MEMORANDUM

The purpose of this Bill is to establish an independent body, the Ghana Petroleum Regulatory Authority, to regulate upstream and midstream oil and gas activities. The Bill is also to create an enabling environment for increased private sector participation and investment in the petroleum sector and to strengthen the regulatory framework for healthy competition and quality assurance.

The Bill will establish a body with responsibility for the regulation, oversight and monitoring of activities in the petroleum upstream and midstream sector. Upstream is defined in clause 186 to include exploration, development and production of petroleum and midstream activities. Midstream is defined to include petroleum activities between the well-head and refinery, transportation and storage of petroleum.

Oil and gas are some of the most valuable energy sources used worldwide to drive industries, commerce and trade. Globalisation and international trade liberalisation means that countries endowed with valuable natural resources such as oil and gas are well placed to harness the economic benefits accruing from these resources for the benefit of their people. As oil prices continue to reach new highs, the importance of this valuable resource is likely to determine the fate of many economies, both developed and developing across the globe. It is important that the recent oil find in this country should present a blessing and not a curse. It is therefore imperative that the petroleum sector is managed in such a way that not only the current population benefits but also that the foundation is laid for future generations to benefit.

Unique challenges are presented by the upstream and midstream petroleum sector. The setting up of a separate regulatory body solely for the upstream and midstream sector will enable the regulator and midstream build the needed capacity to effectively undertake the tasks assigned to it.

It is expected that the regulator will focus its energy to exercise effective supervision of activities in the upstream and midstream sector. In addition, this will convey the importance the government attaches to the emerging petroleum industry.

The effective management of revenues accruing to the country from petroleum is critical for the development of the nation. It is therefore important to establish a sound platform for the revenue to be maximised for the benefit of current and future generations. The principles that
Govern the management of petroleum revenues must be transparent. Regular revenue management audits as well as regular publication of investment and balances are necessary.

Distortions of the general economy occur due to the utilisation of petroleum revenues and an over concentration on petroleum to the detriment of others. It is therefore essential to create a balance that promotes growth on all fronts and ensures that petroleum revenues do not create significant distortions in the national economy. To this end, separate legal arrangements will be made for a revenue management fund to be established by Act of Parliament.

The establishment of a Fund in place before the revenue starts to impact on the economy will help ensure that oil revenue does not fuel inflation or destabilise the economy.

The recent discovery of premium quality oil in sizeable quantities which is likely to be realized in two years or more has brought into sharp focus the need to prepare the legal framework to ensure that maximum benefit is obtained from the oil revenue in the national interest and for future generations. The need to avoid the follies encountered in the oil industry by countries like Equatorial Guinea and Nigeria cannot be insaid.

The current legal framework spans the period of two decades. The laws that govern the operations of the petroleum industry include the Ghana National Petroleum Corporation Act, 1983 (PNDCL 64) and the Petroleum Exploration and Production Act, 1984 (PNDCL 84). Others are the Petroleum Income Tax Act, 1987 (PNDCL 188) and the Internal revenue Act, 2000 (Act 592). The Ghana National Petroleum Corporation Model Petroleum Agreement concludes the current legal framework.

Following two world-class discoveries by the Ghana National Petroleum Corporation and its partners in 2007, Government organized the first ever oil and gas forum in Accra earlier this year to solicit views and opinions of industry experts, academia and the general public as to how the new resource should be managed for the benefit of current and future generations. Since then, a number of seminars and workshops have been held.
The role of Ghana National Petroleum Company in the emerging upstream petroleum activity has become very important. The law that established the Ghana National Petroleum Company assigned to the Corporation the right to undertake exploration, development, production and disposal of petroleum. The Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) allows the Corporation to develop the hydrocarbon resources, either alone or in partnership with other companies. Other functions include the operation of the Ghana National Petroleum Corporation on sound commercial lines. The Ghana National Petroleum Corporation is the national oil company. The traditional role of the Ghana National Petroleum Corporation has been the monitoring and regulation of petroleum on behalf of the Ministry of Energy. However, the discovery of oil and gas has brought to the fore factual issues related to the Corporation's role as regulator and player in the upstream and midstream petroleum sector. The call has been for the separation of the Corporation's regulatory function from its commercial function. The Corporation was converted to a company under the Statutory Corporation Conversion to Companies Act, 1993 (Act 461) but the successor company has not been set up and the Corporation has not changed its mode of operating. The successor company will be expected to issue shares to the Republic or any other person to raise capital for its operations. It will also take over the property, rights, liabilities and obligations of the erstwhile Corporation.

Under the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) the regulation of the upstream and midstream sector resides with the Minister for Energy though the work is carried out by the Ghana National Petroleum Corporation. The sector Minister has the right to prescribe and enforce Regulations that relate to exploration and production of petroleum. Other functions include the secondary recovery and prevention of waste of petroleum to maximize the ultimate recovery of petroleum from a petroleum field.

Currently, there are no Regulations that govern the upstream and midstream sector. The sector is regulated by a set of Regulations from the Environmental Protection Agency, the Internal Revenue Service and the Ghana Standards Board. The absence of Regulations for the upstream
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The midstream sector has led to the incorporation of various Regulations to the petroleum agreement which makes the agreement unnecessarily by and voluminous.

The existence of a regulatory body to regulate the petroleum upstream and midstream sector will improve efficiency in the sector through the efficiency, transparency and predictability to be provided by the Authority. The full implementation of the Bill will provide the appropriate regulatory environment to attract companies with the requisite financial and technical capabilities into the petroleum sector.

The Bill seeks to include the provisions in the draft amendment to the Petroleum (Exploration and Production) (Amendment) Bill to N.D.C.L. 84 and consolidates the law on production and exploration provide a walkthrough law. This will provide easy access to information on the production and exploration of petroleum and ancillary matters as the key elements will be in one enactment. The purpose of the Petroleum Exploration and Production) (Amendment) Bill was to amend the Petroleum (Exploration and Production) Act, 1984 (P.N.D.C.L. 84) to provide for the exploration, development and production of petroleum.

The aspects of petroleum income tax law provided in the Petroleum Income Tax Act, 1987 (P.N.D.C.L. 188) will be revised and included by amendment to the Internal Revenue Act, 2000 (Act 592).

Part One of the Bill deals with preliminary matters and institutional arrangements.

Clause 1 is on application. The Bill applies to upstream and midstream petroleum activities connected with petroleum resources under the jurisdiction of the Republic. It also applies to petroleum activities inside and outside the country to the extent that the application follows from international law or from an agreement with another State.

Clause 2 deals with the environmental principles which underlay the establishment of the Authority. The performance of a function, discharge of a duty or exercise of a power related to the exploration, development and production of petroleum resources is to take into account and give effect to environmental principles. Measures to prevent, control and minimise pollution in the oil and gas industry will be employed. Also, measures to prevent destructive practices on ecosystems will be undertaken.
It is also to develop mechanisms for proper consultations and partnership with communities for proper health, safety and environment management.

Clause 3 to 6 deals with petroleum rights. Clause 3 vests the entire property, control of petroleum in its natural condition on land or water in this country in the Government on behalf of the Republic.

Clause 4 prohibits the conduct of petroleum exploration, development, production or operation without a licence. The exploration, development and production of petroleum is to be done in accordance with a petroleum agreement. A contravention of this provision is an offence which attracts a fine of not more than eighty thousand penalty units or a term of imprisonment of not more than ten years or to both. In the case of a body corporate, a contravention attracts a fine of not more than twenty thousand penalty units.

Clause 5 provides for agreements with the Republic. The Authority may enter into an agreement on behalf of the Republic. Other conditions are that the agreement is consistent with the Act for the grant of a licence, the conditions are for the grant or renewal of a licence and the conduct by a company or contractor for exploration or development operations on behalf of a person to whom a licence may be granted.

Clause 6 deals with Graticulation of the earth's surface. The surface of the earth is to be considered to be divided into graticular sections in the manner set out in the First Schedule.

Clause 7 establishes the Ghana Petroleum Regulatory Authority as a body corporate with the normal attributes.

Clause 8 provides for the object of the Authority. The Authority is to regulate, oversee and monitor activities in the upstream and midstream petroleum sector and support the country's policy objectives in the upstream and midstream petroleum sector.

The functions of the Authority are provided for in clause 9. The functions include the provision of an enabling environment for increased private sector participation and investment in the upstream petroleum sector and the strengthening of the regulatory framework for healthy competition and quality assurance in the sector. Other functions are the
participation in the initiation, negotiation and administration of petroleum agreements, assessment of Field Development Plans and the administration of petroleum data. The Authority is responsible for the determination of the cost oil due to licensees and the promotion of planned, well executed and cost-efficient operations. The Authority is also to ensure optimal utilisation of existing and planned infrastructure.

Clause 10 provides for the governing body of the Authority which is the Board. The Board comprises nine people, the Chairperson, the Chief Executive, the Chief Executive of the Company and six others appointed by the President on the basis of their expertise. The Board is to perform the functions of the Authority.

Clause 11 provides for the independence of the Authority. The Authority is independent of the control or direction of any person or authority other than the Minister who may give policy directions. The Minister concerned is the Minister assigned responsibility by the President. The policy directions are not to adversely affect or interfere with the independence of the Authority or the performance of its functions. This is similar to the position of the Central Bank.

Clause 12 to 14 provides for the tenure of office of members of the Board, meetings of the Board and disclosure of interest respectively. Clause 15 provides for the establishment of committees. Provision is made for a specialized committee to deal with the vendor development programme.

Clause 16 relates to allowances of members of the Board and members committees of the Board.

Clause 17 provides for the appointment of a Chief Executive of the Authority. The Chief Executive may delegate any functions of office but not absolved from final responsibility. Functions of the Chief Executive are the contents of clause 18. Provision is also made for a secretary of the Board and other staff in clause 19. Clause 20 deals with funds of the Board.

Clause 21 deals with tax exemption and clause 22 with expenses of the Authority.

Clauses 23 and 24 provide for the standard provisions for account and audit and annual report and other reports.
Clause 25 relates to the Ghana National Petroleum Company, a successor company to the Ghana National Petroleum Corporation and provides for related matters. The Corporation established under the Ghana National Petroleum Corporation Act, 1983 (PNDCL 64) was converted to a company limited by shares in accordance with the Statutory Corporations Conversion to Companies Act, 1993 (Act 461). The assets, properties, rights, liabilities and obligations of the Corporation are to vest in the successor company.

Part Two of the Bill deals with licensing. Clause 26 to 57 deals with Petroleum Exploration Licence. Clause 26 requires the Government to ensure that an evaluation is undertaken of the various interests involved in an area and that preliminary geological, geophysical and environmental assessments are undertaken before the opening up of new areas with a view to the grant of a petroleum exploration licence. The evaluation is to include an assessment of the impact of the petroleum activities on trade, industry and the environment and of possible risks of pollution as well as the economic and social effects that may result from petroleum activities.

Clause 27 provides for a petroleum exploration licence. A person who intends to carry out geological, geophysical, petrophysical, geochemical or geotechnical activities is to apply to the Authority for a petroleum exploration licence which is either exclusive or non-exclusive. The petroleum exploration licence confers on the licensee the right to explore for petroleum and to carry on the operations and execute the works that may be necessary for exploration in the exploration area. The licence is subject to the provisions of the Bill and to the conditions specified in the licence or to which the licence relates, while the licence remains in force.

Clause 28, among others, provides that an application for a petroleum exploration licence is to be submitted to the Authority in a manner prescribed by regulations. The application is to be in writing and be accompanied with an application fee prescribed by the Authority. The Authority is to confirm in writing to the applicant that the application is complete within thirty days after receipt of the application for a petroleum exploration licence.

Clause 29 provides for activities authorised by a petroleum exploration licence. A petroleum exploration licence is to authorise geophysical geological, petrophysical, geochemical and geotechnical
activities including shallow drilling. The clause empowers the Authority to limit an individual petroleum exploration licence to apply to particular types of exploration. The Authority is to make it a condition of a petroleum exploration licence that information is to be given to the authority about the sale or exchange of exploration results. It is also to stipulate conditions for the implementation of exploration activities under the petroleum exploration licence.

Clause 30 requires a licensee to pay an annual fee in respect of the licence area as may be prescribed by the Authority.

Clause 31 provides for the contents of a petroleum exploration licence. The contents include the date of grant of the licence, the block or blocks which the licence relates and the conditions on which the licence is granted.

Clause 32 empowers the Authority to set out any terms, conditions and limitations to a petroleum exploration licence in the exploration licence.

Clause 33 provides that a petroleum exploration licence is to remain in force for the period specified in it, but not more than two years or for renewal period of not more two years unless otherwise determined by surrender or cancellation.

Clause 34 empowers the Authority to amend a petroleum exploration licence. It may vary the duration of a licence, add to or remove terms, conditions or limitations of the licence at any time after it has informed the licensee of the course of action to be taken and after it has given the licensee reasonable opportunity to be heard or to give written presentations.

Clause 35-50 deals with petroleum exploration and production licence. Clause 35 enjoins the Authority to announce the blocks for which applications for petroleum exploration and production licences are to be submitted. The announcement which may be published in the Gazette, a newspaper of national circulation or an international petroleum industry magazine or publication, is to stipulate the time limit within which applications may be filed and also contain other information considered necessary by the Minister.
Clause 36 provides for the application for a petroleum exploration and production licence. It requires a person who intends to explore and produce petroleum to apply to the Authority for the requisite licence.

Clause 37 empowers the Authority to grant an exploration and production licence in relation to a block based on conditions to be determined by the Authority. The licence provides the licensee with the exclusive right to the area to which the licence relates. A petroleum exploration licence is granted for a maximum period of thirty years.

Clause 38 provides that a petroleum exploration and production licence may be granted to two or more persons.

Clause 39 provides that a co-operation agreement entered into for the purpose of application for a joint petroleum exploration and production licence is to be submitted to the Authority. The Authority may require alterations to be made in the agreement as a condition for the grant of the licence.

Clause 40 provides that a petroleum exploration and production licence is to be granted on the basis of the technical competence, experience and financial capacity of the applicant and the applicant's plan for exploration and production in the area for which the licence is sought. Where the applicant is or has been a holder of a petroleum exploration licence, the Authority may take into consideration any form of inadequate efficiency or inadequate responsibility that may have been demonstrated by the applicant as a licensee. The criteria for the grant of a licence are to be applied in a non-discriminatory manner among the applicants.

Where two or more applicants are regarded to be equal on the basis of the criteria stipulated by the Authority, other relevant objective and non-discriminatory criteria that will make a final choice possible between the applicants may be used as a basis for the grant of the licence.

Clause 41 provides for the conditions and requirements for a petroleum exploration and production licence. Conditions and requirements for the grant of a petroleum exploration and production licence and for the conduct of petroleum activities under a petroleum exploration and production licence are to be based on the need to ensure that the petroleum activities within the area of the petroleum exploration and production licence are carried out in a proper manner.
The conditions for the conduct of petroleum activities under a petroleum exploration and production licence are also to be based on consideration for national security, economic and efficient operations, public order, public health, transport, safety, environment protection, safety of facilities and employees, protection of biological resources and national treasures of artistic, historical or archaeological value and systematic resource management.

Clause 42 among others, requires a licensee to pay an area rental fee calculated per square kilometre for a petroleum exploration and production licence. The fee is to be paid within the period of validity of the licence.

Clause 43 enjoins the Authority to grant a petroleum exploration and production licence on conditions which give effect to the application and the requirements of the Act. The Authority may grant a petroleum exploration and production licence on the conditions that it determines.

Clause 44 enjoins a licensee to maintain a company which has the capacity to independently manage the petroleum activities from the country, unless otherwise decided by the Authority. The Authority may stipulate specific requirements including its capital in respect of the company.

The licensee is to ensure that the circumstances permit organised labour activity to take place among its employees and the personnel of contractors and sub-contractors in accordance with the Labour Act, 2003 (Act 651).

Petroleum activities are to be conducted from a base in the country and the licensee maybe ordered to use bases designated by the Authority.

Clause 45 empowers the Authority to appoint or approve an operator during the grant of a petroleum exploration and production licence. A change of operator is to be approved by the Authority and when warranted for particular reasons, the Authority may undertake the change of operator.

Under clause 46 a petroleum exploration and production licence confers on the licensee exclusive rights to carry on exploration, development or production operations in the block, to sell or otherwise
dispose of the licensee's share of petroleum recovered. The licensee has the right to carry on operations and execute works in the block as are necessary for or in connection with the exploration, development, or production activities or sale or disposal of the licensee's shares. The exclusive rights are subject to the Act and to the conditions specified in the licence or to which the licence is otherwise subject.

Clause 47, among others, requires a holder of a petroleum exploration and production licence to carry out activities in accordance with the petroleum exploration and production licence, the Act and regulations made under the Act.

The licensee is to meet the requirements on the work and expenditure set out in the licence or in a petroleum agreement as regards the petroleum exploration and production area.

Clause 48 empowers the Authority to grant the renewal of a licence on the conditions that it considers appropriate. The Authority is not to grant the renewal of a petroleum exploration and production licence if the licensee is in default, unless the Authority considers that special circumstances exist which justify the grant of the renewal despite the default. The licence renewal is to stipulate what part of the area is covered by the petroleum exploration and production licence.

Clause 49 provides for the transfer of a petroleum exploration and production licence and related matters. This is to be done with the written consent of the Authority.

Clause 50 provides for the relinquishment of areas. The Bill affords a licensee the option to relinquish parts of the area covered by the petroleum exploration and production licence during the period of a petroleum exploration and production licence. The licensee is to give the Authority three months notice of the intention to relinquish parts of the area. A licensee may take this action at the end of each calendar year.

The Authority is to require the obligations stipulated in the petroleum exploration and production licence and the conditions on which it has been granted to be fulfilled before relinquishment.

Clause 51-57 deals with the obligations and duties of licensees. Clause 51 enjoins a licensee to carry out exploration and development operations
in the exploration or development area in a proper and safe manner and in accordance with good oil field practice. It also requires a licensee to, among other things, take reasonable steps to secure the safety, health, environment and welfare of persons engaged in those operations in the exploration or development area and treat pollution where it occurs or disperse it in an environmentally acceptable manner.

The licensee is required to submit a detailed report to the Authority on the technique to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed before the licensee drills a well.

Clause 52 empowers the Authority to allow a licensee to flare and vent natural gas in accordance with the terms of the instrument of consent. The licensee may flare natural gas in an emergency where the flaring is required to safeguard the health and safety of persons in the exploration or production area or to prevent damage to the property of any person in the exploration or development area.

Clause 53 provides for the abandonment of a well by licensees. A licensee is to submit to the Authority, reasonable notice of the licensee's intention to abandon a well. The closure or plugging of a well is to be carried out with the prior consent in writing of the Authority in the manner approved by the Authority.

Clause 54 deals with offences by licensees. It provides that a licensee who contravenes, fails or neglects to comply with a requirement of section 51 and 53 commits an offence and is liable on summary conviction to a fine of not more than one million five thousand penalty units. It is however a defence if in proceedings on a prosecution for the offence, the person charged proves that reasonable steps were taken promptly to comply with the requirements of section 51, 52 and 53.

Clause 55 provides that the Authority may at any time by notice in writing served on a licensee, direct the licensee to carry out a survey of the position of a well, structure or equipment specified in the notice and submit a report in writing of the survey promptly to the Authority.

Where the Authority is not satisfied with a report of a survey submitted by a licensee, the Authority may, by notice in writing served
on the licensee, direct the licensee to promptly submit further information in writing in connection with the survey.

Where the licensee fails to comply with the directive of the Authority, the Authority may cause the survey to be carried out and surcharge the licensee with the expenses incurred. The expenses may be recovered in court as costs even if the licensee concerned is convicted of an offence under this clause.

Clause 56 requires a licensee to measure, weigh or calibrate the petroleum produced and saved from a licence area. The licensee is to use a method or methods customarily used in good oil field practices approved by the Authority. A licensee is not to alter the method of measurement, weighing or calibration used by the licensee or in appliances used for that purpose without the consent in writing of the Authority. The Authority may require that an alteration is not to be made except in the presence of a person authorised by the Authority, on the occasions or at the intervals and by the means specified in the direction.

A measuring, weighing or calibrating appliance found to be false or unjust after the consideration of a representation, is to be considered to have existed in that condition during a period that is represented by half of the period from the last occasion when the appliance was tested or examined to the date when the appliance was found to be false or unjust and any royalty and other moneys payable under the licence for that period are to be adjusted accordingly.

Clause 57 requires a licensee to notify the Authority of a meeting between licensees not later than fourteen days before the proposed date of the meeting. The Authority may attend the meeting as an observer.

Part Three deals with exploration, development and production operations. Clause 58 provides that the holder of a petroleum exploration and production licence may explore the relevant area. The holder may use geological, geophysical and any other acceptable methods of examination to identify the prospects for petroleum, and within sixty days after the date of the grant of the licence, if not earlier, commence exploration operations in accordance with the terms of the petroleum agreement.
Clause 59 provides that a licensee is not to carry out a seismic survey in a licence area unless the licensee has been issued a permit for data survey by the Authority in a form and manner prescribed by the Authority. A permit is to be obtained in respect of each licence area.

Clause 60 provides for the commencement of drilling operations. The licensee is to notify the Authority in writing of the proposed site in accordance with the Regulations issued by the Authority as soon as the site of a well has been decided, for the approval of the Authority. The Authority may withhold permission and give reasons to the licensee for the refusal.

Clause 61 among others, provides that each well is to be identified by a unique designation for which the licensee shall obtain the prior approval in writing from the Authority. The designation is to consist of the name of the field in which the well is to be drilled, followed by the serial number which indicates the chronological order in the drilling sequence for the block. The names are to refer to a geographical, topographical or other general feature in the vicinity of the field and may be chosen from the names of the flora and fauna.

A field is not to be named after an individual without permission in writing of the Authority, and in any case, a field is not to be named after a person who is alive or after a person who is not a citizen of Ghana.

Clause 62 prohibits the operation of a drilling rig or other drilling equipment without a valid licence granted by the Authority and the prior approval of the national security co-ordinator.

Clause 63 provides for development. A licensee who intends to develop a petroleum field is to submit a plan for field development and operation to the Authority for approval. The plan is to be in a format designed by the Authority and is to contain an account of economic aspects, resource aspects, technical, safety related, commercial and environmental aspects, as well as information as to how a facility may be decommissioned and disposed of when the petroleum activities have ceased.

Clause 64 empowers the Authority to limit the approval of the field development plan to apply to individual phases. A licensee is not to discharge substantial contractual obligations and not commence construction work until the plan for development and operation is approved. The licensee may however do so with the consent of the
Authority. The licensee is to inform the Authority of any significant deviation or alteration of the terms and preconditions on which a plan has been submitted or approved and any significant alteration of facilities for the approval of the Authority.

Under clause 65, where the petroleum reservoir straddles two or more licensed blocks, the Authority is to direct the licensees in the blocks to enter into an agreement in writing to develop a petroleum reservoir as a unit in accordance with Regulations by the Authority. Unit development means the co-ordination of operations for the recovery of petroleum being carried on or to be carried on in a development area in which there is part of the reservoir in one block and the other part in another block.

Clause 66 empowers the Authority to direct the holder of a petroleum exploration and production licence to take the necessary and practicable steps to recover petroleum. The Authority is to issue the directive where petroleum is not being recovered in a development area and the Authority is satisfied that there is recoverable petroleum in that area.

Under this clause, the Minister or the Authority may, where petroleum is being recovered in a development area, by notice in writing served on the holder of the petroleum exploration and production licence, direct the holder to take the necessary and practicable steps to increase the rate at which the petroleum is being recovered to a rate not more than the capacity of existing production facilities that the Authority specifies in the notice.

The provisions of this clause on the requirements of any direction given under this clause are not to be construed to require the holder of a petroleum exploration and production licence to do anything which is not in accordance with good oil field practices or to refrain from doing anything which is in accordance with good oil field practices.

Clause 67 provides that the production of petroleum is to be done so that as much as possible of the petroleum in each individual petroleum deposit, or in several deposits or in combination will be produced.

The production of petroleum is to take place in accordance with prudent technical and sound economic principles and in a manner that
waste of petroleum or reservoir energy is avoided. The licensee is required to carry out continuous evaluation of the production strategy and technical solutions and is to take the necessary measures to achieve this.

Clause 68 provides that a licensee is not to flare or vent petroleum in excess of the quantities needed for normal operational safety unless approved by the Authority. This clause further provides for the conditions on which the Authority will consent to the disposal of gas by flaring or venting for normal operational safety. The consent of the Authority is not required in the case of an emergency. A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine of not more than three penalty units for each one thousand cubic feet of gas flared.

Clause 69 empowers the Authority to approve the production schedule and issue a production permit to the licensee before production commences. The Authority is to stipulate the quantity of the petroleum which may be produced or injected on application from the licensee for fixed periods of time. Other matters related to the production schedule are also provided for under this clause.

Clause 70 provides for conditions based on which the Authority is to grant a petroleum exploration and production licence. A petroleum exploration and production licence is not to be granted unless, among others, the development plan of the applicant ensures the most efficient, beneficial and timely use of the petroleum resources concerned and takes proper account of good oil field practices and safety factors. Adequate financial resources and technical and industrial competence and experience to carry on effective production operations and the applicant’s ability and willingness to comply with the conditions on which a licence would be granted, must also be present.

Clause 71 provides among others, that where a petroleum deposit extends over more than one licence area with different licensees, efforts are to be made to reach agreement on the most efficient co-ordination of the petroleum activities in connection with the petroleum deposit as well as on the apportionment of the petroleum deposit.
This applies similarly when joint petroleum activities would be more efficient in the case of several petroleum deposits. Agreements on joint exploration drilling are to be submitted to the Authority.

Clause 72 provides for postponement of development or production of a field in consultation with the licensee. The provisions related to extension of the licence, extension of the time limit set for implementing the work obligation and payment of area fees during an extension period apply.

Clause 73 provides among others that a petroleum exploration and production licence is not to preclude the grant to persons other than the licensee of rights to undertake exploration for and production of natural resources other than petroleum resources if it does not cause unreasonable inconvenience to the petroleum activities conducted by a licensee under the petroleum exploration and production licence.

The right to undertake exploration for and production of natural resources other than petroleum resources, includes scientific research.

Clause 74-78 deals with the testing of petroleum. These clauses provide for inspection and sampling of petroleum, purpose of testing and restrictions, testing officer, manner of testing and certificate of testing.

Clause 79-81 deals with national requirements and local pricing. Clause 79 provides for supplies to cover national requirements while clauses 80 and 81 provide for supplies in the event of war, threat of war and pricing of petroleum respectively.

Clause 82-88 deals with transportation of petroleum. Clause 82 and 83 provide for licence to install and operate facilities for transport and storage of petroleum and landing of petroleum. Clause 84-88 deals with licence for transport of petroleum by pipeline, survey of pipeline routes, right to construct, operate and maintain pipeline, pipeline tariffs and licence to transport petroleum other than by pipeline.

Clauses 89 and 90 provide for storage of petroleum. These clauses deal with the licence to store petroleum and the requirement to use approved methods and practices to confine petroleum obtained.

Clause 91 - 137 deals with decommissioning, state participation and national content, registration and mortgaging, liability for damage due
Clause 91 requires a licensee to decommission the facilities used in petroleum activities upon the cessation of petroleum activities, submit a decommissioning plan to the Authority before a development plan is approved or a specific licence to install and operate facilities is approved.

Clause 92 establishes the decommissioning fund for each development and production area for the purpose of costs related to the implementation of a decommissioning plan. Contributions into the fund are to commence from the calendar quarter and are to be paid into an Escrow account opened at a bank agreed between the licensee and the Authority.

Clause 93 enjoins a licensee to notify the Authority of the time of termination if the use of the facility is expected to terminate permanently before the expiry of the licence.

Clause 94 deals with disposal of decommissioned facilities. The Authority is to decide on the disposal of decommissioned facilities and stipulate a time limit for the implementation of the decision. The decision to consider technical, safety, environmental and economic aspects as well as on the consideration for other users.

Clause 95 enjoins the Authority, by notice in writing served on the person who is or was the holder of the licence, to direct that person, within the period specified in the notice to remove or cause to be removed from the area property brought into that area and perform other acts.

Clause 96 provides for the removal and sale of property by the Authority while clause 97 provides for liability for damage or inconvenience caused wilfully or negligently in connection with disposal the facility or other implementation of the decision.

Clause 98 provides that where the Government requires removal of a facility, any lien, charge or encumbrance on the facility is to lapse and the rights of use established with consent of the Authority are to remain in force except where the Authority determines otherwise.

Clause 99 provides for assumption of ownership of facilities by government and matters incidental to the assumption of ownership.

Clause 100-106 deals with government and private participation and exploration development programmes in petroleum activities. These clauses...
provide for participation of the Republic in petroleum activities through the Company. The interest of the Ghana National Petroleum Company, transfer of assets to the Company are dealt with in these clauses. The provisions of goods and services by national entrepreneurs, training and technology transfer and employment and training of citizens of Ghana are provided for under this heading.

Clause 107-110 deals with registration and mortgaging. Clause 107 establishes a register of licences to be known as the Petroleum Register. The Authority is to keep a register of the licences issued in the Petroleum Register.

Clause 108 provides that the Authority may consent to the mortgage by the licensee of the whole licence or the licensee's share of the licence as part of the financing of the activities associated with the licence. It may in special cases, permit the financing to include activities under a licence other than the one which is mortgaged.

Clause 109 provides for the scope of mortgage. The mortgage of the whole licence comprises the rights which are in respect of the licence and any other right of the mortgagor in connection with any activity carried out in accordance with the licence.

The mortgage does not comprise a right in relation to a facility registered in another register of mortgages or rights in relation to a facility that is subject to private property rights. The Mortgages Act 1972 (NRCD 96) applies to mortgages under this Act.

Clause 110 requires the Authority to give a mortgagee notice in writing of the revocation or surrender of a licence or of a participating interest in a licence together with the information that the mortgage will lapse where a forced sale is not requested in time.

Where a forced sale is requested in time, a new licence is not to be granted to the detriment of the mortgagee's rights. The mortgagee's rights is not to be transferred or mortgaged, made the subject of distraint, arrest, debt settlement proceedings or included in the mortgagee's estate in bankruptcy without the consent of the Authority.

Clause 111-117 deal with liability for damage due to pollution. Clause 111 defines "pollution damage" as damage or loss caused by pollution as
a result of effluence or discharge of petroleum from a facility, including a well. This clause also defines a vessel used for stationary drilling or used for storage or transportation of petroleum as a facility or part of a facility.

Clause 112 provides for an oil spill response fund to be managed by the Authority and licensees. Licensees are to contribute to the fund as determined by the Authority. The purpose of the fund is for the clean up of oil spills resulting from the operations of the licensees. The clause further provides that the contributions are not to count as petroleum cost or cost oil as the case may be.

Clause 113 provides that clause 111 applies to liability for pollution damage from a facility when the damage occurs in this country or affects a Ghanaian vessel or a Ghanaian facility in adjacent areas.

The Authority may by agreement with a foreign state, issue rules that relate to liability for pollution damage caused by any petroleum activity under this Act. The Rules are not to restrict the right to compensation provided in respect of an injured party over whom the Ghanaian court has jurisdiction.

Clause 114 provides for the liable party in pollution matters and the extent of liability and for related matters. This clause makes a licensee liable for pollution damage without regard to fault. In the case where there are several licensees under a licence and one of them is the operator, the claim for compensation is to be initially directed to the operator.

Clause 115 provides that where pollution damage occurs in a petroleum activity and the activity has been conducted without a licence, the party that has conducted the petroleum activity is liable for the damage, regardless of fault. This provision applies to any other person who has taken part in the petroleum activity and who knew, or should have known that the activity was conducted without a licence.

Clause 116 provides that the liability of a licensee for pollution damage may only be claimed in accordance with the Act and cannot be claimed against a person who by agreement with a licensee or that licensee's contractors, has performed a task or work in connection with a petroleum activity or who has manufactured or delivered equipment to be used in a petroleum activity among others.
Under clause 117, a licensee is not to claim recourse for pollution damage against a person who is exempted from liability unless that person or any other person in his or her service has acted willfully or by gross negligence. Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

An agreement on further recourse in respect of a person against whom liability cannot be claimed is not valid.

Clause 118 provides for the legal venue for an action for compensation for pollution damage. The action is to be brought before the Court within the jurisdiction where the effluence or discharge of petroleum has taken place or where damage has been caused.

Clause 119-124 deals with surface rights and compensation. Clause 119 provides for restrictions and rights of others and related matters while clause 120 provides for right to surface activities.

Clause 121 enjoins a land owner of any land or the holder of a licence in an exploration or development area, to retain the right to subsurface activities if the subsurface activity does not interfere with exploration or development operations in the area.

Clause 122 provides for acquisition of exclusive rights. It permits a holder of a petroleum exploration and production licence to obtain a lease of the land or other right to use it on terms in respect of the rent to be paid, the duration of the lease or the extent or area of the land to which the lease or other right relates or between the holder and the land owner or, failing an agreement, as may be determined by arbitration.

Clause 123 provides extensively for compensation for disturbance of rights. The clause deals with the payment of rent or compensation, consideration for compensation and basis for compensation.

Clause 124 provides for handling of claims.

Clause 125 provides for safety. It enjoins a licensee to identify and evaluate hazards and risks associated with petroleum activity carried out under the licence. The risk must constitute a hazard to the health of a person employed for that purpose.
Clause 126 empowers an operator to take the necessary precautions to ensure the safety of an employee or a person who is present in the vicinity of an installation. Other precautions are for the protection of the environment and natural resources and the prevention of pollution.

Clause 127 provides for emergency preparedness and enjoins a licensee or participant engaged in petroleum activity to maintain efficient emergency preparedness. This is to deal with accidents and emergencies which are likely to lead to loss of lives, personal injury, pollution or damage to property. Other responsibilities of the licensee under the clause include the taking of measures to prevent or reduce harmful effects or return the environment to the condition in which it was before the accident occurred. The clause also empowers the Authority to make Regulations for emergency preparedness and the fostering of co-operation between licensees in matters of emergency preparedness.

Clause 128 deals with emergency preparedness against deliberate attacks. A licensee is to initiate and maintain security measures to avoid deliberate attacks against facilities. A licensee is to have at all times a contingency plan to deal with an attack. Other duties include the placing of facilities at the disposal of public authorities for drills by a licensee and the participation in drills by the licensee.

Clause 129 provides that a safety zone is to be provided in each petroleum activity facility. The Authority is to establish or extend safety zones in cases of accidents and emergencies. The clause further provides that the Authority is to have safety zones in the country even where the facility in question is located outside the country. Also, the safety zone is to be established within a reasonable time before the placement of a facility and around and above abandoned or dumped facilities or parts of the facility.

Clause 130 deals with the suspension of petroleum activities. In cases of emergency or an accident, a licensee or person responsible for the operation of a facility is to suspend activity for as long as necessary. In special circumstances, the Authority is to suspend operations or impose a particular condition to allow the continuation of the activity.

Clause 131 enjoins a licensee to prepare a plan for the documentation on the implementation of work and submit it to the Authority as part of the regulatory safety supervision.
Clause 132 enjoins a licensee to meet health, safety and environmental standards provided by the Authority in consultation with the relevant agencies.

Clause 133 to 137 deals with information and documentation. Clause 132 spells out the responsibilities of a licensee in relation to information, reports and records. These responsibilities include the keeping of an address in the country, full and accurate records and particulars in the drilling, operation, deepening, plugging or abandonment of well, the strata and subsoil through which wells are drilled and the casing inserted in wells and alteration to the casing. Others are records on petroleum, water and economic mineral or dangerous substances encountered, significant discovery of minerals made and areas in which geological, geophysical and engineering work has been carried out. The licensee is to notify the Authority of the records. The licensee is to keep at the place of business accurate geological maps and plans, geophysical records and interpretations that relate to the area of the licence.

Clause 134 specifies the duties on termination of licence. The holder of a license immediately before the termination, revocation or expiry of a licence is to deliver a record which the former holder maintained with respect to the licence. Other items to be delivered are the plan or map of the area which was prepared by or on the instruction of the former holder, the tape, diagram, profile and chart which was prepared and any other document that the Authority is to require the former holder to deliver.

Clause 135 deals with records to be kept by the holder of a licence. These are records on the gross quantity of crude oil and natural gas produced and saved from the area of the licence, grades and gravity of crude oil produced and the composition of natural gas produced. Others are the quantities of crude oil, natural gas, refined petroleum products and liquefied petroleum gas.

Clause 136 is on the availability of information to the public. The Authority is enjoined to make available to the public details of the licence and amendments to the licence, details of exemptions from variations or suspension of the conditions of a licence. A copy of each utilisation licence, a licence and utilisation agreement as well as approved development plan and the assignment or other dealing consented to in respect of the licence are to be made available to the public subject to
Clause 137 provides for the confidentiality of data. A licensee is to keep data submitted to government in confidence.

A party to an agreement under the Act is not to reproduce or disclose data to a third party except with the prior written consent of the Authority. The Authority is equally enjoined to disclose data prior to the relinquishment of an exploration area with the prior written consent of the licensee.

Clause 137(4) provides for the disclosure of information by a licensee to an affiliated company, the home Government of the licensee, a department, agency or instrumentality required by law, the recognised stock exchange on which the shares of the licensee or its affiliated company are traded, a financial institution, professional adviser and arbitrator who are experts under the Act.

The Authority is to make a disclosure to an agency of the Government, a financial institution or a consultant or professional adviser to the Government.

Under the clause, disclosure of data to a third party is allowed on terms which ensure that the data is treated as confidential by the recipient. Subclause (10) provides that a party is not to publish or disclose to a third party the performance agreement and confidential information of a party which becomes known to the other party without the former party’s written consent unless the other party can communicate to a lawyer, an accountant, professional consultant, an underwriter, lender, agent, licensee or shipping company.

Subclause (11) defines “confidential information” for the purposes of the section to include information identified as confidential by the party originally in possession of it and disclosed to another party but excludes information previously known to the other party or information which is within the public domain or that comes into the possession of the other party through a breach of the confidentiality undertaking. The confidentiality requirements are to expire on the relinquishment of the area to which the information relates.
Clause 138 - 145 of the Bill deals with fiscal arrangements. Clause 138 provides that an annual charge calculated in a manner the Authority determines is to be paid by a registered holder of a licence. The charge is to be paid on the grant of a licence and subsequently on an annual basis on the anniversary of the grant until the termination of the licence.

Clause 139 provides for the payment of royalties to Government in respect of petroleum produced and saved in Ghana at the rate of ten percent of gross production.

Clause 140 enjoins a licensee to pay petroleum income tax in accordance with the Internal Revenue Act, 2000 (Act 592) or any other enactment.

Clause 141 provides for initial interest and additional oil entitlements. The Government may impose a production sharing fiscal arrangement instead of the royalty, tax and additional oil entitlement where it determines this to be appropriate.

Clause 142 specifies the payment terms. Payments are to be made in an international and freely convertible currency and through a bank designated by each receiving party. A payment is to be effected by way of set-off between a mutual and undisputed liability as and when the liability accrues. The Government may elect to take any payment done under the fiscal arrangement in petroleum or in money.

Clause 143 provides the penalty for late payments. Where a licensee with liability to pay an amount is unable to make payment on or before the time when the amount is payable, the licensee is to pay an additional amount of five percent in default for each day of the default.

The Authority is to compound the amount and order the person to pay a sum of money not exceeding three times the amount due to the Authority if the person concerned admits the liability to pay in writing. The order for compounding the amount is to be in writing, specify the sum of money to be paid and the due date for the payment and have the written admission attached. The order is to be served on the person with the liability to pay.

Clause 144 prohibits the disposal of petroleum and provides that where a licensee of a petroleum exploration and production licence fails to pay royalty or any money on or before the due date or during any extension period permitted by the Authority, the Authority is to serve the
licensee with an order for the prohibition of removal of, or the dealing in or with petroleum from the area concerned.

Clause 145 provides for the recovery of royalty. The Court is empowered to recover royalty payable as a debt. A certificate by the Authority which certifies that a specified amount of royalty is to be paid is to be received as evidence of the fact, despite the right to adduce evidence in rebuttal.

Clause 146 to 149 deals with cross border activities. Clause 146 empowers the Authority to reach agreement on the most efficient co-ordination of petroleum activity in connection with petroleum deposit that extends over more than one block with different licensees or on to the continental shelf of another state.

Clause 147 provides for sharing activities. The Authority is to decide that a facility comprised in the plan for development and operation of petroleum deposit, transportation and utilisation owned by a licensee is to be used by other licensees for the efficient operation or benefit of society if warranted by considerations.

The Authority is to impose conditions and issue orders related to access for each individual case. An agreement on the use of a facility is to be submitted to the Authority for approval unless otherwise determined by the Authority. Subclause (4) of this clause allows the Authority to stipulate a tariff, impose a condition or subsequently alter a condition that has been approved or stipulated in order to ensure that the implementation of a project is carried out with due regard to considerations. Other issues related to resource management to be considered are to provide the owner of the facility with a reasonable profit and also investment and risks taken.

The clause further provides that a person who needs to use the facility of another party on non-discriminatory conditions is to have a right to the use in accordance with the Act. Profit from production is to be primarily earned by the producing field, the owner’s incentives to maintain the capacity of the facility, to make sensible investment and to ensure additional capacity.

Clause 148 is on sharing. Where as a result of exploratory drilling by a licensee, a discovery is made that indicates the presence of a common field between two Governments, the two Governments are in consultation
with the respective licensees to negotiate on the manner in which the proceeds from the common field are to be apportioned.

Clause 149 deals with immunity and facilitation of non-nationals. The Authority is to recommend the grant of immunity to a non-national and any special privilege in connection with measures for the prevention and action against illegal acts of persons who pose as a safety threat to the petroleum activities of Ghana.

Clause 150 to 158 deals with offences. Clause 150 prohibits the disclosure of information furnished or contained in a report submitted by a licensee to another person that is not an Authority or public officer without the consent of the licensee. A contravention of this provision is an offence which attracts a fine of not more than fifty thousand penalty units or a term of imprisonment of not more than five years or to both.

A licensee who fails to provide information on its vendor development programme commits an offence and is liable on summary conviction to a fine of not more than fifty thousand penalty units or to imprisonment for a term of not more than five years or to both.

It is a defence for a person charged with an offence to prove that the information disclosed and to which the prosecution relates was without the disclosure known to the public.

Clause 151 prohibits the obstruction of an authorised officer of the Authority in the exercise of powers under the Act. A person who knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to the Authority or an authorised officer commits an offence. A contravention of this provision attracts a fine of not more than five hundred penalty units or a term of imprisonment of not more than two years or both.

Clause 152 prohibits the obstruction of a licensee. A person who without reasonable excuse, obstructs, molests, hinders or prevents a licensee from doing an act which the licensee is authorised to do commits an offence which attracts a fine of not more than fifty penalty units or imprisonment for a term of not more than six months or both.

Clause 153 prohibits the direct or indirect attempt to acquire or hold a licence or interest in a licence or a share in a corporate body that is
entitled to carry an exploration or development operation in this country. A contravention of this provision attracts a fine of not more than five hundred thousand penalty units or to imprisonment for a term of not more than five years or to both.

Clause 154 restricts the removal of petroleum. Petroleum is not to be removed or disposed of in any manner from the area from which it has been obtained to any other area unless it is done by a licensee with the written consent of the Authority for the purpose of sampling or analysis.

Clause 155 provides for offences committed by body corporate. Clause 156 provides for orders for forfeiture. Where a person is convicted of an offence under the Act, a Court is to impose an additional penalty for forfeiture of a vehicle, aircraft, vessel or equipment used in the commission of the offence. An additional order for the forfeiture of petroleum recovered in the course of the commission of the offence, payment by a person to the Government of an amount equal to the proceeds of the sale of the petroleum received is to be made by the Court.

Clause 157 provides that a person who willfully or negligently contravenes a directive issued under the Act commits an offence and attracts a fine of not more than five thousand penalty units or a term of imprisonment of not more than five years or to both.

Clause 158 deals with miscellaneous offences. Offences stated in the clause include the giving or permitting of false or misleading information to be given by a person knowingly or recklessly in connection with an application under the Act or licence, the inclusion either knowingly or recklessly of false or misleading information in a report, return or affidavit submitted for a licence or in pursuance of this Act.

Clause 159 provides for dispute resolution. A dispute which is related to the interpretation or application of the terms of a licence between the licensee and Government is to be resolved in accordance with the Alternative Dispute Resolution Act, 2008 (Act ......................)

Clause 160 to 192 deals with miscellaneous provisions. Clause 160 provides for the management of petroleum activities. A licensee is to have a company capable of independently managing its petroleum activities from the country. The Authority is to stipulate the specific
requirements in respect of the company and its capital. The clause also contains provisions that relate to the permission of trade union activities among employees and personnel of contractors and subcontractors in accordance with the Labour Act, 2003 (Act 651).

Under clause 161, the Authority is empowered to carry out regulatory supervision in the form of the issue of orders to ensure compliance with this Act. Expenses related to the regulatory supervision is to be covered by the licensee or by the party where the supervision in each case is directed at or where it takes place.

Clause 162 enjoins a licensee to maintain the structures, equipment and other property in the area of the licence in good condition and repair. A licensee is to remove from the area any structure, equipment and other property that is not in use for the operations. Finally, a licensee is to take steps to warn persons in the vicinity of a structure, equipment or other property of the presence of the structures and the hazards likely to result from the activities of the licensee.

The clause states that a contravention of this subsection is an offence which attracts a fine of not more than one thousand penalty units.

Clause 163 provides for agreements between affiliated companies. The Authority is to consent to a licensee who enters into an agreement which authorises a parent company or a company with which the licensee is affiliated in a similar manner to undertake activities on behalf of the licensee. The condition for the consent is that the arrangement is not to result in less revenue to the Government.

Clause 164 provides for security for fulfilment of obligations. Where a licence is granted and at any other time, the Authority may subsequently decide that a licensee is to provide security as approved by the Authority for the fulfilment of the licensee’s obligations as well as for possible liability in connection with the petroleum activities.

Clause 165 specifies the responsibility for commitment. Licensees who hold licences jointly are jointly and severally responsible to the Government for financial and other obligations which arise out of petroleum activities under the licence.

Clause 166 provides that where liability in respect of a third party is incurred by a person who undertakes a task for a licensee, the licensee is
Clause 167 provides for directions to be given by the Authority which are to be by notice in writing to the licensee and are to be consistent with good oil field practices to ensure proper production of petroleum and encourage good conservation practices in a licensed area.

Clause 168 provides for compliance with directions. Where a licensee fails or neglects to comply with directions given, the Authority is to ensure that all the things to be done or required by the direction to be done are done. Also, costs and expenses incurred in obedience to the directions are a debt due to the Authority to be recovered in a Court despite the licensee being convicted of the offence.

Clause 169 deals with information required by the Authority. The clause empowers the Authority to require a person who is in possession of information or data that relates to exploration or development operations, petroleum obtained or the value of petroleum to provide the Authority with the information or data.

The Authority is also to request the person to attend before the Authority to answer questions related to the operations. Failure to comply is an offence which attracts a fine of not more than four thousand penalty units or imprisonment for a term of not more than five years or both.

Clause 170 provides for powers of the Authority and authorised officers. The Authority or an authorised officer of the Authority is to issue directions in writing and impose restrictions on a licensee or an employee with respect to the health and safety of employees of the licensee in connection with exploration, development or production activities.

The Authority is also empowered to order in writing the cessation of operations and withdrawal of persons from a structure or building that is being used for exploration, development or production operations. Other powers are to order discontinuance of the use of machinery or equipment which are unsafe until the necessary action to ensure safety is taken and completed.

An authorised officer of the Authority is to produce personal identity a person in charge of the area, structure, vehicle, vessel, aircraft,
building, machinery or equipment or thing in respect of which the power is about to be exercised before giving the order or direction.

Powers of appeal are also given to persons who are aggrieved by such decision, direction or order of the Authority.

Clause 171 provides for evidence for certificate. The Authority is to give a certificate which states that a licence was granted, cancelled or transferred from a date specified in the certificate. The Authority is also to give a certificate that a condition specified in the certificate is a condition on which any consent or approval specified in the certificate was given.

Clause 172 provides for scientific investigation. The Authority is to consent in writing to the carrying on by any person of geoscientific investigations in the country. The instrument of consent is to authorise the person to whom it is issued to carry on geoscientific investigations and the exploration operations specified in the instrument in the area, subject to conditions specified in the instrument.

Clause 173 provides for service of documents. A document or notice for an individual is to be served personally on the individual or by post at the usual or last known place of abode or business of the person.

In the case of the Authority, service is to be in the manner prescribed for a body corporate, by leaving it at the registered or principal office of the body corporate by post or by delivery to an individual in the employment or acting on behalf of the body corporate authorised to accept service.

Clause 174 indemnifies the Republic and Government against actions, claims and demands that may be brought against the Republic by the actions of the licensee under this Act or a licence.

Clause 175 empowers the President in accordance with article 278 of the Constitution to appoint a commission of inquiry where a serious accident occurs in connection with petroleum activities. The incidents to be inquired into must have led to serious danger including loss of life, pollution or major damage to property.

Clause 176 enjoins a licensee to surrender a petroleum exploration and production licence after giving three months notice to the Authority.
Clause 177 provides for the revocation of licences, approvals and permits by the Authority where there is a serious or repeated contravention of the Act or Regulations made under the Act.

Clause 178 provides that the revocation of a licence, surrender of rights or lapse of rights for other reasons do not entail release from the financial obligations under the Act or Regulations made under the Act.

The Authority is to demand full or part payment of the amount which fulfillment of a work obligation or an obligation including decommissioning would have cost if the obligation is not fulfilled. The Authority is to prescribe the amount payable.

Clause 179 provides for the use of facilities by others. The Authority is to issue directives for the use of sections of a facility which are owned by a licensee by others if warranted by considerations for efficient operation or for the benefit of society. The use should not constitute an unreasonable detriment of the licensee's requirements.

Clause 180 deals with the right of others to place facilities. A licensee is not to oppose the laying of pipelines, cables or wires of various kinds or the placement of other facilities on, in or above the area covered by the petroleum exploration and production licence. The facilities are not to cause unreasonable inconvenience to the licensee.

Clause 181 provides for the amendment of the Schedule which is to be done by legislative instrument.

Under clause 182, a licensee and other persons engaged in petroleum activities are to comply with the Act, Regulations and administrative decisions issued through the implementation of necessary systematic measures. A licensee is also to ensure that other persons working personally or through employees, contractors or subcontractors comply with the Act.

Clause 183 spells out the supremacy of the Act. Subject to the Environmental Protection Agency Act, 1994 (Act 490), the Environmental Assessment Regulations, 1999 (L.I. 1652) and the Ghana Maritime Authority Act, 2002 (Act 630), this Act is to take precedence over any existing Act that relates to upstream and midstream petroleum activities. Accordingly, an Act which contradicts this Act is modified to conform to the provisions of this Act.
Clause 184 provides for compliance with conditions of a petroleum exploration and production licence. The Authority is empowered to direct a licensee who contravenes a condition of a petroleum exploration licence to comply with that condition. Also, a directive for compliance is to be given to a licensee by the Authority where there is a contravention of a requirement under this Act or Regulations, codes or standards made under the Act. A directive requiring compliance is to be sent to the licensee and other directly affected parties. The directive is to contain the relevant condition of the petroleum exploration licence or requirement of the Act, regulations, codes or standards to which the contravention relates. The directive is also to contain the acts, omissions, other facts which constitute the contravention of the condition or requirement and specify a period within which representations or objections are to be made by the licensee or directly affected parties. The directive is also to specify the period within which the licensee is to rectify the breach or contravention.

Clause 185 provides for frustration of licensee. A failure on the part of a licensee to fulfil a condition of a licence mainly as a result of an act of war, hostility, insurrection, storm, flood, earthquake or other natural phenomenon which is beyond the reasonable control of the licensee is not to constitute a breach of the licence, the Act or agreement. The licensee is enjoined to immediately notify the Authority of the occurrence of the circumstances specified and give particulars of the failure and its cause.

The clause is made inapplicable for requirements under a licence or the Act for the payment of royalty, annual charges, rent or fees.

Clause 186 and 187 provide standard provisions on Regulations and interpretation respectively. Under clause 186, the Authority, by legislative instrument, is to make Regulations for the effective implementation of the Act among others. The matters for Regulations are work conditions, confidentiality, the licensee's obligation to provide information on the activities under the Act available to the public, the form and content of and conditions for applications for the grant or renewal of licences. Others include the secondary or tertiary recovery of petroleum from a reservoir and the methods to be used in the recovery, the safety and welfare standards and the heath and safety of employees in connection with the exploration for or the production or conveyance of petroleum. The fees to be paid in respect of a matter or thing done under this Act as well as
the division of the geographic area of Ghana into graticular sections are also to be provided for under regulations.

Clause 187 provides for interpretation and clause 188 is on repeals. Clause 189 provides for transitional provisions. Staff of the Company concerned with the regulation of upstream and midstream petroleum activity may be transferred to the Authority as necessary for the performance of its functions.

Clause 190 provides for continuation of licences. A licence issued under the Petroleum Exploration and Production Act, 1984 (P.N.D.C.L. 4) which is in force immediately before the commencement of this Act is saved.

Clause 191 provides for the declaration of essential services. In accordance with section 174 of the Labour Act, 2003 (Act 651) the Minister responsible for Labour is to declare upstream and midstream petroleum activities as an essential service and the provisions of the Labour Act are to apply.

Finally, clause 192 provides for commencement. The Act is to commence on a date to be determined by the Minister by publication in the Gazette. Until its commencement, the Company is to be responsible for the functions of the Authority.

JOE GHARTEY, M.P.
Attorney-General and Minister for Justice

Date: 3rd October, 2008.
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190. Continuation of licences  
191. Declaration of Essential Service  
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FIRST SCHEDULE  

GRATICULATION OF THE SURFACE OF THE EARTH
A BILL

ENTITLED

GHANA PETROLEUM REGULATORY AUTHORITY ACT, 2008

AN ACT to establish the Ghana Petroleum Regulatory Authority to regulate, oversee and monitor activities in the upstream and midstream petroleum industry; provide for licensing in the sector and provide generally for upstream and midstream oil and gas in the best interest of the people and future generations of Ghana and for connected purposes.

ENACTED by the President and Parliament:

PART ONE

PRELIMINARY MATTERS AND INSTITUTIONAL ARRANGEMENT

Application and environmental principles

Application

1. This Act applies to

(a) upstream and midstream petroleum activities in connection with petroleum resources of the Republic of Ghana; and
(b) petroleum activities within and outside Ghana where a petroleum deposit extends beyond the continental shelf of the Republic of Ghana.

**Environmental principles**

2. Each contractor and person who performs a function, discharges a duty or exercises a power under this Act in relation to the exploration, development and production of petroleum resources shall take into account and give effect to the environmental principles prescribed by the Environmental Protection Agency Act, 1994 (Act 490), the Environmental Assessment Regulations, 1999 (L.I. 1652) and any other relevant legislation which shall be modified as necessary to apply to petroleum activities.

**Petroleum rights**

**Vesting of petroleum**

3. The entire property in, and the control of petroleum in its natural condition on or in any land or water in Ghana is vested in the Government on behalf of the Republic of Ghana.

**Prohibition of operations without licence**

4. (1) A person shall not carry out any petroleum exploration, development, or production operations in or on any land in Ghana except with a licence and in accordance with a petroleum agreement.

   (2) A person shall not carry out any exploration, development or production operations in Ghana except in association with the Ghana National Petroleum Company and in accordance with the terms of a petroleum agreement entered into between that person, the Republic and the company.

   (3) A person who contravenes subsection (1) commits an offence and is liable on conviction

   (a) if an individual, to a fine of not more than eighty thousand penalty units or imprisonment not exceeding ten years or both; and

   (b) if a body corporate, to a fine of not more than five hundred thousand penalty units.

**Agreements with the Republic**

5. The Authority shall on behalf of the Republic only enter into an agreement with a person that is consistent with this Act as regards:

   (a) the grant of a licence;
(b) the conditions for granting or renewing a licence;
(c) the conduct by the Company or a contractor of exploration or development operations on behalf of any person to whom a licence may be granted and the arrangements for a production sharing system or the royalty tax system or a combination of the two systems; and
(d) any other matter incidental to or connected with a licence.

Graticulation of the earth’s surface

6. For the purpose of this Act, the surface of the earth shall be deemed to be divided into graticular sections in the manner set out in the First Schedule.

Establishment and functions of the Ghana Petroleum Regulatory Authority

Establishment of the Authority

7. (1) There is established by this Act, a body to be known as the Ghana Petroleum Regulatory Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Authority may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction not related to petroleum.

(4) Where there is hindrance to the acquisition of property, the property may be acquired for the Authority under the State Property and Contracts Act, 1960 (C.A.6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Authority.

Object of the Authority

8. The object of the Authority is to regulate, oversee and monitor activities in the upstream and midstream petroleum sector and support the national policy objectives of the upstream and midstream petroleum sector.

Functions of the Authority

9. (1) To achieve the object of the Authority, it shall

(a) make the upstream and midstream petroleum sector and the agencies operating in that sector more efficient;
(b) provide an enabling environment for increased private sector participation and investment in the upstream and midstream petroleum sector;
(c) promote a vendor development programme to enhance national participation in the supply chain process;
(d) strengthen the regulatory framework for healthy competition and quality assurance in the upstream and midstream petroleum sector;
(e) initiate, negotiate and administer petroleum agreements;
(f) assess and approve appraisal programmes;
(g) assess and approve field development plans;
(h) assess and approve tail-end production and field abandonment;
(i) administer the management of petroleum data;
(j) assist in the measurement estimation and assessment of royalty and profit oil due to the State;
(k) ascertain the cost oil due to licensees;
(l) ensure that licensees uphold laws, Regulations, rules and contract terms;
(m) ensure that licensees prepare and implement natural gas utilisation plans;
(n) collaborate with the Environmental Protection Agency, the Ghana Maritime Authority and relevant agencies;
(o) ensure health, safety and environmental standards in oil and gas operations;
(p) ensure optimal levels of resource exploitation;
(q) build the capacity of its staff to perform the functions of the Authority;
(r) collaborate and disseminate information from licensees to the relevant agency;
(s) promote planned, well executed and cost-efficient operations;
(t) ensure optimal utilisation of existing and planned infrastructure;
(u) provide to the Minister responsible for Finance, information relevant to the collection of taxes and fees from oil and gas activities;
(v) ensure the implementation of this Act;
(w) acquire, promote or assist in the acquisition of data for use in promoting unlicensed areas; and
(x) perform any other function except any commercial aspect that is ancillary to the object of the Authority and assigned to it under this Act.
(2) The Authority shall consult and co-operate with Ministries, departments and agencies of Government that have duties, aims or functions related to those of the Authority.

**Governing body of the Authority**

10. (1) The governing body of the Authority is a Board consisting of
(a) the chairperson,
(b) the Chief Executive,
(c) the Chief Executive of the Company, and
(d) and six other persons, at least two of whom are women.

(2) The members of the Board shall be appointed by the President
in accordance with article 70 of the Constitution.

(3) The President shall in appointing a member of the Board have regard to the person’s integrity, knowledge, expertise and experience in matters relevant to the functions of the Board.

(4) The Board shall perform the functions of the Authority.

**Independence of the Authority**

11. (1) The Authority shall not in the performance of its functions under this Act be subject to the control or direction of a person or an authority other than the Minister assigned responsibility by the President who may give policy directions.

(2) Directions given by the Minister shall not adversely affect or interfere with the independence of the Authority or the performance of the functions and exercise of the powers of the Authority under this Act.

**Tenure of office of members**

12. (1) A member of the Board, shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Chief Executive of the Authority.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Authority.

(4) A member of the Board other than the Chief Executive who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
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   (4) A member of the Board other than the Chief Executive who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is, for sufficient reason, unable to act as a member, the Authority shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy
(a) under subsection (3), (4) or 14 (2),
(b) as a result of a declaration under subsection (6), or
(c) by reason of the death of a member,
the Authority shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

13. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.
Disclosure of interest

14. (1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest, and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member.

Establishment of committees

15. (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function for the Board.

(2) Without limiting subsection (1), the Board shall have a committee to deal with the vendor development programme.

(3) A committee of the Board shall be chaired by a member of the Board.

(4) Section 14 applies to members of a committee of the Board.

Allowances

16. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister responsible for finance.

Administration and staff of the Authority

Appointment of Chief Executive

17. (1) The President shall in accordance with article 195 of the Constitution, appoint a Chief Executive for the Authority.

(2) The Chief Executive shall be a person of high moral character and a person of integrity with relevant qualifications and experience related to the functions of the Authority.

(3) The Chief Executive shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Chief Executive

18. (1) The Chief Executive is responsible for

(a) the day to day administration of the affairs of the Authority in the performance of functions under this Act,

(b) the implementation of the decisions of the Board, and

(c) the co-operation with other heads of agencies and organisations in the petroleum sector.
(2) The Chief Executive shall perform any other function determined by the Board.

(3) The Chief Executive may delegate a function to an officer of the Authority but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

19. (1) The President shall in accordance with article 195 of the Constitution appoint a secretary to the Board and other staff of the Authority that are necessary for the proper and effective performance of the functions of the Authority.

(2) Other public officers may be transferred or seconded to the Authority or may otherwise give assistance to it.

(3) The Authority may engage the service of advisers and consultants on the recommendation of the Board.

Finances of the Authority

Funds of the Authority

20. (1) The funds of the Authority include

(a) moneys provided by Parliament,
(b) a portion of any fee or charge determined by the Board in consultation with the Minister for Finance,
(c) donations, grants and gifts, and
(d) any other moneys that are approved by Parliament.

(2) Funds received by or on behalf of the Authority shall be deposited by the appropriate person or authority to the credit of the Authority in an account in a bank or banks approved by the Minister responsible for Finance.

Tax exemption

21. The Authority is exempt from payment of tax.

Expenses of the Authority

22. (1) The expenses of the Authority shall be paid from moneys provided for the Authority under section 20.

(2) Where, after having defrayed the outstanding expenses, the Authority has an excess amount, the Authority shall transfer that amount to the Consolidated Fund.
Account and audit

3. (1) The Authority shall keep proper books of account and proper

or ds in relation to them in the form approved by the Auditor-General.

(2) The Authority shall submit the accounts to the Auditor-General

audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after

receipt of the ac-counts, audit the accounts and forward a copy of the

dit report to Parliament.


(5) The financial year of the Authority is the same as the financial

ar of the Government.

Annual report and other reports

24. (1) The Board shall within one month after the receipt of the audit

port, submit an annual report to the Minister covering the activities

and operations of the Authority for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the

annual report, submit the report to Parliament with a statem

nt that the

inister considers necessary.

(4) The Board shall also submit to the Minister any other report

ich the Minister may require in writing.

Ghana National Petroleum Company

Establishment of the Ghana National Petroleum Company

25. (1) In accordance with the Statutory Corporations Conversion to

ompaines Act 1993, (Act 461) the Ghana National Petroleum Corpora-

tion established under the Ghana National Petroleum Corporation Act,
83 (PNDCL 64) has been converted to a company limited by shares.

(2) The assets, properties, rights, liabilities and obligations of the

poration are vested in the successor company.

(3) The successor company shall be incorporated under the Com-

ies Act, 1963 (Act 179) as the Ghana National Petroleum Company

anage the commercial aspects of the upstream and midstream

roleum activities and the operation of Government interest under this

et.
(4) The Company shall be subject to and managed in accordance with the Companies Act.

(5) On the date of registration of the successor company under Act 461, the Ghana National Petroleum Corporation shall cease to exist and the Ghana National Petroleum Corporation Act, 1983 (P.N.D.C.L. 64) shall cease to have effect.

(6) The Company may undertake exploration, development and production of petroleum over the blocks declared by the Authority as open for petroleum operations over which a petroleum agreement does not exist.

(7) Where the exploration, development and production of petroleum is carried out by the Company not in association with a licensee under the terms of a petroleum agreement, the operations of the Company shall be carried out in accordance with the terms and conditions prescribed in the Regulations and in accordance with a long-term exploration and production programme and annual programme drawn up by the Company in respect of each block and approved by the Authority.

PART TWO

LICENSING

Petroleum exploration licence

Opening up of new areas

26. (1) The Authority shall collaborate with relevant agencies and ensure that an evaluation is undertaken of the various interests involved in a new area and that preliminary geological, geophysical and environmental assessments are undertaken before the opening up of any new area with a view to the grant of a petroleum exploration licence.

(2) In the evaluation, an assessment shall be made of the impact of the petroleum activity on trade, industry and the environment and of any possible risk of pollution, as well as the economic and social effect that may result from petroleum activity.

(3) The Authority shall through a public announcement make known which area is planned to be opened for petroleum activity and the nature and extent of the activity to be engaged in.
(4) The Authority shall stipulate the time limit for the presentation of views for the intended activity.

(5) An interested party shall be given a period of time of not less than three months to present any view on the intended activity.

petroleum exploration licence
27. (1) A person who intends to carry out any geological, geophysical, geochemical or geotechnical activity shall apply to the authority for a petroleum exploration licence.

(2) A petroleum exploration licence shall be either exclusive or non-exclusive.

(3) A petroleum exploration licence shall confer on the licensee the right

(a) to explore for petroleum, and

(b) to carry on the operations and execute the works that may be necessary for exploration in the exploration area subject to this Act and to the conditions specified in the licence or to which the licence relates, while the licence remains in force.

application for petroleum exploration licence
28. (1) An application for a petroleum exploration licence shall be submitted to the Authority in the manner prescribed by regulations.

(2) An application for a petroleum exploration licence shall be in writing and be accompanied with an application fee prescribed by the authority.

(3) The Authority shall confirm in writing to the applicant that the application is complete within thirty days after receipt of the application for a petroleum exploration licence.

(4) Where the application is incomplete, the Authority shall request the applicant to re-submit the application.

(5) The Authority shall process each application for a petroleum exploration licence expeditiously and in any case not later than sixty days after receipt of the application and inform the relevant agencies within fifteen days after receipt of the application.

activities authorised by petroleum exploration licence
29. (1) A petroleum exploration licence shall authorise geophysical, geological, petrophysical, geochemical and geotechnical activities including shallow drilling.
(2) The Authority may limit an individual petroleum exploration licence to apply to particular types of exploration.

(3) The data and information obtained by a licensee as a result of petroleum activities and the geological, geophysical, technical, financial and economic reports, studies, interpretations and analysis prepared by or on behalf of a licensee or in connection with the petroleum activities of the licensee are the property of the Authority.

(4) The licensee may retain a copy of the data or information within the terms and conditions of the exploration licence for its own use.

(5) The Authority may stipulate conditions for implementation of exploration activities under the petroleum exploration licence.

Annual fee

30. The licensee shall pay an annual fee in respect of the licence area as may be prescribed by the Authority.

Contents of petroleum exploration licence

31. A petroleum exploration licence shall state
   (a) the date of grant of the licence,
   (b) the block or blocks to which the licence relates, and
   (c) the conditions on which the licence is granted.

Conditions of a petroleum exploration licence.

32. (1) The Authority shall attach terms, conditions and limitations to a petroleum exploration licence.

   (2) The Authority shall set out any term, condition and limitation attached to a petroleum exploration licence in the exploration licence.

   (3) The petroleum exploration licence shall be subject to the vendor development programme of the Authority.

Duration of a petroleum exploration licence

33. A petroleum exploration licence shall remain in force
   (a) for the period specified in it, but not more than two years, or
   (b) for a renewal period of not more two years unless otherwise determined by surrender or cancellation.

Power of the Authority to amend a petroleum exploration licence

34. The Authority may
   (a) vary the duration of a licence, or
   (b) add to or remove terms, conditions or limitations of the licence
any time after informing the licensee of the course of action to be taken and after giving the licensee reasonable opportunity to be heard or to give written representations.

Petroleum exploration and production licence

Announcement of licensing

35. (1) The Authority shall announce the petroleum blocks for which applications for a petroleum exploration and production licence may be submitted.

(2) The announcement shall
(a) stipulate a time limit for filing applications,
(b) contain other information that the Authority may consider necessary, and
(c) be published in the Gazette, newspapers of national circulation, international petroleum industry magazines and publications.

(3) The grant of a petroleum exploration and production licence shall be done on the basis of factual and objective criteria and the requirements and conditions stated in the announcement.

Application for petroleum exploration and production licence

36. A person who intends to carry out petroleum exploration and production shall apply to the Authority for a petroleum exploration and production licence.

Grant of petroleum exploration and production licence

37. (1) The Authority may grant a person a petroleum exploration and production licence in respect of any block or blocks on the conditions that it may determine.

(2) A petroleum exploration and production licence shall give exclusive rights to the licensee for the exploration and production of petroleum in the area to which the licence relates.

(3) The Authority may stipulate as a condition for granting petroleum exploration and production licence, that the licensee shall enter into an agreement with another licensee on terms specified by the Authority.

(4) An application for a licence under this section shall be accompanied with a fee prescribed by the Authority.
(5) A petroleum exploration and production licence shall be granted for a maximum period of thirty years.

Licence to be issued jointly

38. A petroleum exploration and production licence may be granted jointly to two or more persons.

Disclosure of agreements with a view to applying for petroleum exploration and production licence

39. A co-operation agreement entered into with the intention of applying for a joint petroleum exploration and production licence shall be submitted to the Authority and the Authority may require alterations to be made in the agreement as a condition for the grant of the licence.

Criteria for the grant of a petroleum exploration and production licence

40. (1) A petroleum exploration and production licence shall be granted on the basis of

   (a) the technical competence, experience and financial capacity of the applicant, and
   (b) the applicant's plan for exploration and production in the area for which a licence is sought.

   (2) Where the applicant is or has been a holder of a petroleum exploration licence, the Authority may take into consideration any form of inadequate efficiency or inadequate responsibility that may have been demonstrated by the applicant as a licensee.

   (3) The criteria for granting a licence shall be applied in a non-discriminatory manner among the applicants.

   (4) Where two or more applicants are regarded to be equal on the basis of the criteria stipulated by the Authority, other relevant objective and non-discriminatory criteria that will make a final choice possible between applicants may be used as a basis for granting the licence.

Conditions and requirements for a petroleum exploration and production licence

41. (1) Conditions and requirements for the grant of a petroleum exploration and production licence and for the conduct of petroleum activities under a petroleum exploration and production licence, shall be based solely on the need to ensure that the petroleum activities within the
area of the petroleum exploration and production licence are carried out in a proper manner.

(2) Conditions for the conduct of petroleum activities under a petroleum exploration and production licence shall be based on consideration for national security, economic and efficient operations, public order, public health, transport, safety, environment protection, safety of facilities and employees, protection of biological resources and national treasures of artistic, historical or archaeological value and systematic resource management.

(3) A petroleum exploration and production licence shall be subject to the vendor development programme of the Authority.

**Surface area rental fee**

42. (1) A licensee shall pay an annual area fee calculated per square kilometre for a petroleum exploration and production licence.

(2) The area fee shall be paid within the period of validity of the licence.

(3) The Authority shall make Regulations
   (a) related to the amount of the fees referred to in subsection (1);
   (b) related to the method of calculation, including provision on stipulation of the value which shall form the basis for the calculation, on metering of the petroleum and for fiscal purposes; and
   (c) on information which the licensee shall provide about the production.

(4) The Authority in consultation with the Minister for Finance may direct that the area fee shall not be paid wholly or partly or that the duty to pay fees shall be postponed.

(5) Claims for fees with accrued interest and charges are grounds for enforcement of distraint.

(6) The petroleum block shall return to the State after the expiry of the licence.

**Specification of petroleum exploration and production licence**

43. (1) The Authority shall grant a petroleum exploration and production licence on conditions which give effect to the application and the requirements of this Act.

(2) The Authority may grant a petroleum exploration and production licence on the conditions that it determines.
Protection of national interest

44. (1) The licensee shall, unless otherwise directed by the Authority, maintain a company which is capable of independently managing the petroleum activities from Ghana.

(2) The Authority may stipulate specific requirements including the licensee’s capital in respect of the company.

(3) The licensee shall ensure that the circumstances permit organised labour activity to take place among its employees and the personnel of contractors and sub-contractors in accordance with the Labour Act, 2003 (Act 651).

(4) Petroleum activities shall be conducted from a base in Ghana and the licensee may be ordered to use a base designated by the Authority.

Operator

45. (1) The Authority shall appoint or approve an operator when granting a petroleum exploration and production licence.

(2) A change of operator must be approved by the Authority and when warranted for particular reasons, the Authority may undertake the change of operator.

(3) An operator shall be one of the licensees.

Rights conferred by petroleum exploration and production licence

46. (1) A petroleum exploration and production licence confers on the licensee exclusive rights

(a) to carry out exploration, development or production operations in the block;

(b) to sell or otherwise dispose of the licensee’s share of petroleum recovered; and

(c) to carry on operations and execute works in the block as are necessary for or in connection with any matter referred to in paragraphs (a) and (b).

(2) The exclusive rights shall be subject to this Act and to the conditions specified in the licence or to which the licence is otherwise subject.

Duties of petroleum exploration and production licensee

47. (1) A holder of a petroleum exploration and production licence shall carry out activities in accordance with the petroleum exploration and production licence, this Act and Regulations made under this Act.
(2) A licensee shall meet the requirements as regards work and expenditure set out in the licence or in a petroleum agreement as regards the petroleum exploration and production area.

(3) A licensee shall, not later than one month before the anniversary in any year of the grant of a petroleum exploration and production licence, or one month before any other date that maybe agreed between the Authority and the licensee, submit a detailed adequate programme with respect to work and expenditure to be carried out or made in the year of the term of the licence immediately after the anniversary or the specified date.

(4) The programme shall be submitted to the Authority for review and approval.

(5) A licensee may amend the details of the programme of work and expenditure which has been submitted to the Authority for good cause but

(a) the licensee shall immediately give notice in writing to the Authority of any amendment and shall state in the notice, the details of and the reasons for the amendment; and

(b) an amendment shall not have effect so as to reduce the minimum requirements related to work and expenditure set out in the licence or petroleum agreement.

(6) The requirement for the submission of an adequate programme with respect to work and expenditure shall be deemed to have been met where the programme submitted is consistent with the requirements as regards work and expenditure contained in a petroleum agreement.

(7) A licensee shall keep records and prepare reports related to petroleum activities.

(8) The records and reports shall be submitted to the Authority.

(9) A licensee shall have the obligation to provide the Authority with available information about the technical, hydrological, geological or environmental issues and any other relevant information related to the petroleum exploration that the Authority requests.

(10) The information shall be provided at the cost of the licensee.

(11) A licensee who undertakes exploration and production in more than one licence area shall keep separate records and reports for each area.
(12) A licensee has a responsibility to meet the requirements of the vendor development programme of the Authority.

**Grant of renewal of petroleum exploration and production licence**

48. (1) The Authority may grant the renewal of a licence on the conditions that it considers appropriate.

(2) The Authority shall not grant the renewal of a petroleum exploration and production licence if the licensee is in default, unless the Authority considers that special circumstances exist which justify the grant of the renewal despite the default.

(3) When granting the renewal of a licence, the Authority shall stipulate what part of the area is covered by the petroleum exploration and production licence.

**Transfer of petroleum exploration and production licence**

49. (1) A petroleum exploration and production licence shall not be transferred without the written consent of the Authority.

(2) A licensee may apply to the Authority in the prescribed form and manner, for the transfer of a petroleum exploration licence.

(3) The application shall be accompanied with the application for transfer of the person to whom the licensee intends to transfer the petroleum exploration licence in the prescribed form and the applicant shall pay the prescribed transfer fee.

(4) The Authority shall satisfy itself of the legal, technical and financial competence of the person to whom the petroleum exploration licence is to be transferred.

(5) The Authority shall not withhold consent to an application to transfer an exploration licence without cause unless it has reason to believe that the public interest or safety is likely to be prejudiced by the transfer.

(6) In this section “transfer of an exploration and production licence” includes the acquisition of control by the person to whom the petroleum exploration and production licence is transferred; and “control” as used with respect to any person, means the possession, directly or indirectly of the power to direct or cause the direction of the management by that person whether through the ownership of shares, voting, securities, partnership or other ownership interests, agreements by any other method.
(7) This section applies to any other direct or indirect transfer of interest or participation in the licence including other assignments of shareholdings and other ownership shares which may provide decisive control of a licensee possessing a participating interest in a licence.

(8) The transfer of a group of licensees’ right of ownership to fixed facilities shall not take place without the approval of the Authority.

(9) Subsection (8) applies to establishing a mortgage in a facility which, in accordance with a licence under this Act, has been placed subject to private property rights.

(10) The obligations of the vendor development programme of the Authority shall be met by a transferee when a licence is transferred.

Relinquishment of areas

50. (1) The licensee shall relinquish portions of an area to which the petroleum agreement relates in a phased manner after the exploration in the initial exploration period specified in the agreement or after an extension period.

(2) The area relinquished in accordance with the terms of a petroleum agreement shall, in so far as it is possible, be contiguous and compact and of the size and shape that will permit the effective carrying out of petroleum operations in the relinquished area and shall be in accordance with Regulations.

(3) The area to be retained at the end of the exploration period shall, in so far as possible, include the petroleum reservoirs for the discoveries of petroleum which may have been made in the licence area and shall be of the size and shape that the Authority shall approve, except as may otherwise be provided in accordance with the terms of a petroleum agreement.

(4) The Authority shall require the obligations stipulated in the petroleum exploration and production licence and the conditions on which it has been granted to be fulfilled before relinquishment.

Obligations and Duties of Licensees

Work practices for licensees

51. (1) A licensee shall carry out exploration and development operations in the exploration or development area in a proper and safe manner and in accordance with good oilfield practice and shall take reasonable steps to secure the safety, health, environment and welfare of persons engaged in those operations in the exploration or development area and

(a) control the flow and prevent the waste or escape into the exploration or development area of petroleum, gas or water;
(b) prevent the escape into the exploration or development area of any mixture of water or drilling fluid and petroleum or any other matter;

(c) prevent damage to petroleum bearing strata in any area not covered by the licence;

(d) keep separate, in the manner that the Authority may by notice in writing served on the licensee direct;

(i) each petroleum reservoir discovered in the exploration or development area; and

(ii) any source of water discovered in the exploration or development area;

(e) prevent water or any other matter entering a petroleum reservoir through the wells in the exploration or development area, except when required by, and in accordance with good oil field practices; and

(f) prevent the pollution of any water well, spring, stream, river, lake, reservoir, estuary or harbour by the escape of petroleum, salt water, drilling fluid, chemical additive, gas or any other waste product or effluent.

(2) A licensee shall treat pollution in accordance with the Environmental Protection Agency Act, 1994 (Act 490) and any other relevant legislation.

(3) A licensee shall submit a detailed report to the Authority on the technique to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed before the drilling of any well.

Licensees and natural gas

52. (1) Despite section 68 on the restriction on flaring and venting natural gas, the Authority may consent in writing to the flaring and venting of natural gas by a licensee in accordance with the terms of the instrument of consent,

(2) A licensee may flare natural gas in an emergency where flaring is required to safeguard the health and safety of persons in the exploration, development or production area or to prevent damage to the property of any person in the exploration, development or production area.

Abandonment of well

53. (1) A licensee shall submit to the Authority reasonable notice of the licensee’s intention to abandon a well.
(2) The closure or plugging of a well shall be carried out only with the prior consent in writing of the Authority in the manner approved by the Authority.

**Offences by licensees**

54. (1) A licensee who contravenes, fails or neglects to comply with a requirement of sections 51 and 53 commits an offence and is liable on summary conviction to a fine of not more than one million five hundred thousand penalty units.

(2) In proceedings on a prosecution for the offence, it shall be sufficient defence if the person charged proves that reasonable steps were taken promptly to comply with the requirements of section 51 and 53.

**Survey of wells**

55. (1) The Authority may by notice in writing served on a licensee, direct the licensee

(a) to carry out a survey of the position of a well, structure or equipment specified in the notice; and

(b) to submit a report in writing of the survey promptly to the Authority.

(2) Where the Authority is not satisfied with a report of a survey submitted by a licensee, the Authority may, by notice in writing served on the licensee, direct the licensee to promptly submit further information in writing in connection with the survey.

(3) Where the licensee fails or neglects to comply with the direction, under subsection (1), the Authority may cause the survey specified in the notice containing the direction to be carried out.

(4) The costs and expenses incurred in carrying out the survey are a debt due to the Authority and shall be recoverable in a court despite that the licensee concerned is convicted of an offence under subsection (5).

(5) A person to whom a direction is given to carry out a survey, who fails or neglects to comply with the direction, commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units.

**Measurement of petroleum obtained**

56. (1) A licensee shall measure, weigh or calibrate the petroleum produced and saved from a licence area by a method or methods customarily used in good oil field practices, approved from time to time by the Authority.
(2) A licensee shall not make an alteration in the method of measurement, weighing or calibration used by the licensee or in any appliance used for that purpose without the consent in writing of the Authority and the Authority may require that an alteration shall not be made except in the presence of a person authorised by the Authority.

(3) The Authority may direct that weighing, measuring or calibrating appliances be tested or examined on the occasions or at the intervals and by the means specified in the direction.

(4) If any measuring, weighing or calibrating appliance is found to be false or unjust after the consideration of a representation, the appliance shall be deemed to have existed in that condition during a period that is represented by half of the period from the last occasion when the appliance was tested or examined to the date when the appliance was found to be false or unjust and royalty and any other payments due to the Government, the Authority or the Ghana National Petroleum Company under the licence for that period shall be adjusted accordingly.

Notification of licensee meetings

57. (1) A licensee shall notify the Authority of a meeting between licensees not later than fourteen days before the proposed date of the meeting.

(2) The Authority may attend the meeting as an observer.

PART THREE

EXPLORATION, DEVELOPMENT AND PRODUCTION OPERATIONS

Exploration and drilling operations

58. The holder of a petroleum exploration and production licence shall (a) explore the relevant area, using geological, geophysical and any other acceptable petroleum industry methods of exploration for the purpose of identifying prospects for petroleum, and (b) within sixty days after the date of the grant of the licence, commence exploration operations which shall continue in accordance with the terms of the petroleum agreement.

Permit for acquisition of data

59. (1) A licensee shall not carry out a seismic survey in a licence area unless the licensee has been issued a permit for data survey by the Authority in a form and manner prescribed by the Authority.
(2) A permit shall be obtained in respect of each licence area.

**Appraisal programme and commerciality**

60. (1) A licensee shall provide for minimum drilling work and expenditure obligations to be fulfilled by the licensee in each phase of the exploration period.

(2) Where a licensee has made a discovery, the licensee shall notify the Authority in writing of the discovery within thirty days after the discovery.

(3) Within one hundred days after the date of discovery, the licensee shall indicate to the Authority in writing, whether in its opinion, the discovery merits appraisal or not.

(4) If the licensee indicates that the discovery does not merit appraisal, it shall be required to relinquish the discovery area.

(5) Where in the opinion of the licensee, the discovery merits appraisal, it shall submit an appraisal programme to the Authority for approval and shall proceed to implement the approved appraisal programme.

(6) At the end of the appraisal programme, the licensee shall submit a detailed report to the Authority indicating whether the discovery is commercial or not commercial.

(7) Where the Authority is satisfied with the drilling programme, it shall give its written approval for the drilling of the well together with any observation and comment it may make.

(8) The Authority may withhold its permission and shall give the licensee reasons for refusal if it is not satisfied with the programme.

(9) Where in the opinion of the licensee, the discovery is not commercial, the licensee shall relinquish the discovery area.

**Approval for identification of well**

61. (1) Each well shall be identified by a unique designation for which the licensee shall obtain the prior approval in writing of the Authority.

(2) The designation of a well shall in general consist of the name of the field in which the well is to be drilled, followed by the serial number which indicates the chronological order in the drilling sequence for the block.

(3) A field shall bear a name which shall in general refer to a historical event, geographical, topographical or other general feature in the vicinity of the field and may be chosen from the names of the flora and fauna.
(4) A field shall not be named after an individual without the specific permission in writing of the Authority, and in any case, a field shall not be named after a living person or after a person who is not a citizen of Ghana.

(5) The designation of a well may not be altered simply because a part of the hole was deviated or whip stocked or because the well was re-drilled to a lower target.

(6) Despite subsection (5)
   (a) where an original hole was plugged back and abandoned but another hole was drilled directionally to another target area, the new directional hole shall have a unique number if the new bottom is at least 100 metres from the bottom of the original hole;
   (b) other prefixes, suffixes or any other additional letters or characters may, with the prior approval of the Authority, be appended to the designation of a well.

(7) The licensee shall not change the designation, status or classification of a well or field without the approval in writing of the Authority.

**Permit to operate drilling rig**

62. A person shall not operate a drilling rig or other drilling equipment without
   (a) a valid licence granted by the Authority, and
   (b) the prior approval of the National Security Co-ordinator.

**Development**

63. (1) Where a licensee intends to develop a petroleum field, the licensee shall submit a plan for field development and operation to the Authority for approval in a format designed by the Authority.

   (2) The plan shall contain an account of economic aspects, resource aspects, technical, safety related commercial and environmental aspects, as well as information as to how a facility may be decommissioned and disposed of when the petroleum activities have ceased.

   (3) The field development plan shall also contain information on facilities for transportation or utilisation of petroleum.

   (4) A field development plan shall in addition, provide information about what other application for authorisation required by law has been submitted to the relevant authorities.

   (5) The Authority shall conduct an environmental assessment of the proposed field development plan and obtain an environmental permit prior to the approval of the development plan.
(6) Where the development is planned in two or more phases, the plan shall comprise the total development where possible.

**Approval of field development plan**

64. (1) The Authority may limit the approval of the field development plan to apply to individual phases.

(2) The licensee shall not commence substantial contractual obligations and construction work shall not commence until the plan for development and operation has been approved, except with the consent of the Authority.

(3) The licensee shall inform the Authority of any significant deviation or alteration of the terms and preconditions on which a plan has been submitted or approved and any significant alteration of facilities.

(4) The Authority may approve the deviation or alteration of the terms and preconditions on which a plan has been submitted or approved and any significant alteration of facilities or may require a new or amended plan to be submitted for approval.

**Unit development**

65. (1) Where the petroleum reservoir straddles two or more licensed blocks, the Authority shall direct the licensees in the blocks to enter into an agreement in writing to develop and produce the petroleum reservoir as a unit in accordance with regulations prescribed by the authority.

(2) In this section, “unit development”, means the co-ordination of operations for the recovery of petroleum being carried on or to be carried on in a development area in which there is part of the reservoir in one block and the other part in another block.

**Directions as to recovery of petroleum**

66. (1) The Authority may direct the holder of a petroleum exploration and production licence to take the necessary and practicable steps to recover petroleum in accordance with this Act or Regulations made under this Act where petroleum is not being recovered in a development area and the Authority is satisfied that there is recoverable petroleum in that area.

(2) Where the Authority is not satisfied with the steps taken or being taken by a holder of a licence to whom a direction has been given
the Authority may, by notice in writing served on the holder, give the holder directions for or in relation to the recovery of petroleum in the development area and the licensee shall comply with the directions.

(3) The Authority may direct the holder to take the necessary and practicable steps to increase the rate at which the petroleum is being recovered in a development area to a rate not more than at the capacity of the reservoir.

(4) The direction shall be by notice in writing served on the holder of the petroleum exploration and production licence.

(5) The Authority may by notice in writing served on the holder, give the holder directions for or in relation to the increase of the rate at which petroleum is being recovered in the development area where it is not satisfied with the steps taken or being taken by a holder of a licence to whom a direction has been given and the licensee shall comply with the directions.

(6) Nothing in this section or in any direction given under this section shall be construed to require the holder of a petroleum exploration and production licence to do anything which is not in accordance with good oil field practices or to refrain from doing anything which is in accordance with good oil field practices.

Production of petroleum

67. (1) The production of petroleum shall be done in such a manner that as much as possible of the petroleum in each individual petroleum accumulation or in several accumulations or in combination will be produced.

(2) The production of petroleum shall take place in accordance with prudent technical, environmental and sound economic principles and in a manner that waste of petroleum or reservoir energy is avoided.

(3) The licensee shall carry out continuous evaluation of the production strategy and technical solutions and shall take the necessary measures to achieve this.

Restrictions on flaring and venting

68. (1) A licensee shall not flare or vent petroleum in excess of the quantities needed for normal operational safety unless approved by the Authority.
(2) Disposal of gas by flaring or venting for normal operational safety shall require the consent of the Authority

(a) for the refinery of tail gas produced in refining crude liquid petroleum that does not include the treatment of crude for the sole purpose of enabling it to be safely stored or transported;

(b) where it is necessary in connection with the start-up or shutdown of a manufacturing plant;

(c) where it is necessary in the interest of the safety of the production equipment; or

(d) where it is necessary in order to comply with a requirement imposed by or under an enactment.

(3) In the case of an emergency, the licensee may vent or flare without the consent of the Authority, however a report giving the cause, time, duration and amount of gas flared or vented shall be lodged with the Authority within twenty-four hours after the occurrence and flaring shall cease immediately the emergency situation abates.

(4) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine of not more than three penalty units for each one thousand cubic feet of gas flared.

Production permit

69. (1) The Authority shall approve the production schedule and issue a production permit to the licensee before production commences.

(2) A production schedule other than that indicated in subsection (1) may be stipulated by the Authority if warranted by resource management considerations or other significant social considerations.

(3) The Authority shall stipulate for fixed periods of time, the quantity of the petroleum which may be produced or injected on application from the licensee.

(4) An application shall be submitted at the times and shall have the contents prescribed by the Authority in the Regulations.

(5) The Authority shall base the stipulation under subsection (4) on the production schedule on which the development plan is based, unless new information on the deposit or other circumstances warrants otherwise.

(6) Where the decision on the production schedule is that production shall be reduced in relation to the production schedule stipulated or approved, the Authority shall endeavour to apportion the reduction proportionately among the relevant petroleum deposits to a reasonable extent.
(7) The Authority may approve test production of a petroleum deposit and the duration, quantity and other conditions for a test production shall be determined by the Authority on application from the licensee where special considerations are to be given for long-term agreements for the supply of gas.

(8) The Authority may require a licensee to produce a report on field related matters, including alternative schemes for production and if applicable, the injection and the total recovery factor for various production schedules.

Restrictions on grant of petroleum exploration and production licence

70. (1) A petroleum exploration and production licence shall not be granted to an applicant unless
(a) the development plan of the applicant would ensure the most efficient, beneficial and timely use of the petroleum resource concerned;
(b) the development plan of the applicant takes proper account of good oil field practices and safety factors;
(c) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective production operations;
(d) the applicant would be able and willing to comply with the conditions on which a licence would be granted;
(e) the applicant's proposals for the employment and training of citizens of Ghana are satisfactory;
(f) the applicant's proposals as regards the procurement of goods and services obtainable within the country are in accordance with the vendor development programme;
(g) any relevant option has been properly exercised and given effect to or arrangements satisfactory to the Authority have been made for that purpose; and
(h) an environmental permit is obtained from the Environmental Protection Agency.

(2) A petroleum exploration and production licence shall not be granted to an applicant who is in default, unless the Authority considers that special circumstances exist which justify the grant of the licence despite the default.
(3) The Authority shall not refuse to grant a petroleum exploration and production licence on application duly made unless

(a) the Authority has given notice to the applicant of the intention to do so-

(i) giving particulars of the grounds for the intended refusal in the notice, and

(ii) stating in the notice a date before which the applicant may take appropriate action to remedy the default to amend the development plan or to make representations in respect of any matter referred to in the notice; and

(b) the applicant has not remedied the default before that date, made appropriate amendments to the development plan or by representations or otherwise dealt satisfactorily with the matters referred to in the notice.

(4) A petroleum exploration and production licence shall not be granted to an applicant in respect of a block which is comprised in a licence already granted to another person at the time the comprised application for the grant of the licence is made.

Co-ordination of activities across licence boundaries

71. (1) Where a petroleum deposit extends over more than one licence area with different licensees, efforts shall be made to reach agreement on the most efficient co-ordination of the petroleum activities in connection with the petroleum accumulated as well as on the apportionment of the petroleum reserves.

(2) Subsection (1) applies similarly when joint petroleum activities would be more efficient in the case of several petroleum accumulations.

(3) Agreements on joint exploration drilling shall be submitted to the Authority.

(4) Agreements on joint production, transportation, utilisation and cessation of petroleum activities shall be submitted to the Authority for approval.

(5) Where consensus on an agreement is not reached within a reasonable time, the Authority may determine how joint petroleum activities should be conducted, including the apportionment of the deposit.

Postponement of development or production

72. (1) The Authority may postpone petroleum development or production of a field in consultation with the licensee.
(2) The provisions related to extension of the licence, extension of the time limit set for the implementation of the work obligation and the payment of area fees during an extension period shall apply.

Natural resources other than petroleum resources

73. (1) A petroleum exploration and production licence shall not preclude the grant to a person other than the licensee of rights to undertake exploration for and production of natural resources other than petroleum resources if it does not cause unreasonable inconvenience to the petroleum activity conducted by a licensee under the petroleum exploration and production licence.

(2) The right to undertake exploration for and production of natural resources other than petroleum resources includes scientific research.

(3) Where natural resources other than petroleum have been discovered in a licence area and the continued activities in other natural resources cannot take place without causing unreasonable inconvenience to the petroleum activity conducted by the licensee under the petroleum exploration and production licence, the Authority shall decide the extent to which any of the activities shall be postponed in consultation with the relevant authorities.

(4) The Authority shall take into account
   (a) the nature of the discovery made,
   (b) investments undertaken,
   (c) the stage at which the activities have reached, or
   (d) the duration and extent of the activities and their economic and social impact in relation to the activities conducted in accordance with the petroleum exploration production licence when postponing an activity.

(5) A licensee whose activities have been postponed may apply for extension of the licence for a period of time corresponding to the postponement.

(6) Where the postponement only applies to a limited part of the activities which may be conducted in accordance with the licence, the Authority may
   (a) stipulate a shorter period for the extension
   (b) refuse the extension, or
   (c) grant the extension only for part of the area to which the licence applies.
(7) Where the postponement makes the work obligation imposed under the licence impossible to accomplish within the stipulated time limit, the time limit shall be extended.

(8) Where the petroleum activities are postponed, the area fee for the extension shall be waived or reduced according to the Authority’s discretion and fees paid in advance shall not be refunded.

(9) Where the postponement is of a particularly long duration, the relevant licence may be revoked.

(10) The Authority may direct that the party authorised to maintain activities shall wholly or partly refund the costs incurred and other reasonable costs to the party that has to postpone or curtail activities.

Testing of petroleum

Inspection and sampling of petroleum

74. (1) The Authority may, by notice in the Gazette, authorise an officer by name or by virtue of office to enter any place where petroleum is being transported, stored, produced, refined or blended and inspect or take samples for testing of any petroleum found in that place.

Purpose of testing and restrictions

75. (1) The licensee shall submit to the Authority, petroleum exploration, development and production information on

(a) the volume of petroleum produced and on the composition of the petroleum including test production and the extraction of petroleum in connection with formation testing;
(b) use, injection, cold venting and burning of petroleum and the information shall, as far as possible, be based on metering.

(2) Volumes and other results of monitoring as well as monitoring procedures on petroleum exploration, development and production shall be submitted to the Authority.

Testing officer

76. (1) The Authority may authorise an officer by name or by virtue of office to test a petroleum sample which has been taken under this Act, or which may have been submitted to the officer for testing by any person.

(2) The Authority may grant certificates of the results of the test.
Manner of testing

77. Tests of petroleum shall be made with a test apparatus in respect of which there is a valid certificate and shall have due regard to any correction specified in that certificate and be carried out in accordance with rules by or under the authority of the Authority.

Certificate of testing

78. (1) The testing officer shall issue a certificate in the prescribed form after taking samples of petroleum.

(2) The testing officer shall on request give the licensee a certified copy of the certificate, on payment of the prescribed fee and the certified copy of the certificate may be produced in court as proof of the contents of the original certificate.

National requirements and local pricing

Supplies to cover national requirements

79. (1) The Authority may direct that the licensee shall make deliveries from the production of the licensee to cover national requirements.

(2) The Authority may further direct to whom the petroleum shall be delivered.

(3) The price paid for the petroleum delivered shall be determined in accordance with the Act.

Supplies in the event of war, or threat of war

80. (1) In the event of war, threat of war or other extraordinary crisis, the Authority may direct that a licensee shall place petroleum at the disposal of this country.

(2) In the event of a situation under this section, the Authority shall determine the price.

Pricing of petroleum

81. (1) The market price for petroleum produced in accordance with this Act shall be determined at the end of each month in a currency determined by the Authority.

(2) Any disagreement concerning the determination of the market price shall be first considered by a pricing committee comprising two representatives from the Government and two representatives of the licensee.
(3) Where the pricing committee cannot reach a unanimous decision within thirty days after the end of the relevant month, either party may refer the matter for determination by an expert or arbitrator agreed on in accordance with the Alternative Dispute Resolution Act, 2008.

(4) Where the matter has been referred to an arbitrator or expert:
   (a) the resolution shall not take longer than thirty days,
   (b) the market price for the preceding months shall apply, and
   (c) adjustments shall be made in the following month based on the decision of the expert or arbitrator.

Transportation of petroleum

Licence to install and operate facilities for transportation and storage of petroleum

82. (1) The Authority may grant a licence on specified conditions to install and operate facilities when the right to install and operate facilities for the transportation and storage of petroleum does not follow from an approved plan for development and operation under section 64.

   (2) An application for a licence shall be submitted to the Authority, and shall contain a plan for the construction, placing, operation and use of facilities including shipment facilities and petroleum pipelines.

   (3) The Authority may grant the licence for a fixed period of time and the licence may be extended on application to the Authority.

Landing of petroleum

83. The Authority shall determine the manner and place in which petroleum shall be delivered.

Licence for transport of petroleum by pipeline

84. (1) A person shall not transport petroleum by pipeline except in accordance with a licence issued by the Authority for petroleum transportation, processing and refining.

   (2) Where a pipeline extends beyond the borders of Ghana, its licensing will be handled in accordance with section 146.

Survey of pipeline routes

85. (1) The licensee shall submit the following information to the Authority on processing, refining and transportation;

   (a) the purpose of the surveys,
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(b) the time, duration and place of the surveys,
(c) the survey methods, and
(d) the depth to which drilling will be carried out,
not later than five weeks before the commencement of surveys of pipeline routes and other soil surveys.

(2) The Authority may exempt the time limits required for processing, refining and transportation.

Right to construct, operate and maintain pipeline

86. (1) The licensee may take and transport to an ocean port or other point of loading for export, petroleum to which the licensee is entitled and in connection with that, may construct, operate and maintain pipelines, pumping stations, storage and related seaboard terminals or other facilities.

(2) The construction, financing, operation and maintenance of an export pipeline, pumping station and other facility shall be carried on through the Company which is responsible for the handling and transportation of petroleum from the delivery point in Ghana to a point of loading.

(3) The operations of the Company will not be included within the meaning of petroleum operations under this Act and any related licences.

(4) Any field development plan submitted to the Authority by a licensee shall include the licensee's proposals as regards the arrangements for the transportation to the terminal of each of the parties' production entitlements under this Act.

Pipeline tariffs

87. (1) Where the licensee has transportation arrangements that involve the formation of a separate pipeline company, the licensee's application for a licence to transport petroleum by pipeline shall, unless otherwise agreed be consistent with the following principles:

(a) each party shall assume and pay the transportation tariffs charged by the pipeline company related to their respective shares of the petroleum transported, where the obligation may, in the case of the nominee or the Government, be discharged by each of the nominees with the Government foregoing in favour of the pipeline company, a portion of their respective production entitlements transported equal
in value to the tariffs due in respect of the transportation of
the production entitlements from the delivery point to the
freight on board seaboard terminal point of export;

(b) the transportation tariff charged, to the extent that the parties
are able to determine, shall be set at a level at which the
pipeline company will cover the costs of constructing,
financing, operating and maintaining the export pipeline
and related facilities together with a reasonable return which
will be determined taking into account the risks assumed by
shareholders of the pipeline company in outlaying the funds
for the construction, operation and maintenance of the
facilities and the cost of borrowing the funds as are required;
and

(c) in the case of proposals by a licensee for the initial
construction of the export pipeline, the proposals shall ensure
that the pipeline and related facilities are of sufficient design
capacity to handle and transport to the seaboard terminal
or other delivery point, the estimated production
entitlements of all parties from the licence area and if at any
time, the throughput capacity of the facilities should be
insufficient to handle and transport the respective production
entitlements of the parties, available capacity shall be shared
between the parties in the proportion which each party's
production entitlement bears to the total quantity of
production which would otherwise be available for
transportation.

(2) The Government or its nominee are to be fully involved in the
determination of the tariff charges for the pipeline.

(3) Transportation tariff charges of the Company to the delivery
point shall be allowable contract expenses under this Act.

(4) Transportation tariff charges of the pipeline company and any
costs incurred beyond the delivery point shall not be allowable contract
expenses under this Act.

Licence to transport petroleum other than by pipeline

88. (1) A licence for the transport of petroleum other than by pipeline
shall be issued by the Authority for processing, refining and transportation.

(2) The licence shall be in a form prescribed by Regulations and
shall be subject to the conditions specified in the licence.
Licence to store petroleum

89. (1) A licence for the storage of petroleum shall be issued by the Authority for processing, refining and transportation.

(2) The licence shall be in a form prescribed by Regulations.

Requirement to use approved methods and practices for confining petroleum obtained

90. A licensee shall use approved methods and practices acceptable to the Authority for confining the petroleum obtained from the relevant area in tanks, gasholders, pipes, pipelines or other receptacles constructed for that purpose and except as a temporary measure for which the prior consent of the Authority has been obtained

(a) during an emergency, or

(b) for test purposes in a remote area,

petroleum shall not be placed or kept in an earthen reservoir.

Decommissioning plan

91. (1) A licensee shall decommission the facilities used in petroleum activities upon the cessation of petroleum activities.

(2) A licensee shall submit a decommissioning plan to the Authority before a development plan is approved or a specific licence to install and operate facilities is approved.

(3) The decommissioning plan shall contain the information and evaluations considered necessary by the Authority.

(4) The decommissioning plan shall contain proposals for continued production or shutdown of production and disposal of facilities.

(5) The disposal may constitute further use in the petroleum activities, other uses, complete or part removal or abandonment.

(6) The Authority may require further information and evaluations or may require a new or amended decommissioning plan.

(7) Where a licence is revoked, this section shall apply to the extent that is suitable.

(8) The licensee shall provide a decommissioning environmental safety plan to the Environmental Protection Agency through the Authority.
decommissioning fund

92. (1) There shall be established a decommissioning fund for each development and production area for the purpose of costs related to the implementation of a decommissioning plan.

(2) Contributions into the decommissioning fund shall commence from the calendar quarter in which ever of the following situations first occurs:

(a) the petroleum produced has reached fifty percent of the aggregate recoverable reserve as determined in an approved development plan and any successive reappraisal of the initial recoverable reserves; or

(b) five years from the date of commencement of production; or

(c) on notice of surrender of the licence.

(3) For each subsequent calendar quarter in which petroleum is produced, the Authority shall charge a portion of the estimated future cost for decommissioning.

(4) The amount to be deposited in the decommissioning fund for each calendar quarter shall be charged as operating costs subject to the cost recovery limitation stipulated in the petroleum exploration and production licence.

(5) The contributions into the decommissioning fund shall be paid into an Escrow Account opened at a bank agreed between the licensee and the Authority.

(6) The licensee shall, in addition, take an insurance policy to make up for any shortfall in the decommissioning fund.

Notification of termination of use

93. The licensee shall notify the Authority of the time of termination if the use of the facility is expected to terminate permanently before the expiry of the licence.

Disposal of decommissioned facilities

94. (1) The Authority may make a decision related to the disposal of decommissioned facilities and shall stipulate a time limit for the implementation of the decision.

(2) In the evaluation on which the decision is based, emphasis shall, among other factors, be placed on technical, safety, environmental and economic aspects as well as on the consideration for other users.
(3) The Authority may stipulate specific conditions in connection with the decision.

(4) The licensee and the owner of a facility are under obligation to ensure that a decision related to disposal is carried out, unless otherwise decided by the Authority.

(5) The obligation to carry out the decision related to disposal is applicable even if the decision is made or is to be implemented after the expiry of the licence.

(6) Where the ownership of a facility has been transferred the licensee and the owners are jointly under an obligation to make sure that a decision related to disposal is carried out, unless otherwise determined by the Authority.

(7) Where the decision is to the effect that the facility shall continue to be used in petroleum activities or for other purposes, the licensee, owner and user are jointly obliged to ensure that future decisions on disposal are carried out, unless otherwise determined by the Authority.

(8) Where a decision related to disposal is not carried out within the stipulated time, the Authority may take the necessary measures on behalf of the licensee or other responsible party for their account and risk.

Removal of property by licence holder

95. (1) Where a licence has been surrendered or has expired, or has by reason of relinquishment ceased to comprise an area subject to the licence, the Authority by notice in writing served on the person who is or was the holder of the licence, may direct that person, within the period specified in the notice to

(a) remove or cause to be removed from the area which was, but no longer is subject to the licence, the property brought into that area by any person engaged or concerned in the operations authorised by the licence, or to make arrangements that are satisfactory to the Authority with respect to that property;

(b) plug or close off, to the satisfaction of the Authority, all wells made in that area by any person engaged or concerned with those operations; and

(c) make provision, to the satisfaction of the Authority, for the conservation and protection of the natural resources in that area.
(2) The direction given shall be consistent with good oil field practices and nothing in this section or in any direction shall be construed as requiring a person who is or was the holder of a licence to do anything which is not in accordance with good oil field practice or to refrain from doing anything which is in accordance with good oil field practice.

(3) A person to whom a direction is given who refuses or fails to comply with the direction within the period specified in the notice concerned, commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units.

Removal and sale of property by the Authority

96. (1) The Authority may

(a) do or cause to be done all or any of the things required by the direction for decommissioning;
(b) remove or cause to be removed, all or any of the property from the area concerned;
(c) dispose of all or any of the property from the area concerned.

(2) Where the Authority has served or caused a copy of the notice which the direction was given to be served on a person who is believed to be the owner of the property or part of the property, the Authority may sell or cause to be sold by public auction or otherwise all or any of the property that belongs to that person.

(3) The Authority may deduct from the proceeds of a sale of property

(a) the costs and expenses incurred by the Authority in relation to that property;
(b) the costs and expenses incurred by the Authority in relation to the doing of any thing required by a direction despite the fact that the person has been convicted of an offence;
(c) the fees or amounts due and payable by the person for a licence under this Act;
(d) the costs and expenses incurred by the Authority in relation to the removal, disposal or sale of property, where the cost is a debt due by the owner of the property to the Government; and
(e) if incurred in relation to the doing of anything to be done by a person who is or was a licensee where there is a debt due by that person to the Government which may be recovered in Court.
(4) An action shall not lie in respect of the removal, disposal or sale of property under this section by a licensee.

Liability
97. (1) A person under obligation to implement a decision related to disposal of a decommissioned facility is liable for damage or inconvenience caused wilfully or negligently in connection with disposal of the facility or other implementation of the decision.

(2) Where the decision is abandonment, the licensee or owner is liable for damage or inconvenience caused wilfully or inadvertently in connection with the abandoned facility, unless otherwise decided by the Authority.

(3) Where more than one party is liable, the parties shall be jointly and severally liable for financial obligations, unless otherwise determined by the Authority.

(4) In the event of a decision for abandonment, it may be agreed between the licensees and the owners on one side and the Court on the other side that future maintenance, responsibility and liability shall be taken over by the Court based on agreed financial compensation.

Encumbrances
98. (1) Where the Government requires removal of a facility, any lien, charge or encumbrance on the facility shall lapse.

(2) Where the Government takes over the facility, the rights of use established with consent of the Authority shall remain in force except where the Authority determines otherwise.

Assumption of ownership of facilities by Government
99. (1) The Government may assume ownership of the licensee's fixed facility when a licence expires, is surrendered or revoked or where its costs have been fully recovered or when the use of the facility has been terminated permanently.

(2) The Authority in consultation with the relevant authorities shall determine the compensation to be paid for the assumption of ownership by Government if any is due.

(3) In the event of takeover of a facility subject to private property rights, compensation shall be paid where necessary to the extent determined by the relevant authorities.

(4) Where the Government has confirmed that it wishes to exercise its right to take over fixed facilities, the takeover shall take effect six months
for the time when the licence has expired, has lapsed for other reasons, the use of the facility has been terminated permanently, unless otherwise agreed or decided by the Authority.

(5) Where the Government takes over the facility with appurtenances adequate maintenance to ensure functional capability for operation shall be provided by the Authority.

(6) A dispute as regards subsection (5) and, where applicable, the compensation to be paid to the Government for lack of maintenance shall be determined by appraisal by the relevant authority.

(7) For the avoidance of doubt, irrespective of the assumption of ownership by Government of licensee’s facilities, the responsibility to commission still lies with the licensee.

The Republic and private participation, vendor development programme in petroleum activities

Participation of the Republic in petroleum activities

100. (1) The Republic shall participate in petroleum activity through a Company.

(2) The Company shall be a party to each licence granted under this Act.

(3) The licence shall specify the participating interest of the Company in petroleum activities.

Interest of the Republic

101. (1) The Republic shall have an initial interest of at least ten percent in the petroleum activity under each licence which shall be

(a) a carried interest as regards exploration and development operations; and

(b) a paying interest as regards production operations.

(2) In addition to the initial interest, the Republic has the option to acquire an additional interest in the petroleum activity under each licence. The additional interest shall be a paying interest as regards the development and production activity.

Transfer of assets to the Ghana National Petroleum Company

102. (1) A licence shall provide for the transfer to the Company of all physical assets purchased, installed or constructed by the contractor for petroleum operations the cost of which has been included in the exploration expenditure, but the licensee shall have the use of the assets for the
purposes of operations under a petroleum agreement and shall remain liable for maintenance, insurance and any other cost associated with the use.

(2) Without limiting subsection (1), after the termination of petroleum operations in an area, the licensee shall give the Company an option to acquire the movable and immovable assets used for the petroleum operations.

(3) This section does not require the licensee to transfer to the Company equipment or any other assets rented or leased by the licensee which is imported to Ghana for use in petroleum operations and subsequently re-exported from the country which is of the type customarily leased for use in accordance with petroleum industry practice.

Provision of goods and services by national entrepreneurs

103. (1) The Authority and the licensee shall ensure that a citizen of Ghana participates in the provision of goods and services under a petroleum agreement.

(2) In the first year after the commencement of this Act, the participation of a citizen of Ghana shall be at least ten percent by value in the provision of goods and services.

(3) The percentage contribution shall increase to at least twenty percent in the second year and shall increase by at least ten percent each year after that.

(4) The citizen of Ghana shall
   
   (a) have adequate resources and capacity to add value to the petroleum activity carried out by the licensee; and
   
   (b) be approved by the Authority in accordance with criteria prescribed by the Authority in Regulations.

(5) The licensee shall give priority to the purchase of local products and services from citizens of Ghana where they are competitive in terms of price, quality and timely availability.

(6) Where a foreign entity is to provide goods and services for the licensee, the foreign entity shall operate from Ghana and partner with a company owned by a citizen of Ghana.

(7) “Operate from Ghana” means that the foreign entity shall be incorporated under the Companies Act.
training and technology transfer

104. (1) A licence shall include a clearly defined training programme for the local employees of the licensee, which may be carried out in or outside the country and may include scholarships and other financial support for education.

(2) A licence shall include, where practicable, a commitment by the licensee to maximise knowledge transfer to citizens of Ghana and to establish in the country any necessary facility for technical work, including the interpretation of data.

employment and training of citizens of Ghana

105. (1) The licensee shall, within twelve months after the grant of the licence, submit to the Authority, a detailed programme for recruitment and training of citizens of Ghana for approval.

(2) The programme shall provide for the training of citizens of Ghana in all aspects and phases of petroleum activity.

(3) Without limiting subsection (2) the programme shall ensure that as regards

(a) management staff, at least twenty percent of the management staff are citizens of Ghana from the start of petroleum activities of the licensee and the percentage shall increase to at least eighty percent within five years after the start of the petroleum activities;

(b) technical staff, at least thirty percent of the technical staff are citizens of Ghana from the start of petroleum activities of the licensee and the percentage shall increase to at least eighty percent within five years after the start of petroleum activities; and

(c) other staff, one hundred percent are citizens of Ghana.

(4) A scholarship scheme prepared and any scholarship proposed to be awarded by the licensee not related to the oil industry generally shall be submitted to the Authority for approval.

(5) The licensee shall publicly advertise and give preference to the employment of citizens of Ghana who have the requisite qualification, competence and experience required to carry out the required work.

(6) Where a programme or a scholarship proposed to be awarded as been approved by the Authority it may not be varied without the permission of the Authority.
(7) Quarterly reports on the execution of the programme under this section shall be submitted by the licensee to the Authority.

**Immigrant quotas**

106. The Authority shall determine the immigrant quota for upstream and midstream petroleum activities.

**Registration and mortgaging**

**Registration of licences**

107. (1) There is established by this Act, a register of licences to be known as the Petroleum Register.

(2) The Authority shall keep and maintain the Petroleum Register.

(3) The Authority may issue Regulations for
   (a) the arrangement and maintenance of the Register,
   (b) notification of licensees in the event of transfer, any alteration in connection with the licence, and
   (c) other aspects of the procedure for registration.

**Mortgaging of licences**

108. (1) The Authority may consent to the mortgage by the licensee of the whole licence or the licensee's share of the licence as part of the financing of the activities associated with the licence.

(2) The Authority may in special cases, permit the financing to include an activity under a licence other than the one which is mortgaged.

(3) Mortgaging will gain legal validity by registration in the Petroleum Register.

**Scope of mortgage**

109. (1) The mortgage of the whole licence comprises the rights which are in respect of the licence and any other right of the mortgagor in connection with any activity carried out in accordance with the licence.

(2) The mortgage does not comprise a right in relation to a facility registered in another register of mortgages or rights in relation to a facility that is subject to private property rights.

(3) The Mortgages Act 1972 (NRCD 96) applies to mortgages under this Act.

**Rights of mortgagee**

110. (1) The Authority shall give a mortgagee notice in writing of the revocation or surrender of a licence or of a participating interest in a
licensure together with the information that the mortgage will lapse where a forced sale is not requested timeously.

(2) Where a forced sale is requested in time, a new licence shall not be granted to the detriment of the mortgagee's rights.

(3) The mortgagee's rights shall not be
(a) transferred or mortgaged,
(b) made the subject of distraint, arrest, or a debt settlement proceeding, or
(c) included in the mortgagee's estate in bankruptcy without the consent of the Authority.

Liability for damage due to pollution

**Definition of pollution damage**

111. (1) In section 113 "pollution damage" means damage or loss caused by pollution as a result of effluence or discharge of petroleum from a facility, including a well.

(2) A vessel used for stationary drilling is a facility.

(3) A vessel used for the storage of petroleum in conjunction with a production facility is a part of the facility and includes a vessel used for the transportation of petroleum during the time when loading from the facility takes place.

**Oil spill response fund**

112. (1) There shall be established an oil spill response fund managed by the Authority and licensees.

(2) Licensees shall make contributions into the oil spill response fund as determined by the Authority.

(3) The moneys from the oil spill response fund shall be used to clean up oil spills resulting from the operations of the licensees.

(4) Contributions into the oil spill response fund shall not count as petroleum cost or cost oil as the case may be and shall not limit the international obligation of the licensee to insure the petroleum operations against oil spill pollution.

**Scope and applicable law**

113. (1) Section 114 applies to liability for pollution damage from a facility when the damage occurs in this country, affects a Ghanaian vessel or a Ghanaian facility in adjacent areas.

(2) The Authority may by agreement with a foreign state, issue rules that relate to liability for pollution damage caused by any petroleum
activity under this Act subject to good oil field practices and the Environmental Protection Agency Act, 1994 (Act 490).

(3) Rules made shall not restrict the right to compensation provided in respect of an injured party over whom a Ghanaian Court has jurisdiction.

**Liable party and extent of liability**

114. (1) The licensee is liable for pollution damage without regard to fault.

(2) Where there are several licensees under a licence and one of them is the operator, any claim for compensation shall initially be directed to the operator.

(3) Where any part of the compensation is left unpaid on the due date by the operator, it shall be covered by the other licensees in accordance with their participating interest in the licence.

(4) Where it is demonstrated that an inevitable event of nature, act of war, exercise of public authority or a similar force majeure event has contributed considerably to the damage under circumstances beyond the control of the liable party, the liability may be mitigated to the extent it is reasonable, with particular consideration to the scope of the activity, the situation of the party that has sustained damage and the opportunity for taking out insurance on both sides.

(5) In the event of pollution damage from a facility located in an area outside this country, the party with approval from the competent authority to conduct any activity to which the facility is connected is deemed to be a licensee.

**Undertaking petroleum activities without a licence**

115. (1) Where pollution damage occurs in a petroleum activity and the activity has been conducted without a licence, the party that has conducted the petroleum activity is liable for the damage, regardless of fault.

(2) The same liability rests on any other person who has taken part in the petroleum activity and who knew, or should have known that the activity was conducted without a licence.

**Channeling of liability**

116. (1) The liability of a licensee for pollution damage may only be claimed in accordance with this Act.
(2) Liability for pollution damage cannot be claimed against a person:
   
   (a) who by agreement with a licensee or that licensee’s contractors, has performed a task or work in connection with a petroleum activity,
   
   (b) who has manufactured or delivered equipment to be used in a petroleum activity,
   
   (c) who undertakes any measure to avert or limit pollution damage, or to save or rescue valuables which have been endangered in connection with the petroleum activity, unless the measure performed conflicts with any prohibitions imposed by a public authority or is performed by a person other than a public authority in spite of the express prohibition by the operator or the owner of the valuables threatened,
   
   (d) employed by a licensee or by a person referred to in paragraphs (a), (b) or (c).

(3) Where a licensee has been ordered to pay compensation for pollution damage, but fails to pay within the time stipulated by the judgment, the party that has sustained damage, may bring an action against the party that has caused the damage to the same extent as the licensee may bring an action for recourse against the party that caused the damage.

(4) A licensee may claim compensation from the party causing pollution damage to the licensee to the same extent as the licensee may bring an action for recourse against the party causing the damage.

117. (1) A licensee shall not claim recourse for pollution damage against a person who is exempted from liability unless that person or any other person in his or her service has acted willfully or by gross negligence.

   (2) Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

   (3) An agreement on further recourse in respect of a person against whom liability cannot be claimed shall be invalid.

118. Legal action for compensation for pollution damage shall be brought before the Court within the jurisdiction where the effluence or discharge of petroleum has taken place or where damage has been caused.
Restrictions and rights of others

119. (1) A holder of a licence shall not exercise any right
(a) in respect of land dedicated or set apart for a public purpose,
a place of burial, or land over which a right for exploration
has been granted without the written consent of the
Authority;
(b) without the written consent of the land owner in respect of
(i) any land located within two hundred metres of any
inhabited, occupied or temporarily unoccupied
house or building;
(ii) any land within fifty metres which has been cleared
or ploughed or otherwise prepared for the cultivation
of agricultural crops or on which agricultural crops
are growing;
(iii) any land from which during the preceding year
agricultural crops have been reaped; or
(iv) any land which is the site of or is within one hundred
metres of a cattle dip, tank dam or water used by a
human being or cattle, subject to subsection (2);
(c) in a national wildlife reserve without the written consent of
the Minister responsible for Wildlife;
(d) in a forest reserve without the written consent of the Minister
responsible for Forestry; and
(e) in an environmentally sensitive area as prescribed in
Regulations made under the Environmental Protection

(2) Where consent is unreasonably held in the circumstance
referred to in subsection (1) b(iv), the Authority may authorise the holder
of the licence to exercise all or any of the rights under the licence on the
land subject to conditions determined by the Authority.

(3) A person who exercises a right under a licence shall produce
evidence of the possession of the licence to the land owner of the land on
which the right is to be exercised when that person asks for it and if the
person fails to do so, the person shall be treated as a trespasser.
Rights to surface activities
120. (1) The land owner of any land in an exploration or development area shall retain the right to graze animals, to cultivate the surface of the land, or to fish, if the grazing, cultivation or fishing does not interfere with the exploration or development operations of the area.

(2) In the case of a development area, the land owner of any land within the area shall not erect a building or structure on the land without the written consent of the registered holder of the licence and where the consent is unreasonably withheld, the written consent of the Authority.

(3) The rights conferred by a licence shall be exercised reasonably so as not to affect the interest of any land owner of the land on which the rights are exercised and exploration or development operations shall be carried out in a proper manner.

Rights to subsurface activities
121. The land owner of any land or the holder of a licence in an exploration or development area, shall retain the right to subsurface activity if the subsurface activity does not interfere with exploration or development operations in the area.

Acquisition of exclusive rights
122. (1) A holder of a petroleum exploration and production licence (a) may, if the exclusive use of the whole or any part of a block in a development area is required; and (b) shall, if so requested by the land owner of any part of such area; obtain a lease of the land or other right to use it on terms in respect of the rent to be paid, the duration of the lease or the extent of area of the land to which the lease or other right relates and between the holder and the land owner or, failing an agreement, as may be determined by arbitration.

(2) In assessment of the rent payable (a) account shall be taken of the compensation necessary for the termination of lawful occupancy in accordance with any other enactment; (b) an arbitrator shall determine the matter in relation to current values at the time of the arbitration prevalent in the area to which the development licence relates for land of a similar nature to the land concerned but without taking into account any enhanced value due to the presence of petroleum.
Compensation for disturbance of rights

123. (1) A licensee shall, on demand by the land owner of any land, pay the land owner fair and reasonable compensation for the disturbance of rights and for any damage done to the surface of the land due to exploration or development operations, and shall, on the request of the owner of any crops, tree, building or work damaged during the course of the operations, pay compensation for the damage except that

(a) payment of rent or compensation to a land owner for termination of occupancy shall be deemed to be adequate compensation for deprivation of the use of the land to which the rent or compensation relates;

(b) in the assessment of compensation payable, account shall be taken of any improvement effected by the holder of the licence or by the predecessor in title of the benefit that will enure to the land owner of the land;

(c) the basis on which compensation is payable for damage to the surface of the land shall be the extent to which the market value of the land on which the damage occurred has been reduced by reason of the damage, but without taking into account any enhanced value due to the presence of petroleum.

(2) Where the holder of a licence fails to pay compensation or if the land owner is dissatisfied with the compensation offered, the dispute shall be determined by arbitration.

(3) Despite any other enactment, a claim for compensation shall be made within four years after the date when the claim accrued, failing which, the claim shall not be enforceable.

Handling of claims

124. (1) A claim made under section 119-123 shall be dealt with by the Authority.

(2) The Authority shall issue Regulations that relate to the procedures and provisions regarding the handling of administrative appeals.

(3) A decision made by the administrative appeal body may be brought before the Court, within two months after the party in question has been notified of the decision.

(4) A claim upheld by the Authority or the administrative appeal body is a ground for enforcement of distraint after the expiration of the time limit for lodging a complaint or the time limit given in subsection (3).
(5) The Authority may grant reinstatement where the deadline in subsection (3) has expired.

(6) A person may appeal against a decision made by the administrative body regarding the question of reinstatement.

Safety

125. (1) Petroleum activity shall be conducted in a manner to enable a high level of safety to be maintained and further developed in accordance with technological developments.

(2) A licensee shall

(a) identify any hazard and evaluate the risk associated with the work carried out in the course of that petroleum activity carried out under the licence that constitutes a hazard to the health of a person employed for purpose of that work and the steps that need to be taken to comply with the provisions of this Act and Regulations made under it;

(b) as far as reasonably practicable, prevent the exposure of any person to the hazards concerned or, where prevention is not reasonably practicable, minimize the exposure.

Safety precautions

126. (1) An operator shall take the precaution necessary to—

(a) ensure the safety of a person employed or otherwise present at or in the vicinity of an installation;

(b) protect the environment and natural resources, and

(c) prevent pollution.

(2) An operator shall ensure that the person is duly informed of the precautions.

Emergency preparedness

127. (1) A licensee and any other participant engaged in petroleum activity shall at all times maintain efficient emergency preparedness with a view to dealing with accidents and emergencies which may lead to the loss of lives or personal injury, pollution or major damage to property.

(2) The licensee shall ensure that the necessary measures are taken to prevent or reduce any harmful effect, including the measures required to return the environment to the condition it had been in before the accident occurred.
(3) The Authority may make Regulations for emergency preparedness and may order co-operation between several licensees in matters of emergency preparedness.

(4) Where an accident and emergency occurs, the Authority may decide that another party make available the necessary contingency resources for the account of a licensee.

**Emergency preparedness against deliberate attacks**

128. (1) The licensee shall initiate and maintain security measures to avoid any deliberate attack against a facility and shall at all times have a contingency plan to deal with an attack.

(2) The licensee shall place facilities at the disposal of public authorities for drills and shall, where necessary participate in the drills.

(3) The Authority may order the implementation of the security measures.

**Safety zones**

129. (1) There shall be a safety zone in each facility handling petroleum activity unless otherwise determined by the Authority.

(2) In cases of accidents and emergencies, the Authority may establish or extend a safety zone.

(3) The extent of a zone shall be determined by the Authority except that where a safety zone extends across the border line with another state the Authority shall consult with the Ministry responsible for Foreign Affairs.

(4) The Authority may direct that

(a) there shall be a safety zone in the country, even if the facility in question is located outside the country;

(b) a zone that corresponds to the safety zone shall be established within a reasonable time before the placement of a facility; or

(c) there shall be a safety zone around and above abandoned or dumped facilities or a part of the facility.

(5) An unauthorised vessel, vehicle, hovercraft, aircraft, fishing gear or other object shall not be present in any zones.

(6) The Authority may issue any Regulations considered necessary to secure access for a facility.

**Suspension of petroleum activities**

130. (1) Where an accident or emergency occurs, the licensee or any other person responsible for the operation and use of the facility shall to the extent necessary, suspend the petroleum activity for as long as the requirement to prudent operations warrant the suspension.
(2) Where special circumstances exist, the Authority may order the petroleum activity to be suspended or impose a particular condition to allow the continuation of the activity.

(3) Where the Authority makes an order based on a circumstance not caused by the licensee, the Authority may, on application extend the period of time for which the licence applies and, to a reasonable extent, mitigate the obligation of the licensee.

requirements to safety documentation
131. Where the licensee prepares a plan with a view to approval the licensee's documentation for implementation of work shall be submitted to the Authority as a part of the regulatory safety supervision.

health, safety and environmental standards
132. The licensee shall meet the health, safety and environmental standards provided by the Authority in consultation with the relevant agencies.

Information and documentation
formation, reports and records
133. (1) The holder of a licence shall
(a) keep at an address in this country notified to the Authority, full and accurate records of particulars of the following matters;
(i) the drilling, operation, deepening, plugging or abandonment of wells;
(ii) the strata and subsoil through which wells are drilled;
(iii) the casing inserted in wells and any alteration to the casing;
(iv) any petroleum, water and other economic mineral or dangerous substances encountered;
(v) any significant discovery of any mineral;
(vi) the areas in which any geological or geophysical work has been carried out; and
(vii) any other records that the Authority may require; and
(b) notify the Authority of the records.

(2) The holder of a licence shall keep at the address of business accurate geological maps and plans, geophysical records, and interpretations that relates to the area subject to the licence.
(3) The holder of a licence shall give to the Authority in the form determined by the Authority

(a) at half-yearly intervals to commence six months after the grant of the licence
(ii) a summary of the geological, geophysical and engineering work carried out;

(iii) copies of maps, tapes or reports and any other geological and geophysical data prepared by the holder;

(b) within sixty days after the end of each year of the period of the licence
(i) a record that describes the results of the exploration and production operations carried out by the holder in the year concerned; and

(ii) an estimate, if any, of any economically recoverable reserve of crude oil and natural gas at the end of the year concerned; and

(c) a summary of the exploration well drilled, including the lithological group, letter classification boundary and hydrocarbon zone, within six months after the completion of drilling or, in the case of information that cannot reasonably be obtained in that period, as soon as practicable after the completion of drilling.

(4) The licensee shall report on its vendor development programme at half yearly intervals.

Duties on termination of licence

134. Where a licence is terminated, revoked or expires, the person who was the holder of the licence immediately before the termination, revocation or expiration of the licence shall immediately deliver to the Authority

(a) the record which the former holder maintained with respect to the licence;

(b) the plan or map of the area that was subject to the licence and which was prepared by or on the instruction of the former holder;

(c) the tape, diagram, profile and chart which was prepared; and

(d) other document that the Authority may by notice given to the former holder, require the former holder to deliver.
Records to be kept

135. (1) The holder of a licence shall keep at an address in this country and provide the Authority with a full and accurate account of the particulars of the following matters:

(a) the gross quantity of any crude oil and natural gas produced and saved from the area subject to the licence;
(b) the grades and gravity of any crude oil produced and the composition of natural gas produced;
(c) the quantities of
   (i) crude oil,
   (ii) natural gas,
   (iii) each refined petroleum product, including liquefied petroleum gas,
   (iv) sulphur or any other mineral in any form or any other gas liquid or solid disposed of by way of sale or otherwise,
   the consideration received, the quantity disposed of and the name of the person to whom the quantity was disposed;
(d) the quantity of petroleum injected into the formation of
   (i) crude oil,
   (ii) natural gas,
   (iii) each refined petroleum product, including liquefied petroleum gas;
(e) the quantity consumed for operations other than the quantity reported under paragraph (d), and consumed in pumping to field storage and any refinery in this country, in respect of
   (i) crude oil,
   (ii) natural gas,
   (iii) each refined petroleum product, including liquidified petroleum gas;
(f) the quantity of crude oil refined by the licence holder or on behalf of the licence holder in this country;
(g) the quantity of natural gas treated in this country by the licence holder or on behalf of the licence holder for the removal of liquids and liquefied petroleum gas, and the quantity of
   (i) butane,
   (ii) propane, and
Records to be kept

135. (1) The holder of a licence shall keep at an address in this country and provide the Authority with a full and accurate account of the particulars of the following matters:

(a) the gross quantity of any crude oil and natural gas produced and saved from the area subject to the licence;

(b) the grades and gravity of any crude oil produced and the composition of natural gas produced;

(c) the quantities of
   (i) crude oil,
   (ii) natural gas, and
   (iii) each refined petroleum product, including liquefied petroleum gas, and
   (iv) sulphur in or any other mineral in any form or any other gas liquid or solid disposed of by way of sale or otherwise,
   the consideration received, the quantity disposed of and the name of the person to whom the quantity was disposed;

(d) the quantity of petroleum injected into the formation of
   (i) crude oil,
   (ii) natural gas, and
   (iii) each refined petroleum product, including liquefied petroleum gas;

(e) the quantity consumed for operations other than the quantity reported under paragraph (d), and consumed in pumping to field storage and any refinery in this country, in respect of
   (i) crude oil,
   (ii) natural gas, and
   (iii) each refined petroleum product, including liquidified petroleum gas;

(f) the quantity of crude oil refined by the licence holder or on behalf of the licence holder in this country;

(g) the quantity of natural gas treated in this country by the licence holder or on behalf of the licence holder for the removal of liquids and liquefied petroleum gas, and the quantity of
   (i) butane,
   (ii) propane, and
(iii) any other liquid, gas or solid obtained from it;  

(h) the quantity of natural gas flared; and  

(i) records on the vendor development programme of the licensee.

Availability of information to the public

136. (1) The Authority shall, subject to commercial confidence and any commercial term, make available to the public  

(a) details of the licence and any amendment to the licence whether or not it has been terminated;  

(b) details of any exemption from, or variation or suspension of the conditions of a licence;  

(c) the copy of each utilisation licence;  

(d) any licence and utilisation agreement;  

(e) the approved development plan; and  

(f) the assignment and other dealing consented to in respect of the licence.

(2) The information shall be available to any person on payment of the required fee, as prescribed by Regulations.

Confidentiality of data

137. (1) Subject to this Act, a licensee shall keep data submitted by that licensee to the Authority in confidence.

(2) A party to an agreement under this Act shall not reproduce or disclose data to a third party except that a licensee may disclose data with the prior written consent of the Authority and the Authority may disclose data prior to the relinquishment of an exploration area with the prior written consent of the licensee.

(3) The consent of the licensee or the Authority shall not be withheld unreasonably.

(4) Despite subsection (1), a disclosure may be made by  

(a) a licensee to an affiliated company, its home Government or any relevant agency required by law, the recognised stock exchange on which shares of the licensee or its affiliated company are traded, a financial institution, professional adviser and arbitrator who are experts appointed under this Act;
(b) a licensee to a genuine prospective assignee of a participating interest or to a corporation with which the licensee conducts negotiations in good faith directed towards a merger or consolidation, after fifteen days prior written notice to the Authority identifying the parties to which disclosure will be made but the Authority may disallow the disclosure where a party to whom the disclosure is proposed is in genuine discussion with the Authority regarding rights to conduct petroleum operations in this country;

(c) the Authority to an agency of the Government, financial institution or person acting as a consultant or professional adviser to the Government, and a contributor and expert appointed under this Act;

(d) the Government for a statistical purpose or in connection with the award of new acreage; and

(e) the licensee or one or more of its affiliated companies by virtue of an applicable law, order, Regulation or rule of any recognised stock exchange on which the licensee or its affiliate are listed.

(5) A person shall disclose data to a third party on terms which provide that the data is treated as confidential by the recipient for as long as the data remains subject to the confidentiality undertaking given to the Authority.

(6) The Authority may provide data and information that may be in its possession and may be relevant to enable the licensee carry out exploration activities under this Act.

(7) The data provided under subsection (6) shall be treated with confidence and shall not be disclosed to a third party without the written consent of the Authority.

(8) A party shall not be bound by the confidentiality undertaking in respect of any data which is in the public domain through no fault of the party or to which that party has already had knowledge before the effective date, or which became known to that other party by reason of a breach of the undertaking.

(9) The licensee shall disclose to the Authority the technology necessary for the evaluation and understanding of any raw data or processed data that is produced as a result of the licensee's work in the area.
(10) Subject to this Act, a party shall not publish or disclose to a
third party the performance agreement and any confidential information
of a party which becomes known to that other party without the former
party's written consent unless that other party can communicate to

(a) a lawyer,
(b) an accountant or other professional consultant,
(c) an underwriter,
(d) a lender,
(e) an agent,
(f) a licensee, or
(g) shipping company,

the confidential information in connection with the agreement and
guarantee the obligation of the party that receives the information that
the disclosure will remain confidential.

(11) For the purpose of this section "confidential information"
means information identified as "confidential" by the party originally
in possession of it and disclosed to another party but excludes information
previously known to the other party or information which is within the
public domain or that comes into the possession of that other party
other than through a breach of the confidentiality undertaking.

(12) Subject to this Act or an agreement made under this Act,
the confidentiality requirements shall expire on relinquishment of the
area to which the information relates.

Fiscal arrangements

Annual charge in respect of licence

138. (1) There shall be payable to the Authority by the registered holder
of a licence, an annual charge calculated in a manner prescribed by the
Authority.

(2) The annual charge shall be payable on the grant of a licence
and subsequently on an annual basis on the anniversary of the grant until
the termination of the licence.

Payment of royalties

139. A licensee shall pay royalty to the Government at the minimum
rate of ten percent of gross production of petroleum produced and saved
in Ghana.
Ghana Petroleum Regulatory Authority Bill

Payment of tax
140. A licensee shall petroleum income tax in accordance with the Internal Revenue Act, 2000 (Act 592) or any other enactment.

Initial interest and additional oil entitlement
141. (1) A licensee shall pay the benefit accruing from initial interest to the Government.

(2) A proportion of the benefit accruing from the initial interest shall be paid to the Company with the approval of Parliament.

(3) The payment to the Company shall be subject to the long-term needs of the company.

(4) The Government may impose a production sharing fiscal arrangement instead of the royalty, tax and additional oil entitlement where it determines this to be appropriate.

Payment terms
142. (1) The Government may elect to take any payment due under fiscal arrangement in petroleum or in money.

(2) Payments under this Act shall be made in an international freely convertible currency to a bank designated by each receiving entity.

(3) Any payment due to the Government shall be deposited in a designated account at the Bank of Ghana.

(4) The discharge of a licensee's obligation with respect to royalty, government's participation share, the additional oil entitlement and Government's production share shall be in accordance with the licence.

Late payments
143. Where the liability of a person who has a licence to pay an amount is not discharged on or before the time when the amount is payable, that person shall pay an additional amount of five percent in default for each day of the default.

Prohibition on disposal of petroleum
144. Where the licensee of a petroleum exploration and production licence fails to pay, on or before the due date or during any extension permitted by the Authority, any money payable by the licensee to the Authority, the Authority may, by order served on the licensee, prohibit the removal of, or any dealing in or with any petroleum from the development area concerned, or from any other development area subject
to a licence held by that licensee or from both, until the outstanding royalty has been paid or an arrangement has been made and accepted by the Authority for the payment of the royalty.

**Recovery of royalty**

**145.** (1) Royalty payable as a debt may be recovered in a Court.

(2) A certificate of the Authority that certifies that a specified amount of royalty is payable by a person specified in the certificate shall, in any proceeding instituted against that person for the recovery of any royalty, be received as evidence of that fact, despite the right to adduce evidence in rebuttal.

**Cross border activities**

**Cross border activities**

**146.** Where a petroleum deposit extends over more than one block with different licensees or onto the continental shelf of another state, the Authority shall be made to reach agreement on the most efficient coordination of petroleum activity in connection with the petroleum deposit as well as on the apportionment of the petroleum deposit.

**Sharing facilities**

**147.** (1) The Authority may decide that any facility comprised in the plan for development and operation of petroleum deposit and their transportation and utilisation which are owned by a licensee may be used by other licensees if so warranted by considerations for efficient operation or for the benefit of society and the Authority shall determine that the use would not constitute any unreasonable detriment to the licensee’s own requirement or that of any other person who has already been assured the right of use.

(2) The Authority may by Regulations impose any condition and issue any order related to access in each individual case.

(3) An agreement on the use of a facility shall be submitted to the Authority for approval unless otherwise determined by the Authority.

(4) The Authority may, on approval of an agreement or in the event that an agreement is not reached within a reasonable period of time, stipulate a tariff, impose a condition or subsequently alter the condition that has been approved or stipulated in order to ensure that the implementation of a project is carried out with due regard to
considerations that relate to resource management and to provide the owner of the facility with a reasonable profit, taking into account, among other things, investment and risk.

(5) The object of this section is to achieve the efficient use of any facility in order to ensure good incentives for licensees to conduct exploration and production activities with a view to promoting efficient resource management.

(6) A person who needs to use the facility of another party shall on non-discriminatory conditions have a right to the use in accordance with this Act.

(7) An agreement on the use of the facility of any other party shall be based on the principle that profit from production shall primarily be earned by the producing field, the owner's incentives to maintain the capacity of the facility, to make a sensible investment, and to ensure additional capacity.

(8) The negotiation between an owner and user that relates to the use of a facility, shall be organised and conducted

(a) in a spirit of integrity and good faith, in accordance with good corporate governance; and

(b) in such a manner that the negotiations do not provide one party with an unreasonable advantage at the expense of the other party.

(9) A licensee shall participate in negotiations on the side on which the greatest economic interests of the party in question lies.

(10) While negotiations are ongoing, the parties shall exchange updated information on the user's needs and capacities available, with a view to determine at the earliest stage possible the conditions that are to govern the required use.

Sharing

148. (1) Where as a result of exploratory drilling by a licensee, a discovery is made that indicates the presence of a common field between two Governments, the two Governments shall, in consultation with their respective licensees, negotiate in good faith and seek to reach agreement as to the manner in which the proceeds from the common field are to be apportioned.

(2) When good faith negotiations between the two Governments become necessary, the two Governments will require their respective licensees to negotiate a satisfactory utilisation agreement between them
to be first approved by both Governments, for the purpose of the exploitation.

**Immunity and facilitation of nonnationals**

149. The Authority may recommend the grant to a non-national of immunity and any special privilege in connection with any measure to prevent and take action against an illegal act by any person that poses a safety threat to the petroleum activities of Ghana.

**Offences**

**Prohibition against disclosure of information**

150. (1) A person shall not disclose information furnished, or information in a report submitted under this Act by a licensee to any person other than the Authority or an authorised officer without the consent of the licensee.

(2) Nothing in subsection (1) operates to prevent the disclosure of information when the disclosure is made

(a) after the licence in question has ceased to be valid, or has ceased to have effect over the land to which the disclosure would relate;

(b) for and in connection with the implementation of this Act;

(c) for the purpose of or in connection with any legal proceedings;

(d) to a consultant employed to advise on a matter that relates to petroleum;

(e) for or in connection with the preparation by or on behalf of the Government Statistician in relation to exploration development operations;

(f) to a financial institution for or in connection with a financial arrangement or advice in relation to exploration or development operations;

(g) for or in connection with the determination of any liability of the licensee to make any payment to the Government;

(h) for or in connection with any matter, or for any purpose prescribed in a petroleum agreement.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to imprisonment for a term of not more than five years or both.
(4) In proceedings for the prosecution of an offence, it shall be a sufficient defence if the person charged proves that the information closed and to which the prosecution relates was without that disclosure generally known to the public.

(5) A licensee who fails to provide information on its vendor development programme commits an offence and is liable on summary conviction to a fine of not more than fifty thousand penalty units or to imprisonment for a term of not more than five years or to both.

Obstruction of the Authority

51. Any person who

(a) without reasonable excuse, obstructs, molests or hinders an authorised officer of the Authority in the exercise of powers under this Act; or

(b) knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to the Authority or an authorised officer engaged in the discharge of duties and the performance of functions under this Act commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or imprisonment for a term of not more than two years or both.

Obstruction of licensee

52. A person who, without reasonable excuse, obstructs, molests, hinders prevents a licensee from the doing an act which the licensee is authorised to under this Act commits an offence and is liable on summary conviction a fine not exceeding fifty penalty units or imprisonment for a term not exceeding six months or both.

Conflict of interest

53. (1) A person engaged in the implementation of this Act shall in his or her private capacity directly or indirectly, acquire, attempt acquire or hold

(a) a licence or an interest in a licence, or

(b) a share in a corporate body that is entitled under this Act to carry on exploration or development operations in this country.

(2) A person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine of not more than five
hundred thousand penalty units or to imprisonment for a term of not more than five years or to both.

(3) In a proceeding for the prosecution of an offence in respect of the acquisition of a share, it shall be a sufficient defence if the person charged proves that
(a) the share was acquired by law, and
(b) reasonable steps necessary to dispose of the share have been and continue to be taken.

(4) In a proceeding for the prosecution of an offence in respect of a licence, or an interest or a share it shall be a sufficient defence if the person charged proves
(a) that either
   (i) the licence, interest or share was acquired at a time when the licensee was not engaged in the implementation of this Act; or
   (ii) the share was acquired before the body corporate became entitled to carry out exploration or development operations under this Act, or
(b) that since engaged in the implementation of this Act or since the body corporate became so entitled, every reasonable step necessary to dispose of the licence, interest or share has been, and continues to be taken.

Restriction on removal of petroleum

154. (1) Petroleum shall not be removed from the area from which it has been obtained to any other area, or disposed of in any manner, unless it is

(a) done by a licensee with the written consent of the Authority, for the purpose of sampling or analysis;
(b) done by a licensee in accordance with the conditions of the licence; or
(c) permitted by this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction
(a) in the case of an individual, to a fine not more than seven hundred and fifty thousand penalty units or to a term of imprisonment of not more than five years or to both.
(b) in the case of a body corporate, to a fine not more than one million five hundred thousand penalty units.
Offences committed by body corporate

155. Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate or any person who purported to act in any that capacity, the person concerned and the body corporate are liable to prosecution and the payment of a penalty.

Orders for forfeiture

156. (1) Where a person is convicted of an offence under this Act, a Court may, in addition to any other penalty imposed

(a) make an order for the forfeiture of any vehicle, aircraft, vessel or equipment used in the commission of the offence; and

(b) make an order

(i) for the forfeiture of petroleum recovered in the course of the commission of the offence;

(ii) for the payment by that person to the Government of an amount equal to the proceeds of the sale of the petroleum received; or

(iii) for the payment by that person to the Government of the value at the wellhead, assessed by the Court in respect of the quantity recovered or for the payment of the part of that amount as the Court, having regard to all the circumstances, considers fit.

(2) Where the Court is satisfied that an order made under subsection (1)(b) cannot for any reason be enforced, the Court may, on the application of the person by whom the proceedings were brought set aside the order and make an order referred to in subsection (1)(b)(ii) and (iii).

(3) The Court may, before making an order, require notice to be given to a person and to hear any other person as the Court considers fit.

Violation of decisions and orders issued under this Act

157. A person who willfully or negligently contravenes any directive issued under this Act commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to imprisonment for a term of not more than five years to both.

Miscellaneous offences

158. (1) A person who

(a) in connection with an application under this Act or a licence or in response to an invitation or requirement of the
Authority, who knowingly or recklessly gives or permits to be given information which is false or misleading in a material particular;

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

(c) a person who deliberately misrepresents the discovery of petroleum or the age of the reserves in order to gain advantage or profit from the stock exchange from the appreciation of its share price, commits an offence and is liable on summary conviction

(2) A licensee who fails to ensure that a citizen of Ghana participates in the provision of goods and services to an operator commits an offence.

(3) The contravention of any provision by a licensee for which a penalty has not been prescribed constitutes an offence.

(4) The penalty for offence to which this section applies are

(a) in the case of an individual to a fine of not more than one million five hundred thousand penalty units or imprisonment for a term of not more than five years or to both, and

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

Dispute resolution

Dispute Resolution

159. Where a dispute arises related to the interpretation or application of the terms of a licence between the licensee and Government, the dispute shall be resolved in accordance with the Alternative Dispute Resolution Act 2008 (Act…….)

Miscellaneous provisions

Management of petroleum activities to be in Ghana

160. (1) A licensee shall, unless otherwise determined by the Authority, have a company which is capable of independently managing its petroleum activities from Ghana.

(2) The Authority may stipulate specific requirements in respect of the company and the capital of the company.
(3) A licensee shall ensure that the circumstances permit trade union activities to take place among employees and the personnel of contractors and sub-contractors in accordance with the Labour Act 2003 (Act 651).

(4) Petroleum activities shall be conducted from a base in Ghana.

(5) The licensee may be ordered to use a base designated by the Authority.

**Regulatory supervision of petroleum activities**

161. (1) The Authority shall carry out regulatory supervision to ensure that this Act is complied with by each person who carries out petroleum activities under this Act.

   (2) The Authority may issue orders necessary for the implementation of this Act.

   (3) Expenses related to the regulatory supervision may be required to be covered by the licensee or by the party where the supervision in each case is directed at or where it takes place.

**Maintenance of property**

162. (1) A licensee shall

   (a) maintain in good condition and repair, the structures, equipment and other property in the area subject to the licence and used in connection with the operations in which the licensee is engaged,

   (b) remove from that area any structure, equipment and other property that are either not used or to be used in connection with those operations; and

   (c) take reasonable steps to warn any person who may from time to time be in the vicinity of any structure, equipment or other property, of the presence of the structures, equipment or other property and the possible hazard resulting from the activities of the licensee.

   (2) Subsection (1) does not apply in relation to a structure, equipment or other property that was not brought into the area subject to a licence by or with the authority of the licensee.

   (3) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units.
Agreements between affiliated companies

163. (1) The Authority may where particular reasons warrant, consent to the licensee entering into an agreement which authorises a parent company or a company with which the licensee is affiliated in a similar manner, to undertake the activities on behalf of the licensee.

(2) It shall be set as a condition for the consent referred to in subsection (1), that the arrangement will not result in less revenue to the Government.

Security for fulfillment of obligations

164. When a licence is granted and at any other time, the Authority may decide that the licensee shall provide security as approved by the Authority for the fulfillment of the obligations which the licensee has undertaken as well as for possible liability in connection with the petroleum activities.

Responsibility for commitments

165. Licensees who jointly hold a licence are jointly and severally responsible to the Government for financial and other obligations arising out of petroleum activities under the licence.

Liability for damage caused

166. Where liability in respect of a third party is incurred by a person who undertakes a task for a licensee, the licensee is liable for damages to the same extent as, and jointly and severally with the perpetrator and if applicable, the employer of the perpetrator.

Directions by Authority

167. The Authority may, by notice in writing served on a licensee, give to the licensee directions consistent with good oil field practices to ensure proper production of petroleum and to encourage good conservation practices in any licensed area.

Compliance with directions

168. Where a licensee fails or neglects to comply with any direction given, the Authority may cause to be done all or any of the things required by the direction to be done, and the costs and expenses incurred in doing so are a debt due to the Authority and may be recovered in a Court despite the fact that the licensee may have been convicted of an offence.
Information required by Authority

169. (1) Where the Authority has reason to believe that a person is in possession of any information or data that relates to exploration or development operations or to petroleum obtained or the value of the petroleum, the Authority may, by notice in writing, require that person

(a) to provide the Authority with that information or data within the period and in the manner specified in the notice;

(b) to attend before the Authority or a person identified in the notice at the time and place specified and answer questions related to those operations or petroleum obtained or the value of the petroleum; or

(c) to provide a person identified in the notice at the time and place specified, with the information or data in the custody or power related to those operations or petroleum obtained or the value of the petroleum.

(2) A person shall not be excused from providing information or data, or answering a question when required to do so under this section on the ground that the information or data furnished or the answer to the question might tend to incriminate the person to make the person liable to a penalty, but the information or data furnished or the answer to the question shall not be admissible in evidence against the person in any proceedings other than proceedings for an offence against this section.

(3) Where data is provided in accordance with a requirement under subsection (1) (c), the person to whom it is made available may take copies or take extracts from the data.

(4) A person who

(a) refuses or fails to comply with the requirement in a notice under subsection (1) to the extent to which the person is capable of complying with it;

(b) in purported compliance with any requirement referred to in subsection (1), knowingly or recklessly makes a statement or furnishes any information or data that is false or misleading in a material particular,

commits an offence and is liable on summary conviction to a fine of not more than four thousand penalty units or to imprisonment for a term of not more than five years or both.

Powers of the Authority and authorised officers

170. (1) For the purposes of this Act, the Authority or an authorised
officer may, at any reasonable time

(a) issue directions to and impose restrictions on the licensee or any person so employed, by instrument in writing with respect to the health and safety of persons employed by a licensee in or in connection with any exploration, development or production operations;

(b) order in writing

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

(ii) the discontinuance of the use of any machinery or equipment, which the person considers unsafe, until the action that is necessary for safety and specified in the instrument is taken and completed; and

(c) make any examination and inquiry that may be necessary to ensure that the provisions of this Act, and any directions issued, conditions imposed or orders made under this Act are complied with.

(2) The authorised officer of the Authority shall before exercising any power under subsection (1), produce personal identity to any person who is or appears to be in charge of the area, structure, vehicle, vessel, aircraft, building, machinery, equipment or matter or thing in respect of which the power is about to be exercised and to any person to whom the authorised officer is about to give the order or direction.

(3) Any person who is aggrieved by a decision, direction or order of an authorised officer made under this section may appeal in writing to the Authority who shall as soon as is practicable dispose of the appeal, but the bringing of the appeal shall not affect the operation of the decision, direction or order appealed from, pending the disposition of the appeal.

(4) When an appeal is made, the Authority may rescind or affirm the decision, direction or order appealed from or may make a new decision, direction or order in substitution of the decision.

(5) In the exercise of powers under subsection (1), the authorised officer of the Authority may be accompanied by any person whom the Authority or the authorised officer believes has special or expert knowledge of any matter being inspected, tested or examined.
(6) A person who is an occupier of or is in charge of any building, structure or place of the Authority or a person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1) shall provide the Authority or an authorised officer with reasonable facilities and assistance, including the provision of the necessary means of transport, for the effective exercise of the powers of the Authority or authorised officer under this section.

Evidence provision for certificate

171. (1) The Authority may give a certificate stating
(a) that a licence was granted, cancelled or transferred on, or with effect from, a date specified in the certificate;
(b) that any block identified in the certificate is or was on a date specified in the certificate, subject to a licence;
(c) that a condition specified in the certificate is a condition on which any consent or approval specified in the certificate was given;
(d) that a person named in the certificate is or was on a date specified in the certificate, the holder of a licence; or
(e) that a direction specified in the certificate was on a date specified given to the person named in the certificate and the certificate shall be received in proceedings before any Court or tribunal as evidence of that fact, but without limiting the right to adduce evidence in rebuttal.

(2) The Authority may give a certificate stating that any matter referred to in paragraphs (a) to (e) is or was the case and the Authority may state that the matter is not or was not the case.

Scientific investigation

172. (1) Despite the prohibition of petroleum activities without a licence, the Authority may consent in writing to the carrying on by any person of geoscientific investigations in the country.

(2) The instrument of consent shall authorise the person to whom it is issued to carry on geoscientific investigations and the exploration operations specified in the instrument in the area, subject to any condition specified in the instrument, in the course of the scientific investigation.

(3) An authorised officer and any person authorised by the Authority in writing, may enter any land in the country and for that purpose carry on any prescribed operation for the purpose of collecting information on the geology and petroleum resource.
(6) A person who is an occupier of or is in charge of any building, structure or place of the Authority or a person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1) shall provide the Authority or an authorised officer with reasonable facilities and assistance, including the provision of the necessary means of transport, for the effective exercise of the powers of the Authority or authorised officer under this section.

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(c) that a condition specified in the certificate is a condition on which any consent or approval specified in the certificate was given;
(d) that a person named in the certificate is or was on a date specified in the certificate, the holder of a licence; or
(e) that a direction specified in the certificate was on a date specified given to the person named in the certificate and the certificate shall be received in proceedings before any Court or tribunal as evidence of that fact, but without limiting the right to adduce evidence in rebuttal.

(2) The Authority may give a certificate stating that any matter referred to in paragraphs (a) to (e) is or was the case and the Authority may state that the matter is not or was not the case.

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(3) An authorised officer and any person authorised by the Authority in writing, may enter any land in the country and for that purpose carry on any prescribed operation for the purpose of collecting information on the geology arid petroleum resource.
(4) The holder of an instrument of consent or an authorised officer or any other person shall not enter the land or place without first obtaining the consent required under that section in relation to the land or place.

Service of documents

173. (1) A document or notice required or permitted to be served on, or given to a person under or for the purposes of this Act, may be served or given

(a) in the case of an individual, other than the Authority or the Minister, by serving it personally on the individual or by sending it by post to the person at the usual or last known place of abode or business of the person;

(b) in the case of the Authority in the manner as may be prescribed;

(c) in the case of a body corporate
   (i) by leaving it at the registered or principal office of the body corporate,
   (ii) by sending it by post to the body corporate at the registered or principal office of the body corporate, or
   (iii) by delivering it to an individual in the employment or acting on behalf of the body corporate that is authorised by the body corporate to accept service.

(2) The principal office of a body corporate incorporated outside the country is its place of business established under the provision of the Companies Act 1963 (Act 179).

(3) A notice or document may be served on the Authority by delivering it at the office of the Authority or by sending it by registered post to the office of the Authority.

Indemnity of the Republic of Ghana

174. A licensee shall keep the Republic indemnified against any action, claim and demand that may be brought or made against the Republic by reason of anything done by the licensee in the exercise or purported exercise of the rights of the licensee under this Act or a licence.

Commission of inquiry

175. (1) Where a serious accident occurs in connection with petroleum activities comprised under this Act, the President may appoint a commission of inquiry in accordance with article 278 of the Constitution.
(2) Subsection (1) applies to incidents in the activities which have led to serious danger including loss of life or major damage to property or pollution of the environment.

**Surrender of licence**

176. (1) The licensee may, during the period of a petroleum exploration and production licence, after giving three months notice to the Authority, surrender a petroleum exploration and production licence in its entirety.

(2) The Authority may require the obligations stipulated in the petroleum exploration and production licence including decommissioning costs and the conditions on which it has been granted to be fulfilled up to the time of surrender.

**Revocation of licences, approvals and permits**

177. (1) Where there is a serious or repeated contravention of this Act, Regulations issued under this Act and stipulated conditions or orders issued, the Authority may revoke a licence, approval or permit granted under this Act.

(2) Where an application for a licence contains incorrect information, or if information of significance has been withheld and it must be assumed that the licence would not have been granted had the correct or complete information been available, the licence may be revoked in relation to the licensee concerned.

(3) A licence may be revoked if the security which the licensee is obliged to provide has become significantly weakened or if the company or other association holding the licence is dissolved or enters into debt settlement proceedings or bankruptcy proceedings.

**Consequences of revocation, surrender of rights or lapse for other reasons**

178. (1) Revocation of a licence, surrender of rights or lapse of rights for other reasons do not entail release from the financial obligations under this Act, Regulations made under this Act or any other specific conditions.

(2) Where a work obligation or other obligation including decommissioning has not been fulfilled, the Authority may demand payment, in full or in part, of the amount which fulfillment of the obligation would have cost.

(3) The amount payable shall be prescribed by the Authority.
Use of facilities by others

179. (1) The Authority may direct that facilities which are owned by a licensee may be used by others if warranted by considerations for efficient operation or for the benefit of society where the use would not constitute an unreasonable detriment of the licensee's requirements or those of any person who has already been assured the right of use.

(2) Any agreement on the use of facilities shall be submitted to the Authority for approval unless otherwise decided by the Authority.

(3) The Authority may, on approval of an agreement, or in the event that an agreement is reached within a reasonable period of time, as well as in the case of an order, stipulate tariffs and other conditions or subsequently alter the conditions that have been approved or stipulated in order to ensure that implementation of projects is carried out with due regard to considerations that relate to resource management and to providing the owner of the facility with a reasonable profit, taking into account, among other things, investments and risks.

Right of others to place facilities

180. (1) A licensee may not oppose the laying of pipelines, cables or wires of various kinds, or the placement of other facilities on, in or above the area covered by the petroleum exploration and production licence.

(2) The Authority may by legislative instrument, make Regulations relating to the laying of pipelines, cables or wires and the placing of other facilities on, in or above the area covered by the petroleum exploration and production licence.

(3) The facilities must not cause unreasonable inconvenience to the licensee.

(4) Subsection (1) applies correspondingly to necessary route and soil surveys prior to the placement.

Amendment of Schedule

181. The Authority, may by legislative instrument, amend the Schedule to this Act.

Obligation to comply with this Act

182. (1) A licensee and other persons engaged in petroleum activities under this Acts are obliged to comply with the Act, Regulations and administrative decisions issued through the implementation of necessary systematic measures.
(2) A licensee shall ensure that any person working either personally, through employees or through contractors or subcontractors, complies with this Act.

**Premacy of this Act**

183. Subject to the Environmental Protection Agency Act, 1994 (Act, 0), the Environmental Assessment Regulations 1999 (L.I. 1652) and the Ghana Maritime Authority Act, 2002 (Act, 630), this Act shall take precedence over any existing Act that relates to upstream and midstream petroleum activities and any Act in contradiction with this Act is modified to conform to the provisions of this Act.

**Compliance with conditions of petroleum exploration and production licence**

184. (1) Where the Authority is of the opinion that the licensee is contravening a condition of a petroleum exploration licence or a requirement under this Act or Regulations, codes or standards made under this Act, the Authority shall direct the licensee to comply with that condition or requirement.

(2) A directive requiring a licensee to comply shall be sent to the licensee and to other directly affected parties and shall

(a) contain the relevant condition of the petroleum exploration licence or requirement of the Act, Regulations, codes or standards to which the contravention relates;

(b) contain the acts, omissions or other facts which, in the opinion of the Authority, constitute a contravention of the condition or requirement;

(c) specify a period, not being less than twenty days after the date of receipt of the notice within which representations or objections may be made by the licensee or directly affected parties; and

(d) specify the period within which the licensee may rectify the breach or contravention.

(3) The Authority shall take into consideration the representations made before notifying the licensee and directly affected parties of its decision to either

(a) uphold the order of compliance;

(b) vary the original order of compliance; or
(c) withdraw the order of compliance.

Frustration of licensee

185. (1) Any failure on the part of a licensee to fulfill any of the conditions of a licence granted to the person or to meet any requirement of this Act or a petroleum agreement shall not constitute a breach of the licence or of this Act or the agreement, insofar as the failure results from an act of war, hostility, insurrection, storm, flood, earthquake or from any similar or other natural phenomenon beyond the reasonable control of the licensee, or from any other cause prescribed in the licence or the petroleum agreement to constitute frustration.

(2) Where a licensee fails to fulfill any of the conditions of a licence because of the occurrence of circumstances of a kind referred to in subsection (1), the licensee shall immediately notify the Authority giving particulars of the failure and its cause.

(3) Where a licensee is prevented from exercising any of the rights or discharging obligations under the licence for any period because of the occurrence of circumstances of a kind referred to in subsection (1) that period shall be added to the period during which the licensee would otherwise have been obliged to discharge those obligations.

(4) This section does not apply with respect to any requirement under a licence or this Act to make any payment of royalty, annual charges, rent or fees.

Regulations

186. (1) The Authority may, by legislative instrument make Regulations generally for giving effect to the provisions of this Act and for implementation.

(2) Without limiting the generality of subsection (1), or the specific provisions, the Authority may make Regulations relating to

(a) work conditions,
(b) confidentiality;
(c) the licensee’s obligation to provide information on the activities under this Act available to the public;
(d) the exploration for petroleum and the carrying on of operations and the execution of works for that purpose;
(e) the production of petroleum and the carrying on of operations, and the execution of works for that purpose;
(f) the conservation and prevention of the waste of natural resources, whether petroleum or otherwise, and the carrying out of environmental impact studies for that purpose;

(g) the form and content of and conditions with respect to applications for the grant or renewal of licences;

(h) the construction, erection, maintenance, operation or use of installations or equipment;

(i) the prevention of the escape of water or drilling fluid or a mixture of water and drilling fluid or any other substance;

(j) the prevention and control of and the liability for petroleum pollution;

(k) the removal of structures, equipment and other property brought into Ghana in connection with the exploration for or the production or conveyance of petroleum that is not used or intended to be used in connection with that exploration, production or conveyance;

(l) the pressure maintenance in, or the repressuring of, a petroleum reservoir and recycling of petroleum;

(m) the secondary or tertiary recovery of petroleum from a petroleum reservoir and the methods to be used in such recovery;

(n) the use of wells and the use of the subsurface for the disposal of petroleum, water and other substances produced in association with the exploration for or the recovery of petroleum;

(o) the rates, or the method of setting the rates, at which petroleum and water may be recovered from any well or petroleum reservoir;

(p) the methods to be used for the measurements of petroleum, water and other substances from a well;

(q) the safety and welfare standards and the health and safety of persons employed in or in connection with the exploration for or the production or conveyance of petroleum;

(r) the making, preserving and furnishing to the Authority or the Minister of cores, cuttings and samples of petroleum and water;

(s) the production to the Authority of reports, returns and other information;

(t) the registration of instruments and the effect of the registration of, or failure to register instruments;
(u) the transfer of licences or interests in licences;
(v) the making of logs or directional surveys or making other
down hole investigations;
(w) the annual charges payable under this Act;
(x) the fees or amount to be paid in respect of any matter or
thing done under this Act;
(y) the division of the geographic area of Ghana into graticular
sections; and
(z) generally for the implementation of this Act.

(3) Despite the Statutory Instruments Act, 1959 (No. 52) the
penalty for the contravention of Regulations shall be a fine of not more
than three thousand five hundred penalty units or a term of imprisonment
not more than five years or both and

(a) in the case of a continuing offence, an additional penalty of
not more than five hundred penalty units in respect of each
day on which the offence continues; and

(b) a higher penalty not more than two thousand five penalty
units in respect of a second or subsequent contravention.

Interpretation

187. (1) In this Act, unless the context otherwise requires:
“agreement” means a petroleum agreement;
“authorised officer”, means an officer appointed under this Act
or any person acting under the authority of a Minister or a
relevant agency;
“Authority” means the Ghana Petroleum Regulatory Authority
established by section 7;
“block” includes a block constituted as prescribed in the First
Schedule and part of a block as constituted;
“citizen of Ghana” includes a corporate entity incorporated in
Ghana of which the majority shareholding is Ghanaian and
of which the management is controlled by Ghanaians;
“commercial aspects” means the exploration development,
production and disposal of petroleum and excludes the
regulation of upstream and midstream petroleum activity;
“Companies Act “ means the Companies Act 1963 (Act 179)
“Company” means the Ghana National Petroleum Company;
“conditions” includes terms, prohibitions, limitations and
stipulations;
"continental shelf" has the meaning given to it in the Maritime Zones (Delimitation) Act, 1986 (P.N.D.C.L. 159)
"contractor" means a company incorporated under the laws of Ghana which has entered into a petroleum agreement with the Authority;
"crude oil" includes hydrocarbons which are solid or liquid under normal atmospheric conditions and condensates and distillates obtained from natural gas;
"development area" means an area constituted by a block that is, subject to a petroleum exploration and production licence;
"development operations" means operations carried out in or for the purpose of producing petroleum;
"discovery area" means the block or blocks in an exploration area comprising the geological features as outlined by the relevant geological or geophysical data in which a discovery is located;
"discovery of petroleum" means a discovery of petroleum not previously known to have existed, recoverable at the surface in a flow which can be measured by conventional petroleum industry testing methods;
"drilling" means the perforation of the earth's surface, whether the hole is vertical, inclined or horizontal, and all operations to prevent the collapse of the sides of the hole or to prevent the hole from becoming filled by extraneous materials, including water, and filling of wellheads, coring and logging, and any related or incidental operation;
"effective date" means the date on which an agreement is signed by the Government and the licensee;
"Environmental Protection Agency" means the agency established under the Environmental Protection Agency Act, 1994 (Act, 490);
"exploration" includes the undertaking of any activity for the purpose of the discovery of petroleum using geological, geophysical geochemical and geotechnical surveys, exploration drilling and appraisal drilling;
"exploration area" means an area constituted by a block that is, subject to a petroleum exploration licence;
"exploration drilling" means the drilling of wildcat and appraisal wells and operation and use of a facility to the extent it is used for the purpose of exploration drilling;
"exploration operation" means an operation carried on for the purpose of exploration;
"facility" means an installation, plant, pipeline and other equipment for petroleum activity;
"field" means an area consisting of a single reservoir or multiple reservoirs grouped on or related to the same individual geological structural feature or stratigraphical condition;
"good oil field practices" means all those elements that are generally accepted as good, safe and efficient in carrying on exploration, development or production operations;
"goods" mean anything which is the subject of trade, manufacture and merchandise;
"Ghana Maritime Authority" means the Authority established under the Ghana Maritime Authority Act, 2002 (Act 630);
"Government" means any authority by which the executive authority of Ghana is duly exercised;
"holder" means the person to whom the licence is granted and includes every person to whom the licence is lawfully assigned;
"in default" means in breach of any provision of this Act, condition of a licence or of any provision of a petroleum agreement;
"land" includes land beneath water and the subsoil;
"lender" has the meaning given to it in the Borrowers and Lenders Act 2008 (Act.............) and is a person who, as part of business advances loans and other credit facilities including micro credit facilities;
"land owner" means the proprietor of in accordance with the Land Title Registration Act, 1986 (P.N.D.C.L. 152)
"licensee" includes the holder of a licence under this Act and Regulations made under this Act and may include a subcontractor where applicable;
"mid-stream" includes petroleum activities between the wellhead and refinery, transportation and storage of petroleum;
"Minister" means Minister assigned responsibility for this Act by the President;
"National Security Co-ordinator" means the person appointed under section 18 of the Security and Intelligence Agencies, Act 1996 (Act 526);
“natural gas” means gas obtained from a well consisting primarily of hydrocarbons which are gaseous under normal atmospheric conditions and wet gas, dry gas and residue gas remaining after extraction of liquid hydrocarbon from wet gas;
“operator” means any person who executes on behalf of the licensee, the day to day management of petroleum activities;
“petroleum” means
(a) any naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state;
(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state and includes any petroleum as defined by paragraph (a) or (b) that has been returned to a natural reservoir, but does not include coal, shale or any substance that may be extracted from coal or shale;
“petroleum activity” includes every activity and operation associated with petroleum deposits, including exploration, drilling, production, transportation, utilisation and decommissioning, including the planning of these activities;
“petroleum agreement” means an agreement made by the Government in accordance with section 5;
“petroleum deposit” means an accumulation of petroleum in a geological unit, limited by rock characteristics by structural or stratigraphic boundaries, contact surface between petroleum and water in the formation, or a combination of these, so that all the petroleum comprised everywhere is in pressure communication through liquid or gas;
“petroleum operation” includes activity;
“petroleum production” means production of petroleum, including drilling of production wells, injection, improved recovery, treatment and storage of petroleum for transport, and shipment of petroleum for transport by ship, as well as the construction, placing, operation and use of a facility for the purpose of production;
“petroleum reservoir” means a naturally occurring discrete accumulation of petroleum;
"petroleum resources" includes hydrocarbons which are solid or liquid under normal atmospheric conditions and condensates and distillates obtained from natural gas from hydrocarbons which are gaseous under normal atmospheric conditions and wet gas, dry gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas;

"prescribed" means by Regulations made under this Act;

"production" includes the extraction and disposal of petroleum and the development operations and other works and services connected with them;

"public interest" includes a right or advantage which enures or is intended to enure to the general benefit of the people of this country;

"refined" means processing of petroleum;

"Regulations" means subsidiary legislation made under this Act;

"relevant agency" means a Ministry, Department or Agency with an interest in petroleum issues such as the Ministry of Energy, the Environmental Protection Agency and the agency responsible for security;

"Republic" means the legal entity of government;

"royalty" means an amount payable to the Republic by a contractor out of or calculated by reference to petroleum produced and served by the contractor to which that contractor is entitled under the terms and conditions of a petroleum agreement;

"service" is logistical support, an act or job provided to an operator that may include the supply of professional service, skilled or unskilled labour that does not produce goods but does useful business for the operator;

"subcontractor" means a person who enters into a contract with a contractor for the provision or supply of work or service including rental of plant and equipment in Ghana for or in connection with the petroleum agreement to which the contractor is a party and where a petroleum agreement includes a "non-resident person" or "non-resident company" a person who under the terms of a contract provides or supplies that work or service;
"supply chain process" means activities by which goods and services required by the industry are procured and delivered to various entities within the industry;

"transportation" means the shipment of petroleum by pipeline as well as the construction, placing, operation and use of a facility for the purpose of transportation;

"upstream" includes exploration, development and production of petroleum and mid-stream activities;

"utilisation" means processing of gas, conversion of oil and any other use of produced petroleum, storage of petroleum as well as the construction, placing, operation and use of a facility for the purpose of utilisation;

"vendor development programme" refers to a system that encourages the use of local content;

"well" means boreholes drilled to search for or exploit hydrocarbon reservoirs but does not include a seismic shot hole;

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

(3) In this Act, a reference to the conditions of a licence is a reference to the conditions of the licence as modified from time to time.

Repeal
188. (1) The Petroleum Exploration and Production Act 1984 (N.D.C.L. 84) is hereby repealed.

(2) The following Legislative Instruments are hereby revoked:
   (a) the Minerals (Offshore) Regulations 1963 (L.I. 257);
   (b) the Minerals (Oil and Gas) Regulations, 1963 (L.I. 258); and
   (c) Minerals (Oil and Gas) (Amendment) Regulations, 1974 (L.I. 1948).

Transitional provision
189. Staff of the Company concerned with the regulation of upstream and midstream petroleum activity may be transferred to the Authority as necessary for the performance of its functions.

Continuation of licences
190. A licence issued under the Petroleum Exploration and Production Act 1984 (P.N.D.C.L. 84) and which is in force immediately before commencement of this Act is hereby saved.
Declaration of essential service
191. In accordance with section 174 of the Labour Act, 2003 (Act 651), the Minister responsible for labour may declare upstream and midstream petroleum activity as an essential service and the provisions of the Labour Act shall apply.

Commencement
192. (1) The Act shall commence on a date to be determined by the Minister by publication in the Gazette.

(2) Until the commencement of this Act, the Company shall be responsible for the functions of the Authority.
FIRST SCHEDULE

GRATICULATION OF THE SURFACE OF THE EARTH

1. Reference map

   (1) The Authority shall cause to be prepared a reference map showing the geographical area of land in Ghana divided into blocks constituted as provided in this Schedule.

   (2) For the purpose of the preparation of the reference map, the surface of the earth shall be deemed to be divided into blocks—

   (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of five minutes of longitude or a multiple of five minutes of longitude; and

   (b) by the equator and by parallels of latitude that are at a distance from the equator of five minutes of latitude or a multiple of five minutes of latitude, each of the blocks being bounded by portions of

      (i) two of those meridians that are at a distance from each other of five minutes of longitude; and

      (ii) two of those parallels of latitude that are at a distance from each other of five minutes of latitude.

   (3) Where any block as constituted would be partly inside and partly outside the geographical area of land in Ghana the block shall be treated as being constituted by the part that is inside that area.

   (4) Each block on the reference map shall be given on the map, a number or a letter or both, for the purpose of identification.

   (5) The manner of the depiction of the geoid for the purpose of the division referred to in subparagraph (2) shall be determined, from time to time, by the Authority by notice published in the Gazette.

2. Map to be deposited and taken as evidence

   (1) The reference map prepared under paragraph 1 shall be deposited at an office as may be determined by the Authority by notice published in the Gazette.

   (2) The Authority may, from time to time, certify a map to be a true copy of the reference map prepared under paragraph 1, and any such copy shall be received in proceedings before any court or tribunal as evidence of the contents of the reference map.
3. References in licences to identified block

Any reference in a petroleum exploration licence or in a petroleum exploration and production licence to an identified block shall be treated as a reference to the block so identified on the reference map.

Date of Gazette notification: 3rd October, 2008.