

Supplement "C" to The Gambia Gazette No. of , 2021
Petroleum Commission Act, 2021



THE GAMBIA
NO. 013 OF 2021
Assented to by The President,
this 25th day of July, 2021.

LS

Adama Barrow.
President

AN ACT to provide for the establishment of the Petroleum Commission, for the regulation and management of midstream and upstream petroleum activities, the utilisation of petroleum resources, and for connected matters.

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ENACTED by the President and the National Assembly.

PETROLEUM COMMISSION ACT, 2021

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SCHEDULE

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Petroleum Commission Act, 2021.

2. Interpretation

In this Act, unless the context otherwise requires –

“appraisal programme” means a programme carried out, following a discovery of petroleum for the purpose of delineating the accumulation of petroleum to which the discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable petroleum therein;

“Board” means the Petroleum Commission Board established under section 6;

“Chairperson” means the Chairperson of the Board appointed under section 6;

“Commission” means the Petroleum Commission established under section 3;

“Director General” means the Director General of the Petroleum Commission appointed under section 14;

“data acquisition” includes the process of acquiring geological, geophysical, engineering and economic data for petroleum activities;

“financial year” means a twelve months period, starting on the first day of January and ending on the thirty-first of December for which a Government Budget is approved, executed, reported and audited;

“fiscal metering” means the planning, design, installation, calibration, commissioning, monitoring and inspection of any devices or equipment for the measurement of quantity of petroleum produced;

“functions” includes powers and duties;

“Government” means the executive Government of The Gambia;

“High Court” means the High Court of The Republic of The Gambia;

“licence” means an agreement relating to the exploration, development or production of petroleum entered into between a person and the Minister under the Petroleum (Exploration Development and Production) Act 2004;

“licensee” means a person who has entered into a licence with the Minister under Petroleum (Exploration Development and Production Act 2004;

(Cap 65.02)

“local content” means the promotion of indigenisation of petroleum activities, use of Gambian human and material resources, services and businesses for the systematic development of national capacity and capabilities for the benefit of the Gambian people and enhancement of the Gambian economy;

“local content fund” means a dedicated fund, not part of the Commission’s operational funds, established by the Government for the development, operation and enhancement of local content, into which the Licensees’ local content contributions are lodged;

“Minister” means the Minister responsible for Petroleum matters and; “Ministry” shall be construed accordingly;

“Midstream sector” means the segment of the petroleum value chain comprising the processing, storing, transporting and marketing of petroleum;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for Petroleum matters;

“petroleum” means crude oil or natural gas or a combination of both;

“Petroleum Act” means Petroleum (Exploration, Development and Production) Act, 2004, Cap 65.02, Volume 10 of the Laws of The Gambia, as amended or repealed and/or superseded by another legislative Act from time to time;

“petroleum activities” means any activity, engaged in within and outside The Gambia relating to the exploration, development and production of petroleum, including the-

- (a) acquisition of data and drilling of wells;
- (b) treatment, storage, pipeline transportation of petroleum resources;
- (c) planning, design, construction, installation, operation of petroleum facilities; and
- (d) operation, use and the decommissioning of petroleum facilities;

“Petroleum data” includes geological, geophysical, engineering, environmental and economic data for petroleum exploration, development and production;

“petroleum fields” means the geographic area under which one or more petroleum deposits or reservoirs lie and which is or has been operated pursuant to applicable laws, regulations and agreements;

“petroleum infrastructure” means any facility, installation, equipment or device, built or acquired for the conduct of petroleum activities including any well, plant, storage tank, intra-field and export pipeline and cable but excluding a supply and support vessel that transports petroleum in bulk;

“petroleum resources” include all estimated quantities of petroleum either discovered or undiscovered, contained in the sub-surface, as well as those quantities under production and already produced;

“petroleum reserves” means the petroleum that can be economically extracted from petroleum resources and which is anticipated to be commercially recoverable by the application of a development project to known discoveries from a future date;

“permit holder” means a person who has entered into a permit with the Minister under the Petroleum (Exploration Development and Production) Act 2004;

“President” means the President of the Republic Of The Gambia;

“reconnaissance exploration” means the search for hydrocarbons by geophysical geochemical or photo geology surveys or other remote sensing techniques and surface geology in connection with it including the collection of environmental, and all necessary data relating to the resource;

“Relevant Institution” means a public entity under whose area of competence petroleum activities are conducted;

“sub-contractor” means any person with whom a licensee or permit holder has entered into a subcontract; and

“Upstream Sector” means the segment of the petroleum value chain involving exploration, development and production.

PART II – ESTABLISHMENT OF THE PETROLEUM COMMISSION AND ITS GOVERNING BOARD

3. Establishment of the Petroleum Commission

- (1) There is established by this Act, the Petroleum Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may –
 - (a) sue and be sued in its corporate name;
 - (b) enter into contracts and acquire, hold and dispose of property;
 - (c) do such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.
- (3) The application of the common seal of the Commission shall be authenticated by the signature of the Director General or such other person as may be authorised by the Director General.
- (4) A document bearing the imprint of the common seal of the Commission is deemed to be properly sealed, unless the contrary is proved.

4. Objectives of the Commission

The objectives of the Commission are to-

- (a) regulate petroleum activities;

- (b) manage the petroleum resources;
- (c) ensure compliance with policies and laws for the petroleum sector; and
- (d) promote local content,

for sustainable national development.

5. Functions of the Commission

The Commission shall –

- (a) promote planned, well executed, sustainable and cost efficient petroleum activities to achieve optimal levels of resource exploitation for the overall benefit and welfare of citizens;
- (b) recommend to the Minister national policies related to petroleum activities;
- (c) monitor and ensure compliance with national policies, laws, regulations and agreements related to petroleum activities;
- (d) prepare or cause to be prepared any relevant documentation including drafts of any acquired legislation, necessary to give the Commission the power to regulate the upstream and midstream sectors in accordance with this Act;
- (e) conduct and coordinate activities related to the licensing process;
- (f) coordinate all activities that have an impact on the midstream and upstream sectors;
- (g) Ensure-
 - (i) compliance with health, safety and environmental standards in petroleum activities in accordance with applicable laws, regulations and agreements;
 - (ii) the implementation of the petroleum Act;
 - (iii) optimum exploitation of petroleum resources;

- (iv) optimum utilization of existing and planned petroleum infrastructure;
- (v) that licensees, subcontractors and other persons involved in petroleum activities comply with applicable laws and regulations;
- (h) monitor petroleum activities and carry out the necessary inspection and audit related to the activities;
- (i) promote local content and local participation in petroleum activities according to applicable laws and regulations to strengthen national development;
- (j) administer monies paid to the Local Content Fund;
- (k) receive and store petroleum data, manage a national petroleum repository and at the request of the Minister, undertake reconnaissance exploration including data acquisition;
- (l) receive application and issue authorisations for specific petroleum activities as required under petroleum laws and regulations;
- (m) support and facilitate the acquisition of authorisations from relevant institutions;
- (n) assess and approve appraisal programmes;
- (o) advise the Minister on matters related to petroleum activities including -
 - (i) field development;
 - (ii) plans for the development of petroleum transportation, processing and treatment facilities; and
 - (iii) decommissioning plans for petroleum fields and petroleum infrastructure;

- (p) issue an annual report on petroleum resources and activities in the Gambia in accordance with the Schedule to this Act and publish the report in the Gazette;
- (q) receive information from licensees as provided for under applicable laws, regulations and agreements;
- (r) analyse petroleum economic information and submit economic forecasts on petroleum to the Minister;
- (s) facilitate and administer the execution of geophysical service agreements;
- (t) promote and market petroleum data; and
- (u) perform any other functions related to the objects of the Commission or assigned to it under any Act.

6. Establishment of the Board of the Commission

(1) There is established by this Act, the governing Board of the Commission which shall comprise-

- (a) a Chairperson;
- (b) the Director General;
- (c) a Social and Environmental specialist;
- (d) a Geo-scientist;
- (e) a legal practitioner;
- (f) Permanent Secretary; and
- (g) one other person.

(2) The members of the Board shall be appointed by the President after consultation with the Public Service Commission.

(3) In appointing members of the Board, the President shall have regard to gender equity, integrity, knowledge, expertise and experience in matters relevant to the functions of the Commission.

7. Functions of the Board

The Board shall-

- (a) ensure the proper and effective performance of the functions of the Commission;
- (b) formulate operational policies and strategies to achieve effective, regulated and optimal development of the upstream and midstream petroleum sector, for the benefit of all Gambians;
- (c) supervise and monitor the performance of the Director General and the management team of the Commission;
- (d) build a highly technical human resources base that will ensure compliance with applicable laws and standards in the upstream and midstream sector;
- (e) review and approve business and operating plans, budgets, reports and financial statements of the Commission; and
- (f) ensure the annual audit of the books of the Commission.

8. Tenure of office of members

The non ex-officio members of the Board shall hold office for three years and may be re-appointed only once.

9. Vacation of office

- (1) A non ex-officio member of the Board shall vacate office if he or she-
- (a) resigns in writing by a letter addressed to the President through the Minister;
 - (b) is absent from three consecutive meetings of the Board without sufficient cause and without the permission of the Chairperson;
 - (c) is convicted of an offence involving fraud, dishonesty or moral turpitude;
 - (d) is unable, by reason of mental or physical infirmity, to discharge his or her functions as a member of the Board;
 - (e) is adjudged bankrupt; or

(f) dies.

(2) Where there is a vacancy on the Board, the Director General shall within seven days notify the Minister who shall within fourteen days inform the President of such vacancy.

(3) The President shall, within forty-five days of receipt of the notification under sub-section (2), appoint a replacement.

10. Meetings of the Board

(1) The Board shall meet at least once every three months at such time and place as determined by the Chairperson.

(2) The Chairperson shall, at the request in writing of not less than one-third of the membership of the Board, convene an extraordinary meeting of the Board within seven days of receipt of the request at such time and place as determined by the Chairperson.

(3) The quorum at a meeting of the Board shall be five members or such number as may be determined by the Board in respect of an important matter.

(4) The Chairperson shall preside at meetings of the Board.

(5) In the absence of the Chairperson, at a scheduled meeting of the Board, the members of the Board shall elect a member present from among their number to preside over the meeting.

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

11. Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board shall-

(a) disclose the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) recuse himself or herself from the deliberations of the Board in respect of the matter.

- (2) A member of the Board who-
- (a) fails to disclose his or her interest; and
 - (b) participates in the deliberations of the Board in respect of that matter of interest,
- shall be removed from office.

12. Establishment of committees

- (1) The Board may establish committees consisting of members of the Board or of members and non-members of the Board to perform a function.
- (2) Without limiting subsection (1), the Commission shall establish a Local Content Committee to deal with the local content and local participation programme.
- (3) A committee of the Board shall be chaired by a member of the Board.
- (4) The provisions dealing with disclosure of interest under section 11 shall apply to members of a committee of the Board.

13. Remuneration and expenses of members of the Board

- (1) The members of the Board shall be paid such remuneration and allowances as may be determined by the Minister.

PART III – THE DIRECTOR GENERAL AND STAFF OF THE COMMISSION

14. Appointment of the Director General

- (1) The Chief Executive Officer of the Commission shall be the Director General, who shall be appointed by the President after consultation with the Board and the Public Service Commission.
- (2) The Director General shall-
- (a) hold office on the terms and conditions as specified in his or her appointment letter; and
 - (b) hold advanced qualifications and has at least five years experience in matters relevant to the principal functions of the Commission.

15. Functions of the Director General

(1) The Director General shall-

- (a) be responsible for the day to day administration of the affairs of the Commission, implementation of this Act, the regulations, licences and permits;
- (b) be answerable to the Board in the performance of his or her functions under this Act;
- (c) be responsible for the implementation of the decisions of the Board;
- (d) spearhead the Commission's cooperation with other agencies and organisations involved in petroleum activities; and
- (e) perform such other duties as the Board may, from time to time, assign.

(2) The Director General may delegate any of his or her functions to an officer of the Commission but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

16. Staff of the Commission

(1) The Board shall, appoint such other officers and staff as are necessary for the proper discharge of the functions of the Commission, on such terms and conditions of service as the Board may determine.

(2) The Board may delegate the appointment of such category of staff to the Director General as it may determine, in accordance with the service rules of the Commission.

(3) The Board may request or accept the secondment or transfer of a Public Officer to the Commission in accordance with the Public Service Regulations.

PART IV – FINANCIAL PROVISIONS

17. Funds of the Commission

(1) The funds of the Commission may consist of monies appropriated to it by the National Assembly.

(2) The funds of the Commission shall consist of-

(a) monies paid to the Commission from -

(i) signature bonuses from Licences;

(ii) surface rentals from Licences; and

(iii) monies accrued from the sale and licensing of data;

in accordance with Regulations made under this Act.

(b) monies that accrue to the Commission in the performance of its functions;

(c) training and resources funds, which shall be administered and managed by the Commission in accordance with Regulations made under this Act; and

(d) grants, donations or gifts received from any lawful source.

(3) The monies for the Commission shall be paid into a bank account, approved by the Board.

18. Expenses of the Commission

The expenses of the Commission shall be paid from monies provided for the Commission under section 17.

19. Annual estimates

(1) The Director General shall submit to the Board the estimates of the income and expenditure of the Commission for the following financial year.

(2) An expenditure shall not be made out of the funds of the Commission unless the expenditure has been approved by the Board in the budget.

20. Accounts and Audit

(1) The Commission shall keep proper books of accounts of all its income and expenditure and proper records in relation to the accounts in respect of each financial year.

(2) The Commission shall, three months after the end of each financial year, prepare and submit to the Auditor General, a statement of accounts for audit.

(3) The audited accounts of the Commission and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

21. Annual report

The Commission shall, within three months of the end of each financial year submit an annual report to the National Assembly on its business and operations during the preceding year.

PART V – MISCELLANEOUS

22. Protection of members and staff of the Commission

An action, a suit, prosecution or other proceedings shall not be brought or instituted against a member of the Board or staff of the Commission personally in respect of anything done in pursuance, execution or intended execution of any of the provisions of this Act.

23. Compliance with decisions of the Commission

Subject to section 24, a licensee, subcontractor or any other person involved in petroleum activities shall comply with decisions or instructions of the Commission made in writing pursuant to its functions under this Act and any applicable laws and regulations.

24. Review of decision

(1) A person aggrieved by a decision of the Commission under this Act may lodge a complaint with the Minister within thirty days after receipt of the decision.

(2) The Minister shall-

(a) set up a special committee to review the decision of the Commission and make recommendations to the Minister within thirty days after the receipt of the complaint; and

(b) within forty-five days after receipt of the complaint take a decision on it.

(3) In the event that-

(a) the Minister fails to make a decision within the prescribed period; or

(b) a person is dissatisfied with the decision of the Minister,

the aggrieved person may apply to the High Court for redress.

25. Relationship with other entities

In the performance of its functions under this Act, the Commission may collaborate with relevant entities as and when it is required.

26. Regulations

(1) The Minister may, on the recommendation of the Commission, make Regulations for the effective implementation of the provisions of this Act.

(2) Without prejudice to sub-section (1), Regulations may be made by the Minister, in consultation with the Commission, for-

(a) exploration, appraisal and development of petroleum and related operations; and

(b) production of petroleum and related operations.

27. Inconsistency with other laws

Where a provision of this Act is inconsistent with the provisions of any other law relating to the regulation of the upstream and midstream sectors, the provision of this Act shall prevail, and that other provision shall, to the extent of the inconsistency, be void.

SCHEDULE

(Section 5(0))

Annual Public Report on Petroleum Resources and Activities

The report shall contain information including the following:

- (a) open areas for petroleum exploration and production;
- (b) reconnaissance licences issued and petroleum agreement entered into;
- (c) petroleum activities conducted, including but not limited to data acquisition and the drilling of wells, exploration, appraisal, development and production (volume of oil and gas produced) phases of the petroleum value chain;
- (d) production permit issued by the Commission, relinquished production permit and active production permits;
- (e) sales or transfer of interest;
- (f) development and production in individual fields;
- (g) transportation system including new pipe lines constructed and the fields to which they are related to;
- (h) research and development projects;
- (i) royalties and all other related revenues paid by licensees;
- (j) health, safety, security and environment;
- (k) decommissioning activities;
- (l) resource status in relation to the-
 - (i) total volume of petroleum sold and delivered,
 - (ii) shutdown fields,
 - (iii) producing fields,
 - (iv) reserves in producing fields,
 - (v) discovered resources for which the plan of development is yet to be approved,
 - (vi) resources in discovered fields which are currently considered not commercial; and
- (m) volume of original hydrocarbon in place, recoverable reserves and remaining recoverable reserves (net of production) of existing fields.

PASSED in the National Assembly this 28th day of June, in the year
of Our Lord Twenty Twenty One.



M. A. Sise
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed in the National Assembly, and found by me to be a true and
correct copy of the said Bill.



M. A. Sise
Clerk of the National Assembly.