

Petroleum Products Importation Regulations 2017

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PART 1 PRELIMINARY

In exercise of the powers conferred on the Minister under Sections 33(1) and (2) of the Petroleum Products Act 2016, these Regulations are made.

1 Name of Regulations

These Regulations may be cited as the *Petroleum Products Importation Regulations, 2017*.

2 Application

These Regulations shall apply to all civilian installations but shall not apply to:

- (a) The Gambia Armed and Security Forces; and
- (b) Any other entity or venture as may be deemed necessary by the regulatory authority.

3 Commencement

These Regulations shall come into force on the day of publication in the Gazette.

4 General

Interpretation

- (1) In these Regulations, unless the context otherwise requires the following words, acronyms and abbreviations shall have these meanings:

“**Act**” means Petroleum Products Act 2016.

“**Adulteration**” means when low valued products like Illuminating Kerosene is mixed with high value products. Any petroleum products adulterated with cheap solvents for profit.

“**Anti-dumping Duty**” means a specific duty levied for the purposes of offsetting the effects of dumping.

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

“**Bill of Lading**” This is a document which serves as evidence of a contract of carriage between the carrier (the ship) and the shipper. It includes the name of the shipper, the ship’s name, a full description of the cargo, the ports of embarkation and of destination.

“**Blend**” for petroleum means, to combine petrol with:

- (a) Another kind of petroleum product; or
- (b) Any other chemical substance.

“**Bonded Facility**”: Any warehouse or other facility licensed by the Commissioner General of GRA for the deposit of dutiable goods on which import duty has not been paid and which have been entered to

be warehoused.

“**bulk**” means 1500 litres or more, per transaction of petroleum products.

“**bulk facility**” includes a storage depot, distribution terminal or refinery.

“**certified copy**” means a photocopy of an original document that has been:

- (a) “Seen” or a “true copy” of the original document”; and is attested as a true copy of the original and is marked with the words “original”.
- (b) Signed and stamped by a commissioner of oaths or Justices of the Peace.

“**Certificate of Quality**” is a formal procedure by which an accredited or authorized person or agency assesses and verifies and attests in writing by issuing a **certificate** the attributes, characteristics, **quality** of petroleum products in accordance with established standards or requirements.

“**Certificate of Quantity/Weight**” This certificate refers exclusively to the state of the petroleum products at the time of inspection by an accredited or authorized person or agency. Issued by customs authorities of the exporting country, certifying the correct gross weight of the petroleum products shipped.

“**Certificate of Origin**” A certificate of origin is a document used in international trade. In a printed form or as an electronic document, it is completed by the exporter and certified by a recognized issuing body, attesting that the goods in a particular export shipment have been produced, manufactured or processed in a particular country.

“**Chairperson**” means the Chairperson of the Committee.

“**competent authority or person**” means the relevant authority or person in terms of the applicable law.

“**Commissioner**” means the Commissioner of Petroleum envisaged in Section 4 of the 2016 Act.

“**Committee**” means the Petroleum Consultative Committee.

“**Contact details**”, for a person, means:

- (a) the person’s business or residential address; and
- (b) the person’s postal address;
- (c) the telephone number (if any) at which the person may be contacted personally;
- (d) the telephone number (if any) to which a fax message for the person may be transmitted; and
- (e) the person’s e-mail address (if any).

“**Declaration**” means an affidavit, affirmation or solemn or attested declaration made before a Commissioner of Oaths or Justice of the Peace.

“**distributor**” of petroleum products, means a person who supplies petroleum products between any 2 of an import terminal, a refinery, a blending facility or a retail outlet for petroleum products.

“Dumping” means when the export price of the goods exported to The Gambia is less than the comparable price, in the ordinary course of trade, for the product when destined for consumption in the exporting country and if the importation of the goods causes injury to or retardation of a Gambian industry.

“Levy” is an amount of money, such as a tax, charge or duty that a person or an entity is obliged to pay to a government or organization.

“Petroleum Retailer” means a business entity operating a single Petroleum Retail Service Station.

“Petroleum Products” has the same meaning as defined in the Act.

“Petroleum additive” means a substance that is generally sold or represented as suitable for adding to petroleum to improve either the performance or the storage stability or both, including the effect of the additive on engine performance, engine emissions or fuel economy.

“Service Station” or **“Petroleum Products Service Station”** is an establishment alongside roads highways that supplies/sells fuel (petrol, gasoil, kerosene, etc.), oil for motor vehicles, and liquefied petroleum gas. With or without facilities to carry out maintenance/repairs and servicing of motor vehicles and supplies mechanical or electrical equipment.

“Vehicle” includes a prime mover and trailer and a vessel or thing, other than a pipeline, used to transport petroleum products for supply.

“AGO” means Automotive Gas Oil, also commonly known as Diesel.

“Bbl” means barrel; volumetric unit used in non-metric countries such as the USA.

“COQ” means Certificate of Quality

“EIA” means Environmental Impact Assessment

“GPA” means Gambia Ports Authority

“GRA” means Gambia Revenue Authority

“GS” means Gambia Standard

“HFO” means Heavy Fuel Oil

“Jet A1” is for aviation fuel, also known as Aviation Turbine Kerosene (ATK)

“Kerosene” also referred to as Dual Purpose Kerosene (DPK)

“LNG” means Liquefied Natural Gas

“LPG” means Liquefied Petroleum Gas

“M³” means cubic meter; volumetric unit used in metric countries

“MoPE” means Ministry of Petroleum and Energy

“MPET” means Management of Petroleum Emergency Taskforce

“NAQAA” means National Accreditation & Quality Assurance Authority

“NDMA” means National Disaster Management Agency; the coordinating authority

“PMS” means Premium Motor Spirit, also commonly referred to as Petrol or Gasoline

“TGSB” means The Gambia Standards Bureau

(2) A word or phrase not specifically defined in these Regulations but defined in the Act shall have the meaning assigned to it in the Act.

PART 2 APPLICATION FOR IMPORTATION LICENSE

5 Lodging of Importation License Application

(1) An applicant for an importation license shall:

- (a) Complete a form as detailed in the relevant form issued by the Authority, and
- (b) Lodge that application with the Authority together with the documents specified in section 19(1).

6 Notice of Application for Importation License

- (1) All applications may be published and prominently displayed by the Authority. Freely accessible and available to the public.
- (2) The Publication must state:
 - (a) the name of the applicant;
 - (b) the application number issued by the Authority upon acceptance of the application;
 - (c) the purpose of the application;
 - (d) the place where the application will be available for inspection by any member of the public;
 - (e) the period within which any objection to the issuing of the license may be lodged with the Authority; and
 - (f) the address of the Authority where objections may be lodged.
- (3) The place envisaged in paragraph (3)(d) must be the physical address of the Authority's office where the application was lodged.
- (4) The period envisaged in paragraph (3)(e) must be at least 20 working days from the date of publication of the notice.
- (5) Proof of the publication of the notice of application envisaged in section 6(1) must be submitted to the Authority.

7 Acceptance of Importation License Application

- (1) Acceptance of an importation license application is conditional on the following:
 - (a) the applicant is the owner of the business;
 - (b) the application form has been completed in full; and
 - (c) all the documents specified in section 19(1) have been submitted with the application form.

8 Evaluation of an Importation License Application

- (1) In evaluating an application for an importation license, the Authority must, verify that:
 - (a) the information and the documents submitted with the application form are true and correct; and
 - (b) the notice envisaged in section 6(1) was published.

9 Proof of Payment of Levies

An applicant for an importation license in respect of who section 5(1) is applicable, may provide proof of payment of any levies taxes, charges, duties due.

10 Procedure for Issuing Importation License

- (1) The Minister may, if satisfied that an application for an importation license meets the requirements of the Act and these regulations:
 - (a) Ensure the Authority informs the applicant that the application has been successful;
 - (b) require the applicant to, within a reasonable period:
 - (i) pay the relevant license fee determined by the competent authority; and
 - (ii) issue the importation license upon receipt of payment

11 Particulars to be Included in Importation License

- (1) An importation license must include:
 - (a) the name of the licensee;
 - (b) the license number;
 - (c) the identity number or company registration number of the licensee;
 - (d) the business address of the licensee;
 - (e) each type of petroleum product the licensee is licensed to import;
 - (f) the date of issue of the license;
 - (g) the conditions of the license; and
 - (h) the Minister's signature.

12 Discharge of Products

- (1) All discharge of imports of AGO, PMS, Kerosene, Jet A1, LPG and HFO shall be centralized at the designated depot facility for stock monitoring, quality assessment and GRA control. Any other discharge facility shall be a licensed bonded facility that meets all the requirements that will ensure quality check, stock monitoring and GRA control.
- (2) Imports of Petroleum products shall be through approved means of transport. Petroleum Products imported by means other than the sea port of Banjul shall be immediately escorted, upon arrival at the point of entry, by the competent authority to a testing and recertification centre before approval can be granted to proceed to a Petroleum Products storage facility for discharge. This process shall be strictly monitored for compliance, even in the event of an emergency situation.
- (3) A vessel laden with imported petroleum products shall only be allowed to discharge where:
 - (a) There is evidence of import license used in importing the product.
 - (b) The imported quantity has been physically determined and a Certificate of Quantity and Origin issued.
 - (c) The vessel is authorized to enter Gambian territorial waters.
 - (d) That the vessel and its cargo have full insurance cover.

- (e) The importing company complies with one week submission, prior to cargo arrival, Certificate of Quality, Bill of Lading, Invoice from supplier and other relevant documents.
- (f) Documents received from the vessel shall conform to those submitted by the importer/Inspector of the product.
- (g) A recertification analysis of the product sample has been conducted and a vessel is discharged after the re-certification of the product is conducted (upon establishment of a testing laboratory/mobile facility), by an accredited entity, as specified under section 41 of this Regulations.
- (h) The unloading/discharging of fuel from barges and tankers directly into road tankers is prohibited.

13 Environmental Rehabilitation

- (1) An environmental and sustainable management plan, approved by a competent authority or person, may include:
 - (a) details of:
 - (i) the authority or person who prepared the environmental and sustainable management plan; and
 - (ii) the expertise of that authority or person who prepared the environmental and sustainable management plan.
 - (b) a description of the environment likely to be affected by the proposed importation activity;
 - (c) an environmental impact assessment (EIA) of the potential impacts of the proposed importation activity on the environment, socio-economic conditions and cultural heritage, if any;
 - (d) a summary of the environmental impact assessment of the significance of the potential impacts, the proposed mitigation and management measures to minimise adverse impacts;
 - (e) a financial plan may include:
 - (i) details of the method providing for the financial provision envisaged in section 14(1); and
 - (ii) the determination of the quantum of the financial provision envisaged in section 14(3).
 - (f) planned monitoring and performance assessment of the environmental and sustainable management plan;
 - (g) An undertaking by the applicant to implement the environmental and sustainable management plan.

14 Financial Security for Rehabilitation

- (1) Financial provision required in terms of section 13(l)(e) to achieve the total quantum for the rehabilitation, management and remediation of adverse environmental impacts must be provided for by one or more of the following methods:
 - (a) an approved contribution to a trust which may be in the format approved by the Authority from time to time;
 - (b) a financial guarantee from a Gambian registered bank or any other bank or financial institution approved by the Commissioner guaranteeing the financial provision relating to the environmental and sustainable management plan in the format approved by the Commissioner from time to time;
 - (c) To have insurance cover against oil spillage and environmental damage.
- (2) In the case of paragraph (1)(c), proof of payment must be submitted to the Authority prior to the acceptance of the environmental and sustainable management plan.
- (3) The quantum of the financial provision must be determined in consultation with a competent authority or person, and must include a detailed provision for costs that could be incurred in the event of:
 - (a) the rehabilitation of the land;
 - (b) the prevention and management of pollution of the atmosphere;
 - (c) the prevention and management of pollution of water and the soil; and
 - (d) the prevention of spillage and leakage, into the ground, of chemical substances associated with importation activities;
- (4) The holder of an importation license must annually update and review the quantum of the financial provision:
 - (a) in consultation with a competent authority or person;
 - (b) as required in terms of the approved environmental and sustainable management plan; or
 - (c) as requested by the Authority.
- (5) Any inadequacy with regard to the financial provision must be rectified by the licensee:
 - (a) in an amendment of the environmental and sustainable management plan, as the case may be; or
 - (b) as determined by the Authority.

15 General Conditions with Regard to Importation License

- (1) An Importer shall be a registered Gambian Company.
- (2) A licensed importer shall at all times be a going concern.

- (3) An importation license, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the place of business may read it; and
- (4) Any license issued in terms of these regulations:
 - (a) remains the property of the Ministry of Petroleum and Energy;
 - (b) may be cancelled or suspended at any time subject to section 24.
 - (c) may not be tampered with or defaced in any manner;
 - (d) may not be altered in any manner; and
 - (e) is not transferable unless by a written application approved by the Minister.
- (5) The licensee shall comply with requirements of these Regulations and other applicable legislation/regulations in force at the time.
- (6) The granting of the license may be subject to additional special conditions attached to the license.
- (7) The licensee and all persons employed by the licensee shall act in accordance with and observe the conditions attached to the license.
- (8) The license, including the granting form duly issued by the competent authority and any special license conditions issued shall be produced to an inspector or any other agent/agency of the regulatory authorities upon demand.
- (9) Operations associated with this license must comply with the guidelines issued from time to time by the competent authority. The Authority reserves the right to amend, vary, add or remove conditions (including general and special) attached to this license in accordance with section (5) of the Act. The licensee undertakes to accept directions in the form of letters intended to explain or amplify the conditions attached to this license or otherwise improve the general conduct of activities regulated by this license.
- (10) The licensee shall at all times maintain a true set of financial accounts in accordance with these regulations and the guidelines that may be issued from time to time by the competent authority.
- (11) The licensee may provide assistance and facilitate the working of the competent authorities in so far as the carrying out of their duties in accordance with legislation and relevant to the license concerned.

Product (Fuel) Quality

- (12) No licensee can give or lend or transfer for the purpose of sale in The Gambian market petroleum products and, or biofuels other than those permitted by the law, regulation or other legal requirement for the time being in force, or as may be declared, replaced, amended or added to from time to time.
- (13) All fuels (imported, and refined HFO sludge or Waste Oil) must be subjected to quality tests to approved standards at some point prior to their release to Gambian market to establish that their quality corresponds to the standards (GS 005:2016, GS 006:2016, GS 007:2016 and GS 008:2016) established by the TGSB, the laws and regulations in force at any time.

Testing of Fuels by the Authority

- (14) The Authority may at its discretion take a sample of any petroleum, including fuels derived from refined HFO Sludge or Waste Oil, and, or biofuel consignment, irrelevant of where it is stored and at any point in time for inspection and test purposes.

16 Mandatory Conditions for Importing and Marketing Petroleum Products in the Gambia

One (1) Year Import Plan

- (1) All importers of petroleum products for marketing in The Gambia shall have at least 1 year (12 months) import plan.

Minimum Volume to Import

- (2) All importers of petroleum products except LPG, for marketing in The Gambia shall meet minimum importation requirement of 20 Million Liters per annum.
- (3) All importers of LPGs for marketing in The Gambia must meet the minimum importation requirement of 400 Metric Tons.

Minimum Operational Stocks:

- (4) All importers of petroleum products for marketing in The Gambia shall maintain a minimum of 2 months operational stock as participation in the maintenance of the national security of supply efforts:
- (a) At all times the licensee must hold in stock at a Storage Depot Facility security stocks, based on the licensee's sales in the previous year and for the first year the market share shall be estimated by the licensee in agreement with the Authority.
 - (b) The licensee is obliged to participate in national emergency plan to mitigate the effects of crisis, and follow directions according to law that might be given from time to time.

Storage Service Agreement

- (5) An importer shall have a Storage Service Agreement with a bonded storage depot facility in The Gambia.

17 Other Mandatory Conditions for all Importers and Marketing of Petroleum Products in The Gambia

- (1) Applicants for importation and marketing in The Gambia of refined Petroleum products shall additionally have one of the conditions below:
- (a) A minimum sales volume of fifteen (15) million litres per year of white oil products in The Gambia or;

- (b) Proof of ownership of at least three (3) licensed retail outlets (licensed, certified and operational service stations), or;
- (c) Ownership of one (1) licensed petroleum bonded storage/depot facility leased.

Data Submission Requirements:

- (2) Companies marketing petroleum products in The Gambia shall submit monthly sales data in compliance with the Act, these Regulations and all other applicable laws.

Petroleum Quality Standard:

- (3) All petroleum products imported into The Gambia are required to meet GS 005:2016, GS 006:2016, GS 007:2016 and GS 008:2016 and any other as may be specified from time to time by TGSB and approved by the Authority.

18 Amendment of Importation License

- (1) A licensed importer may apply, in writing, to the Minister for a license to be amended by:
 - (a) specifying the amendment sought; and
 - (b) providing reasons for seeking such an amendment.
- (2) The Minister may consider the request envisaged in paragraph (1) and may issue an amended license: Provided that:
 - (a) the amendment will not affect any rights, debts, liabilities or obligations of the licensee, nor render defective any legal proceedings by or against the licensee, and any legal proceedings that could have been continued or commenced by or against the licensed importer prior to such change; and
 - (b) the applicant has paid the amendment license fee determined by the competent authority

19 Documents to be submitted in support of Importation License Application

- (1) An applicant for an importation license must submit:
 - (a) certified copy of the business entity's registration and certificate of incorporation documents, if the applicant is a corporate entity or a trust;
 - (b) copy of updated Memorandum and Articles of Association of Company, deed, partnership, other deed, or authenticated agreement establishing the corporate body;
 - (c) copy of TIN certificate;
 - (d) bank reference with committed and explicit statements;
 - (e) a certified copy of the applicant's identity document if the applicant is a natural person and, in the case of a non-Gambian citizen, a permanent residence permit or employment

permit and proof of residence in The Gambia, or proof of domicile in The Gambia, as the case may be;

- (f) submit proof of payment of the relevant license fee determined by the competent authority; and
 - (g) importer must submit at least twelve (12) months of import plan;
 - (h) a declaration by applicant stating that the applicant is in compliance with the License or a statement of the applicant's plans to meet the requirements of the License;
 - (i) a declaration by an applicant in respect that the applicant is in compliance with the Act, these Regulations and all other national laws applicable.
 - (j) a list of all storage and distribution facilities intended to be used, including shared storage and distribution facilities, with specific reference to:
 - (i) the location;
 - (ii) the capacity;
 - (iii) the ownership, including the ownership of the land on which the storage facilities are situated, and, in the case of shared ownership, the basis of sharing; and
 - (iv) the names of other importers sharing the same facilities.
- (2) The information required in terms of sub section (l) (j) must be provided in respect of the different petroleum products which are to be stored.

20 Persons to Whom a License Shall Not be Granted

A license shall not be granted to:

- (1) a person who:
 - (a) is under the age of eighteen years;
 - (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any agreement or scheme of composition with his or her creditors, or takes advantage of any law for the benefit of his or her debtors; or
 - (c) Is tax defaulter.
- (2) a person:
 - (a) who is in liquidation proceedings other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder;
 - (b) in respect of which an order has been made by a court of competent jurisdiction for the winding up or dissolution;
 - (c) who has made a composition or arrangement with its creditors.

21 Information to be Submitted Annually to Authority by Licensed Importer

- (1) A licensed importer must submit to the Authority, in the relevant form, not later than the end of

February of each year, the following information in respect of the past year:

- (a) a declaration that the ownership of the licensed activity has not changed;
- (b) the volumes of each type of petroleum product purchased and sold within The Gambia;
- (c) the volumes of each type of petroleum product purchased and sold outside The Gambia;
- (d) the number of employees distinguished by gender and disability;
- (e) with regard to training of persons in the employ of the licensed importer, a report on:
 - (i) the number of persons trained in general; and
 - (ii) the number and title of qualifications obtained by persons which are accredited by the NAQAA and recognized national and international training institutions.

22 Application for Duplicate Importation License

- (1) When an importation license has been lost, damaged or destroyed the licensed importer must apply to the Authority for a duplicate thereof.
- (2) An application envisaged in paragraph (1) must be accompanied by:
 - (a) an affidavit stating the reason or reasons for the application;
 - (b) a certified copy of the applicant's identity document if the applicant is an individual;
 - (c) a certified copy of the business entity's registration documents, if the applicant is a corporate entity, trust or association;
 - (d) the license number of the license that has been lost, damaged or destroyed; and
 - (e) proof of payment of the duplicate license fee determined the Authority.

23 Surrender of License

A licensed importer may, at any time, by written notice surrender a license to the Authority.

24 Suspension or Revocation of License

- (1) When a licensed importer fails to comply with any provision of the Act or these Regulations, or any condition of a license, or contravenes any such provision or condition, the Minister may, notwithstanding any other penalty imposed under the Act or any other law, suspend or revoke the license.
- (2) The Minister may suspend or revoke a license after first informing the licensee in writing of the

intention to revoke or suspend such license, and setting out the particulars of the alleged failure or contravention; and calling upon the licensed importer to make the representations to the Minister that may be necessary within 30 days after the date of that notice.

- (3) The Minister may consider steps taken by the licensed importer to remedy the alleged failure or contravention concerned or to prevent any such failure or contravention from being repeated; and any other relevant matter submitted by way of the representations.

25 Validity of License

(1) A license ceases to be valid if:

- (a) the license is surrendered to the Issuing Authority
- (b) the license is cancelled by the Minister in accordance with section 24(2); or
- (c) the licensed activity is no longer a going concern
- (d) the duration of the said license expired

(2) When a license has ceased to be valid, the licensed importer must surrender the license to the Authority within a period of 14 days, from the date of receipt of the notification in which the licensed importer is informed that the license is no longer valid.

26 Refusal to Issue License

When the Minister declines to issue any license that should be issued under these Regulations, the applicant must be informed in writing, with reasons, of that decision.

27 Appeals

Appeals may be made to the Minister within a period of 90 days upon receipt of letter from the Minister in regards to the refusal.

28 False Declarations

The Minister may revoke or amend any decision or the award of any license that was influenced by a false declaration, including any material nondisclosure, in accordance with section 24(2) of these regulations.

29 Additional Information

- (1) The Minister may request for additional information from an applicant that may be necessary to enable the Minister to make a decision regarding the issuing of a license.
- (2) The Minister may request additional information from a licensee that may be necessary for regulatory purposes.

30 Publication of Data by Commissioner

- (1) The Commissioner may publish data at least once annually on:
 - (a) the number of valid importation licenses;
 - (b) the number of importation licenses issued in the calendar year concerned;
 - (c) the number of lapsed importation licenses in the calendar year concerned; and
 - (d) the license numbers of all valid licenses.
 - (e) any other information as may be deemed necessary by the Commissioner in fulfilment of sections (16) and (17) of the Act.

31 Registration of Application

- (1) All applications for the grant, renewal or assignment of a license made to the Authority under these Regulations shall be registered immediately in the Petroleum Registry maintained by the Commissioner in accordance with section 17(1) of the Act.
- (2) The Authority shall issue an official receipt, which shall be handed or mailed by registered mail to the applicant indicating the date and time at which the application was received and registered.

32 Duration of License

The period of validity of a license shall be 5 years for Importation and Exportation as determined by the Authority.

33 Legal or Regulatory Changes

- (1) When during the terms of validity of a license, legal or regulatory changes like:
 - (a) the issuance of new technical standards or specifications occur which require changes or adaptations of petroleum products,
 - (b) or equipment of the supply chain or in the performance of petroleum supply operations, all holders of licenses shall comply with the respective rules within a reasonable transition period established by the order of the Minister, made in consultation with the relevant regulatory authority, unless the transition period is provided for by the respective law or regulatory change.

34 Renewal of License

- (1) A holder of a license issued under these Regulations may apply to the Authority for renewal of the license three months before the date of the expiry of the license.

- (2) Sections 5 to 9 shall apply to the processing of the application, for renewal of a license.
- (3) For Purposes of License Renewal:
 - (a) Applicants granted licenses on the basis of compliance with criteria 1(a) under section 17 shall show proof of sales volumes equivalent to fifteen (15) million litres during the license period,
 - (b) Applicants granted licenses on the basis of criteria 1(b) under section 17 shall show proof of ownership or lease of at least three (3) service stations.
 - (c) Applicants granted licenses on the basis of compliance with criteria 1(c) under section 17 shall show proof of ownership or lease of a licensed petroleum depot facility.
 - (d) All applicants must show proof of petroleum storage capacity equivalent to volume of minimum operation stocks (owned/leased).
 - (e) Late application will attract a penalty equivalent to 50% of the license fee.
 - (f) A company selling product to un-licensed or companies with expired licenses, shall in addition to penalties stipulated in the Petroleum Products Act, pay a fee specified by the Authority and approved by the Minister.

35 Transfer or Assignment of License

- (1) A holder of a license who wishes to assign or transfer the license, shall file a written application with the Authority.
- (2) Sections 5 to 9 shall apply to the processing of the application for transfer or assignment of license.
- (3) The approval of the assignment or transfer shall not change the remaining period of validity of the original license.
- (4) The assignee or transferee shall be liable for all pending obligations or liabilities of the assignor or transferor under the Act and Regulations.
- (5) Where an unknown liability is discovered within three years after the effective date of the assignment or transfer, both the assignor and the assignee or transferor and transferee shall be jointly and severally liable for that liability.
- (6) The Authority shall not approve an assignment or transfer by a company as the holder to an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company.
- (7) The successor shall apply within thirty days for approval of the transfer of the license where there is a death of a natural person, otherwise the license shall expire.

- (8) A license shall not be assigned or transferred to a person to whom that license could not have been granted under section 20 of these regulations and the Act.

Part 3 Enforcement

36 Form of Identity Cards for Inspectors

- (1) For the purpose of effecting section (15) of the Act, an identity card must include the following information:
- (a) the name and title of the person to whom it is issued;
 - (b) a statement that the person is an inspector under the Act;
 - (c) the name, title and signature of the person who issued it;
 - (d) a serial number;
 - (e) the date when it was issued;
 - (f) its expiry date, being not later than 3 years after it was issued.

37 Inspection

- (1) The Authority, in consultation with TGSB, shall:
- (a) Enlist a panel of contracted Inspectors with own testing facilities both at Load Port and Discharge Port to carry out inspection of petroleum products destined for The Gambia.
 - (b) Ensure that only petroleum products meeting the requirements of the relevant GS or approved specifications are allowed into the country.
 - (c) Continuously monitor the performance of the contracted Inspector through testing of reference samples, audits and feedback from stakeholders.
- (2) **Inspectors** shall:
- (a) Inspect vessel tanks prior to loading to determine if tanks meet the requirements for cargo to be loaded.
 - (b) Sample and analyze products to be loaded or discharged with a view to determining compliance to the relevant GS or approved specifications.
 - (c) Supervise loading and discharge of petroleum products to ensure that all practical steps are taken so as to avoid contamination.
 - (d) Provide report that details the quality and quantity of each consignment loaded or discharged in the form of Certificate of Quality, Outturn and Inspection report to both importer and the Authority.
 - (e) Report in a timely manner to all concerned parties any matter that may be relevant to the

handling of the consignment.

(3) **Importer** shall:

- (a) Ensure that their import license granted by MoPE is valid prior to importing petroleum products.
- (b) Ensure that petroleum products being imported into The Gambia meet the requirements of the relevant GS or approved specifications.
- (c) Nominate load port and discharge port Inspectors from a panel of inspectors contracted by the Authority.
- (d) Meet the cost of inspection.
- (e) Notify the Authority of attendance for pre-discharge sampling at discharge port.

(4) **GRA** shall:

- (a) Only allow customs release of petroleum products as advised by the Authority.
- (b) Use Outturn report issued by the Inspectors in determination of duty payable by Importer.

(5) **MoPE** shall:

- (a) Issue import licenses to Importers that comply with the statutory requirements.
- (b) Suspend import licenses of non-complying Importers in line with the provisions of the Act 2016.

38 Panel of Inspectors

- (1) The Authority, in consultation with TGSB, shall approve a minimum of two locally registered and at least one internationally based (accredited/authorized laboratories/persons) Inspectors for the purpose of carrying out inspection, at load port and discharge port, of petroleum products as required by the enabling Acts.
- (2) Inspections shall be conducted based on, prevailing laws and regulations, and or, best international practices, while assessment of product compliance shall be based on the relevant GS or approved specifications.

39 Inspection Process

(1) At **Load Port**:

- (a) Importer nominates an Inspector from the list of contracted Inspectors referred to in section 39 and communicates the same to the supplier.

- (b) At load port, before finished petroleum products are loaded onto vessel cargo tanks, supplier submits the order to Inspector nominated by the Importer to carry out tests based on the relevant GS or approved specification.
- (c) The inspector inspects the vessel tanks and ensures that they are clean.
- (d) The inspector shall supervise loading and draw first foot samples from vessel tanks for purposes of determining compliance to requirements of the relevant GS or approved specifications before the vessel sails.
- (e) For purposes of allowing the sail, the inspector shall carry out tests on the critical parameters as contained in the relevant GS and or as may be approved by the Authority. Results for the full tests should be made available within 48 hours of inspection.
- (f) A COQ for cargo loaded and also quantity report based on the Bill of Lading as determined at load port shall be prepared and made available to; the Importer, Shipper and the Authority within 48 hours of inspection.
- (g) A full Inspection report shall be prepared and submitted to Importer and the Authority by the Inspector within 72 hours after inspection.
- (h) The quantity report should be expressed in M³ at 15 deg C, metric Tons in Air and US bbls at 60 F, and no other units, these are to be calculated using industry standard methods.
- (i) Sealed reference samples from the vessel tanks after loading, drawn in compliance with relevant GS or approved specifications and made into a weighted composite of not less than 5 litres per product, shall be retained by the inspector, loading depot, carrier (i.e. shipper) with duplicate 5 litres aliquot being dispatched together with the consignment to discharge port to facilitate a validation test in case of a dispute.
- (j) The Importer shall meet the full cost of inspection based on the commercial contract with the Inspector.

(2) At **Discharge Port**:

- (a) The Importer shall nominate discharge port Inspector from a list of locally based Inspectors contracted by the Authority.
- (b) The importer shall notify all parties: receiving terminal (GPA), the designate depot facility, the Authority and GRA regarding the date of arrival and time for them to prepare for inspection before discharge.
- (c) The Inspector together with the receiving terminal and any other party contracted by Importer shall jointly draw samples for key pre- discharge analysis as per 39 (1) (e). *Note: Cargo purchased in the high seas shall be subjected to FULL analysis as per the applicable standard, at Discharge Port.*
- (d) Reference samples shall be drawn and sealed for retention by Inspector for a period of 90 days.

- (e) Where, product samples drawn in (2) (c) above comply with applicable standards or specifications and compares closely with the load port COQ, the products shall be released by the Authority for discharge by issuing a certificate of release as contained in the Authority's approved form.
- (f) Where there is dispute or disparity between pre-discharge test results and the load port COQ, Sampling and testing shall be repeated in an independent accredited laboratory. A decision shall be made by all the concerned parties whether the products meet the relevant Gambia Standard or approved specifications. The final decision, however, shall rest with the Authority.
- (g) After completion of discharge the inspector shall release outturn report to GRA, the Authority, Importer and the receiving designate depot facility.
- (h) A Full Inspection report shall be prepared and submitted to Importer and the Authority by the Inspector within 72 hours after completion of inspection.
- (i) All non-complying products shall be reshipped or disposed at the expense of the Importer.
- (j) Any request for exemption from the requirements of the applicable GS or approved specifications shall be handled in accordance with the relevant **enabling Acts of The Gambia**.

40 Accredited Laboratories

- (1) For the testing of petroleum products, it must be tested by accredited laboratories:
 - (a) a laboratory in The Gambia that is accredited by TGSB;
 - (b) a laboratory in another country that is accredited by the national laboratory accreditation body operating in the country where the laboratory is located.
- (2) For paragraph (1) (b), a national accreditation body must:
 - (a) be a member of the International Laboratory Accreditation Corporation; and
 - (b) accept the accreditation standards of that Corporation; and
 - (c) Comply with ISO/IEC Guide 58:1993 *Calibration and testing laboratory accreditation systems – general requirements for operation and recognition*, first edition published by the International Organization for Standardization, Geneva.

41 Accredited Persons

An accredited person is an individual who is accredited by TGSB.

42 Authorised Persons

An authorised person is an individual who is approved by TGSB as an authorised representative.

Part 4 Record Keeping and Reporting Obligations

43 Record Keeping

- (1) For the purpose of section 13 of the Act, this part sets out the records that must be kept.
- (2) A record that must be kept under this part must:
 - (a) be kept, for each calendar year, for petroleum product that is supplied in The Gambia in the year; and
 - (b) be kept at the premises where the petroleum product is supplied; and
 - (c) be retained for 2 years.
- (3) The licensee shall maintain a customer complaint register and proceedings, in a form approved by the Authority, which shall be made available for examination by an inspector on demand.
- (4) The licensee shall undertake and record, in a manner and to a level of accuracy acceptable to the Authority, the monitoring and reconciliation of all handled petroleum and, or biofuel stocks and any other fuel imported, acquired, possessed, blended and sold to retailers. These records shall be retained for at least 24 months and shall be made available for examination by an inspector on demand.
- (5) Within the 10th working day of each quarterly period the licensee must submit in written form to the Authority a list showing all individual petroleum transactions of the preceding month. The list shall cover all transactions of:
 - (a) all petroleum and, or biofuel imported by type and origin;
 - (b) all petroleum and, or biofuel sold to individual petroleum service stations operators;
 - (c) all petroleum and, or biofuel sold or given to fuel distributors; and
 - (d) all processing of fuels (blending or addition of additives) correlated to fuel consignments imported or purchased for each petroleum and, or biofuel product.

44 Records for Importers of Petroleum Products

- (1) A supplier who imports Petroleum product into The Gambia must keep the following records:
 - (a) records of the matters mentioned in paragraph 2 below subsections (d) to (g);
 - (b) for each shipment of petroleum products imported, a record of the matters mentioned in paragraph (2).

- (2) For paragraph (1) (b), the matters are the following for each kind of petroleum product imported:
- (a) the kind and grade of petroleum product, or its product code;
 - (b) the quantity of petroleum product;
 - (c) the date when the petroleum product was imported;
 - (d) the port where the petroleum product arrived in The Gambia;
 - (e) the tariff code for the petroleum product;
 - (f) the importer number for the shipment;
 - (g) the contact details of the manufacturer of the petroleum product, if known;
 - (h) details of any testing done on the petroleum product, including:
 - (i) the date of each test; and
 - (ii) records by which the petroleum product tested can be traced to delivery docket numbers for the petroleum product; and
 - (iii) test methods used; and
 - (iv) the results of the tests.
 - (i) Stock reconciliation records (except in relation to petroleum product for which it is not possible for the supplier to keep separate reconciliation records).

45 Annual Statements

An annual statement must be provided to the Authority by:

- (a) delivering to the Authority; or
- (b) sending it, by pre-paid address; or
- (c) sending it electronically to the Authority's address for petroleum product quality matters.

Part 5 **Emergencies and Contingency Plans**

46 Reports of Changes in Representations, Accidents or Temporary Interruptions

- (1) License holder(s) shall inform the Minister without undue delay of any significant change in the representations in his or her application or the stated conditions under which his or her license was granted.
- (2) License holder(s) shall inform the Minister and the NDMA (the coordinating authority) within twenty four hours in case of accidents, natural disasters or any other event which has caused or could cause a sustained interruption or significant reduction of the petroleum supply operations or which causes or poses the risk of causing major damage to the occupational health, public safety or the environment.
- (3) License holder(s) shall file a written report with the Authority for all major cases of temporary interruptions or reductions of the petroleum supply operations or of events which cause or pose risks or damage to third parties, stating the cause and consequences of the event and the preventive measures taken or to be taken to remedy the event.
- (4) Proof of comprehensive insurance of the supply chain operations shall be provided by license holder(s) including but not limited to transportation, storage facilities of product stocks, personnel, equipment and third parties.

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Hon. Fafa Sanyang

Minister of Petroleum and Energy

Dated the day of.....20