

Hon. Kenred M. A. Dorsett M.P.
Communication to Parliament
Compendium Petroleum Bills

CHECK AGAINST DELIVERY

Thank You Mr. Speaker

MR. SPEAKER

Once again it is an honor for me to rise in this place on behalf of the people of Southern Shores. They are a wonderful, supportive group of people who I have come to know and cherish over the years. I thank them for their continued support and for affording me the opportunity to serve them and our beloved Bahamaland.

MR. SPEAKER

I have said this before in this place and I think it is worth repeating, "we cannot continue to trade on the triumphs of those who came before us, we must blaze new trails for

those who follow us.” In order for us to blaze new trails we must be prepared to change and to try new things to see what works and what doesn't. It would seem that politics has permeated our society so deeply that there are those who will speak against almost anything this administration attempts to do just to ensure that it does not come to fruition or that it is a failure. I believe in the freedoms that our forefathers fought for. I believe that every person is entitled to their opinion and their political persuasion. However, I also believe that the governance of this country is not a sprint but a journey, one in which the baton is passed from one generation to the next. If we are going to criticise, it should be constructive criticism meant to make our country stronger. It should not be based solely on our politics or totally baseless. This beautiful string of islands that make up the Commonwealth of The Bahamas is home to us all. We all, especially here in this place, must ensure that what we pass on to the next generation is something that we can be proud of. This coming July we will celebrate forty two years of independence, that is not a very long time. Yet, we compare ourselves daily to countries that

have been sovereign nations for hundreds of years. We are a growing nation and sometimes with growth comes growing pains. This is normal. The Bahamian people can rest assured that this administration is working with the best interest of our country at the center of all our endeavours.

MR. SPEAKER

Today we address the reformation and transformation of the upstream petroleum sector with the second reading of a compendium of bills which will govern the Petroleum industry here in our country. The bills are the Petroleum Bill 2014 and the Sovereign Wealth Fund Bill 2014. These bills once enacted will serve to protect not only the environs of the country but will also protect the interest of the Bahamian people as it relates to the Petroleum industry in The Bahamas. They together with the following regulations:

- Petroleum Regulations;
- Sovereign Wealth Fund Regulations;
- Environment and Pollution Regulations;

- Health & Safety Regulations;

Will redefine the petroleum sector, creating a modern, well defined industry meeting the best in international standards and protocols.

PETROLEUM HISTORY

MR. SPEAKER

The Bahamas is no stranger to oil exploration, onshore and offshore. We began on this journey in the 1940s. The first company to show interest in oil exploration was Bahamas Exploration Company (Gulf). In 1945 it applied for the south-east part of the Great Bahama Bank area between the Old Bahamas Channel and Exuma Sound. By 1946-47, exploration concessions were held by eight companies: Standard Oil, Anglo-Bahamian (BP), Trinidad Leaseholds, Superior, Shell, Gulf and Bahamas Mining Company. Though all of these companies conducted exploration activities, it was Superior which drilled the first well (Andros

Island I) in 1947. There was oil staining found in the well and it was drilled to approximately 14,000 feet before being abandoned. In 1956, Cay Sal Bank detailed seismic survey was acquired by Gulf and Standard (Chevron) leading to the joint Cay Sal 1 well. There were live oil shows in the well but no commercial quantities were tested. It was abandoned as a dry hole in April of 1959.

From 1959-1968, there were eight companies which held concessions. They were California (Standard), Gulf, Standard, Sun, Consolidated Development, International Petroleum Co. and Siebens. By 1963, National, Bahama Exploration and Golden Eagle were also awarded a concession in the New Providence/Eleuthera area. Seismic surveys were conducted by California Gulf near the Guinchios Cay area in a joint license west of Exuma Sound. California also partnered with National to carry out seismics north west of the Providence Channel. In 1970, the Long Island 1 was drilled by Gulf-Chevron-Mobile which yielded minor oil staining. Chevron also drilled its Great Isaacs 1 well in 1970. This well also showed minor oil staining but

did not test for commercial quantities.

In March 1971, all interests of Gulf, Siebens, Golden Eagle, California, and Mobil were relinquished. The former National area was retained by Chevron. A group including Canadian Reserve, Coseka Resources, Sunningdale and Bow Valley reserved acreages in the north west Great Bahama Bank, but acreage holdings were gradually dropped and in 1978 exploration ended when Chevron's licence of the Little Bahama Bank expired.

MR SPEAKER

No other licenses were issued until 1982 when Getty was awarded two licenses, one near Bimini and another south of Andros. Other companies namely, Esso, Arco, Natomas and Breoco attempted to obtain licenses to explore for oil in portions of The Bahamas. Natomas was awarded acreage south west of the Getty concession and Arco/Lonhro took the adjacent areas. Arco completed a survey in 1985 but left the country shortly thereafter. In 1984 Pecten acquired

these licenses, collecting additional seismic information along with Lonrho. However there was a decision made not to renew their licenses in 1989.

Both Getty and Natomas shot seismics between 1982-84. However Getty was acquired by Texaco who decided not to drill based on the results of the Getty seismic. The license lapsed in 1985. Natomas withdrew from a partnership that had been struck between themselves, Tenneco and BP. Tenneco went on to acquire additional acreage and spud a well in 1986 which it drilled and abandoned by 1987.

In 1991, Ferguson GDM Offshore Resources Limited was granted two petroleum exploration licenses in the Blake Plateau north of Grand Bahama Island. The company performed exploration work but did not drill because of its inability to secure a ship capable of drilling in water beyond 3000 ft. In 2002, Kerr McGee, R&R and Atlantic Petroleum Exploration and Production Company (APEC) applied for licenses, receiving five licenses in June of 2003. Kerr McGee surrendered its licenses in 2006.

MR. SPEAKER

This bring us to the recent history of the exploration for oil when licenses were granted to two subsidiaries of the Bahamas Petroleum Company (BPC) in 2006. One (1) license to Offshore Petroleum Limited and four (4) licenses to Bahamas Offshore Petroleum Company Limited. They are the Miami, Bain, Cooper, Donaldson and Eneas Licenses. The Miami site is situated in the Northern Bahamas, approximately fifty 50 miles from the Florida coastline. The other sites are located further south, close to Cuban waters. According to BPC, the data which they have gathered through the acquiring of a 3D seismic database leads them to believe that oil is present in the waters of The Bahamas in commercially viable quantities. In 2011, BPC also commissioned the Ryder Scott Company which compiled a Competent Person's Report which estimates the chances of oil being found in the BPC licenced site. This report can be accessed on the website of the BEST Commission.

MR. SPEAKER

In 2010, there was a moratorium placed on oil drilling in the wake of the large oil spill in the Gulf of Mexico and the fact that the Government of Cuba began oil drilling activities in close proximity to the areas licensed by BPC in Bahamian waters. Diplomatic talks had to be held with Cuba in order to ascertain the legal border between the waters of Cuba and those of the Bahamas. The then Government therefore halted advancing applications for oil exploration but accepted new applications and fees from interested parties. The delimitation talks between Cuba and the Bahamas were completed in 2013.

MR. SPEAKER

The subject of oil exploration is not without controversy in this country. However, this administration sees it for what it is, an incredible opportunity, which has been taking place since 1947, which if successful would change the economy of the Bahamas for the better. This is just another attempt by this administration to leave no stone unturned in our search for ways and means to improve the economic state of

this country. This administration committed to the holding of a referendum in relation to oil drilling should it be found in commercially viable quantities, as of now we fully intend to let the Bahamian people's voices be heard on this matter but before such time we must finally answer the question of whether or not there is oil present in our waters at the amounts necessary to create a new industry for our country. We cannot continue to argue based on what ifs. The question of whether or not oil resides in the waters of The Bahamas in commercially viable quantities must be answered. We must know what resources we have and what we need to protect.

PETROLEUM AND RENEWABLE ENERGY

Our efforts as relates to renewable energy are meant to work in tandem with our efforts as relates to oil exploration. Presently the Bahamas is almost solely dependent on fossil fuels for the generation of energy. We would like to reduce our dependence on fossil fuel through the increased use of alternative energy sources. This, of course, will not be an

over night process. However, the energy security of this nation requires us to maximize the use of renewable energy and ascertain whether or not natural gas and oil exists as a natural resource in commercial quantities within our borders.

PETROLEUM & DEPARTMENT OF ENVIRONMENTAL PLANNING AND PROTECTION

Recently, I released draft legislation for the establishment of the Department of Environmental Planning and Protection to the general public for commentary. We have been working on this legislation for some time especially since I assumed responsibility for the environment. I believe that as a sovereign nation The Bahamas must have its own standards and protocols as regards the protection of the environment. At this stage in our development and with the hope of expanding our growth throughout our islands it is imperative that this country has a body with the statutory power to protect our environment. Even with respect to the current Bill we are debating the DEPP will play an important role in the future.

THE PETROLEUM BILL 2014

MR. SPEAKER

The Office of the Attorney General, Law Reform Commission, Hogans and Lovells, the Permanent Secretary of the Ministry of the Environment and Housing and the Ocean Governance and Natural Resource Management Section of the Commonwealth Secretariat have worked tirelessly in order to further modify and refine the draft legislation envisioned by my ministry for the petroleum sector. This initial exercise was completed at the end of 2014. The subsequent exercise was putting the draft legislation in the public domain for stakeholder input and consultation. That consultation period ended a few weeks ago and as a result some amendments to the bills will be made during the committee stage, which I will discuss during this presentation.

MR. SPEAKER

In advancing new laws for the Petroleum sector it was

imperative that law be drafted and structured with a view to encompassing the following key frameworks:

- (1) Governance Regulations and Institutional Framework
- (2) Legal, Licensing and Contractual Framework
- (3) Fiscal and Commercial Framework
- (4) Health, Safety and Environmental Framework

In addition to the key frameworks set out above, we also needed to include *inter alia*, provisions which address miscellaneous matters which are pertinent to petroleum sector operations, including default and disputes; offences and penalties; repeal and transition of existing laws related thereto.

Scope and Elements of Petroleum Law

Being cognizant of modern petroleum laws around the world, the Commonwealth Secretariat benchmarked our legislation and fiscal regime against more than 33

jurisdictions from Asia-Pacific; Latin America & the Caribbean and Africa.

MR SPEAKER

It should also be noted that the Bahamas National Energy Policy 2013 to 2033 *"maps out the way forward in energy for The Bahamas"*. Moreover, although this policy does not expressly articulate particular objectives or legislative goals with respect to the petroleum sector, there is a section under the policy entitled "Strategies and Key Actions to 2033", under which one of the "Strategies related to Energy Diversification" is to *"review and apply appropriate models for production and development of potential local oil and gas resources"*. As a consequence it is the vision of The Government of The Bahamas to develop and reform the existing legislative framework for the petroleum sector.

At present, with respect to the petroleum sector in The Bahamas, the primary legislation enacted and currently in force, are as follows:

(1) The Petroleum Act, Chapter 219

Assented 10th June 1971 and Commenced 7th September, 1978

(2) Petroleum Regulations

Commencement 7th September, 1978

Enacted pursuant to Section 34 of the Petroleum Act, Chapter 219

Over the years, the petroleum sector in The Bahamas has been governed and regulated by these laws and other legislation which indirectly but not comprehensively address matters related to finance, tax, health, safety and the environment, *vis-à-vis* petroleum sector operations.

MR. SPEAKER

I now turn to the specific provisions of the Petroleum Bill 2014 which seeks to address upstream matters related to the exploration and production of oil in The Bahamas. From

the onset the bill makes it clear that The Bahamas holds all rights to petroleum within its borders. This bill when enacted will repeal the previous act and introduces some new clauses to the Petroleum Act of the Bahamas. I will endeavour to briefly summarize some of the clauses of the Petroleum Bill before us for consideration.

SECTION 2. INTERPRETATION

Colleagues should note that I will be advancing an amendment to this section, calling for an insertion of a definition of “discovery”, which for the purposes of the Act will mean a “discovery of petroleum”.

SECTION 4. MINISTER TO BE A CORPORATION SOLE

- provides that the Minister responsible for petroleum shall be permitted to act as Corporation Sole for purposes of administering the Act and any regulations made thereunder. There are other Acts, whereby a Minister is a Corporation sole including the Housing Act.

SECTION 5. POWER OF MINISTER TO GRANT PERMITS, LICENCE, ETC.

This section seeks to identify the scope, function and powers of the Minister, acting for and behalf of the Government of The Bahamas, with respect to the licensing framework for petroleum operations. In particular, this Section seeks to identify the nature of the licensing framework intended to govern petroleum operations in The Bahamas as follows:

1. A permit, which confers a non-exclusive right and may be granted to carry out anywhere within the land, or submarine area, any geological or geophysical or geophysical studies or surveys, including seismic.
2. An exploration licence, which confers an exclusive right and may be granted to explore for petroleum within the land or in any submarine area.
3. A production lease, which confers an exclusive right and may be granted to produce and develop a discovery within the land or in any submarine area.

These allow for the creation and implementation of a clear

licensing framework which can encourage and stimulate reconnaissance, exploration and production of petroleum.

Section 5(2) seeks to give the Government the option to participate under an instrument. For example, Cuba Petroleo, also known as CUPET, is owned by the Cuban government. It is active in the extraction of petroleum deposits, refining and distributing petroleum products.

We are also suggesting a further amendment to Section 5, to provide clarity to the process by which a licence, lease or petroleum agreement may be granted. In that regard, Section 25, which deals with competitive bidding will be deleted in its entirety and we will be adding new subsections 3 through 5 and renumbering the existing sub-clauses 3 through 7 as 6 through 10.

SECTION 6. PROVIDES FOR THE GENERAL POWERS OF THE MINISTER

SECTION 7. PETROLEUM AGREEMENTS

This Section seeks to identify that notwithstanding Section 5, under which the licensing arrangement is set out with respect to petroleum operations in the Bahamas, the Government has the liberty to grant alternative petroleum agreements:

1. for petroleum exploration and production, pursuant to Section 7(1) (a); or
2. to set out additional terms, conditions and fiscal provisions relating to a permit, licence or lease, pursuant to Section 7(1)(b)

With respect to section 7 (1) and having regard to petroleum agreements used and renowned in the international oil and gas industry, it is important to note that under Section 7(1) (a), agreements which the Minister would be entitled to grant under the Act would therefore include a "Petroleum Sharing Agreement" or "Production Sharing Contract", more commonly referred to and respectively known as a "PSA" or "PSC".

Section 7(1) (b) was provided under the Act to give the Government the flexibility to determine and administer the fiscal regime intended to apply to petroleum sector operators and negotiate the financial terms with an investor, in accordance with the Act and any other existing legislation which addresses fiscal and commercial matters *vis-à-vis* the petroleum sector.

Section 7(2) seeks to provide that where there is any conflict or variance between an agreement granted by the Minister under Section 7(1)(a) and this Act, the provision of the agreement would prevail.

This Section also takes into consideration that from time to time the Minister may be required to enter into and grant agreements of a hybrid nature not contemplated for or expressly provided under the Act. A provision of this nature allows for ease of interpretation and application, should a conflict arise.

This Section is not intended to allow a Minister the liberty to

deliberately grant and enter into agreements which contain provisions which are contrary to and in conflict with prevailing laws in The Bahamas.

SECTION 8. HIGH WATER AND SURVEY MARKS

MR SPEAKER

This section of the legislation provides for the Minister to determine the “high water mark” and requires him to do so in consultation with such other Ministers as required and identified.

PART II OF THE ACT DEALS WITH PETROLEUM OPERATIONS

MR. SPEAKER

Section nine (9) to eleven (11) of this bill seek to set out the scope of the grant of a permit, license or lease and the restrictions related thereto.

Section 9(5) permits a company which has been granted a license or lease under the repealed Act to apply for and be granted a license or lease under the Act, subject to such restrictions as set out under the Act.

We propose an amendment to Section 11 by inserting a subsection 5 which gives the Minister a discretion to provide a lease of an area in excess of 625 units having regard to the fact that geological structures may extend beyond the area designated.

MR SPEAKER

Sections twelve (12) – fourteen (14) outline the procedures associated with the application, granting and renewal of permits.

Fifteen (15) to twenty two (22) of the bill outline the procedures related to the application for the grant of a license or lease, matters that may be considered by the

Minister when determining whether to grant or refuse to grant a license or lease, execution of permit, licence and lease. This section also sets out the parameters for the extension of an instrument; the matters that may be considered by the Minister when determining whether or not to grant an extension, the general terms and conditions upon which an instrument may be extended, including the term of extension and the renewal of a licence or lease.

SECTION 21. EXTENSION

We are also recommending an amendment to Section 21 by the deletion of sub-clause 4 and replacing it with new text which provides for greater consistency with Section 22 (3).

SECTION 23. RELINQUISHMENT UNDER LICENCE OR LEASE

MR SPEAKER

This Section addresses the concept of relinquishment, which requires the holder of a license or lease to return a portion

of the original area which was granted hereunder.

The rationale for a section of this nature is to ensure that the holder of a license or lease does not remain on an area granted thereunder, for an indefinite period of time without conducting the operations for which the license or lease was obtained. Acreage returned to the State can then be re-distributed or re-offered under a new license or lease and thus, encourage and stimulate further exploration and production activity.

SECTION 24. SURRENDER OF LICENCE OR LEASE

This Section addresses the concept of surrender, whereby the holder of a licence or lease is permitted, subject to prior notice to the Minister, to return any part of the area which was granted under a license or lease, as they see fit. The right of surrender under the Act does not exempt the holder of a license or lease from any liabilities or obligations thereunder, prior to the date of surrender.

The rationale for this section is to encourage the holder of a license or lease to release and return to the State any acreage not intended to be used under the license or lease, prior to the date of expiration of the license or lease. As with the previous section, acreage returned to the State can then be re-distributed or re-offered under a new license or lease and thus, encourage and stimulate further exploration and production activity.

SECTION 25. COMPETITIVE BIDDING

As indicated earlier, we are deleting this section in its entirety as it may be open to interpretation that it is the intention of the Government to subject a licensee who discovers petroleum and applies for the grant of a lease, to be also subject to a process of competitive bidding.

SECTION 26. JOINT OPERATIONS

This Section contemplates that discoveries may be made beyond the boundaries set out under a license or lease and

it sets out a process to allow for efforts to be undertaken to conduct or coordinate joint operations in connection with the discovery.

SECTION 27. CROSS BORDER OPERATIONS

This Section contemplates that discoveries may extend beyond the boundary of The Bahamas into another country and it seek to set out the procedure which should be adhered, accordingly.

This Section gives the Minister the flexibility to consult with and work in tandem with the other local entities and foreign countries as required in order to address the conduct of cross border petroleum operations

VARIATION, ASSIGNMENT, TRANSFER AND TERMINATION

Section 28. Variation by Minister

This Section allows for the Minister to vary the conditions of

an instrument and it sets out the procedure related thereto.

Section 29. Assignment and Transfer

This Section seeks to prohibit the assignment or transfer of a permit. Any transfer or assignment under the Act shall require previous consent in writing of the Minister and there are provisions which set out the manner in which an application for assignment or transfer of a license, lease or petroleum agreement shall be submitted, processed, evaluated and granted or not granted by the Minister.

According to the Commonwealth Secretariat, in the international petroleum industry, licenses, leases or agreements granted for upstream petroleum operations are often treated as transferable, taking into consideration the capital intensive nature of the operations and the fact that often more than one (1) party may enter under such a license, lease or petroleum agreement for a long term period, often over twenty (20) years, to engage in joint operations, thus sharing costs and liabilities.

In particular, Section 29(7) has been included in order to ensure that it is clear what will constitute an assignment and transfer under the Act. Including a provision of this nature would expand the scope for the Government to ensure that any assignment or transfer effected with respect to a lease, licence or petroleum agreement granted under the Act would be subject to and required to comply with the laws of the Bahamas. Fees for assignments and transfers are also envisaged.

Section 30. Termination

Section 30 seeks to set out the grounds upon which the Minister may terminate an instrument and the procedures related and to be adhered thereto.

MR. SPEAKER

The imposition of a royalty is a common element and integral financial component, which is often included under

the substantive petroleum law of any country or applicable petroleum sector financial legislation.

Sections 31 to 33 seek to impose an obligation for the holder of a license or lease to pay a petroleum royalty to the Government, in respect of operations thereunder. These sections also set out the manner in which the royalty value is to be determined and the interval periods for which the royalty will be paid.

SECTION 31 OR 30. ROYALTY

Commonwealth Secretariat advised that the current subsections 31 (2) (a) and (b) may provoke an interpretation that the Bill does not provide a transparent methodology for the valuation of petroleum. In this regard, it was agreed that the valuation of the crude can be subject to discussion and mutual agreement and provided for under the relevant documentation. Therefore, the amendment proposed will allow for contractual provisions to address, inter alia, the assessment point for the valuation of petroleum, the

conditions for arms-length sales, benchmark or marker crude prices and procedures to address situations where there is failure to agree on the valuation.

SECTION 36. EXEMPTION FROM CUSTOM DUTIES

This Section allows the holder of an instrument to be exempt from the obligation to pay customs duties and it sets out the nature, scope, circumstances and process under which the exemptions would be approved by the Minister

SECTION 37. SECURITY FOR OPERATIONS.

This section of the bill requires that financial security be lodged with the Minister in order to guarantee due performance and commitment to conduct petroleum operations, including fulfillment of the exploration work programme. The Section is drafted in such a manner to allow the Minister the flexibility to determine and approve the details of the form and amount of the guarantee.

The inclusion under the substantive petroleum law of a requirement of a performance guarantee to secure performance of obligations is good international practice and should there be failure to discharge such obligations, the Government would have the right to enforce the guarantee, accordingly.

DAMAGE AND COMPENSATION

MR SPEAKER

The Government of The Bahamas takes the preservation of our environment seriously. We understand that it is the basis of our livelihoods and thus this Petroleum Bill 2014 addresses the remediation of any damage that may be inflicted on the environment due to exploration efforts.

Sections 38 - 42 of the bill seeks to enshrine the principle of absolute liability for environmental damage on the holder of an instrument and address other pertinent matters including indemnity of the Minister, requirement for insurance and

security against environmental damage

The inclusion under the substantive petroleum law of a requirement of environmental to safeguard against environmental damage is good international practice and should environmental damage occur in the conduct of operations, the Government would have the right to enforce the guarantee, accordingly.

SECTION 41 COMPULSORY INSURANCE AGAINST LIABILITY NOW 40

This section will be amended. With the conduct of petroleum operations, there is always an inherent risk that damage can ensue to persons, property and the environment. In this regard, it is imperative that any holder of an instrument who is responsible for such damage and the consequential economic losses as a direct or indirect consequence of conducting petroleum operations, shall be held accountable and liable

for the costs to address and remedy such damage and to compensate those who have suffered economic losses.

In the international petroleum industry, there are financial mechanisms which are used to insulate and safeguard the State from absorbing and inheriting the financial burden for liability for damage to persons, property and the environment and economic loss, caused by the holder of an instrument under which petroleum operations are conducted.

We recognised that both sections 41 - "Compulsory Insurance Against Liability" and 42 - "Security against environmental damage" contain provisions which overlap and address the matter of damage to the environment. Therefore, to avoid duplicity or ambiguity in the interpretation and application of such legislative provisions we are deleting the current Section 41 and replacing it with a new Section titled "Financial Security".

SECTION 43. MINISTER MAY REMEDY DEFAULT

This Section contemplates and identifies the circumstances under which the Government may, from time to time remedy the default of the holder of an instrument and the process related thereto.

This section has been drafted in such a manner to ensure that the burden to remedy default of the holder of an instrument, especially with respect to environmental liability is not imposed on the Government. Inclusion of a section of this nature provides the Government with the means to remedy default of the holder of an instrument, but only if it is considered expedient and in case of an emergency.

At all times, the holder of an instrument should be cognizant of its duty under the law to comply with petroleum sector legislation and fulfill all of its obligations, without relying on or expecting the Government to remedy its default and incur the costs related thereto.

The clauses referenced in the section titled "Minister may remedy default", which in the current draft is Section 43, namely "37 and 42" will become "36 and

40”.

INFORMATION AND RECORDS

MR SPEAKER

Sections 44 – 45 requires the holder of an instrument to keep records, books and accounts and make the same available for inspection by the Minister. These sections state the type of information to be provided and set out the procedure related thereto.

The rationale for a section of this nature is to ensure that the Minister is informed, at all times about any petroleum operations being conducted under an instrument. Provisions of this nature accord with and allow the Government of the Bahamas to comply with transparency and accountability concepts and principles.

Having regard to the all of the records and information which shall be submitted to the Minister in compliance with

the Act, the Minister will always be equipped to report either to Cabinet or Parliament on the conduct of petroleum operations in The Bahamas.

MR SPEAKER

Sections 47 to 52 pertain to ancillary rights. In this bill ancillary rights is defined as, "any right or privilege required by the holder of an instrument to discharge such operations thereunder and includes where applicable, the right to:

- (a) enter upon land or submarine area and to geophysically examine and explore for petroleum
- (b) to drill wells or bore holes
- (c) use and occupy land for the erection of buildings and facilities; or
- (d) obtain a supply of water or other substance."

The holder of an instrument may require ancillary rights. These sections of the bills set out the nature of an application for ancillary right, the procedure related to it, the grant of an ancillary right and restrictions to the granting of

such rights.

MR SPEAKER

Sections 53 and Section 54 and other sections throughout the Act seek to identify and earmark certain offences and set out the maximum penalty that may be imposed, by way of a fine or imprisonment. Section 53 (1) states that, “any person who contravenes or fails to comply with any of the provision in sections 39, 40 or 41 commits an offence and is liable on conviction to:

- (a) a fine not exceeding ten million dollars
- (b) imprisonment for a term not exceeding twenty years
- (c) to both such fine and imprisonment and in the case of a continuing offence to a further fine of five thousand dollars for every day during which the offence continues.

In every offence section under the Act, a maximum fine and

the term for an imprisonment sentence has been inserted. The quantum of this fine in the Act was determined to be adequate and stringent, having regard to the fact that the Bahamas is renowned tourist destination which cannot afford to be plagued by environmental damage and disaster as a consequence of petroleum operations.

SECTION 55. REGULATIONS

This Section sets out the nature and scope of regulation making power of the Minister. It empowers the Minister responsible for petroleum to make regulations for the administration of Act, including regulations which *inter alia* establish the procedures, forms, terms and conditions related to various instruments provided for under the Act.

PETROLEUM REGULATIONS 2014

MR SPEAKER

The Petroleum Regulations 2014 supplements the Petroleum

Act and addresses various matters which pertain to the conduct of petroleum operations in The Bahamas. These Regulations are subdivided into six (6) parts.

PART I

LANDS AND SUBMARINE AREA DIVISION

Regulations three (3) – six (6) under Part I, address the concept of graticulation and the fact that The Bahamas is sub-divided into blocks. Regulations under this PART also seek to describe submarine blocks in detail and further introduce the concept that blocks are divided into units.

PART II

PROCEDURE FOR APPLICATION AND COMPETITIVE BIDDING

Regulations 7 - 11 under Part II, outlines procedure related to the application, grant, form and publication of an

instrument, as provided for under the Petroleum Act petroleum law. In addition, there are Regulations which seek to set out the nature and procedure of competitive bidding.

PART III

GENERAL OBLIGATIONS

Regulation 12, outlines the obligations that all holders of an instrument, shall be required to adhere to. In particular, the international concept of "local content" has been addressed to the extent that there are sub-regulations which require holders of an instrument to employ local citizens and to provide training and technical education, including the grant of scholarships.

In particular, Regulation 13 is a unique provision which was included in order to assist the Government to set out a process which the holder of an instrument should adhere to if artifacts, relics and such other relate matter in The

Bahamas.

PART IV

EXPLORATION WORK PROGRAMME AND EXPENDITURE

Regulations 14 - 18 address matters related to the commencement of exploration operations and provide further particulars concerning the development of an exploration work programme; minimum expenditure related thereto and the reporting of actual expenditure. In particular, there are Regulations which set out the process to observe when a discovery is made and for determination of a commercial discovery.

These regulations are critical, since the preparation and submission of an exploration programme to the Minister, together with the expenditure related thereto, allows the Minister to be aware of the scope, nature and cost of petroleum operations which are being conducted upon the

acreage was granted under an instrument.

Moreover, where petroleum is discovered, these Regulations seek to ensure that the Minister is not only duly informed forthwith, but that he is integral in the process which would need to be undertaken with respect to determination of a commercial discovery.

PART V

PRODUCTION AND DRILLING

MR SPEAKER

Regulations 19 - 22 addresses matters related to the production of petroleum and includes Regulations which relate to well location and spacing and directional drilling.

In particular, Regulation 22 is of utmost importance since it introduces the concept of abandonment of a well and decommissioning of a facility and it ensure that the holder of

an instrument is duly cognizant of its liability and obligation to conduct abandonment and decommissioning operations in such a manner which is approved by the Minister.

PART VI

MISCELLANEOUS

Regulation 23 introduces the concept of *force majeure* and it sets out the circumstances under which *force majeure* may be invoked *vis-à-vis* petroleum operations. Regulation 24 provides for the Repeal of the Petroleum Regulations, Chapter 219 of The Bahamas.

IMPACT OF PETROLEUM EXPLORATION AND PRODUCTION OPERATION

MR SPEAKER

As we proceed to develop and reform the petroleum sector, one of the most critical matters that needs to be considered

and addressed concerns the manner in which the Government shall respond to many of the health, safety and environmental issues, especially with respect to exploration and production operations and in particular, in the offshore marine environment.

Generally, petroleum sector operations result in the complex web and interaction between ships, structures, installations and persons. Further, offshore petroleum sector operations occur in a multiple use sea environment which comprises existing sea lanes for commercial and military vessels, productive fishing grounds and countless numbers of fishing vessels and marine mammal interactions.

When production of petroleum is fully operational and at a high level of intensity and multiple use activities are occurring in the sea environment, it is incumbent upon the Government to acknowledge and consider the inherent risk to security, safety and health of persons and environmental protection.

MR SPEAKER

Petroleum exploration and production operations have the potential to cause a variety of impacts to land and marine environment. The intensity of such impacts will depend upon the precise stage in the exploration and production lifecycle, the size and complexity of the project and the nature and sensitivity of the surrounding environment. Thus, prior to the commencement of any petroleum operations, a fundamental requirement for the conduct of such operations is the preparation of an environmental impact assessment "EIA", together with the development and implementation of an effective environmental management plan "EMP".

An EMP will be a statutory requirement prior to commencement of operations and the provisions thereunder will be prescriptive in nature, to some extent. It is important to note however, that an EMP in itself is not a regulatory instrument, but rather an environmental risk management tool. As such the EMP will be augmented by a more robust

statutory framework containing certain prescriptive standards that are accepted as global best practices.

MR SPEAKER

The Bahamas has made provision for immediate response in the event of an oil spill in our water. Though presently there is no oil drilling occurring in our water we do have neighbouring countries which are in the business of oil production. We have signed on to international treaties, protocols and plans which provide technical and procedural assistance and remediation equipment in the event that our country should be in need of them. At present, the National Oil Spill Contingency Plan for the country includes provisions which relate to different tiers of spill response preparedness. The Oil Spill Contingency Committee is comprised of the Permanent Secretaries of all the relevant ministries, the head of all of the uniformed branches of the country, the Director of NEMA, all of the oil companies in the countries, the BEST Commission, Bahamas National Trust, BNGIS, BEC, BASRA and other agencies of the Government. The plan is

comprehensive and sets out the response to any oil spills in the country and the roles of each Ministry, Agency, etc.

The Clean Caribbean and Americas (CCA) is a cooperative of oil companies with an objective to enhance the capability to efficiently responding to marine oil spills. Its mission is to provide its members with “immediately accessible emergency preparedness and response resources, services and support in order to minimize environmental impacts from oils spills and related incident in the Caribbean and the Americas”. As part of the response to any oil spill the CCA provides its members access to sources of equipment and manpower through the CCA. According to the CCA their equipment inventory “consists of air mobile, multipurpose, fully integrated, turnkey systems able to operate in a variety of environments (offshore, nearshore and onshore) and capable of recovering a wide range of petroleum products in environments ranging from tropical to cold water.

The Bahamas is a party to the Caribbean Island Oil Pollution Preparedness Response and Cooperation Plan which sets the

framework under which island states in the Caribbean as well as Venezuela cooperate in responding to spill accidents as required in the Oil Spill Protocol. "The Caribbean Plan offers an international mobilization scheme which can be utilized by the oil industry and government response teams on an international level." The objective of the Plan is The objectives of the Plan are to:

1. promote and implement regional cooperation in oil spill contingency planning, prevention, control and clean up;
2. develop appropriate measures of preparedness and systems for detecting and reporting oil spill incidents within the area covered by the Plan;
3. institute prompt measures to restrict the spread of oil; and,
4. identify resources to respond to oil spill incidents.

The Bahamas is also a party to the Wider Caribbean Region Multilateral Technical Operating Procedures (MTOp) for Offshore Oil Pollution Response. The intention of this document is to build a responder-to-responder network so

that in the event of a large oil spill, participating countries can work effectively together to minimize environmental impacts of the spill. This network and accompanying relationships are vital to the success of a regional response to an incident. These protocols were established in the wake of the 2010 oil spill in the Gulf of Mexico. It is important to note that notwithstanding the embargo between Cuba and the US, Cuba has opted to have the United States as first responder in the event of a spill. Along with Cuba and the United States, The Bahamas, Jamaica and Mexico are also participating countries to the MTOP.

PETROLEUM (HEALTH AND SAFETY) REGULATIONS, 2014

MR SPEAKER

The Petroleum (Health and Safety) Regulations 2014, *(hereinafter referred to as "H&S Regulations")* seek to address matters of health and safety in the operation of facilities for petroleum exploration and extraction in The

Bahamas.

The H&S Regulations address different health and safety requirements and reflects best international standards and practice for the safe operation of petroleum facilities.

The H& S Regulations have been drafted in a broad manner so that they may apply not only to installations specifically used for exploration and production of petroleum, but to petroleum facilities, including facilities used in post-production processing, storage and transport of petroleum.

The H&S Regulations are sub-divided into six (6) Parts, as more particularly outlined below.

PART I

DUTIES RELATING TO PETROLEUM OPERATIONS

Regulations under PART I impose general duties on operators of petroleum facilities to ensure the facilities are designed, constructed and operated in a safe manner. These

include the duty to appoint a manager for all facilities to oversee the safe operation of that facility (Regulation 4); the duty to establish a comprehensive safety management system to identify, address and manage risks (Regulation 6); and duties which require the safe handling, management and disposal of hazardous liquids, vapours, or gases, including control of sources of ignition.

PART II

DUTIES RELATING TO WELLS

Regulations under PART II impose duties on operators in relation to the design and execution of well-drilling operations. In particular, PART II introduces the concept of notifiable operations which require the prior approval of the Minister before they can be commenced (Regulation 13) and there is also a requirement to notify the Minister of the occurrence of any failures in the integrity of the well (Regulation 14).

A key aspect of PART II relates to the ongoing inspection of

well drilling operations by a competent person and the maintenance of records of such inspections. Regulations under PART II include references to a number of SCHEDULES which are annexed thereto and set out further particulars required to be provided and satisfied. Key Regulations under Part II relate to the management of particular hazards, and procedures concerning the casing and abandonment of wells (Regulation 18 and Regulation 19 respectively).

With respect to mobile offshore drilling units "MODUs", Part II introduces the requirement that such facilities shall comply with the *Code for the Construction and Equipment of Mobile Offshore Drilling Units* adopted by the Assembly of the International Maritime Organization.

PART III

DUTIES RELATING TO FACILITIES

Regulations under Part III set out an employer's duties in relation to petroleum facilities. In particular, this Part

requires that all operators shall prepare a “safety case”, with a statement of particulars as set out in SCHEDULE 4; for every facility under his or her control (Regulation 23) which must be approved by the Minister (Regulation 24). Such safety cases shall be reviewed every five (5) years, or sooner as directed by the Minister (Regulation 25) and shall be revised when changes are made to the design, construction or operation of the facility that may affect the safety of the facility (Regulation 26)

PART IV

CERTIFICATE OF FITNESS AND INSPECTION BODY

PART V

VERIFICATION SCHEMES FOR INSTALLATIONS

Regulations under PART IV and PART V relate specifically to offshore installations and the role of inspection and certification organisations (*often referred to as Classification Societies*) that routinely inspect and certify marine vessels and structures. Under Part IV of the Regulations, a person or

organisation recognised as a certifying authority must carry out inspections or examinations of the facility, and must issue certificates of fitness in relation to their structure and associated equipment (Regulations 30-33).

Alternatively, under PART V, an employer may operate a verification scheme for an installation. Such recognition schemes must be approved in advance by the Minister (Regulation 36), subject to the operator satisfactorily demonstrating that a number of prescribe conditions have been met (Regulation 35). An operator who wishes to operate a verification scheme must appoint an independent and competent person to carry out the verification work and implement the verification scheme, so that the management of safety critical elements can be audited (Regulation 37).

PART VI

EMERGENCY RESPONSE PLAN

Part VI deals with an employer's duties concerning the management of hazards and emergencies. In particular,

Regulation 41 places a duty on operators to prepare emergency response plans for all facilities, a copy of which must be provided to the Minister prior to commencement of operations. Key Regulations under this Part relate to the protection of accommodation from fire (Regulation 43); the provision of temporary refuge in the event of fire (Regulation 44) and the provision of life saving equipment for installations (Regulation 45).

The H&S Regulations are supplemented by seven (7) SCHEDULES which deal with address safety management systems; notification requirements for well drilling operations; well drilling records; safety cases and certification and verification schemes, respectively.

PETROLEUM (OFFSHORE ENVIRONMENTAL PROTECTION AND POLLUTION CONTROL) REGULATIONS

Justification and Rationale

MR SPEAKER

The objective of the Petroleum (Offshore Environmental Protection and Pollution Control) Regulations 2015, (*hereinafter referred to as* "OEPPC Regulations") is to provide rules for offshore installations to prevent damage to the environment and pollution of the marine environment by substances used or produced in offshore petroleum exploration and production operations.

The OEPPC Regulations reflects best international standards and practice for the management of the environmental impacts associated with offshore petroleum exploration and production operations. In particular, these Regulations give effect to the provisions of the International Convention for the Prevention of Pollution from Ships 1973/78 "MARPOL" and the International Convention on Oil Pollution Preparedness, Response and Cooperation 1990 "OPRC" as they apply to offshore installations.

The OEPPC Regulations have been drafted in a narrow manner, so that it applies specifically to offshore installations

and related facilities. Moreover, the Regulations reflects the fact that The Bahamas has ratified a number of specific international instruments relating to ships and offshore installations that are not applicable to onshore facilities.

MR SPEAKER

The OEPPC Regulations are separated into six (6) Parts, which each address different aspects relating to environmental management and pollution prevention and control, as more particularly outlined below.

PART I

ENVIRONMENTAL AUTHORISATION

PART I imposes an overriding obligation on an operator to apply for an environmental authorisation from the Minister before any petroleum exploration and production operations are commenced (Regulation 3). Environmental authorisation may be granted for a maximum period of three (3) years, after which it must be renewed (Regulation 6). Every

application for such an authorisation shall include the preparation of a comprehensive environmental impact assessment "EIA" and an environmental management plan "EMP".

PART II

ENVIRONMENTAL IMPACT ASSESSMENT

PART II of the OEPPC Regulations sets out the process and specific requirements to obtain an EIA and the First Schedule annexed to the OEPPC Regulations, sets out the particulars which are required to be addressed and included in the EIA (Regulation 7).

PART III

ENVIRONMENTAL MANAGEMENT

Part III of the OEPPC Regulations sets out the process, requirements and contents of an EMP (Regulation 10 and Regulation 11).

Regulation 10 provides that no person may operate an offshore facility without an EMP approved as part of the environmental authorisation. The SECOND SCHEDULE attached to the OEPPC Regulations set out the specific requirements to be addressed by and included in an EMP. Once approved, any subsequent changes to an EMP must be approved by the Minister (Regulation 13). A key part of the EMP is the requirement for regular and effective monitoring of the environment (Regulation 14).

In addition to the requirements for an EMP, Part III also sets out the requirements for pollution emergency response plans which may either be submitted as a separate Oil Pollution Response Plan (Tier 1 plan) or as an integral part of the EMP (Regulation 15). A key element of this requirements is that such emergency response plans should be tested and reviewed on an ongoing basis to ensure that they are fit for purpose (Regulation 17).

PART IV

DUTIES RELATED TO OFFSHORE INSTALLATIONS

Part IV of the OEPPC Regulations sets out substantive technical provisions relating to the management and control of operational emissions and discharges from offshore installations. In this regard, Part IV addresses emissions of greenhouse gasses through venting and flaring; the discharge of produced and process water containing hydrocarbons and the use and discharge of drilling fluids. Regulation 20 applies the internationally accepted prescriptive discharge standards for produced water that have been adopted by the OSPAR Commission.

In the absence of an internationally adopted standard, the OSPAR standard is widely accepted as a proxy for such a standard and has been widely applied by many countries. Similarly, Regulation 21 applies the widely accepted OSPAR standards for the discharge of drilling fluids to the marine environment. While these provisions establish prescriptive discharge standards for these activities, operators are also required to demonstrate how they will meet these standards in the EMP.

Certain aspects of the operation of offshore installations are regulated by the International Maritime Organisation through the International Convention for the Prevention of Pollution from Ships 1973, as modified by the 1978 Protocol relating thereto "MARPOL 73/78". In this regard, ANNEX I and ANNEX V apply. ANNEX V relates to the discharge of "garbage" from offshore installations and provides that no waste other than certain categories of food waste may be discharged (Regulation 22). All garbage generated, discharged or incinerated must be recorded in a Garbage Record Book of the type approved by a Flag State Administration (Regulation 24).

A key regulatory requirement of MARPOL ANNEX I relates to the standards for permitted discharges of oily waste from the engine spaces of ships and offshore installations. These requirements are addressed by OEPPC Regulations 25-28. Operators are required to maintain an Oil Record Book in which all records relating to the transfer and handling of oil and the discharge of oily waste must be recorded

(Regulation 29).

Another key element of MARPOL ANNEX I is the requirement for offshore installations to have valid International Oil Pollution Prevention "IOPP" Certificates (Regulation 32). Regulation 33 sets out the survey and inspection requirements that must be met before such a certificate can be issued by a surveyor that is approved by either the Minister or by the Administration of a flag State to MARPOL 73/78 (Regulation 34).

INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE

Notwithstanding the fact that substantive petroleum law for The Bahamas broadly addresses the issue of liability for environmental damage, PART VI of OEPPC Regulations deals specifically with the issue of environmental damage arising from the development and operations of offshore petroleum facilities. In particular, Regulation 38 requires all operators to take steps to prevent damage to the environment, whereas

Regulation 39 requires an operator to take remedial action where damage to the environment has occurred. This includes paying the costs for such remediation and compensating any other person who has incurred expense or property damage as a direct result of the damage.

A key provision of this PART V relates to the higher standard of environmental protection that must be achieved if operations are to be undertaken in, or in the vicinity of national parks and an area that has been designated to be an environmentally sensitive area, by the Minister responsible for the Environment, The Bahamas National Trust or such other relevant entity (Regulation 40).

The OEPPC Regulations are supplemented by seven (7) SCHEDULES, each of which deal with the content of an EIA; the contents of an EMP; and the requirements for pollution emergency response procedures.

THE FISCAL REGIME OF THE BAHAMIAN UPSTREAM PETROLEUM

MR. SPEAKER

The new fiscal regime for the upstream petroleum industry in the country ensures that the Government therefore the Bahamian people receive a reasonable monetary share of the industry. It will provide for the Government to receive a minimum amount of 12.5% up to 75% of profits. The Government will be receiving royalties and a share of the profit from any petroleum and natural gas produced and as profits increase the Government's share must also increase. This new regime is one which is fair and is a process which should be considered in regards to other natural resources being harvested in the country.

MR. SPEAKER

The Upstream petroleum fiscal regime was compared to that of several countries in Latin America and the Caribbean, Asia-Pacific, and Africa by the Economic and Legal Section (ELS) of the Commonwealth Secretariat. The ELS stated the

“results indicate that the fiscal regime in The Bahamas would secure a relatively low-level of State-Take compared with the other jurisdictions sampled by ELS. In this regard, ELS considers that a State-Take in order of 20% is low, particularly when contrasted with the average State Take of 60% that applies to the sampled range of jurisdictions. ”

MR. SPEAKER

After the close examination of The Bahamas' upstream petroleum fiscal regime against that of other countries the ELS made some recommendations. They are as follows:

1. that the production-based sliding scale royalty regime be retained, but simplified with respect to the determination of the royalty rate by reference to the level of production.
2. that a flat minimum royalty rate of five percent (5%) be applied to natural gas production.
3. the inclusion of an additional fiscal element known as a Resource-Rent Tax ('RRT') to capture economic rent in

- cases of high profitability of a petroleum project.
4. setting the first threshold as a minimum rate that is higher than the typical cost of capital for such undertaking.
 5. that a Signature Bonus be incorporated within the fiscal regime as a biddable item that may be included by an investor, which may be assessed by Government as part of a process of competitive bidding for acreage.
 6. the introduction of a profit sharing system using an R-factor
 7. the introduction of a cost recovery limit (or 'ceiling'), for the purpose of limiting the amount of deductions that may be applied by a company as part of its calculation of cost-recovery and profitability.
 8. that the Government set an annual cost recovery limit at 75% of post-royalty production for oil, and 100% for natural gas.

This new regime is one that is based on much research and will give The Bahamas a greater benefit should oil be found in commercially viable quantities and produced in the

Bahamas. Should The Bahamas produce oil there will be profit sharing on an ascending scale depending on the amount of barrels per day produced. This regime is a great balance ensuring that both the Government and the investor receives a fair share of the revenues generated from the petroleum industry of The Bahamas.

The new fiscal regime has the following strengths:

1. the overall fiscal burden placed on an investor is closer to the international benchmark and would result in a competitive level of State Take to the average for frontier jurisdictions;
2. the proposed production royalty regime is clearer and more transparent and would ensure the receipt of minimum revenues to the State irrespective of the extent of profitability of the project;
3. the sliding scale royalties linked to daily production thresholds would ensure that revenues accruing to the State increase with production;
4. the proposed fiscal regime does not offer fiscal

- incentives that could unduly influence investment decisions that would otherwise not have been made;
5. the fiscal regime has a comparatively acceptable number of front-ended fiscal impositions;
 6. the proposed regime ensures a marked reduction of the administrative burden on Government concerning the negotiation and enforcement of agreements; and,
 7. the proposed fiscal regime is progressive and will generate a fair share of State Take under a wide range of profitability outcomes.

SOVEREIGN WEALTH FUND

MR. SPEAKER

Many countries around the world have established Sovereign Wealth Funds. These mechanisms are used to secure currency for many different reasons. According to the Sovereign Wealth Fund Institute, the largest Fund in the World belongs to Norway with a total over of \$882 billions dollars. It is called the Government Pension Fund Global, it

was established in 1990 to hold surplus generated by Norway petroleum sector. Norway's Fund is one of the benchmarks that was used to draft the bill that is before is today. Also in the top five largest Wealth Funds in the world are Abu Dhabi with \$773 billion, Saudi Arabia with \$757.2 billion and China with \$652.7 billion. In the Caribbean presently, Trinidad and Tobago has an established Sovereign Wealth Fund in Trinidad and Tobago which is worth an estimated \$5 billion dollars. The Heritage and Stabilization Fund of Trinidad and Tobago was established in 2007, the Fund is paid by the petroleum revenues of that country. This fund was also used as a benchmark for The Bahamas.

MR. SPEAKER

It must be fully understood that should oil be found in commercially viable quantities in The Bahamas, there will be no checks distributed to individuals. This venture has the potential to yield significant revenues which will be placed into a Sovereign Wealth Fund for the benefit of the Bahamian people collectively. For those who do not know,

Sovereign Wealth Funds is where money is set aside for investment to benefit a country and its people. Today in addition to the Petroleum Bill 2014 we also debate the Sovereign Wealth Fund Bill 2014.

The purpose for the creation of the Sovereign Wealth Fund as set out in the bill in section 4 (1) is to:

- a) save and invest surplus funds derived from oil, gas minerals and other natural resources to provide a heritage for future generations of the citizens of The Bahamas
- b) to support and increase savings for future generations;
- c) to enhance sustainable long term capital growth for The Bahamas; and
- d) to support and promote any other strategic development objectives of The Bahamas.

This fund, as was just stated, Mr. Speaker is for the holding of money derived not only from petroleum but from the development of the natural resources of the country. We are

creating a mechanism to ensure that any excess profits gained from such ventures will benefit future generations of The Bahamas

MR SPEAKER

Citizens should also note that section 4 (2) of this bill outlines specifically what the fund cannot be used for. The funds contained in the Sovereign Wealth Fund cannot be used for Government's Capital expenditure and it cannot be used to satisfy any debt of Government. This means that the money held in this fund is solely for the benefit of the Bahamian people through development and savings. This is something that a Government who cares about the welfare of its people and the future growth of a nation would do. We are making provision for our people now and generations to come.

MR. SPEAKER

The Sovereign Wealth Fund will be ruled by a board of

Governors appointed by the Governor General on the advise of the Prime Minister. The board has several functions which are set out in the bill. These can be found in section 9 (1) of the bill. They are to:

- a) determine by resolution, the governance structure and the operational guidelines of the Fund based on prudential standards used by the Central Bank for investments of a similar nature;
- b) determine the investment strategy of the Fund;
- c) be responsible for the management of the Fund;
- d) inform and educate the citizens of The Bahamas on the Fund, the workings of the committee and the board;
- e) review from time to time, the performance of the Fund; and
- f) perform such other related duties as may necessary to carry out the purposes of the Fund.

MR SPEAKER

Sections 10, 11, 12 and 13 of this bill deal respectively with

the powers of the Board, the resources of Fund, the deposits to the Fund and allocation of the deposits to the Fund. However, I thought it important that section fourteen (14), fifteen (15) and sixteen (16) which deals with withdrawals from the Fund and the auditing of the Fund be highlighted. The bill states in section 14 (1) that, "subject to the provisions of this Act, where revenues from any source in accordance with section 11 collected in any financial year fall below the estimated revenues for that financial year by at least ten percent, withdrawals may be made from the Fund as follows, whichever is the lesser amount -

- a) either sixty percent of the amount of the shortfall of revenues from that year; or
- b) twenty five percent of the balance standing to the credit of the Fund at the beginning of that year."

Section 14 (2) states that "the amount withdrawn from the Fund in accordance with subsection (1), shall be deposited into the Consolidated Fund within forty eight hours of such withdrawal." The bill goes further in section 14 (3) to state that, "Notwithstanding subsection (1), no withdrawal may be

made from the Fund in any financial year, where the balance standing to the credit of the Fund would fall below twenty five per cent of the balance standing to the credit of the fund at the beginning of that year, if such withdrawal were to be made.” Lastly, section 14 (4) states, “where there is a withdrawal made pursuant to this section notification of such shall be published in the Gazette.

MR SPEAKER

In the event that there are exceptional circumstances which call for the use of the funds in the Sovereign Wealth Fund, Section 15 deals with the parameters in which such a withdrawal can be made. They are :

- a) devastation caused by man made environmental disasters or natural disasters including hurricane, earthquake, famine, drought, or cause by civil turmoil and acts of war;
- b) circumstances which in the opinion of the Government affects a significant proportion of the population; and

c) circumstances from which in the opinion of the Government, The Bahamas cannot recover without the financial support, inter alia, of the transfer and application of an additional amount from the Fund.

MR. SPEAKER

It is extremely important that there be accountability and transparency in place when dealing with the people's money, especially money derived from the natural resources of the nation that belongs to all of us. For this reason the Fund will be audited annually by the Auditor General or an Auditor authorized by the Auditor General in writing. The completed audit report must be submitted to the Minister responsible immediately following its completion. The auditor of the fund must also bring to the attention of the Minister and the Board any irregularities that they may encounter during the process of auditing this fund.

MR. SPEAKER

Sections seventeen (17) outlines that investments strategy which the Fund will have and gives guidelines for how this is to be carried out. "The Board must determine the investment strategy for the Fund no later than four months after its first meeting. A copy of this strategy must be laid on the table in this place and the strategy implemented by the Central Bank of The Bahamas. The Central Bank is also mandated to appoint a fund manager for the Fund with the "necessary skills and experience appropriate to the mandate."

MR SPEAKER

The bill in section nineteen (19) permits for up to ten percent of the Fund be invested in any international debt security of the Government with prior approval being sought and received from Parliament. This investment must also be highly rated by at least two international credit rating agencies.

It is my duty to explain the rationale for section twenty (20)

lest it be misconstrued. I state emphatically the the prohibited investment in The Bahamas of money held within the Fund in not a reflection of the Government's belief. It is based on the advice given to the Government upon the establishment of the Sovereign Wealth Fund. Section twenty (20) of the bill states the prohibited investments that cannot be made by the Fund. The Bill says that no investment can be made directly or indirectly in:

- a) The Bahamas
- b) any entity (whether or not incorporated) conducting any of its business whether directly or indirectly through another such vehicle or entity in The Bahamas; or
- c) any entity (whether or not incorporated) controlled by a citizen or citizens of The Bahamas or any person or persons resident in The Bahamas, or any combination thereof, and whether or not, in any case, formally or informally, acting in concert.

MR. SPEAKER

The rationale for this provision is the prevention of the possible negative impact that petroleum revenues would have on the wider economy. The Government was advised that "based on the principles of revenue sterilization, the revenues gained from the petroleum industry can place great pressure on non petroleum industries. New sources of capital inflows into the economy, additional export revenues, upward pressure on wages and other input costs needed in the petroleum sector tend to create inflationary pressure while pressuring the local exchange rate due to oil exports. This can effect the current standing of the Bahamas dollar to that of the United States. Another reason for the provisions in section twenty (20) is to mitigate against any spending pressure that may be place on the Government. It is not the intention for the Fund to become a supplement to the Consolidated Fund but for it to fulfill the purposes for which it was created.

MR. SPEAKER

Sections twenty one (21) to twenty eight (28) address the

following:

- The duties of the Central Bank of Inform the Board
 - Exemption from taxation - The Sovereign Wealth Fund established upon the passing of this bill will be exempt from any taxation.
- Confidentiality – the Board shall not disclose any information or document pertaining to the Fund.
- Disclosure of Interest – all Board Member must disclose in writing any direct or indirect pecuniary interests in any body corporate involving the Fund.
- Reports to the Minister – a quarterly and annual investment report must be submitted to the Minister and any report requested within one month of the request on the operation and performance of the Fund.
- Financial Statements to be Laid in Parliament – the Minister must lay on the Table of Parliament the audited financial statements in respect to the Fund.
- Preservation of Reserves of Fund- the Fund shall be managed in such a manner that, prior to any change of administration, the amounts then standing to the credit

- of the Fund as of midnight on the day prior to the change of administration; and the
- Regulations – the Minister may make regulations generally or the purpose of carrying this Act into effect and for the better carrying out of the objects and purposes of this Act.

MR. SPEAKER

The Sovereign Wealth Fund of The Bahamas, as I have alluded to, will be governed by a Board comprising of five members, all expected to have “proven competence in matter of finance, investment, economics, business management or law including an officer of the Central Bank and the Ministry of Finance. The Chairman of the Board will be appointed by the Minister responsible. The persons chosen to fill these positions Mr. Speaker will have an exceptionally important task, which is to secure the Fund through investment for the benefit of The Bahamas and future generations of Bahamians.

MR. SPEAKER

The Sovereign Wealth Fund Regulations 2014 covers deposits to the Fund, allocation of deposits and withdrawal from the Fund.

Deposit will be made to the fund as indication in Section 3 (1) of the bill.

1. Where petroleum revenues collected in each quarter of any financial year in accordance with section 11 of the act

- (a) exceed the estimated petroleum revenues for that quarter of the financial year by more than ten percent, the US dollar equivalent of the excess revenue shall be withdrawn from the Consolidated Fund and deposited to the Fund in accordance with Section 11 (1) of the Act; or

- (b) exceed the estimated petroleum revenues for that quarter of a financial year, but do not exceed such estimated revenues by at least ten percent, the Minister may direct that the US dollar equivalent of all or part of the excess revenue shall be withdrawn

from the Consolidated Fund and deposited to the Fund in accordance with Section 10 (1) of the Act.

MR SPEAKER

Before I end, I would like to thank my staff at the Ministry of the Environment and Housing especially Permanent Secretary Camille Johnson for all their hard work in drafting these bills before us today. I would also like to thank the Office of the Attorney General, Law Reform Commissioner, Tina Roye, Ms. Green, Mr. Julian Russell, Arlette Daniel and Dr. Ekpen Omonbude of the Commonwealth Secretariat as well as all of the other organizations and persons who provided us with information and feedback as these bills were being drafted.

MR. SPEAKER

These bills and their accompanying regulations are signs that our nation is progressing in the right direction. We are moving toward a new and stronger Bahamas where our

people receive fair benefits from the use of their natural resources. These are indeed exciting times when Bahamians should begin to see where they can fit into what is to come. Should there be commercially viable amounts of oil found in our country, it can open many doors of opportunity for our people to get involved. Petroleum being found in our country will also provide opportunities for the country to lessen its bill to import oil from other jurisdictions.

MR. SPEAKER

This administration is about the people's business. We are ensuring that the Bahamas we leave to our children is stronger and better than the one we inherited. We are doing our part understanding that Governance is a partnership with the people of the country. Our job is to provide the opportunities and set an atmosphere of prosperity. The people must take advantage of those opportunities as much as possible through preparation, diligence and hard work. It is my belief Mr. Speaker, that when all is said and done this Christie administration would

have left the greatest positive impact on this country through the legislation and policies that we have advanced in this term of office. We are creating the framework for which The Bahamas of the next century will be built. We are building our country through strategic development ushering in the changes which we were elected to bring to fruition.

I am proud of what this administration has accomplished thus far as a team of experienced leaders, new generation leaders and the people of this country. We must press on together never moving away from the goal of making the Bahamas the best little country in the world.

I SO MOVE

THANK YOU MR. SPEAKER.