



PETROLEUM ACTIVITIES ACT 2023

Highlights of Legislation
Effective from 01 September 2023

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Scope

The Act repeals previous legislation Petroleum (Exploration and Production) Act Cap 65:04 and Petroleum (Production) Act Cap 65:05 applicable to the petroleum industry. The Act addresses matters germane to the exploration, production, storage, and transportation of petroleum in Guyana. The Act confirms that all petroleum existing in its natural condition in strata in the national territory is vested in the State.

Authority of the Minister

The Act specifies that the Minister charged with responsibility for petroleum shall have the following powers and duties, inter alia:

- a. Licensing of petroleum exploration, development, production, transportation and storage operations (including the geological storage of carbon dioxide).
- b. Coordinating and cooperating with relevant State agencies regarding environmental and safety aspects of petroleum operations.
- c. Monitoring of the conduct of petroleum operations.
- d. Directing persons conducting petroleum operations to perform corrective actions where there is non-compliance and imposing sanctions as set out in the Act.
- e. Developing terms of reference and prescribing qualifications for the grant of a license.

Licenses

A company may apply for the following permits/licenses contemplated under the Act:

- a. Geological or geophysical survey permit
- b. Petroleum exploration license
- c. Petroleum production license
- d. Pipeline operations license
- e. Geological storage license for carbon dioxide

A petroleum agreement may also be entered into with a company for a grant of a permit or license elaborating the terms and conditions of issue.

A license issued under the Act may be granted by the Minister through either of the following processes:

- » Competitive tender.
- » Direct negotiation, where Cabinet determines that special circumstances exist which, in the national interest or national security, justify the use of direct negotiation.

Where the Minister invites applications by notice in the Official Gazette, such notice may give:

- » Technical qualification criteria, which may vary by geography and water depth;
- » Financial qualification criteria commensurate with the financial resources needed to carry out petroleum operations in relation to specified blocks;
- » Requirements related to the applicant's safety and environmental policies;
- » Requirements related to previous performance by the applicant in petroleum operations in or out of Guyana;
- » Requirement for an applicant to provide a financial undertaking for the payment of a bonus bid.

The award criteria may consist of any or all of the following:

- » Signature bonus
- » Exploration work commitment
- » Other commercial, climate or social investment considerations

Geological or Geophysical Survey Permit

A company may apply for a permit to carry on geological, geophysical and other surveys and investigations in Guyana, towards identification of petroleum reserves or for exploration for, or production of, petroleum. A permit may be issued with terms and conditions related to the following:

- » Term for which the permit is issued;
- » Commercial terms related to revenue generated by the licensing of information obtained under the permit;
- » Terms for the supply to the Minister of information obtained as a result of any survey or investigation carried out under the permit;
- » Restrictions, if any, on the dissemination of any information obtained as a result of the survey or investigation;
- » Payment terms for the grant of the permit.

Petroleum Exploration License

A company may apply for a petroleum exploration license, which if issued, shall include:

- » Date the license is granted;
- » Conditions subject to which the license is granted;
- » Minimum work commitments and spending obligations agreed in the license or petroleum agreement.

Annually, and no later than sixty (60) days of the anniversary of the grant of license, the holder shall submit detailed and adequate annual work programmes and expenditures with respect to work and expenditure to be carried out in the following year.

Where exploration operations result in a discovery, the licensee shall immediately inform the Minister in writing, as part of the following procedures:

- » Submit particulars of the discovery and the steps the licensee proposes to take to test the discovery;
- » Conduct the tests and submit the results to the Minister;
- » Submit the steps to be taken and the timeline in which those steps will be taken to ascertain the quantity of the petroleum in the reservoir and in any adjacent area and submit results to the Minister.

The Minister may request the following details in writing when petroleum is discovered:

- » Chemical composition and physical properties of the petroleum;
- » Stratigraphical position and depth of the discovery;
- » Any other matter specified by the Minister by notice.

Within thirty (30) days of submitting evaluated test results in relation to a discovery of petroleum, the licensee is required to notify the Minister in writing whether the discovery is of potential commercial interest. If the discovery is of commercial interest, the licensee has six (6) months to submit an appraisal programme to the Minister for approval. Reports, analysis and data resulting from the investigations and studies carried out may be requested by the Minister.

If the discovery of petroleum is not of potential commercial interest, the Minister may within twelve (12) months, direct that the licence ceases to have effect (after giving notice and reasonable time within which the licensee may respond to the notice). A exploration licence may be surrendered by giving three (3) months' notice to the Minister.

The holder of a petroleum exploration licence is required to pay an annual rent to the State, to be specified in the licence or petroleum agreement.

Petroleum Production License

A licensee who has made a commercial discovery while a petroleum exploration licence is in force may, prior to the expiration of the appraisal period, apply for the grant of a petroleum production licence in respect of any discovery area shown to contain a petroleum reservoir that can be developed and produced commercially.

An application for a petroleum production licence shall be accompanied by a field development plan for the construction, establishment and operation of all facilities and services for, and incidental to the development, production, processing, storage and transportation of petroleum from the proposed production area.

The field development plan is required to address the following criteria, inter alia:

- a. The plan ensures the most efficient development, production and beneficial use of the commercial discovery;
- b. The applicant has adequate financial resources, technical and industrial competence, and experience to carry on effective production operations;
- c. The applicant is able and willing to comply with the conditions on which the licence is proposed to be granted;
- d. The plans of the applicant for local content are in compliance with the Local Content Act;
- e. The plan takes into account the best international industry standards and practices.

A petroleum production licence shall continue in force for a period of twenty (20) years in relation to an oil field and thirty (30) years in relation to a gas field. A petroleum production licence may be renewed for a further period not exceeding ten (10) years.

A licensee may surrender a production area subject to a petroleum production licence by making an application not less than twelve (12) months before the date that the surrender is intended to take effect.

Where a licence is surrendered, cancelled or expires, the licensee is required to immediately deliver to

the Minister all records with respect to the licence, all plans or maps of the licence area and all tapes, diagrams and charts of the licence area.

The holder of a petroleum production licence is required to pay a royalty to the State, in respect of the gross petroleum produced in the production area. The Minister may by order (and after consultation with the Minister of Finance) remit, in whole or in part, any royalty payable; or defer payment of any royalty.

Financial Assurance

The Minister may require such financial assurance as appears appropriate to ensure the licensee complies with the Act, the licence or petroleum agreement. Financial assurance may comprise:

- a. Cash;
- b. A letter of credit from a bank, in the amount, and on terms accepted to the Minister;
- c. A guarantee in the form, on the terms and in the amount acceptable to the Minister from any person whose long-term unsecured obligations are rated equally with a bank by an internationally recognised credit rating agency;
- d. A performance bond in the form and on terms acceptable to the Minister.

Taxation

The Minister of Finance may by order and subject to the affirmative resolution of the National Assembly, direct the application of the Income Tax Act, the Value-added Tax Act and the Corporation Tax Act subject to such modifications and qualifications as may be specified in the order.

The Property Tax Act and Capital Gains Tax Act shall not apply to licensees.

Environmental and Social Matters

A petroleum exploration, petroleum production licence or petroleum agreement shall provide for the annual payment of a training fee which is not cost recoverable.

A petroleum exploration, petroleum production licence or petroleum agreement may require a licensee to establish a programme of financial support for environmental, social or other projects to be funded by the licensee, which is not cost recoverable.

A licensee shall conduct petroleum operations in a manner that minimises to a reasonable extent any impact on the interests of any lawful occupier of land affected by such petroleum operations. Also, the licensee shall not carry on petroleum operations that interferes with lawful fishing or navigation without first obtaining permission of the Minister and any other relevant State agency.

A licensee shall not flare or vent petroleum except in accordance with the Environmental Protection Act and regulations under the Petroleum Activities Act.

Decommissioning

The licensee is solely responsible for the removal of all property used in petroleum operations and remediate the affected area in accordance with international industry standards and practices. A decommissioning plan and budget are required to be submitted to the Minister no later than two (2) years before the cessation of exploration or production activities or expiration of associated licences. A preliminary decommissioning plan and budget are required as part of the development plan.

The holder of a production licence is required to establish a decommissioning fund to be financed from contributions made during production, such that the full cost of decommissioning is paid to the fund two (2) years prior to the anticipated commencement of decommissioning operations in the production area.

Transfer of Rights

A licensee shall not assign any rights under a licence or petroleum agreement to any third party or affiliate, without the written approval of the Minister. Control of the body corporate holding a licence shall not be changed without the prior consent of the Minister. The State shall have pre-emptive rights to any transfer of control.

Liability and Indemnity

A licensee is required to indemnify the State against all actions, claims and demands that may be brought or made against the State by reason of any action, omission or failure to act by the licensee in the exercise or purposed exercise of the rights of the licensee under the Act, the licence or petroleum agreement. A licensee is required to maintain insurance cover as required by the applicable laws of Guyana.



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Author's Note

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