

ISSN 0796 - 028X



REPUBLIC OF THE GAMBIA

PETROLEUM PRODUCTS ACT, 2016

PETROLEUM PRODUCTS ACT, 2016

ARRANGEMENT OF SECTIONS

SECTION

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application

PART II – ADMINISTRATION

4. Functions of the Minister
5. Functions of the Authority in the supply chain

PART III – CONSTRUCTION PERMITS AND OPERATION LICENCES

6. Obligation to obtain a permit or a licence
7. Application for a permit or a licence
8. Register of permits and licences
9. Duration and validity of licences
10. Assignment of licences
11. Suspension or revocation of a licence

PART IV – OBLIGATIONS OF THE HOLDERS OF PERMITS AND LICENCES

12. Compliance with laws
13. Maintenance of records and provision of information
14. Minimum working stock requirement

PART V – INSPECTION OF THE SUPPLY CHAIN

15. Supply chain inspection

PART VI – THE NATIONAL PETROLEUM INFORMATION SYSTEM

16. Establishment of the National Petroleum Information System
17. Central Register of Petroleum Products Supply Operation

PART VII – MARKET COMPETITION AND ASSURANCE OF SUPPLY

18. Equal opportunity in the supply chain
19. Prohibition of activities against fair competition
20. Negotiated access to unused capacities of third party facilities

PART VIII – PROTECTION OF PUBLIC SAFETY AND THE ENVIRONMENT

21. Implementation and adaptation of international standards and specifications
22. Performance of environmental impact assessments
23. Preparation of an Emergency Petroleum Products Supply Plan

PART IX – PETROLEUM PRODUCTS PRICING

24. Regulations of pricing

PART X – NATIONAL STRATEGIC RESERVES

25. Maintenance of National Strategic Reserves
26. Application of Act to operations (establishment and maintenance) of strategic reserves

PART XI – CONTRAVENTIONS AND SANCTIONS

27. Offences and penalties
28. Offences by directors, agents, employees, etc.

PART XII – MEDIATION AND REVIEWS

29. Binding mediation
30. Written complaints to the Authority
31. Administrative review by the Minister

PART XIII – MISCELLANEOUS

32. Protection of members of committee, public servants and others
33. Regulations
34. Compliance with conventions
35. Transitional provisions
36. Repeals and savings



THE GAMBIA
NO. 12 OF 2016

Assented to by The President,
this 30th day of December, 2016.



YAHYA A. J. J. JAMMEH.
President

AN ACT to provide for the supervision and monitoring of the importation, exportation, transportation, processing, refining, supply, storage, distribution and marketing of petroleum products; to provide for the licensing and control of activities and installations, to ensure appropriate health, safety and environment standards in petroleum products supply operations and installations, to encourage and protect fair competition in the petroleum products supply market and to provide for connected matters.

[]

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title and commencement

This Act may be cited as the Petroleum Products Act, 2016 and shall come into force on such date as the Minister may, by Order published in the Gazette, determine.

2. Interpretation

In this Act, unless the context otherwise requires-

“Authority” means The Gambia Public Utilities Regulatory Authority also known by its acronym “PURA”;

“Basel Convention” means the global agreement regulating the generation and disposal of hazardous waste;

“biofuel” means fuel made from biomass, including ethanol, pure oil and biodiesel that can be used for transportation, cooking and other energy purposes;

“cartel” means a group of business persons who combine to control the marketing of petroleum products to carve the market, limit entry and avoid competing with one another;

“Commissioner” means the Commissioner of Petroleum;

“consumer” means a person who acquires a petroleum product for his or her own use and not for the purpose of selling, exchanging or otherwise disposing of it to another person;

“Commission” means the Competition Commission established under the Competition Act ;

[Cap.96:01]

“distribution” means the ownership, operation, management or control of distribution facilities for movement or delivery of petroleum products to consumers;

"Emergency Petroleum Products Supply Plan" means the plan put in place by the Commissioner to respond to interruptions in, or serious distortions of, the petroleum products supply, occasioned by accidents, political disturbances, natural disasters or similar events and approved in accordance with section 23;

"environmental impact assessment" means a systematic examination conducted in accordance with applicable environmental laws, to determine whether or not a project will have any adverse impact on the environment; and includes environmental reviews, environmental evaluations and environmental impact studies and all related procedures;

"equipment" means pumps, tanks, air compressors, grease lifts or pits, grease equipment, grease guns, air towers, light poles, flood lights or any other article or thing of any character whatsoever, used or useful in connection with outlets or service stations, or the storage, display, sale or consumption of any petroleum product;

"facility" includes a pipeline, refinery, liquefied petroleum gas facility, service station and storage depot, as part of service provided at an outlet, including the above-ground storage, underground storage, washroom, sales area and service bay;

"Government" means the Government of the Republic of The Gambia;

"licence" means a petroleum products supply operations licence issued under this Act;

"licensee" means any person who holds a licence;

"MARPOL Convention" means the main international convention for the prevention of pollution of the marine environment by ships from operational or accidental causes;

"Minister" means the Minister responsible for petroleum and petroleum products matters and "Ministry" shall be construed accordingly;

"National Petroleum Information System" or the "System" has the meaning given to it in section 16.

"National Strategic Reserves" means the petroleum and petroleum products kept in storage in The Gambia by or on behalf of the Government under section 25 for the purposes of security of supply;

"new entrant" means a petroleum products service provider who holds a licence and has operated in the supply chain for a period not exceeding one year.

"order" means a written direction issued by the Minister under this Act;

"permit" means a construction permit described in section 6;

"permit-issuing authority" means the government body responsible for issuing permits;

"person" includes an individual, association, a firm, company, partnership or body of persons, whether incorporated or not;

"petroleum" means any naturally occurring hydrocarbon or mixture of naturally occurring hydrocarbons, whether in gaseous, liquid, or solid state;

"petroleum products" means organic compounds, pure or blended, which are derived from the refining and processing of petroleum, including but not limited to the following –

- (a) asphalts, bitumen, petroleum coke and other residual products,
- (b) bunkers or heavy residual fuel oils for combustion engines or industrial heat processes, such as burners for boilers or heating furnaces,
- (c) commercial gases such as methane, ethane, propane, butane and other similar petroleum gases produced in the refining process, or mixtures of those gases, whether in gaseous or liquefied state,
- (d) gasoil or automotive, industrial or marine diesels,
- (e) gasoline (petrol) or naphtha products,
- (f) kerosene or other similar oils for illumination or combustion applications,

- (g) lubricating oils such as base oils and refined and blended finished oils,
- (h) aviation fuels for jet propulsion engines, and
- (i) biofuels and fuels made from used oils;

"petroleum products service provider" means a person issued with a licence to operate in the supply chain or any other person authorised by the Minister to do so;

"petroleum products supply operations" means all operations and activities for or in connection with the import, landing, loading, unloading, refining or processing, transport, storage, distribution, wholesale or retail of petroleum products, including the operations of industrial consumers who buy their petroleum products directly from importers or wholesalers;

"pipeline" means a pipe or system of pipes that is used or is to be used for the transportation of petroleum or petroleum products and any apparatus and works associated with it;

"President" means the President of the Republic of The Gambia;

"regulated public service" has the meaning given to it in The Gambia Public Utilities Regulatory Authority Act;

[Cap. 32:05]

"supply chain" means all operations, activities, installations, equipment and other facilities directly or indirectly related to the petroleum products supply operations;

"used oils" means any petroleum product that has been refined from petroleum, or any synthetic oil that has been used and as a result, is contaminated by physical or chemical impurities; and

"working stock" means petroleum products kept in storage in The Gambia by licensees in the supply chain for trading purposes.

3. Application

(1) This Act applies to –

- (a) the import, export, re-export, transport, processing, supply, storage, distribution, wholesale and retail of petroleum products and related activities and installations in The Gambia;
- (b) the refining of petroleum into petroleum products and related activities and installations in The Gambia, including

but not limited to the importation, transportation and storage of petroleum for such purposes; and

(c) all persons, government institutions and agencies and all corporations dealing with petroleum products and related activities, subject to specific exemptions that may be prescribed by regulations.

(2) The provisions of this Act relating to petroleum products, as defined in section 2 also apply to natural gas, whether imported or produced in The Gambia, including compressed natural gas and liquefied natural gas.

(3) This Act does not apply to the prospecting, exploration, development or production of petroleum in The Gambia or the transportation, storage, processing or transformation of that petroleum subject to the conditions of the permit or licence for the prospecting, exploration, development or production of petroleum and within the area covered by that permit or licence.

PART II – ADMINISTRATION

4. Functions of the Minister

(1) The Minister shall have the following specific functions in relation to this Act –

(a) issue, renew, suspend or revoke licences on the advice of the Authority;

(b) initiate legislation and make the necessary regulations in order to support and promote a continuous, secure and adequate supply of petroleum products at competitive prices to all consumers and to create favourable conditions to ensure the availability of adequate import, transport, storage and distribution facilities within The Gambia;

(c) promote the increase of opportunities for regional petroleum products trade and encourage a diversity of supply sources, routes and means of transportation;

(d) advise the Government on petroleum products supply policy matters and petroleum products supply strategies;

(e) ensure the establishment, maintenance and periodic updates of the National Petroleum Information System by the Commissioner and the evaluation and dissemination of the information derived from the System in accordance with this Act;

- (f) establish and maintain the National Strategic Reserves;
- (g) approve the Emergency Petroleum Products Supply Plan prepared by the Commissioner under section 23(1); and
- (h) perform any other function given to him or her by this Act.

(2) The Minister may establish committees and other bodies consisting of persons who may not be employees of the Government and charge those persons with the responsibility of undertaking specified functions on the Minister's behalf.

(4) Subject to the 1997 Constitution of the Republic of The Gambia and other laws providing for the appointment of public officers, the Ministry shall appoint such public officers as may be necessary for the effective performance of the functions of the Minister under this Act.

(5) The Commissioner shall assist the Minister in performing the Minister's functions under this Act.

5. Functions of the Authority in the supply chain

(1) The petroleum products supply operations are considered as part of the regulated public service.

(2) The Authority shall perform technical, economic and safety regulatory functions in respect of the petroleum products supply operations.

(3) The Authority shall supervise, control and ensure the effective and impartial enforcement of this Act and other applicable laws, regulations, administrative orders, standards, specifications and codes of practice.

(4) Without prejudice to the functions conferred on the Authority under sub-section (1) and in the PURA Act, the Authority may –

- (a) monitor petroleum products quality, quantity and standards of performance;
- (b) give necessary directions to a person granted a licence or a permit;
- (c) initiate and conduct investigations in relation to technical, economic and safety issues in the petroleum products supply operations;
- (d) prescribe a code of conduct in respect of persons performing petroleum products supply operations;

- (e) create and implement effective and adequate procedures to receive and resolve without undue delay, all inquiries and complaints by other government institutions, consumers, recognised consumer organisations or licensees in the supply chain, concerning the safety of petroleum products supply operations and installations or the quality, quantity or prices of petroleum products distributed or sold in The Gambia;
 - (f) charge and collect fees and levies for petroleum products supply operations under the approval of the Minister;
 - (g) establish, implement and administer an effective and equitable licensing system for petroleum products supply operations and installations in accordance with this Act and regulations made under it;
 - (h) receive, evaluate and process all applications for the granting, renewal, assignment, suspension or revocation of licenses in accordance with this Act and regulations made under it and other applicable laws; and
 - (i) advise the relevant permit-issuing authority of the Government on the granting, renewal, assignment, suspension or revocation of all permits in accordance with this Act and regulations made under it and other applicable laws.
- (5) The Authority shall, at least once in every quarter, submit a written report to the Minister on the activities undertaken for the implementation of this Act during the previous quarter.

PART III – CONSTRUCTION PERMITS AND OPERATION LICENCES

6. Obligation to obtain a permit or a licence

- (1) A person shall not carry out the construction or major modification of an installation or facility of the supply chain without obtaining a construction permit from the permit-issuing authority of the Government and such permit shall be issued only after consultation with the Ministry.
- (2) A person shall not perform petroleum products supply operations without obtaining a licence under this Act.
- (3) The Minister shall make regulations under section 33 to prescribe construction specifications related to the supply chain and the description of major modification as referred to in sub-section (1).

7. Application for a permit or a licence

(1) A person who wishes to obtain a permit for one or more activities in the supply chain or for a renewal or assignment of a permit shall submit an application to the permit-issuing authority with additional authorisations from other competent authorities if and when required by applicable laws.

(2) A person who wishes to obtain a licence for one or more activities in the supply chain or wishes to renew or assign a licence shall submit a written application in the prescribed form to the Authority.

(3) The procedure for submission of applications for licences and for evaluating, processing and approving or rejecting the application and the particulars to be submitted by the applicant for such application shall be prescribed by regulations.

(4) In the processing of any application for a permit or licence or for a renewal or assignment of a permit or licence, all applicants shall be treated without any discrimination or preference, and the Minister shall not require or impose any terms or conditions which are not specified or authorised by this Act or by regulations.

(5) Prior to the granting of a licence, or the renewal or assignment of a licence, the applicant shall obtain additional authorisations from other competent authorities, if and when required by applicable laws.

(6) An applicant applying for a licence or for the renewal or assignment of a licence shall pay such application fee as prescribed by regulations to the Authority.

(7) The Authority may with the applicant's consent, employ local or international experts for the purpose of evaluating applications for permits or licences at the expense of the applicant.

(8) The Authority may for reasons of public interest, public safety or national security reject an application under this section.

(9) A person who is aggrieved by the decision of the Authority to reject an application may appeal to the Minister for redress.

8. Register of permits and licences

(1) In accordance with section 17, the Commissioner shall keep and regularly update a register of licences and permits called a "Central Petroleum Register" in addition to the main register maintained by the Authority under the PURA Act.

7. Application for a permit or a licence

(1) A person who wishes to obtain a permit for one or more activities in the supply chain or for a renewal or assignment of a permit shall submit an application to the permit-issuing authority with additional authorisations from other competent authorities if and when required by applicable laws.

(2) A person who wishes to obtain a licence for one or more activities in the supply chain or wishes to renew or assign a licence shall submit a written application in the prescribed form to the Authority.

(3) The procedure for submission of applications for licences and for evaluating, processing and approving or rejecting the application and the particulars to be submitted by the applicant for such application shall be prescribed by regulations.

(4) In the processing of any application for a permit or licence or for a renewal or assignment of a permit or licence, all applicants shall be treated without any discrimination or preference, and the Minister shall not require or impose any terms or conditions which are not specified or authorised by this Act or by regulations.

(5) Prior to the granting of a licence, or the renewal or assignment of a licence, the applicant shall obtain additional authorisations from other competent authorities, if and when required by applicable laws.

(6) An applicant applying for a licence or for the renewal or assignment of a licence shall pay such application fee as prescribed by regulations to the Authority.

(7) The Authority may with the applicant's consent, employ local or international experts for the purpose of evaluating applications for permits or licences at the expense of the applicant.

(8) The Authority may for reasons of public interest, public safety or national security reject an application under this section.

(9) A person who is aggrieved by the decision of the Authority to reject an application may appeal to the Minister for redress.

8. Register of permits and licences

(1) In accordance with section 17, the Commissioner shall keep and regularly update a register of licences and permits called a "Central Petroleum Register" in addition to the main register maintained by the Authority under the PURA Act.

(2) At the end of each quarter, the Commissioner shall deliver to the Minister a consolidated list of all approved permits and licences, as well as any outstanding applications for permits and licences, including those submitted during that month.

(3) The Authority shall provide details of any action taken by the Authority in respect of the applications to the Minister and shall also provide additional information as requested by the Minister.

9. Duration and validity of licences

A licence shall be valid for a minimum period of two years or as prescribed by regulations, depending on the type of activity to which it relates and shall be renewable in accordance with conditions prescribed by regulations, subject to payment of the prescribed fee.

10. Assignment of licences

A licence shall not be assigned by or otherwise transferred from the holder to another person without the prior approval in writing of the Minister and subject to the payment of the prescribed fee, unless otherwise provided for by regulations.

11. Suspension or revocation of a licence

(1) Notwithstanding any other remedy or penalty for offences provided for under this Act or any other enactment and subject to such rules as may be included in any regulations made under this Act –

(a) a licence may be suspended by the Minister where there is a breach of any provision of this Act, regulations made under it or any other enactment concerning the protection of occupational health, public safety and the environment, or for any other reason stated by or under this Act, if the breach is not remedied within the period prescribed in the regulations; and

(b) a licence may be revoked by the Minister where the holder fails to remedy or repeats a contravention of any provision of this Act, regulations made under it or any other enactment concerning the protection of occupational health, public safety and the environment, or for any other reason specified by or under this Act.

(2) The suspension period may vary depending on the seriousness of the breach as prescribed in the regulations, but it shall not exceed one year.

(3) Where a licence or a permit has been suspended or revoked, the Commissioner and the Authority shall include a note against the holder's entry in their respective registers.

PART IV – OBLIGATIONS OF THE HOLDERS OF PERMITS AND LICENCES

12. Compliance with laws

All licensees in the supply chain and persons working under their direction, as well as any installations and equipment used in the supply chain, shall comply with all applicable laws, standards and specifications.

13. Maintenance of records and provision of information

(1) Every holder of a permit or a licence shall maintain such records as are required to be kept under this Act or any regulations and shall furnish to the Commissioner and the Authority such reports and information as may be required to be forwarded under this Act or any regulations or as the Commissioner or the Authority may request in writing for the purpose of giving effect to this Act.

(2) The holder of a permit or a licence shall maintain an address in The Gambia to which communications may be sent and shall give written notice to the Commissioner and the Authority of that address and of any change to that address.

14. Minimum working stock requirement

(1) To ensure continuity of the petroleum products supply in The Gambia, every licensee shall at his or her own expense, maintain minimum working stocks of petroleum products as prescribed by regulations.

(2) For the avoidance of doubt, section 11 applies to any contravention of this section.

PART V – INSPECTION OF THE SUPPLY CHAIN

15. Supply chain inspection

For the purpose of ensuring that this Act and regulations made under it are complied with, the inspections of the supply chain shall be carried out by the Authority as described in the PURA Act.

PART VI – THE NATIONAL PETROLEUM INFORMATION SYSTEM

16. Establishment of the National Petroleum Information System

- (1) The Ministry shall establish an information system known as the "National Petroleum Information System".
- (2) The National Petroleum Information System shall consist of an integrated and centralised database and information system covering all petroleum products supply operations and installations, the principal market activities and statistics of The Gambia as well as international reference data.
- (3) For the purposes of this section, all licensees and permit holders shall submit to the Commissioner and the Authority periodic reports and other information as prescribed by regulations.
- (4) The Commissioner shall publish the data contained in the National Petroleum Information System in aggregate form with the exception of information which has been qualified as confidential by the licensee or permit holder, to protect proprietary market data or for any other reason determined by the Commissioner.

17. Central register of petroleum products supply operation

- (1) The Commissioner shall establish and maintain a central petroleum register for the purpose of monitoring the supply chain.
- (2) The central petroleum register shall form part of the National Petroleum Information System and shall include a record of all applications, grants, variations, assignments, other transfers, suspensions and revocations of permits and licences and all relevant information about the holders and their operations and installations.

PART VII - MARKET COMPETITION AND ASSURANCE OF SUPPLY

18. Equal opportunity in the supply chain

- (1) Any person, whether Gambian or foreign, may participate in all or any activities of the supply chain, subject to this Act and any other applicable laws.
- (2) The minimum capital for any supply chain activity shall be determined by regulations.

19. Prohibition of activities against fair competition

All petroleum products supply operations shall be subject to the Competition Act.

The licensees in the supply chain shall not –

- (a) form cartels;
- (b) attempt to control prices or create artificial shortages of petroleum products or services; or
- (c) engage in any other restrictive trade practices or any other act or omission which is contrary to the principles of fair competition or are intended to impede the functioning of the free market for petroleum products in The Gambia.

(3) Subject to the Competition Act and except as otherwise provided by regulations, licensees in the supply chain shall sell their products and offer their services to all interested persons without undue delay and without any form of discrimination by means of quality, quantity or price or other conditions and restrictions which cannot be justified under legitimate commercial or operational grounds.

(4) The Commission shall monitor the conditions of the market and business practices of licensees in the supply chain;

(5) Notwithstanding the provisions of this section, where the Minister has determined that there is in existence a restrictive trade practice or any other act or omission contrary to this section, the Minister may intervene in the public interest and take any such action as may be necessary to address the situation.

20. Negotiated access to unused capacities of third party facilities

(1) For the purpose of promoting the creation of a competitive petroleum products market for licensees in the supply chain, the use of third party facilities shall be prescribed in Regulations.

(2) The Ministry may at its own discretion formulate and establish a programme to promote new entrants in the supply chain.

PART VIII - PROTECTION OF PUBLIC SAFETY AND THE ENVIRONMENT

21. Implementation and adaptation of international standards and specifications

(1) The Minister shall cause the implementation of a programme of adoption and adaptation of the prevailing international

standards, technical specifications and codes of practice in relation to the petroleum products supply operations in order to upgrade the infrastructure of the supply chain, the quality of petroleum products and the services provided by the licensees to the standards of the international petroleum industry.

(2) The standards, specifications, and codes of practice as established by the competent standards authority and international standards developing organisations which are recognised by the international petroleum industry in matters of quality, industrial safety and environmental protection, shall be adopted by the Minister after being adapted as necessary, to take into account the socio-economic realities of the petroleum products market in The Gambia.

(3) An entity that is already in existence and has not met the required regulations shall be given time to upgrade its infrastructure, quality of petroleum products and the services in line with the prevailing national standards.

22. Performance of environmental impact assessments

(1) The Commissioner shall, in coordination with the competent environmental authority, through regulations, establish the classification of petroleum products supply operations or projects within the supply chain which shall require environmental impact assessments as a pre-condition for issuing a permit or a licence under this Act.

Where environmental impact assessments or audits are performed or required or other conditions are to be met by the holder of a permit or a licence in accordance with the laws applicable to public health, public safety and the environment, the Commissioner shall coordinate with any appropriate authorities under the relevant laws in the fulfillment of those requirements by the permit or licence holder.

23. Preparation of an Emergency Petroleum Products Supply Plan

(1) In order to respond to interruptions in, or serious distortions of the petroleum products supply, occasioned by accidents, political disturbances, natural disasters or similar events or by the negligence of any person, the Commissioner, shall in cooperation with other government departments and agencies and licensees in the supply chain, prepare an Emergency Petroleum Products Supply Plan.

(2) The Commissioner shall submit the plan prepared under sub-section (1) to the Minister for approval.

(3) Where the Minister is satisfied that any of the events described in sub-section (1) has occurred, the Minister may advise the President to declare that The Gambia is in a state of petroleum products supply emergency.

(4) Where the President has made a declaration under sub-section (3) the Commissioner may, with the approval of the Minister, temporarily intervene in the supply chain and implement such measures as are provided for in the Emergency Petroleum Products Supply Plan.

(5) Regulations shall be made to prescribe the method of preparation, the contents and mode of implementation of the Emergency Petroleum Products Supply Plan.

PART IX – PETROLEUM PRODUCTS PRICING

24. Regulations of pricing

(1) The Minister may, in consultation with the Minister responsible for Finance, make regulations addressing the pricing rules that will apply in respect of certain categories of petroleum products.

(2) The regulations shall include provisions concerning –

- (a) the establishment of a pricing committee to monitor international petroleum products prices and advise the Minister accordingly;
- (b) the price at which petroleum products in certain categories will be fixed;
- (c) the classification of petroleum products into different pricing categories;
- (d) the maximum mark-up that can be charged by different licensees in the supply chain; and
- (e) rules for the variation of the fixed pricing.

PART X - NATIONAL STRATEGIC RESERVES

25. Maintenance of National Strategic Reserves

Notwithstanding section 14, for the purposes of ensuring reliability of supply of petroleum products in The Gambia, the Government shall maintain such strategic reserves, as it may determine from time to time and prescribed by regulations.

26. Application of Act to operations (establishment and maintenance) of strategic reserves

Subject to section 25, all installations and operations for the purpose of establishing and maintaining strategic reserves under this section, including, but not limited to the storage, transport and sale or any other form of disposition of the stored petroleum products, shall be subject to the provisions and regulations of this Act.

PART XI – CONTRAVENTIONS AND SANCTIONS

27. Offences and penalties

(1) A person who –

- (a) refuses, delays or fails to produce any document or other information required to be submitted to any authority under this Act relating to petroleum products supply operations and installations or which he or she is required to produce under the provisions and regulations of this Act;
- (b) knowingly or without reasonable grounds for believing it to be true, furnishes any document or information which is false or misleading in any material respect, whether upon demand or otherwise;
- (c) contravenes sections 12, 13 or 14 in performing petroleum products supply operations or breaches the terms and conditions of the licence issued to him or her;
- (d) endangers the functioning of the free market or the competitive supply system in contravention of section 19;
- (e) resists, hinders or obstructs the Authority or any designated official to enter or inspect any premises or area, to stop and search any vehicle or vessel, to examine any books, accounts or other records or to otherwise discharge its functions and rights under the provisions and regulations of this Act;
- (f) compromises the quality or purity of a petroleum product being supplied in accordance with the provisions and regulations of this Act; or
- (g) refuses, delays or fails to comply by willful misconduct or by negligence with any order, prohibition, direction, demand, requirement or notice lawfully made, served,

published or otherwise given under the provisions and regulations of this Act,

commits an offence.

(2) A person convicted of an offence under the provisions and regulations of this Act is liable on conviction –

(a) in the case of an individual, to a fine not exceeding five hundred thousand dalasis or imprisonment not exceeding three years or both; and

(b) in the case of a body corporate, to a minimum fine of two million dalasis and a maximum fine of ten million dalasis.

28. Offences by directors, agents, employees, etc.

(1) Where a person charged with an offence under this Act is a body corporate, every person who at the time the offence is committed, was a director, manager, secretary or similar officer or agent of that body corporate, may be charged jointly or severally in the same proceedings with the body corporate and on conviction, is liable to the penalty prescribed for an individual for the offence.

(2) All partners in an unincorporated enterprise, firm or joint venture shall be jointly and severally liable for the acts or omissions of fellow partner in so far as the act or omission concerns the enterprise, firm or joint venture.

(3) Notwithstanding sub-sections (1) and (2), a director, manager, secretary or similar officer, partner or agent is not liable under sub-section (2) or (3) if he or she proves to the satisfaction of the court that the act in question was committed without his or her knowledge, consent or connivance or that he or she took all necessary steps to prevent the commission of that act, having regard to all the circumstances.

(4) An employer who employs in the operation of his or her business, any agent, clerk, servant or other person is answerable and liable for any act or omission of such employees which constitutes a contravention of this Act, so far as such act or omission concerns the business of the employer.

PART XII – MEDIATION AND REVIEWS

29. Binding mediation

(1) Any dispute between the holders of permits or licences, or between such holders and the Authority concerning the

implementation of this Act or regulations made under this Act may be submitted in writing by the parties involved to the Minister and the Minister shall establish a mediation committee for a binding mediation.

(2) The mediation committee may –

- (a) request the parties to appear before it at a formal hearing;
- (b) request any information, documents or testimony by witnesses or experts which it considers necessary; and
- (c) conduct other investigations.

(2) The mediation committee shall submit a written opinion on the matter in dispute to the parties involved within sixty days from the receipt of the request for mediation, unless the period is extended by the committee by written notice to the parties.

(3) The mediation proceedings shall not be held in public and the opinions submitted shall not be published, unless otherwise agreed between the parties with the consent of the committee.

(4) The mediation committee shall establish, by resolution, a general procedure for the mediation process according to applicable laws and prevailing practice for private mediation in The Gambia.

(5) The mediation committee shall, with the approval of the Minister, prescribe fees and expenses to be paid by the parties to the mediation.

30. Written complaints to the Authority

(1) Any person may submit a written complaint to the Authority that a petroleum products service provider is not complying with an obligation imposed on it under this Act in respect of petroleum products supply operations.

(2) The Authority shall investigate any complaint submitted under sub-section (1) and shall, if it finds the complaint to be justified, take action under or in accordance with this Act or regulations made under this Act to ensure compliance by the petroleum products service provider.

31. Administrative review by the Minister

(1) A person aggrieved by any decision of a committee, the Authority or any officer authorised by the Minister, may within

twenty-one days after being notified of the decision, request in writing, an administrative review of the decision by the Minister.

(2) The Minister may, after receipt of a request for an administrative review under this section, confirm, set aside or vary the decision complained of.

(3) The Minister shall give reasons in writing for his or her decision on a review made under this section.

PART XIII—MISCELLANEOUS

32. Protection of members of committee, public servants and others

(1) Any member of a committee and any public officer or other person acting by the direction of a committee or the Minister shall not be personally liable for anything done or omitted to be done in good faith in the performance of functions vested in that person by that committee or the Minister under this Act.

(2) The Authority shall not be liable for any damages, including special, indirect, incidental, or consequential damages, including without limitation, lost revenues or lost profits that may result from the performance of its functions under this Act.

33. Regulations

(1) The Minister may, on the advice of the Authority, make regulations for giving full effect to the provisions of this Act, or to provide for anything required or authorised by this Act to be prescribed by regulations.

(2) Regulations made under this Act may, without prejudice to sub-section (1) –

(a) provide for forms and fees or charges to be made under this Act; and

(b) prescribe penalties in respect of any contravention of the regulations.

34. Compliance with conventions

A person who carries out petroleum products supply operations shall ensure that such operations also comply with the Basel Convention and the MARPOL Convention as well as any other relevant international agreements.

35. Transitional provisions

(1) Where any lawful act or thing required or permitted to be done by or under this Act has been done before the date of commencement of this Act, it shall be taken to have been done under or by virtue of this Act.

(2) Persons who are participants in the supply chain at the commencement of this Act shall upgrade or adjust their operations and facilities in order to comply with the provisions of this Act within a transition period of one year from the commencement of this Act subject to a transitory regime prescribed by regulations proposed by the Authority and approved by the order of the Minister.

36. Repeals and savings

(1) The Petroleum Act is repealed.

[Cap.65:01]

(2) Sub-sections 60 (3) (g), 60 (3) (l) and 60 (3) (m) of the Petroleum (Exploration, Development and Production) Act of 2004 are hereby deleted.

(3) Notwithstanding the repeal of the Petroleum Act, all regulations and orders made under that Act which are in force at the commencement of this Act and are not inconsistent with this Act shall be deemed to have been made under this Act and shall continue in force until they are revoked or expire.

PASSED in the National Assembly this 21st day of December, in the year of Our Lord Two Thousand and Sixteen.

D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

D. C. M. Kebbeh

Clerk of the National Assembly.