

**LAWS OF BRUNEI**

**CHAPTER 231**

**PETROLEUM AUTHORITY OF BRUNEI DARUSSALAM**

**S 42/2019**

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**REVISED EDITION 2021**



LAWS OF BRUNEI  
REVISED EDITION 2021

CHAPTER 231  
PETROLEUM AUTHORITY  
OF BRUNEI DARUSSALAM

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## PETROLEUM AUTHORITY OF BRUNEI DARUSSALAM ACT

**An Act to establish and incorporate the Petroleum Authority of Brunei Darussalam and for matters connected therewith or incidental thereto**

*Commencement: 31st December 2019  
[S 43/2019]*

### PART 1 PRELIMINARY

#### **Citation**

1. This Act may be cited as the Petroleum Authority of Brunei Darussalam Act.

#### **Interpretation**

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

“appointed day” means the date of commencement of this Act;

“Authority” means the Petroleum Authority of Brunei Darussalam established by section 3;

“Board” means the Board of Directors of the Authority referred to in section 5(1);

“Company” means the Brunei National Petroleum Company Sendirian Berhad incorporated by the Brunei National Petroleum Company Sendirian Berhad Order, 2002 (S 6/2002);

“Company contractor” means any party to a Company petroleum mining Agreement which is not the Company;

“Company petroleum mining Agreements” means all the petroleum mining Agreements which have been entered into by the Company as the holder of mineral rights prior to the appointed day;

“contractor” means any person who is a party to a petroleum mining Agreement other than the Company, the Government or the Authority, as the case may be;

“designated area” means —

(a) any area of State Land in respect of which His Majesty the Sultan and Yang Di-Pertuan in Council has granted to the Authority mineral rights in accordance with section 19;

(b) as from the appointed day, the areas in respect of which mineral rights shall be transferred to and shall vest in the Authority in accordance with section 28; and

(c) as from the appointed day, the areas in respect of which mineral rights shall be transferred to and shall vest in the Authority in accordance with section 37;

“downstream petroleum operation” means any operation or activity related to —

(a) refining operations;

(b) natural gas processing operations that relate to multiple development areas, including operations or activities for the liquefaction, storage or transportation of natural gas; or

(c) transportation, storage, marketing and distribution of petroleum and petroleum products to residential, industrial, power generation and other end users;

“employees of the Company” means the employees of the Company currently with the Company to be transferred to the service of the Authority to be specified pursuant to section 31(1);

“employees of the Government” means the employees of the Government currently with the Government to be transferred to the service of the Authority to be specified pursuant to section 40(1);

“excluded liabilities” means —

(a) in relation to the Company, such existing liabilities of the Company as may be excluded from the petroleum regulatory undertaking of the Company under section 30(1); and

(b) in relation to the Government, such existing liabilities of the Government as may be excluded from the petroleum regulatory undertaking of the Government under section 38(1);

“excluded property” means —

(a) in relation to the Company, such existing property of the Company as may be excluded from the petroleum regulatory undertaking of the Company under section 30(1); and

(b) in relation to the Government, such existing property of the Government as may be excluded from the petroleum regulatory undertaking of the Government under section 38(1);

“existing” means —

(a) in relation to any property or liability of the Company, existing, outstanding or in force immediately before the appointed day;

(b) in relation to any property or liability of the Government, existing, outstanding or in force immediately before the appointed day;

“Government contractor” means any party to a Government petroleum mining Agreement which is not the Government;

“Government Party” means, with respect to a Government petroleum mining Agreement, the Government or any other person or authority who, prior to the appointed day, would under such Government petroleum mining Agreement have the authority or right to administer or regulate the rights and powers of the Government under such Government petroleum mining Agreement;

“Government petroleum mining Agreements” means all the petroleum mining Agreements which have been entered into by the Government as the holder of mineral rights prior to the appointed day;

“liabilities” includes debts, duties and obligations of every description wheresoever arising (whether present or future and actual or contingent);

“Managing Director” means the Managing Director appointed under section 6(1);

“member” means any member of the Board;

“midstream petroleum operation” means any operation or activity related to petroleum processing, storage and transportation, including the planning of any such operation or activity;

“mineral rights” has the same meaning assigned to it in section 2 of the Petroleum Mining Act (Chapter 44);

“mineral rights of the Company” means the mineral rights in respect of the areas granted to the Company pursuant to section 3 of the Brunei National Petroleum Company Sendirian Berhad Order, 2002 (S 6/2002) immediately before the appointed day;

“mineral rights of the Government” means the mineral rights in respect of the areas held by the Government immediately before the appointed day;

“Minister” means the Minister responsible for petroleum matters;

“person” has the same meaning assigned to it in section 2 of the Petroleum Mining Act (Chapter 44);

“petroleum” has the same meaning assigned to it in section 2 of the Petroleum Mining Act (Chapter 44);

“petroleum data” includes —

(a) raw and processed seismic data and interpretations thereof;

(b) well data, including daily drilling reports, electric logs and other wireline surveys, mud logging reports and logs, samples of cuttings and cores and analyses thereof;

(c) all reports prepared from drilling data or geological or geophysical data, including completed maps or illustrations derived therefrom;

(d) all well completion and well testing reports;

(e) reports dealing with location surveys and all other reports regarding well, treating plant or pipeline locations;

(f) reservoir investigations and estimates regarding reserves, field limits and economic evaluations relating to future petroleum operations;

(g) contingency programmes and reports dealing with environmental matters, safety and accidents;

(h) design drawings, criteria, specifications and construction records;

(i) reports of technical audits and studies relating to petroleum operations;

(j) reports of all other investigations based on data relating to any designated area under any petroleum mining Agreement;

(k) with respect to any petroleum mining Agreement, any information or document relating to or describing —

- (i) the performance of all pre-exploration, exploration, appraisal, development or other works carried out by any person in connection with searching for, boring for or obtaining petroleum under or in connection with the petroleum mining Agreement, including training of personnel and local business development;
- (ii) any wells drilled, the depth of each such wells, and any map on which drilling locations are indicated in respect of any designated area under the petroleum mining Agreement;
- (iii) any estimated quantity of petroleum, fresh water layers or significant quantities of other minerals encountered during petroleum operations under the petroleum mining Agreement;
- (iv) the number and details of employees or consultants engaged in petroleum operations under the petroleum mining Agreement;
- (v) any geological, geophysical, petrophysical and technical data, infrastructure construction, design and engineering materials and data, information and records relating to any designated area under the petroleum mining Agreement, including well log, production and completion report, status report, sample, core, test result, map, plan and account;

- (vi) any estimate of petroleum reserves remaining to be recovered and the underlying analysis related thereto;
  - (vii) any estimate of petroleum production and exports;
  - (viii) details of goods and services sourced from persons in Brunei Darussalam relating to any petroleum operations in respect of any designated area under the petroleum mining Agreement; or
  - (ix) details of all purchases, transfers and disposals of any facility, land, building, installation and other assets together with equipment, machinery, tools, supplies, materials, consumables and any other goods of similar nature (excluding any petroleum and any by-products of petroleum operations) acquired (through purchase, lease or otherwise) and which are held exclusively for use in petroleum operations in respect of any designated area under the petroleum mining Agreement;
- (l) any record containing particulars of any of the following matters —
- (i) the drilling, deepening, plugging or abandonment of any borehole and well;
  - (ii) the strata and subsoil through which any borehole and well are drilled;
  - (iii) the casing inserted in any borehole and well and any alteration to such casing;
  - (iv) any petroleum, water and workable minerals encountered;
  - (v) the areas in which any geological or geophysical work has been carried out;
  - (vi) original, processed or interpreted data or information resulting or derived from any geological, geophysical, seismic, topographical

or. geochemical surveys, research or experimentation carried out by, or for a person who is party to a petroleum mining Agreement, and any related core samples; or

(vii) geological maps and plans relating to any designated area under any petroleum mining Agreement; and

(m) any information or documents relating to the matters set out in section 46(3);

“petroleum mining Agreement” has the same meaning assigned to it in section 2 of the Petroleum Mining Act (Chapter 44);

“petroleum operation” means upstream petroleum operation, midstream petroleum operation or downstream petroleum operation;

“petroleum product” has the same meaning as in the Petroleum (Pipe-lines) Act (Chapter 45);

“petroleum regulatory undertaking of the Company” means —

(a) all property and all liabilities of the Company (including all existing property and all existing liabilities and all liabilities arising after the appointed day in respect of the property and liabilities of the Company transferred to the Authority) acquired under, arising from or relating to the Company petroleum mining Agreements; and

(b) such other property and liabilities of the Company as the Minister may determine, other than the excluded property and the excluded liabilities of the Company;

“petroleum regulatory undertaking of the Government” means —

(a) all property and all liabilities of the Government (including all existing property and all existing liabilities and all liabilities arising after the appointed day in respect of the property and liabilities of the Government transferred to the Authority) acquired under, arising from or relating to the Government petroleum mining Agreements; and

(b) such other property and liabilities of the Government as the Minister may determine, other than the excluded property and the excluded liabilities of the Government;

“property” means property, assets, and rights of every description (whether present or future, and, actual or contingent) wheresoever situated, including, without limitation, land, buildings, facilities, equipment, documents (including accounting records), interests, benefits, privileges and powers of every description;

“regulatory approval” means any consent, waiver, approval, permit, licence, authorisation, permission, confirmation or clearance from the Government;

“State Land” has the same meaning assigned to it in the Petroleum Mining Act (Chapter 44);

“State Party” has the same meaning assigned to it in the Petroleum Mining Act (Chapter 44);

“upstream petroleum operation” includes any operation or activity in connection with the exploration, appraisal, development, production, gathering, separation and treatment, storage and transportation (up to an agreed delivery point) of petroleum and decommissioning, abandonment and restoration operations or activities, including the planning of such operations or activities, and, without prejudice to the generality of the foregoing, includes —

(a) the search for petroleum by geological, geophysical or other methods and the drilling of wells in this regard, including, but not limited to, processing work, drilling of exploration wells or appraisal wells, appraisal operations and the performance of other technical or economic feasibility studies;

(b) the engineering, planning, design, construction and installation of facilities for the development or production of petroleum and the drilling of wells in this regard, including, but not limited to, the purchase of materials and equipment, drilling of development or production wells, construction and installation of equipment, lines, facilities, plants and systems in and outside any designated area, which are required for production, treatment, waste disposal, transport, storage and lifting of petroleum and for recycling and other secondary and tertiary recovery projects;

(c) all other operations or activities performed in connection with the ongoing and continuous production, treatment, transport, storage and lifting of petroleum and its by-products,



including, but not limited to, improved or enhanced recovery operations such as injection, recycling, recompression, pressure maintenance, treatment of discharged water, water flooding and abandonment; and

(d) all activities required to return any site to its original condition prior to the commencement of any petroleum operation at such site including, but not limited to, proper abandonment of wells or other facilities, removal of equipment, structures and debris, establishment of compatible contours and drainage, replacement of top soil, re-vegetation, slope stabilisation, in-filling of excavations and any other appropriate actions in the circumstances.

## PART 2

### PETROLEUM AUTHORITY OF BRUNEI DARUSSALAM

#### **Establishment and incorporation of Petroleum Authority of Brunei Darussalam**

3. There is hereby established a body to be known as the Petroleum Authority of Brunei Darussalam which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and

(c) doing such other acts or things as bodies corporate may lawfully do.

#### **Common seal**

4. (1) The Authority shall have a common seal and such seal may be ~~changed, altered or made anew as the Authority thinks fit.~~

(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any two members generally or specially authorised by the Authority for that purpose.

(4) The Authority may, by resolution or otherwise in writing, appoint any officer or employee of the Authority or any other agent, either generally or in a particular case, to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

### **Board of Directors**

5. (1) There shall be a Board of Directors of the Authority which shall be the executive body of the Authority which may exercise all the powers conferred on the Authority under this Act and shall be responsible for the formulation of the policies of the Authority, the supervision of the implementation and the general administration of the affairs and business of the Authority.

(2) The Board shall consist of a Chairman, a Deputy Chairman and not less than three other members, as His Majesty the Sultan and Yang Di-Pertuan may appoint.

(3) Without prejudice to the powers conferred on His Majesty the Sultan and Yang Di-Pertuan by the Constitution of Brunei Darussalam and except as otherwise specified in this Act, including section 13 —

(a) the members shall not take instructions from any other person or entity, including Government entities; and

(b) no person or entity shall seek to influence the members in the exercise of their powers or to interfere in the activities of the Authority.

(4) The members shall —

(a) not act as delegates on the Board from any commercial, financial, agricultural, industrial or other interest with which they are connected;

(b) hold office for such terms as His Majesty the Sultan and Yang Di-Pertuan may determine;

(c) be paid by the Authority out of the funds of the Authority such benefits and allowances as His Majesty the Sultan and Yang Di-Pertuan may determine.

(5) Schedule 1 shall have effect with respect to the Board, its members and proceedings.

### **Appointment of Managing Director**

6. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint one of the members to be the Managing Director.

(2) Without prejudice to sections 11 and 12 and to any other powers conferred on the Authority by this Act, the Managing Director shall be the chief executive of the Authority and shall be responsible for the implementation of the policies of the Authority, its day-to-day administration and its representation.

(3) The Managing Director shall be an employee of the Authority on such terms of office and conditions of service as His Majesty the Sultan and Yang Di-Pertuan may decide.

(4) In addition to the powers conferred on the Managing Director by subsection (3) and without prejudice to sections 8 and 9, the Authority may delegate to the Managing Director, under the conditions that it may decide, all or any of the powers conferred on the Authority by this Act and by any other written law.

(5) The Managing Director shall be accountable to the Authority for his acts and decisions.

(6) The Managing Director may, subject to such conditions that the Authority may decide, appoint any officer or other employee of the Authority, or form any committee comprising officers or other employees of the Authority or both, to exercise any of the powers conferred upon him by subsections (2) and (4), and that officer, employee or committee shall exercise those powers or perform those functions or duties under the direction and control of the Managing Director.

(7) For the avoidance of doubt, the Managing Director shall —

(a) remain responsible for the exercise of his powers or for the performance of his functions or duties by any officer or other employee appointed, or by any committee formed, under subsection (6); and

(b) continue to exercise his powers or perform his functions or duties conferred or imposed upon him by virtue of subsections (2) and (4), notwithstanding the delegation of those powers by the Managing Director under subsection (4) or the termination by him of such delegation.

### **Deputy Managing Directors**

7. (1) The Authority shall, on the recommendation of the Managing Director, appoint Deputy Managing Directors of the Authority and designate one of the Deputy Managing Directors to be the deputy chief executive of the Authority for a term not exceeding 2 years.

(2) The Deputy Managing Directors shall be employees of the Authority on such terms of office and conditions of service as the Board may decide.

(3) Subject to this Act, a Deputy Managing Director shall perform such duties as may be determined by the Managing Director.

(4) In the case of absence or incapacity of the Managing Director, the deputy chief executive shall, unless decided otherwise by the Authority in relation to a delegation under section 6(4), have all the powers of the Managing Director under section 6(2) and (6), and all the duties of the Managing Director under section 6(7).

### **Committees**

8. (1) The Board may, in its discretion, appoint committees consisting of persons who are members of the Authority or otherwise, for purposes which, in the opinion of the Board, would be better regulated and managed by such committees.

(2) The Board may define or vary the terms of reference of the committees.

(3) Subject to this Act and to the control of the Board, each committee may regulate its procedure in such manner as the committee thinks fit.

### **Audit Committee**

9. (1) The Authority shall establish an Audit Committee.

(2) The members of the Audit Committee shall consist of at least two external persons with extensive professional experience and at least one of the directors not being the Chairman, the Deputy Chairman or the Managing Director.

(3) At least one member of the Audit Committee shall be a person with extensive professional experience in the field of accounting or auditing.

(4) The responsibility of the Audit Committee shall include —

(a) oversight of the internal audit function;

(b) recommendations on the appointment of the external auditors, the scope of external audits and other services;

(c) providing the opportunity for the auditors to meet and discuss findings; and

(d) reviewing with the external auditors the end of year financial statements.

(5) The Authority shall determine the further responsibilities and conditions of the Audit Committee.

(6) The Audit Committee shall periodically report to the Authority.

(7) Subject to this Act and to any direction given by the Authority in that behalf, the Audit Committee may regulate its own procedure.

### **Delegation by Authority**

10. (1) The Authority may, in respect of a specified matter or class of matters, in writing, delegate to a member or committee of the Board or to an officer or other employee of the Authority, the exercise of any power or the performance of any function conferred or imposed on it by this Act, except for the power of delegation conferred by this section.

(2) A delegation under subsection (1) may be —

(a) subject to such conditions as may be determined by the Authority in the instrument of delegation;

(b) be revoked or varied by a subsequent order made in the same manner.

(3) The Authority may continue to exercise any power and perform any function conferred or imposed on it by this Act notwithstanding the delegation by it of such power or function.

### PART 3

#### FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

##### **Functions of Authority**

**11.** (1) Subject to the provisions of this Act, the functions and duties of the Authority shall be —

(a) to promote the development of the petroleum sector in Brunei Darussalam;

(b) to exercise licensing and regulatory functions in respect of the petroleum sector in Brunei Darussalam, including, without limitation, investments in the petroleum sector in Brunei Darussalam, petroleum and petroleum products;

(c) to secure that all demands for the supply of petroleum and petroleum products in Brunei Darussalam are satisfied and to protect the interests of the public in respect of the supply and use of petroleum and petroleum products in Brunei Darussalam;

(d) to monitor and regulate petroleum operations in Brunei Darussalam;

(e) to maintain and manage, and to exercise general supervision over and regulatory function in respect of, petroleum data in Brunei Darussalam;

(f) to coordinate the development of and promote and maintain the efficient use of petroleum infrastructure;

(g) to advise the Government on national needs, policies and strategies, and in respect of any other matters, relating to the petroleum sector in Brunei Darussalam, including, without limitation, investments in the petroleum sector in Brunei Darussalam, petroleum and petroleum products;

(h) to promote and maintain the security of petroleum supplies and the resilience of the petroleum sector in Brunei Darussalam;

(i) to perform such other functions conferred on the Authority by this Act or any other written law; and

(j) to exercise such other functions as His Majesty the Sultan and Yang Di-Pertuan or any lawful authority of the Government may delegate to the Authority under section 12.

(2) In addition to the functions and duties imposed by this section, the Authority may undertake such other functions as the Minister may assign to the Authority, and in so doing —

(a) the Authority is deemed to be fulfilling the purposes of this Act; and

(b) the provisions of this Act apply to the Authority in respect of such functions and duties.

(3) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

### **Powers of Authority**

**12.** (1) Subject to the provisions of this Act, the Authority shall have the power to do anything as appears to the Authority advantageous, necessary or expedient for the purpose of performing its functions and discharging its duties under this Act or any other written laws, or which appears to the Authority to be incidental or conducive to the performance of those functions and discharge of those duties.

(2) Without prejudice to the generality of subsection (1), the Authority may —

(a) act as a State Party in the negotiation, conclusion, making, implementation, supervision, and enforcement of a petroleum mining Agreement in respect of any designated area including any amendment or supplement thereto;

(b) where His Majesty the Sultan and Yang Di-Pertuan in Council or any other lawful authority of the Government by notification published in the *Gazette* delegates to the Authority under section 14(1) the exercise of any power, the performance of any function or the discharge of any duty, exercise such delegated power, right or obligation or perform such delegated function or duty;

(c) issue or approve codes of practice, directives and guidelines in relation to the petroleum sector in Brunei Darussalam and investments in the petroleum sector in Brunei Darussalam, petroleum or petroleum products;

(d) acquire and hold property, both movable and immovable, and to sell, lease, mortgage or otherwise dispose of such property;

(e) become a member or an affiliate of any international body, the functions, objects or duties of which are similar to those of the Authority;

(f) subscribe for or acquire any securities, stocks and shares of an incorporated company or other body corporate, procure its admission to membership of an incorporated company limited by guarantee and not having a share capital or acquire an undertaking or part thereof;

(g) form or participate in the formation of any company or corporation, or enter into any joint venture or partnership, whether in Brunei Darussalam or elsewhere;

(h) participate in any overseas venture or development which the Authority has the expertise to engage in or undertake;

(i) establish and maintain offices, whether in Brunei Darussalam or elsewhere;



(j) grant financing, and guarantee the repayment of any financing granted, to any company or corporation —

(i) of which the Authority, or any subsidiary of the Authority, is a member; or

(ii) any shares of which are held or beneficially owned, directly or indirectly, by the Authority or any subsidiary of the Authority;

(k) establish or expand facilities or to assist in the maintenance of facilities (whether by itself or with the co-operation of other persons or bodies as the Authority thinks fit), including but not limited to providing grants, for the purpose of training and education relating to the petroleum sector, petroleum or petroleum products;

(l) establish and administer funds in support of, to promote the growth and development of, for the advancement of competencies, expertise and standards in, and for the conduct and development of research relating to, the petroleum sector and its related fields in Brunei Darussalam;

(m) make or enter into such agreements or arrangements as may be advantageous, necessary or expedient for the purpose of performing its functions and discharging its duties under this Act;

(n) levy or impose fees or charges for advice, assistance or services provided by the Authority and for any other matter or thing done under this Act;

(o) make provision for gratuities, pensions, allowances or other benefits for officers or employees or former officers or employees of the Authority;

(p) make provision for training of any officer or employee of the Authority and, in that connection, offer scholarships, bursaries and training grants to intending trainees or otherwise pay for the cost of such training and all expenditure incidental thereto;

(q) grant or guarantee financing to officers or employees of the Authority for any purpose specifically approved by the Authority;

(r) provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers or employees of the Authority and members of their families;

(s) receive donations and contributions from any source and raise funds by all lawful means;

(t) take such action as is necessary to enforce the requirements in a petroleum mining Agreement;

(u) enforce the provisions of this Act and of any regulations made under this Act; and

(v) do anything incidental to any of the Authority's powers.

(3) This section shall not be construed as limiting any power of the Authority as may be conferred by or under any other written law.

(4) For the purposes of subsection (2)(j), a company or corporation is deemed to be a subsidiary of the Authority, if —

(a) that Authority —

(i) controls the composition of the board of directors of the company or corporation; or

(ii) controls more than half of the voting power of the company or corporation; or

(b) the company or corporation is a subsidiary of any company or corporation which is the Authority's subsidiary.

### **Directions by Minister**

13. (1) The Minister may give to the Authority such directions, not inconsistent with the provisions of this Act, as he thinks fit, as to the exercise of its powers, performance of its functions and the discharge of its duties under this Act or any other written law, and the Authority shall give effect to all such directions.

(2) Without prejudice to the generality of subsection (1), if it appears to the Minister to be advantageous, necessary or expedient to do so —

(a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence or relations with the government of another country or territory; or

(b) in order to —

- (i) discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;
- (ii) attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of such an organisation or a party to such an agreement; or
- (iii) enable the Government to become a member of such an organisation or a party to such an agreement.

the Minister may give such directions to the Authority as are necessary in the circumstances of the case.

(3) The Authority shall give effect to any direction given to it under subsection (1) or (2) notwithstanding any other duty imposed on it by or under this Act or any other written law.

(4) The Authority shall not disclose any direction given to it under subsection (1) or (2) if the Minister notifies the Authority that the Minister is of the opinion that the disclosure of the direction is against the public interest.

(5) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or relations with the government of another country or territory, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

~~(6) The Authority shall furnish the Minister such information (including, but not limited to, information in respect of the Authority's property and activities) or samples of petroleum or other substances from any area where any petroleum operations are being carried on which are held by or on behalf of the Authority in such manner and at such times as the Minister may require.~~

(7) Any direction given under subsection (1) or (2) may be varied or revoked by further directions given under this section.

### **Delegation by His Majesty the Sultan and Yang Di-Pertuan in Council**

14. (1) Subject to subsection (2), His Majesty the Sultan and Yang Di-Pertuan in Council or any lawful authority of the Government may, by notification published in the *Gazette*, delegate to the Authority, subject to such conditions as may be imposed in the notification, the exercise of any of their respective powers, the performance of any of their respective functions or the discharge of any of their respective duties, in addition to the powers, duties and functions vested in the Authority by this Act.

(2) His Majesty the Sultan and Yang Di-Pertuan in Council may, by notification published in the *Gazette*, delegate to any person, subject to such conditions as may be imposed in the notification, the exercise of any power or the performance of any function or the discharge of any duty under this Act, other than the power to allocate and grant of mineral rights under section 19.

## PART 4

### PROVISIONS RELATING TO STAFF

#### **Employment of staff**

15. (1) The Authority may appoint or employ such officers and other employees, advisers, consultants and agents as may be necessary for the effective performance of its functions for such terms of office and on such conditions of service as the Authority may determine.

(2) Section 5(3) applies to all officers and other employees of the Authority.

#### **Protection from personal liability**

16. (1) No suit or other legal proceedings shall lie personally against any member, officer or employee of the Authority or other person acting under the direction of the Authority for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law.

(2) Where the Authority provides a service to the public whereby information is supplied to the public, neither the Authority nor any of its officers and other employees involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such employees.

### **Remuneration not to be related to profits**

17. No salary, fee, wage or other remuneration or allowance paid by the Authority shall be computed by reference to the profits of the Authority.

### **Public servants**

18. All members, officers and employees of the Authority are deemed to be public servants for the purposes of the Penal Code (Chapter 22).

## PART 5

### MINERAL RIGHTS

#### **Power to grant mineral rights within State Land to Authority**

19. (1) His Majesty the Sultan and Yang Di-Pertuan in Council may at any time allocate and grant to the Authority all mineral rights within such area of State Land as His Majesty the Sultan and Yang Di-Pertuan in Council may determine.

(2) Any grant of mineral rights under subsection (1) shall take effect upon the date of the decision of His Majesty the Sultan and Yang Di-Pertuan in Council.

(3) Once granted to the Authority in accordance with subsection (1) or transferred to and vested in the Authority in accordance with section 28 or 37, mineral rights shall remain vested in the Authority until His Majesty the Sultan and Yang Di-Pertuan in Council has revoked in writing such mineral rights but, in any case, for the full duration of and subject to any petroleum mining Agreement that the Authority has become a party to or entered into as State Party with any third party.

**Validity of petroleum mining Agreements**

**20.** (1) Nothing in this Act shall invalidate any petroleum mining Agreement made or entered into by any State Party before the appointed day or abrogate any of the rights or privileges conferred thereby:

Provided that every such right or privilege shall be limited to the extent prescribed by such petroleum mining Agreement.

(2) Any assignment or transfer of rights or duties of the State Party under the conditions of any petroleum mining Agreement to the Authority shall in no way prejudice the validity of any such petroleum mining Agreement.

## PART 6

## FINANCIAL PROVISIONS

**Petroleum Authority of Brunei Darussalam Fund**

**21.** (1) For the purposes of this Act, there is established a fund to be known as the Petroleum Authority of Brunei Darussalam Fund into which shall be paid —

(a) such moneys as may be allocated from the Consolidated Fund;

(b) such other moneys or assets as may accrue to or vest in the Authority in the exercise of its powers or the performance of its functions under this Act;

(c) any revenue generated from any proprietary interest held by the Authority whether movable or immovable, and from the prescription of levies and fees in accordance with the provisions of this Act and the regulations made thereunder;

(d) research and development contributions, assistance and other annual fees, and penalties from contractors, under a petroleum mining Agreement;

(e) revenues generated from the imposition of licences or permits on matters under the regulatory purview of this Act, including

for operations conducted pursuant to any petroleum mining Agreement and the operation of any plant;

(f) all commercial income generated by the Authority; and

(g) all such other sums as may be paid to the Authority.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to provide for levies prescribing the —

(a) amount payable per cubic metre of crude oil, the amount payable per one thousand cubic metre of marketable natural gas, when the relevant levy may be applied and any other requirements for implementation of the levy; and

(b) amount payable based on produced volume of petroleum products.

### **Application of Fund**

**22.** (1) The Fund for any financial year shall be applied in defraying the following charges —

(a) the remuneration, fees and allowances of the members of the Authority;

(b) the salaries, fees, remuneration, superannuation allowances and gratuities of the officers, agents, employees, advisers and former employees of the Authority or its predecessors;

(c) working and establishment expenses and expenditure on, or provision for, the maintenance of any of the property of the Authority, and the discharge of the functions of the Authority properly chargeable to the Fund;

(d) interest on any debentures issued and on any financing raised by the Authority;

(e) sums required to be paid to the Government towards repayment of any financing made by the Government to the Authority;

(f) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or the repayment of other borrowed money;

(g) such sums as may be deemed appropriate to set aside in respect of depreciation or renewal of the property of the Authority, having regard to the amounts set aside out of the Fund under paragraphs (c) and (f);

(h) such sums by way of contribution, for the purposes associated with the objects of this Act as the Authority may determine, to the public or for charities; and

(i) any other expenditure authorised by the Authority and properly chargeable to the Fund.

(2) The balance of the Fund, with respect to each financial year, shall be applied to the creation of a general reserve and such other reserves as the Authority may think fit.

### **Grants**

**23.** For the purposes of enabling the Authority to carry out its functions under this Act, the Minister of Finance and Economy may make grants to the Authority of such sums of money, as the Minister of Finance and Economy may determine, out of moneys to be provided by the Government.

### **Power to borrow and invest**

**24.** (1) For the discharge of its functions under this Act, the Authority may raise financing from the Government or, with the approval of the Minister who shall consult the Minister of Finance and Economy, raise financing from banks or other financial institutions (whether in or outside Brunei Darussalam) by —

(a) mortgage, overdraft or otherwise;

(b) charge, whether legal or equitable, on any property vested in Authority or on any other revenue receivable by the Authority under this Act; and

(c) the creation and issuance of debentures, bonds or other instruments.



(2) Subject to the approval of the Minister who shall consult the Minister of Finance and Economy, the Authority may invest its funds in such manner as the Minister thinks fit.

### **Bank accounts**

25. (1) The Authority shall open and maintain an account or accounts with such bank or banks as the Authority thinks fit.

(2) Every such account shall be operated upon as far as practicable by cheques signed by such person or persons as may be authorised in that behalf by the Authority.

### **Other financial provisions**

26. The financial provisions set out in Schedule 2 shall have effect with respect to the Authority.

## PART 7

### TRANSFER OF COMPANY PETROLEUM REGULATORY UNDERTAKING

#### **Transfer of petroleum regulatory undertaking and mineral rights of Company**

27. On the appointed day, the petroleum regulatory undertaking of the Company and the mineral rights of the Company shall be transferred to and shall vest in the Authority under this Act.

#### **Transfer and vesting of mineral rights of Company**

28. (1) On the appointed day, the mineral rights of the Company shall be transferred to and shall vest in the Authority, and His Majesty the Sultan and Yang Di-Pertuan in Council hereby grants to the Authority all such mineral rights.

(2) The Company shall, on and from the appointed day, cease to have such mineral rights.

**Company to cease to have authority to negotiate petroleum mining Agreements**

29. (1) On the appointed day, the Company shall cease to have any authority or right as a holder of mineral rights to negotiate, conclude and implement any petroleum mining Agreement, including, without limitation, any Company petroleum mining Agreement:

Provided that the Company shall continue to have such rights and obligations under a Company petroleum mining Agreement insofar as they relate to excluded property or excluded liabilities.

(2) The Company shall, on and from the appointed day, cease to be a State Party under or for the purposes of the Petroleum Mining Act (Chapter 44).

**Transfer of petroleum regulatory undertaking of Company to Authority**

30. (1) On or before the appointed day, His Majesty the Sultan and Yang Di-Pertuan in Council shall, by notification to the Company, specify the excluded property and excluded liabilities of the Company, including, without limitation, any specific right or obligation under any of the Company petroleum mining Agreements which shall not be transferred to, and shall not vest in, the Authority as part of the petroleum regulatory undertaking of the Company to be transferred to the Authority:

Provided that where any specific right or obligation under any Company petroleum mining Agreement is so specified to be excluded property or excluded liabilities, notice of such specification shall also be given to the contractors who are parties to such petroleum mining Agreement.

(2) If any question arises as to whether any particular property or liabilities (including, without limitation, any particular assets, interests, rights, privileges or obligations) are excluded property or excluded liabilities for the purposes of subsection (1) and therefore have not been or should not be transferred to or vested in the Authority as part of the petroleum regulatory undertaking of the Company transferred or to be transferred to the Authority on the appointed day, a certificate given at any time under the hand of the Minister as to whether such particular property or liabilities are such excluded property or excluded liabilities shall be conclusive evidence of the same.

(3) Subject to subsection (5), on the appointed day, all properties and liabilities comprised in the petroleum regulatory undertaking of the Company (including, without limitation, all assets, interests, rights, privileges and obligations comprised therein) shall be transferred to and shall vest in the Authority without further assurance, act or deed.

(4) Subject to subsection (5), every agreement relating to the petroleum regulatory undertaking of the Company to which the Company was a party immediately before the appointed day, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from the appointed day as if —

(a) the Authority had been a party to such an agreement;

(b) for any reference (however worded and whether express or implied) to the Company there were substituted, in respect of anything to be done on or after the appointed day, with a reference to the Authority; and

(c) for any reference (however worded and whether express or implied) to any director, officer, employee or representative of the Company there were substituted, as regards anything to be done on or after the appointed day, a reference to a representative of the Authority as the Authority may appoint for that purpose.

(5) (a) The Authority shall be liable only to perform an obligation under an agreement relating to the petroleum regulatory undertaking of the Company which is transferred to the Authority to the extent that the Company would have been able to perform such obligation as at the appointed day, and the Authority shall not be liable to undertake any action in connection with such obligation if such action was not within the Company's capacity, power or authority.

(b) Where a provision in an agreement relating to the petroleum regulatory undertaking of the Company which is transferred to the Authority had, prior to the appointed day, provided that the Company shall procure, provide or assist in the procurement or provision of any regulatory approval, the Authority's obligations under such provision are, from the appointed day, deemed satisfied if the Authority uses its reasonable endeavours to liaise with the relevant authorities or departments in connection with such regulatory approval.

(c) Any provision under any of the Company petroleum mining Agreements that requires the Company to nominate or designate a representative of the Company who is of managerial status is, after the appointed day, deemed satisfied by the Authority nominating or designating a representative who is an officer or other employee of the Authority.

(d) For the avoidance of doubt, where any provision under any of the Company petroleum mining Agreements provides for any payment to the Minister of Finance and Economy or the Government of any amount whatsoever (including, without limitation, any bonus payment, royalty, rental payments or taxes), all such amounts shall continue to be payable to the Minister of Finance and Economy or the Government (as the case may be) after the appointed day and this Act shall not affect the obligation of any party (including, without limitation, any contractor) to make such payment to the Minister of Finance and Economy or the Government (as the case may be).

(e) For the avoidance of doubt, it is hereby declared that the Authority shall not be obliged to perform any obligation under any agreement relating to the petroleum regulatory undertaking of the Company which is transferred to the Authority if such obligation is an excluded liability.

(6) For the avoidance of doubt, it is hereby declared that —

(a) any reference in this Act to property comprised in the petroleum regulatory undertaking of the Company is a reference to such property (other than the excluded property) of the Company whether situated in or outside Brunei Darussalam; and

(b) any such reference to rights and liabilities comprised in the petroleum regulatory undertaking of the Company is a reference to such rights to which the Company is entitled or, as the case may be, such liabilities to which the Company is subject, whether under the laws of Brunei Darussalam or any country or territory outside Brunei Darussalam.

(7) The Company and the Authority shall take all such steps as may be necessary to secure that the vesting in the Authority by virtue of this section of any foreign property, right or liability is effective under the relevant foreign law, and until such time it shall be the duty of the Company

to hold that property or right for the benefit of, or to discharge that liability on behalf of, the Authority.

(8) Nothing in subsection (7) shall be taken as prejudicing the effect under the laws of Brunei Darussalam of the vesting in the Authority by virtue of this section of any foreign property, right or liability.

(9) Any expenses incurred by the Company under subsection (7) shall be paid by the Company.

(10) In subsections (7) and (8), references to any foreign property, right or liability are references, respectively, to any property, right or liability comprised in the petroleum regulatory undertaking of the Company as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of conflict of laws) by reference to the law of a country or territory outside Brunei Darussalam.

### **Transfer of employees of Company**

**31.** (1) On or before the appointed day, the Minister shall, by notice to the Company and the Authority, specify the employees of the Company who shall be transferred to the service of the Authority pursuant to the provisions of this section.

(2) On the appointed day —

(a) all employees of the Company; and

(b) such other persons as the Minister may determine,

employed immediately before the appointed day by the Company shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(3) Until such time as terms and conditions of service are drawn up by the Authority, the scheme and terms and conditions of service in the Company shall continue to apply to every person transferred to the service of the Authority under subsection (2) as if he were still in the service of the Company.

(4) The terms and conditions to be drawn up by the Authority shall take into account the salaries and terms and conditions of service, including

any accrued rights to leave, enjoyed by the persons transferred to the service of Authority under subsection (2) while in the employment of the Company.

(5) Any term and condition relating to the length of service with the Authority shall provide for the recognition of service under the Company by the persons transferred under subsection (2) to be service by them under the Authority.

(6) Where, on the appointed day, any disciplinary proceedings were pending against any employee of the Company transferred to the service of the Authority under subsection (2), the proceedings shall be carried on and completed by the Authority.

(7) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or decision had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or decision as it could have made under the authority vested in it before the appointed day.

(8) Any order, ruling or decision made by a committee under this section shall be treated as an order, a ruling or a decision of the Authority and have the same force or effect as if it had been made by the Authority.

(9) The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Company, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Company, and if this Act had not been made.

### **Pending proceedings relating to Company**

**32.** Every proceedings, relating to any of the properties or liabilities (including, without limitation, any assets, interests, rights, privileges and obligations) transferred to the Authority under section 30 pending or existing immediately before the appointed day, by or against the Company, or any person acting on its behalf, may be continued, completed or enforced by or against the Authority.

### **Existing contracts and permissions relating to Company**

33. (1) Subject to section 30(5), all deeds, schemes, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed day to which the Company is a party and relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Authority under section 30 shall continue in full force and effect on and after the appointed day and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the Company.

(2) Any permission, notice, warrant, consent, approval, certificate, direction, order, declaration or other document prepared, made, granted or issued, and any act or thing done or given by the Company relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Authority under section 30 is, so far as it is not inconsistent with the provisions of this Act and except as otherwise expressly provided in this Act or in any other written law, deemed to have been prepared, made, granted, issued, done or given by the Authority and shall continue to have effect accordingly.

### **No breach or default because of transfer of petroleum regulatory undertaking of Company**

34. (1) The operation of this Part shall not be regarded as —

(a) a breach of contract or confidence or otherwise as a civil wrong;

(b) a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or

(c) giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability.

(2) The operation of this Part shall not be regarded as an event of default or *force majeure* under any contract or other legal instrument.

(3) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Company is a party or may be bound prohibiting or having the

effect of prohibiting the transfer of any property, assets, interests, rights, privileges, liabilities or obligations comprised in the petroleum regulatory undertaking of the Company transferred under this Part, is deemed to have been waived.

(4) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Company is a party or may be bound conferring on the other party or parties thereto any right of first refusal or pre-emption rights in respect of any property, asset, interest, right, privilege, liability or obligation comprised in the petroleum regulatory undertaking of the Company to be transferred by reason of or arising from, or to the effect that a default shall occur or is deemed to occur as a result of the transfer or intended transfer of the property, asset, interest, right, privilege, liability or obligation under this Part, is deemed to have been waived.

(5) No attornment to the Authority by a lessee from the Company shall be required.

(6) No claim for any loss shall be brought against the Authority in relation to any act or thing done for the purposes of this Part.

### **Evidence of transfer of petroleum regulatory undertaking of Company**

**35.** The production of a *Gazette* copy of this Act, and such evidence of publication of the appointed day in the *Gazette*, shall for all purposes, be conclusive evidence of the transfer of the petroleum regulatory undertaking of the Company to the Authority and the vesting of the petroleum regulatory undertaking of the Company in the Authority in accordance with the provisions of this Act.

## PART 8

### TRANSFER OF GOVERNMENT PETROLEUM REGULATORY UNDERTAKING

#### **Transfer of petroleum regulatory undertaking and mineral rights of Government**

**36.** On the appointed day, the petroleum regulatory undertaking of the Government and the mineral rights of the Government shall be transferred to and shall vest in the Authority under this Act.



**Transfer and vesting of mineral rights of Government**

37. On the appointed day, the mineral rights of the Government shall be transferred to and shall vest in the Authority, and His Majesty the Sultan and Yang Di-Pertuan in Council hereby grants to the Authority all mineral rights.

**Transfer of petroleum regulatory undertaking of Government to Authority**

38. (1) On or before the appointed day, His Majesty the Sultan and Yang Di-Pertuan in Council shall specify the excluded property and excluded liabilities of the Government, including, without limitation, any specific right or obligation under any of the Government petroleum mining Agreements which shall not be transferred to, and shall not vest in, the Authority as part of the petroleum regulatory undertaking of the Government to be transferred to the Authority:

Provided that where any such specific right or obligation under any Government petroleum mining Agreement is so specified to be excluded property or excluded liabilities, notice of such specification shall also be given to the contractors who are parties to such petroleum mining Agreement.

(2) If any question arises as to whether any particular property or liabilities (including, without limitation, any particular assets, interests, rights, privileges or obligations) are excluded property or excluded liabilities for the purposes of subsection (1) and therefore have not been or should not be transferred to or be vested in the Authority as part of the petroleum regulatory undertaking of the Government transferred or to be transferred to the Authority on the appointed day, a certificate given at any time under the hand of His Majesty the Sultan and Yang Di-Pertuan as to whether such particular property or liabilities are such excluded property or excluded liabilities shall be conclusive evidence of the same.

(3) Subject to subsection (5), on the appointed day, all properties and liabilities comprised in the petroleum regulatory undertaking of the Government (including, without limitation, all assets, interests, rights, privileges and obligations comprised therein) shall be transferred to and shall vest in the Authority without further assurance, act or deed.

(4) Subject to subsection (5), every agreement relating to the petroleum regulatory undertaking of the Government to which the Government was a party immediately before the appointed day, whether or

not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from the appointed day as if —

(a) the Authority had been a party to such an agreement;

(b) for any reference to the Government there were substituted, in respect of anything to be done on or after the appointed day, a reference to the Authority;

(c) for any reference to the words “the Prime Minister” there were substituted, in respect of anything to be done on or after the appointed day, a reference to the Authority;

(d) for any reference to the words “the Authority” there were substituted, in respect of anything to be done on or after the appointed day, a reference to the Authority;

(e) for any reference to the words “His Majesty the Sultan and Yang Di-Pertuan” or “His Majesty the Sultan and Yang Di-Pertuan in Council” there were substituted, in respect of anything to be done on or after the appointed day, a reference to the Authority;

(f) for any reference (however worded and whether express or implied) to any other Government party there were substituted, in respect of anything to be done on or after the appointed day, a reference to the Authority; and

(g) for any reference (however worded and whether express or implied) to any representative of the Government there were substituted, as regards anything to be done on or after the appointed day, a reference to a representative of the Authority as the Authority may appoint for that purpose.

(5) (a) The Authority shall be liable only to perform an obligation under an agreement relating to the petroleum regulatory undertaking of the Government which is transferred to the Authority to the extent that the Authority would be able to perform such obligation from the appointed day, and the Authority shall not be liable to undertake any action in connection with such obligation if such action is not within the Authority’s capacity, power or authority;

Provided that where such action is within the Government's capacity, power or authority, the Authority shall request the Government to perform such action.

(b) Where a provision in an agreement relating to the petroleum regulatory undertaking of the Government which is transferred to the Authority had, prior to the appointed day, provided that the Government shall procure, provide or assist in the procurement or provision of any regulatory approval, the Authority's obligations under such provision are, from the appointed day, deemed satisfied if the Authority uses its reasonable endeavours to liaise with the relevant authorities or departments in connection with such regulatory approval.

(c) Any provision under any of the Government petroleum mining Agreements that requires the Government to nominate or designate a representative of the Government who is of managerial or senior status is, after the appointed day, deemed satisfied by the Authority nominating or designating a representative who is a senior officer of the Authority.

(d) For the avoidance of doubt, where any provision under any of the Government petroleum mining Agreements provides for any payment to the Minister of Finance and Economy or the Government of any amount whatsoever (including, without limitation, any royalty, rental payments or taxes), all such amounts shall continue to be payable to the Minister of Finance and Economy or the Government (as the case may be) after the appointed day and this Act shall not affect the obligation of any party (including, without limitation, any contractor) to make such payment to the Minister of Finance and Economy or the Government (as the case may be).

(e) For the avoidance of doubt, it is hereby declared that the Authority shall not be obliged to perform any obligation under any agreement relating to the petroleum regulatory undertaking of the Government which is transferred to the Authority if such obligation is an excluded liability.

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(6) For the avoidance of doubt, it is hereby declared that —

(a) any reference in this Act to property comprised in the petroleum regulatory undertaking of the Government is a reference to

such property (other than the excluded property) of the Government whether situated in or outside Brunei Darussalam; and

(b) any such reference to rights and liabilities comprised in the petroleum regulatory undertaking of the Government is a reference to such rights to which the Government is entitled or, as the case may be, such liabilities to which the Government is subject, whether under the laws of Brunei Darussalam or any country or territory outside Brunei Darussalam.

(7) The Government and the Authority shall take all such steps as may be necessary to secure that the vesting in the Authority by virtue of this section of any foreign property, right or liability is effective under the relevant foreign law.

(8) Nothing in subsection (7) shall be taken as prejudicing the effect under the laws of Brunei Darussalam of the vesting in the Authority by virtue of this section of any foreign property, right or liability.

(9) In subsections (7) and (8), references to any foreign property, right or liability are references, respectively, to any property, right or liability comprised in the petroleum regulatory undertaking of the Government as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of conflict of laws) by reference to the law of a country or territory outside Brunei Darussalam.

### **Pending proceedings relating to Government**

39. Every proceedings, relating to any of the properties or liabilities (including, without limitation, any assets, interests, rights, privileges and obligations) transferred to the Authority under section 38 pending or existing immediately before the appointed day, by or against the Government, or any person acting on its behalf, may be continued, completed or enforced by or against the Authority.

### **Transfer of employees of Government**

40. (1) On or before the appointed day, the Minister shall, by notice to the Authority, specify the relevant employees of the Government who shall be transferred to the service of the Authority pursuant to the provisions of this section.

(2) On the appointed day —

- (a) all relevant employees of the Government; and
- (b) such other persons as the Minister may determine,

employed immediately before the appointed day by the Government shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(3) Until such time as terms and conditions of service are drawn up by the Authority, the scheme and terms and conditions of service in the Government shall continue to apply to every person transferred to the service of the Authority under subsection (2) as if he were still in the service of the Government.

(4) The terms and conditions to be drawn up by the Authority shall take into account the salaries and terms and conditions of service, including any accrued rights to leave, enjoyed by the persons transferred to the service of Authority under subsection (2) while in the employment of the Government.

(5) Any term and condition relating to the length of service with the Authority shall provide for the recognition of service under the Government by the persons transferred under subsection (2) to be service by them under the Authority.

(6) Where, on the appointed day, any disciplinary proceedings were pending against any employee of the Government transferred to the service of the Authority under subsection (2), the proceedings shall be carried on and completed by the Authority.

(7) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or decision had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or decision as it could have made under the authority vested in it before the appointed day.

(8) Any order, ruling or decision made by a committee under this section shall be treated as an order, a ruling or a decision of the Authority and have the same force or effect as if it had been made by the Authority.

(9) The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Government, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Government, and if this Act had not been made.

### **Existing contracts and permissions relating to Government**

41. (1) Subject to section 38(5), all deeds, schemes, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed day to which the Government is a party and relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Authority under section 38 shall continue in full force and effect on and after the appointed day and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the Government.

(2) Any permission, notice, warrant, consent, approval, certificate, direction, order, declaration or other document prepared, made, granted or issued, and any act or thing done or given by the Government relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Authority under section 38 is, so far as it is not inconsistent with the provisions of this Act and except as otherwise expressly provided in this Act or in any other written law, deemed to have been prepared, made, granted, issued, done or given by the Authority and shall continue to have effect accordingly.

### **No breach or default because of transfer of petroleum regulatory undertaking of Government**

42. (1) The operation of this Part shall not be regarded as —

(a) a breach of contract or confidence or otherwise as a civil wrong;

(b) a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or

(c) giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument.

because of a change in the beneficial or legal ownership of any asset or liability.

(2) The operation of this Part shall not be regarded as an event of default or *force majeure* under any contract or other legal instrument.

(3) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Government is a party or may be bound prohibiting or having the effect of prohibiting the transfer of any property, assets, interests, rights, privileges, liabilities or obligations comprised in the petroleum regulatory undertaking of the Government transferred under this Part, is deemed to have been waived.

(4) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Government is a party or may be bound conferring on the other party or parties thereto any right of first refusal or pre-emption rights in respect of any property, asset, interest, right, privilege, liability or obligation comprised in the petroleum regulatory undertaking of the Government to be transferred by reason of or arising from, or to the effect that a default shall occur or is deemed to occur as a result of, the transfer or intended transfer of the property, asset, interest, right, privilege, liability or obligation under this Part, is deemed to have been waived.

(5) No attornment to the Authority by a lessee from the Government shall be required.

(6) No claim for any loss shall be brought against the Authority in relation to any act or thing done for the purposes of this Part.

### **Evidence of transfer of petroleum regulatory undertaking of Government**

43. The production of a *Gazette* copy of this Act, and such evidence of publication of the appointed day in the *Gazette*, shall for all purposes, be conclusive evidence of the transfer of the petroleum regulatory undertaking of the Government to the Authority and the vesting of the petroleum regulatory undertaking of the Government in the Authority in accordance with the provisions of this Act.

## PART 9

## GENERAL

**Power of Authority to exercise powers and functions under certain written laws**

44. (1) On the appointed day, the Authority shall, in addition to its powers, functions and duties set out in this Act, exercise all the powers and perform all the functions and discharge all duties conferred or imposed on the Authority under the written laws set out in Schedule 3.

(2) Notwithstanding any provision of this Act to the contrary, where a power, function or duty is vested in His Majesty the Sultan and Yang Di-Pertuan by or under any of such written law, it shall remain so vested and shall not be exercised or discharged by any other person.

(3) Notwithstanding anything contained in subsection (2), His Majesty the Sultan and Yang Di-Pertuan may, to such extent and subject to such conditions as His Majesty the Sultan and Yang Di-Pertuan may determine, delegate to the Authority such functions and powers, functions and duties as are vested in His Majesty the Sultan and Yang Di-Pertuan by or under any of such written law.

(4) Nothing in this section applies to any of the following offices —

- (a) the Attorney General;
- (b) the Auditor General;
- (c) the Chief Justice;
- (d) the Commissioner of Police;
- (e) the Public Prosecutor; or
- (f) the Solicitor General.

(5) On the appointed day, the Authority shall be charged with the general administration of the written laws set out in Schedule 3 and the performance of its functions and discharging its duties imposed on the Authority by those written laws.



(6) The Authority may authorise any person to assist it in the performance of its functions and discharging of its duties under the written laws set out in Schedule 3, either generally or in a particular case.

(7) Any decision made by the Minister, the Company or any other person under the written laws set out in Schedule 3 before the appointed day is, so far as it is not inconsistent with any provision of this Act or any other written law, and except as otherwise expressly provided in this Act or any other written law, deemed to be a decision by the Authority and shall continue to have effect accordingly.

(8) Any permission, notice, warrant, consent, approval, certificate, direction, order, declaration or other document, prepared, made, granted or issued, and any act or thing done or given by the Minister, the Company or any other person under the written laws set out in Schedule 3 before the appointed day is, so far as it is not inconsistent with any provision of this Act and except as otherwise expressly provided in this Act or any other written law, deemed to have been prepared, made, granted, issued, done or given by the Authority and shall continue to have effect accordingly.

(9) Where any document made in connection with or related to the written laws set out in Schedule 3 is made before the appointed day, and such document contains any reference to the Minister or the Company, such reference shall, as from the appointed day, be read as the Authority.

### **Powers of enforcement**

**45.** (1) In addition to the powers conferred on him by any other written law, an officer or other employee of the Authority may, on declaration of his office and production to the person against whom he is acting, such identification card as the Authority may direct to be carried by officers or other employees of the Authority, in relation to any offence under any such written law or for the purposes of investigating any offence or contravention of a provision of this Act, do all or any of the following —

(a) conduct such investigations as may be advantageous, necessary or expedient for the purposes of performing its functions and discharging its duties under this Act;

(b) enter any area, structure, vehicle, vessel, aircraft or building that has been, is being or is to be used in connection to petroleum operations;

(c) inspect and test any machinery or equipment that has been used, is used or shall be used in petroleum operations;

(d) take or remove, for analysis, testing or for use in evidence in connection with the commission of an offence under this Act, samples of petroleum or other substances from any area where any petroleum operations are being carried on;

(e) inspect, take extracts from, or make copies of any document relating to any petroleum operation;

(f) enter, inspect and search any premises at which any undertaking relating to petroleum operations is or may be carried out or an offence under this Act is being committed or is suspected to have been committed;

(g) require any person whom he reasonably believes to have committed an offence under such written law to furnish evidence of the person's identity;

(h) require any person, for the purpose of any such written law, to furnish any material, data or other information or produce any record, book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, copy or make extracts from the record, book, document or copy;

(i) require, by order in writing, the attendance before the officer or employee of any person being within the limits of Brunei Darussalam who from the information given or otherwise appears to be acquainted with the circumstances of the case, and the person so ordered shall attend as so required;

(j) examine orally any person who appears to be acquainted with the facts and circumstances of matters under this Act —

(i) whether before or after that person or anyone else is charged with an offence, or disciplinary proceedings are commenced, in connection with the matter; and

(ii) whether or not that person is to be called as a witness in any inquiry, trial or disciplinary proceedings in connection with the matter.

(2) If any person fails to attend as required by an order under subsection (1)(i), the officer or employee may report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order.

(3) A person who —

(a) refuses to give access to, or assaults, obstructs, hinders or delays, an officer or other employee of the Authority in the discharge of his duties;

(b) wilfully mis-states or without lawful excuse refuses to furnish any material, data or information or without lawful excuse refuses to produce any record, book, document or copy thereof required of him by an officer or other employee of the Authority under subsection (1)(h); or

(c) fails to comply with a lawful demand of an officer or employee of the Authority in the discharge of his duties,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 3 months or both and, in the case of a subsequent conviction, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.

### **Submission of reports**

**46.** (1) Any person involved in petroleum operations shall submit to the Authority reports relating to the petroleum operations, any petroleum data or on such other matters as the Authority may require.

(2) All reports required to be submitted pursuant to subsection (1) shall be submitted at the times, and shall contain such information, that are specified by notice in writing given by the Authority from time to time.

(3) Without prejudice to the generality of subsection (1), the Authority shall be entitled to require that any report required to be submitted pursuant to subsection (1) contain full and correct details of —

(a) any agreement or arrangement made by the person required to submit the report with any other person (whether in or outside Brunei Darussalam) in respect of any petroleum operation conducted;

(b) any costs, expenses or outgoings due or payable to any person (whether in or outside Brunei Darussalam) in connection with the conduct of any petroleum operation; or

(c) any correspondence originating from or addressed to the person required to submit the report that relates to any of the agreements, arrangements, costs, expenses or outgoings specified in paragraph (a) or (b).

(4) A person is not excused from furnishing any report, or any information required in a report, when required to do so under this section, on the ground that —

(a) the report or information might tend to incriminate him or expose him to liability or penalty; or

(b) he is under any duty of secrecy in respect of any information required in the report.

(5) Where any information or document is furnished as part of a report under this section, the Authority may make copies of or take extracts from the information or document.

(6) Any person who, in submitting a report under this section, knowingly or recklessly makes a statement or furnishes any information or document that is false or misleading in a material particular, is guilty of an offence and liable on conviction to the penalty provided for under subsection (9).

(7) Where the Authority requires a person to submit a report under this section and states that the notice or requirement must be kept confidential, the person (including any director, officer or employee of such person) shall not disclose any information relating to the notice or requirement to any other person.

(8) Any person who contravenes subsection (7) is guilty of an offence and liable on conviction to the penalty provided for under subsection (9).

(9) A person who —

(a) fails or neglects to comply with any requirement of the Authority under this section; or

(b) hinders or obstructs the Authority, or any officer or other employee of the Authority, in the performance of its function or the discharge of his duties or anything which the Authority or such officer or employee of the Authority is empowered or required to do under this section,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 3 months or both and, in the case of a subsequent conviction, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.

### **Power to require information or documents**

47. (1) The Authority may, by notice in writing, for the purpose of exercising any of its powers or performing its functions or discharging its duties, require —

(a) any person who is a party to a petroleum mining Agreement (other than the Authority);

(b) any person who has an ownership interest (direct or indirect) in a person mentioned in paragraph (a); or

(c) any director, officer or employee of any of the persons mentioned in paragraph (a) or (b),

to furnish the Authority, at such times and in such form and manner, any petroleum data, or such other information or documents, as the Authority may require and, to attend personally before the Authority and produce for examination any such petroleum data, or other information or documents, which the Authority may consider necessary.

(2) For the purposes of this section, an ownership interest is direct if it is held directly by a person in another person, and an ownership interest is indirect if it is held through a direct or an indirect ownership interest in a person that, itself, has a direct or an indirect ownership interest in another person.

(3) In this section —

“document” includes, in addition to a document in writing —

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any label, marking or other writing, which identifies or describes anything of which it forms a part, or to which it is attached by any means;

(d) any disc, tape, sound-track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

(e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and

(f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;

“writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

(4) Any officer or other employee of the Authority authorised by the Authority in that behalf —

(a) shall at all times have full and free access to all buildings, places, documents, computers, computer programmes and computer software (whether installed in a computer or otherwise) for any of the purposes of this Act;

(b) shall have access to any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers into readable and comprehensive format or text for any of the purposes of this Act;

(c) shall be entitled —

(i) without fee or reward, to inspect, copy or make extracts from any such document, computer, computer programmes, computer software or computer output; and

- (ii) at any reasonable time to inspect and check the operation of any computer, device, apparatus or material which is or has been in use in connection with anything to which this section applies;

(d) may take possession of any such document, computer, device, apparatus, material, computer programmer or computer software where in the opinion of the Authority —

- (i) the inspection, checking, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;
- (ii) any such items may be interfered with or destroyed unless possession is taken; or
- (iii) any such items may be required as evidence in proceedings for an offence under this Act;

(e) shall be entitled to require —

- (i) the person by whom or on whose behalf the computer is or has been used, or any person having charge of, or otherwise concerned with the operation of the computer, device, apparatus or material to provide the officer or other employee with such reasonable assistance as the Authority may require for the purposes of this section; and
- (ii) any person in possession of decryption information to grant the officer or other employee access to such decryption information necessary to decrypt data required for the purpose of this section; and

(f) shall be entitled to require a person in or at the building or place and who appears to the Authority or such officer or other employee to be acquainted with any fact or circumstance concerning the person's income, assets or liabilities —

- ~~(i) to answer any question to the best of that person's knowledge, information and belief; or~~
- (ii) to take reasonable steps to produce a document for inspection.

(5) A person is not excused from furnishing information or documents or answering a query when required to do so under this section, including pursuant to a notice under this section, on the ground that —

(a) the information or document or the answer might tend to incriminate him or expose him to liability or penalty; or

(b) he is under any duty of secrecy in respect of that information or document.

(6) Where any information or document is furnished pursuant to a requirement under this section, the Authority may make copies of or take extracts from the information or document.

(7) Any person who, in purported compliance with any requirement in a notice under this section, knowingly or recklessly makes a statement or furnishes any information or document that is false or misleading in a material particular is guilty of an offence and is liable on conviction to the penalty provided for under subsection (10).

(8) Where the Authority issues a notice to any person under this section and states that the notice or requirement must be kept confidential, the person (including any director, officer or employee of such person) shall not disclose any information relating to the notice or requirement to any other person.

(9) Any person who contravenes subsection (8) is guilty of an offence and liable on conviction to the penalty provided for under subsection (10).

(10) A person who —

(a) refuses, fails or neglects to comply with any notice of the Authority under this section; or

(b) hinders or obstructs the Authority, or any officer or employee of the Authority, in the performance of its function or the discharge of his duties or anything which the Authority or such officer or employee of the Authority is empowered or required to do under this section,

is guilty of an offence and liable on conviction to a fine of not exceeding \$20,000, imprisonment for a term not exceeding 3 months or both and, in the case of a subsequent conviction, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.



### **Power to issue directions**

48. (1) The Authority may, if it thinks it necessary or expedient in the public interest, issue written directions, either of a general or specific nature, to a contractor to comply with such requirements as the Authority may specify in the directions, or for any other purpose.

(2) It shall not be necessary to publish any direction under subsection (1) in the *Gazette*.

(3) The Authority may at any time vary or revoke any direction issued under subsection (1).

(4) Any contractor who fails to comply with any direction under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

### **Symbol or representation of Authority**

49. (1) The Authority shall have the exclusive right to the use of such symbol or representation as the Authority may select or devise and thereafter display or exhibit such symbol or representation in connection with its activities or affairs.

(2) Any person who, without the prior approval of the Authority, uses a symbol or representation identical with that of the Authority, or which so resembles the Authority's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

### **Immunity of assets managed by Authority**

50. (1) No attachment or execution shall be issued against the Authority or its property before the issuance of a final judgment in any legal proceedings brought before any court.

(2) The Authority may, in whole or in part, waive this protection, expressly and in writing.

### **Power to appoint attorney**

**51.** (1) The Authority may, by instrument under its common seal, appoint a person (whether in or outside Brunei Darussalam) to be its attorney.

(2) The person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorised by the instrument to do or execute.

### **Validity of acts and transactions of Authority**

**52.** The validity of an act or transaction of the Authority shall not be called into question in any court on the ground that any provision of this Act has not been complied with.

### **Preservation of secrecy**

**53.** (1) Except for the purpose of the performance of his functions or the discharge of his duties or when lawfully required to do so by any court or under the provisions of any other written law, no person who is or has been a member, an officer, an employee, a consultant or an agent of the Authority or a member of a committee shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his functions or the discharge of his duties.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

### **Guarantee by Government**

**54.** The Government shall be responsible for the payment of all moneys due by the Authority.

### **Corporate offenders and unincorporated associations**

**55.** (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the unincorporated association or a member of its governing body, the officer or member (as the case may be) as well as the unincorporated association shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(6) In this section —

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate, and includes a person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or a member of the committee of the unincorporated association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

“partner”. in relation to a partnership, includes a person purporting to act as a partner.

(7) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to provide for the application of any provision of this section, with such modifications as he considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a country or territory outside Brunei Darussalam.

### **Prosecution of offences**

56. No prosecution in respect of any offence under this Act shall be instituted except by or with the consent in writing of the Public Prosecutor.

### **Representation of Authority in civil proceedings**

57. Notwithstanding the provisions of any written law —

(a) in any civil proceedings by or against the Authority; or

(b) in any other civil proceedings in which the Authority is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorised by the Authority for that purpose may make any appearance or application and do any act in respect of any such proceedings on behalf of the Authority.

### **Jurisdiction**

58. Notwithstanding the provisions of any other written laws, the High Court shall have jurisdiction to try all offences under this Act.

### **Overriding effect**

59. In the event of a conflict arising from the provisions of this Act and of any other written law relating to the exercise of the powers and the performance of the functions and the discharge of the duties of the Authority, the provisions of this Act shall prevail.

**Composition of offences**

60. (1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the maximum fine prescribed for that offence.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Authority may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

**Amendment of Schedules**

61. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedules to this Act.

**Regulations**

62. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient for giving effect to and carrying out the provisions of this Act including the prescription of fees and of any other thing required to be or which may be prescribed under this Act, and for the due administration thereof.

**SCHEDULE 1**

(section 5)

**CONSTITUTION AND PROCEEDINGS OF BOARD****Tenure of office etc. of members**

1. A member shall hold office on such conditions of service as the Minister may determine and shall be eligible for reappointment.

**Temporary members**

2. The Minister may appoint any person to be a temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of any member.

**Temporary Chairman**

3. The Minister may appoint any member to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of the Chairman.

**Revocation of appointment**

4. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, at any time, revoke the appointment of the Chairman or any member without assigning any reason.

**Resignation**

5. A member may resign his office at any time by giving not less than one month's notice in writing to the Minister.

**Chairman may delegate function**

6. The Chairman may, in writing, authorise any member to exercise any power or perform any function conferred on the Chairman under this Act.

**Vacation of office**

7. The office of a member shall become vacant —

(a) on his death;

SCHEDULE 1 — *(continued)*

- (b) if he, without sufficient cause (the sufficiency thereof to be decided by the Board), fails to attend three consecutive meetings of the Board;
- (c) if he becomes in any manner disqualified from membership of the Board;
- (d) if he resigns his office; or
- (e) if his appointment is revoked.

**Filling of vacancy**

8. If a vacancy occurs in the membership of the Board, the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

**Disqualification from membership**

9. No person shall be eligible to be appointed or to remain a member if he —
- (a) is an undischarged bankrupt or has made any arrangement with his creditors;
  - (b) is incapacitated by physical or mental illness; or
  - (c) is otherwise unable or unfit to discharge the functions of a member.

**Disclosure of interest of members**

10. (1) A member who has direct or indirect personal or pecuniary interest in a transaction or project of the Board shall disclose the nature of his interest at a meeting of the Board.

(2) The disclosure by a member of his personal or pecuniary interest shall be recorded in the minutes of the Board and that member shall not take part in any deliberation of the Board with respect to the transaction or project, and if the Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

SCHEDULE 1 — *(continued)*

(3) For the purposes of determining whether there is a *quorum*, a member shall be treated as being present at a meeting, notwithstanding that under sub-paragraph (2) he cannot vote or has withdrawn from the meeting.

(4) For the purposes of this paragraph, an interest of any associate of a member shall be treated as an interest of the member.

(5) In this paragraph, “associate”, in relation to another person, means any of the following —

(a) the wife or husband, or son, daughter or more remote issue, of that person;

(b) the brother or sister, or parent or more remote lineal ancestor, of that person;

(c) the trustees of any settlement under which that person has life interest in possession;

(d) any company of which that person is a director;

(e) any person who is an employee or partner of that person;

(f) if that person is a company, any director or subsidiary undertaking of that company and any director or employee of such a subsidiary undertaking.

**Meetings and *quorum***

11. (1) The Board shall ordinarily meet for the despatch of business at such times and places as the Chairman may appoint.

(2) At every meeting of the Board, one half of the number of members shall constitute a *quorum*.

(3) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) Where not less than four members request the Chairman by notice in writing signed by them to convene a meeting of the Board for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.



SCHEDULE 1 — *(continued)*

(5) The Chairman shall preside at meetings of the Board.

(6) Where the Chairman is absent at a meeting, such member as the Chairman appoints as an acting Chairman shall preside at that meeting.

(7) The Board may invite any person, not being a member, to attend a meeting of the Board for the purpose of giving advice to the Board on any matter.

**Vacancy**

12. The Board may act notwithstanding any vacancy in its membership.

**Conduct of business**

13. (1) The Board may conduct its business and regulate its own procedure, including its meetings, in the way it considers appropriate.

(2) The Board shall cause proper records of its proceedings to be kept.

(3) All acts done by the Board shall, notwithstanding any vacancy in the Board or that is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be valid as if no such vacancy or defect had existed.

**Validity of proceedings**

14. The validity of any proceedings of the Board shall not be affected by any defect in the appointment of any member or by any contravention of paragraph 10 by any member.

## SCHEDULE 2

(section 26)

## FINANCIAL PROVISIONS

**Financial year**

1. The financial year of the Authority shall begin on 1st April and end on 31st March of each year.

**Budget**

2. (1) The Authority shall, in every financial year, prepare its annual budget for the ensuing financial year, which shall be approved and adopted by the Board.

(2) There shall be reported in the annual budget all revenue and income projected to be generated by the Authority or granted to the Authority from any source together with projected expenditures, including depreciation and provisions for losses.

(3) The Authority shall then cause a copy of the approved budget to be transmitted to the Minister of Finance and Economy not later than 60 days before the commencement of the new financial year.

(4) The Minister of Finance and Economy shall submit a copy of the approved budget, together with his recommendation to His Majesty the Sultan and Yang Di-Pertuan, for approval.

**Accounts and financial statements**

3. (1) The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by it.

(2) The Authority shall, as soon as practicable after the close of each financial year, cause financial statements in respect of that year to be prepared and submitted to the auditor of the Authority who shall audit and report on them.

**Audit**

4. (1) The accounts and financial statements of the Authority shall be audited annually by —

(a) the Auditor General; or

SCHEDULE 2 — *(continued)*

(b) any person who has been authorised to perform the duties required by the Companies Act (Chapter 39) to be performed by an auditor, who shall be appointed annually by the Authority:

Provided that where the accounts of the Authority have been audited by a person appointed under sub-paragraph (b), they may be verified by the Auditor General before they are presented to the Minister of Finance and Economy pursuant to paragraph 6(1).

(2) The auditor shall in his report state —

(a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;

(b) whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;

(c) whether the receipts, expenditure, investment of moneys and the acquisition and disposal of assets by the Authority during the financial year have been in accordance with this Act; and

(d) such other matters arising from the audit as he considers should be reported.

(3) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority.

(4) The auditor shall submit such periodical and special reports to the Minister and to the Authority as may appear to him to be necessary or as the Minister or the Authority may require.

(5) The remuneration of the auditor shall be paid out of the funds of the Authority.

**Powers of auditor**

5. (1) Subject to section 13(4), the auditor or any person authorised by him is entitled at all reasonable times to full and free access to all accounting and other records relating directly or indirectly to the financial transactions of the Authority.

(2) The auditor or a person authorised by him may make copies of or extracts from any such accounting and other records.

SCHEDULE 2 — *(continued)*

(3) The auditor may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.

(4) Any person who refuses or fails without any reasonable cause to allow the auditor access to any accounting and other records of the Authority in his custody or power or to give any information possessed by him as and when required or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers under this Act is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

**Presentation of financial statements and audited reports**

6. (1) As soon as the accounts of the Authority and the financial statements have been audited in accordance with the provisions of this Act, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

(2) Where the Auditor General is not the auditor of the Authority, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor General at the same time they are submitted to the Authority.

(3) The Minister shall as soon as practicable cause a copy of the audited financial statements and of the auditor's report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

**SCHEDULE 3**

(section 44(1), (5) and (6))

**LIST OF WRITTEN LAWS**

1. Petroleum Mining Act (Chapter 44)
2. Petroleum (Pipe-Lines) Act (Chapter 45).

