

CAYMAN ISLANDS



Supplement No. 5 published with Extraordinary
Gazette No.5 dated 18 January, 2017.

**A BILL FOR A LAW TO PROVIDE FOR THE REGULATION OF THE
FUEL MARKET IN THE CAYMAN ISLANDS BY THE UTILITY
REGULATION AND COMPETITION OFFICE; AND FOR INCIDENTAL
AND CONNECTED PURPOSES**

THE FUEL MARKET REGULATION BILL, 2017

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide for the regulation of the fuel market by the Utility Regulation and Competition Office (“the Office”). The Office has powers to regulate all utility markets pursuant to the Utility Regulation and Competition Law, 2016.

Clause 1 provides the short title and the commencement provisions.

Clause 2 is the interpretation clause.

Clause 3 sets out the functions of Cabinet under the legislation.

Clause 4 provides for Cabinet to give directions to the Office.

Clause 5 sets out the functions of the Office.

Clause 6 provides for the registration of importers of fuel.

Clause 7 permits the Office to obtain access to information it requires for its functions from any government entity, any person in the fuel sector or any other person whom the Office reasonably believes may have access to the information it requires.

Clause 8 provides that fees due under the Dangerous Substances Handling and Storage Law, 2003 are due and payable to the Office and form part of the revenue of the Office.

Clause 9 provides for the making of regulations and rules to give effect to the legislation.

THE FUEL MARKET REGULATION BILL, 2017
ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Interpretation
3. Functions of Cabinet
4. Directions by Cabinet
5. Functions of the Office under this Law
6. Registration of importers
7. Access to information
8. Fees under the Dangerous Substances Handling and Storage Law, 2003
9. Regulations and rules

CAYMAN ISLANDS

**A BILL FOR A LAW TO PROVIDE FOR THE REGULATION OF THE
FUEL MARKET IN THE CAYMAN ISLANDS BY THE UTILITY
REGULATION AND COMPETITION OFFICE; AND FOR INCIDENTAL
AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

Short title and
commencement

1. (1) This Law may be cited as the Fuel Market Regulation Law, 2017.

(2) This Law shall come into force on such date as may be appointed by order made by the Cabinet.

Interpretation

2. (1) In this Law -

“administrative determination” has the meaning assigned by the Utility Regulation and Competition Law, 2016;

“covered service” has the meaning assigned by the Utility Regulation and Competition Law, 2016;

“fuel” includes -

- (a) petrol;
- (b) diesel;
- (c) kerosene;
- (d) aviation fuels;

- (c) liquefied petroleum gas;
- (d) liquefied natural gas;
- (e) compressed natural gas;
- (f) biodiesel (that is, a diesel fuel obtained by esterification of oil derived from plants or animals);
- (g) ethanol;
- (h) any substance that is used as a substitute for a fuel mentioned in paragraphs (a) to (g);
- (i) any other petroleum or non-petroleum fuel; and
- (j) any substance that is supplied or represented as -
 - (i) a fuel mentioned in paragraphs (a) to (g); or
 - (ii) a substitute substance under paragraph (h);

“fuel sector” means persons engaged in business in the fuel market and such business includes importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, distributing, marketing, and selling of fuel;

“government entity” includes a ministry, portfolio, the Cabinet Office, Office of the Director of Public Prosecutions, the Office of the Complaints Commissioner, the Office of the Information Commissioner, the Audit Office, the Legislative Assembly, a statutory body, statutory authority and a government company;

“importer” means the holder of an import permit issued under the Dangerous Substances Handling and Storage Law, 2003;

“Minister” means the member of Cabinet charged with responsibility for the Office;

“Office” means the Utility Regulation and Competition Office established by the Utility Regulation and Competition Law, 2016;

“regulated premises” means any wholesale or retail premises in which fuel is stored or distributed and which is regulated under the Dangerous Substances Handling and Storage Law, 2003; and

“sectoral provider” has the meaning assigned by the Utility Regulation and Competition Law, 2016.

(2) Services offered and provided by the fuel sector are covered services for the purposes of the Utility Regulation and Competition Law, 2016.

3. (1) Cabinet shall establish and maintain policies designed to ensure that -

Functions of Cabinet

- (a) the importation, exportation, re-export, shipping, transporting, processing, refining, storing, distributing, marketing, and selling of fuels; and
- (b) the operations and activities of the fuel sector,

are carried out in a manner that is consistent with the public interest, so as to attain the objectives and purposes set out in subsection (2).

(2) The objectives and purposes referred to in subsection (1) are as follows-

- (a) to ensure that the Islands have a proper, adequate and continuous supply of fuel which are obtained under the most economical and competitive terms possible, taking into account all available sources of supply of fuel;
- (b) to ensure that the fuel sector in the Islands operates under conditions of orderly, economic, efficient and fair competition;
- (c) to ensure the provision to the public of fuel at reasonable prices which accord with international price levels, while ensuring that persons in the fuel sector obtain fair and reasonable returns;
- (d) to prevent collusive practices in the fuel sector, particularly as to prices;
- (e) to facilitate the introduction of alternative fuels into the economy when economically and technically feasible so to do; and
- (f) to facilitate investments in the fuel sector in a manner which promotes fair competition and economic activity and the sustainability of fuel supplies.

Directions by Cabinet

4. In addition to its powers to issue directions to the Office pursuant to the Utility Regulation and Competition Law, 2016 Cabinet may, if it appears to Cabinet that there is a reduction of competition in the fuel sector, direct the Office to carry out investigations into this matter and to report to Cabinet on the results of the investigations.

Functions of the Office under this Law

5. (1) The Office shall supervise the fuel sector in accordance with its jurisdiction under the Utility Regulation and Competition Law, 2016 and, in doing so, the functions of the Office are as follows -

- (a) to implement policy objectives set out in directions issued by Cabinet pursuant to the Utility Regulation and Competition Law, 2016;
- (b) to promote fair competition in the fuel sector;
- (c) to provide consumer protection in the fuel sector;
- (d) to conduct investigations required under this Law;
- (e) to monitor the prices of fuel;

- (f) to promote and facilitate the introduction of alternative fuels into the economy;
 - (g) to discharge duties conferred on it by this Law or any other law;
 - (h) to appoint the Chief Petroleum Inspector pursuant to the Dangerous Substances Handling and Storage Law, 2003;
 - (i) to ensure that the fuels supplies of the Islands are adequate, reliable, efficient and economical for the Islands and for consumers;
 - (j) to protect the public safety, health and the environment in all regulated premises;
 - (k) to prevent discrimination against, or preferential treatment of, any person in the fuel sector, and to prevent monopolistic control of any segment of the chain of supply of fuel; and
 - (l) to minimise barriers to entry for new participation and investors in the fuel markets.
- (2) In performing its functions and exercising its powers under this or any other Law, the Office -
- (a) may make administrative determinations relating to issues arising in the regulation of the business of the fuel sector;
 - (b) shall monitor the global fuel markets in order to understand the market forces which impact on the importation and pricing of fuel delivered to the Islands;
 - (c) shall regulate the operations and trade practices of the fuel sector, having regard to the ecological and environmental needs of the Islands;
 - (d) where appropriate and, if considered to be in the public interest, may mandate and regulate infrastructure sharing;
 - (e) shall facilitate investments in the fuels sector to secure efficiency, competitive prices and growth in the economy generally;
 - (f) shall maintain a data base of all fuels imported into the Islands, and, as near current as possible, an inventory of bulk storage;
 - (g) shall conduct market analyses to assess the effectiveness of competition in the markets;
 - (h) shall provide reports to the Cabinet on the effectiveness of competition in the fuel market;
 - (i) shall take such action as is required under this Law and any other law to secure the safety of regulated premises;
 - (j) shall collect fees due under this Law and the Dangerous Substances Handling and Storage Law, 2003; and
 - (k) shall perform any and all such acts as may be necessary to carry out the purposes of this Law.

- Registration of importers 6. (1) The Office shall cause to be compiled and maintained a register of importers to whom import permits have been issued under the Dangerous Substances Handling and Storage Law, 2003.
- (2) The Office shall register an importer after an import permit has been issued and the importer shall pay the prescribed registration fee.
- (3) An importer shall be considered to be a sectoral provider and an authorization holder and shall be subject to the Utility Regulation and Competition Law, 2016.
- (4) The Office shall keep the register in such medium as it determines and the register must at all reasonable times be available for inspection by any person upon payment of the prescribed register inspection fee, if any.
- (5) The registration fee forms part of the revenue of the Office and shall be recoverable as a debt due to the Office.
- Access to information 7. (1) Notwithstanding the provisions of any other law, the Office may access any information that it requires for the carrying out of its functions under this Law from any government entity, any person in the fuel sector or any other person whom the Office reasonably believes may have access to the information it requires.
- (2) Section 9 of the Utility Regulation and Competition Law, 2016 shall apply for the purposes of this section.
- Fees under the Dangerous Substances Handling and Storage Law, 2003 8. All fees under the Dangerous Substance Handling and Storage Law, 2003 are due and payable to the Office, shall form part of the revenue of the Office and are recoverable as debts due to the Office.
- Regulations and rules 9. (1) The Cabinet may make regulations for the better carrying out of this Law and for giving effect thereto, and in particular the Cabinet may make regulations -
- (a) prescribing matters required or permitted by this Law or any other relevant law to be prescribed;
 - (b) facilitating the investigations of, or into, any action that may be an offence under this Law, the Utility Regulation and Competition Law, 2016 and the Dangerous Substances Handling and Storage Law, 2003;
 - (c) on the recommendation of the Office, prescribing -
 - (i) the registration fee;
 - (ii) the register inspection fee;

- (ii) matters relating to registration under this Law;
 - (iv) matters for the promotion of competition; and
 - (v) measures for the protection of consumers or the general effectiveness of the fuel sector; and
- (d) on the recommendation of the Office, prescribing matters for the better carrying out of the duties and powers of the Office.

(2) Regulations made under this section may provide that the contravention of any provision constitutes an offence and may prescribe penalties for any such offence not exceeding the maximum fine and term of imprisonment prescribed in this Law for any offence under this Law.

- (3) The Office may make rules in relation to -
- (a) infrastructure sharing in the fuel sector;
 - (b) measures requiring the fuel sector to publish certain information;
 - (c) measures intended to increase competitive behavior in the fuel sector; and
 - (d) such other measures as the Office considers necessary for the carrying out of its duties under this Law,

and the Office shall consult with the Minister before making such rules.

Passed by the Legislative Assembly the day of , 2017.

Speaker.

Clerk of the Legislative Assembly.