

Petroleum (Exploration and Exploitation) (Amendment) Act 1995

FIJI

PETROLEUM (EXPLORATION AND EXPLOITATION) (AMENDMENT) ACT, 1995

ARRANGEMENT OF CLAUSES

CLAUSE

1. Short title
2. Commencement
3. Interpretation
4. Section "2" amended
5. Section "6" amended
6. Section "16" amended
7. Section "18" amended
8. Section "20" amended
9. Section "22" repealed and replaced
10. Section "23" repealed and replaced
11. Section "24" repealed and replaced
12. Section "25" repealed and replaced
13. Section "26" repealed and replaced
14. Section "28" amended
15. Section "30" repealed and replaced
16. Section "31" amended
17. Section "32" repealed and replaced
18. Section "33" repealed and replaced
19. Section "38" amended
20. Section "71" repealed and replaced
21. Section "74" amended
22. Section "76" repealed and replaced
23. Section "84" amended
24. Section "100" amended

ACT NO. 17 OF 1995

I assent.

[L.S.]

K. K. T. MARA President

[4 September 1995]

AN ACT

TO AMEND THE PETROLEUM (EXPLORATION AND EXPLOITATION) ACT

ENACTED by the Parliament: of Fiji-

Short title

1. This Act may be cited as the Petroleum (Exploration and Exploitation) (Amendment) Act, 1995.

Commencement

2. This Act shall enter into force on the day of its publication in the *Fiji Republic Gazette*.

Interpretation

3. In this Act the Petroleum (Exploration and Exploitation) Act is referred to as the "principal Act".

Section "2" amended

4. Section "2" of the principal Act is amended by-

(a) inserting the following immediately after the definition of "casinghead petroleum spirit":

""commercial discovery" means a commercial discovery declared pursuant to Section 25";

(b) inserting the following immediately after the definition of "location":

""measurement point" means a location in a production licence where the petroleum is delivered for transportation therefrom by truck, barge, railway, marine tanker or pipeline, after such petroleum has been processed in order to meet the appropriate qualifications for such transportation";

(c) inserting the following immediately after the definition of "petroleum":

""petroleum agreement" means an agreement entered into under subsection (2) of Section 16 of this Act;"

(d) inserting the following immediately after the definition of "secondary line:"

""significant gas discovery" means a discovery declared pursuant to Section 24";

(e) deleting the definitions of:

(i) "discovery block", and

(ii) "wellhead value".

Section "6" amended

5. Section "6" of the principal Act is amended in subsection "(2)" by repealing it and replacing it with the following:

"(2) The Minister may call for tenders for the right to explore for and exploit the petroleum resources in the whole or any part of any reserved area under the provisions of subsection (1) and may grant an exploration licence, where fully justified by technical or economic circumstances, under terms and conditions which in respect to specific time frames or quantitative items are different from this Act, provided that the exploration licence shall generally follow the provisions of the Act".

Section "16" amended

6. Section "16" of the principal Act is amended by-

(a) numbering the existing provision as subsection "(1)";

(b) inserting a new provision as subsection "(2)" as follows:

"(2) The Minister, on behalf of the State, may enter into a petroleum agreement, not inconsistent with this Act, with a prospective licensee, embodying terms and conditions on which petroleum exploration, development, production and transportation are to be carried out by such person".

Section "18" repealed and replaced

7. Section "18" of the principal Act is repealed and replaced with the following new Section "18":

"Term of exploration licence

18.-(1) Unless previously cancelled or surrendered under the provisions of this Act an exploration licence shall remain in force for a period of five years commencing on the day from which such licence has effect and may be renewed twice for a period of three years each, provided, however, that the licence may be further extended for certain blocks due to appraisal periods or gas evaluation periods as provided for in this Act.

(2) The renewal of the licence shall be subject to the condition that the holder has committed itself to and provided the necessary guarantees for the work programme for the respective renewal period."

Section "20" amended

8. Section "20" of the principal Act is amended by-

(a) deleting the words "a location" in subsection "(2)" and replacing with the words "an appraisal area or a gas evaluation area";

(b) deleting subsections "(3)" and "(4)".

Section "22" repealed and replaced

9. Section "22" of the principal Act is repealed and replaced with the following new Section:

"Nomination of block for purpose of declaring location

22. (1) Where the holder of an exploration licence makes a discovery, and such holder intends to appraise whether a discovery is commercial, he may make an application to the Director for an appraisal area.

(2) The appraisal area shall be selected by the holder and shall not exceed 10 contiguous blocks selected from the exploration licence and shall include the block in which the discovery was made.

(3) The appraisal area may be retained by the holder for an appraisal period of three years, and where the three year period exceeds the term of the exploration licence or its renewal, the exploration licence or its renewal shall be extended for the appraisal area for the duration of the appraisal period.

(4) The Director shall allocate the appraisal area where the holder has:

(a) complied with all obligations under his exploration licence effective prior to the date of allocation of the appraisal area;

(b) committed itself to the appraisal programme contained in his petroleum agreement; and

(c) provided the necessary guarantees for such appraisal programme.

(5) Where the holder makes a subsequent discovery or discoveries outside an appraisal area, he shall be entitled to select further appraisal areas pursuant to subsection (2) hereof for each discovery.

(6) Notwithstanding the provisions of this Section, a holder is entitled to appraise a discovery and is entitled to make declarations of a commercial discovery or a significant gas discovery, without applying for an appraisal area".

Section "23" repealed and replaced

10. Section "23" of the principal Act is repealed and replaced with the following new Section:

"Declaration of location

23. Prior to or upon the termination of the appraisal period, the licensee shall have the option to:

(a) declare that no commercial discoveries have been made in the appraisal area upon which the holder shall forthwith:

(i) relinquish the appraisal area, where the appraisal period terminates after the second renewal of the exploration licence; or

(ii) reintegrate no more than half the number of blocks of the appraisal area in the exploration licence where the appraisal period terminates during the initial term of the exploration licence or a renewal thereof, and relinquish the remaining blocks;

(b) declare that one or more commercial discoveries have been made in the appraisal area; or

(c) declare that one or more significant gas discoveries have been made".

Section "24" repealed and replaced

11. Section "24" of the principal Act is repealed and replaced with the following new Section:

"Immediately adjoining dock

24.-(1) Upon the declaration of a significant gas discovery the holder may make an application for a gas evaluation area.

(2) The gas evaluation area shall be selected by the holder and shall not exceed the appraisal areas or, where significant gas discovery was not made in an appraisal area, the area shall not exceed 10 contiguous block selected from the area of the exploration licence and shall include the block in which the significant gas discovery was made.

(3) The gas evaluation area may be retained by the holder for an evaluation period of ten years, and the exploration licence shall be extended for the gas evaluation area until the termination of the evaluation period.

(4) The Director shall allocate the gas evaluation area where the holder has:

(a) complied with all obligations under his exploration licence effective prior to the date of allocation of the gas evaluation area;

(b) committed itself to a gas evaluation programme contained in the petroleum agreement; and

(c) provided the necessary guarantees for the fulfilment of his evaluation programme.

(5) Where the holder makes a subsequent significant gas discovery or discoveries outside a gas evaluation area, he shall be entitled to select further gas evaluation areas pursuant to subsection (2) hereof for each significant gas discovery.

(6) Prior to or upon the termination of the gas evaluation period the holder shall:

(a) relinquish the gas evaluation area; or

(b) declare that one or more commercial discoveries have been made in the gas evaluation area."

Section "25" repealed and replaced

12. Section "25" of the principal Act is repealed and replaced with the following new Section:

"Application for production licence

25.-(1) Where the holder of an exploration licence has declared a commercial discovery, he may upon or prior to the termination of the term of the licence or the renewal thereof, as

extended by any appraisal period or gas evaluation period, apply to the Minister for the grant of a production licence under the provisions of this Act.

(2) The production licence shall not exceed the appraisal area, the gas evaluation area, or where a commercial discovery is not made in such areas, 10 contiguous blocks selected by the holder from the exploration licence area and shall include the block in which the commercial discovery was made.

(3) A single production licence may contain several commercial discoveries.

(4) Where the holder has declared commercial discoveries outside the area of any other production licence applied for, he shall be entitled to apply for a further production licence for each such commercial discovery.

(5) Every application for the grant, or variation, of a production licence shall be lodged with the Director and shall-

(a) be in writing in the prescribed form and addressed to the Minister;

(b) be accompanied by the prescribed fees; and

(c) be accompanied by the guarantees for fulfilment of work programmes contained in the petroleum agreement.

(6) During the consideration of the application for a production licence, the exploration licence shall remain valid for the blocks contained in the licence, until the production licence is granted.

(7) The petroleum agreement may include provisions for the relinquishment of blocks, from the production licence at particular time intervals, which are not producing or not scheduled to be in production".

Section "26" repealed and replaced

13. Section "26" of the principal Act is repealed and replaced with the following new Section:

"Grant of production licence

26. Where an application has been made for a production licence under the provisions of Section 25 and the applicant has complied with the conditions of the exploration licence and petroleum agreement in force, the Minister shall grant to the applicant a production licence, subject to such conditions as are stipulated in the petroleum agreement".

Section "25" amended

14. Section "28" of the principal Act is amended by-

(a) repealing paragraph "(b)" and replacing it with:

"(b) in the case of a licence granted by way of a renewal of licence, subject to full compliance with the terms and conditions of the expired licence- for a period of five years".

(b) repealing paragraph "(c)".

Section "30" repealed and replaced

15. Section "30" of the principal Act is repealed and replaced with the following new Section:

"Renewal of production licence

30. The renewal of a production licence may be granted under terms and conditions as are prevailing in Fiji at the time of renewal upon such conditions as may be negotiated".

Section "31" amended

16. Section "31" of the principal Act is amended by the repeal of subsections "(2)" and "(3)".

Section "32" repealed and replaced

17. Section "32" of the principal Act is repealed and replaced with the following new Section:

"Works to be carried out

32. The holder of a production licence shall carry out such works as are stipulated in the petroleum agreement".

Section "33" repealed and replaced

18. Section "33" of the principal Act is repealed and replaced with the following new Section:

"Directions as to recovery of petroleum

33. Where the Minister is satisfied that the rate of petroleum recovery from any well is inconsistent with the rates that are predicted to yield a maximum economic recovery from such well, the Minister may, by notice in writing served on the holder of the production licence, direct such holder to alter the rate to a level that is consistent with a maximum economic recovery from such well".

Section "38" amended

19. Section "38" of the principal Act is amended by repealing subsection "(4)" and replacing it with the following provision:

"(4) Where the applicant of a pipeline licence is a holder of a production licence and such holder require the pipeline for the transportation of petroleum from the production licence, the pipeline licence shall be granted under such terms and conditions as are stipulated in the petroleum agreement, and for other applicants the pipeline may be granted subject to such conditions not inconsistent with the provisions of this Act as the Minister sees fit and specifies in such licence".

Section "71" repealed and replaced

20. Section "71" of the principal Act is repealed and replaced with the following new:

"Royalty

71.-(1). The holder of a licence shall be liable to pay a royalty on all petroleum recovered from the licensed area at the rate of 10% of the value of such petroleum at the measurement point.

(2) A petroleum agreement may set out sliding scales or formula on the basis of which the royalty may be increased above 10%, on the basis of the level of production, well productivity, oil or gas prices, net profits or such other variables as may be agreed upon or may set out royalties based on such variables as may be determined in the agreement".

Section "74" amended

21. Section "74" of the principal Act is amended by repealing subsection "(1)" and replacing it with the following new provision:

"Records to be kept

74.-(1) Every holder of an exploration licence, production licence or pipeline licence shall, subject to such regulations as may be made by the Minister:-

(a) provide the Director a copy of all data, maps, logs, charts, tapes or other information which is being obtained as a result of the operations under the licence as soon as such information becomes available and in any case no later than six months thereafter, and

(b) keep full and accurate records about the operations".

Section "76" repealed and replaced

22. Section "76" of the principal Act is repealed and replaced with the following new Section:

"Records, etc. to be confidential

76. Subject to such provisions as may be included in a petroleum agreement, all maps, plans, reports, records, interpretations and data which the holder of a licence is or may be required to give or supply or to permit inspection under the provisions of this Act shall be given or supplied at the expense of such holder and shall be treated as confidential for a period of no more than five years or in case this occurs earlier until the termination of the licence or the relinquishment of the area to which the data relate:

Provided that the Minister, the Director or any officer of the Government authorised by the Minister in that behalf shall be entitled-

(a) at any time to make use of any information received from such holder for the purpose of preparing and publishing aggregated returns and general reports on the extent of petroleum exploration and exploitation operations;

(b) at any time, to make use of topographical survey information including submarine topography, for any purpose whatsoever;

- (c) at any time, to make use of any information received from such holder for the purpose of any arbitration or litigation in relation to the area the subject of such licence;
- (d) at any time, to make use of information regarding economic minerals other than petroleum;
- (e) to publish summaries of exploration wells, including lithological groups, letter classification boundaries and hydrocarbon zones-
- (i) in the case of discovery wells, not less than two years after completion of drilling;
- (ii) in other cases at any time;
- (f) to make use of the information for any legitimate government purpose".

Section "84" amended

23. Section "84" of the principal Act is amended by erasing the full-stop at the end the Section and inserting the following after the word "petroleum"-

"or for a price as may be determined in the petroleum agreement".

Section "100" amended

24. Section "100" of the principal Act is amended in subsection "(2)" by-

(a) adding between the words "forms" and "to" in paragraph "(a)" the words "and model agreements";

(b) erasing the semi-colon at the end of paragraph "(h)" and adding the words "and the environment";

(c) adding a new paragraph as follows:

"(y) prescribing the type and nature of the information about the operations to be supplied and the form in which such information has to be provided".

Passed by the House of Representatives this 26th day of July, in the year of our Lord one thousand, nine hundred and ninety-five.

Passed by the Senate this 17th day of August, in the year of our Lord one thousand nine hundred and ninety-five.