

BILL

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2024

Sierra Leone

A BILL ENTITLED

**THE PETROLEUM EXPLORATION AND PRODUCTION
(AMENDMENT) ACT, 2024**

Short title.

Being an Act to amend the Petroleum Exploration and Production Act, 2011, to provide for petroleum licence to be acquired by call for tenders or direct negotiations, to provide for the Minister to open up new or unlicensed areas for petroleum, to provide for the grant of petroleum licence, including onshore petroleum licence and a right to undertake exploration for and production of natural resources other than petroleum, to provide for rights conferred by petroleum licence and related restrictions to such rights and to provide for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

Amendment of section 1 of Act No.7 of 2011.

1. Section 1 of the Petroleum Exploration and Production Act, 2011 is amended by the substitution of the definition of "natural gas" with the following new definition -

"natural gas" means all naturally occurring gases including hydrocarbons which are gaseous under normal atmospheric conditions and includes wet gas, dry gas and residue gas;

Amendment of section 15 of Act No.7 of 2011.

2. Section 15 of the Petroleum Exploration and Production Act, is amended by the repeal and replacement of that section with the following new section-

"Types of petroleum rights. 15. (1) The following petroleum rights may be acquired under this Act -

- (a) a reconnaissance permit;
- (b) a petroleum licence;
- (c) a permit to install, place, operate or use a facility to carry out a petroleum activity.

(2) The application, grant, and renewal of a licence or permit issued under this Act shall be on such terms and conditions as may be prescribed and shall, amongst other things state -

- (a) the date of the grant of the licence or permit;
- (b) the geographical area to which the licence or permit relates;
- (c) the facility or facilities, activities or use to which the licence or permit relates;
- (d) conditions to which the licence or permit may be subject; and
- (e) identity of the operator.

(3) A facility, for the purposes of paragraph (c) of subsection (1), includes pipelines, drilling rigs, pre-processing and storage facilities."

3. Section 30 of the Petroleum Exploration and Production Act, 2011 is amended by the repeal and replacement of that section with the following new section-

Amendment of section 30 of Act No.7 of 2011.

"Petroleum licence may be acquired by call for tenders or direct negotiations.

30. (1) The Minister may, subject to this Act and such rules as may be prescribed and following prequalification procedures, grant a petroleum licence by -

- (a) a call for tenders; or
- (b) through direct negotiations.

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

- (a) by competitive tender, invite a pre-qualified company or group of companies to bid for a petroleum licence; or
- (b) open direct negotiations with a prequalified company or group of companies whether or not such company or group of companies has been part of a competitive tender.

(3) The Minister shall, for the purposes of a joint development of a reservoir under subsection (2) of section 61, invite the National Company for direct negotiations for a petroleum licence."

Amendment of section 31 of Act No.7 of 2011.

4. Section 31 of the Petroleum Exploration and Production Act,2011 is amended by the repeal and replacement of that section with the following new section-

"Minister refuse to grant petroleum licence.

31. The Minister may, on the advice of the Directorate, refuse to grant a petroleum licence following a competitive tender or open direct negotiations and declare the process void, if he is satisfied that -

- (a) the terms and conditions offered under the competitive tender or open direct negotiations are not favourable to the State; or
- (b) the tender process is, for any prescribed reason, unsuccessful."

Amendment of section 33 of Act No.7 of 2011.

5. The Petroleum Exploration and Production Act, 2011 is amended by the insertion of the following new section, immediately after section 33-

"Opening up new or unlicensed areas for petroleum activities. 33A. (1) The Minister may, subject to subsection (2), open up new or unlicensed areas for petroleum activities.

(2) The Minister shall, before opening up new unlicensed areas for petroleum activities ensure that a preliminary survey is conducted over the area to obtain geological and geophysical data."

Amendment of section 39 of Act No.7 of 2011.

6. Section 39 of the Petroleum Exploration and Production Act, 2011 is amended by the repeal and replacement of that section with the following new section-

"Grant of petroleum licence and right to other natural resources. 39. (1) The Minister may, subject to a transparent, fair and competitive process and on the advice of the Directorate, grant a petroleum licence to 2 or more applicants who offered the most favourable terms and conditions to the state.

(2) Notwithstanding the granting of a petroleum licence under subsection (1), a person, other than the licensee, may be granted a right to undertake -

- (a) exploration for and production of natural resources other than petroleum; or
- (b) scientific research, provided it does not cause unreasonable inconvenience to the petroleum activities conducted by a licensee."

7. Section 42 of the Petroleum Exploration and Production Act, 2011 is amended by the repeal and replacement of that section with the following new section- Amendment of section 42 of Act No.7 of 2011.

"Rights conferred by petroleum licence and restrictions. 42. (1) A petroleum licence shall confer on the licensee an exclusive right to undertake exploration and production petroleum activities within a licence area.

(2) A licensee shall not exercise a right under subsection (1), -

- (a) without the expressed consent of the landowner; or
- (b) upon land which is -
 - (i) the site of, or which is within 200 meters of an inhabited, occupied or temporarily unoccupied house or building;
 - (ii) within 50 meters of land which has been cleared or ploughed or otherwise prepared for the growing of agricultural crops or on which agricultural crops are growing;
 - (iii) agricultural crops have been reaped, during the year immediately preceding; or

- (vi) within 100 meters of a cattle ranch, dam or water used by human or cattle;
- (v) dedicated for a public purpose or a place of burial;
- (vi) a mineral exploration licence, mining lease or a right to cultural site has been granted, without the expressed consent of the relevant authority;
- (vii) in a national park or wildlife reserve without the expressed authority of the National Tourist Board or other relevant authority;
- (viii) in a forest reserve, without the expressed consent of the Ministry responsible for agriculture and forestry;
- (ix) reserved for the purposes of constructing a railway track or trunk road or feeder road, or within 50 meters of such infrastructures without the expressed consent of the relevant authorities;
- (x) within 200 meters of the boundaries of a township, without expressed consent of the local authority concerned;
- (xi) upon a street, road, public place or airport, without the expressed consent of the authority concerned; or

- (xii) in a fish breeding area without the expressed consent of the Ministry responsible for fisheries.

(3) The licensee shall, after obtaining consent of the landowner under paragraph (a) of subsection (2), take into account the interests of the community.

(4) Where the licensee fails to obtain the consent of the landowner under paragraph (a) of subsection (2), the matter shall be referred to the Minister within 15 days from the date he failed to obtain consent.

(5) The Minister shall within 15 days after receipt of a matter referred to him under subsection (4), consider the matter by taking into account the concerns of each party.

(6) Following the consideration by the Minister under subsection (5), the Minister shall make a decision and communicate his decision to the parties.

(7) A person exercising a right under a licence shall, at the request of the landowner, produce evidence of the possession of the licence of the land upon which the right is to be exercised.

(8) Where a person fails to produce the required evidence under subsection (7), he may be treated as a trespasser.

(9) A landowner in an exploration and development area shall retain the right to graze stock upon or to cultivate the surface of the land insofar as the grazing or cultivation does not interfere with petroleum activities or safety zones in the area.

(10) A landowner in a development area shall not erect a building or structure on the land without the expressed consent of the licensee or if the consent is unreasonably withheld, the expressed consent of the Minister.

(11) The rights conferred by a licence shall be exercised reasonably so as to affect as little as possible the interests of a landowner of the land on which the rights are exercised.

(12) A landowner or licensee with a licence other than one under this Act shall, with regards to an exploration or development area, retain the right to movement and other activities where the subsurface activities do not interfere with an exclusive right, or with petroleum activities in the area.

(13) A licensee may, if he requires the exclusive use of the whole or a part of a development area, obtain a lease of the land or other rights to use it, upon such terms as the rent to be paid for the land, the duration and extent or area of the land to which the lease or other right of the lease shall relate, as may be agreed upon between the holder of a licence and the landowner.

(14) Where a licensee and a landowner fails to reach an agreement under subsection (13), the matter shall be referred for determination, to the Government authority responsible for property valuation.

(15) In assessing rent payable under this section account shall be taken of -

- (a) any compensation necessary for the termination of any lawful occupancy in accordance with any other written law;
- (b) values applicable at the time of determination of the matter in the area to which the exploration and development licence relate for land of a similar nature to the land concerned but without taking into account any enhanced value due to the presence of petroleum.

(16) A licensee shall, on demand made by a landowner, pay the landowner fair and reasonable compensation for any disturbance of his rights and for any damage done to the surface of the land due to petroleum activities, and shall, at the demand of the owner of any crops, trees, buildings or works damaged during the course of the activities, pay compensation for the damage, but-

- (a) payment of rent to or compensation to a landowner for termination of his lawful occupancy shall be deemed to be adequate compensation for deprivation of the use of the land to which the rent or compensation relates.
- (b) in assessing compensation payable under this section, account shall be taken of any improvements effected by the licensee or by licensee's predecessor-in-title, the benefit of which has or will accrue to the landowner; and
- (c) the basis upon which compensation shall be payable for damage to the surface of land shall be the extent to which the market value of the land for which purpose it shall be deemed saleable upon which the damage occurred has been reduced by reason of the damage, but without taking into account any enhanced value due to the presence of petroleum.

(17) Where a licensee fails to pay compensation under subsection (16) or if the landowner is dissatisfied with the compensation offered, the dispute shall be determined by the Government authority in charge of property valuation.

(18) A claim for compensation under subsection (16) shall be made within 4 years from the date when the claim accrued failing which, the claim shall not be enforceable (19) A licensee shall, in addition to the compensation referred to under subsection (16), restore the land to as close as possible to its original state in accordance with this Act.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to amend the Petroleum Exploration and Production Act, 2011, to provide for petroleum licence to be acquired by call for tenders or direct negotiations, to provide for the Minister open up new or unlicensed areas for petroleum, to provide for the grant of petroleum licence, including onshore petroleum licence and a right to undertake exploration for and production of natural resources other than petroleum, to provide for rights conferred by petroleum licence and related restrictions to such rights and to provide for other related matters.

MADE this day of , 2024

MOHAMED LAMIN TARAWALLEY
Attorney-General and Minister of Justice

FREETOWN,
SIERRA LEONE