



LAWS OF SARAWAK

ONLINE VERSION

Chapter 72

DISTRIBUTION OF GAS ORDINANCE, 2016

Incorporating all amendments up to 1st February, 2024

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SARAWAK

DISTRIBUTION OF GAS ORDINANCE, 2016

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DISTRIBUTION OF GAS ORDINANCE, 2016

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LAWS OF SARAWAK**Chapter 72****DISTRIBUTION OF GAS ORDINANCE, 2016**

An Ordinance to regulate the distribution of gas in Sarawak and for matters relating thereto.

[1st July, 2018]

[Swk. L.N. 65/2018]

Enacted by the Legislature of Sarawak—

PART I
PRELIMINARY

Short title, commencement and application

1.—(1) This Ordinance may be cited as the Distribution of Gas Ordinance, 2016.

(2) This Ordinance shall come into force on such date as the Minister may by notification in the *Gazette*, appoint, and the Minister may appoint different dates for the coming into force of different parts or provisions of this Ordinance.

(3) This Ordinance shall apply to the distribution of gas—

(a) in relation to—

(i) liquefied natural gas from the connection flange of the arm at the regasification terminal;

(ii) natural gas received from a gas treatment plant, gas separation plant, gas processing plant or a gas terminal, from the last flange of the gas treatment plant, gas

separation plant, gas processing plant or gas terminal, whether offshore or onshore;

(iii) liquefied petroleum gas processed from natural gas or imported into Sarawak from a gas processing facility in Sarawak;

(iv) natural gas imported into Sarawak through gas pipelines excluding pipelines upstream of a gas treatment plant, gas separation plant, gas processing plant or a gas terminal, from the boundary of the State, whether offshore or onshore,

to the transmission or distribution pipelines, or the piping system and to any gas appliance in the premises of a consumer; and

(b) from the filling connection of a storage tank or cylinder specifically used for the reticulation or delivery of gas to any gas appliance in the premises of a consumer.

Interpretation

2.—(1) In this Ordinance, unless the context otherwise requires—

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

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

“consumer” means a person to whom gas is supplied by a licensee or whose premises has facility for the time being connected or installed to receive supply of gas for his own use;

“Director” means the Director of Gas Distribution, appointed under section 3, and includes any person who is acting or temporarily discharging the duties of that office;

“distribute” or “distribution” means the supply, delivery, transportation, transmission and storage of gas by pipelines or other means or facility to a consumer and includes building, managing or maintaining gas pipelines for the distribution of gas;

“facility” means any physical structure or installation located within the State to receive, store, regasify, process, treat, separate or distribute gas;

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

“gas aggregator” means a person appointed under section 7A to procure natural gas for distribution or supply to any person, plant, entity or premises and to develop, expand and maintain gas distribution network and system in Sarawak;

[Add. Cap. A211/2023]

“gas processing plant” means a facility for processing natural gas to meet the specifications to be distributed to and used by consumers;

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

“import of gas” means an activity of bringing or causing to be brought gas into or within Sarawak by any means;

“installation” means any part of the physical facilities for the distribution, storage or utilization of gas including any pipeline, piping system, apparatus, equipment, valve, meter, regulator or appurtenances attached to such facilities;

“licensee” means any person issued with a licence to undertake any of the activities listed in section 7;

“licensed activity” means any one or more of the activities stipulated in section 7 which a licensee may undertake under the licence issued to him under section 8(1);

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

“liquefied petroleum gas” means a mixture of hydrocarbon gases primarily propane and butane at various proportions and stored in liquid form;

“Minister” means the Minister in the Government having responsibility for distribution of gas;

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

“pipeline” means any part of those installations through which gas moves for the purpose of regasification, transportation, separation, treatment, processing or distribution;

“processing of gas” means any activity to process natural gas to meet gas specification for distribution, transportation or delivery to and use by consumers through pipelines or other means;

“public authority” means the Government, a department of the Government, a corporation or body established or constituted by or under State law and includes any officer appointed or acting on behalf of such Government, department, corporation or body;

“regasification” means any activity or process to regasify liquefied natural gas into natural gas at a regasification terminal or plant in Sarawak including, after regasification, the storing or delivering the gas through pipelines from the terminal or plant;

“regasification terminal” or “regasification plant” means a facility located in Sarawak to regasify or store liquefied natural gas;

“retail” means an activity of sale or supply of gas through a piping system or other forms of distribution of the licensee to premises of a consumer where the gas is either—

(a) received from a storage facility or cylinder of or on that licensee's own premises or on the premises of the consumer; or

(b) received through pipelines;

“Superintendent” means a Superintendent of Lands and Surveys appointed under section 3 of the Land Code [*Cap.81 (1958 Ed.)*];

“transportation” means the process or mode of delivery of gas through pipelines or in such manner as stipulated in a licence issued under section 8(1); and

“use of gas” means any activity related to the direct or indirect usage or utilization of gas by a licensee or consumer.

PART II

AUTHORITY FOR DISTRIBUTION OF GAS

Appointment of Director, etc.

3. This Ordinance shall be administered by a Director, who shall be assisted by such number of officers, all of whom shall be appointed by the Minister, by notification in the *Gazette*.

Powers and functions of Director

4.—(1) The Director shall regulate the distribution of gas in Sarawak and shall have all the powers and duties conferred by this Ordinance and any regulations made under section 32.

(2) Without prejudice to subsection (1) the Director shall—

(a) issue, from time to time, direction, directive, guideline, ruling and code of business to ensure compliance by the licensees of the terms and conditions of their licences and the provisions of

this Ordinance and for an effective and efficient system of distribution of gas in Sarawak;

(b) protect the interests of consumers of gas supplied by licensees under this Ordinance in respect of—

(i) the terms and continuity or reliability or availability of supply;

(ii) the quality of gas supplied; and

(iii) the quality and standard of service provided to the consumers by the licensees;

(c) inspect or cause to be inspected, pipelines and installations, including piping systems for the distribution of gas;

(d) investigate accident or fire at or involving any pipeline and installation and submit the results of such investigation to the Minister;

(e) investigate any complaints by consumers relating to the distribution of gas and to resolve such complaints;

(f) take reasonable measures to protect the public against or from dangers arising from distribution and use of gas, and to educate them on such dangers and measures to mitigate against the occurrence thereof;

(g) submit an annual report to the Minister on the performance of his duties and functions under this Ordinance and on the distribution of gas in the State and the performance of the licensees in the distribution, retail and services rendered to the consumers;

(h) advise the Government on the import of gas into Sarawak and the circumstances whereby such import would be in the best interests of the State; and

(i) conduct such activities which, in the opinion of the Minister, is advantageous or desirable for the purpose of carrying out the provisions of this Ordinance.

Direction of Minister

5. The Minister may from time to time give to the Director, general or special directions, not inconsistent with the provisions of this Ordinance, as to the exercise or discharge of the Director's powers and functions under this Ordinance, and any such direction shall become binding on the Director, who shall forthwith take all steps necessary or expedient to give effect thereto.

Delegation of powers and duties

6. The Director may, with the written approval of the Minister, by notification in the *Gazette*, delegate to any public authority, any of the powers and duties conferred on the Director under this Ordinance or any regulations made thereunder.

PART III**LICENCES FOR DISTRIBUTION OF GAS****Licensing of activities relating to distribution of gas**

7. No person, except a gas aggregator appointed under section 7A(1), shall distribute gas in Sarawak or carry out the following activities without a licence issued under this Ordinance—

[Ins. Cap. A211/2023]

- (a) import of any gas for regasification, processing, treatment, separation, utilization or distribution in Sarawak;
- (b) regasification of gas;
- (c) treatment, separation or processing of gas;
- (d) transportation of gas;
- (e) building, managing or maintaining gas pipeline or other apparatus or equipment or mechanism for the distribution of gas;
- (f) supply of gas; or

- (g) retail of gas.

Appointment of a Gas Aggregator

7A.—(1) Majlis Mesyuarat Kerajaan Negeri may, by Order published in the *Gazette*, appoint any person as an aggregator of gas in Sarawak for such period and subject to such conditions or restrictions as may be stipulated in the Order.

(2) A gas aggregator shall develop and maintain an efficient, coordinated and economic system of gas distribution and supply in Sarawak in accordance with directions issued to him from time to time by the Director and, without prejudice to the foregoing:

(a) manage the procurement of natural gas for distribution and supply to any person, plant, facility and premises in Sarawak;

(b) develop, expand, manage and maintain gas distribution network and system including, but not limited to pipelines, terminals for receiving gas, processing plants and storage facilities; and

(c) carry out such other functions related to the distribution of gas in Sarawak as the Majlis Mesyuarat Kerajaan Negeri may direct in writing.

(3) A gas aggregator shall, in the discharge of its functions specified in subsection (2):

(a) comply with the provisions of this Ordinance and Regulations made thereunder and any directive, not inconsistent with the provisions of this Ordinance, issued by the Director, from time to time, relating to the distribution and supply of gas in Sarawak;

(b) ensure non-discriminatory conduct in the distribution and supply of gas and optimal efficiency and safety in the management and operation of the gas distribution and supply network and system;

(c) ensure adequate supply of gas to meet the demand for gas for industrial, commercial and domestic use;

(d) levy tariffs for gas supplied as may be approved by Majlis Mesyuarat Kerajaan Negeri pursuant to section 12;

(e) consult the Director, in the planning, expansion and improvement of the gas distribution network and system in Sarawak; and

(f) ensure adequate supply of gas to the industries identified in writing by the Director from time to time.

(4) In the discharge of its functions and duties, a gas aggregator shall have all the powers, rights and obligations conferred on a licensee by Part IV of this Ordinance, and where applicable, any reference in this Ordinance to “licensee” shall be deemed to refer to the gas aggregator.

[Add. Cap. A211/2023]

Licence

8.—(1) A licence to undertake any of the activities mentioned in section 7 shall be issued by the Director for such period and for any area of supply as may be stipulated in the licence and upon terms and conditions as may be imposed by the Director.

(2) The Director may at any time during the duration of a licence, amend any terms and conditions imposed or impose any new or additional terms and conditions, by notice in writing to the licensee.

(3) An application for licence shall be made in such form as may be determined by the Director from time to time.

(4) A licence issued under this Ordinance shall not be transferred, assigned or otherwise disposed of without the written approval of the Director.

(5) (a) Unless the Minister otherwise directs in writing, a licence issued under this Ordinance shall be liable to be revoked by the Director if—

- (i) the holder thereof transfers the licence;
- (ii) in the case of a licence issued to a company, the controlling shares in the company are transferred;
- (iii) in the case of a licence issued to a partnership, there is a change, save by operation of law, in the partnership; or
- (iv) the holder thereof enters into an agreement with any other persons, the effect of which is to enable the benefits conferred by the licence to be enjoyed by such or any other persons.

(b) For the purposes of this subsection, the expression “controlling shares” means shares which exceed in aggregate more than fifty per cent of the total amount of shares issued at any time by a company to which the rights or powers to vote are conferred or attached under section 71 of the Companies Act 2016 [Act 777].

(6) The Director shall, before revoking any licence under subsection (5), give the holder of the licence notice in writing of his intention to do so and calling upon the licensee to show cause, within fourteen days from the receipt of such notice, as to why such licence should not be revoked.

Suspension and revocation

9.—(1) A licence may be suspended or revoked by the Director under this section on the following grounds, namely—

- (a) there has been a breach of or non compliance with any of the terms and conditions stipulated in the licence or the provisions of this Ordinance or regulations made hereunder, other than provisions made under section 8(5);
- (b) the licensee has ceased or failed or refused to carry out the activity stipulated in the licence; or

(c) the licensee has failed or neglected to comply with any written law governing safety in carrying out his licensed activity.

(2) Where the Director has reasonable grounds to believe that any of the grounds stated in subsection (1) exist, the Director shall before suspending any licence, give the holder of the licence notice in writing of his intention to do so and calling upon the licensee to show cause, within fourteen days from the receipt of such notice, as to why such licence should not be suspended.

(3) Where the Director is not satisfied that cause has been shown, the Director may suspend such licence.

(4) (a) Upon the suspension of a licence in subsection (3), the Director shall by notice in writing to the licensee, require the licensee to rectify or remedy any breach or non compliance within a period stipulated in the notice under subsection (2).

(b) If the Director is satisfied that the licensee has rectified or remedied the breach or non compliance stipulated in the notice issued under paragraph (a), the suspension may be lifted on terms and conditions to be imposed by the Director.

(c) In the event that the Director is not so satisfied, the Director may by notice in writing to the licensee revoke the licence.

(5) Notwithstanding subsection (4), the Director may, in the interest of the public or any consumer affected by the suspension, authorize by licence another person to continue or perform any of the licensed activity for the period of the suspension or any part thereof.

(6) A suspension or revocation of a licence shall take effect from the date of the issuance of the notice relating thereto.

(7) A licensee whose licence has been revoked under subsection (4)(c) may, within fourteen days from the date of receipt of notice thereof, appeal to the Minister whose decision shall be final.

Revocation of licence upon insolvency

10. Notwithstanding section 9, the Director may revoke the licence where the licensee is insolvent or has been wound up or an order of bankruptcy has been made against the licensee by a court of competent jurisdiction.

Effects of revocation of licence

11.—(1) Upon the revocation of a licence, the Director may by notice in writing addressed to the licensee—

(a) require the licensee within a period of not less than fourteen days, to remove any installation established by him pursuant to the licence in the area of supply; or

(b) acquire or cause to be acquired the installation upon payment of adequate compensation to the licensee, and authorize by licence another person to carry out the licensed activity to ensure continuity of the supply of gas to the consumer:

Provided that where no acquisition is required, the Director shall direct the former licensee to permit forthwith any such person to enter into and utilize the installation or facility to ensure continuity of supply of gas to the consumer, subject to terms and conditions to be agreed to.

(2) Compensation for installation acquired under this section shall be agreed upon by the parties and in the absence of such agreement, the dispute shall be referred to arbitration under the Arbitration Act 2005 [*Act 646*]:

Provided that any reference to arbitration shall not delay or in any way affect the acquisition of the installation but an arbitrator may order that security for payment of the compensation in such form or manner as he may deem fit be provided to the licensee whose installation is to be acquired.

PART IV
LICENSEE'S RIGHTS AND OBLIGATIONS

Tariffs

12.—(1) A licensee may, in distributing gas or providing related services to any consumer in respect of a licensed activity, levy such tariffs as may be approved by the Majlis Mesyuarat Kerajaan Negeri.

(2) In approving the tariffs that a licensee is entitled to charge, the Majlis Mesyuarat Kerajaan Negeri shall take into account—

(a) all costs incurred by the licensee in establishing any facility or installation needed for the supply of gas to the consumer, including the costs of maintaining such facility and installation;

(b) the cost of the gas and the supply thereof to the consumer;

(c) no undue preference or discrimination as amongst consumers similarly situated having regard to the area, place and time of supply;

(d) the quantity and type of gas supplied;

(e) the usage of the gas supplied;

(f) any period for the review of the tariffs; and

(g) any other relevant factors.

(3) The tariffs shall be published by the licensee in such manner and at such places as may be directed by the Director to secure adequate publicity thereof for the consumers.

(4) A licensee may, with the approval of the Director, after consultation with the Minister, enter into special agreement with any consumer to levy such other tariffs for the supply of gas or other related service to that consumer.

Charges for gas supplied and gas meters

13.—(1) Any gas supplied and received by—

- (a) a consumer from a licensee; or
- (b) a licensee from a regasification plant or gas treatment plant or gas separation plant or gas processing plant for distribution under his licence to consumers,

by reference to the quantity supplied and received, shall be delivered through and its quantity shall be ascertained by a meter, including a prepaid meter, automated metering infrastructure or telemetering provided such meter is of the type approved by the Director and complies with any regulations made hereunder.

(2) The meter shall be installed in such position or at the facility used for the supply and delivery of gas to enable the readings thereof to be inspected and its condition determined from time to time or in accordance with any regulations made hereunder regarding the installation of meters for the purpose of this section.

(3) If any consumer refuses or fails to have the supply or delivery of gas through the meter installed under this section or if such meter is found to be tampered with so as not to register genuine or accurate readings or data on the gas supplied or delivered, a licensee may discontinue such supply and delivery of gas to that consumer.

Obligation to distribute, etc.

14.—(1) A licensee shall import, distribute, transport, retail or supply gas and carry out any other licensed activity in accordance with the terms and conditions of his licence.

- (2) (a) Without prejudice to the generality of subsection (1), a licensee who has been licensed to retail gas at an area of supply (referred to in this section as “retail licensee”), shall upon request of a consumer, supply gas to the consumer’s premises in accordance with the provisions of this section and shall ensure continuity of such supply.

(b) Any consumer requiring supply of gas shall submit a written request to a retail licensee whose area of supply covers that consumer's premises specifying—

(i) the address of the consumer's premises to which gas is to be supplied and delivered;

(ii) the proposed date on which the supply of gas is to commence and the period of supply;

(iii) the quantity of gas required; and

(iv) the facility established in the consumer's premises to receive the gas.

(c) Upon receipt of the notice from the consumer, the retail licensee shall notify that consumer—

(i) the extent to which the request made by the consumer could be met and specify any counter proposal of the retail licensee;

(ii) the tariffs which had been approved in accordance with section 12(1);

(iii) the amount and nature of security to be furnished by the consumer for payment of the tariffs; and

(iv) any modification or adaptation of the facility at the consumer's premises needed to receive the gas supplied and if such modification or adaptation is to be carried out by the retail licensee, the estimated costs thereof.

(d) In the event of any dispute between the retail licensee and the consumer following receipt by the consumer of the notification from the retail licensee under paragraph (c), such dispute shall be referred to the Director for resolution, and any decision by the Director thereon shall be binding on both the retail licensee and the consumer.

(3) The retail licensee and the consumer may enter into agreement, containing any special terms or arrangements not

inconsistent with the terms and conditions of the licence of the retail licensee, for the delivery and supply of gas to the consumer's premises; and a copy of such agreement shall be furnished to the Director by the retail licensee.

Entry onto land by licensee

15.—(1) Subject to as hereafter provided and to the terms and conditions in his licence, a licensee may enter upon land, whether alienated or State land for the purpose of—

- (a) laying or constructing under or above such land, pipelines;
- (b) building any installation for the distribution of gas;
- (c) inspecting and surveying the land, including carrying out soil and site investigation, for the purposes specified in paragraphs (a) and (b); or
- (d) maintaining, repairing, upgrading, altering, disconnecting, replacing or removing any pipeline or installation built by the licensee on the land,

upon giving written notice of his intended entry onto the land to the Director (if the land is State land) or to the registered proprietor of alienated land, stating the precise nature of the acts to be carried out by the licensee on the land, and a copy of the notice shall be sent by the licensee to the Superintendent having jurisdiction over the said land.

(2) The licensee shall pay to the Government or the registered proprietor, as the case may be, compensation for the entry, occupation and use of the land and any damage to any property or crops thereon, including any periodical payment for the use of the land for the said purpose, the amount of which is to be assessed by the Superintendent.

(3) In the event that a licensee, after service of the notice on the registered proprietor under subsection (1), fails or is unable to secure entry onto the land to carry out the acts described in that notice,

the Minister may direct that the land or any part thereof be acquired for the intended purpose and use by the licensee.

(4) The acquisition under subsection (3) shall be deemed to be for a public purpose and shall be carried out in accordance with Part IV of the Land Code [*Cap. 81 (1958 Ed.)*]:

Provided that any compensation to be paid for such acquisition shall be borne by or recovered from the licensee.

(5) Nothing in this section shall affect or prejudice the rights of the Government under sections 34 and 37 of the Land Code [*Cap. 81 (1958 Ed.)*].

Wayleave agreement

16. Nothing in section 15 shall be deemed to prohibit a licensee from entering into an agreement, commonly described as a “wayleave agreement” with the owner or occupier of any land to enter, occupy and use that land for any of the purposes stipulated in that section:

Provided that it shall be the duty of the licensee to deliver a copy of the wayleave agreement to the Director and the Superintendent as soon as the execution thereof has been completed.

Removal or relocation of pipeline and installation on land

17.—(1) Where any pipeline or installation has been built on any land and if the owner or occupier shall desire the same to be removed or relocated to another part of the land or to land at a higher or lower level or to be altered on the ground that the existing location of the pipeline or installation or any part thereof—

(a) interferes with the use or intended use or development on the land; or

(b) is likely to endanger the health or safety of persons or property on the land or adjoining land,

the owner or occupier may serve a notice in writing on the licensee requesting him to remove or relocate the same accordingly.

(2) The costs incurred in the removal or relocation of the pipeline or installation and who should bear and pay such costs, shall be agreed upon by the licensee and the owner or occupier of the land.

(3) If there is no agreement reached on the removal or relocation of the pipeline or installation or with regard to the issue of costs, within ninety days after service of the notice under subsection (1), the matter shall be referred, by either the licensee or the owner or occupier of the land, to the Director for adjudication and any decision by the Director shall be final and binding upon the licensee and the owner or occupier of the land:

Provided however, if the owner of the land is the Government, the matter shall be referred to arbitration under the Arbitration Act 2005 [Act 646].

Compliance with directions, etc. of Director

18. In carrying out or performing any licensed activity or in providing any service to any consumer arising from the licensed activity, the licensee shall, in addition to compliance with the terms and conditions of the licence and the provisions of this Ordinance and any other written law, comply with any direction, decision, or order made by the Director from time to time under this Ordinance.

Access to pipeline, installation, facility and information by Director

19. The licensee shall—

(a) grant reasonable access to the Director or any person duly authorized by him to inspect any installation, facility, pipeline or piping system used by the licensee to carry out any licensed activity or to provide service to consumers;

(b) keep separate and accurate account or accounting record for business associated with the performance of any licensed activity and service rendered to consumers and provide

upon request to the Director copies thereof certified by a qualified company auditor;

(c) furnish to the Director, upon request, such information, data and documents relating to the licensee's business under its licensed activity or service rendered to consumers; and

(d) provide to the Director information on all accidents, fire and other incidents relating to any pipeline, installation and piping system used in connection with its licensed activity.

PART V OFFENCES AND PENALTIES

Offences and penalties

20.—(1) Any person who—

(a) carries out any activity specified in section 7 without a licence issued under section 8;

(b) carries out any activity specified in section 7 in breach or contravention of the terms and conditions stipulated in a licence issued under section 8; or

(c) makes any false, inaccurate or misleading statements in the form used to apply to the Director for a licence under section 8,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding five years or to both, and to a further fine of not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction, and any pipeline, installation or facility or part thereof used or intended to be used in the commission of the offence shall be liable to forfeiture.

(2) Any person who uses gas for purposes or in a manner which is not permitted under a licence issued to him under section 8 shall be guilty of an offence and shall, upon conviction, be punished

with a fine of not exceeding twenty thousand ringgit or imprisonment for a term not exceeding six months or to both.

(3) Any person who by any wilful, dishonest, rash or negligent act or omission extends, adjusts, alters, removes, destroys or damages any pipeline or installation or part thereof shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding five years or to both.

(4) Any person who by any wilful, dishonest, rash or negligent act or omission tampers with or damages any pipeline or installation or part thereof so as to cause or to be likely to cause injury to human life or limb or damage to any property shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding three hundred thousand ringgit or imprisonment for a term not exceeding seven years or to both.

(5) Any person who—

(a) causes any pipeline, installation or facility or part thereof to be diverted from its proper course for the purpose of abstracting, consuming, using or wasting gas therefrom;

(b) dishonestly alters the index of any meter or other instrument used on or in connection with any pipeline, installation or facility or part thereof belonging to the licensee or any other person for recording the output or consumption of gas;

(c) prevents any meter or other instrument from duly recording the output or consumption of gas;

(d) damages any meter or other instrument used on or in connection with any pipeline, installation or facility or part thereof for recording the output or consumption of gas; or

(e) dishonestly abstracts or consumes or uses gas,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding five years or to both.

(6) Any person who, without the lawful authority of the Director, undertakes any work or engages in any activity in the vicinity of any gas pipeline, installation or facility or part thereof in a manner likely to interfere with such pipeline or installation or part thereof, shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding fifty thousand ringgit or imprisonment for two years or to both.

(7) Notwithstanding the prosecution of the person for any offence under this section, the licensee may—

(a) recover by way of civil proceedings the amount of the tariffs for the gas which have been consumed but the output whereof have not been registered by the meter or instrument, and

(b) suspend, disconnect or cease the supply of gas to any consumer who has committed an offence under this section.

General penalty

21. Any person who by an act or omission contravenes any provision of this Ordinance or regulations made hereunder other than an offence prescribed under section 20, shall be guilty of an offence and shall, upon conviction, if no penalty is expressly provided for such offence, be punished with a fine of not exceeding fifty thousand ringgit or imprisonment for a term not exceeding one year or to both.

Offences committed by a body corporate

22. Where a person charged with an offence under this Ordinance or any regulations made hereunder is a body corporate, every person who at the time of the commission of the offence is a director or officer of that body corporate may be charged jointly in the same proceedings with the body corporate, and in the event the body corporate is convicted of the offence charged, every such director or officer shall be deemed to be guilty of that offence unless he proves

that the offence was committed without his knowledge or he had taken all reasonable measures or steps to prevent its commission.

Power of arrest, search, seizure and investigation

23.—(1) A person authorized in writing by the Director (in this section referred to as an “authorized officer”) shall have the power to conduct an investigation where there is reason to believe that an offence or contravention of any provision of this Ordinance or regulations made hereunder has been committed.

(2) The authorized officer shall have all the powers of a police officer of whatever rank as provided under the Criminal Procedure Code [*Act 593*] in relation to arrest, search and seizure and police investigation into criminal offences, but such powers shall be in addition to the powers provided under this Ordinance and not in derogation thereof.

(3) Upon completion of the investigation, the authorized officer shall forthwith give all information relating to the investigation to the Director.

(4) Any person who—

(a) hinders, impedes, obstructs or prevent an authorized officer from carrying any investigation into any offence under this section;

(b) assaults or intimidates or threatens any authorized officer carrying out investigation under this section;

(c) denies or prevents entry of an authorized officer into any premises, facility or land used for the regasification, processing, distribution, storage, treatment, separation or transportation of gas, to carry out investigation into an offence or suspected offence under this Ordinance or regulations made hereunder; or

(d) knowingly or wilfully provide false information or documents to an authorized officer carrying out investigation under this section,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding twenty thousand ringgit or imprisonment for a term not exceeding six months or to both.

(5) Whenever any person who is arrested under this section and the investigation cannot be completed within the period of twenty-four hours and there are reasonable grounds for believing that the accusation or information against him is well-founded, the investigating officer investigating the case under this section may deliver him to the nearest police station to be released on a bond or police bail or to be detained thereat pending arrangement to produce the person before a court of competent jurisdiction.

(6) Where a person is brought before a Court under subsection (5), the investigating officer shall comply with section 117(1) of the Criminal Procedure Code [*Act 593*] and the Court shall have the powers over that person as are provided in section 117(2) of that Code.

[Add. Cap. A211/2023]

Seizure of property when offender cannot be found

23A.—(1) Where there is reason to believe that an offence under this Ordinance has been committed by a person who is unknown or cannot be found, any thing or property seized under section 23 in respect of the offence shall be taken possession of by the authorized officer who shall report the seizure to a Magistrate, and the Magistrate shall deal with the thing or property as if it were the subject of a report to him under section 413 of the Criminal Procedure Code [*Act 593*].

(2) If there be no prosecution with regard to any thing or property seized under this Ordinance, such thing or property shall be taken and deemed to be forfeited at the expiry of one calendar month from the date of seizure unless before that date a claim thereto is made in the following manner:

(a) any person asserting that he is the owner of such thing or property and that it is not liable to forfeiture may personally or

by his agent authorized in writing give written notice to the authorized officer or police officer in whose possession such thing or property is held that he claims the same;

(b) upon receipt of such notice, the authorized officer or police officer, as the case may be, shall, unless the investigation into the offence is still pending, refer the claim to a Magistrate for decision;

(c) the Magistrate to whom the claim is referred shall issue a summons requiring the claimant to appear before him and upon his appearance or default to appear, the Magistrate shall proceed to the examination of the claim and, on proof that an offence has been committed and that such thing or property was the subject matter of or was used in the commission of such offence, shall order the same to be forfeited or may in the absence of such proof, order its release;

(d) any thing or property forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the direction of the Director; and

(e) all sums of money received under this section shall be credited to the State Consolidated Fund.

(3) Where any thing or property has been seized under this Ordinance, an authorized officer may, subject to terms and conditions as the Director deems fit to impose, temporarily release such thing or property to the owner upon application and on security (as assessed by the Director) being furnished that such thing or property shall be surrendered to him on demand or to produce it before a court of competent jurisdiction.

(4) Where such owner fails to surrender the thing or property seized on demand by such authorized officer, or fails to produce it before a court of competent jurisdiction in accordance with subsection (2), he shall be guilty of an offence and shall, upon conviction, be punished with a fine of not less than twenty thousand ringgit or ten

times the value of the thing or property so seized, whichever is greater, or imprisonment not exceeding two years, or to both.

[Add. Cap. A211/2023]

Prosecution

24. The prosecution of any offence under this Ordinance or regulations made hereunder shall be initiated and conducted by the Public Prosecutor, a Deputy Public Prosecutor or by any person authorized by the Public Prosecutor under section 377 of the Criminal Procedure Code [Act 593].

Onus of proof

25. In any prosecution for an offence under section 20—

(a) proof of the fitting of any mechanical or other means, or the removal of any essential part or connection, to, from or of any apparatus which would facilitate the dishonest abstraction, consumption or use of gas shall, as against the person fitting or removing it, or causing it to be fitted or removed, or having control of the apparatus, be *prima facie* evidence of the dishonest abstraction, consumption or use; and

(b) the existence of artificial means for altering the index of any meter, or the existence of artificial means for the removal of any part of any apparatus for the purpose of preventing any meter or instrument from duly registering the quantity of gas supplied or for the purpose of dishonestly abstracting, consuming or using gas, shall, until the contrary is proved, be evidence that alteration, prevention, abstraction, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer using that meter or instrument and the person having control of the installation where it is fixed, or that the consumer or person has abetted the offence of that alteration, prevention, abstraction, consumption or use, as the case may be.

Compounding of offences

26.—(1) The Director or any officer authorized by the Director by notification in the *Gazette*, may, subject to regulations made under section 32, compound any offence committed under this Ordinance or regulations made hereunder by accepting from any person who has committed such offence a sum not exceeding one half of the maximum amount of the fine provided for the offence.

(2) All sums of money received under this section shall be credited to the State Consolidated Fund.

PART VI MISCELLANEOUS

Repeal, saving and transitional provisions

27.—(1) The Sarawak Gas Supply Services (Operating Company) Ordinance [*Cap. 19*] is repealed.

(2) Notwithstanding subsection (1)—

(a) all rules, orders, directions, appointments, proclamations, rights, privileges or other acts or things made or done, including the vesting of properties or assets in Sarawak Gas Distribution Sendirian Berhad (Co. No. 0321785-K) (in this section referred to as the “operating company”) under or in accordance with the repealed Ordinance, shall continue in force until amended, revoked or replaced pursuant to this Ordinance; and

(b) any tariffs charged or levied by the operating company by agreement with the consumers shall continue to apply until and unless replaced or superseded by tariffs fixed under section 12(1) or by special agreement made under section 12(4).

(3) Any prosecution, action, suit, claim, proceedings or inquiry which has been instituted, filed, commenced or made under the repealed Ordinance and is still pending and not finally disposed of or existing immediately before the date of commencement of this

Ordinance shall be continued and be determined or completed or disposed of in all respects under the provisions of the repealed Ordinance as if this Ordinance had not been enacted.

Protection against suits and legal proceedings

28. No action or proceedings or prosecution shall be brought, instituted or maintained in any court against the Director or any person authorized by him to act under this Ordinance in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his functions, powers and duties under this Ordinance or regulations made hereunder.

Public Authorities Protection Act 1948

29. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit or proceeding against the Director or any person authorized by him in respect of any act, neglect or default done or committed by the Director or such person, as the case may be, in such capacity.

Neither Government nor its officer liable for loss or damage

30. Neither the Government nor its officers shall be liable for any loss or damage caused to any person by the suspension of operation and use of any pipeline, installation or facility or by the suspension or revocation of a licence under this Ordinance.

Exemption

31. The Minister may by notification published in the *Gazette* exempt any person or class or groups of persons or any activity mentioned in section 7 from this Ordinance or any provisions thereof.

Power to make regulations

32. The Minister may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make regulations generally for carrying out the provisions of this Ordinance and, in particular, such regulations may provide for—

(a) the fees to be charged for the licence issued under this Ordinance;

(b) the management and maintenance of any pipeline, installation or facility for the distribution of gas;

(c) the standard and methods of construction of and the materials to be used for pipelines, installations, facilities, meters, or piping system;

(d) the methods, process and procedure in dealing with accidents, mishaps and fires in any pipeline, installation or facility;

(e) the standard and type of meters or metering system to be used to measure the output of gas from a facility or the quantity of gas supplied or consumed;

(f) the codes of business ethics to be followed by licensees;

(g) the training and education of persons involved or employed in the distribution of gas in Sarawak and the certification of their competency;

(h) the procedure and form for compounding offences under section 26; and

(i) any thing which requires to be prescribed or provided for as may be necessary or expedient for giving full effect to the provisions of this Ordinance.

[Add. Cap. A211/2023]

LAWS OF SARAWAK**Chapter 72****DISTRIBUTION OF GAS ORDINANCE, 2016**

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
	Date of Commencement of the Ordinance	1.7.2018 (<i>Swk. L.N. 65/2018</i>)
Cap. A211	Distribution of Gas (Amendment) Ordinance, 2023	1.2.2024 (<i>Swk. L.N. 30/2024</i>)

SARAWAK LAWNET



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK