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First Session Tenth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 9 of 2010

[L.S.]

AN ACT to restructure the pension arrangements of
the Petroleum Company of Trinidad and Tobago
Limited

[Assented to 13th December, 2010]

WHEREAS by section 4 of the Petrotrin Vesting Act, ^{Preamble}
Chap. 62:07, the Petroleum Company of Trinidad and
Tobago Limited (hereinafter referred to as

“PETROTRIN”) became a party to all approved plans, funds or schemes under the Income Tax Act in lieu of Trinidad and Tobago Oil Company Limited and Trinidad and Tobago Petroleum Company Limited:

And whereas it is expedient to restructure the pension arrangements for employees of PETROTRIN in the manner hereinafter set forth:

And whereas it is enacted, *inter alia*, by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Petrotrin Pensions Act, 2010.
Act inconsistent with Constitution	2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
Commencement	3. This Act comes into operation on such day as is fixed by the President by Proclamation.

4. In this Act—

Interpretation

“benefits” means all pension benefits accrued or accruing and lump sum benefits payable under an existing plan or the Petrotrin Pension Plan;

“eligible person” means a person who is permanently employed by PETROTRIN and who on the coming into force of this Act is a participant of an existing plan or who, by virtue of his employment, becomes eligible to join the Petrotrin Pension Plan;

“employment” means employment under a contract of service whether expressed or implied and, if expressed, whether oral or in writing and cognate expressions shall be construed accordingly;

“existing plan” means—

- (a) the Non-Contributory Pension Fund established by the trust deed and rules dated 23rd November, 1951;
- (b) the Contributory Pension Fund A established by the trust deed and rules dated 24th July, 1969;
- (c) the Contributory Pension Fund B established by the trust deed and rules dated 13th July, 1967;
- (d) the Employees Benefit Plan established by the trust deed and rules dated 23rd June, 1966;
- (e) the Trinmar Employees Benefit Plan established by the trust deed and rules dated 25th June, 1967;
- (f) the Staff Retirement Plan established by the trust deed and rules dated 26th April, 1968; and

(g) the Employees' Pension Plan established by the trust deed and rules dated 22nd December, 1970,

or where the context so admits, any one or more of the plans;

“member” in relation to a pension plan, means a person to whom pension rights are accruing under the plan by virtue of his employment in a class or description to which the plan relates and “membership” shall be construed accordingly;

“participant” in relation to a pension plan, means—

(a) any person to whom benefits are accruing under that plan;

(b) any pensioner under that plan; or

(c) any other person who has pension rights under that plan;

“pension” means a pension of any kind payable to or in respect of a person, and includes a lump sum or allowance so payable;

“pension rights” includes—

(a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of a person; and

(b) a right of allocation in respect of the present or future payment of a pension;

“Petrotrin Pension Plan” means the Petrotrin Employees' Pension Plan established under section 4(1); and

“trustee” includes a reference to any person who, under the rules of the Petrotrin Pension Plan is under a liability to provide pensions or other benefits.

5. (1) A pension plan to be known as the Petrotrin Employees' Pension Plan is hereby established for the provision of pensions and other benefits for or in respect of eligible persons. Establishment of a new pension plan

(2) The Petrotrin Pension Plan shall be governed by the trust deed and rules dated 12th November, 2009, executed between PETROTRIN and the trustee of the Petrotrin Pension Plan and hereby deemed to be a pension plan established under an irrevocable trust.

(3) The trustee of the Petrotrin Pension Plan may be removed by PETROTRIN in accordance with the provisions of the trust deed and rules.

(4) The trust deed and rules may be amended in accordance with the provisions of the trust deed and rules.

6. (1) A participant in an existing plan shall, on the coming into force of this Act, become a participant in the Petrotrin Pension Plan instead of the existing plan and his pension rights under the existing plan shall be transferred to the Petrotrin Pension Plan so as to become pension rights under that plan. Transfer of pension rights and corresponding assets and liabilities

(2) Subject to subsection (5), assets held by the trustee of an existing plan shall, for the purposes of that plan, be transferred so as to be held by the trustee of the Petrotrin Pension Plan for the purposes of the Petrotrin Pension Plan, and any assets held by any other person for the purposes of an existing plan, whether on behalf of the trustee of the existing plan or otherwise, shall be transferred so as to be held by such other person for the purposes of the Petrotrin Pension Plan on behalf of the trustee of the Petrotrin Pension Plan or otherwise, as the case may be.

(3) Subject to subsection (5), any liabilities of an employer under or in relation to an existing plan, who is participating in that plan, shall be transferred so as to

become liabilities of that employer under or in relation to the Petrotrin Pension Plan, to the extent that such liabilities are not transferred by subsection (2).

(4) Any liabilities of the trustee of an existing plan under or in relation to that plan shall be transferred so as to become liabilities of the trustee of the Petrotrin Pension Plan under or in relation to that plan, to the extent that such liabilities are not transferred by subsections (1) and (2).

(5) Subsections (2) and (3) shall not transfer any liability of an employer who is participating in an existing plan to pay contributions to that plan in respect of any period after the effective date, so as to become a liability of that employer under or in relation to the Petrotrin Pension Plan or an asset of that plan.

(6) Any person who, on the coming into force of this Act is the employer of a person whose pension rights are transferred in accordance with subsection (1) shall—

- (a) participate in the Petrotrin Pension Plan, in accordance with the rules of that plan for such period as he remains the employer of that person and that person remains a member of the Petrotrin Pension Plan; and
- (b) pay contributions in respect of that person in accordance with the rules of that plan.

Winding-up of existing plans

7. Notwithstanding the existence or non-existence of provisions relating to the winding-up of existing plans, existing plans shall, following the transfer of rights, assets and liabilities pursuant to section 5, be wound-up by the trustees of those plans following which the trustees shall be discharged from all further obligations in relation to those plans.

Non-application of Stamp Duty Act

8. The Stamp Duty Act shall not apply to the transfer to and vesting of the assets of the existing plans in the Petrotrin Pension Plan.

Passed in the House of Representatives this 8th day of October, 2010.

J. SAMPSON-MEIGUEL

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of 36 members of the House.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 16th day of November, 2010.

N. JAGGASSAR

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 29 Senators.

N. JAGGASSAR

Clerk of the Senate