

THE PETROLEUM (REFINING, GAS PROCESSING AND
CONVERSION, TRANSPORTATION AND STORAGE) BILL, 2012

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1. Commencement
2. Purpose of Act
3. Interpretation
4. Compliance with environmental principles

PART II—INSTITUTIONAL ARRANGEMENTS
The Petroleum Authority of Uganda

5. The Authority
6. Functions of the Authority

National Oil Company

7. The National Oil Company

PART III—LICENSING

*Licensing of Petroleum Refining, Gas Processing and
Conversion, Transportation and Storage*

8. Agreements with Government
9. Activities relating to crude oil and gas requiring a licence
10. Application for Licence
11. Activities not requiring a licence
12. Publication of notice of applications
13. Requirements for granting a licence
14. Objection to application
15. Approval of application for licence
16. Grant of licence
17. Activities authorised by licence
18. Grounds for rejection of application for licence
19. Conditions for a licence

Clause

20. Power of Minister to require information
21. Duration of licence to construct or operate the petroleum refining, transportation or gas facility
22. Annual fee
23. Application for renewal of licence
24. Renewal of a licence

General Provisions Relating to Licences

25. Disclosure of co-operation agreement by applicants
26. Transfer or lease of licence under this Act
27. Work practices for licensees
28. Processing, transportation, transmission or storage of unauthorised substance
29. Notice to cease operation
30. Surrender of licence
31. Suspension or cancellation of a licence
32. Consequences of cancellation, surrender of rights or lapse for other reasons
33. Formation of cartels and monopolies
34. Non-discrimination
35. Methods and practices for storage of petroleum
36. Methods and practices for transportation or transmission of petroleum
37. Meetings of Authority with Licensees
38. Register of licences

PART IV—VENTING AND FLARING

39. Restrictions on flaring or venting

PART V—PETROLEUM ACQUISITION AND PRICING

40. Crude oil or gas acquisition and pricing
41. Petroleum products pricing
42. Supplies or deliveries to cover Uganda requirements
43. Supplies or deliveries in case of war, threat of war or other crisis, etc

Clause

PART VI—CESSATION OF PETROLEUM ACTIVITIES

44. Decommissioning plan
45. Decommissioning Fund
46. Notification of termination of use
47. Disposal of decommissioned facilities
48. Removal of property by licensee
49. Removal and sale of property by the Authority
50. Liability for damages for disposal of decommissioned facility
51. Encumbrances
52. Takeover of facilities by Government

PART VII—STATE PARTICIPATION AND NATIONAL CONTENT

53. State participation in petroleum activities
54. Provision of goods and services by Uganda entrepreneurs
55. Training and employment of Ugandans
56. Training and technology transfer

PART VIII—USE OF LICENCE AS SECURITY

57. Use of licence as security

PART IX—LIABILITY FOR DAMAGE DUE TO POLLUTION

58. Meaning of pollution damage
59. Application of Part
60. Liability of licensee for pollution damage
61. Liability for pollution damage caused without a licence
62. Claiming of damages
63. Recourse for pollution damage
64. Jurisdiction

PART X—HEALTH AND SAFETY

65. Safety
66. Safety precautions
67. General requirements for emergency preparedness

Clause

68. Emergency preparedness against deliberate attacks
69. Safety zones
70. Suspension of petroleum activities, etc
71. Requirement to submit safety documentation
72. Qualifications
73. Commission of inquiry

PART XI—INFORMATION AND DOCUMENTATION

74. Information, data, reports and records, etc
75. Duties on termination of licence
76. Availability of information to the public
77. Confidentiality of data

PART X—OFFENCES

78. Prohibition against disclosure of information
79. Obstruction of employee of Authority
80. Powers of Inspectors
81. Obstruction of inspector
82. Obstruction of licensee
83. Offences committed by a body corporate
84. Orders for forfeiture
85. Contravention of decisions and orders issued under this Act

PART XIII—MISCELLANEOUS

Complaints and settlement of disputes

86. Right of complaint
87. Settlement of disputes
88. Maintenance of property
89. Agreements between affiliated companies
90. Security for fulfilment of obligations
91. Responsibility for commitments

Clause

92. Liability for damage caused
93. Information required by Minister or Authority
94. Powers of Authority or authorised officers
95. Service of documents
96. Indemnity of the Republic of Uganda
97. Right to place facilities, etc
98. Regulations
99. Codes of practice
100. Amendment of Schedule
101. Obligation to comply with this Act
102. Application of this Act
103. Compliance with conditions of licence
104. Force majeure

PART XIV—TRANSITIONAL

105. Continuation of licence
106. Continuation of offices

SCHEDULE

SCHEDULE- Currency point

A Bill for an Act

ENTITLED

**THE PETROLEUM (REFINING, GAS PROCESSING AND
CONVERSION, TRANSPORTATION AND STORAGE) BILL,
2012.**

An Act to give effect to article 244 of the Constitution; to regulate, petroleum refining, gas processing and conversion, transportation and storage of petroleum, to promote policy formulation, coordination and management of petroleum refining, gas processing and conversion, transportation and storage; to provide for third party access to infrastructure; to provide for an open, transparent and competitive process of licensing by the Minister responsible for petroleum; to provide for health and safety environment; to provide for cessation of petroleum activities and decommissioning of petroleum facilities and infrastructure and to provide for related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Commencement

This Act shall come into force on a date appointed by the Minister by statutory instrument; and different days may be appointed for the commencement of different provisions.

2. Purpose of Act

The purpose of this Act is to operationalise the National Oil and Gas Policy of Uganda by—

- (a) promoting the development of petroleum refining, gas processing and conversion, transportation and storage facilities;
- (b) facilitating investment in petroleum processing, transportation and storage facilities;
- (c) regulating the development, installation, operation and maintenance of suitable refining, gas processing, transportation and storage facilities;
- (d) providing for the security of petroleum processing, transportation and storage facilities;
- (e) promoting equitable access to petroleum processing, transportation and storage facilities;
- (f) ensuring public safety and protection of public health and the environment in midstream petroleum operations; and
- (g) supporting the development of state participation and national content in the petroleum industry in Uganda.

3. Interpretation

(1) In this Act, unless the context otherwise requires—

“Authority” means the Petroleum Authority of Uganda established under the Petroleum (Exploration, Development and Production) Act, 2012;

“authorised officer” means an officer or other person acting under the authority of the Minister or the Authority under this Act;

“authorised person” means a person authorised under any law to carry out petroleum activities;

“code of practice” means a code of practice issued by the Minister under section 99;

“crude oil” means naturally occurring, flammable liquid consisting of a mixture of hydrocarbons and other organic compounds that are found beneath the earth’s surface;

“currency point” has the value assigned to it in the Schedule;

“facility” means—

- (a) any structure, device or other associated installations or infrastructure including pipelines, valve stations, pump stations, compressor stations and equipment constructed, placed or used in order to carry out petroleum activities; or
- (b) vessel, vehicle or craft for transportation of petroleum in bulk when connected to a facility for loading of petroleum;

“flaring” means combustion of hydrocarbons without application of the resulting heat or gases for any useful purpose;

“gas processing” means the purification of raw natural gas, extraction of natural gas liquids and treating of the residue gas to meet the required specification;

“gas venting” means the release of gas to the atmosphere;

“best petroleum industry practices” means the use of what is accepted to be the best available and up-to-date methodology or technology applied under comparable conditions in order to carry out safe and efficient petroleum activities, taking into account the environment, securing optimal resource management, recovery and regularity;

“hydrocarbons” means a naturally occurring organic chemical compound or a mixture of such compounds made of hydrogen and carbon, generated in the subsurface under the influence of temperature;

“land owner” means a person who holds land in accordance with the Land Act;

“licence” means a licence issued under this Act;

“licensee” means a person to whom a licence is granted under this Act;

“midstream petroleum operations” means petroleum refining, gas processing and conversion, transportation and storage;

“Minister” means the Minister responsible for petroleum activities;

“natural gas” means all petroleum which is in a gaseous state at 15°c atmospheric pressure, including wet gas, dry gas and residue gas remaining after the recovery of liquid hydrocarbons;

“NEMA” means the National Environment Management Authority;

“operator” means any entity executing on behalf of a licensee, the day to day management of petroleum activities;

“petrochemical” means such a chemical compound or a mixture of such compounds manufactured from petroleum or petroleum products;

*Petroleum (Refining, Gas Processing and Conversion,
Transportation and Storage) Bill* **2012**
Bill No. 2

“petroleum” means any naturally occurring hydrocarbons including crude oil or natural gas, or other hydrocarbons produced or capable of being produced from reservoirs;

“petroleum activity” means all or any of the midstream petroleum operations, and decommissioning or cessation of operations;

“petroleum commodities” include unrefined crude oil and unprocessed natural gas;

“petroleum agreement” means an agreement entered into by authorised Government authority with a person or entity in accordance with this Act for the purpose of regulating terms and condition relating to petroleum activities;

“petroleum pipeline” means a pipeline used to transport petroleum but excludes a pipeline located on the premises of—

- (a) a manufacturer of petroleum products;
- (b) a retailer of petroleum products; or
- (c) a storage facility;

“petroleum processing” means separation of petroleum into fractions and the treating of these fractions to yield finished products;

“Petroleum products” means organic compounds, pure or blended, which are derived from the refining and processing of petroleum.

“refining” means the transformation of crude oil into finished and partly finished petroleum products by a refining process and the disposal of the products from the refinery;

“regulations” means regulations made under section 98;

“standards” means standards, specifications and codes of practice which apply to the erection and dismantling of installations required for the purpose of carrying out petroleum processing, transportation and storage operations and gas processing including pipelines, refineries and storage facilities and emissions and excludes standards on quality of products for the market and includes a company standard, compulsory standard specifications, internal standard or national standard issued under the National Bureau of Standards Act;

“storage facility” means any bulk storage facility and its auxiliary equipment that is or is intended to be used for storage of petroleum either on the surface or subsurface of the land but does not include field stock tanks;

“tariff” means a written statement of rates, terms and conditions for services relating to petroleum pipelines, storage facilities or refining and other processing facilities;

“transportation” means the shipment of petroleum prior to a point of delivery for destructive distillation by pipeline, vessel, vehicle or craft as well as planning, preparation, construction, placing of pipelines, operation and use of a facility for the purpose of transportation;

“unprocessed gas” means raw natural gas;

“utilisation” means cooling in order to liquefy gas, refining and petrochemical activity, production and transmission of electric power and other use of produced petroleum, storage of petroleum as well as the construction, placing, operation and use of a facility for the purpose of utilisation;

4. Compliance with environmental principles

(1) A licensee and also a person who exercises or performs functions, duties or powers under this Act in relation to petroleum activities shall take into account, and give effect to the environmental principles prescribed by the National Environment Act and other applicable laws.

(2) The management of transportation, storage, treatment and disposal of waste arising out of oil and gas activities shall be carried out by different entities and in any case, different from those described in subsection (1).

(3) The National Environment Management Authority (NEMA) may, in consultation with the Authority grant a licence for the management of the transportation, storage, treatment or disposal of waste arising out of petroleum activities to different entities in subsection (2), on terms and conditions prescribed in the licence.

(4) A person shall not carry on any of the activities referred to in subsection (2) without a licence granted by NEMA.

(5) A person who carries on the management of the transportation, storage, treatment or disposal of waste arising out of petroleum activities without a licence commits an offence and on conviction is liable to a fine not exceeding five thousand currency points or imprisonment not exceeding ten years or both.

(6) NEMA shall make regulations concerning the management of the transportation, storage, treatment and disposal of waste arising out of petroleum activities.

(7) Without prejudice to the general effect of subsection (5), regulations made under this section shall prescribe, in respect of the contravention of the regulations, penalties not exceeding a fine of five thousand currency points or imprisonment not exceeding ten years or both; and may prescribe that the court that convicts the person shall order the forfeiture of anything used in the commission of the offence.

(8) The licensee for the relevant petroleum activity shall be responsible for the payment of costs to the entities referred to in subsection (3), for the management of the transportation, storage, treatment and disposal of waste arising out of petroleum activities.

PART II—INSTITUTIONAL ARRANGEMENTS

The Petroleum Authority of Uganda

5. The Authority

The Authority established under the Petroleum (Exploration, Development and Production) Act, 2012 shall be responsible for the functions and other activities of the Authority under this Act.

6. Functions of the Authority

(1) The functions of the Authority under this Act are to monitor and regulate midstream petroleum operations and activities in Uganda.

(2) Without prejudice to the general effect of subsection (1), the Authority shall—

- (a) monitor and regulate petroleum refining, gas processing and conversion, transportation and storage;
- (b) facilitate investment in petroleum processing, transportation and storage facilities;
- (c) review and approve plans submitted by a licensee;
- (d) ensure that licensees uphold laws, regulations, rules and contract terms;
- (e) administer petroleum agreements and contracts related to midstream petroleum operations;
- (f) ensure optimal utilisation of existing and planned facilities;

- (g) contribute to national budget planning and control;
- (h) encourage, monitor, regulate and enforce standards of operation and code of practice in petroleum refining, gas processing and conversion, transportation and storage;
- (i) review and approve all transportation and storage tariffs, levies and pricing frameworks of operators of transportation and storage facilities;
- (j) review and approve all refining and gas processing tariffs, levies, fees and charges;
- (k) ensure compliance with health, safety and environmental standards in petroleum activities;
- (l) ensure and facilitate competition, access and utilisation of facilities by third parties;
- (m) monitor conditions of operators and their trade practices to ensure that competition and fair practice is maintained;
- (n) provide information relevant for the collection of taxes and fees from petroleum activities;
- (o) ensure the implementation of this Act and regulations made under the Act;
- (p) review and develop regulations and codes of practice for crude oil refining;
- (q) review and develop regulations and codes of practice for gas processing; and
- (r) perform any other function incidental or consequential to its functions under this Act.

(3) The Authority shall, to the greatest extent possible and consistent with this Act, consult and co-operate with ministries, departments and agencies of Government having duties, aims or functions related to those of the Authority.

National Oil Company

7. The National Oil Company

(1) The National Oil Company established under the Petroleum (Exploration, Development and Production) Act, 2012 shall be deemed to be established also for the purposes of this Act.

(2) The Government shall support the building of the capacity of the National Oil Company to enable it perform its role in petroleum refining, gas processing and conversion, transportation, storage and other midstream petroleum infrastructure.

PART III—LICENSING

Licensing of Petroleum Refining, Gas Processing and Conversion, Transportation and Storage

8. Agreements with Government

The Government may enter into an agreement relating to petroleum refining, gas processing and conversion, transportation and storage and consistent with this Act, with any person in respect to the following matters—

- (a) the grant of a licence;
- (b) the conditions for granting or renewing a licence;
- (c) the conduct by a person, of midstream petroleum activities on behalf of any person to whom a licence is granted; and
- (d) any other matter incidental or connected to the matters in paragraphs (a), (b) and (c).

9. Activities relating to crude oil and gas requiring a licence

(1) A person shall not construct or operate the following crude oil facilities without a licence issued by the Minister under this Act—

- (a) a petroleum refinery or other facility for conversion of crude oil; or
- (b) a transportation or storage facility for crude oil;

(2) A person shall not construct or operate the following gas facilities without a licence issued by the Minister under this Act—

- (a) gas processing;
- (b) gas transmission;
- (c) gas storage;
- (d) chemical conversion, liquefaction and re-gasification;
- (e) conversion of infrastructure into gasification facilities; or
- (f) any other gas processing and transmission processes.

(3) A person who contravenes subsections (1) and (2) commits an offence and is liable on conviction—

- (a) if an individual, to a fine not exceeding ten thousand currency points or imprisonment not exceeding ten years or both; and
- (b) if a body corporate, to a fine not exceeding one hundred thousand currency points.

10. Application for licence

(1) An application for a licence under section 9 shall be made to the Minister in a manner prescribed by regulations.

(2) An application for a licence under subsection (1) may be made by two or more persons jointly and the agreement between the parties to the proposed joint operation shall be submitted together with the application.

(3) An application for a licence under subsections (1) and (2) shall be in writing and shall be accompanied by a fee prescribed by Regulations.

(4) An application made under subsections (1) and (2) shall contain—

- (a) the name, company number if any and principal place of business of the applicant;
- (b) particulars of the owner or shareholder of the applicant if the applicant is not a natural person;
- (c) document demonstrating the administrative, financial and technical abilities of the applicant including, a detailed statement of the applicant's assets and liabilities signed by the applicant, or in the case of an applicant which is a company, accompanied by—
 - (i) copies certified by a director of the company to be true copies of the last balance sheet and of the last profit and loss account, if any, incorporating the results of the last financial year, and which have been audited by the company's auditors, including every document required by law to be annexed or attached to them;
 - (ii) a certified copy of the report of the auditors; and
 - (iii) a detailed statement of the financial resources available to the applicant to undertake the business under the licence;
- (d) the feasibility and justification of the project;
- (e) a description of the proposed facility to be constructed or operated, including basic designs, diagrams, feedstock, utilities where appropriate;

- (f) list of process technologies and relevant licensors;
- (g) a planned production or operation schedule;
- (h) a maintenance plan or schedule;
- (i) the planned time of commencement and completion of the project;
- (j) configurations and capacities including utilities;
- (k) a technical and economic description of the project including the proposed technical and financial partners;
- (l) proposed feedstock supply and product evaluation scheme;
- (m) proposed standardisation and quality mechanism;
- (n) a general description of the type of customers to be served and the tariff or crude oil or gas policies;
- (o) the plans and ability of the applicant to comply with all applicable labour, health, safety and environmental legislation;
- (p) safety measures to be adopted in the course of the operations, including measures to deal with emergencies;
- (q) results of assessments, including environmental impact assessments, studies or audits carried out and reports of those assessments, studies or audits;
- (r) the impact of the project on public interests and possible mitigation;
- (s) the applicant's proposals for the employment and training of Ugandan citizens;
- (t) the applicant's proposals with respect to the procurement of goods and services obtainable in Uganda;

- (u) impacts of the project on private interests, including the interests of affected landowners and holders of other rights;
- (v) a detailed specification of the crude oil to be refined, transported or stored under the licence;
- (w) a detailed specification of gas to be processed or transmitted under the licence;
- (x) preliminary organisation plan;
- (y) information as to how a facility may be decommissioned and disposed off when the midstream petroleum operations cease;
- (z) the manner and place in which crude oil or raw gas shall be delivered to the facility;
- (aa) information on facilities for the transportation and storage of petroleum;
- (ab) consents and permits required under any other law; and
- (ac) such other particulars as may be prescribed.

(5) Where the development is planned in two or more phases, the applicant shall provide information on the full development of the facility.

(6) The Minister—

- (a) may require a licensee to make arrangements as may be satisfactory to the Minister for the execution of a bond or other form of security for the performance and observance of the conditions to which the licence may be subject; and
- (b) shall require the licensee to take the necessary insurance policies to protect against liabilities that may arise as a result of activities done under the licence.

(7) The Minister shall in consultation with the Authority, process the application for a licence expeditiously and in any case, not later than ninety days after receipt of the application.

11. Activities not requiring a licence

(1) Notwithstanding section 9 (1), a pipeline or storage facility shall not require a licence where—

- (a) the pipeline is installed for the connection of wells and other installations directly related to petroleum production in accordance with an approved field development plan under the Petroleum (Exploration, Development and Production) Act, 2012 and does not exceed a length of twenty kilometres;
- (b) the pipeline is located entirely within an industrial site for which the required licence has been granted; or
- (c) the storage capacity does not exceed fifty metric cubic meters of any one product.

(2) Notwithstanding section 9(2), a person shall not require a licence to engage in—

- (a) gas reticulation and any activity incidental to gas reticulation;
- (b) natural gas distribution pipeline of a pressure not exceeding ten bars;
- (c) the storage capacity does not exceed 1766cf of gas.

(3) A person carrying out an activity referred to in subsections (1) and (2) shall register with the Authority and shall provide the Authority with such information relating to the activities as may be prescribed by regulations.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding one thousand currency points and in case of a continuing offence, to a further fine of ten currency points for every day during which the offence continues.

12. Publication of notice of applications

(1) The Minister shall, within forty five days after receiving the application, cause a notice of the application to be published in the *Gazette* and in at least one national newspaper of wide circulation in Uganda.

(2) A notice published under subsection (1) shall—

- (a) indicate the receipt of the application for a licence;
- (b) contain a description of the nature and location of the proposed activity or facility;
- (c) inform members of the public that the application may, within the limits of the commercial confidentiality, be inspected at the offices of the Minister; and
- (d) invite directly affected parties and local authorities in areas affected by the project who object to the granting of the licence, whether on personal, environmental or other grounds, to lodge with the Minister an objection within a specified time, being not less than thirty days after the notice.

13. Requirements for granting a licence

(1) The Minister shall, before granting a licence for which an application has been made under section 10, consider—

- (a) the flexibility of the planned facility with regard to later additions or modifications of capacity which may be desirable in view of changing requirements;

- (b) the technical quality of design for the planned facility;
- (c) the technical and commercial capabilities of the applicant and intended operator of the facility; or
- (d) any other requirement as may be necessary.

(2) The Minister may, before granting a licence require the applicant to provide all information that may be required, including drawings and specifications of the main physical and technical features of the facility and a decommissioning Plan.

14. Objection to application

(1) An aggrieved party may lodge with the Minister an objection to the grant of a license, setting out the grounds for the objection.

(2) The objection under subsection (1) shall be lodged in the form and manner prescribed by regulations and shall be considered and dealt with by the Minister.

(3) The Minister shall consider the objection raised under subsection (1) and make a decision within fourteen days.

(4) Where the Minister upholds the objection, a licence to construct or operate the crude oil or gas facility shall not be granted.

(5) Where the Minister dismisses the objection, the Minister may grant the crude oil or gas facility licence.

(6) A person aggrieved by the decision of the Minister under subsection (2), may appeal against the decision to the High Court within thirty days.

15. Approval of application for licence

(1) The Minister shall consider and determine an application in the prescribed manner within sixty days—

- (a) after the expiration of the period stated in section 12(2)(d), if no objection has been received; and
- (b) after receiving the response of the applicant to objections.

(2) The licensee shall not commence contractual obligations and construction work until the application has been approved, except with the consent of the Minister.

(3) The Minister may limit the approval of the project to a single phase or stage of development.

(4) The licensee shall inform the Minister of any significant deviation or alteration of the terms and preconditions on which an application has been submitted or approved and any significant alteration of facilities or use of facilities.

(5) The Minister may, on the recommendation of the Authority, approve the deviation or alteration of the terms and conditions on which an application has been submitted or approved and any significant alteration of facilities, or shall require a new or amended application to be submitted for approval.

16. Grant of licence

(1) The Minister may, subject to section 14 in consultation with the Authority and with the approval of Cabinet, grant a licence upon such terms and conditions as the Minister considers appropriate.

- (2) The Minister shall issue separate or joint licences for—
 - (a) the construction or operation of the petroleum refinery, transportation and storage facilities;
 - (b) the construction or operation of a gas processing and conversion facility; or
 - (c) the construction and operation of the petroleum refinery, gas processing and conversion transportation or storage facilities.

(3) Upon granting a licence the Minister shall, as soon as possible, cause a notice to be published in the *Gazette*, stating the name of the licensee, the general nature of the licence and the location of the licensed facility.

17. Activities authorised by licence

- (a) A licence shall authorise the licensee to construct or operate the petroleum refinery, gas processing and conversion, transportation or storage facility as the case may be; or
- (b) authorise the construction and operation of the petroleum refinery, gas processing and conversion transportation or storage facility.

18. Grounds for rejection of application for licence

(1) The Minister may reject an application for a licence under this Part on any of the following grounds—

- (a) failure of an applicant to submit all the required information; or
- (b) failure of the application to meet the requirements specified in section 13.

(2) Where an application is rejected, the Minister shall notify the applicant in writing.

19. Conditions for a licence

The Minister may stipulate conditions to be fulfilled by the licensee with regard to—

- (a) the main configurations and rated capacities;
- (b) the regularity and availability of capacities;
- (c) the utilisation of the facility by different parties;

- (d) the acquisition of petroleum by any processing facility, in order to provide—
 - (i) consistency with the government policy for managing petroleum resources;
 - (ii) reasonable and non-discriminating opportunity for various producers of crude oil and raw gas to supply to the facility;
 - (iii) the agreed off take and supply of crude oil and raw gas that may provide a basis for investment;
- (e) the sale of oil and gas products in order to provide adequate supplies and competition in the Ugandan market;
- (f) the construction and operation of a facility for which the licence is granted;
- (g) payment of annual fees, levies or charges;
- (h) the petroleum refining, gas processing and conversion, transportation or storage activities of vertically integrated companies that may be required to be managed separately with separate accounts and data and with no cross subsidisation;
- (i) the permitting by the licensee of interconnections with the facility of other licensees as long as the interconnection is technically feasible and the person requesting the interconnection bears the increased costs occasioned thereby;
- (j) access by third parties on commercially reasonable terms to uncommitted capacity in petroleum refining, gas processing and conversion, transportation or storage facility, except that an applicant for the petroleum refining, gas processing and conversion, transportation or storage facility, the licensee may elect to give users access to the facility on the basis that the capacity is shared among all users in proportion to their needs;

- (k) in the case of a pipeline or storage facility, the licensee shall provide a plan for reviewing changes in conditions affecting the integrity and safety of the pipeline including, periodic patrolling and reporting of construction activities and such changes and conditions;
- (l) the maintenance by the licensee of their facilities in a fully operational condition; and
- (m) any other requirement as may be prescribed by regulations.

20. Power of Minister to require information

(1) Without prejudice to any other condition upon which a licence may be granted under section 19, it shall be a condition in each licence for the licensee to provide the Minister, at such times and in such manner as the Minister may require, full information concerning the licensee's operations and for the inspection of the facility, records and accounts of the licensee by persons authorised by the Minister.

(2) The information submitted to the Minister under subsection (1), shall be treated as confidential for a period as may be specified in the licence or the agreement.

(3) Where a licensee contravenes the conditions specified in the licence, the Minister may notify the licensee of the non compliance or breach.

21. Duration of licence to construct or operate the petroleum refining, transportation or gas facility

(1) A licence to construct a facility for petroleum refining, gas processing and conversion, transportation or storage granted under this Act shall be initially valid for five years during which period the licensee shall execute to the satisfaction of the Authority his or her works in accordance with the codes of practice issued by the Minister under section 99, or such further period as the Minister may allow under special circumstances beyond control of the licensee.

(2) On completion of construction works, to the satisfaction of the Authority, a licence may be granted to operate the facility for fifteen years, and thereafter, may be renewed for a period of five years at a time.

(3) The renewal of a licence under this section shall be subject to payment of a fee prescribed by the Minister by regulations.

22. Annual fee

(1) The licensee shall pay a prescribed annual fee in respect of the licensed facility and activity.

(2) Where the licensee fails to pay the annual fee prescribed under subsection (1), the licence may be cancelled.

(3) The annual fee payable under subsection (1) shall be payable on the grant of a licence and thereafter annually on the anniversary of the grant until the licence terminates.

23. Application for renewal of licence

(1) A licensee may apply for a renewal of the licence.

(2) An application for the renewal of a licence shall be made in accordance with the regulations made under this Act.

24. Renewal of a licence

(1) Subject to subsection (2), on application duly made for the renewal of a licence granted under section 16, the Minister may grant the renewal of the licence.

(2) The Minister shall not renew a licence where the licensee has violated a provision of this Act or a condition of the licence.

General Provisions Relating to Licences

25. Disclosure of co-operation agreement by applicants

(1) Where two or more applicants enter into a co-operation agreement with a view to apply for a licence under this Act, the co-operation agreement shall be submitted to the Minister and the Minister may require alterations to be made in the agreement as a condition for granting of the licence.

(2) The Minister may require alterations referred to under subsection (1) where there is—

- (a) lack of sole risk provision or requirement of unanimous voting;
- (b) area of no mutual interest agreement; or
- (c) right of first refusal.

26. Transfer or lease of licence under this Act

(1) A licensee shall not without the approval in writing of the Minister—

- (a) transfer or lease his or her licence or his or her works or any interest therein in whole or in part;
- (b) enter into any agreement for—
 - (i) the amalgamation of his or her works with those of any other person or corporation; or
 - (ii) the operation of his or her works by any other person or corporation;
- (c) mortgage or otherwise create a charge upon the works or any interest therein.

(2) A licensee may apply to the Minister, in the prescribed form and manner, for the transfer of a licence and shall fulfil any other financial obligations under the laws of Uganda.

(3) The Minister shall satisfy himself or herself of the legal and technical capacity, competence and financial strength of the person to whom the licence is to be transferred.

(4) Subject to subsections (2) and (3), the Minister shall not unreasonably withhold consent to an application to transfer a licence unless he or she has reason to believe that the public interest or safety is likely to be prejudiced by the transfer.

(5) This section applies to any other direct or indirect transfer of interest or participation in the licence, including, *inter alia*, assignment of shareholdings and other ownership shares which may provide decisive control of a licensee possessing a participating interest in a licence.

(6) The transfer of a group of licensees' right of ownership to fixed facilities is subject to the approval of the Minister.

(7) Subsection (6) applies to the mortgaging of a facility which, in accordance with a licence under this Act, is subject to private property rights.

(8) In this section—

“transfer of licence” includes the acquisition of control by the person to whom a licence under this Act is transferred; and

“control” in relation to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management by that person, whether through the ownership of shares, voting, securities, partnership or other ownership or participation interests, agreements or otherwise.

27. Work practices for licensees

(1) A licensee shall carry out petroleum activities in a proper and safe manner and in accordance with the requirements of the applicable law, regulations and conditions stipulated by competent authorities and best petroleum practices.

(2) Notwithstanding the general effect of subsection (1), a licensee shall take all reasonable steps necessary to secure the safety, health and welfare of personnel engaged in petroleum activities including—

- (a) controlling the flow and preventing the waste or discharge into the surrounding environment, of petroleum, natural gas or water;
- (b) preventing the escape of any mixture of water or chemical or any other matter;
- (c) preventing the pollution of any water well, spring, stream, river or lake by the escape of petroleum, water, chemical additive or any other waste product or effluent;
- (d) where pollution occurs, treating or discharging it in an environmentally acceptable manner; and
- (e) submitting to the Authority, before any activity, a detailed report on the technique and method to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed.

(3) Where consent in writing has been obtained under section 46(3), nothing in this section shall operate to prevent a licensee from flaring natural gas in accordance with the terms of the instrument of consent.

(4) Nothing in this section shall operate to prevent a licensee from venting and flaring gas where, in an emergency, flaring is required to safeguard the health and safety of persons or to prevent damage to property.

28. Processing, transportation, transmission or storage of unauthorised substance

(1) A facility for which a licence has been granted may not be used for processing, transportation, transmission or storage of any other substance other than the substance authorised by the licence.

(2) On application being made by a licensee to use the licensed facility for the processing, transportation, transmission or storage of a substance other than the substance authorised in the licence, the Minister may amend the licence, cancel the licence and issue a new licence subject to any terms and conditions the Minister may prescribe.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand currency points or imprisonment not exceeding five years or both.

29. Notice to cease operation

(1) Where a facility is being operated in contravention of this Act, the Authority may, by notice served on the operator of the facility direct the operator to take, within a reasonable time limited by the notice, all necessary steps to cease operations, and to dismantle, to the satisfaction of the Authority any plant and equipment used for the purposes of the petroleum or gas activity.

(2) Where a direction given under this section is not complied with, the Authority by its servants or agents may enter into the place where the petroleum activity is being operated and so cause the direction to be carried out.

(3) The costs to the Authority of any action under subsection (2) may be recovered by the Authority from the operator, as a debt due to the Authority, within a time period agreed by the parties or in a court of competent jurisdiction where parties fail to agree.

30. Surrender of licence

(1) The licensee may, during the period of a licence, after giving three months notice to the Minister, surrender a licence in its entirety.

(2) The Minister shall require the obligations stipulated in a licence, including decommissioning costs and the conditions on which it has been granted, to be fulfilled up to the time of surrender.

31. Suspension or cancellation of a licence

(1) Where a licensee is in default, the Minister may, in consultation with the Authority and with the approval of Cabinet, by notice in writing served on the licensee, suspend or cancel the licence.

(2) For the purposes of subsection (1), the licensee shall not be treated as in default unless the Minister has served on the licensee a notice in writing giving the particulars of any default complained of and the licensee has not within a reasonable time specified in the notice remedied the default, or where the default cannot be remedied, offered to the Minister in respect of the default adequate compensation.

(3) The Minister may cancel the licence—

- (a) if the licensee is adjudged bankrupt or enters into any agreement or scheme of composition with his or her creditors or takes advantage of any law for the benefit of debtors; or

- (b) where the licensee is a body corporate, an order is made or a resolution is passed winding up the affairs of the body corporate, except where the winding up is for the purpose of—
- (i) amalgamation and the Minister has consented to the amalgamation; or
 - (ii) reconstruction and the Minister has been given notice of the reconstruction.

(4) Where the licence is held by two or more persons, the Minister shall not cancel the licence under subsection (3), where one of the licensees satisfies the Minister that he or she is willing and is able to carry out the duties and obligations under the licence.

(5) Where the licensee is a body corporate or where a body corporate is among the persons who together constitute the licensee, and the body corporate either—

- (a) registers the transfer of any equity share or shares in the body corporate to any person or his or her nominee; or
- (b) enters into an agreement, arrangement, or understanding, whether or not having legal or equitable force with any person, and the effect of doing so is to give to that person, or any other person, control of the body corporate,

the Minister, may, if he or she considers that the public interest would be prejudiced by the change of control, serve a written notice on the licensee stating that the Minister proposes to cancel the licence under this section unless a change in the control of the body corporate as is specified in the notice takes place within a period of three months beginning with the date of service of the notice.

(6) Where the change specified in the notice served by the Minister under subsection (5) does not take place within three months, the Minister may cancel the licence.

(7) For the purposes of this section—

(a) a person is deemed to have control of a body corporate—

(i) if the person or his or her nominee holds, or the person and his or her nominee holds, a total of twenty percent or more of the issued equity shares in the body corporate;

(ii) if the person is entitled to appoint, or prevent the appointment of half, or more than half, of the directors of the body corporate; or

(iii) if the person is entitled to exercise, or control the exercise of, the right to cast votes in respect of not less than two fifths of the total number of votes in respect of issued equity shares in the body corporate;

(b) “equity shares in relation to a body corporate” means shares in the body corporate carrying voting rights in all circumstances at a general meeting of the body corporate, and includes preference shares, other than preference shares which do not have voting rights;

“preference shares” means shares which carry the right to payment of a dividend of a fixed amount, or not exceeding a fixed amount, in priority to payment of the dividend on another class or other classes of shares, whether with or without other rights; and

(c) the reference in paragraph (a)(iii) to the entitlement to control the exercise of the right to cast votes shall be read as including an entitlement to control the exercise of that right directly or indirectly, and includes control that is exercisable as a result of or by means of trusts.

(8) On the cancellation of a licence, the rights of the licensee under the licence shall cease, but the cancellation shall not affect any liability incurred before the cancellation, and any legal proceedings that might have been commenced or continued against the former holder of the licence may be commenced or continued against him or her.

32. Consequences of cancellation, surrender of rights or lapse for other reasons

(1) Revocation of a licence, surrender of rights or lapse of rights for other reasons do not discharge the licensee from the financial obligations under this Act, regulations issued under this Act or any other law in Uganda or specific conditions attached to the licence.

(2) Where a work obligation or other obligation including decommissioning has not been fulfilled, the licensee shall pay the amount which fulfilment of the obligation would have cost the licensee if the work had been completed.

(3) The amount payable under subsection (2) shall be prescribed in the agreement made under section 8.

33. Formation of cartels and monopolies

(1) The Authority shall in the performance of its functions under this Act take the necessary measures to prevent the formation of cartels, monopolies and unfair competition in petroleum refining, gas processing and conversion, transportation and storage.

(2) A person or an agent of that person shall not form a cartel in the petroleum refining, gas processing and conversion, transportation and storage.

(3) A person shall not gain, hold or secure a monopoly of a business or commercial activity within the petroleum refining, gas processing and conversion, transportation and storage.

(4) A person or agent of that person shall not indulge in or assist in cartelisation in the petroleum refining, gas processing and conversion, transportation and storage.

(5) A person who commits an offence under this section is liable on conviction to a fine not exceeding fifteen thousand currency points or imprisonment not exceeding ten years or both.

(6) For the purposes of this section, “**cartelisation**” means an agreement or a combination of or a concerted action by operators of refineries, gas processing plants, transportation, storage facilities or their agents to—

- (a) fix prices, tariffs, levies or charges;
- (b) restrict output;
- (c) divide markets either by commodity or by area; or
- (d) allocate markets either by commodity or by area to restrain free competition and contractual stipulation that prescribes pricing levels and margins at variance with the mechanisms approved by the Authority.

34. Non-discrimination

A holder of a licence to operate a refinery, gas processing and conversion facility shall—

- (a) convert crude oil or raw natural gas as the case may be into a final product for sale without discrimination to authorised persons;
- (b) produce product that meet the set standards and specifications on the market; and
- (c) obtain approval of the Authority for charges of services rendered.

35. Methods and practices for storage of petroleum

(1) A licensee for petroleum storage facility shall—

- (a) provide services to duly authorised person;
- (b) provide without discrimination, services on request for storage and trans shipment of petroleum to authorised persons; and
- (c) obtain approval of the Authority for charges for services rendered.

(2) The methodology to determine the charges for the storage services shall be prescribed by the regulations and shall *inter alia* take into account the investment costs, operation and maintenance costs, or other costs incurred in the operation of the facility as well as an equitable reward for the invested capital.

(3) A licensee shall use approved methods and practices acceptable to the Authority for storing petroleum.

36. Methods and practices for transportation or transmission of petroleum

A licensee for petroleum transportation or transmission shall—

- (a) provide services without discrimination to authorised persons;
- (b) charge for the transportation or transmission of petroleum by means approved by the Authority;
- (c) obtain approval of the Authority for charges of services rendered;
- (d) the methodology to determine the charges for the transportation or transmission services shall be prescribed by the regulations and shall *inter alia* take into account the investment costs, operation and maintenance costs, or other costs incurred in the operation of the facility as well as an equitable reward for the invested capital.

37. Meetings of Authority with licensees

(1) The Authority may call quarterly meetings of licensees in the midstream petroleum operations at which the licensees shall brief the Authority about the industry status.

(2) The Authority may call extra ordinary meetings with the licensees.

38. Register of licences

The Minister shall cause to be kept a register of all licences issued under this Act called the petroleum register, in accordance with the regulations made under this Act.

PART IV—VENTING AND FLARING

39. Restrictions on flaring or venting

(1) A licensee shall not flare or vent petroleum in excess of the quantities needed for normal operational safety without the approval of the Minister on the advice of the Authority.

(2) All facilities shall be planned and constructed so as to avoid any gas flaring or venting under normal operating conditions.

(3) Disposal of gas by flaring or venting for normal operational safety under subsection (1) shall be by consent in writing of the Authority where—

- (a) it is necessary for the safety of the petroleum operations; or
- (b) it is necessary to comply with a requirement imposed by or under any law in Uganda.

(4) In the case of an emergency, the licensee may flare or vent without the consent of the Authority under subsection (3).

(5) Where a licensee vents or flares under subsection (4), the licensee shall—

- (a) ensure that the venting or flaring is kept at the lowest possible level; and
- (b) submit to the Authority a technical report detailing the nature and circumstances that caused the emergency situation.

(6) A person who contravenes subsection (5) commits an offence and on conviction is liable to pay a fine not exceeding one hundred thousand currency points.

PART V—PETROLEUM ACQUISITION AND PRICING

40. Crude oil or gas acquisition and pricing

(1) Whenever available, the refinery or gas processing and conversion plant shall obtain crude oil or raw gas from Ugandan sources.

(2) Subject to subsection (1), the refinery or gas processing and conversion plant may obtain crude oil or raw gas from outside Uganda.

(3) The pricing of crude oil or raw gas shall be in accordance with the method prescribed by regulations or stipulated in the petroleum agreement, and shall be in accordance to international oil and gas prices.

41. Petroleum products pricing

The licensee shall, with the approval of the Authority determine the gate price for petroleum products in a manner prescribed by the regulations and subject to the international import parity pricing principle.

42. Supplies or deliveries to cover Uganda requirements

(1) The Minister may direct a licensee to make supplies or deliveries from the licensee's facility to cover Uganda requirements to whom such petroleum products shall be delivered.

(2) Where the Minister directs the licensee to make deliveries under subsection (1), the Minister shall give the licensee forty five days notice before the delivery is made.

(3) The price paid for the petroleum delivered, under this section shall be determined in accordance with section 40(3).

43. Supplies or deliveries in case of war, threat of war or other crisis, etc

(1) In the case of war, threat of war, natural disaster or other extraordinary crisis, the Minister may, with the approval of Cabinet, direct a licensee to place petroleum at the disposal of Uganda.

(2) Sections 40 and 41 shall apply respectively unless the particular situation warrants otherwise.

PART VI—CESSATION OF PETROLEUM ACTIVITIES

44. Decommissioning plan

(1) A licensee shall submit a decommissioning plan to the Authority—

- (a) before a licence to operate a facility expires or is surrendered; or
- (b) before the use of a facility is terminated permanently.

(2) The plan referred to in subsection (1) shall contain proposals for continued operation or shut down of the facility and decommissioning of facilities.

(3) The decommissioning of the facility referred to in subsection (2) may constitute further use of the facility in the petroleum activities, complete or part removal and disposal or abandonment.

(4) The plan shall contain the information and evaluation deemed necessary in order to make a direction under section 47.

(5) The Authority may, on receipt of the plan require further information and evaluation, or may require a new or amended decommissioning plan.

(6) The licensee shall update the decommissioning plan—

- (a) in conjunction with any subsequent application for a permit to make additions or substantial changes to the facilities;
- (b) whenever the expected method or costs of carrying out the decommissioning work have changed significantly as a result of new techniques for the work becoming available;
- (c) where the previously assumed techniques are no longer permissible or considered adequate;
- (d) when requested by the Authority, within the time specified in the request.

(7) Unless the Authority consents to or directs otherwise, the decommissioning plan shall be submitted not later than the expiry of half the term of the licence.

45. Decommissioning fund

(1) The decommissioning fund established under the Petroleum (Exploration, Development and Production) Act, 2012, shall apply to the facility operated in a licence issued under this Act for the purpose of costs to implement a decommissioning plan.

(2) The decommissioning fund shall be applied to implement activities approved in the decommissioning plan.

(3) The decommissioning fund shall commence from the calendar quarter in any of the following situations—

- (a) the operation has reached fifty percent of the project agreement life as determined in the licence period and any successive renewals;
- (b) five years before the expiry of the licence; or
- (c) on notice of surrender.

(4) For every subsequent calendar quarter in which the facility is operated, the Authority shall charge the licensee a portion of the estimated future cost for decommissioning.

46. Notification of termination of use

The licensee shall notify the Authority of the time of termination of a facility if the use of the facility is expected to terminate permanently before the expiry of the licence.

47. Disposal of decommissioned facilities

(1) The Minister may issue directions relating to the disposal of decommissioned facilities and shall stipulate a time limit for the implementation of the directions.

(2) Directions issued under subsection (1) shall be based, among other factors on technical, safety, environmental and economic aspects as well as on consideration for other users.

(3) The Minister may stipulate specific conditions in connection with the directions.

(4) The licensee and the owner of a facility shall ensure that a direction relating to disposal is carried out, unless otherwise directed by the Minister.

(5) The obligation to carry out the direction relating to disposal applies even where the direction is made or is to be implemented after the expiry of the licence.

(6) Where the ownership of a facility has been transferred in accordance with this Act, the licensee and the owner shall jointly ensure that a direction relating to disposal is carried out, unless otherwise directed by the Minister.

(7) Where the direction is to the effect that the facility shall continue to be used in the petroleum activities or for other purposes, the licensee, owner and user are jointly obliged to ensure that future directions on disposal are carried out, unless otherwise decided by the Minister.

(8) Where a direction relating to disposal is not carried out within the stipulated time, the Minister may take necessary measures on behalf of the licensee or any other responsible party, at the cost of the licensee or any other responsible party.

(9) Where the monies in the decommissioning fund are not sufficient to cover the implementation of the decommissioning plan, the licensee, and where applicable, the owner of the facility shall cover the costs and expenses.

(10) Where any amount remains in the decommissioning fund after the decommissioning plan has been implemented, such funds shall be treated as profit generated under the terms and conditions of the licence and applicable law.

48. Removal of property by licensee

(1) Where a licence has been surrendered or has expired, the Authority, by notice in writing served on the person who is or was the licensee, direct that person, within the period specified in the notice—

- (a) to remove or cause to be removed all or part of the facility by any person engaged or concerned in the operation authorised by the licence, or to make arrangements that are satisfactory to the Authority with respect to that property;
- (b) to plug or close off the operation of the facility; and
- (c) to make provision, to the satisfaction of the Authority, for the conservation and protection of the natural resources in that area.

(2) A direction given under subsection (1) shall be consistent with the best petroleum industry practices, and nothing in this section or in any direction shall be construed as requiring any person who is or was the licensee to do anything which is not in accordance with the best petroleum industry practices.

(3) A person to whom a direction under subsection (1) is given who refuses or fails to comply with the direction within the period specified in the notice commits an offence and is liable on conviction to a fine not exceeding one thousand currency points.

49. Removal and sale of property by the Authority

(1) Subject to section 52 and by the approval of the Minister, where a direction given under section 47 or 48 has not been complied with, the Authority may—

- (a) do or cause to be done all or any of the things required by the direction to be done;
- (b) remove or cause to be removed, in such manner as the Authority thinks fit, all or part of the facility;
- (c) dispose of, in such manner as the Authority thinks fit, all or part of the facility from the area concerned; and

(d) if the Authority has served a copy of the notice by which the direction was given on a person whom the Authority believed to be the owner of the property or part of the property, sell or cause to be sold by public auction or otherwise as the Authority thinks fit, all or any of the property referred to in this section that belongs, or that the Authority believes belongs, to that person.

(2) The Authority may deduct from the proceeds of a sale of the property under subsection (1)—

- (a) the costs and expenses incurred by the Authority under that subsection in relation to that property;
- (b) the costs and expenses incurred by the Authority in relation to the doing of any duty required by a direction under section 47 or 48 to be done by the person, notwithstanding that the person has been convicted of an offence under section 48 (3); and
- (c) the fees or amounts due and payable by the person under this Act for a licence.

(3) The costs and expenses incurred by the Authority under subsection (1)—

- (a) where incurred in relation to the removal, disposal or sale of property, is a debt due by the owner of the property to the Government; and
- (b) if incurred in relation to the doing of anything required by a direction under section 101 to be done by a person who is or was a licensee, is a debt due by that person to the Government, and to the extent to which they are not recovered under subsection (2), may be recovered in a court of competent jurisdiction.

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

50. Liability for damages for disposal of decommissioned facility

(1) A person under obligation to implement a decision relating to the disposal of the decommissioned facility under section 47 is liable for damage or inconvenience caused in connection with the disposal of the facility or other implementation of the decision.

(2) Where the licensee or owner abandons a facility, the licensee or owner is liable for damage caused in connection with the abandoned facility.

(3) Where there is more than one party liable under subsection (1) or (2), they shall be jointly and severally liable for all financial obligations.

(4) In the event of decisions for abandonment, it may be agreed between the licensee and the owner and the State that the future maintenance, responsibility and liability shall be taken over by the State based on an agreed financial compensation.

51. Encumbrances

(1) Where the Government requires removal of a facility, any lien, charge or encumbrance on the facility shall lapse.

(2) Subsection (1) applies where the Government takes over the facility under section 52, except that in such cases, rights of use established with the consent of the Minister shall remain in force.

52. Takeover of facilities by Government

(1) The Government may take over the facilities of the licensee when—

- (a) a licence expires;
- (b) a licence is surrendered or cancelled; or

*Petroleum (Refining, Gas Processing and Conversion,
Transportation and Storage) Bill* **2012**

(c) when the use of the facility has been terminated permanently.

(2) Where the Government has confirmed that it wishes to exercise its right to takeover, the takeover shall take effect six months after the period when the licence has expired, has lapsed or for any other reason, or the use of the facility has been terminated permanently, unless otherwise agreed or decided by the Minister.

(3) Where the Government takes over a facility, the facility with its accessories shall be in such condition with adequate maintenance to ensure functional capability that the operation may require.

(4) Any dispute in regard to subsection (2) and, where applicable, regarding the compensation to be paid to the Government for lack of maintenance shall be determined by appraisalment.

(4) Where Government takes over a facility under this section, the licensee may continue operating the facility upon payment of the prescribed fee where the licensee is not in default.

PART VII—STATE PARTICIPATION AND NATIONAL CONTENT

53. State participation in petroleum activities

(1) Subject to section 7, the Government may participate in petroleum activities under this Act.

(2) The Minister shall, with the approval of Cabinet, specify the form and manner of the Government participation under subsection (1).

54. Provision of goods and services by Uganda entrepreneurs

(1) The licensee, its contractors and subcontractors shall give priority to competent citizens of Uganda and registered entities owned by Ugandans in the provision of goods and services.

(2) The entities referred to in subsection (1) shall—

- (a) have adequate resources and capacity to add value to the petroleum operations carried out by the licensee; and
- (b) be approved by the Authority in accordance with the criteria prescribed by the Minister by regulations.

(3) The licensee, and the contractors and subcontractors of the licensees shall give priority to the purchase of local products and services from Ugandans wherever they are competitive in terms of price, quality and timely availability.

(4) The licensee shall, within sixty days after the end of each calendar year, provide the Authority with a report of its achievements and its contractors and sub contractors' achievement in utilising Ugandan goods and services during that calendar year.

(5) A person who contravenes subsection (4) commits an offence and on conviction is liable to a for a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both.

55. Training and employment of Ugandans

(1) The licensee shall, within twelve months after the grant of a licence, and on each subsequent anniversary of that grant, submit to the Authority for approval, a detailed programme for recruitment and training of Ugandans in midstream petroleum operations.

(2) The programme for the recruitment and training of Ugandans under the Petroleum (Exploration, Development and Production) Act, 2012, shall apply to this Act.

56. Training and technology transfer

(1) A licence shall include a clearly defined training programme for the local employees of the licensee, which may be carried out in or outside Uganda and may include scholarships and other financial support for education.

(2) A licence shall include a commitment by the licensee to maximise knowledge and skills transfer to Ugandans and to establish in Uganda, management and technical capabilities and any necessary facilities for technical work.

(3) Regulations made under this section, shall prescribe requirements for technology transfer of knowledge and skills relating to Midstream Petroleum Operations to Ugandans to be employed by the licensee.

(4) The technology transfer under subsection (3) shall be a shared responsibility between the licensee and the Government.

PART VIII—USE OF LICENCE AS SECURITY

57. Use of licence as security

(1) The Minister may, in consultation with the Authority, consent to the use of a licence by a licensee under this Act as security by the licensee of his or her share of the licence as part of the financing of the activities prescribed in the licence in a manner prescribed by regulations.

(2) The Minister may, in special circumstances, permit the financing to include activities not related to the licence.

PART IX—LIABILITY FOR DAMAGE DUE TO POLLUTION

58. Meaning of pollution damage

The pollution damage under this Part has the same meaning as in the Petroleum (Exploration, Development and Production) Act, 2012.

59. Application of Part

(1) This Part applies to liability for pollution damage from a facility when the damage occurs in Uganda or affects a Ugandan vessel or a Ugandan facility in adjacent areas.

(2) The Minister may, notwithstanding the provisions of this Act, issue rules relating to liability for pollution damage caused by petroleum activities under this Act.

(3) Rules made under subsection (2) shall not restrict the right to compensation according to this Act in respect of any injured party under the Ugandan jurisdiction.

60. Liability of licensee for pollution damage

(1) The licensee is liable for pollution damage in petroleum activities under this Act without regard to fault.

(2) Where it is demonstrated that an inevitable event of nature, act of war, exercise of public authority or a similar force majeure event has contributed to a considerable degree to the damage or its extent under circumstances which are beyond the control of the licensee, the liability may be reduced to the extent it is reasonable, with particular consideration to—

- (a) the scope of the activity;
- (b) the situation of the party that has sustained the damage; and
- (c) the opportunity for taking out insurance on both sides.

61. Liability for pollution damage caused without a licence

(1) Where pollution damage occurs during a petroleum activity under this Act, and the activity has been conducted without a licence, the party that conducted the petroleum activity is liable for the damage regardless of fault.

(2) The same liability rests on any other person who has taken part in the petroleum activity, and who knew, or should have known, that the activity is being conducted without a licence.

62. Claiming of damages

(1) Liability of a licensee for pollution damage may only be claimed in accordance with this Act.

(2) Liability for pollution damage may not be claimed against—

- (a) any person who by agreement with a licensee or his or her contractors has performed tasks or work in connection with petroleum activities;
- (b) any person who has manufactured or delivered equipment to be used in petroleum activities;
- (c) any person who undertakes measures to avert or limit pollution damage, or to save life or rescue values which have been endangered in connection with the petroleum activities, unless the measures are performed in conflict with prohibitions imposed by a public authority or are performed by a person other than a public authority regardless of express prohibition by the operator or the owner of the values threatened;
- (d) any person employed by a licensee or by a person referred to in paragraph (a), (b) or (c).

(3) Where a licensee has been ordered to pay compensation for pollution damage, but fails to pay within the time stipulated by the judgment, the party that has sustained damage may bring action against the party that has caused the damage to the same extent as the licensee may bring an action for recourse against the party causing the damage.

(4) A licensee may claim compensation from the party causing pollution damage to the licensee to the same extent as the licensee may bring action for recourse against the party causing the damage.

63. Recourse for pollution damage

(1) A licensee may not claim recourse for pollution damage against a person exempted from liability under section 62 (2) unless that person in question or a person in his or her service has acted wilfully or by gross negligence.

(2) Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

(3) Any agreement on further recourse in respect of persons against whom liability cannot be claimed under section 62 (2) contrary to that section is invalid.

64. Jurisdiction

Legal action for compensation for pollution damage shall be brought before a competent court in the area where the effluence or discharge of petroleum has taken place or where damage has been caused.

PART X—HEALTH AND SAFETY

65. Safety

(1) Petroleum activities shall be conducted in such a manner as to enable a high level of safety to be maintained and further developed in accordance with technological developments and laws relating to health and safety.

(2) A licensee shall—

- (a) identify the hazards and evaluate the risks associated with any work performed in the course of petroleum activities carried out under the licence which constitute a hazard to the health of any person employed for purposes of that work and the steps that need to be taken to comply with the provisions of this Act and regulations made under this Act; and
- (b) as far as reasonably practicable, prevent the exposure of the person referred to in paragraph (a) to the hazards concerned or, where prevention is not reasonably practicable, minimise the exposure.

66. Safety precautions

An operator—

- (a) shall take precautions as are necessary to—
 - (i) ensure the safety of any person employed or otherwise present at or in the vicinity of any installation; and
 - (ii) protect the environment and natural resources, including taking precautions to prevent pollution; and
- (b) ensure that the person referred to in paragraph (a) (i) is duly informed of those precautions.

67. General requirements for emergency preparedness

(1) A licensee and any other participant in petroleum activities shall, at all times maintain efficient emergency preparedness with a view to dealing with accidents and emergencies which may lead to loss of life or personal injury, pollution or major damage to property.

(2) The licensee shall ensure that necessary measures are taken to prevent or reduce harmful effects, including the measures required to return the environment to the condition it had been in before the accident occurred.

(3) The Minister may issue directions for the implementation of the measures referred to in subsection (1).

68. Emergency preparedness against deliberate attacks

(1) The licensee shall initiate and maintain security measures to contribute to avoiding attacks against facilities and shall at all times have contingency plans to deal with such attacks.

(2) The licensee shall place facilities at the disposal of public authorities for emergency and security drills and shall, where necessary, participate in such drills.

(3) The Minister may direct implementation of the measures referred to in subsections (1) and (2).

69. Safety zones

(1) There shall be a safety zone surrounding every facility carrying out petroleum activities, unless otherwise determined by the Authority.

(2) The Authority may in cases of accidents and emergencies, establish or extend the safety zones under subsection (1).

(3) The extent of the safety zones referred to in subsections (1) and (2) shall be determined by the Authority.

(4) The Authority may direct that—

(a) a zone corresponding to the safety zone shall be established in a reasonable time before the placing of the facilities as mentioned in subsection (1); or

(b) there shall be a safety zone around and above abandoned or dumped facilities, or parts of the facilities.

(5) Unauthorised vessels, vehicles, crafts, fishing gear or other objects shall not be present in zones mentioned in subsections (1), (2), (3) and (4).

70. Suspension of petroleum activities, etc

(1) Where an accident or emergency referred to in section 67 occurs, the licensee or other person responsible for the operation and use of the facility shall, to the extent necessary, suspend the petroleum activities for as long as the requirement to prudent operations warrants.

(2) Where special circumstances exist, the Minister may order that petroleum activities be suspended to the extent necessary, or may impose particular conditions to allow continuation of the activities.

(3) Where the Minister makes an order under subsection (2) basing on circumstances not caused by the licensee, the Minister may, upon application, extend the period of time for which the licence applies and, to a reasonable extent, mitigate the obligations of the licensee.

71. Requirement to submit safety documentation

(1) The licensee shall prepare a health and safety plan in accordance with sections 70 or 64 as the case may be.

(2) The plan and the licensee’s documentation for implementation of the work shall be submitted to the Minister as a part of the regulatory health and safety supervision.

72. Qualifications

(1) The licensee and other persons engaged in petroleum activities shall possess the necessary qualifications to perform the work in a prudent manner.

(2) The licensee shall ensure that any person carrying out work for the licensee complies with subsection (1).

73. Commission of inquiry

(1) Where a serious accident occurs in connection with petroleum activities comprised under this Act, the Minister may appoint a commission of inquiry in accordance with the Commissions of Inquiry Act.

(2) Subsection (1) applies to an incident in an activity which has led to serious danger including loss of life or major damage to property or pollution of the environment.

PART XI—INFORMATION AND DOCUMENTATION

74. Information, data, reports and records, etc

A holder of a licence in, crude oil refining, gas processing, transportation and storage shall keep at an address in Uganda notified to the Authority, a complete and accurate records regarding the following—

- (a) a declaration that the ownership of the licensed activity has not changed;
- (b) the inventory and volumes of crude oil refined, gas processed, transported or stored;
- (c) the tariff structure and rates;
- (d) capacity and utilisation of the facility;
- (e) product specifications;
- (f) maintenance schedules, planned upgrades and revamps;
- (g) the number of employees by race, gender and disability;
- (h) a report on training of Ugandan personnel including—
 - (i) the number of persons trained in general; and
 - (ii) the number and title of qualifications obtained; and
- (i) any other information as may be prescribed by regulations.

75. Duties on termination of licence

Where a licence is terminated or revoked or expires, the person who was the licensee immediately before the termination, revocation or expiration of the licence shall immediately deliver to the Authority—

- (a) all records which the licensee maintained with respect to the licence;
- (b) all plans or maps of the licence area and which were prepared by or on the instructions of the licensee;
- (c) all tapes, diagrams, profiles and charts which were prepared by the licensee; and
- (d) such other documents as the Authority, may, by notice given to the licensee, require the former licensee to deliver.

76. Availability of information to the public

(1) The Minister shall, subject to confidentiality of the data and commercial interests, and in accordance with the Access to Information Act, 2005, make available to the public—

- (a) details of all agreements, licences and any amendments to the licences or agreements whether or not terminated or valid;
- (b) details of exemptions from, or variations or suspensions of, the conditions of a licence;
- (c) licences; and
- (d) all assignments and other approved arrangements in respect of the licence.

(2) The information referred to in subsection (1) shall be available to any person upon payment of the required fee, as prescribed by regulations.

77. Confidentiality of data

(1) Except as provided under this Act and the Access to Information Act, 2005, all data submitted to the Government by a licensee shall be kept confidential and shall not be reproduced or disclosed to third parties by any party under this Act, except in the case of disclosure by the licensee, with the prior written consent of the Government.

(2) The consent under subsection (1) shall not be unreasonably withheld or delayed.

(3) The provisions of subsection (1) shall not prevent disclosure by a licensee—

- (a) to a licensee affiliated company, its home Government or any department, agency or as required by law;

- (b) to a recognised stock exchange on which shares of the licensee or its affiliated companies are traded;
- (c) to financial institutions, professional advisers, arbitrators or experts appointed under this Act;
- (d) to *a bona fide* prospective assignee of a participating interest;
- (e) to a corporation with which the licensee is conducting *bona fide* negotiations directed towards commercial engagements, upon fifteen days prior written notice to the Government identifying the parties to which disclosure will be made.

(4) The Government may veto any disclosure under subsection (3) where a party to which the disclosure is proposed is in bona fide discussions with the Government regarding rights to conduct petroleum operations in Uganda-

- (a) by the Government—
 - (i) to an agency of the Government;
 - (ii) to a financial institution or person acting as a consultant or professional adviser to the Government;
 - (iii) to arbitrators and experts appointed under this Act or under an agreement made under this Act; or
 - (iv) for statistical purposes;
- (b) by the licensee or one or more of the subsidiaries of the licensees;
- (c) by a Government order, decree, regulation or rule of any recognized stock exchange on which it or its affiliated company's shares are listed.

(5) All data disclosed to third parties shall be disclosed on terms, which to the extent possible ensure that they are treated as confidential by the recipient for so long as the data remains subject to the confidentiality undertakings.

(6) The data provided under subsection (3) shall be treated with confidentiality and shall not be disclosed to third parties without the written consent of the Government.

(7) None of the parties under this section shall be bound by the confidentiality undertaking referred to in subsection (4) with respect to any data which is in the public domain through no fault of the party or which has already been known by the party before the effective date of the agreement or which became known to that party other than by reason of a breach of the undertakings in subsection (4).

PART XII—OFFENCES

78. Prohibition against disclosure of information

(1) Subject to subsection (2), information furnished, or information in a report submitted under this Act by a licensee shall not be disclosed to any person who is not a Minister or an officer in the public service except with the consent of the licensee.

(2) Nothing in subsection (1) operates to prevent the disclosure of information when the disclosure is made—

- (a) after the licence concerned has ceased to have effect;
- (b) for and in connection with the implementation of this Act;
- (c) for the purpose of or in connection with any legal proceedings;
- (d) to any consultant employed to advise the Government on matters relating to petroleum;

- (e) for or in connection with the preparation by or on behalf of the Government of statistics in relation to petroleum operations;
- (f) to a financial institution for or in connection with financial arrangements or advice in relation to petroleum operations;
- (g) for or in connection with the determination of any liability of the licensee to make any payment to the Government; or
- (h) for or in connection with any matter, or for any purpose, prescribed in a petroleum agreement.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred currency points or imprisonment not exceeding five years or both.

(4) In proceedings on a prosecution for an offence under this section, it shall be a sufficient defence if the person charged proves that the information disclosed and to which the prosecution relates was, without that disclosure, generally known to the public.

79. Obstruction of employee of Authority

A person who—

- (a) without reasonable excuse, obstructs, molests or hinders an employee of the Authority or an authorised officer in the exercise of his or her powers under this section; or
- (b) knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to an employee of the Authority or an authorised officer engaged in carrying out his or her duties and functions under this Act,

commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment not exceeding five years or both.

80. Powers of inspectors

(1) For the purposes of this Act, an inspector may, at any reasonable time, enter any area, place or premises that the inspector reasonably believes is used for the purposes of, or in connection with, a petroleum activity, including any area place or premises believed to be used only for the storage of equipment or for the keeping of any accounts, documents or records relating to such an activity.

(2) This section shall not be taken to authorize entry into any premises or part of any premises that is being used as a private dwelling except with the consent of the occupant or under the authority of a warrant issued in accordance with law.

(3) An inspector who enters an area, place or premises under this section shall have full and free access to any plant, equipment storage area and facility therein.

(4) The owner or person in charge of any area, place or premises referred to in subsection (1) and any person found there shall give an inspector reasonable assistance for the purpose of the exercise of the inspector's powers under this Act.

(5) Without limiting the general effect of the foregoing provisions of this section, the inspector may—

- (a) direct the person in charge to produce for inspection any substance or articles manufactured, produced, transmitted or stored on the premises, or any books, accounts or records kept there;
- (b) take samples of any such substance or articles, and make copies of or take extracts from any such book, account or record;
- (c) inspect machinery, equipment, appliances, meters, fittings and apparatus; and
- (d) inspect any common carrier, facility, plant or installation.

81. Obstruction of inspector

A person who—

- (a) willfully delays or obstructs an inspector in the exercise or performance of the inspector's powers and functions;
- (b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of the exercise of the inspector's powers under this Act; or
- (c) knowingly or negligently gives an inspector false or misleading information in answer to any inquiry made by the inspector;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding five years or both.

82. Obstruction of licensee

A person who, without reasonable excuse, obstructs, molests, hinders or prevents a licensee in or from doing any act which the licensee is authorised to do by this Act or his or her licence commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment not exceeding five years or both.

83. Offences committed by a body corporate

Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, commits that offence and is liable to be prosecuted and punished accordingly.

84. Orders for forfeiture

(1) Where a person is convicted of an offence under this Act, the court may in addition to any other penalty imposed, make—

- (a) an order for the forfeiture of any funds, money instruments, documents, facilities, vehicles, crafts, vessels or equipment used in the commission of the offence; and
- (b) an order—
 - (i) for the forfeiture of petroleum processed or transported or stored in the course of the commission of the offence;
 - (ii) for the payment by that person to the Government of an amount equal to the proceeds received of the sale of petroleum so processed or transported or stored; or
 - (iii) for the payment by that person to the Government of the value at the delivery point, assessed by the court in respect of the quantity recovered or for the payment of such a part of that amount as the court, having regard to all the circumstances, deems 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, upon 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) or both.

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

85. Contravention of decisions and orders issued under this Act

A person who wilfully or negligently contravenes any directive issued under this Act commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding five hundred currency points or imprisonment not exceeding five years or both; or
- (b) in the case of a body corporate, to a fine not exceeding five thousand currency points.

PART XIII—MISCELLANEOUS

Complaints and settlement of disputes

86. Right of complaint

(1) A person may submit a written or oral complaint to the Authority in respect of the provision or operation of a petroleum facility or undertaking a petroleum activity.

(2) The Authority shall examine and determine a complaint submitted to it and take appropriate action within a period not exceeding forty days from the date of receipt of the complaint.

(3) A person who has made a complaint to the Authority where—

- (a) no action is taken on the complaint within the period specified, or
- (b) that person is dissatisfied with the action taken by the Authority may submit the complaint to the Minister for further investigation.

(4) The Minister shall investigate a complaint received by him or her unless he or she is of the opinion that—

- (a) the complaint is trivial, frivolous, vexatious or not made in good faith;

- (b) the complaint is the same subject already under investigation or before a court, or
- (c) the complaint is prejudicial to national security.

(5) The Minister shall within thirty working days of the receipt of a complaint make an appropriate determination together with a statement of reasons for the determination made.

87. Settlement of disputes

(1) The licensee in a dispute concerning a contractual matter that arises with respect to—

- (a) tariff by a refinery or gas processing plant, or pipeline or storage facility;
- (b) margins set by traders;
- (c) freight rates for the transportation of petroleum;
- (d) fees rates for the storage of petroleum;
- (e) price set by petroleum producers;
- (f) any other matter designated by the Authority; or
- (g) shall negotiate in good faith to reach an amicable settlement of the dispute.

(2) Where the dispute cannot be amicably settled through negotiation, the aggrieved party may submit the dispute to the Authority for arbitration.

(3) The Authority shall after consultation with the Minister, set up an arbitration panel under the Arbitration and Conciliation Act, (Cap 4) to arbitrate and settle the dispute.

88. Maintenance of property

(1) A licensee shall—

- (a) maintain in good condition and repair, all structures, equipment and other property in the licensed facility and used in connection with the operations in which he or she is engaged;
- (b) remove from licensed facility area, all structures, equipment and other property that are not either used or to be used in connection with those operations; and
- (c) take reasonable steps to warn persons who may, from time to time be in the vicinity of any such structure, equipment or other property, of the presence of the structure, equipment or other property and the possible hazards resulting from the activities of the licensee.

(2) A licensee who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one thousand currency points.

89. Agreements between affiliated companies

(1) The Minister may, where particular reasons warrant, consent to the licensee entering into an agreement, authoring a parent company or a company with which the licensee is affiliated in a similar manner, to undertake the activities on behalf of the licensee.

(2) It shall be a condition for the consent referred to in subsection (1), that the arrangement will not result in less tax revenues to Uganda.

90. Security for fulfilment of obligations

Upon granting a licence, the licensee shall provide such security as prescribed by regulations for fulfilment of the obligations, which the licensee has undertaken, as well as for possible liability in connection with the petroleum activities.

91. Responsibility for commitments

Licensees who jointly hold a licence are jointly and severally responsible to the state for financial and other obligations arising out of petroleum activities under the licence.

92. Liability for damage caused

Where liability in respect of a third party is incurred by any person who undertakes tasks for a licensee, the licensee is liable for damages to the same extent as, and jointly and severally with the perpetrator and, if applicable, his or her employer.

93. Information required by Minister or Authority

(1) Where the Minister or Authority has reason to believe that a person is in possession of any information or data relating to petroleum activities or the petroleum processed, transported or stored or to the value of the petroleum, the Minister or Authority may, by notice in writing, require that person—

- (a) to provide the Minister or Authority with that information or data within the period, and in the manner specified in the notice;
- (b) to attend before the Minister or Authority or a person identified in the notice at such time and place as may be specified and to answer questions relating to those petroleum activities or to the value of the petroleum,; or
- (c) to provide to a person identified in the notice at such time and place as is so specified, the information or data in his or her custody or power relating to those activities or the petroleum processed, transported or stored or to the value of the petroleum.

(2) A person shall not be excused from providing information or data, or answering a question when required to do so under this section on the ground that the information or data so furnished or the answer to the question might tend to incriminate him or her to make him or her liable to a penalty.

(3) Any information or data provided under subsection (2) or any answer to a question shall not be admissible in evidence against the person submitting it in any proceedings other than proceedings for an offence against this section.

(4) Where any data is provided in accordance with a requirement under subsection (1) (c), the person to whom it is made available may make copies or take extracts from the data.

(5) Any person who—

(a) refuses or fails to comply with the requirement in a notice under subsection (1) to the extent to which he or she is capable of complying with it;

(b) in purported compliance with any requirement referred to in subsection (1), knowingly or recklessly makes a statement or furnishes any information or data that is false or misleading in a material particular,

commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment not exceeding five years or both.

94. Powers of Authority and authorised officers

(1) For the purposes of this Act, the Authority or an authorised officer may, at all reasonable times—

(a) with respect to the health and safety of persons employed by a licensee in or in connection with any petroleum activity, issue directions to and impose restrictions on the licensee or any persons so employed, by instrument in writing;

(b) order, by instrument in writing—

- (i) the cessation of petroleum activities on or in, and the withdrawal of all persons from any structure or building that is being used in connection with any petroleum activities; or
- (ii) the discontinuance of the use of any machinery or equipment or chemical, which he or she considers unsafe, until such action as is necessary for safety and specified in the instrument is taken and completed; and
- (c) make such examinations and inquiries as may be necessary to ensure that the provisions of this Act, and any directions issued, conditions imposed or orders made under this Act, are being complied with.

(2) An authorised officer shall, before exercising any of his or her powers under subsection (1) identify himself or herself to any person 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, and to any person to whom he or she is about to give the order or direction.

(3) A person who is an occupier of or is in charge of any building, structure or place, or a person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1) shall provide an authorised officer with all reasonable facilities and assistance, including the provision of the necessary means of transport, for the effective exercise of the powers of the authorised officer under this section.

95. Service of documents

(1) A document or notice required or permitted served on, or given to, a person under or for the purposes of this Act, may be served—

- (a) in the case of an individual, other than the Minister or Authority, by serving it personally upon the individual or by sending it by post to him or her at his or her usual or last known place of abode or business;
- (b) in the case of the Minister or the Authority, in such manner as may be prescribed;
- (c) in the case of a body corporate—
 - (i) by leaving it at the registered or principal office of the body corporate;
 - (ii) by sending it by post to the body corporate at the registered or principal office of the body corporate; or
 - (iii) by delivering it to an individual in the employment or acting on behalf of the body corporate that is authorised by the body corporate to accept service of or to receive the document.

(2) For the purposes of subsection (1)(c), the principal office of a body corporate incorporated outside Uganda is its place of business established under Part X of the Companies Act, Cap. 110.

(3) Any notice or document may be served on the Authority by delivering it at the office of the Authority, or by sending it by registered post to the office of the Authority.

96. Indemnity of the Republic of Uganda

A licensee shall, at all times, keep the Government indemnified against all actions, claims and demands that may be brought or made against the Government by reason of anything done by the licensee in the exercise or purported exercise of the rights of the licensee under this Act or his or her licence.

97. Right to place facilities, etc

(1) A licensee shall allow the laying of pipelines, cables or wires of various kinds, or the placing of other facilities on, in or above the area covered by the petroleum operations or activities under the licence.

(2) The facilities referred to in subsection (1) must not cause unreasonable inconvenience to the licensee.

98. Regulations

(1) The Minister may in consultation with the Authority, by statutory instrument, make regulations generally for giving effect to the provisions of this Act and for its due administration.

(2) Without limiting the general effect of subsection (1), the Minister may make regulations relating to—

- (a) the application for licences under this Act;
- (b) the manner and place of delivery of petroleum;
- (c) confidentiality;
- (d) the licensee's obligation to make information on the activities under this Act available to the public;
- (e) the conservation and prevention of the waste of natural resources, whether petroleum or otherwise, and the carrying out of environmental impact assessments for that purpose;
- (f) the form and content of, and conditions with respect to applications for the grant and renewal of licences;
- (g) the construction, erection, maintenance, operation or use of installations or equipment;

- (h) the prevention and control of, and the liability for petroleum pollution;
- (i) storage of petroleum;
- (j) transportation of petroleum;
- (k) the methods to be used for the measurements of petroleum, water and other utilities;
- (l) minimum working stocks for a refinery, transportation or storage facility;
- (m) tariff structures for pipelines and storage facilities;
- (n) tariff structures for refineries and gas processing plants;
- (o) the safety and welfare standards and the health and safety of persons employed in petroleum facilities;
- (p) the production to the Authority of reports, returns and other information;
- (q) the transfer of licences or interests in licences;
- (r) the manner in which the petroleum information will be arranged and kept, the obligation for notification of transfers and other alterations in connection with the licence, and other aspects of registration;
- (s) the procedures for handling of administrative appeals;
- (t) the criteria for approval of competent entities owned by Ugandans for the provision of goods and services;

- (u) emergency preparedness, including the ordering of co-operation between several licensees in matters of emergency preparedness;
- (y) the sharing of facilities;
- (z) access to facilities and determining the extent of safety zones;
- (aa) the laying of pipelines, cables or wires and the placing of other facilities on, in or above a licensed facilities;
- (ab) the annual charges and fees payable under this Act;
- (ac) the fees to be paid in respect of any matter or thing done under this Act;
- (ad) reporting requirements of any venting or flaring;
- (ae) decommissioning of facilities and works to be carried out during decommissioning;
- (af) management and operation of the decommissioning fund; and
- (ag) generally for the better carrying out of the purposes of this Act and the prescription of anything required or authorized to be prescribed under this Act.

(3) Regulations made under subsection (1) may, in respect of any contravention of any of the regulations—

- (a) prescribe a penalty of a fine not exceeding five thousand currency points or imprisonment not exceeding ten years, or both;

- (b) in the case of a continuing contravention, prescribe an additional penalty not exceeding five hundred currency points in respect of each day on which the office continues;
- (c) prescribe a higher penalty not exceeding five thousand five hundred currency points or imprisonment not exceeding twelve years or both in respect of a second or subsequent contravention;
- (d) provide for the forfeiture of anything used in the commission of the offence.

99. Codes of practice

The Minister may issue codes of practice for the purposes of setting or endorsing standards or specifications concerning the design, construction and installation of petroleum facilities or the processing, transportation, storage and refining of petroleum.

100. Amendment of Schedule

The Minister may, with the approval of Cabinet, by statutory instrument, amend the Schedule to this Act.

101. Obligation to comply with this Act

(1) A licensee and any other person engaged in petroleum activities under this Act are obliged to comply with the Act, regulations, decisions and directions issued under this Act.

(2) A licensee shall ensure that any person working for him or her, either personally, through employees or through contractors or subcontractors, complies with this Act.

102. Application of this Act

This Act shall be read together with the Petroleum (Exploration, Development and Production) Act, 2012, the Petroleum Supply Act, 2003, Act No. 13 of 2003 and any other law relating or relevant to petroleum refining, gas processing and conversion, transportation and storage of petroleum in Uganda.

103. Compliance with conditions of licence

(1) Where the Authority is of the opinion that the licensee is contravening a condition of a licence or a requirement under this Act or regulations, codes or standards made under this Act, he or she shall direct the licensee to comply with that condition or requirement.

(2) A directive requiring a licensee to comply under subsection (1) shall be sent to the licensee and to other directly affected parties and shall—

- (a) contain the relevant condition of the licence or requirement of the Act or regulations to which the breach relates;
- (b) contain the acts, omissions or other facts which, in the opinion of the Authority, constitute a contravention of the condition or requirement;
- (c) specify a period, not being less than twenty days from the date of receiving the notice, within which representations or objections may be made by the licensee or directly affected parties; and
- (d) specify the period within which the licensee may rectify the breach or contravention.

(3) The Authority shall take into consideration all representations made before notifying the licensee and directly affected parties of his or her decision to either—

- (a) uphold the order of compliance;
- (b) vary the original order of compliance; or
- (c) withdraw the order of compliance.

104. Force majeure

(1) Any failure on the part of a licensee or Government to fulfil any of the conditions of his or her licence or to meet any requirement of this Act or of a petroleum agreement shall not constitute a breach of the licence or of this Act or the agreement, insofar as the failure results from an act of war, hostility, insurrection, storm, flood, earthquake or such other natural phenomenon beyond the reasonable control of the licensee, or from any other cause prescribed in the licence or the petroleum agreement as constituting force majeure.

(2) Where a licensee fails to fulfil any of the conditions of his or her licence because of the occurrence of circumstances referred to in subsection (1), he or she shall immediately notify the Minister, giving particulars of the failure and its cause.

(3) Where a licensee is prevented from exercising any of his or her rights or discharging his or her obligations under the licence for any period because of the occurrence of circumstances of a kind referred to in subsection (1), then that period shall be added to the period during which the licensee would otherwise have been obliged to discharge those obligations.

(4) This section does not apply with respect to any requirement under a licence or this Act to make any payment of, annual charges, rent or fees.

PART XIV—TRANSITIONAL

105. Continuation of licence

(1) A licence issued by the Government of Uganda which is in force immediately before the commencement of this Act—

- (a) shall have effect from the commencement of this Act as if granted under this Act; and

- (b) in the case of a licence for a specified period, shall remain in force, subject to this Act, for so much of that period as falls after the commencement of this Act.

(2) The terms and conditions including the rights and obligations under a licence in force immediately before the commencement of this Act, shall be no less favorable than those that applied immediately before the commencement of this Act.

106. Continuation of offices

All persons who, immediately before the commencement of this Act were employed in the activities of petroleum refining, gas processing and conversion, transportation or storage shall be absorbed in the new department responsible for petroleum refining, gas processing and conversion, transportation and storage.

SCHEDULE

Section 3

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

Cross References

Access to Information Act, 2005, Act No. 6 of 2005
Arbitration and Conciliation Act, Cap 4
Commissions of Inquiry Act, Cap. 166
Companies Act, Cap. 110
Constitution of the Republic of Uganda, 1995
Land Act, Cap. 227
Mining Act, 2003, Act No. 9 of 2003
National Environment Act, Cap. 153
Occupational Safety and Health Act, 2006, Act No. 9 of 2006
Public Finance and Accountability Act, 2003, Act No. 6 of 2003
Uganda National Bureau of Standards Act, Cap. 327

BILLS SUPPLEMENT

to the Uganda Gazette No. 8 Volume CV dated 7th February, 2012.

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*Petroleum Refining, Gas Processing and Conversion,
Bill No. 2 Transportation and Storage) Bill 2012*

**THE PETROLEUM (REFINING, GAS PROCESSING AND
CONVERSION, TRANSPORTATION AND STORAGE) BILL, 2012**

MEMORANDUM

1. Policy and principles of the Bill

In 2008 the Government of Uganda published a National Oil and Gas policy for Uganda. The Policy requires new legislation to operationalise the policy measures.

The policy goal as stated in the Policy was to use Uganda's oil and gas resources to contribute to early achievement of poverty eradication and to create lasting value to society.

The objects and principles of the Bill are—

To give effect to article 244 of the Constitution; to regulate, petroleum refining, gas processing and conversion, transportation and storage of petroleum, to promote policy formulation, coordination and management of petroleum refining, gas processing and conversion, transportation and storage; to provide for third party access to infrastructure; to provide for an open, transparent and competitive process of licensing by the Minister responsible for petroleum; to provide for health and safety environment; to provide for cessation of petroleum activities and decommissioning of petroleum facilities and infrastructure and to provide for related matters.

2. Defects in the existing law

The legal framework that currently governs the operations of the petroleum industry includes- the Petroleum Exploration and Production Act Cap 150 and the Petroleum Supply Act, 2003, No.13 of 2003. The Petroleum Exploration and Production Act, Cap 150 spans a period of more than two decades, is now obsolete and does not cover the midstream petroleum operations, environmental protection and conservation, and the new emerging challenges created by the discovery of commercial petroleum resources in Uganda.

3. Need for the new legislation

The defects in the existing legislation, the Oil and Gas Policy of Uganda, 2008, and the need to give full effect to article 244 of the Constitution requires new legislation to regulate the midstream petroleum operations.

4. Remedies

The Bill will enable Uganda to develop the petroleum industry in a sustainable and efficient manner, in activities of petroleum refining, gas processing and conversion, transportation and storage and in particular value addition to the petroleum.

5. Provisions of the Bill

The Bill has fourteen Parts and one Schedule.

PART I—PRELIMINARY

This Part deals with preliminary matters relating to the commencement of the Act, purpose of the Act, interpretation of the words and phrases used in the Bill and environmental principles.

PART II—INSTITUTIONAL ARRANGEMENTS

Clauses 5 to 7 deal with the institutional arrangements. Clause 5 provides for the Petroleum Authority of Uganda. Clause 6 provides for the functions of the Authority. Clause 7 provides for the National Oil Company.

PART III—LICENSING

Clauses 8 to 38 provide for agreements with Government, licensing and other related matters. Clause 8 provides for agreements with Government. Clause 9 provides for activities relating to crude oil and gas requiring a licence and Clause 10 deals with application for Licence. Clause 11 provides for activities not requiring a licence. Clause 12 provides for publication of notice of applications. Clause 13 provides for requirements for granting a licence. Clause 14 provides for objection to an application. Clause 15 provides for approval of application for licence. Clause 16 provides for grant of licence. Clause 17 provides for activities authorised by licence. Clause 18 provides for grounds for rejection of application for licence. Clause 19 provides for conditions for a licence. Clause 20 empowers the Minister to require information. Clause 21 provides for duration of licence to construct or operate the petroleum refining or gas facility which is initially five years and upon construction, the licence may be granted for fifteen years, and thereafter, may be renewed for a period of five years at a time. Clause 22 provides for annual fee. Clause 23 provides for application for renewal of licence. Clause 24 provides for renewal of a licence. Clause 25 provides for disclosure of co-operation agreement by applicants. Clause 26 provides for transfer or lease of licence under this Act. Clause 27 provides for work practices for licensees. Clause 28 provides for processing, transportation, transmission or storage of unauthorised substance. Clause 29 provides for notice to cease operation. Clause 30 provides for surrender of licence. Clause 31 provides for suspension or cancellation of a licence. Clause 32 provides for consequences of cancellation, surrender of rights or lapse for other reasons. Clause 33 provides for formation of cartels and monopolies. Clause 34 provides for non-discrimination. Clause 35 provides for methods and practices for storage of petroleum. Clause 36 provides for methods and practices for transportation or transmission of petroleum. Clause 37 provides for meetings of Authority with Licensees. Clause 38 provides for register of licences.

PART IV—VENTING AND FLARING

Clause 39 provides for restrictions on flaring or venting

PART V—PETROLEUM ACQUISITION AND PRICING

Clauses 40 to 43 provide for petroleum acquisition and pricing. Clause 40 provides for crude oil or gas acquisition and pricing. Clause 41 provides for petroleum products pricing, Clause 42 provides for supplies or deliveries to cover Uganda requirements. Clause 43 provides for supplies or deliveries in the event of war, threat of war or other crisis, etc.

PART VI—CESSATION OF PETROLEUM ACTIVITIES

Clauses 44 to 52 provide for cessation of petroleum activities. Clause 44 provides for decommissioning plan. Clause 45 provides for the decommissioning fund. Clause 46 provides for notification of termination of use. Clause 47 provides for disposal of decommissioned facilities. Clause 48 provides for removal of property by licensee. Clause 49 provides for removal and sale of property by the Authority. Clause 50 provides for liability for damages for disposal of decommissioned facility. Clause 51 provides for encumbrances. Clause 52 provides for takeover of facilities by Government.

PART VII—STATE PARTICIPATION AND NATIONAL CONTENT

Clauses 53 to 56 provide for state participation and national content. Clause 53 provides for state participation in petroleum activities. Clause 54 provides for provision of goods and services by Uganda entrepreneurs. Clause 55 provides for training and employment of Ugandans. Clause 56 provides for training and technology transfer.

PART VIII—USE OF LICENCE AS SECURITY

Clause 57 provides for use of licence as security.

PART IX—LIABILITY FOR DAMAGE DUE TO POLLUTION

Clauses 58 to 64 provide for liability for damage due to pollution. Clause 58 provides for the meaning of pollution damage. Clause 59 provides for application of Part IX. Clause 60 provides for liability of a licensee for pollution damage. Clause 61 provides for liability for pollution damage caused without a licence. Clause 62 provides for claiming of damages. Clause 63 provides for recourse for pollution damage. Clause 64 provides for jurisdiction.

PART X—HEALTH AND SAFETY

Clauses 65 to 73 provide for health and safety. Clause 65 provides for safety. Clause 66 provides for safety precautions. Clause 67 provides for general requirements for emergency preparedness. Clause 68 provides for emergency preparedness against deliberate attacks. Clause 69 provides for safety zones. Clause 70 provides for suspension of petroleum activities, etc. Clause 71 provides for requirement to submit safety documentation. Clause 72 provides for qualifications to perform work in a prudent manner. Clause 73 provides for commission of inquiry.

PART XI—INFORMATION AND DOCUMENTATION

Clauses 74 to 77 provide for information and documentation. Clause 74 provides for information, data, reports and records, etc. Clause 75 provides for duties on termination of licence. Clause 76 provides for availability of information to the public. Clause 77 provides for confidentiality of data.

PART XII—OFFENCES

Clauses 78 to 85 provide for offences. Clause 78 provides for prohibition against disclosure of information. Clause 79 provides for obstruction of Commissioner or employee of Authority. Clause 80 provides for powers of inspectors. Clause 81 provides for obstruction of inspector. Clause 82 provides for an offence against obstructing a licensee. Clause 83 provides for offences committed by a body

corporate. Clause 84 provides for orders for forfeiture to be issued by the Court upon convicting a person. Clause 85 provides for contravention of decisions and orders issued under this Act.

PART XIII—MISCELLANEOUS

Clauses 86 to 104 provides for miscellaneous matters. Clause 86 provides for right of complaint. Clause 87 provides for settlement of disputes. Clause 88 provides for maintenance of property. Clause 89 provides for agreements between affiliated companies. Clause 90 provides for security for fulfilment of obligations. Clause 91 provides for responsibility for commitments. Clause 92 provides for liability for damage caused. Clause 93 provides for information required by Minister or Authority. Clause 94 provides for powers of Authority and authorised officers. Clause 95 provides for service of documents. Clause 96 provides for indemnity of the Republic of Uganda. Clause 97 provides for right to place facilities, etc. Clause 98 provides for regulations to be made by the Minister. Clause 99 provides for codes of practice to be issued by the Minister. Clause 100 provides for amendment of the Schedule by statutory instrument. Clause 101 provides for obligation to comply with this Act. Clause 102 provides for application of the Act. Clause 103 provides for compliance with conditions of licence. Clause 104 provides for force majeure.

PART XIV—TRANSITIONAL

Clauses 105 and 106 provide for transitional. Clause 105 provides for continuation of licence. Clause 106 provides for continuation of offices.

SCHEDULE

The Schedule provides for the value of a currency point which is equivalent to twenty thousand shillings.

HON. ENG. IRENE MULONI (MP)
Minister of Energy and Mineral Development.

*Petroleum (Refining, Gas Processing and Conversion,
Transportation and Storage) Bill*

Bill No. 2

2012