



No 29 of 2001.

Oil and Gas (Amendment) Act 2001

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2001.

Oil and Gas (Amendment) Act 2001.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

AN ACT

entitled

Oil and Gas (Amendment) Act 2001,

Being an Act to amend the *Oil and Gas Act 1998*,

Made by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with and in accordance with, the advice of the Minister.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS, ETC.
(AMENDMENT OF SECTION 1).

Section 1(2) of the Principal Act is amended by inserting after Paragraph (h) the following new paragraph :-

“(ha) the construction, maintenance or operation of facilities (including, without limitation, access roads, docks, ports, airports, marinas and accommodation) to be used by a licensee in connection with the prospecting for, recovery, conveyance or processing of petroleum or petroleum products; and”.

2. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3(1) of the Principal Act is amended -

(a) by repealing the definition of "buffer zone" and replacing it with the following--

"buffer zone" means , in relation to a petroleum project, the area around the dedicated project facilities of that petroleum project determined by the Minister to be the buffer zone for that petroleum project , but does not include land within a petroleum development licence pursuant to which the petroleum project is conducted or any land not within five kilometers of a dedicated project facility;" and

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- (b) by repealing the definition of "the Chief Warden" and replacing it with the following :-

"the Chief Warden" means the Chief Warden appointed under Section 119(1)(a); and

- (c) by inserting after the definition of "the Company" the following new definitions:-

"customary land" means land that is owned or possessed by an automatic citizen or community of automatic citizens by virtue of rights of proprietary or possessory kind that belonged to that citizen or community and arise from and are regulated by custom;

"customary land owner" means a person who has an interest in customary land; and

- (d) by inserting after the definition of "dedicated project facility" the following new definition:-

"Department" means the Department responsible for petroleum matters; and

- (e) in the definition of "development forum" by inserting after the word "meeting" the following :-

"or combination of meetings" and

- (f) by repealing the definition of "gas field" and replacing it with the following :-

"gas field" means a petroleum pool consisting, in some part, of petroleum recoverable as natural gas at the surface where oil recovery is not, or is not expected to be, the primary object of petroleum recovery"; and

- (g) by inserting after the definition of "gas field" the following new definition :-

"gas operations" means petroleum operations relating to the recovery of, processing, transportation or sale of petroleum recovered from a gas field;" and

- (h) in the definition of "gas project" by repealing Paragraph (b) and replacing it with the following :-

"(b) where a gas agreement applies to the project -- a petroleum project, as and to the extent defined in such gas agreement, having the purpose of recovering --

(i) natural gas; and

(ii) other petroleum which is incidental to the recovery of natural gas or which is otherwise dealt with in or the subject of that gas agreement; and

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- (i) by inserting after the definition of "offshore area" the following new definitions:—
- “operator” means, in relation to a licence —
- (a) where there is only one registered holder of that licence — that registered holder; and
 - (b) in all other cases — the person, who shall be a licensee, for the time being designated by the operating agreement, in respect of that licence as the operator of operations conducted in relation to that licence;
- “operating agreement” means, in respect of a licence, the agreement executed between the holders of that licence and provided to the Director pursuant to Section 123A in relation to that licence.” and
- (j) in the definition of “project area landowners” by repealing the words “have customary rights of ownership or” and replacing them with the following :—
- “are customary land owners or who have”; and
- (k) by repealing the definition of “Warden” and replacing it with the following —
- “Warden” means a Warden appointed under Section 119(1) (b);”.

3. PETROLEUM ADVISORY BOARD (AMENDMENT OF SECTION 13).

Section 13 of the Principal Act is amended —

- (a) by repealing Subsection (2) and is replacing it with the following :—
- "(2) Subject to Subsection (3), the Board shall consist of—
- (a) the Director, who shall be the Chairman, or his delegate; and
 - (b) the Secretary of the Department responsible for national planning matters or his delegate appointed in writing and furnished to the Director; and
 - (c) the Secretary of the Department responsible for treasury matters or his delegate appointed in writing and furnished to the Director; and
 - (d) the Secretary of the Department responsible for provincial and Local government matters or his delegate appointed in writing and furnished to the Director; and
 - (e) the Director of Petroleum Division of the Department, who shall be the Deputy Chairman, or his delegate appointed in writing; and
 - (f) the Chief Inspector appointed pursuant to Section 151 or his delegate appointed in writing and furnished to the Director; and
 - (g) the Director of the Investment Promotion Authority or his delegate appointed in writing and furnished to the Director.” and
- (b) by inserting after Subsection (3) the following new subsections :—
- " (3A) In the absence of the Chairman, the Deputy Chairman appointed pursuant to Section 13(2)(e) shall act as Chairman and exercise all powers and responsibilities of the Chairman.

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" (4) For the purposes of this section, a delegate appointed under this section shall be a senior officer at the assistant secretary level or above."

4. MEETINGS OF THE BOARD (AMENDMENT TO SECTION 14).

Section 14(2)(a) of the Principal Act is repealed and is replaced with the following –

"(a) the Chairman or in his absence the Deputy Chairman, and three other persons specified in Section 13(2) are the quorum."

5. NOTIFICATION OF GRANT OF PETROLEUM RETENTION LICENCE (AMENDMENT OF SECTION 39).

Section 39 of the Principal Act is amended –

(a) in Subsection (1)(d) by repealing Subparagraph (ii) and replacing it with the following:–

"(ii) the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will be subject, and with the provisions of this Act, and to pay the first annual fee; or"; and

(b) in Subsection (5) by repealing Paragraph (c) and replacing it with the following:–

"(c) the applicant does not lodge with the Director the security referred to in Subsection (1)(d)(ii), and does not pay the first annual fee referred to in that Subsection."

6. GRANT OR REFUSAL OF PETROLEUM RETENTION LICENCE (AMENDMENT OF SECTION 40).

Section 40 of the Principal Act is amended –

(a) in Subsection (1) by repealing Paragraph (d) and replacing it with the following:–

"(d) lodge with the Director the security and the first annual fee referred to in Section 39(1)(d)(ii); and

(b) in Subsection (2)(a) by repealing Subparagraph (ii) and replacing it with the following:–

"(ii) lodge with the Director the security and the first annual fee referred to in Section 39(1)(d)(ii); and"

7. RIGHTS CONFERRED BY PETROLEUM RETENTION LICENCE (AMENDMENT OF SECTION 42).

Section 42 of the Principal Act is amended –

(a) by adding at the end of Paragraph (c) the following:–

“; and”; and

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(b) by inserting at the end of that section the following new subsection :-

“(d) if authorized by the Director, to complete wells, carry out drill stem tests or extended production tests for appraisal of a petroleum pool (including the construction and the operation of pipes and facilities to gather and transport petroleum to a point of testing or treatment or disposal), and to recover and sell or otherwise dispose of all petroleum so produced.”.

8. **SOCIAL MAPPING AND LANDOWNER IDENTIFICATION STUDIES
(AMENDMENT TO SECTION 47).**

Section 47 of the Principal Act is amended -

“(a) in Subsection (4) by inserting after the word “customary” the following :-

“land”; and

(b) by repealing the words “and the occupants of the land”; and

(c) by repealing Subsection (5) and replacing it with the following :-

“(5) If a licensee or a person makes an application for a petroleum development licence under Section 53, the licensee shall submit with that application a full-scale social mapping study and landowner identification study of customary land owners in -

(a) the licence area of that petroleum development licence; and

(b) other licence areas, including pipeline areas, which pertain to that petroleum development licence; and

(c) the land within five kilometres of any facility which would be a dedicated project facility (other than a facility which would be situated on such a petroleum development licence) of the petroleum project; and

(d) other areas which would be affected by the petroleum project if developed.”; and

(d) by inserting after Subsection (5) the following new subsection :-

“(5A) If a licensee makes an application for a variation of a licence under Section 58(1), to include an additional block or blocks in a petroleum development licence, the licensee shall submit with that application a full-scale social mapping study and landowner identification study of customary land owners in -

(a) the additional block or blocks that will form part of that petroleum development licence; and

(b) other licence areas, including pipeline easements, which are associated with the petroleum development licence upon variation of such licence; and

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- (c) the land within five kilometres of any facility which would be a dedicated project facility (other than a facility which would be situated on such a petroleum development licence) of the petroleum project; and
- (d) other areas which would be affected by the development of the additional block or blocks."

9. **DEVELOPMENT FORUM (AMENDMENT TO SECTION 48).**

Section 48 of the principal Act is amended –

(a) in Subsection (1) –

(i) by inserting at the beginning of that subsection the following :-

“Subject to Section 169(8),” and

(ii) by repealing Paragraph (b) and replacing it with the following :-

“(b) the persons, incorporated land groups or other entities determined under Section 169(2)” and

(iii) in Paragraph (f) by inserting after the words “ petroleum project” the following :-

“including customary land owners of pipeline licence areas,”; and

(b) in Subsection (2) –

(i) by repealing the word “ expansion” and replacing it with the following:-

“ variation under Section 58 (1)”; and

(ii) by repealing the word “ expanded” and replacing it with the following:-

“varied”.

10. **NEW SECTION 50A.**

The Principal Act is amended by inserting after Section 50 the following new section:-

“50A. COORDINATION OF BENEFITS FOR GAS PROJECTS.

(1) Where –

(a) licensees enter into a unit development under Section 64 or co-ordinated petroleum development under Section 65; or

(b) a gas agreement defines the extent of a particular gas project to include more than one licence,

the State and the project area landowners, the affected Local level-Governments and affected Provincial Governments may enter into a co-ordinated development agreement which may vary or replace an agreement or agreements in relation to petroleum projects under the former Act or a development agreement or agreements under this Act.

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"(2) A co-ordinated development agreement shall govern the matters subject to agreement referred to in Part IV of this Act and any other matter agreed to between the parties."

11. POWER TO SIGN AGREEMENTS (AMENDMENT OF SECTION 51).

Section 51 of the Principal Act is repealed and is replaced with the following –

"The Minister, acting with the approval of the National Executive Council, has the power to execute on behalf of the State a development agreement or a co-ordinated development agreement and any amendment of such agreements."

12. CONSULTATION WITH AFFECTED LOCAL-LEVEL GOVERNMENTS AND AFFECTED PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTION 52).

Section 52 (1) of the Principal Act is repealed and is replaced with the following –

"(1) The Minister, shall following notification to a tenement holder under Section 35(1), notify each Local-level Government and Provincial Government which would likely be an affected Local-level Government or affected Provincial Government of the petroleum project if developed, of the details of the notice served on the tenement holder."

13. NEW SECTION 52A.

The Principal Act is amended by inserting after Section 52 the following new section:–

"52A. COORDINATION OF DEVELOPMENT FORUM.

(1) When a licensee makes an application for petroleum development licence under Section 53 or a variation under Section 58(1) to include additional blocks, the licensee and the State shall agree a plan to co-ordinate a development forum that the Minister shall convene under Section 48 for a petroleum project.

(2) An applicant shall pay a prescribed amount, not exceeding K250,000.00, as its contribution towards the cost of the development forum, if a development forum is required under Section 48."

14. NOTICE OF APPLICATION TO BE PROVIDED TO THE COMPANY, ETC. (AMENDMENT OF SECTION 55).

Section 55 (1) of the Principal Act is repealed and is replaced with the following:–

"(1) On receipt of an application under Sections 53 or 73 or 86 in relation to an Orogen option project, the Director or the Minister, as the case may be, shall give written notice to the Company of the receipt of the application."

15. GRANT OR REFUSAL OF PETROLEUM DEVELOPMENT LICENCE (AMENDMENT OF SECTION 57).

Section 57(2)(b) of the Principal Act is amended by repealing Subparagraph (v) and replacing it with the following :–

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"(v) demonstrate that the applicant has adequately identified the persons who are the customary land owners in areas specified under Section 47(5); and.

16. **VARIATION OF PETROLEUM DEVELOPMENT LICENCE (AMENDMENT OF SECTION 58).**

Section 58 of the Principal Act is repealed and is replaced with the following :—

"(1) The holder of a petroleum development licence may make application to the Minister for a variation of the licence by the inclusion of an additional block or group of blocks —

- (a) having a side or sides in common, or touching, a block the subject of the petroleum development licence; and
- (b) subject to Subsection (2), not being the subject of a tenement held by a person other than the applicant.

"(2) The holder of a petroleum development licence may make an application under Subsection (1) for the inclusion of an additional block or group of blocks even though they are the subject of a tenement held by a person other than the applicant if —

- (a) the holder of the tenement in respect of the additional block or groups of blocks has entered into an agreement in writing with the holder of the petroleum development licence consenting to the variation; and
- (b) the State or Company pursuant to Sections 165 and 166 and the applicable petroleum agreement have an entitlement to acquire a participating interest in the additional blocks or group of blocks, and all of the affected tenement holders including the holder of the petroleum development licence, have entered into an agreement concerning the terms of the State or Company participation in the enlarged petroleum development licence; and
- (c) a copy of any such agreement is provided to the Minister with the application for the variation; and
- (d) any such agreement provided to the Minister shall have been lodged and registered in accordance with Section 100.

"(3) The Minister shall not approve an application under Subsection (1) unless he is satisfied, after considering a report of the Board, that the additional block or group of blocks proposed to be included in the licence contain a petroleum pool or part of a petroleum pool.

"(4) Where an application is made under Subsection (1), the Minister shall, after considering a report of the Board and having used all reasonable efforts, by instrument served on the applicant within one month from having received the application either —

- (a) inform the applicant that the variation of the licence by the inclusion of the additional block or group of blocks as the case may be will be approved, or
- (b) refuse the application in which case the existing licences remain in full force and effect.

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"(5) An applicant who has been served with an instrument under Subsection (4)(a) may, within one month after the date of service of the instrument on him or such further period as the Minister allows, by instrument served on the Director accept the variation and upon service of such instrument on the Director, the petroleum development licence shall be varied to include in the licence area the block or group of blocks to which the application relates.

"(6) From and including the day on which the variation of a licence takes effect under Subsection (5), the blocks included in the licence area by reason of the variation are –

- (a) subject to this Act, for the remainder of the term of the licence, blocks in respect of which an applicant's petroleum development licence is in force; and
- (b) any other licence that is in force in respect of the blocks so included is revoked in respect of those blocks.

"(7) The holders of a petroleum development licence may, at any time, make an application to the Minister for any other variation of the petroleum development licence.

"(8) An application under Subsection (7) shall –

- (a) specify the reason for the proposed variation; and
- (b) be made in an approved form and contain the information specified in Section 54.

"(9) The Director may require the applicant to furnish such further information in connection with his application as the Director considers necessary.

"(10) Following receipt of an application under Subsection (7) the Minister shall, after considering a report of the Board and any matters submitted to him under this section and having used all reasonable efforts, by instrument served on the applicant within two months from the date of receiving the application –

- (a) inform the applicant that he is prepared to approve the variation of the licence as stipulated in the application or as otherwise agreed with the applicant; or
- (b) refuse the application, in which case the existing petroleum development licence will remain in full force and effect.

"(11) An applicant who has been served with an instrument under Subsection (10)(a) may, within one month after the date of service of the instrument on him or such further period or periods as the Minister allows, by instrument served on the Director accept the variation and upon service of such instrument on the Director the petroleum development licence shall be varied as stipulated in the application or as otherwise agreed with the applicant."

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17. TERM OF PETROLEUM DEVELOPMENT LICENCE (AMENDMENT OF SECTION 60).

Section 60(b) of the Principal Act is amended –

- (a) by replacing the words “Section 63” and replacing them with the following :–
“Section 62”; and
- (b) by inserting after the word “period” –
“or periods”.

18. EXTENSION OF PETROLEUM DEVELOPMENT LICENCE (AMENDMENT OF SECTION 61).

Section 61(2) of the Principal Act is amended by deleting the word “An” and replacing it with the following :–

“Unless otherwise provided in a written agreement entered into between the holder of the petroleum development licence and the State, an”.

19. CONDITIONS OF PETROLEUM DEVELOPMENT LICENCE (AMENDMENT OF SECTION 63).

Section 63 of the Principal Act is amended –

- (a) by inserting after the word “extension” (first occurring) the following :–
“or variation”; and
- (b) in Subparagraph (iii) by inserting after the words “identification studies” the following :–
“as directed by the Minister”.

20. DOMESTIC MARKET OBLIGATION (AMENDMENT OF SECTION 67).

Section 67(1) of the Principal Act is amended by deleting the words “Subject to Section 68”.

21. APPLICATION FOR PIPELINE LICENCE (AMENDMENT OF SECTION 73).

Section 73 of the Principal Act is amended –

- (a) by repealing Subsection (1) and replacing it with the following:–

“(1) A person may make an application to the Minister for the grant of a pipeline licence and the Minister shall cause a notice for an application for a pipeline licence under this section to be published in the National Gazette.”; and

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(b) in Subsection (9) by deleting the words “existing and”.

22. GRANT OR REFUSAL OF PIPELINE LICENCE (AMENDMENT OF SECTION 74).

Section 74 (1) (a) of the Principal Act is amended by repealing from the end of Subparagraph (ii) the word “and” and replacing it with the following :-

“or”.

23. STRATEGIC PIPELINES (AMENDMENT OF SECTION 75).

Section 75 of the Principal Act is amended by inserting at the end of that section the following as a new subsection :-

“(9) Where a strategic pipeline is constructed as part of a petroleum project or a gas project and is linked to a strategic petroleum processing facility, which is also part of such a petroleum project or gas project, the pipeline licensee and the petroleum processing facility licensee may submit to the Minister for approval one access arrangement for such strategic pipeline and strategic petroleum processing facility, which may include a single published tariff for integrated processing and transportation.”.

24. TERM OF PIPELINE LICENCE (AMENDMENT OF SECTION 77).

Section 77(1) (b) of the Principal Act is amended by repealing the words “(or, in the case of a strategic pipeline, such further periods)” and replacing them with the following:-

“or periods”.

25. APPLICATION FOR EXTENSION OF PIPELINE LICENCE (AMENDMENT OF SECTION 78).

Section 78(1) of the Principal Act is repealed and is replaced replaced with the following :-

“(1) A pipeline licensee may make an application to the Minister for extension of that licence on the following number of occasions –

- (a) in the case of a pipeline licence for a project pipeline where no written agreement has been entered into between the holder of the pipeline licence and the State allowing for multiple extensions – once only; and
- (b) in the case of a pipeline licence for a project pipeline where a written agreement has been entered into between the holder of the pipeline licence and the State allowing for multiple extensions – that number of times provided for in that agreement; and
- (c) in the case of a pipeline licence for a strategic pipeline – an unlimited number of occasions.”.

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26. STRATEGIC PETROLEUM PROCESSING FACILITIES (AMENDMENT OF SECTION 89).

Section 89 of the Principal Act is amended by inserting at the end of that section the following new subsection:—

“(10) Where a strategic petroleum processing facility is constructed as part of a petroleum project or a gas project and is linked to a strategic pipeline, which is also part of such a petroleum project or gas project, the petroleum processing facility licensee and the pipeline licensee may submit to the Minister for approval one access arrangement for such strategic petroleum processing facility and strategic pipeline, which may include a single published tariff for integrated processing and transportation.”.

27. VARIATION OF PETROLEUM PROCESSING FACILITY LICENCE BY MINISTER (AMENDMENT OF SECTION 93).

Section 93 (15) of the Principal Act is amended by repealing the word “pipeline” and replacing it with the following :—

“petroleum processing facility”.

28. COMPENSATION (AMENDMENT OF SECTION 118).

Section 118(1) of the Principal Act is amended —

(a) by inserting immediately before the word “owners” the following:—

“lawful”; and

(b) by inserting immediately before the word “occupiers” the following:—

“rightful”.

29. REPEAL AND REPLACEMENT OF SECTION 119.

Section 119 of the Principal Act is repealed and is replaced with the following :—

"119. WARDENS.

(1) The Director shall appoint —

(a) a senior officer of the Department or the public service to be Chief Warden; and

(b) such other number of officers as considered necessary to be appointed as Wardens,

for the purposes of the Act.

(2) The functions, powers and duties of a Warden are as specified in this Act or regulations.

(3) The Chief Warden shall undertake—

(a) the duties of a Warden; and

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(b) such additional functions as are specifically allocated under this Act or regulations or as the Director may confer.

(4) The Chief Warden may, by instrument in writing, delegate all or any powers (except this power of delegation) to a Warden."

30. ACQUISITION OF LAND (AMENDMENT TO SECTION 120).

Section 120 of the Principal Act is amended –

(a) in Subsection (1) by deleting the words "Subsection 1(2)" and replacing them with the following :-

"Section 1(2)"; and

(b) in Subsection (3) by deleting the words "licensee a" and replacing them with the following :-

"a licensee".

31. NEW SECTION 123A.

The Principal Act is amended by inserting immediately after Section 123 the following new section :-

"123A. DESIGNATION OF OPERATOR AND OPERATING AGREEMENT.

(1) Subject to Subsection (3), where there is more than one holder of a licence, the holders shall, as soon as reasonably practicable after the date of grant of the licence, provide to the Director a copy of an agreement between the holders, relating to designation of operator and the conduct of operations in relation to that licence.

"(2) Where an agreement has been provided to the Director under Subsection (1), the holders shall, within one month after any amendment, variation or replacement of that agreement, provide to the Director a copy of the agreement (if any) effecting the amendment, variation or replacement.

"(3) The holders shall, upon providing a copy of an agreement to the Director under Subsections (1) or (2), and upon any change to the identity of the operator under the provisions of the agreement, give notice in writing to the Director of the name and address of the new operator appointed under the agreement.

"(4) An agreement lodged for registration under Division 11 or previously registered under that Division in respect of a licence shall be deemed to have been provided under Subsection (1)."

32. SURRENDER OF LICENCES (AMENDMENT OF SECTION 137).

Section 137 of the Principal Act is amended by inserting after Subsection (2) the following new subsection –

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“(2A) A licensee may state in its application under Subsection (2) that the surrender is, if consented to by the Minister, to take effect on a date or upon the occurrence of a particular event specified in the application in which case the surrender shall, if so consented to and if implemented by the applicant in accordance with Subsection (6), take effect on that date or upon the occurrence of that event, as the case may be.”.

33. SECURITIES (AMENDMENT OF SECTION 142).

Section 142(1) of the Principal Act is amended by repealing the figures and word "2,7,9 or 10" and replacing them with the following :-

“2, 4, 7, 9 or 10“.

34. DETERMINATION OF VALUE OF PETROLEUM (AMENDMENT OF SECTION 158).

Section 158 of the Principal Act is amended by deleting the words “The Minister” and replacing them with the following :-

“Except as otherwise provided in the Schedule, the Minister”.

35. DEVELOPMENT LEVIES (AMENDMENT OF SECTION 160).

Section 160(1) of the Principal Act is amended --

(a) by repealing Subsection (1) and replacing it with the following :-

“(1) Subject to this section, a petroleum development licensee shall pay in accordance with Section 98 of the *Organic Law on Provincial Governments and Local-level Governments* to the affected Provincial or Local-level Governments of a petroleum project development levies at a rate of 2.00% of the wellhead value of all petroleum produced from the licence area, calculated in the same manner as provided for in Section 159.”; and

(b) by repealing Subsection (4) and replacing it with the following :-

“(4) Development levies payable under this section shall be payable directly by a petroleum development licensee to a trust fund in accordance with the *Public Finances (Management) Act 1986*, annually in arrears on or before 31 January in the year following the year of production to which the development levy relates.”; and

(c) by inserting at the end of that section the following new subsection :-

“(6) Development levies which has been paid in accordance with this section shall be disbursed from the trust account only in accordance with an appropriation approved by Parliament.”.

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**36. PAYMENT OF ROYALTY AND PENALTY FOR LATE PAYMENT
(AMENDMENT OF SECTION 162).**

Section 162 of the Principal Act is amended in Subsection (1) by adding at the end of that subsection the following :-

“except where a gas agreement applies, royalty is payable no later than one month after the last day of the next succeeding royalty period.”.

37. STATE EQUITY ENTITLEMENT (AMENDMENT OF SECTION 165).

Section 165 of the Principal Act is amended –

(a) in Subsection (2) by repealing the words “Subject to Section 179” and replacing them with the following :-

“The”; and

(b) in Subsection (4) by repealing the words and figures “Section 182 or 183” and replacing them with the following :-

“Section 183 or 184”.

**38. ACQUISITION OF PARTICIPATING INTEREST BY THE COMPANY
(AMENDMENT OF SECTION 166).**

Section 166 of the Principal Act is amended –

(a) in Subsection (1) by deleting the words “subject to Section 179”; and

(b) in Subsection (2) by repealing the words “Subject to Subsection (1),” with the following :-

“The”.

39. IDENTIFICATION OF LANDOWNER BENEFICIARIES (AMENDMENT OF SECTION 169).

Section 169 of the Principal Act is amended –

(a) in Subsection (2) by inserting at the beginning of that subsection the following:-

“Prior to convening or during a development forum under Section 48,” and

(b) in Subsection (4) by deleting the words “the Minister may” and replacing them with the following :-

“the Minister shall”; and

(c) by inserting at the end of that section the following new subsections :-

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“(8) Where the Minister directs that monies or other benefits are to be held in abeyance under Subsection (7) or where the Minister’s determination under Subsection (2) is subject to judicial review, the Minister may grant the licence or licences in respect of the petroleum project.

“(9) Where the Minister has granted the licence or licences under Subsection (8) and the dispute is resolved the Minister shall make a determination under Subsection (2) and convene a development forum under Section 48.

“(10) A Ministerial determination made pursuant to the section shall not be reviewable before any court unless an application for review is made within 28 days of the Ministerial determination.”.

40. **NEW SECTION 169A.**

The Principal Act is amended by inserting after Section 169 the following as a new subsection : –

“169A. IDENTIFICATION OF LAND OWNERS BENEFICIARIES AND SHARING OF BENEFITS IN RELATION TO EXISTING PETROLEUM PROJECTS.

(1) If in respect of petroleum projects which on the commencement date are in production or have commenced development, persons or incorporated land groups or other entities, who should be receiving benefits from such petroleum projects, have not been identified or where a dispute exists as to which persons or incorporated land groups or other entities should be identified to receive such benefits, the Minister may make a determination as to the persons or incorporated land groups or other entities who should receive the benefits arising from such petroleum project.

(2) In making a determination under Subsection (1), the Minister shall consider any agreements by persons who are or claim to be project area landowners, the decisions of courts of Papua New Guinea as to ownership of land or rights in relation to land in the vicinity of the petroleum project in question, the results of social mapping and landowner identification studies that have been carried out in accordance with this Act, and submissions from affected Local-level Governments or affected Provincial Governments of the petroleum project in question or from any other person claiming an interest or to be affected by the decision of the Minister.

(3) Where, in the opinion of the Minister, having considered any agreements by persons who are or claim to be project area landowners, the decisions of courts of Papua New Guinea as to ownership of land or rights in relation to land in the vicinity of the petroleum project in question, the results of any social mapping and landowner identification studies that have been carried out in accordance with Section 47, some project area landowners have a greater or more substantial occupation or right of occupation of the land referred to in the definition of “project area landowners” or are more adversely impacted by the petroleum project than other project area landowners, the Minister may, by instrument, determine that the sharing amongst project area landowners of equity benefits or royalty benefits in accordance

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with this section shall favour, on a per capita basis, those project area landowners who have that greater or more substantial occupation or right of occupation or are more adversely impacted by the petroleum project."

41. PROJECT BENEFIT TRUSTS (AMENDMENT TO SECTION 176).

Section 176 of the Principal Act is amended –

- (a) in Subsection (1) by inserting after the word and figure "Section 167" the following :-

"and royalty benefit granted by the State in accordance with Section 168"; and

- (b) in Subsection (2) by repealing the words "persons who are traditional owners of or who have traditional rights in relation to the land in the area of a petroleum project" and replacing them with the following :-

"customary land owners"; and

- (c) in Subsection (3)(i) by repealing the words "traditional owners of land" (twice occurring) and replacing them in each case with the following:-

"customary land owners"; and

- (d) by inserting at the end of that section the following new subsection:-

"(8) Notwithstanding any other provision of this Act, the royalty and equity benefits granted by the State to project area landowners who have been identified as grantees of such benefits in petroleum projects which were at the commencement date of this Act are in production or have commenced development, shall be received and held upon trust for those project area landowners by a corporate trustee which is wholly owned by MRDC in accordance with this section."

42. BENEFIT WHERE PIPELINE OR PETROLEUM PROCESSING FACILITY NOT PART OF THE PETROLEUM PROJECT (AMENDMENT TO SECTION 177).

Section 177 of the Principal Act is amended by repealing the words "customary owners of land" and the words "customary owners" and replace them in each case with the following :-

"customary land owners".

43. EXPENDITURE ON BEHALF OF AFFECTED LOCAL-LEVEL GOVERNMENTS AND AFFECTED PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTION 178).

Section 178(2) of the Principal Act is repealed and is replaced with the following:-

"(2) The Minister shall establish, in respect of each petroleum project, an Expenditure Implementation Committee comprising –

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- (a) the Secretary of the Department of National Planning or the department responsible for national planning matters, who shall be the Chairman; and
 - (b) the Director; and
 - (c) the Secretary of the Department of Treasury or the department responsible for national government finances; and
 - (d) the Secretary of the Department of Works and Transport; and
 - (e) the Secretary of the Department of Provincial and Local level Government Affairs; and
 - (f) the Administrator of each affected Provincial Government or District Administrator responsible for an affected Local level Government; and
 - (g) the chief executive of the Operator who shall represent the licensees of the petroleum project,
- or their representatives.”.

44. NATIONAL GAS CORPORATION (AMENDMENT OF SECTION 179).

Section 179 of the Principal Act is amended –

(a) in Subsection 2(d) :-

- (i) by repealing the words “power and authority” and replacing them with the following:-

“legal capacity”; and

- (ii) by repealing Subparagraphs (iii), (iv), (v) and (vi) and replacing them with the following :-

“(iii) to hold and enter into agreements with licensees to acquire by agreement on commercial terms participating interests in gas projects; and

“(iv) to acquire by agreement on commercial terms, a participating interest in the Hides petroleum project conducted pursuant to Petroleum Development Licence I, irrespective of whether the State exercises its rights under Section 165 or any other law; and

“(v) to acquire by agreement on commercial terms processed petroleum including all liquefied petroleum gas; and

“(vi) to acquire by agreement on commercial terms an interest in a gas project at such time as any participant in a gas project wishes to sell such an interest; and”.

(b) by inserting at the end of that section the following new subsection:-

“(5) Nothing in this Section 179 affects, restricts or limits, or will be taken to affect, restrict or limit, in any way, any right or entitlement of any person (regardless of the source of that right or entitlement), including, without limitation, the rights and entitlements of the State under Section 165 and the rights and entitlements of the Company under this Act or the option agreement.”.

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45. REGULATIONS (AMENDMENT OF SECTION 182).

Section 182 of the Principal Act is amended –

(a) in Subsection (1) -

(i) by the adding at the end of Paragraph (d) the following;-

"; and"; and

(ii) by adding the following new paragraph :-

“(e) limitation of project benefits granted in accordance with this Act.”; and

(b) in Subsection (2) -

(i) by repealing Paragraph (n) and replacing it with the following :-

“(n) regulate or control the tariffs charged by pipeline licensees or petroleum processing licensees and the conditions of use of pipelines or petroleum processing facilities; and”; and

(ii) by inserting at the end of that subsection the following as new paragraphs:-

“(jj) prescribe the powers, functions and duties of the Chief warden and the Wardens.”

“(kk) prescribe the manner and scope of agreement between a licensee and the State in relation to the co-ordination of a development forum, and the amount of money that a licensee can contribute for purposes of co-ordinating a development forum, and how payment of such monies will be made.”.

46. REPEAL AND REPLACEMENT OF SECTION 183.

Section 183 of the Principal Act is repealed and is replaced with the following :-

“183. PETROLEUM AGREEMENT.

The Minister may, on behalf of the State, execute an agreement with a licensee, providing for-

- (a) the definition of the extent of a particular petroleum project and operations for that petroleum project, for the purposes of this Act and any other law; and
- (b) the transfer and assignment of a State equity interest in that petroleum project to MRDC; and
- (c) any other matters relating to that petroleum project or those operations, which are agreed to by the parties to such agreement, which, without limiting the generality of the foregoing, may include -
 - (i) the application of particular provisions of this Act to that petroleum project and those operations; and

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- (ii) where permitted by other Acts, the application of particular provisions of those other Acts to that petroleum project and those operations,

and such agreement will, once so executed, have effect in accordance with its terms and notwithstanding any other provision of this Act.”.

47. **REPEAL AND REPLACEMENT OF SECTION 184.**

Section 184 of the Principal Act is repealed and is replaced with the following :-

"184. GAS AGREEMENT.

“The Minister may, on behalf of the State, execute an agreement with a licensee, providing for-

- (a) the definition of the extent of a particular gas project and gas operation for the gas project, for the purposes of this Act and any other law; and
- (b) the transfer and assignment of a State equity interest in that gas project to MRDC; and
- (c) any other matters relating to that gas project or those operations, which are agreed to by the parties to such agreement, which, without limiting the generality of the foregoing, may include:
- (i) the application of particular provisions of this Act to that gas project and those operations; and
- (ii) where permitted by other Acts, the application of particular provision of those other Acts to that gas project and those operations

and such agreement will, once so executed, have effect in accordance with its terms and notwithstanding any other provision of this Act.”.

48. **REPEAL AND REPLACEMENT OF SECTION 185.**

Section 185 of the Principal Act is repealed and is replaced with the following :-

"185. AGREEMENTS BY THE STATE.

Notwithstanding any other provision of this Act or any other Act (but without limiting Sections 183 or 184) where in a written agreement with a licensee, whether entered into before or after the commencement of this Act, the State agrees that a discretion under this Act or any other Act or any regulations under this Act or any other Act will be exercised in a certain way, or that certain rights or consents or authorisations or licences under this Act or any other Act or any regulation under this Act or any other Act will be granted to the licensee, then that discretion shall be exercised and those rights or consents or authorisations or licences shall be granted in accordance with that written agreement.”.

49. **REPEAL OF SECTION 185A.**

The Principal Act is amended by repealing Section 185A.

50. **LICENCES UNDER FORMER ACT (AMENDMENT OF SECTION 187).**

Section 187 (2)(c) of the Principal Act is amended by repealing the word and figure “Section 64” and replacing them with the following :-

“Section 63”.

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I hereby certify that the above is a fair print of the *Oil and Gas (Amendment) Act 2001* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Oil and Gas (Amendment) Act 2001* was made by the National Parliament on 11 December 2001 by an absolute majority in accordance with the *Constitution*.

Speaker of the National Parliament.