

GAS SUPPLY ENACTMENT 2023

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SCHEDULE



STATE OF SABAH

I assent,

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TUN DATUK SERI PANGLIMA (DR) HAJI JUHAR
BIN DATUK HAJI MAHIRUDDIN,
Yang di-Pertua Negeri.

10TH JANUARY, 2023.

No. 12 of 2022

An Enactment to provide for the licensing of the import into regasification terminal, processing, regasification, shipping, transportation, distribution, retail or use of gas in the supply of gas through pipelines and related matters, the supply of gas at reasonable prices, the control of gas supply pipelines, installations and appliances with respect to matters relating to safety of persons in the distribution, retail or use of gas and for purposes connected therewith.

ENACTED by the Legislature of the State of Sabah as follows:

PART I

PRELIMINARY

Short title, commencement and application

1. (1) This Enactment may be cited as the Gas Supply Enactment 2023.

- (2) This Enactment comes into operation on 10 January 2023.
- (3) This Enactment shall apply to the delivery of gas —
- (a) in relation to —
 - (i) liquefied natural gas, from the connection flange of the loading arm at the regasification terminal;
 - (ii) natural gas received from a gas processing plant or an onshore gas terminal, from the last flange of the gas processing plant or onshore gas terminal;
 - (iii) natural gas imported into Sabah through pipelines from the boundary of the State, excluding pipelines upstream of a gas processing plant or an onshore gas terminal, from the international border,to the transmission or distribution pipelines, or the piping system and to any gas appliance in the premises of a consumer; and
 - (b) from the filling connection of a storage tank or cylinder specifically used for the reticulation or delivery of gas to any gas appliance in the premises of a consumer.
- (4) This Enactment shall apply to, in respect of safety and technical matters, the delivery of gas to consumers —
- (a) from the distribution pipelines or piping system to any gas appliance in the premises of a consumer; or
 - (b) from the filling connection of a storage tank or cylinder specifically used for reticulation or delivery of gas to any gas appliance in the premises of a consumer.

Interpretation

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

“apparatus” shall include tanks, cylinders or other equipment or any other forms of storage or distribution or utilization of gas;

“area of supply” means the area within which a person is licensed under this Enactment to regasify, process, ship, transport, distribute, retail or use of gas;

“authorized officer” means any public officer or officer of the Commission who is authorized in writing by the Minister for the purposes of this Enactment;

“Chief Executive Officer” means the Chief Executive Officer of the Commission;

“city gate station” means a station with gas measurement and pressure regulating services where gas is received directly from the transmission pipeline and subsequently delivered through the distribution pipeline for the delivery of gas to the consumer;

“Collector” has the meaning assigned to it in section 4 of the Land Ordinance (*Cap. 68*);

“Commission” means the Commission established under the Energy Commission of Sabah Enactment 2023;

“competent person” means a person who holds a certificate of competency issued by the Commission or any other equivalent certificate issued by any government body to perform work in accordance with the restrictions, if any, stated in the certificate;

“consumer” means any direct or indirect user of gas, facilities or services provided by a licensee in the course of business, and includes another licensee that uses the gas, facilities or services thus provided as an input to its own business including as a shipping, retail or private gas licensee, a consumer whose premises receive gas through a transmission or distribution pipeline or a consumer of a retail licensee;

“danger” means danger to health or to human life or limb from shock, burn, or other injury and includes danger to property, pipeline or installation resulting from distribution, retail or use of gas;

“Director” has the meaning assigned to it in section 4 of the Land Ordinance;

“dishonestly” has the same meaning assigned to it under the Penal Code [*Act 574*];

“distribution” means the activity carried out by a distribution licensee to operate and maintain the distribution pipeline to deliver gas through the distribution pipeline;

“distribution licensee” means a person licensed under section 4 to distribute gas;

“distribution pipeline” means those parts of the gas pipeline including installations connected downstream of the last flange of a city gate station to the last flange of a regulating or metering station at the premises of consumers or a retail licensee;

“equipment” includes a valve, filter, meter, pressure regulator or any other functioning item used in a gas system;

“facility” means —

- (a) in the case of a regasification licensee, a facility including related pipeline and installation located onshore or in Sabah waters which is used to receive, store or regasify liquefied natural gas which are designated as such by the regasification licensee with the approval of the Commission;
- (b) in the case of a processing licensee, a facility including related pipeline and installation located in Sabah which is used for the processing of gas which are designated as such by the processing licensee with the approval of the Commission;
- (c) in the case of a transportation licensee, the transmission pipelines together with the related installation used for the transportation of gas which are designated as such by the transportation licensee with the approval of the Commission;

- (d) in the case of a distribution licensee, the distribution pipelines together with the related installation used for the distribution of gas from the last flange of city gate station and which are designated as such by the distribution licensee with the approval of the Commission;

“gas” means natural gas, liquefied natural gas or liquefied petroleum gas;

“gas appliance” means an appliance designed for use or to be used by a consumer of gas for heating, burning, motive power or other purposes for which gas can be used and includes a gas appliance regulator;

“gas delivery system” means the physical delivery of gas from the connection flange of the loading arm at the regasification terminal or the last flange of the gas processing plant or the last flange of the onshore gas terminal to the transmission pipeline, distribution pipeline, piping system or other means;

“gas processing plant” means a facility to process natural gas in order to meet gas specifications to be used in or delivered through the gas delivery system;

“Government” means the Government of the State of Sabah;

“import into regasification terminal” means the activity of bringing or causing to be brought liquefied natural gas into or within Sabah by any means, other than by transshipment;

“installation” means all parts of those physical facilities involved in regasification, transportation, distribution, retail or use of gas including equipment, appliance, pump, vaporizer, compressor, any appurtenance attached to pipelines or piping system and any other assembly;

“licence” means a licence issued under section 6;

“licensee” means a person licensed under section 4;

“liquefied natural gas” means natural gas in its liquefied state;

“Minister” means the Minister for the time being charged with the responsibility for matters relating to supply of gas;

“natural gas” means hydrocarbon gas mixture consisting primarily of methane;

“pipelines” means all parts of those physical facilities including installations, through which gas moves for the purpose of regasification, transportation, processing or distribution of gas;

“piping system” means all parts of those physical facilities including installations, through which gas moves, from the last flange of a regulating or metering station connected to the distribution pipeline or from the filling connection of a storage tank or cylinder for purposes of reticulation or delivery in respect of retail or use of gas through a piping system to any gas appliance in any premises;

“private gas licensee” means a person licensed under section 4 to use gas through a piping system —

- (a) from a storage tank or cylinder on his own property or premises or the property or premises of the owner or occupier; or
- (b) from gas delivered through a distribution pipeline,

but does not include a person obtaining the supply of gas from a retail licensee;

“processing of gas” means any activity which includes treatment, separation or any other processes to process natural gas onshore to meet gas specification through a gas delivery system to and use by consumers;

“processing licensee” means a person licensed under section 4 to process gas;

“regasification” means the activity of operating and maintaining a regasification terminal to regasify the liquefied natural gas into natural gas carried out by the regasification licensee at the regasification terminal and includes receiving, storing and after the regasification, delivering the gas through the regasification terminal pipeline;

“regasification licensee” means a person licensed under section 4 to regasify gas;

“regasification terminal” means a facility located onshore or in Sabah waters which is used to regasify or store liquefied natural gas;

“Registrar” has the meaning assigned to it in section 4 of the Land Ordinance;

“reserved land” means land reserved for a public purpose, railway reserves, forest reserves and park reserves;

“retail” means the activity of sale or use of gas through the retail licensee’s piping system to consumers’ premises where the gas is either —

- (a) received from a storage tank or cylinder on the retail licensee’s own property or premises or on the property or premises of the owner or occupier; or
- (b) received through distribution pipelines;

“retail licensee” means a person licensed under section 4 to retail gas;

“safety” means the obviation of danger to the general public or to property in respect of distribution pipelines or piping system;

“shipping” means the activity of a shipping licensee making an arrangement with a regasification, transportation or distribution licensee for gas to be processed or delivered through a regasification terminal, transmission pipeline or distribution pipeline to consumers’ premises;

“shipping licensee” means a person licensed under section 4 to ship gas;

“State land” does not include reserved land and alienated land;

“supply of gas” means the supply and delivery of gas to the premises of a consumer of a retail licensee;

“this Enactment” includes any subsidiary legislation made under this Enactment;

“transmission pipeline” includes installations and pipelines transporting gas either from —

- (a) the last flange of the gas processing plant;
- (b) the last flange of the onshore gas terminal;
- (c) the tie-in point of the regasification terminal; or
- (d) the state border,

to the last flange of the city gate station or the last flange of a regulating or metering station;

“transportation” means the activity carried out by a transportation licensee for the delivery of gas through the transmission pipeline under an arrangement with a shipping licensee;

“transportation licensee” means a person licensed under section 4 to transport gas; and

“use of gas” means the activity of using gas as a private gas licensee.

PART II

FUNCTIONS AND DUTIES OF COMMISSION

Functions and duties of Commission

3. (1) The Commission shall have the following functions and duties:

- (a) to ensure that a licensee authorized by or under this Enactment to import into regasification terminal, ship or retail gas through pipelines satisfies all reasonable demands for gas;
- (b) to ensure that a regasification, transportation or distribution licensee satisfies all reasonable demands for access to the facility;
- (c) without prejudice to the generality of paragraphs (a) and (b), to ensure that such licensee is able to finance the import into regasification terminal, shipping or retail or the provision of facility of regasification, transportation or distribution of gas;
- (d) to protect the interests of consumers of gas supplied by licensees under this Enactment in respect of —
 - (i) the terms of supply and the utilization of facility;
 - (ii) the continuity of supply; and
 - (iii) the quality of the gas, facility and services provided;
- (e) to develop and issue codes, guidelines and directions pertaining to matters as provided under this Enactment;
- (f) to regulate the quality of gas delivered in the gas delivery system and pressure of gas delivered through the distribution pipeline or the piping system;
- (g) to promote efficiency and economy on the part of licensees or other persons to import into regasification terminal, utilize a regasification terminal, process, regasify, ship, transport, distribute, retail or for the use of gas;
- (h) to ensure that the public is protected from dangers arising from the distribution, retail or use of gas;
- (i) to inspect or cause to be inspected any installation, pipeline or piping system;
- (j) to investigate any accident or fire involving any gas distribution pipeline or piping system;

- (k) to investigate any complaints by consumers relating to the supply of gas and to resolve such complaints;
- (l) to carry out or cause to be carried out audit of a licensee, institution, manufacturer or importer, gas contractor or any other person as determined by the Commission;
- (m) to submit an annual report to the Minister on the performance of its functions and duties under this Enactment and on the supply of gas in Sabah and the performance of the licensees; and
- (n) to carry on all such other activities as may appear to the Commission requisite, advantageous or convenient for the purpose of carrying out the provisions of this Enactment.

(2) The functions and duties of the Commission may at any time be carried out by any officer of the Commission duly appointed in writing by the Commission for such purpose.

PART III LICENSING

Activities to be licensed

4. (1) No person shall carry out any activity of —

- (a) import into regasification terminal;
- (b) processing of gas;
- (c) regasification of gas;
- (d) shipping of gas;
- (e) transportation of gas;
- (f) distribution of gas;
- (g) retail of gas; or
- (h) use of gas,

unless such person is licensed under this Enactment.

(2) Any person who carries out any activity of import into regasification terminal, processing, regasification, shipping, transportation or distribution of gas through pipelines without any licence commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and in the case of a continuing offence, to a further fine not exceeding five thousand ringgit for every day or part of a day during which the offence continues after conviction.

(3) Any person who carries out any activity of retail or use of gas through a piping system without any licence commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both, and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(4) For the purposes of subsections (2) and (3), any licensee who, without the express authority from the Commission, carries on the activity of transportation, distribution, retail or use of gas or lays down any pipeline or constructs any piping system outside the area of supply specified in his licence shall be deemed to be operating without a licence and commits offences under subsections (2) and (3) accordingly.

Application for licence

5. (1) A person may apply to the Commission for a licence for the activities mentioned in section 4 subject to such prescribed fee as may be imposed by the Commission.

(2) Any person applying for a licence under subsection (1) shall provide to the Commission the following details:

(a) in the case of a licence for distribution, retail or use of gas:

(i) area of supply;

(ii) site location plan showing the proposed location of

the premises to be installed with the pipeline and its neighbouring area;

- (iii) piping layout showing details of pipeline routes including the location of any storage tank or cylinder, site boundary, deflection wall and the nearest sources of ignition;
 - (iv) technical specifications of the pipeline or piping system;
 - (v) certification of the pipeline or piping system; and
 - (vi) any other information as may be required by the Commission; and
- (b) in the case of a licence for import into regasification terminal, processing, regasification, shipping or transportation of gas, any details as required by the Commission.

(3) All persons applying for a licence under this Enactment shall comply with the principles and procedures as may be prescribed by the codes or guidelines issued by the Commission for the purpose of making such application.

Grant of licence

6. (1) The Commission may grant —

- (a) a licence for the transportation of gas, to a person designated by the Minister;
- (b) a licence for the processing of gas, to a person with the approval of the Minister;
- (c) a licence for the regasification or distribution of gas, with the approval of the Minister; or
- (d) a licence for the import into regasification terminal, shipping, retail or use of gas,

on such terms and conditions and on payment of such prescribed fee as may

be imposed by the Commission.

- (2) A licence shall not be granted to any person —
- (a) if the grant of the licence may, in the opinion of the Commission, give rise to a conflict of interest in the discharge of any duty imposed on the person under this Enactment or any other licence granted to him under this section; or
 - (b) who is not incorporated in Malaysia or does not have a place of business in Sabah, except for a licence for the import into regasification terminal.

(3) For the purpose of granting a licence under this section, the Commission may grant more than one licence to any person as the Commission deems fit.

(4) No licence shall be capable of being transferred, assigned, sub-assigned or otherwise disposed of unless the written consent of the Minister or the Commission has been obtained.

(5) Licences may be for such periods as the Commission may in each case approve.

(6) Any licence granted under this section may extend to the determination of the area of the licensed activity by the Commission.

(7) Subject to the approval of the Minister, any licence granted under this section may authorize the licensee to lay, place or carry on, under or over State land, to the extent and in the manner specified in the licence, such pipelines and piping system and to erect and maintain in or upon State land such other equipment as may in the opinion of the Commission be necessary or proper for the purposes of the licence, and subject always to the approval of the Minister, the said authorization may be given or added to at any time during the validity of the licence.

Security

7. (1) Before the grant of any licence, the Commission may require a

security, either in the form of cash or bank guarantee as the Commission may specify, to be furnished for the due observance of the terms and conditions of the licence.

(2) The amount of the security shall be based on the licensee's construction costs, operational costs or both, as the case may be, as determined by the Commission and such amount may be reviewed from time to time.

(3) If a licence is revoked under section 10, the security shall be forfeited as the Commission deems fit.

(4) For the purpose of this section, "operational costs" means all costs calculated by the Commission to be the costs of operating the gas delivery system including wages, costs of fuel, spare parts, labour charges and lubricants but not including capital costs or loans.

Licensee to comply with terms and conditions of licence

8. (1) A licensee shall comply with the terms and conditions of a licence granted under section 6.

(2) Any import into regasification terminal, processing, shipping, retail or private gas licensee who fails to comply with any terms and conditions specified in the licence commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(3) Any regasification, transportation or distribution licensee who fails to comply with any terms and conditions specified in the licence commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit and in the case of a continuing offence, to a further fine not exceeding five thousand ringgit for every day or part of a day during which the offence continues after conviction.

Power to impose additional terms or conditions or to amend terms or conditions

9. The Commission may, at any time —

- (a) impose any additional terms or conditions on the licence granted under section 6; or
- (b) amend any of the terms or conditions imposed on the licence granted under section 6.

Suspension or revocation of the licence

10. (1) The Commission may suspend or revoke a licence under any of the following circumstances:

- (a) the licensee has contravened any provisions of this Enactment;
- (b) the licensee has failed to comply with any of the conditions of the licence;
- (c) the licensee has default of payment of any moneys payable under this Enactment;
- (d) the licensee has ceased to construct or operate the pipeline or piping system which he was authorized to do under the licence;
- (e) the licensee has failed or refused to carry out the activity stipulated in the licence;
- (f) the licensee had improperly or illegally obtained the licence;
- (g) the licensee has been convicted of an offence under this Enactment;
- (h) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of appointment; or

- (i) there has been any act or default on the part of the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be granted a licence under this Enactment.

(2) Before the Commission makes a decision under subsection (1), the Commission shall give the licensee —

- (a) a written notice of its intention to suspend the licence; and
- (b) an opportunity to make written representations within a period specified in the written notice which shall not be less than fourteen days.

(3) After the expiry of the period specified in the notice, the Commission shall, after considering the written representations made by the licensee under subsection (2), if any, decide whether to suspend the licence or not.

(4) The Commission shall give the licensee a written notice of its decision under subsection (3) as soon as practicable.

(5) Upon the suspension of a licence, the Commission may —

- (a) require the licensee to rectify any breach of any condition of the licence or to pay any moneys accrued due thereunder within a certain specified period; and
- (b) in the interest of the public, authorize another person to continue operating the pipeline or piping system if the pipeline or piping system or part thereof has been in operation for the period of suspension.

(6) If the Commission is satisfied that the licensee has complied with the requirement under paragraph (5)(a) the suspension may be lifted and the licensee may be allowed to continue the construction or operation of the pipeline or piping system, as the case may be.

(7) If the licensee fails to rectify the breach as required under paragraph 5(a), the Commission may revoke the licence.

(8) Upon revocation of a licence, the Commission may —

- (a) require the licensee, within a reasonable period of time, to remove his pipeline or piping system or part thereof at the licensee's costs;
- (b) acquire the pipeline or piping system or part thereof on payment of adequate compensation to the licensee, and appoint another licensee to complete the construction of the pipeline or piping system or delivery of gas through the acquired pipeline or piping system, as the case may be; or
- (c) authorize another licensee, on payment of adequate compensation, to acquire the pipeline or piping system or part thereof and complete its construction or delivery of gas through the acquired pipeline or piping system, as the case may be.

(9) A licensee whose licence is suspended or revoked shall not be entitled to any compensation for any loss caused to him by the suspension or revocation of a licence under this Enactment.

(10) If a licence is revoked under this section the security shall be forfeited as the Commission deems fit.

PART IV

PROVISIONS RELATING TO THE LICENSEE, SUPPLY OF GAS, ENTRY INTO LAND, *ETC.*

Power to fix tariffs and charges

11. (1) The Commission, with the approval of the Minister, may determine tariffs and charges to be levied, by —

- (a) a regasification, transportation or distribution licensee in respect of the utilization of their facilities for regasification, transportation or distribution of gas; and
 - (b) a retail licensee in respect of the sale or use of gas through the retail licensee's piping system to the premises of a consumer.
- (2) The Commission may issue guidelines on tariffs and charges including —
 - (a) the methodology, principles or category of tariffs and charges;
 - (b) the duration for the imposition of tariffs and charges and for the review of the tariffs and charges; and
 - (c) the submission of any information as the Commission deems requisite and necessary.
- (3) A regasification, transportation, distribution or retail licensee shall submit a proposal on tariffs and charges to the Commission in accordance with the guidelines issued by the Commission under subsection (2).
- (4) The approved tariffs and charges shall be published by the regasification, transportation, distribution or retail licensee in such manner as in the opinion of the Commission will secure adequate publicity for it.
- (5) In levying tariffs and charges under subsection (1), a regasification, transportation, distribution or retail licensee shall not show undue preference or discrimination as among the consumers.

Obligation to submit business plan

12. (1) Subject to the terms and conditions of a licence, an import into regasification terminal, processing, regasification, transportation or distribution licensee shall submit a five year, or such other period as determined by the Commission, rolling business plan relating to licensed activities updated on an annual basis or any other time period as determined

by the Commission according to procedures provided in the guidelines issued by the Commission.

(2) Any licensee who fails to comply with its duty under this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

Standards of performance of supply of gas and services by licensee

13. (1) The Commission may issue guidelines on such standards of performance in connection with the —

- (a) supply of gas and provision of services to consumers by retail licensee; and
- (b) services in relation to the activities of regasification, transportation or distribution licensee.

(2) The standards referred to in subsection (1) include such consumer service standards to be implemented by the licensee and procedures for —

- (a) reasonably meeting consumer requirements;
- (b) the handling of consumer complaints and disputes;
- (c) the compensation of consumers in case of a breach of the standards of performance, consumer service standards or for a breach of any of its obligation under the Enactment that affects consumers; and
- (d) the protection of consumer information.

(3) The licensees referred to in subsection (1) shall publish their own consumer service standards in accordance with the guidelines issued by the Commission under this section.

(4) Any action taken by the Commission under this section in respect of any failure by any licensee to meet the published standards shall not prejudice or affect any other remedy which may be available in respect of the act or

omission of such licensee which constituted that failure under any other law including the Consumer Protection Act 1999 [*Act 599*].

(5) Any licensee who contravenes this section commits an offence and shall, on conviction, be liable for a fine —

- (a) in the case of a retail licensee, not exceeding three hundred thousand ringgit and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction, and compensation for any loss incurred for the amount of which to be fixed by the court under section 41; and
- (b) in the case of regasification, transportation or distribution licensee, not exceeding one million ringgit and in the case of a continuing offence, to a further fine not exceeding ten thousand ringgit for every day or part of a day during which the offence continues after conviction, and compensation for any loss incurred for the amount of which to be fixed by the court under section 41.

Commission may require licensee to submit information, data, etc.

14. (1) The licensee shall furnish to the Commission, upon request, such information, data and documents relating to the licensee's business under his licensed activity or service rendered to consumers.

(2) Any licensee who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Separate account for activities under the licence

15. (1) In respect of his licensed activities, a licensee shall maintain

proper annual accounts separate from the licensee's other business and the Commission may request the licensee to submit such report to the Commission from time to time.

(2) Such separate accounts shall contain sufficient details of any revenues, costs, assets, liabilities, reserves, provisions or any other matter which have been either —

(a) charged from or to any other business; or

(b) determined by allocation or apportionment attributable and identifiable to the licensed activity or activities,

or any other information deemed necessary by the Commission.

(3) Any licensee who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Requirements on licensing

16. (1) Notwithstanding any other provisions of this Enactment, if at any time it appears to the Commission that a licensee has failed to comply with any requirement of or to meet any of his duties or obligations under this Enactment or the terms and conditions of the licence, the Commission may issue a direction requiring the licensee to rectify the failure or to comply with the requirements, duties or obligations or terms and conditions of the licence within a specified period as the Commission may determine.

(2) The licensee shall take all reasonable measures to comply and submit periodic compliance reports on the measures taken to the satisfaction of the Commission.

(3) Any licensee who contravenes subsection (2) commits an offence.

Duty of retail licensee to supply gas to consumers upon request or duty of the regasification, transportation or distribution licensee to allow utilization of their facilities by third parties

17. (1) Subject to the following provision of this Part and terms and conditions of a licence imposed under section 6, regulations, codes or guidelines made under this Enactment —

- (a) a retail licensee shall upon request of a consumer supply gas to the consumer's premises; and
- (b) a regasification, transportation or distribution licensee shall upon request of a shipping licensee allow the utilization of his facility.

(2) Where any person requires a supply of gas under paragraph (1)(a), he shall give to the retail licensee a notice specifying —

- (a) the premises in respect of which the supply is required;
- (b) the day on which the supply is required to commence;
- (c) the quantity which may be required at any time;
- (d) the minimum period for which the supply is required to be given; and
- (e) the pressure at which the supply is required.

(3) Where a shipping licensee requires the utilization of —

- (a) a regasification licensee's facility, he shall give to the regasification licensee a notice specifying the date of commencement, the period of utilization of the facility and the capacity required;
- (b) a transportation licensee's facility, he shall give to the transportation licensee a notice specifying the date of commencement, the period of utilization of the facility, the capacity and the entry and exit points for the transportation of gas; or
- (c) a distribution licensee's facility, he shall give to the distribution

licensee a notice specifying the date of commencement, the period of utilization of the facility, the capacity and the entry and exit points for the distribution of gas.

(4) Where a licensee receives from any person a notice under subsection (2) or (3) requiring him to give a supply of gas to any premises or to allow the utilization of his facility and —

- (a) he has not previously given supply of gas to those premises or allowed the utilization of his facility;
- (b) except for a regasification licensee, the giving of the supply of gas or allowing the utilization of facility requires the provision of pipelines or piping system; or
- (c) other circumstances exist which make it necessary or expedient for him to do so,

the licensee shall, as soon as practicable after receiving that notice, give to the person a notice under subsection (5).

(5) A notice under this subsection shall —

- (a) state the extent to which the proposals specified in the notice under subsection (2) or (3) are acceptable to the licensee and specify any counter proposals made by the licensee;
- (b) state whether the prices to be charged by the licensee will be determined by a tariff under section 11 and specify the tariff;
- (c) specify any payment which the person will be required to make under subsection 19(1); and
- (d) specify any security which the person will be required to give under section 20.

(6) In this section and in sections 18 to 20 of this Part —

- (a) any reference to giving a supply of gas or allowing the utilization of facility includes a reference to continuing to give such a supply or allowing such utilization; and

- (b) any reference to requiring a supply of gas or allowing the utilization of facility includes a reference to continuing to require such supply or allowing such utilization.

(7) Without prejudice to subsection (2) or (3), the party requiring the supply of gas or allowing the utilization of facility shall notify to the relevant licensee of any other information that such licensee may reasonably require.

Exceptions to duty to supply gas or to allow utilization of facility

18. (1) Nothing in subsection 17(1) shall require a retail licensee to supply gas to consumers or a regasification, transportation or distribution licensee to allow the utilization of his facility, if —

- (a) it is contrary to any law;
- (b) under the agreement, he is so exempted;
- (c) he is prevented from doing so by the malfunction or failure of any pipeline or piping system beyond his control, or as a result of fire, flood, landslide, explosion, accident, industrial disturbance on a national or state level, emergency, riot, civil disturbance or war, or any other similar event not within the control of the licensee;
- (d) the supply of gas or the utilization of facility is already being granted; or
- (e) the Commission is of the opinion that it is not reasonable in all the circumstances for him to be required to do so.

(2) Nothing in the agreement referred to in paragraph (1)(b) shall provide for any exception from the duty to supply gas or to allow utilization of facility other than —

- (a) a situation where he is prevented from supplying gas or allowing the utilization of his facility by reason of fire, flood, landslide, explosion, accident, industrial disturbance on a national or state

level, emergency, riot, civil disturbance or war, or any other similar event not within the control of the licensee; or

- (b) where the said agreement provides for such exception for reasons of safety which directly affects or which will affect his ability to supply gas or to allow utilization of his facility.

Power of licensee to recover expenses

19. (1) Where any pipeline or piping system is provided by a licensee for the purposes of supplying gas or allowing the utilization of his facility under section 17, the licensee may, with the Commission's approval, require any expenses reasonably incurred by the licensee to be defrayed by the person requiring the supply of gas or the utilization of facility to such extent as is reasonable having regard to the circumstances.

(2) The expenses reasonably incurred in providing any pipeline or piping system under subsection (1) include the capitalized value of any expenses likely to be so incurred in maintaining it, if such expenses cannot be recovered by the licensee as part of the tariffs subject to section 11, where applicable, levied by him for the supply of gas or such utilization of facility.

(3) The expenses incurred in providing any pipeline or piping system within the premises of a consumer shall be borne by such consumer.

Power of licensee to require security

20. (1) A shipping or retail licensee may require any person who requires supply of gas to give him reasonable security for all monies which may become due to him —

- (a) in respect of the shipping or retail of gas; and
- (b) in respect of any necessary work to be done for the retail of gas,

and if the person fails to give such security, the shipping licensee may refuse

to ship or in the case of a retail licensee, to supply the gas or provide the piping system until the security has been given.

(2) A regasification, transportation or distribution licensee may require any person who intends to utilize his facility under paragraph 17(1)(b) to give him reasonable security for all monies which may become due to him in respect of the utilization of the facility, and if the person fails to give the security, the licensee may refuse to allow the utilization of the facility until the security has been given.

(3) Where the person has not given the security in subsection (1) or the security given by the person has become insufficient, the licensee may by notice require the person, within seven days after the service of the notice, to give him reasonable security for the payment of all moneys which are due to him in respect of shipping or retail of gas and if the person fails to give such security, the licensee may, if he thinks fit, discontinue the shipping or retail of gas until the security is given.

(4) Where a person fails to give security in subsection (2) or the security given by the person has become insufficient, the licensee may by notice require the person, within seven days after the service of the notice, to give him reasonable security for the payment of all monies which are due to him in respect of the utilization of the facility and if the person fails to give such security, the licensee may suspend the utilization of his facility until the security is given.

Return of security with interest

21. Notwithstanding any other provisions in this Enactment, a licensee shall pay to a person subject to such conditions and at such rates as may be prescribed, a sum equivalent to the annual interest on the security given under section 20.

Special agreement with respect to supply

22. (1) A person who requires a supply of gas pursuant to section 17 may

enter into a special agreement with the licensee for the supply on such terms as may be specified in the agreement.

(2) Any term in such agreement in relation to tariff shall be submitted to the Commission for the purpose of subsection 11(5).

(3) Where any agreement made pursuant to subsection (1) remains effective, the provisions of section 13 and sections 17 to 20 do not apply.

(4) The provisions of subsection 17(2) shall still apply for the purposes of specifying the day on which the supply of gas is required to commence and the day on which such an agreement ceases to be effective.

(5) Any agreement made under subsection (1) shall be approved by Commission.

Charge for regasification, transportation, distribution or retail of gas to be ascertained by appropriate meter

23. (1) Where any person is to be charged —

- (a) as a consumer who receives gas from a shipping or retail licensee;
- (b) as a private gas licensee who receives gas from a shipping licensee;
- (c) as a retail licensee who receives gas from a shipping licensee; or
- (d) for his utilization of the facility of a regasification, transportation or distribution licensee,

by reference to the quantity of gas involved, the gas shall be delivered through, and its quantity shall be ascertained by an appropriate meter including a pre-paid meter, automated metering infrastructure or by telemetering.

(2) The meter, to be provided by the regasification, transportation, distribution or retail licensee, whether by way of sale, hire or loan, shall be of the type approved by the Commission or its appointed body for that purpose and complying with the requirements of any subsidiary legislations made under this Enactment, codes or guidelines issued under this Enactment.

- (3) The meter shall be installed —
- (a) on the premises of consumers of shipping licensee or retail licensee in a position as determined by the said licensees;
 - (b) at such facility in a position as determined by the regasification licensee for the import into regasification terminal or utilization of the regasification facility; and
 - (c) at the city gate station in a position as determined by transportation licensee for the delivery of gas from a transmission pipeline to a distribution pipeline.

(4) If the consumer refuses or fails to have the delivery or supply of gas or utilization of facility through the appropriate meter provided and installed in accordance with subsections (2) and (3) or if such meter is found to be tampered with so as not to register correct or accurate readings or data on the gas delivered or supplied, the licensee may refuse to give or may discontinue the delivery or supply of gas or utilization of the facility.

(5) Regulations may be prescribed and codes or guidelines may be issued to regulate the licensee's responsibility in relation to metering in accordance with this Enactment.

Reduction or cessation of retail of gas

24. (1) Any retail licensee may cease the supply of gas or reduce, as he may think fit, the quantity of gas supplied to any consumer under the circumstances stated in section 18.

(2) Without prejudice to any agreement, where the quantity of gas has been reduced as aforesaid —

- (a) no liability shall be incurred by the licensee in respect of any loss or damage caused by the reduction; and
- (b) in appropriate cases, an abatement in the charges for the supply of gas shall be made in proportion to the reduction made.

(3) Any retail licensee shall not be liable for any loss to any person or damage to any property for any cessation or reduction of the supply of gas —

- (a) which is directly caused by any negligent act on the part of the consumer including any unauthorized connection of any piping system; or
- (b) which is shown to have resulted from any of the events described in section 18.

(4) The retail licensee shall be liable for any loss to any person or damage to any property for any cessation or reduction of the supply of gas which is shown to have resulted from negligence on the part of persons employed by the licensee, his agents or servants, as the case may be, or from his faulty construction of the piping system.

(5) Without prejudice to subsection (4) the retail licensee shall rectify any damage to ensure continuation of the supply of gas within a reasonable period of time and to repair any damage from the outlet of the meter to the internal piping within the consumer's premises if it is shown to have resulted from the negligent act of the retail licensee, his agents or servants, as the case may be.

Disconnection of delivery or supply of gas

25. (1) Where a licensee has reasonable grounds to believe that in respect of any premises an offence under subsection 34(1), (2), (3) or 35(2) has been committed, the licensee or any person duly authorized by the licensee may, upon giving not less than twenty-four hours' notice, in such form as may be prescribed, discontinue the delivery or supply of gas to such premises.

(2) Upon disconnection under subsection (1), the licensee shall immediately inform the Commission of the disconnection.

(3) Upon receiving the information under subsection (2), the Commission shall immediately direct an authorized officer to inspect such premises and as soon as practicable after such inspection, the Commission shall form an opinion —

- (a) that an offence has been committed and that the delivery or supply of gas shall not be reconnected until an investigation has been completed; or
- (b) that an offence has not been committed and that the delivery or supply of gas shall immediately be reconnected in which case the licensee shall pay compensation for any loss or damage caused by the discontinuation of the supply.

(4) Where the Commission forms an opinion under subsection (3) that an offence has been committed, an investigation under sections 46 and 47 shall be carried out and upon completion of the investigation, if it discloses no commission of any offence, the delivery or supply of gas shall be reconnected immediately and any loss incurred by any party may be referred to the Commission for adequate compensation.

(5) If an offence has been committed, the licensee may require the consumer to pay him for any loss of revenue due to the offence committed under subsection 34(1), (2), (3) or 35(2) and any expenses incurred by the licensee under this section including expenses incurred in respect of the reconnection of delivery or supply of gas in the manner and in accordance with guidelines issued by the Commission under this Enactment.

(6) Notwithstanding subsection (5), if the licensee does not proceed with a claim for such loss of revenue and expenses in court, the licensee may only claim against the consumer for the said loss of revenue and expenses for a period not exceeding six months retrospectively from the date the offence was discovered under subsection (1).

(7) Subject to subsection (5), a written statement by the licensee or any person authorized by the licensee specifying —

- (a) the amount of loss of units of gas or the expenses incurred by the licensee including the manner of calculation of the loss of revenue and items of expenses; and
- (b) the person liable for the payment thereof,

shall be *prima facie* evidence of the payment that has to be made by the consumer under subsection (5) and such written statement shall be notified to the consumer within fourteen working days or any period as extended with the written approval of the Commission after the disconnection.

(8) The amount stated in the written statement or decided by the Commission shall, within the period specified in the statement, be due and payable to the licensee and in default of payment such amount shall be recoverable by civil action in a court.

Liabilities unaffected

26. Except as provided in section 24, nothing contained in this Enactment shall operate to relieve any licensee from any civil or criminal liability arising under this Enactment.

Power to enter and examine non-State land

27. (1) Whenever it appears to the licensee that it will be necessary for him to exercise the powers conferred upon him by this Enactment in respect of any land other than State land for the purpose of constructing any pipeline or piping system or part thereof, the licensee or any person authorized by him may, after giving not less than twenty-four hours' notice to the occupier thereof, if any, enter upon the land, survey and take levels and do any other acts necessary to ascertain the suitability of the land, in so far as the same may be possible without causing damage or disturbance.

(2) Nothing herein contained shall be deemed to authorize any person to cut down or clear away any vegetation or any fence or other erection or to enter into any building or upon any enclosure attached to any building.

(3) In the case of reserved land, the notice under subsection (1) may be given to the officer or any other person in charge of the reserved land or, in the absence of any such officer or person, to the Collector.

Power to enter non-State land for purposes of construction

28. (1) Whenever it is necessary for the purpose of installing any —

- (a) pipeline for the regasification or transportation of gas; or
- (b) pipeline for the distribution of gas or piping system,

a licensee may lay, place or carry on, under or over any land, other than State land, such pipeline or piping system as may be necessary or proper for the purposes of the licence, and may take such other action as may be necessary to render such pipeline or piping system safe and efficient, and pay full compensation in accordance with section 33 to all persons interested for any disturbance, damage or disability that may be caused thereby and such compensation may include an annual payment for land used for the purpose of such pipeline or piping system.

(2) For the purposes of paragraph (1)(a), the regasification or transportation licensee shall comply with the requirements of the relevant authority having jurisdiction over safety of the relevant regasification terminal or transmission pipeline.

(3) For the purposes of paragraph (1)(b), the distribution, retail or private gas licensee shall comply with the requirements as may be determined by the Commission over safety of the distribution pipeline or piping system.

(4) Before entering on any land for the purpose specified in subsection (1), the licensee shall give a notice stating as fully and accurately as possible the nature and extent of the acts intended to be done.

(5) The notice given under subsection (4) shall be in the form set out in the Schedule and the Collector shall specify a date for the inquiry of any objection that may have been made as herein after provided.

(6) The notice in subsection (4) shall be given —

- (a) in the case of alienated land, to the owner or occupier;
- (b) in the case of reserved land, to the officer or any other person in charge of the reserved land or, in the absence of any such officer or person, to the Collector,

and may be sent by registered post or be left at the usual or last known place of abode of the person to whom it is to be given or served by the licensee or the Collector at the expense of the licensee, either in the manner hereinbefore provided or in the manner provided for the service of notices by any written law relating to land.

(7) Any of the persons mentioned in subsection (6) may, within fourteen days of the receipt of the notice therein referred to lodge an objection to the intended acts of the licensee to the Collector, either verbally or in writing, and the Collector shall give notice of the objection to the Commission and to the licensee.

Access to information, pipeline, etc., by Commission

29. The licensee shall —

- (a) provide to the Commission information on all accidents, fire and other incidents relating to any installation, pipeline or piping system used in connection with its licensed activity; and
- (b) grant reasonable access to the Commission or any person authorized by the Commission to inspect any installation, facility, pipeline or piping system used by the licensee to carry out any licensed activity or to provide service to consumers.

Maintenance, repair and upgrading of pipeline or piping system

30. (1) Whenever it is necessary for the purpose of maintaining, repairing or upgrading any —

- (a) pipeline for the regasification or transportation of gas; or
- (b) pipeline for the distribution of gas or piping system,

the licensee, or any person authorized by him in that behalf, may at all reasonable times enter upon any land and may carry out all necessary repairs, and may, in the course thereof, remove vegetation and do all other things

necessary to the said purpose, causing as little damage as possible and paying full compensation in accordance with section 33 to all persons interested for any damage that may be caused thereby for which compensation has not already been assessed under section 28.

(2) For the purposes of paragraph (1)(a), the regasification or transportation licensee shall comply with the requirements of the relevant authority having jurisdiction over safety of the regasification terminal or transmission pipelines.

(3) For the purposes of paragraph (1)(b), the distribution, retail or private gas licensee shall comply with the requirements as may be determined by the Commission over safety of the distribution pipeline or piping system.

Removal or alteration of pipeline or piping system

31. (1) Where any —

- (a) pipeline for the regasification or transportation of gas has been installed on land under paragraph 28(1)(a); or
- (b) pipeline for the distribution of gas or piping system has been installed on land under paragraph 28(1)(b),

and if any of the persons mentioned in subsection 28(6) desires to use the land in such a manner as to render it necessary or convenient that the pipeline or piping system referred to in paragraphs 28(1)(a) and (b) should be removed to another part of the land, or to land at a higher or lower level, or be altered in form, he may require the licensee to remove or alter such pipeline or piping system accordingly.

(2) For the purposes of paragraph (1)(a), the regasification or transportation licensee shall comply with the requirements of the relevant authority having jurisdiction over safety of the regasification terminal or transmission pipelines.

(3) For the purposes of paragraph (1)(b), the distribution, retail or private gas licensee shall comply with the requirements as may be determined by the Commission over safety of the distribution pipeline or piping system.

(4) If the licensee omits to comply with the requisition, the person may apply in writing to the Director which may, in his discretion, after inquiring into all the facts of the case, reject the application or make an order, either absolutely or subject to certain conditions, for the removal or alteration of the pipeline or piping system and the order shall provide for the payment of the cost of executing the removal or alteration by the licensee or by the person making the application, as the Director may consider equitable in the circumstances of the case.

(5) The Director may, instead of himself inquiring into a case under this subsection, direct the Collector to make such inquiry on his behalf and to make recommendations to him.

(6) Whenever the Director has made an order for the removal or alteration of any pipeline or piping system, the licensee may, instead of removing or altering the pipeline or piping system, apply to the Director for the acquisition of such land as is required for the purposes of the pipeline or piping system.

(7) The pipeline or piping system referred to in subsection (6) shall be deemed to be a work for public utility and the Land Acquisition Ordinance shall be enforced accordingly.

(8) Whenever a pipeline or piping system has been installed on State land by a licensee and the land is subsequently alienated to any person, the owner or occupier of the land may, unless the terms of alienation expressly provide otherwise, require the removal of the pipeline or piping system to another part of the land, or to land at a higher or lower level, or the alteration of the pipeline or piping system, and subsections (1) to (5) shall apply to any such requisition and the cost of executing the removal or alteration shall be defrayed by the person making the requisition.

Wayleave agreements

32. (1) Nothing in section 28 or 31 shall affect the right of a regasification, transportation, distribution or retail licensee to enter into an agreement, commonly known as a wayleave agreement, with the owner or occupier of any land for the purpose of constructing a pipeline or piping system.

(2) Notwithstanding any written law relating to land, the Registrar, upon the production to him of the original and the deposit with him of a certified copy of any such wayleave agreement as is referred to in subsection (1), shall cause to be made on the register document of title relating to the land affected by the wayleave agreement a note of the existence of the wayleave agreement.

Compensation

33. (1) The amount of compensation, if any, payable under section 27, 28 or 30 shall be assessed by the Collector as he deems sufficient.

(2) No compensation shall be payable by the regasification, transportation, distribution or retail licensee in respect of any tree within fifty feet of the centre line of any road constructed or maintained by the Government or by any local authority unless it is proved that the tree was in existence prior to the construction of the road.

(3) Any person aggrieved with the Collector assessment may within twenty-one days after the assessment appeal to the Minister whose decision shall be final.

PART V

GENERAL OFFENCES AND PENALTIES

Wrongful acts

34. (1) Any person who by any wilful, dishonest or negligent act or omission extends, adjusts, alters, removes, destroys or damages any pipeline or piping system or part thereof commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) Any person who by any dishonest, rash or negligent act or omission

tampers with or damages any pipeline or piping system or part thereof so as to cause or to be likely to cause injury to human life or limb or damage to any property commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both, and shall also be liable to pay compensation for the loss incurred for the amount of which to be fixed by the court under section 41.

(3) Any person who —

- (a) causes any pipeline or piping system or part thereof to be diverted from its proper course for the purpose of abstracting, consuming, using or wasting gas therefrom;
- (b) dishonestly alters the index of any meter or other instrument used on or in connection with any pipeline or piping system or part thereof belonging to any licensee or any other person for recording the output or consumption of gas;
- (c) prevents any meter or other instrument from duly recording the output or consumption of gas;
- (d) damages any meter or other instrument used on or in connection with any pipeline or piping system or part thereof for recording the output or consumption of gas; or
- (e) dishonestly abstracts or consumes or uses gas,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both, and shall also be liable to pay compensation for the loss incurred for the amount of which to be fixed by the court under section 41.

Unauthorized work or activity

35. (1) No person shall, without the lawful authority of the licensee, unless the licensee has taken all reasonable steps to give proper notice on the existence of any pipeline or piping system or part thereof and measures as prescribed by the Commission for the protection of such pipeline or piping system or part

thereof, undertake any work or engage in any activity in the vicinity of any gas pipeline or piping system or part thereof in a manner likely to interfere with such pipeline or piping system or part thereof or to cause danger to any person or property.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and shall also be liable to pay compensation for the loss incurred for the amount of which to be fixed by the court under section 41.

Offence of attempt and abetment

36. (1) Any person who —

- (a) aids, abets, assists, incites or induces any other person to make or makes on behalf of another person an incorrect return, account, statement or declaration or to commit any offence punishable under this Enactment; or
- (b) attempts to make or to make on behalf of another person an incorrect return, account, statement or declaration or to commit any offence punishable under this Enactment,

commits an offence and shall, on conviction, be punishable with the punishment provided for such offence under this Enactment provided that any term of imprisonment imposed shall not exceed half of the longest term provided for the offence.

Onus of proof

37. In any prosecution for an offence under this Enactment proof of —

- (a) the existence of artificial means which, either alone or in conjunction with additional artificial means not found, could be used for altering, or facilitating the alteration, of the index of any meter or instrument used for registering the quantity of gas supplied;

- (b) the existence of artificial means which, either alone or in conjunction with additional artificial means not found, would prevent, or facilitate the prevention of, any meter or instrument from duly registering the quantity of gas supplied, or would facilitate the dishonest abstraction, consumption, or use of gas; or
- (c) (i) the fitting of any artificial, mechanical or any other part or connection to;
 - (ii) the absence or removal of any part or connection from; or
 - (iii) the interference with any part or connection of,any apparatus in the circumstances that the fitting, absence, removal or interference would prevent or facilitate the prevention of any meter or other instrument from duly registering the quantity of gas supplied, or would facilitate the dishonest abstraction, consumption or use of gas,

shall be *prima facie* evidence that there has been dishonest alteration of the index of any meter or instrument, or prevention, abstraction, consumption or use of gas, as the case may be, and that the dishonest alteration, prevention, abstraction, consumption or use, as the case may be, has been carried out by —

- (aa) the person fitting the artificial, mechanical or any other such part or connection as aforesaid;
- (bb) the person removing any such part or connection as aforesaid;
- (cc) the person interfering with any such part or connection as aforesaid;
- (dd) the consumer using the meter or instrument;
- (ee) the person having control of the pipeline or piping system or part thereof where it is fixed; or
- (ff) the occupiers of the premises on which the meter or instrument is installed.

Tipping off

38. (1) Any person who —

- (a) knows or has reasonable grounds to suspect that an authorized officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Part and discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or
- (b) knows or has reasonable grounds to suspect that a disclosure has been made to an authorized officer under this Enactment and discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure,

commits an offence and shall, on conviction, be liable —

- (i) to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and for a second or subsequent offence, to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both; or
- (ii) if such person is a body corporate, to a fine not exceeding one million ringgit, and for a second or subsequent offence, to a fine not exceeding five million ringgit.

(2) Nothing in subsection (1) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter —

- (a) to his client or the client's representative in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the advocate and solicitor; or
- (b) to any person in contemplation of, or in connection with and for the purpose of, any legal proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose.

Threat and reprisal

39. (1) No person shall —

- (a) coerce or attempt to coerce any person to refrain from doing any act referred to in subsection (3); or
- (b) subject any person to any commercial or other disadvantage as a reprisal against the person for doing any act referred to in subsection (3).

(2) For the purposes of and without prejudice to the generality of paragraph (1)(b), the commercial or other disadvantage may include a threat of late payment of amounts properly due to the person, the unreasonable bringing or conduct of litigation against the person, the cancellation of orders with the person, or the diversion of business from, or refusal to trade with, the person.

(3) The acts referred to in subsection (1) are as follows:

- (a) making a complaint to the Commission; and
- (b) co-operating with, or offering or agreeing to co-operate with, the Commission in connection with any investigation by the Commission.

(4) Any person who contravenes this section commits an offence and shall, on conviction, be liable —

- (a) to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and for a second or subsequent offence, to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both; or

- (b) if such person is a body corporate, to a fine not exceeding one million ringgit, and for a second or subsequent offence, to a fine not exceeding five million ringgit.

Confidentiality

40. (1) Any person who discloses or makes use of any confidential information with respect to a particular person, including a licensee, or the affairs of an individual obtained by virtue of any provision of this Enactment commits an offence and shall, on conviction, be liable —

- (a) to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and for a second or subsequent offence, to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both; or
- (b) if such person is a body corporate, to a fine not exceeding one million ringgit, and for a second or subsequent offence, to a fine not exceeding five million ringgit.

(2) Nothing in subsection (1) shall operate to prevent the disclosure of information where —

- (a) the disclosure is made with the consent of the person from whom the information was obtained;
- (b) the disclosure is necessary for the performance of the functions or powers of the Commission; or
- (c) the disclosure is made in connection with an investigation of an infringement or an offence under this Enactment.

(3) For the purposes of this section, “confidential information” means trade, business or industrial information that belongs to any person, that has economic value and is not generally available to or known by others.

Order for payment of costs of prosecution and compensation

41. (1) The court before which a person is convicted of any offence under this Enactment may, in its discretion, make either or both of the following orders against that person, namely:

- (a) an order for the payment by that person of the costs of his prosecution or any part thereof as may be agreed by the Public Prosecutor;
- (b) an order for the payment by that person of a sum to be fixed by the court as compensation to any person who is the victim of the offence committed by that person in respect of the injury to his person or character, or loss of his income or property, as a result of the offence committed.

(2) Where a person who is the victim of the offence is deceased, the order of compensation shall be made to a representative of the deceased person.

(3) The court shall, in making an order under paragraph (1)(b), take into consideration the following factors:

- (a) the nature of the offence;
- (b) the injury sustained by the victim;
- (c) the expenses incurred by the victim;
- (d) the damage to, or loss of, property suffered by the victim;
- (e) the loss of income incurred by the victim;
- (f) the ability of the person convicted of any offence under this Enactment to pay; and
- (g) any other factors which the court deems relevant.

(4) For the purpose of making an order under paragraph (1)(b), the court may hold an inquiry as the court thinks fit.

(5) The court shall specify the person to whom any sum in respect of costs or compensation as aforesaid is to be paid, and section 42, except paragraph (1)(d), shall be applicable to any order made under this section.

(6) The court may direct that an order for payment of costs or an order for payment of compensation, shall have priority, and, if no direction is given, an order for payment of costs shall have priority over an order for payment of compensation.

(7) To the extent of the amount which has been paid to a person, or to the representatives of a person, under an order for compensation, any claim of such person or his representatives for damages sustained by reason of the offence shall be deemed to have been satisfied, but the order for payment shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages beyond the amount of compensation paid under the order.

(8) Every order made under this section shall be appealable.

Provisions as to money payable as costs or compensation

42. (1) Subject to the provisions of this Enactment where any person is, under this Enactment, for any reason whatsoever, ordered to pay any sum of money by way of costs or compensation, the court making the order may in its discretion do all or any of the following things, namely:

- (a) allow time for the payment of that sum;
- (b) direct payment of that sum to be made not exceeding twelve monthly instalments;
- (c) issue a warrant for the levy of that sum by distress and sale of any property belonging to that person;
- (d) direct that in default of payment or of a sufficient distress to satisfy such sum, that person shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment

to which he may be sentenced or to which he may be liable under a commutation of sentence, and where time is not allowed for the payment of that sum an order for imprisonment in default of payment shall not be issued in the first instance unless it appears to the court that person has no property or insufficient property to satisfy the money payable or that the levy of distress will be more injurious to him or his family than imprisonment;

(e) direct that such person be searched and that any money found on him when so searched or which in the event of his being committed to prison, may be found on him when taken to prison shall be applied towards the payment of that sum, the surplus, if any, being returned to him but such money shall not be so applied if the court is satisfied that the money does not belong to the person on whom it was found or that the loss of the money will be more injurious to his family than his imprisonment.

(2) The term for which the court directs that person to be imprisoned in default of payment or of a sufficient distress to satisfy any sum shall not exceed the following scale:

When the money to be paid does not exceed RM500.....	One month
When the money to be paid exceeds RM500 but does not exceed RM1000.....	Two months
In any other case.....	Six months

(3) Subject to the provisions of this Enactment the imprisonment which the court imposes under this section shall terminate whenever the money is paid or levied by process of law.

(4) If before the expiration of the time of such imprisonment such a proportion of the money is paid or levied that the time of imprisonment

suffered is not less than proportional to the part of the money still unpaid, the imprisonment shall terminate.

(5) A warrant for the levy of any such sum may be executed at any place in Malaysia but if it is required to be executed outside the State in which it is issued it shall be endorsed for that purpose by a Judge or a First Class Magistrate having jurisdiction in the State in which it is to be executed.

PART VI

ENFORCEMENT

Interpretation

43. In this Part, “premises” means any place, stationary or otherwise, established or set up by any person, whether such place is with or without enclosure, and includes a vehicle, aircraft, ship and any other vessel.

Authorized officer

44. (1) The Minister may in writing authorize any public officer or officer of the Commission to exercise the powers of enforcement under this Enactment.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Authority card

45. (1) There shall be issued to each authorized officer an authority card to be signed by the Minister.

(2) Whenever an authorized officer exercises any of the powers under this Enactment, he shall, on demand, produce to the person against whom the power is being exercised, the authority card issued to him under subsection (1).

Power of entry, inspection and examination

46. (1) An authorized officer may, for the purposes of discharging any of his duties or carrying out any of his functions under this Enactment, enter at any reasonable time upon any premises to inspect and examine any pipeline or piping system or part thereof, or for other proper cause including the investigation of any offence under this Enactment.

(2) In exercising his powers under subsection (1) an authorized officer may —

- (a) take samples of any gas from the premises entered and require the occupier or his agents or servants present in the premises to show him every place and any pipeline, piping system, storage tank or cylinder in his premises;
- (b) test or cause to be tested, at any convenient place and at such reasonable time as he may appoint, any sample so obtained by him.

(3) If upon such inspection or examination the authorized officer finds any defect, which he has reasonable cause to believe is likely to cause danger, he may —

- (a) by notice in writing require the rectification of the defect;
- (b) cause the discontinuation of the gas supply; or
- (c) remove or seal any pipeline or piping system or part thereof.

Power to investigate

47. (1) An authorized officer shall have the power to conduct an investigation where there is reason to suspect that an offence has been or is being committed in relation to this Enactment or any codes, guidelines or directions issued by the Commission.

(2) An authorized officer may, in relation to an investigation in respect of

an offence committed under this Enactment, exercise all or any of the powers in relation to police investigation, except the power to arrest without warrant, given by the Criminal Procedure Code [*Act 593*].

(3) In the case of an offence committed under this Enactment or any codes, guidelines or directions issued by the Commission, upon completion of his investigation, the authorized officer shall immediately give all information relating to the commission of the offence to an officer in charge of a police station and a police officer may, arrest any person who may have committed an offence.

Search and seizure with warrant

48. (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is a reasonable cause to believe that any premises, any article, thing, book, document, pipeline or piping system or part thereof have been used or are about to be used for, or there is in or on any premises, evidence necessary to establish, the commission of an offence under this Enactment, the Magistrate may issue a warrant authorizing an authorized officer to whom it is directed, at any reasonable time by day or night and with or without assistance —

- (a) to enter the premises and search for, seize and detain any article, thing, book, document, pipeline or piping system or part thereof;
- (b) to inspect, make copies of, or take extracts from, any article, book, record or other document so seized and detained;
- (c) to take possession of, and remove from the premises, any article, thing, book, document, pipeline or piping system or part thereof so seized and detain it for such period as may be necessary; or
- (d) to search any person who is in, or on, such premises, and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any article or document found on the person.

(2) An authorized officer acting under subsection (1) may, if it is necessary to do so —

- (a) break open any outer or inner door of any premises and enter such premises;
- (b) forcibly enter any premises and every part thereof;
- (c) remove by force any obstruction to the entry, search, seizure, detention or removal that he is empowered to effect; or
- (d) detain any person found on any premises searched under subsection (1) until the search is completed.

(3) If, by reason of its nature, size or amount, it is not practicable to remove any article, thing, book, document, pipeline, piping system or part thereof seized under this section, the authorized officer making the seizure shall, by any means, seal such article, thing, book, document, pipeline, piping system or part thereof.

(4) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the article, thing, book, document, pipeline, piping system or part thereof under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both, and in the case of a continuing offence, to a further fine not exceeding two thousand ringgit for every day or part of a day during which the offence continues after conviction.

Search and seizure without warrant

49. If an authorized officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 48 the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the authorized officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred

to in section 48 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Access to computerized data

50. (1) An authorized officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purposes of this section, the authorized officer shall be provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable the comprehension of computerized data.

List of things seized

51. (1) Except as provided under subsection (2), where any article, thing, book, document, pipeline, piping system or part thereof is seized under this Enactment, the seizing officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to the occupier of the premises which have been searched, or to his agent or servant, at the premises.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

Power to require attendance of person acquainted with case

52. (1) An authorized officer making an investigation under this Enactment may, by order in writing, require the attendance before himself of any person who appears to the authorized officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If the person refuses or fails to attend as so required, the authorized officer may report such refusal or failure to a court who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

53. (1) An authorized officer making an investigation under this Enactment may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to the case put to him by the authorized officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the question.

(4) An authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb-print, as the case may be —

- (a) after it has been read to him in the language in which he made it; and
- (b) after he has been given an opportunity to make any correction he may wish.

Admissibility of statements in evidence

54. (1) Except as provided in this section, no statement made by any person to an authorized officer in the course of an investigation made under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the

prosecutor, refer to any statement made by that witness to an authorized officer in the course of an investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to —

(a) the making; or

(b) the contents,

of any statement made by him to an authorized officer in the course of an investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

Forfeiture or release of article, thing, *etc.*, seized

55. (1) Any article, thing, book, document, pipeline, piping system or part thereof seized in exercise of any power conferred by this Enactment shall be liable to forfeiture.

(2) An order for the forfeiture of any article, thing, book, document, pipeline, piping system or part thereof shall be made if it is proved to the satisfaction of the court that an offence under this Enactment has been committed and that the article, thing, book, document, pipeline, piping system or part thereof was the subject matter of or was used in the commission of the offence, even though no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any article, thing, book, document, pipeline, piping system or part thereof seized under this Enactment, such article, thing, book, document, pipeline, piping system or part thereof shall be taken and deemed to be forfeited at the expiration period of one calendar month from the date of service of a notice to the last known address of the person from whom the article, thing, book, document, pipeline, piping system or part thereof was seized indicating that there is no prosecution in respect of such article, thing, book, document, pipeline, piping system or part thereof unless before the expiration of that period a claim thereto is made in the manner set out in subsections (5), (6), (7) and (8).

(4) If no claim is made under subsection (5) within thirty days from the date of service of the notice referred to in subsection (3), the article, thing, book, document, pipeline, piping system or part thereof seized under this Enactment shall be taken and deemed to be forfeited at the expiration of that period.

(5) Any person asserting that he is the owner of the article, thing, book, document, pipeline, piping system or part thereof referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give written notice to the authorized officer in whose possession such article, thing, book, document, pipeline, piping system or part thereof is held that he claims the article, thing, book, document, pipeline, piping system or part thereof.

(6) On receipt of the notice referred to in subsection (5), the authorized officer shall refer the claim to a Magistrate.

(7) The Magistrate to whom a matter is referred under subsection (6) shall issue a summons requiring —

- (a) the person asserting that he is the owner of the article, thing, book, document, pipeline, piping system or part thereof; and
- (b) the person from whom the article, thing, book, document, pipeline, piping system or part thereof was seized,

to appear before him, and when they appear or they fail to appear, due service

of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(8) If it is proved that an offence under this Enactment has been committed and that article, thing, book, document, pipeline, piping system or part thereof was the subject matter of or was used in the commission of such offence, the Magistrate shall order the article, thing, book, document, pipeline, piping system or part thereof to be forfeited, and shall, in the absence of such proof, order its release.

(9) Any article, thing, book, document, pipeline, piping system or part thereof forfeited or deemed to be forfeited shall be delivered to the Commission and shall be disposed of in accordance with the directions of the Magistrate.

Cost of holding article, thing, *etc.*, seized

56. If any article, thing, book, document, pipeline, piping system or part thereof seized under this Enactment is held in the custody of the Commission pending completion of any proceedings in respect of an offence under this Enactment, the cost of holding it in custody shall, in the event of any person being found to commit an offence, be a debt due to the Commission by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

57. No person shall, in any proceedings before any court in respect of any article, thing, book, document, pipeline, piping system or part thereof seized in the exercise or the purported exercise of any power conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstruction

58. Any person who —

- (a) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Enactment or in the execution of any duty imposed or power conferred by this Enactment;
- (b) assaults, obstructs, hinders or interferes with any authorized officer in the execution of his duty imposed or power conferred by this Enactment;
- (c) refuses to give any authorized officer any information relating to an offence or suspected offence under this Enactment or any other information which may reasonably be required of him and which he has in his knowledge or power to give,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both, and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Authorized officer may seek assistance to examine things relating to offence

59. An authorized officer may seek the assistance from any person who has the necessary qualifications to examine the article, thing, book, document, pipeline, piping system or part thereof seized or retained under this Enactment for the purposes of an investigation under this Enactment.

Reward for information

60. In the case of a conviction involving a fine, the court imposing the fine may, on the application of the officer conducting the prosecution, direct the payment of any part of the fine but not exceeding half of such fine in such proportion as the court deems fit to the person who gave the information leading to the conviction.

PART VII

MISCELLANEOUS

Offences committed by a body corporate

61. (1) Where a body corporate commits an offence under this Enactment, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate, or was assisting in such management —

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) where the body corporate is found to have committed the offence, shall be deemed to have committed that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves —
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person liable under this Enactment to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed —

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

General penalty

62. (1) Any person who commits an offence under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both, and in the case of a continuing offence, to a further fine not exceeding two thousand ringgit for every day or part of a day during which the offence continues after conviction.

(2) Any body corporate which commits an offence under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit, and in the case of a continuing offence, to a further fine not exceeding ten thousand ringgit for every day or part of a day during which the offence continues after conviction.

Compounding of offences

63. (1) The Chief Executive Officer may compound any offence committed by any person under this Enactment which prescribed to be a compoundable offence by making a written offer to such person to compound the offence on payment to the Commission of an amount not exceeding fifty per cent of the amount of the maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer made under subsection (1) is not paid within the time specified in the offer or within such extended period as the Commission may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made, and any article, thing, book, document, pipeline, piping system or part thereof seized in

connection with the offence may be released or forfeited by the Chief Executive Officer, subject to such terms and conditions as he thinks fit.

(5) All sums of money accepted under this section shall be paid into the State Consolidated Fund.

Prosecution

64. No prosecution for an offence under this Enactment shall be instituted except by or with the consent in writing of the Public Prosecutor.

Register

65. (1) The Commission shall maintain a register in both electronic and non-electronic form of all matters which are required to be registered under this Enactment.

(2) Any person may on payment of any prescribed fee —

(a) inspect the register; and

(b) make a copy of, or take extracts from, the register.

(3) If a person requests that a copy be provided in an electronic form, the Commission may provide the relevant information —

(a) on a data processing device; or

(b) by way of electronic transmission.

Competent person

66. Unless otherwise exempted, no work in respect of installing, constructing, maintaining, repairing or operating any gas transmission or distribution pipeline or piping system or part thereof shall be carried out except by or under the supervision of and certified by a competent person.

Audit of licensee, etc.

67. (1) The Commission may —

- (a) carry out or cause to be carried out audit of any licensee, institution, manufacturer or importer, gas contractor or any other person as determined by the Commission on any licensed activity, any information furnished to the Commission or on any other matters as directed by the Commission;
- (b) require a licensee to appoint, at their own cost, an independent expert, with qualifications as may be stated by the Commission to review or audit on any licensed activity, any information which a licensee furnishes to the Commission or on any other matters as directed by the Commission.

(2) For the purpose of subsection (1), the review or audit shall be carried out in accordance with any codes, guidelines or directions issued under this Enactment, or as may otherwise be determined by the Commission.

(3) A licensee, institution, manufacturer or importer, gas contractor or any other person as determined by the Commission who —

- (a) fails to furnish any information as may be required by the Commission;
- (b) intentionally alters, suppresses or destroys any document or information which he has been required by written notice to produce; or
- (c) refuses to assist or facilitate, or obstructs the Commission, its authorized officers or appointed consultants in conducting the audit,

under this section, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit and in the case of a continuing offence, to a further fine not exceeding ten thousand ringgit for every day or part of the day during which the offence continues after conviction.

Serious accidents to be reported

68. (1) Whenever any accident or fire causing or resulting in loss of life or hurt to any person or serious damage to any property has occurred in connection with any distribution pipeline or retail or use of gas through piping system or part thereof, the consumer or the licensee, as the case may be, shall report the accident or fire to the Commission by the quickest means available, and subsequently with the least possible delay shall report in writing the facts of the matter so far as they are known to them respectively.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.

Protection against suit and legal proceedings

69. No action shall lie or prosecution shall be brought, instituted or maintained in any court against —

- (a) the Commission, the Chief Executive Officer or the officers duly authorized under this Enactment for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Enactment; and
- (b) any other person for any act done or purported to be done by him under the order, direction or instruction of the Commission or any other officers duly authorized under this Enactment,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Enactment.

Public Authorities Protection Act 1948

70. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission, Chief

Executive Officer, authorized officers, servant or agent of the Commission in respect of any act, neglect or default done or committed or any omission by it or him in good faith, in such capacity.

Development of codes by Commission and compliance of codes

71. (1) The Commission may, with the approval of the Minister, develop and issue codes relating to the use of regasification terminal, transmission or distribution pipelines together with the approval of any access arrangements, or for the retail or use of gas or for the metering of gas and in respect of safety in the distribution, retail or use of gas.

(2) The Commission may develop and issue such additional codes as the Commission deems fit and expedient or as the Minister may direct, as the case may be.

(3) All codes developed and issued under this section shall only be effective upon registration by the Commission.

(4) All licensees and any other parties who have entered into any agreement shall comply with the codes.

(5) Unless otherwise determined by the Commission, in ensuring reliability, safety and security of the gas delivery system, the codes issued under this section shall take precedence over any agreement that may exist between the parties mentioned in subsection (4).

(6) Any person who contravenes subsection (4) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Guidelines or directions by Commission

72. (1) The Commission may issue guidelines or directions on any matter as provided under this Enactment or as may be expedient or necessary for the better carrying out of the provisions of this Enactment.

(2) The Commission may issue directions in writing to any licensee, competent person or any person on the compliance or non-compliance of this Enactment, conditions of licences issued, including the remedying of a breach of a licence condition or on any other matter requiring the making of a direction or specifically to be made the subject of a direction in accordance with such procedures as may be prescribed.

(3) The guidelines or directions issued by the Commission under this section shall be registered and shall be effective from the date of such registration or such later date as the Commission may specify in the guidelines or directions.

(4) A licensee, competent person or any person shall comply with the guidelines and directions.

(5) A licensee, competent person or any person who fails to comply with any guideline or direction of the Commission commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Modification, variation, review or revocation of code, guideline or direction by Commission

73. (1) The Commission may modify, vary, review or revoke any code, guideline or direction issued under this Enactment.

(2) The procedures set out in subsections 71(2), (3), (4), (5), 72(2), (3) and (4) shall apply in respect of any modification, variation, review or revocation of the codes, guidelines or directions.

Power of the Commission to obtain information

74. (1) The Commission may by notice require any person to furnish, within a reasonable period specified in the notice, all information and documents relating to such matters as may be reasonably be required by the Commission to carry out its functions or duties under this Enactment, which are within the knowledge of that person or in his custody or under his control.

(2) Any person who fails without any reasonable excuse to do anything required of him by notice under subsection (1) commits an offence.

(3) Any person who —

(a) intentionally alters, suppresses or destroys any information or documents which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any documents required by any notice under subsection (1), makes any statement which he knows to be false in a material matter or recklessly make such a statement,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(4) If any person fails to comply with the notice under subsection (1), the court may, on the application of the Commission, make such order as the court thinks fit to secure compliance with such notice.

(5) Any order referred to in subsection (4) may provide that all the cost and expenses of and incidental to the application shall be borne by such person or by any officer of a company or other association who is responsible for the failure.

Disclosure of information obtained

75. (1) This section applies to —

(a) any information or document given by any person to the Commission under this Enactment; and

(b) such information or document given whereby the person giving it notifies the Commission in writing that it is of a confidential or commercially sensitive nature.

(2) The Commission shall not disclose to any person the information or

the contents of a document to which this section applies unless —

- (a) the Commission is of the opinion that —
 - (i) the disclosure of the information or the contents of the document would not cause detriment to the person supplying it or to any other person who is aware of the information or document; or
 - (ii) although the disclosure of the information or the contents of the document would cause detriment to the person supplying it or to any other person who is aware of the information or the contents of the document, the public benefit in disclosing outweighs that detriment;
- (b) the Commission gives written notice to —
 - (i) the person who supplied the information or document; and
 - (ii) any other person whom the Commission is aware has supplied the information or document to the person referred to in subparagraph (i), where the identity of such other person is known to the Commission, stating that the Commission wishes to disclose the information or contents of the document, specifying the nature of the intended disclosure and detailed reasons why the Commission wishes to make the disclosure and setting out a copy of this section; and
- (c) no appeal is made to the Minister under subsection (3) within twenty-one days of the date of the notice.

(3) A person aggrieved by the notice under paragraph (2)(b) may appeal to the Minister within twenty-one days of the date of the notice.

(4) Subsection (2) shall not prevent the Commission from disclosing any information or the contents of any document —

- (a) to any member, officer or employee of the Commission or any

agent, consultant, committee or panel acting for or under the direction of the Commission;

- (b) to the Minister or any agent, consultant, committee or panel acting for or under the direction of the Minister;
- (c) when required to do so by any court or under this Enactment or any other written law; or
- (d) for the purposes of any criminal proceedings.

(5) For the purposes of this section, the disclosure of any information or the contents of a document already in the public domain at the time the Commission wishes to disclose it cannot cause detriment to any person referred to in paragraph (2)(a).

Licenses' infrastructure information security

76. (1) Any licensee as directed by the Commission shall be responsible for the preservation of confidentiality, integrity and availability of the licenses' information, information systems and supporting network infrastructure pertaining to its licensed activity, duties and other matters as provided under this Enactment.

(2) The licensee shall —

- (a) take the necessary measures, establish and implement standards and employ the relevant information security controls to prevent, avoid, remedy, recover or restore its information, document, instrument or records stored in its computers and for its operational system by its computers from any risk of —
 - (i) threat or unauthorized access; and
 - (ii) intrusion or removal;
- (b) take necessary measures to ensure the resiliency of its supporting network infrastructure to minimize business impact against various threats to its licensed activities; and

- (c) ensure that the reliability, continuity and quality of gas delivery system, its performance of duties and conformity to the provisions of this Enactment shall not be jeopardized thereby,

and shall, within the time specified by the Commission, submit such information as required by the Commission and in the event of any incident which may interfere or affect the performance of the licensed activity, report to the Commission and other relevant authorities.

(3) Any licensee who fails or neglects to comply with or contravenes any provision of this section commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(4) For the purposes of this section —

“supporting network infrastructure” refers to relevant connection, network devices, hardware and software that provides network services in supporting business functions;

“information security controls” refers to means of managing risk, including policies, procedures, guidelines, practices or organizational structures, which can be administrative, technical, management or legal in nature; and

“resiliency” means an ability of an organization to resist being affected by an incident.

Special powers in emergency

77. (1) The Yang di-Pertuan Agong may, on the occurrence of any industrial unrest, strike, lock-out or any other event which gives rise to an emergency, or in the interest of public safety, authorize the Commission to —

- (a) suspend the licence of any licensee, take temporary possession of any pipeline or piping system of such licensee and operate it in such manner as the Commission deems fit; or

- (b) withdraw either partially or totally the use of any pipeline or piping system from any person or class of persons or from the public at large.

(2) If any doubt arises as to the existence of an emergency or whether any act done under subsection (1) was in the interest of public safety, a certificate signed by the Yang di-Pertuan Agong and exhibited at such places as the Minister deems fit shall be conclusive proof on the point.

(3) Where the Commission takes possession of any pipeline or piping system of any licensee under paragraph (1)(a) the licensee shall be paid adequate compensation which shall be determined by the Commission after giving an opportunity to the licensee to be heard on the matter.

Certain sections of Enactment not applicable to factories

78. In this Enactment, sections 46, 66 and 68 and matters relating to paragraphs 80(b), (c), (g), (k), (l), (n) and (s) shall not apply to the delivery of gas through pipelines within factories as defined under the Occupational Safety and Health Act 1994 [*Act 514*].

Exemption

79. The Minister may, by notification in the *Gazette*, exempt any person or class of persons from —

- (a) being licensed under section 6 of this Enactment; or
- (b) the provisions of section 66 of this Enactment,

and may, by similar notification, cancel any exemption so notified.

Power to make regulations

80. The Minister may make regulations in respect of any matter which may be prescribed under this Enactment and in particular —

- (a) the procedures for the Commission in the exercise of its functions, duties, and powers under this Enactment;
- (b) the management of any pipeline or piping system;
- (c) the method by which gas may be stored for purposes of distribution through pipelines;
- (d) the limits of variation of the quality of gas in the gas delivery system and pressure of the gas delivered involving its distribution, retail or use of gas;
- (e) the fees to be paid for licences which are required to be prescribed under this Enactment;
- (f) the standard and methods for the construction of and the materials to be used for pipelines, piping system, equipment or appliances involved in the distribution, retail or use of gas through a piping system;
- (g) the measures to be taken and the regulation of equipment, appliances and fittings together with payment of fees for their approval, to be supplied and used in connection with distribution pipelines and piping system in the retail or use of gas in order to secure public and private safety;
- (h) the regulation of meters together with payment of fees for their approval, to be supplied and used in connection with pipelines and piping system;
- (i) the manner of service and the form of notices;
- (j) the codes of business ethics to be followed by licensees;
- (k) the nature of training, examinations and tests for the award of the certificates under section 66, the form of such certificates, the manner and issue thereof, the fees to be paid for such examination and certificates and the manner and circumstances in which the

certificates may be modified, suspended or cancelled;

- (l) the means to be adopted, whether by forbidding or otherwise, to prevent or abate any nuisance likely to arise or arising from the working of any pipeline, piping system, equipment or appliances;
- (m) the regulation of the licensee and consumer relationship such as provisions on the recovery of charges for gas supply, connection, disconnection or restoration of supply by the licensee, entry into any premises by the licensee or his authorized officers for purposes related to the supply, connection, disconnection or restoration of supply, entry for purposes of replacing, repairing or altering any pipeline, piping system, equipment or appliance and the form of any notice required;
- (n) the interval, time and manner for any pipeline or piping system to be inspected, the notice (if any) to be given in relation to any inspection and the preparation to be made by the licensee or any owner or occupier of any premises for such inspection;
- (o) the registration and classification of competent persons and contractors involved in the distribution, retail or use of gas and to prescribe fees for such registration;
- (p) the fees payable in respect of the inspection and testing of installations involved in the distribution, retail or use of gas and in respect of any other service properly rendered on account of consumers;
- (q) the fees payable in respect of inspection of register or for the extraction of copies of documents kept in such register;
- (r) the offences which may be compounded and the forms to be used in and the method and procedure for compounding offences;
- (s) the method and procedure for the investigation of any serious accident reported pursuant to section 68; and
- (t) any other matter generally to give effect to the provisions of this Enactment.

Savings and transitional

81. (1) All licences of import into regasification terminal, regasification, shipping, transportation, distribution, retail or use of gas granted or issued under any written law shall continue to have effect under this Enactment until —

- (a) its expiry; or
- (b) for a period of six months or such other period as may be extended by the Commission after the commencement of this Enactment,

whichever is the earlier, unless the holder of the licence has been granted a licence under this Enactment.

(2) Nothing in this section shall be construed to extend the term or duration of a licence specified in subsection (1) beyond the date of its expiry.

(3) Any registration, act, order, direction, authorization, approval or decision done, made or given before the date of coming into operation of this Enactment shall be deemed to be done, made or given under this Enactment and shall continue in full force and effect in relation to whom they apply until revoked or amended.

(4) Any investigation, trial and proceedings done, taken or commenced under any written law before the commencement of this Enactment shall continue to be dealt with under that written law.

SCHEDULE

[Subsection 28(5)]

STATE OF SABAH

GAS SUPPLY ENACTMENT 2023

NOTICE OF INTENTION TO ENTER AND DO WORK ON LAND UNDER SECTION 28

To:

Title or other description of land

Take notice that I/we being the holder of a licence dated under the Gas Supply Enactment 2023 am/are desirous of entering the above-mentioned land for the purpose of

(here set out as fully and accurately as possible what is intended to be done)

Within fourteen days from the date of receipt of this notice you may lodge an objection either verbally or in writing with the Collector at

Collector has appointed.....as the day upon which objection will be heard.

Unless you lodge an objection within the specified time it will be presumed that you have consented to my/our entering on the land on the terms of this notice.

You will be paid proper compensation for any damage done.

Dated this day of..... 20

.....
Licensee

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Tuesday, the 10th day of January, 2023.

DATUK SERI PANGLIMA HAJI KADZIM BIN HAJI M. YAHYA,
Speaker,
State Legislative Assembly