

CHAPTER 156

PETROLEUM (PRODUCTION) ACT

To vest in the Government of Malta the property in petroleum and natural gas within Malta and to make provision with respect to the searching and boring for and getting of petroleum and natural gas, and for purposes connected with the matters aforesaid.

8th March, 1958

ACT IV of 1958, as amended by Emergency Ordinance VI of 1958; Ordinances: VI of 1959, XXV of 1962; Act XV of 1965; Legal Notice 46 of 1965; Acts: XXXV of 1966, XX of 1969, LVIII of 1974 and [XIII of 1983](#); Legal Notice [410 of 2007](#); and Acts [XXVI of 2014](#), [XIV of 2015](#) and [XXVIII of 2023](#).

1. The short title of this Act is the Petroleum (Production) Act. Short title.
2. In this Act unless the context otherwise requires:

Interpretation.
Amended by:
[XV.1965.2](#);
[XXXV. 1966.10](#);
[XXV. 2000.36](#);
Substituted by:
[XXVIII.2023.2](#).

"applicant" means any entity that submits an application for the grant of a licence in accordance with this Act;

"by-products" means the products derived from the processing of petroleum;

"competent authority" means the Office of the Prime Minister of Malta, or any other body or person as the Minister may prescribe and designate as the competent authority for different purposes in terms of different provisions of this Act;

"entity" means any natural or legal person or a group of such persons, including a limited liability company constituted in terms of the [Companies Act](#), or a similar body corporate established or incorporated outside Malta, which applies for, is likely to apply for, or holds a licence pursuant to this Act; Cap. 386.

"exploration" means the search for petroleum by any appropriate method which may include drilling;

"internal waters" shall have the same meaning as is assigned to it by article 2 of the [Continental Shelf Regulations](#); S. L. 535.02.

"licence" means an authorisation granted pursuant to this Act;

"Malta" shall have the same meaning as is assigned to it by article 124 of the Constitution of Malta and includes the seabed and subsoil of the submarine area within the internal waters and territorial waters of Malta;

"Minister" means the Prime Minister of Malta and includes such other Minister, public officer or authority as may be authorised by him, from time to time, for any of the purposes of this Act;

"petroleum" means all solid, liquid or gaseous hydrocarbons existing in their natural state, including crude oil or natural gasoline, natural hydrocarbon gases as well as all related minerals or substances produced in association with such hydrocarbons;

"production" means the development and extraction of petroleum or any treatment in order to make it marketable and the storage and the transportation of the petroleum and its by-products to the loading installations for further disposal. Any treatment referred to in this definition shall not include refining;

"prospection" means the attempt to locate petroleum in a specific area by any appropriate method other than drilling;

"territorial waters" shall have the same meaning assigned to it by article 3 of the [Territorial Waters and Contiguous Zone Act](#).

Cap.. 226

Vesting of ownership of petroleum in Government of Malta.

Amended by:
VI. 1958.2;
XXV.1962.2,5;
XV.1965.3;
XIII.1983.5;
XXV. 2000.36;
L.N. 410 of 2007.
XIV. 2015.2;
XXVIII.2023.3.

3. (1) The ownership of any petroleum existing in Malta is hereby vested in the Government of Malta. The Government of Malta has sovereign rights, jurisdiction and exclusivity for the purposes of prospecting for, exploring for and producing petroleum in Malta. The right for prospection, exploration and, or production of such petroleum shall be subject to a licence granted under the provisions of this Act.

(2) Any entity who, without or in breach of any of the conditions of a licence granted under this Act, prospects for and, or explores for and, or produces petroleum from Malta shall be guilty, by reason merely of having done so and without prejudice to prosecution under any other provision of law, of an offence and shall be liable, on conviction to a fine (*multa*) of not less than ten thousand euro (€10,000) and not exceeding two million euro (€2,000,000) or imprisonment which shall not exceed a term of five years, or to both such fine and imprisonment:

Provided that where the act constituting the offence subsists for more than one day, the Court may in addition impose a fine (*multa*) not exceeding ten thousand euro (€10,000) for each day during which such act subsists which fine (*multa*) shall also be applicable for the purposes of article 377(3) of the Criminal Code:

Cap. 9.

Provided further that all petroleum so extracted shall be forfeited to the Government of Malta and that nothing in this Act, howsoever referred to, shall be construed as imposing any penalty on any entity where in the course of lawful boring in search of water or of other lawful operations, petroleum is set free.

(3) The prohibitions imposed by or under this Act and the rights by and under this Act vested in the Government of Malta, in the Minister, in any officer of the Government, and in any holder of a licence under this Act shall have full effect notwithstanding the provisions contained in article 323 of the [Civil Code](#) or in any law which may be incompatible with such prohibitions and rights:

Cap. 16.

Provided that nothing in this Act shall be construed as conferring, or as enabling the Minister to confer, on any entity, whether acting on behalf of the Government of Malta or not, any right which he does not enjoy apart from this Act, to enter on or interfere with land.

3A. (1) The Minister shall retain the right to determine the areas in Malta for the exercise of the activities of prospecting, exploring and producing of petroleum.

Determination of the areas for the exercise of activities and refusal to allow access on grounds of national security.
Added by: XXVIII.2023.4.

(2) Whenever an area is made available for the exercise of the activities set out in sub-article (1), the Minister shall ensure that there is no discrimination between entities as regards access to and the exercise of these activities.

(3) The Minister may, on grounds of national security, refuse to allow access to and the exercise of the activities referred to in sub-article (1), to any entity which is effectively controlled by third countries or third country nationals.

4. (1) The Minister shall have the power to grant to the successful applicant, a licence to prospect for, explore for and produce petroleum in Malta.

Licences to prospect for, explore for and produce petroleum.
Amended by: VI. 1958.2; XXV. 1962.2,5; XV. 1965.4; XXV. 2000.36. Substituted by: XXVIII.2023.5.

(2) Any such licence shall be granted for such consideration (by way of fee, royalty, revenue, profit from the sale or disposal of petroleum and, or otherwise) as the Minister may determine, and over such areas, for such periods and upon such other terms and conditions as may be stipulated in the call for applications and the licence to ensure the proper performance of the licensed activities:

Provided that the Minister may impose conditions and requirements in the licence in connection with but not limited to national security, public safety, public health, security of transport, protection of the environment, protection of biological resources and of national treasures possessing artistic, historic or archaeological value, safety of installations and of workers, planned management of petroleum resources such as the rate at which petroleum is depleted or the optimisation of its recovery or the need to secure tax revenues.

(3) The duration of validity of a licence shall not exceed the period necessary to complete the activities specified in the licence:

Provided that the Minister may renew or extend the licence for such a time period as may be necessary for the proper conduct of the work obligations specified in the licence:

Provided further that the licensee shall not retain exclusive rights over the licensed area for longer than is necessary for proper performance of the licensed activities.

Powers of the
Minister to make
regulations.

Amended by:

VI. 1958.2;
XXV. 1962.2;
XV. 1965.5;
L.N. 46 of 1965;
XX. 1969.2;
XIII. 1983.5;
XXV. 2000.36;
L.N. 410 of 2007;
XXVI. 2014.3;
XIV. 2015.2.
XXVIII.2023.6.

5. (1) Subject to the provisions of this Act and to any international obligation entered into by Government, the Minister may make regulations generally for:

- (a) licensing and regulating the prospection, exploration and production of petroleum in Malta, including the conservation of the petroleum resources;
- (b) establishing an Advisory Committee, made up of persons qualified in the relevant subject, to provide advice and make recommendations to the Minister for any matter concerning the granting of a licence, the regulation and monitoring of the contractual obligations and any other matter in relation to this Act;
- (c) reducing as far as possible the occurrence of major accidents relating to offshore oil and gas operations and to limit their consequences during such prospection, exploration and production activities;
- (d) providing for the possibility for the issue of authorisations to public officers or other entities to ensure the application of this Act and to carry out inspections, enforcement actions and any other ancillary action that may be necessary in order to properly implement the provisions of this Act; and
- (e) carrying out any of the provisions of this Act:

Provided that, in particular, but without prejudice to the generality of the foregoing, such regulations may prescribe:

- (i) the manner in which and the entities by whom applications for licences under this Act may be made;
- (ii) the fees to be paid on any such application;
- (iii) the conditions as to the size and shape of areas in respect of which licences may be granted;
- (iv) model clauses which shall, unless the Minister thinks fit to modify or exclude in any particular case, be incorporated in any such licence;
- (v) anything which is required or may be prescribed under this Act,

and may provide for the minimum and maximum punishments, whether by way of fine (*multa*) or of imprisonment, to be applied in respect of any non-observance of any regulation made under this article:

Provided further that any punishment prescribed in the regulations made under this article shall not be less than a fine (*multa*) of ten thousand euro (€10,000) and shall not exceed a fine (*multa*) of two million euro (€2,000,000), or imprisonment which shall not

exceed a term of five years, or both such fine and imprisonment, in respect of any non-observance of any such regulation:

Provided further that where the act constituting the offence subsists for more than one day, the Court may in addition impose a fine (*multa*) not exceeding ten thousand euro (€10,000) for each day during which such act subsists which fine (*multa*) shall also be applicable for the purposes of article 377(3) of the [Criminal Code](#):

Cap. 9.

Provided further that the Minister may establish different regulations for different kinds of licences and provide conditions that bind licencees to be financially liable for any prevention and remediation of any damage, including damage to the environment, caused by prospection, exploration and production of petroleum in Malta.

(2) Regulations, rules and orders made under any of the provisions of this Act may be made in the English language only.

5A. (1) The Government of Malta or any entity in which the Government of Malta has majority shareholding, shall have the right to participate in the activities of prospection, exploration and production of petroleum in accordance with the licences granted under this Act.

State participation in the activities of prospecting for, exploring for and producing petroleum.
Added by:
XXVIII.2023.7.

(2) The Government of Malta's participation in the activities of prospecting for, exploring for and producing petroleum may be managed by the Government itself or by a legal person that the Minister may prescribe by order published in the Gazette.

(3) The rules for payment of considerations referred to in sub-article (2) of article 4, as well as any requirement for Government's participation, shall be fixed by the Minister in such a way as to ensure that the independence of management of entities is maintained.

(4) Where the grant of a licence is subject to Government's participation in the activities and where a legal person has been entrusted solely with the management of this participation, or where the Government itself manages the participation, neither the legal person nor the Government shall be prevented from assuming the rights and obligations associated with such participation:

Provided that:

- (a) the legal person or the Government shall not be party to information nor exercise any voting rights on decisions regarding sources of procurement for entities;
- (b) the legal person or the Government in combination with any entity shall not exercise a majority voting right on other decisions; and
- (c) any vote by the Government or the legal person, shall

be based exclusively on transparent, objective and non-discriminatory principles and shall not prevent the relevant management decisions of the entity from being based on normal commercial principles.

(5) Notwithstanding the provisions of sub-article (4), the legal person or the Government may oppose a decision by the holders of a licence which would not respect the conditions and requirements specified in the licence, regarding depletion policy and protection of the financial interests of Malta:

Provided that, the option to oppose a decision shall be exercised in a non-discriminatory manner, particularly regarding investment decisions and sources of supply of the holders of the licences, unless they are in breach of national legislation or international law.

(6) Where the Government's participation in the activities is managed by a legal person, which also holds the licences, then:

(a) the legal person shall keep separate accounts for its commercial role and its role as manager of the Government's participation; and

(b) the legal person shall ensure that there is no flow of information from the part of the legal person responsible for the management of the Government's participation to the part of the legal person which holds a licence.

(7) Where the part of the legal person responsible for the management of the Government's participation engages the part of the legal person which holds a licence as a consultant, the former may make available any information which is necessary for the consultancy work to be carried out. The holders of all licences to which the information relates shall be informed in advance of what information will be given in this way, so that they have sufficient time to raise objections, which shall be submitted to the Minister and the Minister shall decide on the matter after having heard the views of the two parties.

(8) The Minister shall ensure that the monitoring of the entities granted a licence is limited to that necessary to ensure compliance with the conditions, requirements and obligations referred to in sub-article (2) of article 4 and in particular shall ensure that no holder of a licence is required to provide information on its intended or actual sources of procurement except at the request of the Minister in order to ensure compliance with national and international legislation.

5B. The Minister shall publish and communicate an annual report to the European Commission which shall include information on the geographical areas which have been opened for prospection, exploration and production, licences granted, entities holding licences and the composition thereof and the estimated reserves contained in these areas provided that any information of a commercially confidential nature shall not be published.

Publication and communication of the annual report.
Added by:
XXVIII.2023.7.

5C. (1) No holder of a licence may transfer a licence or assign rights arising from a licence to another entity, except upon written consent of the Minister, which may be granted if:

Transfer of a licence or assignment of rights arising from a licence.
Added by:
XXVIII.2023.7.

(a) it does not compromise national security;

(b) the Minister is satisfied that the entity to whom the licence would be transferred or the rights arising from a licence would be assigned has sufficient technical knowledge, experience and financial resources to secure the proper exercise of the activities of prospecting for, exploring for and producing petroleum;

(c) the entity to which the licence would be transferred or the entity to which the rights arising from a licence would be assigned undertakes to comply with such other conditions and requirements as the Minister may deem proper to impose.

(2) Any holder of a licence who transfers a licence or assigns the rights arising from a licence without the written consent of the Minister shall be guilty of an offence and shall be liable, on conviction to a fine (*multa*) of not less than ten thousand euro (€10,000) and not exceeding two million euro (€2,000,000) or imprisonment which shall not exceed a term of five years, or to both such fine and imprisonment.

6. (1) Any entity to whom a licence is granted under this Act may apply to the Lands Authority for permission to examine any specified area of land with a view to its possible acquisition on behalf and for the use of such applicant and if in the opinion of the Chairperson of the Board of Governors of the Land Authority the examination of such land with a view to its possible acquisition is necessary to enable the applicant to exploit the licence or to exploit it fully, the Chairperson of the Board of Governors of the Lands Authority may declare it desirable that the land should be examined. When a declaration is so made the Lands Authority may grant, under sub-article (1) of article 37 of the [Government Lands Act](#) or any other law amending or substituting the said sub-article, such authorisation as may reasonably be required by the applicant.

Acquisition of land.
Amended by:
VI.1959.3;
L.N. 46 of 1965;
LVIII.1974.68.
XXVIII.2023.8.

Cap. 573.

(2) If, as a result of any such examination as is mentioned in the foregoing paragraph, it shall appear to him desirable that such land should be acquired on behalf or for the use of the applicant, the Chairperson of the Board of Governors of the Lands Authority may declare that the land is required for a public purpose within the meaning of the [Government Lands Act](#) or of any law amending or

Cap. 573.

substituting that Act, and when a declaration is so made the Lands Authority may in due course proceed to acquire the land under the provisions of that Act or of any other law as aforesaid.

(3) Before authorisation of examination is granted and before land is acquired on behalf or for the use of any person under the provisions of this article, the Lands Authority shall require such person to enter into an agreement with him providing to the satisfaction of the Lands Authority for the following matters, namely:

- (a) the payment to the Lands Authority of the cost of the acquisition including all incidental expenses and the deposit with the Lands Authority of any sum fixed by the Lands Authority on account of the payment so to be made;
- (b) the transfer, on such payment, of the land to such person;
- (c) the terms on which the land shall be held by such person;
- (d) when the acquisition is required for the construction of any work or works, the time within which and the conditions subject to which the work or works shall be initiated, executed and maintained, and the terms (if any) on which the public shall be entitled to use or to acquire the work or works; and
- (e) in any case where anything has been done or may be done under the provisions of sub-article (1) of article 37 of the [Government Lands Act](#) or under any provision of law amending or substituting that sub-article, by or on behalf of the Lands Authority, the payment to the Lands Authority of all damages, to be assessed in accordance with the provisions of sub-article (2) of article 37 of the Government Lands Act.

Cap. 573.

(4) Words and phrases used in this article shall, unless the context otherwise requires, have the same meaning as in the [Government Lands Act](#) or in any law amending or substituting the said Act.

Cap. 573.

Applicability to the continental shelf.

Cap. 535.

Added by:

XXVIII.2023.9.

7. All relevant provisions of this Act shall apply *mutatis mutandis* to the continental shelf as defined in article 2 of the [Continental Shelf Act](#).

Designation of competent authorities.

Added by:

XXVIII.2023.9.

8. For the purposes of the implementation of the provisions of this Act and regulations made thereunder, the Minister may designate any person as a competent authority for the purposes of the implementation and for exercise of any rights and duties therein.

9. Any reference to the "Petroleum (Production) Act" in any licence, contract or agreement relating to the prospection, exploration and production of petroleum, to which the Government of Malta is a party, which was granted prior to the coming into force of this Act, shall continue to be governed and regulated in accordance with the Petroleum (Production) Act as it was in force prior to the [Petroleum \(Production\) \(Amendment\) Act](#).

Transitory
provision.
Added by:
XXVIII.2023.9.

Act No. XXVIII of
2023.