



BELIZE

**PETROLEUM REVENUE MANAGEMENT FUND ACT
CHAPTER 60:01**

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CHAPTER 60:01

PETROLEUM REVENUE MANAGEMENT FUND

16 of 2007.

[13th October, 2007]

PART I

Preliminary

1. This Act may be cited as the Petroleum Revenue Management Fund Act.

Short title.

2. In this Act unless the context otherwise requires,

Interpretation.

“Annual Transfer Amount” means an amount in United States Dollars calculated in accordance with subsection (3) of Section 12 of this Act;

“Commissioner” means the Commissioner of Income Tax appointed under the Income and Business Tax Act, or his successor in law;

“Contract” has the meaning in the Petroleum Act, and includes any equivalent rights and interests granted under any law or instrument;

“Contractor” has the meaning in the Petroleum Act, and includes any person granted equivalent rights and interests by the Government by other law or instrument, and any person applying for a Contract;

“Custody Bank” means the institution at which the Permanent Restricted Account is opened pursuant to this Act;

“Custody Bank Agreement” means the agreement between the Central Bank and the Custody Bank mentioned in subsection (2) of Section 4 of this Act and described in the First Schedule;

“Financial Secretary” means the Financial Secretary appointed under Section 107 of the Belize Constitution Act, or his successor in law;

“Flexible Transfer Account” means the account styled “The Petroleum Fund Flexible Transfer Account” opened by the Central Bank pursuant to Section 12 of this Act ;

“Government” means the Government of Belize;

“Governor” means the Governor of the Central Bank;

“including” is to be construed as not being by way of limitation;

“Independent Oversight Board” means the Board established pursuant to Section 19 of this Act;

“Inspector” means the Inspector of Petroleum appointed under Section 4 of the Petroleum Act, or his successor in law;

“Investment Committee” means the committee established pursuant to Section 6 of this Act;

“Minister” means the Minister for the time being responsible for petroleum affairs;

“Minister of Finance” means the Minister for the time being responsible for financial affairs;

“Permanent Restricted Account” means the account styled “The Petroleum Fund Permanent Restricted Account” opened by the Central Bank at the Custody Bank pursuant to Section 4 of this Act;

“petroleum” means all natural organic substances composed of carbon and hydrogen; and includes crude oil and natural gas, and all other mineral substances, products, by-products and derivatives that are found in conjunction with petroleum;

“Petroleum Operations” means the exploration, development, extraction, production, field separation, transportation, storage, sale or other disposal of Petroleum Resources; but does not include any transportation or other operations,

- (a) beyond the point of export; or
- (b) in the case of petroleum which is processed within Belize, beyond the point of entry into a refinery or liquefaction or natural gas treatment plant;

“Petroleum Resources” means petroleum in whatever physical state located on or under the territory of Belize or in areas of the Continental Shelf in which rights of exploration and exploitation are exercisable by Belize;

“Petroleum Revenues” has the meaning assigned to it by subsection (1) of Section 5 of this Act;

“Petroleum Revenue Management Fund” or the “Fund” means the Fund established under Section 3(1) of this Act, and made up of the Permanent Restricted Account, and the moneys and investments therein in whatever form and wherever situated;

“Public Information Office” means the office established pursuant to Section 27 of this Act;

“publicize” means, in relation to information provided to the Public Information Office, to post that information on the web-site of the Office and to make the information readily available in hard copy at the premises of the Office;

“State Budget” means the estimate of revenues and expenditures of Belize prepared and laid before the House of Representatives in each financial year for the next following financial year as provided for in Section 115 of the Belize Constitution.

PART II

Establishment of the Fund

Ownership of the Fund.

3.–(1) There is hereby established a Fund to be called the Petroleum Revenue Management Fund.

(2) The Fund is vested in the Government in trust for the peoples of Belize.

(3) No legal or beneficial interest in the Fund and present or future Petroleum Revenues payable to it under Section 5 of this Act, that is adverse to the rights and interests arising from subsection (2) of this section, can be created or exist, in any manner or by any means, including a grant, sale or other disposal, option, mortgage, charge, pledge or lien; and any circumstance, or alleged circumstance, including the act of any person, to the contrary is of no force or effect.

(4) The Fund, and present or future Petroleum Revenues payable to it under Section 5 of this Act, cannot be made available or used, for the satisfaction of any sovereign or commercial debt of the Government, and any circumstance, or alleged circumstance, including the act of any person, to the contrary is of no force or effect.

(5) A person who, directly or indirectly,

- (a) creates, or purports to create, or approves or purports to approve, the creation of a legal or beneficial interest in the Fund, or present or future Petroleum Revenues payable to it, adverse to the rights and interests arising from subsection (2) of this section; or
- (b) makes available, or purports to make available, or approves, or purports to approve, the making available of, the Fund, or present or future Petroleum Revenues payable to it, for the satisfaction of any sovereign or commercial debt of Belize,

commits an offence and is liable on conviction on indictment to a minimum fine of \$100,000 but which may extend to a maximum of \$500,000, or to imprisonment for a minimum period of 3 years but which may extend to 5 years, or to both fine and period of imprisonment.

4.-(1) The Central Bank shall open and maintain an account to be called “The Petroleum Fund Permanent Restricted Account” with an internationally recognised financial institution (to be referred to as the Custody Bank), its branch or agency, in an internationally recognised financial centre, both as recommended by the Central Bank and approved by the Investment Committee.

Account for the operation of the Fund.

(2) The Custody Bank shall be an institution which is given the highest rating by two internationally recognised risk analysis agencies and which is appropriate to the role envisaged for it by this Act, and which enters into a Custody Bank Agreement with the Central Bank to assume that role.

(3) The Custody Bank Agreement shall deal with,

- (a) the payment to the Custody Bank of usual and customary fees and charges for the establishment, holding and management of Fund, and its related advisory, audit, custodial, investment holding and similar fees and charges, by usual and customary means;
- (b) the matters (and in the manner, if any) mentioned in Section 9 and the First Schedule to this Act, and such other matters as the parties may agree and as may accord with international best industry practices and be reasonable in the circumstances, but in a manner consistent with, and not contrary to, this Act.

(4) The Custody Bank Agreement shall be subject to the approval of the Independent Oversight Board.

(5) The Governor shall provide a true and fair copy of the Custody Bank Agreement to the Public Information Office within seven days after it is signed.

(6) Subject always to the other subsections of this Section, the Central Bank shall transfer the Fund to another institution if,

- (a) the Custody Bank ceases to be qualified under subsection (2) of this section, or resigns its mandate; or
- (b) the Central Bank, with the approval of the Investment Committee, decides that it is prudent to do so.

(7) Upon the transfer of the role of a Custody Bank from one institution to another, the Central Bank shall, within seven days of such transfer, provide a full written explanation of the reasons to the Public Information Office and the Office shall publicize the explanation.

Petroleum Revenues to be paid to the Fund.

5.-(1) For the purpose of this Act, Petroleum Revenues means those revenues specified in the Second Schedule.

(2) On and from the date specified for the purpose by the Minister by not less than thirty days notice published in the *Gazette*, to show all Petroleum Revenues payable are to be paid to the Permanent Restricted Account in such manner as provided in this Act and as the Minister may prescribe by regulations.

(3) The Minister shall determine an amount that, in his reasonable judgement, will be sufficient to fund the operations of the Investment Committee and the Independent Oversight Board until such a time as the first Annual Transfer is made, and an equivalent amount to provide such funding shall be withheld from the amount to be deposited in the Permanent Restricted Account.

(4) The Minister may not specify a date pursuant to subsection (2) of this section, which is less than thirty days after the appointment of all the members of both the Investment Committee and the Independent

Oversight Board, the operational readiness of the Public Information Office, and the signing of the Custody Bank Agreement by the Central Bank and the Custody Bank.

(5) A person obliged to pay a Petroleum Revenue not paid before the date mentioned in subsection (2) of this section, does not discharge that obligation until he pays the moneys concerned in the manner required by that subsection.

(6) For the avoidance of doubt, the assessment and determination of any Petroleum Revenue payable to the Fund shall be based on the relevant tax or other law providing for such assessment or determination and all requirements prescribed by such laws for that purpose shall, except as may be expressly prohibited by this law, be complied with.

(7) A person that pays any Petroleum Revenue into the Permanent Restricted Account, or delivers any petroleum in kind to the Government, shall report the amount, date and nature of the payment or delivery to the Central Bank and the Public Information Office in writing at the end of the month in which the payment or delivery is made in such manner as the Minister may prescribe by regulation.

(8) A person who contravenes subsection (7) of this section, commits an offence and is liable on summary conviction to a fine of \$5000 or to imprisonment for a period of 6 months or to both fine and period of imprisonment.

PART III

Investment of the Fund

6.–(1) There is hereby established for the purposes of this Act a committee of individuals to be called “The Petroleum Fund Investment Committee”, the members of which shall be,

Establishment of
Investment Com-
mittee.

(a) *ex-officio*, the Financial Secretary (who shall be the Chairperson);

- (b) *ex-officio*, the Governor (who shall be the Chairperson in the absence of the Financial Secretary);
- (c) a person appointed by the Minister, having taken into account the advice of the organization listed in the Fifth Schedule, being a person who is a professional expert in investment and portfolio management of large funds;
- (d) a person appointed by the Minister, having taken into account the advice of the organization listed in the Fifth Schedule, being a person knowledgeable in finance and investment; and
- (e) a person appointed by the Minister, having taken into account the advice of the organization listed in the Fifth Schedule, being an academic in finance and investment and holding a teaching appointment at a university in Belize,

Provided that at least one, but not more than two, of the non-*ex-officio* members shall be residents or citizens of Belize.

(2) Casual vacancies shall be filled in like manner to the appointment of the vacating member but only for the remaining term of the vacating member.

(3) Within fourteen days of the appointment of a member of the Investment Committee, the Minister shall provide to the Public Information Office in writing the names and qualifications of that member.

(4) A member, not being *ex-officio*, shall hold office for four years, and may not be appointed again until four years after his term expires,

Provided that this provision shall not apply to a member filling a casual vacancy for a period not exceeding two years.

(5) Notwithstanding subsection (4) of this section, the two non-*ex-officio* members first appointed under subsection (1)(d) and (e) of

subsection (1) of this section, shall, as decided by the Minister at the time of their appointment, hold office for two years and three years respectively.

(6) A member who ceases to be qualified shall immediately resign, and, not being *ex-officio*, may otherwise resign at any time by notice to the Minister.

(7) With regard to their code of conduct, Section 121 of the Belize Constitution shall apply to members of the Committee.

(8) A member, not being *ex-officio*, shall not be removed from office before expiry of his term unless he,

- (a) is convicted of an offence involving dishonesty;
- (b) becomes substantially or totally incapable of performing his duties due to illness, infirmity, or other cause;
- (c) absents himself from three consecutive meetings of the Committee without leave of the Chairperson;
- (d) conducts himself in a way that contravenes the requirements of Section 121 of the Constitution; or
- (e) is, in the opinion of the Minister, and with the agreement of the institution upon whose advice the Minister appointed him, performing his duties with grave misconduct and the removal from office for this reason is approved by the Independent Oversight Board.

(9) A member of the Independent Oversight Board shall not be appointed to be a member of the Investment Committee.

7.-(1) A quorum for a meeting of the Committee shall be one of the members *ex-officio* and a majority of the non-*ex-officio* members.

Procedures of the
Committee.

(2) All decisions of the Committee shall be made by the affirmative vote of a majority of the members present and voting and if there is an equality of votes, the Chairperson shall have a second or casting vote.

(3) The Committee shall meet not less frequently than once in every four months, and the first meeting of the Committee shall be held as soon as reasonably possible after the appointment of the members.

(4) Subject to this section, the Committee shall decide its own rules and procedures, and the Chairperson shall promptly provide the Public Information Office with a true and fair copy of the rules or any amendments to them.

(5) The Financial Secretary or the Governor may each, in case of inability to attend a Committee meeting for reasons beyond his control, but on not more than two consecutive occasions, designate the next most senior official in the Ministry of Finance or the Central Bank, as the case may be, to represent him at a meeting of the Investment Committee,

Provided that the representative of the Financial Secretary may only chair a meeting of the Committee in the absence of the Governor.

8.-(1) The Committee shall decide the investment strategy of the Fund consistent with this Act.

(2) The initial strategy shall be decided as soon as reasonably possible, and not later than four months after the first meeting of the Committee, and is to be reviewed not less frequently than once a year.

(3) Pending a decision on the initial strategy, the Minister of Finance, on the advice of the Central Bank, shall decide the investment strategy of the Fund consistent with this Act.

(4) In deciding the strategy, the Committee, and the Minister of Finance in the circumstances mentioned in subsection (3) of this section, shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion and intelligence would exercise in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent

Investment Strategy to be decided by Committee.

disposition of funds considering safety of the capital as well as optimising income over the long-term.

(5) The Chairperson of the Committee and, in the circumstances mentioned in subsection (3) of this section, the Minister of Finance, shall within twenty-eight days of its finalisation provide a written copy of the investment strategy in form and content readily understandable by ordinary persons to the Public Information Office.

The Committee, its members, staff, agents and delegates, shall not be liable for anything done or omitted to be done in good faith and without negligence in the performance of their duties.

9.-(1) The investment strategy of the Fund and all investments of the Fund shall accord in all material respects with the policy set out in the Third Schedule.

Permitted Investments of the Fund.

(2) The investments of the Fund, including cash, shall only be in United States Dollars, Pounds Sterling, Euros or other currencies of comparable stability and convertibility.

(3) With the prior approval of the House of Representatives, up to ten *per cent* of the Fund may be invested in Government of Belize international debt securities investments.

10.-(1) The Central Bank shall implement the investment strategy by written instruction to the Custody Bank given in accordance with the Custody Bank Agreement.

Implementation of Investment Strategy by the Central Bank.

(2) The Central Bank may employ one or more internationally recognised portfolio managers, with skills, experience and reputation appropriate to the mandate, to advise it on the implementation of the strategy, and who agree in writing with the Central Bank to do so, and the Central Bank shall employ such a manager if the strategy involves equity investment.

(3) The Central Bank may give to a manager qualified under subsection (2) of this section, and subject to the agreement therein mentioned,

discretion to make investments of the Fund, in accordance with the investment strategy, and for that purpose may authorize custody of a portion of the Permanent Restricted Account to the manager concerned.

(4) The agreement mentioned in subsection (2) of this section shall be subject to the approval of the Investment Committee and Independent Oversight Board and shall deal with,

- (a) the matters mentioned therein and in subsection (3) of this section;
- (b) the payment to the manager of usual and customary fees and charges by usual and customary means; and
- (c) such other matters as may accord with international best industry practice and be reasonable in the circumstances, and in a manner consistent with, and not contrary to, this Act.

(5) The Governor shall provide a true and fair copy of the agreement mentioned in subsection (2) of this section to the Public Information Office within seven days after it is signed.

(6) The Central Bank shall keep the investments of the Fund under constant review and shall provide (and shall ensure that it is always in a position to promptly provide) the Investment Committee with all information in respect of the investments of the Fund as the Committee may reasonably request, and, for that purpose, appropriate officials of the Central Bank shall attend meetings of the Committee if so requested.

(7) The Central Bank shall procure access, through its web-site at all times, to the current statements of the Permanent Restricted Account, updated at least monthly, including transfers therefrom, cash balances and all investments therein, and the Central Bank and the Public Information Office shall together ensure that a link thereto is readily available on the web-site of the Office.

(8) The Central Bank shall provide to the Public Information Office, in summary form and content readily understandable, a quarterly statement and explanation of the Permanent Restricted Account, including transfers therefrom, cash balances and all investments (including the initial price and current value) therein, and the Public Information Office shall promptly publicize the information.

(9) All costs and expenses additional to its regular expenditures and reasonably incurred by the Central Bank in discharging its responsibilities under this Act, including,

- (a) payment of fees and charges of the Custody Bank as provided in subsection (3) (a) of Section 4 of this Act and that are not deducted from dividends and returns as provided in Paragraph 1 (b) of the Second Schedule; and
- (b) payment of investment advisers' and managers' fees and charges as provided in subsection 4(b) of this Section and that are not deducted from dividends and returns as provided in Paragraph 1 (b) of the Second Schedule,

shall be reimbursed by the Government.

11.-(1) For purposes of section 13 (1)(a), the Investment Committee shall prepare an annual budget for each financial year for the Chairperson to submit to the Minister of Finance for the State Budget and the Committee's budget shall make provision for the hiring of consultants, advisors and other service providers, of sufficient number and necessary skills to support the work of the Committee.

Budget and administrative support of the Investment Committee.

(2) Members of the Investment Committee, other than *ex-officio* members, shall be paid an honorarium from the budget of the Committee in such amount as the Minister shall determine by Order published in the *Gazette*, subject to negative resolution, and shall not receive any other payment as members except the reimbursement of properly incurred expenses (of a nature determined by the Minister by Order published

in the *Gazette* as being reimbursable expenses, subject to negative resolution) approved by the Minister.

(3) The Central Bank shall provide administrative support for the Committee, including budgetary control and the making of contracts (which shall be made subject to public procurement rules and in the name of the Bank).

PART IV

Annual and Exceptional Withdrawal from the Fund

12.—(1) The Central Bank shall open an account to be called “The Petroleum Fund Flexible Transfer Account”.

(2) In each financial year, the Central Bank shall instruct the Custody Bank, in the manner provided therefore in the Custody Bank Agreement, immediately to transfer in United States Dollars the Annual Transfer Amount (but not part only) from the Permanent Restricted Account to the Flexible Transfer Account.

(3) For purposes of this Act, “Annual Transfer Amount” is, for a financial year, an amount in United States Dollars being the lesser of,

- (a) Sustainable Permanent Income determined in the manner, and subject otherwise as provided in, the Fourth Schedule for that year; and
- (b) the balance in the Permanent Restricted Account immediately before the start of that year.

(4) The report on Sustainable Permanent Income referred to in paragraph 9 of the Fourth Schedule, including the determination of the Annual Transfer Amount, shall be subject to the approval of the Independent Oversight Board and if the Board does not approve the amount of the Annual Transfer Amount, it shall provide to the Prime Minister, the Minister, the Minister of Finance, the Central Bank, the Inspector and the Commissioner of Income Tax, a fully reasoned explanation of the reasons for its disagreement.

Annual Transfer
to the Flexible
Transfer Account.

(5) If the disagreement referred to in subsection (4) of this section, cannot be resolved within twenty-one days following the disapproval of the Independent Oversight Board, an independent panel made of three international experts with relevant expertise in the area of dispute shall be appointed by the Minister; with one expert nominated by the Board, and one expert nominated by the Minister and the third expert jointly nominated by the two nominees of the Board and the Minister.

(6) The panel referred to in subsection (5) of this section shall, within ten days of its appointment issue a report on the input used for the calculation, the compliance of the methodology with the law and the accuracy of calculation itself and the panel shall make a recommendation thereon which shall be final. All expenses related to the appointment and work of the panel shall be met through the budget of the Independent Oversight Committee.

(7) In the event that, for any financial year, the amount specified in subsection (3)(b) is less than the amount specified in subsection (3)(a) of this section for determining the Annual Transfer Amount, no future Annual Transfer Amount shall be increased to compensate or any such difference in the said amounts.

(8) The Central Bank shall, and may only, give the instruction mentioned in subsection (2) of this section to the Custody Bank within seven days upon receipt of an original written request therefore,

- (a) signed by the Financial Secretary, he certifying in the request that the amount to be transferred is the Annual Transfer Amount;
- (b) countersigned by the Chairperson of the Independent Oversight Board, he certifying that no restriction order made by the Independent Oversight Board under Section 26 of this Act, (which has not been rescinded by the Board or vacated in the manner prescribed by that Section) prohibiting the transfer of the Annual Transfer Amount has been issued, or is then to be issued, by the Board;

- (c) countersigned by the Clerk to the National Assembly, he certifying that the information mentioned in section 13(1) and (2) of this Act, has been fully and completely included in the proposed State Budget for the financial year concerned and that fourteen days have elapsed since the proposed State Budget was presented to the House.

State Budget for the Annual Transfer Amount.

13.-(1) The Minister of Finance shall include in the proposed State Budget for a financial year,

- (a) the Annual Transfer Amount or the financial year concerned, together with the calculation thereof and an explanation of the calculation in form and content readily understandable by ordinary persons;
- (b) the proportion (and amount) of the Annual Transfer Amount proposed to support the general funding requirements of the Government in the financial year concerned, including the reimbursement of the costs and expenses, of the Central Bank as mentioned in section 10(a) of Section 10 of this Act;
- (c) the respective budgets proposed for the financial year concerned by the Investment Committee and the Independent Oversight Board and the respective proportions (and amounts) of the Annual Transfer Amount to support the funding of those budgets.

(2) The Minister of Finance shall include with the proposed State Budget estimates (and the calculation thereof), by the relevant persons mentioned in the Fourth Schedule and in the manner provided in that Schedule, of the Sustainable Permanent Income for each of the next two financial years, and of the Annual Transfer Amount or those years, including a reasoned commentary thereon highlighting, *inter alia*,

- (a) the bases for, and the uncertainties involved in, the estimates;

- (b) any differences (and the reasons therefore) from previous estimates; and
- (c) any differences (and the reasons therefore) between the last estimate for the current financial year and the Annual Transfer Amount for the current financial year.

(3) The Minister of Finance shall provide the information mentioned in subsections (1) and (2) of this section to the Public Information Office within seven days after it is laid before the House of Representatives.

14.-(1) The House of Representatives shall debate the information mentioned in Section 13(1) and (2) of this Act after it is laid before it, and may hear from persons concerned in their preparation, and from the Independent Oversight Board generally, during the debate.

Appropriation of the Annual Transfer Account.

(2) Subject to subsection (3) of this section, the House of Representatives shall determine the appropriation of the Annual Transfer Amount.

(3) Funds to meet the proposed budgets of the Investment Committee and the Independent Oversight Board or the financial year concerned are hereby appropriated unless the House of Representatives appropriates different funds by an Act dealing with no other matter and the Bill was supported on its final reading by a majority of not less than three-quarters of all the members of the House.

15.-(1) Moneys in the Flexible Transfer Account appropriated in accordance with the provisions of section 14 of this Act, shall immediately be transferred to the following account that the Central Bank shall open in Belizean dollars, one each in the name of,

Operational Accounts for withdrawals from the Flexible Transfer Account.

- (a) the Accountant General, to be styled “The Petroleum Fund Accountant General Account”, and to be used for general funding requirements of the Government, with priority to the budget of the Public Information Office, and, where required by law and subject to Section 33(a) of this Act, payment of audit adjustments determined in section 33; of the Act;

- (b) the Investment Committee, to be styled “The Petroleum Fund Investment Committee Account”, and to be used for the budget of the Investment Committee;
- (c) the Independent Oversight Board, to be styled “The Petroleum Fund Independent Oversight Board Account”, and to be used for the budget of the Independent Oversight Board Account, including meeting the costs and expenses of the Public Information Office as provided in section 28(2) of this Act.

(2) The respective accounts mentioned in subsection (1) (a) (b) and (c) of this section, may be operated only on the written instructions of such persons as are authorized by, respectively the Accountant General, the Chairperson of the Investment Committee, and the Chairperson of the Independent Oversight Board.

(3) The respective accounts mentioned in subsection (1) (a) (b) and (c) of this section, are not to be credited with an amount in a financial year greater than that which corresponds, respectively, to the appropriations approved for the financial year concerned for general funding requirements of the Government to be met from the Fund for the Investment Committee and for the Independent Oversight Board.

(4) The Financial Secretary may, after the end of each financial year, instruct the Central Bank to transfer to the Permanent Restricted Account any moneys in the Flexible Transfer Account which, at the end of that financial year were not utilized as appropriated, and he shall promptly provide a true and fair copy of the instruction to the Public Information Office.

Information on transfers and appropriations.

16.—(1) The Governor shall within seven days of receipt of the instructions and request for the transfer of money as prescribed in Section 12 of this Act, provide a true and fair copy thereof to the Public Information Office.

(2) The Minister of Finance shall promptly provide in writing to the Public Information Office, in form and content readily understandable

by ordinary persons, the appropriations determined in accordance with Section 14 of this Act, for the relevant financial year.

17.-(1) In, and only in, exceptional circumstances, may an amount additional to the Annual Transfer Amount be transferred from the Permanent Restricted Account to the Flexible Transfer Account in a financial year.

Transfer of additional amounts in exceptional circumstances.

(2) For the purposes of subsection (1) of this section, “exceptional circumstances” means,

- (a) devastation caused by man-made environmental disasters or natural disasters including hurricane, earthquake, famine, drought, or caused by civil turmoil and acts of war;
- (b) which, in the opinion of the Government, Affect a significant proportion of the population; and
- (c) from which, in the opinion of the Government, Belize cannot recover without the financial support, *inter alia*, of the transfer and application of an additional amount from the Permanent Restricted Account.

(3) The additional amount referred to in subsection (1) of, this section, may only be transferred pursuant to an Act dealing with the transfer of that additional amount only for that financial year and no other matter, and to be voted on separately from any other Bill, and only if the Bill was supported on its final reading in the House of Representatives by a majority of three-quarters of all the members of that House.

(4) The Bill mentioned in subsection (3) of this section, shall not be voted upon on its final reading unless fourteen days have elapsed since,

- (a) the Minister of Finance has laid before the House of Representatives a fully reasoned explanation of the need for the transfer of the additional amount, together with a detailed plan of expenditure;

- (b) the Independent Oversight Board has laid before the House a report on the proposal indicating whether, in the opinion of the Board, the additional amount should or should not be transferred; and
- (c) the Minister of Finance has provided a true and fair copy of his explanation, and Chairperson of the Independent Oversight Board has provided a true and fair copy of the report of the Board, to the Public Information Office, and the Office has publicized those copies.

(5) The Minister of Finance shall provide true and fair copies of his explanations to the Independent Oversight Board in good time for the Board to prepare its report.

(6) The House of Representative shall debate the explanation and report mentioned in this Section as a matter of urgency after they are laid before it and determine the appropriation of the amount referred to in subsection (1) of this section.

18.—(1) Subject to subsection (2) of this section, the Central Bank may instruct the Custody Bank, in the manner provided therefor in the Custody Bank Agreement, immediately to transfer in United States Dollars an amount other than the Annual Transfer Amount from the Permanent Restricted Account to the Flexible Transfer Account.

(2) The Central Bank shall, and may only, give the instruction mentioned in subsection (1) of this section, to the Custody Bank upon receipt of an original written request therefor,

- (a) signed by the Financial Secretary, he certifying in the request that the amount to be transferred is the additional amount authorised by law in the manner and subject as otherwise provided in section 17 of this Act; and

Instructions for
exceptional with-
drawals.

- (b) countersigned by the Chairperson of the Independent Oversight Board, he certifying that no restriction order made by the Independent Oversight Board under section 26 of this Act, (which has not been rescinded by the Board or vacated in the manner prescribed by that section) prohibiting the transfer of the Annual Transfer Amount has been issued, or is then to be issued, by the Board; and
- (c) countersigned by the Clerk to the National Assembly, he certifying that the amount to be transferred is the additional amount authorised by law in the manner and subject as otherwise provided in section 17 of this Act.

PART V

Independent Oversight Board of the Fund

19.–(1) There is hereby established a Board to be known as “The Petroleum Fund Independent Oversight Board”, and composed of nine members who shall all be appointed by the Governor-General,

Establishment and appointment of members.

- (a) as to two members;
 - (i) acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition, an individual who is a member of the National Assembly and who is a member of a party forming the Government; and
 - (ii) acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition, an individual who is a member of the National Assembly and who is a member of the majority opposition party;

- (b) as to six members, acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition, but choosing from candidates recommended to him in writing by the organizations mentioned in the Fifth Schedule with each of those organizations recommending one member; and
- (c) as to one member, exercising his own deliberate judgment after such consultation as he decides is appropriate, the individual to be from the international community.

(2) In appointing members of the Board, the Governor-General shall not be obliged to act on the advice of any person other than as mentioned in subsection (1) and he shall seek, but always subject to paragraphs (a), (b) and (c) of subsection (1) of this section, to ensure both the widest possible representation of Belizean society and that the Board has the skills, experience and standing appropriate to its role.

(3) Casual vacancies shall be filled in like manner to the appointment of the vacating member but only for the remaining term of the vacating member.

(4) The member appointed pursuant to subsection 1(a)(i) of this section, shall be the Chairperson, and, in his absence, the member appointed pursuant to subparagraph (ii) of that paragraph.

(5) A member of the Investment Committee shall not be appointed to be a member of the Independent Oversight Board.

(6) The Governor-General shall provide to the Public Information Office in writing the names and qualifications of the members of the Board, within twenty-eight days of their acceptance of appointment, and, if relevant, the names of the respective recommending institutions.

(7) With regard to their code of conduct, section 121 of the Belize Constitution shall apply to members of the Board.

20.—(1) A member shall hold office for four years, and not eligible for appointment again until four years after his term expires.

Term of office
and removal.

(2) Notwithstanding subsection (1) of this section, three of the persons first appointed under section 19(1)(b) of this Act, as decided by the Governor-General at the time of their appointment, shall hold office for three years.

(3) A member may resign at any time by notice to the Minister, and shall do so if, being a member appointed pursuant to paragraph (a) of subsection (1) of section 19 of this Act, he ceases to be qualified.

(4) A member shall not be removed from office before expiry of his term unless he,

- (a) becomes bankrupt or insolvent under the laws of any country, compounds with his creditors of benefits under any law of any country for the relief of a bankrupt or makes any assignment in whole or in part of his income for the benefit of his creditors;
- (b) is convicted of an offence involving dishonesty;
- (c) becomes substantially or totally incapable of performing his duties due to illness or infirmity;
- (d) conducts himself in a way that contravenes the requirements of section 121 of the Constitution; or
- (e) absents himself from three consecutive meetings of the Board without leave of the Chairperson (and if the Chairperson, without leave of the Board, he not having a vote on the matter).

21.—(1) All decisions of the Board shall be made by a majority of the members present and voting.

(2) A quorum for a meeting of the Board shall be one of the members appointed pursuant to Section 19(1)(a) of this Act, and four of the members appointed pursuant to paragraph (b) and (c) of that subsection.

(3) The Board shall meet not less frequently than once in every four months, and the first meeting of the Board shall be held as soon as reasonably possible after the appointment of the members.

(4) Subject to this section, the Board shall decide its own rules and procedures and the Chairperson shall promptly provide the Public Information Office with a true and fair copy of the rules and procedures or any amendment to them.

(5) For purposes of section 13(1)(a) of this Act, the Board shall prepare an annual budget for each financial year for the Chairperson to submit to the Minister of Finance for the State Budget and the Board's budget shall make provision for the hiring of consultants, advisors and other service providers, of sufficient number and necessary skills (including accounting and administrative) to supply the work of the Board.

(6) The members appointed pursuant to paragraph to section 19(1) (b) and (c) of this Act, shall be paid an honorarium from the budget of the Board in such amount as the Minister shall determine by Order published in the *Gazette*, subject to negative resolution but being no more, than ten per cent of the salary (excluding allowances) of a member of the House of Representatives, and shall not receive any other payment as members except the reimbursement of properly incurred expenses (of a nature determined by the Minister by Order published in the *Gazette* as being reimbursable expenses, subject to negative resolution) approved by the Minister.

(7) No financial assistance other than as mentioned in subsection (6) of this section is to be provided to the Board or to a member in his capacity as a member.

(8) The Attorney General's Ministry shall provide administrative support for the Board, the costs thereof to be met from the budget of the

Board, including budgetary control and the making of contracts (which shall be made subject to public procurement rules and in the name of the department).

22.—(1) The Board shall, within the limits of its powers,

Functions and duties of the Board.

- (a) monitor, and seek to ensure proper, implementation of this Act, as well as compliance by all persons with their obligations under and in respect of, this Act;
- (b) interact with the peoples of Belize regarding the implementation of this Act, and inform and educate the peoples of Belize on the Fund, the workings of the Investment Committee, the Board and the Public Information Office;
- (c) investigate complaints made by persons regarding the implementation of this Act or compliance by persons with their obligations under or in respect of this Act, and facilitate the making of such complaints to it;
- (d) consider from time to time and, if thought fit, recommend, amendments to this Act, either in the interests of transparency or otherwise in the interests of present and future generations of the peoples of Belize; and
- (e) carry out such other tasks related to this Act and which do not conflict with its other functions as may be given to it by law or the Minister.

(2) Subsection (1) includes,

- (a) receiving, considering, commenting upon, or approving, in the manner provided in this Act, the periodic reports on the Fund, or of the Investment Committee, the Public Information Office, the Auditor-General and the independent auditor;

- (b) receiving, considering and reporting on in the manner provided in this Act, any proposal to transfer an amount additional to the Annual Transfer Amount from the Permanent Fixed Account to the Flexible Transfer Account in a financial year, and the related fully reasoned reports and estimations of the Minister of Finance and the Central Bank;
- (c) approving agreements the Board is required to approve under this Act; and
- (d) considering the adequacy of the budgets and funding of the Investment Committee and the Board and their workings, and reporting thereon.

Powers of the Board.

23.—(1) In performing its duties and functions under Section 22 of this Act, the Board may,

- (a) act on its own volition or at the request of or on information provided (in whatever manner and whether or not anonymously) by any person;
- (b) hold public consultations;
- (c) summon persons for meetings in *camera* and call for the production of books, plans and documents.

(2) All summonses for the attendance of persons and for the production of books, plans and documents, may be in the form prescribed under the rules and procedures of the Board and shall be signed by the Chairperson.

(3) The Board may order payment, out of its funds, to any witness who may appear and give evidence before it of such sums of money, not exceeding those which the Minister may from time to time by Order prescribe subject to affirmative resolution, as the Board thinks reasonable and sufficient to reimburse to such witness the travelling or other expenses which he has incurred in attending upon the Board and to compensate him for his trouble and loss of time, but it shall be lawful for the Board to abate or wholly disallow payment to any witness.

(4) Every person who,

(a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons served on him; or,

(b) refuses or omits, without sufficient cause, to produce books, plans or documents in his possession or under his control, and mentioned or referred to in the summons served on him as being required to be produced

shall be guilty of an offence and is liable on conviction to [].

24.—(1) If a person makes a written complaint to it, the Board shall conduct a preliminary investigation and, within sixty days after receiving the complaint, respond in writing to the complainant, explaining the results of the preliminary investigation and the further action, if any, it intends to take, and shall keep the complainant advised in writing of the progress of that action.

Action on a complaint.

(2) The complainant may join in any legal action which the Board brings in respect of his complaint, and the Board shall give him the opportunity to do so.

(3) A person aggrieved by a decision or the action, if any, of the Board in respect of a complaint brought by him, may bring an action before the Supreme Court in respect of the complaint or the decision or action, if any, of the Board pursuant to Section 36 of this Act.

25.—(1) In carrying out its functions, the Board shall be supported by, and utilize the services of all Government institutions responsible for enforcing the rule of law.

Support from Government law enforcement agencies.

(2) The Board shall report any matter which it believes should be the subject of further investigation to the Attorney General, the Director of Public Prosecutions or the Commissioner of Police, but shall not

make any adverse allegation against any person without giving that person a reasonable opportunity to be heard unless in its view there is a material likelihood of material irreparable damage being suffered or of a person absconding if it did so.

Restriction order.

26.—(1) The Board decides that a grave threat to the interests of the peoples of Belize as a consequence of the violation, or suspected violation, by any person of any of the provisions of this Act cannot be prevented or remedied unless it does so, the Board may make an order suspending the transfer of moneys from the Permanent Restricted Account or the making of an investment of the Fund.

(2) A copy of any order made by the Board under subsection (1) of this section shall be,

(a) served on the Prime Minister, the Minister of Finance, the Governor, the Central Bank, the Custody Bank and such other persons as the Board decides are appropriate; and

(b) provided to the Public Information Office.

(3) The Board shall rescind any order made under subsection (1) of this section, when it decides that the grounds on which it was made no longer exist, and a copy of that rescission shall be served on every person on whom the order was served, and shall be provided to the Public Information Office.

(4) An order under subsection (1) of this section may be vacated by the Supreme Court if it decides that the Board acted unreasonably in making the order or in not rescinding it.

(5) The Board shall, within forty-eight hours after making an order under subsection (1) of this section, provide a full written report to the Cabinet and the National Assembly, explaining in adequate detail the reasons for its decision.

(6) Any order made under subsection (1) and any report made under subsection (5) shall be privileged, and, without prejudice to subsection

(4) of this section, no person shall have any right of action, including for libel, as a consequence thereof.

(7) Every person who acts contrary to the terms of any restriction order shall be guilty of an offence and is liable on conviction to a minimum fine of \$100,000 but which may extend to a maximum of \$500,000, or to imprisonment for a minimum period of 3 years but which may extend to 5 years, or to both fine and period of imprisonment.

PART VI

Transparency, Public Access to Information, Accounting, Audit and Reports of the Fund

27.—(1) There is hereby established, as a part of the Ministry responsible for petroleum affairs, an office to be known as The Petroleum Fund Public Information Office.

Establishment of the Public Information Office.

(2) The head of the office shall be a suitably qualified person appointed by the Public Services Commission of a grade not less than an officer on pay scale 16.

28.—(1) The Ministry responsible for petroleum affairs shall provide adequate human resources to support the work of the Office, including making provision for permanent and temporary staff, and the hiring of consultants, advisors and other service providers, of sufficient number and necessary skills (including accounting, administrative and information technology).

Internal procedures and budget.

(2) All costs of and expenses for resources required to effectively carry out the work of the Office, other than the resources provided for under subsection (1) of this section hereof, shall be met through the budget of the Independent Oversight Board.

(3) The Minister shall determine the internal rules and procedures of the Office, by Order published in the *Gazette*, subject to negative resolution and the Office shall promptly publicize the rules and procedures.

Function and operation.

29.—(1) The Office shall receive, index, file, keep and, subject as mentioned in this Act, promptly publicize, and may otherwise publish in such manner as it believes will aid transparency, information provided or otherwise made available to it by persons pursuant to this Act, and shall establish and maintain efficient and readily auditable procedures and systems therefore.

(2) The Minister shall, by Order subject to negative resolution, prescribe rules for orderly access by all persons to information in hard copy, and the provision or making of copies thereof, at the premises of the Office, including the opening hours of the Office, the time within which the information or copy is to be made available, and reasonable, cost reflective fees, and true and fair copies of those rules shall be posted by the Office on its web-site and otherwise be available in hard copy.

(3) If the Head of the Office has reasonable grounds to believe that information which should have been provided to the Office has not been duly provided, he shall, in writing, request any person who reasonably appears to him to be a person who should have provided that information to the Office to so provide it or so much as has not been provided, and shall provide a copy of that request to the Independent Oversight Board.

(4) If a person mentioned in subsection (3) of this section, does not provide the information requested to the Office within twenty-one days of the request, the Head of the Office shall report the matter in writing to the Independent Oversight Board, unless the person concerned has satisfied him that he is not a person who should have supplied the information concerned to the Office, and shall post on its web-site the name of the person concerned and the nature of the information which has not been provided.

(5) Actions of the Head of the Office under subsections (3) and (4) of this section shall be privileged and no person may bring any action as a consequence thereof, including for libel.

Additional information to be provided to the Office.

30.—(1) The Minister shall promptly provide the Office true and fair copies of all invitations to tender for the conduct of Petroleum Operations, all bids received in response to those invitations, and all contracts related thereto.

- (2) A person who has,
 - (a) paid any Petroleum Revenue in any given calendar year; or
 - (b) delivered to the Government any share of petroleum in kind as may be required under a production sharing agreement or as royalty,

shall, at the end of that calendar year, report in writing to the Public Information Office the total amounts and nature of payments (indicating the specific types of government revenues involved) and the total amounts of petroleum delivered in kind, in such manner as the Minister may prescribe by regulation.

31.—(1) Subject to subsection (2) of this section, information protected by proprietary industrial property rights shall not be publicized if to do so would cause material financial harm to the owner or licensee thereof,

Confidentiality.

Provided that this subsection shall not be construed to apply to any information relating to Petroleum Revenues payable or how they are to be paid.

(2) A person seeking the protection mentioned in subsection (1) of this section, in respect of its information shall notify the Head of the Public Information Office, in writing, of the information concerned and apply to the Supreme Court for an order to prohibit the information being publicized.

(3) The Supreme Court shall have jurisdiction to determine the matter, in chambers, and may grant temporary relief pending final resolution. The person seeking the protection shall have the burden of proving that the information should not be publicized.

(4) Pending a hearing on the matter, the information shall not be publicized.

32.—(1) The reporting of the accounts of the Permanent Restricted Account shall be done in United States Dollars using currency conversion principles in accordance with international accounting standards.

Unit of accounts, and reports.

(2) The Central Bank shall prepare (and the Governor shall sign) financial year annual accounts of the Fund and of the Central Bank insofar as applicable to its role and responsibilities under this Act, and lay them before the National Assembly, within sixty days after the end of the period concerned, accompanied by written reports on the accounts and activities of the Fund and of the Bank in regard to that role and those responsibilities in that period in such detail and dealing with such matters as shall constitute full and frank disclosure in form readily understandable by ordinary persons.

(3) The Investment Committee shall prepare (and the Chairperson shall sign) financial year annual accounts of the Committee, and lay them before the National Assembly, within sixty days after the period concerned, accompanied by a written report on the accounts and the activities of the Committee and on the performance of the investments of the Fund in that period, including,

- (a) comparisons of that performance against market indices and other benchmarks which it decides are appropriate in the circumstances;
- (b) a commentary thereon; and
- (c) such other information as it reasonably decides is appropriate and will represent full and fair disclosure and aid understanding.

(4) The Independent Oversight Board shall prepare (and the Chairperson shall sign) financial year annual accounts of the Board, and lay them before the National Assembly within sixty days after the end of the period concerned, accompanied by a written report on the accounts and the activities of the Board in that period.

(5) The Central Bank, the Chairperson of the Investment Committee and the Chairperson of the Independent Oversight Board shall provide true and fair copies of the respective accounts and reports of the Fund, the Central Bank, the Committee and the Board mentioned in this section to the Public Information Office, promptly after they have been laid before the National Assembly.

33.—(1) The Auditor-General shall audit the Fund, and the accounts of the Central Bank mentioned in subsection (2) of Section 32 of this Act, the Committees and the Board, each financial year, and shall report in writing thereon to the National Assembly and the Independent Oversight Board not later than three months after the end of the financial year concerned.

Audits and adjustments.

(2) The Auditor-General shall provide true and fair copies of the reports mentioned in subsection (1) of this section, to the Public Information Office promptly after they are laid before the National Assembly.

(3) The Fund shall additionally be audited each financial year by an independent auditor which agrees in writing with the Independent Oversight Board to do so.

(4) The auditor mentioned in paragraph (3) of this section, shall be an internationally recognized firm of auditors with skills experience and reputation appropriate to its mandate, and its fees shall be met from the budget of the Independent Oversight Board.

(5) The agreement mentioned in subsection (3) of this section shall,

- (a) require that the auditor shall audit the Fund each financial year, and report in writing thereon in the manner required by subsection (7) of this section;
- (b) require that the audit scope includes a comparison of receipts into the Fund with payments by Contractors, the correctness of the calculation of income tax and other revenues payable, the correctness of the calculation of the Sustainable Permanent Income, and the compliance with the investment strategy;
- (c) require that the auditor shall provide true and fair copies of the reports mentioned in paragraph (a) in the manner required by subsection (8) of this section;

- (d) provide for the payment to the auditor of usual and customary fees by usual and customary means;
- (e) deal with such other matters as may accord with international best industry practice and be reasonable in the circumstances, and in a manner consistent with, and not contrary to, this Act;
- (f) be for a term of not more than one year, but may be renewed on the same or different terms;
- (g) be subject to confirmation by the Independent Oversight Board.

(6) The Chairperson of the Independent Oversight Board shall provide a true and fair copy of the agreement mentioned in subsection (3) of this section, to the Public Information Office within seven days after it is signed.

(7) The auditor shall audit the Fund each financial year, and shall report in writing thereon to the National Assembly and the Independent Oversight Board not later than three months after the end of the financial year concerned.

(8) The auditor shall provide true and fair copies of the reports mentioned in subsection (7) of this section, to the Public Information Office promptly after they are laid before the National Assembly.

(9) Any amount disclosed by an audit done under this Section to be due to a person who has paid Petroleum Revenue to the Permanent Restricted Account, or which is otherwise finally determined to have been overpaid, shall be dealt with and reimbursed in accordance with the applicable tax and other laws.

(10) The House of Representative shall debate the reports of the Auditor-General and the auditor, and the related reports and accounts of the Fund, the Central Bank, the Investment Committee and the Independent Oversight Board as a matter of urgency after they are laid before it, and may hear from persons concerned in their preparation, and from the Independent Oversight Board generally, during the debate.

PART VII

Miscellaneous

34. The Minister may make regulations prescribing matters,

Regulations.

- (a) necessary for the better carrying out of the provisions and purposes of this Act;
- (b) required or permitted by this Act to be prescribed.

35.—(1) A person who instructs, or purports to instruct, or attempts to instruct, the Custody Bank to transfer moneys from the Permanent Restricted Account other than in accordance with the provisions of this Act commits an offence and is liable on conviction on indictment to a minimum fine of \$100,000 but which may extend to a maximum of \$500,000, or to imprisonment for a minimum period of 3 years but which may extend to 5 years, or to both fine and period of imprisonment.

Offences.

(2) A person who uses, or purports to use, or attempts to use, moneys in the Flexible Transfer Account, or who instructs, or purports to instruct, or attempts to instruct, the Central Bank to transfer moneys from the Flexible Transfer Account, other than in accordance with the provisions of this Act commits an offence and is liable on conviction on indictment to a minimum fine of \$100,000 but which may extend to a maximum of \$500,000, or to imprisonment for a minimum period of 3 years but which may extend to 5 years, or to both fine and period of imprisonment.

(3) Every person who,

- (a) wilfully hinders or deters any person from the proper exercise of his functions or the performance of his obligations under or in respect of this Act;
- (b) makes, or offers to make, any inducement to any such person to secure an advantage for himself or another, or to influence any such person; or

- (c) threatens, or otherwise seeks unlawfully to influence, any such person,

commits an offence and is liable on conviction to a minimum fine of \$100,000 but which may extend to a maximum of \$500,000, or to imprisonment for a minimum period of 3 years but which may extend to 5 years, or to both fine and period of imprisonment.

- (4) Nothing in this Act, including in any regulations made under it providing for the commission of an offence, shall prevent the prosecution of any person for an offence under any other law.
- (5) No civil remedy for an act or omission shall be suspended or affected by reason only that the act or omission is an offence under this Act and nothing in this Act shall be construed so as to repeal, remove or reduce any remedy available to any person under any other law.

Private enforcement.

36.—(1) Any person with sufficient interest may bring an action before a court with applicable jurisdiction to compel any authority of Belize or public official (including the Investment Committee, the Independent Oversight Board or the Public Information Office, or their respective members), [or any other person], to fulfil an obligation under or in relation to this Act, or to injoin any action in violation of this Act.

(2) Any person who brings an action under subsection (1) of this section, shall first have made a complaint to the Independent Oversight Board unless the Court, following a preliminary hearing, is of the view that there is a case to answer and that there is a material likelihood of material irreparable damage being suffered or of a person absconding if there is delay.

Commencement and Application.

37.—(1) This Act shall come into force on such date as the Minister appoints by notice published in the *Gazette*.

(2) A person who complies with an obligation under this Act does not, solely as a consequence of complying with that obligation, breach any other obligation whether under law, contract or otherwise.

FIRST SCHEDULE

PETROLEUM REVENUE
MANAGEMENT FUND ACT
Custody Bank Agreement
(Section 4)

1. The Custody Bank Agreement shall deal with, *inter alia*,
 - (a) the manner of proof and certification of transfer of the Annual Transfer Amount from the Permanent Restricted Account to the Flexible Transfer Account;
 - (b) the deadline for the transfer of the Annual Transfer Amount to the Flexible Transfer Account and other transactions with and between the Accounts;
 - (c) the authorization for and manner of proof of certification of investment transactions;
 - (d) the manner of proof and certification of returns on investments into the Permanent Restricted Account;
 - (e) the manner of proof and certification of payment of Petroleum Revenues into the Permanent Restricted Account by the persons liable to pay such moneys;
 - (f) the provision of quarterly statements of accounts by the Custody Bank.

2. The Custody Bank Agreement shall provide, *inter alia*,
 - (a) that transfers from the Permanent Restricted Account shall only be effected in accordance with this Act;
 - (b) that the provisions of this Act shall be an integral part of the agreement;

- (c) that the Permanent Restricted Account shall be maintained and dealt with by the Custody Bank solely in accordance with the provisions of this Act and the agreement;
- (d) that any dealing by the Custody Bank contrary to subparagraph (c) of this Paragraph shall be null and void and render the Custody Bank liable for the same provided the Custody Bank has knowledge of the circumstances contrary to the provisions of this Act which make such dealings invalid;
- (e) that the Bank may only resign its mandate on not less than 12 months written notice to the Central Bank (or such lesser period as the Central Bank shall decide);
- (f) that the Central Bank may terminate the Custody Bank's mandate on or without notice;
- (g) that if the Custody Bank's mandate is terminated, it will deal with the moneys and investments in the Accounts in such manner as the Central Bank shall instruct.

3. The Custody Bank Agreement shall include the acknowledgement by the Custody Bank that the Fund is held in trust as mentioned in Section 3 of this Act and that the Custody Bank does not, and shall not, have any claim on the Accounts and the moneys and investments therein, and further that the Custody Bank shall include a similar acknowledgement in regard to all persons holding investments for the Fund.

SECOND SCHEDULE

PETROLEUM REVENUE
MANAGEMENT FUND ACT*Petroleum Revenues*

(Section 5)

1. Petroleum Revenues are,

- (a) all monies in whatever currency payable to the Government or any local authority by a Contractor pursuant to a Contract, or by law or otherwise, whether taxes, duties, excises, fees, charges, or otherwise and however styled and which relate to, or result from, directly or indirectly, Petroleum Operations, including,
 - (i) royalties less any portion thereof payable to the local community as may be prescribed by law;
 - (ii) taxes on income, profit or gain, including resource rent and additional profits taxes;
 - (iii) monies and other consideration from the sale or other disposition of the Government's production share of petroleum;
 - (iv) gross revenues due to the Government for taking a working interest in the Contractor's Petroleum Operations less all applicable exploration and operating expenses assumed by the Government and less any financial charges payable by the Government for a Contractor's loan to finance the acquisition of the working interest;
 - (v) signature, production and other bonuses;
 - (vi) interest and other moneys (but not criminal penalties) payable by a person as a consequence of his failure duly to pay a Petroleum Revenue; and

- (vii) such other monies as the Minister may by Order published in the *Gazette* prescribe, subject to negative resolution;
 - (b) all proceeds of any sale of any portion of a working interest that the Government may have taken as described in subparagraph (a) (iv); and
 - (c) all interest, dividends and other returns on the investments of the Fund less, as may be authorized by the Central Bank, Custody Bank fees and charges and any applicable investment management or administrative fees.
- 2. Any royalty or Government production share of petroleum referred to in paragraph 1 and that is payable in kind shall be delivered to it or otherwise dealt with as required by law or contract, provided that such royalty or share in kind, and the Government's rights thereto, may only be disposed of by way of sale at market price for money, and, on and from the date mentioned in section 5(2) of this Act,
 - (a) if the royalty or Government production share is marketed by the Contractor, then the Contractor is obliged within thirty days of receiving the proceeds from the sale to deposit such Petroleum Revenues directly in the Permanent Restricted Account; and
 - (b) if the royalty or Government production share is marketed by the Government itself, then the Government shall, within thirty days of receiving the proceeds from the sale, deposit the Petroleum Revenues in the Permanent Restricted Account.
- 3. Where the Government carries out Petroleum Operations directly through a company in which it invests (and if with others, on arm's length commercial terms) and which company enters into a contract on arm's length commercial terms with the Government, then a dividend or other distribution paid to the Government by such a company is not a Petroleum Revenue unless the Minister prescribes otherwise by an Order made under item paragraph 1(a)(vii).

4. Paragraph 1 does not apply to,
- (a) that portion of royalty payable to the owner of private land under section 31(4) of the Petroleum Act;
 - (b) General Sales Tax or any Value Added Tax;
 - (c) any direct tax, duty, excise, fee, charge or other payment not specifically mentioned in subparagraph (a) of paragraph 1 or in an Order made by the Minister under item (vii) of that paragraph and generally payable by persons or businesses in Belize, including those in respect of motor vehicles and other forms of transportation, fees for service provided by Government or an agency thereof (including postage), business rates, property taxes and those levied by local authorities;
 - (d) subject to item (vii) of paragraph 1(a), application, administrative, licence and public service fees;
 - (e) subject to item (vii) paragraph 1(a), surface rentals;
 - (f) custom duties;
 - (g) withholding taxes that are reimbursable to the taxpayer.

THIRD SCHEDULE

PETROLEUM REVENUE
MANAGEMENT FUND ACT
Investment Policy
(Section 9)

1. The Investment Strategy shall have the following policy principles,
 - (a) sufficient liquidity to ensure availability of cash for the Annual Transfer Amount;
 - (b) optimizing returns, subject to specified levels of acceptable risk for the investment horizon;
 - (c) transparent, modern and diversified management of the financial assets that are part of the investment portfolio;
 - (d) limiting investment to only low-risk investments for a specified minimum number of initial years of the establishment of the Fund; and,
 - (e) risk diversification by ensuring that, as practically possible, a variety of different financial assets are held in the Fund and that a limit is set for the maximum investment that may be made in any single financial asset.

2. Subject to paragraph 1 of this Schedule, the Investment Strategy and Policy shall include, as a minimum,
 - (a) the types of permitted investments, including categories of assets and instrument;
 - (b) classifications and ratings of permitted investments, based on ratings from at least two internationally recognised credit rating agencies;

- (c) rules relating to asset diversification including having a portfolio of assets in different sectors and issuers, and, in the case of fixed-income assets, horizon and maturity;
- (d) the acceptable level of volatility during the term of the investment;
- (e) the acceptable level of exposure to foreign exchange risk, especially for investment is denominated in currencies other than United States Dollars;
- (f) the rules established to ensure sufficient liquidity for the Annual Transfer requirement.

3. Without prejudice to subsection (4) of section 9 of this Act, and subject to paragraph 4 of this Schedule, investments shall be held only in the form of the following instruments,

- (a) cash bank deposits with an Approved Bank;
- (b) negotiable direct obligations issued by an Approved Foreign Government provided that the full faith and credit of such Approved Foreign Government is pledged in support thereof;
- (c) securities issued or fully and directly unconditionally guaranteed or insured by any Approved Foreign Government, provided that the full faith and credit of such Approved Foreign Government is pledged in support thereof;
- (d) negotiable direct obligations issued by, and securities issued or fully and directly unconditionally guaranteed or insured by,
 - (i) any Approved Multilateral Organisation; or

- (ii) a government agency of any country that is a member of the Organisation for Economic Co-operation and Development (OECD) and unconditionally guaranteed by the national government of such country,

Provided the full faith and credit of such Approved Multilateral Organisation and the national government of the OECD country is pledged in support thereof, and provided further that such obligations and securities are rated top of higher,

- (e) unrestricted United States of America and LIBOR certificates of deposit and time deposits;
- (f) bankers acceptances, and floating rate certificates of deposit issued by or unconditionally guaranteed or insured by an Approved Bank; and
- (g) investments in money market funds, the assets of which shall comprise securities of the type described in subparagraphs (a) to (e) above, regardless of the maturity date of such assets.

4. After at least three (3) years from the establishment of the Fund and after the total value of the moneys and investments in the Permanent Restricted Account reaches a threshold level approved by the Investment Committee, then the Investment Committee, in elaborating the investment strategy, may allow a proportion of those moneys and investments to be invested in publicly traded equity assets of good quality and of reasonable volatility or in investment funds containing equity assets of similar quality and volatility.

5. Notwithstanding the provisions of paragraph 4 of this Schedule, once a threshold level prescribed in that paragraph has been reached, the equity investment level may be maintained even if the total value of the moneys and investments in the Permanent Restricted Account falls back below the threshold level that was required to make the relevant equity investment.

6. In this Schedule,

“Approved Bank” means any foreign commercial bank, or its branches or agencies, in a foreign location, which is rated the highest by two internationally recognised risk analysis firms;

“Approved Foreign Government” means the national government of any foreign country, which is rated the highest by two internationally recognised risk analysis firms; and

“Approved Multilateral Organisation” means any reputable international organization whose membership comprises governments and other international organisations, which is rated the highest by two internationally recognised risk analysis firms.

FOURTH SCHEDULE

PETROLEUM REVENUE
MANAGEMENT FUND ACT
Calculation of Sustainable
Permanent Income
(Section 12)

1. For any financial year, the Sustainable Permanent Income is the amount in United States Dollars given by.

$$SPI_t = r \times \left[VPra_{t-1} + \sum_{t=0}^n \frac{FR_t}{(1+i)^t} \right]$$

Where:

SPI_t , is the Sustainable Permanent Income for year t

r is the lesser of five per cent and the Long term real rate of return, being the expected annual rate of return on the Fund over the period of calculation of Sustainable Permanent Income, determined on the basis of the assets (and in the proportions) in the Fund at the date of the calculation and utilizing nominal historical rates of return for each class of asset, adjusted for inflation over the period of calculation,

$VPra_{t-1}$, is the closing balance of the Permanent Restricted Account immediately prior to the start of the financial year for which the Sustainable Permanent Income is being determined,

i is the discount rate used to determine the present value of each forecasted year Petroleum Revenues FR in year t and should not be lower than the expected annual rate of return on the Fund,

FR_t , is the *future petroleum revenues*, being the estimated aggregate for each year and with Petroleum Revenues for each financial year t over the period of calculation, being determined on the basis of,

- (a) the estimated *net realized* price in United States Dollars of petroleum expected to be produced and saved in Belize, and sold in the financial year concerned; and
- (b) the *estimated future production*, being the quantities of petroleum estimated to be produced and saved in Belize, and sold in the financial year concerned.

2. The *net realized price* shall be an estimate of the free market selling price of petroleum in markets into which it is expected petroleum produced and saved in Belize will be sold, adjusted for quality and transportation costs. The estimate shall be made by the Inspector on the basis of the best information available to him, having made due enquiry, from,

- (a) reputable and published sources;
- (b) consultations with various international organizations such as, the International Monetary Fund, the International Energy Agency, and such other persons and organizations as he deems appropriate;
- (c) existing contracts for the sale of petroleum produced and saved in Belize.

3. No forecasted net realized price shall be more than the weighted average actual net realized price of petroleum produced and saved in Belize, and sold over the previous five financial years (or the lesser period over which petroleum has been produced and saved in Belize, and sold).

4. The *estimated future production* shall be based on existing and operating facilities immediately prior to the start of the financial year for which SPI is being determined, plus any additional field for which a development plan has been approved by the Government and a final investment decision made by the Contractor.

5. The *estimated future production* shall be estimated by the Inspector on the basis of the best information submitted to him by the Contractors and others he deems appropriate.

6. The Inspector shall provide to the Commissioner of Taxation, together with a fully reasoned report thereon including all information (and the source thereof) considered in the process and a discussion of the uncertainties involved,

- (a) the estimated future net realized price;
- (b) the estimated future production;
- (c) estimated costs and expenses to be incurred by Contractors and other relevant persons, based on the best information available to him, having made due enquiry, from Contractors and others he deems appropriate; and
- (d) the estimated future Royalties and Profit Sharing and any other form of Petroleum Revenues for each Contractor for which he has the responsibility to estimate and collect.

7. It is an obligation of every Contractor to provide the Inspector with the information referred to in paragraphs 5 and 6 (c) at least one month before the end of the financial year whether or not the Inspector has requested for it.

8. Based on the information above, the Commissioner of Income Tax, shall provide his estimate of Petroleum Revenues falling under his responsibility, such as income taxes.

9. Under the responsibility of the Minister of Finance, the Sustainable Permanent Income shall be calculated by the Commissioner, the Inspector and the Central Bank. The Commissioner, the Inspector and the Central Bank should jointly provide a fully reasoned report thereon including all information (and the source thereof) considered in the process and a discussion of the uncertainties involved.

FIFTH SCHEDULE

PETROLEUM REVENUE
MANAGEMENT FUND ACT
Candidates for Membership of
the Independent Oversight Board
(Section 19)

1. The following organizations or any replacement organization, may recommend candidates for membership of the Independent Oversight Board in accordance with Section 19 of this Act,

- (a) the Association of Professional Engineers of Belize;
- (b) the Bar Association of Belize;
- (c) the Belize Business Bureau;
- (d) the Belize Chamber of Commerce and Industry;
- (e) the Belize Council of Churches;
- (f) the Credit Union League;
- (g) the Institute of Chartered Accountants of Belize;
- (h) the Mayors' Association of Belize;
- (i) the National Association of Village Councils;
- (j) the National Trade Union Congress of Belize.

2. The House of Representatives shall from time to time review, and by a majority of the votes of the members thereof present and voting, amend if necessary, the list of organizations in Paragraph 1 of this Schedule to ensure the widest possible representation of Belizean society.

3. In reviewing or amending this Schedule, the House of Representatives shall always seek to ensure the widest possible representation of Belizean society.