



REPUBLIC OF VANUATU

GEOHERMAL ACT NO. 40 OF 2019

Arrangement of Sections

PART 1	INTERPRETATION.....	4
1	Interpretation.....	4
PART 2	GEOHERMAL EXPLORATION.....	6
Division 1	Definitions	6
2	Definition	6
Division 2	Geothermal Exploration Advisory Board.....	6
3	Establishment of the Geothermal Exploration Advisory Board	6
4	Functions of the Board.....	6
5	Composition of the Board.....	7
6	Chairperson and Deputy Chairperson of the Board.....	7
7	Meetings of the Board.....	7
8	Secretariat for the Board	8
Division 3	Exploration Licence	8
9	Licensing requirement	8
10	Application for an exploration licence.....	8
11	Approval of an exploration licence.....	9
12	Exploration licence conditions.....	10
13	Term of validity of an exploration licence.....	10
14	Surrender of an exploration licence	10
15	Cancellation	11
16	Force majeure	12
Division 4	Renewal of an exploration licence	12
17	Application for renewal	12
18	Approval of an application to renew an exploration licence	13
19	Renewal condition for an exploration licence	14

20	Term of validity of a renewed exploration licence	14
Division 5 Rights and obligations of an exploration licensee14		
21	Rights under exploration licence	14
22	Obligations of a licensee	14
Division 6 Work programme under an exploration licence15		
23	Performance of work programme under licence.....	15
24	Amendment of work programme.....	16
PART 3 GEOTHERMAL PRODUCTION 17		
Division 1 – Definitions17		
25	Definition	17
Division 2 – Geothermal Production Advisory Board17		
26	Establishment of the Geothermal Production Advisory Board	17
27	Functions of the Board.....	17
28	Composition of the Board.....	18
29	Chairperson and Deputy Chairperson of the Board.....	18
30	Meetings of the Board.....	18
31	Secretariat for the Board	19
Division 3 Production licence19		
32	Licensing requirement	19
33	Application for a production licence	19
34	Approval of a production licence.....	21
35	Production licence conditions.....	22
36	Term of validity of a production licence	22
37	Surrender of a production licence	22
38	Cancellation	23
39	Force majeure	24
Division 4 Renewal of production licence24		
40	Application for renewal	24
41	Approval of an application to renew a production licence	25
42	Renewal condition for a production licence	26
43	Term of validity of a renewed production licence	26
Division 5 Rights and obligations of a production licensee26		
44	Rights under production licence	26
45	Obligations of the licensee.....	26
Division 6 Work programme under a production licence27		
46	Performance of work programme under Production licence	27
47	Amendment of work programme.....	28
PART 4 ENFORCEMENT AND PENALTIES 29		
48	Authorised officer	29

49	Powers of authorised officers	29
50	Obstruction of authorised persons	30
51	Offences	30
52	Illegal operations.....	30
53	Offences by body corporate	30
54	Order for forfeiture in respect of certain offences	31
55	Prohibition against holding an exploration licence or a production licence	31
56	Penalty notices	32
PART 5 MISCELLANEOUS		34
57	Restriction on disclosure of information	34
58	Indemnity	35
59	Regulations	35
60	Repeal	35
61	Transitional	35
62	Commencement	35

REPUBLIC OF VANUATU

Assent: 16/07/2020
Commencement: 04/11/2021

GEOHERMAL ACT NO. 40 OF 2019

An Act to regulate and control the exploration and production of geothermal energy and related matters.

Be it enacted by the President and Parliament as follows-

PART 1 INTERPRETATION

1 Interpretation

In this Act, unless the contrary intention appears:

authorised person means a person referred to under section 48;

Commissioner means the Commissioner of Mines and Minerals appointed under subsection 6(1) of the Mines and Minerals Act [CAP 190];

company means a company registered under the Companies Act No. 25 of 2012;

custom owner means a person who has been determined as custom owner in accordance with the Custom Land Management Act No. 33 of 2013 or other prevailing laws prior to the enactment of the Custom Land Management Act No. 33 of 2013;

Director means the Director of the Department of Energy;

exploration licence means an exploration licence issued under section 11;

exploration operations includes boring and all operations and tests for the purpose of exploration for geothermal energy, but does not include the use of geothermal energy for purposes other than exploration;

geothermal energy means energy derived or derivable from within the ground or under the ground by natural heat, and includes:

- (a) all steam, water or other fluid and any mixture of all or any of them that has been heated by such energy; and

- (b) every kind of matter derived from a bore and for the time being with or in any such steam, water, fluid or mixture,

but does not include water that has been heated by such energy to a temperature not exceeding 40°C;

land includes land beneath water and the sea-bed, and its related subsoil including the continental shelf and Economic Exclusive Zone;

licensee means a person issued with an exploration licence or production license;

licensed area means an area over which an exploration licence or a production licence relates;

production licence means a production licence issued under section 34;

production operations includes the process of tapping, extraction, obtention or use of geothermal energy for the purpose of generating energy and heat as a by-products;

prescribed means prescribed by the Regulations:

- (a) in the case of matters relating to exploration operations– by the Minister responsible for geology and mines; and
- (b) in the case of matters relating to production operations– by the Minister responsible for energy.

PART 2 GEOTHERMAL EXPLORATION

Division 1 Definitions

2 Definition

In this Part, unless the contrary intention appears:

Board means the Geothermal Exploration Advisory Board established under section 3;

licensee means a person issued with an exploration licence under section 11;

Minister means the Minister responsible for geology and mines.

Division 2 Geothermal Exploration Advisory Board

3 Establishment of the Geothermal Exploration Advisory Board

The Geothermal Exploration Advisory Board is established.

4 Functions of the Board

The Board has the following functions:

- (a) to review applications for an exploration licence; and
- (b) to make a recommendation to the Minister regarding an application for an exploration licence; and
- (c) to review any proposed Regulations on geothermal exploration and make a recommendation to the Minister on such proposed Regulations; and
- (d) to request an applicant to prepare and give reports on geothermal exploration activities including the preparation of an Environmental Impact Assessment under Part 3 of the Environmental Protection Management and Conservation Act [CAP 283]; and
- (e) to review reports of the licensee and conduct interviews with the licensee; and
- (f) if possible, to provide an opportunity for custom owners to be consulted; and
- (g) such other functions as conferred on the Board by this Act or any other Act.

5 Composition of the Board

- (1) The Board consists of the following persons:
 - (a) the Commissioner; and
 - (b) the Director of Environment; and
 - (c) the Director; and
 - (d) the Attorney General; and
 - (e) the Director of Lands; and
 - (f) the Commissioner of the Vanuatu Financial Services Commission; and
 - (g) the Secretary General of the Provincial Government Council where the geothermal resource is located; and
 - (h) a person nominated by the Minister; and
 - (i) a person nominated by the Minister responsible for energy.
- (2) The persons referred to under paragraphs (1)(h) and (i) are to be appointed by the Minister by Order published in the Gazette for a term of 4 years.

6 Chairperson and Deputy Chairperson of the Board

- (1) The Commissioner is the Chairperson of the Board.
- (2) The members of the Board are to elect from amongst themselves the Deputy Chairperson of the Board for a term not exceeding 2 years and is eligible for reappointment.

7 Meetings of the Board

- (1) The Board is to meet at least once a year and may hold such other meetings as are necessary for the proper performance of its functions under this Act or any other Act.
- (2) The Chairperson of the Board is to preside at all meetings of the Board and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) If a member under paragraph 5(1)(b), (c), (d), (e), (f) or (g) is for any reason unable to attend a meeting of the Board, he or she may nominate a

senior officer from his or her office to represent him or her at a meeting of the Board.

- (4) The quorum of the Board is 4 members of the Board present at the meeting and the Chairperson or the Deputy Chairperson (whoever is chairing the meeting).
- (5) A member present at a meeting of the Board has 1 vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) If the voting at the meeting is equal, the Chairperson or the Deputy Chairperson (if he or she presiding at the meeting) has a casting vote.
- (7) The Board may determine and regulate its own procedures.

8 Secretariat for the Board

The Office of the Commissioner is to provide the secretariat services to the Board.

Division 3 Exploration Licence

9 Licensing requirement

A person must not carry out exploration operations unless:

- (a) that person is a company; and
- (b) the company has been approved an exploration licence.

10 Application for an exploration licence

- (1) A company that intends to carry out exploration operations must apply to the Commissioner for an exploration licence.
- (2) An application must be in the prescribed form and include the following information:
 - (a) the full names and the nationalities of:
 - (i) all the company directors; and
 - (ii) every company shareholder; and
 - (iii) every ultimate beneficial owner, of 5% or more of the issued capital; and

- (b) full information as to the financial status, technical competence and experience of the company; and
 - (c) a description of the area over which the exploration licence is sought together with its map of the area that meets the requirements as may be prescribed; and
 - (d) the proposed work programme of exploration and the minimum estimated cost; and
 - (e) the prescribed fee; and
 - (f) such other information as the Commissioner may require.
- (3) The application must be registered by the office of the Commissioner and the date and hour of its deposition must be recorded in a registry provided for that purpose, and which must be open to the public for inspection.
- (4) Upon receiving the application for an exploration licence, the Commissioner must:
- (a) send the application to the Board; and
 - (b) publish a notice of the application for a period of time and in the places as may be prescribed; and
 - (c) forward to the Board any objection letters received concerning the application.
- (5) The Commissioner may, on the advice of the Board, require the applicant to make changes to the application by the time specified by him or her in writing.

11 Approval of an exploration licence

- (1) Subject to subsections (3) and (4), the Minister may, on the recommendation of the Board, approve or refuse an application for an exploration licence.
- (2) If an application is approved, the Commissioner must issue the applicant with an exploration licence in the prescribed form.
- (3) The Board must not make a recommendation to the Minister to approve an application for an exploration licence unless the Board is satisfied that:

- (a) the applicant is a company; and
 - (b) the applicant has adequate financial resources, technical competence and experience to carry on effective exploration operations; and
 - (c) the applicant's programme of exploration work to be fulfilled is adequate; and
 - (d) the applicant's proposals for the employment and training of citizens of Vanuatu are adequate.
- (4) The Board must not make a recommendation in relation to any land which is, at the time of the application, comprised in:
- (a) an existing exploration licence; or
 - (b) an existing geothermal production licence; or
 - (c) a community conservation area established under Part 4 of the Environmental Protection and Conservation Act [CAP 283]; or
 - (d) a cultural site established under the Part 2 of the Preservation of Sites and Artifacts Act [CAP 39].
- (5) The area of land over which an exploration licence is approved must cover such area not exceeding 100 km² and be of such size, shape, or orientation as may be prescribed.

12 Exploration licence conditions

The Minister may, on the recommendation of the Board, prescribe the conditions of an exploration licence.

13 Term of validity of an exploration licence

An exploration licence is valid for a term of 3 years.

14 Surrender of an exploration licence

A licensee may, by notice in writing, to the Commissioner:

- (a) surrender its exploration licence, or
- (b) surrender part of the licensed area.

15 Cancellation

- (1) Subject to subsections (3) and (4), the Minister must, on the recommendation of the Board, cancel an exploration licence if:
- (a) the licensee is in breach of any of the following:
 - (i) a condition of the exploration licence; or
 - (ii) a requirement of this Act in relation to the exploration licence; or
 - (b) the licensee has failed to pay any amount payable by him or her under this Act or his or her exploration licence; or
 - (c) an order is made or a resolution is passed winding-up the affairs of the company.
- (2) Paragraph (1)(c) does not apply if the winding-up is for the purpose of amalgamation or reconstruction.
- (3) The Minister must not cancel an exploration licence unless he or she has given at least 30 days written notice to the licensee stating:
- (a) his or her intention to cancel the exploration licence ; and
 - (b) a date before which the licensee may, in writing, submit any matter which the licensee wishes the Minister to consider.
- (4) In addition to subsection (3), the Minister must not cancel an exploration licence unless he or she has taken into account:
- (a) any action taken by the licensee to remedy and prevent further the breach of a condition of the exploration licence or a requirement of this Act; or
 - (b) any matters submitted to the Minister by the licensee under paragraph (3)(b); or
 - (c) the fact that the licensee pays the amount of money concerned under paragraph (1)(b), together with any other amount which may be payable.

- (5) To avoid doubt, the cancellation of an exploration licence does not affect any liability incurred before the cancellation and any legal proceedings that might have been commenced or continued against the former licensee.

16 Force majeure

- (1) Despite section 15, if a licensee breaches a condition of an exploration licence or a requirement of this Act, the Minister must not cancel that licence if the breach results from:
- (a) an act of war, hostility, insurrection; or
 - (b) an exceptional, inevitable and irresistible natural phenomenon; or
 - (c) any other cause specified in the licence as constituting force majeure for the purposes of this section.
- (2) Subsection (1) does not apply unless the licensee notifies the Minister, at least 7 days before or after the breach specifying the particulars of the failure and its cause.
- (3) Upon being notified under subsection (2), the Minister may, on the recommendation of the Board, extend the period of the licence for as long as is necessary to remedy the breach.
- (4) To avoid doubt, this section does not apply if the licensee fails to pay any royalty, rent or fees payable under this Act.

Division 4 Renewal of an exploration licence

17 Application for renewal

- (1) A company that intends to renew its exploration licence must apply to the Commissioner within 60 days before the expiry date of the exploration licence.
- (2) An application must be in the prescribed form and must include the following:
- (a) a report on exploration operations carried out to date and the direct cost it has incurred in carrying out the operations; and
 - (b) a proposed programme of exploration operations to be carried out during the period of renewal and the minimum estimated cost; and
 - (c) a prescribed fee; and

- (d) such other information as the Commissioner may require.

18 Approval of an application to renew an exploration licence

- (1) Subject to subsections (3), (4) and (5), the Minister may, on the recommendation of the Board, approve or refuse an application for the renewal of an exploration licence.
- (2) If an application is approved, the Commissioner must issue the applicant with a renewed licence set out in the prescribed form.
- (3) An exploration licence must not be renewed on more than 2 occasions.
- (4) The Board must not make a recommendation to the Minister to approve an application for the renewal of an exploration licence unless he or she is satisfied that:
 - (a) the applicant for renewal has identified the land in relation to which the exploration licence is renewed; and
 - (b) the land referred to under paragraph (a) does not exceed an area that is 50% of the area of the land which was covered by the licence held by the company on the date of its application for renewal.
- (5) The Board must not make a recommendation to the Minister if the licensee is in breach of any of the following when making an application for renewal of the exploration licence:
 - (a) a condition of the exploration licence; or
 - (b) a requirement of this Act in relation to the exploration licence.
- (6) If the licensee is in breach of a condition or a requirement under paragraph (5)(a) or (b), the Minister must give the licensee notice specifying:
 - (a) the particulars of the alleged breach; and
 - (b) a date before which the licensee may make representations in writing in relation to the alleged breach, or remedy the alleged breach.
- (7) The licensee may, before the date referred to under paragraph (6)(b):

- (a) remedy the breach; or
 - (b) in a notice given to the Minister, make representations to the Minister and the Board that:
 - (i) the licensee is not in breach; or
 - (ii) despite the breach, the licence should be renewed having regard to the circumstances of the case.
- (8) The Minister may renew a licence if he or she is satisfied that the breach is remedied or the Minister accepts a recommendation made under subparagraph (7)(b)(ii).
- (9) If an application for renewal is made, the exploration licence is deemed to continue in force until such application is determined.

19 Renewal condition for an exploration licence

The Minister may, on the recommendation of the Board, prescribe the conditions of the renewal of an exploration licence granted under section 18.

20 Term of validity of a renewed exploration licence

A renewed exploration licence is valid for a term not exceeding 2 years.

Division 5 Rights and obligations of an exploration licensee

21 Rights under exploration licence

A licensee has the exclusive right:

- (a) to carry out exploration operations in the licensed area; and
- (b) to carry on such works as are necessary for exploration operations in the licensed area.

22 Obligations of a licensee

- (1) A licensee must keep full and accurate records of its exploration operations, to the satisfaction of the Board, which must show:
 - (a) boreholes drilled, with detailed logs of strata penetrated using the prescribed form; and
 - (b) the results of any geochemical or geophysical analysis; and

- (c) the geological interpretation of the records maintained under paragraphs (a) and (b); and
 - (d) other work done in connection with the exploration licence; and
 - (e) such other matters as may be prescribed.
- (2) The licensee must submit quarterly reports including copies of records under subsection (1) to the Board and any reports prepared as a result of such records.
- (3) A licensee must, within 3 months before the expiration of that licence, submit a report to the Minister and the Board setting out all results of the exploration operations in the area of the exploration licence.
- (4) A report under subsection (3) must be accompanied by:
- (a) all geological, geochemical and geophysical maps, profiles, and diagram charts made by the licensee; and
 - (b) all raw data in a format acceptable to the Board; and
 - (c) copies of all tests and analysis made by the licensee; and
 - (d) copies of all reports made by the licensee; and
 - (e) a statement of direct costs incurred by the licensee in the exploration operations.
- (5) The licensee is to give an oral presentation of reports and records required under this section on the request of the Minister or the Board.

Division 6 Work programme under an exploration licence

23 Performance of work programme under licence

- (1) A licensee must fulfil the work programme of the exploration operations as described in the licence.
- (2) The licensee is liable to pay the State any damages if the licensee fails to fulfil the work programme.
- (3) The damages referred to under subsection (2):

- (a) must be damages prescribed in respect of any such failure in the exploration licence; or
- (b) if not prescribed, must be assessed on the basis that the failure constitutes a breach of a contract with the State to fulfil the work programme.

24 Amendment of work programme

- (1) The licensee may apply in writing to the Commissioner for an amendment to the work programme of the exploration operations as described in the licence.
- (2) Upon reviewing the application, the Board is to make a recommendation to the Minister as to whether or not to approve the proposed amendment to the licensee's work programme.
- (3) The Minister may, upon the recommendation of the Board, approve or reject an application for an amendment to the work programme made under this section.

PART 3 GEOTHERMAL PRODUCTION

Division 1 – Definitions

25 Definition

In this Part, unless the contrary intention appears:

Board means the Geothermal Production Advisory Board established under section 26;

licensee means a person issued with a production licence under section 34;

Minister means the Minister responsible for energy.

Division 2 – Geothermal Production Advisory Board

26 Establishment of the Geothermal Production Advisory Board

The Geothermal Production Advisory Board is established.

27 Functions of the Board

The Board has the following functions:

- (a) to review applications for a production licence; and
- (b) to make a recommendation to the Minister regarding an application for a production licence; and
- (c) to review any proposed Regulations on geothermal production and make a recommendation to the Minister on such proposed Regulations;
- (d) to request an applicant to prepare and give reports on geothermal production activities including the preparation of an Environmental Impact Assessment under Part 3 of the Environmental Protection and Conservation Act [CAP 283]; and
- (e) to review reports of the licensee and conduct interviews with the licensee; and
- (f) if possible, to provide an opportunity for custom owners to be consulted; and
- (g) such other functions as conferred on the Board by this Act or any other Act.

28 Composition of the Board

- (1) The Board consists of the following persons:
 - (a) the Director; and
 - (b) the Director of Environment; and
 - (c) the Commissioner; and
 - (d) the Attorney General; and
 - (e) the Director of Lands; and
 - (f) the Commissioner of the Vanuatu Financial Services Commission; and
 - (g) the Secretary General of the Provincial Government Council where the geothermal resource is located; and
 - (h) a person nominated by the Minister responsible for geology and mines; and
 - (i) a person nominated by the Minister.
- (2) The persons referred to under paragraphs (1)(h) and (i) are to be appointed by the Minister by Order published in the Gazette for a term of 4 years.

29 Chairperson and Deputy Chairperson of the Board

- (1) The Director is the Chairperson of the Board.
- (2) The members of the Board are to elect from amongst themselves the Deputy Chairperson of the Board for a term not exceeding 2 years and is eligible for reappointment.

30 Meetings of the Board

- (1) The Board is to meet at least once a year and may hold such other meetings as are necessary for the proper performance of its functions under this Act or any other Act.
- (2) The Chairperson of the Board is to preside at all meetings of the Board and in his or her absence, the Deputy Chairperson is to preside at these meetings.

- (3) If a member under paragraph 28(1)(b), (c), (d), (e), (f) or (g) is for any reason unable to attend a meeting of the Board, he or she may nominate a senior officer from his or her office to represent him or her at a meeting of the Board.
- (4) The quorum of the Board is 4 members of the Board present at the meeting and the Chairperson or the Deputy Chairperson (whoever is chairing the meeting).
- (5) A member present at a meeting of the Board has 1 vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) If the voting at the meeting is equal, the Chairperson or the Deputy Chairperson (if he or she presiding at the meeting) has a casting vote.
- (7) The Board may determine and regulate its own procedures.

31 Secretariat for the Board

The Department of Energy is to provide the secretariat services to the Board.

Division 3 Production licence

32 Licensing requirement

A person must not carry out production operations unless:

- (a) that person is a company; and
- (b) the company has been approved a production licence.

33 Application for a production licence

- (1) A company that intends to carry out production operations must apply to the Director for a production licence.
- (2) An application must be in the prescribed form and include the following information:
 - (a) the full names and the nationalities of:
 - (i) all the company directors; and
 - (ii) every company shareholder; and
 - (iii) every ultimate beneficial owner, of 5% or more of the issued capital; and

- (b) full information as to the financial status, technical competence and experience of the company; and
- (c) the company registration certificate issued by the Vanuatu Financial Services Commission; and
- (d) a contract agreement between the:
 - (i) company and the custom owner, if there is a declared custom owner; or
 - (ii) company and all disputing parties, if the land is under dispute; or
 - (iii) company and the Minister responsible for Lands; if the land is owned by the State; and
- (e) the number or numbers of geothermal exploration and geothermal production licenses issued to the company in Vanuatu or overseas; and
- (f) a copy of the land lease of the proposed licensed area that has been registered by the Department of Lands for the purpose of geothermal production operations; and
- (g) details, illustrated by an approved plan, of the area in respect of which the application is made; and
- (h) the period for which the licence is sought; and
- (i) a technological report on production possibilities and the intention of the applicant in relation to these production possibilities; and
- (j) a proposed work programme of production operations which must include:
 - (i) the date by which the applicant intends to commence production; and
 - (ii) full details of how the energy is to be treated, converted, transmitted and marketed; and
 - (iii) a detailed programme for the progressive reclamation and rehabilitation of lands disturbed and for the minimization of

the effects, of such work on adjoining land and water areas;
and

- (k) a detailed forecast of capital investment, operating costs and sales revenues and the anticipated type and source of financing; and
 - (l) a program for the employment and training of Vanuatu citizens;
and
 - (m) a report of the goods and services required for the production operation which are to be obtained by the applicant within Vanuatu; and
 - (n) details of expected infrastructure requirements; and
 - (o) the prescribed fee; and
 - (p) such further information as the Director may require.
- (3) The application must be registered by the office of the Director and the date and hour of its deposition must be recorded in a registry provided for that purpose, and which must be open to the public for inspection.
- (4) Upon receiving an application for a production licence, the Director must send all documents received from the applicant to the Board.
- (5) The Director may, on the advice of the Board, require the applicant to make changes to the application by the time specified by him or her in writing.

34 Approval of a production licence

- (1) Subject to subsections (3) and (4), the Minister may, on the recommendation of the Board, approve or refuse an application for a production licence.
- (2) If an application is approved, the Director must issue the applicant with a production licence in the prescribed form.
- (3) The Board must not make a recommendation to the Minister to approve an application for a production licence unless the Board is satisfied that:
- (a) the applicant is a company; and

- (b) the proposals of the applicant would ensure the most efficient, beneficial and timely use of the resources concerned;
 - (c) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective production operations;
 - (d) the applicant would be able and willing to comply with the conditions on which a licence would be approved;
 - (e) the applicant's proposals for the employment and training of citizens of Vanuatu are satisfactory.
- (4) The Board must not make a recommendation in relation to any land which is, at the time of the application, comprised in:
- (a) an existing exploration licence, or
 - (b) an existing geothermal production licence, or
 - (c) a community conservation area established under Part 4 of the Environmental Protection and Conservation Act [CAP 283]; or
 - (d) a cultural site established under the Preservation of Sites and Artifacts Act [CAP 39].
- (5) The area of land over which a production licence is approved must cover such area, not exceeding 100 km² and be of such size, shape, or orientation as may be prescribed.

35 Production licence conditions

The Minister may, on the recommendation of the Board, prescribe the conditions of production licence.

36 Term of validity of a production licence

A production licence is valid for a term of 30 years.

37 Surrender of a production licence

A licensee may, by notice in writing, to the Director:

- (a) surrender its production licence, or
- (b) surrender part of the licensed area.

38 Cancellation

- (1) Subject to subsections (3) and (4), the Minister must, on the recommendation of the Board, cancel a production licence if:
 - (a) the licensee is in breach of any of the following:
 - (i) a condition of the production licence; or
 - (ii) a requirement of this Act in relation to the production licence; or
 - (b) the licensee has failed to pay any amount payable by him or her under this Act or his or her production licence; or
 - (c) an order is made or a resolution is passed winding-up the affairs of the licensee.
- (2) Paragraph (1)(c) does not apply if the winding-up is for the purpose of amalgamation or reconstruction.
- (3) The Minister must not cancel a production licence unless he or she has given at least 30 days written notice to the licensee stating:
 - (a) his or her intention to cancel the production licence ; and
 - (b) a date before which the licensee may, in writing, submit any matter which the licensee wishes the Minister to consider.
- (4) In addition to subsection (3), the Minister must not cancel a production licence unless he or she has taken into account:
 - (a) any action taken by the licensee to remedy and prevent further the breach of a condition of the production licence or a requirement of this Act; or
 - (b) any matters submitted to the Minister by the licensee under paragraph (3)(b); or
 - (c) the fact that the licensee pays the amount of money concerned under paragraph (1)(b), together with any other amount which may be payable.

- (5) To avoid doubt, the cancellation of a production licence does not affect any liability incurred before the cancellation and any legal proceedings that might have been commenced or continued against the former licensee.

39 Force majeure

- (1) Despite section 38, if a licensee breaches a condition of a production licence or a requirement of this Act, the Minister must not cancel that licence if the breach results from:
- (a) an act of war, hostility, insurrection; or
 - (b) an exceptional, inevitable and irresistible natural phenomenon; or
 - (c) any other cause specified in the production licence as constituting force majeure for the purposes of this section.
- (2) Subsection (1) does not apply unless the licensee notifies the Minister, at least 7 days before or after the breach specifying the particulars of the failure and its cause.
- (3) Upon being notified under subsection (2), the Minister may, on the recommendation of the Board, extend the period of the licence for as long as is necessary to remedy the breach.
- (4) To avoid doubt, this section does not apply if the licensee fails to pay any royalty, rent or fees payable under this Act.

Division 4 Renewal of production licence

40 Application for renewal

- (1) A company that intends to renew its production licence must apply to the Director within 60 days before the expiry date of the production licence.
- (2) An application must be in the prescribed form and must include the following:
- (a) a report on production operations carried out to date and the direct cost it has incurred in carrying out the operations; and
 - (b) a proposed programme of production operations to be carried out during the period of renewal and the minimum estimated cost; and
 - (c) a prescribed fee; and

(d) such other information as the Director may require.

41 Approval of an application to renew a production licence

- (1) Subject to subsections (3), (4) and (5), the Minister may, on the recommendation of the Board, approve or refuse an application for the renewal of a production licence.
- (2) If an application is approved, the Director must issue the applicant with a renewed licence set out in the prescribed form.
- (3) A production licence must not be renewed on more than 3 occasions.
- (4) The Board must not make a recommendation to the Minister to approve an application for the renewal of a production licence unless the Board is satisfied that:
 - (a) the applicant for renewal has identified the land in relation to which the production licence is renewed; and
 - (b) the land referred to under paragraph (a) does not exceed an area that is 50% of the area of the land which was covered by the licence held by the company on the date of its application for renewal.
- (5) The Board must not make a recommendation to the Minister if the licensee is in breach of any of the following when making an application for renewal of the production licence:
 - (a) a condition of the production licence; or
 - (b) a requirement of this Act in relation to their production licence.
- (6) If the licensee is in breach of a condition or a requirement under paragraph (5)(a) or (b), the Minister must give the licensee notice specifying:
 - (a) the particulars of the alleged breach; and
 - (b) a date before which the licensee may make representations in writing in relation to the alleged breach, or remedy the alleged breach.
- (7) The licensee may, before the date referred to under paragraph (6)(b):

- (a) remedy the breach; or
 - (b) in a notice given to the Minister, make representations to the Minister and the Board that:
 - (i) the licensee is not in breach; or
 - (ii) despite the breach, the licence should be renewed having regard to the circumstances of the case.
- (8) The Minister may renew a licence if he or she is satisfied that the breach is remedied or the Minister accepts a recommendation made under subparagraph (7)(b)(ii).
- (9) If an application for renewal is made, the production licence is deemed to continue in force until such application is determined.

42 Renewal condition for a production licence

The Minister may, on the recommendation of the Board, prescribe the conditions of the renewal of a production licence granted under section 41.

43 Term of validity of a renewed production licence

A renewed production licence is valid for a term not exceeding 30 years.

Division 5 Rights and obligations of a production licensee

44 Rights under production licence

A licensee has the exclusive rights:

- (a) to carry out production operations in the area of the licence; and
- (b) to carry on such works as are necessary for production operations in the licensed area; and
- (c) to sell any energy product in manner approved by the Minister and store and dump any mineral or waste products in a manner approved by the Minister.

45 Obligations of the licensee

- (1) A licensee must keep full and accurate records of its production operations, to the satisfaction of the Board, which must show:
 - (a) boreholes drilled, with detailed logs of strata penetrated using the prescribed form; and

- (b) the results of any geochemical or geophysical analysis; and
 - (c) the geological interpretation of the records maintained under paragraphs (a) and (b); and
 - (d) other work done in connection with the production licence; and
 - (e) such other matters as may be prescribed.
- (2) The licensee must submit quarterly reports including copies of records under subsection (1) to the Board and any reports prepared as a result of such records.
- (3) The licensee must, within 12 months before the expiration, submit a report to the Minister and the Board setting out all results of the production operations in the area of the licence.
- (4) A report under subsection (3) must be accompanied by:
- (a) all geological, geochemical and geophysical maps, profiles, and diagram charts made by such licensee; and
 - (b) all raw data in a format acceptable to the Board; and
 - (c) copies of all tests and analysis made by the licensee; and
 - (d) copies of all reports made by the licensee; and
 - (e) a statement of direct costs incurred by the licensee in the production operations.
- (5) The licensee is to give an oral presentation of reports and records required under this section on the request of the Minister or the Board.

Division 6 Work programme under a production licence

46 Performance of work programme under Production licence

- (1) A licensee must fulfil the work programme of the production operations as described in the licence.
- (2) The licensee is liable to pay the State any damages if the licensee fails to fulfil the work program.
- (3) The damages referred to under subsection (2):

- (a) must be damages prescribed in respect of any such failure in the production licence; or
- (b) if not prescribed, must be assessed on the basis that the failure constitutes a breach of a contract with the State to fulfil the work programme.

47 Amendment of work programme

- (1) The licensee may apply in writing to the Director for an amendment to the work programme of the production operations as described in the licence.
- (2) Upon reviewing the application, the Board is to make a recommendation to the Minister as to whether or not to approve the proposed amendment to the licensee's work programme.
- (3) The Minister may, upon the recommendation of the Board, approve or reject an application for an amendment to the work programme made under this section.

PART 4 ENFORCEMENT AND PENALTIES

48 Authorised officer

Authorised officers consists of the following persons:

- (a) the Commissioner; and
- (b) the Director; and
- (c) an officer of the office of the Commissioner authorised by the Commissioner; and
- (d) an officer of the office of the Department authorised by the Director; and
- (e) any other person authorised by the Commissioner or the Director.

49 Powers of authorised officers

- (1) For the purposes of this Act, an authorised officer may at any reasonable time and in possession of an identification card:
 - (a) enter any premises or land which is subject to an exploration licence or a production licence, but so as not to impede or obstruct the operations of a licensee; and
 - (b) inspect anything on that premises or land; and
 - (c) take samples of anything on that premises or land; and
 - (d) make such examination and inquiry as is necessary to ascertain whether the provisions of this Act or the conditions of an exploration licence or a production licence are being complied with.
- (2) An authorised person who has exercised his or her powers under subsection (1) must record and report on the outcome of the exercise of those powers.
- (3) Despite the records and reports of authorised officers under subsection (2), the licensee must comply with all reporting obligations as required under this Act or its Regulations.
- (4) The records under subsection (2) are to be kept and maintained by the authorised person for a period of at least 3 years.

50 Obstruction of authorised persons

A person who:

- (a) wilfully obstructs, threatens or uses an insulting language to an authorised person in the exercise of his or her functions or powers under this Act; or
- (b) refuses to allow an authorised person entry for inspection under section 48,

commits an offence and is punishable on conviction by a fine not exceeding VT 1,000,000 or a term of imprisonment not exceeding 2 years, or both.

51 Offences

A person who contravenes any provision of this Act commits an offence and is punishable on conviction by a fine not exceeding VT 5,000,000 or a term of imprisonment not exceeding 2 years, or both.

52 Illegal operations

- (1) A person who engages in exploration operations or production operations without being issued with a valid exploration licence or production licence commits an offence and is punishable on conviction by a fine not exceeding VT 5,000,000 or a term of imprisonment not exceeding 2 years, or both.
- (2) A person who, without reasonable excuse, obstructs or prevents a licensee from doing any act which they are authorised by this Act or by their exploration licence or a production licence to do commits an offence and is punishable on conviction by a fine not exceeding VT 5,000,000 or a term of imprisonment not exceeding 2 years, or both.
- (3) A person who knowingly or recklessly gives false or misleading information in an application under this Act commits an offence and is punishable on conviction by a fine not exceeding VT 5,000,000 or a term of imprisonment not exceeding 2 years, or both.
- (4) A person who knowingly or recklessly includes or permits to be included any false or misleading information required to be submitted under this Act or its Regulations commits an offence and is punishable on conviction by a fine not exceeding VT 5,000,000 or a term of imprisonment not exceeding 2 years, or both.

53 Offences by body corporate

- (1) A body corporate that contravenes any provision of this Act commits an offence punishable on conviction by a fine not exceeding VT 50,000,000.

(2) If a body corporate commits an offence under this Act, a director, manager, secretary or other office bearer of the body corporate who:

- (a) authorised, assent to or participated in; or
- (b) by his or her neglect or omission, contributed to,

the commission of the offence, is a party to and may be found guilty of the offence and is liable to the penalty provided for the offence.

54 Order for forfeiture in respect of certain offences

If a person is convicted of an offence against this Act, the Supreme Court may make an Order for the forfeiture of any vehicle, aircraft, vessel or equipment used in the commission of the offence, in addition to any other penalty imposed by the Court.

55 Prohibition against holding an exploration licence or a production licence

(1) A relevant person must not, in his or her private capacity, acquire, attempt to acquire or hold:

- (a) an exploration licence or production licence; or
- (b) an interest in an exploration licence or production licence; or
- (c) a share in a licensee.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding VT 5,000,000, imprisonment for a term not exceeding 24 months, or both.

(3) In proceedings for the prosecution of an offence against subsection (1), it is a sufficient defence if the person charged proves:

- (a) the exploration licence or production licence, the interest or share was acquired before he or she became a relevant person; or
- (b) the share was acquired before the body corporate became entitled under this Act to carry on exploration operations or production operations; and
- (c) since he or she became a relevant person or since the body corporate became so entitled, as the case may be, all reasonable steps necessary to dispose of the exploration licence or production

licence, the interest or share have been, or are continuing to be, taken.

- (4) For the purposes of this section, the acquisition or holding by a member of the family of a relevant person (not herself or himself being a public servant) of any exploration licence or production licence, an interest or share of the kind referred to in subsection (1), is deemed to be a holding by the relevant person of the exploration licence or production licence, interest or share.
- (5) For the purposes of this section:

member of the family, in relation to a relevant person, means:

- (a) the husband or wife, or reputed husband or wife; and
- (b) the son or daughter (including a minor), whether born in or outside wedlock;

relevant person includes the following persons:

- (a) a public servant or any other person who is employed at the office of the Commissioner; and
- (b) a public servant or any other person who is employed at the Department of Energy; and
- (c) the members of the Geothermal Exploration Advisory Board or the Geothermal Production Advisory Board; and
- (d) the Minister responsible for geology and mines; and
- (e) the Minister responsible for energy; and
- (f) political appointees from the Ministry responsible for geology and mines and the Ministry responsible for energy.

56 Penalty notices

- (1) An authorised person may serve a penalty notice on a person if it appears to the authorised person that the person has committed an offence under this Act or the Regulations and the offence is one that is stated by the Regulations to be an offence to which this section applies.

- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice, the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) The Regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed in this Act.
- (8) This section does not limit the operation of any other provision of or made under this Act or any other Act relating to proceedings that may be taken in respect of offences.

PART 5 MISCELLANEOUS

57 Restriction on disclosure of information

- (1) Information obtained under or by virtue of this Act, about exploration or production under an exploration licence or production licence must not be disclosed, unless the disclosure is made:
- (a) with the consent of the licensee; or
 - (b) in relation to land which has ceased to be subject to the exploration licence or production licence; or
 - (c) for the purpose of facilitating the performance of any functions or the exercise of any powers under this Act; or
 - (d) in connection with the investigation of any criminal offence or for the purpose of any criminal proceedings; or
 - (e) for the purpose of any civil proceedings brought by or against a licensee; or
 - (f) for the purpose of facilitating the functions of a Government consultant on geothermal matters; or
 - (g) for the purpose of the determination of the liability to make any payment under this Act or of any tax, charge or fee; or
 - (h) for any purpose, or in any circumstances, prescribed in the exploration licence or production licence; or
 - (i) to another ministry or department upon approval of the Geothermal Exploration Advisory Board or the Geothermal Production Advisory Board; or
 - (j) for the purpose of informing the public of the potential or actual environmental impact of an exploration or production project, including information on:
 - (i) the social and environmental impacts of the project; and
 - (ii) any rehabilitation plans; and
 - (iii) the use of surface or groundwater.

- (2) A person who discloses information under paragraph (1) (a), (c), (f), (g), (i) or (j) is deemed to have obtained the information by virtue of this Act.

58 Indemnity

A public servant does not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him or her in good faith of any function or power under and for the purposes of this Act.

59 Regulations

- (1) The Minister responsible for geology and mines may make Regulations on matters relating to exploration operations as are:

- (a) required to be prescribed by this Act or any other Act; or
- (b) necessary or convenient to better give effect to the provisions of this Act.

- (2) The Minister responsible for energy may make Regulations on matters relating to production operations as are:

- (a) required to be prescribed by this Act or any other Act; or
- (b) necessary or convenient to better give effect to the provisions of this Act.

60 Repeal

The Geothermal Energy Act [CAP 197] is repealed.

61 Transitional

- (1) This section applies to all licences, authorisations and permits issued under Geothermal Energy Act [CAP 197] that were in force immediately before the commencement of this Act.
- (2) The licences, authorisations and permits remain in force for the remainder of their term as if they were issued under this Act.
- (3) The licences, authorisations and permits may be varied, suspended or cancelled in accordance with this Act.

62 Commencement

This Act commences on the day on which it is published in the Gazette.