

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND UTILITY REGULATION AND
COMPETITION LAW (2018 REVISION) TO MAKE CERTAIN
PROVISIONS CONSISTENT WITH THE PUBLIC AUTHORITIES LAW,
2017 (LAW 21 OF 2017); AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

**THE UTILITY REGULATION AND COMPETITION (AMENDMENT)
BILL, 2018**

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Utility Regulation and Competition Law (2018 Revision) to make the Law consistent with the Public Authorities Law, 2017 (Law 21 of 2017).

Clause 1 seeks to provide for the short title and commencement of the legislation.

Clause 2 seeks to amend section 2 of the principal Law to provide for the inclusion of the definition of the Chief Fuels Inspector. The clause also seeks to clarify the definition of "executive member" and as such provides that it means the Chief Executive Officer, an Executive Director or the Chief Fuels Inspector.

Clause 3 seeks to amend section 14 of the principal Law to provide for the increase of the non-executive members from four to five persons thereby making the provision consistent with the requirements of section 9(6)(a) of the Public Authorities Law, 2017 which provides that a board shall not be comprised of more than forty percent public or civil servants.

Clause 4 seeks to amend section 17 of the principal Law to change the references to "Office" to Board" thereby ensuring that the Chair's duties properly relate to the activities of the Board.

Clause 5 seeks to amend section 23 of the principal Law to provide that the quorum shall consist of a simple majority of the voting members. Further, it seeks to make it clear that the Chief Executive Officer, the Executive Directors and the Chief Fuels Inspector have no right to vote at meetings of the Board and that each voting member shall have one vote and that in the event of an equality of votes the Chairman shall have a second or casting vote.

Clause 6 seeks to amend section 28 to correct an error in the principal Law.

Clause 7 seeks to amend section 29 to provide for the appointment of the Executive Directors and the Chief Fuels Inspector by the Chief Executive Officer in keeping with the provisions of the Public Authorities Law, 2017.

Clause 8 seeks to amend section 30 of the Law to remove the references to the Executive Directors and to make the grounds for suspension or revocation of the appointment of the Chief Executive Officer consistent with the Public Authorities Law.

Clause 9 seeks to provide that notwithstanding the commencement of the Public Authorities Law, 2017, the appointment of the Chief Executive Officer and the Executive Directors are valid and continue.

Clause 10 provides that any acts, decisions or proceedings of the Board that were carried out prior to the commencement of this Law shall not be invalid because they were inconsistent with the Public Authorities Law, 2017.

**THE UTILITY REGULATION AND COMPETITION (AMENDMENT)
BILL, 2018**

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 2 - interpretation
3. Amendment of section 14 - structure of Board
4. Amendment of section 17 - duties of Chair and Deputy Chair
5. Amendment of section 23 - procedure and meetings
6. Amendment of section 28 - appointment of Chief Executive Officer
7. Amendment of section 29 - executive members
8. Amendment of section 30 - chief executive officer and executive directors
9. Validity and continuation of appointments
10. Validity of acts

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ENACTED by the Legislature of the Cayman Islands.

Short title and
commencement

1. (1) This Law may be cited as the Utility Regulation and Competition (Amendment) Law, 2018.

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

Amendment of section 2
- interpretation

2. Section 2 of the Utility Regulation and Competition Law (2018 Revision), in this Law referred to as the “principal Law”, is amended as follows -

(a) by inserting in the appropriate alphabetical sequence the following definition -

“ “Chief Fuels Inspector” means the person appointed as such under the Dangerous Substances Law (2017 Revision);”; and

(b) deleting the definition of “executive member” and substituting the following -

“ “executive member” means the Chief Executive Officer, the Executive Director of Energy, the Executive Director of Information or the Chief Fuels Inspector;”.

3. The principal Law is amended in section 14(2) as follows -

Amendment of section
14 - structure of Board

- (a) by deleting the words “nine individuals” and substituting the words “ten individuals”;
- (b) by deleting the words “four non-executive members” and substituting the words “five non-executive members”;
- (c) by deleting the words “Chief Petroleum Inspector” and substituting the words “Chief Fuels Inspector”.

4. The principal Law is amended in section 17(1) by deleting the word “Office” wherever it appears and substituting the word “ Board” in each instance.

Amendment of section
17 - duties of Chair and
Deputy Chair

5. The principal Law is amended in section 23 as follows -

Amendment of section
23 - procedure and
meetings

- (a) in subsection (4) by deleting the words “plus two executive members”; and
- (b) by repealing subsection (5) and substituting as follows -

“(5) The Chief Executive Officer, the Executive Directors and Chief Fuels Inspector shall have no right to vote at meetings of the Board and the non-executive members shall each have one vote.

(5A) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting except that in the case of an equality of votes the Chair shall have a second or casting vote.”.

6. The principal Law is amended in section 28 by deleting the words “to the Board”.

Amendment of section
28 - appointment of
Chief Executive Officer

7. The principal Law is amended by repealing section 29 and substituting as follows -

Amendment of section
29 - executive members

“Executive members 29. (1) The Chief Executive Officer shall appoint the following to the Office -

- (a) the Executive Director of Information;
- (b) the Executive Director of Energy; and
- (c) the Chief Fuels Inspector.

(2) The Executive Directors and the Chief Fuels Inspector, under the day-to-day management of the Chief Executive Officer, shall be -

- (a) principal advisors to the Board; and
- (b) responsible for directing the activities of the Office, in the Executive Director's or the Chief Fuel Inspector's area of responsibility, consistent with Policy, the direction of the Board and the guidance of the Chief Executive Officer.”.

Amendment of section 30 - chief executive officer and executive directors

8. The principal Law is amended in section 30 as follows -

- (a) in subsection (2), by deleting the words "by the Board";
- (b) by repealing subsection (5) and substituting as follows -

“(5) Subject to subsection (5A), the Board, having given notice to and provided opportunity for comment by the Chief Executive Officer may, by a unanimous vote of the Members of the Board, suspend or revoke the appointment of the Chief Executive Officer for -

- (a) serious or gross misconduct; or
- (b) inadequate performance over a reasonable period of time.

(5A) The Board may not suspend or revoke the appointment of the Chief Executive Officer under subsection (5) unless the Board has given the executive member adequate opportunity to improve performance to the required level.

(5B) The Board shall determine inadequate performance by evaluating two or more consecutive performance agreements of the Chief Executive Officer.

(5C) The Chair shall consult with the Minister prior to revoking the appointment the Chief Executive Officer.”;

- (c) in subsection (6) -
 - (i) by deleting the words “or any of the Executive Directors” wherever they appear; and
 - (ii) by deleting the words “or Executive Director”; and
- (d) in subsection (7), by deleting the words “or relevant Executive Director”.

9. Notwithstanding the commencement of the Public Authorities Law, 2017, the appointment of the Chief Executive Officer and the Executive Directors under sections 28 and 29 prior to the commencement of this Law shall be valid and shall continue. Validity and continuation of appointments

10. Any acts, decisions or proceedings of the Board that were carried out prior to the commencement of this Law shall not be invalid by reason only of those acts, decisions or proceedings being inconsistent with the Public Authorities Law, 2017. Validity of acts

Passed by the Legislative Assembly the day of , 2018.

Speaker.

Clerk of the Legislative Assembly.