

Explanatory Note on the Oilfields (Regulation & Development) (Amendment) Bill, 2021

The Oilfields (Regulation & Development) (Amendment) Bill, 2021 is designed to promote exploration and production activities for efficient development of mineral oil resources in India. The Bill seeks to create an enabling environment for investors by promoting 'Ease of Doing Business', creating opportunities for exploration, development and production of next-generation cleaner fuels, and mitigating regulatory challenges and risks peculiar to mineral oil resource industry in India.

The Bill seeks to achieve these objectives through the following means:

- i. Presently, the Oilfields (Regulation & Development) Act, 1948 does not define the term 'mineral oil resources.' This Bill seeks to define the term 'mineral oil resources' which is often confused with 'mineral resources.' In order to extract 'mineral resources', mining activities are required to be carried out. Whereas, to explore, develop and produce 'mineral oil resources' 'petroleum operations' are required to be carried out. 'Petroleum operations' differ fundamentally from 'mining operations' in their nature, methodology and impact, particularly on the environment. As a result of the confusion arising out of the use of the nomenclature of 'mineral resources' and 'mineral oil resources', petroleum operations get delayed due to requirement of various clearances and permits which are not relevant for carrying out the operations. Therefore, this Bill seeks to distinguish between 'petroleum operations' and 'mining activities' by substituting 'mining lease' with 'mineral oil resource lease' and substituting references to 'mine', 'quarry' or 'excavate' with 'produced.' This will assist in expeditious development and production of 'mineral oil resources.' The Bill also clarifies that all existing leases shall be saved and will continue to be valid.
- ii. Conventionally, 'mineral oils' are understood to mean hydrocarbons in various forms including 'natural gas' and 'petroleum.' In the aftermath of COVID-19 and the Paris Climate Change Agreement, the global community is committed to develop and use clean energy sources. Scientific advancements are making production and utilization of modern and clean energy derived from petroleum-based resources economically feasible. Hydrogen gas is one such clean source of energy, which can be produced, distributed and regulated in conjunction with natural gas..

Presently, the Oilfields (Regulation & Development) Act, 1948 ("Principal Act") deals with 'mineral oils' as understood in the conventional sense. In order to facilitate development and production of alternative/derivative clean energy sources that are being or may be developed in future, this Bill seeks to re-define 'mineral oils'. The term as defined in the Bill includes not merely hydrocarbons but also the next-gen fuels viz. 'other gases which are capable of being used as fuels occurring in association with mineral oils or can be produced from mineral oils such as hydrogen.'

- iii. In Upstream oil and gas industry, the investor carries out operations pursuant to leases granted by the Government of India. The exploration, development and production

operations carried out by them are capital intensive. The Bill seeks to foster investment in the industry by offering lease on stable terms and enabling the Government to prescribe a compensation mechanism to protect the investment. The compensation shall be payable in case of suspension, revocation or cancellation of the lease or any part thereof or in case of restriction of access in respect of the leased area or any part thereof as per the Rules laid down by the Central Government in exercise of its rule making power under the principal Act.

- iv. The Bill seeks to remove all doubts regarding the power of the Government to make rules for effective management of mineral oil resource leases and removal of difficulties in operationalization of leases. The Bill seeks to amend the principal Act to explicitly enumerate the power of the Government to prescribe rules for extension of the period of lease, the maximum or minimum area of lease, mechanism for determination of the economic life of the oilfield, terms for merger or combination of leases, resolution of disputes arising out of, or in relation to, such leases including through arbitration, conciliation, and mediation, mechanism for determination and payment of compensation in case of suspension, revocation or cancellation of any lease or restriction of access to any leased area.
- v. The Bill also seeks to remove all doubts regarding the power vested in the Government to make necessary rules for ensuring efficient, effective and expedient exploration, production and development of mineral oil resources. The Bill explicitly states that the Government is empowered to prescribe rules for sharing of facilities and infrastructure, safety in mineral oil operations, sound management of mineral oil resources in accordance with good international petroleum industry practices, unitization of leases and collection, aggregation, dissemination, use or sharing of relevant data and samples for the purposes of economic development, academic research and public welfare.
- vi. The Bill seeks to empower the Government to designate an authority to formulate standards, procedures and guidelines for the safety of mineral oil resource operations, conduct audits and seek compliance of safety standards.
- vii. The Bill seeks to impose fines for contravention of the provisions of any Rules framed under the Principal Act to the tune of Rs. 1 crore for the first instance. If the contravention continues after imposition of fine, fine extending upto Rs. 10 lakh per day may be imposed for the entire duration during which the contravention continues commencing from the date of imposition of the first fine.
- viii. The Bill seeks to empower the Government to recover payment of royalty, cess, lease or license fee, penalty payable under this Act or the Rules framed thereunder, or any other contractual payment or any other sum due to the Government relating to mineral oil resource operations or the interest thereon as an arrear of land revenue.