

CAYMAN ISLANDS



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**THE DANGEROUS SUBSTANCES HANDLING AND STORAGE LAW,
2003**

(LAW 21 OF 2003)

**THE DANGEROUS SUBSTANCES HANDLING AND STORAGE LAW,
2003**

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CAYMAN ISLANDS

Law 21 of 2003.

I Assent

B. H. Dinwiddy

Governor.

Date: 31 October, 2003

**A LAW TO PROVIDE FOR THE HANDLING, STORAGE AND
TRANSPORTATION OF DANGEROUS SUBSTANCES; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Dangerous Substances Handling and Storage Law, 2003. Short title

2. In this Law, unless the context otherwise requires- Interpretation

“Board” means the Dangerous Substances Handling and Storage Board established under section 5;

“Chief Petroleum Inspector” means the public officer appointed in accordance with section 10 to have charge of the office of the Chief Petroleum Inspector and includes any officer performing his duties as such;

“compressed gas” has the meaning assigned by the Standard Fire Prevention Code;

“combustible liquids” has the meaning assigned by the Standard Fire Prevention Code;

“concession” includes any instrument whereby the Governor in Cabinet grants a right or privilege enabling a person, subject to restriction, to import petroleum

and petroleum products in the Islands or the territorial waters thereof or both upon and subject to such terms and conditions as may be expressed or implied in such instrument or provided for under this or any other law;

“container” means anything in or by which dangerous substances are wholly or partly cased, covered, enclosed, contained, or packed whether such thing is empty or partially or completely full but does not include a vehicle other than a permitted vehicle;

“court” means the summary court;

“dangerous substances” include the following-

- (a) petroleum;
- (b) petroleum products;
- (c) flammable liquid gas;
- (d) hazardous production material;
- (e) flammable liquid;
- (f) combustible liquid;
- (g) compressed gas;
- (h) flammable gas;
- (i) highly volatile liquid; and
- (j) hazardous industrial gases;

“Emergency Response Team” means those persons who have been trained to respond to emergencies in the Islands involving dangerous substances;

“emergency services” means the police, fire and emergency ambulance services and such other services as may be prescribed by regulations made under the Information and Communications Technology Authority Law, 2002;

“flammable gas” has the meaning assigned by the Standard Fire Prevention Code;

“flammable liquid” has the meaning assigned by the Standard Fire Prevention Code;

“flammable liquid gas” has the meaning assigned by the Standard Fire Prevention Code;

“gallon” means an imperial gallon;

“Governor in Cabinet” means the Governor acting in accordance with the advice of the Cabinet of the Islands;

“handling” includes distribution;

“hazardous industrial gases” means flammable gases used primarily for industrial or commercial purposes and includes acetylene, hydrogen and liquid oxygen;

“hazardous production materials” has the meaning assigned by the Standard Fire Prevention Code;

“highly volatile liquid” has the meaning assigned by the Standard Fire Prevention Code;

“Marine Spill Response Team” means those persons who have been trained to respond to marine spills involving dangerous substances;

“ministry” means the ministry of government responsible for the operation of this Law;

“natural gas” means all gaseous hydrocarbons;

“occupier”, in relation to a workplace which is a private residential home, means a person who inhabits the home, otherwise than as a mere servant or for the mere purpose of the care, custody and charge of such home;

“operating permit” means a permit issued under section 4;

“operator” –

- (a) in relation to a workplace which is not a private residential home, means a person who exercises control at the premises as the registered sole or joint operator of the premises or under a mortgage, lease or franchise;
- (b) in relation to a workplace which is a private residential home, the occupier of the premises; and
- (c) in relation to a permitted vehicle, means the person who has the possession or use of the vehicle and who is either the registered sole or joint owner of the vehicle or is a person who has possession and use of the vehicle under a hire-purchase agreement or bill of sale or like instrument;

“permitted vehicle” includes a boat, truck, a tanker or such other vehicle which is manufactured and used for the purpose of transporting dangerous substances for gain;

“petroleum” includes crude liquid petroleum, natural gas and petroleum products;

"petroleum products" means substances produced directly or indirectly from crude petroleum and includes, any fuel, lubricant, bitumen, wax, industrial spirit and any wide-range substance;

"Standard Fire Prevention Code" means the Standard Fire Prevention Code adopted by the Fire Code, 1997;

"transportation" includes shipment, transshipment, landing, loading and movement by any means whatsoever including pipe-line;

"wide-range substance" means a substance whose final boiling point at normal atmospheric pressure is more than 50° centigrade higher than its initial boiling point); and

"workplace" means any premises in which the following are stored-

- (a) dangerous substances of an aggregate quantity of 250 gallons or more; or
- (b) in the case where the dangerous substance is compressed gas, compressed gas of an aggregate quantity of 250 cubic feet or more stored at a pressure of 500 pounds per square inch or more,

and such premises shall include any storage terminal, retail outlet, commercial bulk storage facility, hospital or factory and a private residential home.

Concessions

3. The Governor in Cabinet may grant concessions under this Law to import or to other wise deal with dangerous substances in the Islands and such concessions shall be subject to such terms and conditions as the Governor in Cabinet considers necessary.

Operating permits

4. (1) The operator of a workplace shall not operate or occupy or cause such workplace to be operated or occupied without a valid operating permit.

(2) The operator of a permitted vehicle shall not operate or cause such vehicle to be operated without a valid operating permit.

(3) The Board shall issue an operating permit subject to the provisions of this Law and to such other conditions, limitations and terms as it considers appropriate.

(4) The Board shall have such powers to amend or vary an operating permit as are set out in regulations made under this section.

(5) An application for an operating permit shall be made in writing in such manner and in such form as the Board shall determine from time to time and shall be accompanied by the prescribed fee.

(6) An applicant shall provide the Board with any further information that the Board requires in considering his application.

(7) The duration of an operating permit shall be stated in the operating permit; and an operating permit may be for a fixed period not exceeding 3 years or for an indefinite duration.

(8) An operating permit may be renewed from time to time in accordance with regulations.

(9) The operator of a workplace which is in operation or is occupied without an operating permit and the operator of a permitted vehicle which is being operated without an operating permit at the date of the commencement of this Law shall apply for an operating permit within 3 months of the date of the commencement of this Law.

(10) Regulations made by the Governor in Cabinet shall prescribe such matters as are necessary for carrying out the purpose and provisions of this section and such matters may include but are not limited to -

- (a) the grounds for cancellation of a permit;
- (b) rights of appeal where a permit is refused or cancelled;
- (c) the transferability of an operating permit;
- (d) the renewal of an operating permit and the fees and the procedure for such renewals;
- (e) surrender of an operating permit; and
- (f) replacement of lost operating permits.

5. (1) There is established a Dangerous Substances Handling and Storage Board which shall consist of-

The Dangerous
Substances Handling
and Storage Board
established

- (a) the Permanent Secretary of the ministry responsible for the operation of this Law;
- (b) the Permanent Secretary of the ministry responsible for the Environment or his nominee;
- (c) the Chief Fire Officer or his nominee; and
- (d) 2 other members appointed by the Governor .

(2) The 2 members appointed pursuant to subsection (1) (d) shall hold office for 2 years and shall be eligible for re-appointment.

(3) The chairman of the Board shall be the Permanent Secretary of the ministry responsible for the operation of this Law.

(4) The Chief Petroleum Inspector shall be the secretary to the Board.

Functions of the Board

6. The Board shall be responsible for issuing operating permits for workplaces and permitted vehicles that are subject to this Law and regulations under this Law.

Meetings of Board

7. (1) The Board shall meet quarterly and upon such other occasions as, in the opinion of the chairman, is necessary to conduct business related to the issuing of operating permits.

(2) Any member of the Board who, without obtaining the prior written permission of the chairman, is absent from more than 2 out of 5 consecutive meetings of the Board shall cease to be a member of the Board.

(3) In the absence of the chairman at any meeting, the members present may elect one of their number to preside as chairman at that meeting.

(4) The Board shall reach its decisions by a majority of the votes of members present and voting at any meeting. The chairman or presiding member shall have no original but only a casting vote. Three members of the Board present at any meeting shall form a quorum.

(5) If a member of the Board has any personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Board, he shall, if present at the meeting of the Board at which such matter is to be determined, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of such matter or vote on any question with respect thereto.

Duty of confidentiality

8. (1) The fact and any particulars of, or relating to, any matter falling for consideration by, or the decision of, the Board shall be treated as confidential by each member of the Board and he shall not disclose any such fact or particular otherwise than in the proper performance of his duties under this Law or in compliance with the order of a court of competent jurisdiction.

(2) The failure of any member to comply with subsection (1) of itself constitutes a sufficient ground for the termination of his appointment.

Remuneration of the Board

9. The members of the Board who are not public officers shall receive such remuneration in respect of each meeting attended as may be determined by the Governor in Cabinet.

10. (1) There shall be a Chief Petroleum Inspector and such other petroleum inspectors as are necessary for the purposes of carrying out this Law and they shall be public officers.

Chief Petroleum
Inspector

(2) The Chief Petroleum Inspector has the responsibility for the enforcement of this Law.

(3) The Chief Petroleum Inspector shall be subject to supervision of the Board on those matters related to the issue of operating permits.

(4) Any function of the Chief Petroleum Inspector under this Law may be performed by any officer of the Chief Petroleum Inspector authorised by him for that purpose.

(5) In carrying out his functions under this Law the Chief Petroleum Inspector shall be guided by the Building Code Regulations, (1998 Revision), the Fire Code, 1997 and by such other legislation including international codes and standards as the ministry considers relevant.

11. The Chief Petroleum Inspector and the inspectors shall be issued by the government with an identification card which the Chief Petroleum Inspector and the inspectors shall produce, if practicable, on each occasion before they proceed to act pursuant to this Law.

Identification cards of
inspectors

12. (1) The operator of any workplace-

- (a) shall take all reasonable precautions for the prevention of-
 - (i) tampering, theft or unauthorised access;
 - (ii) any fire or explosion;
 - (iii) any release or spillage; or
 - (iv) any damage to property or danger to the public incurred by an accident,

Avoidance of pollution
and safe conduct of
activities

involving dangerous substances in the ownership, control or possession of that person; and

- (b) shall not abandon, discard or otherwise neglect to dispose safely of any dangerous substances in the ownership, control or possession of that person.

(2) A person shall not without lawful authority or excuse (the burden of proving which is on that person) do anything in or near any premises on which dangerous substances are located which causes or is likely to cause an accident involving dangerous substances.

(3) A person who, in or at any workplace, carries out any work involving the installation, alteration, repair, maintenance or testing of equipment, piping, fittings or appliances shall take all reasonable precautions to ensure that the equipment, piping, fittings or appliances are safe for use or will not cause or contribute to a fire, explosion, release or spillage involving dangerous substances at that workplace.

(4) An operator who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to imprisonment for one year and to a fine of \$20,000.

(5) A person who contravenes subsections (2) or (3) is guilty of an offence and is liable on summary conviction to imprisonment for one year and to a fine of \$20,000.

(6) It shall be a defence for an operator who is charged with an offence under this section to prove that-

- (a) he issued appropriate instructions and used all reasonable precautions to ensure compliance with subsection (1);
- (b) the offence was committed without his knowledge; and
- (c) he could not by the exercise of reasonable diligence have stopped the commission of the offence.

Reporting of pollution
to Chief Petroleum
Inspector

13. (1) The operator of a workplace shall report any accidental release or spillage of any dangerous substances to the emergency services in the Islands as soon as is practicable but no later than 24 hours after becoming aware of the release or spillage and such emergency services, as soon as possible after receiving such report, shall give details of the report to the Chief Petroleum Inspector who shall take such action as is necessary in the circumstances.

(2) The report under subsection (1) shall include a description of the circumstances of the release or spillage, the action being taken to mitigate injury to persons or harm to the environment and any measures being taken to prevent such a release in the future.

(3) The operator of any workplace where any accidental release or spillage involving dangerous substances has occurred shall take all reasonable action to ensure that no person shall disturb, move or remove any wreckage or debris resulting from the release or spillage except with the permission and in accordance with any directions of the Chief Petroleum Inspector.

(4) Nothing in subsection (3) shall prohibit a person from disturbing, moving or removing any wreckage or debris -

- (a) to rescue an injured person;
- (b) to recover the body of a person;
- (c) to extinguish any fire which results from the release or spillage;
- (d) to take any reasonable precautions to prevent injury or damage to persons or property in the vicinity of an explosion or fire; or
- (e) to reduce environmental damage.

(5) An operator who fails to make a report in accordance with this section commits an offence and is liable on summary conviction to imprisonment for one year and to a fine of \$20,000 and if the offence is a continuing one to a further fine not exceeding \$5,000 for every day or part of a day during which the offence has continued.

14. (1) The Chief Petroleum Inspector shall investigate complaints of violations of this Law and, on a regular basis, make routine checks of workplaces to ensure compliance therewith and for that purpose he (or an inspector authorised by him) shall-

Check of workplaces by
the Chief Petroleum
Inspector

- (a) visit any workplace, after giving at least 24 hours notice in writing, at any time during the working hours of that particular workplace and inspect the workplace and any container, equipment, fittings, piping or appliance that he believes on reasonable grounds is or are being used or is or are likely to be used or has or have recently been used for or in connection with the supply, transfer, storage, transport, sale, handling or use of dangerous substances;
- (b) without payment, take or require the manager or occupier of any workplace to give to him samples of substances or articles that he suspects to be dangerous substances or the ingredients of such dangerous substances for examination and testing;
- (c) seize any dangerous substances or any container containing such dangerous substances that he believes on reasonable grounds are or is being used or are or is likely to be used or have or has recently been used for or in connection with the supply, transfer, storage, transport, sale, handling or use of such dangerous substances where he believes on reasonable grounds that this Law has been contravened by means or in relation to those dangerous substances or that container and detain and remove to some suitable place any such dangerous substances or container so seized;
- (d) require the production of any relevant documents and inspect, examine and make copies of or extracts from them or remove them to make a copy or extract; and
- (e) take such photographs or audio or visual recordings as he considers necessary.

(2) The Chief Petroleum Inspector may require the operator of a workplace or any person employed in a workplace to comply with any written direction not inconsistent with this Law which the Chief Petroleum Inspector believes on reasonable grounds is necessary to ensure the safety of persons or property.

(3) Any person who wilfully obstructs or delays the Chief Petroleum Inspector in the exercise of his powers under this section is guilty of an offence and is liable on summary conviction to imprisonment for one year and to a fine of \$20,000.

General duties and
powers of the Chief
Petroleum Inspector

15. (1) The Chief Petroleum Inspector is authorised to take affidavits for any purpose relating or incidental to the exercise of his power, authority or discretion or the discharge of his functions.

(2) The Chief Petroleum Inspector's duties and responsibilities also include –

- (a) drafting operating permits;
- (b) acting on behalf of the Board as its sole enforcement authority;
- (c) assessing and collecting fees for operating permits;
- (d) as a condition of obtaining an operational permit, at regular intervals during the period of such permit, inspecting all permitted workplaces to cover-
 - (i) the integrity of containers, pipelines and permitted vehicles;
 - (ii) documented safety and environmental information relating to chemical hazard information, equipment design information, design codes and standards employed by a workplace;
 - (iii) emergency preparedness plans, co-ordination and drills;
 - (iv) the condition of secondary containment dikes, berms or impoundments;
 - (v) standardised employee training programs at workplaces;
 - (vi) the implementation of safety and environmental management systems at workplaces;
 - (vii) formalised maintenance programs with schedules and documented results of inspections or tests;
 - (viii) spill reporting with root-cause investigation and corrective action;
 - (ix) testing and reliability of release detection equipment and emergency controls systems;
 - (x) safety of transporting fuel to and from the premises;

- (xi) the proper management of above and underground storage tanks including secondary containment, release detection and inventory control systems; and
- (xii) the proper management of pipeline operations including proper marking, corrosion protection and release detection features;
- (e) participating as a member of the Emergency Response and Marine Spill Response Teams;
- (f) overseeing the preparation of emergency plans for workplaces;
- (g) attending and reporting to the ministry on the effectiveness of emergency plan exercises and arranging for regular exercises;
- (h) maintaining a register and location map of all permitted premises including above and below ground pipelines carrying dangerous substances;
- (i) being available as needed for all planning applications involving premises at which dangerous substances are handled or stored;
- (j) being available to provide expert advice to other government agencies on emergency preparedness plans and the safe handling storage, transportation and use of dangerous substances;
- (k) developing plans and budgets for the office of the Chief Petroleum Inspector and the Board;
- (l) annually reporting to the chief officer of the ministry on the storage and handling of dangerous substances in the Islands with respect to progress made, significant lapses and future plans; and
- (m) any other responsibility or duty imposed on him by the Law or by regulations under this Law.

16. (1) For the purposes of the enforcement of this Law the Chief Petroleum Inspector may, where he is of the opinion that any steps are required to be taken by any operator to ensure compliance with this Law or of any regulations made hereunder, serve upon that person a notice, hereafter referred to as a "remedial notice".

Remedial notices

(2) A remedial notice shall-

- (a) state the requirement of this Law or regulations to which it relates;
- (b) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter; and
- (c) state the time within which such steps shall be taken.

(3) Without prejudice to the generality of subsection (1), a remedial notice may require –

- (a) the cessation, immediate or otherwise, of any activity, operation or process;
- (b) the vacation, immediately or otherwise, of any workplace;
- (c) the alteration of any workplace or permitted vehicle; or
- (d) the introduction of such temporary measures as may be expedient pending the institution or completion of permanent measures.

Appeal against a remedial notice

17. (1) A person on whom a remedial notice is served may within a period of 14 days appeal by notice to the court; and on such an appeal the court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(2) Where an appeal under this section is brought against a remedial notice within the period allowed under subsection(1) then-

- (a) in the case where the notice requires any action under section 16 (3) (c) or (d), the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal; and
- (b) in the case where the notice requires any action under section 16 (3) (a) or (b), the bringing of the appeal shall have the same effect as in paragraph (a) only where the appellant so applies and the court so directs.

Officers of the police force or fire brigade may assist Chief Petroleum Inspector

18. Any constable or officer of the fire brigade may, where requested to do so by the Chief Petroleum Inspector, assist him in the execution of any of his powers or functions.

Liability for accident at workplace

19. (1) Notwithstanding any other law to the contrary, where, with respect to and in consequence of any accident at a workplace, a report is made by an authority appointed to hold a formal investigation under any law, or a coroner's inquest is held, and it appears from the report or from the proceedings at the inquest that this Law or any regulations made hereunder were not complied with at or before the time of the accident, summary proceedings against any person liable to be proceeded against in respect of such non-compliance may be commenced any time within 6 months after the making of the report or the conclusion of the inquest as the case may be.

(2) A copy of every report with respect to and in consequence of any accident in a workplace which is made by an authority appointed to hold a formal

investigation under any law shall be sent by that authority to the Chief Petroleum Inspector.

20. (1) In any premises the whole or any part of which has been let to or is being used by an operator ("the lessee") as a workplace –

Alterations at a workplace

- (a) where an agreement between the lessor and the lessee of the workplace prevents one or other from making alterations in the premises which are necessary to conform to any requirement or standard imposed by or under this Law or any regulations made hereunder, the court, upon the application of either party in an action joining the other, may, after a hearing, issue an order setting aside or modifying the agreement to permit the making of the necessary alterations; and
- (b) where alterations in the premises are necessary to conform to any requirement or standard imposed by this Law or any regulations made hereunder, the court, upon the application of the lessor or the lessee of the workplace in an action joining the other, may, after a hearing, issue an order apportioning the expenses of any such alterations.

(2) Where an explosion, spillage or release required to be reported under section 14 has occurred the operator shall obtain the approval of the Chief Petroleum Inspector before commencing reconstruction work or repairs on or to the workplace where it occurred.

(3) The operator shall not allow any further supply of dangerous substances in or at the workplace unless the Chief Petroleum Inspector consents in writing.

21. (1) Where-

Engaging in activities under this Law without an operating permit

- (a) the operator of a workplace operates or occupies or causes such workplace to be operated or occupied without a valid operating permit; or
- (b) the operator of a permitted vehicle operates or causes such vehicle to be operated without a valid operating permit,

he commits an offence and shall be liable, on summary conviction, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or both and if the offence is a continuing one to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.

(2) The Court may also on application-

- (a) make an order for forfeiture of any equipment used for the commission of the offence; and
- (b) grant an order restraining the accused from continuing to engage in similar activities.

Further offences

22. (1) Any contravention of any regulation made under this Law is an offence against this Law and punishable either in accordance with the regulations or with this Law.

(2) Whoever for any purpose connected with this Law, makes any statement or representation which he knows is not correct or true is guilty of an offence and liable on summary conviction to a fine of \$10,000 and to imprisonment for one year.

(3) Where no punishment is specifically prescribed whoever contravenes this Law or any regulation made under this Law is guilty of an offence and liable on summary conviction to a fine of \$4,000 and to imprisonment for six months.

(4) Where an offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to-

- (a) a director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

such person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) In subsection (4) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(6) An operating permit is not required -

- (a) in relation to fuel carried by ships and aircraft for purposes of their own propulsion;
- (b) by concessionaires operating within the terms of concessions granted under this Law;
- (c) persons engaged in the fuelling of ships or aircraft;
- (d) by customs officers and constables acting in the course of their duty;
- (e) by persons acting for the purpose of averting danger arising from fire, oil spillage or other hazard happening likely to or capable of causing damage to persons or property;
- (f) by mains engineers acting under the Electricity Law (2003 Revision) and persons under their control when so acting;

- (g) the Port Director acting under the Port Authority Law (1999 Revision) and persons under his control when so acting;
- (h) by oil spill responders acting in compliance with the National Oil Spill Contingency Plan; or
- (i) by any person specifically exempted by the Governor by order published in the Gazette.

23. (1) Where a person is convicted of an offence under this Law, the Court may make an order for the payment of compensation to any person for any damage caused by the offence.

Order for payment of compensation

(2) Any claim by a person for damages sustained by reason of the offence shall be deemed to have been satisfied to the extent of any amount which has been paid to him under an order for compensation, but the order shall not prejudice any right to a civil remedy for the recovery of damages beyond the amount of compensation paid under the order.

24 (1) The Governor in Cabinet may make such regulations as are required for the effective implementation of this Law including regulations dealing with -

Regulations

- (a) safety standards and precautions in relation to the handling, storage and transportation of dangerous substances;
- (b) safeguards against pollution by dangerous substances;
- (c) procedures to be followed in the handling, storage and transportation of dangerous substances;
- (d) further responsibilities, powers and administration of the Chief Petroleum Inspector, inspectors and members of the Board;
- (e) the minimum standards for containers, permitted vehicles and underground pipes;
- (f) rates of compensation for damage to third parties or the general public arising from the handling, storage or transportation of dangerous substances;
- (g) the establishment, management and payment of compensation for way leaves;
- (h) a written guarantee to the Government or compulsory insurance cover to be taken out by persons engaged in the handling, storage or transportation of dangerous substances against claims for damages by third parties or the general public;
- (i) the establishment of a Compensation Assessment Tribunal for assessment of compensation claims arising from the handling, storage or transportation of dangerous substances;
- (j) provision for appeals against the decisions of the Compensation Assessment Tribunal;
- (k) enabling the Attorney-General on behalf of the public to claim damages for pollution or other injury to public amenities arising

from the handling, storage or transportation of dangerous substances;

- (l) penalties for contravention of such regulations; and
- (m) any other matters required by this Law to be prescribed.

Costs under this Law

25. All costs, charges and expenses incurred in or in connection with the handling, transporting, storing, reconditioning, destroying or otherwise disposing of or dealing with any dangerous substances seized and detained under this Law are recoverable from the person convicted of an offence under this Law in relation to those goods or the person charged with an offence against this Law of which the person is found guilty or to which the person pleads guilty and in respect of which a conviction is not recorded.

Emergency powers of
Chief Petroleum
Inspector

26. (1) In case of emergency the Chief Petroleum Inspector may, by order in writing, require any person to adopt any measures which he considers necessary to prevent, or avert danger of, the release or spillage of dangerous substances.

(2) An order under subsection (1) shall specify the measures to be taken and shall be served personally by the Chief Petroleum Inspector or by an inspector who shall explain the matter to the persons concerned and superintend or assist in the carrying out of the measures specified.

(3) Whoever fails or refuses to comply with an order under subsection (1) or offers or threatens any resistance or obstruction to the carrying out of the order is guilty of an offence and liable on conviction to a fine of \$10,000 and to imprisonment for one year.

Immunity

27. No action for damages may be brought against-

- (a) the Chief Petroleum Inspector;
- (b) any inspector;
- (c) any member of the public acting at the request of the Chief inspector or any inspector;
- (d) any constable or officer of the fire brigade acting under the direction of the Chief Petroleum Inspector; and
- (e) the Crown,

in respect of death, injury or loss incurred by any person occasioned in the course of carrying out any duty under this Law relating to any fire or explosion or any release or spillage involving dangerous substances unless it can be established that there was negligence in carrying out such duty.

Repeal

28. The Petroleum Handling and Storage Law (1996 Revision) is repealed.

Saving of existing laws

29. This Law shall operate without prejudice to-

The Dangerous Substances Handling and Storage Law, 2003

- (a) any powers conferred on the Chief Fire Officer or any officer by the Fire Brigade Law (1999 Revision); or
- (b) any powers conferred on the Director of Labour or any officer under the Labour Law (2001 Revision).

30. Any licence or concession issued or granted to any person to store, handle transport or otherwise deal with any dangerous substance in the Islands and which is valid immediately before the commencement of this Law shall continue to remain in full force and effect until the expiration date set out in the licence or concession.

Transitional
arrangements

Passed by the Legislative Assembly this 3rd day of October, 2003

JULIANNA O'CONNOR - CONNOLLY

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.

(Price \$4.80 Cents)