

The Oilfields (Regulation And Development) Act, 1948

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Act 53 of 1948

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18.

/822Statement of Objects and Reasons.-The question of Central regulation of mines and oilfields and mineral development has been engaging the attention of Government for some time. The need for Central regulation was amply illustrated in the last war when certain key minerals had to be controlled under the Defence of India Act. It is now well-recognised that a planned and uniform policy of mineral development is essential to economic and industrial progress. The Industrial Policy Resolution of the 6th April, 1948 included minerals amongst the industries whose location must be governed by economic factors of all-India import or which require considerable investment or a high degree of technical skill and must consequently be the subject of Central regulation and control. This Bill has accordingly been drafted under Item 36 of the Federal Legislative List of the Seventh Schedule to the Government of India Act, 1935 to regulate mines and oilfields and mineral development on the lines contemplated in the Industrial Policy Resolution of the 6th April, 1948. It seeks to give powers to the Central Government to frame rules for the regulation of the terms and conditions of mining leases, as also for the conservation and development of minerals. It also provides for modification of existing leases on payment of compensation. Clause 8 provides for delegation of powers to Provincial Governments or any officers or authority as may be specified in this behalf, e.g., a Coal Commission Clause 11 confers powers of entry And inspection on any officers authorised by the Central Government in this behalf. Finally, there is a clause prescribing penalties for contravention of any of the provisions of the Act or the rules made thereunder. The rules made under the Act will be laid before the Legislature as soon as may be after they are made, while rules relating to compensation to be paid for modification of existing leases will not be operative unless and until they are approved by the Legislature. Amendment Act 39 of 1969-Statement of Objects and Reasons.-Sections 5 and 6 of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) empower the Central Government to make rules for regulating the grant of mining leases and for prohibiting the grant of such leases in respect of any mineral oil as also for the development of

mineral oil resources. Clause (i) of sub-section (2) of section 6 of the Act empowers the Central Government to make rules for "the levy and collection of royalties, fees or taxes in respect of mineral oils, mined, quarried, excavated or collected". The Petroleum and Natural Gas Rules, 1959 were formulated in exercise of the powers conferred by sections 5 and 6 of the said Act. Rule 14 of the said rules, inter alia, had stipulated that royalty at the rate of Rs. 7.50 per metric tonne of crude oil and casing-head condensate and a 10 per cent. of the value at the well-head of the natural gas obtained by the lessee, shall be paid. The rate of royalty was decided upon by the award of the late Prime Minister in 1962. This award provided for a review of the rate of royalty after a period of four years. This was done and the Prime Minister has now given an award which provides for an increase in the rate of royalty payable for crude oil, etc., from Rs. 7.50 to Rs. 10.00 per metric tonne, with effect from 1st January, 1968. The enhanced rate has, therefore, to be applied not only to leases granted in future but also retrospectively to all leases with effect from 1st January, 1968. This object cannot be achieved by amending the Petroleum and Natural Gas Rules, 1959. It is necessary to make appropriate provisions in the Act itself for imposing a liability to pay enhanced rates of royalty in the existing leases also, notwithstanding anything contained in the instrument of the concerned lease. It is, accordingly, considered necessary to amend the Oilfields (Regulation and Development) Act, 1948 so as to make provisions for the payment of the royalty in the Act itself and to take power to enhance the royalty by notification subject to limitations analogous to those contained in sub-section (3) of section 9 of the Mines and Minerals (Regulation and Development) Act, 1957. Amendment Act 20 of 1984-Statement of Objects and Reasons.-Sub-section (4) of section 6-A of the Oilfields (Regulation and Development) Act, 1948 empowers the Central Government to amend, by notification in the Official Gazette, the Schedule to the Act so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral oil specified in the Schedule. However, the power of the Central Government to enhance the rate of royalty in respect of any mineral oil is subject to the condition that such enhancement cannot be made in respect of any mineral oil more than once during any period of four years. It is proposed to modify the provision so as to facilitate the enhancement of the rate of royalty after an interval of three years.² It is also proposed to avail of the present opportunity to amend, in accordance with the recommendations of the Committees on Subordinate Legislation, section 10 of the Act relating to laying of rules so as to provide therein also for the laying of the notifications under sub-section (4) of section 6-A of the Act and bring the provisions of the section into conformity with the formula for laying of rules as recommended by the said Committees.[8th September, 1948]An Act to provide for the regulation of [* * *] [The words "mines and" omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).] oilfields and for the development of [mineral oil resources] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for "minerals" (w.e.f. 1.6.1958).]. Whereas it is expedient in the public interest to provide for the regulation of [* * *] [The words "mines and" omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).] oilfields and for the development of [mineral oil resources] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for "minerals" (w.e.f. 1.6.1958).] [* * *] [The words "to the extent hereinafter specified" omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).]; It is hereby enacted as follows:-

Brought into force on 25.10.1949.

1. Short title, extent and commencement .-(1) This Act may be called The [Oilfields] (Regulation and Development) Act, 1948.

(2)[It extends to the whole of India] [Substituted by A.O. 1950.][* * *] [The words " except the State of Jammu and Kashmir" omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).].(3)It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Declaration as to expediency of control by Central Government .-[Omitted by the Mines and Minerals (Regulation and Development) Act , 1957 (67 of 1957), section 32 and Schedule III (w.e.f. 1-6-1958).]

3. Definitions .-In this Act, unless there is anything repugnant in the subject or context,-

(a)the expressions "lessor" and "lessee" respectively include a licensor and licensee;(b)"mine" means any excavation for the purpose of searching for or obtaining [mineral oils] and includes an oil-well;(c)["mineral oils"] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for " minerals" (w.e.f. 1.6.1958).] include natural gas and petroleum;(d)"mining lease" means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of [mineral oils] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for " minerals" w.e.f. 1.6.1958).] or for the purposes connected therewith, and includes an exploring or a prospecting licence;(e)"oilfield" means any area where any operation for the purpose of obtaining natural gas and petroleum, crude oil, refined oil, partially refined oil and any of the products of petroleum in a liquid or solid state, is to be or is being carried on.

4. No mining lease to be valid unless it is in accordance with this Act .-(1) No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act.

(2)Any mining lease granted contrary to the provisions of sub-section (1) shall be void and of no effect.

5. Power to make rules as respects mining leases .-(1) The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any [mineral oil] or in any area.

(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the manner in which, the [mineral oils] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for " minerals" (w.e.f. 1.6.1958).]or

areas in respect of which and the persons by whom, applications for mining leases may be made and the fees to be paid on any such applications;(b)the authority by which, the terms on which, and the conditions subject to which, mining leases may be granted;(c)the maximum or minimum area and the period for which any mining leases may be granted, and the terms on which leases in respect of contiguous areas may be amalgamated;(d)the fixing of the maximum and minimum rent payable by a lessee, whether the mine is worked or not.

6. Power to make rules as respects mineral oils development .-(1) The Central Government may, by notification in the Official Gazette, make rules for the conservation and development of [mineral oils]

.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-[* * *] [Clauses (a) and (b) omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).][* * *] [Clauses (a) and (b) omitted by Act 67 of 1957, Section 32 and Schedule III (w.e.f. 1.6.1958).](c)the development of any [mineral oil resources] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for " mineral resources" (w.e.f. 1.6.1958).] in any area by prescribing or regulating the use of any engines, machinery or other equipment;(d)the regulation of the drilling, redrilling, deepening, shutting down, plugging and abandoning of oil-wells in an oilfield and for the limitation or prohibition of such operations and for the taking of remedial measures to prevent waste of or damage to oil;(e)the regulation of the methods of producing oil in any oilfield, and the limitation or prohibition of such methods;(f)the compulsory notification of all new borings and shaft sinkings, and the preservation of boring records and specimens of cores of all new bore-holes;(g)the taking of samples from mines and new bore-holes;(h)the regulation of the arrangements for the storage of [mineral oils] [Substituted by Act 67 of 1957, Section 32 and Schedule III, for " minerals" (w.e.f. 1.6.1958).] and the stocks thereof that may be kept by any person;(i)[the collection of royalties, and the levy and collection of fees or taxes in respect of mineral oils mined, quarried, excavated or collected;] [Substituted by Act 39 of 1969, Section 2, for Clause (i) (w.r.e.f. 1.1.1968).](j)the submission by the owners or lessees of mines of special or periodical returns and reports, and the forms in which and the authorities to whom such returns and reports shall be submitted.[6-A. Royalties in respect of mineral oils.-(1) The holder of a mining lease granted before the commencement of the Oilfields (Regulation and Development) Amendment Act, 1969, shall, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area after such commencement, at the rate for the time being specified in the Schedule in respect of that mineral oil.(2)The holder of a mining lease granted on or after the commencement of the Oilfields (Regulation and Development) Amendment Act, 1969, shall pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rate for the time being specified in the Schedule in respect of that mineral oil.(3)Notwithstanding anything contained in sub-section (1) or sub-section (2), no royalty shall be payable in respect of any crude oil, casing-head condensate or natural gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production of petroleum, or natural gas, or both.](4)[The Central Government may, by notification in the Official Gazette, amend the Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral oil with effect from such date as may be specified

in the notification and different rates may be notified in respect of same mineral oil mined, quarried, excavated or collected from the areas covered by different classes of mining leases: Provided that the Central Government shall not fix the rates of royalty in respect of any mineral oil so as to exceed twenty per cent. of the sale price of the mineral oil at the oilfields or the oil well-head, as the case may be. (5) If the Central Government, with a view to encourage exploration in offshore areas, is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions, as may be specified in the notification, mineral oil produced from such areas from the whole or any part of the royalty leviable thereon.] [Substituted by Act 29 of 1998, Section 2, for sub-Sections (4) and (5) (w.r.e.f. 3.10.1998).]

7. Power to make rules for modification of existing leases .-(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of modifying or altering the terms and conditions of any mining lease granted prior to the commencement of this Act so as to bring such lease into conformity with the rules made under sections 5 and 6:

Provided that any rules which provide for the matters mentioned in clause (c) of sub-section (2) shall not come into force until they have been approved, either with or without modifications, by [the House of the People]. (2) The rules made under sub-section (1) shall provide-(a) for giving previous notice of the modification or alteration proposed to be made thereunder to the lessee, and where the lessor is not the Central Government also the lessor, and for affording them an opportunity of showing cause against the proposal; (b) for the payment of compensation by the party who would be benefited by the proposed modification or alteration to the party whose rights under the existing lease would thereby be adversely affected; and (c) for the principles on which, the manner in which and the authority by which the said compensation shall be determined.

8. Delegation .-The Central Government may, by notification in the Official Gazette, direct that any power exercisable under this Act shall be exercised subject to such conditions, if any, as may be specified therein by such officer or authority as may be specified in the direction.

9. Penalties .-(1) Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable for each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees.

10. [Laying of rules and notifications

.-Every rule made under this Act and every notification issued][under sub-section (4) and sub-section (5) of section 6-A] [Substituted by Act 29 of 1998, Section 3, for " under sub-Section (4) of Section 6-A" (w.r.e.f. 3.10.1998).][shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.] [Substituted by Act 20 of 1984, Section 3, for Section 10 (w.e.f. 11.5.1984).]

11. Power of inspection .-(1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to-

(a)enter and inspect any mine;(b)order the production of any document, book, register or record in the possession or power of any person having the control of or connected with, any mine;(c)examine any person having the control of, or connected with, any mine.(2)Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

12. Relaxation of rules in special cases .-The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on the terms and conditions different from those laid down in the rules made under sections 5 and 6.

13. [Act to be binding on the Government

.-The provisions of this Act shall be binding on the Government.]

14. Protection of action taken in good faith .-No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

[THE SCHEDULE](See section 6-A)RATES OF ROYALTY

1. CRUDE OIL

(1) Production from areas outside New Exploration Licensing Policy (NELP) regime

A. Nomination Blocks: (i) from 1-4-1993 to 31-3-1996: @ Rs. 539.20 per metric tonne. (ii) from 1-4-1996 to 31-3-1998: @ 603.95 per metric tonne.

B. Production from areas awarded on nomination basis to National Oil Companies (NOCs), exploration blocks awarded to Private/Joint Venture contractors prior to New Exploration Licensing Policy (NELP) and onland discovered fields awarded to Private/Joint Venture contractors : (i) from 1-4-1998 to 31-3-2002: Monthly average rate per metric tonne as per statement appended; (ii) with effect from 1-4-2002: (a) Onland areas: @ 20% of well head price. (b) Shallow water offshore areas (upto 400 mtr. water depth): @ 10% of well head price. (c) Deep water offshore areas (> 400 mtr. water depth): @ 5% of well head price during first 7 years after commercial production and normal rates as applicable to shallow water areas (upto 400 mtr. water depth) during other periods. (d) Heavier Crude Oils of 25 API and less : 25% lesser than the applicable rates as above. (e) Reduced rates of royalty, as may be notified by the Government from time to time, will be levied on production from fields under Enhanced Oil Recovery (EOR)/Improved Oil Recovery (IOR).

C. Production from offshore discovered fields awarded to Private/Joint Venture contractors : At the rates as specified in respective Production Sharing Contracts (PSCs)

(2) Production from areas under NELP regime: At the rates determined in accordance with the provisions under respective Production Sharing Contracts (PSCs).

2. CASING HEAD CONDENSATE

(1) Production from areas outside New Exploration Licensing Policy (NELP) regime

A. Nomination Blocks: (i) from 1-4-1993 to 31-3-1996: @ Rs. 539.20 per metric tonne (ii) from 1-4-1996 to 31-3-1998: @ Rs. 603.95 per metric tonne

B. Production from areas awarded on nomination basis to National Oil Companies (NOCs), Exploration blocks awarded to Private/Joint Venture (Private/Joint Venture) contractors prior to NELP and onland discovered fields awarded to Private/Joint Venture contractors : (i) from 1-4-1998 to 31-3-2002: Monthly average rate per metric tonne as per statement appended; (ii) with effect from 1-4-2002 : (a) Onland areas: @ 20% of well head price. (b) Shallow water offshore areas (upto 400 mtr. water depth): @ 10% of well head price. (c) Deep water offshore areas (> 400 mtr. water depth): @ 5% of well head price during first 7 years after commercial production and normal rates as applicable to shallow water areas (upto 400 mtr. water depth) during other periods. (d) Reduced rates of royalty, as may be notified by the Government from time to time, will be levied on Production from fields under Enhanced Oil Recovery (EOR)/Improved Oil Recovery (IOR).

C. Production from offshore discovered fields awarded to Private/Joint Venture contractors : At the rates as specified in respective Production Sharing Contracts (PSCs)

(2) Production from areas under NELP regime: At the rates determined in accordance with the provisions under respective Production Sharing Contracts (PSCs).

3. NATURAL GAS

Ten percent. of the value of the natural gas obtained at well-head. [Note 1. -(1) The well head price of crude oil and casing head condensate for nominated blocks of Oil and Natural Gas Corporation Limited or Oil India Limited shall be determined by deducting rupees one thousand two hundred

and fifty-one only per metric tonne and rupees nine hundred forty-seven only per metric tonne for onshore and offshore respectively, from the sale price of crude oil or casing head condensate.(2)The amounts specified in clause (1) shall be the post-well head cost which shall be valid for a period of three years with effect from 1st April, 2007 or such period till the revised rates are notified.(3)Oil Industry Development Cess and Education Cess thereon shall not form part of post well head cost.(4)Royalty will be calculated on cum-royalty basis as under :

Royalty amount = Well head price x royalty rate(100 + royalty rate)]

Note 2. - Since consultations with the concerned State Governments took some time, it has become necessary to revise the rate of royalty with retrospective effect. The oil producing States stand to benefit and other States are not likely to be adversely affected. [Substituted by G.S.R. 559(E), dated 20-8-2007.][Note 3. - The post well head cost for the purpose of calculating well head price of crude oil or casing head condensate for cases other than nominated blocks of oil and Natural Gas Corporation Limited or Oil India Limited and for natural gas in all cases other than Administered Price Mechanism gas of Oil and Natural Gas Corporation Limited or Oil India Limited shall be determined as under :(1)Per unit rate of post well head cost, that is, per metric tonne or barrel for crude oil or casing head condensate and per Million Metric British Thermal Unit for natural gas shall be determined based on actual post well head expenditure reported in previous year's audited accounts.(2)In case of production from a new field under the Production Sharing Contract, the post well head cost for the first year may be provisionally estimated by the lessee and duly certified by the Directorate General of Hydrocarbons and final adjustments shall be made within one hundred twenty days from the end of the first year, based on the audited accounts of the first year.(3)Oil Industry Development Cess and Education Cess, Depreciation expense, Income Tax, surcharge thereon and profit petroleum shall not be allowed as expenditure under post well head cost.(4)Full records shall be maintained and got audited by lessess or procedures to assess the actual post well head cost incurred in previous year.(5)[Royalty shall be computed on ex-royalty basis: Provided that for crude oil produced from production sharing contracts signed with private or joint-venture contractors prior to New Exploration Licensing Policy, royalty shall be computed on cum-royalty basis.]]STATEMENT OF MONTHLY AVERAGE RATES OF ROYALTY PAYABLE PER METRIC TONNE ON CRUDE OIL AND CASING HEAD CONDENSATE AS MENTIONED AT 1(1) B(i) AND 2(1) B(i) ABOVE

Month	Royalty rates	Month	Royalty rates
	Rs./MT		Rs./MT
Apr-98	411.31	Apr-00	1055.88
May-98	409.46	May-00	1037.69
Jun-98	414.09	Jun-00	915.75
Jul-98	431.35	Jul-00	1100.28
Aug-98	415.32	Aug-00	1165.03
Sep-98	450.01	Sep-00	1126.65
Oct-98	431.35	Oct-00	1180.45
Nov-98	483.15	Nov-00	1331.69
Dec-98	462.8	Dec-00	1279.89

Jan-99	406.53	Jan-01	1298.23
Feb-99	368.45	Feb-01	973.71
Mar-99	398.67	Mar-01	1009.02
Apr-99	374.77	Apr-01	1104.29
May-99	511.06	May-01	1040.29
Jun-99	569.64	Jun-01	1091.19
01 Jul to 14 Jul-99	569.64	Jul-01	1165.5
15 Jul to 31 Jul-99	580.74	Aug-01	1171.05
Aug-99	602.17	Sep-01	1066.21
Sep-99	706.54	Oct-01	1113.39
Oct-99	769.29	Nov-01	1106.76
Nov-99	858.7	Dec-01	904.03
Dec-99	846.99	Jan-02	808.29
Jan-00	942.11	Feb-02	815.23
Feb-00	958.91	Mar-02	851.77]
Mar-00	965.39		

[Inserted by G.S.R. 559(E), dated 20-8-2007]