroleum contained in the seabed and subsoil areas of the maritime zones shall vest, and shall always be deemed to have been vested, in the State of Mauritius.

P. K. JUGNAUTH

*Prime Minister, Minister of Defence, Home Affairs and
External Communications, Minister for Rodrigues,
Outer Islands and Territorial Integrity*

15 October 2021.

THE OFFSHORE PETROLEUM BILL
(No. XIV of 2021)

ARRANGEMENT OF CLAUSES

Clause

- | | |
|--|---|
| <p>PART I – PRELIMINARY</p> <ol style="list-style-type: none">1. Short title2. Interpretation3. Application of Act4. Petroleum vests in State <p>PART II – REGULATORY BODY FOR PETROLEUM ACTIVITIES</p> <ol style="list-style-type: none">5. Department for Continental Shelf, Maritime Zones Administration and Exploration6. Functions of Department7. Powers of Department <p>PART III – PETROLEUM AGREEMENTS</p> <ol style="list-style-type: none">8. Petroleum agreements negotiation9. Mandatory terms of petroleum agreements10. Terms of petroleum agreement inconsistent with Act11. Model petroleum agreement <p>PART IV – RELEASE OF SUB-BLOCKS FOR PETROLEUM ACTIVITIES AND DECLARATION OF RESERVED AREAS</p> <p>Sub-Part A – Sub-blocks</p> <ol style="list-style-type: none">12. Release of sub-blocks for petroleum activities <p>Sub-Part B – Reserved Areas</p> <ol style="list-style-type: none">13. Declaration of reserved areas <p>PART V – TITLES</p> <p>Sub-Part A – General Provisions Relating to Titles</p> <p>Section A – Types of Titles</p> <ol style="list-style-type: none">14. Types of titles <p>Section B – Grant of Title</p> <ol style="list-style-type: none">15. No petroleum activities without title16. Approval of Prime Minister17. Application for title18. Grant of title19. Restrictions on grant of title20. General terms and conditions of title21. Security bank guarantee22. Register of Titles | <p>Section C – General Responsibilities and Rights of Title Holders</p> <ol style="list-style-type: none">23. General responsibilities of titles holders24. Right of navigation and interference <p>Section D – Transfer of Title and Change of Ownership of Title Holder</p> <ol style="list-style-type: none">25. Transfer of title26. Change of constitution, ownership or control of title holder <p>Section E – Duty and Other Tax</p> <ol style="list-style-type: none">27. Exemption from duty and tax <p>Section F – Renewal, Variation, Suspension, Revocation, Surrender and Termination of Title</p> <ol style="list-style-type: none">28. Renewal of title29. Variation, suspension or revocation of title30. Surrender of title31. Ongoing obligation and liability of title holder32. Termination of title <p>Sub-Part B – Prospecting Permit</p> <ol style="list-style-type: none">33. No prospecting of petroleum without prospecting permit34. Application for prospecting permit35. Issue of prospecting permit36. Obligations and restrictions under prospecting permit <p>Sub-Part C – Exploration Licence</p> <p>Section A – Issue of Exploration Licence</p> <ol style="list-style-type: none">37. No exploration of petroleum without exploration licence38. Application for exploration licence39. Issue of exploration licence40. Extension of exploration licence while application for production licence under consideration <p>Section B – Discovery of Petroleum and Recovery of Petroleum Sample</p> <ol style="list-style-type: none">41. Discovery of petroleum42. Recovery of petroleum sample <p>Section C – Declaration of Sub-block as Location</p> <ol style="list-style-type: none">43. Nomination of location |
|--|---|

44. Declaration as location
Section D – Revocation of Declaration of Location
45. Revocation of location upon request of exploration licensee
46. Revocation of location where sub-block no longer subject of licence
47. Revocation of location where retention licence refused
48. Revocation of location where production licence issued
49. Revocation of location where production licence refused
50. Variation of declaration of location
Sub-Part D – Retention Licence
Section A – Issue of Retention Licence
51. No retention of petroleum without retention licence
52. Application for retention licence
53. Issue of retention licence
54. Extension of retention licence while application for production licence under consideration
Section B – Renewal of Retention Licence
55. Application for renewal of retention licence
56. Refusal to renew retention licence
Section C – Revocation of Retention Licence
57. Notice of intention to revoke retention licence
58. Revocation of retention licence
Section D – Re-evaluation of commercial viability
59. Re-evaluation by retention licensee
Sub-Part E – Production Licence
Section A – Issue of Production Licence
60. No production of petroleum without production licence
61. Application for production licence
62. Issue of production licence
- Section B – Rights to Petroleum Recovered**
63. Rights to market, process, sell and export
Section C – Production of Petroleum
64. Responsible and diligent production activities
65. Royalties and taxes
PART VI – ENFORCEMENT
Sub-Part A – Powers of Search and Arrest
66. Inspectors
67. Search and arrest
Sub-Part B – Interference and Prohibited Area
68. Interference with petroleum activities
69. Prohibited area
Sub-Part C – Enforcement Notice
70. Issue of enforcement notice
71. Failure to comply with enforcement notice
72. Enforcement costs
Sub-Part D – Administrative Action
73. Administration action
PART VII – MISCELLANEOUS
74. Petroleum Fund
75. Objects of archaeological or historical nature
76. Disclosure of information
77. Public officials prohibited from acquiring title rights
78. Protection from liability
79. Confidentiality
80. Disclosure of interest
81. Offences and jurisdiction
82. Forfeiture
83. Regulations
84. Repeal
85. Consequential amendments
86. Saving
87. Commencement
FIRST SCHEDULE
SECOND SCHEDULE
-

A BILL

To enact a modern and more appropriate regulatory regime for the prospecting, exploration, retention and production of petroleum in the seabed and subsoil areas of the maritime zones of Mauritius

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Offshore Petroleum Act 2021.

2. Interpretation

In this Act –

“block” means a block as described in the First Schedule;

“commercially viable”, in relation to petroleum, means petroleum which –

- (a) given the existing knowledge in the field of petroleum, including mapping and resource estimates;
- (b) having regard to prevailing market conditions; and
- (c) by using proven technology readily available within the petroleum industry,

could be developed so that the commercial rates of return from the recovery of the petroleum meet or exceed the minimum return considered acceptable for the type of project under consideration by a reasonable petroleum developer and by an investor or lender to the industry;

“continental shelf” has the same meaning as in the Maritime Zones Act;

“Convention” –

- (a) means the United Nations Convention on the Law of the Sea of 10 December 1982; and
- (b) includes the 1994 Agreement relating to the Implementation of Part XI of the Convention;

“Department” means the Department for Continental Shelf, Maritime Zones Administration and Exploration referred to in section 5;

“Director General” means the Director General of the Department;

“discovery” means the discovery of petroleum recoverable on the surface of the earth by conventional petroleum industry methods;

“EIA” means an environmental impact assessment and has the same meaning as in the Environment Protection Act;

“environment” has the same meaning as in the Environment Protection Act;

“Environmental Code of Practice” means a code developed under section 6 to provide for the sustainable management of the petroleum resources and marine environment of the maritime zones with a view to –

- (a) protecting the marine environment and associated ecosystems, taking all appropriate measures to protect and preserve biological diversity and rare or fragile ecosystems, and species of wild fauna and flora and their habitats;
- (b) sustaining the potential of petroleum resources to meet the needs of future generations;
- (c) safeguarding the life-supporting capacity of the environment; and
- (d) avoiding, remedying, or mitigating any adverse effects of activities on the environment;

“exploration”, in relation to petroleum –

- (a) means the search for petroleum; and
- (b) includes –
 - (i) the sampling and analysis of deposits to explore whether petroleum is commercially viable;
 - (ii) the testing of systems, equipment and processing facilities;
 - (iii) the conduct of studies before production of petroleum;
 - (iv) the conduct of in-depth risk assessment related to petroleum activities;
 - (v) any ancillary operation in support of the activities referred to in subparagraphs (i) to (iv) and paragraph (a);

“exploration licence” means a licence issued under section 39;

“exploration licensee” means the holder of an exploration licence;

“graticular section” means the graticular section as described in the Second Schedule;

“graticular sub-section” means the graticular sub-section as described in the Second Schedule;

“incident” means an occurrence where –

- (a) a ship or an installation engaged in petroleum activities is lost or incurs significant damage;
- (b) loss of life or injury occurs on board a ship or an installation engaged in petroleum activities, which is not the result of natural causes;
- (c) the conduct of petroleum activities results in serious harm to the marine environment; or
- (d) pollution of the marine environment;

“inspector” means an officer designated as such under section 66;

“installation” means an installation used for –

- (a) petroleum activities in a licence area;
- (b) the conveyance of petroleum through connected infrastructure;

“joint management area” or “joint zone” has the same meaning as in the Maritime Zones Act;

“licence” means an exploration licence, a retention licence or a production licence;

“licence area” means the area constituted by a sub-block which is the subject of a licence;

“licensee” means the holder of a licence;

“location” means a sub-block in relation to which a declaration under section 44 is in force;

“marine environment” –

- (a) means the environment of the sea; and
- (b) includes the physical, chemical, geological and biological and genetic components, conditions and factors that interact and determine the productivity, state, condition and quality of the marine ecosystem, the waters of the seas and oceans and the airspace above those waters, as well as the coastline, seabed and ocean floor and subsoil thereof;

“marine protected area” has the same meaning as in the Fisheries and Marine Resources Act;

“marine scientific research” has the same meaning as in the Maritime Zones Act;

“maritime zones” has the same meaning as in the Maritime Zones Act;

“minerals” means –

- (a) any naturally occurring element, compound or substance, amorphous or crystalline, including liquid crystalline compounds, formed through geological or biogeochemical processes and any naturally occurring mixture of substances, including in the form of coal, clay, evaporates, gravel, limestone, oil-shale, sand, shale, rock, and polymetallic nodules; but
- (b) does not include petroleum;

“Minister” means the Minister to whom responsibility for the subject of non-living marine resources is assigned;

“Ministry” means the Ministry responsible for the subject of non-living marine resources;

“officer” –

- (a) means an officer of the Department; and
- (b) includes the Director General;

“petroleum” –

- (a) means any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state and any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state, together with other substances produced in association with such hydrocarbons; and

(b) includes any petroleum that has been returned to a reservoir;

“petroleum agreement” means an agreement between the Government of the Republic of Mauritius and a potential licensee;

“petroleum activities” –

(a) means the prospecting, exploration, retention or production of petroleum; and

(b) includes any ancillary operation in support of the activities referred to in paragraph (a);

“petroleum data” means any record, return, plan, map, accounts, cores, sample, assay of samples, information, data collected, or data derived in the course, or as a result, of petroleum activities which a title holder may be requested to keep or furnish under this Act;

“Petroleum Fund” means the Petroleum Fund established under section 74;

“petroleum pool” or “petroleum field” means all reservoir horizons above crystalline basement within any geological entity of structural, facies or stratigraphic closure within which petroleum is deposited and retained;

“production”, in relation to petroleum –

(a) means the recovery or extraction of petroleum for commercial purposes; and

(b) includes any ancillary operation in support of the activities referred to in paragraph (a);

“production licence” means a licence issued under section 62;

“production licensee” means the holder of a production licence;

“prospecting”, in relation to petroleum –

(a) means –

(i) low impact exploration activities such as seismic surveying and other non-surface disturbing activities in the search for petroleum; and

(ii) the estimation of the composition, size and distribution of petroleum and their economic values; and

(b) includes any ancillary operation in support of the activities referred to in paragraph (a);

“prospecting agreement” means an agreement between the Government of the Republic of Mauritius and a potential prospector;

“prospecting area” means the area constituted by a sub-block which is the subject of a prospecting permit;

“prospecting permit” means a permit issued under section 35;

“prospector” means the holder of a prospecting permit;

“Register of Titles” means the register referred to in section 22;

“reserved area” means an area within the maritime zones declared as such under section 13;

“reservoir” means an accumulation of petroleum in a geological unit limited by rock, water or other substances without pressure communication through liquid or gas to another accumulation of petroleum;

“retention”, in relation to petroleum –

(a) means –

(i) the exploration of petroleum in a licence area;

(ii) the recovery of petroleum in a licence area for the purpose of an appraisal, other than for commercial purposes; and

(b) includes any ancillary operation in support of the activities referred to in paragraph (a);

“retention licence” means a licence issued under section 53;

“retention licensee” means the holder of a retention licence;

“Safety Code of Practice” means a code developed under section 6 to ensure the safe, secure and sustainable conduct of petroleum activities, including to –

(a) maintain the integrity of the offshore installation;

(b) secure the safety of operational personnel; and

(c) protect the marine environment;

“serious harm” means any impact or effect which represents a significant adverse change that cannot be remedied within a reasonable timeframe;

“sub-block” means a sub-block as described in the First Schedule;

“title” means a prospecting permit, an exploration licence, a retention licence or a production licence;

“title area” means the area of the seabed and subsoil to which a title relates;

“title holder” means the holder of a prospecting permit, an exploration licence, a retention licence or a production licence.

3. Application of Act

(1) This Act shall not apply to–

(a) the recovery and exploration of petroleum in the joint management area or joint zone; and

(b) seabed mineral activities.

(2) This Act shall be in addition to, and not in derogation from, the Maritime Zones Act and the Environment Protection Act.

4. Petroleum vests in State

All sovereign rights to petroleum contained in the seabed and subsoil areas of the maritime zones shall vest, and shall always be deemed to have been vested, in the State of Mauritius.

PART II – REGULATORY BODY FOR PETROLEUM ACTIVITIES

5. Department for Continental Shelf, Maritime Zones Administration and Exploration

The Department for Continental Shelf, Maritime Zones Administration and Exploration of the Ministry shall, amongst its other functions, be the regulatory body for petroleum activities in the maritime zones.

6. Functions of Department

The Department shall, in the discharge of its functions under this Act –

- (a) regulate, monitor and oversee petroleum activities;
- (b) negotiate, on behalf of the Government, prospecting agreements and petroleum agreements;
- (c) facilitate the conduct of petroleum activities;
- (d) develop policies to enhance the conduct of petroleum activities;
- (e) develop standards and guidelines for petroleum activities, including an Environmental Code of Practice and a Safety Code of Practice;
- (f) develop strategies and policies to minimise and manage the impacts of petroleum activities in the marine environment;
- (g) be responsible for the grant of titles;
- (h) maintain records of titles and the area to which they relate;
- (i) receive and assess reporting documents from title holders;
- (j) monitor compliance by title holders with their obligations and undertakings under this Act or their titles;
- (k) monitor the continuing validity of titles;
- (l) publish and disseminate, from time to time, standards, manuals, recommended practices and guidelines relating to petroleum activities with a view to assisting stakeholders in the implementation of this Act;
- (m) enlist the services of experts;
- (n) advise the Minister in the formulation, planning and management of policies in relation to petroleum activities; and
- (o) do such other things as may be necessary for the purposes of this Act.

7. Powers of Department

The Department shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –

- (a) invite applications for titles;

- (b) cause any investigation to be carried out in determining an application for the grant of a title;
- (c) reject an application for the grant of a title;
- (d) cause any negotiation or consultation to be made before the Government enters into a petroleum agreement;
- (e) vary, renew, suspend or revoke a title;
- (f) set up such committee as may be necessary;
- (g) collect fees and levy charges;
- (h) exercise such other powers as may be necessary for the purposes of this Act.

PART III – PETROLEUM AGREEMENTS

8. Petroleum agreements negotiation

(1) The Department, in collaboration with relevant stakeholders, shall, on behalf of the Government, negotiate petroleum agreements with a potential exploration licensee, retention licensee or production licensee as to secure the most favourable conditions for the Government.

(2) The Department shall submit to the Government any proposed petroleum agreement for its recommendations and approval.

(3) The Department shall, on behalf of the Government, enter into a petroleum agreement with a potential exploration licensee, retention licensee or production licensee.

9. Mandatory terms of petroleum agreements

A petroleum agreement shall, inter alia, include the following provisions –

- (a) payment of royalties and taxes, calculated in accordance with the Income Tax Act and any other relevant enactment;
- (b) the payment of charges and such other fees as the Department may determine;
- (c) insurance covering any damage to the environment in the maritime zones of Mauritius, including oil pollution damage, and liabilities;

- (d) the circumstances or the manner in which a discretion conferred under the agreement is to be exercised;
- (e) requirements relating to project financing, auditing and reporting;
- (f) requirements concerning exploration and production work-plans, operations and relinquishment;
- (g) requirements concerning decommissioning obligations and the financing of decommissioning;
- (h) abandonment operations so as to remove all installations, equipment and infrastructure in the title area to ensure that the area does not constitute a danger to persons, shipping or the marine environment;
- (i) requirements concerning compliance with environmental impact assessment and any obligations;
- (j) procedures concerning the settlement of disputes;
- (k) necessary measures to be taken by the potential exploration licensee, retention licensee or production licensee in case damage is caused to the marine environment;
- (l) standards and guidelines for petroleum activities, including an Environmental Code of Practice and a Safety Code of Practice;
- (m) any document that the Department may determine for the conduct of petroleum activities.

10. Terms of petroleum agreement inconsistent with Act

(1) Any term or condition contained in a petroleum agreement which is inconsistent with any provision of this Act shall, to the extent of the inconsistency, be null and void.

(2) Nothing contained in a petroleum agreement shall be construed as absolving any party thereto from a requirement under any enactment or from applying for, and obtaining, any permit, licence, approval, authorisation, clearance or certificate required under that enactment.

11. Model petroleum agreement

(1) The Department shall, for the purposes of this Act, prepare a model petroleum agreement.

(2) A model petroleum agreement may, from time to time, be subject to such modifications, additions or exclusions as the Department may determine.

PART IV – RELEASE OF SUB-BLOCKS FOR PETROLEUM ACTIVITIES AND DECLARATION OF RESERVED AREAS

Sub-Part A – Sub-blocks

12. Release of sub-blocks for petroleum activities

(1) (a) Subject to subsection (3), the Department may designate, by reference to geographical coordinates, any area in the maritime zones to be released for the purpose of petroleum activities.

(b) Any area released for the purpose of petroleum activities under paragraph (a) shall be referred to as a sub-block.

(2) Where an exploration licence or a production licence is issued in respect of 2 or more sub-blocks, the graticular sub-sections which constitute those sub-blocks shall –

(a) constitute a single area; and

(b) each have a side in common with at least one other graticular sub-section in that area.

(3) The Department shall not designate a marine protected area to be released for the purpose of petroleum activities.

Sub-Part B – Reserved Areas

13. Declaration of reserved areas

(1) The Department may declare, by public notice, an area in the maritime zones to be a reserved area –

(a) where no person holds a title over that area;

(b) for marine spatial planning purposes; or

(c) for environmental protection purposes.

(2) Where an area is declared as a reserved area, the Department shall not invite any title application in relation to, or grant a title over, any sub-block in that reserved area.

PART V – TITLES

Sub-Part A – General Provisions Relating to Titles

Section A – Types of Titles

14. Types of titles

There shall be, for the purposes of this Act, the following types of titles –

- (a) prospecting permit;
- (b) exploration licence;
- (c) retention licence; and
- (d) production licence.

Section B – Grant of Title

15. No petroleum activities without title

(1) No person shall engage in petroleum activities in the maritime zones unless he is the holder of a title.

(2) Subsection (1) shall not apply to a person who engages in marine scientific research.

16. Approval of Prime Minister

No title shall be granted except with the approval of the Prime Minister.

17. Application for title

(1) An application for a title shall be made to the Department in such form and manner as the Director General may determine and shall be accompanied by such non-refundable fee as may be prescribed.

(2) An application shall, depending on the type of title, contain the following –

- (a) the proposed petroleum activities to be conducted;
- (b) a general description of the nature and objective of the proposed petroleum activities, including the proposed date of commencement and approximate duration, and the proposed use of the data collected thereof;

- (c) the coordinates and charts of the area within which the proposed petroleum activities are to be conducted;
- (d) the sub-block within which the proposed petroleum activities are to be conducted;
- (e) the type of ship to be used for the proposed petroleum activities, the name of the ship, the registration number and identification number of the ship;
- (f) the name, nationality, address, contact details and certificate of the requisite skills of the persons who will conduct the proposed petroleum activities;
- (g) the methods, equipment, technology and the installations to be used for the conduct of the proposed petroleum activities;
- (h) any feasibility study or similar study previously carried out by the applicant in relation to the commercial potential of the area within which the proposed petroleum activities are to be conducted;
- (i) the work plans covering the life of the proposed petroleum activities, a time schedule and estimated annual expenditures;
- (j) a capacity building programme providing for the training of officers of the Department and relevant stakeholders, and their participation in matters pertaining to the proposed petroleum activities to be conducted;
- (k) a preliminary assessment of the likely impact on the marine environment of the proposed petroleum activities;
- (l) the details of any intended ports of call;
- (m) the expected dates and method of submission of a preliminary report, a final report and assessment of data, samples and research results;
- (n) a public engagement and information plan;
- (o) a detailed contingency plan for responding to any incident that may occur during the conduct of the proposed petroleum activities, including the provision for regular simulation exercises;

- (p) the name of a qualified marine mammal observer who shall be responsible for conducting visual watches for marine mammals during the conduct of petroleum activities;
- (q) such other information or document as the Director General may, in the circumstances, require.

18. Grant of title

Subject to this Act, the Department may grant a title where –

- (a) the past performance of the applicant as a title holder, where applicable, has, to the knowledge of the Department, been satisfactory;
- (b) the terms and conditions of the title would, in the opinion of the Department, not likely lead to the contravention by any person of the restrictions placed on the maritime zones or cause serious harm to the marine environment, human health or human safety;
- (c) the Department is satisfied that the grant of the title would not be contrary to the interests of Mauritius.

19. Restrictions on grant of title

The Department shall not grant a title where it –

- (a) confers exclusive rights in respect of an area which is the subject of another title, except where an exploration licensee or a retention licensee applies for a production licence for part of that area; or
- (b) confers production rights in respect of an area over which an exploration licence has been valid within the preceding year, unless –
 - (i) the applicant is the same person who held the exploration licence in respect of that area; or
 - (ii) the application is accompanied by the consent of the person who previously held an exploration licence in respect of that area, except where such licence has been revoked.

20. General terms and conditions of title

(1) A title shall, subject to this Act, be granted on such terms and conditions as may be agreed between the Department and the applicant.

(2) A title shall –

- (a) include a detailed approved work plan, including time schedules and specified annual expenditure requirements;
- (b) confer the title holder the rights to conduct petroleum activities within the licence area or prospecting area;
- (c) be subject to an EIA licence before petroleum activities may start.

(3) Subsection (2)(c) shall not apply to a prospecting permit and retention licence.

(4) Every title holder, his officers and agents shall –

- (a) at all times, keep indemnified against all actions, proceedings, costs, charges, claims and demands which may be made or brought by any third party in relation to his petroleum activities; and
- (b) be liable for the amount of any compensation or damage arising out of his failure to comply with this Act or the title, and any wrongful act or omission in the conduct of the petroleum activities.

(5) The grant of a title does not create an interest in land other than the rights expressly conferred by this Act or the title.

21. Security bank guarantee

(1) The Department shall require an applicant for a title, other than for a prospecting permit, to deposit a security bank guarantee before the grant of the title.

(2) The terms and conditions under which the security bank guarantee deposited shall be specified in the title.

(3) The security bank guarantee may be used by the Department to take steps towards fulfilling any obligations that the title holder fails to fulfil, or to rectify any damage or loss caused as a result of such failure, including for clean-up or compensation costs in respect of any damage caused by pollution or other incident occurring as a result of the petroleum activities.

22. Register of Titles

(1) The Department shall maintain a register, to be known as the Register of Titles, which –

- (a) shall contain up to date and accurate records of applications received for titles;
- (b) shall contain particulars of every title granted, including –
 - (i) the name and registered address of the title holder;
 - (ii) the date of the grant of the title;
 - (iii) the duration of the title and the expiry date;
 - (iv) a description of the area in respect of which the title is granted; and
 - (v) a description of the petroleum activities in respect of which the title is granted;
- (c) may contain a reference map, of which –
 - (i) sub-blocks may be open to title applications;
 - (ii) areas have been declared as reserved areas;
 - (iii) sub-blocks have been nominated for declaration as locations; and
- (d) may contain such other information as the Department may determine.

(2) The Department shall update the Register of Titles as and when there is any change in a title.

(3) (a) Subject to paragraph (b), the Register of Titles shall be open for public consultation during business hours of the Department.

(b) Where the Department so determines, paragraph (a) shall not apply to any particular information that is commercially sensitive information pertaining to a third party or where the publication of that particular information would, in the view of the Department, otherwise not be in the public interest.

Section C – General Responsibilities and Rights of Title Holders

23. General responsibilities of title holders

Subject to this Act, every title holder shall –

- (a) employ best environmental practice in accordance with prevailing international standards;
- (b) where the Department considers there are threats of serious damage to the marine environment or threats to human health in Mauritius, take necessary precautions in order to avoid, remedy or mitigate the adverse effects of petroleum activities in the marine environment;
- (c) take appropriate measures to prevent, reduce and control pollution and other hazards to the marine environment, including waste material arising out from petroleum activities;
- (d) exercise due diligence in, and comply with, the terms of the title directed at safeguarding the health, safety and welfare of persons employed in the petroleum activities;
- (e) maintain, separately for each title, a complete and proper set of books, accounts, financial records and performance data which shall be annually audited by an independent auditor and supply such data as and when required by the Department;
- (f) immediately submit to the Department a written notice of any new information arising or data collected that materially affects the work plan or the title holder's ability to adhere to the terms of the title;
- (g) immediately submit to the Department a written notice of any incident arising out from petroleum activities;
- (h) provide the Department with a report of any incident arising out from petroleum activities;
- (i) provide the Department with all reasonable information and assistance to enable the Department's verification of the title holder's adherence to his obligations in conducting the petroleum activities;
- (j) at the end of the title term or on earlier suspension, revocation or surrender of the title, carry out, to the satisfaction of the Department, abandonment operations so as to remove all installations, equipment and infrastructure in the title area to ensure

that the area does not constitute a danger to persons, shipping or the marine environment; and

- (k) at all material times, ensure that any ship, installation and equipment engaged in petroleum activities comply with the laws of the flag State, relevant national legislation and any applicable maritime conventions to which Mauritius is a party.

24. Right of navigation and interference

(1) Subject to this section, a title holder shall have the right of navigation within the maritime zones so far as is reasonably required by him to access the title area.

(2) A title holder shall conduct petroleum activities in such a way that will not unreasonably interfere with –

- (a) the exercise of the freedom of the high seas as specified in Article 87 of the Convention;
- (b) navigation;
- (c) fishing;
- (d) submarine cabling or submarine pipelines;
- (e) underwater cultural heritage and related activities;
- (f) marine scientific research; or
- (g) the conservation of the resources of the sea or the seabed.

Section D – Transfer of Title and Change of Ownership of Title Holder

25. Transfer of title

(1) No title shall be assigned, transferred, leased or mortgaged without the Department's prior written consent and on payment of such fee as may be prescribed.

(2) The Department may, in considering whether or not to give such consent under subsection (1), require –

- (a) the same information from the proposed transferee as would be required from an applicant for the same title;

- (b) an undertaking that the transferee assumes all the obligations of the transferor; and
 - (c) the transferee to make an application for that title.
- (3) A transfer of title shall become effective upon entry into the Register of Titles.

26. Change of constitution, ownership or control of title holder

(1) A title holder shall notify the Department of any significant change in the constitution, ownership or control of the title holder.

(2) The Department shall, not later than 90 days after the date of being notified under subsection (1), inform the title holder of its decision about its approval or rejection of the change.

Section E – Duty and Other Tax

27. Exemption from duty and tax

(1) A title holder and any of his contractors, as certified by the Department, shall, in accordance with the Customs Tariff Act, the Excise Act and the Value Added Tax Act, be exempt from any duty and any other tax for the import of machinery, equipment, vehicle, materials and supplies where such import has been certified by the Department to be used solely for the conduct of petroleum activities.

(2) Where any of the item imported into Mauritius is no longer required for petroleum activities, it may, in accordance with the Customs Tariff Act, the Excise Act and the Value Added Tax Act, be exported without the payment of any export duty and any other tax.

(3) On the sale or transfer by the importer of any imported item to any person in Mauritius, import duty shall be payable by the importer on the value thereof at the date of such sale or transfer.

Section F – Renewal, Variation, Suspension, Revocation, Surrender and Termination of Title

28. Renewal of title

(1) A title holder may apply to the Department for the renewal of his title.

(2) Notwithstanding section 55, the Department may renew a title where –

- (a) the application for renewal is received at least 90 days before the expiry date of the initial term of the title; and
- (b) the title holder complies with this Act.

(3) Where a title is renewed after the expiry date of the initial term of the title, the title shall be deemed to have continued to be in force during the period between that expiry date and the date the title is renewed.

29. Variation, suspension or revocation of title

(1) Subject to this Act, the Department may, where applicable, vary, suspend or revoke a title –

- (a) where the title holder fails to comply with this Act or his title;
- (b) where a security bank guarantee is not deposited in accordance with this Act;
- (c) where the Department deems it necessary so as to –
 - (i) prevent serious risk to –
 - (A) the health, safety or welfare of any person; or
 - (B) the marine environment;
 - (ii) avoid a conflict with any obligation arising out of any international agreement or instrument in force for Mauritius; or
 - (iii) avoid any situation which may reasonably be expected to lead to a breach of international or domestic peace and security;
- (d) in order to secure compliance by the title holder with his obligations and undertakings under this Act or his title;
- (e) on the bankruptcy, insolvency or receivership of the title holder, or on the title holder ceasing to exist as a legal entity;
- (f) where the title holder is prevented, for a continuous period exceeding 2 years, from conducting his petroleum activities despite taking all reasonable measures to do so, because of an event outside of his control;

- (g) where no material efforts have been made by the title holder to conduct petroleum activities for a period exceeding 2 years;
 - (h) where there has been a serious, persistent or wilful breach by the title holder of a material undertaking or term or condition of his title;
 - (i) where any payment owing under this Act is in arrears or unpaid for 6 months following the day on which it ought to have been paid; or
 - (j) on the assignment, transfer, lease or mortgage of the title holder, or a significant change in the constitution, ownership or control of the title holder, without the prior approval of the Department.
- (2) (a) The Department shall, before varying, suspending or revoking a title –
- (i) give the title holder at least 30 days' written notice of the Department's intention, setting out the reasons thereof; and
 - (ii) request the title holder to make, within a specified period, written submissions as to why the title shall not be varied, suspended or revoked.
- (b) Paragraph (a) shall not apply where the title holder makes a request to the Department for the variation of his title.

(3) Where the Department has suspended a title, it may, by notice, require the title holder to resume its petroleum activities and comply with the terms and conditions of his title, not later than 90 days after such notice.

30. Surrender of title

Subject to payment of any outstanding fees payable under this Act, a title holder may, at any time, surrender his title without penalty by giving the Department at least 6 months prior notice in writing to that effect.

31. Ongoing obligation and liability of title holder

- (1) All rights and entitlements shall –
 - (a) on the revocation of a title, cease;
 - (b) on the surrender of a title by the title holder, cease; and

- (c) on the suspension of a title, cease during the period of suspension.

(2) A title holder shall, notwithstanding the revocation, surrender or suspension of his title, continue to be subject to any ongoing obligation or liability incurred by him as a result of activities already conducted, or otherwise by reason of having entered into the title, including requirements to submit data, information and reports and to make payments to the Department for the period during which petroleum activities were conducted.

32. Termination of title

(1) A title shall terminate where –

- (a) its term expires, without renewal;
- (b) it is surrendered by the title holder;
- (c) it is revoked by the Department; or
- (d) in the case of an exploration licence, it ceases to be in force in respect of the sub-block under section 47.

(2) The title holder shall, upon termination of a title, submit to the Department –

- (a) all books, accounts, financial records and performance data which the holder is required to maintain in accordance with this Act and his title;
- (b) all reports and plans or maps prepared by, or for, the title holder;
- (c) all environmental and social consultation and related reports, documents, surveys and data prepared in relation to the petroleum activities under the title; and
- (d) any other document, information or sample in relation to the title as the Department may determine.

Sub-Part B – Prospecting Permit

33. No prospecting of petroleum without prospecting permit

No person shall engage in the prospecting of petroleum in the maritime zones unless he has entered into a prospecting agreement and is the holder of a prospecting permit.

34. Application for prospecting permit

An application for a prospecting permit shall –

- (a) be made in accordance with section 17(1); and
- (b) in addition to the information required under section 17(2), as applicable, contain such other information or document as the Department may determine.

35. Issue of prospecting permit

(1) The Department may issue a prospecting permit where –

- (a) the information required under sections 17(2) and 34(b) has been supplied to the Department's satisfaction; and
- (b) there is no existing exploration licence, retention licence or production licence in respect of the area where the prospecting is proposed to be conducted.

(2) A prospecting permit shall –

- (a) in addition to the terms and conditions specified in section 20, as applicable, be issued on such other terms and conditions as the Department may determine; and
- (b) be issued for such period as may be agreed between the Department and the applicant, the period of which shall not exceed 2 years.

36. Obligations and restrictions under prospecting permit

A prospecting permit –

- (a) may, by mutual agreement, be renewed for an additional period of 2 years;

- (b) shall not entail any exclusive rights of access to the seabed or water column within the prospecting area;
- (c) shall not permit extraction of petroleum for commercial use;
- (d) may be conducted simultaneously by more than one prospector in the same prospecting area;
- (e) shall cease to be valid within a particular area on written notice being given to the prospector where –
 - (i) an exploration licence, a production licence or a retention licence has been, or is likely to be, issued in respect of that area;
 - (ii) that area has been, or is likely to be, declared as a reserved area;
 - (iii) the prospector breaches any undertaking or requirement of his permit and fails to remedy the breach within such time as the Department so determines; or
 - (iv) the Department reasonably believes that the prospector has caused, is causing, or poses a threat of, serious harm to the marine environment or human life;
- (f) may authorise the recovery of petroleum restricted to the minimum amount necessary for the purpose of testing, assaying or valuation, but not for commercial use;
- (g) shall not entail any right to drill into the seabed and subsoil;
- (h) shall not entail the use of explosives or harmful substances in the marine environment; and
- (i) shall not give ownership or property rights to the prospector over any petroleum acquired in the course of prospecting, such petroleum remaining the property of the State.

Sub-Part C – Exploration Licence

Section A – Issue of Exploration Licence

37. No exploration of petroleum without exploration licence

No person shall engage in the exploration of petroleum in the maritime zones unless he –

- (a) has entered into a petroleum agreement;
- (b) is a holder of an EIA licence; and
- (c) is the holder of an exploration licence.

38. Application for exploration licence

An application for an exploration licence shall –

- (a) be made in accordance with section 17(1); and
- (b) in addition to the information required under section 17(2), as applicable, contain such other information or document as the Department may determine.

39. Issue of exploration licence

(1) The Department may issue an exploration licence where –

- (a) the information required under sections 17(2) and 38(b) has been supplied to the Department's satisfaction; and
- (b) there is no existing exploration licence, retention licence or production licence, as the case may be, in respect of the area where the exploration is proposed to be conducted.

(2) An exploration licence shall –

- (a) in addition to the terms and conditions specified in section 20, as applicable, be issued on such other terms and conditions as the Department may determine; and
- (b) be issued for a period not exceeding 6 years.

(3) The Department shall require an exploration licensee to relinquish a percentage or portions of the licence area over a defined time period to be set in a petroleum agreement, or otherwise in such other manner as the Department may determine.

40. Extension of exploration licence while application for production licence under consideration

Where an application for a production licence is made by an exploration licensee for the same licence area, the exploration licence shall continue to be in force until the production licence is issued.

Section B – Discovery of Petroleum and Recovery of Petroleum Sample

41. Discovery of petroleum

Every licensee shall notify the Department of any discovery of petroleum not later than 30 days after such discovery.

42. Recovery of petroleum sample

(1) Any sample of petroleum recovered by an exploration licensee shall remain the property of the State and shall not be disposed of or removed from Mauritius except, on such terms and conditions as the Department may determine, for the purposes of assay, identification, analysis or storage.

(2) Where a sample is recovered for the purpose of testing and evaluation by an exploration licensee, a record sufficient for the identification of the sample and location of its origin shall be maintained by the licensee, and the sample shall be made accessible to the Department.

Section C – Declaration of Sub-block as Location

43. Nomination of location

(1) Where a petroleum pool is identified in a licence area by an exploration licensee and the licensee recovers petroleum from the pool, the licensee may –

- (a) in case the pool extends to only one sub-block in the licence area, nominate that sub-block for declaration as a location; or
- (b) in case the pool extends to 2 or more sub-blocks in the licence area, nominate those sub-blocks for declaration as a location.

(2) (a) Where 2 or more petroleum pools are identified in a licence area by an exploration licensee and the licensee recovers petroleum from each of those pools, the licensee may, instead of making a nomination in accordance with subsection (1) in relation to each pool, nominate, subject to paragraph (b), for declaration as a single location –

- (i) all the sub-blocks to which the pools extend; or
- (ii) all the sub-blocks to which any 2 or more of the pools extend.

(b) A nomination under paragraph (a) which relates to 2 or more pools shall be such that, in the case of each of the pools, at least one of the sub-

blocks to which the pool extends immediately adjoins a sub-block to which the other, or another, of those pools extends.

(c) For the purpose of paragraph (b), a sub-block immediately adjoins another sub-block where the graticular sub-section which constitutes or includes that sub-block and the graticular sub-section which constitutes or includes that other sub-block –

- (i) have a side in common; or
- (ii) are joined together at one point.

(3) (a) Where the Department is of the opinion that an exploration licensee is entitled to nominate a sub-block for declaration as a location under subsection (1) or (2), and the licensee has not made any nomination, the Department may require, by written notice, the licensee to nominate that sub-block –

- (i) not later than 90 days after the day on which the notice was issued; or
- (ii) not later than such period, being not more than 180 days after the day on which the notice was issued, as the Department may determine.

(b) The Department may extend the 90 days' period referred to in paragraph (a)(i) on a written request made by the exploration licensee, subject to that period being not be more than 180 days.

(c) Where an exploration licensee does not comply with the requirement under paragraph (a), the Department may, by written notice issued to the licensee, declare the sub-block as a location.

44. Declaration as location

Where an exploration licensee has made a nomination and the Department is of the opinion that the licensee is entitled to nominate the sub-block, the Department shall declare the nominated sub-block to be a location.

Section D – Revocation of Declaration of Location

45. Revocation of location upon request of exploration licensee

Where a sub-block has been declared as a location and the exploration licensee requests the Department to revoke the declaration of the location, the Department may, in writing, revoke the declaration of the location.

46. Revocation of location where sub-block no longer subject of licence

(1) Where a sub-block that constitutes a location or forms part of a location was the subject of an exploration licence or a retention licence and the sub-block is no longer the subject of that licence, as the case may be, the Department shall –

- (a) in case the sub-block constitutes that location, revoke the declaration of that location; or
- (b) in case the sub-block forms part of that location, revoke the declaration of that location to the extent to which the declaration forms part of that sub-block.

(2) Subsection (1) shall not apply in relation to a sub-block where –

- (a) a person has made an application for a production licence over the sub-block and the Department has not made a decision in relation to the application; or
- (b) a production licence is in force in relation to the sub-block.

(3) Subsection (1) shall not apply in relation to a sub-block where –

- (a) a person has made an application for a retention licence over the sub-block and the Department has not made a decision in relation to the application; or
- (b) a retention licence is in force in relation to the sub-block.

47. Revocation of location where retention licence refused

(1) Where the Department refuses to issue a retention licence in relation to a sub-block constituting a location, it may revoke the declaration of that location.

(2) Where the Department –

- (a) refuses to issue a retention licence in relation to a sub-block forming part of a location; and
- (b) is not satisfied as to the pursuance of petroleum activities,

the Department shall revoke the declaration of the location.

48. Revocation of location where production licence issued

Where an application for a production licence is made in respect of 2 or more sub-blocks and the application is in respect of only one of the sub-blocks, or some, but not all, of the sub-blocks, the Department shall, in case –

- (a) the sub-blocks in respect of which the application is granted, form part of a location; and
- (b) the Department is satisfied that the area comprised in any of the sub-blocks referred to in paragraph (a) does not contain petroleum,

revoke the declaration of the location to the extent to which the declaration relates to the sub-blocks.

49. Revocation of location where production licence refused

Where an application for a production licence is made in respect of one sub-block and the application is not granted in respect of that sub-block, the Department shall, in case that sub-block constitutes or forms part of a location but the Department is satisfied that the area comprised in the sub-block does not contain petroleum, revoke the declaration of the location –

- (a) where the sub-block constitutes the location; or
- (b) to the extent to which the declaration relates to the sub-block which forms part of the location.

50. Variation of declaration of location

(1) Where an exploration licence is in respect of a sub-block which constitutes a location, the Department may, in writing, vary the declaration of the location –

- (a) by adding, to the location, a sub-block –
 - (i) that is in the licence area; and
 - (ii) to which a petroleum pool extends within the location; or
- (b) by deleting from the location a sub-block in which, in the opinion of the Department, no petroleum exists.

(2) A copy of a variation under subsection (1) shall be added in the Register of Titles.

- (3) The Department may only vary a declaration where –
- (a) an exploration licensee requests for the variation; or
 - (b)
 - (i) the Department gives an exploration licensee written notice of the proposed variation, identifying the sub-block to be added to, or deleted from, the location;
 - (ii) the notice invites the licensee to give the Department a submission about the proposed variation;
 - (iii) the notice specifies a time limit of not less than 30 days for making the submission; and
 - (iv) the Department has considered any submission made in accordance with the notice.

Sub-Part D – Retention Licence

Section A – Issue of Retention Licence

51. No retention of petroleum without retention licence

No person shall engage in the retention of petroleum in the maritime zones unless he is the holder of a retention licence.

52. Application for retention licence

- (1) No person shall make an application for a retention licence unless –
- (a) he is an exploration licensee; and
 - (b) the sub-block to which the application relates is declared a location.
- (2) Subject to subsection (3), an application for a retention licence shall –
- (a) be made in accordance with section 17(1); and
 - (b) in addition to the information required under section 17(2), contain, where applicable –
 - (i) an assessment of the current commercial viability of any recovery of petroleum from the location;

- (ii) the potential future commercial viability of the recovery of petroleum in the location; and
 - (iii) such other information or document as the Department may determine.
- (3) (a) An application referred to in subsection (2) shall be made –
 - (i) not later than 2 years after the date of the declaration of the location; or
 - (ii) subject to paragraph (b), not later than 4 years after the date of the declaration of the location.

(b) The Department may allow a period under paragraph (a)(ii) only on written application made by the exploration licensee within the period of 2 years referred to in paragraph (a)(i).

53. Issue of retention licence

- (1) The Department may issue a retention licence where –
 - (a) the information required under section 17(2) and 52(2)(b) has been supplied to the Department’s satisfaction;
 - (b) the area comprised in the sub-block contains petroleum; and
 - (c) the recovery of petroleum from that area is not, at the time of the application, commercially viable but may become commercially viable not later than 10 years after the date of the submission of the application,
- (2) (a) Where an application is in relation to 2 or more sub-blocks, the Department may refuse the application where it is of the opinion that the application does not comply with a requirement under subsection (1) in relation to –
 - (i) only one of the sub-blocks; or
 - (ii) some, but not all, of the sub-blocks.
- (b) Where the Department refuses to grant an application, it shall, within a reasonable time, notify the applicant thereof.
- (3) A retention licence shall –

- (a) in addition to the applicable terms and conditions specified in section 20, as applicable, be issued on such other terms and conditions as the Department may determine; and
- (b) be issued for a period of 5 years as from –
 - (i) the date on which it is issued; or
 - (ii) where a date is specified in the licence, that later date.

54. Extension of retention licence while application for production licence under consideration

(1) Subject to subsection (2), the duration of a retention licence shall be extended by the Department where –

- (a) the retention licensee makes an application for a production licence in relation to a sub-block comprised in the retention licence; and
- (b) the expiry date of the retention licence predates –
 - (i) the decision of the Department on the application for the production licence;
 - (ii) the withdrawal of the application for a production licence; or
 - (iii) the lapsing of the application for a production licence,whichever is earlier.

(2) Where an extension of a retention licence is issued, the extension shall end on the occurrence of any of the following, whichever is earlier –

- (a) the decision of the Department on the application for the production licence;
- (b) the withdrawal of the application for a production licence; or
- (c) the lapsing of the application for a production licence.

Section B – Renewal of Retention Licence

55. Application for renewal of retention licence

(1) A retention licensee may apply to the Department for the renewal of the licence subject to the application being made –

- (a) not earlier than 12 months before the expiry date of the licence; and
- (b) at least 180 days before the expiry date of the licence.

(2) Where an application for renewal is made –

- (a) later than 180 days before the expiry date of the licence; but
- (b) before the expiry date of the licence,

the Department may, where it is satisfied with the reason given by applicant for the late application, entertain the application.

(3) An application for renewal shall contain the information required under section 52(2).

(4) Where an application for renewal is made and the expiry date of the licence is prior to the decision of the Department in relation to the renewal or lapsing of the application, the licence shall remain in force until the date –

- (a) the Department takes a decision on the renewal of the licence; or
- (b) the application so lapses,

whichever is earlier.

(5) The Department shall consider an application for the renewal of a retention licence subject to the Department being satisfied that –

- (a) the applicant has complied with any condition under the retention licence; and
- (b) the recovery of petroleum from the licence area –
 - (i) is not, as at the date of the application, commercially viable; and

- (ii) is likely to become commercially viable within a period of 5 years after the date of the application for renewal.

56. Refusal to renew retention licence

(1) The Department may refuse to grant an application for the renewal of a retention licence where the Department is satisfied that –

- (a) the applicant has not complied with a condition under the retention licence;
- (b) recovery of petroleum from the licence area is, at the time of the application, commercially viable; or
- (c) the recovery of petroleum from the licence area is not likely to become commercially viable within the period of 10 years as from the date of the application.

(2) Where the Department refuses to grant an application for a renewal of a retention licence, the Department shall notify, within a reasonable time, the applicant thereof and such notice shall contain a statement to the effect that the retention licensee may, not later than 12 months after the date of being notified, apply for a production licence over one or more of the sub-blocks comprised in the licence.

(3) Where –

- (a) the Department makes a decision not to renew a retention licence pursuant to subsection (1)(b);
- (b) the applicant is notified about the decision;
- (c) within 12 months as from the date of being notified, the retention licensee applies for a production licence over one or more of the sub-blocks comprised in the licence; and
- (d) the licence would, notwithstanding this subsection, expire before –
 - (i) the Department takes a decision on the application for a production licence; or
 - (ii) the application lapses,

the licence shall remain in force until the Department takes a decision on the application for a production licence, or the application lapses pursuant to subsection (1) or is withdrawn, whichever is earlier.

- (4) Where –
- (a) the Department makes a decision not to renew a retention licence;
 - (b) the applicant is notified about the decision;
 - (c) the licence would, notwithstanding this subsection, expire within 12 months after the date the applicant is notified; and
 - (d) subsection (3) does not apply,

the licence shall remain in force until the end of the 12 months period beginning on the date on which the notice was given.

Section C – Revocation of Retention Licence

57. Notice of intention to revoke retention licence

- (1) This section shall apply where –
- (a) the holder of the retention licence has –
 - (i) complied with a request under section 59;
 - (ii) not submitted an application to renew the licence; and
 - (b) the Department is of the opinion that recovery of petroleum from the licence area is commercially viable, pursuant to examination of –
 - (i) the results of the re-evaluation referred to in section 59; and
 - (ii) such other matter as the Department may determine.
- (2) Subject to subsection (1), the Department may give the retention licensee a written notice –
- (a) that it is of the opinion that recovery of petroleum from the licence area is commercially viable and proposes to revoke the licence;
 - (b) inviting the holder of the retention licence to submit on the proposal to revoke the licence and apply for a production licence; and

- (c) specifying a time limit, which shall be not less than 30 days as from the date of receipt of the notice, for making that submission.

58. Revocation of retention licence

Where a notice under section 57 has been received by the retention licensee, the Department shall revoke the licence and notify the licensee in writing, subject to –

- (a) no submission being received by the Department from the licensee within the prescribed limit; or
- (b) the Department, after consideration of any submission made, determines that the licence should be revoked.

Section D – Re-evaluation of commercial viability

59. Re-evaluation by retention licensee

(1) The Department may request a retention licensee to re-evaluate the commercial viability of any future production in the retention area and submit the re-evaluation results.

(2) The retention licensee shall comply with the request made under subsection (1) –

- (a) not later than 90 days after the date of the request; or
- (b) within such other period as the Department may determine.

Sub-Part E – Production Licence

Section A – Issue of Production Licence

60. No production of petroleum without production licence

No person shall engage in the production of petroleum unless he –

- (a) has entered into a petroleum agreement;
- (b) is a holder of an EIA licence; and
- (c) is the holder of a production licence.

61. Application for production licence

(1) No person shall make an application for a production licence unless –

- (a) (i) he is an exploration licensee; and
- (ii) the sub-block to which the application relates is declared a location; or
- (b) he is a retention licensee.

(2) Subject to subsection (3), an application for a production licence shall –

- (a) be made in accordance with section 17(1); and
- (b) in addition to the information required under section 17(2), contain, where applicable, such other information or document as the Department may determine.

(3) An application made by an exploration licensee shall be made –

- (a) not later than 2 years as from the date of the declaration of the location; or
- (b) subject to subsection (4), not later than 4 years after the date of the declaration of the location.

(4) The Department may allow a period under subsection (3)(b) only on written application made by the exploration licensee within the period of 2 years referred to in subsection (3)(a).

62. Issue of production licence

(1) The Department may issue a production licence where the information required under section 17(2) and 61(2)(b) has been supplied to the Department's satisfaction.

(2) A production licence shall, in addition to the applicable terms and conditions specified in section 20, be issued on such other terms and conditions as the Department may determine, requiring the production licensee –

- (a) to adhere to the conditions specified in the EIA licence, including all mitigation strategies for the protection of the environment and prevention of pollution, based on

oceanographic and environmental baseline studies and other relevant studies;

- (b) for the exploration of petroleum in the licence area with a view to determining whether there is any additional recoverable petroleum in that area;
- (c) to recover such petroleum where it is commercially viable to do so;
- (d) to submit to the Department a periodic and not less than on a quarterly basis, report, in such form as the Department may approve, providing information about the volume of work performed and the quantity and quality of petroleum produced;
- (e) to submit to the Department, not later than 30 days after the end of each year, a written annual report, in such form as the Department may approve, which shall include –
 - (i) information on the results of petroleum activities, health and safety record, volume of work, quantity and quality of petroleum produced, waste and waste disposal, rehabilitation activities;
 - (ii) a statement of expenditure and costs;
 - (iii) a statement showing the amount of royalty, taxes determined to be payable for each reporting period together with all related information and calculations, and receipt showing that the royalties have been paid in accordance with the petroleum agreement and the laws of Mauritius.

(3) Where a production licence is issued, it shall be valid for such period as may be specified in the licence, which may not exceed 30 years as from –

- (a) the date on which it is issued; or
- (b) where a date is specified in the licence, that later date.

Section B – Rights to Petroleum Recovered

63. Rights to market, process, sell and export

When petroleum is recovered by a production licensee and in accordance with the terms of his licence and the petroleum agreement –

- (a) the licensee shall acquire rights to market, process, sell and export the petroleum at the point of extraction; and
- (b) the petroleum shall not be subject to the rights of any other person, other than the State.

Section C – Production of Petroleum

64. Responsible and diligent production activities

(1) Once production has commenced, the production licensee shall, within reasonable limits and taking into consideration all relevant factors, continue production throughout the period of the licence in accordance with the terms of the licence and the applicable petroleum agreement.

(2) Notwithstanding subsection (1), the Department may, at the licensee's request and upon demonstration to the satisfaction of the Department that there is good cause to do so, authorise temporary suspension of production.

65. Royalties and taxes

A production licensee shall pay, in accordance with the Income Tax Act, such sums by way of royalties and taxes for the extraction of petroleum and at such times as may be specified in the petroleum agreement.

PART VI – ENFORCEMENT

Sub-Part A – Powers of Search and Arrest

66. Inspectors

(1) The Department may designate one or more officers, or appoint such other persons, to act as inspectors for the purpose of this section.

(2) An inspector shall, for the purpose of determining compliance with this Act, be entitled, at all reasonable times and with reasonable notice, to a title holder to –

- (a) board or obtain access to a licence area and all parts of any premises, ship, machinery or equipment used for, or in connection with, petroleum activities;
- (b) inspect or test any machinery or equipment which, in the inspector's opinion, is being or is intended to be used for, or in connection with, petroleum activities and, where the

inspector so determines, he may dismantle, test or take possession of any such machinery or equipment;

- (c) remove any sample or assay of such samples from any ship, machinery or equipment used for, or in connection with, petroleum activities;
- (d) examine and take copies of books, accounts, documents or records of any kind required to be kept under this Act;
- (e) require a title holder to carry out such procedures in respect of any machinery or equipment used for, or in connection with, petroleum activities as the Department may determine; and
- (f) document any site visit or inspection activity using any reasonable means, including video, audio, photograph or other form of recording.

(3) An inspector shall take all reasonable steps to avoid expending excessive time on a title holder's ship or platform at sea, disruption of petroleum activities, or interference with the safe and normal operations on board ships.

(4) A title holder, his officers and his agents shall cooperate and comply with all reasonable requests and exercise of powers by an inspector.

67. Search and arrest

Where an offence is committed or about to be committed under this Act, a police officer may –

- (a) stop, board, search, detain or seize a ship;
- (b) arrest any person suspected of having committed an offence under this Act;
- (c) seize any property on board which is suspected to have been used in connection with the commission of an offence under this Act; and
- (d) use such force as may be necessary for the purposes of paragraphs (a), (b) and (c).

Sub-Part B – Interference and Prohibited Area

68. Interference with petroleum activities

- (1) No person shall interfere with petroleum activities.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to a term of imprisonment not exceeding 5 years.

(3) In this section –

“interfere” means –

- (a) wilful sabotage of petroleum activities; or
- (b) violence used against an officer or a title holder or authorised personnel in the performance of his duties under this Act or under his title, or similar physical interference or obstruction without reasonable excuse.

69. Prohibited area

(1) For the purpose of protecting an installation, an infrastructure, a facility or a ship being used for petroleum activities, the Department may, by written notice, prohibit all unauthorised ships or specified classes of ships from entering or being present in a specified area surrounding the installation, infrastructure, facility or ship.

(2) A notice under subsection (1) shall not apply to any vessel of the National Coast Guard.

Sub-Part C – Enforcement Notice

70. Issue of enforcement notice

(1) The Department may issue an enforcement notice requiring corrective action with respect to any suspected, observed or anticipated contravention of this Act, or a term of a title, or in respect of any suspected, observed or anticipated circumstance that presents a risk to life or a risk of serious harm to the marine environment or any object of an archaeological or historical nature.

(2) An enforcement notice issued under this section may –

- (a) require a person to –
 - (i) take corrective action; or
 - (ii) stop taking harmful action; and
- (b) include a mandatory timeframe for the required action.

71. Failure to comply with enforcement notice

(1) The Department may take any action required by an enforcement notice issued under section 70 where –

- (a) the time for compliance specified has ended; and
- (b) the person to whom the enforcement notice was given or to whom it extended has not complied with the notice.

(2) A failure to comply with an enforcement notice by a title holder may constitute a ground for the Department to vary, suspend or revoke that title by notice in writing served upon the title holder in accordance with this Act.

72. Enforcement costs

Where the Department takes any action under section 71 in relation to an enforcement notice, the reasonable costs and expenses incurred by the Department in taking that action shall be a debt due to the Department by the person whose failure to comply with the notice led to that action.

Sub-Part D – Administrative Action

73. Administrative action

(1) The Department may take an administrative action against a title holder where the Department reasonably determines that the title holder has materially breached –

- (a) a condition or term of his title; or
- (b) a requirement of the Act.

(2) An administrative action may include the following –

- (a) the issue of written warnings, including warnings in relation to possible action the Department may take in the event of future breaches;
- (b) to enter into a written agreement providing for the title holder to undertake a programme of remedial action and to mitigate the risk of re-occurrence;
- (c) the issue of an enforcement notice under section 70 for the title holder to prevent, remedy and mitigate the risk of re-occurrence of breaches;

- (d) the imposition of a temporary restriction on the petroleum activities of the title holder until the Department is satisfied that action has been taken to remedy the breach and to mitigate the risk of re-occurrence; or
- (e) to commence a process under the Act to vary, suspend or revoke the variation to impose additional conditions on the title.

PART VII – MISCELLANEOUS

74. Petroleum Fund

(1) There is established for the purposes of this Act a Petroleum Fund into which shall be paid all monies required to be paid under this Act.

(2) The Petroleum Fund shall, in such manner as may be prescribed, be administered and managed by the Ministry responsible for the subject of finance.

75. Objects of archaeological or historical nature

(1) Any object of an archaeological or a historical nature found by any title holder or person conducting petroleum activities shall be reported immediately to the Department.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to a term of imprisonment not exceeding 5 years.

76. Disclosure of information

(1) The Department shall not disclose petroleum data to any person except –

- (a) with the prior written consent of the title holder;
- (b) to the extent necessary in connection with the administration of this Act; or
- (c) after 10 years from the date of receipt or until the expiry of any title for the area to which the data relates, whichever is longer.

(2) Before disclosing any petroleum data which the Department considers may prejudice the commercial interests of a title holder, the Department shall consult the title holder about the content and ensure any comment received

from the title holder in relation to the intended disclosure is given due consideration before any disclosure is made.

77. Public officials prohibited from acquiring title rights

(1) No public official shall, directly or indirectly, acquire any right or interest in any title, and any document or transaction purporting to confer any right or interest on any such officer shall, notwithstanding any other enactment, be null and void.

(2) No officer shall acquire or retain any share in a company engaged in petroleum activities during his employment or within 2 years following the cessation of that employment.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(4) In this section –

“public official” has the same meaning as in the Prevention of Corruption Act.

78. Protection from liability

No liability, civil or criminal, shall be incurred by the Department or by an officer in respect of any act done or omitted in good faith in the discharge of its or his functions or in the exercise of its or his powers under this Act.

79. Confidentiality

(1) No officer shall, during or after the tenure of his office, use or disclose any matter which came to his knowledge in the discharge of his functions, except –

(a) for the purposes of this Act; or

(b) where he is so required by a Court or under any enactment.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

80. Disclosure of interest

(1) Any officer who has an interest, direct or indirect, in any matter under this Act shall disclose the nature of his interest to the Department and such disclosure shall be recorded in the minutes of the Department and that person

shall not take part in any deliberation or decision of the Department relating to the matter.

- (2) Subsection (1) shall apply to the relative of an officer who has –
- (a) any direct or an indirect ownership of shares or involvement; or
 - (b) any direct or indirect benefit,

in the funding or management of any entity conducting or funding petroleum activities in Mauritius.

(3) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

- (4) In this section –

“relative” has the same meaning as in the Prevention of Corruption Act.

81. Offences and jurisdiction

- (1) Any person who –
- (a) conducts petroleum activities without a title;
 - (b) knowingly or recklessly provides the Department with information which is false or misleading;
 - (c) wilfully alters, suppresses, conceals or destroys any document which he is or is liable to produce, pursuant to this Act, to the Department; or
 - (d) otherwise contravenes this Act,

shall commit an offence.

(2) Any person who contravenes subsection (1)(a) shall, on conviction, be liable –

- (a) in the case of an individual, to a fine not exceeding 30 million rupees or to imprisonment for a term not exceeding 5 years;
- (b) in the case of a body corporate, to a fine not exceeding 150 million rupees.

(3) Any person who contravenes subsection (1)(b) or (c), or otherwise contravenes this Act shall, on conviction, be liable to a fine not exceeding one million rupees and to a term of imprisonment not exceeding 5 years.

(4) Where an offence committed by an entity under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) a director, manager, secretary or other similar officer of the entity; or

(b) a person who was purporting to act in any such capacity,

that person referred to in paragraph (a) or (b), as well as the entity, shall commit an offence and be punished accordingly.

(5) Where the affairs of an entity are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the entity.

(6) No prosecution shall be instituted in relation to an offence under this Act except on information filed with the consent of the Director of Public Prosecutions.

(7) (a) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate (Criminal Jurisdiction) Act, the Intermediate Court shall have jurisdiction to try an offence under this Act and may impose any penalty provided in this Act.

(b) Where an act alleged to constitute an offence under this Act occurred in the maritime zones, the Intermediate Court shall have jurisdiction in respect of that offence.

(c) An offence under this Act which is committed in the maritime zones shall, for the purpose of determining the jurisdiction of the Intermediate Court to try the offence, be deemed to have been committed –

(i) at the place where the accused is ordinarily resident; or

(ii) at the accused person's principal place of business.

82. Forfeiture

(1) Where a person is convicted for conducting petroleum activities without a title, the Intermediate Court shall make an order that any ship, mode of conveyance, installation, machinery, equipment or property used in, or in

connection with, the commission of such offence, be forfeited to the State, unless the owner of the ship, mode of conveyance, installation, machinery, equipment or property or the person legally entitled to his possession establishes, to the satisfaction of the Court, that the ship, mode of conveyance, installation, machinery, equipment or property was used in, or in connection with, the commission of the offence without his knowledge or connivance.

(2) Any ship, mode of conveyance, installation, machinery, equipment or property forfeited by an order made under subsection (1) shall vest in the State.

(3) The vesting shall take effect where –

- (a) no appeal has been made from the conviction or forfeiture order within the statutory time limit, on the expiration of the delay for such appeal;
- (b) an appeal has been made against the conviction or forfeiture order, upon the final determination of such appeal affirming or upholding the forfeiture order.

(4) Where any ship, mode of conveyance, installation, machinery, equipment or property is vested in the State by an order made under subsection (1), the Court shall cause such ship, conveyance, installation, machinery, equipment or property to be sold by public auction and the proceeds of the sale shall be credited to the Consolidated Fund.

(5) This section shall be in addition to, and not in derogation, from the Court's powers to order the estreatment or forfeiture of any property in pursuance of its power under any other enactment.

83. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under this Act may provide –

- (a) for the graticulation, mapping of blocks and sub-blocks;
- (b) for the payment of fees, royalties and taxes;
- (c) for the administration and management of the Petroleum Fund;
- (d) for the amendment of the Schedules;

- (e) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

84. Repeal

The Petroleum Act is repealed.

85. Consequential amendments

(1) The Customs Tariff Act is amended, in the First Schedule, in Part II, by deleting item E99 and replacing it by the following item –

E99	Any company engaged in the exploration, prospecting, retention and production of petroleum	Plant, machinery, equipment, vehicle, materials and supplies for exclusive use in the exploration, prospecting, retention and production of petroleum, as may be approved by the Department for Continental Shelf, Maritime Zones Administration and Exploration
------------	--	--

(2) The Environment Protection Act is amended –

(a) in the Fourth Schedule, in item 2(1), by adding the following new subparagraph, the full stop at the end of subparagraph (g) being deleted and replaced by the words “; and” and the word “and” being added at the end of subparagraph (f) –

(h) in relation to the exploration or production of petroleum under the Offshore Petroleum Act 2021, the Director General of the Department for Continental Shelf, Maritime Zones Administration and Exploration of the Prime Minister’s Office.

(b) in the Fifth Schedule, in Part B, by adding the following new item –

47. Exploration or production of petroleum under the Offshore Petroleum Act 2021

(3) The Excise Act is amended, in the First Schedule, in Part 1A, in Sub-part A, by adding the following new item –

92.	Any company engaged in the exploration, prospecting, retention and production of petroleum	Plant, machinery, equipment, vehicle, materials and supplies for exclusive use in the exploration, prospecting, retention and production of petroleum, as may be approved by the Department for Continental Shelf, Maritime Zones Administration and Exploration	0%
-----	--	--	----

(4) The Income Tax Act is amended –

(a) in section 2 –

(i) in the definition of “income tax”, by inserting, after paragraph (b)(iic), the following new paragraph –

(iic) the petroleum additional profits tax and the petroleum royalty;

(ii) by inserting, in the appropriate alphabetical order, the following new definitions –

“petroleum” has the same meaning as in the Offshore Petroleum Act 2021;

“petroleum activities” has the same meaning as in the Offshore Petroleum Act 2021;

“petroleum agreement” has the same meaning as in the Offshore Petroleum Act 2021;

“petroleum company” means a company which is the holder of a title to conduct petroleum activities under the Offshore Petroleum Act 2021;

“taxable petroleum” means the petroleum subject to tax under section 44D;

(b) in section 4(1)(b), by deleting the words “and 44C” and replacing them by the words “, 44C and 44D”;

(c) by inserting, after section 4A, the following new sections –

4B. Imposition of Petroleum Additional Profits Tax ("PAPT")

(1) PAPT shall, in and for every year, be paid to the Director-General by a petroleum company on all income derived by it during the preceding year.

(2) PAPT shall be calculated by reference to the formulae set out in the petroleum agreement provided that the profits or rate of return of the operator exceeds the threshold specified in the petroleum agreement and in accordance with the other provisions of the petroleum agreement.

4C. Imposition of petroleum royalty

(1) A petroleum royalty shall, in and for every month, be paid to the Director-General by a petroleum company on the market value of the company's taxable petroleum.

(2) The petroleum royalty shall be calculated at the rate specified in the petroleum agreement.

(d) by inserting, after section 18A, the following new section –

18B. Expenditure incurred in connection with petroleum royalty

Notwithstanding this Act, any expenditure incurred by a petroleum company shall not be deductible for the purpose of computing its petroleum royalty.

(e) in section 24, by inserting, after subsection (1A), the following new subsection –

(1B) Notwithstanding this Act, where, in an income year, a petroleum company has incurred capital expenditure on the acquisition or improvement of any non-current asset which is subject to depreciation under the normal accounting principles, the person shall be allowed a deduction of the capital expenditure so incurred by way of an annual allowance in that income year and in each of the succeeding years at such rate as may be prescribed.

(f) by inserting, after section 44E, the following new section –

44F. Company engaged in petroleum activities

(1) The gross income of a petroleum company deriving income from petroleum activities shall be ascertained in such manner as may be prescribed.

(2) A petroleum company shall, in an income year, be liable to –

- (a) income tax at the rate specified in Part IV of the First Schedule on its chargeable income;
- (b) petroleum additional profits tax in accordance with section 4B; and
- (c) petroleum royalty in accordance with section 4C.

(3) The Minister may, by regulations, make provision for the ascertainment of the net income of a petroleum company and any other incidental business.

(g) in section 59 –

(i) by inserting, after subsection (2), the following new subsection –

(2A) Where a petroleum company has incurred a loss referred to in subsection (1) and that loss cannot be fully relieved under that subsection, the unrelieved amount of loss cannot be set off against the petroleum additional profits tax and petroleum royalty.

(ii) by inserting, after subsection (3), the following new subsection –

(3A) The time limit of 5 years referred to in subsection (2) shall not apply to a petroleum company in so far as the computation of its income tax specified in section 44D(2)(a) is concerned.

(h) by inserting, after section 67P, the following new sections –

67Q. Expenditure incurred on royalty under a petroleum agreement

Subject to sections 18B and 57, a petroleum company may, in an income year, deduct, from its gross income, expenditure incurred on royalty payable under a petroleum agreement.

67R. Expenditure incurred on rent of residential premises

Subject to section 57, a petroleum company may, in an income year, deduct, from its gross income, rent payable in respect of residential premises occupied by the employees of the company for the purpose of carrying on the petroleum activities.

67S. Expenditure incurred on exploring and prospecting

(1) Subject to section 57, where a petroleum company has incurred expenditure on –

- (a) exploring or prospecting; or
- (b) the acquisition of exploring or prospecting data,

it may deduct, from its gross income, such expenditure.

(2) The Director-General may refuse to allow a deduction under subsection (1) where he is satisfied that such expenditure is payable to a non-resident who is not chargeable to tax in Mauritius on that amount.

- (i) in section 77(4)(b), by deleting the words “section 44C” and replacing them by the words “sections 44C and 44D”;
- (j) by inserting, after section 116D, the following new section –

116E. Return and payment of petroleum royalty

(1) Subject to section 44D and notwithstanding this Act, the petroleum royalty shall be payable by a petroleum company within the due date as specified in the petroleum agreement and in such manner and in such form as the Director-General may approve.

(2) The Minister shall have right, in its sole discretion, to direct a petroleum company to discharge its obligation to pay the petroleum royalty referred to in

subsection (1) by requiring it to deliver in kind a proportion of the petroleum equivalent to the amount of royalty due.

(5) The Value Added Tax Act is amended, in the Ninth Schedule, by adding the following new item –

28.	Any company engaged in the exploration, prospecting, retention and production of petroleum.	Plant, machinery, equipment, vehicle, materials and supplies for exclusive use in the exploration, prospecting, retention and production of petroleum, as may be approved by the Department for Continental Shelf, Maritime Zones Administration and Exploration
------------	---	--

86. Saving

Any title granted under the repealed Petroleum Act which, on the commencement of this Act, is still valid shall be deemed to have been granted under this Act.

87. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

FIRST SCHEDULE

[Section 2]

BLOCKS AND SUB-BLOCKS

(1) All or so much of the seabed and subsoil of each of the graticular sections referred to in the Second Schedule that is within the maritime zones of Mauritius and that is bounded by –

- (a) portions of 2 of those meridians that are at a distance from each other of one degree of longitude; and
- (b) portions of 2 of those parallels of latitude that are at a distance from each other of one degree of latitude,

is a block.

(2) All or so much of the seabed and subsoil of each graticular subsection referred to in the Second Schedule that is contained in the maritime zones of Mauritius and that is bounded by –

- (a) portions of 2 meridians of longitude that are at a distance from each other of 5 minutes of longitude; and
- (b) portions of 2 parallels of latitude that are at a distance from each other of 5 minutes of latitude,

is a sub-block.

(3) (a) The position on the surface of the Earth of a block, a sub-block or any other position identified for the purpose of this Act, is to be determined by reference to the World Geodetic System (WGS 84).

(b) A boundary between points on the surface of the Earth shall be geodesic and grid coordinates shall be described in accordance with Mercator Grid System.

(4) Each block and sub-block shall be identified in such manner as the Department may approve.

SECOND SCHEDULE

[Section 2]

GRATICULATION OF EARTH'S SURFACE

For the purposes of this Act –

- (a) the surface of the earth shall be divided into graticular sections –
 - (i) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of one degree or a multiple of one degree of longitude; and
 - (ii) by the equator and by parallels of latitude that are a distance from the equator of one degree or a multiple of one degree of latitude; and
 - (b) the surface of the earth shall be divided into graticular sub-sections –
 - (i) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of 5 minutes or a multiple of 5 minutes of longitude; and
 - (ii) by the equator and by parallels of latitude that are a distance from the equator of 5 minutes or a multiple of 5 minutes of latitude.
-