

THE PETROLEUM ACT, 1934

ACT NO. XXX OF 1934
[as amended up to 1986]

An Act to consolidate and amend the law relating to the import, transport, storage, production, refining, blending, or reclaiming by recycling of petroleum and other¹ inflammable substances.

WHEREAS it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining, blending or reclaiming by recycling of petroleum and other inflammable substances¹; It is hereby enacted as follows :

PRELIMINARY

1. **Short title, extent and commencement.**— (1) This Act may be called the **Petroleum Act, 1934.**

(2) It extends to the whole of ²[Bangladesh.]

(3) It shall come into force on such date as the ³[Government] may, by notification in the official Gazette, appoint.

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context, —

- (a) “petroleum” means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon ;
- (b) “Class I petroleum” means petroleum having its flashing-point below twenty three degrees centigrade ;
- (bb) “Class II petroleum” means Petroleum having its flashing-point below sixty-one degrees but not below twenty-three degrees centigrade.
- (c) “Flashing-point” of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder ;
- (d) “to transport” means to move petroleum from one place to another within Bangladesh by land sea or air.
- (e) “to import” petroleum means to bring into Bangladesh by land, sea or air ;
- (f) “to store” petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport ;
- (g) “motor conveyance” means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods by land, water or air, in which petroleum is used to generate the motive power ;

¹ The purview of this Act is not limited only to "petroleum" as defined in clause (a) of section 2. Any other inflammable liquid substance having its flashing point below 61°c also falls under the sphere of his Act.

² Substituted by Act VIII of 1973, as amended by Act L III of 1974 (w.e.f. 26.3.1971), for “Pakistan”.

³ Substituted by Act VIII of 1973, as amended by Act LIII of 1974 (we.f.26.3. 1971), for "Central Government".

- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "oil marketing company" means a company, organisation or other person having right, under the authority of the Government or otherwise, of marketing petroleum in Bangladesh;
- (j) "agent" in relation to oil marketing company, means a person, including a firm and a company, appointed with approval of the Government by an oil marketing company to be its agent for dealing in ¹[Class II] petroleum;
- (k) "dealer" means a person including a firm and a company, appointed with the approval of the Government by an oil marketing company to be a dealer for dealing in ²[Class I] petroleum ; and
- (l) "stockist" means a person, including a firm and a company, appointed with the approval of the Government by an oil marketing company to be a stockist for maintaining stock, and for distribution among the agents and dealers, of both Class I and Class II petroleum.

CHAPTER I

CONTROL OVER PETROLEUM

3. **Import, transport and storage of petroleum.** —(1) No one shall import, transport, store or distribute any petroleum save in accordance with the rules made under section 4.

(2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import any Class I petroleum, and no one shall transport store or distribute any petroleum.

4. **Rules for the Import, transport and storage of petroleum.**— The Government may make rules³—

- (a) Prescribing places where petroleum may be imported and prohibiting its import elsewhere ;
- (b) regulating the import of petroleum ;
- (c) prescribing the periods within which licences for the import of Class I petroleum shall be applied for, and providing for the disposal, by confiscation or otherwise, of any Class I petroleum in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported ;
- (d) regulating the transport of petroleum ;

¹Substuted by Ordinance No. XXXIX of 1986, for "non - dangerous"

²Substituted by Ordinance No. XXXIX of 1986, for "dangerous"

³The following Rules have been made :

(a) The Petroleum Rules, 1937 (as amended upto 31-12-1989).

(b) *The Carbide of Calcium Rules, 1937 (as amended upto 31-12-1989).*

(c) *The Mineral Gas Safety Rules, 1960 AS substituted by the Natural gas Safety Rule, 1991.*

- (e) specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported ;
- (f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored ;
- (g) specifying the nature, situation and condition of all receptacles in which petroleum may be stored ;
- (h) prescribing the form and conditions of licences for the import of class I petroleum and for the transport or storage of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences ;
- (i) determining in any class whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier ;
- (j) providing for the granting of combined licences for the import, transport storage and distribution of petroleum or for any two of such purposes ;
- (k) prescribing the proportion in which any specified poisonous substance may be added to petroleum and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion ;
- (l) regulating the distribution of petroleum ;
- (m) prescribing the conditions for the appointment of, and the granting of licences to agents, dealers and stockist ;
- (n) prescribing the form and conditions of agreement between an agent, dealer or stockist and an oil marketing company ;
- (o) providing for cancellation or restoration of licences of an agent or a dealer and of agreement between an oil marketing company and an agent, dealer or stockist ; and
- (p) generally, providing for any matter which in its opinion, is expedient for proper control over the import, transport, storage and distribution of petroleum.

5. **Production refining and blending of petroleum.** — (1) No one shall produce, refine, blend or reclaim by recycling petroleum save in accordance with the rules made under sub- section (2).

(2) The Government may make rules

- (a) prescribing the conditions subject to which petroleum may be produced, refined, blended or reclaimed by recycling and
- (b) regulating the removal of petroleum from places where it is produced, refined, blended or reclaimed by recycling and preventing the storage therein and removal therefrom, except as Class I petroleum of any petroleum which has not satisfied the prescribed tests.

6. Receptacles of class I petroleum to show a warning. — All receptacles containing Class I petroleum shall have a stamped, embossed, painted or printed warning, either on the receptacles itself or, where that is impracticable, displayed near the receptacle, exhibiting in conspicuous characters the words “Petrol” or “Motor Spirit”, or an equivalent warning of the dangerous nature of the petroleum :

Provided that this section shall not apply to —

- (a) any securely stoppered glass, stoneware or metal receptacle of less than nine litres capacity containing Class I petroleum which is not for sale, or
- (b) a tank incorporated in a motor conveyance, or attached to an internal combustion engine, and containing intended to be used to generate motive power for the motor conveyance or engine, or
- (c) a pipe-line for the transport of petroleum, or
- (d) any tank which is wholly underground, or
- (e) any class of receptacles which the Government may, by notification in the official Gazette, exempt from the operation of this section.

7. No licence needed for small stocks of Class II petroleum not in bulk.— Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of Class II petroleum if the total quantity in his possession at any one place does not exceed two thousand litres and none of it is contained in a receptacles exceeding one thousand litres in capacity.

8. No licence needed for small quantities of Class I petroleum.— (1)

Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of Class I petroleum not intended for sale if the total quantity in his possession does not exceed twenty five litres;

(2) Class I possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not in the case of receptacles of glass or stoneware exceed one litre in capacity or in the case of receptacles of metal twenty litres in capacity.

9. Exemptions for motor conveyances and stationary engines. — (1) The owner of a motor conveyance, who complies with requirements of the law for the time being in force relating to the registration and licencing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

- (a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or
- (b) for the transport or storage of Class I petroleum, not exceeding ninety litres in quantity in addition to any quantity possessed under clause (a):

Provided that the petroleum is intended to be used to generate motive power for the motor conveyance or engine :

Provided further that the total quantity of Class I petroleum which may be stored without a licence under clause (b) shall not exceed ninety litres, notwithstanding that such owner may possess other motor conveyances or engines.

(2) The Class 1 petroleum transported or stored without a licence under clause (b) of sub-section (1), and if it exceeds twenty litres in quantity shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

10. No licence needed by the railway administration acting as carrier. — Notwithstanding anything contained in this Chapter, the railway administration, as defined in section 3 of the Railways Act, 1890, need not obtain any licence for the import or transport of any petroleum in its possession in its capacity as carrier.

[11. **Exemption.** — Nothing in this Chapter shall apply to the storage transport and import of any petroleum which has its flashing point not below ninety-five degrees centigrade.]¹

12. General Power of exemption.— The Government may by notification in the official Gazette, exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

13. Inspection of Places.— (1) The Government may authorise any officer² by name or by virtue of office to enter any place where petroleum is being imported, stored, distributed, produced, refined blended or reclaimed by recycling or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made thereunder.

- (2) The Government may make rules regulating the procedure of officers authorised under this section.

CHAPTER II

THE TESTING OF PETROLEUM

14. Inspection and sampling of petroleum. — (1) The Government may, by notification in the official Gazette, authorise² any officer by name or by virtue of office to enter any place where petroleum is being imported, transported stored, distributed, produced, refined, blended or reclaimed by recycling and to inspect and take samples for testing of any petroleum found therein.

- (2) The Government may make rules

(a) regulating the taking of samples of petroleum for testing.

¹Subs. By Ordinance XXXIX of 1986

²The following officers has been authorised for the areas specified:

<u>Officers</u>	<u>Areas</u>
1. The Chief Inspector, Inspectors and Assistant Inspectors of Explosives.	Whole of Bangladesh
2. All District Magistrates	Their respective districts.
3. All Magistrates subordinate to the jurisdictions. District Magistrate.	Their respective
4. All Police Officers of rank not below over that of Inspector. extends.	The respective areas which their authority

(b) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and

(c) generally, regulating the procedure of officers exercising powers under this section.

15. **Standard Test Apparatus.**—(1) A standard apparatus for determining the flashing- point of petroleum shall be deposited with an officer to be appointed in this behalf by the Government, by notification in the official Gazette.

(2) Such apparatus shall be engraved with the words “standard Test Apparatus”, and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

(3) The standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing inspect to it.

16. **Certification of other Test Apparatus.**—(1) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(2) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special-number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(3) A certificate granted under this section shall be valid for such period as may be prescribed.

(4) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

17. **Testing Officers.**— The Government may authorise any officer¹ by name or by virtue of office to test petroleum of which samples have been taken under this Act, or which may

have been submitted to him for test by any person, and to grant certificates of the results of such tests.

18. Manner of test.— All tests of petroleum made under this Act, shall be made with a test apparatus in respect of which there is a valid certificate under section 16, shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with rules made under section 21.

The following officers are authorised for the purpose :

1.The Chief Inspector, Inspectors and Assistant Inspector of Explosives

2.The Civil Surgeon, Chittagong

3.The Chemical Examiner, Custom House, Chittagong.

19. Certificate of testing.— (1) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is class I or class II and if the petroleum is class I the flashing-point of the petroleum.

(2) The testing officer shall furnish the person concerned, at his request, with a certified copy of the certificate, on payment of the prescribed, fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

(3) A certificate given under this section shall be admitted as evidence in any proceeding which may be taken under this Act in respect, of the petroleum from which the samples were taken, and shall until the contrary is proved, be conclusive proof that the petroleum is class I or class II as the case may be, and if the petroleum is class II, of its flashing-point.

20. Right to require retest.— (1) The owner of any petroleum, or his agent, who is dissatisfied with the result of the test of the petroleum may within seven days from the date on which he received intimation of the result of the test, apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested.

(2) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him and shall be tested in the presence of such owner or agent or person deputed by him.

(3) If, on such re-test, it appears that the original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum, or his agent, with a certified copy thereof, free of charge.

21. Power to make rules regarding tests.— The Government may make rules—

- (a) for the specification, verification, correction and replacement of the Standard Test Apparatus ;
- (b) Prescribing fees for the inspection of the Standard Test Apparatus ;

- (c) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus ;
 - (d) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid ;
 - (e) prescribing the form of the register of such certificates ;
 - (f) prescribing fees for comparing a test apparatus with the Standard Test Apparatus ;
- (g) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed ;
- (h) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;
 - (i) providing where the results of the testing of samples raise a doubt as the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples ;
 - (j) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous ; and
 - (k) generally, regulating the procedure of all officers performing duties connected with the testing of petroleum and providing for any matter incidental to such testing.

22. Special rules for testing viscous or solid forms of petroleum.— The Government may also make rules providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

CHAPTER III

PENALTIES AND PROCEDURE

23 General penalty for offences under this Act.— (1) Whoever—

- (a) in contravention of any of the provisions of Chapter 1 or of any of the rules made thereunder, imports, transports, stores, distributes produces, refines, blends or reclaims by recycling blends any petroleum, or
- (b) contravenes any rule made under section 4 or section 5, or
- (c) being the holder of a licence issued under section 4 or a person for the time being placed by the holder of such licence in control or in charge of any

place where petroleum is being imported stored or distributed or is under transport, contravenes any condition of such licence or suffers any condition of such licence to be contravened, or

- (d) being for the time being in control or in charge of any place where petroleum is being imported, stored, distributed, produced refined, blended or reclaimed by recycling or is under transport, refuse or neglects to show to any officer authorised under section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or
- (e) being for the time being in control or in charge of any place where petroleum is being imported, transported stored, distributed, produced, refined, blended, or reclaimed by recycling, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or
- (f) being required, under section 27, to give information of an accident fails to give such information as so required by that section.

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand taka, or with both.

(2) If any person, having been convicted of an offence punishable under sub-section (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka, or with both.

24. Confiscation of petroleum and receptacles. — (1) In any case in which an offence under clause (a) of clause (b) or clause (c) of sub-section (1) of section 23 has been committed, the convicting Magistrate may direct that—

- (a) the petroleum in respect of which the offence has been committed, or
- (b) where the offender is convicted of importing, transporting, storing or distributing petroleum exceeding the quantity he is permitted to import, transport store or distribute as the case may be, the whole of the petroleum in respect of which the offence was committed,

shall, together with the receptacles in which it is contained, be confiscated.

(2) This power may also be exercised by the High Court Division in the exercise of its appellate or revisional powers.

25. Jurisdiction.— Offences punishable under this Act shall be triable, by a Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the Government in this behalf.

26. Power of entry and search. — (1) The Government may, by notification in the official Gazette, authorise any officer¹ by name or by virtue of office to enter and search any

place where he has reason to believe that any petroleum is being imported, transported, stored, distributed, refined, blended or reclaimed by recycling otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all of the petroleum in respect of which in his opinion an offence under this Act has been committed.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall, so far as they are applicable, apply to searches by officers authorised under this section.

(3) The Government may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section(2).

¹The following officers are authorized to exercise the powers mentioned in section 26 in the areas specified in the corresponding entry in the second column :-

<u>Officers.</u>	<u>Areas.</u>
1. The Chief Inspector, Inspectors and Assistant Inspectors of Explosives.	The whole of Bangladesh.
2. All District Magistrates.	Their respective districts
3. All Magistrates subordinate to the District Magistrate	Their respective jurisdictions.
4. All Police Officers of rank not below that of Sub-Inspector	The respective areas over which their authority extends.

27. **Reports of accidents with petroleum.**— Where any accident by explosion or fire, which is attended with loss of human life or serious injury to person or property, occurs as the result of the ignition of petroleum or petroleum vapour, or occurs in or near any place where petroleum is kept and under circumstances making it likely that it was the result of such ignition, the person for the time being in charge of the petroleum shall forthwith give information to the nearest Magistrate or to the officer in charge of the nearest police station, and to the Chief Inspector or Explosives in Bangladesh.

28. **Inquires into serious accidents with petroleum.** — (1) The inquiry mentioned in section 176 of the Code of Criminal Procedure, 1898, shall be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour.

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of the ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

(3) Omitted.

(3) The result of all inquiries held in pursuance of this section shall be submitted as soon as may be to the Government and the Chief Inspector of Explosives in Bangladesh.

CHAPTER IV SUPPLEMENTAL

28A. **Report to be submitted to Chief Inspector of Explosives.**— The officer authorised under sections 13, 14 and 26 shall furnish a copy of the report on the matter inquired into, or searched, by him in accordance with the provisions of these sections to the Chief Inspector of Explosives in Bangladesh.

29. **Provisions relating to rules.**— (1) In making any rules under this Act, the Government may—

(a) provide for any matter ancillary to such rules for which in its opinion provision is necessary to protect the public from danger arising from the import, transport, storage, distribution production, refining, blending or reclaiming by recycling of petroleum, and

(b) make special provision for the special circumstances of any place.

(2) Every power to make rules conferred by this Act is subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the official Gazette.

30. Power to apply Act to other substances¹.— (1) The Government may, by notification in the official Gazette, apply any or all of the provisions of this Act, and of the rules made thereunder with such modifications as it may specify, to any dangerously inflammable substance, other than an explosive, and there upon the provisions so applied shall have effect as if such substance has been included in the definition of petroleum.

(2) The Government may make rules providing specially for the testing of any substance to which any of the provisions of this Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II in order to adapt them to the special needs of such tests.

31. Power to limit powers of local authorities over petroleum.— Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the Government may by notification in the official Gazette.

- (a) limit the operation of such enactment, or
- (b) restrict the exercise of such powers, in any manner it deems fit.

¹*The provisions of sections 2-4, 12-14, 23-29 and 31, here been applied to Carbide of Calcium. Certain Sections have been applied to Natural Gas, and Calcium phosphide. The provisions of the Act and the petroleum Rules, 1937, have been applied to gas adorants.*