

MALTA

ATT Nru XXVIII tal-2023

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT biex jemenda l-Att dwar il-Produzzjoni tal-Petroleum, Kap. 156, biex jipprovdi dwar il-proprjetà tal-petroleum u sabiex jahseb dwar prospettar, esplorazzjoni u produzzjoni tal-petroleum u għal skopijiet li għandhom x'jaqsmu mal-ħwejjeg hawn fuq imsemmija.

ACT No. XXVIII of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Petroleum (Production) Act, Cap. 156 to provide for the ownership of petroleum and to make provision with respect to prospection, exploration and production of petroleum and for purposes connected with the matters aforesaid.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

18 ta' Lulju, 2023

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IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 li jemenda l-Att dwar il-Produzzjoni tal-Petroleum, u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Att dwar il-Produzzjoni tal-Petroleum, hawn iżjed 'il quddiem imsejjaħ "l-Att principali".

Titolu fil-qosor
u bidu fis-seħħ.

Kap. 156.

(2) Dan l-Att għandu jidhol fis-seħħ f'dik id-data li l-Ministru jista', b'avviż fil-Gazzetta, jistabbilixxi u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet u għal għanijiet differenti ta' dan l-Att.

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Sostituzzjoni tal-artikolu 2 tal-Att prinċipali.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Tifsir.

2. F'dan l-Att kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra:

"applikant" tfisser entità li tipprezenta applikazzjoni għall-ħruġ ta' liċenzja kif hawn f'dan l-Att;

"awtorità kompetenti" tfisser l-Uffiċċju tal-Prim Ministru ta' Malta, jew kull korp ieħor jew persuna oħra li l-Ministru jista' jistabbilixxi u jinnomina bhala l-awtorità kompetenti għal finijiet differenti skont dispozizzjonijiet differenti ta' dan l-Att;

Kap. 386.

"entità" tfisser kull persuna fiżika jew ġuridika jew grupp ta' persuni bħal dawk, inkluża kumpanija b'responsabbiltà limitata mwaqqfa taħt l-Att dwar il-Kumpaniji, jew korp magħqud bħal dak imwaqqaf jew inkorporat barra minn Malta, li japplika għal, x'aktarx li japplika għal jew ikollu liċenzja b'mod konformi ma' dan l-Att;

"esplorazzjoni" tfisser it-tfittix għall-petroleum b'kull metodu adatt li jista' jkun jinkludi t-tħaffir;

L.S. 535.02.

"ibħra interni" għandu jkollha l-istess tifsira bħal dik mogħtija lilha bl-artikolu 2 tar-Regolamenti dwar il-Blata Kontinentali;

Kap. 226.

"ibħra territorjali" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 3 tal-Att dwar l-Ibħra Territorjali u z-Żona Kontigwa;

"liċenzja" tfisser setgħa mogħtija b'mod konformi ma' dan l-Att;

"Malta" għandu jkollha l-istess tifsira bħal dik mogħtija lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta u tinkludi qiegħ il-baħar u s-sottoswol taż-żona taħt il-baħar fil-limiti tal-ibħra interni u tal-ibħra territorjali ta' Malta;

"Ministru" tfisser il-Prim Ministru ta' Malta u tinkludi lil kull Ministru ieħor, uffiċjal pubbliku jew awtorità li jistgħu jiġu awtorizzati minnu, minn żmien għal żmien, għal kull għan ta' dan l-Att;

"petroleum" tfisser l-idrokarburi kollha solidi, likwidi jew gassużi li jkunu jeżistu fl-istat naturali tagħhom, inkluż iż-żejt mhux raffinat jew gażolina naturali, gassijiet naturali minn idrokarburi kif ukoll kull minerali jew sustanza relatati li jiġu prodotti flimkien ma' dawk l-idrokarburi;

"prodotti sekondarji" tfisser dawk il-prodotti li jiġu derivati mill-ipproċessar tal-petroleum;

"produzzjoni" tfisser l-iżvilupp u l-estrazzjoni tal-petroleum jew kull trattament biex jithejja għas-suq u l-ħażna u l-garr tal-petroleum u tal-prodotti sekondarji tiegħu lejn l-istallazzjonijiet ta' tagħbija mnejn jittiehed bnadi oħra. Kull trattament imsemmi f'din it-tifsira ma jinkludix ir-raffinar;

"prospettar" tfisser it-tentattiv biex jinsab il-petroleum f'xi żona speċifika b'xi metodu ieħor li ma jkunx it-tħaffir."

3. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"Tqeghid tal-proprjetà tal-petroleum f'idejn il-Gvern ta' Malta.

(1) Il-proprjetà ta' kull petroleum kull fejn jinsab f'Malta hija hawnhekk b'dan l-Att mogħtija f'idejn il-Gvern ta' Malta. Il-Gvern ta' Malta għandu kull dritt sovrani, ġurisdizzjoni u esklussività għall-għanijiet tal-ipprospettar għal, l-esplorazzjoni u l-produzzjoni tal-petroleum f'Malta. Id-dritt għall-ipprospettar, esplorazzjoni u, jew produzzjoni tal-imsemmi petroleum għandu jkun soġġett għal liċenzja maħruġa taħt id-dispożizzjonijiet ta' dan l-Att.";

(b) fis-subartikolu (2) tiegħu, il-kelma "persuna" għandha tiġi sostitwita bil-kelma "entità", il-kliem "tfitx jew tħaffer jew ittaqqab għal jew testratta petroleum fuq, taħt jew minn Malta" għandhom jiġu sostitwiti bil-kliem "tipprospetta għal u, jew tesplora għal u, jew tipproduċi l-petroleum minn Malta" u fit-tieni proviso tiegħu l-kelma "persuna" għandha tiġi sostitwita bil-kelma "entità"; u

(ċ) fil-proviso għas-subartikolu (3) tiegħu l-kelma "ħadd" għandha tiġi sostitwita bil-kelma "entità".

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Żieda ta' artikolu ġdid fl-Att prinċipali.

4. Minnufih wara l-artikolu 3 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Kif jiġu stabbiliti ż-żoni fejn jitwettqu l-attivitajiet u meta jiġi miċhud il-permess għall-aċċess minhabba fis-sigurtà nazzjonali.

3A. (1) Il-Ministru għandu jzomm id-dritt li jistabbilixxi ż-żoni f'Malta fejn jitwettqu l-attivitajiet tal-ipprospettar, l-esplorazzjoni u l-produzzjoni tal-petroleum.

(2) Kull meta zona ssir disponibbli biex fiha jitwettqu l-attivitajiet stipulati fis-subartikolu (1), il-Ministru għandu jiżgura li ma jkun hemm l-ebda diskriminazzjoni bejn entitajiet dwar l-aċċess lejn u t-twettiq ta' dawn l-attivitajiet.

(3) Il-Ministru jista', għal raġunijiet ta' sigurtà nazzjonali, jiċċhad milli jhalli l-aċċess lejn u t-twettiq tal-attivitajiet imsemmija fis-subartikolu (1), lil xi entità li tkun effettivament kontrollata minn pajjiżi terzi jew minn ċittadini ta' xi pajjiż terzi."

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

5. L-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Liċenzji għall-ipprospettar, l-esplorazzjoni u l-produzzjoni tal-petroleum.

4. (1) Il-Ministru jkollu s-setgħa li joħroġ lill-applikant magħżul, liċenzja għall-ipprospettar, l-esplorazzjoni u l-produzzjoni tal-petroleum f'Malta.

(2) Kull liċenzja bħal dik għandha tinhareġ għal dak il-hlas (bħala dritt, *royalty*, dhul, profitt mill-bejgħ jew disponiment tal-petroleum u, jew xort'oħra) hekk kif il-Ministru jista' jistabbilixxi, u fl-inħawi ta' dawk iż-żoni, għal dawk il-perjodi u b'dawk il-pattijiet u kundizzjonijiet l-oħra li jistgħu jiġu stipulati fis-sejha għall-applikazzjonijiet u fil-liċenzja sabiex tiġi żgurata l-prestazzjoni kif suppost tal-attivitajiet li jkollhom liċenza:

Iżda l-Ministru jista' jimponi xi kondizzjonijiet u htigijiet fil-liċenzja f'dak li għandu x'jaqsam, iżda mhux biss, mas-sigurtà nazzjonali, is-sigurtà pubblika, is-saħħa pubblika, is-sigurezza tat-trasport, il-protezzjoni tal-ambjent, il-protezzjoni ta' riżorsi bijoloġiċi u ta' teżori nazzjonali li jkollhom valur artistiku, storiku jew arkeoloġiku, is-sigurtà ta' stallazzjonijiet u tal-ħaddiema, l-immaniġġar ppjanat ta' riżorsi tal-petroleum bħalma huma r-rata li biha l-petroleum jiġi eżawrit jew l-aħjar mod kif dan jiġi irkuprat jew il-ħtieġa li jiġi assigurat kull dhul ta' taxxa.

(3) Iż-żmien ta' validità tal-liċenzja ma għandux jaqbeż il-perjodu meħtieġ biex jintemmu l-attivitajiet speċifikati fil-liċenzja:

Iżda l-Ministru jista' jgħedded jew itawwal iż-żmien tal-liċenzja għal dak il-perjodu ta' żmien li jista' jkun meħtieġ għat-tmexxija kif imiss tal-obbligi tax-xogħol speċifikati fil-liċenzja:

Iżda wkoll id-detentur tal-liċenzja ma għandux iżomm f'idejh jeddijiet esklussivi fl-inħawi taż-żona li jkollha liċenzja għal żmien itwal minn dak meħtieġ għat-twettiq xieraq tal-attivitajiet li jkollhom liċenzja."

6. Is-subartikolu (1) tal-artikolu 5 tal-Att prinċipali għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġejj:

Emenda tal-artikolu 5 tal-Att prinċipali.

"Setgħat tal-Ministru li jagħmel regolamenti.

5. (1) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att u għal kwalunkwe obligazzjoni internazzjonali li l-Gvern ikun daħal fiha, il-Ministru jista' jagħmel regolamenti b'mod generali dwar:

(a) il-liċenzjar u r-regolamentazzjoni tal-prospettar, l-esplorazzjoni u l-produzzjoni ta' petrolium f'Malta, inkluża l-konservazzjoni tar-riżorsi tal-petrolium;

(b) it-twaqqif ta' Kumitat Konsultattiv, magħmul minn persuni kwalifikati fis-sugġett rilevanti, biex jagħti pariri u jagħmel rakkomandazzjonijiet lill-Ministru dwar kull haġa li tirrigwarda l-ħruġ ta' liċenzja, ir-regolament u l-monitoraġġ tal-obbligazzjonijiet kuntrattwali u kull haġ'ohra li jkollha x'taqsam ma' dan l-Att;

(c) it-tnaqqis sa fejn hu possibbli milli jiġru inċidenti kbar li jkollhom x'jaqsmu ma' operazzjonijiet li jinvolvu ż-żejt u l-gass lil hinn mill-kosta u biex jiġu limitati l-konsegwenzi tagħhom filwaqt li jkunu qegħdin isiru dawk l-attivitajiet ta' prospettar, esplorazzjoni u produzzjoni;

(d) thejjijiet għall-possibilità li jinħarġu awtorizzazzjonijiet lil uffiċjali pubbliċi jew lil entitajiet ohra sabiex dawn jiżguraw li dan l-Att ikun qed jiġi applikat u biex iwettqu spezzjonijiet, azzjonijiet ta' infurzar u kull azzjoni ohra anċillari li tista' tkun meħtieġa sabiex jiġu implimentati kif imiss id-dispożizzjonijiet ta' dan l-Att; u

(e) it-twettiq tad-dispożizzjonijiet ta' dan l-Att:

Iżda, partikolarment, imma minghajr preġudizzju għall-ġeneralità ta' dak imsemmi hawn qabel, dawk ir-regolamenti jistgħu jkunu jippreskrivu:

(i) il-mod kif isiru, u l-entitajiet li jistgħu jagħmlu, applikazzjonijiet għal liċenzji taħt dan l-Att;

(ii) id-drittijiet li għandhom jithallsu ma' kull applikazzjoni bħal dik;

(iii) il-kondizzjonijiet li jirrigwardaw il-qies u l-forma ta' żoni li dwarhom jistgħu jinħarġu liċenzji;

(iv) klawsoli mudell li għandhom, kemm-il darba il-Ministru ma jidhirlux li jkun sew li jiġu modifikati jew esklużi f'xi każ partikolari, jiġu inkorporati f'xi liċenzja bħal dik;

(v) kull haġa li teħtieġ jew li tista' tiġi preskritta taħt dan l-Att,

u jista' jipprovdi dwar l-inqas u l-akbar pjeni, sew bħala multa jew ta' priġunerija, li għandhom jingħataw għal kull nuqqas ta' ħarsien ta' xi regolament magħmul taħt dan l-artikolu:

Iżda wkoll kull piena li tiġi preskritta fir-regolamenti magħmula taħt dan l-artikolu ma għandhiex tkun ta' inqas minn multa ta' għaxart elef euro (€10,000) u ma għandhiex tkun iżjed minn multa ta' żewġ miljun euro (€2,000,000), jew priġunerija ta' mhux iżjed minn ħames snin, jew dik il-multa u priġunerija flimkien, għal kull nuqqas ta' ħarsien ta' xi regolament bħal dawk:

Iżda wkoll meta l-att li jikkostitwixxi r-reat ikompli għaddej għal aktar minn jum wiehed, il-Qorti tista' wkoll timponi multa ta' mhux iżjed minn għaxart elef euro (€10,000) għal kull jum li matulu jibqa' għaddej dak r-reat u dik il-multa għandha tkun tapplika wkoll għall-finijiet tal-artikolu 377(3) tal-Kodiċi Kriminali:

Iżda wkoll il-Ministru jista' jistabbilixxi regolamenti differenti għal tipi ta' liċenzji differenti u jipprovdi kondizzjonijiet li jkunu jorbtu lid-detenturi tal-liċenzja biex ikunu finanzjarjament responsabbli għal kull prevenzjoni u rimedjazzjoni ta' kull ħsara, inkluża ħsara li ssir lill-ambjent, kaġunata bl-ipprospettar, esplorazzjoni u produzzjoni ta' *petroleum* f'Malta."

7. Minnufih wara l-artikolu 5 tal-Att prinċipali għandhom jiġu miżjuda dawn l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda fl-Att prinċipali.

"Parteċipazzjoni statali f'attivitajiet ta' prospettar, esplorazzjoni u produzzjoni tal-*petroleum*."

5A. (1) Il-Gvern ta' Malta jew kull entità li fiha l-Gvern ta' Malta jkollu maġġoranza tal-ishma, ikollhom id-dritt li jipparteċipaw f'attivitajiet ta' prospettar, esplorazzjoni u produzzjoni tal-*petroleum* hekk kif jingħad fil-liċenzji maħruġin taht dan l-Att.

(2) Il-parteċipazzjoni tal-Gvern ta' Malta f'attivitajiet ta' prospettar, esplorazzjoni u produzzjoni tal-*petroleum* tista' tiġi mmanigġjata mill-Gvern innifsu jew minn xi persuna ġuridika li l-Ministru jista' jippreskrivi b'ordni pubblikat fil-Gazzetta.

(3) Ir-regoli dwar il-ħlas imsemmi fis-subartikolu (2) tal-artikolu 4, kif ukoll kull ħtieġa dwar il-parteċipazzjoni tal-Gvern, għandhom jiġu stabbiliti mill-Ministru b'tali mod li jkunu jiżguraw li tinżamm l-indipendenza tal-immanigġjar tal-entitajiet.

(4) Meta l-ħruġ ta' liċenzja jkun soġġett għall-parteċipazzjoni tal-Gvern fl-attivitajiet u meta persuna ġuridika tkun giet fdata biss bl-immanigġjar ta' din il-parteċipazzjoni, jew meta l-Gvern innifsu jimmanigġja l-parteċipazzjoni, la l-persuna ġuridika u lanqas il-Gvern m'għandhom jinżammu milli jassumu d-drittijiet u l-obbligi assoċjati ma' parteċipazzjoni bħal dik:

Iżda:

(a) il-persuna ġuridika jew il-Gvern m'għandu jkollhom la sehem f'xi informazzjoni u lanqas jeddijiet ta' votazzjoni f'deċiżjonijiet dwar sorsi ta' akkwist għall-entitajiet;

(b) il-persuna ġuridika jew il-Gvern flimkien ma' xi entità m'għandhomx jeżerċitaw dritt ta' maġġoranza tal-vot fuq deċiżjonijiet oħra; u

(ċ) kull vot mill-Gvern jew mill-persuna ġuridika għandu jkun esklussivament ibbażat fuq prinċipji trasparenti, oġġettivi u mhux diskriminatorji u ma għandhomx iċaħħdu d-deċiżjonijiet rilevanti dwar l-immaniġġjar talentità milli dawn ikunu bbażati fuq prinċipji kummerċjali normali.

(5) Minkejja d-dispożizzjonijiet tas-subartikolu (4), il-persuna ġuridika jew il-Gvern jistgħu jopponu deċiżjoni mid-detenturi tal-liċenzja li ma tkunx konformi mal-kondizzjonijiet u l-htigijiet speċifikati fil-liċenzja, dwar il-politika ta' eżawriment u l-harsien tal-interessi finanzjarji ta' Malta:

Iżda, l-għażla li deċiżjoni tiġi opposta għandha titwettaq b'mod mhux diskriminatorju, partikolarment dwar deċiżjonijiet fuq l-investment u l-għejjun ta' provvista tad-detenturi tal-liċenzji, kemm-il darba dawn ma jkunux saru bi ksur tal-liġijiet nazzjonali jew tad-dritt internazzjonali.

(6) Meta l-parteciċipazzjoni tal-Gvern fl-attivitajiet tkun immaniġġjata minn persuna ġuridika, li tkun ukoll detentur tal-liċenzji, għaldaqstant:

(a) il-persuna ġuridika għandha żżomm kontijiet separati għar-rwol kummerċjali u għar-rwol tagħha bħala amministratur tal-parteciċipazzjoni tal-Gvern; u

(b) il-persuna ġuridika għandha tiżgura li ma jkun hemm ebda fluss ta' informazzjoni mingħand il-parti tal-persuna ġuridika responsabbli għall-immaniġġjar tal-parteciċipazzjoni tal-Gvern lill-parti tal-persuna ġuridika li żżomm il-liċenzja.

(7) Meta l-parti tal-persuna ġuridika responsabbli għall-immaniġġjar tal-parteciċipazzjoni tal-Gvern tqabbaq lill-parti tal-persuna ġuridika li żżomm il-liċenzji bħala konsulent, tal-ewwel tista' tagħmel disponibbli kull informazzjoni meħtieġa għax-xogħol ta' konsulenza li għandu jsir. Id-detenturi ta' kull liċenzja li l-informazzjoni jkollha x'taqsam magħha għandhom jiġu mgħarrfa bil-quddiem dwar liema informazzjoni tkun ser tingħata b'dan il-mod, sabiex

dawn ikollhom żmien biżżejjed biex jagħmlu l-oġġezzjonijiet tagħhom, li għandhom jiġu pprezentati lill-Ministru u jkun il-Ministru li mbagħad jiddeċiedi dwar il-kwistjoni wara li jkun sema' x'għandhom xi jgħidu ż-żewġ partijiet.

(8) Il-Ministru għandu jiżgura li l-monitoraġġ tal-entitajiet li tinhargilhom liċenzja jkun limitat għal dak meħtieġ sabiex tiġi żgurata konformità mal-kondizzjonijiet, htigiet u obbligi msemmija fis-subartikolu (2) tal-artikolu 4 u għandu partikolarment jiżgura li ebda detentur tal-liċenzja ma jkun meħtieġ jipprovdi informazzjoni dwar is-sorsi ta' akkwist maħsuba jew attwali tiegħu hlief fuq talba tal-Ministru sabiex jiżgura konformità mal-liġijiet nazzjonali u internazzjonali.

Pubblikazzjoni u komunikazzjoni tar-rapport annwali.

5B. Il-Ministru għandu jippubblika u jikkomunika rapport annwali lill-Kummissjoni Ewropea li jkun fiha informazzjoni dwar iż-żoni ġeografiċi li jkunu nfethu għall-ipprospettar, esplorazzjoni u produzzjoni, liċenzji maħruġa, entitajiet li jkunu detenturi ta' liċenzji u l-kompożizzjoni tagħhom u r-riżervi stmati li jkunu jinsabu f'dawn iż-żoni sakemm ma tiġix publikata informazzjoni li tkun kummerċjalment konfidenzjali.

Trasferiment ta' liċenza jew assenjazzjoni tad-drittijiet li jitnisslu mil-liċenzja.

5Ċ. (1) L-ebda detentur tal-liċenzja ma jista' jittrasferixxi liċenzja jew jassenja drittijiet li jitnisslu mil-liċenzja lil xi entità oħra, hlief bil-kunsens bil-miktub tal-Ministru, li jista' jingħata jekk:

(a) dan ma jkunx jikkomprometti s-sigurtà nazzjonali;

(b) il-Ministru jkun sodisfatt li l-entità li lilha tkun ser tiġi trasferita l-liċenzja jew li lilha ikunu ser jiġu assenjati d-drittijiet li jitnisslu mil-liċenzja, ikollha għarfien tekniku, esperjenza u riżorsi finanzjarji biżżejjed biex jassiguraw li l-attivitajiet tal-ipprospettar, esplorazzjoni u produzzjoni ta' *petroleum* isiru kif imiss;

(ċ) l-entità li lilha tkun ser tiġi trasferita l-liċenzja jew li lilha ikunu ser jiġu assenjati d-drittijiet li jitnisslu mil-liċenzja, tintrabat li tħares dawk il-kondizzjonijiet u htigiet oħrajn li l-Ministru jista' jqis li jkun xieraq li jimponi.

(2) Kull detentur tal-liċenzja li jittrasferixxi liċenza jew jassenja d-drittijiet li jitnisslu mil-liċenzja mingħajr il-kunsens bil-miktub tal-Ministru ikun haġi ta' reat u jehel, meta jinsab haġi, multa ta' mhux inqas minn għaxart elef euro (€10,000) u mhux iżjed minn żewġ miljun euro (€2,000,000) jew prigunerija ta' mhux iżjed minn ħames snin, jew dik il-multa u prigunerija flimkien."

Emenda tal-artikolu 6 tal-Att prinċipali.

8. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "Kull min ikun ingħata lili liċenzja skont dan l-Att jista' jitlob" għandhom jiġu sostitwiti bil-kliem "Kull entità li tkun ingħatatilha liċenzja skont dan l-Att tista' titlob", il-kliem "lill-President ta' Malta il-permess li jeżamina" għandhom jiġu sostitwiti bil-kliem "lill-Awtorità tal-Artijiet il-permess li teżamina", il-kliem "tal-President ta' Malta l-eżami" għandhom jiġu sostitwiti bil-kliem "taċ-Chairperson tal-Bord tal-Gvernaturi tal-Awtorità tal-Artijiet l-eżami", il-kliem "il-President ta' Malta jista' jiddikjara" għandhom jiġu sostitwiti bil-kliem "iċ-Chairperson tal-Bord tal-Gvernaturi tal-Awtorità tal-Artijiet jista' jiddikjara", il-kliem "l-Accountant General jista' jagħti" għandhom jiġu sostitwiti bil-kliem "l-Awtorità tal-Artijiet tista' tagħti" u kliem "taħt l-artikolu 8(1) tal-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi jew taħt xi liġi oħra li temenda dak is-subartikolu jew li ssir minfloku," għandhom jiġu sostitwiti bil-kliem "taħt is-subartikolu (1) tal-artikolu 37 tal-Att dwar Artijiet tal-Gvern jew taħt xi liġi oħra li temenda jew tissostitwixxi lill-istess subartikolu,";

Kap. 88.

Kap. 573.

(b) fis-subartikolu (2) tiegħu, il-kliem "lill-President ta' Malta" għandhom jiġu sostitwiti bil-kliem "liċ-Chairperson tal-Bord tal-Gvernaturi tal-Awtorità tal-Artijiet", il-kliem "il-President ta' Malta" għandhom jiġu sostitwiti bil-kliem "dak iċ-Chairperson", il-kliem "Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi" għandhom jiġu sostitwiti bil-kliem "Att dwar Artijiet tal-Gvern", il-kliem "tbiddel dik l-Ordinanza," għandhom jiġu sostitwiti bil-kliem "tbiddel dak l-Att,", il-kliem "Accountant General jista', meta jasal iż-żmien, jagħmel" għandhom jiġu sostitwiti bil-kliem "l-Awtorità tal-Artijiet tista', meta jasal iż-żmien, tagħmel" u l-kliem "jakkwista l-art kif hemm f'dik l-Ordinanza" għandhom jiġu sostitwiti bil-kliem "takkwista l-art kif hemm f'dak l-Att";

(ċ) fis-subartikolu (3) tiegħu, kull fejn tokkorri l-kelma

"*section*" fil-verżjoni bl-Ingliż biss, għandha tiġi sostitwita bil-kelma "*article*", kull fejn jokkorru l-kliem "*Accountant General*" għandhom jiġu sostitwiti bil-kliem "Awtorità tal-Artijiet", il-kliem "għandu jitlob lilu sabiex jagħmel ftehim miegħu" għandhom jiġu sostitwiti bil-kliem "għandha titolbu jagħmel ftehim magħha", u l-paragrafu (e) tiegħu għandu jiġi sostitwit b'dan li ġej:

Kap. 573. "(e) kull meta tkun saret xi haġa jew tista' ssir xi haġa taħt id-dispożizzjonijiet tas-subartikolu (1) tal-artikolu 37 tal-Att dwar Artijiet tal-Gvern jew taħt xi dispożizzjoni ta' liġi li temenda jew li tissostitwixxi lill-istess subartikolu, mill-Awtorità tal-Artijiet jew f'isimha, il-ħlas lill-Awtorità tal-Artijiet għal kull ħsara, li għandha tiġi iffissata skont id-dispożizzjonijiet tas-subartikolu (2) tal-artikolu 37 tal-Att dwar Artijiet tal-Gvern."; u

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Kap. 573. "(4) Il-kelmiet u l-frazzjiet li jinsabu f'dan l-artikolu għandhom, kemm-il darba r-rabta tal-kliem ma titlobx xort'oħra, ikollhom l-istess tifsira bħalma għandhom fl-Att dwar Artijiet tal-Gvern jew f'xi liġi oħra li temenda jew li tissostitwixxi lill-istess Att."

9. Minnufih wara l-artikolu 6 tal-Att prinċipali għandhom jiġu miżjuda dawn l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda fl-Att prinċipali.

"Kif japplika għall-blata kontinentali.

Kap. 535.

Ħatra ta' awtoritajiet kompetenti.

7. Kull dispożizzjoni rilevanti ta' dan l-Att għandha tapplika *mutatis mutandis* għall-blata kontinentali kif imfissra fl-artikolu 2 tal-Att dwar il-Blata Kontinentali.

8. Għall-finijiet tal-implimentazzjoni tad-dispożizzjonijiet ta' dan l-Att u r-regolamenti magħmulin taħtu, il-Ministru jista' jahtar lil kull persuna bħala awtorità kompetenti għall-finijiet tal-implimentazzjoni u għall-eżerċizzju ta' kull jedd u dmir imħaddna fihom.

A 652

Dispożizzjoni
transitorja.

Att numru XXVIII
tal-2023.

9. Kull riferenza għal "l-Att dwar il-Produzzjoni tal-*Petroleum*" f'xi liċenzja, kuntratt jew ftehim li għandu x'jaqsam mal-ipprospettar, l-esplorazzjoni u l-produzzjoni ta' *petroleum*, li l-Gvern ta' Malta jkun parti fih, li jkun inħareġ qabel id-dhul fis-seħħ ta' dan l-Att, għandu jibqa' jiġi amministrat u regolat kif jingħad fl-Att dwar il-Produzzjoni tal-*Petroleum* kif kien fis-seħħ qabel l-Att tal-2023 li jemenda l-Att dwar il-Produzzjoni tal-*Petroleum*".

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 148 tat-12 ta' Lulju, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

18th July, 2023

ACT No. XXVIII of 2023

AN ACT to amend the Petroleum (Production) Act, Cap. 156, to provide for the ownership of petroleum and to make provision with respect to prospection, exploration and production of petroleum and for purposes connected with the matters aforesaid.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows: -

1. (1) The short title of this Act is the Petroleum (Production) (Amendment) Act, 2023 and it shall be read and construed as one with the Petroleum (Production) Act, hereinafter referred to as "the principal Act".

Short title and commencement.

Cap. 156.

(2) This Act shall come into force on such date as the Minister may, by notice in the Gazette, establish and different dates may be so established for different provisions and purposes of this Act.

A 654

Substitution of article 2 of the principal Act.

2. Article 2 of the principal Act shall be substituted by the following new article:

"Interpretation.

2. In this Act unless the context otherwise requires:

"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;

Cap. 386.

"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;

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

S. L. 535.02.

"internal waters" shall have the same meaning as is assigned to it by article 2 of the Continental Shelf Regulations;

"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.

3. Article 3 of the principal Act shall be amended as follows:

Amendment of article 3 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"Vesting of ownership of petroleum in Government of Malta.

(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.";

(b) in sub-article (2) thereof, for the word "person" there shall be substituted the word "entity", for the words "searches or drills or bores for or extracts petroleum on, under or from Malta" there shall be substituted the words "prospects for and, or explores for and, or produces petroleum from Malta" and in the second proviso thereof for the word "person" there shall be substituted the word "entity"; and

(c) in the proviso to sub-article (3) thereof, for the word "person" there shall be substituted the word "entity".

A 656

Addition of a new article to the principal Act.

4. Immediately after article 3 of the principal Act there shall be added the following new article:

"Determination of the areas for the exercise of activities and refusal to allow access on grounds of national security.

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.

(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."

Substitution of article 4 of the principal Act.

5. Article 4 of the principal Act shall be substituted by the following new article:

"Licences to prospect for, explore for and produce petroleum.

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.

(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."

6. Sub-article (1) of article 5 of the principal Act shall be substituted by the following new sub-article:

Amendment of article 5 of the principal Act.

"Powers of the Minister to make regulations.

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."

7. Immediately after article 5 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"State participation in the activities of prospecting for, exploring for and producing petroleum.

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 prospecting, exploration and production of petroleum in accordance with the licences granted under this Act.

(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.

Publication and communication of the annual report.

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.

Transfer of a licence or assignment of rights arising from a licence.

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:

(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."

8. Article 6 of the principal Act shall be amended as follows:

Amendment of article 6 of the principal Act.

(a) in sub-article (1) thereof, for the word "person" there shall be substituted the word "entity", for the words "President of Malta for permission" there shall be substituted the words "Lands Authority for permission", for the words "President of Malta the examination" there shall be substituted the words "Chairperson of the Board of Governors of the Land Authority the examination", for the words "President of Malta may declare" there shall be substituted the words "Chairperson of the Board of Governors of the Lands Authority may declare", for the words "Accountant General" there shall be substituted the words "Lands Authority" and for the words "under section 8(1) of the Land Acquisition (Public Purposes) Ordinance or any other law amending or substituted for that subsection," there shall be substituted the words "under sub-article (1) of article 37 of the Government Lands Act or any other law amending or substituting the said sub-article,";

Cap. 88.

Cap. 573.

(b) in sub-article (2) thereof, for the words "President of Malta" there shall be substituted the words "Chairperson of the Board of Governors of the Lands Authority", for the words "Land Acquisition (Public Purposes) Ordinance" there shall be substituted the words "Government Lands Act", for the words "substituted for that Ordinance," there shall be substituted the words "substituting that Act,", for the words "Accountant General" there shall be substituted the words "Lands Authority" and for the words "of that Ordinance" there shall be substituted the words "of that Act";

(c) in sub-article (3) thereof, whenever the word "section" occurs, there shall be substituted the word "article", whenever the words "Accountant General" occurs there shall be substituted the words "Lands Authority" and paragraph (e) thereof shall be substituted by the following new paragraph:

"(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."; and

Cap. 573.

(d) sub-article (4) thereof shall be substituted by the

following new sub-article:

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."

9. Immediately after article 6 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Applicability to the continental shelf.
Cap. 535.

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.

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.

Transitory provision.

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, 2023."

Act No. XXVIII of 2023.

Passed by the House of Representatives at Sitting No. 148 of the 12th July, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA