

Final Draft

**Saint Vincent and the Grenadines
Geothermal Resources Exploration and
Development Bill, 2012**

November 2012

Acknowledgements

The Draft Geothermal Resources Development Bill reflects the commitment of the Government of the Saint Vincent and the Grenadines 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 Vincent and the Grenadines (Hon. Prime Minister, Hon. Attorney General, Dr. Jerrol Thompson, 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 Vincent and the Grenadines and OAS-DSD -the sponsors on this and other projects.

Judy Daniel Esq.
Attorney-at-Law
Environmental Law & Development Specialist

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. Judi Daniel 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.

THE GEOTHERMAL RESOURCES DEVELOPMENT BILL, 2012

Explanatory Note

(These Notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to make provision for the exploration, development and utilization of geothermal resources in a manner that is economically beneficial yet ensures the protection of the country's environmental resources. The Bill treats geothermal resources as a mineral and therefore gives the full ownership, control and supervision of the resource to the Crown. Section 2 of the Mineral Vesting Bill Cap. 324 needs amending to insert "geothermal resources" in the definition of "mineral". In treating with certain definitions and to maintain consistency the Bill considers the provisions of the National Parks (Amendment) Act No. 13 of 2010. As regards environmental impacts that may be caused by geothermal development, the Bill requires coordination with the relevant entities. As a consequential amendment the Bill will require the existing Physical Planning Town and Country to be revised to establish comprehensive provisions for the conduct of environmental impact assessments.

Clause 1 of the Bill would provide a short title of the Bill for which this is the Bill.

Clause 2 of the Bill sets out the various definitions in the Bill. In it the term "geothermal resources development" is defined to mean both exploration and use of geothermal resources.

Part II of the Bill establishes the existing National Energy Committee in law as an advisory body and vests it with the responsibility, *inter alia*, to advise the Minister on matters pertaining geothermal energy transactions. The Director is a member of the Energy Committee and his appointment cannot be revoked by the Minister. Clause 7 establishes the functions and powers of the Minister in relation to the Bill.

Clause 19 gives the Minister the power to designate a defined portion of land in St. Vincent and the Grenadines believed to contain geothermal

resources to be a geothermal resources area. Clauses 20 - 25 (inclusive) are pertinent to the procedure to be adopted for such designation.

Part IV deals with matters pertaining to permits, licences and concessions for the exploration, development and utilisation of geothermal resources. Clause 27 sets out the categories of permits, licences and concessions. Clause 28 provides for the various phases of such permits, licences and concessions of which Phase V concerns electricity generation

Clause 31 allows for a competitive bidding process for awarding geothermal permits, licences and concessions. Clause 32 establishes the procedure for obtaining permits, licences and concessions.

Clause 42 secures the rights of permit holders. Clause 44 provides that geothermal activities are to be conducted in accordance with the technology that is approved in a Phase I or Phase II permit.

Clause 51 – 54 specifies the activities that the holder of a geothermal resources licence or concession is authorised to carry out. Clause 52 conveys specific rights to the holder of a geothermal licence including the right to drill and construct all necessary bores and to generate and manufacture electricity.

Part V sets out the powers of persons designated to act as inspectors as regards ensuring compliance and safety measures. Part VI deals with financial matters including the payment of royalties and vests the Minister at Clause 70 with powers to make regulations for matters connected therewith. Fiscal incentives tax exemptions on custom duties and capital equipment and services used primarily in geothermal development operations are exempted under Clause 74.

Part VI contains miscellaneous provisions including the keeping of a Register of information (Clause 83), the publishing of information relating, *inter alia*, to the grant, suspension of permits, licences and concessions (Clause 84). Clause 88 renders any provision in any law that is inconsistent the Bill to be void to the extent of the inconsistency in relation to the matters covered by the Bill. The Bill binds the Crown.

**GEOHERMAL RESOURCES EXPLORATION AND
DEVELOPMENT BILL**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Purposes and application
4. Class II geothermal resources when specified.
5. Non-application of Act to transmission of electricity
6. Act binds the Crown

PART II

**ESTABLISHMENT AND ORGANISATION OF NATIONAL
ENERGY COMMITTEE**

7. Functions and powers of Minister
8. Establishment of National Energy Committee
9. Functions and powers of Committee
10. Meetings
11. Vacancy
12. Limit on personal liability
13. Committee, working group and advisory bodies
14. Annual report

-
15. Procedures of Committee
 16. Conflict of interest
 17. Information
 18. Policy direction from Minister

PART III

GEOTHERMAL RESOURCES AREAS

19. Designation of geothermal resources areas
20. Notice of proposed action
21. Acquisition, vesting and divesting of lands
22. Declaration as to restricted areas
23. Modification or cancellation of restricted areas
24. Rights of use and rights of way
25. Appeal

PART IV

PERMITS, LICENCES AND CONCESSIONS

26. Requirement for a permit, licence or concession
27. Categories of permits, licences and concessions
28. Phases addressed by permits, licences and concessions
29. Eligible persons for permits, licences and concessions
30. Extent of permit, licences and concessions
31. Competitive bidding process

-
32. Application procedures
 33. Incorrect information
 34. Incomplete applications
 35. Application in restricted area
 36. Review of application
 37. Criteria for decision
 38. Cabinet approval
 39. Refusal of application
 40. Notice of decision to applicant
 41. Geothermal resources permits
 42. Rights of holder of permit
 43. Duration of permit
 44. Condition as to technology
 45. Incidental activities
 46. Amendment of work programme
 47. Grant or refusal of amendment
 48. Notice of approval or refusal
 49. Committee recommendations on permit
 50. Continuance of geothermal resources permit
 51. Geothermal resources licence
 52. Rights conveyed under licence
 53. Application for concession

-
- 54. Rights of holder of concession
 - 55. Additional rights
 - 56. Duration of concession
 - 57. Concession not electricity supply licence
 - 58. Power Purchase Agreement
 - 59. Modification, suspension and variation Regulations

PART V

COMPLIANCE, ENFORCEMENT AND SAFETY MEASURES

- 60. Designation of inspectors
- 61. Powers of entry and inspection
- 62. Obtaining information and samples
- 63. Disclosure to court
- 64. Emergency response activities
- 65. Obligation to consult owners and occupiers
- 66. Offence to bore
- 67. Offence to destroy equipment
- 68. General penalty

PART VI

FINANCIAL PROVISIONS AND EXEMPTIONS

- 69. Geothermal royalty

-
70. Minister may make regulations
 71. Obligation to lodge annual royalty returns
 72. Proceeds to be paid to Treasury
 73. Penalty for non-payment of annual rent
 74. Customs duty and other taxes
 75. Exportation
 76. Resale of imported goods
 77. Domestic purchases and hiring
 78. Joint and several responsibility of holders of authorisation
 79. Accounting
 80. Investment information
 81. Income taxes: permits and licences
 82. Amortization
- PART VII
- MISCELLANEOUS
83. Register of information
 84. Publication of outcome of application
 85. Settlement of disputes
 86. Regulations
 87. Savings of rights of Crown
 88. Repeal and amendment

SCHEDULES

Schedule I - Requirements for Work Programme

Schedule II – Geothermal Authorisation Rules

Schedule III – Fees

Final Draft

**ST. VINCENT AND THE GRANADINES
[DRAFT]GEOTHERMAL RESOURCES DEVELOPMENT BILL**

No. _____ of 201[]

[BILL FOR]

AN ACT to provide for the development and use of geothermal resources and for matters related thereto.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the consent of the House of Assembly of St. Vincent and the Grenadines, and by the authority of the same as follows:-

**PART I
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the Geothermal Resources Development Act, 201[] and shall come into force on a day to be determined by the Governor-General by Notice in the Gazette [and different days may be appointed for the coming into operation of different provisions of the Act].

Interpretation

2. In this Act, unless the context otherwise requires—

“alien” has the same meaning assigned to it under the Aliens (Land-Holding Regulation) Act;

“applicant” means a person who applies for a geothermal permit, licence or concession;

“authorisation” means a permit, licence, concession, or registration;

“bore” means any well, hole, pipe, or excavation of any kind which is bored, drilled, sunk, or made in the ground for the purpose of investigating, prospecting, obtaining, or producing geothermal energy, or which taps or is likely to tap geothermal energy; and includes any hole in the ground which 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;

“Committee” means the National Energy Committee established under section 8 of this Act;

“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;

“development” means an activity for the development of geothermal energy pursuant to the provisions of this Act;

“distribution” has the same meaning assigned to it under the Electricity Supply Act;

‘document’ includes an electronic document;

“eligible person” means –

- (a) a person over 18 years of age;

-
- (b) a company or registered body under the Companies Act;
 - (c) a government owned corporation
 - (d) a public authority acting on behalf of the State, or;
 - (e) an agent of the Crown.

“exploration activities” means 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 but does not permit the drilling of temperature-gradient wells that are deeper than one hundred and fifty (150) meters in depth without a safety certification from the Ministry as set forth in the regulations issued pursuant to this Act and for which a licence is required in accordance with section 44;.

“fee” means the fee as may be prescribed under Schedule III and includes tender fees under this Act;

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

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

“geothermal energy” means heat derived from the earth;

“geothermal resources” means –

- (a) all products of geothermal processes, embracing indigenous steam, hot water and hot brines;
- (b) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(c) heat or other associated energy found in geothermal formations; and

(d) any by-product derived from them;

but does not include archeological finds or other cultural or historical artifacts or treasures that may be discovered during the conduct of any geothermal activity.

“geothermal resources area” means an area declared to be a geothermal resources area under section 19;

“geothermal resources activities” means the geothermal resources activities referred to in section 28;

“geothermal resources development” means exploration or use of geothermal resources and includes testing from a geothermal well to evaluate the feasibility of geothermal production.

“inspector” means an inspector designated under section 60;

“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;

“Minister” means the Minister of Cabinet having responsibility for energy;

“National Energy Policy” means the National Energy Policy established by the Government of St. Vincent and the Grenadines and such other amendments or revisions as may be subsequently made;

“owner” in relation to any land includes a lessor; and any public or local authority which for the time being has control of the land;

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

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

“phase” means a phase of geothermal activity referred to section 28;

“pollution” means the creation or existence of any deviation from natural conditions within the environment, which based on technical, scientific or medical evidence is determined to cause or be likely to cause harm to human health or the environment resulting from –

- (a) the presence or release of any substance; or
- (b) any other type of disturbance, whether by noise, energy, radiation, temperature variation, steam, vibration or objectionable odours;

and pollutant shall have a corresponding meaning;

“reconnaissance” means an investigative analysis conducted for the purpose of assessing whether the land may be a source of geothermal resources, and does not include exploration or drilling;

“Register” means the register maintained by the Committee in accordance with section 83;

“Regulations” means regulations made pursuant to this Act;

“renewable energy” means energy that comes from natural resources which is replenished at a constant rate and includes energy from sunlight, wind, rain, tides, waves or geothermal heat;

“restricted area” includes forests reserves, marine and terrestrial national parks, protected areas, wildlife sanctuaries and watersheds;

“transmission” has the meaning assigned to it under the Electricity Supply Act,;

“use” means accessing the geothermal resource for the purpose of enjoying it, and drawing from it any of the profit, utility and advantage which it may produce, including geothermal energy;

“work programme” means the work programme required under section 32.

Purposes and application

3. (1) The main purposes of this Act are to –

- (a) encourage and facilitate the safe production of geothermal energy for the benefit of the people of St. Vincent and the Grenadines;
- (b) encourage responsible land management, and;
- (c) promote the use of renewable energy.

(2) In case of a conflict between any law in force in Saint Vincent and the Grenadines which provides for water or mineral rights and this Act, this Act shall prevail.

Class II geothermal resources 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

5. This Act shall not apply to the transmission of electricity provided for under the Electricity Supply Act, Cap.288 (Cap 404 of the Revised Laws of 2009).

Act binds the Crown.

. 6. (1) This Act binds the Crown.

(2) For the removal of doubt, nothing in this Act shall be construed as rendering the State liable to prosecution.

PART II

ESTABLISHMENT AND ORGANISATION OF THE NATIONAL ENERGY COMMITTEE

Functions and powers of Minister

7. (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 cooperation 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) facilitating multiple use of lands and geothermal resources –
 - (i) permits, licences and concessions shall, in so far as feasible and in a manner consistent with Part IV 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 Vincent and the Grenadines, and for the location and production of claims under the Minerals Act, Cap. [324 of 2009] and the Central Water and Sewerage Authority Act, Cap. 278 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;
- (b) permits, licences and concessions issued for separate properties of the same producing or prospective geothermal resources area, shall provide for cooperation 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 designated geothermal resources area in such a manner as is consistent with the national energy policy, if any, applicable for Saint Vincent and the Grenadines.

(4) In the exercise of his functions and powers under this Act the Minister shall consult and have regard to the recommendations of the Committee.

Establishment of National Energy Committee.

8. (1) There is hereby established a Committee to be known as the National Energy Committee consisting of the persons appointed in accordance with this section.

(2) The [Cabinet] [Minister] shall appoint —

(a) a Chairman;

(b) a Director of the St. Vincent and the Grenadines Electricity Services Limited,

-
- (c) a senior technician from the Ministry of Planning having expertise in land- use planning
 - (d) a senior technical public officer from the Ministry having responsibility for environmental and natural resources management; and
 - (e) four other members drawn from the following disciplines or groups, namely, donor financing, economics, engineering, law, environment, non-governmental organisations and business;

to be members of the Committee.

(3) The Minister shall appoint the Director of Energy and the Permanent Secretary of the Ministry of Energy who shall be *ex officio* members of the Committee.

(4) A member of the Committee other than the *ex officio* members shall be appointed for a term not exceeding three years which shall be subject to renewal under such terms and conditions as the Minister may fix in the instrument of appointment.

(5) The Committee shall elect from among its members a Deputy Chairman.

(6) The Minister may at any time revoke the appointment of a member of the Committee other than the *ex officio* members.

(7) The names of the members appointed to the Committee, their title, if any, shall be published in the *Gazette* and at least one daily newspaper of national circulation.

Functions and powers of Committee

9. (1) The Committee shall 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 Committee shall advise the Minister with respect to -

- (a) implementation of the National Energy Policy and Plan;
- (b) development and implementation of policies and programmes for achieving sustainable use and supply of energy and renewable energy including geothermal energy;
- (c) the diversification of energy sources;
- (d) coordination, planning and management programmes as well as promotional and educational activities in the energy use sector;
- (e) development of an energy database;
- (f) assessment of the market potential for renewable energy of the country;
- (g) a strategy for the implementation of energy-related capacity building activities at all levels of education;
- (h) a fund in support of small-scale pilot and demonstration projects to showcase new ways to enhance energy efficiency or introduce renewable energies;
- (i) opportunities for electrical interconnection between and among different islands of the country, and with other neighbouring states;
- (j) where possible, the availability of additional funding sources for investments on energy efficiency and renewable energy measures;
- (k) an incentive scheme for the use of renewable energy sources;
- (l) improvements in demand-side management in order to improve energy consumption patterns;
- (m) a comprehensive long-term transport strategy in order to promote lower energy consumption;
- (n) the application of building technologies and practices that enhance energy efficiency and conservation including efficient lighting device;
- (o) specific maximum energy consumptions;
- (p) public awareness campaigns aimed at promoting the rational use of energy and lower energy consumption;

-
- (q) development of geothermal exploration and exploitation to the benefit of the people of Saint Vincent and the Grenadines;
 - (r) establishment of linkages locally, regionally and internationally pertaining to the development of energy resources ;
 - (s) 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 a manner consistent with this Act and the Regulations;
 - (t) negotiation of regional and international initiatives related to geothermal resources development;
 - (u) fees, royalties and bonds to be charged under this Act;
 - (v) recommendations for membership in appropriate local, regional and international bodies including ECERA;
 - (w) perform such other functions as are prescribed;
 - (x) anything incidental or conducive to the performance of any of the foregoing functions.

(3) The [Director of Energy] [Energy Unit] shall function as the Secretariat of the Committee.

Meetings

10. (1) Not more than two months shall elapse between meetings of the Committee or such other Committees established under it at such times and such place as the Chairman determines is necessary for the efficient discharge of its functions.

(2) The Chairman or in his absence, the Deputy Chairman shall preside at all meetings of the Committee and in the absence of both Chairman and Deputy Chairman the members present at that meeting may appoint a member to preside at that meeting.

(3) The quorum of the Committee shall consist of five members.

(4) The decision of the Committee and any other Committee established under it shall be adopted by a majority of the votes and in a case where the voting is equal, the member presiding at that meeting shall in addition to that member's original vote have a casting vote.

(5) Minutes of each meeting held in accordance with this section shall be taken in proper order and shall be confirmed by the presiding officer.

Vacancy

11. Where a vacancy occurs in the membership, the Minister shall appoint a person to fill the vacancy in a manner that is consistent with the requirements established in section 8 for the composition of the Committee.

Limitation of personal liability

12. No personal liability shall attach to any member of the Committee, sub-committee, working group or advisory body established under it for –

- (a) any act or omission; or
- (b) anything done, permitted to be done or omitted in good faith.

Committees, working groups and advisory bodies

13. (1) The Committee may appoint such Committees, working groups or advisory bodies as it thinks fit to assist it in the performance of its functions or to further the objects of the Act.

(2) One of the Committees established by the Committee shall be the Geothermal Energy sub-Committee which shall comprise members having technical expertise and experience in energy management, negotiations, contracts, land-use planning, environmental and natural resources management, business and such other skill as the Committee may find suitable.

(3) All governmental entities shall cooperate fully with and provide information requested by any Committees, working groups or advisory bodies established by the Committee.

Annual report

14. (1) The Chairman of the Committee shall, not later than three months after the end of each calendar year, submit to the Minister an annual report which shall include –

- (a) an assessment of the state of the development of renewable energy including geothermal energy;
- (b) a description of the activities undertaken by the Committee during the preceding year including an assessment of the effectiveness of any plans, programmes and activities for the current year; and
- (c) any other matters that the Minister may require.

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

Procedures of Committee

15. The Committee, and any Committee, working group or advisory body established under it may, by resolution make guidelines for its own procedure.

Conflict of interest

16. (1) Where any member of the Committee or any Committee, working group or advisory body established under it has any actual or reasonably perceived interest in a matter which would otherwise come before such individual as part of the consideration or other action taken by the Committee, Committee or working group, whether such interest is direct or indirect or arises because of a potential financial interest or an immediate family, partner, business associate or company relationship such member of the Committee, Committee or working group shall declare the nature of such interest at the first practicable opportunity.

(2) In any instance which arises under subsection (1) such member of the Committee, Committee or working group shall not vote or otherwise

participate in the decision-making process or attempt to influence in any way the decision or action taken or to be taken by the Committee, Committee, working group or advisory body with respect to such matter.

(3) If any action has been taken by the Committee, Committee, working group or advisory body before such interest has been identified or disclosed the action shall be subject to reconsideration by the Committee, Committee, working group or advisory body.

(4) Any member of the Committee, Committee, working group or advisory body who violates the requirements of this section commits an offence and shall be liable on summary conviction to a fine of ten thousand dollars.

Information

17. The Committee shall compile information relating to energy management.

Policy direction from Minister

18. The Minister may from time to time give the Committee directions of a general or special character in the exercise of the powers conferred and duties imposed on the Committee by or under this Act.

PART III

GEOHERMAL RESOURCES AREAS

Designation of geothermal resources areas

19. (1) Subject to sections 20 and 21, the Minister may designate any portion of land within St. Vincent and the Grenadines believed to be a source of geothermal resources as a “geothermal resources area”.

(2) For the purpose of subsection (1), the designation shall be made by Notice published in the *Gazette*.

(3) In addition to publication in the *Gazette* any notification required by subsection (2) shall be affixed in a conspicuous place in an area to which

the Notice relates so as to be easily read by persons who may enter such area or are likely to be affected by the proposed activity.

Notice of proposed action

20. (1) In pursuance of section 19(2), the Notice shall include –

- (a) a comprehensive description of the area establishing the physical parameters of the geothermal resources area, including the -
 - (i) known geological, geochemical and geophysical characteristics of the Geothermal Resources;
 - (ii) existing and potential uses of the land which overlays the geothermal resources;
 - (iii) existing environmental and natural resources contained therein;
 - (iv) ownership of the land which overlays the Geothermal Resources.
- (b) the reasons for such designation; and
- (c) the specific limitations on use of or activities within such area.

(2) Subject to sub-section (3), each geothermal resources area shall be of such size as shall be set forth in Regulations made pursuant to section 86 of the Act.

(3) For the purposes of issuing permits, licences and concessions pursuant to this Part, a geothermal resources area may be subdivided into smaller tracts at the discretion of the Minister.

Acquisition, vesting and divesting of lands

21. (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.319 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. 241 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.

Declaration as to restricted areas

22. (1) Subject to this Act, the Minister may declare that land in a forest reserve, terrestrial and marine national park and protected area, wildlife sanctuary or other restricted area to be land for which an application for a geothermal permit cannot be made.

(2) For the purpose of subsection (1), the Minister shall consult the Governor General.

(3) A declaration mentioned in subsection (1) shall be made by Notice published in the *Gazette* and in at least one local newspaper of general circulation.

Modification and cancellation of restricted area

23. (1) For the purposes of this Act the Minister may by Order, after consultation with the [Governor General] and the Ministers responsible for physical planning, tourism, agriculture, forests reserves, terrestrial and marine national parks and protected areas, wildlife sanctuaries, watersheds or other restricted areas, amend or cancel a restricted area.

(2) The Minister shall by Regulations establish procedures for modifying and cancelling restricted areas.

Rights of use and rights of way

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

- (a) have the right to use the geothermal by-products including the water, gravel and such other construction materials obtained in the natural state that might be necessary for their operations, respecting the rights of third parties, including the right to compensation and pursuant to relevant law; and
- (b) shall be entitled to obtain the requisite authorisation 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 such rights shall be indemnified by the person causing such damages.

(3) Legal rights of way are hereby established for those cases in which they might be needed for the geothermal resources activities under this Act.

Appeal

25. Any final action designating a geothermal resources area or amending or cancelling a restricted area shall be capable of appeal to the High Court.

PART IV PERMITS, LICENCES AND CONCESSIONS

Requirement for a permit, licence or concession

26. (1) No person shall, in any part of St. Vincent and the Grenadines, conduct any geothermal activities unless such person is the holder of a valid permit, licence or concession issued for that purpose under this Act.

(2) Any person who contravenes subsection (1) is liable to a fine of five hundred thousand dollars or to imprisonment for ten years.

Categories of permits, licences and concessions

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

- (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 31, a Class I geothermal resources permit, licence, concession and a Class II geothermal resources concession, may be integrated into a single instrument; or
- (e) a concession for Class II geothermal resources.

Phases addressed by permits, licences and concessions

28. Permits, licences and concessions issued in connection with the development of geothermal energy shall be issued with regard to five Phases of geothermal 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; and reconnaissance activities have minimal impact;
- (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; and temperature-gradient wells 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 in which 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 it includes drilling, 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

29. (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.]; or
- (b) a public authority acting on behalf of the State;
- (c) an agent of the Crown.

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

(3) 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 (Land-Holding Regulation) Act, Cap 235.

(4) 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 (3) is valid.

Extent of permit, licence and concession

30. (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

31. The Minister may by notice published in the *Gazette* and in at least one daily newspaper of national circulation in Saint Vincent and the Grenadines 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 procedures

32. (1) An applicant for a permit, licence or concession shall submit an application in the prescribed form to the Committee for consideration, together with the prescribed application fees and the information referred to in subsection (4).

(2) Subject to subsection (5) any eligible person may apply for a permit.

(3) An application made in pursuance of subsection (1) may be in respect of applications made in response to an invitation to tender under section 31 or for applications made in the absence of an invitation to tender.

(4) Subject to subsection (5), an application for a permit, licence or concession shall—

(a) include the following information -

(i) company name or corporate name, name of individual, names of directors if any, name and position of applicant, name of owner or occupier and mailing address to whom any notice to the applicant may be served;

(ii) a map showing the size, boundaries and location of the designated geothermal area and any other existing or proposed areas;

(b) indicate whether it is a permit, licence or concession being applied for;

(c) include a statement about the extent to which the applicant has—

(i) the financial and technical resources to carry out authorised activities for the proposed geothermal permit;

(ii) the ability to manage geothermal exploration; and

(e) subject to section 35, show the results of an environmental impact assessment conducted in accordance with the Regulations to that effect made under this Act;

(f) be accompanied by the prescribed fee

(g) such other information as the Committee thinks necessary to determine the application.

(5) In addition to the information required by subsection (4) an application for Phases II and III geothermal activities shall include a proposed work programme complying with the requirements set out in Schedule I;

(6) The applicant shall bear any costs incurred in complying with the requirements of this section.

(7) Regulations made under this Act for the conduct of environmental impact assessments shall include provisions for public participation.

Incorrect information

33. (1) Where after submission of an application under section 32, the applicant becomes aware—

(a) that in an application he has failed to submit any relevant facts or has submitted incorrect information; or

(b) that there is any change affecting the accuracy of any information required to be provided in accordance with section 29,

the applicant shall within ten working days, notify and submit to the Minister, the relevant facts and correct information.

Incomplete application

34. (1) Where the Committee considers that the applicant has omitted to provide any of the information required under this Act, the Committee shall notify the applicant in writing of the omission within

ten working days of receipt of such application and shall request within a specified time the omitted information.

(2) The Committee may, at the request of the applicant allow an extension of the time limit specified by the Committee pursuant to subsection (1).

(3) Where the applicant does not supply the information as requested under subsection (1) or section 33 the application shall lapse.

Application in restricted area

35. (1) Subject to section 22, if, before the deciding of the application, any land or portion thereof the subject of the application is declared to be in an existing restricted area, the application lapses to the extent it applies to the restricted area.

(2) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for, or in connection with the operation of subsection (1).

Review of applications

36. (1) Every application made pursuant to this Part shall be submitted to the Committee which shall review it and forward it with recommendations to the Minister.

(2) During the review of an application under this Act, the applicant may be required by the Committee, as a condition to the grant of such permit, licence or concession to-

(a) pay the rent for the first year of the permit, licence or concession;

(b) provide a bond as security in accordance with section 70;

(c) obtain development permission in accordance with the procedure established under the Town and Country Planning Act Cap 251.

(3) If the applicant does not comply with any of the requirements mentioned in subsection (2) the application shall lapse.

(4) Where the applicant submits further information under section 33 or 34, the Committee may or may not recommend the application to the Minister.

Criteria for decisions

37. (1) In deciding whether or not to forward an application to the Minister, the Committee shall consider—

(a) the applicant's proposed work programme, as appropriate; and

(b) the extent to which the Committee is of the opinion that the applicant is capable of carrying out authorised activities under the respective permit, licence or concession, having regard to the applicant's—

(i) financial and technical resources; and

(ii) ability to manage geothermal development.

(2) After due consideration, the Committee shall submit the application with recommendations either to grant or refuse the permit to the Minister.

(3) Subject to subsection (4) the recommendations mentioned in subsection (2) shall include information on all actions it has taken with regard to approval or refusal of the application, of the results of due diligence inquiries, and of the progress of all negotiations that have been conducted with respect to the award of the permit.

Cabinet approval

38. (1) Where the Committee recommends the grant of the permit, licence or concession, the Minister shall, as soon as practicable, submit the application to Cabinet.

(2) Cabinet may, despite the provisions of any law, grant the relevant authorisation subject to the negotiation of such terms and conditions as may be negotiated between the parties.

Refusal of application

39. Where the Committee recommends that the application be refused, the Minister shall notify the applicant in writing stating the reasons for the refusal or provide notice of actions that may be taken.

Notice of decision to applicant

40. (1) As soon as practicable after Cabinet makes a decision to grant a permit, licence or concession the Minister shall give the applicant notice of the decision.

(2) In furtherance of subsection (1), the Committee shall cause to be prepared the relevant draft permit, licence or concession for consideration and submission to the Minister.

(3) The draft shall be the result of negotiations between the applicant and the Committee and be in the form prescribed by Regulations under this Act.

(4) Where the Minister is satisfied with the provisions of the relevant draft authorisation he shall issue the permit, licence or concession to the applicant subject to the payment of the appropriate fee prescribed by Rules or Regulations under this Act.

Geothermal resources permits

41 (1) A geothermal resources permit authorises the holder thereof to engage in Phase I and Phase II activities.

(2) The permit authorises 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 holder of permit

42.(1) Subject to subsections (4) and (6) the holder of a geothermal resources permit is authorised to enter upon any 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 a 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 any land specified in such permit with such assistance and equipment as it thinks fit;
- (c) to make geological and geochemical surveys on the land if a reconnaissance permit is issued;
- (d) to make geophysical surveys and drill shallow temperature gradient wells if a Phase II permit is granted;
- (e) to exercise the option to have an exploration permit automatically converted into a geothermal licence upon application to the Committee not later than thirty (30) days after the expiration of such permit, upon which failure to apply, the preference shall expire.

(3) Such permit may be issued for ingress and egress on any land whether or not that land is a designated geothermal resources area.

(4) A person who is granted a reconnaissance permit shall conduct his activities in such manner that causes minimal impact on the environment of the land that determines whether the land may be a

source of geothermal resources and howsoever shall not carry out exploration or drilling activities.

(5) The holder of a reconnaissance permit -

- (a) obtains no rights or interest in respect of any geothermal resources identified through the activities; and
- (b) has no entitlement to any privilege or priority in respect of a geothermal licence except where an application for a Phase II permit is made.

(6) The holder of a permit except a public officer or an agent of the Crown who has been awarded an exploration permit through an open tender shall be granted the option without more, to convert such permit into a licence.

Duration of permit

42.(1) A permit issued under section 37 shall be in force for an initial period of not less than two (2) years from the date of issue but on application granted by the Minister may be renewed for such term, not exceeding two years from the date of expiration thereof or from the expiration of any previous renewal.

(2) The applicant for a renewal of a permit shall comply with the procedures established in this Act.

(3) A permit granted under subsection (2) shall be for a period not exceeding three years, and shall state the terms of the permit and the geothermal resource area in respect of which it is granted.

Condition as to technology

44. In addition to the provisions set out at section 38 (2) and 41 the holder of a permit shall conduct Phase I and Phase II geothermal activities in accordance with such technology that is approved in the permit.

Incidental activities

45. (1) The holder of a geothermal resources permit may carry out any other incidental activity if carrying out of the activity is reasonably necessary for or is incidental to the purposes for which the permit was granted.

(2) Without prejudice to the generality of subsection (1), a holder of a geothermal resources permit shall not –

- (a) construct or use a structure, other than a temporary structure, for office or residential accommodation in a geothermal area;
- (b) engage in a business venture other than that which is the subject of the permit.

Amendment of work programme

46. (1) A holder of an exploration permit may, subject to subsection (2) amend the work programme for such permit.

(2) A holder of a permit shall submit an application to the Minister for approval of an amendment to the work programme for the permit.

(3) The application must be in the form prescribed by Regulations under the Act.

(4) Upon receipt of an application under subsection (2) the Minister shall submit the application to the Committee which shall review it and submit recommendations to the Minister.

Grant or refusal of amendment

47. (1) In making the decision whether to grant or refuse an amendment to a work programme the Minister shall consider —

- (a) any recommendation of the Committee;

-
- (b) whether the applicant is capable to discharge the proposed work programme;
 - (c) the work program requirements set out in Schedule I, and;
 - (d) the extent to which the current work program for the geothermal permit has been complied with.

Notice of approval or refusal

48. (1) If the Minister decides to approve the amendment, he shall notify the holder of the permit of his decision in writing.

(2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.

(3) If the Minister refuses the amendment, he shall notify the holder in writing of the decision.

(4) The refusal takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.

(5) A work programme shall not be amended where the programme as amended would be inconsistent with—

- (c) mandatory conditions of the geothermal permit; or
- (d) any relevant environmental condition of the permit.

Committee recommendations on permits

49. Without limiting the generality of section 36, the Committee may recommend to the Minister that an application for an exploration permit be considered on a competitive basis.

Continuance of geothermal resources permit

50. Except that a permit is cancelled, a geothermal resources permit continues in force for the area the subject of the application until the earliest of the following—

-
- (a) the start of a geothermal licence;
 - (b) when refusal of the application for a licence takes effect;
 - (c) the application is withdrawn.

Geothermal resources licence

51. (1) A geothermal resources licence authorises an eligible person 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.

(2) 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.

Rights conveyed under a geothermal licence

52. (1) A licence granted under this Act shall confer upon the holder of a geothermal 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 a license 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 holder of the license's own use and for use by any employees of the holder of the license;
 - (c) to erect, construct and maintain plant, machinery, buildings and other erections as may be necessary;
 - (d) to utilise the geothermal resources the subject of the licence;
 - (e) to reclaim, utilize and re-inject 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 subject to such conditions and purposes as are specified in the licence.

(3) The Minister, within the terms of any licence granted pursuant to this section shall –

- (a) authorise the holder of a licence who discovers geothermal resources which may be used to generate and manufacture electricity of economically developable quantity, the long-term right to produce steam under such terms and conditions as are set forth in this Act;
- (b) authorise the holder of a licence except a public officer or an agent of the Crown who discovers geothermal resources which may be used to generate and manufacture electricity of economically developable quantity, the right automatically to convert the licence into a Concession for electricity production as set forth in section 54.
- (c) authorise the holder of a licence to carry out–

-
- (i) a continuation of the operations needed for reconnaissance and exploration activities;
 - (ii) the operations needed for drilling; and
 - (iii) the operations needed for the supply of economically deployable steam production to a power plant to produce electricity.
- (d) in relation to bores mentioned in sub-section (2) (a) require that each bore shall be –
- (i) drilled in a manner consistent with generally accepted including quality and safety standards;
 - (ii) kept under close supervision;
 - (iv) maintained in a safe condition;
 - (v) left in a condition of lasting safety; and
 - (vi) be subject to such conditions as the Minister may impose with regard closure of the bore

(4) In circumstances in which a licence is issued on a competitive basis, the Committee shall consider offers by an otherwise qualified bidder–

- (a) to increase the fees paid under the licence;
- (b) to increase the royalty paid under a concession; and;
- (c) to conduct exploration activities within the time period specified by the licence, including drilling of temperature gradient holes and deep, exploration wells.

Application for concession

53. Where the holder of a geothermal licence who is eligible at the time of an application discovers Class I geothermal resources of economically developable quantity capable of being used to generate and manufacture energy, such holder may apply for a geothermal resources concession or special concession.

Rights of holder of concession

54. (1) A geothermal resources concession or special concession granted under this Act shall confer upon the holder 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) The terms and conditions mentioned in subsection (1) may authorise 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 Vincent and the Grenadines and under such terms and conditions as are specified in this Act and the Regulations.

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

(4) In so far as it may be necessary for and in connection with the operations referred to in this section, the holder of a concession shall have the right in accordance with the technology approved in the agreement –

- (a) to enter the land in a geothermal resources area that is the subject of such concession for the purposes of generating and transmitting electrical power from geothermal resources and to do all such things as are reasonably necessary for and in connection with such generation or transmission to extract, take, use and apply geothermal resources on or under any land that is the subject of the concession; and
- (b) to erect, construct, provide and use such works and appliances as may be necessary for the purpose of generating electricity and in connection with the transmission, use, supply, sale and export of electricity;
- (c) the operations needed for the supply of geothermal resources capable of being used to generate and manufacture electrical energy via steam production; and
- (d) the operations needed for electricity generation and transmission using power turbine generation.

(5) Where the holder of the concession or special concession fails, within three years, to carry out the authorised activities in accordance with the agreement mentioned in section 57, the rights set out in subsections (1) and (2) shall be deemed to be abandoned.

Additional rights

55. (1). In addition to the rights granted under subsection (1) the grant of a special concession shall in accordance with the Act grant such applicant a long term right to operate submarine cables within St. Vincent and the Grenadines for the purpose of transmitting electricity generated from geothermal resources in accordance with the National Energy Policy under such terms and conditions as are set forth in this Act.

(2) Except where a special concession for landing submarine cables is otherwise specified in the provisions of this Act, this section applies exclusively to the governance of geothermal resources concessions capable of being used to generate and manufacture electrical energy and, where so specified, geothermal resources concessions used for purposes other than to generate and manufacture electrical energy, including direct heating, agriculture, applications and recreational bathing.

Duration of concession

56. Geothermal resources concessions and special concessions granted under this Act shall be in force for a period of [twenty five years] from the date of issue, but on application to the Committee 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 electricity supply licence

57. Neither a geothermal resources concession nor a special concession for landing submarine cables shall be deemed an electricity supply licence and shall not exempt the holder from obtaining an electricity supply licence under the Electricity Supply Act.

Power Purchase Agreement

58. (1) The Minister shall use his good offices to assist the holders of permits, licences and concessions in negotiating a Power Purchase/Power Agreement if so requested in writing.

(2) Notwithstanding subsection (1) –

(a) every geothermal resources developer shall offer all energy it produces for sale to the St Vincent Electricity Services Limited;

(b) royalties shall be paid on any geothermal energy that is exported from Saint Vincent and the Grenadines.

[Rules for modification, suspension etc.]

59. Rules regarding the modification, suspension, revocation, surrender of a permit, licence, concession and special concession are set out in Schedule III to the Act.]

PART V COMPLIANCE, ENFORCEMENT AND SAFETY MEASURES

Designation of inspectors

60. (1) The Minister may by instrument in writing appoint such public officers as may be necessary to discharge specified duties under this Act.

(2) The instrument mentioned in subsection (1) shall set out the powers that such person may exercise as an inspector.

Powers of entry and inspection

61. (1) Subject to subsection (2), any inspector shall, upon presentation of his identity card and reasonable evidence of his authorisation by the Minister to the holder of the permit, licence or concession or person in charge of any geothermal area, be allowed entry into such area for the purpose of -

-
- (a) monitoring compliance with any permit, licence, concession or requirement under this Act;
 - (b) obtaining information and samples, and confiscating any article relevant to an offence or violation; and
 - (c) carrying out any provision or requirement of this Act.

(2) An inspector shall not be permitted to enter a geothermal area or obtain any information under this Part unless –

- (a) the holder of a permit, licence or concession or the person in charge of the geothermal area consents to the entry; or
- (b) where the holder of the permit, licence or concession or the person in charge does not consent, he is accompanied by a police officer and a warrant issued by a justice of the peace or magistrate is first obtained.

Obtaining information and samples

62. (1) In the course of any entry permitted by (section above), an inspector shall, where necessary and relevant to any permit, licence, concession or other requirement under this Act, be allowed to review and copy any documents and records, take photographs, inspect any part of the geothermal area and take samples for the purposes of laboratory analysis of any air, soil, water or other material from such geothermal area.

(2) If any samples are taken pursuant to subsection (1), the holder of the permit, licence, concession, operator or person in charge of the geothermal area shall, upon request being made, be provided with a receipt for the sample collected which identifies the type of analysis to be performed and a portion of the sampled material properly collected in an appropriate container.

(3) In any instance where an inspector requests information from a person under this section and the person asserts a claim that the information provided to the inspector is a trade secret or confidential

business information, such information shall be treated as confidential unless –

- (a) the holder of the permit, licence, concession, operator or person in charge of the geothermal area does not disclose a valid basis for asserting the confidentiality within fourteen days after receipt of a request by the inspector; or
- (b) the Minister determines that the public interest in disclosing the information clearly outweighs any prejudice to the holder who has supplied the information and such person is provided with an opportunity to contest such determination with the Minister prior to any public disclosure.

Disclosure to court

63. (1) An inspector shall not be compelled to disclose to a court in a proceeding, or to a party to the proceeding—

- (a) information disclosed under or relating to this Act;
- (b) whether or not the person has received particular confidential information;
- (c) the identity of the source of particular confidential information.

(2) Subsection (1) does not apply to proceedings instituted under this Act.

Emergency response activities

64. Whenever the Committee reasonably believes that a threat to human safety or the environment is likely, he may, after consultation with the Minister and in coordination with other appropriate governmental entities, undertake such emergency response activities as may be required including –

- (a) the remediation or restoration of degraded geothermal areas;

-
- (b) the containment of any wastes, hazardous substances or dangerous conditions, and;
 - (c) such other appropriate measures as may be necessary to mitigate

Obligation to consult with owners and occupiers

65. (1) A holder of a geothermal permit, licence or concession shall take all reasonable steps to consult with each owner and occupier of private or public land on which authorised geothermal activities are to be carried out or are being carried out.

- (2) The consultation shall pertain to —
 - (a) access to the geothermal area;
 - (b) the carrying out of geothermal activities including easements to the extent they relate to the owners and occupiers; and
 - (c) the payment of compensation and liability by the holder of the permit, licence or concession to the owner or occupier.
- (3) The provisions of this Act shall not affect any other rights or remedies.

Offence to bore

66. (1) A person shall not sink a bore in a geothermal resources area for any purpose without first obtaining an authorisation for that purpose.

(2) A person who contravenes subsection (1) commits an offence and shall be liable to a fine of twenty thousand dollars or to imprisonment for twelve months.

Offence to destroy equipment

67. (1) No person shall remove, injure, or destroy any equipment owned or used by the holder of an authorisation or his agent in a geothermal resources area.

(2) A Person who contravenes subsection (1) commits an offence and shall be liable to a fine of twenty thousand dollars or to imprisonment for twelve months.

General penalty

68. Any person who commits an offence for which no penalty is prescribed shall be liable on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six month or both.

PART VI

FINANCIAL PROVISIONS

Geothermal royalty

69. (1) A holder of a geothermal permit, licence or concession shall pay to the State such royalties on such terms and conditions as are determined by the Minister.

(2) The obligation under subsection (1) is subject to any regulation made under section 70.

Minister may make Regulations

70. (1) The Minister may, after consultation with the Committee, the Chairman of the Saint Vincent and the Grenadines Electricity Services Limited, and the member of Cabinet responsible for finance, make regulations under this Act to provide for any matter connected with annual geothermal royalty , rent or bond including, the following—

- (a) when the royalty, rent or bond shall be paid;
- (b) the rate of the royalty and rent;
- (c) the value of geothermal energy for the royalty;

-
- (d) concessions or exemptions from the payment of the royalty, rent or bond;
 - (e) royalty returns;
 - (f) the measurement of, or information about, geothermal energy required for the purpose of a return;
 - (g) interest on unpaid royalty and rent;
 - (h) the recovery of unpaid royalty and interest;
 - (i) monitoring the payment of the royalty and rent, including, by auditors;
 - (j) disclosure by the Minister of personal confidential information about the administration of provisions about the royalty and rent.

Obligation to lodge annual royalty returns

71. (1) Save and except for the holder of a reconnaissance permit, every holder of a geothermal shall submit returns to the Committee in accordance with the regulations prescribed under section 66.

(2) A holder who contravenes subsection (1) shall be liable to a fine of twenty thousand dollars.

Proceeds to be paid to Treasury

72. All royalties received in respect of such geothermal production activities shall be paid into the Treasury.

Penalty for non-payment of annual rent

73. (1) Where the holder of a geothermal permit, licence or concession fails to pay the annual rent as required under section 66, the holder shall in addition to the rent due, pay a civil penalty to the State.

(2) The amount of the penalty shall be the greater of the following—

(a) \$1000;

(b) 15% of the rent.

(3) The penalty shall be paid on the day after the last due date for payment of the rent.

Custom duty and other taxes

74. 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 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.

(7) 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

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

Resale of imported goods

76. A holder of a permit, licence or concession and that holder's expatriate employees may sell in Saint Vincent and the Grenadines 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 Vincent and the Grenadines for a period of five years from the date of purchase or import into Saint Vincent and the Grenadines, whichever date is later in time, unless the vendor first pays the requisite customs duties.

Domestic purchase and hiring

77. (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 Vincent and the Grenadines; 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 Vincent and the Grenadines a national direct labour for skilled and unskilled workers.

Joint and severable responsibility of holders of authorisations

78.(1) Where there are two or more persons comprise the holder of a permit, licence or concession, the person responsible for managing the operation shall be identified.

(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

79. A holder of an authorisation may keep accounts in a foreign currency in keeping with accounting practices accepted in Saint Vincent and the Grenadines.

Investment information

80. A holder of an authorisation shall submit to the Minister 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: permit and licence

81. 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.

Amortization

82. (1) Exploration and development expenditures as well as the investments that the holders of authorisations 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 authorisations option, and with respect to each authorisation, 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 an authorization shall be reported to the Inland 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 authorisation itself.

PART VII

MISCELLANEOUS

Register of information

83. (1) The Minister shall keep and maintain a Register or registers of information containing-

- (a) geothermal resource development applications;
- (b) all grants or refusals or permits, licences or concessions;
- (c) all declared geothermal resource areas;
- (d) all suspensions, surrender, modification, revocation, or extension of geothermal resource development authorisations;
- (e) all cancellations or amendments of restricted areas;
- (f) such other documents as the Minister may authorise.

(2) Subject to subsection 80(2) in entering information into the register, the Minister shall balance the need for confidentiality with the right of the public to know the details of any transaction. and may restrict disclosure of such information to achieve such goal.

(3) Subject to subsection (2), the Register shall be a public register and shall be open for inspection by members of the public free of charge at such times and on such days as may be determined.

(4) A person may, on payment of the prescribed fee obtain a copy or an extract from any part of the Register.

Publication of outcome of application

84. (1) The Minister shall cause to be published within six weeks of the occurrence, the following—

- (a) grants or refusals or permits, licences or concessions;
- (b) declared geothermal resource areas;
- (c) suspensions, surrender, modification, revocation, or extension of geothermal resource development authorisations;
- (d) cancellations or amendments of restricted areas;
- (e) notices of geothermal resource development applications;
- (f) any other matter he considers appropriate,

in or on at least one of the following—

- (a) the *Gazette*;
- (b) the Government website;
- (c) any other publication the Minister considers appropriate.

(2) Where the Minister considers information to be confidential, it may, instead of publishing the condition; he may cause a statement about its intent to be published instead.

Settlement of disputes

85. (1) Any dispute or complaint that may arise in conjunction with any permit, licence concession, the application or interpretation of this Act and, in general, on anything having to do with the geothermal resources activities to which this Act refers, may be submitted to-

- (a) the courts of Saint Vincent and the Grenadines; or

-
- (b) to arbitration pursuant to the Arbitration Act [Rules of the United Nations Commission on International Trade Law (UNCITRAL) currently in effect.]

(2) The decision of the court or arbitrator shall be final, and not subject to appeal.

Regulations

86. (1) The Minister may make Regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient for the carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister shall have power to prescribe –

- (a) the amount of charges and fees payable for or in relation to permits, licences or concessions;
- (b) the amount of any other charges or fees which may be specified in any programme developed by the Committee to promote geothermal energy development;
- (c) forms and procedures that may be required for the purposes of this Act including applications for a geothermal resources permit, licence or concession;
- (d) conditions upon or subject to which geothermal resources permits, licences and concessions may be applied for granted or renewed;
- (e) the qualifications of persons who may be granted geothermal 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.

(f) 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;

(g) matters in respect of which fees, royalties and bonds are to be payable under this Act and the amount of the royalties, and persons liable to pay them;

(h) the refund of fees, royalties and bonds, in such circumstances as the Minister thinks fit, of any such monies payable under this Act;

(i) the responsibilities of holders of permits, licences and concessions to whom authorities are granted by or under this Act, and the operations to be carried out under geothermal resources permits, licences or concessions including actions to be taken upon the discovery of archeological finds and other cultural or historical artifacts or treasures;

(j) preventing or abating nuisances in or about geothermal resources activities and industries using geothermal resources;

(k) safety precautions;

(l) procedures regarding any emergency in connection with geothermal resources activities;

(m) generally regulating the making of bores;

(n) the requirements and procedures which will make the use of the rights set forth under this Act, possible;

(n) the qualifications of holders of permits, licences and concessions mentioned in this Act;

(o) simplification of customs procedures for the importation of goods by holders of permits, licences and concessions;

(p) the formula pursuant to which the St. Vincent and the Grenadines Electricity Supply Company shall calculate the purchase price of electricity;

-
- (q) matters of confidentiality;
 - (r) model geothermal power purchase/sales agreements;
 - (s) procedures for the treatment of complaints;
 - (t) procedures for dispute resolution;
 - (u) matters for which guidelines are to be issued by the Minister or the Committee;
 - (v) pricing models;
 - (w) submarine cables and landing rights;
 - (x) the governance of geothermal resources;
 - (y) guidance to inspectors to ensure that holders of permits, licences and concessions safeguard the environmental and health and well-being of the people of St. Vincent and the Grenadines including of their workers;
 - (z) the minimum and maximum size of each geothermal resources area;
 - (aa) the amendment or cancellation of restricted areas;
 - (bb) procedures for the issue, variation, suspension or revocation of licences or permits in respect of any activity governed by this Act; and
 - (cc) field rules in accordance with which all geothermal operations shall be conducted by holders of permits, licences and concessions.

Savings of rights of Crown

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

Repeal and amendment

88. (1) Any provision in any law inconsistent with this Act is void to the extent of the inconsistency in relation to the matters covered by this Act.

(2) The terms included in this Act may only be repealed or amended by a law that specifically refers to them.

(3) The Minister may from time to time, by Order published in the *Gazette*, amend the Schedules to this Act.

Passed in the House of Assembly this day of , 201[]

Speaker of the House of Assembly

SCHEDULE I

SECTION [33(5), 46, 48]

Requirements for Work Programme

General requirements

- (1) The proposed work programme must provide for the following—
- (a) its period;
 - (b) an overview of the activities proposed to be carried out under the proposed geothermal permit during all of its term;
 - (c) for each year of the programme period—
 - (i) the extent and nature of geothermal exploration proposed to be carried out during the year; and
 - (ii) generally where the proposed activities will be carried out; and
 - (iii) the estimated cost of the proposed activities;
 - (d) maps showing where the proposed activities will be carried out;
 - (e) reasons why the programme is considered appropriate;
 - (f) any other matter prescribed under a regulation.

Water issues

- (1) The proposed work programme must include an assessment of—
- (a) water needed for the proposed activities; and
 - (b) the potential for obtaining any relevant authorisation under the Water and sewerage Act; and
 - (c) the potential structural and other impacts of the carrying out of the proposed activities on aquifers, forestry, wildlife or cultural resources.

(2) The proposed programme must include a plan for the treatment and disposal of any water taken or that may be taken because of the proposed activities.

SCHEDULE II

FEES

Type of Application	Fee \$
Fee for application for a Reconnaissance Permit	
Fee for application for renewal of a Reconnaissance Permit	
Fee for application for Exploration Permit	
Fee for application for renewal of Exploration Permit	
Fee for application to amend Work programme	
Fee for Application for Concession	
Fee for Application for Special Concession	
Fee for Reconnaissance Permit	
Fee for Exploration Permit	
Fee for Geothermal Licence	
Fee for Grant of Concession	
Fee for Grant of Special Concession	
Fee for Copy of Register (per page)	

SCHEDULE III

GEOHERMAL AUTHORISATION RULES

[made under section 59]

Citation and application.

1. These Rules may be cited as the Geothermal Authorisation Rules 201[].

Interpretation

2. In these Rules –

“Act” means the Geothermal Resources Exploration and Development Act;

“applicant” includes an agent or an attorney appointed under a duly registered power of attorney;

“authorisation” means a geothermal permit, licence, concession or special concession granted under the Act;

“plant” means a place located within a geothermal resources area in respect of which an authorisation was granted;

“fee” means the fee prescribed in the Schedule.

Non-transferability of authorisation

1. An authorisation granted under these Rules shall not be transferable without the consent in writing of the Minister.

Records and information.

2. (1) Every holder of an authorisation shall make all records required by these Rules as soon as reasonably practical and shall keep such records for a period of not less than three years.

(2) A holder of an authorisation shall keep records of all maintenance

and calibration procedures and of all problems or malfunctions that result or are likely to result in a failure to comply with the requirements contained in the Act or these Rules, stating the date, duration and cause of each malfunction including a description of any remedial action that was taken.

(3) A holder of an environmental authorisation shall ensure that all records kept in accordance with paragraph (1) are available to the Committee at the holder's plant on request during normal office hours of the plant.

(6) A holder of an authorisation shall keep records required by these Rules, in an electronic and hard copy format that is acceptable to the Committee.

Reports to the Committee.

3. (1) The holder of an authorisation shall in each year lodge with the Committee, before the thirty-first day of March, an annual return containing information required by the Committee under such authorisation.

(2) Any person who fails to comply with paragraph (1) shall be guilty of an offence and shall be liable to a fine of twenty thousand dollars.

Fees.

4. (1) The fee for an application for an authorisation, for renewal of an authorisation to amend an authorisation or any activity relating thereto is specified in the Schedule.

(2) Any fee paid in respect of applications referred to in paragraph (1) shall not be refundable.

Conditions of authorisations.

5. (1) The Minister, on the advice of the Committee shall establish in each authorisation such terms and conditions, as required on a case-by-case basis, which may include following-

(a) that the holder of the authorisation shall take all reasonable steps to-

(i) avoid all adverse environmental impacts which could result from the activity;

(ii) minimize the adverse environmental impact where the avoidance is impractical;

(iii) mitigate the impact where the impact cannot be avoided;

(iv) avoid cross media transference;

(v) compensate for impacts;

(b) that the records of monitoring information indicate -

(i) the date, exact place and time of measurements;

(ii) the names of individuals who performed the measurements;

(iii) the date the measurements were compiled or analysed;

(iv) the names of individuals who compiled the information;

(v) the technology, techniques or methods supporting the information such as observations, readings, calculations and bench data used and the results of such techniques or methods; and

(vi) the state of the operation of the plant including, but not limited to, planned and unplanned shutdowns, production levels and achievement of design capacity;

(c) that the holder of the authorisation shall at all times properly operate and maintain all facilities and systems

of treatment and control which are installed and used by the holder of the authorisation to achieve compliance with the permit inclusive of best management practices, pollution and prevention measures, adequate laboratory controls and the appropriate quality assurance procedures and back-up or auxiliary facilities to achieve compliance with the authorisation;

(d) that the holder of the authorisation shall establish a monitoring programme at his own expense or bear the cost of such programme within such period or at such time and in such manner as the Committee may specify to make provision for –

(i) a process description which contains a clear presentation of existing or planned engineering processes, a site map indicating all planned sources of emissions as well as analysis of environmental receptors such as surface water, wells and boreholes, residential and commercial areas and protected areas;

(ii) inventory of planned releases that identifies the sources of release and release points, substances released and the timing of releases;

(iii) methods of sampling;

(iv) methods of analysis;

(v) reporting procedures;

(vi) recruitment and training of staff adequately trained to conduct monitoring activities;

(i) establishment of “in-house” operational procedures for monitoring of air, water, noise and wastes;

(ii) such other matters as the Minister may require.

-
- (e) that the holder of the authorisation shall furnish the Committee in an annual report prescribed under Rule 3 any information which the Committee may request to determine whether cause exists for modifying, varying, suspending, revoking or re-issuing the authorisation or to determine compliance with the authorisation;
 - (f) that the holder of the authorisation shall furnish to the Committee upon request, copies of records to be kept by the holder of the authorisation;
 - (g) that the holder of the authorisation report all instances of anticipated non-compliance to the Committee and shall give advance notice to the Committee of any planned changes in the authorised plant or activity which may result in non-compliance with the environmental authorisation;
 - (h) that, where there has been non-compliance with the authorisation, the holder of the authorisation shall -
 - (i) report to the Committee, within twenty-four hours of the time the holder of the environmental authorisation becomes aware of the non-compliance, the anticipated manner in which it may endanger human health or the environment;
 - (ii) within seventy-two hours submit to the Committee a written report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and time; and
 - (iii) submit a report to the Committee indicating the reasons therefor and the anticipated time it is expected to continue if the non-compliance has not been corrected.

-
- (2) In deciding the terms and conditions of an authorisation the Minister shall have regard to the information submitted in the Act.

Cancellation, suspension and modification of environmental authorisation.

6. (1) The Minister may, on the advice of the Committee and approval by Cabinet, at any time by notice in writing to the holder of the authorisation, cancel or suspend an authorisation or impose such conditions as the Minister considers appropriate in addition to or in place of the existing conditions, with effect from such date as the Minister may specify provided that the cancellation, suspension or modification shall not give rise to an additional adverse effect.

(2) The Minister may cancel, suspend or modify an authorisation during its currency for any of the following reasons -

- (a) the holder of an authorisation made a misrepresentation or wilful omission in obtaining the authorisation or in any report submitted to the Minister or in any other way obtained the authorisation improperly;
- (b) the holder of an authorisation is contravening any material condition of the authorisation;
- (c) breach of any condition of the authorisation;
- (d) changes in circumstances relating to the authorisation including where in the Minister's opinion compliance with such authorisation would be impossible or pose great hardship for the holder;
- (e) as a matter of national security;
- (f) the holder of an authorisation –
 - (i) dies;

-
- (ii) becomes bankrupt;
 - (iii) goes into liquidation or receivership; or
 - (iv) becomes a party to an amalgamation;

(g) there is a change in ownership;

(h) the holder of an authorisation proposes to change the process of operation of technology used in the plant which is likely to cause a change in the nature and composition of the geothermal discharge;

(i) new or revised standards in respect of the operations of the plant is established;

(j) any other change, situation or activity relating to the use of an authorisation that in the judgment of the Minister is not consistent with the Act or these Rules.

(3) In addition to the reasons set out at paragraph (2) the Minister may suspend or cancel an authorization where –

(a) the holder of the authorisation ceases work in or under the land that is the subject of the authorisation for a continuous period of twelve months without first obtaining the written consent of the Minister; or

(b) the holder is in default of any Fee, Royalty, or any other monies owed to the Government pursuant to the Act or any Regulations issued thereunder;

(4) The Minister may extend time to the holder of an

authorisation in order to comply with the terms and conditions of any authorisation upon such terms and conditions as the Minister may think fit;

(5) The Minister shall cancel the authorisation provided if the Minister considers it is contrary to the public interest to cancel the authorisation, the Minister may suspend the authorisation instead.

(6) Where the Minister proposes to suspend the authorisation in pursuance of Rule 6(2) (c) he shall, notify the holder thereof in writing –

(a) stating the breach which gave rise to the suspension;

(b) requiring the holder of the authorisation to remedy the breach;

(c) stating the time within which the breach is to be remedied; and

(d) stating whether the authorisation is to be returned within a specified time to the Minister.

(6) Where the holder of the authorisation mentioned in paragraph (6), remedies the breach, such holder shall inform the Minister and the Minister shall, if it is satisfied that the breach is remedied, forthwith return the authorisation to the holder thereof.

(7) A suspension under this section may be for a specified period or until the fulfilment of specific conditions or until further order of the Minister.

(8) Before the Minister acts under paragraph (2) the Minister shall –

(a) notify the holder of an authorisation in writing of its proposed

action specifying the reason for the proposed action; and

(b) allow the holder at least two months within which to make written submissions to the Committee in relation to the Minister's proposed action.

(9) In making a submission to the Minister in accordance with paragraph (8) the holder of an authorisation shall show cause as to the reasons why the Minister should not pursue the proposed action.

(10) Where the Minister modifies an authorisation, the Minister shall cancel the existing authorisation and re-issue the holder of the authorisation with a modified authorisation and such cancellation shall not affect any liability incurred by the holder before the modified authorisation shall have taken effect.

Surrender of authorisation

7. In pursuance of Rule 6(8) the Minister may require the holder of an authorisation to surrender the authorisation to the Committee.

Removal of plant etc.

8. (1) Within ninety days of the date of expiry, cancellation, or suspension of an authorisation, the holder shall on application to the Minister to enter the geothermal resources area which is the subject of the authorisation, to remove all goods including the plant, machinery, operating equipment, engines or tools installed or erected on such geothermal resources area.

(2) The Minister may, by Notice, require the holder of an authorisation to remove all goods including the plant, machinery, engines or tools, from within the geothermal resources area, to which the authorisation relates, within such time as specified in the Notice.

(3) The Notice mentioned in paragraph (2) shall inform the holder of the authorisation that upon failure to remove all goods, including the plant, machinery, operating equipment, engines or tools installed or erected on such geothermal resources, such goods shall be sold by auction and that the net proceeds of such sale shall be held used to offset the costs incurred in conducting such sale and for the repair of any breaches or faults not made good by the holder of an authorisation.

(4) The remainder of the proceeds from the sale conducted in pursuance of paragraph (3) shall be forfeited to the State.

Crown to compensate

9. Where the Minister cancels an authorisation in pursuance of Rule 6(2) (d) and (e) (4) the Governor General on behalf of the Crown may requisition or expropriate the property of the holder of the authorisation provided that prompt, adequate and just compensation is paid in accordance with this Act or any relevant legislation.

Application to modify, etc.

10. (1) The holder of an authorisation may apply in writing to the Minister to modify an authorisation.

Monitoring of authorisation

11. (1) Where an authorisation is in force it shall be the duty of the Minister to take the steps needed –

(a) for the purpose of ensuring that the activities authorised by the authorisation do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and

(b) for the purpose of ensuring that the conditions of the authorisation are complied with.

(2) For the purpose of performing that duty, the Minister may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the land or in relation to plant or equipment on the land to which the authorisation relates or, as the case may be, in relation to the mobile plant to which the authorisation relates.

Appeals.

12. (1) Any person who is aggrieved by a decision of the Minister may at any time within twenty-eight days of the decision, by notice in writing appeal against such decision.

(2) Appeals shall be made to the High Court, in accordance with rules applicable to appeals to that Court.

Renewal of environmental authorisation.

13. (1) Where the holder of an authorisation wishes to continue an activity in respect of which an authorization was granted beyond the expiration of such authorization, the holder shall submit an application for its renewal to the Minister together with the fee specified in the Schedule.

(2) An application for a renewed authorisation shall be made at least six months before the expiration of the authorisation.

(3) In considering an application for the renewal of an authorisation, the Minister may –

(a) carry out physical inspections of the plant; and

(b) specify other standards or conditions with which such plant shall comply.

(4) Where there has been no material change in the circumstances that existed at the time the authorisation was granted, the Minister, after consulting with the Committee, may grant the renewal.

(5) Where the Minister, after consulting with the Committee, does not consider the application under paragraph 2 within 6 months from the date of such application the holder of the environmental

authorization referred to in paragraph 1 shall continue to operate until the Agency considers the renewal application.

Final Draft