

PETROLEUM MINING ACT (CHAPTER 44)

LAWS OF BRUNEI

CHAPTER 44

PETROLEUM MINING ACT

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5 of 1969

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S 34/92

S 5/02

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Section

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## PETROLEUM MINING ACT

An Act to amend and consolidate the law relating to exploration, prospecting and mining for petroleum

[S 5/02]

Commencement: 18th November 1963

Citation.

1. This Act may be cited as the Petroleum Mining Act.

Interpretation.

2. In this Act unless the context otherwise requires —

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

[S 5/02]

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

[S 5/02]

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

[S 5/02]

“Offshore State Land” means State Land within the area of the Continental Shelf;

“Onshore State Land” means State Land other than within the area of the Continental Shelf including the foreshores and submarine areas beneath the territorial waters of Brunei Darussalam;

“person” means and includes any individual or group of individuals and any company, corporation or other body;

“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;

[S 5/02]

“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;

[S 5/02]

“State Land” means land within Brunei Darussalam and includes the foreshores and submarine areas beneath the territorial waters of Brunei Darussalam and also the area of the Continental Shelf being the sea-bed and its sub-soil which lies beneath the high seas contiguous to the territorial waters of Brunei Darussalam;

“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.

[S 5/02]

Ownership of petroleum. [S 5/02]

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. [S 5/02]

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.

Restriction on prospecting or mining for petroleum.

3. (1) Save as provided in subsection (2), any person found to be exploring, prospecting and mining or any of them for petroleum upon any State Land or doing any act with a view to such exploring, prospecting and mining or any of them upon any State Land and without having received lawful authority so to do under any of the provisions of this Act or in breach of any of the conditions thereof, shall be guilty of an offence: Penalty, imprisonment for 5 years, a fine or both, and all machinery, tools, plant, buildings or other property together with any minerals or other products which may be found upon or proved to have been obtained from the State Land so unlawfully explored, prospected or mined shall be liable to forfeiture, and if the offence is a continuing one to a further fine not exceeding \$100,000 for everyday or part of a day during which the offence has continued.

[S 34/92; S 5/02]

(1A) In determining any fine to be imposed under subsection (1), the court shall take into consideration any loss, injury or damage, or whatsoever nature, caused to or sustained by the Government, the public generally or any section of the public, or any person, whether or not such loss, injury or damage is of a nature to admit of being quantified or fully expressed in terms of money.

[S 34/92]

(2) Nothing in this Act shall invalidate any exploration licence, prospecting licence or mining lease issued by the lawful authority of the Government of Brunei Darussalam before the passing of this Act or abrogate any of the rights or privileges expressly conferred thereby:

Provided that every such right or privilege shall be limited to the extent prescribed by such licence or lease.

Invitation to bid. [S 34/92]

4. The State Party may invite persons to bid for a petroleum mining Agreement in respect of any Onshore State Land or Offshore State Land for the purposes of exploration, prospecting for and the mining of petroleum or any of them, and any person so bidding shall conform to such terms and conditions as are imposed by the State Party in the invitation to bid. Any person so bidding is referred to in the Act as “the applicant”.

[S 5/02]

Information confidential. [S 34/92]

5. All information comprised in, or furnished to the State Party in pursuance of, a bid made under section 4 shall be treated by the State Party as confidential.

[S 5/02]

6. Repealed.

[S 34/92]

Lapse of application.

7. If a petroleum mining Agreement is not executed within 6 months after approval of the application by State Party or the period agreed between State Party and the applicant the right of the applicant to such petroleum mining Agreement shall be deemed to have lapsed, unless State Party considers that the delay is not attributable to the fault of the applicant.

[S 34/92; S 5/02]

Areas and form of Agreement. [S 34/92]

8. (1) State Party may —

(a) enter into a petroleum mining Agreement in respect of any area of State Land for which application has been made as herein provided;

(b) at the request of the licensee or lessee, enter into one or more petroleum mining Agreements in substitution for and in respect of the same area or areas as are covered by any one or more exploration licence, prospecting licence or mining lease which was valid and subsisting (or which maybe accepted by State Party as if it had been valid and subsisting) on 18th November 1963.

(2) His Majesty in Council may by regulations prescribe the terms and conditions of a petroleum mining Agreement:

Provided that until any such terms and conditions have been so prescribed, a petroleum mining Agreement made on or after 31st October 1992, shall contain such terms and conditions as may be agreed between State Party and the applicant.

[S 5/02]

(3) A person with whom a petroleum mining Agreement and any collateral agreement or agreements is made shall be entitled to all the rights thereby expressed to be granted.

9. Repealed.

[S 34/92]

Grant of more than one Agreement.

10. Nothing in this Act shall prevent more than one petroleum mining Agreement being made with the same person.

Execution.

11. The Clerk to the Council of Ministers or the Minister designated by His Majesty shall have power to execute for and on behalf of His Majesty in Council any petroleum mining Agreement and any collateral Agreement or Agreements which His Majesty shall direct to be executed:

[S 34/92]

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.

[S 5/02]

Notification.

12. The State Party shall, as soon as may be after the execution, surrender, determination, or assignment of any petroleum mining Agreement or the right thereunder under this Act, issue a public

notification of the fact stating the name of the person with whom the petroleum mining Agreement was made, the name of any assignee and the situation of the area concerned.

[S 5/02]

Liability of directors etc. [S 34/92]

12A. Where a body corporate is guilty of an offence against this Act, every director and other person concerned in the management of the body corporate shall be guilty of the like offence unless he proves that the offence was committed without his consent or connivance and that he 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.

Rules.

13. His Majesty in Council may from time to time make and when made vary, alter, amend, revoke or cancel rules generally for carrying out the provision of this Act, and, without prejudice to the generality of the foregoing, to provide for —

(i) the appointment, duties, privileges and powers of persons to enforce the provisions of this Act or any petroleum mining Agreement made thereunder;

[S 34/92]

(ii) the prescribing of fees to be paid in respect of anything to be done in accordance with the provisions of this Act or any petroleum mining Agreement made hereunder.

Saving. [S 34/92]

14. Nothing in the Emergency (Petroleum Mining Act) (Amendment) Order, 1992 (S 34/92) shall invalidate any exploration licence, prospecting licence, mining lease or petroleum mining Agreement issued or entered into by the lawful authority of the Government before 31st October 1992 or abrogate any of the rights or privileges expressly conferred thereby:

Provided that every such right or privilege shall be limited to the extent prescribed by such licence, lease or Agreement and that the same shall not be extended upon expiry.