

No. S 5

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

PETROLEUM MINING (AMENDMENT) ORDER, 2002

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.
2. Amendment of long title to Chapter 44.
3. Amendment of section 2.
4. Insertion of new sections 2A and 2B.
5. Amendment of section 3.
6. Amendment of section 4.
7. Amendment of section 5.
8. Amendment of section 7.
9. Amendment of section 8.
10. Amendment of section 11.
11. Amendment of section 12.

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

PETROLEUM MINING (AMENDMENT) ORDER, 2002

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

Citation and commencement.

1. This Order may be cited as the Petroleum Mining (Amendment) Order, 2002 and shall commence on the 5th. January, 2002.

Amendment of long title to Chapter 44.

2. The long title to the Petroleum Mining Act, in this Order referred to as the Act, is amended by deleting "petroleum mining" and by substituting "exploration, prospecting and mining for petroleum" therefor.

Amendment of section 2.

3. Section 2 of the Act is amended by —

(a) inserting the following 3 new definitions immediately before the definition of "State Land" —

"Company" means the Brunei National Petroleum Company Sendirian Berhad referred to in the Brunei National Petroleum Company Sendirian Berhad Order, 2002;

"designated area" has the meaning provided in the Brunei National Petroleum Company Sendirian Berhad Order, 2002;

"mineral rights" means the exclusive authority to explore, prospect and mine for petroleum within any State Land;"

(b) by deleting the definition of "petroleum" and by substituting the following new definition therefor —

"petroleum" means any mineral oil or relative hydro-carbon and natural gas or casinghead petroleum spirit existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;"

(c) adding the following 2 new definitions —

"petroleum mining Agreement" means an agreement with regard to exploration, prospecting and mining for petroleum or any of them that the State Party enters into under this Act. For the avoidance of doubt, petroleum mining Agreements shall include, without limitation, any licences, leases, concessions, production sharing agreements and service agreements with regard to exploration, prospecting and mining for petroleum or any of them entered into by the State Party in accordance with this Act;

"State Party" means —

(a) His Majesty in Council;

(b) the Government or any of its lawful authorities (including, without limitation, the Clerk to the Council of Ministers or a Minister) designated by His Majesty to act on behalf of His Majesty in Council; or

(c) as empowered by His Majesty in Council in respect of any designated area under the Brunei National Petroleum Company Sendirian Berhad Order, 2002, the Company or any of the Company's representatives acting on its behalf."

Insertion of new sections 2A and 2B.

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

"Ownership of petroleum.

2A. The entire ownership of any petroleum extracted from any State Land shall vest in the holder of mineral rights unless otherwise expressly provided in any petroleum mining Agreement.

Mineral rights.

2B. Mineral rights shall not be granted or otherwise transferred or assigned, unless expressly provided in any other written law or in any petroleum mining Agreement."

Amendment of section 3.

5. Section 3 of the Act is amended, in subsection (1).

(a) by deleting "or mining" from the second line and by substituting "and mining or any of them" therefor;

(b) by deleting "or mining" from the fourth line and by substituting "and mining or any of them" therefor;

Amendment of section 4.

6. Section 4 of the Act is amended by deleting —

(a) "Government" from the fourth and sixth lines and by substituting "State Party" therefor;

(b) "for or of the mining of petroleum," from the fourth line and by substituting", prospecting for and the mining of petroleum or any of them" therefor.

Amendment of section 5.

7. Section 5 of the Act is amended by deleting "Government" from the second and third lines and by substituting "State Party" therefor.

Amendment of section 7.

8. Section 7 of the Act is amended by deleting "His Majesty in Council" from the 3 places where it appears and by substituting "State Party" therefor.

Amendment of section 8.

9. Section 8 of the Act is amended —

(a) in subsection (1), by deleting "His Majesty in Council" from the first and antepenultimate lines and by substituting "State Party" therefor;

(b) in subsection (2), by inserting "in Council" immediately after "Majesty" in the first line;

(c) in subsection (2), by deleting "His Majesty in Council" from the penultimate line and by substituting "State Party" therefor.

Amendment of section 11.

10. Section 11 of the Act is amended by substituting a colon for the fullstop at the end and by adding the following —

"Provided that any petroleum mining Agreement and any collateral agreement or agreements in respect of any designated area shall be executed for and on behalf of the Company by a duly authorised representative of the Company.".

Amendment of section 12.

11. Section 12 of the Act is amended by deleting "Minister" from the first line and by substituting "State Party" therefor.

Made this 30th. day of Syawal, 1422 Hijriah corresponding to the 14th. day of January, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM