

No. 41 of 2015.

Unconventional Hydrocarbons Act 2015.

Certified on 05 FEB 2016



No. of 2015.

Unconventional Hydrocarbons Act 2015.

ARRANGEMENT OF SECTIONS.

PART I. - PRELIMINARY.

1. Compliance with constitutional requirements, etc.
2. Application of provisions of *Organic Law on Provincial Governments and Local-level Governments*.
3. Interpretation.
 - “affected Local-level Government”
 - “affected Provincial Government”
 - “annual fee”
 - “approved”
 - “arbitration”
 - “authorised officer”
 - “block”
 - “Board”
 - “buffer zone”
 - “Chief Inspector”
 - “Chief Warden”
 - “commencement date”
 - “co-ordinated development agreement”
 - “co-ordinated project development”
 - “customary land”
 - “customary land owner”
 - “dedicated project facility”
 - “Department”
 - “development agreement”
 - “development forum”
 - “Director”
 - “document”
 - “domestic utilisation”
 - “drilling”
 - “equity benefit”
 - “Expenditure Implementation Committee”
 - “flow lines or gathering lines”
 - “good industry practice”
 - “graticular section”
 - “improvements”

“incorporated land group”
“in-plant piping”
“inspector”
“land”
“licence”
“licence area”
“licensee”
“location”
“low water line”
“Minister”
“month”
“MRDC”
“natural gas”
“offshore area”
“operation agreement”
“operator”
“participating interest”
“petroleum”
“petroleum licence”
“petroleum operations”
“petroleum pool”
“petroleum processing facility”
“petroleum processing facility licence”
“petroleum product”
“petroleum project”
“petroleum reservoir”
“petroleum tenement”
“petroleum tenement holder”
“pipeline”
“pipeline licence”
“private land”
“processed unconventional hydrocarbons”
“project agreement”
“project area landowners”
“project assets”
“project pipeline”
“pumping station”
“Register”
“register holder”
“royalty benefit”
“royalty period”
“State equity entitlement”
“stimulation”
“stimulation substances”
“storage”
“strategic petroleum processing facility”
“strategic pipeline”
“tank station”
“temporary operations”
“this Act”
“transportation”

“unconventional hydrocarbons”
“unconventional hydrocarbons development licence”
“unconventional hydrocarbons development licensee”
“unconventional hydrocarbons operations”
“unconventional hydrocarbons processing”
“unconventional hydrocarbons processing facility”
“unconventional hydrocarbons product”
“unconventional hydrocarbons project”
“unconventional hydrocarbons prospecting licence”
“unconventional hydrocarbons prospecting licensee”
“unconventional hydrocarbons resource”
“unconventional hydrocarbons retention licence”
“unconventional hydrocarbons retention licensee”
“valve station”
“vessel”
“Warden”
“water line”
“well”.

4. Declaration of low water line.
5. Application.
6. Unconventional hydrocarbons the property of the State.
7. The Director may carry on operations.
8. Exploration for and recovery of petroleum.
9. Application to *Mining Act 1992* Provisions.

PART II. - APPLICATION OF LAWS AND ADMINISTRATION.

10. Application of Part II of *Oil and Gas Act 1998*.
11. Delegation by Director.
12. Powers and duties of Board.
13. No personal liability for Board, Minister or Director.

PART III. - UNCONVENTIONAL HYDROCARBONS EXPLORATION AND DEVELOPMENT.

Division 1. - Preliminary.

14. Issue of licences.
15. Reservation of blocks.

Division 2. - Unconventional Hydrocarbons Prospecting Licences.

16. Applications for unconventional hydrocarbons prospecting licence.
17. Form of application for unconventional hydrocarbons prospecting licence.
18. Grant or refusal of unconventional hydrocarbons prospecting licence.
19. Variation of unconventional hydrocarbons prospecting licence.
20. Rights conferred by unconventional hydrocarbons prospecting licence.
21. Term of unconventional hydrocarbons prospecting licence.
22. Application for extension of unconventional hydrocarbons prospecting licence.
23. Application for extension to be in respect of reduced area.
24. Grant or refusal of extension of unconventional hydrocarbons prospecting licence.

25. Extension of unconventional hydrocarbons prospecting licence in respect of location.
26. Conditions of grant of unconventional hydrocarbons prospecting licence.

Division 3. - Discovery of unconventional hydrocarbons in Licence Area.

27. Discovery of unconventional hydrocarbons to be notified.
28. Directions by Minister on discovery of unconventional hydrocarbons.
29. Declaration of location.
30. Investigation, etc., of location.
31. Revocation of declaration of location.

Division 4. - Unconventional Hydrocarbons Retention Licences.

32. Application for unconventional hydrocarbons retention licence.
33. Forms of application for unconventional hydrocarbons retention licence.
34. Notification of grant of unconventional hydrocarbons retention licence.
35. Grant or refusal of unconventional hydrocarbons retention licence.
36. Variation of unconventional hydrocarbons retention licence.
37. Rights conferred by unconventional hydrocarbons retention licence.
38. Term of unconventional hydrocarbons retention licence.
39. Application for extension of unconventional hydrocarbons retention licence.
40. Grant or refusal of extension of unconventional hydrocarbons retention licence.
41. Conditions of unconventional hydrocarbons retention licence.

Division 5. - Social Mapping and Landowner Identification Studies.

42. Social mapping and landowner identification studies.

Division 6. - Project Consultation.

43. Development forum.
44. Matters required before development forum.
45. Development agreement.
46. Co-ordination of benefits for unconventional hydrocarbons projects.
47. Power to sign agreements.
48. Consultation with affected Local-level Governments and affected Provincial Governments.
49. Co-ordination of development forum.

Division 7. - Unconventional Hydrocarbons Development Licences.

50. Application for unconventional hydrocarbons development licence.
51. Form of application for unconventional hydrocarbons development licence.
52. Notification of grant of unconventional hydrocarbons development licence.
53. Grant or refusal of unconventional hydrocarbons development licence.
54. Variation of unconventional hydrocarbons development licence.
55. Rights conferred by unconventional hydrocarbons development licence.
56. Term of unconventional hydrocarbons development licence.
57. Application for extension of unconventional hydrocarbons development licence.
58. Grant or refusal of extension of unconventional hydrocarbons development licence.
59. Conditions of unconventional hydrocarbons development licence.
60. Co-ordinated project developments.
61. Directions as to recovery of unconventional hydrocarbons.

62. Domestic market obligation.

Division 8. - Co-extensive Unconventional Hydrocarbons Operations and Petroleum Operations.

63. Co-extensive licences and petroleum tenements permitted.
64. Discoveries.
65. Conflict in operations.

Division 9. - Processing and Export of Natural Gas.

66. Processing of natural gas.
67. Export of natural gas.

Division 10. - Pipeline Licences.

68. Pipeline licence required.

Division 11. - Licensing for Unconventional Hydrocarbons Processing Facilities.

69. Petroleum processing facility licence required.

Division 12. - Registration of Instruments.

70. Register to be kept.
71. Approval and registration of transfers.
72. Entries in Register of devolution of title.
73. Interests not to be created, etc., except by instrument.
74. Approval of instruments creating, etc., interests.
75. True consideration to be shown.
76. Minister not concerned with certain matters.
77. Power of Minister to require information as to proposed dealings.
78. Production and inspection of documents.
79. Inspection of Register and documents.
80. Evidentiary provisions.
81. Register may be rectified.
82. Minister or Director not liable for certain actions.
83. Offences.

Division 13. - Rights in Respect of Land and Property.

84. Rights of licensees in respect of land and property.
85. Rights of landowners.
86. Interference with other rights.
87. Responsibility to repair damage.
88. Additional rights of entry.
89. Land occupied to be surveyed.
90. Compensation.
91. Wardens.
92. Acquisition of land.
93. Determination of customary land.

94. Trespass on land held under a licence.

Division 14. - General.

95. Date of effect of licences, etc.
96. Designation of operator and operating agreement.
97. Work practices for licensee.
98. Work practices for holders of instruments of consent.
99. Penalty for breach of Section 97 or 98.
100. Local purchase obligation.
101. Measurement and metering.
102. Maintenance, etc., of property.
103. Drilling near boundaries.
104. Directions.
105. Compliance with directions.
106. Exemptions, variations, etc.
107. Prevention from carrying on prospecting operations.
108. Surrender of licences.
109. Suspension and cancellation of licences.
110. Removal of property, etc., by licensee, etc.
111. Removal and sale of property.
112. Penalty for late payments.
113. Securities.
114. Further information to be furnished, etc.
115. Failing to furnish information, etc.
116. Drilling for and discovery of water.
117. Survey of wells, etc.
118. Records, etc., to be kept.
119. Reporting by licensees.
120. Confidentiality, etc., of information.
121. Scientific investigations - Instruments of consent.
122. Inspectors.
123. Powers of inspectors.
124. General penalty.
125. Continuing offences.
126. Orders for forfeiture in respect of certain offences.
127. Service.
128. Pre-submission of information.

Division 15. - Fees and Royalties.

129. Fees.
130. Determination of value of unconventional hydrocarbons.
131. Royalty.
132. Development levies.
133. Ascertaining quantity of unconventional hydrocarbons recovered.
134. Payment of royalty and penalty for late payment.
135. Registration fees.

PART IV. - STATE EQUITY ENTITLEMENT AND PROJECT BENEFITS.

136. No effect on compensation entitlement.

137. State equity entitlement.
138. Equity benefit.
139. Royalty benefit.
140. Identification of landowner beneficiaries.
141. Sharing of benefits amongst project area landowners.
142. Other project area landowner benefits.
143. Sharing of benefits amongst affected Local-level Governments and affected Provincial Governments.
144. Projects grants.
145. Limitation on project benefits.
146. Additional interests in unconventional hydrocarbons projects.
147. Project benefits trusts.
148. Expenditure on behalf of affected Local-level Governments and affected Provincial Governments.

PART V. - MISCELLANEOUS.

149. Inspectors not to have any interests in licences, etc.
150. Points, etc., to be ascertained by reference to geodetic datum. •
151. Regulations.
152. Project Agreement.
153. Agreements by the State.

SCHEDULE.



No. of 2015.

An Act

entitled

Unconventional Hydrocarbons Act 2015,

Being an Act to -

- (a) govern the exploration for and production of unconventional hydrocarbons in Papua New Guinea, including the offshore area; and
 - (b) the grant to traditional landowners and Provincial Governments and Local-level Governments of benefits arising from projects for the production of unconventional hydrocarbons,
- and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I. -PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS, ETC.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the rights to freedom from arbitrary search and entry under Section 44; and
- (b) the right to freedom of employment under Section 48; and
- (c) the right to privacy under Section 49; and
- (d) the right to freedom of information under Section 51,

of the *Constitution* is a law made for the purpose of exploration and production of unconventional hydrocarbons, taking into account the National Goals and Directive Principles and the Basic Social Obligations, in particular the National Goals and Directive Principles relating to -

- (e) national sovereignty and self-reliance; and
- (f) natural resources and environment,

for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 53(1) (*protection from unjust deprivation of property*) of the *Constitution* and the *Land Act 1996*, and any other relevant law, the purpose and reason for which this Act permits possession to be compulsorily taken of any property and permits any interest in or rights over property to be compulsorily acquired are set out below and are declared and described to be a public purpose, whether pursued by a licensee, the State or any other person exercising rights under this Act, and to be a reason that is reasonably justified in a democratic society that has a proper regard for the rights and dignity of mankind -

- (a) the conducting of geological surveys, seismic tests, test drilling and other prospecting operations for unconventional hydrocarbons in a licence area; and

Unconventional Hydrocarbons

- (b) the drilling for and the recovery of unconventional hydrocarbons in a licence area; and
- (c) the storage of unconventional hydrocarbons or unconventional hydrocarbons products in connection with the operations of a licensee or otherwise; and
- (d) the processing of unconventional hydrocarbons or unconventional hydrocarbons products by a licensee or another person; and
- (e) the conveyance of unconventional hydrocarbons or unconventional hydrocarbons products by a licensee or another person, whether by pipeline, land transport, sea transport or air transport, including the pumping, loading, unloading and discharging of unconventional hydrocarbons or unconventional hydrocarbons products; and
- (f) the accommodation of the officers, agents and employees of a licensee or other person or any contractor or sub-contractor of a licensee or other person in connection with the prospecting for, recovery or conveyance or processing of unconventional hydrocarbons or unconventional hydrocarbons products; and
- (g) the disposal of waste material from operations for, or associated with prospecting for, recovery or conveyance or processing of unconventional hydrocarbons or unconventional hydrocarbons products; and
- (h) the establishing of a town to service an industry for the recovery, conveyance or processing of unconventional hydrocarbons or unconventional hydrocarbons products including civic, cultural and social facilities in the town; and
- (i) the construction, maintenance or operation of facilities (including, without limitation, access roads, docks, ports, airports, marinas and accommodation) to be used by a licensee or other person in connection with the prospecting for or recovery, conveyance or processing of unconventional hydrocarbons or unconventional hydrocarbons products; and
- (j) the acquisition of land or other property for activities in connection with the above purposes; and
- (k) the prevention or resolution of conflicts between unconventional hydrocarbons operations and petroleum operations and of disputes between licensees and petroleum tenement holders; and
- (l) the acquisition of a participating interest in an unconventional hydrocarbons project in accordance with Part IV.

(3) For the purposes of Section 53(2) of the *Constitution*, this Act is expressed to be made and each of the activities described above in Subsection (2) is expressed to be in the national interest.

(4) For the purposes of -

- (a) Section 29 of the *Organic Law on Provincial Governments and Local-level Governments*; and
- (b) Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*,

it is declared that this Act relates to a matter of national interest.

2. APPLICATION OF PROVISIONS OF ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

(1) For the purpose of Section 98 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act -

- (a) establishes the benefits and levies which are payable pursuant to Subsection (2) of that section in respect of unconventional hydrocarbon projects; and

Unconventional Hydrocarbons

- (b) provides for the rates, management, sharing arrangement and application of such development levies; and
- (c) establishes the trust funds referred to in Subsection (3) of that section for the controlling and distribution of such development levies.

(2) For the purpose of Section 99 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act establishes the principles by which the National Government and its statutory agencies will share with applicable Provincial Governments and Local-level Governments the revenues of the National Government generated from unconventional hydrocarbons projects.

(3) For the purpose of Section 116 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act establishes -

- (a) the consultation process amongst stakeholders, including the establishment and procedures for development forums, for unconventional hydrocarbons projects; and
- (b) the extent to which the parties may participate in unconventional hydrocarbons projects.

3. INTERPRETATION.

(1) In this Act, unless the contrary intention appears -

“affected Local-level Government” means, in relation to an unconventional hydrocarbons project, a Local-level Government within whose geographic jurisdiction lies a dedicated project facility of that unconventional hydrocarbons project or any part of an unconventional hydrocarbons development licence the production of unconventional hydrocarbons from which is part of that unconventional hydrocarbons project;

“affected Provincial Government” means, in relation to an unconventional hydrocarbons project, a Provincial Government within whose geographic jurisdiction lies a dedicated project facility of that unconventional hydrocarbons project or any part of an unconventional hydrocarbons development licence the production of unconventional hydrocarbons from which is part of that unconventional hydrocarbons project;

“annual fee” means a fee prescribed by Section 129(2);

“approved” means approved by the Minister;

“arbitration” means arbitration under the *Arbitration Act* (Chapter 46) or, where the Minister or the State and a licensee have agreed to substitute some other form of arbitration for that Act, that other form of arbitration;

“authorised officer” in relation to -

- (a) the doing of any act; or
- (b) the exercise of any power or function; or
- (c) the performance of any duty,

means the officer authorised in writing by the Minister for that purpose;

“block” has the meaning given in the *Oil and Gas Act 1998*;

“Board” has the meaning given in the *Oil and Gas Act 1998*;

“buffer zone” means, in relation to a unconventional hydrocarbons project, the area around the dedicated project facilities of that unconventional hydrocarbons project determined by the Minister to be the buffer zone for that unconventional hydrocarbons project, but does not include land not within an unconventional hydrocarbons development licence pursuant to which the unconventional hydrocarbons project is conducted or any land not within five kilometres of a dedicated project facility;

“Chief Inspector” has the meaning given in the *Oil and Gas Act 1998*;

Unconventional Hydrocarbons

- “Chief Warden” has the meaning given in the *Oil and Gas Act 1998*;
- “commencement date” means the date of coming into operation of this Act;
- “co-ordinated development agreement” means a development agreement applying to a co-ordinated project development in accordance with Section 46;
- “co-ordinated project development” means a project for the commercial recovery of unconventional hydrocarbons, or both unconventional hydrocarbons and petroleum, developed by two or more licensees or one or more licensees and one or more petroleum tenement holders in conjunction with each other;
- “customary land” means land that is owned or possessed by an automatic citizen or community of automatic citizens by virtue of rights of a proprietary or possessory kind that belonged to that citizen or community and arise from and are regulated by custom;
- “customary land owner” means a person who has an interest in customary land;
- “dedicated project facility” means, in relation to an unconventional hydrocarbons project -
- (a) a pipeline; or
 - (b) a pipe or system of pipes referred to in Paragraphs (a) to (d) inclusive of the definition of “pipeline”; or
 - (c) an unconventional hydrocarbons processing facility; or
 - (d) any other facility used exclusively by the licensee or other person in carrying on that unconventional hydrocarbons project, the operations of which are part of the same “unconventional hydrocarbons project” as defined in the *Income Tax Act 1959*, but does not include a facility which is excluded as a dedicated project facility by an instrument signed by the Minister;
- “Department” has the meaning given in the *Oil and Gas Act 1998*;
- “development agreement” means, in relation to an unconventional hydrocarbons project, a written agreement between -
- (a) the State; and
 - (b) the project area landowners, affected Local-level Governments or affected Provincial Governments of the unconventional hydrocarbons project; or any of them, as the case may be, and includes a co-ordinated development agreement;
- “development forum” means, in relation to an unconventional hydrocarbons project or a proposed unconventional hydrocarbons project, a meeting or combination of meetings convened in accordance with Section 43;
- “Director” means the Director appointed under Section 11 of the *Oil and Gas Act 1998*;
- “document” includes any map, book, record or writing;
- “domestic utilisation” means the consumption or distribution of unconventional hydrocarbons or unconventional hydrocarbons products as a fuel or feedstock within Papua New Guinea;
- “drilling” means the perforation of the earth’s surface whether the hole is vertical, inclined or horizontal and includes -
- (a) all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled by extraneous materials (including water); and
 - (b) the fitting of wellheads, coring and logging;
- “equity benefit” means, in relation to a unconventional hydrocarbons project, a two percent participating interest in that unconventional hydrocarbons project, free of encumbrances or liabilities as at the commencement of commercial production of unconventional hydrocarbons from that unconventional hydrocarbons project;
- “Expenditure Implementation Committee” means a committee established in accordance with Section 148(2);

Unconventional Hydrocarbons

“flow lines or gathering lines” means pipes or a system of pipes for one of the uses referred to in Paragraphs (a), (b) and (c) of the definition of “pipeline”;

“good industry practice” means practice which is generally accepted within the unconventional hydrocarbons industry as good and safe in the carrying on of unconventional hydrocarbons operations;

“graticular section” has the meaning given in the *Oil and Gas Act 1998*;

“improvements” mean -

- (a) any building or structure; or
- (b) any yard, fence, wall or other erection, construction or appliance affixed to land -
 - (i) for the working or management of the land or of stock depastured on the land; or
 - (ii) for maintaining or increasing the natural capacity of the land to produce or to give shelter or enjoyment to humans or animals; or
- (c) any planted crop or trees, whether planted for commercial or domestic purposes; or
- (d) any well, bore, water reservoir, spring, dam or other artificial water course or watering place; or
- (e) any road, track, footpath, railway, tramway, culvert, bridge or crossing; or
- (f) the site of any sports ground, recreation area, sing-sing ground, village or community meeting place, burial place or sacred ground;

“incorporated land group” has the meaning given in the *Land Groups Incorporation Act* (Chapter 147);

“in-plant piping” means pipes or a system of pipes referred to in Paragraph (d) of the definition of “pipeline”;

“inspector” means a person appointed under Section 122 of this Act or Section 151 of the *Oil and Gas Act 1998*, and includes the Chief Inspector;

“land” includes the offshore area and the bed of any river, stream, estuary, lake or swamp;

“licence” means -

- (a) an unconventional hydrocarbons prospecting licence issued under Section 18; or
- (b) an unconventional hydrocarbons retention licence issued under Section 35; or
- (c) an unconventional hydrocarbons development licence issued under Section 53 or any of them, as the context requires and includes any extension of those licences;

“licence area” means the area constituted by the blocks that are the subject of a licence;

“licensee” means the registered holder of a licence;

“location” means the blocks in respect of which a declaration under Section 29 is in force;

“low water line” means -

- (a) the low water line on a coast of Papua New Guinea at mean low water springs; or
- (b) any line declared by the Minister to be a low water line under Section 4;

“Minister” means the Minister of State having authority as “Minister” under the *Oil and Gas Act 1998*;

“month” means the period from and including a day in one calendar month to and excluding the corresponding day in the next calendar month and including the last day in the next calendar month if there is no corresponding day;

“MRDC” means Mineral Resources Development Company Pty Limited;

“natural gas” means fluid obtained from unconventional hydrocarbons operations which is a gas at standard temperature and pressure and which consists primarily of hydrocarbons;

“offshore area” means the area that comprises -

- (a) the seabed underlying the waters (if any) between the low water line and the baseline; and

Unconventional Hydrocarbons

- (b) the seabed underlying the territorial sea; and
- (c) the seabed adjacent to the coast of Papua New Guinea that underlies the offshore seas to a depth not exceeding 200 metres or, beyond that limit, to a depth where the superjacent waters admit of the exploitation of the natural resources in the subsurface or on the seabed of that area;

“operating agreement” means, in respect of a licence, the agreement executed between the holders of that licence and provided to the Director pursuant to Section 96 in relation to that licence;

“operator” means, in relation to a licence -

- (a) where there is only one registered holder of that licence, that registered holder; and
- (b) in all other cases, the person, who shall be a licensee, for the time being designated by the operating agreement, in respect of that licence as the operator of operations conducted in relation to that licence;

“participating interest” means, in relation to a licence or an unconventional hydrocarbons project an undivided beneficial interest in all of the project assets of that licence or unconventional hydrocarbons project;

“petroleum” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum licence” means a licence (as therein defined) granted under the *Oil and Gas Act 1998*;

“petroleum operations” means operations for the exploration for or recovery, processing, storage or transportation of petroleum conducted pursuant to a petroleum licence;

“petroleum pool” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum processing facility” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum processing facility licence” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum product” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum project” has the meaning given in the *Oil and Gas Act 1998*;

“petroleum reservoir” means a natural underground reservoir in which petroleum has been discovered pursuant to a petroleum tenement or a licence;

“petroleum tenement” means -

- (a) a petroleum prospecting licence granted under the *Oil and Gas Act 1998*; or
- (b) a petroleum retention licence granted under the *Oil and Gas Act 1998*; or
- (c) a petroleum development licence granted under the *Oil and Gas Act 1998*, or any of them, as the context requires, and includes any extension of those petroleum tenements;

“petroleum tenement holder” means the registered holder of a petroleum tenement;

“pipeline” means pipes and other interconnected facilities operated as an integrated system (including pumping stations, metering stations, valve stations, storage tanks and pipe launching and receiving stations) for transporting unconventional hydrocarbons from receipt points to delivery points either for processing within the country or for further processing or export, but does not include pipes and facilities for -

- (a) delivering unconventional hydrocarbons to a petroleum reservoir for pressure maintenance or storage or conservation; or
- (b) transporting unconventional hydrocarbons that are to be flared or vented, or recovered for test purposes under a licence and transported to facilities for testing or measurement or disposal; or

Unconventional Hydrocarbons

(c) gathering unconventional hydrocarbons for transportation to unconventional hydrocarbons processing facilities within a licence area where all such pipes and transportation facilities are within a licence area; or

(d) transporting unconventional hydrocarbons between receipt points and delivery points in an unconventional hydrocarbons processing facility;

“pipeline licence” has the meaning given in the *Oil and Gas Act 1998*;

“private land” means land, other than Government land, as defined in Section 2 of the *Mining Act 1992*;

“processed unconventional hydrocarbons” means stabilised crude oil, condensate, processed natural gas that conforms to a quality specification prescribed in a sales contract or elsewhere, liquefied petroleum gas, or liquefied natural gas, in each case having been derived from unconventional hydrocarbons, or any other unconventional hydrocarbons which has been processed but which are not an unconventional hydrocarbons product;

“project agreement” means a written agreement between the State and a licensee or applicant for a licence in accordance with Section 152 in relation to the development of an unconventional hydrocarbons project, and may include as a party the licensee of a different licence or a petroleum tenement holder or the holder of a pipeline licence or a petroleum processing facility licence where the proposed project also involves such other facilities;

“project area landowners” means the persons who are customary land owners or who have registered title to -

(a) any part of the licence area of an unconventional hydrocarbons development licence the operations under which are part of that unconventional hydrocarbons project; or

(b) any land within the buffer zone of that unconventional hydrocarbons project;

“project assets” means, in relation to an unconventional hydrocarbons project -

(a) the licence or licences pursuant to which the unconventional hydrocarbons project or any part of it is conducted; and

(b) the property, real or personal, present or future, owned or acquired or held for use by or on behalf of the licensee or licensees or other persons affiliated with the licensee or licensees who are carrying out the unconventional hydrocarbons project, which is held for the purposes of the unconventional hydrocarbons project or any part of it, including all property in dedicated project facilities of the unconventional hydrocarbons project; and

(c) the right to receive in kind and to dispose of all unconventional hydrocarbons recovered in the course of the unconventional hydrocarbons project, in each case to the extent that such unconventional hydrocarbons project is an entire or more than one entire “petroleum project” or “designated gas project” or unconventional hydrocarbons project as defined in the *Income Tax Act 1959*;

“project pipeline” means a pipeline which is not a strategic pipeline;

“pumping station” means equipment for pumping unconventional hydrocarbons or unconventional hydrocarbons products or water and includes any structure associated with that equipment;

“Register” means a Register kept under Division III.12;

“registered holder”, in relation to a licence, means the person whose name is, for the time being, shown in the Register as being the holder of the licence;

Unconventional Hydrocarbons

- “royalty benefit” means, in relation to an unconventional hydrocarbons project, a sum of money each month equal to the amount of royalty payable in the previous month pursuant to Section 131 by a licensee in respect of that unconventional hydrocarbons project, less any tax or withholding payable to the State in respect of such royalty upon payment to third persons;
- “royalty period”, in relation to a licence means -
- (a) the period commencing on the date on which the licence comes into effect to the end of that month; and
 - (b) each month afterwards;
- “State equity entitlement” means the entitlement of the State, pursuant to Section 137, to acquire, directly or through a nominee, a participating interest in an unconventional hydrocarbons project;
- “stimulation” means activities undertaken for the purpose of increasing the flow of unconventional hydrocarbons from a formation, including the use of explosive charges, hydraulic fracturing and the injection of water, chemicals, sand or other materials;
- “stimulation substances” means any substances, including chemicals and sand, which are or are intended to be injected into a well for the purpose of stimulation;
- “storage” means the accumulation of unconventional hydrocarbons or unconventional hydrocarbons products pending transportation to an unconventional hydrocarbons processing facility or loading for transportation or sale;
- “strategic petroleum processing facility” has the meaning given in the *Oil and Gas Act 1998*;
- “strategic pipeline” has the meaning given in the *Oil and Gas Act 1998*;
- “tank station” means a tank or system of tanks for holding or storing unconventional hydrocarbons and includes any structure associated with that tank or system of tanks;
- “temporary operations” means any of the following operations:
- (a) geological, geochemical and geophysical surveying; or
 - (b) taking samples by hand or hand held methods; or
 - (c) aerial and land surveying; or
 - (d) transportation of crews and equipment by haul roads, navigable waterways or aircraft; or
 - (e) any activity prescribed by regulation as a preliminary survey and any lawful act incidental to any activity to which Paragraphs (a) to (e) relate to the extent that it does not involve any activity that results in surveys of greater than minimum scale and in no circumstances shall include activities involving -
 - (i) exploring for unconventional hydrocarbons; or
 - (ii) the cutting, destroying, removing or injury of any vegetation on greater than a minimum scale; or
 - (iii) the use of explosives, other than for geophysical survey; or
 - (iv) damage to improvements, stock or chattels on any land; or
 - (v) any breach of the provisions of this or any other Act, including provisions relating to protected native plants, water, noise and historic sites; or
 - (vi) the use of more persons for any particular activity than is reasonably necessary; or
 - (vii) any survey prescribed as a prohibited survey; or
 - (viii) entry on land prescribed as prohibited land;
- “this Act” includes the regulations;

Unconventional Hydrocarbons

- “transportation” means the act of delivering unconventional hydrocarbons or unconventional hydrocarbons products, whether by barge, pipeline, road tanker, ship, drums or other container or otherwise, from a receipt point to a destination point including back hauls, displacement, exchange and in-transit storage;
- “unconventional hydrocarbons” mean -
- (a) any naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state; or
 - (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 any other substance, which is or are or may be extracted from coal, shale or other rock and includes processed unconventional hydrocarbons,
- but does not include any hydrocarbons which is or are or may be extracted from a conventional petroleum pool, or any unconventional hydrocarbons as defined by Paragraph (a), (b) or (c) that have been returned to a natural petroleum reservoir;
- “unconventional hydrocarbons development licence” means a licence issued under Division III.7;
- “unconventional hydrocarbons development licensee” means the registered holder of an unconventional hydrocarbons development licence;
- “unconventional hydrocarbons operations” means operations for the exploration for or recovery, processing, storage or transportation of unconventional hydrocarbons conducted pursuant to a licence;
- “unconventional hydrocarbons processing” means refining, separating, stabilising, liquefying, storing, reclaiming, treating, fractionation, cracking, polymerisation, reforming or re-refining of unconventional hydrocarbons, or the conversion of unconventional hydrocarbons to other derivatives of unconventional hydrocarbons or petroleum and all related operations and “processed”, in relation to unconventional hydrocarbons or unconventional hydrocarbons products, has the corresponding meaning;
- “unconventional hydrocarbons processing facility” means a facility, whether onshore or offshore, for unconventional hydrocarbons processing and includes tanks for bulk storage of unconventional hydrocarbons or unconventional hydrocarbons products and in-plant piping;
- “unconventional hydrocarbons product” means a distillate of unconventional hydrocarbons or a reformat or derivate of unconventional hydrocarbons;
- “unconventional hydrocarbons project” means a project in Papua New Guinea for the production of unconventional hydrocarbons and includes, if they are part of the same project or developed in conjunction with the unconventional hydrocarbons production development, the construction and operation pursuant to a licence or a petroleum licence of facilities for the recovery, processing or transportation of unconventional hydrocarbons;
- “unconventional hydrocarbons prospecting licence” means a licence issued under Division III.2;
- “unconventional hydrocarbons prospecting licensee” means the registered holder of an unconventional hydrocarbons prospecting licence;
- “unconventional hydrocarbons resource” means a naturally occurring discrete accumulation of unconventional hydrocarbons;

Unconventional Hydrocarbons

“unconventional hydrocarbons retention licence” means a licence issued under Division III.4;

“unconventional hydrocarbons retention licensee” means the registered holder of an unconventional hydrocarbons retention licence;

“valve station” means equipment for regulating the flow of unconventional hydrocarbons and includes any structure associated with that equipment;

“vessel” means a vessel used in navigation, other than air navigation, and includes a barge, lighter or other floating vessel;

“Warden” has the meaning given in the *Oil and Gas Act 1998*;

“water line” means a pipe or system of pipes for conveying water to be used in connection with prospecting for, or the recovery of, unconventional hydrocarbons;

“well” means a hole in land or the subsoil of land, made by drilling, boring, excavation or any other means -

- (a) in connection with exploration for unconventional hydrocarbons; or
- (b) in operations for the recovery of unconventional hydrocarbons, including the excavation of land or the subsoil to the extent necessary to recover quantities of shale or other rock from which unconventional hydrocarbons can be recovered, but does not include a seismic shot hole.

(2) In this Act, a reference -

- (a) to the term of a licence, is a reference to the period during which the licence remains in force and includes the period of any extension of such licence; and
- (b) to the date of expiration of a licence, is a reference to the day on which the licence ceases to have effect.

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

(4) In this Act, a reference to a licence is a reference to the licence as varied from time to time under this Act.

(5) For the purposes of this Act, “Papua New Guinea” includes the offshore area.

4. DECLARATION OF LOW WATER LINE.

In any case where he considers there is doubt as to the location of a low water line, the Minister may, by notice in the National Gazette, declare the location of the line by whatever method appears to him to be appropriate, and the line so declared shall be the low water line.

5. APPLICATION.

This Act applies -

- (a) to all natural persons, whether resident in the country or not; and
- (b) to all corporations, whether incorporated or carrying on business in the country or not.

6. UNCONVENTIONAL HYDROCARBONS THE PROPERTY OF THE STATE.

(1) Subject to this Act, but notwithstanding anything contained in any other law or in any grant, instrument of title or other document, all unconventional hydrocarbons at or below the surface of any land are, and shall be deemed at all times to have been, the property of the State.

Unconventional Hydrocarbons

(2) Nothing in Subsection (1) shall be construed as an additional acquisition of property in relation to Section 53 of the *Constitution* beyond that which prevailed under all previous Acts.

(3) Unconventional hydrocarbons shall not be removed from the land from which it has been obtained, or disposed of in any manner, except -

- (a) subject to Subsection (4), by a licensee, for the purpose of sampling or analysis; or
- (b) by a licensee in accordance with the terms of its licence or a written agreement with the State; or
- (c) as otherwise permitted by this Act.

(4) A licensee shall not take or send out of the country any samples of unconventional hydrocarbons without the written consent of the Director.

7. THE DIRECTOR MAY CARRY ON OPERATIONS.

(1) The Director may, on behalf of the State, carry on prospecting for, and the recovery and conveyance of, unconventional hydrocarbons, and activities incidental to those operations.

(2) Where the Director carries on any operations under this section, he has the same rights, benefits and privileges as a licensee.

(3) Where the Director carries on any operations under this section, he shall to the extent that they can be practicably applied to him, be subject to the same duties and obligations under this Act as apply to a licensee.

8. EXPLORATION FOR AND RECOVERY OF PETROLEUM.

A person who -

- (a) explores for unconventional hydrocarbons otherwise than under and in accordance with a licence or an instrument of consent issued under this Act; or
- (b) carries on operations for the recovery of unconventional hydrocarbons otherwise than under and in accordance with a licence,

is guilty of an offence.

Penalty: A fine not exceeding K50,000.00.

Default penalty: A fine not exceeding K50,000.00.

9. APPLICATION TO *MINING ACT* 1992 PROVISIONS.

The exploration for and recovery of unconventional hydrocarbons under a licence, and the carrying out of any other activities permitted under a licence, shall not constitute exploration for or the derivation or recovery or mining of minerals or mineral deposits for the purpose of the *Mining Act* 1992.

PART II. - APPLICATION OF LAWS AND ADMINISTRATION.

10. APPLICATION OF PART II OF *OIL AND GAS ACT* 1998.

(1) The provisions of Part II of the *Oil and Gas Act* 1998 (*Application of Laws and Administration*) shall apply under this Act *mutatis mutandis*.

Unconventional Hydrocarbons

(2) For the purposes of Subsection (1), in the application of Part II of the *Oil and Gas Act 1998* under this Act -

- (a) all references therein to "petroleum" shall be read as references to unconventional hydrocarbons; and
- (b) all references therein to "regulations" shall be read as references to regulations passed under this Act.

11. DELEGATION BY DIRECTOR.

The Director may, by notice in the National Gazette, delegate to an officer all or any of his powers and functions under this Act (except this power of delegation).

12. POWERS AND DUTIES OF BOARD.

(1) The Minister may refer to the Board for advice any question or matter relating to the administration of this Act.

(2) The Board shall inquire into and advise the Minister on any question or matter referred to it under Subsection (1) or as required by this Act.

(3) The referral of a question or matter under Subsection (1) shall be deemed to be a Commission issued under the *Commissions of Inquiry Act 1951*, and the provisions of that Act, including the provisions relating to penalties, apply to and in respect of an inquiry under this section as if the Minister were the Head of State, acting on advice, and the members of the Board were Commissioners within the meaning of that Act.

13. NO PERSONAL LIABILITY FOR BOARD, MINISTER OR DIRECTOR.

A member of the Board, the Minister, the Director, or a servant or agent of the State acting under the direction of one of them or an authority delegated to him under this Act, or an inspector, shall not be personally liable to an action, suit or proceeding or claim for damages for or in respect of an act or matter done or omitted to be done in good faith in exercise or purported exercise of any power or authority conferred by this Act.

PART III. - UNCONVENTIONAL HYDROCARBONS EXPLORATION AND DEVELOPMENT.

Division 1. - Preliminary.

14. ISSUE OF LICENCES.

(1) Subject to this Act, a licence may be issued to a person in respect of any block except a block that is -

- (a) comprised in a licence; or
- (b) reserved by declaration under Section 15.

(2) Subject to this Act, a block may be included in a licence area notwithstanding that, that block is included in the area of a petroleum tenement.

(3) Subject to this Act and the *Oil and Gas Act 1998*, a block may be included in the area of a petroleum tenement notwithstanding that, that block is included in a licence area.

Unconventional Hydrocarbons

- (4) A licence may be held by -
- (a) a natural person; or
 - (b) a body corporate that is incorporated in Papua New Guinea or registered as an overseas company under the *Companies Act 1997*; or
 - (c) an unincorporated combination of -
 - (i) natural persons; or
 - (ii) corporations to which Paragraph (b) applies; or
 - (iii) a natural person or natural persons and a corporation or corporations to which Paragraph (b) applies.
- (5) A notification of the issue of a licence shall be published in the National Gazette.

15. RESERVATION OF BLOCKS.

(1) The Minister may, by notice in the National Gazette, declare that a block or blocks specified in the notice (not being a block or blocks in respect of which a licence is in force) shall not be the subject of a licence, and may in the same manner revoke or vary such notice.

(2) While a declaration under Subsection (1) remains in force in respect of a block or blocks, a licence shall not be granted in respect of that block or those blocks.

(3) The Minister may make a declaration under Subsection (1) notwithstanding that, that block or those blocks are included in the area of a petroleum tenement.

(4) A declaration made by the Minister under Subsection (1) shall not preclude the block from being the subject of a petroleum tenement.

Division 2. - Unconventional Hydrocarbons Prospecting Licences.

16. APPLICATIONS FOR UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) A person may make an application to the Director for the grant of an unconventional hydrocarbons prospecting licence in respect of any block or blocks.

- (2) The Minister may, by notice in the National Gazette -
- (a) invite applications for the grant of an unconventional hydrocarbons prospecting licence in respect of the block or blocks specified in the notice; and
 - (b) specify the period during which an application may be made.

17. FORM OF APPLICATION FOR UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

- (1) An application made under, or as a result of an invitation under Section 16 -
- (a) shall be in an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) subject to Subsection (2) shall be in respect of not more than 60 blocks; and
 - (d) shall be accompanied by particulars of -
 - (i) the detailed proposals of the applicant for work and expenditure in respect of the block or blocks specified in the application during the first two years of the term of the licence and an outline of proposals for work and expenditure during the remaining four years of the licence; and

Unconventional Hydrocarbons

- (ii) the technical qualifications of the applicant and of its employees; and
- (iii) the technical advice available to the applicant; and
- (iv) the financial resources available to the applicant; and
- (e) may set out any other matters that the applicant wishes the Minister to consider; and
- (f) shall be accompanied by the fee prescribed by Section 129.

(2) The Minister may consider an application in respect of more than 60 but not more than 200 blocks where he is satisfied that special circumstances exist for his doing so.

(3) The blocks specified in the application referred to in Subsections (1) and (2) shall be constituted by graticular sections that -

- (a) form a single area; and
- (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.

(4) The Director may, at any time, by instrument served on the applicant, require the applicant to furnish, within the time specified in the instrument, such further written information in connection with its application as the Director considers necessary.

(5) Where an application is received under, or as a result of an invitation under Section 16 -

- (a) notice of the application shall be published by the Director in the National Gazette; and
- (b) any person who claims to be affected by the application may file notice of his objection to that application with the Director within one month after the date of publication of the notice of application and all objections shall be considered by the Board before the Board reports on the application.

(6) As soon as practicable after the granting of a licence in respect of any block or blocks specified in an application made under, or as a result of an invitation under Section 16, the Minister shall cause to be published in the National Gazette, particulars of any licence so granted.

18. GRANT OR REFUSAL OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) Where an application has been made under, or as a result of an invitation under Section 16, the Minister may, after consideration of a report from the Board and after having regard to physical planning considerations -

- (a) by instrument served on the applicant, inform the applicant -
 - (i) that he is prepared to grant to the applicant an unconventional hydrocarbons prospecting licence in respect of any or all of the blocks specified in the instrument, being blocks to which the application relates; and
 - (ii) that the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will be subject, and with the provisions of this Act, and to pay the first annual fee; or
- (b) refuse to grant a licence to the applicant.

(2) An instrument under Subsection (1)(a) shall contain -

- (a) the conditions subject to which the licence is to be granted; and

Unconventional Hydrocarbons

- (b) a statement to the effect that the application will lapse if the applicant does not make a request under Subsection (3) in respect of the grant of the licence and lodge with the Director the security specified in the instrument and the first annual fee.

(3) An applicant who has been served with an instrument under Subsection (1) may, within a period of one month after the date of service of the instrument on him, or within such further period, not exceeding three months, as the Minister may allow -

- (a) by instrument served on the Minister, request the Minister to grant him the licence; and
- (b) lodge with the Director the security referred to in Subsection (1)(a) and the first annual fee referred to in that subsection.

(4) Where an applicant has complied with the requirements of Subsection (3), the Minister shall grant to him an unconventional hydrocarbons prospecting licence in respect of the block or blocks specified in the instrument, subject to the conditions specified in the instrument or such other conditions as are agreed on by the Minister and the applicant, but in any other case the application lapses.

19. VARIATION OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) The holder of an unconventional hydrocarbons prospecting licence may, at any time, make an application to the Minister for a variation of the unconventional hydrocarbons prospecting licence.

- (2) An application under Subsection (1) shall -
 - (a) specify the reasons for proposed variation; and
 - (b) be made in an approved form and contain the information specified in Section 17.

(3) The Director may require the applicant to furnish such further information in connection with its application as the Director considers necessary.

(4) Following receipt of an application under Subsection (1) the Minister may, after considering a report of the Board and any matters submitted to him under this section -

- (a) amend the terms of the unconventional hydrocarbons prospecting licence to provide as stipulated in the application or as otherwise agreed with the unconventional hydrocarbons prospecting licensee; or
- (b) refuse the application, in which case the existing unconventional hydrocarbons prospecting licence shall remain in full force and effect.

20. RIGHTS CONFERRED BY UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) Subject to Subsection (2), an unconventional hydrocarbons prospecting licence, while it remains in force, confers on the licensee, subject to this Act, and to the conditions specified in the licence, the exclusive right to explore for unconventional hydrocarbons, and to carry out appraisal of an unconventional hydrocarbons discovery, and to carry on such operations and execute such works as are necessary for those purposes, in the licence area, including -

- (a) accessing, entering, reopening and using any wells or other plant and equipment which has been abandoned in the licence area by a petroleum tenement holder or licensee of a prior licence applicable to that area; and
- (b) if authorised by the Director, stimulation of wells and formations; and
- (c) the construction and operation of water lines; and

Unconventional Hydrocarbons

- (d) if authorised by the Director, the completion of wells, the conduct of tests for appraisal of an unconventional hydrocarbons resource (including the construction in accordance with the authorisation and the operation of pipes and facilities to gather and transport unconventional hydrocarbons to a point of testing or treatment or disposal), and the recovery and sale or other disposal of all unconventional hydrocarbons so produced.
- (2) An unconventional hydrocarbons prospecting licensee shall not -
- (a) subject to the regulations, interfere with or disrupt the operations of a petroleum tenement holder which are being conducted in accordance with a petroleum tenement; or
 - (b) knowingly drill a well into a petroleum reservoir or produce petroleum from a petroleum reservoir.

21. TERM OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

Subject to this Act and to any condition in the licence, an unconventional hydrocarbons prospecting licence remains in force -

- (a) for a period of six years commencing on the day the licence takes effect; and
- (b) where the licence is extended under Section 24, for a further period of five years; and
- (c) where the licence is extended under Section 25, for a further period specified by the Minister on the grant of the extension.

22. APPLICATION FOR EXTENSION OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) Subject to Section 23, the holder of an unconventional hydrocarbons prospecting licence may make an application to the Director for the extension of the unconventional hydrocarbons prospecting licence in respect of any block or blocks in the licence area.

(2) An application under this section may be made once only in respect of any unconventional hydrocarbons prospecting licence.

- (3) An application under this section -
- (a) shall be in an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be made not less than three months before the day on which the licence is due to expire; and
 - (d) shall be accompanied by particulars of -
 - (i) the work carried out in, and the amounts expended in respect of, the licence area during the term of the licence up to and including the date of the application; and
 - (ii) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and
 - (e) may set out any other matters that the applicant requires the Minister to consider; and
 - (f) shall be accompanied by the fee prescribed by Section 129.

(4) The Minister may, after considering a report from the Board, accept an application for the extension of an unconventional hydrocarbons prospecting licence less than three months before, but not in any case after, the date of expiry of the licence.

Unconventional Hydrocarbons

23. APPLICATION FOR EXTENSION TO BE IN RESPECT OF REDUCED AREA.

(1) The number of blocks in respect of which an application for the extension of an unconventional hydrocarbons prospecting licence may be made shall not exceed the number that is the sum of -

- (a) the number of blocks (if any) the subject of the unconventional hydrocarbons prospecting licence that, at the date of expiration of the unconventional hydrocarbons prospecting licence, were a location not subject to an unconventional hydrocarbons retention licence or an application for an unconventional hydrocarbons retention licence; and
- (b) the number of blocks (if any) the subject of the unconventional hydrocarbons prospecting licence that, at the date of expiration of the unconventional hydrocarbons prospecting licence, are contained within an unconventional hydrocarbons retention licence or the subject of an application for an unconventional hydrocarbons retention licence; and
- (c) half the number of blocks in respect of which the unconventional hydrocarbons prospecting licence was issued.

(2) The blocks specified in an application for the extension of an unconventional hydrocarbons prospecting licence shall be blocks that relate to graticular sections that -

- (a) constitute a single area or not more than three discrete areas; and
- (b) are such that each graticular section in each area has a side in common with at least one other graticular section in that area.

24. GRANT OR REFUSAL OF EXTENSION OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) Where a licensee has made an application under Section 22 for an extension of an unconventional hydrocarbons prospecting licence and has furnished any additional information in connection with the application required by the Director, the Minister -

- (a) shall, if the licensee has complied with the conditions to which the licence is subject and the provisions of this Act; or
- (b) may, if the licensee has not complied with the conditions to which the licence is subject or the provisions of this Act and the Minister after considering a report from the Board is satisfied that although the licensee has not so complied, special circumstances exist that justify the granting of the extension of the licence, inform the licensee, by instrument served on the licensee -
- (c) that he is prepared to grant to the licensee the extension of the licence; and
- (d) that the licensee will be required to lodge a security, or extend a security already lodged, for compliance with -
 - (i) the conditions to which the licence, if the extension is granted, will from time to time be subject; and
 - (ii) with the provisions of this Act; and
- (e) of the amount of the next annual fee.

(2) If the licensee has not complied with the conditions to which the licence is subject or with the provisions of this Act, and if the Minister is not satisfied that special circumstances exist that justify the granting of the extension of the licence, the Minister shall, subject to Subsection (3), by instrument served on the licensee, refuse to grant the extension of the licence.

Unconventional Hydrocarbons

(3) The Minister shall not refuse to grant the extension of an unconventional hydrocarbons prospecting licence under this section unless -

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the extension of the licence; and
- (b) he has caused a copy of the instrument to be served on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument -
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which written submissions may be served on the Minister in connection with the proposed refusal; and
- (d) after -
 - (i) taking into account any matters submitted to him under Paragraph (c)(ii) on or before the specified date; and
 - (ii) considering a report from the Board on those matters,

he is not satisfied that special conditions exist that justify the granting of the extension of the licence.

(4) An instrument under Subsection (1) shall -

- (a) specify the conditions to which the licence, on the grant of the extension, is to be subject; and
- (b) contain a statement to the effect that the application will lapse if the applicant does not -
 - (i) make a request under Subsection (5) in respect of the grant of the extension of the licence; and
 - (ii) lodge with the Director the security specified in the instrument and the annual fee.

(5) A licensee who has been served with an instrument under Subsection (1) may, within a period of one month after the date of service of the instrument on him -

- (a) by instrument served on the Minister, request the Minister to grant to him the extension of the licence; and
- (b) lodge with the Director, the security specified in the instrument and pay the annual fee.

(6) Where a licensee who has been served with an instrument under Subsection (1) has, within the period specified in Subsection (5) -

- (a) made a request under Subsection (5); and
- (b) lodged with the Director the security specified in the instrument referred to in Subsection (1) and paid the next annual fee,

the Minister shall grant to the licensee the extension of the licence.

(7) Where a licensee who has been served with an instrument under Subsection (1) has not, within the period specified in Subsection (5) -

- (a) made a request under Subsection (5); or
- (b) lodged with the Director the security specified in the instrument and paid the annual fee,

the application lapses at the end of that period.

(8) Where -

- (a) an application for the extension of a licence has been made; and

Unconventional Hydrocarbons

(b) the licence expires -

- (i) before the Minister grants, or refuses to grant, the extension of the licence; or
- (ii) before the application lapses under Subsection (7),

the licence shall be deemed to continue in force until the Minister grants or refuses to grant the extension of the licence, or the application lapses under Subsection (7), whichever first occurs.

(9) As soon as practicable after the grant or refusal of an extension of a licence under this section, the Minister shall cause to be published in the National Gazette particulars of any extension so granted or, in the case of a refusal, a statement to that effect.

(10) Where an unconventional hydrocarbons prospecting licence is not extended on an application under this section, 90 percent of the fee referred to in Section 22(3)(f) shall be refunded to the applicant.

25. EXTENSION OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE IN RESPECT OF LOCATION.

(1) Where -

- (a) unconventional hydrocarbons are discovered in an unconventional hydrocarbons prospecting licence area within the period of two years before the date of expiration of an unconventional hydrocarbons prospecting licence that has been extended under Section 24; and
- (b) the Minister has made a declaration of a location under Section 29, or the licensee has nominated a block or blocks under that section for the purpose of a declaration of a location,

the Minister may grant a further extension of the licence in respect of the block or blocks to which Paragraph (b) applies.

(2) A further extension granted under Subsection (1) -

- (a) shall be for a period not exceeding three years; and
- (b) shall be subject to any conditions that the Minister, after considering a report of the Board, thinks fit and specifies in the licence.

(3) Where, before the expiration of an unconventional hydrocarbons prospecting licence that includes blocks that constitute a location, the licensee -

- (a) makes written application to the Minister for an extension or a further extension of the licence in respect of some or all of those blocks; and
- (b) satisfies the Minister that -
 - (i) the blocks contain all or part of an unconventional hydrocarbons resource or are otherwise properly included in a location; and
 - (ii) the construction, establishment and operation of facilities for the recovery of unconventional hydrocarbons is not economically feasible,

the Minister may grant an extension or a further extension of the unconventional hydrocarbons prospecting licence in respect of those blocks.

(4) An extension under Subsection (3) shall be for a period not exceeding one year.

Unconventional Hydrocarbons

26. CONDITIONS OF GRANT OF UNCONVENTIONAL HYDROCARBONS PROSPECTING LICENCE.

(1) An unconventional hydrocarbons prospecting licence may be granted subject to such conditions as the Minister, after considering the advice of the Board, thinks fit and specifies in the licence.

(2) In addition to conditions included in an unconventional hydrocarbons prospecting licence under Subsection (1) or on an extension of that licence under Section 24, the licence is subject to the conditions -

- (a) that acceptable proposals for work and expenditure in the third, fourth, fifth and sixth years, if applicable, of the licence or that extension shall be submitted to the Minister for approval not later than two months before the expiration of the second and fourth years of the licence or that extension, as the case requires; and
- (b) that in, or in relation to, the licence area, the licensee will, during the first two years of the licence, carry out the work and expend the amounts specified in the licence conditions for those years; and
- (c) that at the end of the period of six months after the date of grant of the licence and at the end of every subsequent period of six months of the term of the licence, the licensee shall forward to the Director, in duplicate, a report showing the nature and results of prospecting operations conducted during the immediately preceding period of six months, with a plan of the area prospected, showing all available information together with a program of its operations for the next succeeding six months; and
- (d) that, at the end of the period of six months after the date of grant, and at the end of every subsequent period of six months, the licensee shall forward to the Director a statement, in duplicate, showing the amounts expended in relation to the licence during the immediately preceding period of six months; and
- (e) that the licensee will provide to the Director reports on the activities of the licensee in respect of the licence containing such information and at such frequency as are specified in and will otherwise comply with any direction given under Section 119; and
- (f) that the licensee will carry out social mapping and landowner identification studies in accordance with Section 42; and
- (g) that, in addition to complying with Paragraph (f), at the end of each year of the licence, the licensee shall present to the Director a report on prospecting operations in the previous year and proposed operations for the following year.

(3) The conditions to which a licence or an extension of that licence under Section 24 is subject, including the conditions specified in Subsection (2), may be varied in the third, fourth, fifth and sixth years, if applicable, insofar as they relate to the work programme and in accordance with proposals submitted under Subsection (2)(a).

Division 3. - Discovery of unconventional hydrocarbons in Licence Area.

27. DISCOVERY OF UNCONVENTIONAL HYDROCARBONS TO BE NOTIFIED.

- (1) Where unconventional hydrocarbons are discovered in a licence area, the licensee -
- (a) shall immediately inform the Director of the discovery; and
 - (b) shall, within a period of three days after the date of the discovery, furnish to the Minister written particulars of the discovery.

Unconventional Hydrocarbons

(2) Where unconventional hydrocarbons are discovered in a licence area, the Director may, from time to time, by instrument served on the licensee, direct the licensee to furnish to him, within the period specified in the instrument, written particulars of -

- (a) the chemical composition and physical properties of the unconventional hydrocarbons; and
- (b) the nature of the subsoil in which the unconventional hydrocarbons occur; and
- (c) the method or methods by which the unconventional hydrocarbons might, if economically recoverable, be recovered; and
- (d) any other matters relating to the discovery that are specified by the Director in the instrument.

(3) A person to whom a direction is given under Subsection (2) who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5,000.00. .

28. DIRECTIONS BY MINISTER ON DISCOVERY OF UNCONVENTIONAL HYDROCARBONS.

(1) Where unconventional hydrocarbons are discovered in a licence area, the Minister may, by instrument served on the licensee, direct the licensee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument, including the completion of wells, the conduct of tests for appraisal of the unconventional hydrocarbons so discovered (including the construction in accordance with the direction and the operation of pipes and facilities to gather and transport unconventional hydrocarbons to a point of testing or treatment or disposal), and the recovery and sale or other disposal of all unconventional hydrocarbons so produced, to determine -

- (a) the chemical composition and physical properties of the unconventional hydrocarbons; and
- (b) the quantity of unconventional hydrocarbons in the discovery, or if part only of those unconventional hydrocarbons are within the licence area, in the part of the discovery that is within the licence area; and
- (c) the nature of the subsoil in which the unconventional hydrocarbons occur; and
- (d) the method or methods by which the unconventional hydrocarbons might, if economically recoverable, be recovered.

(2) A person to whom a direction is given under Subsection (1) who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

29. DECLARATION OF LOCATION.

(1) In this section, "discovery block" means a block in which unconventional hydrocarbons have been discovered.

(2) Where unconventional hydrocarbons have been discovered in a block within a licence (not being a block that is or is included in a location) the Minister -

- (a) shall, on receipt of a request from the licensee; and

Unconventional Hydrocarbons

(b) may in any case,
declare by notice in the National Gazette -
(c) in a case referred to in Paragraph (a) - the discovery block and not more than eight adjoining blocks within the licence area that are nominated by the licensee; or
(d) in any other case - the discovery block and such adjoining blocks as the Minister thinks proper,
to be a location for the purposes of this Act.

(3) At the request of the licensee or of his own volition the Minister may, by notice in the National Gazette -

(a) include in a location additional adjoining blocks; or
(b) revoke the declaration of a location in respect of one or more blocks,
but a location may not at any time include more than nine blocks.

(4) For the purposes of this section, a block adjoins a discovery block, if the graticular section that constitutes or includes the first-mentioned block has a side in common with, or touches -

(a) the discovery block; or
(b) any block that has a side in common with, or touches, the discovery block.

30. INVESTIGATION, ETC., OF LOCATION.

(1) Where a location has been declared under Section 29, the Minister may, by written notice served on the licensee, direct that the licensee carry out, within a period specified in the notice of not less than two years, such investigations and studies as the Minister thinks proper to assess the feasibility of the construction, establishment and operation of an industry for the recovery of unconventional hydrocarbons from the location.

- (2) The investigations and studies referred to in Subsection (1) may include -
- (a) technical and economic feasibility studies relating to the recovery and transport of unconventional hydrocarbons from the location and processing of the unconventional hydrocarbons and handling and disposal of any waste which might be produced from unconventional hydrocarbons operations; and
 - (b) studies of proposed sites for facilities that would be required by the industry referred to in Subsection (1); and
 - (c) studies of port or berthing facilities, roads, pipelines or other transportation facilities; and
 - (d) investigations into -
 - (i) suitable water facilities and reticulation systems for industrial and town purposes; and
 - (ii) the location and design of a suitable airstrip and associated landing and terminal facilities, if required; and
 - (iii) the generation and transmission of electricity as required; and
 - (e) investigations into the development, if required, of a suitable town for the industry referred to in Subsection (1), including the design of housing facilities and associated civic, cultural and social facilities; and
 - (f) investigations of any other works, services or facilities that may be required by that industry in relation to the location; and
 - (g) studies of future labour requirements for that industry; and

Unconventional Hydrocarbons

(h) physical impact studies into the possible effects of that industry on the environment.

(3) The licensee shall furnish to the Minister, within the period specified in the notice under Subsection (1), such reports, analyses and data resulting from the investigations and studies carried out under this section as the Minister, by written notice served on the licensee, may require.

31. REVOCATION OF DECLARATION OF LOCATION.

- (1) Where, in respect of a block included in a location, the licensee does not within -
- (a) a period of two years following the declaration of the location under Subsection 29(2); or
 - (b) any further period that the Minister allows under Subsection 50(1),

apply -

- (i) in the case of a location declared in an unconventional hydrocarbons prospecting licence, for an unconventional hydrocarbons retention licence or unconventional hydrocarbons development licence in respect of the blocks included in the location; or
- (ii) in the case of a location declared in an unconventional hydrocarbons retention licence, for an unconventional hydrocarbons development licence in respect of the blocks included in the location or a variation of the unconventional hydrocarbons retention licence to cover the specific unconventional hydrocarbons in respect of which the location was declared; or
- (iii) in the case of a location declared in an unconventional hydrocarbons development licence, for a variation of the unconventional hydrocarbons development licence to provide for the development of the specific unconventional hydrocarbons in respect of which the location was declared,

the Minister shall, by notice in the National Gazette, revoke the declaration of the location.

(2) Where all applications made under Section 50(1) for an unconventional hydrocarbons development licence or Section 32(1) for an unconventional hydrocarbons retention licence in respect of a block that is included in a location have lapsed, the unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence, as the case may be, is revoked in respect of that block.

(3) Where an unconventional hydrocarbons prospecting licence is revoked in respect of a block under Subsection (2), the Minister shall, by notice in the National Gazette, revoke the declaration of the location so far as it includes that block.

Division 4. - Unconventional Hydrocarbons Retention Licences.

32. APPLICATION FOR UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) A licensee whose unconventional hydrocarbons prospecting licence is in force in respect of the blocks that constitute a location may, within two years after the date on which the blocks were declared to be a location, or such further period as the Minister allows, make application to the Director for the grant of an unconventional hydrocarbons retention licence in respect of such of the blocks as the licensee satisfies the Minister contain an unconventional hydrocarbons resource or, for the better administration of unconventional hydrocarbons activities, should be included in an unconventional hydrocarbons retention licence.

Unconventional Hydrocarbons

(2) A licensee may, during the term of an unconventional hydrocarbons prospecting licence, make application to the Director for an unconventional hydrocarbons retention licence in respect of any block or blocks within the licence area -

- (a) that he satisfies the Minister contains or contain an unconventional hydrocarbons resource, or, for the better administration of unconventional hydrocarbons activities, should be included in an unconventional hydrocarbons retention licence; and
- (b) that do not at the time of making the application constitute a location.

(3) A person who is not the holder of a licence in respect of a block or blocks may make application to the Director for an unconventional hydrocarbons retention licence in respect of that block or those blocks where -

- (a) he satisfies the Minister that such block or blocks contains or contain an unconventional hydrocarbons resource; and
- (b) that block is not a block or those blocks are not blocks in respect of which a licence is in force at the time of the application.

33. FORM OF APPLICATION FOR UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) An application under Section 32 -

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) shall be accompanied by particulars of -
 - (i) the proposals of the applicant for work and expenditure in respect of the area comprised in the block or blocks specified in the application; and
 - (ii) the commercial viability of the recovery of unconventional hydrocarbons from the area comprised in the block or blocks specified in the application at the time of the application, and of the possible future commercial viability of the recovery of unconventional hydrocarbons from that area; and
- (d) may set out any other matters that the applicant wishes the Minister to consider; and
- (e) shall be accompanied by the fee prescribed by Section 129.

(2) The Director may, by instrument served on the applicant, require it to furnish, within a period specified in the instrument -

- (a) such further written information in connection with its application as the Director specifies in the instrument; and
- (b) such proposals, in addition to or by way of alteration to any proposals that have already been furnished under Subsection (1) as the Director specifies in the instrument, including proposals relating to any of the matters referred to in Section 30(2).

34. NOTIFICATION OF GRANT OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) Where an application for the grant of a unconventional hydrocarbons retention licence has been made -

- (a) under Section 32(1) or (2); and
- (b) the applicant has furnished proposals and any further information required by the Director under Section 33; and

Unconventional Hydrocarbons

- (c) the Minister, after considering a report from the Board, is satisfied as to the matters set out in Section 32(1) or (2) and with the proposals and other information provided under Section 33 and that recovery of unconventional hydrocarbons from the area comprised in the blocks specified in the application -
 - (i) is not at the time of application commercially viable; and
 - (ii) could become commercially viable within the period of time ending at the expiration of an unconventional hydrocarbons retention licence if extended for the maximum permitted period,

the Minister shall, by instrument served on the applicant, inform the applicant -

- (d) that -
 - (i) he is prepared to approve the proposals wholly or in part, and to grant to the applicant, on the basis of the approved proposals, an unconventional hydrocarbons retention licence in respect of the blocks specified in the application; and
 - (ii) the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will be subject, and with the provisions of this Act, and to pay the first annual fee; or
- (e) that he will defer consideration of a decision on the licence application until the applicant furnishes such proposals, in addition to or by way of alteration to the proposals furnished under Section 33 as the Minister specifies in the instrument, including proposals relating to any of the matters referred to in Section 30(2); or
- (f) that he is prepared to approve the proposals and to grant to the applicant an unconventional hydrocarbons retention licence in respect of the blocks specified in the application, subject to the applicant -
 - (i) making such alterations to the proposals; or
 - (ii) complying with such conditions in relation to the proposals, as the Minister thinks reasonable.

- (2) Where an application is made under Section 32(3), the Minister may -
 - (a) refuse to grant the application and advise the applicant accordingly; or
 - (b) treat the application as an application made under Section 32(1) or (2).

(3) Where, under Subsection (2), the Minister elects to treat an application as an application made under Section 32(1) or (2), that application shall, for the purposes of this section and Section 35, be deemed to be an application so made.

(4) In the case of an instrument to which Subsection (1)(f) applies, the Minister shall give to the applicant details of his reasons for requiring the alterations or imposing the conditions referred to in the instrument.

- (5) An instrument under Subsection (1)(d), (e) or (f) shall contain a statement to the effect that the application will lapse if -
 - (a) the applicant does not furnish any further proposals that the Minister requires within such period as the Minister specifies in the instrument, being a period of not less than two months nor more than one year; or
 - (b) the applicant does not make a request under Section 35(1) in respect of the grant of the licence; or

Unconventional Hydrocarbons

- (c) the applicant does not lodge with the Director the security referred to in Subsection (1)(d)(ii), and does not pay the first annual fee referred to in that Subsection.

(6) In determining whether recovery of unconventional hydrocarbons is commercially viable for the purposes of Subsection (1)(c) and Section 40(1)(b), the Minister shall invite and consider submissions from the applicant and shall take into account all relevant matters including technical assessment of the unconventional hydrocarbons situated within the blocks constituting the area at the time and the estimated development costs and likelihood that a development would earn a reasonable rate consistent with international unconventional hydrocarbons industry anticipated returns on unconventional hydrocarbons projects.

35. GRANT OR REFUSAL OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) An applicant who has been served with an instrument under Section 34(1) may, before the expiration of -

- (a) the period of three months after the date of service of the instrument on it or such further period, not exceeding three months, as the Minister allows; or
- (b) the period specified by the Minister under Section 34(5)(a), whichever is the latter,
- (c) by instrument served on the Minister -
 - (i) request the Minister to grant to it the licence to which the first-mentioned instrument relates; or
 - (ii) furnish the Minister with any further particulars required under Section 34(1)(e); and
- (d) lodge with the Director the security and the first annual fee referred to in Section 34(1)(d)(ii).

(2) Where -

- (a) an applicant has, within the period specified in Subsection (1) -
 - (i) made a request under Subsection (1)(c); and
 - (ii) lodged with the Director the security and the first annual fee referred to in Section 34(1)(d)(ii); and
 - (iii) furnished the Minister with any further proposals required under Section 34(1)(e); and
- (b) the Minister is satisfied that the applicant's proposals and further proposals adequately provide for such market and technical studies as may reasonably be expected to provide sufficient information to enable the unconventional hydrocarbons resource to be brought to timely economic development,

the Minister shall approve the proposals and grant to the applicant an unconventional hydrocarbons retention licence in respect of the blocks referred to in Section 34(1)(c), but in any other case the Minister may, by instrument, refuse to grant the licence.

(3) The Minister shall not refuse under Subsection (2) to grant the licence unless -

- (a) he has, by the instrument referred to in Subsection (2) served on the applicant, given not less than one month's notice of his intention to do so; and
- (b) he has, in that instrument -
 - (i) given the reasons for his intention; and

Unconventional Hydrocarbons

- (ii) specified a date on or before which the applicant may, by instrument served on the Minister, submit any matter that the applicant requires the Minister to consider including new proposals generally or in respect of some particular matter; and
- (c) he has given to the applicant, and to any persons whom the applicant thinks fit to consult, a full opportunity to consult with the Minister concerning the Minister's intention to refuse the licence; and
- (d) he has taken into account, after considering a report from the Board, any matters raised in the course of such consultations by the applicant or by any other person referred to in Paragraph (c).

(4) Where the holder of an unconventional hydrocarbons prospecting licence applies for an unconventional hydrocarbons retention licence in respect of all or part of the area of that unconventional hydrocarbons prospecting licence, then notwithstanding the provisions of Division 2 as to expiry of the unconventional hydrocarbons prospecting licence that unconventional hydrocarbons prospecting licence shall not expire in respect of the area for which an unconventional hydrocarbons resource retention licence is sought until the Minister has granted or refused to grant, as the case may be, an unconventional hydrocarbons resource retention licence under Subsection (2).

(5) Where the holder of an unconventional hydrocarbons prospecting licence applies for an unconventional hydrocarbons retention licence in respect of all or part of the area of that unconventional hydrocarbons prospecting licence and the Minister refuses to grant an unconventional hydrocarbons retention licence on the ground that he is not satisfied as to the matter referred to in Section 34(1)(c)(i), then notwithstanding the provisions of Division 2 as to expiry of the unconventional hydrocarbons prospecting licence that unconventional hydrocarbons prospecting licence shall not expire in respect of the area for which an unconventional hydrocarbons retention licence was sought until one year after the date of the instrument referred to in Subsection (2).

36. VARIATION OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) The holder of an unconventional hydrocarbons retention licence may make application to the Minister for a variation of the licence by the inclusion of an additional block or group of blocks -

- (a) having a side or sides in common, or touching, a block the subject of the unconventional hydrocarbons retention licence; and
- (b) not being the subject of a licence held by a person other than the applicant or the subject of an unconventional hydrocarbons development licence held by the applicant.

(2) Where an application is made under Subsection (1), the Minister may, by instrument served on the licensee, vary the unconventional hydrocarbons retention licence to include in the licence area the block or blocks to which the application relates.

- (3) From and including the day on which a variation of a licence under this section takes effect -
 - (a) the blocks included in the licence area by reason of the variation are, subject to this Act, for the remainder of the term of the licence, blocks in respect of which the unconventional hydrocarbons retention licence is in force; and
 - (b) any unconventional hydrocarbons prospecting licence that is in force in respect of the blocks so included is revoked in respect of those blocks.

(4) The holder of an unconventional hydrocarbons retention licence may, at any time, make an application to the Minister for any other variation of the unconventional hydrocarbons retention licence.

Unconventional Hydrocarbons

- (5) An application under Subsection (4) shall -
 - (a) specify the reasons for proposed variation; and
 - (b) be made in an approved form and contain the information specified in Section 33.

(6) The Director may require the applicant to furnish such further information in connection with its application as the Director considers necessary.

(7) Following receipt of an application under Subsection (4) the Minister may, after considering a report of the Board and any matters submitted to him under this section -

- (a) amend the terms of the unconventional hydrocarbons retention licence to provide as stipulated in the application or as otherwise agreed with the unconventional hydrocarbons retention licensee; or
- (b) refuse the application, in which case the existing unconventional hydrocarbons retention licence shall remain in full force and effect.

37. RIGHTS CONFERRED BY UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) Subject to Subsection (2), an unconventional hydrocarbons retention licence, while it remains in force, confers on the licensee, subject to this Act and to the conditions specified in the licence, exclusive rights -

- (a) to explore for unconventional hydrocarbons in the unconventional hydrocarbons retention licence area; and
- (b) to carry on field studies to obtain information to ensure timely economic development of the unconventional hydrocarbons resource in the unconventional hydrocarbons retention licence area; and
- (c) to carry on such operations and execute such works in the unconventional hydrocarbons retention licence area as are necessary for or in connection with the purposes specified in Paragraphs (a) and (b), including -
 - (i) accessing, entering, reopening and using any wells or other plant and equipment which has been abandoned in the licence area by a petroleum tenement holder or licensee of a prior licence applicable to that area; and
 - (ii) if authorised by the Director, stimulation of wells and formations; and
 - (iii) the construction and operation of water lines; and
- (d) if authorised by the Director, to complete wells, carry out tests for appraisal of the unconventional hydrocarbons resource (including the construction and the operation of pipes and facilities to gather and transport unconventional hydrocarbons to a point of testing or treatment or disposal) and to recover and sell or otherwise dispose of all unconventional hydrocarbons so produced.

(2) An unconventional hydrocarbons retention licensee shall not -

- (a) subject to the regulations, interfere with or disrupt the operations of a petroleum tenement holder which are being conducted in accordance with a petroleum tenement; or
- (b) knowingly drill a well into a petroleum reservoir or produce petroleum from a petroleum reservoir.

Unconventional Hydrocarbons

38. TERM OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

Subject to this Act and to any condition in the licence, an unconventional hydrocarbons retention licence remains in force -

- (a) for a period of five years commencing on the day on which the licence takes effect; and
- (b) where the licence is extended under Section 40 - for a further period of five years at each extension or for such shorter period as provided in accordance with Section 40(2).

39. APPLICATION FOR EXTENSION OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) The holder of an unconventional hydrocarbons retention licence may make application to the Minister for an extension of the licence.

(2) An application under this section may be made twice only in respect of a licence except that if any extension has been granted for a period of less than five years in accordance with Section 40(2) further application may be made if the total period of all extensions granted does not exceed ten years.

- (3) An application for an extension of an unconventional hydrocarbons retention licence -
 - (a) shall be in an approved form; and
 - (b) subject to Subsection (4), shall be made in an approved manner not later than six months before the day on which the licence is due to expire; and
 - (c) shall be accompanied by particulars of -
 - (i) the blocks in respect of which the extension is sought; and
 - (ii) the work carried out and the amounts expended in respect of the licence area up to and including a date not earlier than one month immediately preceding the date of application; and
 - (iii) the proposals of the licensee for work and expenditure in respect of the area; and
 - (d) shall be accompanied by the applicant's submissions in respect of the matters set out in Section 40(1)(a), (b) and (c); and
 - (e) shall be accompanied by the fee prescribed by Section 129.

(4) The Minister may, after considering a report from the Board, accept an application for the extension of an unconventional hydrocarbons retention licence not later than six months before the licence is due to expire, but in any case not after the licence has expired.

40. GRANT OR REFUSAL OF EXTENSION OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

(1) Where an unconventional hydrocarbons retention licensee which has complied with the conditions specified in the unconventional hydrocarbons retention licence and with the provisions of this Act, makes an application under Section 39 for the extension of the licence, the Minister shall, if he is satisfied -

- (a) that -
 - (i) the blocks in respect of which the extension is sought contain an unconventional hydrocarbons resource or part thereof; or
 - (ii) it is appropriate for the proper administration of unconventional hydrocarbons activities that the blocks in respect of which the extension is sought are included in the licence; and

Unconventional Hydrocarbons

- (b) that the recovery of unconventional hydrocarbons from the area comprised in the blocks specified in the application -
 - (i) is not at the time of application commercially viable; and
 - (ii) could become commercially viable within the period of time ending at the expiration of the unconventional hydrocarbons retention licence if extended for the maximum permitted time; and
- (c) that the applicant's proposals provide adequately for such market and technical studies and other work as may reasonably be expected to provide sufficient information to enable the unconventional hydrocarbons resource to be brought to timely economic development, inform the licensee, by instrument served on the licensee, that he is prepared to grant to the licensee the extension of the licence.

(2) If the Minister, when considering an application for the extension of an unconventional hydrocarbons retention licence under Subsection (1), is of the opinion that the recovery of unconventional hydrocarbons from the area comprised in the blocks specified in the application could become commercially viable in less than five years he may reduce the term of that extension from five years to a period of less than five years, or one year renewable every 12 months.

(3) Where an unconventional hydrocarbons retention licensee which has not complied with the conditions specified in the licence or with the provisions of this Act, makes an application under Section 39 for the extension of the licence, the Minister may, if, after considering a report from the Board, he is satisfied as to the matters set out in Subsection (1) and further satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of the extension of the licence, inform the licensee, by instrument served on the licensee, that he is prepared to grant to it an extension of the licence.

(4) Where an unconventional hydrocarbons retention licensee has not complied with the conditions specified in the licence or with the provisions of this Act, and the Minister is not satisfied that special circumstances exist that justify the granting of the extension of the licence, the Minister shall, subject to Subsection (6), by instrument served on the licensee, refuse to grant the extension of the licence.

(5) Where the Minister is not satisfied as to the matters set out in Subsection (1), the Minister shall, subject to Subsection (6), by instrument served on the licensee, refuse to grant the extension of the licence.

(6) The Minister shall not refuse to grant the extension of an unconventional hydrocarbons retention licence unless -

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the extension of the licence; and
- (b) he has served a copy of the instrument on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument -
 - (i) given the reasons for his intention to refuse; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument served on the Minister, submit any matters that he requires the Minister to consider; and

Unconventional Hydrocarbons

(d) he has taken into account, after considering a report from the Board, any matters so submitted to him, on or before the specified date, by the licensee or a person on whom a copy of the instrument has been served.

- (7) An instrument under Subsection (1) or (3) shall contain -
- (a) a summary of the conditions to which the grant of the extension is to be subject; and
 - (b) the term of the extension; and
 - (c) a statement to the effect that the application will lapse if the licensee -
 - (i) does not make a request under Subsection (8); or
 - (ii) does not pay the annual fee.

(8) A licensee which has been served with an instrument under Subsection (1) or (3) may, within a period of one month after the date of service of the instrument on it -

- (a) by instrument served on the Minister, request the Minister to grant to it the extension of the licence; and
- (b) pay the next annual fee.

(9) Where a licensee which has been served with an instrument under Subsection (1) or (3) has, within the period specified in Subsection (8) -

- (a) made a request under Subsection (8); and
- (b) paid the next annual fee,

the Minister shall approve the proposals and grant to the licensee the extension of the licence.

(10) Where a licensee which has been served with an instrument under Subsection (1) or (3) has not, within the period specified in Subsection (8) -

- (a) made a request under Subsection (8); or
- (b) paid the next annual fee,

the application lapses at the end of that period.

(11) Subject to Subsection (12), where -

- (a) an application for the extension of a licence is made under Section 39; and
- (b) the licence expires -
 - (i) before the Minister grants or refuses to grant the extension of the licence; or
 - (ii) before the application lapses under Subsection (10),

the licence shall be deemed to continue in force in all respects -

- (c) until the Minister refuses to grant the extension of the licence; or
- (d) until the application lapses under Subsection (10),

whichever first occurs.

(12) Where the Minister refuses to grant an extension under this section on the ground that he is not satisfied as to the matter referred to in Subsection (1)(b)(i), then, notwithstanding the provisions of this Division as to expiry of the unconventional hydrocarbons retention licence, that unconventional hydrocarbons retention licence shall not expire until one year after the date of service of the instrument referred to in Subsection (5).

Unconventional Hydrocarbons

41. CONDITIONS OF UNCONVENTIONAL HYDROCARBONS RETENTION LICENCE.

An unconventional hydrocarbons retention licence and any extension of an unconventional hydrocarbons retention licence -

- (a) is subject to conditions that -
 - (i) the licensee will carry out the proposals approved under Section 35(2) or Section 40(9); and
 - (ii) the licensee will provide to the Director reports on the activities of the licensee in respect of the licence containing such information and at such frequency as are specified in and will otherwise comply with any direction given under Section 119; and
 - (iii) the licensee will carry out social mapping and landowner identification studies in accordance with Section 42; and
- (b) may be made subject to such other conditions not inconsistent with this Act -
 - (i) as the Minister thinks proper and as are specified in the licence or extension of the licence; or
 - (ii) in respect of any matter or matters arising out of the applicant's proposals referred to in Section 33(1)(c) that are not administered under this Act, as the Minister, after consultation with the Minister responsible for administering that matter or those matters, thinks proper and specifies in the licence or extension of the licence; and
- (c) may require the licensee to enter into a project agreement.

Division 5. - Social Mapping and Landowner Identification Studies.

42. SOCIAL MAPPING AND LANDOWNER IDENTIFICATION STUDIES.

(1) It shall be a condition of every unconventional hydrocarbons prospecting licence that the licensee undertake social mapping studies and landowner identification studies in accordance with this section, to the extent that such studies have not been undertaken pursuant to a petroleum tenement covering the area of the unconventional hydrocarbons prospecting licence.

(2) It shall be a condition of every unconventional hydrocarbons retention licence that the licensee undertake social mapping studies and landowner identification studies in accordance with this section, to the extent that such studies have not been undertaken pursuant to a petroleum tenement covering the area of the unconventional hydrocarbons retention licence or pursuant to an unconventional hydrocarbons prospecting licence out of which the unconventional hydrocarbons retention licence was granted.

(3) It shall be a condition of every unconventional hydrocarbons development licence that the licensee undertake social mapping studies and landowner identification studies in accordance with this section, to the extent that such studies have not been undertaken pursuant to a petroleum tenement covering the area of the unconventional hydrocarbons development licence or pursuant to an unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence out of which the unconventional hydrocarbons development licence was granted.

(4) Prior to first entry on to the licence area for the purposes of exploration pursuant to an unconventional hydrocarbons prospecting licence or an unconventional hydrocarbons retention licence, the licensee shall (to the extent that they have not been undertaken by the licensee or another person within the previous ten years) undertake -

- (a) a preliminary social mapping study; and

Unconventional Hydrocarbons

- (b) a preliminary landowner identification study, of the customary land owners comprised in the licence area, with particular reference to that part of the licence area where the licensee's exploration activities are to be concentrated.

(5) If a licensee or a person makes an application for an unconventional hydrocarbons development licence under Section 50, the licensee shall submit with that application a full-scale social mapping study and landowner identification study of customary land owners in -

- (a) the licence area of that unconventional hydrocarbons development licence; and
- (b) other tenement areas, including the areas to be taken up by any easements for pipelines to be developed for the unconventional hydrocarbons project or any facility which would be a dedicated project facility (other than a facility which would be situated on such an unconventional hydrocarbons development licence) of the unconventional hydrocarbons project; and
- (c) the land within five kilometres of any facility which would be a dedicated project facility (other than a facility which would be situated on such an unconventional hydrocarbons development licence) of the unconventional hydrocarbons project; and
- (d) other areas which would be affected by the unconventional hydrocarbons project if developed.

(6) If a licensee makes an application for a variation of a licence under Section 54(1), to include an additional block or blocks in an unconventional hydrocarbons development licence, the licensee shall submit with that application a full-scale social mapping study and landowner identification study of customary land owners in -

- (a) the additional block or blocks that will form part of that unconventional hydrocarbons development licence; and
- (b) other tenement areas, including pipeline easements, which are associated with the unconventional hydrocarbons development licence upon variation of such licence; and
- (c) the land within five kilometres of any facility which would be a dedicated project facility (other than a facility which would be situated on such an unconventional hydrocarbons development licence) of the unconventional hydrocarbons project; and
- (d) other areas which would be affected by the development of the additional block or blocks.

(7) The Minister may by regulation prescribe the scope and method of a social mapping study or landowner identification study conducted in accordance with this section and requirements as to reports of such studies.

(8) Copies of any social mapping or landowner identification studies undertaken in accordance with this section (excluding any information which is confidential to the licensee or to the local groups of landowners) shall be provided to the Director.

(9) Where all or a part of a licence are or is co-extensive with all or a part of an area comprised in a petroleum tenement, any social mapping or landowner identification studies undertaken in accordance with this section or under the *Oil and Gas Act 1998* in respect of that area (excluding any information which is confidential to the licensee or the petroleum tenement holder or to the local groups of landowners) shall be provided to the licensee or the petroleum tenement holder, as the case may be.

Unconventional Hydrocarbons

Division 6. - Project Consultation.

43. DEVELOPMENT FORUM.

(1) Subject to Section 140, prior to the first grant of a licence or licences in respect of an unconventional hydrocarbons project, the Minister shall convene a development forum at a place close to the proposed licence area to provide ease of access, being a meeting to which are invited persons who, in the view of the Minister, will be affected by that unconventional hydrocarbons project, including -

- (a) the applicant or intending applicant for the licence or licences; and
- (b) the project area landowners determined under Section 140(2) or their duly appointed or elected representatives; and
- (c) the Local-level Government or Governments who would be affected, Local-level Governments of the project if the application is granted; and
- (d) the Provincial Government or Governments who would be affected, Provincial Governments of the project if the application is granted; and
- (e) the State.

(2) If subsequent to the first grant of a licence or licences in respect of an unconventional hydrocarbons project there is an application for a further licence or licences or the variation under Section 54(1) of a unconventional hydrocarbons development licence in respect of that unconventional hydrocarbons project, the Minister shall convene a further development forum in respect of that unconventional hydrocarbons project to which are invited persons who, as a result of social mapping and landowner identification studies, in the view of the Minister, fairly represent those parties defined in Section 43(1)(a) to (e) inclusive.

(3) The purpose of a development forum is to endeavour to reach agreement on matters on which agreement among those present is desirable, including the matters referred to in Part IV.

44. MATTERS REQUIRED BEFORE DEVELOPMENT FORUM.

A development forum shall not be convened in respect of a proposed unconventional hydrocarbons project until -

- (a) the applicant or intending applicant for a licence or licences has completed and presented to the Minister full-scale social mapping and landowner identification studies in accordance with Section 42(5); and
- (b) the Minister is satisfied, on the basis of the results of those studies, that the people who would be project area landowners of the unconventional hydrocarbons project are truly represented by the persons who are to be invited to the development forum as their representatives; and
- (c) the applicant or intending applicant has submitted to the Minister, and to the Minister responsible for environmental matters, a socio-economic impact study as part of the environmental plan required under the *Environmental Planning Act* (Chapter 370); and
- (d) the Director has prepared a proposal, after giving due consideration to the results of the full-scale social mapping and landowner identification studies and the socio-economic impact study and the principle set out in Section 141(3), for the equitable sharing of the equity benefit and the royalty benefit amongst project area landowners, and has provided that proposal to representatives of those future project area landowners.

Unconventional Hydrocarbons

45. DEVELOPMENT AGREEMENT.

(1) An agreement between the State and any of the project area landowners, the affected Local-level Governments and the affected Provincial Government of an unconventional hydrocarbons project governing the matters subject to agreement which are referred to in Part IV shall be contained in a development agreement.

(2) In addition to the matters referred to in Subsection (1), a development agreement may contain any other matter agreed between the parties.

46. CO-ORDINATION OF BENEFITS FOR UNCONVENTIONAL HYDROCARBONS PROJECTS.

(1) Where -

- (a) licensees enter into a co-ordinated unconventional hydrocarbons development under Section 60; or
- (b) a project agreement defines the extent of a particular unconventional hydrocarbons project to include more than one licence; or
- (c) a project agreement defines the development of a project to include an unconventional hydrocarbons project and a petroleum project,

the State and the project area landowners, the affected Local-level Governments and affected Provincial Governments may enter into a co-ordinated development agreement which may vary or replace an agreement or agreements in relation to unconventional hydrocarbons projects or petroleum projects or a development agreement or agreements under this Act.

(2) A co-ordinated development agreement shall govern the matters subject to agreement referred to in Part IV of this Act and any other matter agreed to between the parties.

47. POWER TO SIGN AGREEMENTS.

The Minister, acting with the approval of the National Executive Council, has the power to execute on behalf of the State a project agreement or a development agreement or a co-ordinated development agreement and any amendment of such agreements.

48. CONSULTATION WITH AFFECTED LOCAL-LEVEL GOVERNMENTS AND AFFECTED PROVINCIAL GOVERNMENTS.

(1) The Minister, shall following notification to a licensee under Section 30(1), notify each Local-level Government and Provincial Government which would likely be an affected Local-level Government or affected Provincial Government of the unconventional hydrocarbons project if developed, of the details of the notice served on the licensee.

(2) The Minister shall, in relation to any proposed unconventional hydrocarbons project, consult with each Local-level Government and Provincial Government which would likely be an affected Local-level Government or affected Provincial Government of the unconventional hydrocarbons project if developed, on the terms of -

- (a) any written agreement to be entered into by the State in relation to the proposed unconventional hydrocarbons project; and
- (b) any licence to be granted in respect of the proposed unconventional hydrocarbons project.

Unconventional Hydrocarbons

49. CO-ORDINATION OF DEVELOPMENT FORUM.

(1) Where a licensee makes application under Section 50, or applies to vary a licence by the inclusion of additional blocks under Section 54, the licensee of any licence affected by such application or variation and the State shall agree upon a plan to co-ordinate convening a development forum pursuant to the provisions of Section 43.

(2) An applicant shall pay a prescribed amount, not exceeding K250,000.00, as its contribution towards the cost of the development forum, if a development forum is required under Section 43.

(3) Where a co-ordinated project development requires the grant of additional licences or petroleum licences or the variation of licences or petroleum licences, then that co-ordinated project development will require only a single development forum to be held in respect of the co-ordinated project development and not for each individual licence or variation of a licence to be granted as part of the co-ordinated project development unless the Minister considers that those factors mentioned in Section 43(2) requires more than one development forum to be held in respect of that co-ordinated project development.

Division 7. - Unconventional Hydrocarbons Development Licences.

50. APPLICATION FOR UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) A licensee whose unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence is in force in respect of the blocks that constitute a location may, within two years after the date on which the blocks were declared to be a location, or such further period as the Minister allows, make application to the Director for the grant of an unconventional hydrocarbons development licence in respect of such of the blocks as the licensee satisfies the Minister, contain an unconventional hydrocarbons resource or a part of an unconventional hydrocarbons resource.

(2) A licensee may, during the term of an unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence, make application to the Director for an unconventional hydrocarbons development licence in respect of any block or blocks within the licence area -

- (a) that he satisfies the Minister, contains or contain an unconventional hydrocarbons resource or part of an unconventional hydrocarbons resource; and
- (b) that do not at the time of making the application constitute a location.

(3) A person who is not the holder of a licence in respect of that block or those blocks may make application to the Director for an unconventional hydrocarbons development licence in respect of a block or blocks -

- (a) that he satisfies the Minister contains or contain an unconventional hydrocarbons resource or part of an unconventional hydrocarbons resource; and
- (b) that is not a block or are not blocks in respect of which a licence is in force at the time of the application.

51. FORM OF APPLICATION FOR UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

- (1) An application under Section 50 -
 - (a) shall be in an approved form; and
 - (b) shall be made in an approved manner; and

Unconventional Hydrocarbons

- (c) shall be accompanied by detailed proposals by the applicant for the construction, establishment and operation of all facilities and services for and incidental to the recovery, processing, storage and transportation of unconventional hydrocarbons from the licence area; and
- (d) may set out any other matters that the applicant wishes the Minister to consider; and
- (e) shall be accompanied by the fee prescribed by Section 129.

(2) The Director may, by instrument served on the applicant, require it to furnish, within a period specified in the instrument -

- (a) such further written information in connection with its application as the Director specifies in the instrument; and
- (b) such proposals, in addition to or by way of alteration to any proposals that have already been furnished under Subsection (1) as the Director specifies in the instrument, including proposals relating to any of the matters referred to in Section 30(2); and
- (c) such information and proposals, or information and proposals in addition to or by way of alteration to information and proposals already supplied, relating to the acquisition by the State or its nominee of a participating interest in the unconventional hydrocarbons project in respect of which the application is made.

52. NOTIFICATION OF GRANT OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) Where an application for the grant of an unconventional hydrocarbons development licence has been made under Section 50(1) or (2) and the applicant has furnished proposals and any further information required by the Director under Section 51, the Minister, after having regard to physical planning considerations shall, by instrument served on the applicant, inform the applicant -

- (a) that -
 - (i) he is prepared to approve the proposals wholly or in part, and to grant to the applicant on the basis of the approved proposals, an unconventional hydrocarbons development licence in respect of the blocks specified in the application; and
 - (ii) the applicant will be required to lodge a security deposit for compliance with -
 - (A) the conditions relating to the protection and restoration of the environment; and
 - (B) the provisions of this Act; and
 - (C) any requirement in any law relating to the protection and restoration of the environment, or any condition imposed on the licensee under any such law; and
 - (D) any condition relating to the physical planning of the area; and
 - (iii) the applicant will be required to pay the first annual fee as a condition of the grant of the licence; or
- (b) that he will defer consideration of a decision on the proposals until the applicant furnishes such proposals, in addition to or by way of alteration to the proposals furnished under Section 51 as the Minister specifies in the instrument, including proposals relating to any of the matters referred to in Section 30(2) or Section 51(2)(c); or

Unconventional Hydrocarbons

- (c) that he is prepared to approve the proposals and to grant to the applicant a unconventional hydrocarbons development licence in respect of the blocks specified in the application, subject to the applicant -
 - (i) making such alterations to the proposals; or
 - (ii) complying with such conditions in relation to the proposals, as the Minister thinks reasonable.

- (2) Where an application is made under Section 50(3), the Minister may -
 - (a) refuse to grant the application and advise the applicant accordingly; or
 - (b) treat the application as an application made under Section 50(1) or (2).

(3) Where, under Subsection (2), the Minister elects to treat an application as an application made under Section 50(1) or (2), that application shall, for the purposes of this section and Section 53, be deemed to be an application so made.

(4) In the case of an instrument to which Subsection (1)(c) applies, the Minister shall give to the applicant details of his reasons for requiring the alterations or imposing the conditions referred to in the instrument.

- (5) An instrument under Subsection (1)(a), (b) or (c) shall contain a statement to the effect that the application will lapse if -
 - (a) a applicant does not furnish any further proposals that the Minister requires within such period as the Minister specifies in the instrument, being a period of not less than two months nor more than one year; or
 - (b) the applicant does not make a request under Section 53(1) in respect of the grant of the licence; or
 - (c) the applicant does not pay to the Director the first annual fee; or
 - (d) the applicant does not lodge with the Director the security specified in the instrument.

53. GRANT OR REFUSAL OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) An applicant who has been served with an instrument under Section 52(1) may, before the expiration of -

- (a) the period of three months after the date of service of the instrument on it or such further period or periods as the Minister allows; or
 - (b) the period specified by the Minister under Section 52(5)(a), whichever is the latter,
- by instrument served on the Minister -
- (c) request the Minister to grant to it the licence to which the first-mentioned instrument relates; and
 - (d) furnish the Minister with any further proposals required under Section 52(1)(b); and
 - (e) pay the first annual fee to the Director; and
 - (f) lodge with the Director the security deposit referred to in the instrument issued under Section 52(1)(a).

- (2) Where -
 - (a) an applicant has, within the period specified in Subsection (1) -
 - (i) made a request under Subsection (1)(c); and
 - (ii) paid the first annual fee to the Director; and

Unconventional Hydrocarbons

- (iii) furnished the Minister with any further proposals required under Section 52(1)(b); and
- (iv) lodged with the Director the security deposit referred to in the instrument issued under Section 52(1)(a); and
- (b) the Minister is satisfied, having considered the applicant's proposals and any further submissions of information, and a report from the Board and where it is available the relevant cost-benefit analysis carried out and made available to the National Executive Council by the National Economic and Fiscal Commission under Section 117(8)(a)(v) of the *Organic Law on Provincial Governments and Local-level Governments*, that the proposals for development -
 - (i) will achieve maximum efficient recovery and prevention of resource waste by applying good industry practice; and
 - (ii) do not interfere with the rights of licensees of adjacent licences covering a common unconventional hydrocarbons resource; and
 - (iii) comply with the State's policy on non-discriminatory access for other persons to any strategic pipelines or strategic petroleum processing facilities involved in the proposals; and
 - (iv) provide adequately for the protection of the environment and the welfare of the people of the area; and
 - (v) demonstrate that the applicant has adequately identified the persons who are the customary land owners in areas specified under Section 42(5); and
 - (vi) have duly considered a co-ordinated project development with any adjacent petroleum or unconventional hydrocarbons discoveries which studies and investigations conducted pursuant to a direction given under Section 60 reveal to be in the interest of the State; and
 - (vii) promote viable domestic utilisation of unconventional hydrocarbons, unconventional hydrocarbons products, petroleum or petroleum products to the extent reasonably possible; and
 - (viii) will otherwise be in the best interests of the Independent State of Papua New Guinea,

the Minister shall approve the proposals and grant to the applicant an unconventional hydrocarbons development licence in respect of the blocks referred to in Section 52(1)(c), but in any other case the Minister may, by instrument, refuse to grant the licence.

(3) The Minister shall not refuse under Subsection (2) to grant an unconventional hydrocarbons development licence unless -

- (a) he has, by the instrument referred to in Subsection (2) served on the applicant, given not less than one month's notice of his intention to do so; and
- (b) he has, in that instrument -
 - (i) given particulars of the reasons for his intention; and
 - (ii) specified a date on or before which the applicant may, by instrument served on the Minister, submit any matters that the applicant requires the Minister to consider, including new proposals generally or in respect of some particular matter; and
- (c) he has given to the applicant, and to any persons whom the applicant thinks fit to consult, a full opportunity to consult with the Minister concerning the Minister's intention to refuse to grant the licence; and

Unconventional Hydrocarbons

(d) he has taken into account, after considering a report from the Board, any matters raised in the course of such consultations by the applicant or by any other person referred to in Paragraph (c).

(4) Where the grounds for the Minister's refusal, under this section, of an application is that the applicant's proposals or further proposals do not satisfy the requirements of Subsection (2)(b), the applicant may, by written notice to the Minister before the date referred to in Subsection (3)(b)(ii), require that the question be referred to arbitration.

(5) The method of arbitration for the purpose of Subsection (4) may be the subject of a written agreement between the State and the applicant, and the method so agreed will be binding on the Minister.

(6) Where the method of arbitration is not the subject of an agreement referred to in Subsection (5), the matter stands referred to arbitration in accordance with the *Arbitration Act* (Chapter 46) on receipt by the Minister of the requirement.

(7) Where a matter is referred to arbitration under this section, the application does not lapse until the arbitrator has made his award and, where the award is made in the applicant's favour, the Minister has granted the unconventional hydrocarbons development licence.

(8) Subject to Subsection (7), where an applicant has been served with an instrument under Subsection (2) refusing to grant an application, the application lapses at the end of the period referred to in Subsection (3)(b)(ii) unless the Minister withdraws his refusal.

(9) Where a licensee makes application under Section 50(1) or (2) for an unconventional hydrocarbons development licence and the unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence would but for this subsection expire before the application has been dealt with in accordance with this section, the unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence, as the case may be, shall, notwithstanding the provisions of Division 2 or 4 as to the expiry thereof, continue in force in respect of the block or blocks until the first-mentioned application has been dealt with.

54. VARIATION OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) The holder of an unconventional hydrocarbons development licence may make application to the Minister for a variation of the licence by the inclusion of an additional block or group of blocks -

- (a) having a side or sides in common or touching a block, the subject of the unconventional hydrocarbons development licence; and
- (b) subject to Subsection (2), not being the subject of a licence held by a person other than the applicant.

(2) The licensee of an unconventional hydrocarbons development licence may make an application under Subsection (1) for the inclusion of an additional block or group of blocks even though they are the subject of a licence held by a person other than the applicant if -

- (a) the holder of the licence in respect of the additional block or groups of blocks has entered into an agreement in writing with the licensee of the unconventional hydrocarbons development licence consenting to the variation; and

Unconventional Hydrocarbons

- (b) the State pursuant to Section 137 and any applicable project agreement has an entitlement to acquire a participating interest in the additional blocks or group of blocks, and all of the affected licence holders including the licensee of the unconventional hydrocarbons development licence, have entered into an agreement concerning the terms of the State participation in the enlarged unconventional hydrocarbons development licence; and
- (c) a copy of any such agreement is provided to the Minister with the application for the variation; and
- (d) any such agreement provided to the Minister shall have been lodged and registered in accordance with Section 74.

(3) The Minister shall not approve an application under Subsection (1) unless he is satisfied, after considering a report of the Board, that the additional block or group of blocks proposed to be included in the licence contain an unconventional hydrocarbons resource or part of an unconventional hydrocarbons resource.

(4) Where an application is made under Subsection (1), the Minister shall, after considering a report of the Board and having used all reasonable efforts, by instrument served on the applicant within one month from having received the application either -

- (a) inform the applicant that the variation of the licence by the inclusion of the additional block or group of blocks as the case may be will be approved; or
- (b) refuse the application in which case the existing licences remain in full force and effect.

(5) An applicant who has been served with an instrument under Subsection (4)(a) may, within one month after the date of service of the instrument on it or such further period as the Minister allows, by instrument served on the Director accept the variation and upon service of such instrument on the Director, the unconventional hydrocarbons development licence shall be varied to include in the licence area the block or group of blocks to which the application relates.

(6) From and including the day on which the variation of a licence takes effect under Subsection (5), the blocks included in the licence area by reason of the variation are -

- (a) subject to this Act, for the remainder of the term of the licence, blocks in respect of which an applicant's unconventional hydrocarbons development licence is in force; and
- (b) any other licence that is in force in respect of the blocks so included is revoked in respect of those blocks.

(7) The holders of an unconventional hydrocarbons development licence may, at any time, make an application to the Minister for any other variation of the unconventional hydrocarbons development licence.

(8) An application under Subsection (7) shall -

- (a) specify the reason for the proposed variation; and
- (b) be made in an approved form and contain the information specified in Section 51.

(9) The Director may require the applicant to furnish such further information in connection with its application as the Director considers necessary.

Unconventional Hydrocarbons

(10) Following receipt of an application under Subsection (7) the Minister shall, after considering a report of the Board and any matters submitted to him under this section and having used all reasonable efforts, by instrument served on the applicant within two months from the date of receiving the application -

- (a) inform the applicant that he is prepared to approve the variation of the licence as stipulated in the application or as otherwise agreed with the applicant; or
- (b) refuse the application, in which case the existing unconventional hydrocarbons development licence will remain in full force and effect.

(11) An applicant who has been served with an instrument under Subsection (10)(a) may, within one month after the date of service of the instrument on it or such further period or periods as the Minister allows, by instrument served on the Director accept the variation and upon service of such instrument on the Director the unconventional hydrocarbons development licence shall be varied as stipulated in the application or as otherwise agreed with the applicant.

55. RIGHTS CONFERRED BY UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) Subject to Subsection (2), an unconventional hydrocarbons development licence, while it remains in force confers on the licensee, subject to this Act and to the conditions specified in the licence, exclusive rights -

- (a) to explore for unconventional hydrocarbons in the licence area; and
- (b) to carry on operations for the recovery of unconventional hydrocarbons in the licence area; and
- (c) to sell or otherwise dispose of the unconventional hydrocarbons so recovered; and
- (d) to carry on such operations and execute such works in the licence area as are necessary for or in connection with the purposes specified in Paragraphs (a), (b) and (c) including -
 - (i) the drilling or digging of wells for the recovery of unconventional hydrocarbons or shale or other rock from which unconventional hydrocarbons can be recovered; and
 - (ii) accessing, entering, reopening and using any wells or other plant and equipment which has been abandoned in the licence area by a petroleum tenement holder or licensee of a prior licence applicable to that area; and
 - (iii) if authorised by the Director, stimulation of wells and formations; and
 - (iv) the construction and operation of flow lines or gathering lines and water lines; and
 - (v) the construction and operation of any plant and equipment approved by the Minister or the Director for use in the unconventional hydrocarbons operations of the licensee in the licence area.

(2) An unconventional hydrocarbons development licensee shall not -

- (a) subject to the regulations, interfere with or disrupt the operations of a petroleum tenement holder which are being conducted in accordance with a petroleum tenement; or
- (b) knowingly drill a well into a petroleum reservoir or produce petroleum from a petroleum reservoir.

Unconventional Hydrocarbons

56. TERM OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

Subject to this Act and any condition in the licence, an unconventional hydrocarbons development licence remains in force -

- (a) for a period of 25 years commencing on the day on which the licence takes effect; and
- (b) where the licence has been extended under Section 58 - for such further consecutive period or periods not exceeding 20 years as the Minister determines is reasonably required to recover from the licence area the maximum amount of unconventional hydrocarbons the recovery of which is consistent with good industry practice.

57. APPLICATION FOR EXTENSION OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) The holder of an unconventional hydrocarbons development licence may make an application to the Minister for an extension of the licence.

(2) Unless otherwise provided in a written agreement entered into between the holder of the unconventional hydrocarbons development licence and the State, an application under this section may be made once only in respect of a licence.

- (3) An application for an extension of an unconventional hydrocarbons development licence -
 - (a) shall be in an approved form; and
 - (b) subject to Subsection (4), shall be made in an approved manner not later than six months before the day on which the licence is due to expire; and
 - (c) shall be accompanied by -
 - (i) a detailed assessment of the project life and the economically recoverable and economically unrecoverable unconventional hydrocarbons within the unconventional hydrocarbons resource which is the subject of the licence, providing a justification for the assessment of unconventional hydrocarbons as economically recoverable or unrecoverable, as the case may be; and
 - (ii) a detailed statement of anticipated future operations under the licence; and
 - (iii) the fee prescribed by Section 129.

(4) The Minister may, after considering a report of the Board, accept an application at any time prior to the last year of the current term of the licence where that application also relates to a variation of an unconventional hydrocarbons development licence pursuant to Section 54(7) and the applicant can demonstrate that the remaining period of the current term of the licence is insufficient to permit the maximum recovery of the unconventional hydrocarbons from the licence area.

58. GRANT OR REFUSAL OF EXTENSION OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

(1) Where an unconventional hydrocarbons development licensee, who has complied with the conditions specified in the licence and with the provisions of this Act, makes an application under Section 57 for the extension of the licence, the Minister shall inform the licensee, by instrument served on the licensee, that he is prepared to grant to the licensee the extension of the licence.

Unconventional Hydrocarbons

(2) Where an unconventional hydrocarbons development licensee who has not complied with the conditions specified in the licence or with the provisions of this Act, makes an application under Section 57 for the extension of the licence, the Minister may if, after considering a report from the Board, he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of the extension of the licence, inform the licensee, by instrument served on the licensee, that he is prepared to grant to it an extension of the licence.

(3) If an unconventional hydrocarbons development licensee has not complied with the conditions specified in the licence or with the provisions of this Act, and the Minister is not satisfied that special circumstances exist that justify the granting of the extension of the licence, the Minister shall, subject to Subsection (4), by instrument served on the licensee, refuse to grant the extension of the licence.

- (4) The Minister shall not refuse to grant the extension of a licence under this section unless -
- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the extension of the licence; and
 - (b) he has served a copy of the instrument on such other persons (if any) as he thinks fit; and
 - (c) he has, in the instrument -
 - (i) given particulars of the reasons for his intention to refuse; and
 - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument served on the Minister, submit any matters that he requires the Minister to consider; and
 - (d) he has taken into account, after considering a report from the Board, any matters so submitted to him, on or before the specified date, by the licensee or a person on whom a copy of the instrument has been served.

- (5) An instrument under Subsection (1) or (2) shall contain -
- (a) a summary of the conditions to which the grant of the extension is subject to; and
 - (b) a statement to the effect that the application will lapse if the licensee -
 - (i) does not make a request under Subsection (6); and
 - (ii) does not pay the annual fee.

- (6) A licensee which has been served with an instrument under Subsection (1) or (2) may, within a period of one month after the date of service of the instrument on it -
- (a) by instrument served on the Minister, request the Minister to grant to it the extension of the licence; and
 - (b) pay the next annual fee.

- (7) Where a licensee which has been served with an instrument under Subsection (1) or (2) has, within the period specified in Subsection (6) -
- (a) made a request under Subsection (6); and
 - (b) paid the next annual fee, the Minister shall grant to it the extension of the licence.

- (8) Where a licensee which has been served with an instrument under Subsection (1) or (2) has not, within the period specified in Subsection (6) -
- (a) made a request under Subsection (6); or

Unconventional Hydrocarbons

(b) paid the next annual fee,
the application lapses at the end of that period.

(9) Where -

(a) an application for the extension of a licence is made under Section 57; and

(b) the licence expires -

(i) before the Minister grants or refuses to grant the extension of the licence; or

(ii) before the application lapses under Subsection (8),

the licence shall be deemed to continue in force in all respects -

(c) until the Minister refuses to grant the extension of the licence; or

(d) until the application lapses under Subsection (8), whichever first occurs.

59. CONDITIONS OF UNCONVENTIONAL HYDROCARBONS DEVELOPMENT LICENCE.

An unconventional hydrocarbons development licence and any extension or variation of an unconventional hydrocarbons development licence -

(a) is subject to conditions that -

(i) the licensee will carry out the proposals approved under Section 53(2); and

(ii) the licensee will provide to the Director reports on the activities of the licensee in respect of the licence containing such information and at such frequency as are specified in and will otherwise comply with any direction given under Section 119; and

(iii) the licensee will carry out social mapping and landowner identification studies as directed by the Minister in accordance with Section 42; and

(b) may be made subject to such other conditions not inconsistent with this Act -

(i) as the Minister thinks proper and specifies in the licence or extension of the licence; or

(ii) in respect of any matter or matters arising out of the applicant's proposals referred to in Section 51(1)(c) that are not administered under this Act, as the Minister, after consultation with the Minister responsible for administering that matter or those matters, thinks proper and specifies in the licence or extension of the licence.

60. CO-ORDINATED PROJECT DEVELOPMENTS.

(1) Where the Director considers that, in order to prevent waste, avoid unnecessary competitive drilling, protect the correlative rights of licensees of adjacent licences or petroleum tenement holders, secure the maximum ultimate recovery of unconventional hydrocarbons or petroleum or achieve the optimum economic development of unconventional hydrocarbons or petroleum resources, the interests of the State might best be furthered through two or more licensees or one or more licensees and one or more petroleum tenement holders developing a co-ordinated project development with each other, the Director may give a licensee or a petroleum tenement holder a direction under this section.

(2) A licensee or a petroleum tenement holder given a direction under this section shall, within the period, if any, and in accordance with any other directions specified in the instrument, conduct such studies and investigations into the possibilities and merits of a co-ordinated project development as are specified in the direction.

Unconventional Hydrocarbons

(3) If the Minister considers for any of the reasons set out in Subsection (1) that a co-ordinated project development involving blocks none of which are then included in an unconventional hydrocarbons development licence or a petroleum development licence is in the interest of the State, he may refuse to grant an unconventional hydrocarbons development licence in respect of part only of that proposed co-ordinated project development.

61. DIRECTIONS AS TO RECOVERY OF UNCONVENTIONAL HYDROCARBONS.

(1) Where unconventional hydrocarbons are not being recovered in a licence area and the Minister, with the advice of the Board, is satisfied that there is recoverable unconventional hydrocarbons in that licence area, he may, by instrument served on the licensee, direct the licensee to take all necessary and practicable steps to recover those unconventional hydrocarbons.

(2) Where the Director is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under Subsection (1), the Director may, by instrument served on the licensee, give to the licensee such directions as the Director thinks necessary for or in relation to the recovery of unconventional hydrocarbons in the licence area.

(3) Where unconventional hydrocarbons are being recovered in a licence area, the Minister may, with the advice of the Board, by instrument served on the licensee, direct the licensee to take all necessary and practical steps to increase or reduce the rate at which the unconventional hydrocarbons are being recovered to such rate, not exceeding the capacity of existing production facilities, as the Minister specifies in the instrument.

(4) Where the Director is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under Subsection (3), the Director may, by instrument served on the licensee, give to the licensee such directions as the Director thinks necessary for or in relation to the increase or reduction of the rate at which unconventional hydrocarbons are being recovered in the licence area.

62. DOMESTIC MARKET OBLIGATION.

(1) The provisions of Section 67 of the *Oil and Gas Act 1998* shall apply to the disposal of processed unconventional hydrocarbons.

(2) For the purpose of Subsection (1), in the application of Section 67 of the *Oil and Gas Act 1998* under this Act, all references therein to "processed petroleum" shall be read as references to processed unconventional hydrocarbons.

Division 8. - Co-extensive Unconventional Hydrocarbons Operations and Petroleum Operations.

63. CO-EXTENSIVE LICENCES AND PETROLEUM TENEMENTS PERMITTED.

(1) Notwithstanding the provisions of the *Oil and Gas Act 1998*, a licence may be granted under this Act in respect of blocks which are included in a petroleum tenement.

(2) A petroleum tenement may be granted in respect of blocks which are included in a licence.

Unconventional Hydrocarbons

64. DISCOVERIES.

(1) If in the conduct of unconventional petroleum operations, a licensee makes a discovery of petroleum, the licensee -

- (a) shall immediately notify the Director and the holder of any petroleum tenement in which that discovery was made; and
- (b) shall not take any action to appraise such petroleum or further explore for unconventional hydrocarbons in the area of the petroleum pool in the formation in which the discovery was made; and
- (c) shall as far as reasonably possible ensure that no petroleum escapes from the petroleum pool comprising the discovery; and
- (d) shall plug back the discovery well so that it no longer enters into the petroleum pool comprising the discovery; and
- (e) shall have no rights to appraise or produce petroleum from that discovery.

(2) If in the conduct of petroleum operations, a petroleum tenement holder makes a discovery of unconventional hydrocarbons, the petroleum tenement holder -

- (a) shall immediately notify the Director and the licensee of any licence in which that discovery was made; and
- (b) shall not take any action to appraise such unconventional hydrocarbons or further explore for petroleum in the area of the unconventional hydrocarbons deposit in the formation in which the discovery was made; and
- (c) shall as far as reasonably possible ensure that no unconventional hydrocarbons escape from the deposit comprising the discovery; and
- (d) shall plug back the discovery well so that it no longer enters into the deposit comprising the discovery; and
- (e) shall have no rights to appraise or produce unconventional hydrocarbons from that discovery.

(3) The Director may give directions, not inconsistent with this Act, for the conduct of unconventional hydrocarbon operations or petroleum operations in a situation described in Subsections (1) and (2).

(4) A licensee or a petroleum tenement holder to whom a direction is given by the Director in accordance with Subsection (3) shall conduct its unconventional hydrocarbons operations or petroleum operations in accordance with such direction.

65. CONFLICT IN OPERATIONS.

(1) Where a licensee and a petroleum tenement holder wish to conduct unconventional hydrocarbons operations and petroleum operations respectively in a manner which causes or may cause conflict between their respective operations, the Director may give directions, not inconsistent with this Act, for the conduct of their respective operations so as to avoid conflicts or co-ordinate their respective activities.

(2) A licensee or a petroleum tenement holder to whom a direction is given by the Director in accordance with Subsection (2) shall conduct its unconventional hydrocarbons operations or petroleum operations in accordance with such direction.

Unconventional Hydrocarbons

Division 9. - Processing and Export of Natural Gas.

66. PROCESSING OF NATURAL GAS.

(1) This section applies to all natural gas recovered in an unconventional hydrocarbons project, other than natural gas which is -

- (a) injected into a petroleum reservoir; or
- (b) flared in accordance with this Act or the *Oil and Gas Act 1998*; or
- (c) consumed in Papua New Guinea in operations under a licence or a petroleum licence.

(2) All natural gas produced in an unconventional hydrocarbons project shall be processed in an unconventional hydrocarbons processing facility in Papua New Guinea.

67. EXPORT OF NATURAL GAS.

The provisions of Section 69 of the *Oil and Gas Act 1998* (*Export of natural gas*) shall apply to the export of natural gas produced from unconventional hydrocarbons operations.

Division 10. - Pipeline Licences.

68. PIPELINE LICENCE REQUIRED.

(1) No person shall commence to construct or continue the construction of or operate or alter or reconstruct a pipeline for the conveyance or transportation of unconventional hydrocarbons except under and in accordance with a pipeline licence obtained under the *Oil and Gas Act 1998*.

(2) The construction, operation, alteration or reconstruction of a pipeline shall constitute the construction, operation, alteration or reconstruction of a "pipeline" as defined under Division III.9 of the *Oil and Gas Act 1998*.

(3) For the purposes of Subsections (1) and (2), all references in Division III.9 of the *Oil and Gas Act 1998* to -

- (a) a "licence" (as therein defined) includes a licence; and
- (b) "petroleum" includes unconventional hydrocarbons; and
- (c) a "petroleum development licence" includes an unconventional hydrocarbons development licence; and
- (d) "petroleum fields" include unconventional hydrocarbon resources; and
- (e) "petroleum products" include unconventional hydrocarbons products; and
- (f) "petroleum projects and gas projects" include unconventional hydrocarbons projects; and
- (g) a "pipeline" (as therein defined) includes a pipeline; and
- (h) a "project pipeline" (as therein defined) includes a project pipeline; and
- (i) two or more petroleum projects include two or more unconventional hydrocarbons projects or one or more unconventional hydrocarbons projects and one or more petroleum projects.

(4) Subsection (1) shall not apply to the construction, operation or reconstruction of a pipe or system of pipes referred to in Paragraphs (a) to (d) inclusive of the definition of "pipeline" in Section 3.

Unconventional Hydrocarbons

(5) Subject to the conditions contained in the applicable pipeline licence, nothing contained in the *Oil and Gas Act 1998* prevents the holder of a pipeline licence from transporting in its pipeline unconventional hydrocarbons or unconventional hydrocarbons products in lieu of, or commingled with, petroleum or petroleum products.

(6) The *Oil and Gas Act 1998* is amended to the extent necessary to give effect to this Division.

Division 11. - Licensing for Unconventional Hydrocarbons Processing Facilities.

69. PETROLEUM PROCESSING FACILITY LICENCE REQUIRED.

(1) Subject to this section, no person shall commence to construct or continue the construction of or make major modifications to or operate an unconventional hydrocarbons processing facility used for the processing of unconventional hydrocarbons without a petroleum processing facility licence obtained under the *Oil and Gas Act 1998* in respect of that unconventional hydrocarbons processing facility.

(2) The provisions of Subsection (1) shall not apply to the holder of an unconventional hydrocarbons licence in respect of an unconventional hydrocarbons processing facility which is part of the proposals for development approved for that unconventional hydrocarbons development licence by the Minister under Section 53(2) as varied from time to time, but the licensee thereof shall comply with all applicable regulations prescribed under this Act or the *Oil and Gas Act 1998* for securing, regulating, controlling or restricting petroleum processing facilities and the facilities shall be subject to inspection under Section 152 of the *Oil and Gas Act 1998*.

(3) The provisions of Subsection (1) shall not apply in relation to -

- (a) storage and transportation facilities for domestic utilisation that are designated by regulation to be exempt; or
- (b) pipelines in respect of which a pipeline licence is in force, but the operator thereof shall comply with all applicable regulations prescribed under this Act or the *Oil and Gas Act 1998* for securing, regulating, controlling or restricting petroleum processing facilities and the facilities shall be subject to inspection under Section 152 of the *Oil and Gas Act 1998*.

(4) The construction or operation or modification of an unconventional hydrocarbons processing facility used or to be used for the processing of unconventional hydrocarbons shall constitute the construction or operation or alteration or reconstruction of a petroleum processing facility under Division III.10 (*Petroleum Processing Facility Licences*) of the *Oil and Gas Act 1998*.

(5) For the purposes of Subsections (1) and (4), all references in Division III.10 of the *Oil and Gas Act 1998* to -

- (a) "petroleum" includes unconventional hydrocarbons; and
- (b) "petroleum products" include unconventional hydrocarbons products; and
- (c) a "petroleum development licence" includes an unconventional hydrocarbons development licence; and
- (d) a "petroleum processing facility" includes an unconventional hydrocarbons processing facility; and
- (e) "petroleum projects and gas projects" include unconventional hydrocarbons projects; and

Unconventional Hydrocarbons

- (f) a "pipeline" (as therein defined) includes a pipeline; and
- (g) a "strategic petroleum processing facility" includes an unconventional hydrocarbons processing facility directly connected to or directly integrated with a strategic pipeline, either upstream or downstream, but does not include an unconventional hydrocarbons processing facility which is exempted under Section 89(7) of the *Oil and Gas Act 1998*.

(6) Subject to the conditions contained in the applicable petroleum processing facility licence, nothing contained in the *Oil and Gas Act 1998* prevents the holder of a petroleum processing facility licence from processing in its petroleum processing facility unconventional hydrocarbons or unconventional hydrocarbons products in lieu of, or commingled with, petroleum or petroleum products.

(7) The *Oil and Gas Act 1998* is amended to the extent necessary to give effect to this Division.

Division 12. - Registration of Instruments.

70. REGISTER TO BE KEPT.

(1) The Minister shall cause to be kept a Register of applications, grants, extensions, transfers and dealings in licences.

(2) The Register shall contain such details as are prescribed or as the Minister directs.

(3) A copy of any entry in the Register may be obtained on payment of the prescribed fee.

71. APPROVAL AND REGISTRATION OF TRANSFERS.

(1) Subject to this section, the Minister may approve the transfer of a licence from one person to another and such approval may be subject to such conditions (if any) as the Minister thinks fit.

(2) In addition to any other condition that the Minister may impose under Subsection (1), the Minister may require the transferee to lodge with him such security as the Minister thinks fit for the transferee's compliance with the conditions to which the licence is subject to, from time to time.

(3) The transfer of a licence shall have no effect until it is approved and registered in accordance with this section.

(4) Where the Minister approves the transfer of a licence from a company to a company that is a related corporation within the meaning of the *Companies Act 1997*, he shall impose no new conditions on the licence as a condition of that approval.

(5) A licensee which desires to transfer its licence to another person, or to itself and another person jointly, may lodge with the Director an application for approval of the transfer of the licence.

(6) The application shall be accompanied by an instrument of transfer of the licence duly executed by the transferor and transferee, together with a copy of that instrument of transfer.

(7) If the Minister approves the application, the Director shall -

- (a) immediately endorse on the instrument of transfer and on the copy a memorandum of approval; and

Unconventional Hydrocarbons

(b) on payment of the prescribed fee, enter in the Register a memorandum of the transfer and the name of the transferee.

(8) The transfer shall be deemed to be registered as soon as a memorandum of the transfer and the name of the transferee has been entered in the Register and, on that memorandum being so entered, the transferee becomes the registered holder of the licence to which the instrument of transfer relates.

(9) The copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Director and is subject to inspection in accordance with this Division.

(10) The instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application.

(11) The Minister shall not approve a transfer of a licence unless it is an absolute transfer of the whole of the transferor's interest in the licence.

72. ENTRIES IN REGISTER OF DEVOLUTION OF TITLE.

(1) A person on whom the rights of a licensee have devolved by operation of law may apply in writing to the Director to have his name entered in the Register as the registered holder of the licence.

(2) The Director shall, if he is satisfied that the rights of the holder have devolved on the applicant by operation of law, and on payment of the prescribed fee, enter the name of the applicant in the Register as the holder of the licence and, on that entry being so made, the applicant becomes the registered holder of the licence.

73. INTERESTS NOT TO BE CREATED, ETC., EXCEPT BY INSTRUMENT.

A legal or equitable interest in or affecting an existing or future licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument.

74. APPROVAL OF INSTRUMENTS CREATING, ETC., INTERESTS.

(1) This section applies to an instrument by which a legal or equitable interest in, or affecting, an existing or future licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which Section 71 applies.

- (2) An instrument to which this section applies is of no force or effect until -
- (a) the instrument has been approved by the Minister either unconditionally or subject to such conditions as he thinks fit; and
 - (b) an entry has been made in the Register by the Director in accordance with Subsection (5).

(3) A party to an instrument to which this section applies, or a person having an interest in or in relation to a licence by reason of such an instrument, may lodge with the Director an application for approval of the instrument.

(4) An application under Subsection (3) shall be accompanied by the instrument and by a copy of the instrument.

Unconventional Hydrocarbons

(5) If the Minister approves the instrument, the Director shall, on payment of the prescribed fee, immediately endorse on the original instrument and the copy of the instrument a memorandum of approval.

(6) The copy of the instrument endorsed with the memorandum of approval shall be retained in the Register by the Director and is subject to inspection in accordance with this Division.

(7) The original instrument endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval.

(8) If the Minister refuses the application, the Director shall cause a notation of the refusal to be made in the Register.

75. TRUE CONSIDERATION TO BE SHOWN.

A party to a transfer referred to in Section 71 or to an instrument to which Section 74 applies, who, with intent to defraud, executes the transfer or instrument, if the transfer or instrument does not fully and truly set forth the true consideration for the transfer or instrument is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

76. MINISTER NOT CONCERNED WITH CERTAIN MATTERS.

The Minister or a person acting under his direction or authority shall not be concerned with the effect in law of any instrument lodged in accordance with this Division, nor does the approval of such an instrument give to it any force, effect or validity that it would not have had if this Division had not been enacted.

77. POWER OF MINISTER TO REQUIRE INFORMATION AS TO PROPOSED DEALINGS.

(1) The Minister or Director may require the person lodging an instrument for approval under this Division to furnish to him such written information concerning the instrument, or the transaction to which the instrument relates, as the Minister or Director thinks fit.

(2) A person who, when required under Subsection (1) to furnish information, furnishes information that is false or misleading in a material particular is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

78. PRODUCTION AND INSPECTION OF DOCUMENTS.

(1) The Minister or Director may require any person to produce to him, or to make available for inspection by him, any document in the possession or under the control of that person and relating -

- (a) to an instrument lodged for approval under this Division; or
- (b) to the transaction to which such an instrument relates.

(2) A person who refuses or fails within a reasonable time to comply with a requirement under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

Unconventional Hydrocarbons

79. INSPECTION OF REGISTER AND DOCUMENTS.

(1) The Register shall, at all reasonable times, be open for inspection by any person on payment of the prescribed fee.

(2) Any person may take copies of any licence or entry in the Register on payment of the prescribed fee.

80. EVIDENTIARY PROVISIONS.

(1) The Register shall be received by all courts as evidence of all matters required or authorised by this Division to be entered in the Register.

(2) The Director may, on payment of the prescribed fee, supply copies of or extracts from the Register certified by writing under his hand, and a document purporting to be a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

(3) The Director may, on payment of the prescribed fee, by instrument under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and a document purporting to be such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

81. REGISTER MAY BE RECTIFIED.

Where the Minister is satisfied that there has been a mistake made in, or that some matter has been incorrectly entered in the Register, he shall rectify the Register by correcting that mistake or incorrect entry.

82. MINISTER OR DIRECTOR NOT LIABLE FOR CERTAIN ACTIONS.

The Minister, the Director, or a person acting under the direction or authority of the Minister or the Director shall not be liable to an action, suit or proceeding for or in respect of an act or matter done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred by this Division.

83. OFFENCES.

A person who wilfully -

- (a) makes, causes to be made or concurs in making a false entry in the Register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the Register of or from an instrument lodged with the Minister under this Division,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years.

Unconventional Hydrocarbons

Division 13. - Rights in Respect of Land and Property.

84. RIGHTS OF LICENSEES IN RESPECT OF LAND AND PROPERTY.

(1) Subject to this Division, the rights conferred on a licensee by Sections 20, 37 or 55 are, by virtue of this Act, exercisable on any land within the licence area and, for the purpose of exercising those rights, a licensee, by itself or its agents or workmen, may to the extent reasonably necessary for the licensee's operations or proposed operations in the licence area -

- (a) enter on any land in the licence area; and
- (b) subject to Sections 89 and 90, occupy any land in the licence area that is from time to time required for -
 - (i) effectively carrying on the operations he is entitled under the licence to carry on; and
 - (ii) adequately protecting those operations and the improvements and equipment on or under the land; and
- (c) erect buildings on land occupied under Paragraph (b) and at any time remove any building so erected and, subject to Section 90, remove any other building from land so occupied; and
- (d) bring any machinery or other equipment into the licence area and erect or install it on land occupied under Paragraph (b) or in any building erected under Paragraph (c), and at any time remove any such machinery or equipment; and
- (e) request the Minister to acquire any land required by the licensee for a purpose specified in Section 92; and
- (f) subject to the *Water Resources Act* (Chapter 205), take and divert water from any lake, stream or watercourse in the licence area; and
- (g) construct in the licence area roads, airstrips or helicopter pads; and
- (h) cut and use the timber in the licence area (other than timber forming part of any improvements) for building or construction work within the licence area; and
- (i) remove any stone, clay or gravel in the licence area (other than that forming part of any improvements) for or in connection with building or construction work within the licence area.

(2) For the purposes of Section 20 of the *Water Resources Act* (Chapter 205), the rights conferred under this Act on a licensee shall be deemed to be rights in land to which that section applies.

85. RIGHTS OF LANDOWNERS.

(1) The owner, occupier or other person having an interest in any private land in a licence area or any part thereof may continue to use, occupy and enjoy the land, with the exception of any part of that land reasonably required from time to time by the licensee for the exercise of its rights under its licence.

(2) Where a dispute arises as to interests in customary land or the position of boundaries of customary land, such dispute shall not affect -

- (a) the right of a person to make application for and be granted a licence under this Act;
- or
- (b) the validity of a licence granted under this Act.

(3) A dispute referred to in Subsection (2) shall be settled as provided for in the *Land Disputes Settlement Act* (Chapter 45).

Unconventional Hydrocarbons

86. INTERFERENCE WITH OTHER RIGHTS.

(1) A person carrying on operations under a licence or instrument of consent under Section 121, shall carry on those operations in a manner that does not interfere with the existing use of the land to any greater extent than is reasonably necessary for the exercise of the rights and performance of the duties of that person.

(2) Without limiting the generality of Subsection (1), a person carrying on operations under a licence or instrument of consent under Section 121 shall not take any action that in any way interferes with -

- (a) fishing; or
- (b) navigation; or
- (c) any other operation being lawfully carried on by way of -
 - (i) prospecting for, recovery of or conveyance or processing of petroleum, petroleum products, helium, minerals or gold; or
 - (ii) construction of a pipeline (as defined in this Act or the *Oil and Gas Act 1998*) or unconventional hydrocarbons processing facility or petroleum processing facility,

unless he gives prior written notice to the Director of the expected nature and duration of such interference.

(3) A person who fails to comply with the provisions of this section is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

87. RESPONSIBILITY TO REPAIR DAMAGE.

(1) Subject to Section 84, a licensee shall, as soon as and to the extent practicable having regard to its operations, repair any damage -

- (a) to any improvements; or
- (b) to any land capable of being used for any agricultural purposes; or
- (c) to the water supply to such improvements or land,

resulting from its operations or from the flow of unconventional hydrocarbons, unconventional hydrocarbons products, water or waste from any of those operations.

(2) Where a licensee fails to comply with Subsection (1), the Minister may repair the damage, and any costs or expenses incurred are a debt due from the licensee to the State.

88. ADDITIONAL RIGHTS OF ENTRY.

(1) Where, in the opinion of the Minister, it is necessary for an applicant or intending applicant for a licence -

- (a) to enter on to land to survey the proposed route of a pipeline or the proposed site of an exploration or appraisal or development activity or facility or a pipeline or unconventional hydrocarbons processing facility; or
- (b) to conduct tests or to obtain information in relation to any such route or site; or
- (c) to conduct temporary operations,

the Minister may, on the application of that person and subject to Section 90, by instrument authorise that person to enter on the land for that purpose.

Unconventional Hydrocarbons

(2) Where, in the opinion of the Minister, it is necessary or expedient for an applicant or an intending applicant for a licence to conduct activities in relation to or in preparation for construction works which are or will be proposed in the licence application of the applicant or intending applicant, the Minister may, on the application of that person and subject to Section 90, by instrument, authorise that person to enter on any land for that purpose for such period as may be reasonably required for the conduct of those activities as are specified in the instrument.

(3) Where, in the opinion of the Minister, it is necessary for the effective exercise of a licensee's rights or the performance of its duties under this Act for the licensee to enter on any land not held by it under a licence in order to obtain geological information for use in relation to its licence area, the Minister may, on application by the licensee and subject to Section 90, authorise that licensee to enter on that land and there carry out such acts as are necessary to obtain that information.

(4) An authorisation under Subsection (3) shall not entitle a licensee to prospect for unconventional hydrocarbons by the drilling of wells on the land. •

(5) Where, in the opinion of the Minister, it is necessary for the effective exercise of the rights or the performance of obligations under a licence or under this Act, or to enable the licensee to carry out other activities in the course of a project including business development activities, the provision of community services and incurring expenditure in accordance with Section 219C of the *Income Tax Act 1959*, for a licensee to enter on any land not held by it under a licence, the Minister may by instrument authorise the licensee to enter on such other lands -

- (a) in order to obtain access to any part of its licence or to the site or proposed site of a pipeline or unconventional hydrocarbons processing facility or any part thereof; or
- (b) for the transport of personnel, equipment or materials for operational and construction activities approved under the licence; or
- (c) in order to carry out specified activities or expenditure on such other lands.

(6) Where an applicant for a licence, a person intending to apply for a licence or a licensee is granted rights of entry under this section, he shall before entering the land serve a copy of the authorisation on the licensee of any licence or petroleum licence covering or pertaining to any land to which entry is so granted.

(7) If in the *bona fide* opinion of a licensee an emergency exists in its operations which threatens -

- (a) the safety, health or welfare of persons engaged in those operations or in the licence area or the vicinity of a pipeline or unconventional hydrocarbons processing facility; or
- (b) the environment; or
- (c) the State's petroleum resource or unconventional hydrocarbons resource in the licence area,

the licensee may, without first obtaining an authorisation under this section, enter onto lands not held by it under a licence in order to obtain access to any part of the licence area or the site or proposed site of the pipeline or unconventional hydrocarbons processing facility or to transport personnel, equipment or materials to deal with the emergency, but -

- (d) within 24 hours of first entering onto that land, the licensee shall file a report with the Director setting out the details of the emergency, the steps being taken to deal with it and the reason why such access was needed; and

Unconventional Hydrocarbons

- (e) the licensee shall not without obtaining a further authorisation under this section continue to enter onto or occupy such land for more than 72 hours after first entering that land.

89. LAND OCCUPIED TO BE SURVEYED.

The licensee shall cause to be surveyed and, if so required by the Director, securely fenced, any part of the land in a licence area which the licensee requires in order effectively to carry on drilling operations for unconventional hydrocarbons.

90. COMPENSATION.

(1) A licensee shall be liable to pay compensation in accordance with this section to the lawful owners and rightful occupiers of, and any persons interested in, any private land in relation to their several interests, in respect of the entry on or occupation of the land by the licensee under this Division.

- (2) Subject to this section, compensation shall be paid for -
 - (a) the deprivation of the use and enjoyment of the surface of the land or any part of it or of any rights customarily associated with it, except where there has been a reservation in favour of the State of the right to such use and enjoyment; and
 - (b) damage -
 - (i) to the surface of the land or any part of it, or any improvements on it; or
 - (ii) to any trees, fish or animals, caused by the carrying on of operations by the licensee; and
 - (c) severance of the land from other land of any owner, occupier or person interested in the land; and
 - (d) rights of way and easements; and
 - (e) any other damage consequential on the licensee's use or occupation of the land.

(3) If any private land adjoining or in the vicinity of land comprised in any licence area or any improvements on the land is or are damaged or depreciated in value -

- (a) by any operations carried on by or on behalf of a licensee; or
- (b) by reason of any right of way acquired by the licensee,

the owners and occupiers of, and any persons interested in, that private land or those improvements shall be entitled in respect of their several interests to compensation for all loss and damage sustained under Paragraph (a) or (b) and the amount of compensation shall be ascertained in accordance with this section.

(4) A licensee may agree with any person entitled to compensation under this section as to the amount of compensation.

(5) An agreement under Subsection (4) shall not be valid unless it is in writing and signed by the parties to it, or their agents, and is lodged with the Director.

(6) Where applicable, compensation payable under this section shall be determined with reference to the values for economic trees published by the Valuer-General, and any other values published by the Valuer-General.

Unconventional Hydrocarbons

(7) No compensation shall be payable and no claim for compensation shall lie, whether under this Act or otherwise, and compensation under this section shall not be determined, by reference to any unconventional hydrocarbons, petroleum, helium or minerals known or supposed to be in, on or under the land.

(8) If the licensee and a person claiming compensation under this section are unable to agree on the compensation payable, either may, by notice to the Chief Warden, request that the Chief Warden or a Warden determine the amount payable.

- (9) On receipt of a notice under Subsection (8), the Chief Warden shall -
- (a) fix a place and date for conducting a determination of the amount of compensation to be paid; and
 - (b) notify the licensee and the person claiming compensation of the place and date so fixed; and
 - (c) at that place and on that date conduct a determination of the amount of compensation to be paid.

(10) In conducting a determination under this section the Warden shall allow the parties to present their evidence and arguments to him in such manner as he thinks fit, but shall at all times have regard to the principles of natural justice.

- (11) The Warden shall -
- (a) make a determination on the basis of the evidence presented to him and arguments submitted to him and in accordance with the principles of compensation contained in this section; and
 - (b) record his decision in writing; and
 - (c) give a copy of his decision to each of the parties.

(12) Where the Warden considers it impractical or inexpedient to assess the full amount of compensation to be paid in satisfaction of the loss or damage, he may make a determination of the amount of compensation payable in respect of a particular period or item of loss or damage and defer his determination of the remainder of the claim until a later time.

(13) The Warden may, at any stage of the determination process, make an order against the person from whom compensation is sought, restricting that person from commencing or continuing any operations under this Act until he has given such security as the Warden thinks fit for payment of any compensation for which he is or may become liable.

(14) If, after a Warden has determined any amount of compensation under this section, it is proved that further loss or damage, not being loss or damage in respect of which compensation has already been determined, has been sustained, the Warden may determine compensation for the further loss or damage and order that further compensation be paid by the licensee to the person entitled to that further compensation.

(15) Where a Warden has made an order for compensation or further compensation under this section, the amount of compensation stated in that order is an amount payable by the licensee for the purposes of Section 109(1)(d).

Unconventional Hydrocarbons

- (16) In determining the amount of compensation payable under this section the Warden shall -
- (a) take into consideration the amount of any compensation which the owners or occupiers of, or the persons interested in, the land or any of them or their predecessors in title have or has already received for the damage or loss for which compensation is being determined; and
 - (b) deduct that amount from the amount to which they or any of them respectively would otherwise be entitled.

(17) A party to a determination of a Warden under this section who is aggrieved as to the amount of compensation to which he is entitled or which he is obliged to pay, may appeal to the National Court.

(18) Where a dispute, as defined in the *Land Disputes Settlement Act* (Chapter 45), concerning the land the subject of a licence makes agreement on compensation impracticable, the amount of compensation to be paid shall be determined by a Warden under this section, and the amount of such compensation shall be payable into a trust account established for that purpose by the Director to be held therein until the dispute has been finally resolved.

(19) Following final resolution of a dispute as provided in Subsection (18), compensation shall be paid out of the trust account in accordance with a compensation agreement or a further determination by a Warden under this section, and in making such a further determination the Warden shall be empowered, if he considers on the basis of the evidence and arguments then presented to him that the amount of compensation payable should be greater than the amount in the trust account, to order payment of amounts in addition to the amount in the trust account.

91. WARDENS.

(1) The functions, powers and duties of a Warden (in addition to those conferred by the *Oil and Gas Act 1998*) are as specified in this Act or regulations.

- (2) The Chief Warden shall undertake -
- (a) the duties of a Warden under this Act; and
 - (b) such additional functions as are specifically allocated under this Act or regulations or as the Director may confer.

(3) The Chief Warden may, by instrument in writing, delegate all or any powers (except this power of delegation) to a Warden.

92. ACQUISITION OF LAND.

(1) Notwithstanding any provision of the *Land Act 1996* in determining the compensation payable for land compulsorily acquired for a purpose specified in Section 1(2) -

- (a) no allowance shall be made for any unconventional hydrocarbons, petroleum, helium, minerals or gold known or supposed to be in, on or under the land acquired; and
- (b) no compensation shall be payable in respect of improvements made to the land by a licensee.

(2) Whenever it is proved, to the satisfaction of a court of competent jurisdiction, under the *Land Act 1996* that damage has been sustained by a claimant by reason of the severance of the land acquired from other adjoining land of the claimant, or land in which he is interested, the court may order that such adjoining land or some portion of it shall also be acquired.

Unconventional Hydrocarbons

(3) Where land has been acquired for a purpose specified in Section 1(2) and has been made available to a licensee for the purposes of its operations under its licence, the amount of any compensation that the State has paid in respect of that land is a debt due and payable by the licensee to the State.

(4) An amount payable under Subsection (3), on written demand being served on the licensee, is an amount payable by it under this Act for the purposes of Section 109(1)(d).

93. DETERMINATION OF CUSTOMARY LAND.

(1) Where for the purposes of this Act, it is necessary to determine the rightful owners or occupiers of, or persons having an interest in any customary land, or any improvements on it other than in circumstances where Section 9 of the *Land Act 1996* applies, the determination may be made under the provisions of the *Land Disputes Settlement Act* (Chapter 45) and for the purposes, and within the meaning of that Act, there shall be deemed to be a dispute between such persons or groups as the court, within the meaning of that Act, may direct.

(2) Where the Director considers that a dispute of the type referred to in Subsection (1) exists, he may -

- (a) refer that dispute to the Provincial Land Disputes Committee for the Province in question as a dispute under the *Land Disputes Settlement Act* (Chapter 45); or
- (b) make an application in respect of the dispute to the applicable Local Land Court under Section 27 of that Act.

(3) Where the Director makes a referral or application under Subsection (2) -

- (a) the dispute shall be deemed for the purpose of the *Land Disputes Settlement Act* (Chapter 45) to be a dispute relating to land; and
- (b) the Director shall be deemed to be a party to the dispute for all procedural matters under that Act and he or his representative shall be entitled to participate in any mediation or court hearing in relation to the dispute.

(4) Where the Director makes a referral under Subsection (2)(a) -

- (a) the reference to the Provincial Land Disputes Committee shall be deemed to be a request by a Local-level Government under Section 9(1) of the *Land Disputes Settlement Act* (Chapter 45); and
- (b) the Committee shall declare the area which is the subject of the dispute to be a Land Mediation Area and a single Land Mediation Division and forthwith appoint a Land Mediator for that Land Mediation Division.

(5) Where the Director makes an application under Subsection (2)(b), the dispute shall be deemed to have been the subject of a certificate given by a Land Mediator under Section 27(1) of the *Land Disputes Settlement Act* (Chapter 45) and a certificate given by a Magistrate under Section 27(2) of that Act.

Unconventional Hydrocarbons

94. TRESPASS ON LAND HELD UNDER A LICENCE.

(1) A person (including the owner or occupier of, or any person interested in, private land) shall not enter on, occupy or interfere with any land in a licence area which is being used by the licensee for or in connection with prospecting operations or operations for the recovery of unconventional hydrocarbons, including land required to be kept vacant for the purpose of compliance with the licensee's obligations under this Act or any other law, unless authorised or permitted by or under this Act or any other law of the State, or by the licensee.

(2) Every entry, occupation or interference in contravention of Subsection (1) shall, in addition to constituting an offence under this Act, be deemed to be a trespass.

(3) A licensee may proceed in the National Court for trespass under this section and for damages in respect of the trespass.

(4) This section shall not be construed as depriving a licensee of any other right he might have under a law in force in the country in respect of its occupation and use of the land.

Division 14. - General.

95. DATE OF EFFECT OF LICENCES, ETC.

(1) A licence takes effect from and including the day specified for the purpose in the licence.

(2) A variation of a licence takes effect from and including the day on which notice of the variation is published in the National Gazette.

96. DESIGNATION OF OPERATOR AND OPERATING AGREEMENT.

(1) Subject to Subsection (3), where there is more than one holder of a licence, the holders shall, as soon as reasonably practicable after the date of grant of the licence, provide to the Director a copy of an agreement between the holders, relating to designation of operator and the conduct of operations in relation to that licence.

(2) Where an agreement has been provided to the Director under Subsection (1), the holders shall, within one month after any amendment, variation or replacement of that agreement, provide to the Director a copy of the agreement (if any) effecting the amendment, variation or replacement.

(3) The holders shall, upon providing a copy of an agreement to the Director under Subsections (1) or (2), and upon any change to the identity of the operator under the provisions of the agreement, give notice in writing to the Director of the name and address of the new operator appointed under the agreement.

(4) An agreement lodged for registration under Division 12 or previously registered under that Division in respect of a licence shall be deemed to have been provided under Subsection (1).

97. WORK PRACTICES FOR LICENSEE.

(1) A licensee must -

- (a) carry out all unconventional hydrocarbons exploration operations and operations for the recovery of unconventional hydrocarbons in the licence area in a proper and workman-like manner and in accordance with good industry practice; and

Unconventional Hydrocarbons

- (b) secure the safety, health and welfare of persons engaged in those operations in or about the licence area; and
- (c) act in accordance with -
 - (i) this Act, including the regulations and any direction given under this Act; and
 - (ii) any restriction imposed or requirement made by an inspector under this Act.

- (2) In particular, and without limiting the generality of Subsection (1), a licensee must -
- (a) control the flow and prevent the escape in the licence area of unconventional hydrocarbons or unconventional hydrocarbons products or water, except in accordance with a permit or licence issued under a law regulating the discharge or release of unconventional hydrocarbons, unconventional hydrocarbons products or water; and
 - (b) prevent the escape in the licence area of any mixture of water or drilling fluid and unconventional hydrocarbons or any other matter; and
 - (c) prevent damage to unconventional hydrocarbons deposits in an area in respect of which the licence is not in force; and
 - (d) not knowingly or recklessly access any petroleum pools located in the licence area; and
 - (e) if in the course of unconventional hydrocarbons operations the licensee accesses a petroleum pool, ensure that no petroleum escapes from that petroleum pool and no water or mud or other material enters that petroleum pool; and
 - (f) prevent water or any other matter entering any unconventional hydrocarbons resource through wells or other activities in the licence area except when required by, and in accordance with, good industry practice; and
 - (g) prevent the pollution of any water-well, spring, stream, river, lake, water reservoir, estuary, harbour or area of sea by the escape of unconventional hydrocarbons, salt water, drilling fluid, chemical additive or any other waste product or effluent; and
 - (h) furnish to the Director, prior to the drilling of any well or the conduct of any other unconventional hydrocarbons operations activity expected to access an unconventional hydrocarbons resource, a detailed report on the technique to be employed, the material to be used and the safety measures to be employed, in the drilling of the well or conduct of other unconventional hydrocarbons operations.

(3) This section shall not prevent a licensee from flaring natural gas or a mixture of natural gas and other hydrocarbons -

- (a) where the written consent of the Director has been obtained; or
- (b) where, in an emergency, flaring is required -
 - (i) to safeguard the health and safety of persons in the licence area; or
 - (ii) to prevent damage to the property of any person in the licence area.

98. WORK PRACTICES FOR HOLDERS OF INSTRUMENTS OF CONSENT.

A person who is the holder of an instrument of consent under Section 121 must -

- (a) carry out all unconventional hydrocarbons exploration operations in the area in respect of which the instrument of consent is in force in a proper and workman-like manner and in accordance with good industry practice; and
- (b) secure the safety, health and welfare of persons engaged in those operations in or about that area.

Unconventional Hydrocarbons

99. PENALTY FOR BREACH OF SECTION 97 OR 98.

(1) A licensee or holder of an instrument of consent who contravenes or fails to comply with a requirement of Section 97 or 98 is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

(2) It is a defence to a charge for an offence under this section, if the person charged proves that he took all reasonable steps to comply with the requirements of the relevant section applicable to him.

100. LOCAL PURCHASE OBLIGATION.

(1) Subject to the provisions of this section, a licensee shall, in its operations in Papua New Guinea and in the construction and development of a project -

- (a) use and purchase goods and services supplied, produced or manufactured in Papua New Guinea whenever the same can be obtained at equivalent terms, including prices, conditions and delivery or performance dates and are in all respects of a quality comparable with those available from outside Papua New Guinea; and
- (b) encourage and assist citizens of Papua New Guinea who are desirous of establishing businesses providing goods and services for the operations or the project and for any town constructed primarily for the purposes of the project and the residents thereof; and
- (c) make maximum use of Papua New Guinea contractors and subcontractors where services of a standard comparable with those which the licensee would obtain but for the operation of this section are available from such Papua New Guinea contractors or subcontractors at equivalent prices, and on equivalent terms, conditions and delivery or performance dates.

(2) A licensee which, for the purpose of its operations in Papua New Guinea or the construction and development of its project, requires imported vehicles, machinery, plant or equipment, and does not purchase such items direct from the manufacturer, shall effect the purchase of such items through traders based in Papua New Guinea or the Papua New Guinea operations of traders based elsewhere but having operations in Papua New Guinea.

- (3) Subsection (2) does not apply to a licensee in respect of a particular purchase if -
- (a) such items are not available through such traders or trading operations at an equivalent price, and on equivalent terms, conditions and delivery dates; or
 - (b) compliance would adversely affect the financing of the licensee's operations or the development of the licensee's project.

(4) Nothing contained in this section obliges a licensee to grant or lend money to any person or any local enterprise.

(5) Where a licensee seeks to grant to persons who are landowners in the area of the licensee's operations a contract for the supply of labour or services and a dispute which delays the grant of such a contract arises amongst persons claiming to be such landowners, the licensee may refer the dispute to the Director who may determine the dispute.

Unconventional Hydrocarbons

101. MEASUREMENT AND METERING.

(1) At such intervals as the Director determines, licensees shall measure and report to the Director the continuous volume and composition of unconventional hydrocarbons produced (including separate recording of natural gas or a mixture of natural gas and other hydrocarbons which is either flared or injected into a petroleum reservoir) where -

- (a) the volume and composition of oil or condensate shall be calculated on the basis of acceptable meter readings or tank measurements with such accuracy as is required by the Director; and
- (b) the volume and composition of natural gas or mixture of natural gas and other hydrocarbons shall be measured by a meter approved for the purposes of Section 133; and
- (c) otherwise authorised by the Director, with all volumes produced, sold, injected or flared adjusted to a standard temperature and pressure base as determined by the Director,

in each case in accordance with internationally accepted measurement standards.

(2) Except as prescribed by regulation, a person shall not install in any facility or use any measuring device to measure the volume or composition of petroleum or petroleum products unless such measuring device is approved by the Minister.

102. MAINTENANCE, ETC., OF PROPERTY.

A licensee shall -

- (a) maintain in good condition and keep in good repair all structures, equipment and other property in the licence area which are used by it in connection with the unconventional hydrocarbons operations in which he is engaged; and
- (b) remove from the licence area all structures, equipment and other property owned by it which is not being, or intended to be, so used.

103. DRILLING NEAR BOUNDARIES.

(1) A licensee shall not make a well any part of which is less than 300 metres from a boundary of a licence area, except with the written consent of the Director and in accordance with such conditions (if any) as are specified in the instrument of consent.

(2) Where a licensee fails to comply with Subsection (1), the Director may, by instrument served on the licensee, direct it -

- (a) to plug the well; or
- (b) to close off the well; or
- (c) to comply with the directions relating to the making or maintenance of the well specified in the instrument,

within the period specified in the instrument and the licensee shall comply with the direction within that period.

104. DIRECTIONS.

(1) The Minister, the Director or an inspector may, by instrument served on a person, give to that person such directions as are prescribed.

(2) A direction under Subsection (1) has effect and shall be complied with notwithstanding anything in the regulations and, to the extent to which the regulations are inconsistent with the directions, the person to whom the direction is given is not obliged to comply with the regulations.

Unconventional Hydrocarbons

(3) A person who refuses or fails to comply with a direction given under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

105. COMPLIANCE WITH DIRECTIONS.

(1) Where a person fails to comply with a direction given to him under this Act or under the regulations, the Minister may do all or any of the things required by the directions to be done.

(2) Any costs or expenses incurred by the Minister under Subsection (1) in relation to a direction are a debt due, by the person to whom the direction was given, to the State.

(3) It is a defence to a charge of failing to comply with a direction given under this Act or under the regulations if the person charged proves that he took all reasonable steps to comply with the direction.

106. EXEMPTIONS, VARIATIONS, ETC.

(1) Where -

(a) under this Part, a licence is deemed to continue in force; or

(b) a licence is varied under Section 19, 36 or 54; or

(c) a licensee enters into an agreement under Section 61 or a direction is given to the licensee under that section; or

(d) a licence is partly cancelled, partly determined or surrendered as to one or more, but not all of the blocks in respect of which it is in force; or

(e) the term of an unconventional hydrocarbons prospecting licence is extended under Section 24 or 25; or

(f) the term of an unconventional hydrocarbons retention licence is extended under Section 40; or

(g) a licensee, by instrument served on the Director, applies -

(i) for a variation or suspension of the licence; or

(ii) for exemption from compliance with any of the conditions specified in the licence; or

(h) under this Act or the regulations the Minister gives a direction or consent to a licensee, the Minister may, at any time, by instrument served on the licensee -

(i) vary or suspend; or

(j) exempt the licensee from compliance with,

any of the conditions specified in the licence, on such conditions (if any) as the Minister determines and specifies in the instrument.

(2) Subsection (1) does not authorise the making of an instrument to the extent -

(a) that it would affect the term of a licence; or

(b) that it would be inconsistent with the terms of a project agreement applying to the licence in question; or

(c) in the case of an instrument relating to an application referred to in Subsection (1)(f) that it would not be in accordance with the application, or the application as varied by agreement, before the making of the instrument.

Unconventional Hydrocarbons

107. PREVENTION FROM CARRYING ON PROSPECTING OPERATIONS.

(1) An unconventional hydrocarbons prospecting licensee or unconventional hydrocarbons retention licensee which has been, or is being, prevented from carrying on in the licence area any operations authorised by the licence, may make an application to the Minister for a direction under this section.

(2) An application under Subsection (1) -

- (a) shall be made not more than one month after the date of commencement of the circumstances causing the prevention, or such longer period as the Minister may allow, but in any event before the licence concerned ceases to have effect; and
- (b) shall specify the operations that the licensee has been or is being prevented from carrying on; and
- (c) shall set out the circumstances by reason of which the licensee has been or is being prevented from carrying on those operations; and
- (d) may set out any other matters that the licensee wishes the Minister to consider.

(3) Where a licensee has made an application under Subsection (1), the Minister shall, after considering a report from the Board, by instrument served on the licensee -

- (a) if he is satisfied that the licensee has been, by reason of circumstances beyond the control of the licensee, prevented from carrying on in the licence area, during any period during which the licence was in force, any of the operations specified in the application, direct that the term of the licence be extended for the period specified in the instrument being a period not greater than the period for which the licensee was prevented from carrying on operations, subject to such conditions (if any) as the Minister determines and specifies in the instrument; or
- (b) in any other case, refuse the application.

(4) Where the Minister makes a direction under Subsection (3)(a), the licence continues in force for the period directed.

(5) Where a licensee has made an application under Subsection (1) and an instrument under Subsection (3) has not been served on the licensee before the licence would, but for this subsection, cease to have effect -

- (a) any application under Section 22, 25 or 39 for the extension of the licence lapses; and
- (b) the licensee may, notwithstanding anything contained in that section, make an application or further application under that section for the extension of the licence -
 - (i) if the Minister, by instrument under Subsection (3) directs that the term of the licence be extended for a specified period - within a period of one month after the expiration of the specified period; or
 - (ii) if the Minister, by instrument under Subsection (3), refuses the application under Subsection (1) - within a period of one month after the day on which the instrument is served on the licensee; and
- (c) the licence continues in force by reason of this subsection until the expiration of that period of one month, or until an application is made under Section 22, 25 or 39 for the extension of the licence, whichever first occurs.

Unconventional Hydrocarbons

108. SURRENDER OF LICENCES.

(1) In this section, "the area to which the surrender relates" means the area constituted by the blocks in relation to which the licence is proposed to be surrendered.

(2) A licensee may, at any time, by written notice served on the Director, apply to the Minister for consent to surrender the licence as to all or any of the blocks in respect of which it is in force.

(3) A licensee may state in its application under Subsection (2) that the surrender is, if consented to by the Minister, to take effect on a date or upon the occurrence of a particular event specified in the application in which case the surrender shall, if so consented to and if implemented by the applicant in accordance with Subsection (7), take effect on that date or upon the occurrence of that event, as the case may be.

(4) Subject to Subsection (6), the Minister shall not give his consent to the surrender of a licence under Subsection (2) unless the licensee -

- (a) has paid all fees and amounts payable by it under this Act or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts; and
- (b) has, subject to Subsection (5), complied with the conditions specified in the licence and with the provisions of this Act; and
- (c) has, to the satisfaction of the Minister, plugged or closed off and made safe all wells made in that area by any person engaged or concerned in the operations authorised by the licence; and
- (d) has to the satisfaction of the Minister -
 - (i) removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person and any wastes deposited in that area by the licensee or any person on its behalf; or
 - (ii) made arrangements with respect to that property or waste.

(5) For the purpose of Subsection (4)(b), the holder of an unconventional hydrocarbons prospecting licence or an unconventional hydrocarbons retention licence who has otherwise complied with the conditions referred to in Section 26(2) or 41, as the case may be, shall not be taken to have failed to comply with the conditions specified in the licence for the reason only that he has failed to complete any work or expend any amount referred to, or specified, in the licence so far as it relates to any period subsequent to the date on which an application under this section, to which the Minister subsequently consents, is made.

(6) Where a licensee has not complied with the conditions specified in the licence, or with the provisions of this Act, the Minister may give his consent to a surrender of the licence under Subsection (2) if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(7) Where the Minister consents to an application under Subsection (2), the applicant may, by instrument served on the Director, surrender the licence as to all or any of the blocks in respect of which it is in force.

(8) The surrender of a licence under this section shall not release the licensee from any liability in respect of -

- (a) the licence up to the date of surrender; or

Unconventional Hydrocarbons

- (b) any act or omission under the licence up to the date of surrender giving rise to a cause of action; or
- (c) compliance with other obligations under the laws of Papua New Guinea.

- (9) A licensee which permanently ceases operations under its licence shall -
- (a) do all of the things specified in Subsection (4), unless the Minister, after considering a report of the Board, approves otherwise; and
 - (b) apply to the Minister under Subsection (2) to surrender the licence.

109. SUSPENSION AND CANCELLATION OF LICENCES.

- (1) Where a licensee has not -
- (a) in the opinion of the Minister, complied with a condition specified in the licence; or
 - (b) in the opinion of the Minister, complied with a direction given to it under this Act by the Minister, the Director or an inspector; or
 - (c) complied with a provision of this Act; or
 - (d) paid any amount payable by it under this Act within a period of three months after the date on which the amount became payable,

the Minister may, by instrument served on the licensee, suspend for such period as the Minister thinks fit or cancel the licence as to all or any of the blocks in respect of which it is in force.

(2) The Minister shall not, under Subsection (1), suspend or cancel a licence as to all or any of the blocks unless -

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to suspend or cancel the licence, specifying the grounds upon which the suspension or cancellation is based; and
- (b) he has caused a copy of the instrument to be served on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument, specified a date, being not less than 14 days prior to the end of the period specified in the instrument referred to in Paragraph (a), on or before which written submissions may be served on the Minister in connection with the proposed suspension or cancellation; and
- (d) after taking into account -
 - (i) any action taken by the licensee to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) any matters so submitted to him on or before the specified date; and
 - (iii) a report on those matters from the Board,

he considers that special circumstances exist that justify a decision to suspend or cancel the licence.

(3) The suspension or cancellation of a licence by the Minister pursuant to this section shall not release the licensee from any liability in respect of the licence incurred before the date of cancellation or before or during the period of suspension.

110. REMOVAL OF PROPERTY, ETC., BY LICENSEE, ETC.

- (1) Prior to abandonment of a well a licensee shall -
- (a) furnish the Director with notice of its intention to abandon the well together with a request for the Director to approve a program for abandonment which includes removal of equipment, plugging the well bore and reclaiming and making safe the well site; and

Unconventional Hydrocarbons

- (b) complete logging and testing and submission of such information and relevant evaluations which have not previously been submitted to the Director with the licensee's notice under Paragraph (a); and
- (c) conduct abandonment operations according to the manner prescribed by regulations.

(2) Where any licence has been wholly determined, partly determined, wholly cancelled or partly cancelled or has expired, the Minister may by instrument served on the person who was, or is, the licensee, direct that person to -

- (a) make arrangements, to the satisfaction of the Minister, with respect to the complete or partial abandonment of any plant and equipment which is or was in the licence area for the purposes of the licence; and
- (b) remove or cause to be removed from the area in respect of which the licence has been determined or cancelled or has expired all 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 Minister with respect to that property; and
- (c) to the satisfaction of the Minister, plug or close off and make safe all wells made in that area by any person engaged or concerned in those operations; and
- (d) make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area.

(3) Notwithstanding Subsection (2), if agreed by the Minister by instrument or as a condition of a licence or by the State in a written agreement, buried pipes or facilities referred to in Paragraphs (a) to (d) inclusive of the definition of "pipeline" may be abandoned in place, subject to the terms of the licence condition or instrument or written agreement.

(4) The holder of any licence shall -

- (a) at the time of surrender of the licence or cancellation by the Minister; and
- (b) five years prior to the expiration of the term of the licence,

demonstrate to the satisfaction of the Minister that it is able to meet or will have sufficient financial resources to meet its obligations under this section upon surrender, cancellation or expiry of the licence.

(5) The licensee shall demonstrate such financial resources -

- (a) by establishing a reserve account for abandonment costs in accordance with the report of a certified independent auditor; or
- (b) by providing, in a form acceptable to the Minister, a financial undertaking (or in the case of a licensee which is a joint venture, several undertakings) in the form of a bond, letter of credit or guarantee or other instrument acceptable to the Minister; or
- (c) by granting the Minister a charge or similar security over its assets and income.

(6) A person to whom a direction under Subsection (2) is given, who refuses or fails to comply with the direction within the period specified in the instrument by which the direction was given is guilty of an offence.

Penalty: A fine not exceeding K25,000.00.

Unconventional Hydrocarbons

111. REMOVAL AND SALE OF PROPERTY.

- (1) Where a direction under Section 110 has not been complied with, the Minister may -
 - (a) do or cause to be done, all or any of the things required by the direction to be done; and
 - (b) remove or cause to be removed, in such manner as he thinks fit, all or any of the property from the relinquished area concerned; and
 - (c) dispose of, in such manner as he thinks fit, all or any of the property referred to in Paragraph (b); and
 - (d) if he has served a copy of the instrument by which the direction was given on a person whom he believes to be an owner of the property or part of the property, sell or cause to be sold by public auction or otherwise as he thinks fit, all or any of the property referred to in Paragraph (b) that belongs, or that he believes to belong, to that person.

- (2) The Minister may deduct from the proceeds of a sale of property under Subsection (1) that belongs, or that he believes to belong, to a particular person -
 - (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property; and
 - (b) all or any part of any costs and expenses incurred by him in relation to the doing of anything required by a direction under Section 110 to be done by the person; and
 - (c) all or any part of any fees or amounts due and payable under this Act by the person.

- (3) The costs and expenses incurred by the Minister under Subsection (1) -
 - (a) if incurred in relation to the removal, disposal or sale of property, are a debt due by the owner of the property to the State; or
 - (b) if incurred in relation to the doing of anything required by a direction under Section 110 to be done by a person who is or was a licensee, are a debt due by that person to the State,and to the extent to which they are not recovered under Subsection (2), are recoverable by the State as a debt.

(4) Subject to Subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

112. PENALTY FOR LATE PAYMENTS.

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

(2) The Minister may, in a particular case, for reasons that in his opinion are sufficient, remit the whole or part of an amount payable under this section.

113. SECURITIES.

- (1) A security referred to in Division 2, 4, 7, 10 or 11 -
 - (a) shall be in such amount not exceeding K1,000,000.00 as the Minister thinks reasonable; and

Unconventional Hydrocarbons

- (b) shall be by way of a bond to pay the amount, executed by the licensee, in an approved form, and be supported by -
- (i) a cash deposit from the licensee; or
 - (ii) a guarantee of a bank acceptable to the Minister and in an approved form; or
 - (iii) some other approved form of security, or any combination of the alternatives specified in Sub-paragraph (i), (ii) or (iii).

(2) A bond, guarantee or other security document given in an approved form, although it is not sealed, shall bind the person subscribing to it as if it were sealed.

(3) Whenever a security under this Act is the subject of legal proceedings, the production of the security, without further proof, entitles the Minister to judgement against the person appearing to have executed the security, for the amount of his stated liability or for such lesser amount as is claimed, unless that person proves -

- (a) compliance with the conditions of the security; or
- (b) that the security was not executed by him; or
- (c) release or satisfaction.

(4) For the purposes of Subsection (3)(a), the holder of an unconventional hydrocarbons prospecting licence who has complied with a condition referred to in Section 26(2) shall not be taken to have failed to comply with the conditions of the security for the reason only that he has failed to complete any work referred to, or expend any amount specified, in the licence so far as it relates to any period subsequent to the date on which an application under Section 108(3), to which the Minister subsequently consents, is made.

(5) If it appears to the court that a condition of a security under this Act has not been complied with, the security shall not be deemed to have been discharged or invalidated, and the subscriber shall not be deemed to have been released or discharged from liability by reason of -

- (a) any extension of time or other concession; or
- (b) any consent to, or acquiescence in, a previous non-compliance with a condition; or
- (c) any failure to bring legal proceedings against the subscriber on the occurrence of a previous non-compliance with the condition.

(6) If there is more than one subscriber to the security, each is bound, unless the security otherwise provides, jointly and severally and for the full amount.

114. FURTHER INFORMATION TO BE FURNISHED, ETC.

(1) Where the Minister, the Director or an inspector has reason to believe that a person is capable of giving information or producing documents relating to unconventional hydrocarbons exploration operations, or operations for the recovery of unconventional hydrocarbons, he may, by instrument served on that person, require that person -

- (a) to furnish that information to him in writing within the period and in the manner specified in the instrument; or
- (b) to attend before him or a person specified in the instrument, at such time and place as is so specified, and there to answer questions relating to those operations and to produce such documents relating to those operations as are specified in the instrument.

Unconventional Hydrocarbons

(2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section, on the grounds that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against Section 115.

115. FAILING TO FURNISH INFORMATION, ETC.

A person who -

- (a) refuses or fails to comply with a requirement in an instrument under Section 114 to the extent to which he is capable of complying with it; or
- (b) in purported compliance with a requirement referred to in Paragraph (a), knowingly furnishes information that is false or misleading in a material particular; or
- (c) when attending before the Minister, the Director or an inspector under a requirement referred to in Paragraph (a), knowingly makes a statement or produces a document that is false or misleading in a material particular, *

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

116. DRILLING FOR AND DISCOVERY OF WATER.

A person shall not, except in accordance with such conditions as are determined by the Minister, or in accordance with the provisions of the *Water Resources Act* (Chapter 205), drill for water in any licence area.

117. SURVEY OF WELLS, ETC.

(1) The Minister or the Director may, at any time, by instrument served on a licensee, direct the licensee -

- (a) to carry out a survey of the position of the well, structure or equipment specified in the instrument; and
- (b) to furnish to the Minister or Director, as the case may be, a written report of the survey.

(2) Where the Minister or the Director is not satisfied with a report of a survey furnished to him under Subsection (1) by a licensee, he may, by instrument served on the licensee, direct the licensee to furnish further written information in connection with the survey.

(3) A person to whom a direction is given under Subsection (1) or (2) who fails to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

118. RECORDS, ETC., TO BE KEPT.

The Minister or the Director may, by instrument served on a person carrying on operations under a licence or an instrument of consent under Section 121, direct that person -

- (a) to keep such accounts, records and other documents in connection with those operations as are specified in the instrument; and
- (b) to collect and retain such cores, cuttings and samples in connection with those operations as are specified in the instrument; and

Unconventional Hydrocarbons

- (c) to furnish to the Minister in the manner specified in the instrument such reports, returns, other documents, cores, cuttings and samples in connection with those operations,

as are specified in the instrument.

119. REPORTING BY LICENSEES.

(1) The Minister or the Director may give directions to a licensee as to reports to be provided to the Director by the licensee on the activities of the licensee in respect of the licence, and as to the frequency of and information to be contained in such reports, and such other matters by way of reports in respect of the licence, including the production, sale, processing or transportation of unconventional hydrocarbons or unconventional hydrocarbons products, as the Minister or Director sees fit.

(2) A licensee to whom a direction is given under Subsection (1), shall provide such reports containing such information and at such frequency as is specified in the direction and shall otherwise comply with the direction given.

(3) A person to whom a direction is given under Subsection (2), who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

120. CONFIDENTIALITY, ETC., OF INFORMATION.

(1) All information supplied to the Minister, the Director or an inspector under this Act shall, if the Minister so directs, be verified by statutory declaration in a prescribed form.

(2) The following information furnished to the Board, the Minister, the Director or an inspector under this Act, or to any other representative of the State, shall be treated as confidential:

- (a) all geological and geophysical information (including information concerning cores or cuttings from, or samples of, the land surface, sea bed or subsoil in a block); and
- (b) all intellectual property including, without limitation, industrial processes; and
- (c) all information related to the business of the licensee to which the information relates including sales forecasts, market projections or marketing information; and
- (d) all applications for licences, commercial and economic evaluations, marketing information and other information which the person furnishing the information may designate as being commercially sensitive, except where the licensee or person furnishing the information has given his consent for disclosure or the information is otherwise available in the public domain or is disclosed in accordance with Subsection (3).

(3) Information referred to in Subsection (2)(a) may be disclosed and cores, cuttings or samples made available -

- (a) to an officer or other representative of the State expressly authorised by the Minister or Director to receive that information or to examine those cores, cuttings or samples; and
- (b) in respect of a block or part of a block that was previously the subject of a licence under this Act and is not the subject of a current licence or a petroleum tenement, to the public; and

Unconventional Hydrocarbons

- (c) in respect of a block the subject of a current unconventional hydrocarbons prospecting licence or unconventional hydrocarbons retention licence that is not, or is not included in a location, to the public not earlier than two years after that information was, or those cores, cuttings or samples were required to be supplied to the Minister, the Director, or an inspector, as the case may be; and
- (d) in respect of a block the subject of a current unconventional hydrocarbons development licence, to the public not earlier than one year after that information was, or those cores, cuttings or samples were required to be supplied to the Minister, the Director, or an inspector, as the case may be.

(4) Where a block is included in both a licence and a petroleum tenement (irrespective of whether they are held by the same person), information of the type referred to in Subsection 2(a) which is provided to the Minister, the Director or an inspector under this Act or under the *Oil and Gas Act 1998* shall be made available, on request, to the licensee or petroleum tenement holder who did not provide such information.

(5) Information referred to in Subsection (2)(a) to (d) inclusive may be disclosed to an officer or other representative of the State expressly authorised by the Minister or Director to receive that information.

(6) The Minister may at any time make use of any information or matter supplied by a licensee for the purpose of preparing and publishing aggregate returns and general reports with respect to operations under this Act.

(7) A person who acts in the execution of any duty under this Act shall not, except in the performance of that duty, divulge any information supplied to the Minister or to the Director in pursuance of this Act.

(8) A person who has been an officer or who has performed a duty under this Act shall not communicate any information acquired by him in the performance of that duty to any person other than a person authorised by law or by the Minister or the Director to receive that information.

121. SCIENTIFIC INVESTIGATIONS - INSTRUMENTS OF CONSENT.

(1) The Minister may, by instrument, consent to the carrying on by any person of unconventional hydrocarbons exploration operations in the course of a scientific investigation.

(2) An instrument of consent shall be subject to such conditions (if any) as are specified in the instrument.

(3) An instrument of consent under this section authorises the person to whom it is issued to carry out the unconventional hydrocarbons exploration operation specified in the instrument -

- (a) in the area; and
- (b) subject to the conditions (if any),

specified in the instrument, in the course of scientific investigation.

122. INSPECTORS.

(1) The Minister may, by notice in the National Gazette, appoint -

- (a) a person to be the Chief Inspector; and

Unconventional Hydrocarbons

(b) such other persons to be inspectors as he thinks necessary, for the purposes of this Act.

(2) The Minister shall issue to the Chief Inspector and to each inspector a certificate stating that he is an inspector.

(3) Where the appointment of a person under this section expires or is revoked, that person shall immediately surrender to the Minister the certificate issued to him under this section.

123. POWERS OF INSPECTORS.

(1) For the purposes of this Act, an inspector may, at all reasonable times -

(a) enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be, used in connection with -

(i) unconventional hydrocarbons exploration operations; or

(ii) operations for the recovery of unconventional hydrocarbons; and

(b) inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be, used in connection with any of the operations referred to in Paragraph (a); and

(c) take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offence against this Act, samples of unconventional hydrocarbons, petroleum, water or other substances from a well; and

(d) inspect, take extracts from and make copies of, any document relating to any of the operations referred to in Paragraph (a); and

(e) with respect to the health and safety of persons employed by a licensee in or in connection with any of the operations referred to in Paragraph (a), by instrument, issue directions to and impose restrictions on the licensee, or any person so employed; and

(f) order, by instrument -

(i) the cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connection with any of the operations referred to in Paragraph (a); or

(ii) the discontinuance of the use of any machinery or equipment,

which he considers unsafe after taking into account the following matters:

(iii) good industry practice or generally accepted unconventional hydrocarbons processing practice, as the case may be; and

(iv) consultation with the person referred to in Subsection (2); and

(v) consultation with the Chief Inspector or the Director,

unless and until such action as is necessary for safety and specified in the instrument is taken and completed; and

(g) make such examinations and inquiries as are necessary to ensure that the provisions of this Act, and any directions issued, restrictions imposed or orders made under this Act, are being complied with; and

(h) obtain and record statements from witnesses and appear at or conduct inquiries held regarding accidents occurring in the course of any of the operations referred to in Paragraph (a), and appear at inquests and call and examine witnesses and cross-examine witnesses and conduct or assist in conducting a prosecution for any offence against this Act.

Unconventional Hydrocarbons

(2) Before exercising any of his powers under Subsection (1), if there is any person present 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, the inspector shall produce his certificate referred to in Section 122(2) to that person and to any person to whom he is about to give an order or a direction.

(3) Any person who is aggrieved by a decision, direction or order of an inspector made under this section may appeal in writing to the Chief Inspector who shall, as soon as practicable, hear and dispose of the appeal, but the bringing of the appeal does not affect the operation of the decision, direction or order appealed from pending disposition of the appeal.

- (4) On appeal under Subsection (3), the Chief Inspector may -
- (a) rescind or affirm the decision, direction or order appealed from; or
 - (b) substitute a new decision, direction or order.

(5) In exercising his powers under Subsection (1), an inspector may be accompanied by any person who the inspector believes has special or expert knowledge of any matter being inspected, tested or examined.

(6) A person who is an occupier or person in charge of any building, structure or place, or the person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in Subsection (1), must provide an inspector with all reasonable facilities and assistance for the effective exercise of the inspector's powers under this section.

Penalty: A fine not exceeding K5,000.00.

- (7) A person who -
- (a) without reasonable excuse, obstructs, molests or hinders an inspector in the exercise of his powers under this section; or
 - (b) knowingly makes a statement or produces a document that is false or misleading in a material particular to an inspector engaged in carrying out his duties and functions under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

124. GENERAL PENALTY.

A person who contravenes or fails to comply with -

- (a) a provision of this Act applicable to him and for which no other penalty is provided; or
- (b) a requirement, direction, order or instruction lawfully given or made under this Act, other than a direction under Section 104, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Unconventional Hydrocarbons

125. CONTINUING OFFENCES.

(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act, with the requirements specified in the direction, the offence, for the purposes of Subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.

(2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act, the offence, for the purposes of Subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.

(3) Where, under Subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, on conviction for such an additional offence, to a fine not exceeding K5,000.00 per day on which the offence is deemed to continue.

126. ORDERS FOR FORFEITURE IN RESPECT OF CERTAIN OFFENCES.

(1) Where a person is convicted of an offence against this Act a court may, in addition to imposing a fine, make -

- (a) an order for the forfeiture of any vehicle, aircraft, vessel or equipment used in the commission of the offence; and
- (b) an order -
 - (i) for the forfeiture of unconventional hydrocarbons recovered in the course of the commission of the offence; or
 - (ii) for the payment by that person to the State of an amount equal to the proceeds of the sale of unconventional hydrocarbons so recovered; or
 - (iii) for the payment by that person to the State of the value at the wellhead, assessed by the court in respect of the quantity so assessed, of unconventional hydrocarbons so recovered or conveyed or for the payment of such a part of that amount as the court, having regard to all the circumstances, thinks fit.

(2) Where the court is satisfied that an order made under Subsection (1)(b)(i) 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) or (iii).

(3) The court may, before making an order under this section require notice to be given to, and hear, such persons as the court thinks fit.

127. SERVICE.

(1) A document required or permitted by this Act to be served on a person, other than the Minister or the Director, shall be deemed to be duly served if sent by registered post addressed to the usual postal address last known to the Director of that person.

(2) A document required or permitted by this Act to be served on the Minister or the Director may be served by registered post addressed to the Director.

(3) Where a document to be served, is served by post in accordance with this section, service shall be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

Unconventional Hydrocarbons

128. PRE-SUBMISSION OF INFORMATION.

In this Act, where a section provides for information, particulars, proposals, studies, investigations, reports, accounts, documents or other like material to be furnished or provided to an inspector, the Director or the Minister for consideration in connection with that section, such information, particulars, proposals, studies, investigations, reports, accounts, documents or other like material may be submitted in a complete draft form for discussion purposes without prejudice to the rights of the submitting party or the State arising under the relevant section, to assist in the preparation and submission of a complete formal submission of that information, particulars, proposals, studies, investigations, reports, accounts, documents or other like material in due course and in accordance with the Act.

Division 15. - Fees and Royalties.

129. FEES.

- (1) An applicant shall pay a fee of -
 - (a) K10,000.00 at the time of making application for an unconventional hydrocarbons prospecting licence or an extension thereof; and
 - (b) K10,000.00 at the time of making application for an unconventional hydrocarbons retention licence or an extension thereof; and
 - (c) K50,000.00 at the time of making application for an unconventional hydrocarbons development licence or an extension thereof.

- (2) A licensee shall pay an annual fee on the anniversary of the licence at the rate of -
 - (a) in the case of an unconventional hydrocarbons prospecting licence granted otherwise than by way of extension, K500.00 for each block in the licence area; and
 - (b) in the case of an unconventional hydrocarbons prospecting licence granted by way of extension, for each block in the licence area -
 - (i) K1,000.00 in the first year of the term of extension; and
 - (ii) K1,500.00 in the second year of the term of the extension; and
 - (iii) K2,000.00 in the third year of the term of the extension; and
 - (iv) K3,000.00 in the fourth year of the term of the extension; and
 - (v) K4,000.00 in the fifth year of the term of the extension; and
 - (c) K30,000.00 in the case of an unconventional hydrocarbons retention licence; and
 - (d) K100,000.00 in the case of an unconventional hydrocarbons development licence.

- (3) Subject to this Act, an annual fee referred to in Subsection (2) is payable -
 - (a) in the case of the first year of the term of a licence, before the licence is granted; and
 - (b) in the case of each subsequent year of the term of a licence, on the anniversary date of the day the licence took effect.

- (4) Where a licence is surrendered or cancelled during a year of its term, no refund shall be made of any part of the annual fee paid for that year.

- (5) A person who fails to pay the fees referred to in this section by the date they are payable is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

Unconventional Hydrocarbons

130. DETERMINATION OF VALUE OF UNCONVENTIONAL HYDROCARBONS.

Except as otherwise provided in the Schedule, the Minister shall, from time to time, after considering any information furnished by the licensee and any other information that the Minister thinks relevant, determine in accordance with the Schedule, the value, for the purposes of this Act, of unconventional hydrocarbons produced from a licence area -

- (a) in the case of unconventional hydrocarbons intended for export, as at the point of export; or
- (b) in the case of unconventional hydrocarbons not intended for export, as at the point of delivery to a refinery or processing facility in Papua New Guinea.

131. ROYALTY.

(1) Subject to Subsections (2) and (3), a licensee shall pay to the State royalty at a rate of two percent of the wellhead value of all unconventional hydrocarbons produced from the licence area, other than unconventional hydrocarbons which are consumed in unconventional hydrocarbons operations or flared in accordance with the *Oil and Gas Act 1998* or injected into a petroleum reservoir.

(2) For the purposes of Subsection (1), the wellhead value of any unconventional hydrocarbons is the value of the unconventional hydrocarbons determined in accordance with Section 130 less any deductions prescribed in the regulations to the extent and in the manner prescribed.

(4) Notwithstanding the provisions of the *Income Tax Act 1959*, where, in a financial year, in relation to the same licence area, a person has paid -

- (a) royalty under this section; and
- (b) development levy under Section 132, the royalty paid by that person under this section shall be deemed to be income tax paid by that person in respect of its liability to income tax under the *Income Tax Act 1959* on its assessable income from unconventional hydrocarbons operations derived from the unconventional hydrocarbons project to which the royalty relates.

132. DEVELOPMENT LEVIES.

(1) Subject to this section, an unconventional hydrocarbons development licensee shall pay, in accordance with Section 98 of the *Organic Law on Provincial Governments and Local-level Governments*, to the affected Provincial or Local-level Governments of an unconventional hydrocarbons project, development levies at a rate of two percent of the wellhead value of all unconventional hydrocarbons produced from the licence area, other than unconventional hydrocarbons which are consumed in unconventional hydrocarbons operations or flared in accordance with the *Oil and Gas Act 1998* or injected into a petroleum reservoir, calculated in the same manner as provided for in Section 131.

(2) Development levies payable under this section shall be payable directly by the unconventional hydrocarbons development licensee to a trust fund in accordance with the *Public Finances (Management) Act 1995*, annually in arrears on or before 31 January in the year following the year of production to which the development levy relates.

(3) No other development levies, pursuant to Section 98 of the *Organic Law on Provincial Governments and Local-level Governments*, shall be applied to unconventional hydrocarbons projects.

(4) Development levies which have been paid in accordance with this section shall be disbursed from the trust account only in accordance with an appropriation approved by Parliament.

Unconventional Hydrocarbons

133. ASCERTAINING QUANTITY OF UNCONVENTIONAL HYDROCARBONS RECOVERED.

For the purposes of this Act, the quantity of unconventional hydrocarbons recovered by a licensee during a period is -

- (a) the quantity measured during that period by an approved measuring device installed at the wellhead or some other approved place; or
- (b) where no such measuring device is installed, or the Minister is not satisfied that the quantity of unconventional hydrocarbons recovered by the licensee has been properly or accurately measured by such a device, the quantity determined by the Minister as being the quantity so recovered during that period.

134. PAYMENT OF ROYALTY AND PENALTY FOR LATE PAYMENT.

(1) Royalty under this Act in respect of unconventional hydrocarbons recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.

(2) Where the amount of royalty under this Act is not paid as provided by Subsection (1), there is payable to the Director by the licensee, an additional amount calculated at the rate of one third of a percent per day on the amount of royalty from time to time remaining unpaid, to be computed from the time when the royalty became payable until it is paid.

(3) An additional amount is not payable under Subsection (2) in respect of any period before the expiration of seven days after the value of the petroleum was determined under Section 130.

135. REGISTRATION FEES.

There is payable to the Director in respect of all instruments required to be registered under this Act such fees as are prescribed.

PART IV. - STATE EQUITY ENTITLEMENT AND PROJECT BENEFITS.

136. NO EFFECT ON COMPENSATION ENTITLEMENT.

Nothing contained in this Part affects the entitlement of a person to be compensated pursuant to Section 90.

137. STATE EQUITY ENTITLEMENT.

(1) The State has the right (but not the obligation) to acquire, directly or through a nominee, all or any part of a participating interest not exceeding 22.5 percent in each unconventional hydrocarbons project.

(2) The right referred to in Subsection (1) may be exercised by the State at the time of the grant of the unconventional hydrocarbons development licence or licences pursuant to which the unconventional hydrocarbons project is conducted.

(3) Subject to Subsection (4), the consideration payable by the State for an acquisition under Subsection (1) shall be a percentage of the unrecouped sunk costs of the vendor attributable to the vendor's interest in the unconventional hydrocarbons project, equal to the percentage participating interest in the unconventional hydrocarbons project being acquired by the State.

Unconventional Hydrocarbons

(4) Any interest acquired under Subsection (1) shall be acquired on, and any consideration payable under Subsection (3) shall be calculated, in accordance with specific terms and conditions contained in a project agreement relating to that unconventional hydrocarbons project.

(5) The State shall exercise its right under Subsection (1), in respect of an unconventional hydrocarbons project, to the extent necessary to ensure that any equity benefit required to be granted under Section 138 can be granted in accordance with that section.

(6) Subject to -

(a) Section 138; and

(b) the terms of any written agreement between the State and the vendor of the participating interest in an unconventional hydrocarbons project acquired by the State pursuant to the State equity entitlement,

the State or the nominee of the State which acquires a participating interest in an unconventional hydrocarbons project in accordance with this section shall be free to deal with that participating interest as it sees fit.

138. EQUITY BENEFIT.

(1) Out of the State equity entitlement referred to in Section 137, there is reserved an equity benefit to be dealt with in accordance with this section.

(2) The cost of -

(a) acquiring the participating interest in the unconventional hydrocarbons project for the purposes of the equity benefit; and

(b) development attributable to that participating interest up until the commencement of commercial production of unconventional hydrocarbons from that unconventional hydrocarbons project,

shall be borne by the State.

(3) Subject to this section and Section 140, the State grants to the project area landowners and the affected Local-level Governments of an unconventional hydrocarbons project, if any, an equity benefit in that unconventional hydrocarbons project.

(4) The equity benefit granted under this section shall be shared between the project area landowners and affected Local-level Governments of the project in proportions agreed by them in a development agreement, but in default of such agreement in the proportions determined by the Minister, by instrument.

(5) The equity benefit granted under this section shall be held on trust for the grantees in accordance with Section 147.

(6) The participating interest in an unconventional hydrocarbons project which comprises the equity benefit granted under this section shall be subject to the obligations applying thereto by law or by agreements to which the licensee is party, save that the State and not the grantee of the benefit shall be responsible for liabilities attributable to that participating interest until the commencement of commercial production of unconventional hydrocarbons from that unconventional hydrocarbons project.

Unconventional Hydrocarbons

(7) If in respect of an unconventional hydrocarbons project there are no project area landowners or affected Local-level Governments, the State shall not be required to exercise its State equity entitlement to provide an equity benefit, but if it does so it shall be at liberty to grant that equity benefit to such organisations for such public purposes as it sees fit.

139. ROYALTY BENEFIT.

(1) Subject to this section and Section 140, the State grants to the project area landowners, the affected Local-level Governments and the affected Provincial Governments of an unconventional hydrocarbons project, if any, a royalty benefit in respect of that unconventional hydrocarbons project.

(2) The royalty benefit granted under this section shall be shared between the project area landowners, the affected Local-level Governments and the affected Provincial Governments of the project in proportions agreed by them in a development agreement, but in default of such agreement in the proportions determined by the Minister, by instrument.

(3) The royalty benefit granted under this section shall be payable monthly, by the Minister, out of royalties payable to the Minister pursuant to Section 131.

(4) The royalty benefit granted under this section shall be paid to the trustee and held on trust for the grantees in accordance with Section 147.

(5) If in respect of an unconventional hydrocarbons project there are no project area landowners or affected Local-level Governments or affected Provincial Governments, no royalty benefit shall be payable, and all royalties received pursuant to Section 131 shall be paid over to consolidated revenue.

140. IDENTIFICATION OF LANDOWNER BENEFICIARIES.

(1) Notwithstanding any other provision of this Act, the persons (other than affected Local-level Governments or affected Provincial Governments) who shall receive the benefits granted by Sections 138 and 139 shall be identified in accordance with this section.

(2) Prior to convening, or during, a development forum under Section 43, the Minister shall, to the extent possible, determine by instrument -

- (a) the persons (other than affected Local-level Governments or affected Provincial Governments) who shall receive the benefits granted by Sections 138 and 139; and
- (b) the incorporated land groups or, if permitted in accordance with Section 147(3)(f), any other persons or entities who shall represent and receive the benefit on behalf of the grantees of the benefit.

(3) If in respect of unconventional hydrocarbons projects which are in production or have commenced development, persons or incorporated land groups or other entities, who should be receiving benefits from such unconventional hydrocarbons projects, have not been identified or where a dispute exists as to which persons or incorporated land groups or other entities should be identified to receive such benefits, the Minister may at any subsequent time make a determination as to the persons or incorporated land groups or other entities who should receive the benefits arising from such unconventional hydrocarbons project.

Unconventional Hydrocarbons

(4) In making a determination under Subsection (2), (3) or (5), the Minister shall consider any agreements by persons who are or claim to be project area landowners, the decisions of courts of Papua New Guinea as to ownership of land or rights in relation to land in the vicinity of the unconventional hydrocarbons project in question, the results of social mapping and landowner identification studies that have been carried out in accordance with this Act and submissions from the licensee or prospective licensee or affected Local-level Governments or affected Provincial Governments of the unconventional hydrocarbons project in question or from any other person claiming an interest or to be affected by the decision of the Minister.

(5) Where, in the opinion of the Minister, after due consideration, some project area landowner groups have a greater or more substantial occupation or right of occupation of the land referred to in the definition of "project area landowners" or are more adversely impacted by the unconventional hydrocarbons project than other project area landowner groups, the Minister may, by instrument, determine that the sharing amongst project area landowner groups of equity benefits or royalty benefits in accordance with this section shall favour, on a per capita basis, those project area landowner groups who have that greater or more substantial occupation or right of occupation or are more adversely impacted by the unconventional hydrocarbons project.

(6) An unconventional hydrocarbons development licensee or applicant for an unconventional hydrocarbons development licence may, at any time after an application for the grant or variation of an unconventional hydrocarbons development licence in respect of an unconventional hydrocarbons project, apply to the Minister for a determination under Subsection (2), (3) or (5).

(7) Where a licensee or an applicant for a licence applies to the Minister for a determination under Subsection (6), the Minister shall allow a period of 30 days, or such longer period as the Minister may allow, for persons referred to in Subsection (4) to make submissions or in the case of persons claiming to be project area landowners to advise him of agreements reached by them on the determination.

(8) Where a dispute exists as to which persons or incorporated land groups or other entities should be identified to receive benefits in accordance with this section, the Minister may make a determination under Subsection (2), (3) or (5) or may direct that monies or other benefits which are the subject of the dispute shall be held in abeyance pending a resolution of that dispute by other means, and where such a direction is given by the Minister the trustee referred to in Section 147 shall hold such monies or other benefits in accordance with that direction.

(9) Where the Minister directs that monies or other benefits are to be held in abeyance under Subsection (8) or where the Minister's determination under Subsection (2), (3) or (5) is subject to judicial review, the Minister may grant the licence or licences in respect of the unconventional hydrocarbons project.

(10) Where the Minister has granted the licence or licences under Subsection (9), and the dispute is resolved, the Minister shall make a determination under Subsection (2), (3) or (5) and (if one has not already been held) convene a development forum under Section 43.

(11) A Ministerial determination made pursuant to this section shall not be reviewable before any court unless an application for review is made within 28 days of the Ministerial determination.

Unconventional Hydrocarbons

141. SHARING OF BENEFITS AMONGST PROJECT AREA LANDOWNERS.

(1) Any equity benefit or royalty benefit granted to project area landowners shall be shared amongst project area landowners in accordance with this section.

(2) Equity benefits and royalty benefits granted to project area landowners under this Act shall be shared among project area landowners or groups of project area landowners in proportions to be agreed by them in a development agreement, but in default of such agreement in the proportions determined by the Minister, by instrument.

(3) Where, in the opinion of the Minister, having considered the results of social mapping and landowner identification studies conducted in accordance with this Act, some project area landowners have a greater or more substantial occupation or right of occupation of the land referred to in the definition of "project area landowners" or are more adversely impacted by the unconventional hydrocarbons project than other project area landowners, the Minister may, by instrument, determine that the sharing amongst project area landowners of equity benefits or royalty benefits in accordance with this section shall favour, on a per capita basis, those project area landowners who have that greater or more substantial occupation or right of occupation or are more adversely impacted by the unconventional hydrocarbons project.

(4) A trust deed implemented in accordance with Section 147(3) shall provide for the distribution of equity benefits and royalty benefits in accordance with a determination of the Minister under this section.

142. OTHER PROJECT AREA LANDOWNER BENEFITS.

(1) Subject to Section 145, the State may, in a development agreement, reach agreement with project area landowners to provide, and may provide to or for, the benefit of project area landowners or the people of the project area or the people of the region, by way of grants out of consolidated revenue or otherwise, such other benefits in addition to those specified in this Part as the State sees fit.

(2) Nothing contained in this Part affects any agreement which might be reached between project area landowners and the developers of an unconventional hydrocarbons project as to benefits to be provided or other commitments made to those project area landowners by those developers.

143. SHARING OF BENEFITS AMONGST AFFECTED LOCAL-LEVEL GOVERNMENTS AND AFFECTED PROVINCIAL GOVERNMENTS.

(1) If, in respect of an unconventional hydrocarbons project, there is more than one affected Local-level Government, the equity benefit and royalty benefit granted to affected Local-level Governments by this Part shall, unless otherwise agreed in writing by the affected Local-level Governments and the State, be shared between those affected Local-level Governments in proportion to the number of project area landowners who receive those benefits in respect of that project who reside within the jurisdiction of each affected Local-level Government.

(2) If, in respect of an unconventional hydrocarbons project, there is more than one affected Provincial Government, the royalty benefit granted to affected Local-level Governments by this Part shall, unless otherwise agreed in writing by the affected Local-level Governments and the State, be shared between those affected Provincial Governments in proportion to the number of project area landowners who receive a royalty benefit in respect of that project who reside within the jurisdiction of each affected Provincial Government.

Unconventional Hydrocarbons

144. PROJECTS GRANTS.

(1) In addition to the other benefits granted to affected Local-level Governments and affected Provincial Governments under this Part, the State shall make grants to affected Local-level Governments and affected Provincial Governments of an unconventional hydrocarbons project in accordance with this section.

(2) The State shall, in a development agreement and, may in any other agreement, agree with the affected Local-level Governments and affected Provincial Governments of an unconventional hydrocarbons project upon the amount and nature and timing of grants to be made by the State to those affected Local-level Governments and affected Provincial Governments in relation to the unconventional hydrocarbons project.

(3) Grants made in accordance with this section may be in the form of monetary payments or in the form of provision of infrastructure or services or other benefits.

(4) The provision to an affected Local-level Government or an affected Provincial Government of a benefit in the form of infrastructure (or any other benefit) which is funded by the licensee in respect of the unconventional hydrocarbons project pursuant to Section 219C of the *Income Tax Act 1959* shall be taken to be a grant made in accordance with this section.

(5) The State may, in addition to grants made to affected Local-level Governments or affected Provincial Governments under this section, make grants to project area landowners or customary owners of land in an unconventional hydrocarbons project area.

145. LIMITATION ON PROJECT BENEFITS.

(1) The total benefits granted in accordance with this Act to project area landowners and affected Local-level Governments and affected Provincial Governments and any other persons or organisations shall not, when added to other costs incurred by the State in the course of the development or operation of an unconventional hydrocarbons project, exceed 20 percent of the total net benefit to the State from that unconventional hydrocarbons project as determined in a cost-benefit analysis under Section 116 of the *Organic Law on Provincial Governments and Local-level Governments*:

(2) No commitment shall be made by the State pursuant to Section 142 or 144 unless the Minister is satisfied that, following the provision of any benefits or grants which might be agreed under those sections, Subsection (1) is complied with.

146. ADDITIONAL INTERESTS IN UNCONVENTIONAL HYDROCARBONS PROJECTS.

(1) Affected Provincial Governments, affected Local-level Governments and project area landowners of an unconventional hydrocarbons project are at liberty to negotiate with a licensee to acquire from the licensee, on freely negotiated commercial terms, a participating interest in an unconventional hydrocarbons project, in addition to the participating interest in that project granted under Section 138.

(2) Where an affected Provincial Government or an affected Local-level Government or project area landowners seeks or seek to acquire an additional participating interest in accordance with Subsection (1), the State, through MRDC, shall assist that process by providing, to the extent permitted by law, information and technical advice to the affected Provincial Government, affected Local-level Government or project area landowners, as the case may be.

Unconventional Hydrocarbons

- (3) Nothing contained in this section obliges -
- (a) a licensee to sell a participating interest in an unconventional hydrocarbons project, or an interest in any other asset; or
 - (b) the State to provide or procure finance for an acquisition in accordance with this section or to procure any agreement with a licensee.

147. PROJECT BENEFITS TRUSTS.

(1) The equity benefit granted by the State in accordance with Section 138 and royalty benefit granted by the State in accordance with Section 139 to project area landowners, and any additional participating interest in an unconventional hydrocarbons project acquired by project area landowners in accordance with Section 146, shall be received and held upon trust for those project area landowners by a corporate trustee which is wholly owned by MRDC.

(2) Where by an act or agreement the State grants to project area landowners or other customary land owners any other benefit in relation to the unconventional hydrocarbons project, whether by way of a beneficial interest in a licence or assets attributable to a licence, or payments based on production or profits of the unconventional hydrocarbons project, or otherwise, that benefit shall be received and held upon trust for those persons by a corporate trustee which is wholly owned by MRDC.

(3) Where a benefit referred to in Subsection (1) or (2) is held by a trustee upon trust pursuant to Subsection (1) or (2) -

- (a) the terms of the trust shall be set out in a deed approved by the Minister; and
- (b) the board of directors of the trustee shall be comprised in the majority by representatives of the State (including the managing director of MRDC) and in the minority by representatives of the grantees of the benefit; and
- (c) any equity interest or equivalent in an unconventional hydrocarbons project held by the trustee shall not without the consent of the State be sold or transferred or charged, mortgaged or otherwise encumbered other than for the purpose of financing the activities of the trustee in that unconventional hydrocarbons project or securing its joint venture obligations in that unconventional hydrocarbons project; and
- (d) the trustee and the trust funds and any assets held by the trustee shall be managed by MRDC; and
- (e) the trustee and MRDC shall enter into a management agreement on terms approved by the Minister which agreement shall govern the management of the trustee and its assets and the amounts charged to the trustee for those management services; and
- (f) unless otherwise agreed between the State and the grantees of the benefit or prescribed by law, the beneficiaries of the trust shall be incorporated land groups on behalf of the grantees; and
- (g) where project area landowners entitled to an equity benefit in accordance with this section and who are equally entitled amongst themselves to share in that benefit are represented by more than one incorporated land group (or other representative if permitted in accordance with Paragraph (f)), the incorporated land groups or other representatives shall be allocated the benefit in proportion to the number of project area landowners each represents; and
- (h) the terms of the trust shall prescribe -
 - (i) that 30 percent, or such greater proportion as may be agreed between the State and the project area landowners, of the net income of the trust fund after payment of all costs and expenses shall be held upon trust for future generations of project area landowners; and

Unconventional Hydrocarbons

- (ii) subject to the terms of any agreement between the State and project area landowners in force at the commencement of this section, that 30 percent or such greater proportion as may be agreed between the State and the project area landowners, of the net income of the trust fund after payment of all costs and expenses shall be accumulated in investments in accordance with the terms of the trust and, together with the income from those investments, applied by the trustee for the benefit of project area landowners existing during the term of the trust for any one or more of the following purposes:
 - (A) the general health, welfare, education and well-being of the project area landowners; or
 - (B) the provision or maintenance of community projects in the area of the unconventional hydrocarbons project; or
 - (C) such other purpose for the benefit of the project area landowners as is approved by the Minister; and
- (i) the grantees of the benefit shall be at liberty to share or distribute income received by them from the trust in accordance with any customary arrangements or agreements they have entered into with the customary land owners outside of the area of the unconventional hydrocarbons project, but such other customary land owners shall have no entitlement to or claim upon any part of the trust funds.

(4) The equity benefit granted by the State in accordance with Section 138 of this Act to affected Local-level Governments or affected Provincial Governments, and any additional participating interest in an unconventional hydrocarbons project acquired by an affected Local-level Government or an affected Provincial Government in accordance with Section 146, shall be received and held upon trust for those grantees by a corporate trustee which is wholly owned by MRDC.

(5) Subject to Subsection (6), where by an act or by agreement the State grants to a Local-level Government or Provincial Government any other benefit in relation to the unconventional hydrocarbons project, whether by way of a beneficial interest in a licence or assets attributable to a licence, or payments based on production or profits of the unconventional hydrocarbons project, or otherwise, that benefit shall be received and held upon trust for that government by a corporate trustee which is wholly owned by MRDC.

- (6) Subsection (5) shall not apply to -
- (a) monetary grants made by the State to a Local-level Government or Provincial Government; or
 - (b) any interest in buildings or other infrastructure provided to a Local-level Government or Provincial Government where the buildings or infrastructure are not dedicated project facilities of the unconventional hydrocarbons project.

- (7) Where a benefit referred to in Subsection (4) or (5) is held by a trustee upon trust pursuant to Subsection (4) or (5) -
- (a) the terms of the trust shall be set out in a deed approved by the Minister; and
 - (b) the Board of Directors of the trustee shall be comprised in the majority by representatives of the State (including the Managing Director of MRDC) and in the minority by representatives of that government; and

Unconventional Hydrocarbons

- (c) any equity interest or equivalent in an unconventional hydrocarbons project held by the trustee shall not without the consent of the State be sold or transferred or charged, mortgaged or otherwise encumbered other than for the purpose of financing the activities of the trustee in that unconventional hydrocarbons project or securing its joint venture obligations in that unconventional hydrocarbons project; and
- (d) the trustee and the trust funds and any assets held by the trustee shall be managed by MRDC; and
- (e) the trustee and MRDC shall enter into a management agreement on terms approved by the Minister which agreement shall govern the management of the trustee and its assets and the amounts charged to the trustee for those management services.

148. EXPENDITURE ON BEHALF OF AFFECTED LOCAL-LEVEL GOVERNMENTS AND AFFECTED PROVINCIAL GOVERNMENTS.

(1) All grants made in accordance with Section 144, and all monies held on behalf of an affected Local-level Government or affected Provincial Government in accordance with Section 147 and available to be spent by the affected Local-level Government or affected Provincial Government, shall be administered in accordance with this section.

(2) The Minister shall establish, in respect of each unconventional hydrocarbons project, an Expenditure Implementation Committee comprising -

- (a) the Secretary of the Department of National Planning or the department responsible for national planning matters, who shall be the Chairman; and
- (b) the Director; and
- (c) the Secretary of the Department of Treasury or the department responsible for national government finances; and
- (d) the Secretary of the Department of Works and Transport; and
- (e) the Secretary of the Department of Provincial and Local-level Government Affairs; and
- (f) the Administrator of each affected Provincial Government or District Administrator responsible for an affected Local-level Government; and
- (g) the chief executive of the operator who shall represent the licensees of the unconventional hydrocarbons project, or their representatives.

(3) Expenditure of monies, referred to in Subsection (1), by or on behalf of an affected Local-level Government or affected Provincial Government and the implementation of grants referred to in that subsection shall be made only -

- (a) in accordance with development plans submitted by the relevant Local-level Government or Provincial Government; and
- (b) in accordance with the approval of the Expenditure Implementation Committee for the unconventional hydrocarbons project in question.

(4) The Expenditure Implementation Committee shall be responsible for -

- (a) monitoring budgets and timetables for construction and implementation of grant and benefit expenditure on behalf of affected Local-level Governments and affected Provincial Governments and approving such expenditure; and
- (b) monitoring expenditure made pursuant to Section 219C of the *Income Tax Act 1959* to ensure that projects funded pursuant to that section comply with the development plans submitted by the relevant Local-level Government or Provincial Government; and

Unconventional Hydrocarbons

- (c) monitoring the program of ongoing projects for expenditure of monies in accordance with this section.

(5) Notwithstanding the provisions of Section 219C of the *Income Tax Act 1959*, no expenditure by a licensee in respect of an unconventional hydrocarbons project shall fulfil the requirements of that section unless approved by the Expenditure Implementation Committee of the unconventional hydrocarbons project in question.

PART V. - MISCELLANEOUS.

149. INSPECTORS NOT TO HAVE ANY INTERESTS IN LICENCES, ETC.

The Minister, the Director, an inspector or an authorised officer appointed under this Act must not hold or have any interest in any licence, or hold shares in any company holding or having any interest in, any licence under this Act.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding two years or both.

150. POINTS, ETC., TO BE ASCERTAINED BY REFERENCE TO GEODETIC DATUM.

(1) Where for the purposes of this Act, or for the purpose of an instrument under this Act, it is necessary to determine the position on the surface of the Earth at a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160m and a flattening of 100/29825 and by reference to the position of the Bevan Rapids (AA 070) Geodetic Station in the Gulf Province of Papua New Guinea.

(2) The Bevan Rapids Geodetic Station shall be taken to be situated at 7 degrees 21 minutes 34.7974 seconds of South latitude and at 145 degrees 15 minutes 52.9878 seconds of East longitude and to have a ground level of 406.30m above mean sea level.

151. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for securing, regulating, controlling or restricting -

- (a) the exploration for unconventional hydrocarbons and the carrying on of operations, and the execution of works, for that purpose; and
- (b) the recovery of unconventional hydrocarbons and the carrying on of operations, and the execution of works, for that purpose; and
- (c) the construction and operation of any of the pipes or facilities referred to in Paragraphs (a) to (d) inclusive of the definition of "pipeline"; and
- (d) the construction and operation of unconventional hydrocarbons processing facilities; and
- (e) the limitation of project benefits granted in accordance with this Act.

(2) Without limiting the generality of Subsection (1), the regulations may -

- (a) prescribe work practices and safety measures to -
 - (i) control the flow and prevent the escape of unconventional hydrocarbons or petroleum or water; and

Unconventional Hydrocarbons

- (ii) prevent the escape of water or drilling fluid or stimulation substances or the mixture of water or drilling fluid or stimulation substances with unconventional hydrocarbons or petroleum or any other matter; and
- (iii) prevent damage to unconventional hydrocarbons-bearing strata or deposits in an area in respect of which a licence is not in force; and
- (iv) avoid interference between the operations of a licensee and the operations of a petroleum tenement holder or co-ordinate such operations; and
- (v) prevent a licensee accessing or interfering with petroleum deposits or a petroleum tenement holder accessing or interfering with unconventional hydrocarbon activities; and
- (vi) prevent the contamination of unconventional hydrocarbon deposits through water or stimulation substances or any other matter entering such deposits through wells; and
- (vii) prevent the pollution of any water-well, spring, stream, river, lake, water reservoir, estuary, harbour or area of sea by the escape of unconventional hydrocarbons, salt water, drilling fluid, chemical additive or any other waste product or effluent; and
- (b) prescribe areas where drilling for unconventional hydrocarbons is prohibited; and
- (c) regulate the location and spacing of wells, and for this purpose provide for the establishment and designation of spacing units; and
- (d) regulate the design, drilling, stimulation and completion of wells; and
- (e) prescribe the methods, equipment and materials to be used in boring, drilling, stimulating, completing, plugging, operating or making safe wells; and
- (f) require the registration or approval of the constituent components of drilling fluids, stimulation substances or other matter injected or to be injected into a well or a formation; and
- (g) prohibit any constituent components of drilling fluids, stimulation substances or other matter injected or to be injected into a well or a formation which are considered to be harmful or pose a risk of release into the environment; and
- (h) regulate the disposal of drilling fluids, stimulation substances or other matter injected or to be injected into a well or a formation; and
- (i) regulate the construction, erection, maintenance, operation or use of installations or equipment; and
- (j) prescribe measures to prevent the escape of unconventional hydrocarbons or unconventional hydrocarbons products or water from a pipeline, water line, flow lines or gathering lines, pumping station, tank station or valve station; and
- (k) require a licensee to maintain in good condition and repair all structures, equipment and other property used or intended to be used for or in connection with exploration for, or the recovery or conveyance or processing of, unconventional hydrocarbons or unconventional hydrocarbons products; and
- (l) provide for the removal of structures, equipment and other property, brought into the country in connection with exploration for, or the recovery or conveyance or processing of, unconventional hydrocarbons or unconventional hydrocarbons products, that are not used or intended to be used in connection with that exploration, recovery or conveyance or processing; and
- (m) regulate the use of wells and the use of the subsurface for the disposal of unconventional hydrocarbons, water and other substances produced in association with the exploration for or the recovery of unconventional hydrocarbons; and

Unconventional Hydrocarbons

- (n) prescribe the rates, or the method of setting the rates, at which unconventional hydrocarbons and water may be recovered from any well; and
- (o) prescribe the methods to be used for the measurement of unconventional hydrocarbons, water and other substances from a well; and
- (p) prescribe safety standards and provide for the health and safety of persons employed in or in connection with the exploration for or the recovery or conveyance of unconventional hydrocarbons; and
- (q) require licensees to take, preserve and furnish to the Director cores, cuttings and samples from wells and samples of unconventional hydrocarbons and water; and
- (r) require licensees to give to the Director reports, returns and other information; and
- (s) require a licensee to take logs or directional surveys or make other down-hole investigations; and
- (t) prescribe forms and other documents to be used in the administration of this Act, other than approved forms; and
- (u) prescribe penalties of fines not exceeding K5,000.00 and default penalties of fines not exceeding K500.00 for offences against the regulations; and
- (v) prescribe fees; and
- (w) prescribe work practices and safety measures, including qualifications for persons in control of unconventional hydrocarbons processing facilities; and
- (x) regulate the siting of unconventional hydrocarbons processing facilities; and
- (y) prescribe the methods, equipment and materials to be used in the operation of unconventional hydrocarbons processing facilities; and
- (z) regulate the construction, erection, maintenance, operation or use of installations or equipment; and
- (aa) provide for the removal of structures, equipment and other property, brought into the country in connection with the processing of unconventional hydrocarbons that are not used or intended to be used in connection with that processing; and
- (bb) prescribe standards for construction, maintenance, calibration and listing of metering and measurement devices; and
- (cc) prescribe standards for pressure, purity and uniformity of calorific value of unconventional hydrocarbons or unconventional hydrocarbons products that is, or is intended to be, supplied for domestic utilisation or export; and
- (dd) prescribe other standards with respect to the properties, condition and composition of unconventional hydrocarbons or unconventional hydrocarbons products that is, or is intended to be, supplied for domestic utilisation or export; and
- (ee) prescribe safety standards and provide for the health and safety of persons employed in or in connection with the processing or supply of unconventional hydrocarbons or unconventional hydrocarbons products for domestic utilisation; and
- (ff) prescribe the manner in which the State acquires interests in unconventional hydrocarbons development licences and the assets that are related to those licences; and
- (gg) prescribe the manner and scope of agreement between a licensee and the State in relation to the co-ordination of a development forum, and the amount of money that a licensee can contribute for purposes of co-ordinating a development forum, and how payment of such monies will be made.

Unconventional Hydrocarbons

152. PROJECT AGREEMENT.

The Minister may, on behalf of the State, execute an agreement with a licensee or applicant for a licence, providing for -

- (a) the definition of the extent of a particular unconventional hydrocarbons project and operations for that unconventional hydrocarbons project, for the purposes of this Act and any other law; and
- (b) the transfer and assignment of a State equity interest in that unconventional hydrocarbons project to MRDC; and
- (c) any other matters relating to that unconventional hydrocarbons project or those operations, which are agreed to by the parties to such agreement, which, without limiting the generality of the foregoing, may include -
 - (i) the application of particular provisions of this Act to that unconventional hydrocarbons project and those operations; and
 - (ii) where permitted by other Acts, the application of particular provisions of those other Acts to that unconventional hydrocarbons project and those operations, and such agreement will, once so executed, have effect in accordance with its terms and notwithstanding any other provision of this Act.

153. AGREEMENTS BY THE STATE.

Notwithstanding any other provision of this Act or any other Act (but without limiting Section 152) where in a written agreement with a licensee, whether entered into before or after the commencement of this Act, the State agrees that a discretion under this Act or any other Act or any regulations under this Act or any other Act will be exercised in a certain way, or that certain rights or consents or authorisations or licences under this Act or any other Act or any regulation under this Act or any other Act will be granted to the licensee, then that discretion shall be exercised and those rights or consents or authorisations or licences shall be granted in accordance with that written agreement.

Section 130.

SCHEDULE.

DETERMINATION OF VALUE OF UNCONVENTIONAL HYDROCARBONS UNDER SECTION 130.

PART 1. - PRELIMINARY.

1. INTERPRETATION OF THIS SCHEDULE.

In this Schedule -

- “adjusted price” means net realisable price with any appropriate adjustment for sales margins or commissions;
- “appropriate adjustment”, in relation to any provision of this Schedule, means such adjustment for the purposes of the provision as is agreed on between the Minister and the licensee, or in default of agreement, as is reasonably determined by the Minister;
- “domestic value” means a value to be determined under Section 130 for unconventional hydrocarbons not intended for export;
- “export value” means a value to be determined under Section 130 for unconventional hydrocarbons intended for export;
- “the guidelines” means the guidelines adopted under Part 3 of this Schedule;

Unconventional Hydrocarbons

“the licensee” means the holder of the licence from which the unconventional hydrocarbons which is to be given a value under Section 130 is produced;

“relevant contract” means an agreement for the sale at an arms’ length price of unconventional hydrocarbons for delivery -

- (a) by more than one shipment; and
- (b) over a period of more than three months, that was in force during the relevant period;

“the relevant period”, in relation to the determination of a value for any unconventional hydrocarbons, means the period of three months, or such longer period as in special circumstances is agreed on between the Minister and the licensee, before the date as at which the value is to be determined.

2. SALE AT ARMS’ LENGTH.

For the purposes of this Schedule, a sale at arms’ length is where -

- (a) the consideration expressed in the agreement for the sale is the sole consideration for the sale; and
- (b) the terms of the sale are not affected by any commercial relationship (other than the relationship created by the agreement or sale) between the seller and the buyer or any person connected with the buyer; and
- (c) neither the seller nor any person connected with him has any direct or indirect interest in the subsequent re-sale or disposal of the unconventional hydrocarbons or of any products of them,

and no other sale shall be taken to be at arms’ length.

3. ARMS’ LENGTH PRICE.

(1) In this Schedule, “arms’ length price” in relation to a sale or an agreement for the sale of any unconventional hydrocarbons, means -

- (a) where the sale was, or was to be, at arms’ length, the sale price; and
- (b) where the sale was not, or was not to be, at arms’ length, the price that, in the opinion of the Minister, the unconventional hydrocarbons would have brought had the sale been at arms’ length.

(2) Subject to Subsection (3), where in the opinion of the Minister it is not practicable in the circumstances of a particular sale that was not at arms’ length, or of a particular agreement for such a sale, to determine what would have been the price referred to in Subsection (1)(b), the sale shall be disregarded for the purposes of any provision of this Schedule that relates to arms’ length prices.

(3) For the purposes of any provision of this Schedule that refers to an average price based on sales at arms’ length or arms’ length prices, a sale that is not a sale at arms’ length, or a price that is not an arms’ length price, may be taken into account where the Minister is satisfied that a series of sales, or a number of related sales, of which the sale concerned was one, was or were such that the total of the prices paid amounted to, or was the equivalent of, an arms’ length price for all the unconventional hydrocarbons sold.

4. COMPARISON OF UNCONVENTIONAL HYDROCARBONS.

Where it is necessary for the purposes of this Schedule to compare -

- (a) unconventional hydrocarbons of different qualities or grades; or

Unconventional Hydrocarbons

(b) prices of -

- (i) unconventional hydrocarbons of different qualities or grades; or
- (ii) unconventional hydrocarbons sold, or agreed to be sold, in significantly different quantities, appropriate adjustments shall be made to reconcile or compensate for the difference.

5. COMPARISON OF PRICES.

Where it is necessary for the purposes of this Schedule to compare prices, appropriate adjustments shall be made for differences in any relevant costs, including the terms of any credit allowed and transport costs, in addition to any adjustments to be made in accordance with Section 4 of this Schedule to enable the prices to be related to comparable qualities, grades or quantities of unconventional hydrocarbons.

PART 2. - NORM VALUES.

6. DETERMINATION OF VALUE BY REFERENCE TO RELEVANT CONTRACTS.

If the Minister is satisfied that there has been a sufficient number of relevant contracts for the sale -

- (a) where the value to be determined is an export value - of locally produced unconventional hydrocarbons for export; or
- (b) where the value to be determined is a domestic value - of locally produced unconventional hydrocarbons for refining or processing in Papua New Guinea,

to allow a norm price to be satisfactorily determined, the export value or the domestic value, as the case may be, shall be determined having regard to the weighted average of the comparable adjusted prices per barrel under the contracts to which Paragraph (a) or (b), as the case may be, relates.

7. DETERMINATION OF VALUE IN OTHER CASES.

In a case to which Section 6 of this Schedule does not apply, the Minister shall determine an export value or a domestic value, as the case requires, that in his opinion represents a fair arms' length price for the unconventional hydrocarbons concerned, and in so doing he shall have regard to any appropriate marker price adopted under Section 9 of this Schedule.

PART 3. - GUIDELINES.

8. REGULATIONS AS TO GUIDELINES.

Subject to Section 130 and to this Schedule, the regulations may make provision in respect of the adoption of guidelines to be followed in, and in relation to, the determination of the value of unconventional hydrocarbons under that section.

9. MARKER PRICES.

(1) The guidelines may adopt or provide for the adoption of marker prices for the purposes of the guidelines and of this Schedule.

(2) In arriving at any decision or opinion, and in making any calculation or estimation, for the purposes of this Schedule the Minister shall, to the extent and in the manner provided in this Schedule and the guidelines, have regard to any appropriate marker price adopted under Subsection (1).

Unconventional Hydrocarbons

PART 4. - ARBITRATION.

10. REFERENCES TO ARBITRATION.

(1) Subject to Subsection (3), where there is a dispute between the Minister and the licensee as to the value that should, in accordance with this Schedule, be determined for any unconventional hydrocarbons, the licensee may, by written notice to the Minister, require that any matter relating to the determination of the value, being a matter of a kind specified in Section 11 of this Schedule, be referred to arbitration.

(2) Where a licensee makes a requirement under Subsection (1), the matter stands referred to arbitration in accordance with the *Arbitration Act 1951*, and pending a decision on the reference, the determination by the Minister stands.

(3) This section does not apply unless the difference between the value determined by the Minister and the value claimed by the licensee exceeds zero point five percent of the former.

11. MATTERS REFERABLE TO ARBITRATION.

The matters that may be referred to arbitration under Section 10 of this Schedule are -

- (a) any question, whether the Minister has had proper regard to the matters to which, under this Schedule or the guidelines, regard is to be had; and
- (b) any question, whether the Minister has properly followed the guidelines; and
- (c) any question as to the comparability of unconventional hydrocarbons or of sales or prices, or as to the appropriate adjustments to be made in any case; and
- (d) any question as to the sufficiency, for any purpose of this Schedule or of the guidelines, of a number of sales or contracts; and
- (e) any question, whether a sale was an arms' length sale, or a price was an arms' length price; and
- (f) any question, whether an export value or a domestic value determined under Section 7 of this Schedule represents a fair arms' length price; and
- (g) any relevant scientific or technical matter, or any relevant factual matter; and
- (h) any other matter that is prescribed, or that is agreed on by the Minister and the licensee, for the purpose.

I hereby certify that the above is a fair print of the *Unconventional Hydrocarbons Act 2015* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Unconventional Hydrocarbons Act 2015* was made by the National Parliament on 3 November 2015 by an absolute majority as required by the *Constitution*.

Acting Speaker of the National Parliament.

05 FEB 2016