

**PETROLEUM ACT,  
B.E. 2514 (1971)<sup>1</sup>**

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BHUMIBOL ADULYADEJ, REX.  
Given on the 26th Day of March B.E. 2514;  
Being the 26th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:  
Whereas it is expedient to have a law on petroleum;  
Be it, therefore, enacted by the King by and with the advice and consent of the  
National Assembly, as follows:

**Section 1.** This Act is called the “Petroleum Act, B.E. 2514 (1971)”.

**Section 2.<sup>2</sup>** This Act shall come into force as from the day following the date of its  
publication in the Government Gazette.

**Section 3.** All other laws, rules and by-laws in so far as they have already been  
provided herein, or are in conflict or inconsistent with the provisions of this Act, shall be  
replaced by this Act.

**CHAPTER I  
GENERAL PROVISIONS**

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<sup>1</sup> Translated by Ms. Arriya Phasee under contract for the Office of the Council of State of  
Thailand's Law for ASEAN project.- Initial version- pending review and approval.

<sup>2</sup> Published in the Government Gazette Vol. 88, Part 43, Special Issue, Page 1, dated 23rd April  
B.E. 2514 (1971).

**Remark:** Reference to Thai legislation in any jurisdiction shall be made to the Thai version only. This translation has been made so as to establish correct understanding about this Act to foreigners.

**Section 4.** In this Act:

“petroleum business” means the exploration, production, storage, transportation, sale or distribution of petroleum;

“petroleum” means crude oil, natural gas, liquefied natural gas, by-products and other naturally occurring hydrocarbon compounds in a free state, whether solid, semi-solid, liquid or gaseous, and shall include all heavy hydrocarbons which may be recovered *in situ* by an application of heat or chemical process, but shall not include coal, oil shale or other kinds of rocks from which oil can be extracted by an application of heat or chemical process;

“crude oil”<sup>3</sup> means crude mineral oil, asphalt, ozokerite and all kinds of naturally occurring hydrocarbons and bitumen, whether solid, semi-solid or liquid, and shall include liquefied natural gas;

“exported crude oil”<sup>4</sup> means the crude oil which is exported outside the Kingdom, whether by the concessionaire or other persons, and shall include any portion of crude oil sold or distributed in the Kingdom by the concessionaire which is refined into products and such products are exported outside the Kingdom, in accordance with the volume calculated based on the criteria stipulated in section 89 (1);

“natural gas” means all kinds of gaseous hydrocarbons, whether wet or dry, produced from oil or gas wells, and shall include the residue gas remaining after the extraction of liquid hydrocarbons or by-products from wet gas;

“liquefied natural gas” means liquid or high-vapor-pressure hydrocarbons produced with or extracted from natural gas;

“by-products” means helium, carbon dioxide, sulphur and other substances obtained from petroleum production;

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<sup>3</sup> The definition of “crude oil” in section 4 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>4</sup> The definition of “exported crude oil” in section 4 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

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“to explore” means to undertake standard practices in searching for petroleum by employing geological, geophysical and other processes, and shall include drilling for stratigraphic tests in order to determine the existence of petroleum and its extent to define the boundaries of petroleum reservoirs or to obtain other essential data which are necessary to petroleum production;

“to produce”<sup>5</sup> means to undertake any operation in order to obtain petroleum from its reservoirs, and shall include employing any process other than refining, petrochemical operations, gas separation plant operations, liquefied natural gas plant operations or compressed gas plant operations, in order to render petroleum in saleable or distributable forms;

“to store” means to undertake any operation in order to gather and maintain the petroleum produced by the concessionaire;

“to transport” means to undertake any operation in order to move the petroleum produced by the concessionaire from production fields to storage places, points of sale or distribution, points of purchase and points of export outside the Kingdom, and shall include transporting such petroleum between the said points or places;

“to sell” includes to exchange and transfer with consideration;

“to distribute”<sup>6</sup> means:

(1) to deliver crude oil to a refinery or a storage place for refining, regardless of whether or not such refinery or storage place is owned by the concessionaire;

(2) to deliver natural gas to a gas separation plant, a liquefied natural gas plant, a compressed gas plant or a storage place for such activities, regardless of whether or not such gas separation plant, liquefied natural gas plant, compressed gas plant or storage place is owned by the concessionaire;

(3) to use petroleum in any activity of the concessionaire or other persons without sale; or

(4) to transfer petroleum without consideration.

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<sup>5</sup> The definition of “to produce” in section 4 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>6</sup> The definition of “to distribute” in section 4 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

“market price” means the price in an open market or, in the absence of such price, a price which would be charged between persons acting independently without relationship in capital or management;

“posted price” means the price posted under section 59;

“exploration block” means an area designated for petroleum exploration;

“production area” means an area designated for petroleum production;

“Kingdom” includes the area of the continental shelf over which Thailand has jurisdiction according to the generally recognised principles of international law and the agreements executed with foreign countries;

“company” means a limited company and a juristic person having the status equivalent to a limited company, incorporated under Thai or foreign law;

“Committee” means the Petroleum Committee;

“competent official” means a person appointed by the Minister to execute this Act;

“Director-General” means the Director-General of the Department of Mineral Fuels\*;

“Minister” means the Minister having charge and control over the execution of this Act.

**Section 5.** This Act shall apply to the operation of petroleum business throughout the Kingdom.

**Section 6.** This Act shall not apply to Ministries, Sub-ministries and Departments whose duty is related with petroleum business. Nonetheless, if any Ministry, Sub-ministry or Department produces petroleum from a commercial petroleum field, the provisions of Chapter VII on royalty shall apply.

**Section 7.** No person may destroy, alter, move, take out or let loose boundary marks delineating exploration blocks or production areas or mapping marks installed, inserted or implanted by a competent official, except with written permission from the Director-General.

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**Section 8.** Letters or orders addressed to any person for the execution of this Act shall be delivered in person during the period from sunrise to sunset or during office hours of the addressee, or by registered post.

If delivery cannot be made in the manner prescribed under paragraph one for any reason, such letters or orders may be delivered by posting them at a noticeable place on the door of the house, office, domicile or place of residence of the addressee, or by advertising their summary in newspapers.

When such delivery has been made in the manner prescribed under paragraph two and a seven-day period has expired, it shall be deemed that such person has received such letters or orders.

**Section 9.** In performing the duties, the competent official shall have the following powers:

(1) to enter the areas where petroleum business is conducted and the office of a concessionaire during the office hours to inspect the petroleum business to ensure compliance with the concession and this Act;

(2) to order a concessionaire in writing to refrain from any act which may cause danger to persons or property of others;

(3) to take the samples of petroleum, rocks, soils and other substances obtained from petroleum exploration or production at a reasonable volume for inspection.

The concessionaire shall have the right to appeal against the order of the competent official issued under (2) to the Director-General within seven days from the date of receipt of the order. The order of the Director-General shall be final.

The appeal against the order of the competent official under paragraph two shall not be cause to suspend the compliance with the order unless the Director-General deems it appropriate to suspend the compliance with such order.

**Section 10.** A competent official shall have an identity card in accordance with the form stipulated in Ministerial Regulations.

In performing the duties under this Act, the competent official shall produce his or her identification card to the persons concerned.

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**Section 11.** A competent official shall be an officer as defined in the Criminal Code.

**Section 12.** In the case where a concessionaire violates or fails to comply with the concession or this Act and such violation or non-compliance causes damage to the public or causes any public body the need to undertake remedial action or prevent such damage, the concessionaire shall indemnify such damage and reimburse the expenses of such remedy or prevention at the amount prescribed by the Minister, provided that the right of the person suffering from damage to claim compensation from such concessionaire due to such breach shall not be prejudiced.

**Section 13.** The rights to hold a concession shall not be liable to execution.

**Section 14.** The Minister of Energy\* shall have charge and control over the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations:

- (1) prescribing criteria and procedures on petroleum exploration, production and conservation;
- (2) prescribing safety zones and marks in the areas where installations and devices used in petroleum exploration and production are located;
- (3) prescribing procedures to protect workers and provide safety to outsiders;
- (4) prescribing fees not exceeding the rates provided in the Annex of this Act;
- (5) prescribing other acts for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

## CHAPTER II

### PETROLEUM COMMITTEE

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**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/ COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF THE COUNCIL OF STATE SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITIES ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE.

**Section 15.**<sup>7</sup> There shall be a committee called the “Petroleum Committee”, consisting of the Permanent Secretary of the Ministry of Energy as Chairperson, the Director-General of the Department of Lands, the Director-General of the Department of Fisheries, the Director-General of the Royal Forest Department, the Director-General of the Revenue Department, the Secretary-General of the Office of Natural Resources and Environmental Policy and Planning, the Director of the Energy Policy and Planning Office, representative of the Ministry of Defence, representative of the Ministry of Finance, representative of the Ministry of Industry, and not more than five qualified members appointed by the Council of Ministers from the persons with knowledge, expertise and experience in the field of geology, engineering, economics, finance, law or other fields which will be beneficial to petroleum business as members.

Qualified members appointed by the Council of Ministers under paragraph one shall not be a government official from the official agency to which those *ex-officio* members belong.

The Director-General shall be member and secretary, and the Director-General may appoint not more than two government officials of the Department of Mineral Fuels as assistant secretaries.

**Section 16.**<sup>8</sup> The Committee shall have the powers and duties as follows:

- (1) to provide advice to the Minister pursuant to section 22;
- (2) to give consent to the Director-General pursuant to section 22/1;
- (3) to make an agreement on the selling price of natural gas in the Kingdom pursuant to section 58;
- (4) to permit a concessionaire to hold the ownership of land under section 65;
- (5) to issue an order relating to the bringing of foreigners into the Kingdom pursuant to section 69;
- (6) to issue an order relating to importation of machinery and equipment with import duty exemption and value added tax exemption pursuant to section 70;

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<sup>7</sup> Section 15 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>8</sup> Section 16 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

(7) to perform other acts as stipulated in this Act or as assigned by the Minister or as stipulated by other laws to be the powers and duties of the Committee.

**Section 16/1.<sup>9</sup>** A qualified member shall have qualifications and possess no prohibited characteristics as follows:

- (1) being of Thai nationality;
- (2) not being incompetent or quasi-incompetent;
- (3) not being bankrupt;
- (4) not having been imprisoned due to a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence;
- (5) not being a member of the House of Representatives, a member of the Senate, a political official, a member of local assembly, a local administrator, a director or a person holding any position responsible for the administration of a political party or an advisor or official of a political party;
- (6) not being a director or an executive or a person having managerial power or having an interest in a juristic person or organisation that holds or operates a business on petroleum, and not undertaking any other occupation or profession that has an interest or conflict of interest with the performance of duties as the member.

**Section 17.<sup>10</sup>** A qualified member shall hold office for a term of three years. A qualified member who vacates office may be reappointed.

In the case where a qualified member vacates office upon the expiration of the term, but a new qualified member has not yet been appointed, such qualified member shall provisionally perform his or her duties until a new qualified member has been appointed.

**Section 18.<sup>11</sup>** In addition to vacating office on the expiration of term, a qualified member vacates office upon:

- (1) death;

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<sup>9</sup> Section 16/1 has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>10</sup> Section 17 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>11</sup> Section 18 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).



(2) resignation;

(3) being dismissed by the Council of Ministers due to disgraceful behavior, negligence or dishonesty in the performance of the duty or incapability;

(4) being disqualified or possessing any prohibited characteristics under section 16/1.

When a qualified member vacates his or her office prior to the expiration of the term, a new qualified member shall be appointed, unless the remaining term of such qualified member is less than ninety days, in which case, the appointment may be omitted. While a qualified member has not been appointed to fill the vacancy, the remaining members shall be able to continue performing their duties.

Where there is an appointment of a qualified member while the appointed qualified members are still in office, irrespective of being an additional appointment or an appointment to fill a vacancy, the appointee shall be in office for the unexpired term of office of the qualified members already appointed.

**Section 19.** At a meeting of the Committee, the presence of not less than one-half of all members is required to constitute a quorum.

If the Chairperson is not present at the meeting or is unable to perform the duties, the members present shall elect one among themselves to preside over the meeting.

**Section 20.** A decision of the meeting shall be made by a majority of votes.

In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

**Section 21.** In performing the duties, the Committee shall have the power to appoint sub-committee members to carry out any activities or consider any matters within the scope of duty of the Committee, as well as to invite any person to furnish fact, explanation, advice or opinion.

The provisions of section 19 and section 20 shall apply to the meetings of the sub-committee.

### CHAPTER III

#### PETROLEUM EXPLORATION AND PRODUCTION

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/ COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF THE COUNCIL OF STATE SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITIES ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE.

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**Section 22.**<sup>12</sup> The Minister by and with the advice of the Committee shall have the powers and duties as follows:

- (1) to grant a concession under section 23;
- (2) to renew a petroleum exploration period under section 25;
- (3) to renew a petroleum production period under section 26;
- (4) to approve the change in physical work under section 30;
- (5) to approve the transfer of obligations between exploration blocks under section 33;
- (6) to permit a concessionaire to accept other companies to jointly operate the petroleum business under section 47;
- (7) to permit the transfer of a concession under section 50;
- (8) to revoke a concession under section 51, section 52 and section 53;
- (9) to notify a concessionaire that the Government will exercise the right to operate petroleum business in any area at its sole risk under section 52 *bis*;
- (10) to order a concessionaire to supply petroleum for use in the Kingdom under section 60;
- (11) to announce a prohibition on exporting of the petroleum outside the Kingdom under section 61;
- (12) to order concessionaires to produce petroleum altogether under section 72;
- (13) to order a concessionaire to pay royalty in the form of petroleum under section 83;
- (14) to approve the payment of royalty in foreign currency under section 87;
- (15) to reduce royalty on the petroleum under section 99 *bis* and section 99 *ter*;
- (16) to prescribe the geological constant of exploration blocks under section 100 *sexies*.

The implementation under (1), (3), (7) or (15) shall be subject to the approval from the Council of Ministers.

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<sup>12</sup> Section 22 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

**Section 22/1.**<sup>13</sup> The Director-General by and with the consent of the Committee shall have the powers and duties as follows:

- (1) to extend the term of a concession under section 27;
- (2) to approve the determination of a production area under section 42;
- (3) to permit an extension of the period for commencing the production under section 42 *bis*;
- (4) to assign other persons to undertake the remedy and protection of the dirt arising from the operation of petroleum business on behalf of or jointly with a concessionaire under section 75;
- (5) to approve the working plan and estimated cost of demolition of buildings, materials, equipment and facilities, or to assign other persons to undertake the demolition on behalf of or jointly with a concessionaire under section 80/1.

**Section 23.** Petroleum belongs to the State. Any person who explores or produces petroleum in any area, whether owned by him or her or by other persons, shall obtain a concession.

The application for a concession shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

The form of a concession shall be as stipulated in Ministerial Regulations.

**Section 24.** An applicant for a concession shall:

- (1) be a company; and
- (2) have capital, machinery, tools, equipment and experts sufficiently to explore, produce, sell and distribute petroleum.

In the case where the applicant for a concession does not completely possess the qualifications under (2), it shall be required to have another company, found to be trustworthy by the Government and which has the qualifications under (2) and relationship in capital or management with the applicant for a concession, guarantee to provide capital, machinery, tools, equipment and experts sufficiently to explore, produce, sell and distribute petroleum.

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<sup>13</sup> Section 22/1 has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

**Section 25.**<sup>14</sup> The petroleum exploration period under any concession shall not exceed six years from the date on which the concession is granted.

In the case where the concessionaire wishes to request a renewal of the petroleum exploration period, the concessionaire shall file an application for a renewal of the petroleum exploration period together with proposing expenditure obligations and/or physical work obligations for the petroleum exploration for the Third Obligation Period not less than six months prior to the expiry of the petroleum exploration period. Nonetheless, if the concessionaire initially applied for the petroleum exploration period of not more than three years, it shall not have the right to request a renewal of the petroleum exploration period.

A renewal of the petroleum exploration period may be permitted when the concessionaire has complied with all provisions of the concession and agreed on the petroleum exploration for the Third Obligation Period not less than fifteen days prior to the expiry of the Second Obligation Period.

A renewal of the petroleum exploration period may be made only once for a period of not more than three years.

**Section 26.**<sup>15</sup> The petroleum production period under any concession shall not exceed twenty years from the day following the expiry of the petroleum exploration period, notwithstanding any petroleum production undertaken during the petroleum exploration period.<sup>16</sup>

In the case where the concessionaire wishes to request a renewal of the petroleum production period, the concessionaire shall file an application for a renewal of the petroleum production period not less than six months prior to the expiry of the petroleum production period.

A renewal of the petroleum production period may be permitted when the concessionaire has complied with all provisions of the concession and agreed on the

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<sup>14</sup> Section 25 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>15</sup> Section 26 has been amended by the Petroleum Act (No. 3), B.E. 2522 (1979).

<sup>16</sup> Section 26, paragraph one has been amended by the Petroleum Act (No.4), B.E. 2532 (1989).

provisions, obligations and conditions prevailing at that time not less than fifteen days prior to the expiry of the petroleum production period.

A renewal of the petroleum production period may be made only once for a period of not more than ten years.

**Section 27.**<sup>17</sup> In the case where part of petroleum exploration or production or storage or transportation of petroleum that has an impact on petroleum exploration or production in any exploration block has been substantially interrupted due to an event that is not the fault of the concessionaire, if the concessionaire wishes to request an extension of the term of the concession, it shall inform the Director-General within seven days from the date of its acknowledgement of such event. In this case, the Director-General shall extend the term of the concession in respect of such exploration block for a period equivalent to such duration of time for which the concessionaire is able to prove that the petroleum exploration or production has been interrupted due to an event that is not the fault of the concessionaire.

**Section 28.**<sup>18</sup> In the granting of a concession, the Department of Mineral Fuels shall designate the area of the exploration blocks by publishing in the Government Gazette.

The area of an exploration block which is not located offshore shall not exceed four thousand square kilometers per block.

The area of an offshore exploration block shall include the area of those islands located in such exploration block.

**Section 29.** For the purpose of designating exploration blocks and production areas, the Director-General shall have the power to order a competent official to perform a boundary survey or relocation survey.

**Section 30.** The concessionaire shall comply with both expenditure and physical work obligations for the petroleum exploration as stipulated in the concession.

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<sup>17</sup> Section 27 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>18</sup> Section 28 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

In the case where it appears that the physical work specified for each obligation period of the concession is not suitable with the geological conditions of the concession area or where a more modern petroleum exploration technology is developed, when the concessionaire requests to change physical work obligations, the Minister shall have the power to approve such change as appropriate. If such change results in a decrease in the amount of expenditure of the concessionaire from the amount to be paid under the existing obligations, the concessionaire shall pay the decreasing amount to the Department of Mineral Fuels\* within thirty days from the date on which the Minister grants such approval.<sup>19</sup>

**Section 31.** In the determination of the obligations under section 30, the petroleum exploration period shall be divided into three periods as follows:

First Period: being the first three years of the petroleum exploration period or, in the case where the petroleum exploration period is less than three years, the petroleum exploration period stipulated in the concession;

Second Period: being the remaining petroleum exploration period after the First Obligation Period;

Third Period: being the renewal period of the petroleum exploration period if the petroleum exploration period is renewed.

In the case where the term of a concession is extended under section 27 during any obligation period, such obligation period shall be extended for a period equivalent to the period of time of the extension of the term of such concession.

The performance of obligations for any obligation period may be divided into periods set forth in the concession, and in this case, the concessionaire shall fully comply with the obligations within such periods.<sup>20</sup>

**Section 32.**<sup>21</sup> At the end of each obligation period or at the end of a partial period within any obligation period as set forth in the concession, or in the case of relinquishment of the whole exploration block during the First Obligation Period, if the concessionaire has

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<sup>19</sup> Section 30, paragraph two has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>20</sup> Section 31, paragraph three has been added by the Petroleum Act (No. 3), B.E. 2522 (1979).

<sup>21</sup> Section 32 has been amended by the Petroleum Act (No. 3), B.E. 2522 (1979).

not fully complied with the obligations for the petroleum exploration for any exploration block as stipulated in the concession, the concessionaire shall pay money to the Department of Mineral Fuels\* for the portion that has not been spent during such obligation period or partial period within thirty days from the end of the obligation period or partial period or from the date of relinquishment of the exploration block, as the case may be.

**Section 33.**<sup>22</sup> A transfer of obligations for the petroleum exploration from one exploration block to another may be made when there are reasonable grounds to do so and approval from the Minister has been obtained.

**Section 34.**<sup>23</sup> In conducting the petroleum exploration within any exploration block during any obligation period or any partial period within any obligation period as set forth in the concession, if the concessionaire has spent or performed action beyond the obligations for the petroleum exploration for such exploration block during such obligation period or partial period, it shall have the right to deduct the excessive expenditure and/or physical work from the obligations for the petroleum exploration for such exploration block in the subsequent obligation period or partial period.

**Section 35.** In the case of the revocation of a concession during the First Obligation Period, if the concessionaire has not fully complied with the obligations for the petroleum exploration as stipulated in the concession, the concessionaire shall pay money for the portion that has not been spent during such obligation period to the Department of Mineral Fuels\* within thirty days from the effective date of the revocation order.

**Section 36.**<sup>24</sup> Subject to section 45, a concessionaire shall relinquish the area of each of the exploration blocks in accordance with the following criteria:

(1)<sup>25</sup> at the end of the fourth year from the date of commencement of the petroleum exploration period, the concessionaire shall relinquish fifty percent of the area of

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<sup>22</sup> Section 33 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>23</sup> Section 34 has been amended by the Petroleum Act (No. 3), B.E. 2522 (1979).

<sup>24</sup> Section 36 has been amended by the Petroleum Act (No. 2), B.E. 2516 (1973).

<sup>25</sup> Section 36 (1) has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

such exploration block, but if it is an exploration block designated by the Department of Mineral Fuels\* as an offshore exploration block having a water depth in excess of two hundred meters, the concessionaire shall relinquish thirty five percent of the area of such exploration block;

(2) at the end of the petroleum exploration period, in the case that such petroleum exploration period is not renewed, the concessionaire shall relinquish the entire area remaining from (1);

(3) at the end of the petroleum exploration period, in the case that such petroleum exploration period has been renewed, the concessionaire shall relinquish an additional twenty five percent of the area of such exploration block, but if it is an exploration block designated by the Department of Mineral Fuels\* as an offshore exploration block having a water depth in excess of two hundred meters, the concessionaire shall relinquish an additional forty percent of the area of such exploration block;

(4) at the end of the renewed petroleum exploration period, the concessionaire shall relinquish the entire remaining area.

For the purpose of calculation of the area to be relinquished under this section, the production areas shall be firstly deducted from the area of such exploration block, and the relinquishment of the area under this section shall be in accordance with the criteria and procedures prescribed by the Department of Mineral Fuels\*.

In the case where the concessionaire fails to perform correctly as required in paragraph one, the Department of Mineral Fuels\* shall designate the area to be relinquished in lieu of the concessionaire, and when the concessionaire has been informed, it shall be deemed that such designated area is the relinquished area under this section.

**Section 37.** Subject to section 38, section 39 and section 40, the concessionaire shall have the right to relinquish the whole or parts of the area of an exploration block at any time.

The relinquished area under paragraph one shall be deducted from the area subject to relinquishment under section 36.

The criteria and procedures stipulated in section 36, paragraph two shall apply in the case of relinquishment of parts of the area of an exploration block under this section.

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**Section 38.** The concessionaire who exercises the right to relinquish the whole or parts of the area of an exploration block during the First Obligation Period shall not be entitled to a reduction in its petroleum exploration obligations for such exploration block in the First Obligation Period.

In the case where the area of any exploration block is relinquished in whole during the First Obligation Period under paragraph one, the concessionaire shall be released from the petroleum exploration obligations for such exploration block in the subsequent obligation periods.

**Section 39.**<sup>26</sup> In the case where the concessionaire exercises the right to relinquish the area of an exploration block during the Second or Third Obligation Periods, if such relinquishment is for the entire remaining area of any exploration block, the concessionaire shall be released from all of the outstanding petroleum exploration obligations for such exploration block, except those obligations with which the concessionaire is required by the concession to comply prior to the relinquishment, and in this case the provision of section 32 shall apply, *mutatis mutandis*.

**Section 40.**<sup>27</sup> In the case where the concessionaire exercises the right to relinquish a part or parts of the area of an exploration block either once or several times during the Second Obligation Period, the concessionaire shall be entitled to a reduction in its petroleum exploration obligations that remain for such exploration block as follows:

(1) in the case where the area relinquishment is made during the fourth year as from the date of commencement of the petroleum exploration period for such exploration block, if the relinquished area does not exceed the area subject to relinquishment under section 36, the concessionaire shall not be entitled to a reduction in its obligations in the Second Obligation Period. If, however, the aggregate relinquished area through one or several relinquishments exceeds the area subject to relinquishment under section 36, the concessionaire shall be entitled to a reduction in its petroleum exploration obligations in the Second Obligation Period, starting from the commencement date of such obligation

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<sup>26</sup> Section 39 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>27</sup> Section 40 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

period, in proportion to the ratio between the excess of the area so relinquished each time over the area subject to relinquishment under section 36 and the area held by the concessionaire on the commencement date of the Second Obligation Period less the area subject to relinquishment under section 36, or the ratio between the remaining time in the Second Obligation Period starting from the date on which each relinquishment is made and the total time of the Second Obligation Period, whichever ratio is smaller;

(2) in the case where the concessionaire exercises the right to relinquish the area after the end of the fourth year as from the date of commencement of the petroleum exploration period for such exploration block, the concessionaire shall be entitled to a reduction in its petroleum exploration obligations in the Second Obligation Period, starting from the commencement date of the fifth year of the petroleum exploration period for such exploration block, in proportion to the ratio between the area so relinquished each time and the area held by the concessionaire on the commencement date of the fifth year, or the ratio between the remaining time in the Second Obligation Period starting from the date on which each relinquishment is made and the total time of the Second Obligation Period starting from the commencement date of the fifth year, whichever ratio is smaller.

Subject to section 39, in exercising the right to relinquish a part or parts of the area of an exploration block during the Third Obligation Period, the concessionaire shall not be entitled to a reduction in its petroleum exploration obligations for such exploration block in the Third Obligation Period.

**Section 41.** During a petroleum exploration period, the concessionaire may produce petroleum.

**Section 42.**<sup>28</sup> Before producing petroleum from any place in an exploration block, the concessionaire shall demonstrate that a commercial well has been discovered and a production area has been determined correctly. When the concessionaire has obtained approval from the Director-General, it may then produce petroleum from such production area.

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<sup>28</sup> Section 42, paragraph one has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

The determination of whether a well is commercial and the determination of a production area shall be in accordance with the criteria and procedures stipulated in Ministerial Regulations.

**Section 42 *bis*.**<sup>29</sup> When the concessionaire has obtained from the Director-General the approval to produce petroleum in the production area under section 42, the concessionaire shall submit a detailed production plan for such production area in accordance with the criteria, procedures and period of time stipulated in Ministerial Regulations, and the concessionaire must commence the petroleum production according to the plan within four years from the date of receipt of the approval from the Director-General under section 42. If the concessionaire fails to commence the petroleum production within such specified period of time, it shall be deemed that the petroleum production period for the area determined as a production area is terminated.

In the case where the concessionaire wishes to request an extension of the period for commencing the petroleum production under paragraph one, the concessionaire shall notify the Director-General in writing together with the reasons not less than six months prior to the expiry of the period in paragraph one. If the Director-General views that the failure to commence petroleum production for such production area was not due to the fault of the concessionaire, the Director-General shall have the power to permit an extension of the period for commencing the production as deemed appropriate, provided that each extension shall not exceed two years and the extension may be permitted not more than twice.

Throughout the petroleum production period for the production area, the concessionaire shall review the petroleum production plan under paragraph one and notify the results of such review in writing to the Director-General on an annual basis. If the concessionaire wishes to change the petroleum production plan, it must obtain approval from the Director-General prior to changing the plan.

**Section 43.** During the petroleum exploration period, if the concessionaire develops a petroleum field in any exploration block during any obligation period, the concessionaire

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<sup>29</sup> Section 42 *bis* has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

shall have the right to include the expense for the field development as part of the expenses for the petroleum exploration obligations for such exploration block in that obligation period.

**Section 44.** If the concessionaire is unable to demonstrate that a commercial well has been discovered in any exploration block or fails to determine a production area in accordance with section 42, it shall be deemed that the concession in respect of such exploration block has expired as at the expiry of the petroleum exploration period.

**Section 45.**<sup>30</sup> At the expiry of the petroleum exploration period for any exploration block, in the case where the concessionaire has obtained the right to produce petroleum from such exploration block, the concessionaire shall have the right to reserve the area in such exploration block in the amount of not exceeding twelve and a half percent of the initial area of such exploration block for a period to be specified by the concessionaire but shall not exceed five years from the expiry of the petroleum exploration period for such exploration block. Nonetheless, the concessionaire may relinquish the reserved area of the exploration block before the expiry of such specified time.

The reservation of the area under paragraph one shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations. Once the area reservation is properly made, the concessionaire shall have the right to explore petroleum within such reserved area, and the concessionaire shall pay a reservation fee in advance on an annual basis at the rate stipulated in Ministerial Regulations.

In the case where the concessionaire discovers petroleum within the reserved area and wishes to produce petroleum, section 42 shall apply.

**Section 46.** The concessionaire who has paid a reservation fee for any year shall be entitled to receive a refund of the reservation fee for that year in the amount equivalent to the amount of expense spent in that year for the petroleum exploration within the reserved area, provided that the refund shall not exceed the reservation fee paid.

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<sup>30</sup> Section 45 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

The application for a refund of the reservation fee shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

**Section 47.** A concessionaire may accept other companies to jointly operate the petroleum business under the concession when it has obtained approval from the Minister. In this case, each co-operator of the petroleum business shall pay royalty, income tax and other moneys and comply with the obligations relating to the operation of petroleum business binding on it.

All co-operators of the petroleum business shall be jointly and severally liable for complying with the concession and this Act, except that each co-operator shall not be responsible for the payment of income tax under the law on petroleum income tax that is binding on other co-operators.

In the case where any co-operator of the petroleum business fails to pay income tax which is due to it, the Minister shall inform all other co-operators of the petroleum business in writing. If such income tax has not been paid within ninety days from the date of receipt of the notice, this shall be deemed as another cause of concession revocation.

**Section 48.**<sup>31</sup> A concessionaire shall have the right to transfer the concession in whole or in respect of any particular exploration block, production area or reserved area to other companies without obtaining permission in the following cases:

- (1) the concessionaire company holds more than fifty percent of the shares having voting rights of the transferee company;
- (2) the transferee company holds more than fifty percent of the shares having voting rights of the concessionaire company; or
- (3) a third company holds more than fifty percent of the shares having voting rights in both the concessionaire company and transferee company.

The concessionaire shall inform the Minister in writing of the transfer under paragraph one together with presenting evidence showing that such transfer has been in accordance with the cases in paragraph one. In the case where the concessionaire is guaranteed by a company which has a relationship in capital or management with the concessionaire in

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<sup>31</sup> Section 48 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

relation to capital, machinery, tools, equipment and experts under section 24, paragraph two, the concessionaire shall also submit to the Minister the evidence showing such company's guarantee for the transferee, unless the Minister views that the transferee is capable to apply for a concession without such guarantee or another company found to be trustworthy by the Government has provided a guarantee for the transferee in accordance with section 24.

The transfer under this section shall take effect upon the concessionaire having received written notice from the Director-General stating that the transfer has been made correctly in compliance with the section.

**Section 49.** The transferor and transferee of a concession under section 48 shall be jointly and severally liable for complying with the concession and this Act.

**Section 50.**<sup>32</sup> Except the cases under section 48, the concessionaire may transfer the concession, in whole or in respect of any particular exploration block, production area or reserved area to other companies when it has obtained permission from the Minister.

The transferee of the concession under paragraph one shall possess the qualifications under section 24.<sup>33</sup>

**Section 51.**<sup>34</sup> The Minister shall have the power to revoke a concession when the concessionaire:

- (1) fails to comply with the petroleum exploration obligations as stipulated in the concession pursuant to section 30;
- (2) fails to deposit a security or deposits a security not in full as required by section 80/2;
- (3) fails to pay royalty under Chapter VII or special remuneration under Chapter VII *BIS*;
- (4) fails to pay income tax under the law on petroleum income tax;

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<sup>32</sup> Section 50 has been amended by the Petroleum Act (No. 2), B.E. 2516 (1973).

<sup>33</sup> Section 50, paragraph two has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>34</sup> Section 51 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

(5) fails to correctly comply with technical principles or good petroleum industry practice;

(6) violates or fails to comply with the provisions stipulated in the concession as the grounds for concession revocation.

**Section 52.** When there is any circumstance constituting grounds for concession revocation and the Minister views that such circumstance may be rectified, the Minister shall inform the concessionaire in writing of such circumstance and require the concessionaire to rectify it within a period of time deemed appropriate. If the concessionaire is unable to rectify such circumstance within the specified period of time with valid reason, it may, not less than seven days prior to the end of such period, request an extension of time for a necessary period of time. If the Minister finds it appropriate, the Minister shall have the power to extend such time for a period not more than that applied for by the concessionaire. If the concessionaire fails to rectify the circumstance within the specified period of time or is unable to rectify it within the extended period of time, the Minister shall issue an order of concession revocation without delay.

In the case where there is any circumstance constituting grounds for concession revocation and the Minister views that such circumstance may not be rectified, the Minister shall issue an order of concession revocation without the need to comply with paragraph one.

The order of concession revocation shall take effect after the lapse of a thirty-day period from the date of receipt of the order by the concessionaire, unless the concessionaire proceeds in accordance with section 53.

**Section 52 *bis*.**<sup>35</sup> In the case where the State has a necessity to produce petroleum for the benefit of the implementation of economic development plan, the Government may request the concessionaire to expedite the petroleum production from the area reserved by the concessionaire under section 45, by proposing a production plan for any area specifically designated according to the structure of the petroleum field.

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<sup>35</sup> Section 52 *bis* has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

If such area has an unfavourable geological condition, the Government may offer a reduction of royalty pursuant to section 99 *bis* and/or an increase of the geological constant of exploration blocks pursuant to section 100 *sexies* (b) for such area.

If the concessionaire is unable to reach agreement with the Government within twelve months from the date on which the concessionaire receives the proposal from the Government under paragraph one and the Government views that the expedition of petroleum production is necessary for the national economy, the Government shall have the right to notify the concessionaire in writing that the Government will exercise its right to operate petroleum business in that area at its sole risk.

When the Government has informed the concessionaire of its intention to exercise such right, it shall be deemed that the concessionaire's right under the concession only in respect of the designated area under paragraph one is terminated, and the Government shall have the power to assign any official agency or State enterprise or any person to resume the operation of the petroleum business in such area.

If there is an annual petroleum profit under section 100 *quarter* of Chapter VII *BIS* in the petroleum business operation in such area, the Government shall forward such annual petroleum profit to the concessionaire as repayment of the investment expenditure made by the concessionaire in such area until such expenditure has been repaid in full. The calculation of profit and loss for the State's operation of the petroleum business under this section shall be made in the same manner as the calculation for the operation of petroleum business of other concessionaires, but a special reduction under section 100 *ter* (4) shall not be included as an expense.

During the Government's operation of the petroleum business under this section, the concessionaire shall have the right to request to jointly invest with the Government based on the criteria and conditions under the terms on petroleum business operation on a sole risk basis as stipulated in a joint venture agreement between petroleum business operators which is used in Thailand that most favours the concessionaires. Nonetheless, the request for an exercise of such right shall be notified to the Government within three years from the date on which the Government exercises the right to operate the petroleum business under this section at the latest.

If the Government fails to earnestly commence the petroleum business operation in the designated area under paragraph one within two years from the date on which the

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concessionaire's right under the concession is terminated under paragraph four, the concessionaire shall have the right to make a request to the Government for the reinstatement of the right over such area to it by submitting a written request to the Minister within six months from the expiry of such two-year period. In the case of the reinstatement of the right over such area, the term of the concessionaire's concession only in respect of such area shall be extended for a period equivalent to the period during which the Government exercised the right under this section. The Government shall have the right to receive the refund of the money invested by it in such area to the extent its investment benefits the concessionaire.

**Section 53.** Any dispute in relation to the Minister's order requiring the concessionaire to rectify the circumstance constituting grounds for concession revocation under section 52 and any dispute as to the question whether or not the provisions in a concession have been complied with, if cannot be agreed upon, shall be settled by an arbitration in accordance with the procedures stipulated in the concession.

In the case where the concessionaire has refused to comply with any arbitration decision or failed to comply with any arbitration decision within a specified time, the Minister shall have the power to order to withdraw the rights or benefits, in whole or in part, or to revoke the concession.

#### CHAPTER IV STORAGE AND TRANSPORTATION OF PETROLEUM

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**Section 54.** A concessionaire shall have the right to store and transport petroleum. Storage and transportation of petroleum shall be in accordance with the provisions stipulated in the concession.

**Section 55.** In the case of necessity to prevent any danger on an emergency basis, a competent official or a concessionaire shall have the power to pass through or enter the land or places of any person for inspecting, repairing or fixing petroleum pipelines at any

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time, provided that the owner or the person having the right of possession of such land or places shall be informed as soon as practicable.

If such passage or entry of the land or places under paragraph one has caused damage, the owner, the person having the right of possession or any other right-holders of such land or places shall have the right to claim compensation from the competent official or concessionaire. If the amount of compensation cannot be agreed upon, the dispute shall be forwarded to arbitration for decision, and in this regard the provisions of the Civil Procedure Code shall apply.

## CHAPTER V

### SALE AND DISTRIBUTION OF PETROLEUM

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**Section 56.** Subject to this chapter, a concessionaire shall have the right to sell and distribute the petroleum produced by it.

**Section 57.** In selling the crude oil produced for use in the Kingdom, the concessionaire shall sell it at the following prices:

(1) in the case where no concessionaire has been exporting the produced crude oil outside the Kingdom regularly, a price that does not exceed the price of the crude oil imported from foreign countries that is delivered to refineries in the Kingdom;

(2) in the case where there is a concessionaire exporting the produced crude oil outside the Kingdom regularly, a price that does not exceed the average realised price on the crude oil exported outside the Kingdom by all concessionaires in the preceding calendar month, and in this regard, the Director-General may require the concessionaires to furnish necessary evidence related with the prices realised at the points of export;

(3) in the case where the total volume of the crude oil produced throughout the Kingdom reaches ten times or more of the demand in the Kingdom, a price that generates reasonable profit, taking into account comparable arrangements in major crude oil producing countries.

Determination of the prices under this section shall take into account differences in the qualities, transportation costs and all surrounding circumstances.

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**Section 58.** In selling the natural gas produced for use in the Kingdom, the concessionaire shall sell it at the following prices:

(1) a price which has been agreed with the Committee by and with the consent of the Minister, but the agreed price shall not be higher than the average price of natural gas exported outside the Kingdom, taking into account differences in the qualities and transportation costs;

(2) in the case where the total volume of the natural gas produced throughout the Kingdom exceeds the demand in the Kingdom, a price that generates reasonable profit, taking into account all surrounding circumstances and comparable arrangements in major natural gas producing countries.

**Section 59.**<sup>36</sup> Before exporting crude oil outside the Kingdom, except exporting it for analysis or tests, the concessionaire shall post the F.O.B. price at the relevant point of export according to its grade, specific gravity and quality.

The price posted under paragraph one shall be established and changed from time to time in accordance with the up-to-date quality determination method, taking into account the posted price of comparable crude oil in the countries within the same region as Thailand, geographical locations of the point of export and the point of purchase as well as market outlets and transportation costs.

In the case where the Director-General finds that the price posted by the concessionaire is inconsistent with the conditions stipulated under paragraph two, the Director-General shall notify the concessionaire to revise the posted price in accordance with such conditions within a specified period of time. If the concessionaire fails to revise or a revision is made but the same remains inconsistent with the conditions stipulated in paragraph two, the Director-General shall have the power to prescribe a new posted price for the concessionaire.

If the concessionaire views that the price prescribed by the Director-General under paragraph three is inconsistent with the conditions stipulated in paragraph two, the concessionaire shall have the right to make a request to the Court for prescribing a new

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<sup>36</sup> Section 59 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

posted price within one month from the date on which the Director-General prescribes the posted price. The Court shall have the power to prescribe a posted price as deemed appropriate. If the concessionaire fails to make a request to the Court within such specified time, it shall be deemed that the posted price is the price prescribed by the Director-General.

In the case where a request is made to the Court under paragraph four, the posted price shall be the price prescribed by the Director-General on a provisional basis until a final Court decision is rendered.

**Section 60.** When the Minister finds it appropriate, the Minister may order a concessionaire to supply petroleum of suitable quality for the purpose of having an adequate volume for the demand in the Kingdom at the prices stipulated in section 57, and the concessionaire shall supply such petroleum in proportion to the ratio between its produced petroleum and petroleum produced throughout the Kingdom in the past six months.

In the case where the Minister has ordered a concessionaire to pay royalty in the form of petroleum on the petroleum that is not exported under section 83 and such petroleum has been exported outside the Kingdom later, no order requiring the concessionaire to supply petroleum under paragraph one for replacement purpose shall be made.

In granting the order to the concessionaire to supply petroleum under paragraph one, the Minister shall give prior written notice of not less than three months to the concessionaire specifying the designated first month from which the petroleum is supplied and also the designated last month if the Minister so desires. In the case where the Minister has not designated the last month, the Minister shall terminate the supply of petroleum when the Minister has given prior written notice to the concessionaire of not less than three months.

**Section 61.** In the case of necessity for national security or for the purpose of having petroleum adequate for the demand in the Kingdom, the Minister shall have the power to announce a temporary prohibition on exporting of the petroleum produced by the concessionaire in whole or in part outside the Kingdom or to any place.

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In the case where it is announced to prohibit the export of part of the petroleum produced by the concessionaire, the Minister shall prohibit the concessionaire from exporting the produced petroleum in proportion to the ratio between its produced petroleum and petroleum produced throughout the Kingdom in the past six months.

The announcement under this section shall be published in the Government Gazette.

**Section 62.** In the case where the prohibition of export of petroleum is for the purpose of having petroleum adequate for the demand in the Kingdom under section 61, if requested by the concessionaire, the Minister shall arrange to have buyers for the petroleum so prohibited from export at the prices under section 57 or section 58, as the case may be.

## CHAPTER VI BENEFITS, RIGHTS AND DUTIES OF CONCESSIONAIRE

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**Section 63.** Granting of a concession under this Act shall not preclude the right to grant concessions or permissions under other laws for the acquisition of any natural resource other than petroleum.

**Section 64.** A concessionaire shall receive the guarantee that:

- (1) the State will not force the transfer of the properties and rights in relation to the petroleum business operation of the concessionaire to the ownership of the State, except for the transfer under the provisions of concession;
- (2) the State will not restrict the export of petroleum outside the Kingdom, except for in the cases under section 61.

**Section 65.** For the purpose of operating petroleum business, the Committee shall have the power to permit the concessionaire to hold the ownership of land to the extent as necessary, even in excess of the limit permissible under other laws.

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The concessionaire may transfer the ownership of the land acquired under paragraph one upon receiving permission from the Committee.

The Director-General shall inform the concessionaire of the permission given by the Committee under this section in writing.

**Section 66.** A concessionaire shall have the right to operate petroleum business within the exploration blocks and production areas under its concession. Nonetheless, in the case where the land located in the exploration blocks or production areas which is required by the concessionaire for use in the operation of petroleum business including the land located outside such exploration blocks or production areas which is required by the concessionaire for use in the storage or transportation of petroleum, is owned or under the right of possession or the duty to take charge of under the laws by a person or official agency, the concessionaire shall proceed as follows:

(1) in the case where the land is State property which is not used by the public, the concessionaire shall have the right to pass through and use it for any constructions without applying for permission and without paying compensation;

(2) in the case where the land is owned or under the right of possession or the duty to take charge of under the laws by any official agency, the concessionaire shall apply for permission to such official agency;

(3) in the case where the land is owned or under the right of possession by any person, the concessionaire shall make an agreement with such person.

**Section 67.** In the case where a concessionaire has necessity to enter the land where any person owns or has the right of possession for exploring petroleum, the concessionaire shall seek prior permission from the owner or the person having the right of possession of such land.

If the owner or the person having the right of possession of the land in paragraph one refuses to grant the permission and a competent official deems that it is necessary to make an entry for petroleum exploration in such land and the refusal is made without valid reason, when the competent official has notified the owner or the person having the right of possession of such land not less than seven days in advance that the entry into such land

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will be made for the purpose of petroleum exploration, the concessionaire may enter to explore petroleum in such land under the supervision of the competent official.

If the entry of the land under paragraph two has caused damage, the owner, the person having the right of possession or any other right-holders of such land shall have the right to claim compensation from the concessionaire. If the amount of compensation cannot be agreed upon, the dispute shall be forwarded to arbitration for decision, and in this regard the provisions of the Civil Procedure Code shall apply.

**Section 68.** When it is necessary to acquire immovable property for use in petroleum business, the expropriation shall be made in accordance with the law on expropriation of immovable property.

**Section 69.** Subject to the law on immigration in so far as it is not otherwise provided in this law, a concessionaire and contractors who have entered into contracts for services directly with the concessionaire shall have the right to bring into the Kingdom skilled workers and specialists, including their spouses and dependent children, who are foreigners, as necessary for the petroleum business operation in the number and for the period of time as ordered by the Committee as deemed appropriate, regardless of whether or not it is in excess of the immigration number or period of time stipulated in the law on immigration.

The concessionaire shall have the right to appeal against the order of the Committee to the Minister within thirty days from the date of receipt of the order. The decision of the Minister shall be final.

**Section 70.**<sup>37</sup> A concessionaire and contractors who have entered into contracts for services directly with the concessionaire shall have the right to bring into the Kingdom machinery, tools, appliances, structures, vehicles, accessories, equipment and other materials used in the petroleum business operation with import duty exemption under the law on customs tariff and with value added tax exemption under the Revenue Code,

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<sup>37</sup> Section 70 has been amended by the Petroleum Act (No. 5), B.E. 2534 (1991).

provided that such objects shall be those approved by the order of the Committee as necessary for the petroleum business operation.

The concessionaire shall have the right to appeal against the order of the Committee to the Minister within thirty days from the date of receipt of the order.

**Section 71.** In operating petroleum business, the concessionaire shall be exempted from payment of all kinds of taxes and levies imposed by Central Government, Provincial Government and Local Government, except:

- (1) income tax under the law on petroleum income tax;
- (2) royalty of timber, forest maintenance fees and fees under the law on forest and the law on national reserved forest;
- (3)<sup>38</sup> royalty, special remuneration and fees under this Act;
- (4) fees for services rendered under other laws.

**Section 72.** For the benefit of the conservation of petroleum or good petroleum industry practice, in the case where several concessionaires have their production areas covering the same petroleum reservoir, the Minister shall have the power to order those concessionaires to produce petroleum altogether.

**Section 73.** In the petroleum exploration or production, if antiques, fossils, economic minerals or those minerals which are of significant value in geological studies are discovered, the concessionaire shall report such discovery to the Department of Mineral Fuels\* within thirty days from the date of discovery.

**Section 74.** In operating petroleum business in offshore areas, the concessionaire shall not cause any unreasonable impact on navigation, air navigation, the conservation of the living resources of the sea or scientific researches, and shall not carry out any act that hinders the laying of submarine cables or pipelines or causes damage to submarine cables or pipelines.

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<sup>38</sup> Section 71 (3) has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).



**Section 75.** In operating petroleum business, the concessionaire shall take appropriate measures in accordance with good petroleum industry practice to prevent any place from being dirty with oil, mud or any other substance.

In the case where any place is dirty with oil, mud or any other substance arising from the concessionaire's operation of petroleum business, the concessionaire shall undertake the remedy and protection of such dirt soonest.

In the case where the concessionaire fails to undertake or undertakes the action under paragraph two with delay or where failure to undertake the action immediately may result in more damage, the Department of Mineral Fuels or other persons assigned by the Director-General may undertake the remedy and protection of such dirt on behalf of or jointly with the concessionaire at the sole expense of the concessionaire.<sup>39</sup>

**Section 76.**<sup>40</sup> A concessionaire shall report the results of petroleum business operation and annual working plan and budget in accordance with the criteria, procedures and period of time prescribed by the Director-General.<sup>41</sup>

The reports under paragraph one shall be treated as confidential and shall not be disclosed until the lapse of a one-year period from the date on which the Department of Mineral Fuels\* receives or is deemed in receipt of the reports under paragraph one, except where:

- (1) such disclosure is made in the performance of official services to official agencies or persons having the duty to comply with the laws or the official rules;
- (2) the information in such reports is used in compiling and disseminating scientific, technical or statistical reports or records with prior approval from the Director-General, provided that the disclosure of commercial information must be avoided to the utmost extent;
- (3) the disclosure has been consented to in writing by the concessionaire, but the consent or dissent of the concessionaire shall be given without delay.

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<sup>39</sup> Section 75, paragraph three has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>40</sup> Section 76 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>41</sup> Section 76, paragraph one has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

The provision of paragraph two shall not apply to the reports in relation to the petroleum production from production areas or the reports in relation to the areas which have been relinquished by the concessionaire under section 36 or section 37.

**Section 77.**<sup>42</sup> A concessionaire shall propose annual expense accounts and financial statements for the operation of petroleum business in accordance with the criteria, procedures and period of time prescribed by the Director-General.

**Section 78.** A concessionaire shall have the right to retain money in foreign currency or bring or remit the same outside the Kingdom if such money is derived from petroleum business operation.

**Section 79.** The Director-General shall have the power to permit Central Government, Provincial Government or Local Government to utilise water in any well that is not required by the concessionaire for use in the petroleum business operation. Nonetheless, such official agencies shall provide the concessionaire with fair compensation for the cost of materials that can be otherwise utilised by the concessionaire.

**Section 80.** In operating petroleum business, regardless of whether or not the right to explore or produce petroleum under the concession has expired, the concessionaire shall undertake the operation correctly in accordance with technical principles or good petroleum industry practice in respect of the operation of petroleum business and the conservation of petroleum resources.

**Section 80/1.**<sup>43</sup> For the benefit of the promotion and preservation of environment, a concessionaire shall have the duty to be responsible for the demolition of buildings, materials, equipment and facilities used in the exploration, production, storage or transportation of petroleum. The concessionaire shall submit a working plan and estimated

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<sup>42</sup> Section 77 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>43</sup> Section 80/1 has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

demolition cost to seek approval from the Director-General in accordance with the rules, procedures, conditions and period of time stipulated in Ministerial Regulations.

In the case where there are additional buildings, materials, equipment and facilities used in the exploration, production, storage or transportation of petroleum required to be demolished or the demolition technology has changed or there is a deviation in the estimated demolition cost, the Director-General shall have the power to order the concessionaire to amend, revise or adjust the working plan and the estimated demolition cost approved under paragraph one or the concessionaire may propose to amend, revise or adjust the working plan or the estimated demolition cost approved under paragraph one to the Director-General for approval in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations. Upon approval by the Director-General, they shall be deemed the working plan and the estimated demolition cost for such petroleum production area.

The concessionaire shall complete the demolition in accordance with the working plan approved under paragraph one or paragraph two. If the concessionaire fails to perform the demolition or performs it with delay which may cause damage, the Director-General shall have the power to assign other persons to perform the demolition on behalf of or jointly with the concessionaire and the costs incurred shall be payable from the security under section 80/2.

**Section 80/2.**<sup>44</sup> A concessionaire shall deposit a security for the demolition of the buildings or any other materials under section 80/1 with the Director-General in accordance with the rules, procedures, conditions and period of time stipulated in Ministerial Regulations. The security may be in the form of cash, Thai Government bonds, a bank guarantee contract or any other form.

The security in the form of cash, Thai Government bonds or any other property shall not be liable to execution, but shall not be released from the liability under this Act.

If the concessionaire fails to deposit the security or deposits the security not in accordance with the amount and the period of time as required under paragraph one, the concessionaire shall pay a surcharge of two percent per month of the amount of security

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<sup>44</sup> Section 80/2 has been added by the Petroleum Act (No. 6), B.E. 2550 (2007).

required to be deposited or the amount of shortfall, as the case may be, beginning from the due date. The Director-General shall give a warning for the deposit of the security and surcharge to be made within thirty days from the date of receipt of the written warning. If the security and surcharge are still not properly deposited, the Minister may issue an order to revoke the concession.

In the case where the Director-General assigns other persons to perform the demolition of the buildings or any other materials under section 80/1 on behalf of or jointly with the concessionaire, the relevant costs shall be payable from the security under paragraph one. In the case where the security is insufficient, the concessionaire shall be responsible for the shortfall, and if there is a balance remaining, it shall be returned to the concessionaire.

Maintenance and disbursement of the security shall be in accordance with the rules, procedures and conditions stipulated in Ministerial Regulations.

**Section 81.** A concessionaire and its agents and employees shall have the duty to provide convenience to the competent officials in respect of the performance of their duties under this Act.

## CHAPTER VII ROYALTY

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**Section 82.** A concessionaire shall pay royalty on petroleum which is sold or distributed, but shall not be required to pay royalty on the following categories of petroleum:

- (1)<sup>45</sup> (Repealed)
- (2) petroleum which is produced and used in the Kingdom in its natural state for analysis, testing, exploration, production, conservation, storage and transportation of petroleum;
- (3) petroleum which is exported outside the Kingdom for analysis and testing;

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<sup>45</sup> Section 82 (1) has been repealed by the Petroleum Act (No. 4), B.E. 2532 (1989).

(4) natural gas which is transferred without consideration to other concessionaires for the purpose of the conservation of petroleum resources with approval from the Director-General;

(5) natural gas which is required to be flared during petroleum production.

The cases under (2) to (5) shall be in accordance with the rules, procedures and conditions prescribed by the Department of Mineral Fuels\*.

**Section 83.** A concessionaire shall pay royalty in the form of cash, but the Minister may order the concessionaire to pay royalty in the form of petroleum instead, in whole or in part, according to the category and grade of petroleum which is subject to royalty payment.

In granting the order under paragraph one, the Minister shall give prior written notice to the concessionaire of not less than six months specifying whether the concessionaire is required to pay royalty in the form of petroleum in respect of the petroleum that is exported or that is not exported or both, and specifying the designated first month from which the royalty is payable in the form of petroleum and also the designated last month to which the royalty is payable in the form of petroleum if the Minister so desires. In the case where the Minister has not designated the last month, the Minister shall terminate the payment of royalty in the form of petroleum when the Minister has given prior written notice to the concessionaire of not less than six months.

**Section 84.**<sup>46</sup> Subject to section 99, section 99 *bis* and section 99 *ter*, a concessionaire shall pay royalty on the petroleum produced by the concessionaire from each exploration block as follows:

(1) in the case of payment in cash, the concessionaire shall pay royalty on the value of petroleum sold or distributed during that month at the rates provided in the Schedule of Royalty annexed to this Act; or

(2) in the case of payment in the form of petroleum, it shall be made in the form of a volume of petroleum equivalent to the royalty payable in cash under (1), whereby the petroleum paid as royalty shall be included in the calculation of petroleum sold or distributed.

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<sup>46</sup> Section 84 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

The value of petroleum sold or distributed in that month under (1) means the total value of all grades of petroleum sold or distributed by the concessionaire in a month.

With regard to the petroleum produced from the production area in an exploration block designated by the Department of Mineral Fuels\* as an offshore exploration block having a water depth in excess of two hundred meters, the concessionaire shall pay royalty at seventy percent of the amount of royalty payable under paragraph one.

**Section 85.** Calculation of the value of petroleum for the purpose of royalty payment shall be in accordance with the following criteria:

- (1) in terms of the volume, it shall be based on the volume of petroleum at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch;
- (2) in terms of the price, it shall be based on the following prices:
  - (a) the posted price, in the case of exported crude oil;
  - (b) the market price, in the case of crude oil delivered as payment of royalty on the crude oil that is not exported;
  - (c) the standard price under the law on petroleum income tax, in the case of crude oil delivered as payment of royalty on the exported crude oil;
  - (d) the market price, in the case of petroleum (other than crude oil) delivered as payment of royalty;
  - (e)<sup>47</sup> for petroleum other than (a) to (d), the actual selling price if it is sold and the market price if it is distributed.

The value of petroleum shall be calculated at the points of sale or distribution in the Kingdom which shall be agreed upon between the Director-General and the concessionaire, but, for the exported crude oil, the value shall be calculated at the points of export. In the case where the points of sale or distribution of petroleum under (e) are different from those agreed upon, the price shall be adjusted taking into account differences between transportation costs of such points of sale or distribution and the points of sale or distribution which have been agreed upon.

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<sup>47</sup> Section 85 (2) (e) has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

**Section 86.** For the purpose of determination of the value of petroleum under section 85, if it is necessary to convert foreign currencies into Thai currency for calculation purpose, the conversion shall be made in accordance with the following criteria:

(1) in the case of the posted price, foreign currencies shall be converted into Thai currency at the average exchange rate in each quarter in which royalty payment is made under section 87, based on the daily average buying rate of the commercial banks as computed by the Bank of Thailand;

(2) in other cases, foreign currencies or claims bearing value in foreign currencies received shall be converted at the exchange rate at which such foreign currencies are sold, and if such foreign currencies are not sold, such foreign currencies or claims shall be converted at the average exchange rate for a one-month period before the month in which such foreign currencies or claims are received, based on the daily average buying rate of the commercial banks as computed by the Bank of Thailand.

**Section 87.**<sup>48</sup> In the case where royalty is to be paid in cash, the concessionaire shall make the payment in each calendar month.

Royalty on petroleum sold or distributed in any month shall be deemed as royalty payable for such month and the concessionaire shall pay such royalty to a competent official within the following month at the place prescribed by the Director-General, together with submitting a royalty return that is completely filled out as required in the form prescribed by the Director-General and supporting documents as required by the Director-General.

The concessionaire may file a request to pay royalty in any particular foreign currency. When the Minister finds it appropriate, the Minister may approve the payment in such foreign currency in accordance with the prescribed conditions and procedures.

**Section 88.**<sup>49</sup> In the case of exportation outside the Kingdom of crude oil or products derived from refining the crude oil sold or distributed by the concessionaire in the Kingdom and the concessionaire has not paid royalty on the exported crude oil at the

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<sup>48</sup> Section 87 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>49</sup> Section 88 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

posted price as stipulated in section 85 (2) (a), the concessionaire or the exporter shall pay royalty on the exported crude oil or on the portion of crude oil refined into the products exported outside the Kingdom in the amount equivalent to the difference between the royalty deemed to be received by the State from the concessionaire if the concessionaire had been the person who exported such crude oil at the time of the actual exportation and the royalty received by the State from the concessionaire when the concessionaire sold or distributed crude oil in the Kingdom.

**Section 89.**<sup>50</sup> The collection of royalty under section 88 has the criteria and conditions as follows:

(1) the volume of exported crude oil during a month shall be:

(a) in the case of exportation of crude oil, the total volume of crude oil exported by the concessionaire or the exporter in a month;

(b) in the case of exportation of products refined from crude oil, the volume of crude oil used in refining so as to derive products in the volume so exported in a month. The volume of such crude oil shall be calculated by multiplying the volume of the crude oil sold or distributed in the Kingdom by the concessionaire which is used in refining into the products of the grades that are exported in a month, with the “standard percentage rate” of the volume of the products of the grades so exported which is derivable from refining the crude oil used for such refining, and with the volume of the products exported outside the Kingdom during such month, and dividing the result by the total volume of the refined products of the grades so exported in a month.

The “standard percentage rate” of the products of the grades so exported to be derived from refining the crude oil shall be calculated in accordance with the grade of crude oil used in refining, the refining methods and other technical conditions as prescribed by the Department of Mineral Fuels\*.

(2) the posted price used for calculating royalty on the exported crude oil shall be the posted price at the time of exportation. In the absence of such posted price, the posted price for the crude oil of the same or similar quality of other concessionaires shall apply,

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<sup>50</sup> Section 89 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).



and in the absence of such posted price, the Director-General shall prescribe a posted price taking into account the situations stipulated under section 59, paragraph two;

(3) the method for calculating the difference in royalties under section 88 shall be in accordance with the criteria stipulated in Ministerial Regulations;

(4) the criteria and conditions other than those prescribed in this section shall be in accordance with the provisions of this chapter.

**Section 90.**<sup>51</sup> In the case where royalty is to be paid in the form of petroleum, the concessionaire shall make the payment on a monthly basis in accordance with section 87, paragraph one to a competent official within the time and in accordance with the method prescribed by the Director-General at the place stipulated under section 85, paragraph two, together with submitting a royalty return that is completely filled out as required in the form prescribed by the Director-General and supporting documents as required by the Director-General.

In the case where the concessionaire is required to pay royalty in the form of petroleum to the place other than that agreed upon between the Director-General and the concessionaire under section 85, paragraph two, the concessionaire shall not be required to pay transportation costs beyond the amount deemed to be payable.

**Section 91.** The Director-General shall have the power to assess royalty and surcharge under this Act, when:

- (1) the concessionaire fails to file a royalty return within the specified time;
- (2) the concessionaire files a royalty return that is inaccurate or contains errors, causing a deviation in the amount of royalty required to be payable;
- (3) the concessionaire fails to comply with a written summons of the Director-General or fails to give answers to the questions of a competent official who has the authority to verify the royalty without valid reason or is unable to produce evidence of the royalty calculation.

**Section 92.** For the purpose of performing the actions under section 91, the Director-General shall have the power:

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<sup>51</sup> Section 90, paragraph one has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

(1) to prepare a royalty return by filling out the particulars deemed accurate when the royalty return is not filed;

(2) to amend or add any particulars in the royalty return or in any documents filed in support of the royalty return for accuracy;

(3) to determine the value of petroleum based on the market price in the event that the distribution or sale is made for a consideration lower than the market price without valid reason;

(4) to determine the amount of royalty which is believed to be accurate according to the Director-General's knowledge or judgment when the case under section 91 (3) exists.

**Section 93.** In performing the actions under section 91 or section 92, the Director-General shall have the power:

(1) to issue a written summons to the concessionaire or the persons concerned to come to give statements;

(2) to issue an order requiring the concessionaire or the persons concerned to give answers in writing or submit accounts, evidence, reports or other documents appropriate to the case for inspection or examination.

In this regard, the recipient of the written summons or order shall be provided with a period of not less than seven days from the date of receipt of such written summons or order for compliance.

**Section 94.**<sup>52</sup> When the Director-General has completed the royalty assessment, a written notice of the result of the assessment shall be given to the concessionaire together with the specified due date for the concessionaire's payment of the royalty as assessed which shall be within thirty days from the date of receipt of the notice of the result of assessment of the Director-General.

If the concessionaire is not satisfied with the assessment made by the Director-General, the concessionaire shall have the right to make a request to the Court to determine a new royalty within the period of not more than six months from the date of receipt of the result of the assessment. The Court shall have the power to determine

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<sup>52</sup> Section 94 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

royalty as deemed appropriate. If the concessionaire fails to make a request to the Court within such specified time, it shall be deemed that the royalty payable is the amount so assessed by the Director-General.

The request made to the Court under paragraph two shall not be cause to suspend the payment of royalty, and for the purpose of the payment of royalty during the Court's proceedings, the amount of royalty shall be in accordance with the amount assessed by the Director-General under section 91 or determined by the Director-General under section 92.

**Section 95.** The Director-General's assessment may be made within the following time periods:

- (1) five years from the last day of the period for filing a royalty return in the case where the concessionaire has filed a royalty return within the specified time;
- (2) five years from the date on which the concessionaire files a royalty return in the case where the concessionaire has filed a royalty return after the specified time but not exceeding ten years from the last day of the period for filing a royalty return;
- (3) ten years from the last day of the period for filing a royalty return in the case where the concessionaire has failed to file a royalty return or filed an incomplete royalty return which results in a shortfall payment of more than twenty five percent of the amount of royalty required to be payable.

**Section 96.** If the concessionaire fails to pay royalty within the specified time under section 87 or pays royalty less than the amount required to be payable, the concessionaire shall pay a surcharge of two percent per month or a fraction of the month of the royalty required to be payable or unpaid, as the case may be.

The calculation of a surcharge under paragraph one shall not be on a compound basis and shall start from the last day of the period for filing a royalty return until the date of payment.

The surcharge under this section shall not exceed the amount of royalty required to be payable or unpaid, as the case may be.

**Section 97.** If the concessionaire fails to pay royalty in the form of petroleum within the time prescribed by the Director-General under section 90 or pays royalty in the form of

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petroleum less than the amount required to be payable, the concessionaire shall pay royalty in the form of petroleum in full and pay a surcharge of two percent per month or a fraction of the month of the value of petroleum required to be payable as royalty or unpaid, as the case may be.

The calculation of the value of petroleum under paragraph one shall be based on the market price at the time required for royalty payment, and section 96, paragraph two and paragraph three shall apply.

**Section 98.** The surcharge may be waived or reduced in accordance with the criteria and procedures stipulated in Ministerial Regulations.

**Section 99.** In order to suit circumstances or petroleum production conditions, the royalty under this Act may be temporarily reduced by not exceeding thirty percent in accordance with the criteria and procedures stipulated in Ministerial Regulations.

**Section 99 *bis*.**<sup>53</sup> In order to promote and expedite the exploration and development of petroleum fields in certain areas within any exploration block or production area of a concessionaire, where the geological conditions are unfavourable or the productive power is decreasing, which are not under the exploration plan or production plan of the concessionaire, the Minister by and with the advice of the Committee shall have the power to reduce royalty for the concessionaire by making an agreement with the concessionaire under which the concessionaire shall explore and develop such areas in accordance with the plan to be prescribed by the Department of Mineral Fuels.

In giving the advice to the Minister for reduction of royalty under paragraph one, the Committee shall take into account the geological conditions and petroleum potential of such areas, statistical data on petroleum exploration and production expenses for the areas with similar geological conditions, domestic demand for petroleum products, price trend for petroleum products in the market and other advantages and disadvantages realised by the nation from the expedition of the exploration and development of petroleum fields.

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<sup>53</sup> Section 99 *bis* has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

The royalty to be reduced under this section shall be the royalty derivable from the petroleum business which has been operated by the concessionaire in such exploration block or production area or the royalty to be derived from the petroleum production in the area or areas stipulated in the plan by the Department of Mineral Fuels. Such reduction shall not exceed ninety percent of the amount of royalty payable by the concessionaire on all petroleum produced from the exploration block and the production area located within such exploration block, or ninety percent of the amount of royalty to be derived from the petroleum production in the area or areas prescribed by the Department of Mineral Fuels. The period to be granted for reduction shall not exceed five years from the date on which the agreement is made or the date on which the production commences. Such agreement with the concessionaire may contain any terms or conditions.

**Section 99 *ter*.**<sup>54</sup> For the area where its geological conditions indicate that the petroleum production in such area requires a very high expense or is not viable commercially, the Minister by and with the advice of the Committee may grant a concession for such area with royalty reduction on the petroleum produced during the commencement period from such area in accordance with the volume of petroleum to be stipulated in the concession, provided that the size of the area under such concession shall not exceed two hundred square kilometers and the royalty to be reduced shall not exceed ninety percent of the amount of royalty payable. The reduction period to which the concessionaire is entitled shall not exceed five years from the date of commencement of petroleum production from the production area. In the granting of a concession under this section, any conditions may be prescribed therein.<sup>55</sup>

In the giving of the advice of the Committee under paragraph one, the criteria stipulated in section 99 *bis*, paragraph two shall apply.<sup>56</sup>

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<sup>54</sup> Section 99 *ter* has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>55</sup> Section 99 *ter*, paragraph one has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>56</sup> Section 99 *ter*, paragraph two has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

In the concession grants under paragraph one, the Department of Mineral Fuels\* shall prescribe expenditure obligations and/or minimum physical work obligations for petroleum exploration to be observed by the application for a concession if it receives a concession from the Government with reduction of royalty under this section.

**Section 100.**<sup>57</sup> In collecting royalty under section 88 from persons other than the concessionaire, the Minister may assign the Excise Department to perform such action on behalf of the Department of Mineral Fuels\*.

## CHAPTER VII *BIS* SPECIAL REMUNERATION<sup>58</sup>

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**Section 100 *bis*.** In this chapter,

“petroleum revenue” means the revenue of a concessionaire, only under the items stipulated in section 100 *ter* (1), which is derived from each exploration block;

“petroleum capital expenditure” means the capital expenditure spent by a concessionaire for the investment in the petroleum business operation in each exploration block in accordance with the criteria stipulated in section 100 *ter* (2);

“ordinary and necessary petroleum expenditure” means the ordinary and necessary expenditure spent by a concessionaire for the petroleum business operation in each exploration block in accordance with the criteria stipulated in section 100 *ter* (3), but shall not include allowance for capital expenditure and money paid as special remuneration, if any;

“special reduction” means the amount of reduction prescribed by the Government under section 100 *ter* (4) for each exploration block.

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<sup>57</sup> Section 100 has been amend by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>58</sup> Chapter VII *BIS*: SPECIAL REMUNERATION, section 100 *bis* to section 100 *octiens* has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

**Section 100 *ter*.** Petroleum revenue, petroleum capital expenditure, ordinary and necessary petroleum expenditure and special reduction under this chapter shall be in accordance with the criteria and conditions as follows:

- (1) petroleum revenue means specifically the aggregate sum of the following items:
  - (a) gross income from sale of petroleum;
  - (b) value of petroleum distributed;
  - (c) value of petroleum delivered as payment of royalty;
  - (d) gross income arising from a transfer of any property or right in relation to petroleum business.

The value of petroleum under (b) and (c) shall be calculated pursuant to section 85, and in the case of transfer of a concession under section 48, the gross income arising from a transfer of any property or right under (d) shall not be lower than the latest book value of the transferor company as of the date on which the transfer is effective.

- (2) petroleum capital expenditure shall be the capital expenditure under the law on petroleum income tax;

(3) ordinary and necessary petroleum expenditure shall be the ordinary and necessary expenditure under the law on petroleum income tax, but shall not include allowance for capital expenditure and money paid as special remuneration, if any. The ordinary and necessary petroleum expenditure shall be the expenditure which can be proved by the concessionaire to the satisfaction of the Director-General that it is the ordinary and necessary expenditure for normal course of petroleum business operation;

(4) special reduction shall be the amount of money prescribed by the Government from time to time when granting a concession, in accordance with the criteria and procedures stipulated in Ministerial Regulations. This amount of money is allowed by the Government for the concessionaire to apply in the calculation of expenditures as if it were expense for investment in each exploration block for the purpose of deduction from petroleum revenue to result in reduction of the concessionaire's profit based on which special remuneration is paid to the Government under this chapter. The special reduction is an incentive measure for investment for petroleum business operations in Thailand. The Government shall prescribe the amount of the reduction taking into account the competitive conditions in international investment.

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In the case where the revenue or expenditure under this section involves several exploration blocks which may not be clearly apportioned, the revenue or expenditure for each exploration block shall be calculated in accordance with the criteria and procedures stipulated in Ministerial Regulations.

**Section 100 *quater*.** Profit and loss for petroleum business operation in each exploration block shall be calculated annually in accordance with an accounting period under the law on petroleum income tax. The petroleum revenue which has been deducted by the sum of petroleum capital expenditure, ordinary and necessary petroleum expenditure and special reduction shall be the “annual petroleum profit” or “annual petroleum loss”, as the case may be.

In the case where there is an “annual petroleum profit”, the “annual petroleum loss” before the current accounting period shall be allowed as a reduction, and if there remains any annual petroleum loss, the remaining amount shall be allowed as a reduction for the subsequent accounting periods, but only to the extent of the remaining amount.

During any accounting period, if the petroleum business operation in any exploration block has an “annual petroleum profit”, the concessionaire shall pay special remuneration to the Government in accordance with the provisions of this chapter.

**Section 100 *quiquies*.** Special remuneration shall be imposed on the annual petroleum profit at the rate determined by the “annual revenue per one meter depth of well” pursuant to the following criteria:

- (1) the portion of the annual revenue per one meter depth of well that does not exceed 4,800 baht shall be exempted from special remuneration payment;
- (2) the portion of the annual revenue per one meter depth of well that exceeds 4,800 baht but not more than 14,400 baht shall be subject to the rate of 1 percent of the first 240 baht, and a supplement at the rate of 1 percent per every 240 baht. Fraction of 240 baht shall be deemed as 240 baht;
- (3) the portion of the annual revenue per one meter depth of well that exceeds 14,400 baht but not more than 33,600 baht shall be subject to a supplement at the rate of 1 percent per every 960 baht. Fraction of 960 baht shall be deemed as 960 baht;

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(4) the portion of the annual revenue per one meter depth of well that exceeds 33,600 baht shall be subject to a supplement at the rate of 1 percent per every 3,840 baht. Fraction of 3,840 baht shall be deemed as 3,840 baht.

Nonetheless, the special remuneration imposed may not exceed 75 percent of the annual petroleum profit of each year.

**Section 100 *sexies*.** The “annual revenue per one meter depth of well” shall be the amount of the concessionaire’s petroleum revenue derived from an exploration block during a year, divided by the sum of the accumulated depth of all of the wells which have already been invested for drilling by the concessionaire in such exploration block and the “geological constant of exploration blocks”.

The determination of the annual revenue per one meter depth of well under this section is intended to provide due proportion between the concessionaire’s revenue derived from petroleum produced from an exploration block and the concessionaire’s effort in the investment and geological conditions of such exploration block.

The calculation of the “annual revenue per one meter depth of well” under paragraph one shall be in accordance with the criteria and conditions as follows:

(a) only the concessionaire’s petroleum revenue from an exploration block in a year under section 100 *ter* (1) (a), (b) and (c) shall be used in the calculation, which shall be adjusted by an inflation rate and variation in currency exchange, in accordance with the criteria and procedures stipulated in Ministerial Regulations;

(b) the “geological constant of exploration blocks” means the amount of depth in meters of wells in the exploration block which is allowed by the Government for the concessionaire to apply as a basis for the calculation to reduce the payment of special remuneration. The constant shall be prescribed by the Minister in the Notification on the concession grants and stipulated in the concession, taking into account the geological conditions of the exploration block and statistical data on petroleum exploration and production expenses for the areas having geological conditions similar to those of the concerned exploration block. The Notification on such constant may also include conditions on the increase of constant in the case where the structure has unfavorable geological conditions.

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(c) the accumulated depth of all of the wells which have already been drilled by the concessionaire in an exploration block shall be the total depth in meters measured along the route of all of the wells which have been drilled by the concessionaire in the concerned exploration block starting from the commencement of the petroleum business operation until the end of the accounting period. The depth of the wells which have been drilled by the concessionaire in accordance with good petroleum exploration, conservation and production shall be included, even though there is no petroleum production from such wells, but the wells from which accumulated petroleum production volume has exceeded one hundred thousand barrels and which have been abandoned by the concessionaire shall not be included.

**Section 100 *septiens*.** For the purpose of calculation of the special remuneration under this chapter, the concessionaire shall, within the time and in the form prescribed by the Director-General, file a special remuneration return for each exploration block with all entries completely filled out as required in the form and supporting documents as required by the Director-General, beginning from the concessionaire's commencement of the petroleum business operation.

The provisions of section 91, section 92, section 93, section 94, section 95, section 96 and section 98 shall apply to the assessment of special remuneration and surcharge in the case where special remuneration is not paid within the specified time.

**Section 100 *octiens*.** In the case of necessity for the purpose of collecting the special remuneration under this chapter, the Director-General shall have the power to issue a written order instructing a competent official to search, inspect or confiscate accounts, documents or any other evidence related to revenue or expenditure on petroleum business operation.

## CHAPTER VIII

### PENALTY PROVISIONS

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**Section 101.** Any person who violates section 7 shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding one thousand baht or to both.

**Section 102.** Any person who fails to comply with the Ministerial Regulations issued under section 14 (1), (2) or (3) shall be liable to a fine not exceeding fifty thousand baht.

**Section 103.** Any person who fails to comply with section 23, paragraph one shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding four hundred thousand baht or to both.

**Section 104.**<sup>59</sup> Any concessionaire who produces petroleum without obtaining approval from the Director-General under section 42, paragraph one shall be liable to a fine not exceeding two hundred thousand baht.

**Section 104 bis.**<sup>60</sup> Any concessionaire who fails to submit the petroleum production plan as stipulated in the Ministerial Regulations issued under section 42 *bis*, paragraph one or fails to notify the review results of the petroleum production plan on an annual basis under section 42 *bis*, paragraph three shall be liable to a fine not exceeding fifty thousand baht and to an additional fine at a daily rate of five thousand baht until the concessionaire has duly complied with legal requirements.

**Section 105.** Any person who violates section 62, paragraph one shall be liable to imprisonment for a term not exceeding two years and to a fine not exceeding four hundred thousand baht.

**Section 106.** Any concessionaire who fails to comply with section 73 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding ten thousand baht or to both.

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<sup>59</sup> Section 104 has been amended by the Petroleum Act (No. 6), B.E. 2550 (2007).

<sup>60</sup> Section 104 *bis* has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

**Section 107.** Any concessionaire who fails to comply with section 74, section 76, paragraph one or section 77 shall be liable to a fine not exceeding ten thousand baht.

**Section 108.** Any concessionaire who fails to comply with section 75 shall be liable to a fine not exceeding one hundred thousand baht.

**Section 109.** Any person who fails to provide convenience to the competent official under section 81 shall be liable to a fine not exceeding five thousand baht.

**Section 109 *bis*.**<sup>61</sup> Any person who obstructs a competent official who performs the duty under section 100 *octiens* shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding ten thousand baht.

**Section 110.**<sup>62</sup> Any person who furnishes false information, makes false statement, gives false answers, produces false evidence or commits any acts to evade or in an attempt to evade payment of royalty or special remuneration shall be liable to imprisonment for a term of three months to seven years and to a fine of fifty thousand baht to five hundred thousand baht.

**Section 111.** All petroleum, tools, appliances, vehicles or machinery acquired by any person which are used in committing an offence or used as equipment to obtain advantages in committing an offence under section 103, section 104 or section 105 shall be forfeited, regardless of whether or not there is the person imposed with the punishment according to judgment, except where such offence is committed without acknowledgement or consent of the owner of those properties.

#### TRANSITORY PROVISIONS

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<sup>61</sup> Section 109 *bis* has been added by the Petroleum Act (No. 4), B.E. 2532 (1989).

<sup>62</sup> Section 110 has been amended by the Petroleum Act (No. 4), B.E. 2532 (1989).

**Section 112.** The provisions in relation to petroleum exploration under this Act shall not apply to the exploration for crude mineral oil deposits under the contracts made by the Department of Mineral Fuels\* before 23<sup>rd</sup> June B.E. 2507 (1964).

**Section 113.** Within six months from the effective date of this Act, the holder of an exclusive petroleum exploration license and the holder of a petroleum mining lease under the Minerals Act, B.E. 2510 (1967), whose license and lease have been issued pursuant to the petroleum contracts made before 4<sup>th</sup> July B.E. 2511 (1968), shall proceed to apply for a concession in compliance with this Act.

The Minister shall have the power to grant a concession to the person applying for a concession under paragraph one. Such concession shall contain the provisions in relation to the rights in petroleum exploration and production corresponding with those stipulated in the petroleum contracts referred to in paragraph one and the petroleum exploration period and petroleum production period under the concession shall start retroactively from the date of the issuance of the exclusive petroleum exploration license and petroleum mining lease, and such exclusive petroleum exploration license and petroleum mining lease shall expire on the date on which the Minister grants the concession.

In the case of failure to act in accordance with paragraph one, it shall be deemed that the holder of the exclusive petroleum exploration license or the holder of the petroleum mining lease, as the case may be, waives the right to do so, and such exclusive petroleum exploration license or petroleum mining lease shall expire on the expiry of the period specified in paragraph one. Nonetheless, the holder of the exclusive petroleum exploration license or the holder of the petroleum mining lease shall still be liable under the petroleum contracts.

Countersigned by:

Field Marshal Thanom Kittikachorn  
Prime Minister

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