

OFFSHORE PETROLEUM (AMENDMENT) ACT, 2012 – 28

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 2 of Act 2007-30.
3. Amendment of section 8 of Act 2007-30.
4. Amendment of section 10 of Act 2007-30.
5. Amendment of section 13 of Act 2007-30.
6. Amendment of section 14 of Act 2007-30.
7. Amendment of section 15 of Act 2007-30.
8. Amendment of section 16 of Act 2007-30.
9. Amendment of section 17 of Act 2007-30.
10. Amendment of section 21 of Act 2007-30.
11. Amendment of section 22 of Act 2007-30.
12. Amendment of section 23 of Act 2007-30.
13. Amendment of section 24 of Act 2007-30.
14. Amendment of section 29 of Act 2007-30.
15. Amendment of section 38 of Act 2007-30.
16. Amendment of section 43 of Act 2007-30.
17. Amendment of section 47 of Act 2007-30.
18. Amendment of section 48 of Act 2007-30.
19. Amendment of section 49 of Act 2007-30.
20. Amendment of section 51 of Act 2007-30.
21. Amendment of section 54 of Act 2007-30.
22. Amendment of section 56 of Act 2007-30.
23. Amendment of section 57 of Act 2007-30.
24. Commencement.

BARBADOS

I assent
ELLIOTT F. BELGRAVE
Governor-General
23rd November, 2012.

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An Act to amend the *Offshore Petroleum Act*.

(By Proclamation). Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Offshore Petroleum (Amendment) Act, 2012*. Short title.

Amendment
of section 2
of
Act 2007-30.

2. Section 2 of the *Offshore Petroleum Act*, in this Act referred to as the principal Act, is amended

- (a) in the definition of “block”, by deleting the words “12N” and substituting the words “21N”;
- (b) by deleting the definitions of “call for negotiations” and “development plan”; and
- (c) by inserting in alphabetical order, the following definitions:

“development plan” means a plan that specifies the activities, including the production activities, drilling activities and workover activities to be carried on by a licensee to develop a licence area under a production licence;

“environmental plan” means a plan that specifies the measures to be taken to prevent any adverse environmental impact from occurring as a result of petroleum operations or to mitigate the impact, where the impact is not preventable;”.

Amendment
of section 8
of
Act 2007-30.

3. Section 8(1) of the principal Act is amended by deleting the words “in response to a call for tenders or a call for negotiations” and substituting the words “pursuant to a call for tenders or direct negotiations”.

Amendment
of section 10
of
Act 2007-30.

4. Section 10(2) of the principal Act is amended by inserting after the word “applicant” in the second place where it occurs, the words “, upon payment of the prescribed fee”.

Amendment
of section 13
of
Act 2007-30.

5. Section 13(1) of the principal Act is amended by deleting the words “may apply” and substituting the words “may, upon payment of the prescribed fee, apply”.

6. Section 14 of the principal Act is amended Amendment
of section 14
of
Act 2007-30.
- (a) in subsection (1), by deleting the words “a call for negotiations” and substituting the words “during direct negotiations”;
- (b) in subsection (2), by deleting the words “call for negotiations” and substituting the words “during direct negotiations”;
- (c) in subsection (4), by deleting the words “a call for negotiations” and substituting the words “conduct direct negotiations”; and
- (d) by deleting subsection (5).
7. Section 15 of the principal Act is amended Amendment
of section 15
of
Act 2007-30.
- (a) in subsection (1), by deleting the words “call for negotiations” and substituting the words “the direct negotiations”;
- (b) in subsection (2), by deleting paragraph (b) and substituting the following:
- “(b) requiring the applicant to submit to the Designated Authority an environmental impact assessment and environmental plan in respect of any exploration and appraisal activities to be carried out in the area concerned.”;
- (c) by deleting subsection (3) and substituting the following:
- “(3) The applicant shall submit
- (a) the environmental impact assessment within 90 days; and
- (b) the environmental plan within 60 days,
- of receipt of the notice of the Designated Authority pursuant to subsection (2).”;

(d) by inserting immediately after subsection (4), the following:

“(4A) The Designated Authority shall submit to the Minister responsible for the Environment for his approval, any environmental impact assessment and environmental plan received pursuant to this section.”;

(e) in subsection (5), by inserting after the word “assessment”, the words “and the environmental plan”; and

(f) in subsection (6), by deleting the words “call for negotiations” and substituting the words “during the direct negotiations”.

Amendment
of section 16
of
Act 2007-30.

8. Section 16(1) of the principal Act is amended by deleting the words “call for negotiations” and substituting the words “during the direct negotiations”.

Amendment
of section 17
of
Act 2007-30.

9. Section 17 of the principal Act is amended

(a) in subsection (1),

(i) by deleting the words “performance of the work” and substituting the words “performance of each phase of the work”; and

(ii) in paragraph (a), by deleting the words “work programme” and substituting the words “phase”;

(b) in subsection (2),

(i) by deleting the words “the guarantee” and substituting the words “each guarantee”; and

(ii) in paragraph (a), by deleting the words “exploration licence” and substituting the words “phase of the work programme to which the guarantee relates”;

- (c) in subsection (3), by deleting the words “an exploration licence” and substituting the words “the phase of the work programme to which the guarantee relates”;
- (d) by deleting subsection (4); and
- (e) in subsection (5),
 - (i) in paragraph (a), by deleting the words “work programme set out in a licence” and substituting the words “phase of the work programme to which a guarantee relates”; and
 - (ii) in paragraph (b), by deleting the word “work” and substituting the words “phase of a work programme to which a guarantee relates”.

10. Section 21(2)(a) of the principal Act is amended by inserting after the word “years”, the words “or such other period as may be agreed to by the Designated Authority,”.

Amend-
ment of
section 21
of
Act 2007-30.

11. Section 22(2) of the principal Act is amended by inserting after the word “Subsection”, the words “(1)(a)(i) and”.

Amendment
of section 22
of
Act 2007-30.

12. Section 23 of the principal Act is amended

Amendment
of section 23
of
Act 2007-30.

- (a) in subsection (1), by deleting the words “or a call for negotiations, invite” and substituting the words “invite, or during direct negotiations consider,”; and
- (b) in subsection (2), by deleting the words “call for negotiations” and substituting the words “during the direct negotiations”.

Amendment
of section 24
of
Act 2007-30.

13. Section 24 of the principal Act is amended

(a) in subsection (1), by deleting paragraph (b) and substituting the following:

“(b) offered through the issue of a call for tenders or during direct negotiations

(i) in accordance with the call for tenders or the terms arising from the negotiations; and

(ii) where the person complies with section 8.”; and

(b) by deleting subsection (2) and substituting the following:

“(2) Where the Designated Authority is satisfied that an applicant applying pursuant to subsection (1)(a) has

(a) in respect of the work programme set out in the exploration licence under which the discovery was made, completed the part of the work programme that should have been completed at the time the discovery was made; and

(b) complied with the requirements of this Act,

the Designated Authority shall issue a production licence to the applicant.

(2A) Where the Designated Authority is satisfied that an applicant applying pursuant to subsection (1)(b) is a suitable person to carry out production activities, the Designated Authority may issue written notice to the applicant

(a) regarding his suitability; and

- (b) requiring the applicant to submit to the Designated Authority, an environmental impact assessment and environmental plan in respect of the production activities to be carried out in the area concerned.

(2B) The applicant referred to in subsection (2A) shall submit

- (a) the environmental impact assessment within 90 days; and
- (b) the environmental plan within 60 days,

of receipt of the notice of the Designated Authority pursuant to subsection (2A).

(2C) Notwithstanding subsection (2B), an applicant may submit an environmental impact assessment within such longer period as the Designated Authority may permit.

(2D) The Designated Authority shall submit to the Minister responsible for the Environment for his approval, any environmental impact assessment and environmental plan received pursuant to an application for a production licence.

(2E) Where the Minister responsible for the Environment approves the environmental impact assessment and environmental plan, the Designated Authority may issue a production licence to the applicant.

(2F) A production licence shall be issued in the prescribed form for a period not exceeding 25 years.”.

Amendment
of section 29
of
Act 2007-30.

14. Section 29 of the principal Act is amended by deleting the words “Where a licensee” and substituting the words “Where the holder”.

Amendment
of section 38
of
Act 2007-30.

15. Section 38(4) of the principal Act is deleted and the following is substituted:

“(4) Where the licensee proposes to implement a material change to the petroleum operations detailed in an environmental impact assessment approved by the Minister responsible for the Environment, the licensee shall, within 90 days prior to the proposed implementation of the change, submit to the Designated Authority for transmission to and approval by, the Minister responsible for the Environment, a revised environmental impact assessment that takes account of the change.”.

Amendment
of section 43
of
Act 2007-30.

16. Section 43 of the principal Act is amended

(a) by inserting immediately after subsection (1), the following:

“(1A) The level of Crown participation in each block is that set out in Part II of the Second Schedule to the *Offshore Petroleum Regulations, 2012*.”;

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(b) in subsection (2), by deleting the words “call for negotiations” and substituting the words “during the direct negotiations”;

(c) in subsection (3)(b), by deleting the words “call for negotiations” and substituting the words “the direct negotiations” ; and

(d) by deleting subsection (11) and substituting the following:

“(11) Where a state entity seeks to transfer a carried interest the following shall apply:

- (a) the state entity shall have the interest valued by an independent, certified valuer of petroleum interests;
- (b) the valuation of the interest shall be taken into account in determining the consideration for which the interest is to be transferred;
- (c) where a person who is not a licensee under the licence in respect of which the state entity holds the interest seeks to have the interest transferred to him, the state entity shall not transfer the interest to the person unless the state entity first offers to transfer the interest to the other licensee under the licence in respect of which the interest is held, at the best consideration obtainable from the person who seeks to have the interest transferred to him;
- (d) where, in addition to the state entity, there are two or more licensees under the licence in respect of which the interest is held by the state entity, the state entity shall offer to each licensee, a percentage of the interest equivalent to the proportion of carried expenditure incurred by the particular licensee; and
- (e) where the interest is subject to repayment, the transfer shall be subject to the condition that the licensee accepts the obligation to repay any outstanding amounts in relation to the interest.”.

17. Section 47(2) of the principal Act is amended by deleting the words “call for negotiations” wherever they occur and substituting the words “direct negotiations”.

Amendment
of section 47
of
Act 2007-30.

- Amendment of section 48 of Act 2007-30. **18.** Section 48(2) of the principal Act is amended by deleting the words “call for negotiations” wherever they occur and substituting the words “direct negotiations”.
- Amendment of section 49 of Act 2007-30. **19.** Section 49 of the principal Act is amended
- (a) in subsection (1)(b), by deleting the words “a call for” and substituting the word “direct”;
 - (b) in subsection (2)
 - (i) in paragraph (b), by deleting the words “a call for negotiations” and substituting the words “direct negotiations”; and
 - (ii) in paragraph (ii), by deleting the words “call for negotiations” and substituting the words “direct negotiations”; and
 - (c) in subsection (5), by deleting the words “by the date” and substituting the words “within the period”.
- Amendment of section 51 of Act 2007-30. **20.** Section 51(1)(c) of the principal Act is amended
- (a) by deleting the words “applicable to direct sales of crude oil to independent third parties”; and
 - (b) in sub-paragraph (i), by deleting the words “published price” and substituting the words “price published”.
- Amendment of section 54 of Act 2007-30. **21.** Section 54(5)(b) of the principal Act is amended by deleting the word “person” and substituting the word “inspector”.
- Amendment of section 56 of Act 2007-30. **22.** Section 56 of the principal Act is amended
- (a) in subsection (1), by inserting after the word “Act”, the words “but the contravention does not constitute an offence”;

(b) by inserting immediately after subsection (2), the following:

“(2A) The Designated Authority shall not impose an administrative penalty on a licensee unless the licensee is first given an opportunity to be heard and to show cause as to why the penalty should not be imposed.”; and

(c) by deleting subsection (4) and substituting the following:

“(4) A person who is aggrieved by the decision of a magistrate pursuant to subsection (3) may appeal to a judge in Chambers against the decision.”.

23. Section 57 of the principal Act is amended

Amendment
of section 57
of
Act 2007-30.

(a) in subsection (2),

(i) in paragraph (a), by deleting the word “and” in the second place where it occurs;

(ii) by deleting paragraph (b) and substituting the following:

“(b) subject to subsection (3), the administrative penalties to be imposed; and”;

(iii) by inserting after paragraph (b), the following:

“(c) the procurement of goods and services by licensees.”; and

(b) by inserting after subsection (2), the following:

“(3) The Designated Authority shall not prescribe

(a) an administrative penalty other than a daily penalty, in excess of \$25 000; or

(b) a daily penalty in excess of \$2 500.

(4) Regulations made pursuant to this section shall be subject to negative resolution of Parliament.”.

Commence-
ment.

24. This Act shall come into operation on a day to be fixed by Proclamation.