

**PETROLEUM ACT CAP. 350 L.F.N. 1990 ACT CAP.
P10 L.F.N. 20041**

SUBSIDIARY LEGISLATION.

ARRANGEMENT OF SECTIONS

SECTION

1. Vesting of petroleum in the State, etc.
2. Oil exploration licences, oil prospecting licences and oil mining licences.
3. Refineries.
4. Control of petroleum products.
5. Offences in connection with the distribution of petroleum products.
6. Price control.
7. Rights of pre-emption.
8. Power and duties of public officers.
9. Regulations.
10. Discharge of obligation to make payments.
11. Settlement of disputes by arbitration.
12. Delegation of powers.
13. Offences.
14. Repeals, amendments, transitional and savings provisions.

15. Interpretation.

16. Short title and commencement.

FIRST SCHEDULE

OIL EXPLORATION LICENCES, OIL PROSPECTING
LICENCES AND OIL MINING LICENCES

SECOND SCHEDULE

RIGHTS OF PRE-EMPTION

THIRD SCHEDULE

REPEALS

FOURTH SCHEDULE

TRANSITIONAL AND SAVINGS PROVISIONS

PETROLEUM ACT

1969 No. 51.

An Act to provide for the exploration of petroleum from the territorial waters and the continental shelf of Nigeria and to vest the ownership of, and all on-shore and off-shore revenue from petroleum resources derivable therefrom in the Federal Government and for all other matter incidental thereto.

Commencement.

[27th November 1969]

Vesting of petroleum in the State.

1. (1) The entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the State.

(2) This section applies to all land (including land covered by water) which-

(a) is in Nigeria; or

(b) is under the territorial waters of Nigeria; or

(c) forms part of the continental shelf.

Cap. 428.

(3) In this section, references to "territorial waters" are references to the expression as defined in the Territorial Waters Act.

Oil exploration licences, oil prospecting licences and oil mining leases.

2. (1) Subject to this Act, the Minister may grant-

(a) a licence, to be known as an oil exploration licence, to explore for petroleum;

(b) a licence, to be known as an oil prospecting licence, to prospect for petroleum; and

(c) a lease, to be known as an oil-mining lease, to search for, win, work, carry away and dispose of petroleum.

(2) A licence or lease under this section may be granted only to-

(a) a citizen of Nigeria; or

Cap. 59.

(b) a company incorporated in Nigeria under the Companies and Allied Matters Act or any corresponding law.

(3) The provisions of the First Schedule to this Act shall, in so far as they are applicable, have effect in relation to licences and leases granted under this section.

Refineries.

3. (1) No refinery shall be constructed or operated in Nigeria without a licence granted by the Minister.

(2) Licences granted under this section shall be in the prescribed form and shall be subject to the prescribed terms and conditions or, where no form is prescribed or no terms or conditions are prescribed, in such form or subject to such terms and conditions as may be decided or imposed by the Minister.

(3) There shall be charged in respect of every licence granted under this section such application fees and such other fees as may be prescribed.

Cap. 170.

(4) The provisions of this section are additional to the provisions of the Hydrocarbon Oil Refineries Act.

Control of petroleum product.

4. (1) Subject to this section, no person shall import, store, sell or distribute any petroleum products in Nigeria without a licence granted by the Minister.

1977 No. 37.

(2) Subsection (1) of this section shall not apply in respect of-

(a) the storage, sale or distribution of not more than 500 litres of kerosene, and such other categories of petroleum products as may be exempted from the application of subsection (1) of this section by the Minister by order published in the Federal Gazette;

(b) storage of petroleum products undertaken otherwise than in connection with the importation, sale or distribution of petroleum products.

(3) Licences granted by the Minister under this section shall be subject to the prescribed terms and conditions of where no form is prescribed or no terms or conditions are prescribed, in such form and on such terms and conditions as may be decided or imposed by the Minister.

(4) There shall be charged in respect of every licence granted under this section application fees and such other fees as may be prescribed.

(5) The Minister may by order published in the Federal Gazette delegate the power to grant licences under this section to such persons or authorities in a State as he may deem fit.

(6) Any person who does, without the appropriate licence, any act for which a licence is required under this section shall be guilty of an offence and shall be liable on conviction to imprisonment for two years or a fine of two thousand naira or both, and, in addition, the petroleum products in respect of which the offence was committed shall be forfeited.

Offences in connection with the distribution of petroleum products. 1976 No.49.

5. (1) If any oil marketing company in pursuance of any agreement or arrangement between it and any

other oil marketing company borrows any petroleum products from any other oil marketing company and fails to return to that Company an equivalent quantity of the petroleum products borrowed within two weeks of the date on which the Petroleum products were borrowed, the first named oil marketing company shall be guilty of an offence and on conviction shall be liable to a fine of one hundred naira per metric ton of the petroleum products concerned.

(2) If any oil marketing company at any time registers only unpumpable stock in respect of petroleum products stored in its depot at Apapa, Lagos, that company shall be guilty of an offence and shall on conviction be liable to a fine of five thousand naira for each day during which only unpumpable stock is registered.

(3) In this section, " oil marketing company" means any company in respect of which a marketer's licence has been granted by the Minister under section 4 of this Act.

Price control.

6. (1) The Minister may by order published in the Federal Gazette fix the prices at which petroleum products or any particular class or classes thereof may be sold in Nigeria or in any particular part or parts thereof.

(2) The Minister may by notice in writing require any person appearing to him to have or to be likely to have access to information which is relevant to the fixing of any prices of the kind mentioned in subsection (1) of this section to supply that information to the Minister, and any person so required shall be legally bound to

use his best endeavours to supply the information accordingly.

Rights of pre-emption.

7. (1) In the event of a state of national emergency or war (of the existence of which the Minister shall be the sole judge) the Minister shall have the right of pre-emption of all petroleum and petroleum products obtained, marketed or otherwise dealt with under any licence or lease granted under this Act.

(2) The provisions of the Second Schedule to this Act shall have effect in relation to the right mentioned in subsection (1) of this section.

(3) Any person who without reasonable excuse (the burden of proof of which shall lie on him) fails to comply with a requisition made by or on behalf of the Minister under paragraph 1, 2 or 7 of the Second Schedule to this Act, or fails to conform to or obey a direction issued by the Minister under paragraph 8 of the Second Schedule to this Act, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand naira.

(4) Any person who obstructs or interferes with the Minister or his servants or agents in the exercise of the powers conferred on the Minister by paragraph 8 of the Second Schedule to this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred naira or to imprisonment for a period not exceeding six months, or to both.

(5) This section shall not come into force until such date as the Minister may appoint by order in the Federal Gazette; and, if a date is so appointed-

Cap. 351.

(a) the Petroleum Control Act shall stand repealed on that date, in so far as it is still in force; and

(b) the order appointing that date may contain such savings and transitional provisions as the Minister thinks appropriate.

Powers and duties of public officers.

8. (1) The Minister-

(a) shall exercise general supervision over all operations carried on under licences and leases granted under this Act;

(b) shall report annually to the Federal Government on the progress of the oil industry in Nigeria;

(c) shall have access at all times to the areas covered by oil exploration licences, oil prospecting licences and oil mining leases, and to all refineries and installations which are subject to this Act, for the purpose of inspecting the operations conducted therein and enforcing the provisions of this Act and any regulations made thereunder and the conditions of any licences or leases granted under this Act or under any corresponding law for the time being in force in Nigeria;

(d) may arrest without warrant any person whom he finds committing, or whom he reasonable suspects of having committed, any offence under this Act or any regulations made thereunder, and shall hand over any person so arrested to a police officer with as little delay as possible;

(e) may by notice in writing require the holder of a licence or lease granted under this Act or any contractor working for the holder (or any servant or agent of the holder or the contractor) to appear before him at a reasonable time and place to give such information as he may require about the operations being conducted under the licence or lease, and every person so required to appear shall be legally bound to comply with the notice and give the information;

(f) may direct in writing that operations under a licence or lease granted under this Act shall be suspended in any area until arrangements have been made which in his opinion are necessary to prevent danger to life or property;

(g) may direct in writing the suspension of any operations which in his opinion are not being conducted in accordance with good oil field practice; and

(h) may direct in writing the suspension of any operations where in his opinion a contravention of this Act or any regulations made thereunder has been or may have been or is likely to be committed.

(2) The Director of Geological Survey shall have access at all times to the areas covered by oil exploration licences, oil prospecting licences and oil mining leases for the purpose of inspecting geophysical and geological operations therein.

Regulations.

9. (1) The Minister may make regulations-

(a) prescribing anything requiring to be prescribed for the purposes of this Act;

(b) providing generally for matters relating to licences and leases granted under this Act and operations carried on thereunder, including-

(i) safe working,

(ii) the conservation of petroleum resources,

(iii) the prevention of pollution of watercourses and the atmosphere,

(iv) the making of reports and returns (including the reporting of accidents),

(v) inquiries into accidents,

(vi) the keeping and inspection of records, books, statistics, accounts and plans,

(vii) the measurement of production, and,

(viii) the measurement of crude oil delivered to refineries;

(c) regulating the construction, maintenance and operation of installations used in pursuance of this Act;

(d) regulating refineries and refining operations, and, where two or more refineries are in operation, specifying-

(i) the proportion or quantity of crude oil to be supplied to each refinery,

(ii) the share of each refinery in the total market,

and

(iii) the prices of refinery products;

(e) regulating the importation, handling, storage and distribution of petroleum, petroleum products and other flammable oils and liquids, and in particular (without prejudice to the generality of the foregoing)-

(i) prohibiting the importation or exportation of petroleum or petroleum products except at specified ports or places,

(ii) prescribing the notice to be given (and the person by whom the same shall be given) on the arrival at a port of a ship carrying petroleum or petroleum products as cargo,

(iii) defining dangerous petroleum and dangerous petroleum products, prescribing anchorages for ships carrying dangerous petroleum or dangerous petroleum products as cargo and requiring those ships to proceed to and remain at those anchorages,

(iv) regulating the loading, unloading, transport within a port, landing, trans-shipment and shipment of petroleum and petroleum products,

(v) providing for the licensing of lighters and other craft to carry petroleum and petroleum products within a port,

(vi) prescribing conditions and restrictions to be imposed upon vessels arriving at a port after having carried petroleum, petroleum products, dangerous petroleum or dangerous petroleum products,

(vii) providing for the examination and testing of petroleum and petroleum products, and prescribing the tests to be applied to ascertain its flash point and the method of applying those tests, and

(viii) subject to subsection (2) of this section, regulating the transport of petroleum and petroleum products, prescribing the quantity of petroleum and petroleum products which may be carried in any vessel, cart, truck, railway wagon or other vehicle, the manner in which they shall be stored when being so carried, the receptacles in which they shall be contained when being so carried and the quantities to be contained in those receptacles, and providing for the search and inspection of any such vessel, cart, truck, railway wagon or other vehicle;

(f) conferring or imposing on public officers for the purposes of this Act powers and duties additional to those conferred or imposed by section 8 of this Act;

(g) where paragraph (a) of this subsection does not apply; prescribing-

(i) forms to be used for the purposes of this Act, and

(ii) fees to be charged in connection with the operation of this Act (including, without prejudice to the generality of the foregoing, fees for the giving of any permission by the Minister and for the supplying of any document or other material, the carrying out of any examination and the doing of any other thing by him); and

(h) providing for such other matters as in his opinion may be necessary or desirable in order to give proper effect to this Act.

(2) Regulations made under subsection (1)(e)(viii) of this section shall apply only where petroleum or petroleum products are being transported-

Cap. 62.

(a) on the waters mentioned in item 35(a) and (b) of Part I of the Second Schedule to the Constitution of the Federal Republic of Nigeria 1999; or

(b) by railway or transport ancillary thereto; or

(c) on trunk roads within the meaning of item 62 of that Part of that Schedule.

Discharge of obligation to make payment.

10. An obligation to pay any fee, rent, royalty, premium or other sum imposed by or under this Act shall be discharged if, and only if, the payment is made within the time provided by or under this Act (or, where no time is so provided, within a reasonable time) to the Minister or his duly authorised representative.

Settlement of disputes by arbitration.

11. (1) Where by any provision of this Act or any regulations made thereunder a question or dispute is to be settled by arbitration, the question or dispute shall be settled in accordance with the law relating to arbitration in the appropriate State and that provision shall be treated as a submission to arbitration for the purposes of that law.

(2) In this section "the appropriate State" means the State agreed by all parties to a question or dispute to be appropriate in the circumstances or, if there is no such agreement, the Federal Capital Territory, Abuja.

Delegation of powers.

12. (1) The Minister may by writing under his hand delegate to another person any power conferred on him by or under this Act except the power to make orders and regulations.

(2) The Minister or the Director of Geological Survey may by writing under his hand delegate any power conferred on him by or under this Act to another public officer.

Offences.

13. (1) Any person who interferes with or obstructs the holder of a licence or lease granted under section 2 of this Act (or his servants or agents) in the exercise of any rights, power or liberty conferred by the licence or lease shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred naira or to imprisonment for a period not exceeding six months, or to both.

(2) Any person who--

(a) constructs or operates a refinery in Nigeria without a licence granted under section 3 of this Act, or

(b) in any land to which section I of this Act applies-

(i) explores for petroleum without an oil exploration licence, or

(ii) prospects for petroleum without an oil prospecting licence, or

(iii) wins or works petroleum otherwise than in pursuance of a licence or lease granted under this Act,

(iv) does, without the appropriate licence, any act for which a licence is required under any regulations made under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand naira.

(3) Any person who contravenes any provision of an order made under section 6 of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand naira.

(4) Where a person is convicted of an offence under subsection (2) or (3) of this section in respect of any petroleum or petroleum products, then, in addition to any penalty imposed under the subsection in question, the convicting court may-

(a) order the petroleum or petroleum products to be forfeited; or

(b) order that person to pay to the Minister the value of the petroleum or petroleum products.

Repeals, amendment, transitional and savings provisions. Cap. 226.

14. (1) The enactments specified in the Third Schedule to this Act are hereby repealed to the extent therein specified.

Cap. 351.

(2) The reference to the Mineral Oils Act in section 112(l) and (2) of the Minerals Act and the reference to the Petroleum Act in section 8(3) of the Petroleum Control Act shall be construed as including a reference to this Act.

(3) The transitional and savings provisions in the Fourth Schedule to this Act shall have effect notwithstanding any other provision of this Act.

Interpretation.-

15. (1) In this Act, unless the context otherwise requires-

"barrel" means a barrel of forty-two United States gallons;

"continental shelf" means the seabed and subsoil of those submarine areas adjacent to the coast of Nigeria the surface of which lies at a depth no greater than two hundred metres (or, where its natural resources are capable of exploitation, at any depth) below the surface of the sea, excluding so much of those areas as lies below the territorial waters of Nigeria;

"crude oil" means mineral oil in its natural state before it has been refined or treated (excluding water and other foreign substances);

"explore", in relation to petroleum, means to make a preliminary search by surface ideological and geophysical methods, including aerial surveys but excluding drilling below 91.44 metres;

"Minister" means the Minister of Petroleum Resources;

"natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons;

"petroleum" means mineral oil (or any related hydrocarbon) or natural gas as it exists in its natural state in strata, and does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

"petroleum products" includes motor spirit, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel, kerosene, liquefied petroleum gases and any lubrication oil or grease or other lubricant;

"prospect", in relation to petroleum, means search for by all geological and geophysical methods, including drilling and seismic operations;

"refinery" means petroleum refinery;

"rent" includes any annual or other _periodic charge made in respect of a licence granted under section 2 of this Act;

"State", except in section 1 of this Act, means a State of the Federation.

Cap. 62.

(2) References in this Act to the Director of Geological Survey are references to the persons for the time being holding, acting in or performing the functions of the offices so designated in the public service of the Federation as defined in the Constitution of the Federal Republic of Nigeria 1999.

Short title and commencement.

16. (1) This Act may be cited as the Petroleum Act

(2) This Act, except section 6 and the Second Schedule thereof, shall come into force on 27th November, 1969.

Section 2(3)

FIRST SCHEDULE

OIL EXPLORATION LICENCES, OIL PROSPECTING LICENCES AND OIL MINING LICENCES

Oil exploration licences

1. An oil exploration licence shall apply to the area specified therein which may be any area on which a

premium has not been placed by the Minister, and shall authorise the licensee to undertake exploration for petroleum in the area of the licence, excluding, land in respect of which the grant of an oil prospecting licence or oil mining lease has been approved by the Minister and land in respect of which an oil prospecting licence or oil mining lease is in force.

2. An oil exploration licence shall not confer any exclusive rights over the area of the licence, and the grant of an oil exploration licence in respect of any area shall not preclude the grant of another oil exploration licence or of an oil prospecting licence or oil mining lease over the same area or any part thereof.

3. An oil exploration licence shall terminate on the 31st December next following the date on which it was granted, but the licensee shall have an option to renew the licence for one further year if-

(a) he has fulfilled in respect of the licence, all obligations imposed upon him by this Act or otherwise,

(b) the Minister is satisfied with the work done and the reports submitted by the licensee in pursuance of the licence, and

(c) an application for renewal has been made at least three months before the date of expiry of the licence.

4. An oil exploration licence shall not confer any right to the grant of an oil prospecting licence or an oil-mining lease.

Oil prospecting licences

5. The holder of an oil prospecting licence shall have the exclusive right to explore and prospect for petroleum within the area of his licence.

6. The duration of an oil prospecting licence shall be determined by the Minister, but shall not exceed five years (including any periods of renewal).

Cap. 354.

7. The holder of an oil prospecting licence may carry away and dispose of petroleum won during prospecting operations, subject to the fulfilment of obligations imposed upon him by or under this Act (including any special terms or conditions imposed under paragraph 34 or by the Petroleum Profits Tax Act or any other law of this Schedule imposing taxation in respect of petroleum.

Oil mining leases

8. An oil mining lease may be granted only to the holder of an oil prospecting licence who has-

(a) satisfied all the conditions imposed on the licence or otherwise imposed on him by this Act, and

(b) discovered oil in commercial quantities.

9. For the purposes of paragraph 8 of this Schedule, oil shall be deemed to have been discovered in commercial quantities by the holder of an oil prospecting licence if the Minister, upon evidence adduced by the licensee, is satisfied that the licensee is capable of producing at least 10,000 barrels per day of crude oil from the licensed area.

10. The term of an oil-mining lease shall not exceed twenty years, but may be renewed in accordance with this Act.

11. Subject to this Act and any special terms or conditions imposed under paragraph 34 of this

Schedule, the lessee of an oil mining lease shall have the exclusive right within the leased area to conduct exploration and prospecting operations and to win, get, work, store, carry away, transport, export or otherwise treat petroleum discovered in or under the leased area.

12. (1) Ten years after the grant of an oil mining lease one-half of the area of the lease shall be relinquished.

(2) Paragraph 18 of this Schedule shall apply to the relinquished area.

13. (1) The lessee of an oil mining lease shall be entitled to apply in writing to the Minister, not less than twelve months before the expiration of the lease, for a renewal of the lease either in respect of the whole of the leased area or any particular part thereof; and the renewal shall be granted if the lessee has paid all rent and royalties due and has otherwise performed all his obligations under the lease.

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