

The Petroleum Wealth Act, 1998

In accordance with the provisions of Article 90(1), of the Constitution of the Republic of the Sudan, 1998, the President of the Republic hereby makes the following Provisional Decree :-

CHAPTER I
Preliminary Provisions
Title and commencement

1. This Provisional Decree may be cited as the , “ Petroleum Wealth Act, 1998”, and shall come into force as from the date of signature .

Repeal and saving

2. (1) There shall be repealed :-
 - (a) the Petroleum Act, 1931;
 - (b) the Petroleum Resources Act, 1972 .
- (2) In the Geological Research Public Corporation Act, 1986 :-
 - (a) in section 7 :-
 - (i) paragraphs (b), (c) and (h) shall be repealed;
 - (ii) in paragraphs (g), (l) and (m) the words, “ petroleum”, and “petrolic”, wherever they may occur, shall be omitted;
 - (b) in section 12(a), the phrase, “and petroleum”, shall be omitted .
- (3) Notwithstanding the repeal, set out in subsections (1) and (2) , all the regulations, orders, measures and licences, made or issued under such laws, shall remain in force, subject to the competent body and licinsing authority, until amended, or revoked .

Interpretation

3. In this Act, unless the context otherwise requires, :-
 "Consolidated profits and losses account", means the final account of the Institution, its subsidiary companies and shares in such companies and other institutions, as to which it may subscribe, for each financial year ;
 "Council", means the Petroleum Affairs Council, established in accordance with the provisions of section 14 ;

"Depot",	means any place licensed for the storage of, or dealing in petroleum, and includes, in addition to tanks and storage sheds and the contents thereof, all the means of transport of petroleum and distribution stations;
"Development",	means all the petroleum operations and activities, as to such work programmes and budgets, as may be approved in every agreement, and includes the following :- (a) the drilling, plugging, sidetracking and completing and equipping of wells for the purpose of production; (b) the design, construction, installing, operating, servicing and maintenance of equipment, pipelines, road networks and otherwise of infrastructure, water and electricity and otherwise of networks, facilities and plants necessary to produce from such wells, and take the petroleum, save, treat, handle, store, flare, transport and deliver the same for export ,
"Drilling",	means boring the surface of the earth, whether the drilling may be vertical, inclined or horizontal, and includes such operations, as may by nature, prevent the bore from collapsing;
"Exploration",	means all the operations of prospecting for petroleum, for the purposes of discovery of the same, and includes geological, geophysical, geochemical surveys and research, and aerial surveys and tests, and also drilling and exploration and delineation of fields for petroleum ;
"Exploration area",	means such tract, as may be covered by the exploration licence, the area of which is specified in the production sharing agreement ;
"Exploration licence",	means such licence, as may be granted by the Institution, for prospecting for petroleum, in accordance with the provisions of this Act ;
"Institution",	means the Sudanese Petroleum Institution, established under the provisions of section 18 ;

"Land",	means :- (a) any land, within the territorial borders of the Sudan, including such land, as may be submerged by water, permanently, or intermittently ; (b) the Sudan's continental shelf, and such territory, as may be adjacent to the sea, to such a distance, inside the sea, and such depth and area, as may be specified by the law ;
"Minister", "Petroleum",	means the Minister of Energy and Mining ; means :- (a) all hydrocarbons, in the natural state thereof , whether liquid of all densities, or natural gas, or gaseous substances, associated with oils and products capable of being extracted from the ground ; (b) asphalt substances and solid hydrocarbons, capable of being extracted directly , or by dissolution in oil, or in gas; (c) all hydrocarbons derived from the substances referred to in (a) and (b) ;
"Petroleum agreement", "Petroleum area",	means the agreement concluded between means the area, upon which rights for exploration and production of petroleum are granted , under a petroleum agreement, which is shown by longitudes and latitudes ;
"Petroleum field",	means such area of land, as in which the presence of petroleum has been proved, in one stratum or several strata, in economic quantities;
"Petroleum operations",	mean the operations of exploration, drilling, exploitation, development, production, specification of fields, refining, manufacture, storage, transport, distribution, importation and exportation of petroleum ;
"Pipeline",	means a pipeline used for the transport of hydrocarbons, by way of such pipes, as may be designed, as to such specifications, as the Institution may set up, or approve, and the same includes specification of the route thereof ;

- “Production”, means extraction of petroleum, from any field, and handling the extracted petroleum, treating and transport of the same to tanks, or pipes, or a refinery laboratory, in the field, or near it;
- “Reserve”, means such reserve, as may be measured and calculated, after drilling and development, or production of the petroleum fields , and contain such part, as may be capable of extraction, of hydrocarbons, in pursuance of such economic terms and technologies, as may be prevalent, upon calculation of the same ;
- “Secretary-General”, means the Secretary-General of the Institution, appointed in accordance with the provisions of section 21 .

CHAPTER II

Ownership and Exploration of Petroleum and Safeguards of Licensing Ownership by the State of petroleum

4. (1) Petroleum, found in its natural state, in the strata of the earth, or the continental shelf of the Republic of the Sudan, shall be deemed to be a national wealth, owned by the State, and operated by the Federal Government , through the Institution .
- (2) The Institution shall supply the Federal Government with the net share thereof, of the produced petroleum, as the production sharing agreements may specify, as a share of the State, after deduction of all the expenditure and commissions , and such as may be allocated by the Council to the Institution, in accordance with the provisions of section 24(f) hereof .
- (3) No person shall conduct any exploration, research, prospecting or extraction of petroleum, or any other petroleum operations, in any place, in the Republic of the Sudan, unless he has been licensed therefor, in accordance with the provisions of this Act

Petroleum agreement and exploration licence to become effective

5. No petroleum agreement, or exploration licence, which is concluded by the Minister with the companies, in accordance with the provisions of this Act, shall become effective, save after being approved by the Council .

Conditions to be satisfied by companies

6. There shall be satisfied, upon concluding any petroleum agreement, or granting an exploration licence, to companies, to companies subsidiary thereto, or holding companies, the following conditions in such companies, namely :-
- (a) technical capability and sufficient experience, during the previous activity thereof, in petroleum industry ;
 - (b) the financial ability to execute the contractual obligation thereof ;
 - (c) abidance thereof, by the general policies of the State, prescribed in the field of petroleum ;
 - (d) registration of a branch thereof, in the Sudan ;
 - (e) acceptance , and satisfaction of any other conditions, as may be prescribed by the Council, from time to time .

Exploration licence applied for

7. (1) There shall be presented, to the Minister, the application for obtaining the exploration licence, upon the form prescribed in accordance with the provisions of this Act, and the regulations made thereunder .
- (2) An exploration licence confers, upon the holder thereof, during its validity, the right of exploration of petroleum, and execution of the necessary works, for the purposes of the licence in the exploration area .
- (3) Notwithstanding the provisions of sub-section (2), an exploration licence shall not confer, upon the holder thereof any right as to :-
- (a) utilizing petroleum, or striving to produce the same, in the exploration area, unless he has been licensed therefor ;
 - (b) drilling any well, for the purpose of production, in the exploration area, unless he has been licensed therefor, under a petroleum agreement .

Companies to be bound to continue exploratory operations

8. No company, which has contracted, under a petroleum agreement, or been granted an exploration licence, shall keep the licence areas, without conducting therein continuous exploration works, unless the Minister grants it a temporary exception for reasonable grounds. In all cases, every petroleum agreement, or exploration licence shall contain a system and forms of relinquishment, in such a way that these companies shall not keep areas, save the productive fields areas, or such areas, as in which exploration may be conducted, or as wherein the companies are bound to execute an exploratory or development programme .

Term of validity of the petroleum agreement

9. (1) The term of validity of the petroleum agreement shall not exceed, as a maximum, twenty five years, for the purposes of development and production; provided that such period shall include exploratory terms, at such stages, as may not, in total, exceed six years .
- (2) The term of validity of the exploration licence shall not exceed, as a maximum, three years, and shall be subject to renewal once only, for the same term .
- (3) Notwithstanding the provisions of sub-section (2) , where the licensee satisfies all his obligations, in accordance with the terms of the licence, the Minister may, upon the application of the licensee and recommendation of the Secretary- General, extend the term of validity of the licence, for a term not exceeding two years, to complement any additional exploratory operations .

Pipeline

10. (1) No company contracting with the Institution shall establish, or operate a pipeline or transport, store and export of petroleum facilities, save after obtaining the approval by the Minister, of the same, as to such terms, as may be prescribed .
- (2) All contracting companies, which have an excess capacity of transport of petroleum, by pipeline, or any other means, shall place under the disposal of the Institution , the excess capacity, and the Institution shall be entitled to dispose of the same, in such manner, as it may deem appropriate .
- (3) All contracting companies, which have petroleum, which cannot be transported by pipeline, or any other means, shall place, under the disposal of the Institution, such petroleum , and the Institution shall be entitled to transport , or dispose of the same, in such manner, as it may deem appropriate .

Exchange control

11. The companies contracting with the Institution shall be subject to the exchange law, and such regulations, orders and circulars, as may be made by the Bank of Sudan, for the management of foreign exchange resources, subject to the following :-
 - (a) the contracting company shall be entitled to keep abroad such amounts, as it may obtain out of the share thereof, in the proceeds of petroleum exports, in accordance with the petroleum agreement concluded thereby ; provided that it shall provide the information relating thereto, to the Bank of Sudan, through the Institution ;
 - (b) the contacting company shall have the freedom to procure hard currency, to perform the business and execute the obligations thereof, in accordance with the petroleum agreement concluded therewith ;

- (c) the contracting company may obtain Sudanese currency , and keep the same, to execute the contractual obligations thereof, by way of sale of foreign currency , according to the prevalent rates, and through the official channels;
- (d) the contracting company may repatriate, outside the Sudan, such amounts, as may exceed the requirements of the business thereof, in accordance with the petroleum agreement concluded therewith; provided that repatriation shall be made in the same currency, in which such amounts have been procured, or any such other currency, as may be capable of being transmitted, after conducting the auditing by the Institution ;
- (e) the contracting companies shall register, with the Bank of Sudan, the capital thereof, in kind and in cash, in addition to such loans, as they may have obtained, for the execution of the contractual obligations thereof .

Technical data and information

12. The contracting company shall keep, inside the Sudan, the origin of all the data, information, analysis and samples, resulting from the petroleum operations conducted thereby, in the Sudan, and shall not export the same abroad, or dispose thereof in any other way, save after obtaining a prior written permit, from the Secretary-General ; provided that they shall be returned, in the original condition thereof, to the Sudan, once more, in case of exporting the same .

Obligations of the contracting companies

13. (1) The contracting company shall be bound, in all the petroleum operations thereof, to follow such technical principles, as may be prevalent, in the petroleum industry, in accordance with the provisions of this Act, and the regulations made thereunder .
- (2) No Contracting company shall conduct any work, in the lands, utilized as public utilities, or privately owned, save after obtaining a prior permit from the Secretary-General, in coordination with the competent authorities .
- (3) The Contracting company shall conduct such prospecting drilling or any other operation, as may affect public utilities, permanent buildings or any existing establishments, save after obtaining the approval of the Secretary-General .
- (4) The contracting companies shall give due regard to environmental health, safety measures and take such measures, as may be necessary for prevention of pollution of the environment, as a result of performing any of the petroleum operations, in implementation of the agreements concluded therewith .

- (5) The contracting companies shall be subject to such restrictions, as may be imposed by the State, upon production, exportation and internal distribution of petroleum .

CHAPTER III Petroleum Organs

Branch I

The Petroleum Affairs Council

Establishment and constitution of the Council

14. (1) There shall be established a council , to be known as the, "Petroleum Affairs Council", to assume the responsibility of petroleum, and all petroleum operations, and lay down the policy and directives relating to petroleum, and the Institution, and supervise the same .
- (2) The Council shall be constituted, as follows :-
- (a) the President of the Republic, Chairman ;
 - (b) the Minister of Energy and Mining, member and deputy Chairman;
 - (c) the Minister of Finance and National Economy, member ;
 - (d) the Minister of Investment and International Co-operation, member ;
 - (e) the Minister of Justice, member ;
 - (f) six members of competence, experience and interest in the petroleum affairs, to be appointed by the President of the Republic .
- (3) The Secretary-General shall be the rapporteur of the Council .

Functions and powers of the Council

15. (1) The Council shall have the following functions and powers, to :-
- (a) specify objects, lay down policies and approve the petroleum general plans and programmes;
 - (b) approve the budget of the Institution, and the consolidated profits and losses account, and final account thereof , for every financial year, and approve the profits transferred to the Government, and specify the reserve funds;
 - (c) approve petroleum contracts with companies,
 - (d) approve such plans, as the Institution may lay down, for the enhancement and development of the ways and methods of the work thereof ;
 - (e) grant customs exemptions, for the petroleum industry, inputs, in accordance with the provisions of the concluded agreements ;
 - (f) grant tax exemptions, in accordance with the provisions of the concluded agreements;

- (g) obtain periodical reports, on the progress of work, in the Institution, and may request any other reports;
- (h) approve internal regulations, for the organization of the business and procedure of meetings thereof .
- (2) The Council may delegate any of the powers thereof , as to such terms and safeguards, as they may deem appropriate .

Meetings of the Council

- 16. (1) The Council shall convene periodically once, at least, every three months, and may convene in an emergent meeting, upon call by the Chairman thereof .
- (2) Quorum for any meeting shall be constituted by the presence of six members; on condition that there shall be among them the Chairman and his deputy .
- (3) Decisions shall be adopted by the majority of votes of the present members; and in case of equality of votes, the Chairman shall have a casting vote .

Disclosure of interest

- 17. Every member of the Council, who has a direct, or indirect interest, in a matter submitted before the Council for consideration, shall disclose, to the Council, the nature of such interest, as may connect him with such matter; and he shall not participate in any deliberation, or decision taken by the Council, with respect to that matter .

Branch II

The Institution

Establishment, quarters and supervision of the Institution

- 18.(1) Notwithstanding the provisions of the Public Institutions Act 1996, there shall be established a public institution, to be known as the , "Sudanese Petroleum Institution", and shall have an independent corporate personality .
- (2) The headquarters of the Institution shall be in Khartoum, and it may, upon the approval of the Minister, establish branches, or offices, inside and outside the Sudan .
- (3) The Institution shall be subject to the supervision of the Minister .

Objects and powers of the Institution

19. (1) Within the framework of such objects, plans and policies, as may be prescribed by the Council, the Institution shall have the following objects and powers, to :-
- (a) develop petroleum wealth, and better the utilization thereof ;
 - (b) manage all the petroleum operations, in the country, control and supervise such operations, and shall be the sole concessionaire, in all petroleum operations ;
 - (c) be responsible for the provision of the requirements of the country of the various petroleum substances ;
 - (d) conduct, inside and outside the Sudan, the exploration, prospecting and production of petroleum, either by itself, through the companies owned thereby, or in participation with others ;
 - (e) distill and refine petroleum ;
 - (f) market and distribute petroleum substances, and the products thereof ;
 - (g) lay down pipelines, and establish storage depots and other petroleum establishments, and operate and maintain the same ;
 - (h) transport petroleum and the derivatives thereof, and market the same, inside and outside the Sudan, and perform all such operations, as may be necessary for achieving this object ;
 - (i) lay down specifications of petroleum products, revise, approve and control the quality of the same,;
 - (j) follow the best way to conserve the petroleum wealth;
 - (k) control all petroleum operations, and the persons conducting such operations, in such a way as may achieve the objects of this Act;
 - (l) lay down such programmes, as may be necessary for training and qualifying cadres, in order to execute the work, in the petroleum industry, and petroleum operations, either by itself, or in participation with any other body having competence ;
 - (m) establish, own , operate and maintain petroleum ports, in order to use the same for the purposes of exporting petroleum products, in co-ordination and agreement with the bodies having competence ;
 - (n) conduct research, and studies, for all petroleum operations;
 - (o) construct such estates, factories and establishments, as may be necessary for performing the duties thereof, and acquire and invest the same ;

- (p) borrow funds, from any body inside and outside the Sudan, or lend the same, for the performance of the business, and financing the projects thereof, in pursuance of such terms, as may be laid down by the Minister, in consultation with the Bank of Sudan, and approved by the Council ;
 - (q) establish subsidiary companies, and acquire shares in any existing company ;
 - (r) conclude contracts and enter in any obligations, inside and outside the Sudan, for the performance of the business thereof ;
 - (s) conclude petroleum agreements, and grant exploration licences, as to such policies, as may be approved by the Council , and be responsible for follow-up of the implementation thereof ;
 - (f) any such other functions, as may be necessary for the performance of the business thereof .
- (2) The Institution may license any body technically and financially capable, to practise any of the objects set out in subsection (1), wherever necessity requires the same .

Functions of the Minister

20. (1) The Minister shall be responsible for follow-up of implementing the general policies, laid down by the Council , and shall have competence to supervise the management of the Institution, and take such measures, as may be necessary to enable it, to achieve the objects thereof , upon sound technical and commercial bases .
- (2) Without prejudice to the generality of the provisions of subsection (1), the Minister shall have competence, as to the following, to :-
- (a) follow-up the implementation, by the Institution, of such policies, as may be prescribed by the Council, and ascertain that it exercises the functions and powers thereof, upon sound technical, commercial and economic bases;
 - (b) supervise the procedure and terms of inviting national and foreign petroleum companies, to participate in negotiations with the Institution, concerning concluding the production sharing agreements, or obtaining exploration licences;
 - (c) specify such total area, as may be allocated, to each company, or group of companies ;
 - (d) specify the ceilings of production of petroleum, and export policies ;
 - (e) approve the plans of the Institution, for the development of petroleum industry , in the various fields ;
 - (f) specify the pricing policies of exported, and imported petroleum, and the derivatives thereof, in consultation with the Minister of Finance and National Economy;

- (g) sign petroleum agreements and exploration licences, on behalf of the Institution, after approval thereof, by the Council;
 - (h) represent the Institution, in the international organizations;
 - (i) sign international agreements, in the field of petroleum, after approval of the Council ;
 - (j) submit the proposed organizational chart, and terms of service of the employees of the Institution, to the Council , to approve the same ;
 - (k) submit draft administrative and financial regulations, to the Council, to approve the same ;
 - (l) supervise the companies owned by the State, which work in the petroleum sector, and issue general directions relating to the policies and work plans thereof, and such companies shall abide by such directions;
 - (m) approve opening of accounts, in banks, in local and foreign currency, inside and outside the Sudan, in consultation with the Bank of Sudan ;
 - (n) appoint employees of the Institution, upon the recommendation of the Secretary-General, in accordance with the regulations of the Institution .
- (3) The Minister may delegate any of his powers, set out in sub-section (2) , to the Secretary-General, or any other person, as to such terms and safeguards, as he may deem appropriate .

Appointment and functions of the Secretary-General

21. (1) The Institution shall have a secretary-general, from persons of appropriate qualification and experience, to be appointed by the Minister, after approval of the Council .
- (2) The Secretary-General shall be the first executive official, responsible, to the Minister, for the management of the Institution, in accordance with the policy and directions of the Council, and such policies and decisions, as may be issued by the Minister . In particular he shall be responsible for the good management of the funds and property, and support the organs thereof . Without prejudice to the generality of the foregoing, the Secretary-General shall have the following functions, to :-
- (a) lay down the detailed programmes and plans for the development and promotion of the Institution, and submit the same to the Minister, for approval , and supervise the implementation thereof ;
 - (b) take any such measures, as he may deem necessary for the management, organization and daily operation of the Institution ;

- (c) supervise all administrations of the Institution, and ascertain the accuracy and enhancement of performance, and co-ordinate between the various administrations, in such a way, as may achieve harmony in performance ;
 - (d) prepare the estimates of the annual budget and the development budget, and submit the same to the Minister ;
 - (e) spend the funds allocated for operation expenditure, in accordance with the approved budget;
 - (f) carry out the approved construction works;
 - (g) represent the Institution, and speak in its name, before legal bodies, and other bodies having a relation thereto, inside and outside the Sudan, and sign the contracts, otherwise than petroleum agreements and exploration licences ;
 - (h) prepare such recommendations, as may be relating to the terms of service of employees of the Institution, and submit the same to the Minister ;
 - (i) propose the organizational charter of the Institution, and submit the same, to the Minister ;
 - (j) any such other business, as may be necessary for the exercise thereby, of his functions .
- (3) The Secretary-General shall not make any material alterations, in the organs of the Institution, without the approval of the Minister .
- (4) The Secretary-General may delegate any of the functions, or powers thereof , to any of his assistants, as to such terms and safeguard , as he may deem appropriate .

Secrecy to be abided by

22. Members of the Council and all employees of the Institution shall abide by honesty, in all such confidential matters , as may be related to the Institution, in accordance with the regulations, decisions and rules .

CHAPTER IV

Financial Provisions

Vesting of property

23. (1) There shall vest, in the Institution, such immovable and movable assets pertaining to petroleum, as may be allocated thereto by the Council of Ministers . Without prejudice to the generality of the foregoing, the following shall vest in the institution :-
- (a) all such apparatuses, laboratories and any other things, as may be owned by the State and have connection with petroleum, as may be prescribed by the Council of Ministers ;
 - (b) all such exploitation and extraction of Sudanese petroleum projects, as may be owned by the State ;

- (c) shares of the Government, in such existing companies, as the vesting of which , in the Institution, may be prescribed by the Council of Ministers .
- (2) Such property, rights, debts and obligations, as may vest in the Institution, under the provisions of sub-section (1) , shall be assessed, and there shall be entered, into the records thereof, an amount equal to the net value of the same .

Financial resources of the Institution

24. The financial resources of the Institution shall consist of :-
- (a) such amount, as may be entered into the records thereof, in accordance with the provisions of section 23 ;
 - (b) such shares and dividends, as the Institution may subscribe with, to the companies owned totally, or partially thereby ;
 - (c) such net profits of the business thereof, and the net profits of the business of companies subsidiary thereto, or to which it subscribes, as may return to the same ;
 - (d) such as may return thereto, from the investment of the funds thereof ;
 - (e) such funds, as it may borrow ;
 - (f) such funds as may be allocated thereto by the Council ;
 - (g) such fees, rent of land, gifts and gratuities (bonuses), as may vest therein, from the exploration and production of petroleum agreements .

Use of the financial resources of the Institution

25. (1) The financial resources of the Institution shall only be used to achieve the objects thereof .
- (2) Without prejudice to the generality of the provisions of sub-section (1), the resources of the Institution shall be used in the following :-
- (a) management and performance of the business of the Institution;
 - (b) payment of the financial obligations of the Institution ;
 - (c) expenditure, on all the operation expenses of the Institution, including the appropriation of an appropriate allocation for depreciation and renewal ;
 - (d) payment of the capital of such companies, as it may subscribe, for the establishment thereof and subscription in such companies, as it may contribute to the same ;
 - (e) payment of salaries, allowances, remuneration and post-service benefits of employees of the Institution, and the remuneration of members of the Council .

CHAPTER V
Miscellaneous Provisions
Customs exemption

26. (1) Such companies, as may be a party to a petroleum agreement, or whoever they may employ of contractors and engineers, may import, upon the approval of the Council, in accordance with the provisions of the concluded petroleum agreements, with total or partial exemption, from customs duties :-
- (a) such apparatuses, machinery and other materials, as may be specified for use in petroleum operations, upon a recommendation from the Institution ;
 - (b) such goods and commodities, as decisions from the Minister, upon a recommendation therefor, by the Institution, may be issued from time, to time, in accordance with the provisions of section 15(1)(e) hereof.
- (2) The provisions of sub-section (1) shall not apply to such commodities and things, as may be purchased from the local market .
- (3) Such apparatuses, machinery and equipment, as may be specified for petroleum operations, the goods and other things shall be subject to customs duties, in accordance with the provisions of the Customs Act, 1986, on the sale thereof, in the Sudan, upon the approval of the Institution . Every person, to whom the Institution has approved the sale of any of the things, mentioned in sub-section (1) , shall present, to the customs authorities, before sale or transfer of ownership, a declaration thereby , after obtaining the approval of the Institution, and pay, upon request, such import duties, as the customs authorities may assess, unless the sale or transfer of ownership is made to such other companies, as may be contracting with the Institution, and enjoy such exemptions .
- (4) The petroleum and all types of its derivatives and such imported goods and things, as may be specified in sub-section (1), may be exported abroad, without export duties .
- (5) The Institution shall, upon approval of the Council, be exempted from taxes and customs duties, with respect to such imported machinery, apparatuses , equipment, materials, cars and tools, as may be necessary for the projects thereof, in the field of petroleum operations .

Companies owned by the Institution

27. Such companies, as may be totally owned by the Institution, subscribed or contributed to thereby, and working in the field of petroleum, shall be deemed as contracting companies, with respect to implementation of the provisions of this Act, in relation to similar activities .

Accounts and books of contracting
companies and auditing

28. (1) The contracting company shall keep all the commercial and accountancy books and records, within the Sudan ; provided that they shall be subject, in the keeping thereof, to such accountancy system, as may be compatible with the general principles of accountancy internationally known in the petroleum industry .
- (2) The accounts and records of contracting companies shall be audited by the Institution, for the purposes of applying the provisions of division of production agreements .

Account and books of the
Institution and auditing

- 29.(1) The Institution shall notify the Council, through the Minister, upon opening accounts with banks, in accordance with the provisions of the Act .
- (2) The Institution shall keep proper and comprehensive accounts of the revenues and expenditure, in accordance with sound accountancy bases .
- (3) The budget of the Institution shall be prepared, upon sound accountancy bases, and be submitted, together with the development budget, to the Council, for approval thereof .
- (4) The Institution shall keep a general reserve fund, to be fed, from time to time, upon approval of the Council, out of the surplus of resources of the Institution .
- (5) The Institution shall keep a proper register of immovable and movable assets, and such register shall annually be audited .

Auditing

30. The Auditor-General , or any such other chartered auditor, as may be approved by the Auditor-General, under his supervision, shall annually audit the accounts of the Institution .

Employees of the Institution to continue

31. The employees in the petroleum sector, at the Ministry of Energy and Mining, shall continue in service, and be assimilated into the Institution, as the charter of posts thereof may avail, in accordance with the new job description .

Provisions of the Act to prevail

32. The provisions of this Act shall, in case of inconsistency with the provisions of any other law, prevail to the extent of removing such inconsistency .

Offences and penalties

33. (1) There shall be deemed, to have committed an offence, every person, who :-
- (a) conducts exploration, or prospecting for petroleum, without having a valid exploration licence, issued under the provisions of this Act, and shall be punished with imprisonment, for a term, not exceeding five years, or with fine, or with both. In case of the continued commission of the offence, he shall be punished with an additional fine for each day, in which the offence continues;
 - (b) produces or attempts to produce petroleum, without having a petroleum agreement, made under the provisions of this Act, and shall be punished with imprisonment, for term, not exceeding seven years, or with fine, or with both. In case of the continued commission of the offence, he shall be punished with an additional fine, for each day in which the offence continues ;
 - (c) practises any petroleum works, outside the licence area, thereby contravening the provisions .
- (2) Any things obtained by the person, as a result of commission thereby, of an offence, under the provisions of paragraphs (a) and (b) of sub-section (1) shall be the property of the State, and it shall be entitled to restitute such things, or the value thereof, and the profits derived therefrom .
- (3) Without prejudice to the provisions of sub-sections (1) and (2), or any such severer penalties, as may be provided for in any other law, whoever contravenes the provisions set out in Chapter II, hereof, and the regulations made thereunder shall be punished with fine .

Power of the Institution to issue directions to rectify conditions

34. Where the Institution deems that there is squandering of the petroleum resources, or there is such work, as may endanger the lives, or property of people, as a result of the current petroleum operations, the Institution shall notify those carrying out the same, to rectify the conditions, and reform the damage, within such reasonable period, as it may specify. Where such direction does not find any response from those carrying out the same, it shall be entitled to take the legal proceedings, concerning such contraventions, before the competent courts.

Power to make regulations

35. (1) The Council shall approve such regulations, as may be necessary for the implementation of the provisions of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), there may be provided, in such regulations, for the following matters :-

- (a) the administrative, financial and technical rules relating to petroleum operations;
- (b) the rules relating to exercise of the rights granted, under exploration licences, and contracts of lease;
- (c) the manner of collecting such fees, royalties, taxes and percentages, pertaining to the Institution, as may be paid by the contracting company;
- (d) the bases organizing the operations of transport of petroleum and gas, use of pipelines, and the rules and procedure of licensing the establishment of such lines, and the export and storage facilities, and the uses thereof;
- (e) such rules and specifications, as may organize the operations of storage and distribution of petroleum products, and gas;
- (f) the financial, administrative and technical rules relating to the petroleum industry and the rules of financial, administrative and technical control of the contracting companies;
- (g) the establishment and organization of specialized administrations of the Institution, within the organizational chart;
- (h) organizing the relation with the companies owned by the Institution, and those in which it subscribes, subject to such laws in force, as may govern this field;
- (i) organizing the technical information and records and the manner of preparing, keeping and storing the same;
- (j) forming specialized technical committees, and specifying the functions thereof;
- (k) the form and manner, in which the accounts and budget of the Institution are to be prepared, and the organization of stores and rules of purchase and contracting;
- (l) guarantees of security and safety and preserving the Institution and petroleum operations;
- (m) the terms of service of employees of the Institution .

Made, under my hand, on the 18th. of Rabie II, 1419 A.H., being the 11th. of August, 1998 A.D.

(Signed)

Lieutenant, General P.S.C.
Omar Hassan Ahmed Al-Basheir
The President of the Republic