

CAYMAN ISLANDS



FUEL MARKET REGULATION LAW, 2017

(Law 20 of 2017)

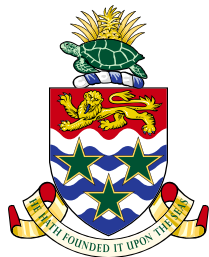
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FUEL MARKET REGULATION LAW, 2017

(Law 20 of 2017)

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 [Law 49 of 2016]*;
 - “**covered service**” has the meaning assigned by the *Utility Regulation and Competition Law, 2016 [Law 49 of 2016]*;
 - “**fuel**” includes —
 - (a) petrol;
 - (b) diesel;
 - (c) kerosene;

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

“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* [Law 21 of 2003];

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

“Office” means the Utility Regulation and Competition Office established by the *Utility Regulation and Competition Law, 2016* [Law 49 of 2016];

“regulated premises” has the meaning assigned by the *Dangerous Substances Handling and Storage Law, 2003* [Law 21 of 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* [Law 49 of 2016].

Functions of Cabinet

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



- (a) the importation, exportation, re-export, shipping, transporting, processing, refining, storing, distributing, marketing, and selling of fuels;
- (b) the operations and activities of the fuel sector; and
- (c) any matters considered by Cabinet to be in the public interest relating to the handling and sale of fuel,

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* [Law 49 of 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* [Law 49 of 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* [Law 49 of 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 [Law 21 of 2003]*;
 - (i) to ensure that the fuel supplies of the Islands are adequate, reliable, efficient and economical for the Islands and for consumers;
 - (j) to establish and keep under review procedures and processes determined by the Office to be necessary to assure public safety and a healthy and safe 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* [Law 21 of 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* [Law 21 of 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.

Significant market power

7. For the purposes of section 44 of the *Utility Regulation and Competition Law, 2016* [Law 49 of 2016] sectoral providers listed in the Schedule are considered to have significant market power in the markets specified in that Schedule.

Access to information

8. (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

9. All fees under the *Dangerous Substances Handling and Storage Law, 2003* [Law 21 of 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

- 10.** (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* [Law 49 of 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;
 - (iii) 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.



SCHEDULE

Section 7

Sectoral providers with significant market power

1. Rubis Cayman Islands Limited in the automotive fuel market.
2. SOL Petroleum Cayman Limited in the automotive fuel market.
3. SOL Energy Resources Inc. in the supplies & trading markets for petroleum products.
4. Home Gas Limited in the liquid petroleum gas market.

Passed by the Legislative Assembly the 27th day of March, 2017.

Juliana O'Connor-Connolly
Speaker.

Zena Merren-Chin
Clerk of the Legislative Assembly.