LAWS OF MALAYSIA

REPRINT

Act 144

PETROLEUM DEVELOPMENT ACT 1974

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

PETROLEUM DEVELOPMENT ACT 1994

Date of Royal Assent … … … … … 30 July 1974

Date of publication in the *Gazette* … … … 22 August 1974

PREVIOUS REPRINTS

First Reprint	… … … … …	*1997*
Second Reprint	… … … … …	*2001*

LAWS OF MALAYSIA

Act 144

PETROLEUM DEVELOPMENT ACT 1974

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Ownership
3. The Corporation
3A. Powers of the Corporation
4. Cash payment by the Corporation
5. National Petroleum Advisory Council
6. Prime Minister's permission required for downstream operations
6A. *(Deleted)*
7. Power to make regulations
7A. Delegation
7B. Offences by bodies of persons and by servants and agents
7C. Jurisdiction of courts
8. Saving
9. Transitional
10. Definition

SCHEDULE

LAWS OF MALAYSIA

Act 144

PETROLEUM DEVELOPMENT ACT 1974

An Act to provide for exploration and exploitation of petroleum whether onshore or offshore by a Corporation in which will be vested the entire ownership in and the exclusive rights, powers, liberties and privileges in respect of the said petroleum, and to control the carrying on of downstream activities and development relating to petroleum and its products; to provide for the establishment of a Corporation under the Companies Act 1965 [*Act 125*] or under the law relating to the incorporation of companies and for the powers of that Corporation; and to provide for matters connected therewith or incidental thereto.

[*1 October 1974; P.U. (B) 501/1974*]

BE IT ENACTED by the 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:

Short title

1. This Act may be cited as the Petroleum Development Act 1974.

Ownership

2. (1) The entire ownership in, and the exclusive rights, powers, liberties and privileges of exploring, exploiting, winning and obtaining petroleum whether onshore or offshore of Malaysia shall be vested in a Corporation to be incorporated under the Companies Act 1965 or under the law relating to incorporation of companies.

(2) The vesting of the ownership, rights, powers, liberties and privileges referred to in subsection (1) shall take effect on the execution of an instrument in the form contained in the Schedule to this Act.

(3) The ownership and the exclusive rights, powers, liberties and privileges so vested shall be irrevocable and shall enure for the benefit of the Corporation and its successor.

The Corporation

3. (1) Notwithstanding section 22 of the Companies Act 1965, relating to the names of companies, the Corporation shall be styled as the Petroleum Nasional Berhad or in short form PETRONAS.

(2) The Corporation shall be subject to the control and direction of the Prime Minister who may from time to time issue such direction as he may deem fit.

(3) Notwithstanding the provisions of the Companies Act 1965 or any other written law to the contrary, the direction so issued shall be binding on the Corporation.

Powers of the Corporation

3A. (1) In addition to all the powers of the Corporation as prescribed in its Memorandum and Articles of Association, the Corporation shall have the power to take over or acquire by agreement, assignment, purchase or by any other means the whole or any part of any commercial undertaking, business or enterprise of whatever form of any person or body of persons (corporate or unincorporate) and carry out or enter into any activity, whether mentioned in this Act or not, which prior to such taking over or acquisition was carried out by, and for the purpose of, that undertaking, business or enterprise.

(2) The powers conferred on the Corporation under subsection (1) shall be in addition to and not in derogation of any of the rights, powers, liberties, privileges and benefits conferred on the Corporation by this Act or any other written law.

Cash payment by the Corporation

4. In return for the ownership and the rights, powers, liberties and privileges vested in it by virtue of this Act, the Corporation shall make to the Government of the Federation and the Government of any relevant State such cash payment as may be agreed between the parties concerned.

National Petroleum Advisory Council

5. (1) There shall be established a Council to be known as the National Petroleum Advisory Council consisting of such persons including those from the relevant States as the Prime Minister may appoint.

(2) It shall be the duty of the National Petroleum Advisory Council to advise the Prime Minister on national policy, interests and matters pertaining to petroleum, petroleum industries, energy resources and their utilization.

Prime Minister's permission required for downstream operations

6. (1) Notwithstanding the provisions of any other written law, no business of processing or refining of petroleum or manufacturing of petro-chemical products from petroleum, may be carried out by any person other than PETRONAS unless there is in respect of any such business a permission given by the Prime Minister.

(2) Any person who on the commencement of this Act is carrying on any business referred to in subsection (1) may continue to do so but shall, not later than six months from the date of the commencement of this Act, apply in writing to the Prime Minister for his permission referred to in subsection (1).

(3) Subsection (1) shall apply to any business of marketing or distributing of petroleum or petro-chemical products; and any person who on the commencement of this subsection is carrying on any such business may continue to do so but shall, not later than six months from the date of commencement of this subsection, apply in writing to the Prime Minister for his permission referred to in subsection (1).

*(3A) Subsection (3) shall not apply to any person who is licensed under the Gas Supply Act 1993 [*Act 501*] to supply gas to consumer through pipelines.

(3B) For the purpose of subsection (3A), the terms "gas", "consumers" and "pipelines" shall habe the same meaning assigned to them respectively by the Gas Supply Act 1993.

(4) Where the Prime Minister grants his permission under this section he may, at his discretion, impose such terms and conditions as he may deem fit.

(5) Any person who acts in contravention of this section or fails to comply with any term or condition of any permission granted under this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both,

NOTE—Subsections 6(3A) and (3B) not yet in force–*see* Act A842.

and in the case of a continuing offence he shall be liable to a further fine not exceeding one hundred 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; and all machinery, tools, plant, buildings and other property or thing used or intended to be used in the commission of the offence and any petroleum or its products thereby obtained shall be liable to forfeiture.

(6) The Prime Minister may by notification in the *Gazette* exempt any business referred to in subsections (1) and (3) or any company or class of company carrying on any such business from the provisions of this section.

6A. *(Deleted by Act A382).*

Power to make regulations

7. The Prime Minister may make regulations for the purpose of carrying into effect the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may, in particular, provide for—

(a) the conduct of or the carrying on of—

(i) any business or service relating to the exploration, exploitation, winning or obtaining of petroleum;

(ii) any business involving the manufacture and supply of equipment used in the petroleum industry;

(iii) downstream activities and development relating to petroleum;

(b) the marketing and distribution of petroleum and its products;

(c) penalties in the form of a fine not exceeding one hundred thousand ringgit or imprisonment not exceeding five years or both for breach of any of the regulations and for non-compliance with any term or condition of any licence, permission or approval issued or granted under the regulations;

(d) the forfeiture of anything used or intended to be used in the commission of any such breach or non-compliance.

Delegation

7A. The Prime Minister may, by notification in the *Gazette*, delegate, subject to such conditions and restrictions as may be prescribed in such notification, the exercise of any of his powers or the performance of any of his duties under this Act, other than his powers and duties under subsections 3(2), 5(1) and section 7, to any person described by name or office.

Offences by bodies of persons and by servants and agents

7B. (1) Where an offence against this Act or any regulations made thereunder has been committed by any company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence.

(2) Whenever it is proved to the satisfaction of the court that a contravention of the provisions of this Act or any regulations made thereunder has been committed by any clerk, servant or agent when acting in the course of his employment the principal shall also be liable for such contravention and to the penalty provided therefor:

Provided that nothing in this section shall be deemed to exempt the liability of the clerk, servant or agent in respect of any penalty provided by this Act or any regulations made thereunder for any contravention proved to have been committed by him.

Jurisdiction of courts

7C. Notwithstanding anything contained in any other written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act or any regulations made thereunder and on conviction to impose the full penalty therefor.

Saving

8. (1) Save for section 14 thereof, the Petroleum Mining Act 1966 [*Act 95*] shall not apply to the Corporation.

(2) In the application of section 14 of that Act to the Corporation, any reference to the licensee shall be contsrued as a reference to the Corporation, and any reference to the exercising of any rights contained in the licence shall be construed as a reference to the exercising of the rights, powers, liberties and privileges vested in the Corporation by virtue of subsection 2(1) of this Act.

Transitional

9. (1) Any exploration licences issued and any petroleum agreements entered into pursuant to the Petroleum Mining Act 1966, and any licences, leases, and agreements issued or made under any written law in force relating to prospecting, exploration or mining for petroleum shall continue to be in force for a period of six months from the date of the coming into force of this Act or for such extended period as the Prime Minister may allow.

(2) Where the six months' period has elapsed and no extension under subsection (1) is allowed, the licences, leases or agreements mentioned in that subsection shall determine or cease to have effect and there shall be paid to the person whose rights under the licence, lease or agreement have been so determined, adequate compensation which may be in the form of a single sum or in the form of periodical payments of money or in such other form as may be determined by the Federal Government or under any arrangement agreed upon between such person and other person designated by the Federal Government.

Definition

10. For the purpose of this Act, the expression "petroleum" means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casinghead petroleum spirit including bituminous shales and other stratified deposits from which oil can be extracted.

SCHEDULE

[Subsection 2(2)]

GRANT OF RIGHTS, POWERS, LIBERTIES AND PRIVILEGES IN RESPECT OF PETROLEUM

I, ... on behalf of the Government of ..... on this ..... day of ..... 20....., hereby grant in

perpetuity and convey to and vest in PETRONAS the ownership in and the exclusive rights, powers, liberties and privileges of exploring, exploiting, winning and obtaining petroleum whether lying onshore or offshore of Malaysia. The grant, conveyance and vesting made hereunder shall be irrevocable and shall enure for the benefit of PETRONAS and its successor.

In witness whereof I on behalf of the Government of ..... hereunto set my hand the day and year first herein above written.

.....

.....

on behalf of the Government of

.....

Witness's signature:

.....

.....

I, ... on behalf of PETRONAS hereby accept the grant, conveyance and the vesting made above.

.....

.....

.....

Witness's signature:

.....

.....

Done at ..... this ..... day of ..... 20.....

LAWS OF MALAYSIA

Act 144

PETROLEUM DEVELOPMENT ACT 1974

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A290	Petroleum Development (Amendment) 1975	01-10-1974; except paragraph 2*(c)*, s.3 and 5: 01-05-1975
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A382	Petroleum Development (Amendment) Act 1977	01-05-1975; except s.4: 01-10-1974
Act A613	Petroleum Development (Amendment) Act 1985	01-10-1974
Act A842	Petroleum Development (Amendment) Act 1993	Not yet in force

LAWS OF MALAYSIA

Act 144

PETROLEUM DEVELOPMENT ACT 1974

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A613	01-10-1974
3A	Act A613	01-10-1974
6	Act A290	01-10-1974 except s. 2*(c)*, 5 and 6 01-05-1975
	Act A382	01-05-1975
6A	Act A290	01-05-1975
	Act A382	01-05-1975
7	Act A290	01-10-1974
7A	Act A290	01-05-1975
7B	Act A290	01-05-1975
7C	Act A290	01-05-1975
8	Act A290	01-10-1974
9	Act A290	01-10-1974
	Act A382	01-10-1974

DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
KUALA LUMPUR
PNMB BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA