Ref: MOF/OM/0008/2025 **January 18th 2025**

SUBJECT: ISSUANCE AND APPROVAL OF THE PETROLEUM FISCAL REGIME REGULATION

THE MINISTER OF FINANCE OF THE FEDERAL GOVERNMENT:

Having understood:	The need to strengthen the enforcement of the Extractive Industries Fiscal Regime Law of 2023 through the establishment of comprehensive regulations, with a focus on the fiscal framework for petroleum activities;
Recognizing:	The critical need to enhance the fiscal framework for petroleum activities in order to promote fiscal responsibility, improve transparency, and drive sustainable economic growth;
Acknowledging:	The pivotal role regulations play in advancing the implementation of laws duly passed by the Parliament;
Taking into consideration:	The powers granted to the Minister of Finance as outlined in Article 6 of the Revenue Administration Law of 2019;

Hereby issues the following Decree:

Article 1
Issuance and Approval of the Petroleum Fiscal Regime Regulation

1. The Petroleum Fiscal Regime Regulation, attached to this Ministerial Decree and bearing the Minister's initials on the right edge of each page, is hereby issued and approved.

2. The approved Regulation shall be made available for public access through publication on the Ministry of Finance's official website and shall enter into force immediately upon such publication.

18/01/2025

JAMHUURIYADDA FEDERAALKA SOOMAALIYA FEDERAL REPUBLIC OF SOMALIA OFFICE OF THE MINISTER XAFIISKA WASIIRKA MINISTRY OF FINANCE WASAARADDA MAALIYADDA

H.E. Bihi Iman Egeh
The Minister

PETROLEUM FISCAL REGIME REGULATION

Regulation No. 008-2025

Table of Contents

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PETROLEUM FISCAL REGIME REGULATION

CHAPTER I
PRELIMINARY

Article 1
Title, Scope and Interpretation

1) This Regulation shall be cited as the "Petroleum Fiscal Regime Regulation", hereinafter referred to as the "Regulation".

2) The provisions of this Regulation apply to petroleum operations governed by the Petroleum Law (Law No. 19 of 8 February 2020) and the Extractive Industries Fiscal Regime Law (Law No. 10 of 20 March 2023), with a focus on the fiscal framework for petroleum activities.

3) This Regulation shall apply within the territorial jurisdiction of the Federal Republic of Somalia, including all onshore, offshore, and any other areas where petroleum operations are conducted in accordance with the Petroleum Law (Law No. 19 of 8 February 2020) and the Extractive Industries Fiscal Regime Law (Law No. 10 of 20 March 2023). The provisions of this Regulation shall be binding upon all operators, joint right holders, and any other parties engaged in petroleum activities under the relevant laws, regardless of their location.

4) In this Regulation:

a) "Contract area" has the meaning given in Article 2 of the Petroleum Law (Law No. 19 of 8 February 2020).

b) "EIFRL" means the Extractive Industries Fiscal Regime Law (Law No. 10 of 20 March 2023).

5) Any terms not defined in the EIFRL, the Revenue Administration Law (Law No. 13 of 27 October 2019) or the Income Tax Law, but defined in this Regulation shall have the meanings assigned to them in this Regulation.

6) Any terms not defined in this Regulation but defined in the EIFRL, the Revenue Administration Law (Law No. 13 of 27 October 2019) or the Income Tax Law, shall have the meanings assigned to them in those Laws.

7) Until such time as a new law replacing the Income Tax Law (Law No. 5 of 5 November 1966, No. 5) defines the following terms, those terms have the following meanings for the purposes of this Regulation:

a) "Debt claim" means a right to receive a payment from another person that is denominated in money (including foreign currency) and includes accounts payable and obligations arising under deposits, debentures, loans, stocks, treasury bills, promissory notes, bills of exchange and bonds, but excludes a membership interest.

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b) "Gain" from the disposal of an asset is the amount by which the sum of the proceeds for the asset exceeds the cost of the asset at the time of disposal.

c) "Return on debt claim" means a payment under a debt claim and:

i) includes:

A) payments made in accordance with the Shariah as a return on a debt claim;

B) payment of a discount or premium;

C) payment as consideration for granting a guarantee; and

D) any other amount that is treated as a return on debt claim under generally accepted accounting principles; but

ii) excludes a return of capital as determined under generally accepted accounting principles.

CHAPTER II
ROYALTIES AND INCOME TAX

Article 2
Market Value of Crude Oil

1) In accordance with Article 5 of the EIFRL, royalties are calculated based on the market value of petroleum produced as determined under Part I of the First Schedule of the EIFRL. The same value is included in income for income tax purposes under Article 9(1)(a) of the EIFRL.

2) Under paragraph (1) of Part I of the First Schedule of the EIFRL, the market value of crude oil produced may be determined as the selling price agreed between independent entities. This rule only applies where that sale is a sale free on board (FOB) at the delivery point of the petroleum operation from which the crude oil is produced.

3) In all other cases, the market value of crude oil produced is determined as:

a) the average of the Brent crude index for oil of the grade produced and applicable at the time of production; and

b) after applying a standard discount of 3% to the average index price to net back the market value of the oil to the delivery point.

4) The market value of crude oil that does not readily fit within the grades specified by the Brent crude index shall be determined by reference to the rules for natural gas specified in paragraph (2) of Part I of the First Schedule of the EIFRL.

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Article 3
Royalties Payable by Joint Right Holders

Where two or more persons jointly hold a petroleum right, including where more than one person is a contractor under a production sharing agreement, each person is jointly and severally liable with the other persons for the payment of royalties with respect to petroleum produced under the right.

Article 4
Royalties Payable In Kind

The Minister may, in consultation with the Minister responsible for petroleum, direct in writing that royalties are payable in kind and:

a) the direction may specify the entity to which the royalty in kind is to be paid; and

b) the terms of a production sharing agreement may specify the period of notice to be given for payment of royalties in kind and the manner for delivery of the royalty petroleum including terms as to transportation, processing and storage of the petroleum by the holder of the production sharing agreement. If a production sharing agreement lacks details on notice periods and delivery terms for royalties in kind, the Minister of Finance, in consultation with the Minister responsible for petroleum, will specify these terms and communicate them to the relevant entity.

Article 5
Application of Income Tax Rules

For the purposes of Article 6(2) of the EIFRL, a formal circular issued under Article 9 of the Revenue Administration Law (Law No. 13 of 27 October 2019) may specify the provisions of the Income Tax Law that apply, with any necessary modifications, for purposes of calculating chargeable income from petroleum operations. Rules specified under a formal circular shall be binding on both taxpayers and the Revenue Authority. In the absence of a formal circular, any Income Tax Law rules on the following subjects apply for those purposes to the extent they are not contrary to the express provisions of the EIFRL:

a) Indirect and back-to-back payments
b) Finance leases, instalment sales and annuities
c) Transfer pricing for associated persons
d) Cost of assets
e) Proceeds for assets
f) Disposal of assets
g) Transfer of asset to an associate deemed at market value
h) Transfer by way of security, finance lease or instalment sale
i) Disposal by separation of assets
j) Apportionment of costs and proceeds of assets
k) Source of income and payments

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l) Repatriated income
m) Foreign deductions and foreign losses

Article 6
Non-recognition Amounts

1) Under Article 6(4) of the EIFRL, amounts derived or incurred must be allocated between petroleum operations and non-petroleum activities. Once appropriately allocated, an amount may not be reallocated even if the initial allocation results in non-recognition for income tax purposes.

2) This means that an amount allocated to petroleum operations that is denied a deduction under Article 11 of the EIFRL may not be deducted as expenses incurred with respect to non-petroleum activities.

Article 7
Calculation of Chargeable Income

1) Under Article 6(5) of the EIFRL, income tax from petroleum operations is calculated as the income tax rate for petroleum operations applied to chargeable income from petroleum operations.

2) A person's chargeable income from petroleum operations for a year of assessment is calculated as the aggregate of the person's chargeable income from each of the person's separate petroleum operations for the year. In this calculation, only positive amounts are taken into account, so that no account is taken of a separate petroleum operation that reports a loss for the year.

Article 8
Lower Rate for Disposal of Petroleum Rights

1) Article 6(10) of the EIFRL provides for a lower tax rate applicable to certain disposals of petroleum rights and this Article sets out the conditions under which that lower rate is available.

2) The conditions for use of the lower rate are:

a) The petroleum right that is disposed of must be an original non-transferred right in the first production sharing agreement granted with respect to the block in question.

b) At the time of disposal there must have been no commercial production conducted on the block or any part of it.

c) The rate is only available with respect to the year of assessment in which the disposal occurs, and no excess relief is available for carry forward.

d) Application of the rate is limited to the disposer's chargeable income from the separate petroleum operation constituted by the block but not exceeding the lower of:

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i) proceeds received for the disposal; and

ii) ten million dollars ($10 million), reduced proportionately where the petroleum right is only a part interest in the production sharing agreement.

e) The rate is only available for one sale of a right with respect to a particular block, in one year of assessment and relief is not available for an associated person of a person that has received the benefit of the rate with respect to that block.

f) Subject to the previous condition, a sale of any percentage of the holder's interest in a petroleum right may qualify, so there is no minimum holding.

3) The scope of the condition in paragraph 2(e) means that the rate in Article 6(10) of the EIFRL is available multiple times for multiple rights held by a person or group of associated persons in different blocks. However, the rate is only available for one disposal with respect to each block.

4) Where the lower rate in Article 6(10) is not available, the proceeds from disposal of a petroleum right are included in calculating income from petroleum operations. To the extent it produces chargeable income from the relevant separate petroleum operation, that chargeable income is taxed at the usual rates provided for in Article 6(5) of the EIFRL.

Article 9
Separate Petroleum Operations

1) Article 2(39) of the EIFRL defines "separate petroleum operation" by reference to Article 7 of that Law. This is important for purposes of determining which activities must calculate chargeable income separately from other activities and which expenses or losses can be deducted against which income streams.

2) The definition in Article 2(39) of the EIFRL (and so Article 7 of that Law) also applies where variations of the phrase "separate petroleum operation" are used throughout the EIFRL, such as when the terms "site", "field" or "well" are used. In these variation cases, the terms used are to be interpreted as though they were a reference to "separate petroleum operation" as defined.

3) In particular, the definition in Article 2(39) of the EIFRL (and so Article 7 of that Law) applies for purposes of the following provisions:

a) Article 2(2) definition of "approved rehabilitation fund"
b) Article 5(5)(c)(ii)
c) Article 6(6), (7)(a), (8), and (11)(a)
d) Article 8(1), (3), and (6)
e) Article 9(1), and (2)
f) Article 10(1), and (2)(h), (i), and (k)
g) Article 12(1), (3), (4), and (5)

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h) Article 14(3), and (4)
i) Article 31(4)(c)(i)
j) Article 34(2)(c), and (d)
k) First Schedule Part II paragraphs (6) and (7)(a)

4) Article 7(3) of the EIFRL only applies where:

a) a development area is approved within a contract area; and

b) subsequently, the holder of the petroleum right relinquishes all of the contract area that is not a development area.

Article 10
Deductibility of Administrative Overheads

1) This Article applies for purposes of determining what qualifies as "administrative overheads" under Article 10(2)(f) of the EIFRL. Administrative overheads may only be deducted under Article 10(2)(f) and not under any other head of deductibility. This means that in no circumstances may the deduction for administrative costs exceed 1% of the total of other costs deductible under other provisions of the EIFRL in the year of assessment in which the administrative costs are incurred.

2) "Administrative overheads" means costs not directly involved in development and production of petroleum but excludes any cost that is properly treated as manufacturing overhead for the petroleum operations for accounting purposes. Subject to this limitation, "administrative overheads" includes fees for services and related office costs of personnel performing management, administrative, legal, accounting, auditing, treasury, tax, employee relations, computer services and purchasing. Related office costs include costs of building rentals, utilities and associated travel.

Article 11
Deductibility of Foreign Expenses

1) Income Tax Law rules on foreign deductions apply for the purposes of the EIFRL as detailed by this Article. In the absence of such rules, a formal circular issued under Article 9 of the Revenue Administration Law (Law No. 13 of 27 October 2019) may specify the rules. Rules specified under a formal circular shall be binding on both taxpayers and the Revenue Authority.

2) Each expense for which a deduction is available, irrespective of the head under which it is deductible, must be classified as either a Somali deduction or a foreign deduction.

3) Generally, Somali deductions may be set against income from petroleum operations in determining chargeable income from those operations. More precisely, Somali deductions are allocated to separate petroleum operations and deductible in calculating chargeable income from the allocated separate petroleum operation.

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4) However, foreign deductions may only be set against foreign source income from petroleum operations, if any. Most and often all income from petroleum operations will have a source in Somalia, which means this income cannot be reduced by foreign deductions. Foreign deductions will largely involve expense payments that do not have a source in Somalia.

5) If a petroleum right holder has foreign deductions for a separate petroleum operation for a year of assessment but no foreign income from that operation, the holder will have a foreign allowable loss for the year. This loss may be carried forward under Article 8 of the EIFRL and set against any foreign source income from that operation of the future, subject to the temporal limitations of Article 8.

6) Article 6 applies to a foreign allowable loss referred to in paragraph (5). This means that such a loss is only available subject to the limitations of the EIFRL. It may only be deducted against foreign source income of the separate petroleum operation from which it is produced and may not be deducted from foreign source income from any other separate petroleum operation or from non-petroleum activities.

Article 12
Reconnaissance and pre-PSA Expenses

1) A reconnaissance authorisation issued under the Petroleum Law (Law No. 19 of 8 February 2020) is not a "petroleum right" for the purposes of the EIFRL. This means that royalties do not apply to holders of a reconnaissance authorisation and a reconnaissance authorisation cannot constitute a separate petroleum operation for purposes of income tax.

2) This means that activities conducted and expenses incurred under a reconnaissance authorisation are outside the scope of the EIFRL. Such activities are governed by the general rules of the Income Tax Law in the same manner as non-petroleum operations. This includes the potential:

a) deductibility of expenses incurred in respect of reconnaissance operations against income from non-petroleum activities; and

b) taxation of gains on the disposal of information gathered under a reconnaissance authorisation.

3) For similar reasons, expenses incurred with respect to petroleum operations but before a production sharing agreement is concluded are outside the scope of the EIFRL. The treatment of such expenses is governed by the general rules of the Income Tax Law.

Article 13
Interest and Other Financial Costs

1) As confirmed by Article 6 of this Regulation, interest and other financial costs that are properly allocated to petroleum operations:

a) are not deductible for purposes of the EIFRL; and

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b) may not be reallocated so has to be deducted under the general rules of the Income Tax Law against income from non-petroleum activities.

2) For the purposes of Article 11(3) of the EIFRL, interest includes anything treated as a return on a debt claim as defined in Article 1 of this Regulation. In particular, this means that payments for or under a guarantee that are attributable to petroleum operations are not deductible.

3) Where a financial instrument is properly allocated to petroleum operations, fees associated with the instrument (such a bank fees) are treated as incurred with respect to the financial instrument and so not deductible under the EIFRL.

Article 14
Non-deductibility of Signature Bonuses

While bonuses payable on the signing of a production sharing agreement are not deductible under Article 11(8) of the EIFRL, such bonuses may be included in the cost of the petroleum right constituted by the agreement, as confirmed by Article 11(2) of the EIFRL. This means that signature bonuses contribute to the cost of the petroleum right for which capital allowances are granted under Article 10(2)(j) of the EIFRL.

Article 15
Non-deductibility of No Profit Amount

1) Under Article 12(5) of the EIFRL, the deductibility of certain payments made by a person conducting petroleum operations to associated persons is limited to the "no profit amount".

2) The no profit amount:

a) is the actual costs incurred by the associated person in providing the assets, services or facilities to the person conducting petroleum operations; but

b) excludes any cost incurred by the associated person in favour of another person that is an associated person of the associated person.

3) The following is an example of the application of subparagraph (2):

X Company is the holder of a production sharing agreement. It has collected some important data. X Company asks its parent company, Y Company, to analyse the data for it. Y Company agrees to provide this service for a fee of 10 million USD. As X Company is associated with Y Company, the fee paid by X Company to Y Company is only deductible up to the no profit amount which is the actual costs incurred by Y Company. For example, presume Y Company incurred wages of its own analysts and associated expenses of 2 million USD and a further 3 million USD in favour of a third party that analysed particular parts of the data. If those are all the costs incurred by Y Company, then X Company can only deduct 5 million USD of the 10 million USD paid to Y Company and not the whole amount.

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Alternately, Y Company may have subcontracted out its obligation to analyse the data to another specialist subsidiary, Z Company. Under the arrangement, Z Company is to be paid 7 million USD for the analysis, which Y Company will pass on to X Company. Here paragraph (2)(b) of this Article comes into play. Y Company incurs an expense in favour of an associated person, Z Company. Therefore, the 7 million USD fee paid to Z Company does not count as an expense of Y Company. This means the no profit amount for X Company is nil, as Y Company incurred no qualifying expense. So, on these alternative facts no deduction would be available for X Company.

Article 16
Allocation of Petroleum Rights to Separate Petroleum Operations

1) Where a development area is approved within a contract area, then in accordance with Article 7(2) of the EIFRL, expenditure falling within the cost of the petroleum right is allocated to the separate petroleum operation constituted by the development area. This means that capital allowances granted with respect to the right under Article 10(2)(j) of the EIFRL are deductible in calculating chargeable income from that separate petroleum operation. It also means that if the petroleum right is disposed of all the disposal proceeds are included in income from that separate petroleum operation under Article 9(1)(b) of the EIFRL.

2) If a second development area is approved within a contract area, the rules in paragraphs (6) and (7) of Part II of the First Schedule of the EIFRL apply. These require apportioning the capital allowances granted with respect to the petroleum right between the different separate petroleum operations constituted by the development areas. They also apportion proceeds from any disposal of the right between those operations.

Article 17
Credit for Tax on Disposals Triggering Change of Ownership

1) Gains on the disposal of a membership interest in an entity (such as shares in a corporation) where the assets of the entity consist, directly or indirectly, principally of petroleum rights or other Somali immovable property are taxable in Somali.

2) A disposal referred to in paragraph (1) may also trigger a deemed disposal of the petroleum right or part of it under Article 13(3) of the EIFRL, an inclusion in calculating income of a separate petroleum operation under Article 9(1)(b) and a potential tax liability.

3) Subject to paragraph (4), the portion of any Somali tax paid and referred to in paragraph (1) that is (based on comparative market values of assets) attributable to the value of a petroleum right disposed of may be credited against any tax liability referred to in paragraph (2).

4) The following rules apply to a credit referred to in paragraph (3):

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a) The credit shall be calculated on a separate petroleum right basis and subject to apportionment as referred to in Article 16 of this Regulation with no double counting.

b) The credit for a particular separate petroleum operation is limited to:

$$[I - CA] \times R$$

where:

I is the inclusion in income for the operation from the deemed disposal of the petroleum right or part of the right under Article 13(3) of the EIFRL for the year of assessment in which the disposal occurs;

CA is any additional capital allowance granted to the operation under paragraph (5) of Part II of the First Schedule of the EIFRL for that year; and

R is the income tax rate referred to in Part II of the First Schedule of the EIFRL.

c) The credit is only available with respect to the year of assessment in which the deemed disposal occurs, and no excess credit is available for carry-forward or other use.

d) The credit is not available for tax paid with respect to any disposal or part of a disposal of a membership interest that does not contribute to a percentage change in underlying ownership triggering Article 13(3) of the EIFRL.

CHAPTER III
PRODUCTION SHARING AGREEMENTS

Article 18
Clearance and Publication of Production Sharing Agreements

1) Any commitment or obligation with financial implications that may affect the revenue interests of the Federal Government of Somalia, which is to be agreed upon by the competent authority under a production sharing agreement, shall be subject to:

a) prior clearance by the Minister of Finance; and

b) the agreement being made publicly available (whether in the Official Gazette or through an official electronic Federal Government public register).

2) The competent authority must seek and obtain the approval of the Minister of Finance before entering into production sharing agreements or making any commitments that could impact the revenue share or rights of the Federal Government.

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3) Any commitment or obligation that may affect the revenue interests of the Federal Government of Somalia and which does not comply with paragraph (1) shall be considered null and void.

Article 19
Fiscal Stability

1) In accordance with Article 25 of the EIFRL, Article 26 of that Law provides for the maximum fiscal stability that might be provided in a production sharing agreement to the holder of the agreement. This is referred to as an approved fiscal stability clause. The provisions of Article 26 shall be interpreted in accordance with this Article.

2) Article 26(1) of the EIFRL provides for the scope of an approved fiscal stability clause and the following rules apply:

a) Article 26(1)(a) is limited to cases where the new tax only applies to petroleum operations conducted by a petroleum right holder.

b) Article 26(1)(b) is limited to cases where there is a change in law as defined in paragraph (6) below and the change involves an alteration of:

i) an existing tax, fee or other Government imposed financial obligation in a discriminatory manner;

ii) royalty or income tax rates or the rate of charges due on the importation or exportation of goods or services; or

iii) the structural features and methodology for calculating the base upon which the charges referred to in subparagraph (ii) are imposed, including rules for the deductibility of expenses and losses.

c) An approved fiscal stability clause applies only where the change in law referred to in subparagraph (a) or (b):

i) is passed (irrespective of when the law comes into effect) after the petroleum right holder has commenced commercial production; and

ii) causes a material adverse effect on the petroleum right holder as defined in paragraph (5) below.

d) In accordance with Article 25(2)(b) of the EIFRL, an approved fiscal stability clause only applies to benefit the person who is the petroleum right holder and not any other person whether an associated person, employee, subcontractor or otherwise.

3) Article 26(2) of the EIFRL provides for notification of the triggering of an approved fiscal stability clause and the following rules apply:

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a) The petroleum right holder must notify the Petroleum Authority within 90 days of the passage of the law referred to in paragraph (2)(c)(i) requesting a meeting to verify the effect of the change. In the notification, the right holder must specify the nature of and quantify the purported material adverse effect. If the right holder fails to make a notification, the change of law is treated as not having a material adverse effect.

b) Where notification has been made within the terms of subparagraph (a), the parties shall meet within 90 days of the notification. At the meeting the parties shall endeavour to agree on changes to the production sharing agreement. Those changes are to restore, as closely as possible, the economic benefits that the right holder would have derived from the right in the absence of the change in law. In applying the previous sentence, the sum of the economic benefits shall be reduced by one million ($1,000,000) United States Dollars. As an alternative to changing the terms of the agreement, the Minister responsible for Finance may agree to the payment of a lump sum compensation to the right holder which may only be recovered in accordance with the provisions of paragraph (4)(d).

4) Article 26(3) of the EIFRL permits an approved fiscal stability clause to provide for arbitration if agreement is not reached at the meeting referred to in subparagraph (3)(b). The following rules apply to the arbitration and its outcome:

a) The arbitration shall be in accordance with the procedure provided for in the production sharing agreement. If the agreement does not contain an arbitration procedure, the matter shall be treated as a tax decision and governed by the rules in Part VII of the Revenue Administration Law (Law No. 13 of 27 October 2019).

b) The arbitration decision shall be limited to interpretation of the approved fiscal stability clause as it appears in the production sharing agreement. The arbitration shall not adjudicate on the validity of any administrative action including by way of tax assessment or any judicial ruling by a Somali court as to the meaning or effect of a Somali tax law.

c) If the arbitration decides that there is a material adverse effect on the petroleum right holder, it may make an award consistent with subparagraph (3)(b) above. The award is limited to a change of the relevant terms of the production sharing agreement or compensation in a specified lump sum amount. An award shall not purport to affect the future assessment of any taxes.

d) If an arbitration award involves lump sum compensation:

i) at the election of the government, the compensation must be allocated in equal amounts to the five years of assessment following the year in which the award is made, without interest;

ii) the compensation allocated to a year of assessment may be credited against a liability of the petroleum right holder for:

A) royalties, but limited to the right holder's proportionate share of royalties; or

B) income tax charged with respect to the right holder's chargeable income from the petroleum operations conducted under the production sharing agreement with respect to which the award is made;

iii) a credit referred to in subparagraph (ii) that cannot be used in a particular year of assessment may be carried forward and reduce a liability for royalties or income tax of a future year of assessment on the same basis as referred to in subparagraph (ii); and

iv) the compensation is not recoverable in any other manner and particularly may not give rise to a cash payment or a refund of the credit referred to in subparagraph (ii).

5) In accordance with Article 26(5) of the EIFRL, a change in law has a material adverse effect only if:

a) it will cause a proved financial burden on the conduct of the petroleum operations under the production sharing agreement for the relevant petroleum right holder; and

b) the quantum of that burden exceeds one million ($1,000,000) United States Dollars.

6) For the purposes of this regulation, "change in law" is interpreted according to the following rules:

a) A change in law means passage of primary or secondary legislation by the Federal Republic of Somalia whether involving the introduction of a new law or the amendment or repeal of an existing law. The change must involve a proved financial burden on the conduct of petroleum operations.

b) A change in law includes the introduction, change or repeal of rules, rulings, orders or notices of departments and agencies of the Federal Republic of Somalia.

c) However, a change in law does not include judicial determinations by Somali courts or tribunals. A change in law also excludes any change referred to in subparagraph (a) or (b) that is consistent with a judicial determination made before that change.

d) Each change of law shall be evaluated separately under this Article.

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Article 20
Fiscal Stability for Pre-existing Agreements

1) This Article applies where before the commencement of the EIFRL:

a) there is a valid and binding production sharing agreement concluded between the Federal Government of Somalia and a petroleum right holder; and

b) the agreement purports to modify the manner in which tax is imposed on the right holder, including by reason of a fiscal stability clause.

2) For the purposes of Article 25(3) of the EIFRL, the Ministry of Finance must apply and administer a revenue law after taking into account any modification referred to in subparagraph (1)(b). For the purposes of Article 28 of the EIFRL, that modification is also treated as one permitted by Article 25.

3) Article 17(4) of this Regulation applies to an arbitration award made with respect to a fiscal stability clause in a production sharing agreement referred to in paragraph (1) of this Article.

Article 21
Import Exemptions for Customs Duties and Sales Tax

1) The exemption referred to in Article 27(b) of the EIFRL only applies to customs duties and not to any other tax. It covers both petroleum right holders as well as subcontractors approved by the Petroleum Authority as conducting petroleum operations on behalf of a petroleum right holder. The exemption ceases and customs duties are imposed if the equipment is:

a) used in production or any other activity that is not exploration or drilling;

b) unused for 6 months while the equipment is in Somalia; or

c) sold before the equipment is exported from Somalia.

2) The exemption referred to in Article 27(c) of the EIFRL only applies to sales tax and not to any other tax such as a value added tax that may replace it. It covers both petroleum right holders as well as subcontractors approved by the Petroleum Authority as conducting petroleum operations on behalf of a petroleum right holder. The exemption ceases and sales tax is imposed if the equipment is:

a) used in any activity that is not petroleum operations;

b) unused for 6 months while the equipment is in Somalia; or

c) sold before the equipment is exported from Somalia.

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CHAPTER IV
ADMINISTRATION

Article 22
Power to Review Activities

The Ministry of Finance has power to audit petroleum operations under Article 47 of the Revenue Administration Law (Law No. 13 of 27 October 2019). As a general rule, that power is subject to the time limit to make an adjusted assessment in Article 48(6) of the Revenue Administration Law (Law No. 13 of 27 October 2019). That time limit is extended by Article 29(5) of the EIFRL to ten years after the end of the year of assessment to which the relevant accounts relate. Consequently, this expands the time during which the Ministry of Finance can conduct an audit under Article 47 of the Revenue Administration Law (Law No. 13 of 27 October 2019).

Article 23
Royalty Returns

A petroleum right holder must file a royalty return meeting the requirements of Article 30 of the EIFRL for every month after commercial production commences. This obligation includes filing a nil return for any month in which there is no production.

Article 24
Income Tax Returns

A petroleum right holder must file an income tax return meeting the requirements of Article 31 of the EIFRL for every year of assessment from the date the petroleum right is acquired. This obligation includes filing returns for years in which the petroleum right holder has no chargeable income from petroleum operations, including during the exploration and development phases.

CHAPTER V
MISCELLANEOUS PROVISIONS

Article 25
Entry into Force and Implementation of this Regulation

1) This Regulation becomes effective upon its publication on the Ministry of Finance website subsequent to its approval by the Minister of Finance.

2) This Regulation shall be issued in Somali and in English. In case of any discrepancy between the two versions, both shall be read harmoniously, giving effect to the intention and purpose of the Regulation as a whole.

3) The Minister may, by order, defer or suspend the implementation of any chapter or article of this Regulation to allow for the smooth implementation of the Regulation.