

No. S 42

CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

PETROLEUM AUTHORITY OF BRUNEI DARUSSALAM ORDER, 2019

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

PETROLEUM AUTHORITY OF BRUNEI DARUSSALAM ORDER, 2019

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART 1

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Petroleum Authority of Brunei Darussalam Order, 2019 and shall commence on such date or dates to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) The long title of this Order is “An Order to establish and incorporate the Petroleum Authority of Brunei Darussalam and for matters connected therewith or incidental thereto”.

Interpretation

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

“appointed day” means the date appointed under section 1(1) as the date of commencement of this Order;

“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 of 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 Order 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 Order, 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 Order, 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 Order 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 Order, 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 Order 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 of 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 Order 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 Order, 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 Order 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 Order, 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 Order 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 Order; and

(b) the provisions of this Order 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 Order, 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 Order 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 Order;

(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 Order;

(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 Order and of any regulations made under this Order; 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.

Directors by Minister

13. (1) The Minister may give to the Authority such directions, not inconsistent with the provisions of this Order, as he thinks fit, as to the exercise of its powers, performance of its functions and the discharge of its duties under this Order or 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 Order 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 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 Order.

(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 Order, 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 Order 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 Order 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 Order, 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 Order;

(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 Order 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 Order, 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 Order 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 Order, 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 Order, 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 Order; 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 Order.

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 Order 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 Order 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 Order 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 Order and except as otherwise expressly provided in this Order 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 is 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 Order, and such evidence of publication of the appointed day in the *Gazette* as is specified in section 1(1), 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 Order.

PART 8

TRANSFER OF GOVERNMENT PETROLEUM REGULATORY UNDERTAKING

Transfer of petroleum regulatory undertaking and mineral rights of Company

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 Order.

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 Order 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.

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

(a) any reference in this Order 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 Order 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 Order and except as otherwise expressly provided in this Order 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 Order, and such evidence of publication of the appointed day in the *Gazette* as is specified in section 1(1), 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 Order.

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 Order, 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 Order 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 Order or any other written law, and except as otherwise expressly provided in this Order 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 Order and except as otherwise expressly provided in this Order 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 Order, 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 Order;

(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 Order, 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 Order 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 Order —

(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 Order;

(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 Order;

(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 Order;

(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 Order 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 Order 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 Order 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 Order 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 Order 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 Order 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 Order.

Overriding effect

59. In the event of a conflict arising from the provisions of this Order 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 Order shall prevail.

Composition of offences

60. (1) The Authority may, in its discretion, compound any offence under this Order 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 Order.

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 Order including the prescription of fees and of any other thing required to be or which may be prescribed under this Order, and for the due administration thereof.

Consequential amendments to other written laws

63. (1) The provisions of the written laws specified in the first column of Schedule 4 are amended on the appointed day in the manner set out in the second column thereof.

(2) The provisions of the Petroleum (Pipe-Lines) Act (Chapter 45) specified in Schedule 5 are amended on the appointed day in the manner set out therein.

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 Order.

Vacation of office

7. The office of a member shall become vacant —

(a) on his death;

(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.

(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 subparagraph (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.

(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

(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 Order; 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.

(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 Order.

(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 Order 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 Order, 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)

SCHEDULE 4
(section 63(1))

**CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER
WRITTEN LAWS**

<i>First column</i>	<i>Second column</i>
1. Brunei National Petroleum Company Sendirian Berhad Order, 2002 (S 6/2002)	
Section 2	i. Delete the definition of “designated area”; ii. Delete the definition of “mineral rights”; iii. Delete the definition of “petroleum”; iv. Delete the definition of “regulatory income”; v. Delete the definition of “State Land”; vi. Delete the definition of “State Party”.
PART II (Part heading)	Delete “MINERAL RIGHTS” and substitute with “GUARANTEES OF VALIDITY” therefor.
Section 3	Repeal.
Section 6(2)	Delete “the” from the last second line and substitute with “this” therefor.
Section 7(2)	Repeal.
Section 7(3)	Delete “, other than those referred to in subsection (2),” from the first two lines.
Section 7(4)	Repeal.
Section 9(3)	Repeal and substitute with the following new subsection therefor — “(3) The Board shall be responsible for any issue referred to the Board in accordance with the Companies Act (Chapter 39) to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists, the provisions of this Order shall prevail.”.
Section 12	Repeal and substitute with the following new section therefor — “Financial provisions 12. (1) The income of the Company shall consist of commercial income.

SCHEDULE 4 — *(Continued)*

(2) The commercial income shall consist of all receipts, returns and revenues that the Company receives as a result of activities conducted as provided in section 7(3).

(3) The Company shall be entitled to retain all of the commercial income.

(4) Subject to subsection (5), His Majesty the Sultan and Yang Di-Pertuan in Council shall have the right to decline a dividend as proposed by the Board and to direct the Company in writing to pay such amount of dividend as His Majesty the Sultan and Yang Di-Pertuan in Council considers appropriate in the public interest.

(5) Subject to section 13(1) and notwithstanding any other provision of this Order or of any other written law, any direction so issued under subsection (4) shall be binding on the Company, its directors, officers and other employees.

(6) When issuing any direction to the Company, as provided in subsection (4) or section 13(1), His Majesty the Sultan and Yang Di-Pertuan in Council shall abide by the requirements of the Company's annual budgets, as approved by the Board, and by the Company's binding commitments to third parties".

Section 13(1)	Delete "subsection (8) of section 12" from the first line and substitute with "section 12(6)" therefor.
Section 13(2)	Delete "only of subsection (7) of section 12 and subsection (1) of this section" from the last two lines and substitute with "of subsection (1) and section 12(4) and (5)" therefor.
Section 13(3)	Repeal.
Section 15(2)	Delete ", other than the powers and duties under section 3" from the last line.
First Schedule	Repeal.
Second Schedule	Repeal.

SCHEDULE 4 — *(Continued)*

2. Petroleum Mining Act (Chapter 44)

Section 2

- i. Delete the definition of “Company”;
- ii. Insert the following new definition immediately before the definition of “designated area” —

“ “Authority” means the Petroleum Authority of Brunei Darussalam established by section 3 of the Petroleum Authority of Brunei Darussalam Order, 2019;”.
- iii. Delete the definition of “designated area” and substitute with the following new definition therefor —

“ “designated area” has the meaning provided in the Petroleum Authority of Brunei Darussalam Order, 2019;”.
- iv. Insert the following new definition immediately after the definition of “mineral right” —

“ “Minister” mean the Minister responsible for petroleum mining matters;
- v. In the definition of “State Party” —
 - (a) in paragraph (b), delete “Clerk” from the second line and substitute with “Secretary”;
 - (b) delete paragraph (c) and substitute with the following new paragraph therefor —

“(c) Petroleum Authority of Brunei Darussalam or any of the Authority’s representatives acting on the Authority’s behalf.”.

Section 3(1)

Insert “, in other written law” immediately after “Act” in the fifth line.

Section 3(2)

- i. Insert “including any amendments made thereto from time to time,” immediately after “Act” in the third line.
- ii. In the proviso, delete “or lease” and substitute with “, lease or Agreement; and that the same shall not be extended upon expiry, unless provided otherwise in written law”.

SCHEDULE 4 — *(Continued)*

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| Section 8(2) | Insert “which shall, unless His Majesty the Sultan and Yang Di-Pertuan in Council thinks fit to modify or exclude them in any particular case, be incorporated in any petroleum mining Agreement” immediately after “Agreement” in the second line. |
| Section 11 | <ul style="list-style-type: none"> i. Delete “Clerk” from the first line and substitute with “Secretary”. ii. In the proviso, delete “shall be executed for and on behalf of the Company by a duly authorised representative of the Company” and substitute with “under the Petroleum Authority of Brunei Darussalam, shall be executed for and on behalf of the Authority by a duly authorised representative of the Authority” therefor. |
| Section 13 | Delete “His Majesty in Council may from time to time make and when made vary, alter, amend, revoke or cancel” from the first line and substitute with “The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make”. |
| Section 14 | Repeal. |
3. Prevention of Corruption Act (Chapter 131)
- | | |
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| SCHEDULE | <p>Insert the following new item immediately after item 14 —</p> <p>“14A. Petroleum Authority of Brunei Darussalam”.</p> |
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4. Statutory Corporations (Contributions to Consolidated Fund) Order, 2016 (S 28/2016)
- | | |
|----------|---|
| SCHEDULE | <p>Insert the following new item immediately after “Perbadanan Tabung Amanah Islam Brunei” —</p> <p>“Petroleum Authority of Brunei Darussalam Petroleum Authority of Brunei Darussalam Order, 2019”.</p> |
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SCHEDULE 5
(section 63(2))

**CONSEQUENTIAL AND RELATED AMENDMENTS TO
PETROLEUM (PIPE-LINES) ACT (CHAPTER 45)**

Insertion of new Part heading into Chapter 45

1. The Petroleum (Pipe-Lines) Act, in this Schedule referred to as the Act, is amended by inserting the following new Part heading immediately before section 1 —

**“PART 1
PRELIMINARY”**

Insertion of new section 1A

2. The Act is amended by inserting the following new section immediately after section 1 —

“Application of Act

1A. (1) Where no initial or terminal point of a pipe-line is situated in Brunei Darussalam or the territorial waters of Brunei Darussalam or such other areas His Majesty the Sultan and Yang Di-Pertuan in Council may designated by order in writing, the pipe-line shall be disregarded for the purposes of this Act.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order in writing provide that specified provisions of this Act apply, subject to such modifications (if any) as are specified, to the whole or any part of a pipe-line of a kind mentioned in subsection (1).

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order in writing provide that specified provisions of this Act do not apply to a pipe-line of a specified kind or does not apply to such a pipe-line while any specified condition is satisfied.

(4) In this section, “specified” means specified in the order made under subsections (2) and (3)”.

Substitution of section 2

3. Section 2 of the Act is repealed and the following new section substituted therefor —

“Interpretation

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

“appointed day” means the date appointed under section 1(1) of the Petroleum Authority of Brunei Darussalam Order, 2019 as the date of commencement of that Order;

“Authority” means the Petroleum Authority of Brunei Darussalam established by section 3 of the Petroleum Authority of Brunei Darussalam Order, 2019;

“controlled pipe-line” means so much of any pipe-line as is in, under or over controlled waters and for which a permission for its construction or use is required pursuant to section 15A;

“controlled waters” means the territorial waters of Brunei Darussalam or such other areas as His Majesty the Sultan and Yang Di-Pertuan in Council may designate by order under section 1A(1);

“construct”, in relation to a pipe-line, includes to lay and connect;

“contractor” has the same meaning as in the Petroleum Authority of Brunei Darussalam Order, 2019;

“heard” means heard on behalf of the Authority by a person appointed by the Authority for the purpose;

“holder”, in relation to a permission, means the person to whom the permission was issued;

“Minister” means the Minister responsible for petroleum pipe-lines matters;

“notice” means notice in writing;

“onshore pipe-line” means a pipe-line to be constructed, or to be used, on, under or over any land in Brunei Darussalam and for which a permission for such construction or use is required pursuant to section 3;

“permission” means a permission required by section 3 or section 15A;

“permitted substances” means the things which may be conveyed by the onshore pipe-line or the controlled pipe-line, as the case may be, in accordance with a permission (or, if no permission for the use of the pipe-line is required by section 3(1) or section 15A(a), as the case may be, means the things which the pipe-line is designed to convey);

“person” includes a corporation, whether aggregate or sole;

“petroleum” means petroleum as defined in the Petroleum Mining Act (Chapter 44) and includes petroleum products;

“petroleum mining Agreement” has the same meaning as in the Petroleum Mining Act (Chapter 44);

“petroleum product” means petroleum that has undergone any processing or refining;

“pipe-line”, in relation to an application for a works permission, means the proposed pipe-line in respect of which the application is made;

“public road” means any highway by land whether for foot, bridle or wheeled traffic which is maintained out of public funds or is open for public use;

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

“works permission” means a permission —

(a) for works for the construction or use of onshore pipeline referred to in section 3(1); or

(b) for works for the construction or use of controlled pipe-line referred to in section 15A(a),

as the case may be.

(2) For the purposes of this Act, works at any place in, on or under or over, land in Brunei Darussalam or any controlled waters for the purpose of determining whether the place is suitable as part of the site of a proposed pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line are not works for the construction of a pipe-line.

(3) Any reference in this Act to a contravention of a provision of this Act or regulations made thereunder or directions given under this Act includes a reference to a failure to comply with that provision”.

Insertion of new sections 2A, 2B and 2C

4. The Act is amended by inserting the following three new sections immediately after section 2 —

“Meaning of “owner”

2A. (1) For the purposes of this Act, “owner” in relation to a pipe-line, and “proposed owner” in relation to a proposed pipe-line, means the person for the time being designated as the owner of the pipe-line, or as the proposed owner of the proposed pipe-line, as the case may be, by an order in writing made by the Authority.

(2) An order designating a person as the proposed owner of a proposed pipe-line may also provide for him to be designated as the owner of the pipe-line in question at a time determined by or under the order.

(3) Before designating a person under subsection (1) or (2), the Authority shall give the person an opportunity of being heard with respect to the matter.

(4) Where a person for the time being designated under subsection (1) or (2) requests the Authority in writing to cancel the designation, the Authority shall —

(a) consider the request; and

(b) if the Authority considers it appropriate to do so, give the person an opportunity of being heard in connection with the request.

“Pipe-line” includes associated apparatus and works

2B. (1) Except where the context otherwise requires, “pipe-line” includes any apparatus and works associated with a pipe or system of pipes comprised in such a pipe-line.

(2) For the purposes of this Act, the apparatus and works associated with a pipe or system of pipes comprised in such a pipe-line are —

(a) any apparatus for inducing or facilitating the flow of any thing through, or through a part of, the pipe or system;

(b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;

(c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;

(d) apparatus for supplying energy for the operation of any apparatus or works mentioned in paragraphs (a) to (c);

(e) apparatus for the transmission of information for the operation of the pipe or system;

(f) apparatus for the cathodic protection of the pipe or system; and

(g) any structure used or to be used solely for the support of a part of the pipe or system.

(3) The Authority may by order provide that a part of a pipe-line specified in the order shall be treated for the purposes of this Act, except this subsection, as a pipe-line.

Authorised officers

2C. (1) The Authority may appoint such number of authorised officers as may be necessary to assist the Authority in the administration of this Act.

(2) The Authority may make to, or in respect of, any person so appointed under subsection (1), such payments by way of remuneration or otherwise as the Authority determines with the approval of the Minister.”.

Insertion of new Part heading

5. The Act is amended by inserting the following new Part heading immediately before section 3 —

**“PART 2
ONSHORE PIPE-LINES”**

Amendment of section 3

6. Section 3 of the Act is amended —

(a) by deleting the marginal note and by substituting “Permission required for construction or use of on-shore pipe-lines” therefor;

(b) by deleting subsection (1), and by substituting the following new subsection —

“(1) No person shall construct, or use, on or under or over any land in Brunei Darussalam (whether such land is or is not his property) any onshore pipelines, without prior permission granted in writing by the Authority.”;

(c) by deleting subsection (2) and by substituting the following new subsection —

“(2) Any person who wishes to obtain permission to construct an onshore pipe-line shall apply in writing to the Authority.”;

(d) in subsection (3), by inserting “onshore” immediately before “pipe-line” in the last second line and the last third line;

(e) in subsection (4) —

- (i) by deleting “His Majesty the Sultan and Yang Di-Pertuan in Council” from the first two lines and by substituting “The Authority” therefor;
- (ii) by deleting “he” from the third line and by substituting “the Authority” therefor;
- (iii) in paragraph (a), by inserting “onshore” immediately before “pipe-line”;
- (iv) in paragraph (b), by deleting “lay and connect any pipe-line” from the first line and by substituting “construct any onshore pipe-line on, under or” therefor.

Insertion of new sections 3A, 3B, 3C, 3D, 3E and 3F

7. The Act is amended by inserting the following six new sections immediately after section 3 —

“Application of section 3B and Schedule 1

3A. Section 3B and Schedule 1 apply only with respect to —

(a) any permission or application for a permission to use any onshore pipe-line the construction of which was begun on or after the appointed day; or

(b) any permission or application for a permission to construct any onshore pipe-line to be constructed on or after the appointed day.

Issue and terms of permissions in respect of onshore pipe-lines

3B. (1) Schedule 1 shall have effect with respect to onshore pipe-lines.

(2) The Authority shall not issue a permission under section 3(4) in respect of an onshore pipe-line to a person other than a body corporate.

(3) Any permission in respect of an onshore pipe-line may contain such terms as the Authority thinks appropriate including in particular terms as to —

(a) the duration of the permission, including the method of ascertaining its duration;

(b) the persons or class of persons who are authorised to execute the works in question or to use the onshore pipe-line, or are so

authorised, if the Authority consents to the execution of the works or the use of the onshore pipe-line by them;

(c) in the case of a works permission in respect of an onshore pipe-line —

- (i) the route of the onshore pipe-line;
- (ii) the boundaries within which any works may be executed in pursuance of the permission; and
- (iii) the design and capacity of the onshore pipe-line or of part of it;

(d) the permitted substances to be conveyed by the onshore pipe-line;

(e) the steps to be taken to ensure that funds are available to discharge any liability for damage attributable to the release or escape of any thing from the onshore pipe-line;

(f) the transactions relating to the onshore pipe-line which are not to be entered into, and the other things relating to the onshore pipe-line which are not to be done, without the approval of the Authority;

(g) the persons who may be permitted to acquire an interest in the onshore pipe-line and who may not be permitted to retain such an interest;

(h) the operation of the onshore pipe-line, including the methods by which it is to be operated and the persons by whom it may be operated;

(i) the information to be provided in respect of the onshore pipe-line; and

(j) the giving by the Authority, with respect to matters specified in the permission, of directions which shall have effect as terms of the permission.

(4) Unless the Authority considers that there are special circumstances by reason of which the duration of a permission in respect of an onshore pipe-line should be limited, a permission shall provide for its duration to be unlimited subject to the provisions of this Part.

(5) Subsection (6) applies where a works permission in respect of an onshore pipe-line contains a term (in this section referred to as the onshore pipe-line variation term) requiring that —

(a) the capacity of the onshore pipe-line to which it relates or of any part of the onshore pipe-line shall be greater than that proposed in the application for the permission; or

(b) any of the route of the onshore pipe-line shall be different from that so proposed.

(6) Where this subsection applies, the Authority may, subject to section 3D(6), serve a notice in accordance with subsection (7) on —

(a) the holder of the permission; and

(b) any other person who made representations to the Authority that the capacity should be greater than that proposed as mentioned in subsection (5) or that any of the route should be different from that so proposed.

(7) A notice under subsection (6) shall —

(a) specify the sums or the method of determining the sums which the Authority considers should be paid to the holder by the other person for the purpose of defraying so much of the cost of constructing the onshore pipe-line as is attributable to the onshore pipe-line variation term;

(b) require the other person to make, within a specified period, arrangements which the Authority considers are appropriate to ensure that those sums will be paid to the holder if he constructs the onshore pipe-line or a relevant part of it in accordance with the onshore pipe-line variation term or satisfies the Authority that he will so construct it;

(c) provide that the holder may, if those arrangements are not made by the other person within the specified period, elect in the specified manner that —

(i) the onshore pipe-line variation term shall have effect with such modifications as are specified with a view to eliminating the consequences of the representations of the other person; and

(ii) the provisions included in the notice, by virtue of paragraph (d), shall cease to have effect; and

(d) authorise the holder, if he satisfies the Authority that the onshore pipe-line or a relevant part of it has been or will be constructed in accordance with the onshore pipe-line variation term, to recover those sums from the other person.

[8] In subsection [7], “specified” means specified in the notice.

Modification of onshore pipe-lines

3C. (1) If in the case of an onshore pipe-line it appears to the Authority, on the application of a person other than the owner of the onshore pipe-line that —

(a) the capacity of the onshore pipe-line can and should be increased by modifying apparatus and works associated with the pipe-line; or

(b) the onshore pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the onshore pipe-line,

then, subject to section 3D(7), the Authority may, after giving the owner of the onshore pipe-line an opportunity of being heard about the matter, serve on the owner and the applicant a notice in accordance with subsection (2).

(2) A notice under subsection (1) shall —

(a) specify the modifications which the Authority considers should be made in consequence of the application;

(b) specify the sums or the method of determining the sums which the Authority considers should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications;

(c) require the applicant to make, within the period specified for the purpose in the notice, arrangements which the Authority considers appropriate to secure that those sums will be paid to the owner if he carries out the modifications or satisfies the Authority that he will carry them out;

(d) require the owner, if the applicant makes those arrangements within that period, to carry out the modifications within a period specified for the purpose in the notice; and

(e) authorise the owner, if he satisfies the Authority that he has carried out or will carry out the modifications, to recover those sums from the applicant.

(3) References in subsections (1) and (2) to modifications include, in the case of modifications of any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works.

(4) For the purposes of section 3(1), a notice under subsection (1) requiring a person to carry out modifications grants him permission to carry out the modifications, but Schedule 1 does not apply to such a notice.

(5) Notwithstanding the provisions of this section, any pipe-line or system of pipe-lines declared by the Authority pursuant to section 16 to be common carriers are excepted from the operation of this section.

Acquisition of rights to use onshore pipe-lines

3D. (1) Subsections (2) and (3) apply where a person makes an application to the Authority for a notice under this section securing to the applicant a right to convey, by an onshore pipe-line of which he is not the owner, quantities specified in the application of things which are of a kind so specified and which the onshore pipe-line is designed to convey.

(2) The Authority shall —

(a) give notice to the owner of the onshore pipe-line and the applicant that the Authority proposes to consider the application; and

(b) after the expiry of 21 days beginning with the date on which notice under paragraph (a) was served, but before considering the application, give them an opportunity of being heard with respect to the application.

(3) Where the Authority is satisfied that, if the Authority served a notice under this section, the onshore pipe-line in question could be operated in accordance with the notice without prejudicing its efficient operation for the purpose of conveying, on behalf of its owner, the quantities of permitted substances which the owner requires or may reasonably be expected to require, the Authority may serve such a notice on the owner and the applicant.

(4) A notice under this section may contain such provisions as the Authority considers appropriate for any of the following purposes —

(a) to secure to the applicant, without prejudicing the efficient operation of the onshore pipe-line for the purpose mentioned in subsection (3), the right to convey by the onshore pipe-line the quantities specified in the application of the things so specified;

(b) to secure that the exercise of the right is not prevented or impeded;

(c) to regulate the charges which may be made for the conveyance of things by virtue of the right; and

(d) to secure to the applicant the right to have a pipe-line he owns to be connected to the onshore pipe-line by the applicant or owner.

(5) Such a notice may also authorise the owner to recover from the applicant payments by way of consideration for any right mentioned in subsection (4)(a) or (d) of amounts specified in the notice or determined in accordance with the notice.

(6) Before serving a notice under section 3B(6) on a person other than the holder of the relevant permission, the Authority shall give that person an opportunity to make an application under subsection (1) in respect of the proposed onshore pipe-line to which the permission relates; and subsections (1) to (5) shall have effect for this purpose as if references to an onshore pipe-line and the owner of it were references to the proposed onshore pipe-line and the proposed owner of it.

(7) Before serving a notice under section 3C(1) on a person other than the owner of the relevant onshore pipe-line, the Authority shall give that person particulars of the modifications which the Authority proposes to specify in the notice and an opportunity to make an application under subsection (1) in respect of the onshore pipe-line; and subsections (1) to (5) shall have effect for this purpose as if references to an onshore pipe-line were references to the onshore pipe-line as it would be with those modifications.

(8) The use of an onshore pipe-line by any person in accordance with a right secured to him by virtue of this section is not a contravention of section 3(1); but a person to whom a right is so secured may not assign the right to any other person.

(9) This section does not apply to any pipe-line or system of pipe-lines declared by the Authority pursuant to section 16 to be common carriers, and such pipe-lines are excepted from the operation of this section.

Expiry of permissions in respect of onshore pipe-lines

3E. (1) A permission in respect of an onshore pipe-line shall cease to be in force at the earliest of the following —

(a) where the duration of the permission is not expressed to be unlimited, the time at which that duration expires as specified by or ascertained under the terms of the permission;

(b) the time (if any) agreed in writing by the holder and the Authority as the time at which the permission is to cease to be in force; and

(c) the time specified in a notice under subsection (2) or (6).

(2) If it appears to the Authority that the execution of works authorised by a works permission in respect of an onshore pipe-line has not begun at the expiry of the period specified in subsection (3), the Authority shall serve on the holder a notice stating that the permission is to cease to be in force at a time specified in the notice.

(3) The period referred to in subsection (2) is —

(a) the period of 3 years beginning with the date when the permission is expressed to come into force; or

(b) such longer period beginning with that date as the Authority has, on the application of the holder, specified in a notice served under this paragraph on the holder during the period mentioned in paragraph (a).

(4) For the purposes of subsection (2), the Authority shall disregard the execution of any of the works which the Authority considers should be disregarded for that purpose.

(5) The Authority shall not serve a notice under subsection (3)/(b) unless —

(a) the Authority is satisfied that notice of the application under that provision has been served on —

(i) the persons on whom, in accordance with Schedule 1, notice of the application for the permission was served or such of them as the Authority considers appropriate in the circumstances; and

(ii) such other persons, if any, as the Authority considers appropriate in the circumstances; and

(b) the Authority has considered any written representation about the application under subsection (3)/(b), made during such a period as the Authority considers reasonable, by any of the persons on whom notice of the application was served in accordance with paragraph (a).

(6) Subject to subsections (7) and (8), if the Authority considers that the holder of a permission in respect of an onshore pipe-line —

(a) has contravened a term of the permission; or

(b) has contravened any provision of a notice which, under section 3C or 3D, was served on him in his capacity as the owner of the

onshore pipe-line (or the proposed owner of the proposed onshore pipe-line) to which the permission relates,

the Authority may serve on the holder a notice stating that the permission is to cease to be in force at a time specified in the notice.

(7) The Authority shall not serve a notice under subsection (6) without first giving the holder of the permission an opportunity to make written representations to him.

(8) The Authority shall not serve a notice under subsection (6) in consequence of a contravention if the Authority considers that —

(a) having regard to the nature and consequences of the contravention and to any previous contravention, it would be unreasonable to terminate the permission in consequence of the contravention; and

(b) the holder has taken adequate steps to prevent similar contraventions in future.

(9) When a permission in respect of an onshore pipe-line ceases to be in force, the Authority shall publish in the *Gazette*, a notice stating that it has ceased to be in force.

Vesting of onshore pipe-lines upon expiry of permission

3F. (1) When a permission in respect of an onshore pipe-line ceases to be in force, the onshore pipe-line to which it relates shall, by virtue of this subsection, be transferred to and shall vest in the Authority free from encumbrances, except that nothing in this subsection prejudices —

(a) any interest belonging to the Government; or

(b) any right conferred by a notice relating to the onshore pipe-line under section 3D.

(2) Where the Authority proposes to issue a permission in respect of an onshore pipe-line to any person in respect of an onshore pipe-line vested in the Authority by virtue of subsection (1), the Authority may agree with that person, on terms which may include provision for that person to make payments to the Authority, that the permission is to include a statement that subsection (3) applies to the permission.

(3) Where a permission in respect of an onshore pipe-line includes such a statement, the onshore pipe-line to which the permission relates shall, by virtue of this subsection and at the time specified in the permission, be transferred to and shall vest in the holder of the permission subject to any

interest or right then subsisting in respect of the pipe-line by virtue of subsection (1)(a) or (b).”.

Amendment of section 4

8. Section 4 of the Act is amended —

(a) in the marginal note, by inserting “onshore” immediately before “pipe-line”;

(b) in subsection (1) —

(i) by deleting “pipe-line shall be used or laid and connected” and by substituting “onshore pipe-line shall be constructed or used” therefor;

(ii) by inserting “onshore” immediately before “pipe-line” wherever the word appears;

(iii) by deleting “Minister” from the third line and by substituting “Authority” therefor;

(iv) by deleting “oil” and by substituting “permitted substance” therefor;

(c) in subsection (3), by deleting “Minister” from the fourth line and by substituting “Authority” therefor.

Amendment of section 5

9. Section 5 of the Act is amended by inserting “onshore” immediately before “pipe-line” in the first line and the last line.

Amendment of section 6

10. Section 6 of the Act is amended —

(a) in the marginal note, by deleting “lay pipe-line” and by substituting “construct onshore pipe-line” therefor;

(b) by inserting “onshore” immediately before “pipe-lines” wherever the word appears.

Amendment of section 7

11. Section 7 of the Act is amended —

(a) by deleting “lay pipe-lines” from the second line and by substituting “construction” therefor;

(b) by inserting “onshore” immediately before “pipe-lines” in the third line.

Amendment of section 8

12. Section 8 of the Act is amended by deleting “Minister” from the fourth line and the last line and by substituting “Authority” therefor.

Amendment of section 9

13. Section 9 of the Act is amended —

(a) in subsection (1), by deleting “lay pipe-lines” and by substituting “construct onshore pipe-line” therefor;

(b) in subsection (2) —

(i) by deleting “Minister” from the second line and by substituting “Authority” therefor;

(ii) by deleting “lay pipe-lines” and by substituting “construct onshore pipe-line” therefor;

(iii) in paragraph (i), by inserting “onshore” immediately before “pipe-lines”;

(c) in subsection (3) —

(i) in paragraph (a), by deleting “lay pipe-lines” and by substituting “construct onshore pipe-line” therefor;

(ii) in paragraph (b) —

(A) by deleting “Minister” from the fifth line and by substituting “Authority” therefor;

(B) by inserting “onshore” immediately before “pipe-line” in the last line;

- (iii) in paragraph (c), by deleting “lay pipe-lines” and by substituting “construct onshore pipe-line” therefor.

Amendment of section 10

14. Section 10 of the Act is amended —

- (a) by deleting “Minister” from the second line and the sixth line and by substituting “Authority” therefor;

- (b) by deleting “him” from the second line and by substituting “the Authority” therefor;

- (c) by deleting “his discretion and he” from the last two lines and by substituting “the discretion of the Authority and the Authority” therefor.

Amendment of section 11

15. Section 11 of the Act is amended by deleting “Minister” from the first line and by substituting “Authority” therefor.

Amendment of section 12

16. Section 12 of the Act is amended by deleting “seem” from the last line and by substituting “thinks” therefor.

Amendment of section 13

17. Section 13 of the Act is amended —

- (a) in the marginal note, by inserting “onshore” immediately before “pipes”;

- (b) in subsection (1) —

- (i) by deleting “pipe-lines have been laid” from the first line and the sixth line and by substituting “onshore pipe-lines have been constructed” therefor;

- (ii) by inserting “onshore” immediately before “pipe-lines” in the third line and the last second line;

- (c) in subsection (2), by inserting “onshore” immediately before “pipe-lines” in the first line.

Amendment of section 14

18. Section 14 of the Act is amended —

(a) in the marginal note, by inserting “onshore” immediately before “pipe-lines”;

(b) by deleting “a” from the second line and by substituting “an onshore” therefor;

(c) by inserting “onshore” immediately before “pipe-line” in the last second line;

(d) by deleting “laying and connecting” from the last third line and by substituting “constructing” therefor.

Amendment of section 15

19. Section 15 of the Act is amended —

(a) in the marginal note, by deleting “pipes to make” and by substituting “onshore pipe-lines to pay” therefor;

(b) by deleting “a” from the second line and by substituting “an onshore” therefor;

(c) in the proviso, by deleting “pipe-lines make tender of sufficient amends” from the second line and by substituting “the onshore pipe-lines pays compensation” therefor.

Insertion of new Part 3

20. The Act is amended by inserting the following new Part immediately after section 15 —

**“PART 3
CONTROLLED PIPE-LINES”**

Permission required for construction or use of controlled pipe-lines

15A. No person shall —

(a) execute in, under or over any controlled waters any works for the construction of a controlled pipe-line; or

(b) use the construction of a controlled pipe-line,

without prior permission granted in writing by the Authority.

Issue and terms of permissions in respect of controlled pipe-lines

15B. (1) Schedule 2 shall have effect with respect to controlled pipe-lines.

(2) The Authority shall not issue a works permission under paragraph 7(2) in Schedule 1 in respect of a controlled pipe-line to a person other than a body corporate.

(3) Any permission in respect of a controlled pipe-line may contain such terms as the Authority thinks appropriate including in particular terms as to —

(a) the duration of the permission, including the method of ascertaining its duration;

(b) the persons or class of persons who are authorised to execute the works in question or to use the controlled pipe-line, or are so authorised, if the Authority consents to the execution of the works or the use of the controlled pipe-line by them;

(c) in the case of a works permission in respect of a controlled pipe-line —

(i) the route of the controlled pipe-line;

(ii) the boundaries within which any works may be executed in pursuance of the permission;

(iii) the design and capacity of the controlled pipe-line or of part of it; and

(iv) the steps to be taken to avoid or reduce interference by the controlled pipe-line with fishing or with other activities connected with the sea or the sea bed or subsoil;

(d) the permitted substances to be conveyed by the controlled pipe-line;

(e) the steps to be taken to ensure that funds are available to discharge any liability for damage attributable to the release or escape of any thing from the controlled pipe-line;

(f) the transactions relating to the controlled pipe-line which are not to be entered into, and the other things relating to the controlled

pipe-line which are not to be done, without the approval of the Authority;

(g) the persons who may be permitted to acquire an interest in the controlled pipe-line and who may not be permitted to retain such an interest;

(h) the operation of the controlled pipe-line, including the methods by which it is to be operated and the persons by whom it may be operated;

(i) the information to be provided in respect of the controlled pipe-line; and

(j) the giving by the Authority, with respect to matters specified in the permission, of directions which shall have effect as terms of the permission.

(4) Unless the Authority considers that there are special circumstances by reason of which the duration of a permission in respect of a controlled pipe-line should be limited, a permission shall provide for its duration to be unlimited subject to the provisions of this Part.

(5) Subsection (6) applies where a works permission in respect of a controlled pipe-line contains a term (in this section referred to as the controlled pipe-line variation term) requiring that —

(a) the capacity of the controlled pipe-line to which it relates or of any part of the controlled pipe-line shall be greater than that proposed in the application for the permission; or

(b) any of the route of the controlled pipe-line shall be different from that so proposed.

(6) Where this subsection applies, the Authority may, subject to section 15D(6), serve a notice in accordance with subsection (7) on —

(a) the holder of the permission; and

(b) any other person who made representations to the Authority that the capacity should be greater than that proposed as mentioned in subsection (5) or that any of the route should be different from that so proposed.

(7) A notice under subsection (6) shall —

(a) specify the sums or the method of determining the sums which the Authority considers should be paid to the holder by the other person for the purpose of defraying so much of the cost of constructing the controlled pipe-line as is attributable to the controlled pipe-line variation term;

(b) require the other person to make, within a specified period, arrangements which the Authority considers are appropriate to ensure that those sums will be paid to the holder if he constructs the controlled pipe-line or a relevant part of it in accordance with the controlled pipe-line variation term or satisfies the Authority that he will so construct it;

(c) provide that the holder may, if those arrangements are not made by the other person within the specified period, elect in the specified manner that —

(i) the controlled pipe-line variation term shall have effect with such modifications as are specified with a view to eliminating the consequences of the representations of the other person; and

(ii) the provisions included in the notice, by virtue of paragraph (d), shall cease to have effect; and

(d) authorise the holder, if he satisfies the Authority that the controlled pipe-line or a relevant part of it has been or will be constructed in accordance with the controlled pipe-line variation term, to recover those sums from the other person.

(8) In subsection [7], “specified” means specified in the notice.

Modification of controlled pipe-lines

15C. (1) If in the case of a controlled pipe-line it appears to the Authority, on the application of a person other than the owner of the controlled pipe-line that —

(a) the capacity of the controlled pipe-line can and should be increased by modifying apparatus and works associated with the controlled pipe-line; or

(b) the controlled pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the controlled pipe-line,

then, subject to section 15D(7), the Authority may, after giving the owner of the controlled pipe-line an opportunity of being heard about the matter, serve on the owner and the applicant a notice in accordance with subsection (2).

(2) A notice under subsection (1) shall —

(a) specify the modifications which the Authority considers should be made in consequence of the application;

(b) specify the sums or the method of determining the sums which the Authority considers should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications;

(c) require the applicant to make, within the period specified for the purpose in the notice, arrangements which the Authority considers appropriate to secure that those sums will be paid to the owner if he carries out the modifications or satisfies the Authority that he will carry them out;

(d) require the owner, if the applicant makes those arrangements within that period, to carry out the modifications within a period specified for the purpose in the notice; and

(e) authorise the owner, if he satisfies the Authority that he has carried out or will carry out the modifications, to recover those sums from the applicant.

(3) References in subsections (1) and (2) to modifications include, in the case of modifications of any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works.

(4) For the purposes of section 3(1), a notice under subsection (1) requiring a person to carry out modifications grants him permission to carry out the modifications, but Schedule 2 does not apply to such a notice.

(5) Notwithstanding the provisions of this section, any pipe-line or system of pipe-lines declared by the Authority pursuant to section 16 to be common carriers are excepted from the operation of this section.

Acquisition of rights to use controlled pipe-lines

15D. (1) Subsections (2) and (3) apply where a person makes an application to the Authority for a notice under this section securing to the applicant a right to convey, by a controlled pipe-line of which he is not the owner, quantities specified in the application of things which are of a kind so specified and which the controlled pipe-line is designed to convey.

(2) The Authority shall —

(a) give notice to the owner of the controlled pipe-line and the applicant that the Authority proposes to consider the application; and

(b) after the expiry of 21 days beginning with the date on which notice under paragraph (a) was served, but before considering the application, give them an opportunity of being heard with respect to the application.

(3) Where the Authority is satisfied that, if the Authority served a notice under this section, the controlled pipe-line in question could be operated in accordance with the notice without prejudicing its efficient operation for the purpose of conveying, on behalf of its owner, the quantities of permitted substances which the owner requires or may reasonably be expected to require, the Authority may serve such a notice on the owner and the applicant.

(4) A notice under this section may contain such provisions as the Authority considers appropriate for any of the following purposes —

(a) to secure to the applicant, without prejudicing the efficient operation of the controlled pipe-line for the purpose mentioned in subsection (3), the right to convey by the controlled pipe-line the quantities specified in the application of the things so specified;

(b) to secure that the exercise of the right is not prevented or impeded;

(c) to regulate the charges which may be made for the conveyance of things by virtue of the right; and

(d) to secure to the applicant the right to have a controlled pipe-line he owns to be connected to the controlled pipe-line by the applicant or owner.

(5) Such a notice may also authorise the owner to recover from the applicant payments by way of consideration for any right mentioned in subsection (4)(a) or (d) of amounts specified in the notice or determined in accordance with the notice.

(6) Before serving a notice under section 15B(6) on a person other than the holder of the relevant permission, the Authority shall give that person an opportunity to make an application under subsection (1) in respect of the proposed controlled pipe-line to which the permission relates; and subsections (1) to (5) shall have effect for this purpose as if references to a

controlled pipe-line and the owner of it were references to the proposed controlled pipe-line and the proposed owner of it.

(7) Before serving a notice under section 15C(1) on a person other than the owner of the relevant controlled pipe-line, the Authority shall give that person particulars of the modifications which the Authority proposes to specify in the notice and an opportunity to make an application under subsection (1) in respect of the controlled pipe-line; and subsections (1) to (5) shall have effect for this purpose as if references to an controlled pipe-line were references to the controlled pipe-line as it would be with those modifications.

(8) The use of a controlled pipe-line by any person in accordance with a right secured to him by virtue of this section is not a contravention of section 15A; but a person to whom a right is so secured may not assign the right to any other person.

(9) This section does not apply to any pipe-line or system of pipe-lines declared by the Authority pursuant to section 16 to be common carriers, and such pipe-lines are excepted from the operation of this section.

Expiry of permissions in respect of controlled pipe-lines

15E. (1) A permission in respect of a controlled pipe-line shall cease to be in force at the earliest of the following —

(a) where the duration of the permission is not expressed to be unlimited, the time at which that duration expires as specified by or ascertained under the terms of the permission;

(b) the time (if any) agreed in writing by the holder and the Authority as the time at which the permission is to cease to be in force; and

(c) the time specified in a notice under subsection (2) or (6).

(2) If it appears to the Authority that the execution of works authorised by a works permission in respect of a controlled pipe-line has not begun at the expiry of the period specified in subsection (3), the Authority shall serve on the holder a notice stating that the permission is to cease to be in force at a time specified in the notice.

(3) The period referred to in subsection (2) is —

(a) the period of 3 years beginning with the date when the permission is expressed to come into force; or

(b) such longer period beginning with that date as the Authority has, on the application of the holder, specified in a notice served under this paragraph on the holder during the period mentioned in paragraph (a).

(4) For the purposes of subsection (2), the Authority shall disregard the execution of any of the works which the Authority considers should be disregarded for that purpose.

(5) The Authority shall not serve a notice under subsection (3)(b) unless —

(a) the Authority is satisfied that notice of the application under that provision has been served on —

- (i) the persons on whom, in accordance with Schedule 2, notice of the application for the permission was served or such of them as the Authority considers appropriate in the circumstances; and
- (ii) such other persons, if any, as the Authority considers appropriate in the circumstances; and

(b) the Authority has considered any written representation about the application under subsection (3)(b) made during such a period as the Authority considers reasonable by any of the persons on whom notice of the application was served in accordance with paragraph (a).

(6) Subject to subsections (7) and (8), if the Authority considers that the holder of a permission in respect of a controlled pipe-line —

(a) has contravened a term of the permission; or

(b) has contravened any provision of a notice which, under section 15C or 15D, was served on him in his capacity as the owner of the controlled pipe-line (or the proposed owner of the proposed controlled pipe-line) to which the permission relates,

the Authority may serve on the holder a notice stating that the permission is to cease to be in force at a time specified in the notice.

(7) The Authority shall not serve a notice under subsection (6) without first giving the holder of the permission an opportunity to make written representations to him.

(8) The Authority shall not serve a notice under subsection (6) in consequence of a contravention if the Authority considers that —

(a) having regard to the nature and consequences of the contravention and to any previous contravention, it would be unreasonable to terminate the permission in consequence of the contravention; and

(b) the holder has taken adequate steps to prevent similar contraventions in future.

[9] When a permission in respect of a controlled pipe-line ceases to be in force, the Authority shall publish in the *Gazette*, a notice stating that it has ceased to be in force.

Vesting of controlled pipe-lines upon expiry of permission

15F. (1) When a permission in respect of a controlled pipe-line ceases to be in force, the controlled pipe-line to which it relates shall, by virtue of this subsection, be transferred to and shall vest in the Authority free from encumbrances, except that nothing in this subsection prejudices —

(a) any interest belonging to the Government; or

(b) any right conferred by a notice relating to the controlled pipe-line under section 15D.

(2) Where the Authority proposes to issue a permission in respect of a controlled pipe-line to any person in respect of a controlled pipe-line vested in the Authority by virtue of subsection (1), the Authority may agree with that person, on terms which may include provision for that person to make payments to the Authority, that the permission is to include a statement that subsection (3) applies to the permission.

(3) Where a permission in respect of a controlled pipe-line includes such a statement, the controlled pipe-line to which the permission relates shall, by virtue of this subsection and at the time specified in the permission, be transferred to and shall vest in the holder of the permission subject to any interest or right then subsisting in respect of the pipe-line by virtue of subsection (1)(a) or (b)."

Insertion of new Part heading

21. The Act is amended by inserting the following new Part heading immediately before section 16 —

**“PART 4
GENERAL”.**

Amendment of section 16

22. Section 16 of the Act is amended —

(a) by deleting “His Majesty in Council” and by substituting “the Authority” wherever those words appear;

(b) by deleting “rules and” from the sixth line;

(c) in the first proviso —

(i) by deleting “Minister” from the fifth line and the ninth line and by substituting “Authority” therefor;

(ii) by deleting “rules and” from the last second line.

Amendment of section 17

23. Section 17 of the Act is amended —

(a) by deleting the marginal note and by substituting “Regulations in respect of pipe-lines declared to be common carriers” therefor;

(b) by deleting “rules and” from the first line;

(c) by deleting “oil” from the fourth line and the fifth line and by substituting “permitted substances” therefor;

(d) by deleting “rule or” from the seventh line;

(e) by deleting “His Majesty in Council, and his successors” from the last seventh line and by substituting “the Authority” therefor;

(f) by deleting “His Majesty in Council” from the last fifth and sixth lines and by substituting “the Authority” therefor;

(g) by deleting “rules or” from the last second and third lines.

Amendment of section 18

24. Section 18 of the Act is amended —

(a) by deleting “His Majesty in Council” from the first line and by substituting “the Authority” therefor;

(b) by deleting “lay and connect” from the second line and by substituting “construct” therefor;

(c) by deleting “to him seem” from the third and fourth lines and by substituting “the Authority thinks” therefor;

(d) by deleting “lay” from the fifth line and by substituting “construct” therefor.

Addition of new sections 19 to 24

25. The Act is amended by adding the following five new sections —

“Offences and penalties

19. (1) Any person who —

(a) contravenes any provision of section 3(1) or section 15A;

(b) contravenes any provision of a notice under section 3C or 3D served on him in his capacity as the owner of the onshore pipe-line to which the notice relates in a case where no permission for the use of the pipe-line is required by section 3(1);

(c) contravenes any provision of a notice under section 15C or 15D served on him in his capacity as the owner of the controlled pipe-line to which the notice relates in a case where no permission for the use of the controlled pipe-line is required by section 15A; or

(d) makes a statement which he knows is false in a material particular, or recklessly makes a statement which is false in a material particular, for the purpose of inducing the Authority —

(i) to issue any permission;

(ii) to agree under section 3E(1)(b) or section 15E(1)(b) that a permission is to cease to be in force;

(iii) to specify a period under section 3E(3)(b) or section 15E(3)(b); or

(iv) not to serve a notice under section 3E(6) or section 15E(6),

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.

(2) If a person executes any works in contravention of section 3(1) or section 15A, the Authority may at any time serve on him a notice requiring him to remove such of the works as are specified in the notice as works to be removed.

(3) The recipient of a notice under subsection (2) shall comply with the notice within the period specified in the notice; and if he fails to do so the Authority may remove such of the works as are specified in the notice on his behalf and recover from him any expenses reasonably incurred in doing so.

(4) If a person executes any works in contravention of section 3(1) or section 15A and the Authority considers that it is urgently necessary to do such things in relation to the works as the Authority could have required that person to do by a notice under subsection (2), the Authority may do those things and recover from that person any expenses reasonably incurred in doing so.

(5) The fact that anything is done or omitted —

(a) by the recipient of a notice under subsection (2) for the purpose of complying with the notice; or

(b) by the Authority under subsection (3) or (4),

shall not relieve him from liability for any damage which is attributable to the act or omission and for which he would have been liable had the act or omission not been authorised by this section; but the Authority shall be entitled to recover from the person who executed the works in question the amount of any damages which, in consequence of the works, are paid by the Authority by virtue of this subsection.

Criminal proceedings

20. (1) In any proceedings for an offence under section 19(1) or regulations made under this Act, an averment in the information, complaint or indictment that anything was done or situated in Brunei Darussalam shall, unless the contrary is proved, be sufficient evidence of the matter stated in the averment.

(2) In any proceedings for —

(a) an offence under section 19(1)(a) of executing works or using a pipe-line otherwise than in accordance with the terms of the relevant permission; or

(b) an offence under section 19(1)(b) of contravening any provision of a notice,

it shall be a defence to prove that the accused used all due diligence to comply with those terms or with that provision, as the case may be.

Offences by bodies of persons

21. (1) Where an offence against this Act has been committed by a body corporate, a partnership or unincorporated association of persons, any person who at the time of the commission of the offence was a director, manager, partner, secretary or other similar officer, or was purporting to act in such capacity is guilty of that offence unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) In subsection (1), in relation to a body corporate which —

(a) is established by or under any written law for the purpose of carrying on, under public ownership, any industry or part of an industry or undertaking; and

(b) is a body whose affairs are managed by its members,

“director” means a member of the body corporate.

(3) Where an offence against this Order is committed by any person acting as an agent or servant of another person, or being otherwise subject to the supervision or instruction of another person for the purposes of any employment in the course of which the offence was committed, that other person, without prejudice to the liability of the first-mentioned person, is liable under this Order in the same manner and to the same extent as if he had personally committed the offence if it is proved that the act which constituted the offence was committed with his consent or connivance or that it was attributable to any neglect on his part.

Service of documents etc.

22. (1) Any document required or authorised by this Act to be given to or served on any person may be given or served either by delivering it to that person, or by leaving it at his proper address, or by the recorded delivery service.

(2) Any such document required or authorised to be given to or served on an authority or body being a corporation shall be duly given or served if it is given to or served on the secretary or clerk of the authority or body.

(3) For the purposes of this section, the proper address of any person to or on whom any such document is to be given or served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and in any other case, be the last-known address of the person to be served:

Provided that, where the person to or on whom the document is to be given or served has, in accordance with arrangements agreed or in accordance with this Act, furnished an address for the giving or service of the document, being an address in Brunei Darussalam, his proper address for such purposes shall be the address furnished.

Relation to other laws

23. Except so far as this Act otherwise expressly provides, nothing in this Act —

(a) confers a right of action in any civil proceedings (other than proceedings for recovery of a fine) in respect of any contravention of this Act or regulations made thereunder;

(b) affects any restriction imposed by or under any other written laws; or

(c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

Certain sections not to apply with respect to certain petroleum mining Agreements

24. (1) Notwithstanding any other provisions in this Act, sections 1A, 1C and 2B, sections 3A to 3F, sections 15A to 15F, and sections 19, 20 and 23 do not apply to any thing to be done or permitted to be done by any contractor pursuant to the terms of any petroleum mining Agreement entered into by such contractor with any State Party prior to the appointed day and nothing in sections 1A, 1C and 2B, sections 3A to 3F, sections 15A to 15F, and sections 19, 20 and 23 shall adversely affect the rights of such contractor under such petroleum mining Agreement:

Provided that sections 1A, 1C and 2B, sections 3A to 3F, sections 15A to 15F, and sections 19, 20 and 23 apply with respect to —

(a) any petroleum mining Agreement entered into by a contractor with a State Party on or after the appointed day, including, without limitation, any petroleum mining Agreement entered into by a contractor with a State Party as a consequence of or pursuant to any of the terms of any petroleum mining Agreement made prior to the appointed day (including without limitation any terms relating to or providing for the surrender or variation of any area over which any rights may have been granted under such petroleum mining Agreement);

(b) any petroleum mining Agreement made prior to the appointed day where the duration or term for which rights are granted to a contractor under such petroleum mining Agreement is extended or renewed in any way whatsoever after the appointed day and for any reason whatsoever but only with respect to such extended or renewed term.

(2) If any question arises as to whether any particular petroleum mining Agreement falls within the category of petroleum mining Agreements mentioned in subsection (1)(a) or (b) and accordingly whether sections 1A, 1C and 2B, sections 3A to 3F, sections 15A to 15F, and sections 19, 20 and 23 apply with respect to such petroleum mining Agreement, a certificate given at any time under the hand of the Minister as to whether such petroleum mining Agreement falls within the category of petroleum mining Agreements mentioned in subsection (1)(a) or (b) and whether sections 1A, 1C and 2B, sections 3A to 3F, sections 15A to 15F, and sections 19, 20 and 23 apply with respect to such petroleum mining Agreement shall be conclusive evidence of the same.

Regulations

25. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are 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 therefor.

(2) Without prejudice to subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations with respect to —

(a) the powers and duties of —

- (i) authorised officers appointed under section 2C;
- (ii) any other persons acting on the directions of the Authority in connection with the execution of this Act;

(b) the facilities to be accorded to such authorised officers and other persons;

(c) the manner in which an application for a works permission in respect of an onshore pipe-line and controlled pipe-line is to be made;

(d) the information to be included in or provided, and the payment of fees, in connection with an application for such work permission; and

(e) payment of fees in respect of consents and certificates.

(3) In making regulations under subsection (1), the Minister shall have regard to the extent of the jurisdiction which belongs to Brunei Darussalam under international law.

(4) Any regulations under this Act may provide for the creation of offences which are punishable on conviction by a fine not exceeding \$20,000, imprisonment for a term not exceeding 2 years or both.

(5) Regulations under this Act —

(a) may be limited so as to apply only in prescribed cases or may exclude prescribed cases from the application of the regulations; and

(b) may provide for a case to be excluded from the application of the regulations only so long as the conditions specified in the regulations are satisfied.

(6) Any order or regulations under this Act —

(a) may make different provisions for different circumstances; and

(b) may include such incidental, savings, transitional provisions and other consequential provisions as the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, considers appropriate in connection with the order or regulations.”.

Addition of new Schedules 1 and 2

26. The Act is amended by adding the following two new Schedules —

“SCHEDULE 1
(section 3A)

APPLICATIONS FOR AND ISSUE OF PERMISSIONS
IN RESPECT OF ONSHORE PIPE-LINES

PART 1

WORKS PERMISSIONS IN RESPECT OF ONSHORE PIPE-LINES

1. The Authority shall, on receiving an application for a works permission in respect of an onshore pipe-line —

(a) decide whether the application is to be considered further or rejected; and

(b) serve notice of the Authority's decision on the applicant and —

- (i) in the case of a decision that the application is to be considered further, shall give the applicant such directions with respect to the application as the Authority considers appropriate for the purposes of paragraph 2; and
- (ii) in the case of a decision to reject the application, shall include in the notice a statement of the reasons for the decision except any reason which in the opinion of the Authority it would be against the national interest to state.

2. Where the Authority serves on an applicant notice under paragraph 1 that the application is to be considered further, the applicant shall —

(a) publish, in such manner as the Authority directs, a notice which —

- (i) contains such particulars of the application as the Authority directs;
- (ii) states that representations with respect to the application may be made in writing to the Authority within the period of 28 days beginning with the date on which the notice is first published in accordance with this paragraph or within such longer period beginning with that date as is specified in the notice in accordance with a direction of the Authority; and
- (iii) states where the map mentioned in sub-paragraph (b) may be inspected during the period specified in the notice under paragraph (ii);

(b) secure that a map of such scale and containing such particulars as the Authority directs is available for inspection by the public free of charge from 10 a.m. to 4 p.m. on each weekday during the period so specified; and

(c) serve a copy of the notice on such persons as the Authority directs,

and the Authority shall defer the Authority's further consideration of the application until the Authority is satisfied that the applicant has complied with this paragraph.

3. (1) This paragraph applies where the Authority decides that an application for a works permission in respect of an onshore pipe-line is to be considered further and is of the opinion, either on the Authority's own initiative (except in relation to the purpose mentioned in paragraph 5(b)) or in consequence of representations made to the Authority by the applicant or any other person that —

(a) the route proposed for the onshore pipe-line or part of it in the application ought to be altered in a particular manner for any of the purposes mentioned in paragraph 6; or

(b) the capacity proposed for the onshore pipe-line or part of it in the application ought to be increased for any of the purposes mentioned in paragraph 5(b) or (d).

(2) Where this paragraph applies, the Authority shall, before deciding whether to grant a permission in respect of an onshore pipe-line in consequence of the application, serve notice of the Authority's opinion on —

(a) the applicant; and

(b) where the opinions relates to an alteration of the route proposed for the onshore pipe-line or part of it —

(i) any persons whom the Authority considers are likely to be affected by the alteration; or

(ii) any person appearing to the Authority to represent such person.

(3) In any notice of the Authority's opinion served under this paragraph, the Authority shall state the reasons for the Authority's opinion except any reason which the Authority considers that it would be against the national interest to state.

4. (1) Where under paragraph 3 the Authority serves on the applicant notice of the Authority's opinion, the Authority shall give him an opportunity of being heard with respect to the opinion; and where the applicant is heard, the Authority may give such other persons, if any, as the Authority thinks fit an opportunity to be heard at the hearing.

(2) Where under paragraph 3 the Authority serves on any person other than the applicant notice of the Authority's opinion, the Authority shall state in the notice that representations in writing with respect to the opinion may be made to the Authority within a period specified in the notice.

5. The purposes referred to in paragraph 3(1) are —

(a) to avoid or reduce danger to some structure or apparatus (which may be the onshore pipe-line) or to flora or fauna;

(b) to facilitate the use of the onshore pipe-line by persons other than the applicant where it appears to the Authority that such persons desire to use the pipe-line;

(c) to avoid or reduce interference with the exploitation of mineral resources; and

(d) any other purpose which the Authority considers proper.

6. Where the Authority —

(a) is satisfied that an applicant for a works permission in respect of an onshore pipe-line has complied with paragraph 2; and

(b) has considered any representation relating to the application which were made to the Authority —

(i) within the period specified in the notice published in respect of the application under paragraph 2(a);

(ii) at a hearing held under paragraph 4(1); and

(iii) in accordance with a notice served by the Authority in respect of the application under paragraph 4(2),

the Authority shall decide whether to grant a permission in respect of an onshore pipe-line in consequence of the application.

7. (1) Where the Authority decides not to grant a works permission in respect of an onshore pipe-line in consequence of an application, the Authority shall serve on —

(a) the applicant; and

(b) each person on whom a copy of notice of the application was required to be served under paragraph 2(c),

a notice stating the decision and, in the case of the notice served on the applicant, stating also the reasons for the decision except any reason which the Authority considers that it would be against the national interest to state.

(2) Where the Authority decides to grant a works permission in respect of an onshore pipe-line in consequence of an application, the Authority shall —

(a) serve notice of the decision on —

- (i) the applicant;
- (ii) each person mentioned in sub-paragraph (1)(b); and
- (iii) any other person who made representations as mentioned in paragraph 6(b)(ii) or (iii); and

(b) publish a copy of the notice in the *Gazette* and in any other publication which the Authority considers appropriate.

8. (1) Sub-paragraphs (2) and (3) apply where the Authority issues a works permission in respect of an onshore pipe-line.

(2) The Authority shall serve on the persons on whom notice in respect of the permission was required to be served by paragraph 7(2)(a)(ii) and (iii) a notice stating that the permission has been granted and containing —

(a) the name and address of the person to whom it was issued;

(b) such particulars as the Authority considers appropriate of —

- (i) the route of the onshore pipe-line;
- (ii) its authorised capacity;
- (iii) the things authorised to be conveyed by it;
- (iv) the persons authorised to use it; and

(c) such other information (if any) about the onshore pipe-line as the Authority considers appropriate.

(3) The Authority shall publish a copy of the notice in the *Gazette* and in any other publication which the Authority considers appropriate.

PART 2

OTHER PERMISSIONS IN RESPECT OF ONSHORE PIPE-LINES

9. Where the Authority grants a permission in respect of an onshore pipe-line other than a works permission, the Authority shall publish in the *Gazette*, and in any other publication which the Authority considers appropriate, a notice stating that the permission has been issued and containing —

- (a) the name and address of the person to whom it was issued;
- (b) such particulars as the Authority considers appropriate of —
 - (i) the route and capacity of the relevant pipe-line;
 - (ii) the things authorised to be conveyed by it; and
 - (iii) the persons authorised to use it; and
- (c) such other information (if any) about the pipe-line as the Authority considers appropriate.

SCHEDULE 2

(section 15B)

APPLICATIONS FOR AND ISSUE OF PERMISSIONS
IN RESPECT OF CONTROLLED PIPE-LINES

PART 1

WORKS PERMISSIONS IN RESPECT OF CONTROLLED PIPE-LINES

1. The Authority shall, on receiving an application for a works permission in respect of a controlled pipe-line —

- (a) decide whether the application is to be considered further or rejected; and
- (b) serve notice of the Authority's decision on the applicant and —
 - (i) in the case of a decision that the application is to be considered further, shall give the applicant such directions with respect to the application as the Authority considers appropriate for the purposes of paragraph 2; and

- (ii) in the case of a decision to reject the application, shall include in the notice a statement of the reasons for the decision except any reason which in the opinion of the Authority it would be against the national interest to state.

2. Where the Authority serves on an applicant notice under paragraph 1 that the application is to be considered further, the applicant shall —

- (a) publish, in such manner as the Authority directs, a notice which —
 - (i) contains such particulars of the application as the Authority directs;
 - (ii) states that representations with respect to the application may be made in writing to the Authority within the period of 28 days beginning with the date on which the notice is first published in accordance with this paragraph or within such longer period beginning with that date as is specified in the notice in accordance with a direction of the Authority; and
 - (iii) states where the map mentioned in sub-paragraph (b) may be inspected during the period specified in the notice under sub-paragraph (ii);

(b) secure that a map of such scale and containing such particulars as the Authority directs is available for inspection by the public free of charge from 10 a.m. to 4 p.m. on each weekday during the period so specified; and

(c) serve a copy of the notice on such persons as the Authority direct,

and the Authority shall defer the Authority's further consideration of the application until the Authority is satisfied that the applicant has complied with this paragraph.

3. (1) This paragraph applies where the Authority decides that an application for a works permission in respect of a controlled pipe-line is to be considered further and is of the opinion, either on the Authority's own initiative (except in relation to the purpose mentioned in paragraph 5(b)) or in consequence of representations made to the Authority by the applicant or any other person, that —

(a) the route proposed for the controlled pipe-line or part of it in the application ought to be altered in a particular manner for any of the purposes mentioned in paragraph 5; or

(b) publish a copy of the notice in the *Gazette* and in any other publication which the Authority considers appropriate.

8. (1) Sub-paragraphs (2) and (3) apply where the Authority grants a works permission in respect of a controlled pipe-line.

(2) The Authority shall serve on the persons on whom notice in respect of the permission was required to be served by paragraph 7(2)(a)(ii) and (iii) a notice stating that the permission has been granted and containing —

(a) the name and address of the person to whom it was issued;

(b) such particulars as the Authority considers appropriate of —

(i) the route of the controlled pipe-line;

(ii) its authorised capacity;

(iii) the things authorised to be conveyed by it; and

(iv) the persons authorised to use it; and

(c) such other information (if any) about the controlled pipe-line as the Authority considers appropriate.

(3) The Authority shall publish a copy of the notice in the *Gazette* and in any other publication which the Authority considers appropriate.

PART 2

OTHER PERMISSIONS IN RESPECT OF CONTROLLED PIPE-LINES

9. Where the Authority grants a permission in respect of a controlled pipe-line other than a works permission, the Authority shall publish in the *Gazette*, and in any other publication which the Authority considers appropriate, a notice stating that the permission has been issued and containing —

(a) the name and address of the person to whom it was issued;

(b) such particulars as the Authority considers appropriate of —

(i) the route and capacity of the relevant controlled pipe-line;

(ii) the things authorised to be conveyed by it; and

(iii) the persons authorised to use it; and

23rd. DECEMBER, 2019

(c) such other information (if any) about the controlled pipe-line as the Authority considers appropriate.”.

Made this 8th. day of Rabiulakhir, 1441 Hijriah corresponding to the 5th day of December, 2019 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**