

# PETROLEUM (SAFETY MEASURES) ACT 1984

## ACT 302

**Date of coming into force: 1 Mar 1985 - (Parts I,III,IV,V,X, and XI), 1 July 1986 - Parts II,VI,VII,VIII, IX)**

### Preamble

An Act to consolidate laws relating to safety in the transportation, storage and utilisation of petroleum and to provide for matters relating thereto.

[Parts I, III, IV, V, X & XII - 1 March 1985; II, VI, VII, VIII & IX - 1 July 1986]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

### PART I PRELIMINARY

#### 1. Short title, commencement and application.

This Act may be cited as the Petroleum (Safety Measures) Act 1984 and shall come into force on such date (hereinafter in this Act called "the appointed date") as the Minister may by notification in the Gazette appoint:

Provided that the Minister may by notification in the Gazette prescribe different dates (hereinafter called "the prescribed dates") for different provisions or any part of any provision of this Act and for different areas or localities of the Federation, and for the purposes of any such provision, area or locality, any reference in any provision of this Act to the appointed date shall be construed as a reference to the prescribed date.

#### 2. Interpretation.

(1) In this Act, unless the context otherwise requires:

"Class I petroleum" means petroleum having flash points below 37.8C;

"Class IA petroleum" means petroleum having flash points below 22.8C and having a boiling point below 37.8C;

"Class IB petroleum" means petroleum having flash points below 22.8C and having a boiling point at or above 37.8C;

"Class IC petroleum" means petroleum having flash points at or above 22.8C and below 37.8C;

"Class II petroleum" means petroleum having flash points at or above 37.8C and below 60C;

"Class III petroleum" means petroleum having flash points at or above 60C;

"Class IIIA petroleum" means petroleum having flash points at or above 60C and below 93.4C;

"Class IIIB petroleum" means petroleum having flash points at or above 93.4C;

"code of practice" means a document prescribing recommended practices for the design, manufacturing, setting up, maintenance or utilisation of equipment, installations, structures or products and referred to in section 46;

"handling" includes the action of touching, feeling, grasping, transferring or decanting with the hand or assisted by any means;

"Inspector" means an Inspector of Petroleum appointed under section 38;

"licensed premises" means premises in respect of which there is a licence to store and handle petroleum;

"liquefied petroleum gas fuel system" means an assembly consisting of one or more containers with a means for conveying liquefied petroleum gas from containers to dispensing or consuming devices (either continuously or intermittently) and which incorporates components intended to achieve control of quantity, flow, pressure or state (either liquid or vapour);

"local authority" or "authority" means "local authority" as defined under the Local Government Act 1976, the Local Authority Ordinance of Sarawak or the Municipality constituted under the Kuching Municipal Ordinance of Sarawak and "authority" as defined under the Local Government Ordinance 1961 of Sabah;

"master" means any person except a pilot, having command or charge of any ship;

"Minister" means the Minister charged with the responsibility for petroleum;

"occupier" means any person having the actual use or occupation of a premises or part thereof;

"operator" means any person who carries on that particular business or operation either directly or through an agent;

"owner" includes any person in whom is vested the ownership, dominion or title of property and "owner" in relation to a vessel includes a charterer;

"petroleum" means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casing head petroleum spirit including bituminous shales and other stratified deposits from which oil can be extracted, including petroleum products;

"petroleum anchorage" means a place prescribed as a petroleum anchorage by regulations made under this Act;

[Ins. Am. A807]

"petroleum in bulk" means a homogeneous cargo of petroleum stored loose in free flowing tank and required to be handled by pumping or by gravity flow;

"petroleum products" means all materials derived from petroleum as are listed in the Schedule;

[Am. Act A807]

"pipelines" means all parts of those physical facilities through which petroleum moves in transportation including pipes, valves and other appurtenances attached to pipes, pumps, compressor units, meters, regulators and fabricated assemblies;

"pipeline works" means works of any of the following kinds:

[Ins. Act A807]

(a) placing the pipeline or a length of pipeline, inspection, maintaining, adjusting, repairing, altering or renewing a pipeline or a length of pipeline, changing the position of a pipeline or a length of pipeline, or removing a pipeline or a length of pipeline onshore or offshore; and

(b) breaking up or opening land for the purpose of works mentioned in the foregoing paragraph and tunnelling or boring for those purposes and other works requisite for or incidental to those purposes onshore or offshore;

"port" means-

[Ins. Act A807]

(a) a port or place declared to be a port under the Merchant Shipping Ordinance 1952;

(b) a place prescribed as a port under the Merchant Shipping Ordinance 1960 of Sabah, the Merchant Shipping Ordinance 1960 of Sarawak and regulations made thereunder;

(c) the area declared under section 3 of the Declaration of an Area in the Bintulu District to be a Federal Port Act 1979 to be Bintulu Port;

"port officer" means a port officer as defined under the Merchant Shipping Ordinance 1952, the Merchant Shipping Ordinance 1960 of Sabah and the Merchant Shipping Ordinance 1960 of Sarawak;

"storage" includes the processing, dispensing or transfer of petroleum; the action of putting into store, or stacking at a place or in an aircraft, motor vehicle, motor trailer or vessel;

"Surveyor of Ships" means a Surveyor of Ships appointed under section 10 of the Merchant Shipping Ordinance 1952, section 130 of the Merchant Shipping Ordinance 1960 of Sabah and section 130 of the Merchant Shipping Ordinance 1960 of Sarawak and shall include the Surveyor-General of Ships;

"transportation" means the action of taking petroleum from any place or vessel to any other place or vessel by any means or mode of transportation such as land, air and water and includes conveyance by pipelines, both onshore or offshore, on land or underground, in water or underwater;

"utilisation" means the action of utilising or the fact of being utilised and includes facilitating or performing any such act where petroleum or petroleum product is involved;

"vessel" includes every kind of vessel whether propelled by machinery or sails, hulk, junk, boat, sampan or any kind of craft used for the conveyance of persons or things by water or for storage.

(2) The Minister may by order amend, vary, delete from or add to the Schedule.

## PART II

### TRANSPORTATION OF PETROLEUM BY ROAD AND RAILWAY

3. Permitted conveyance of petroleum by road or railway.

No person shall convey by road or railway any petroleum except in accordance with this Act and regulations made thereunder.

4. Power of Minister to make regulations.

The Minister may make regulations for the safe transportation of petroleum by road or railway and for safeguarding persons and property from danger in connection with such transportation and in particular, for regulating and authorising of workshops for the conversion, installation, adaptation and addition of any liquefied petroleum gas fuel system for motor vehicles.

5. Employees to be informed of the provisions of the Act and the regulations; related offences.

(1) The owner or operator of a vehicle used for conveying petroleum by road shall take all necessary measures to ensure that any person employed by him in connection with the conveyance of petroleum in such vehicle is acquainted with the provisions of the Act and regulations made thereunder and to carry out the provisions of such Act and regulations.

(2) If any person contravenes any provision in this Part or any regulation made under this section, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit and in the case of a continuing offence he shall be liable to a further fine, not exceeding one thousand ringgit for each day or part of a day on which the offence occurs or continues after the first day in respect of which the conviction is recorded:

Provided that in the case of any contravention of any provision of this Part or any requirements of any regulation made under this section relating to Class IA or Class IB petroleum, any person guilty of such offence shall be liable on conviction to a fine not exceeding fifteen thousand ringgit and to a further fine not exceeding two thousand ringgit for each day or part of a day on which the offence occurs or continues after the first day in respect of which the conviction is recorded.

## PART III

### TRANSPORTATION OF PETROLEUM BY WATER

6. Permitted loading, unloading and discharging of petroleum.

(1) No petroleum shall be loaded or unloaded or discharged except at a port, or at such other place as is appointed for that purpose by the Minister by notification in the Gazette.

(2) The Minister may, in respect of any place appointed by him under subsection (1), appoint such persons as he thinks fit to exercise the powers of, and to carry out the duties and functions of a port officer as set out under this Act or any regulations made thereunder.

7. Entry into ports of vessels carrying petroleum.

(1) No vessel having petroleum on board as cargo shall enter the limits of any port, except for the purpose of proceeding direct to the petroleum anchorage or to such other place exempted from

the provisions of this section without the permission of the port officer previously obtained in writing.

(2) A permission given by the port officer under this section shall contain such conditions as in the circumstances of the case appear to him to be reasonable.

(3) The master of the vessel who enters any port in contravention of this section, or any of the conditions of the permission, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifteen thousand ringgit and the petroleum in respect of which the offence is alleged to have been committed may be seized and shall be liable to forfeiture.

8. Notification to Inspector of vessel coming into port.

(1) The master of any vessel carrying petroleum or the importer, consignee or owner of any petroleum carried in any vessel as cargo shall, on arrival into port of such vessel, except when the owner or agent of the vessel has previously so done, notify an Inspector of the arrival into port of such vessel and shall include in that notification such other particulars as may be necessary to enable the petroleum to be properly inspected.

(2) In the event of any contravention of subsection (1), the master, owner, and agent of such vessel shall each be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit each.

9. Permission of port officer to unload or discharge petroleum from vessel.

(1) No petroleum shall be unloaded or discharged from any vessel except with the permission of the port officer and in accordance with the conditions set forth in such permission and at the place and time stated in that permission.

[Am. Act A807]

(2) (Deleted by Act A807).

(3) Any person who unloads or discharges any petroleum or permits the same to be so unloaded or discharged in contravention of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit, and the petroleum in respect of which the offence is alleged to have been committed may be seized and shall be liable to forfeiture.

10. Unloading or discharging of petroleum.

(1) The person who having charge of or control over any petroleum referred to under section 8, shall unload or discharge and store such petroleum in the premises stated in the licence issued under section 19 as soon as possible after the granting of the permission therein referred to.

(2) (Deleted by Act A807).

(3) Any person who commits a breach of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit and the petroleum in respect of which the offence is alleged to have been committed may be seized and shall be liable to forfeiture.

10A. Restriction on loading, unloading and discharging, of petroleum between sunset and sunrise.

(1) No petroleum shall be loaded or unloaded or discharged between the hours of sunset and sunrise except with the permission of the port officer:

[Ins. Act A807]

Provided that this provision shall not apply to the loading or unloading or discharging of such petroleum in bulk from any vessel and direct to or from any shore installations.

(2) Any person who commits a breach of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit and the petroleum in respect of which the offence is alleged to have been committed shall be seized and shall be liable to forfeiture.

11. Director of the port officer in respect of vessels carrying petroleum.

(1) Any vessel having petroleum as cargo, whether it is intended to be unloaded or discharged or transhipped or is merely passing through a port or has been loaded in the port shall, on being so ordered by the port officer, proceed to such anchorage as the port officer directs within or without the limits of such port.

(2) In default of compliance with any such order, the master of such ship shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand ringgit.

12. Loading or carriage of petroleum.

(1) No vessel shall load or carry petroleum, whether in the hold or on deck, except under the conditions and restrictions imposed by the Act and any regulation made thereunder.

(2) If any petroleum is loaded or is carried in any vessel in contravention of this section, the owner, master, and agent of such vessel shall each be guilty of an offence and be liable on conviction to a fine not exceeding ten thousand ringgit.

13. Remaining in any port, etc. without permission.

(1) No vessel which has Class I or Class II petroleum on board as cargo, whether for transportation or storage, shall remain in any port (except at a petroleum anchorage) or at a place exempted under section 44, or in any river, canal, or creek for a longer time than is reasonably necessary for the loading or unloading or discharging of petroleum unless the prior written permission of the port officer has been obtained.

(2) Vessels, the propelling of which is obtained by Class I or Class II petroleum, shall not be subject to this section if the receptacles or containers for the storage of such classes of petroleum are approved by a Surveyor of Ships.

(3) Any person who commits a breach of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit.

14. Placing on any quay, bank, etc. any petroleum.

(1) No person shall place or permit to remain on any quay, bank or other place any petroleum for a longer time than is reasonably necessary for the loading or unloading thereof in connection with its transportation, and in no case between sunset and sunrise.

(2) Any person who commits a breach of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit.

#### PART IV

##### TRANSPORTATION OF PETROLEUM BY AIR

15. Transportation of petroleum by air not permitted.

No petroleum other than petroleum used solely for the purpose of the propulsion of that aircraft shall be transported in any aircraft except with the prior authorisation of the Minister.

#### PART V

##### TRANSPORTATION OF PETROLEUM BY PIPELINES

16. Authorisation of pipeline works.

(1) It shall not be lawful for any person to undertake any pipeline works to be executed in or on land, on the surface of or underwater, onshore or offshore except under authorisation granted by the Minister, or otherwise than along the route delineated on the map annexed to the authorisation or within such limits of lateral deviation from the route as may be prescribed in the authorisation, or by a person other than the one named in the authorisation.

(2) The Minister shall have power to grant or to refuse an application for pipeline works authorisation under subsection (1).

(3) (Deleted by Act A807).

(4) If, after a pipeline works authorisation has been granted and the works so authorised have not been substantially begun at the expiration of twelve months from the date on which it was granted or at the expiration of any extension of that period as allowed by the Minister, the authorisation shall be of no effect, except as regards works previously executed.

#### 17. Emergency pipeline works.

(1) Pipeline works which are requisite to put an end to existing danger or to prevent imminent danger to life and property or to prevent serious interruption of the conveyance of petroleum by pipeline may be executed without authorisation under section 16:

Provided that the Minister is notified of such works within twenty four hours of the commencement of works and a copy of the map showing the route of the pipeline works and details of such works are submitted to the Minister as soon as practicable.

(2) Where the Minister is satisfied that the pipeline works executed pursuant to this section do not meet the safety measures and standards enforceable under this Act and regulations made thereunder or the route taken is not conducive to the safety of life of property, he may require rectification of the same within such time as may be specified by him in writing.

#### 18. Offences relating to unauthorised pipeline works.

Any person who acts in contravention of section 17 and any regulations made for the purpose of this Part or any authorisation granted under section 16 or requirements for rectification under subsection (2) of section 17, shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding twenty thousand ringgit and in the case of continuing offence, he shall be liable to a further fine not exceeding five thousand ringgit for each day or part of a day on which the offence occurs or continues after the first day in respect of which the conviction is recorded.

#### 18A. Part V not applicable to supply of gas by pipelines.

[Ins. Act 843]

(1) This Part shall not apply to the supply of gas to consumers through pipelines under the Gas Supply Act 1993.

(2) For the purpose of this section, the terms "gas", "consumers" and "pipelines" shall have the same meaning assigned to them respectively by the Gas Supply Act 1993.

### PART VI

#### STORAGE AND HANDLING OF PETROLEUM

#### 19. Petroleum storage and petroleum handling licence.

(1) Subject to the provisions of this Act, no person shall store or handle any petroleum unless he is the holder of a valid petroleum storage licence or a valid petroleum handling licence, as the case may be, granted under this Act authorising the storage or handling of petroleum and providing that such petroleum is to be stored or handled in accordance with such conditions, if any, as may be attached to the licence.

(1A) Subsection (1) shall not apply in respect of any person acting lawfully under the supervision or instruction of a person in possession of a valid petroleum handling licence issued under this Act.

[Ins. Act A807]

(2) For the purposes of this Act, the Minister hereby authorises the following to grant or refuse petroleum storage or petroleum handling licences under this section:

(a) in respect of any area under a local authority, or authority in the case of Sabah, after consultation with the State Authority, such local authority or authority; and  
(b) in respect of any area other than areas referred to under paragraph (a), such person as the Minister shall by order authorise.

(3) For the purpose of the application of subsection (2) to the Federal Territories of Kuala Lumpur and Labuan, "State Authority" means the Minister charged with the responsibility for local government.

[Am. Act A807]

(4) The occupier of any premises in which petroleum is stored or handled in contravention of this section or any condition of a petroleum storage or petroleum handling licence granted under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand ringgit and to a further fine of two thousand ringgit for each day or part of a day on which the contravention occurs or continues and any petroleum, and any tools, apparatus or containers in which it is contained may be seized and shall be liable to forfeiture.

(5) A petroleum storage or petroleum handling licence granted under this section shall be in force for such time as specified in the licence and shall contain such conditions as may be necessary, in particular, conditions as to the mode of storage, the nature and situation of the premises in which, and the nature of goods with which, petroleum is to be stored, the manner of handling petroleum, the facilities of testing petroleum from time to time and generally as to the safe-keeping of petroleum.

(6) Where conditions to be observed by a person employed are attached to any such petroleum storage or petroleum handling licence, the occupier of the premises to which the licence relates shall cause to be kept posted on the premises, in such form and in such position as to be easily read by the persons employed on the premises, a notice setting out those conditions, and-

(a) if the occupier of any premises fail to comply with the foregoing requirements of this subsection, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit and to a further fine of one thousand ringgit for each day or part of a day during which the failure occurs or continues;

(b) if any person pulls down, damages, or defaces any notice posted in accordance with the requirements of this subsection, he shall be liable to a fine not exceeding five thousand ringgit; and

(c) if any person employed by the occupier contravenes any condition of which notice has been given in accordance with the requirements of this subsection, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit.

## 20. Labelling of containers or receptacles containing petroleum.

(1) Subject as hereinafter provided, where any petroleum-

(a) is kept at any place; or

(b) is sent or conveyed between any two places in Malaysia; or

(c) is sold or exposed or offered for sale,

there shall be attached to, or, where that is impracticable, displayed near the container or receptacle containing the petroleum, a label showing such information or description as may be prescribed by regulations including the following:

(i) in the case of petroleum kept, the name and address of the consignee or owner;

(ii) in the case of petroleum sent or conveyed, the name and address of sender; and

(iii) in the case of petroleum sold or exposed or offered for sale, the name and address of the vendor.

(2) Any person who keeps, sends, conveys, sells or exposes or offers for sale any petroleum in contravention of this section or any regulation made thereunder shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit, and petroleum in

respect of which the offence was committed and any vessel in which it is contained may be seized and shall be liable to forfeiture or dealt with in any manner as the court thinks fit.

21. Power of Minister to make regulations in special circumstances.

(1) If the Minister is satisfied that any class of petroleum, by reason of the nature thereof or of any substance if mixed therewith is likely to affect safety or be injurious to health either generally or in the case of any class of persons, he may make such regulations as appears to him to be reasonably practicable to meet the necessity of the case.

(2) If any person contravenes or attempts to contravene any of the regulations made under this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit and to a further fine of one thousand ringgit for each day or part of a day during which the offence is continued, and petroleum in respect of which the offence was committed and any vessel in which the petroleum was contained may be seized and shall be liable to forfeiture or dealt with in any manner as the court thinks fit.

22. Notice of accident involving petroleum.

(1) Whenever any accident which occasions the loss of life or personal injury occurs by explosion or by fire in or about any licensed premises, the occupier of the premises shall, if the explosion or fire involves petroleum, within twenty four hours of such accident, send or caused to be sent to the Minister notice of the accident and of the loss of life or personal injury.

(2) If any such occupier as aforesaid fails to comply with any provision of this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit.

23. Inquiry into accident involving petroleum.

(1) Upon receipt of a notice under subsection (1) of section 22, or where such a notice is required to be sent or caused to be sent but not done, the Minister may by order direct any person to hold an inquiry into the cause of the accident, without prejudice however to the power of the Minister to make a similar order in respect of any other accident involving petroleum, if he considers it fit to do so.

(2) The Minister may, by the same order referred to in subsection (1) or by any subsequent order, appoint any person or persons possessing legal or special knowledge to assist the person so appointed under subsection (1) to hold the inquiry.

(3) Any person conducting an inquiry under this section may if he deems it fit to do so, open the inquiry or any part of the inquiry to the public and shall conduct the inquiry in such manner and under such conditions as he considers most effective for ascertaining the cause and circumstances of the accident and to enable him to make a report to the Minister.

(4) When acting pursuant to subsection (3), such person may-

(a) summon any person to appear before him at a hearing to give evidence and to produce such documents (if any) as are referred to in the summons; and

(b) at such hearing referred to in paragraph (a) take evidence on oath or affirmation and for that purpose he may-

(i) require a person appearing at the hearing to give evidence, either to take on oath or make an affirmation; and

(ii) administer an oath or affirmation to a person so appearing.

(5) Where the person holding the inquiry is satisfied that-

(a) a person served with a summons to appear as a witness at a hearing pursuant to paragraph (a) of subsection (4), without reasonable cause, failed to attend as required; or

(b) a person appearing as a witness at a hearing before him has, without reasonable excuse-

(i) when required pursuant to paragraph (b) of subsection (4) either to take an oath or make an affirmation;

(ii) when required by him at the hearing to answer a question; or

(iii) when required to produce a document by a summons under this Act served on him as prescribed,  
refused or failed to comply with the requirements, he may, by instrument in writing, certify the failure to attend or the refusal or failure to comply with the requirement, as the case may be, to the High Court.

(6) Where a certificate is given under subsection (5), the High Court may inquire into the case and, if it is satisfied that the person to whom the certificate relates has, without reasonable excuse, failed to attend or refused or failed to comply with a requirement as mentioned in the certificate-

(a) may order the person to attend or to comply with the requirement at a hearing before the person holding such inquiry to be held at a time and place specified in the order; or

(b) may punish the person in the same manner as if he had been guilty of contempt of that Court, and if it thinks fit, also make an order under paragraph (a).

#### 24. Insulting persons conducting inquiry.

(1) No person shall-

(a) insult a person holding an inquiry under section 23 in the performance of his functions or in exercise of his powers as such person at a hearing conducted by him;

(b) interrupt a hearing before such person holding the inquiry; or

(c) do any other act that would, if the person holding the inquiry were a court, constitute contempt of that court.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding three months or a fine not exceeding two thousand ringgit or both.

#### 25. Protection against suits for persons conducting inquiry.

(1) Any person appointed under section 23 shall not be liable to an action or other proceedings for damages for or in relation to any act done or, omitted to be done in good faith in the performance or purported performance of any function under this Act.

(2) An advocate and solicitor or other person appearing on behalf of a person at a hearing conducted under section 23 has the same protection and immunity as an advocate and solicitor appearing for a party in proceedings in the High Court.

(3) Subject to this Act, a person summoned to attend or appear at such hearing as a witness has the same protection as a witness in proceedings in the High Court.

#### 26. Evidence not admissible in civil or criminal proceedings.

No evidence taken under this Act shall be admissible in any civil or criminal proceedings whatsoever against the person who gave the evidence, except when the person is charged with giving or fabricating false evidence.

#### 27. Exempted categories of petroleum.

Nothing in this Part except the provisions of sections 23, 24, 25 and 26 shall apply to the storage and handling of petroleum in the following cases-

(a) 95 litres or less of Class IA petroleum;

(b) 450 litres or less of Class IB, IC, II or III petroleum;

(c) 225 litres or less of Class IB, IC, Class II or III petroleum in one portable tank;

(d) a supply of one day or less necessary for industrial use; and

(e) 50 kilograms or less of liquefied petroleum gas in cylinders awaiting use in domestic premises:

Provided that the containers or receptacles in which such petroleum is stored shall be subject to any provision of this Act or regulations made thereunder pertaining to the design and specifications of such containers or receptacles.

27A. Part VI not applicable to licensee under Gas Supply Act 1993.

[Ins. Act A843]

(1) This Part shall not apply to any person who holds a licence under the Gas Supply Act 1993 for the supply of gas to consumers through pipelines from the storage tank or cylinder specifically used for reticulation of gas to any apparatus in any premises.

(2) For the purpose of this section, the terms "gas", "consumes" and "pipelines" shall have the same meaning assigned to them respectively by the Gas Supply Act 1993.

## PART VII

### UTILISATION OF EQUIPMENT, GADGETS, MATERIALS, PLANTS, APPLIANCES, BUILDINGS, STRUCTURES AND INSTALLATIONS

28. Approved equipment, etc. and verification.

(1) (a) Notwithstanding any provision of this Act, but subject to section 32, the Minister may by publication in the Gazette declare that any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof used or intended to be used in connection with the storage, handling, transportation and utilisation of petroleum shall not be used or sold or offered for sale unless such equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof is of an approved type.

(b) "Approved type" means any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof of similar design and specifications as those specified in the list of equipment, gadgets, materials, plants, appliances, buildings, structures and installations declared by the Minister as equipment tested and found safe and suitable for such use and as modified, varied or altered from time to time under section 29.

(2) For the purpose of ensuring due compliance with this section, such person or authority specified in the order may conduct such tests or such methods of verification as it deems necessary on any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof in any premises.

(3) (a) After such tests or verification have been conducted under subsection (2), a certificate in respect of such equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof including their design and specifications shall be issued.

(b) A certificate referred to under paragraph (a) shall state details of the test or verification conducted and shall include the results thereof.

29. Power of Minister to vary list of approved equipment, etc.

(1) Nothing in this Act shall affect the power of the Minister to modify, vary or alter such list of equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof (including their design and specifications) in the declaration referred to under paragraph (a) of subsection (1) of section 28 if he is satisfied that such modification, variation or alteration is necessary for the safety of life or property.

(2) Where as a result of any modification, variation or alteration referred to under subsection (1), the use of any previously approved equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof is rendered contrary to section 28, no such equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof shall be used unless rectified in accordance with the requirements of such modification, variation or alteration and subject to such period of rectification as may be allowed by the Minister.

30. Offences.

Any person who uses, sells or offers for sale any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof in breach of section 28 or subsection (2) of section 29 shall commit an offence, and shall on conviction be liable to a fine exceeding twenty thousand ringgit and to a further fine of two thousand ringgit for each day or part of a day during which the offence continues after the first day in respect of which the conviction is recorded.

#### 31. Application of this Part.

(1) The provisions of this Part shall apply to equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof used or intended to be used for any commercial or industrial purposes.

(2) In relation to equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof used or intended to be used for domestic purposes, the provisions of this Part shall apply only to persons who sell or offer for sale any such equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof.

### PART VIII

#### EXISTING EQUIPMENT, GADGETS, MATERIALS, PLANTS, APPLIANCES, BUILDINGS, STRUCTURES AND INSTALLATIONS

#### 32. Equipment, etc. in premises licensed under repealed laws.

(1) Notwithstanding a declaration by the Minister under section 28, any existing equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof in any licensed premises may with the approval of the Minister, continue to be used for such purposes provided that the Minister is satisfied that such continued use does not constitute a hazard to the safety of life or property.

(2) Any application for an approval referred to under subsection (1) shall be made in writing to the Minister within ninety days from the date of publication in the Gazette of a declaration under section 28 in respect of that particular equipment, gadget, material, plant appliance, building, structure or installation or any part thereof, as the case may be.

[Am. Act A802]

(3) For the purpose of this section, "licensed premises" means premises licensed to store petroleum under any of the laws referred to under section 48.

#### 33. Rectification of equipment, etc. in licensed premises.

(1) Any existing equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof referred to under section 32, other than those determined safe for continued use with or without conditions under the same section, shall not be used for such purpose unless rectified in accordance with the provisions of this Act and regulations relating to such facilities.

(2) (a) Rectification referred to in subsection (1) shall be effected not later than three years from the date of the publication in the Gazette of a declaration under section 28.

(b) The Minister may in his discretion grant an extension of not more than two years from the expiry of the initial three years under paragraph (a).

(c) An application for such extension referred to under paragraph (b) shall be made to the Minister not later than six months before the expiry of the initial three years.

#### 34. Offences.

Any person who uses any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof in contravention of section 33 shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit and to a further

fine of two thousand ringgit for each day or part of a day during which the offence continues after the first day in respect of which the conviction is recorded.

## PART IX GENERAL POWERS FOR RECTIFICATION

### 35. General powers for rectification.

Nothing in Part VII and Part VIII shall affect the power of the Minister to require rectification of any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof within such period as he may specify in any manner whatsoever if he is satisfied that the use of such equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof is detrimental to the safety of life or property.

## PART X LIABILITY

### 36. Liability to verify.

Where any plan, drawing, description, calculation, construction, testing or operation in respect of any building, installation, equipment or apparatus used or intended to be used for the transportation, storage or utilisation of petroleum is required by regulations made hereunder to be verified, such verification shall be in such form as may be prescribed by such regulations: Provided that such verification shall include an undertaking by such person making the verification to accept full responsibility in respect of such building, installation, equipment or apparatus.

## PART XI GENERAL

### 37. Power to delegate.

(1) Any person or authority on whom or to which is conferred powers under this Act, may subject to such conditions and restrictions as such person or authority may think fit to impose, delegate such of his or its powers except the powers under sections 4, 19, 21(1), 44 and 45, to any other person or authority as such person or authority first above mentioned, may consider fit and proper.

(2) Any power delegated under this section shall be revocable at will by the person or authority granting it.

### 38. Appointment of Inspectors.

(1) The Minister may appoint such Inspectors as may be considered necessary for the purposes of carrying into effect the provisions of this Act and regulations and such Inspectors shall be deemed to be public servants within the meaning of the Penal Code.

(2) An Inspector shall have power to make such examination or inquiry as may be necessary to ascertain whether the provisions of this Act or of any regulation made thereunder are complied with, and for that purpose he-

(a) may upon producing an authority in writing issued by his Head of Department to effect such entry, enter, inspect and examine at all reasonable times by day or by night any licensed premises, and every part thereof, and any premises in which any petroleum is kept, or is suspected by him to be kept, in contravention of the provisions of this Act or any regulation made thereunder;

(b) may require the occupier of any premises which he is entitled to enter or all persons employed therein by the occupier, to give him samples of any petroleum found on the premises;

(c) may require the production of records, certificates, notices and documents kept in pursuance of this Act and whatsoever, and to inspect, examine and make copies of any of them; and

(d) may require that an operation whether directly or indirectly related to the transportation, storage or utilisation of petroleum in any premises to cease, if he has reason to believe that continued operation is prejudicial to safety of life or property, or render inoperative any equipment, gadgets, materials, plants, appliances, buildings, structures and installations or any part thereof which do not comply with the provision of this Act or any regulation made thereunder, by affixing a seal or by other means he deems best suited to the purpose.

(3) The occupier of any such premises aforesaid, his agent and any person employed by him shall furnish the means required by an Inspector as being necessary for such entry, inspection and examination which he is entitled under this Act to make.

(4) If any person fails to permit an Inspector to enter, inspect or examine as aforesaid, or to comply with any such requisition of an Inspector as aforesaid or in any manner obstructs such Inspector in the execution of his duty, that person shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringggit.

(5) For the purpose of this section, "premises" include all vessels and vehicles referred to under Part II, Part III and Part IV.

#### 39. Samples and tests.

Any officer authorised by any authority or person referred to under section 19 or any Inspector-

(a) may take samples of any petroleum from any dealer therein or from any person who keeps petroleum for the purposes of any trade or industry, or may on producing a copy of his authorisation in the case of an officer authorised by any person or authority referred to under section 19, require the dealer or other persons to show him every place and any containers or receptacles in which petroleum in his possession is kept and to give him samples of such petroleum on payment of the value thereof; and

(b) may test or cause to be tested at any convenient place and at such reasonable time as he may appoint, any samples so obtained by him.

#### 40. Free and unobstructed ingress, etc.

(1) In respect of any place liable to inspection under this Act, any person residing in or being in charge of such place shall, on demand of any Inspector under this Act or any police officer not below the rank of Sergeant allow him free and unobstructed ingress thereto and afford all reasonable facilities for such inspection therein.

(2) If ingress to such place is not obtained, any such Inspector or police officer may-

(a) break open any outer or inner door or window of any place;

(b) forcibly enter such place and every part thereof; and

(c) remove by force any obstruction to such entry or ingress.

#### 41. Liability of agents and servants.

Whenever any person under this Act or any regulation made thereunder would be liable under the provisions of this Act or any regulation to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every similar act, omission, neglect or default of any agent or servant employed by him in the course of his business as such licensed persons, and every agent or servant employed by a person licensed under this Act, in the course of business under such licences shall also be liable to every punishment, penalty or forfeiture prescribed for such act, omission, neglect or default contrary to the provisions of this Act or regulations made thereunder as fully and effectually as if such agent or servant had been the person to whom the licence had been granted.

#### 42. Revocation of licence, etc.

- (1) The person or authority granting any licence, permit, approval or extension under this Act may, if such person or authority is satisfied that-
- (a) the apparatus or premises so licensed, permitted or approved has become unfit for the purpose for which it was licensed, permitted or approved;
  - (b) the person to whom such licence, permit approval or extension was granted has committed a breach of any of the conditions of such licence, permit, approval or extension; or
  - (c) the continuance of the licence, permit, approval or extension is against public safety,
- call upon the holder of the licence, permit, approval or extension to show cause why his licence, permit, approval or extension should not be revoked.
- (2) A person called upon to show cause under subsection (1)-
- (a) shall be supplied by the person or authority as the case may be, with the particulars in writing forming the basis for the call to show cause; and
  - (b) may, if he so desires, be present at the hearing or be represented thereat by another person authorised by him in writing.
- (3) If after the hearing, the person or authority as the case may be, is of opinion that the person called upon to show cause has failed to do so, such person or authority may notwithstanding any criminal proceedings that may be brought against the person called upon to show cause, revoke his licence, permit, approval or extension.
- (4) Subsection (1) shall not prejudice the power of the person or authority referred to therein, to suspend the licence, permit, approval or extension pending the hearing to show cause, if such person or authority considers such an action to be expedient and necessary in the circumstances of the case.

#### 43. Appeal to Minister.

- (1) Where any person is aggrieved by any decision of or any revocation or any condition imposed by any person or authority empowered under this Act to grant any licence, permit or approval, he may within twenty one days from the date of receipt of the decision or licence, permit or approval, appeal to the Minister.
- (2) On appeal, the Minister may receive such evidence as he may consider necessary and may confirm, annul or vary the decision or conditions made by or imposed by the person or authority granting the licence, permit or approval.
- (3) For the purpose of providing any advice or assistance that the Minister may require to enable him to consider any appeal under subsection (1), the Minister may appoint such officer or officers of technical and other appropriate skills, as he may deem necessary and such officer or officers shall have powers to inspect any premises to enable him or them to effectively advise or assist the Minister.

#### 44. Power of Minister to exempt.

- (1) The Minister may, by order, either conditionally, or absolutely exempt any person, vehicle, vessel or place from all or any provisions of this Act or regulations made thereunder.
- (2) Without prejudice to the provisions of subsection (1), the Minister may by order exempt from all or any provision of this Act or regulations made thereunder any petroleum under the control of-
- (a) the Armed Forces and the Royal Malaysian Police of the Federation, and any other forces lawfully present in the Federation; and
  - (b) the Government of the Federation and any Government of any State.

#### 45. General powers to make regulations.

Without prejudice to the powers of the Minister given under this Act, he may make regulations and rules-

- (a) to prescribe the tests to be applied to all petroleum to ascertain its flash point, and the methods of applying the same;
- (b) to determine the classification of petroleum or any of the various liquids referred to in section 2;
- (c) to regulate the licensing and management of places for storing petroleum;
- (d) to regulate the loading and unloading and discharging petroleum;
- (e) to regulate the safety of transport of petroleum;
- (f) to prescribe the construction and materials of any place in which petroleum may be stored;
- (g) to regulate the method in which petroleum shall be stored;
- (h) to prescribe the procedure, equipment, materials, appliances and gadgets to be used for preventing or extinguishing fire in any place;
- (i) to make provision for the protection of premises adjacent to licensed places;
- (j) to prescribe the conditions and restrictions to be imposed upon vessels arriving at any port after having carried petroleum as part or whole of their last cargo;
- (k) to fix fees for the licences and permits issuable under this Act or any regulations made thereunder;
- (l) (Deleted by Act A807).
- (m) to prescribe the petroleum anchorage in any port;
- (n) to prescribe the standard and methods for construction and materials used for pipelines;
- (o) to prescribe the qualifications to be possessed by persons before they may be placed in charge or entrusted with the care or management of specified installations or before they can proceed to carry out specified work connected with petroleum or petroleum products;
- (p) to prescribe the nature of training, examinations and tests for the award of the certificates in paragraph (o) above, the form of such certificates, the manner and issue thereof, and the fees to be paid for such examination and certificates and to prescribe the manner and circumstance in which the certificate may be modified, suspended or cancelled; and
- (q) generally for carrying out the purpose of this Act.

46. Power of Minister to prescribe codes of practice.

- (1) The Minister may be order prescribe codes of practice for the purposes of this Act and regulations made thereunder.
- (2) Upon publication of such codes of practice in the Gazette, such codes of practice shall have the force of law and shall become regulations under this Act.

47. Fees collected.

Fees in respect of any licence or permit under Part IV or any regulations made in respect of that Part and issued by the local authority or authority or such person as may be authorised by the Minister shall be the revenue of the local authority or authority or such other person, as the case may be, issuing the licence or permit.

48. Repeal.

- (1) The Petroleum Ordinance 1949 and the Petroleum Ordinance 1960 of Sabah are hereby repealed.
- (2) Any regulations, rules, orders or notifications made under the laws referred to under subsection (1) shall, in so far as they are not inconsistent with this Act, remain in force until revoked or replaced by subsidiary legislation made under this Act.

## **SCHEDULE**

(Section 2(1))

1. Methane, ethane, propane, butane or hydrocarbons which may consist of one or more of the above gases, either in the form of gas or liquid.

[Ins. Act A807]

2. Gasoline

3. Naphtha

4. Reformate

5. Kerosene

6. Diesel

7. Fuel Oil

8. Base Oil

9. Lubricating Oil

10. Asphalt/Bitumen

11. Grease and Wax.