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L.N. 206 of 2023

**PETROLEUM (PRODUCTION) ACT
(CAP. 156)**

Petroleum (Production) (Amendment) Regulations, 2023

IN EXERCISE of the powers conferred by article 5 of the Petroleum (Production) Act, the Minister responsible for finance has made the following regulations:-

Citation.

S.L. 156.01.

Substitutes
regulation 2 of
the principal
regulations.

1. The title of these regulations is the Petroleum (Production) (Amendment) Regulations, 2023 and these regulations shall be read and construed as one with the Petroleum (Production) Regulations, hereinafter referred to as "the principal regulations".

2. Regulation 2 of the principal regulations shall be substituted by the following new regulation:

"
Interpretation.

Cap. 156.

Cap. 535.

2. In these regulations, unless the context otherwise requires:

"Act" means the Petroleum (Production) Act;

"continental shelf" shall have the same meaning as assigned to it in article 2 of the Continental Shelf Act;

"data room" means the petroleum exploration technical data that may be available for viewing by an entity;

"Director" means the director responsible for oil exploration;

"licensee" means the entity to whom the licence is granted, its representative appointed in accordance with the licence and any entity to whom the rights conferred by the licence may have been lawfully assigned."

Substitutes
regulation 3 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be substituted by the following new regulation:

"Types of licences
and grant of rights
to licensees.

3. (1) Any entity may apply in accordance with these regulations for:

- (a) a prospection licence;
- (b) an exploration licence; or
- (c) an exploration and production licence.

(2) The licence for the prospection of petroleum shall grant the licensee the right to prospect, on a non-exclusive basis, for petroleum in an area for which the licence is granted, under the conditions and requirements of the licence granted. The Minister shall have the right, during the term of the prospection licence, unless otherwise agreed, to grant an exploration licence and, or an exploration and production licence on any part of, or all of the geographical area licensed under the prospection licence.

(3) The licence for the exploration of petroleum shall grant the licensee exclusive rights to explore for petroleum, by any appropriate method except drilling, in a geographical area or in a block or blocks or area or areas for which the licence was granted, under the conditions and requirements of the licence granted and the right for the licensee to convert the said licence into an exploration and production licence, in accordance with the provisions of the Act and these regulations.

(4) The licence for the exploration and production of petroleum shall grant the licensee exclusive rights to explore by any appropriate method including drilling and to produce petroleum in a geographical area or in a block or blocks or area or areas for which the licence was granted, under the conditions and requirements of the licence granted."

4. Regulation 4 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 4 of the principal regulations.

"Procedure to apply for a licence.

4. (1) The Minister shall initiate a procedure for licensing:

(a) by means of a notice inviting applicants, which notice shall be published in the Official Journal of the European Union at least ninety (90) days before the closing date for applications. The notice shall specify:

- (i) the type of licences available;
- (ii) the geographical block or blocks or area or areas for which an application may be made as indicated in the notice;
- (iii) the date and time by which an application can be made;
- (iv) the application fee, if any;

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(v) the fee for a data room visit, if any;

(vi) the place where the application needs to be submitted;

(vii) the proposed date for granting licences;

(viii) the reference to the notice that was published in the Official Journal of the European Union indicating the criteria that shall be applied for evaluating an application; and

(ix) any other information, as may be necessary; or

(b) by means of a notice published in the Official Journal of the European Union indicating which geographical block or blocks or area or areas are available for licensing on a permanent basis. The notice shall also specify:

(i) the type of licences available;

(ii) the application fee, if any;

(iii) the fee for a data room visit, if any;

(iv) the place where an application needs to be submitted;

(v) the reference to the notice that was published in the Official Journal of the European Union indicating the criteria that shall be applied for evaluating an application; and

(vi) any other information, as necessary:

Provided that any significant change in the information published in such a notice, including but not limited to a geographical block or blocks or area or areas that are no longer available for licensing following the grant of a licence or that have become available for licensing following relinquishment or termination of a licence, shall be the subject of an additional notice.

(2) The Minister may decide not to apply the provisions of sub-regulation (1) if and to the extent that geological or production considerations justify the granting of a licence to the licensee for a contiguous area. The Minister shall ensure that the licensees for any other contiguous areas are able to submit applications in such a case and that they are given sufficient time to do so.

(3) The following shall not be considered as a grant of a licence within the meaning of sub-regulation (1):

(a) the granting of a licence solely by reason of a change of name or ownership of an entity holding an existing licence or a change in the composition of the said entity or the transfer of a licence or assignment of rights arising from a licence;

(b) the granting of a licence to an entity having another type of licence where the possession of a latter licence implies a right to the granting of the former licence;

(c) the decision of the Minister, taken within the framework of a licence and relating to the commencement, interruption, extension or cessation of the activities of the licence granted."

5. Regulation 5 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 5 of the principal regulations.

"Criteria for the evaluation of applications.

5. (1) Before the publication of the notice in accordance with regulation 4(1), the Minister shall publish on the Official Journal of the European Union the criteria that shall apply for the granting of a licence. These shall include but are not limited to:

(a) the technical and financial capability of the applicant;

(b) the way in which the applicant proposes to prospect, to explore and, or to bring into production the geographical area;

(c) the work programme proposed by the applicant;

(d) any previous performance of the applicant under any other licence granted to him;

(e) economic and financial considerations;

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(f) any other health, safety and environment requirements; and

(g) national security or public interest:

Provided that any change in the above criteria shall be re-published in full in the Official Journal of the European Union.

(2) The Minister shall apply the above-mentioned criteria in a non-discriminatory manner between the applicants.

(3) The Minister may refuse the granting of a licence to an applicant, provided that this does not give rise to discrimination between the applicants. In such a case, when an application is rejected, if the applicant so requests, the reason for such rejection shall be communicated to the applicant.

(4) The Minister may refuse the granting of a licence in accordance with the Act if the applicant fails the due diligence exercise that may be conducted by the Government."

Substitutes
regulation 6 of
the principal
regulations.

6. Regulation 6 of the principal regulations shall be substituted by the following new regulation:

"Applications for
licences.

6. (1) An application for a licence shall be made in writing in the form set out in the Schedule or in a form substantially similar. The application shall be addressed to the Director and be accompanied by evidence of payment of the appropriate fee, if any, and with such information and evidence in support thereof as is referred to in the Schedule and as may be deemed appropriate in the circumstances with regard to that application.

(2) If any of the information indicated in an application changes after the application is submitted but before the closing date for receipt of applications, in the case of an application made under paragraph (a) of regulation 4(1) or before a licence is granted or refused through the application process under paragraph (b) of regulation 4(1), as the case may be, the applicant shall forthwith give notice in writing to the Director giving particulars of the change.

(3) If the Minister makes any changes to the conditions and requirements during the course of a procedure under regulation 4(1), such changes shall be notified by a notice published in the Official Journal of the European Union.

(4) All information furnished to the Director in pursuance of an application for a licence shall be treated as confidential.

(5) An application for a prospection licence may only be made following the publication of a notice in accordance with paragraph (a) of regulation 4(1).

(6) An application for a prospection licence may be made in respect of a geographical area or areas published in accordance with paragraph (a) of regulation 4(1):

Provided that the rights conferred by any prospection licence which is granted shall not be exercisable in any block or area in respect of which an exploration or an exploration and production licence granted by the Minister is for the time being in force, except with the consent of the licensee to exercise in that block or area any rights granted by that prospection licence.

(7) Nothing in this regulation shall prevent more than one application being submitted by the same entity or more than one licence being granted to it."

7. Regulation 7 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 7 of the principal regulations.

"Fees.

7. (1) Any prospective applicant, having the necessary technical and financial capabilities, may request to make a data room visit:

Provided that for every data room visit there shall be paid a fee in accordance with regulation 4(1):

Provided further that such a fee shall not exceed five thousand euro (€5,000).

(2) With every application for a prospection or an exploration licence there shall be paid a fee in accordance with regulation 4(1):

Provided that such a fee shall not exceed ten thousand euro (€10,000).

(3) With every application for an exploration and production licence there shall be paid a fee in accordance with regulation 4(1):

Provided that such a fee shall not exceed twenty thousand euro (€20,000)."

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Adds new regulations to the principal regulations.

8. Immediately after regulation 7 of the principal regulations there shall be added the following new regulations:

"Form of licences and model clauses.

8. (1) Every licence granted in accordance with the Act shall incorporate clauses specifying the conditions and requirements of the licence, as respectively set out in the Model Prospection Agreement, the Model Exploration Study Agreement and the Model Production Sharing Contract and in other terms and conditions as may be specified in the notice published in accordance with regulation 4(1) or as may be agreed to by the Minister and the licensee in any particular case:

Provided that copies of the model clauses may be obtained from the Director upon application by an entity.

(2) Without prejudice to the generality of the preceding sub-regulation, the terms and conditions of a prospection licence, an exploration licence and an exploration and production licence may in particular provide for the following matters:

(a) the rental fee, if any, to be charged in respect of the block or blocks or area or areas of the licence;

(b) the rates of royalties to be paid, if any, in respect of any petroleum won in the exercise of the rights conferred by the licence, the method of calculation of the amount of royalties and the manner of payment thereof;

(c) the work obligations attached to the licence;

(d) in the case of an exploration and production licence, the sharing of profits between the Government and the licensee derived from the sale or disposal of petroleum won in the exercise of rights conferred by the licence;

(e) in the case of a prospection licence, the revenue derived from the sale of data;

(f) the provision, from time to time, of information by way of returns, reports, maps, samples, data, notices, records of operations or otherwise;

(g) the protection of the environment, the health and safety of the workers and the safety of the installations; and

Confidential
information and
disclosure of
information.

(h) such other terms and conditions which may be necessary.

9. (1) All data or information collected or compiled or interpreted or prepared during the exercise of any licence pursuant to the Act or during the exercise of any other agreement or arrangement related to any of the activities of prospecting, exploring and producing of petroleum contemplated in the Act or during a data room visit, shall be and remain the property of the Government, and shall be deemed to be confidential, sensitive in terms of national security and international relations, of a commercially sensitive nature and having commercial value.

(2) Any person who publishes, discloses or shares any data or information to any person without authorisation in writing from the Minister, shall be deemed to have committed an offence and shall, on conviction, be liable 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 (5) years, or to both such fine and imprisonment:

Provided that the obligation of confidentiality shall not apply:

(a) when written consent has been given by the Minister; or

(b) during Court, arbitration or mediation proceedings.

Transitory provision.

10. (1) Any applications that were submitted before the coming into force of these regulations shall continue to be governed and regulated in accordance with the Petroleum (Production) Regulations in force prior to the coming into force of the said regulations.

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(2) Any licences that were issued before the coming into force of these regulations shall be deemed to be valid and continue to be governed and regulated in accordance with the Petroleum (Production) Regulations in force prior to the coming into force of the said regulations."

S.L. 156.01.

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Substitutes the
Schedule to the
principal
regulations.

9. The Schedule to the principal regulations shall be substituted by the following new Schedule:

"SCHEDULE
(regulation 6)

Form of Application for a licence in accordance with regulation 6

The applicants shall provide the following details:

- (a) their name and surname, address and nationality;
- (b) their place of registration or incorporation, the company registration number or any other distinguishing number in the case of any other entity not being a company, its principal place of business, the members of the Board of Directors and senior management, the nationality and domicile of the members of the Board of Directors, the capital structure and the factors constituting control of the applicant by other natural or legal person;
- (c) their name and surname, address, telephone number and email address of the contact person for the application;
- (d) their form of organisation, including information concerning their relationship with the parent company, if such exists, and other affiliated persons;
- (e) the financial structure of the applicant and the parent company, if such exists, including annual reports, audited balance sheets and profit and loss statements for the past three (3) years, and any other reports which they and the parent company may have filed to the competent authority for capital market and transactions in securities regulation, during the past three (3) years immediately preceding the application;
- (f) the manner in which the activities shall be financed, if the application is approved, and how the performance of their obligations shall be guaranteed, including in the case of an exploration and production licence, the proposed financial security measures to cover liabilities and damages potentially deriving from oil and gas operations;
- (g) a list of their relevant work carried out in the past five (5) years immediately preceding the application to demonstrate their experience in petroleum prospection and, or petroleum exploration and, or production of petroleum;

(h) experience of the key allocated personnel (detailed *curriculum vitae* for each one describing their professional experience);

(i) safety statistics for the past three (3) years;

(j) proof of an implemented health, safety and environment system;

(k) the block or blocks or area or areas in respect of which the application is made and if the application is made in respect of more than one block or area, the priority assigned to each block or area;

(l) a detailed description of the work programme proposed for the block or blocks or area or areas applied for and the geographical distribution over such block or blocks or area or areas;

(m) the minimum obligations to be undertaken relating to work and expenditure during the licence period;

(n) a description concerning the effects which the activities are likely to have on the environment, and the proposed mitigation measures;

(o) proposals relating to the commercial and economic terms and conditions required as criteria for the evaluation of the application, such as the financial considerations;

(p) any agreement between persons relating to the manner in which petroleum operations are to be financed;

(q) any other information as may be required in the call for applications pursuant to regulation 4(1) or under the applicable model contract or which they want the Minister to consider;

(r) a declaration that the information provided in the application is true and correct; and

(s) signature of a duly authorised officer together with a power of attorney authorising him to sign on their behalf.

In the case that the application is submitted by a consortium, or by a group of two (2) or more natural or legal persons, the information required above shall be submitted for each consortium member or for each person and the consortium or group shall in its application,

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designate one (1) person as representative of the consortium or group. In this case, the application shall also include the participating interest of each member of the consortium."
