Discussion Draft

Revision of the Saint Lucia Geothermal Resources Development Bill, 2011

13th March 2012
Acknowledgement

The Draft Geothermal Resources Development Bill reflects the commitment of the Government of the Saint Lucia to transition to reliance upon renewable energy resources, in particular geothermal energy, to meet its energy needs.

The Draft Geothermal Resources Development Bill would not have been possible without the technical assistance provided by the Department of Sustainable Development of the General Secretariat of the Organization of American States through the Caribbean Sustainable Energy Program (CSEP) and generous support of the European Commission ACP-EU Energy Facility.

The guidance and the help of several individuals who in one way or another contributed and extended their valuable assistance in the preparation and completion of the Draft Geothermal Resources Development Bill is greatly acknowledged. To the many stakeholders in Saint Lucia, who provided country-specific information to enable the drafting of the Draft Bill, I make special mention and extend my heartfelt gratitude. This work could not have been accomplished without the contribution of all.

I look forward to continuing service to the Government of Saint Lucia and OAS-DSD—the sponsors on this and other projects.

Karen Dalton

Disclaimer

The Geothermal Resource Development Bill has been prepared by the Department of Sustainable Development of the General Secretariat of the Organization of American States through the consulting services of Mrs. Karen Dalton under the European Union funded initiative "Caribbean Sustainable Energy Program (CSEP)". The views expressed herein are presented for informational purposes only and do not represent the opinions or official positions of the European Union, the Organization of American States, its General Secretariat, or any of its Member States.
GEOTHERMAL RESOURCES DEVELOPMENT BILL

EXPLANATORY NOTES

This Bill sets out a legal and regulatory framework aimed at facilitating successful geothermal resources development in Saint Lucia.

The Bill complies with the Constitution and the National Energy Policy established for Saint Lucia and is compatible with other relevant laws in particular the Electricity Supply Act, Cap. 9.02, the Minerals Vesting Act, Cap. 5.08 and the Water and Sewerage Act, Cap. 8.01.

Part 1 (clauses 1-9) of the Bill provides for preliminary matters including the short title and commencement, application of the Act and saving of the rights of the Crown.

The Bill specifically provides that it is not applicable to the transmission of electricity provided for and licensed pursuant to a separate regime under the Electricity Supply Act, Cap 9.02 (clause 5).

Having regard to the nature of geothermal resources, provision is made in the Bill for geothermal resources to be declared as being unique in nature (sui generis), and being neither a mineral resource nor a water resource (clause 8). The effect of this declaration coupled with the proposed amendment to section 2 of the Minerals Vesting Act, Cap 5.08 will be to remove geothermal resources from the purview of the Water and Sewerage Act, Cap 9.03 and the Minerals Vesting Act, Cap 5.08.

The Bill provides for all geothermal resources in, or under any land of whatsoever ownership or tenure to be vested in and be subject to the control of the Crown. In exercising its right to geothermal resources the Crown is charged with the responsibility to promote the exploration for, and development of, its geothermal resources in such a manner as to assure the supply of energy necessary for the economic growth and general welfare of the people of Saint Lucia and to decrease the dependency of Saint Lucia on non-renewable resources; to safeguard the natural environment and the public welfare; and to encourage private enterprise to provide the necessary services, financing and technology (clause 9).

Part 2 (clauses 10-15) of the Bill contains administrative provisions.
Clause 11 of the Bill provides for the designation by the Minister of a competent statutory body or a division of the Ministry responsible for geothermal resources as the Geothermal Resources Authority. In the event that the authority proposed under the National Energy Policy 2010 as the Energy Regulatory Commission is established this framework will allow for that authority to be designated as the Geothermal Resources Authority. The responsibilities of the Geothermal Resources Authority are specified to include -

- geothermal resources development promotion through the identification of potential sources of investment in geothermal resources, promotion of public and private, foreign and domestic investment in the exploration and exploitation of the geothermal resources, negotiation of the terms of authorizations and consultations with stakeholders; and

- geothermal resources compliance including monitoring and ensuring compliance with all authorizations and applicable standards; making recommendations to the Minister with regard to applications for and conditions of authorizations; facilitating open entry, market liberalisation and competition in the development of geothermal energy and administration of the collection of all bonds, royalties and fees payable with respect to geothermal resource.

By virtue of clause 12 of the Bill, the Geothermal Resources Authority is empowered to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Clause 13 of the Bill provides for the Geothermal Resources Authority to be accountable to Parliament and requires the Authority to submit to Parliament, through the Minister, an annual report of activities undertaken.

The Geothermal Resources Authority is empowered to co-opt any person to attend any particular meeting of the Authority at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Authority (clause 14) and to co-operate and exchange information with other competent authorities (clause 15).

Part 3 (clauses 16-19) of the Bill provides for geothermal resources areas.

The Minister is empowered to declare any area of land where geothermal resources have been discovered or that is reasonably believed to be a source of geothermal resources. In establishing the physical parameters of a geothermal resources area, a duty is imposed on the Minister to have regard to the geological, geochemical and geophysical characteristics of the geothermal resources, the existing and potential uses of the Land which overlays the geothermal resources,
the ownership of the land which overlays the geothermal resources; and the facilitation of surveying the land and describing the land to be designated (clause 16).

The Bill makes provision for the compulsory acquisition of lands in a geothermal resources area by the Governor General in accordance with the provisions of the Constitution and the Land Acquisition Act, Cap 5.04; the vesting of lands in a geothermal resources area belonging to or held in trust for the Crown or acquired for use of the Government and vested in the Governor General; the divesting of lands vested in a person to the Crown or to another person by the Minister; clarifying that the compulsory acquisition and vesting of any lands should not prejudice the right of any person having an interest in the land; and rights of use and rights of way to be created subject notice to land owners and to the right to compensation.

Part 4 (clauses 20-52) of the Bill establishes a licensing regime which -
- prohibits the carrying on of geothermal activities unless by a person unless the person holds a valid permit, licence or concession;
- establishes the categories of permits licenses and concessions;
- specifies the various phases of geothermal activities authorized by each category of permit, licence and concession;
- sets eligibility criteria for persons who may be awarded a permit licence or concession;
- specifies the extent of a permit licence or concession in relation to a geothermal resources area;
- provides for terms and conditions to be attached to a permit, licence or concession;
- allows for a competitive bidding process;
- specifies the procedures to be followed for the application for a permit, licence or concession; and
- specifies the procedure to be followed for consideration of an application by the Geothermal Resources Authority and for the grant or refusal of a permit, licence or concession by the Minister.

In order to protect the Piton World Heritage Site (including the Sulphur Springs which has high geothermal resources development potential), clause 21 of the Bill restricts the carrying on of geothermal activities in the [Piton World Heritage Site/Piton Management Area] unless with the authorization of the competent authority.

Clause 30 of the Bill prohibits the issuance of a permit, licence or concession unless an environmental impact assessment has been carried out and has been considered by the Geothermal Resources Authority. Additionally, subsidiary
legislation in the form of Regulations will be required to set the criteria and procedures for determining whether a geothermal resources activity is likely to significantly affect the environment; the procedures for settling the scope of works of the environmental impact assessment to be carried out by the applicant in respect of any geothermal resources activities; the minimum contents of a report of an environmental impact assessment to be submitted to the Geothermal Resources Authority; the qualifications, skills, knowledge or experience which must be possessed by persons conducting environmental impact assessments; the procedures for public participation in the environmental impact assessment and public scrutiny of the report of the environmental impact assessment to be submitted to the Geothermal Resources Authority; and the criteria and procedures for review of the report of an environmental impact assessment.

The Bill makes provision for notice to be given to the public in the form of legal notice published in the Gazette as well as in newspapers circulating in Saint Lucia and for a time frame to be given for the making presentations to the Authority by persons affected by the proposals in an application (section 31).

The Bill clarifies that notwithstanding the requirement for permissions under other relevant laws to be obtained holder of a valid authorization should be exempt from the requirement of obtaining an abstraction licence under the provisions of the Water and Sewerage Act (clause 35).

The Bill also clarifies the except where specifically provided, a permit, licence or concession will not have the effect of dispensing with the necessity of obtaining permission where such permission is required under any other legislation in force in Saint Lucia (clause 34).

By virtue of Part 5 (clauses 53-59) of the Bill, safety, compliance and environmental protection measures provided for in the legislative framework as follows -

- inspectors are provided to assist the Geothermal Resources Authority in their regulatory functions and to investigate complaints or conduct concerning an allegations of a breach of the Law or permits, licences or concessions and to ensure compliance with conditions of permits, licences and concessions and the Law including conditions relating to environmental protection;
- a requirement is imposed that geothermal activities are carried out in a manner so as to mitigate pollution, safeguard natural resources, provide for the reasonable restoration of lands disturbed by such operations, and minimize the effect of such operations on adjoining or neighbouring land, including noise abatement and air and water quality protection; and
• a requirement for a bond is imposed on the holder of a permit, licence or concession who proposes to drill any geothermal resources to post a bond for each type of well to be drilled in an amount and in the manner prescribed to ensure compliance with all the terms of any permit, licence or concession, including protection of the environment.

In terms of economic and financial requirements Part 6 (clauses 60 -74) of the Bill provides for fees and royalties to be payable, the establishment of a fund for rehabilitation and exemptions from liability for customs duties and concessions for income duties.

Annual fees are imposed for the opportunity to conduct Phase II, III, and IV geothermal resources activities (reconnaissance, exploration, drilling and geothermal resources production) in order defray the cost of administration and inspection (clause 60).

Annual royalties are payable in lieu of annual fees for the opportunity to conduct Phase V geothermal resources activity (electricity production) to cover the cost of administration and inspection and shall serve to recompense the Crown for the use of geothermal resources (clause 61).

The rehabilitation fund is to be managed by the Geothermal Resources Authority for the purpose of meeting the cost of rehabilitating a geothermal resources area, the revenues of the Fund shall consist of refundable payments made by holders of permits, licences and concessions (clause 63).

Part 7 (clauses 74-78) of the Bill contains miscellaneous matters.

Specific provision is made in clause 76 of the Bill in respect of confidentiality so that a public officer, or an officer or employee of the Authority is prohibited from disclosing any information, obtained under or by virtue of this Act, about prospecting or production operations under a licence or concession except in limited circumstances including where disclosure is made with the consent of the holder of the permit, licence or concession and for any purpose or in any circumstances prescribed in such permit, licence or concession.

The Bill provides a framework for dispute resolution by the courts or through arbitration proceedings (clause 77).

Clause 78 of the Bill empowers the Minister to make Regulations necessary to give effect to the provisions of the provisions of the Bill.
ARRANGEMENT OF SECTIONS

Sections

PART 1

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application of Act
4. Act applicable to Class II geothermal resources only when specified
5. Non-application of the act to transmission of electricity
6. Act to bind the Crown
7. Saving of the rights of the Crown
8. Declaration of geothermal resources as sui generis
9. Crown rights in geothermal resources

PART 2

ADMINISTRATION

10. Functions and powers of Minister
11. Geothermal Resources Authority
12. Powers of the Authority
13. Annual report
14. Power to co-opt
15. Co-operation with competent authorities

PART 3
GEOTHERMAL RESOURCES AREAS

16. Declaration of geothermal resources areas
17. Acquisition, vesting and divesting of lands in a geothermal resources area
18. Subdivisions of geothermal resources areas
19. Rights of use and rights of way

PART 4
PERMITS, LICENCES AND CONCESSIONS

20. Requirement for a permits, licence or concession
21. Restriction on carrying out geothermal resources activity in the [Piton World Site/Piton Management Area]
22. Categories of permits, licences and concessions
23. Phases addressed by permits, licences and concessions
24. Eligible persons for permits, licences and concessions for Class I geothermal resources
25. Eligible persons for concessions for Class II geothermal resources
26. Extent of permit, licence and concession
27. Competitive bidding process
28. Application procedure
29. Further information
30. Environmental impact assessment
31. Public input
32. Recommendation by Authority
33. Grant or refusal of permit, licence or concession.
34. Permission pursuant to other laws
35. Exemption from requirement to obtain an abstraction licence
36. Geothermal resources permits
37. Rights of a holder of permit
38. Term of permit
39. Geothermal resources licences
40. Rights of a holder of a licence
41. Term of licences
42. Geothermal resources concessions for electricity generation for Class I geothermal resources.
43. Rights of a holder of a concession
44. Term of concession
45. Concession not deemed an electricity supply licence
46. Geothermal resources concessions for Class I geothermal resource
47. Modifications
48. Resolution of conflicts
49. Suspension or revocation
50. Surrender
51. Removal of holder of a permit, licence concession
52. Registry and publication

PART 5
SAFETY, ENVIRONMENT AND COMPLIANCE
53. Designation of inspectors
54. Co-operation with inspections
55. Notice to landowner
56. Bores
57. Conditions of permit, licence or concession
58. Environmental protection
59. Bonds

PART 6
ECONOMIC AND FINANCIAL
60. Application and annual fees
61. Annual royalties
62. Fees and royalty payments
63. Geothermal Resources Fund
64. Importation
65. Exportation
66. Resale of imported goods
67. Domestic purchase and hiring
68. Joint and severable responsibility of holders of authorizations
69. Accounting
70. Investment information
71. Income taxes: concessions
72. Income taxes: permit and licence
73. Transfer and assignment prohibited
74. Amortization.

PART 7
MISCELLANEOUS
75. Public officers and institutions conflicts of interest
76. Confidentiality
77. Settlement of disputes
78. Regulations
AN ACT to provide for the vesting of geothermal resources in the Crown, for the reconnaissance, exploration, drilling and production of geothermal resources and to provide for related matters.

BE IT ENACTED by the Queen’s Most Excellent Majesty by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title and commencement
1. (1) This Act may be cited as the Geothermal Resources Development Act, 2011.
(2) This Act shall come into force on a date to be fixed by the Minister by Order published in the Gazette.

Interpretation
2. In this Act
“alien” means alien as defined in the Alien (Licensing) Act, Cap. 15.37.
“applicant” means a person applying for a permit, licence or concession;
“application fee” means the initial fee payable to by an applicant for a permit, licence or concession, including tender fees under this Act;
“bore” means an excavation drilled into the ground for the purpose of investigating, prospecting for, obtaining, producing or otherwise providing geothermal resources or that taps or is likely to tap geothermal energy, and includes any hole in the ground that taps geothermal energy;
“busbar” means that point in the electrical system prepared to deliver or take in electrical energy;

“Class I geothermal resources” means the type of geothermal resources capable of being used to generate electrical energy;

“Class II geothermal resources” means the type of geothermal resources used for purposes other than to generate electrical energy, including direct heating, agriculture applications and recreational bathing;

“commercial operation” means, the delivery by a holder of a concession of electric energy to a busbar for payment pursuant to a power purchase agreement;

“concession” means a concession for Class I geothermal resources issued pursuant to this Act;

“customs duties” includes all duties and taxes on imports which are payable as a result of the importation of the goods under consideration;

“distribution” means the local part of the electricity systems that delivers power from a sub-station to retail customers;

“document” includes an electronic document;

“expatriate” means a natural individual who is not a citizen of Saint Lucia but who resides in Saint Lucia;

“fee” means the application, tender, annual or renewal fee payable by an applicant for, or holder of, a permit, licence or concession;

“generation” means the production from geothermal resources of electrical energy by a power plant;

“geothermal resources activity” means a geothermal resources activity referred to in section 23;

“geothermal by-products” means all minerals, in solution with other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth;

“geothermal energy” means heat derived from the earth;

“geothermal resources” includes -

(a) geothermal energy;
(b) geothermal by-products;
(c) low-temperature geothermal fluids; and
(d) high-temperature geothermal fluids;

“geothermal resources area” means an area declared to be a geothermal resources area under section 16;
“goods” all personal property and all materials, equipment and supplies, machinery, vehicles, consumable items, movable property, capital equipment whether owned or leased, articles listed in the most recent edition of the Harmonized Tariff Schedule and household goods and personal effects of the expatriate employees of a holder of a permit, licence or concession and the immediate family of such expatriate employees and any other articles to be used primarily in carrying out operations under such permits, licences and concessions;

“Harmonized Tariff Schedule” means the Harmonized Commodities Description and Coding System of the Caribbean Common Market;

“high-temperature geothermal fluid” means fluid produced from geothermal resources which has a value by virtue of the heat contained therein and has a temperature that is greater than the boiling point of water at the altitude of the occurrence, including naturally occurring ground water, brine, vapour and gas associated with geothermal resources;

“inspector” means an inspector appointed under section 53;

“land” means any land under whatever tenure held and any easement, servitude, right or privilege in or over land and includes land covered with water;

“licence” means a geothermal resources licence issued pursuant to this Act;

“low-temperature geothermal fluids” mean those fluids produced from geothermal resources that have a value by virtue of the heat contained therein and have a temperature that is not more than the boiling point of water at the altitude of the occurrence, including naturally occurring ground water, brines and gases associated with Geothermal Resources;

“Minister” means the Minister responsible for geothermal resources;

“permission” includes licence, permit, authorization and registration;

“permit” means a geothermal resources permit issued pursuant to this Act;

“person” includes a body corporate or an unincorporated body;

“phase” means a phase of geothermal activity referred to section 23;

“pollution” means any damage or injury to ground or surface waters, soil or air resulting from the authorized loss, escape, or disposal of any substances from any activity subject to the provisions of this Act and the Regulations;

“public utility” means a public utility as defined in the Public Utilities Commissions Act, Cap.9.01;
“records” includes permits, licences and concessions, the register, equipment approvals, reports, policy or operational documents, orders and documents relating to decisions;

“Register” means the Register of Geothermal Resources Activities kept and maintained by the Minister pursuant to section 52;

“Regulations” means Regulations made pursuant to this Act;

“statutory body” means a body created by an enactment in force in Saint Lucia;

“temperature gradient well” means a well drilled expressly for the acquisition of geological or temperature-related data for the purpose of finding and delineating a favourable geothermal resources area prior to the drilling of an exploratory, production or injection well;

“well” means any drilled excavation on any land made for the discovery or production of geothermal resources or any other drilled excavation made on a geothermal resources area, including excavations made for the purpose of re-injecting geothermal resources.

Application of Act
3. (1) This Act governs all rights to geothermal resources.

(2) In case of a conflict between any law in force in Saint Lucia which provides for water or mineral rights and this Act, the following should be taken into account -

(a) achieving the most beneficial use of water, minerals and heat resources;

(b) allowing existing users of water, mineral or heat-producing resources to continue using those resources to the greatest extent possible;

(c) protecting the public interest in the use of water, mineral and heat-producing resources; and

(d) ensuring the development of geothermal resources for the public good.

Act applicable to Class II geothermal resources only when specified
4. Except where Class II geothermal resources are specified in a section of this Act or the Regulations, this Act and the Regulations apply exclusively to the governance of Class I geothermal resources.

Non-application of the Act to transmission of electricity

15
5. This Act does not apply to the transmission of electricity provided for under the Electricity Supply Act, Cap. 9.02.

Act to bind the Crown
6. This Act binds the Crown.

Saving of rights of Crown
7. This Act shall not affect the rights of Her Majesty, her heirs and successors or any person except such as are mentioned in the Act or those claiming by, from or under them.

Declaration of geothermal resources as sui generis
8. Notwithstanding any other provision of law in force in Saint Lucia, geothermal resources are hereby declared to be sui generis, being neither a mineral resource nor a water resource.

Crown rights to geothermal resources
9. (1) The rights to all geothermal resources in, or under any land of whatsoever ownership or tenure are vested in and are subject to the control of the Crown.

(2) The Crown shall, in exercising its right to geothermal resources under subsection (1), promote the exploration for, and development of, its geothermal resources in such a manner as to assure the supply of energy necessary for the economic growth and general welfare of the people of Saint Lucia and to decrease the dependency of Saint Lucia on non-renewable resources.

(3) It shall be in the public interest to foster, encourage and promote the discovery, development, production and disposal of geothermal resources in Saint Lucia in such manner as will safeguard the natural environment and the public welfare and at the same time will encourage private enterprise to provide the necessary services, financing and technology.
Functions and powers of Minister

10. (1) The Minister shall be responsible for the administration of this Act.

(2) Without limiting the generality of subsection (1), the Minister shall, in particular, have the function and power -

(a) to promote investments in geothermal resources activities for generation of energy;
(b) to promote regional co-operation in, and development of geothermal resources; and
(c) to ensure compliance with this Act and the Regulations.

(3) In administering this Act, the Minister shall have regard to the following -

(a) to facilitate multiple use of lands and geothermal resources areas-
   (i) permits, licences and concessions shall, in so far as feasible and in a manner consistent with section 3(2), allow for co-existence of other rights over the same lands for deposit of minerals and the use of water, under the applicable laws in force in Saint Lucia, and for the location and production of claims under the Minerals Vesting Act, Cap. 5.08 and the Water and Sewerage Act, Cap.9.03 and for other uses of the areas covered by those Acts; and
   (ii) permits, licences and concessions shall, in so far as feasible, provide for protection of geothermal resources from unreasonable waste; and
(b) permits, licences and concessions issued for separate properties of the same producing or prospective geothermal resources area, shall provide for co-operation in the development and operation of adjacent geothermal resources areas; and
(c) permits, licences and concessions for Class I geothermal resources shall be issued to encourage the development of geothermal resources within or outside of any geothermal resources area in such a manner as is consistent with the national energy policy, if any, applicable for Saint Lucia.

(4) In the exercise of his or her functions and powers under this Act, the Minister shall consult and have regard to the recommendations of the Authority.
11. (1) The Minister shall by Order published in the Gazette designate a statutory body or a division of the Ministry responsible for geothermal resources as the Geothermal Resources Authority.

(2) The Authority shall be charged with the authority and responsibility -

(a) for geothermal resources development promotion and shall -

(i) actively promote an understanding of the value of the geothermal resources of Saint Lucia within the Government, the commercial and public utility sectors, and the general public;

(ii) identify potential sources of investment in geothermal resources, public and private, foreign and domestic and promote investment in the exploration and exploitation of the geothermal resources of Saint Lucia;

(iii) as directed by the Minister, negotiate or assist the Minister in negotiating the terms of all permits, licences and concessions with all prospective investors in geothermal energy in a manner consistent with this Act and the Regulations;

(iv) assist prospective investors in geothermal resources in identifying and expeditiously completing, consistent with the laws in force in Saint Lucia, all other applicable permissions and regulatory requirements;

(v) consult with national stakeholders, including local officials, religious leaders, non-governmental organizations and affected residents, as appropriate, to address the basic demands and necessities of the communities hosting geothermal resources areas, geothermal energy projects and power plants producing steam and electricity for geothermal energy; and

(vi) consult with holders of permits, licences and concessions to orient these persons in their relationship with host communities;

(b) for geothermal resources compliance and shall -

(i) monitor and ensure compliance with all conditions of permits, licences and concessions;

(ii) receive and review applications for permits, licences and concessions, and make recommendations to the Minister accordingly;

(iii) monitor and ensure that holders of permits, licences and concessions apply appropriate standards in the operation of geothermal facilities;
(iv) be responsible for the technical regulation and the setting of technical standards of geothermal resources in accordance with international standards.
(v) facilitate open entry, market liberalisation and competition in the development of geothermal energy;
(vi) review all permits and licences and concessions in accordance with the Regulations and monitor the progress of all persons holding such permits, licences and concessions with a view to facilitating the successful development of geothermal resources;
(vii) support the Minister in administering and enforcing the provisions of this Act and the Regulations in such a manner as to prevent damage to and waste from underground geothermal deposits and to prevent damage to underground and surface waters, land or air that may result from improper drilling, operation, maintenance or abandonment;
in consultation with the Director of Finance, administer the collection of all bonds, royalties and fees payable 59, 60, 61 and 62; and
(v) report to the Minister in the discharge of all its responsibilities and duties specified in this Act.

Powers of Authority

12. (1) The Authority may do all things necessary or convenient to be done for or in connection with the performance of its functions.
(2) Without limiting the generality of subsection (1), the Authority may -
(a) analyse the appropriateness of different private generation options;
(b) promote complimentary private generation of electricity as a means of ameliorating possible electric power crises, including, but not limited to, such organizational options as build-own-operate-transfer;
(c) promote an educational and publicity campaign to encourage the private generation of electricity from geothermal resources and other renewable resources;
(d) analyse studies on related subjects submitted for consideration;
(e) recommend to the Minister actions to be taken with reference to the matters referred to in paragraphs (a) to (d); and
(f) promote the overall development of geothermal resources in the interest of the sustainable development of the State.
Annual report

13. (1) The Authority shall submit annually to the Minister at the end of each calendar year a report that includes -

(a) an assessment of the state of the development of geothermal resources, and its impact and significance for the development of Saint Lucia;
(b) a description of the activities undertaken by the Authority; and
(c) such other matters as the Minister may prescribe.

(2) The Minister shall cause a copy of a report submitted under subsection (1) to be laid before the Cabinet and the House of Assembly within twenty-eight days of its receipt by the Minister or if the House of Assembly is not in session, within twenty-eight days of the commencement of its next session.

Power to co-opt

14. The Authority may co-opt any person to attend any particular meeting of the Authority at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Authority, but a co-opted person shall not have the right to vote.

Co-operation with competent authorities

15. (1) The Authority may co-operate and enter into a memorandum of understanding with a competent authority for the purpose of exchanging information and may, subject to subsections (2) (3) and (4), exchange information necessary to enable the competent authority or the Authority to exercise its functions.

(2) A memorandum of understanding pursuant to subsection (1) shall -

(a) set out the scope, procedure and other details for exchange of information;
(b) provide for reciprocal treatment;
(c) not provide for disclosure beyond that which is provided for under this Act; and
(d) not relieve the Authority of any of its functions or duties under this Act.

(3) The Authority may decline to exercise its power to exchange information under subsection (1) unless the competent authority undertakes to make such contribution towards the costs of the exchange of information as the Authority considers appropriate.
(4) Nothing in this section authorizes a disclosure by the Authority unless -

(a) the Authority is satisfied that the competent authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality or the Authority has been given an undertaking by the competent authority not to disclose the information provided without the consent of the Authority;

(b) the Authority is satisfied that the assistance requested by the competent authority is required for the purposes of the competent authority’s functions including the conduct of civil or administrative investigations or proceedings to enforce laws administered by that competent authority; and

(c) the Authority is satisfied that information provided following the exercise of its powers under subsection (1) will not be used in criminal proceedings against the person providing the information other than proceedings for an offence of perjury.

PART 3

GEOTHERMAL RESOURCES AREAS

Declaration of geothermal resources area

16. (1) The Minister may, by Order published in the Gazette, declare as a geothermal resources area any area of land -

(a) where geothermal resources have been discovered; or

(b) reasonably believed to be a source of geothermal resources;

(2) In establishing the physical parameters of a geothermal resources area, in addition to section 10, the Minister shall take into account -

(a) the geological, geochemical and geophysical characteristics of the geothermal resources;

(b) the existing and potential uses of the Land which overlays the geothermal resources;

(c) the ownership of the land which overlays the geothermal resources; and

(d) the facilitation of surveying the land and describing the land to be designated.

Acquisition, vesting and divesting of lands in a geothermal resources area
17. (1) In accordance with the provisions of the Constitution and the Land Acquisition Act, Cap. 5.04, the Governor General may, compulsorily acquire any land in a geothermal resources area and may exercise all powers in relation to the acquisition of such lands.

(2) The Governor General may, in accordance with the Crown Lands Act, Cap. 5.02 and upon such terms and conditions as the Governor General may determine, vest in any person the lands in a geothermal resources area belonging to or held in trust for the Crown or acquired for use of the Government and vested in the Governor General.

(3) This section shall not prejudice the right of any person having an interest in any lands acquired under subsection (1) within the provisions of the Land Acquisition Act, Cap. 5.04 and the Constitution.

(4) The Minister may, with the approval of Cabinet by Order published in the Gazette, divest lands vested in a person under subsection (1) to the Crown or to another person specified in the Order.

Subdivisions of geothermal resources areas

18. For the purposes of issuing permits, licences and concessions pursuant to this Act, the Minister may subdivide a geothermal resources area into smaller parts.

Rights of use and rights of way

19. (1) Pursuant to the Regulations, a person carrying out geothermal resources activities under this Act, in the relevant geothermal resources area -

(a) has the right to use the water, gravel and such other construction materials obtained in the natural state that might be necessary for that person’s operations, while respecting the rights of third parties, including the right to compensation and other rights pursuant to relevant law; and

(b) shall be entitled to obtain the requisite authorization for access and egress, rights of way, water and surface rights as well as any other type of rights or authorizations over public or private lands that may be necessary for the performance of their activities.

(2) Any economic damages caused by the exercise of the rights referred to in subsection (1) shall be indemnified by the persons causing such damages.
PERMITS, LICENCES AND CONCESSIONS

Requirement for a permit, licence or concession

20. (1) Subject to section 21, a person shall not carry on any of the geothermal resources activities listed in section 23 unless the person holds the valid permit, licence or concession issued for that purpose under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding ten years or to both.

Restriction on carrying geothermal resources activities in the [World Heritage Site/Piton Management Area]

21. (1) A person shall not carry on any of the geothermal resources activities specified in section 23 in the [Piton Management Area] unless with the authority of the [Piton Management Authority, who shall consult with the World Heritage Convention on this matter].

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding ten years or to both.

Categories of permits, licences and concessions

22. The following are the classes of permits, licences and concessions which may be granted under this Act -

(a) a permit for Class I geothermal resources;
(b) a licence for Class I geothermal resources;
(c) a concession for Class I geothermal resources;
(d) in appropriate circumstances, including an application based on competitive bidding pursuant to section 34, a Class I geothermal resources permit, licence and concession and a Class II geothermal resources concession, integrated into a single instrument; or
(e) concession for Class II geothermal resources.

Phases addressed by permits, licences and concessions

23. Permits, licences and concessions issued in connection with the production of geothermal energy shall be issued with regard to five phases of geothermal resources activities, as follows -
(a) Phase I - reconnaissance which is an activity having minimal impact on the environment of the land that determines by visual observation of the geology and by geochemical studies whether any land may be a source of geothermal resources;
(b) Phase II - exploration which is an activity that demonstrates the dimensions, position, characteristics and extent of geothermal resources by geological, geochemical and geophysical studies and surveys including the drilling of shallow temperature-gradient wells which in the exploration stage may not be drilled deeper than one hundred and fifty meters in depth without a safety certification as specified in the Regulations;
(c) Phase III - drilling which is an operation where a well is drilled for the discovery of geothermal resources or for the production of geothermal resources or for the injection of geothermal resources or the residue and such drilling includes re-drilling and deepening of wells drilled for temperature-gradient monitoring purposes and for production purposes;
(d) Phase IV - geothermal resources production which is an activity that enables the supply of Class I geothermal resources to a power plant so that electricity can be produced from such geothermal resources; and
(e) Phase V - electricity production which is an operation in which electricity is generated from geothermal resources using power turbine generators.

Eligible persons for permits, licences and concessions for Class I geothermal resources

24. (1) A permit, licence or concession for Class I geothermal resources shall be awarded only to -

(a) a person registered under the Companies Act, Cap. 13.01;
(b) a public authority acting on behalf of the State; or
(c) an agent of the Crown.

(2) A permit, licence or concession issued to a person registered under the Companies Act; Cap. 13.01 shall be valid only for such time as that person is in compliance with the Companies Act, Cap.13.01.

Eligible persons for concessions for Class II geothermal resources
25. (1) A concession for Class II geothermal resources may be awarded to any person except that if such person is an alien, that alien has been granted a licence to hold land pursuant to the Aliens (Licensing) Act, Cap. 15.37.

(2) A concession for Class II geothermal resources issued to an alien shall be valid only for such time as the licence to hold land referred to in subsection (1) is valid.

Extent of permit, licence and concession

26. (1) A permit, licence or concession shall extend to a part or the whole of a geothermal resources area under such terms and conditions as are specified in this Act and the Regulations.

(2) The Minister may issue multiple permits, licences or concessions to a person, covering more than one geothermal resources area.

Competitive bidding process

27. The Minister may by notice published in the Gazette and in at least two newspapers in weekly and general circulation in Saint Lucia and by any other media invite persons to tender applications for a permit, licence or concession to carry on geothermal activities and shall provide a closing date for tendering of applications.

Application procedure

28. (1) The application procedures in this section shall apply both when applicants are responding to an invitation to tender under section 27 and when applicants are initiating a request in the absence of an invitation to tender.

(2) An applicant for a permit, licence or concession shall submit its application in the prescribed form to the Authority for consideration, together with the prescribed application fees and the information referred to in subsection (3).

(3) An application for a permit, licence or concession shall be accompanied by the following information -

(a) the prescribed maps sufficient to identify the land to which it relates and such plans, drawings and other materials as are necessary to describe the geothermal resources which are the subject of the application;
(b) proof of ownership for land to be used together with the consent of the owner to the application;

(c) any statutory consent required from any relevant authority in connection with the geothermal resources activity;

(d) proof of planning permission, if required;

(e) a report of an environmental impact assessment in accordance with section 30;

(f) an environmental management plan in accordance with prescribed guidelines;

(g) A geothermal resources development plan in accordance with prescribed guidelines;

(h) a geothermal resources rehabilitation plan accordance with prescribed guidelines;

(i) financial identity of applicant in accordance with prescribed guidelines;

(j) proof of payment of the prescribed application fee; and

(k) such other information as the Authority thinks necessary to determine the application.

Further information

29. (1) In addition to the information required under section 28, the Authority may within fourteen days of the receipt of an application, request additional information from the applicant for the purpose of considering an application.

(2) Where the Authority makes a request for information under subsection (1), the applicant shall submit that information within fourteen days of the request or within a further period of time granted and specified in writing by the Authority.

(3) The Authority shall not unreasonably refuse to give a further time period under subsection (2).

(4) Where further information is requested by the Authority under subsection (1), the application shall be treated for the purposes of this Act as having been submitted on the date when the information requested from the applicant is received by the Authority.
(5) Where the applicant does not furnish the further information requested under subsection (1), the Authority, within fourteen days of the request or within a further period of time granted and specified in writing by the Authority, the Authority may cancel the application and give the applicant notice that the application cannot be determined and has been cancelled and shall return the cancelled application to the applicant.

(6) Nothing in this section prevents a person whose application has been cancelled in accordance with subsection (5) from re-applying for a permit, licence or concession in accordance with the application procedure set out in section 28.

Environmental impact assessment

30. (1) A permit, licence or concession shall not be issued unless an environmental impact assessment has been carried out in accordance with this section and has been considered by the Authority.

(2) Without prejudice to the generality of section 78, the Minister in consultation with the Authority may make Regulations providing for -

(a) the criteria and procedures for determining whether a geothermal resources activity is likely to significantly affect the environment;

(b) the procedures for settling the scope of works of the environmental impact assessment to be carried out by the applicant in respect of any geothermal resources activities;

(c) the minimum contents of a report of an environmental impact assessment to be submitted to the Authority;

(d) the qualifications, skills, knowledge or experience which must be possessed by persons conducting environmental impact assessments for the purposes of this Act;

(e) the procedures for public participation in the environmental impact assessment and public scrutiny of the report of the environmental impact assessment to be submitted to the Authority; and

(f) the criteria and procedures for review of the report of an environmental impact assessment.

Public input

31. (1) Where an application for a permit, licence or concession has been submitted under section 28, the Authority shall make copies available for public inspection at such places as the Authority considers appropriate for bringing it to
the attention of persons who are likely to be affected, directly or indirectly, by the proposals in the application.

(2) The Authority shall give notice simultaneously in two successive issues of both the Gazette and two newspapers in wide circulation in Saint Lucia of the places where and times when the application for the permit, licence or concession, the report of the environmental impact assessment and other supporting documents may be inspected and shall give such other publicity to the matter as is appropriate to inform the public in general, and particularly persons whose interests are likely to be affected, directly or indirectly, by the proposals in the application, of their right to make representations to the Authority regarding the application.

(3) A person may, within twenty eight days after the publication in the Gazette of the notice referred to in subsection (2), make representations in writing or in person on an application for the permit, licence or concession.

(4) For the purposes of subsection (3), representation in person shall be made in public -

(a) at such time or place as the Authority may determine; and
(b) in accordance with the prescribed procedures.

Recommendation by Authority

32. (1) Subject to subsections (2) and (3), where an application is submitted under section 28, and within [fourteen days] after the expiry of the period specified in section 31 for the making of representations regarding an application for a permit, licence or concession, the Authority shall submit its recommendation in writing for the grant or refusal of the permit, licence or concession to the Minister giving written reasons for the recommendation.

(2) In considering an application and making a recommendation under subsection (1), the Authority shall have due regard to -

(a) the report of the environmental impact assessment and the mitigation and rehabilitation plans proposed for approval;
(b) the attainment and maintenance of an acceptable environmental quality;
(c) whether the environmental impact caused or experienced by the designated project is or is likely to be prejudicial to the health or well-being of people, flora, fauna or ecosystems;
(d) economic feasibility for and financial identity of the applicant;
(e) appropriate technical and financial requirements;
(f) any relevant technical memorandum presented;
(g) the fitness and propriety of the applicant determined by due diligence tests carried out by the Authority;
(h) the economic benefit, negative impact on other economic sectors, employment created and other socio-economic factors.
(i) whether the public interest and national security interests will be safeguarded;
(j) whether the interests of purchasers and other users of electrical services will be protected; and
(k) whether foreign and domestic investors will be encouraged to invest in geothermal resources.

Grant or refusal of permit, licence or concession

33. (1) Within thirty calendar days after receipt of the Authority’s recommendation, the Minister shall, in writing -
   (a) if the Authority’s recommendation is not an affirmative recommendation -
      (i) refuse the application and give reasons for the refusal; or
      (ii) provide the applicant a notice of actions that may be taken;
   (b) if the Authority’s recommendation is an affirmative recommendation -
      (i) notify the applicant that the application has been found satisfactory and that the permit, licence or concession may be granted subject to negotiation of the terms and conditions; and
      (ii) establish a negotiation schedule.

(2) A permit, licence or concession granted pursuant to this section shall be in the form prescribed and shall be subject to such terms and conditions negotiated pursuant to subsection (1) and such other terms and conditions as may be determined by the Minister.

Permission pursuant to other laws

34. Except where specifically provided in this Act or any other Act in force in Saint Lucia, a permit, licence or concession issued pursuant to this Act shall not have the effect of dispensing with the necessity of obtaining permission where such permission is required under any other Act in force in Saint Lucia.

Exemption from requirement to obtain an abstraction licence
35. Notwithstanding section 34, the holder of a valid permit, licence or concession shall be exempt from the requirement of obtaining an abstraction licence under the provisions of the Water and Sewerage Act, Cap. 9.03.

Geothermal resources permits

36. (1) A geothermal resources permit authorizes the holder of the permit to engage in Phase I and Phase II activities.

(2) A permit authorizes the holder of the permit to carry out:
   (a) the operations needed for Phase I Geothermal Resources reconnaissance; and
   (b) the operations needed for Phase II Geothermal Resources exploration.

Rights of a holder of a permit

37. (1) A permit shall confer upon the holder of the permit the right to enter the land in a geothermal resources area that is the subject of the permit for the purposes of reconnaissance or exploration and to do all such things as are reasonably necessary for and in connection with such reconnaissance or exploration.

(2) In so far as it may be necessary for, and in conjunction with, the operations referred to in this section, the holder of the permit, for the term of the permit, shall have the right:
   (a) to make surveys, investigations, tests and measurements in search of geothermal resources;
   (b) to enter upon land in the geothermal resources area specified in such permit with such assistance and equipment as the holder of the permit thinks fit;
   (c) to make geological and geochemical surveys on Saint Lucia if a Phase I permit is issued; and
   (d) to make geophysical surveys and drill shallow temperature gradient wells if a Phase II permit is issued.

Term of permit

38. (1) A permit shall be in force for an initial period of not more than two years from the date of issue, but on application granted by the Minister may be
renewed for successive one year periods from the date of expiration thereof or from the expiration of any previous renewal.

(2) Within the terms of any permit granted pursuant to this Act and the Regulations, the Minister shall authorize any holder of a permit except a public officer or an agent of the Crown who has been awarded the permit through an open tender, the right automatically to convert the permit into a licence.

Geothermal resources licence

39. A geothermal resources licence authorizes a person listed in section 24 to engage in Phase III and Phase IV activities and to carry out -

(a) a continuation of the operations needed for Phases I and II;
(b) the operations needed for Phase III geothermal resources drilling; and
(c) the operations needed for Phase IV geothermal resources steam production.

Rights of a holder of a licence

40. (1) A licence shall confer upon the holder of the licence the right to enter the land in a geothermal resources area that is the subject of the licence for the purposes of drilling or production and to do all such things as are reasonably necessary for and in connection with such drilling or production.

(2) In so far as it may be necessary for and in connection with the operations referred to in this section, the holder of the licence shall, for the term of the licence, have the right -

(a) to drill and construct all necessary bores;
(b) to erect, construct and maintain temporary housing and buildings for the holder’s own use and for use by the employees of the holder;
(c) to erect, construct and maintain plant, machinery, buildings and other erections as may be necessary;
(d) to utilize the geothermal resources;
(e) to reclaim, utilize and reinject any geothermal fluids, including water;
(f) to utilize spent fluids exiting from a power plant for non-electrical purposes;
(g) to construct and maintain roads and other means of communications and conveniences;
(h) to reclaim and utilize any geothermal by-products; and
(i) to take and use or apply the geothermal resources for any purpose specified in the licence.

**Term of licence**

41. (1) A licence shall be in force for an initial period of not more than five years from the date of issue, but on application granted by the Minister may be renewed for successive two year periods of from the date of expiration thereof or from the expiration of any previous renewal.

(2) Within the terms of any licence or the Regulations, the Minister shall authorize the holder of the licence except a public authority or an agent of the Crown who discovers a Class I geothermal resources, the right automatically to convert the licence into a concession for electricity production as specified in section 42.

**Geothermal resources concessions for electricity generation for Class I geothermal resources**

42. (1) A geothermal resources concession authorizes a holder of a licence who discovers Class I geothermal resources of economically developable quantity, the long-term right to carry on electricity production under such terms and conditions as are specified in such concession, this Act and the Regulations.

(2) A concession, for the purposes of geothermal energy development authorizes the holder of the concession to carry out the operations needed for Phase V geothermal resources electricity generation.

**Rights of a holder of a concession**

43. (1) A concession granted under this Act shall confer upon the holder of the concession the right to enter the land in a geothermal resources area that is the subject of such concession for the purposes of generating electricity from geothermal resources and to do all such things as are reasonably necessary for and in connection with such generation.

(2) In so far as it may be necessary for and in connection with the operations referred to in this section, the holder of the concession shall have the right -

(a) to extract, take, use and apply geothermal resources on or under any land that is the subject of the geothermal resources concession; and
(b) to erect, construct, provide and use such works and appliances as may be necessary for the purpose of generating electricity

Term of concession
44. A concession issued under this Act shall be valid for a period not exceeding twenty years from the date of issue, but on application granted by the Minister may be renewed for successive periods of five years from the date of expiration thereof or from the expiration of any previous renewal.

Concession not deemed an electricity supply licence
45. A concession shall not be deemed an electricity supply licence or regulated as such and shall not exempt the holder from requiring an electricity supply licence under the Electricity Supply Act, Cap. 9.02.

Geothermal resources concessions for Class II geothermal resources
46. (1) A concession for Class II geothermal resources authorizes the holder of the concession to develop Class II geothermal resources of economically developable quantity and the long-term right to use such geothermal resources in such a manner as is consistent with the national energy policy applicable in Saint Lucia and under such terms and conditions as are specified in this Act and the Regulations.

(2) A concession for Class I geothermal resources may also include concessions for Class II geothermal resources.

Modification
47. (1) The Minister, on the receipt of an affirmative recommendation from the Authority may -

(a) wholly or partly modify all or any of the terms and conditions contained in any permit, licence or concession when the Minister and the holder agree in writing;

(b) wholly or partly modify all or any of the terms and conditions contained in any permit, licence or concession where, owing to special circumstances, in the Minister’s opinion, compliance with the permit, licence or concession would be impossible or great hardship would be inflicted upon the holder;
(c) extend time to a holder for complying with the terms and conditions of any permit, licence or concession upon such terms and conditions as the Minister may think fit; and

(d) accept, whether with a view to the renewal or re-grant of any permit, licence or concession or otherwise, the surrender of any permit, licence or concession or any part of the geothermal resources area comprised therein; however, no such surrender shall affect any liability incurred by the holder before the surrender shall have taken effect.

(2) The Minister shall, in writing, wholly or partly modify all or any of the terms and conditions contained in any permit, licence or concession without the agreement of the holder where it is necessary in the interest of national security.

(3) On application made, by a holder of a permit, licence or concession in the form approved by the Authority, the Minister may modify a permit, licence or concession, _inter alia_ to vary any term or condition of the permit, licence or concession.

**Resolutions of conflicts**

48. To the extent that any provision of a permit, licence or concession is inconsistent with any mandatory requirement of this Act, such provision is of no effect.

**Suspension and revocation**

49. (1) The Minister may, on receipt of an affirmative recommendation from the Authority, and by written notice to the holder of a permit, licence or concession declare a permit, licence or concession to be suspended or revoked -

(a) if the holder wholly ceases work in or under the land that is the subject of the permit, licence or concession during a continuous period of twelve months without the written consent of the Minister; or

(b) if the holder -

(i) is in default of any provision of this Act or the Regulations;

(ii) is in default of any fee, royalty, or any other money owed to the Government pursuant to this Act and the Regulations; or

(iii) commits a breach of any terms or conditions of the permit, licence or concession.

(2) A suspension or revocation pursuant to subsection (1) shall not be in effect unless the Minister has caused a notice to be served upon the holder, giving
the holder two months’ notice in writing of the intention to suspend or revoke the permit, licence or concession, specifying the grounds for doing so and giving the holder an opportunity -

(a) in the case of a breach which, in the opinion of the Minister, is capable of being repaired or made good, to repair or make good the breach within a specified period; or

(b) in the case of a breach that in the opinion of the Minister, is not capable of being repaired or made good, to show cause within a specified period why the permit, licence or concession should not be suspended or revoked; and the holder has neither made good or repaired the breach within the time specified nor shown reasonable cause why the permit, licence or concession should not be suspended or revoked.

(3) The Minister shall suspend or revoke a permit, licence or concession on a finding that the suspension or revocation is necessary for reasons of national security.

(4) The Crown may compulsorily acquire the property of the holder of a permit licence or concession in the interest of national welfare or national security provided that prompt, adequate and just compensation is paid in accordance with the Constitution, Cap 1.01 and the Land Acquisition Act, Cap. 5.04.

Surrender

50. (1) At any time during which the holder of a permit, licence or concession has title to a geothermal resources area, the holder may surrender all or part of the geothermal resources area; however, no such surrender shall affect any liability incurred by the holder before the surrender shall have taken effect.

(2) Where a permit, licence or concession has been forfeited or revoked, the holder and every other person in whose possession or under whose control the holder may be shall surrender the permit, licence or concession to the Committee if so required by the Minister.

Removal of a holder of a permit, licence or concession

51. (1) A person who was the holder of a permit, licence or concession that has expired, been surrendered, or revoked shall, within ninety days of the date of the expiry, surrender or revocation, apply to the Authority for permission to enter the land designated in the permit, licence or concession to remove all goods
belonging to the person within the geothermal resources area, including the plant, machinery, operating equipment, engines or tools installed or erected on the land.

(2) The Minister may require the person who was the holder of a permit, licence or concession that has expired, been surrendered, or revoked to remove all goods belonging to the person in the geothermal resources area, including the plant, machinery, engines or tools, within a reasonable time and if such goods are not removed within a reasonable time, they may be sold by auction at the risk of the person.

(3) The net proceeds of the sale conducted pursuant to this section shall be held until applied for by the person who was the holder of the permit, licence or concession but may be used in the repair of breaches or faults not made good by the person and for the payment of the costs incurred in conducting the sale.

Registry and publication
52. (1) The Authority shall keep and maintain a Register of Geothermal Resources Activity.

(2) The Register shall contain all grant or denials of permits, licences and concessions issued, all geothermal resources areas declared, assigned, surrendered, expired or extended in duration.

(3) The Register may contain other documents as the Minister may direct.

(4) The Register shall be a public register and as such accessible by the public except as provided in section 76.

(5) The Authority shall publish in the Gazette the issuance, expiration, suspension, surrender, modification, revocation or extension of a permit, licence or concession.

PART 5
SAFETY, ENVIRONMENT AND COMPLIANCE

Designation of inspectors
53. (1) The Minister shall designate such public officers as inspectors as may be necessary to assist the Authority in discharging its functions and duties under this Act.

(2) An inspector may investigate any complaint or conduct concerning an allegation of a breach of the Act, and any permit, licence or concession and shall ensure compliance with the Regulations.
Co-operation with inspections

54. (1) The holder of a permit, licence and concession shall facilitate the work of inspection authorized by the Minister.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding five thousand dollars or to imprisonment of a term not exceeding one year, or to both.

Notice to landowner

55. (1) A permit, licence or concession shall be subject to the condition that, when practicable, the holder shall give reasonable notice of the intention to enter upon any land to the owner or occupier of the land.

(2) A person who is authorized by to enter upon any land shall produce his or her authorization when required to do so by the owner or occupier of the land on which the person intends to enter or has entered.

Bores

56. A licence shall be subject to the condition that every bore shall be -

(a) drilled in a manner consistent with generally accepted including quality and safety standards;
(b) kept under close supervision;
(c) maintained in a safe condition;
(d) finally left in a condition of lasting safety; and
(e) subject to such other conditions as the Minister may impose at the time of granting the licence or subsequently at the time of the closure of the bore.

Conditions licence

57. A holder of a permit, licence or concession shall comply with -

(a) the conditions of the planning permission for land use relating to the geothermal resources area;
(b) the environmental management plan approved by the Authority including all environmental mitigation measures to be implemented as described in the environmental management plan;
(c) the geothermal resources rehabilitation plan approved by the Authority relating to the carrying on of geothermal resources activities; and
(d) the safety requirements pursuant to the Employees (Occupational Health and Safety Act, Cap. 16.02.

Environmental protection

58. (1) A holder of a permit, licence or concession shall conduct geothermal resources activities safely and in accordance with environmentally sound principles.

(2) A holder of a permit, licence or concession carrying out geothermal resources activities shall comply with the Regulations relating to protection of the environment in a geothermal resources area.

(3) A holder of a permit licence or concession shall, in consultation with the Authority, carry out operations in a manner so as to mitigate pollution, safeguard natural resources, provide for the reasonable restoration of lands disturbed by such operations, and minimize the effect of such operations on adjoining or neighbouring land, including noise abatement and air and water quality protection.

(4) A holder of a permit, licence or concession shall advise the Authority of any significant adverse effect which operations may have on the environment and proposals for controlling or eliminating that effect.

Bond

59. (1) Before any surface disturbing activities relating to drilling can begin, a holder of a permit, licence or concession who proposes to drill any geothermal resources must post a bond for each type of well to be drilled in an amount and in the manner prescribed to ensure compliance with all the terms of any permit, licence or concession, including protection of the environment.

(2) Acceptable instruments of bonding under subsection (1) are surety bonds, personal bonds, cashier’s check, certified checks, certificate of deposits, irrevocable letters of credit, and any other security acceptable to the Government.

(3) The Minister may, with the affirmative recommendation of the Authority, require an increase in the bond amount any time conditions warrant such an increase.

(4) Upon application by the provider of the bond under subsection (1), the Minister responsible for Finance shall release the bond and any accrued interest to the provider no later than thirty calendar days after the Authority has certified to the Minister responsible for finance that the well has been plugged or abandoned or is otherwise in compliance with the Regulations.
PART 6
ECONOMIC AND FINANCIAL

Assessment of application and annual fees

60. (1) The Minister shall prescribe fees, including -
   (a) application fees, to conduct Phase I, II, III and IV geothermal resources activities; and
   (b) annual fees for the opportunity to conduct Phase II, III, and IV geothermal resources activities.

   (2) The fees prescribed under subsection (1) shall be paid in advance, shall be non-refundable, and shall serve to defray the cost of administration and inspection.

Assessment of annual royalties

61. (1) The Minister shall not prescribe fees, but shall prescribe annual royalties in lieu of fees for the opportunity to conduct Phase V geothermal resource activities.

   (2) The annual royalties referred to in subsection (1) shall serve to cover the cost of administration and inspection and shall serve to recompense the Crown for the use of geothermal resources.

   (3) A holder of a concession shall pay a royalty for each concession as a function of the production from the geothermal resources area specified in the concession and the royalty shall be considered as an expense for tax purposes.

   (4) The royalty for each concession shall be determined as a function of the gross annual sales from the geothermal resources area specified in the concession and shall be paid in the manner agreed in each concession.

   (5) For geothermal energy used domestically royalties may be zero but shall not be more than three percent of the gross annual sales of the concession.

   (6) For geothermal energy exported, royalties may be zero but shall not be more than five percent of the gross annual sales value of the concession.

   (7) In establishing the royalty for a geothermal resources area, the Minister shall take into account -

39
(a) in the case of electrical generation, the royalty should be based on the gross price paid for the electrical power, including capacity and transmitted electricity;

(b) in the case in which holders of concessions authorizing Class I geothermal resources activities also engage in Class II direct use projects, the royalty should be based on gross sales of product items or services rendered; and

(c) in all cases, the amount of the royalty should be based on preserving the economic viability of the project.

Fees and royalty payments

62. (1) A holder of a permit or licence shall pay the prescribed annual fees.

(2) A holder of a concession shall make prescribed royalty payments as set out in the relevant concession.

(3) Fees and royalties for a Class II geothermal resources concession shall be as prescribed.

Geothermal Resources Rehabilitation Fund

63. (1) There is hereby established a fund to be known as the Geothermal Resources Rehabilitation Fund for the purpose of meeting the cost of rehabilitating a geothermal resources area.

(2) The revenues of the Fund shall consist of payments made by holders of permits, licences and concessions in accordance with subsection (3).

(3) Each holder of a permit, licence or concession shall pay the prescribed amount quarterly as security directly to the Fund in accordance with conditions of the permit, licence or concession.

(4) The Authority shall manage the Fund in accordance with the Regulation.

(5) Any amount paid by a holder of a permit, licence or concession into the Fund and not used for the rehabilitation of the geothermal resources area by the holder of the permit, licence or concession after the closure of a geothermal resources area shall, after a period of two years from the completion of the rehabilitation, be refunded to the holder of the permit, licence or concession with interest earned at a rate prescribed.
Importation

64. (1) Imports of all goods required for Phases I, II, III, and IV shall be exempt from any and all customs duties and all other taxes, for as long as that phase lasts.

(2) The customs duties and all other taxes applicable to the imports of goods required by the holders of concessions for Phase V shall be for the importer’s account and expense except that the Minister responsible for finance may by Order published in the Gazette exempt imports of any goods required for Phase V from customs duties and taxes, for as long as that Phase V lasts.

(3) The import of goods including materials, equipment, supplies, machinery, vehicles, consumable items, movable property and any other articles by a holder of a permit or licence to be used primarily in carrying out operations under a permit or licence shall be exempt from customs duties and taxes during the validity of the licence or permit.

(4) The import of goods required for the initial installation or expansion of the capacity of those production installations of Phase V by a holder of a concession shall be exempt from customs duties and other taxes during the validity of the concession.

(5) An employee of a holder of a permit licence or concession shall be exempt from all customs duties with respect to the reasonable importation of legally permissible household goods and personal effects, provided such employee is an expatriate.

Exportation

65. A holder of a permit, licence or concession and that holder’s expatriate employees may export from Saint Lucia, exempt of all customs duties and export taxes, fees and charges, all previously imported items which are no longer required for the conduct of operations under permits, licences and concessions.

Resale of imported goods

66. A holder of a permit, licence or concession and that holder’s expatriate employees may sell in Saint Lucia all imported items that are no longer needed for operations under such permit, licence or concession except that goods imported under section 64 shall not be sold in Saint Lucia for a period of five years from the date of purchase or import into Saint Lucia, whichever date is later in time, unless the vendor first pays the requisite customs duties.
Domestic purchase and hiring

67. (1) To encourage domestic purchase and hiring -

   (a) a holder of a permit, licence or concession that purchases goods, including machinery, equipment and spare parts from domestic manufacturers instead of importing said goods, shall be entitled to a tax credit equivalent to one hundred percent of the value of the taxes and customs duties that would otherwise have been exempted by importing such goods into Saint Lucia; and

   (b) a holder of a concession shall be allowed a deduction from income of an additional fifty percent for a total of one hundred and fifty percent of the wages of Saint Lucia national direct labour for skilled and unskilled workers.

Joint and severable responsibility of holders of authorizations

68. (1) Where there are two or more persons comprising the holder of a permit, licence or concession, the permit, licence and concession shall identify the person responsible for managing the operation.

   (2) The responsibility for managing operations may alternate among the persons comprising the holder of the permit, licence or concession but all such persons shall be jointly and severally responsible for those obligations stipulated in, and resulting from, the permit, licence or concession.

   (3) Each person comprising a holder of a permit, licence or concession shall be severally responsible to the Crown as regards their tax and accounting liabilities.

Accounting

69. A holder of a permit licence or concession may keep accounts in a foreign currency in keeping with accounting practices accepted in Saint Lucia.

Investment information

70. A holder of a permit, licence or concession shall submit to the Authority documentary proof of the investments made every year in the country indicating, in each case, whether these investments are made in capital goods or otherwise.

Income taxes: concession
71. (1) For the first fifteen years from the first day of commercial operations, the holder of a concession shall make their income tax payments in keeping with the rules established by the tax system in force on the date each concession is signed.

(2) Where the holder of a concession is a subsidiary of a person established abroad, the tax system shall apply only to its Saint Lucia sourced taxable income, including income from any geothermal energy exports originating in Saint Lucia.

(3) A holder of a concession shall be exempt from income taxes levied by the Government of Saint Lucia for a period of fifteen years from the date of commencement of the concession.

(4) Where a holder of a more than one concession carries out activities in more than one geothermal resources area and where one or more of the concessions were to produce losses that can be carried over, such losses may be made up by the profits generated by other concessions, at option of the holder of such concessions.

Income taxes: permit and licence

72. The Government hereby grants or shall cause to be granted to a holder of a permit or a licence and the expatriate employees of a holder of a permit or licence, exemption from all taxes which arise by virtue of the licence or permit, including but not limited to, income taxes, for the duration of their permit or licence except that such exemption or tax holiday shall be not less favourable than that granted to any other investor in Saint Lucia.

Transfer and assignment prohibited

73. A holder of a permit, licence or concession shall not transfer or assign its permit, licence or concession or any part of its permit, licence or concession without the consent in writing of the Minister signified by endorsement on the permit, licence or concession.

Amortization

74. (1) Exploration and development expenditures as well as the investments that the holders of permits, licences and concessions may make up to the date when commercial extraction of geothermal resources starts, including the cost of the bores, shall be accumulated in an account whose amount, at the holders of such permits, licences and concessions option, and with respect to each permit,
licence and concession, shall be amortized following either of the methods or procedures given below -

(a) on the basis of the production unit; or
(b) through a linear amortization, deducting them in equal portions, during a period of no less than five fiscal years.

(2) Once commercial operations start, all debit accounts that have no recovery value shall be deducted as expenses for that fiscal year.

(3) The wear suffered by depreciable goods shall be charged off by deducting amounts that shall be computed annually in keeping with the common income tax system in force at the effective date of each permit, licence and concession.

(4) Depreciations made by a holder of a permits, licence or concession shall be reported to the Island Revenue Department.

(5) A licence or concession shall stipulate the amortization method to be used by the holders, which method once elected may be changed once during the terms of the licence or concession combined and thereafter shall remain unchanged during the term of the licence and its successor concession.

(6) In case the linear amortization method is chosen, the period in which the amortization is to be carried out shall be agreed upon in the permit, licence and concession itself.

PART 7
MISCELLANEOUS PROVISIONS

Public officers and institutions conflicts of interest

75. (1) A person, government institution, local authority official department, or public or private agency shall not set up or charge any fees or compensations in respect of the carrying out of geothermal resources activities under this Act that have not been expressly stipulated by this Act.

(2) A public officer shall not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him in good faith of any function under and for the purposes of this Act.

(3) A public officer engaged in the administration of this Act shall not -

(a) acquire a permit, licence or concession or an interest therein; or
(b) acquire or continue to hold a share in the share capital of a body corporate that is or becomes a holder of a permit, licence or
concession and for that purpose, the acquisition of such a share or interest or the holding of such a share, by spouse, or reputed spouse (not himself or herself being a holder of a permit, licence, or concession), of a holder of a permit, licence, or concession, shall be treated as an acquisition or holding by the holder of the permit, licence, or concession.

(4) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term of two years, or to both.

Confidentiality

76. (1) A public officer, or an officer or employee of the Authority shall not disclose any information, obtained under or by virtue of this Act, about prospecting or production operations under a licence or concession unless the disclosure is made -

(a) with the consent of the holder of the permit, licence or concession;
(b) for the purpose of facilitating the performance of any functions under this Act if it is reasonable to do so;
(c) in connection with the investigation of any criminal offence or for the purpose of any criminal proceedings;
(d) for the purpose of the determination of the liability of a holder of a permit, licence or concession to make any payment under this Act; and
(e) for any purpose or in any circumstances prescribed in such permit, licence or concession.

(2) When any disclosure is made to a person pursuant to subsections (1)(a), (d) or (e), then for the purposes of this section, that person shall be treated as having obtained the information by virtue of this Act.

(3) The right of a holder of a permit, licence or concession, their servants or agents to disclose information about prospecting or production operations under a permit, licence or concession is subject to any restrictions or limitations in that connection prescribed in such permit, licence or concession.

(4) Any person who discloses information in contravention of subsections (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both.
(5) In proceedings on a prosecution for such offence it is a sufficient defence if the accused person proves that the information disclosed was, without that disclosure, generally known to the public.

**Settlement of disputes**

77. (1) Any disputes that may arise in the performance, compliance and, in general, on anything having to do with the geothermal resources activities to which this Act refers, may be submitted to the courts of Saint Lucia or to national or international arbitration as may be negotiated and specified in the applicable permit, licence or concession.

(2) Once the forum for disputes has been agreed upon pursuant to subsection (1), the choice of that forum shall be binding.

(3) If arbitration is chosen, the award of the arbitral tribunal shall not be subject to appeal and shall be of mandatory compliance.

**Regulations**

78. (1) The Minister may make regulations necessary to give effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may in particular make regulations providing for or in relation to -

(a) forms and procedures that may be required for the purposes of this Act including applications for a permit, licence or concession;
(b) conditions for the grant or renewal of permits, licences and concessions;
(c) the requisite qualifications of persons who may be granted permits, licences and concessions including -
   (i) the technical, legal, economic and financial qualification of applicants;
   (ii) the minimum experience, capacity and solvency needed to guarantee the sustained development of geothermal resources exploration and exploitation activities in keeping with the characteristics of a geothermal resources area;
   (iii) the investment required; and
   (iv) the environmental protection guidelines;
(d) the keeping of records and furnishing of information and returns by persons authorized by or under this Act, and prescribing the nature of the records, information, and returns and the form, manner and time in which they shall be kept or furnished;
(e) the fees, royalties and bonds payable under this Act;
(f) obligations under permits, licences and concessions;
(g) preventing or abating nuisances in or about geothermal resource activities and industries using geothermal resources;
(h) safety precautions;
(i) procedures regarding any emergency in connection with geothermal resources activities;
(j) generally regulating the making of bores;
(k) the environmental regulations for geothermal resources activities;
(l) the qualifications of holders of permits, licences and concessions;
(m) procedures for the treatment of complaints;
(n) procedures for dispute resolution; and
(o) pricing models.

Passed in the House of Assembly this day of 20.

Speaker of the House of Assembly

Passed in the Senate this day of 20.

President of the Senate