

Petroleum Products Service Station 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 Gambia Petroleum Products Service Station Regulations 2017*.

2. Application

These Regulations shall apply to all civilian installations in The Gambia, but shall not apply to:

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

3. Commencement

These Regulations shall commence on the day they are published in the Gazette.

4. General

4.1 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 Petroleum products are adulterated with cheap solvents to earn huge profit.

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

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

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

“**Boiling Point**” means the temperature at which a liquid exerts a vapor pressure of 101.3kPa.

“**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 “true copy of

original document”; and 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.

“**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 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; and
- (c) The telephone number (if any) at which the person may be contacted personally; and
- (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 Justices 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.

“**Flash point**” The flash point of a volatile material is the lowest temperature at which it can vaporize to form an ignitable mixture in air.

“**Fuel Leak**” is a gradual discharge or loss of fuel from a Fuel Storage Tank System, tank vehicle or vessel into the environment, other than through the usual function for which the Fuel Storage Tank System is designed.

“**Fuel Storage Tank System**” all of the connecting piping, including pumps, product transfer system, barriers, overfill protection equipment and spill containment system associated with a fuel storage tank.

“**In Service**” means the fuel storage tank is actively maintained or operated, and contains fuel regularly or has fuel regularly added or withdrawn from the tank, and is emptied slowly for the purpose of cleaning or routine maintenance.

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

“**M³**” means cubic meter; volumetric unit.

“**Minister**” and “**Ministry**” means respectively the Minister and the Ministry of Petroleum and Energy

“**Oil Marketing Company**” means a company that operates (company owned, company operated) three or more petroleum retail service stations; procures and sells petroleum products to bulk consumers and the general public through petroleum product retail stations and reselling outlets.

"Owner" means the person who owns the tank facility or part of the tank facility.

"Permit / License" means a legal instrument issued by the relevant authority granting rights to perform specific petroleum operations.

"Person" means an individual, trust, firm, and joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, district and the Gambia.

"Petroleum" means a substance occurring naturally in the earth and composed mainly of mixtures of chemical compounds of carbon and hydrogen, with or without other non-metallic elements such as sulfur, oxygen, and nitrogen. The compounds that compose it may be in the gaseous, liquid, or solid state, depending on their nature and on the existent conditions of temperature and pressure.

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

"Place of Public Assembly" means public areas such as places of worship, schools, hospitals, shopping centres, hotels, offices, town centres, stadiums, etc.

"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.

"Petroleum products" means as defined by the Act.

"Petroleum Retailer" means a business entity operating less than three Petroleum Retail Service Stations.

"PURA" means Public Utilities Regulatory Authority.

"Service Station" is an establishment beside a road (motorway) that supplies/sells fuel (petrol, gasoil, kerosene, etc.), oil for motor vehicles, and liquefied petroleum gas, with facilities to carry out maintenance/repairs and servicing of motor vehicles and supplies mechanical or electrical equipment.

"The Gambia Standards Bureau" or TGSB means the national institution in charge of standards development as established by Law.

"Temporary bulk licence" means a licence issued to bulk buyers who do not operate a service station

"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

"EIA" means Environmental Impact Assessment.

"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)

“LPG” means Liquefied Petroleum Gas

“MoPE” means Ministry of Petroleum and Energy.

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

“NEA” means National Environment Agency

“OMC” means Oil Marketing Company

“PURA” means Public Utilities Regulatory Authority

“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 SERVICE STATION LICENCE

5. Lodging of Service Station Licence Application

- (1) An applicant for a service station licence shall:
 - (a) Complete an application form as approved by the Authority; and
 - (b) Lodge that application with the Authority together with the documents specified in section 7(1).

6. Notice of Application for Service Station Licence

- (1) All accepted applications shall be published and prominently displayed by the Authority, freely accessible and available to the public.
- (2) The publication may 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 licence may be lodged with the Authority; and
 - (f) The address of the Authority where objections may be lodged.
- (3) The place envisaged in paragraph (2) (d) be the physical address of the Authority's office where the application was lodged.
- (4) The period envisaged in paragraph (2) (e) be at least 20 working days from the date of publication of the notice.

7. Acceptance of Service Station Licence Application

- (1) An applicant for a service station licence shall submit:
 - (a) 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;
 - (b) Certified copy of the business entity's registration and certificate of incorporation documents, if the applicant is a corporate entity or a trust;
 - (c) Copy of updated Memorandum and Articles of Association of Company, deed, partnership, other deed, or authenticated agreement establishing the corporate body;

- (d) Copy of TIN certificate;
 - (e) Bank reference with committed and explicit statements;
 - (f) Proof of payment of the relevant licence fee;
 - (g) At least twelve months of import plan;
 - (h) A declaration by applicant stating that the applicant is in compliance with the Licence or a statement of the applicant's plans to meet the requirements of the Licence;
 - (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; and
 - (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;
- (2) The information required in terms of paragraph (1) (j) shall be provided in respect of the different petroleum products which are to be stored.

8. Evaluation of a Service Station Licence Application

- (1) In evaluating an application for a service station licence, the Authority may, 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

- (1) An applicant for a service station licence for who section 5(1) is applicable, shall provide proof of payment of any levies due.

10. Procedure for Issuing Service Station Licence

- (1) The Minister may, if satisfied that an application for a service station licence meets the requirements of the Act and these regulations:
- (a) Inform the applicant that the application has been successful;
 - (b) Require the applicant to, within the period determined by the Minister:
 - (i) Pay the relevant licence fee as determined by the Authority; and
 - (iii) Issue the service station licence upon receipt of payment

11. Particulars to be Included in Service Station Licence

(1) A service station licence shall include:

- (a) The name of the licensee;
- (b) The licence 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 sell;
- (f) The date of issue of the licence;
- (g) The conditions of the licence; and
- (h) The Minister's signature.

12. Environmental Rehabilitation

(1) An Environmental Sustainability Management Plan, approved by a competent authority or person, shall include:

(a) Details of:

- (i) The authority or person who prepared the Environmental Sustainability Management Plan; and
- (ii) The expertise of that authority or person who prepared the Environmental Sustainability Management Plan;

(b) A description of the environment likely to be affected by the proposed service station activity;

(c) An assessment of the potential impacts of the proposed service station activity on the environment, socio-economic conditions and cultural heritage, if any;

(d) A summary of the Environmental Impact Assessment (EIA) of the significance of the potential impacts, the proposed mitigation and management measures to minimise adverse impacts;

(e) A financial plan which include:

- (i) Details of the method providing for the financial provision envisaged in section 13(1); and
- (ii) The determination of the quantum of the financial provision envisaged in section 13(3);

- (f) Planned monitoring and performance assessment of the Environmental Sustainability Management Plan;
- (g) closure and environmental objectives;
- (h) a record of public participation undertaken and the results thereof; and
- (i) an undertaking by the applicant to execute the Environmental Sustainability Management plan.

13. Financial Security for Rehabilitation

- (1) Financial provision required in terms of section 12(1)(e) to achieve the total quantum for the rehabilitation, management and remediation of negative environmental impacts may be provided for by one or more of the following methods:
 - (a) an approved contribution to a trust which 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 Authority guaranteeing the financial provision relating to the Environmental Sustainability Management Plan in the format approved by the Authority.
 - (c) a deposit into a bank account specified by the Authority in the format approved by the Authority from time to time; or
 - (d) any other method that the Authority may approve.
- (2) In the case of paragraph (1)(c), proof of payment is submitted to the Authority prior to the acceptance of the Environmental Sustainability Management Plan.
- (3) The quantum of the financial provision shall be determined in consultation with a competent authority or person and include a detailed provision for costs that could be incurred in the event of:
 - (a) Premature closure regarding:
 - (i) the rehabilitation of the land;
 - (ii) the prevention and management of pollution of the atmosphere;
 - (iii) the prevention and management of pollution of water and the soil; and
 - (iv) the prevention of spillage and leakage, into the ground, of chemical substances associated with service station activities;
 - (b) decommissioning and final closure of the operation; and
 - (c) post-closure management of residual and latent environmental impacts.

- (4) The holder of a service station licence shall 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 Sustainability Management Plan; or
 - (c) as requested by the Authority.
- (5) Any inadequacy with regard to the financial provision shall be rectified by the licensee:
- (a) in an amendment of the Environmental Sustainability Management Plan, as the case may be; or
 - (b) as determined by the Authority.

14. General Conditions with Regard to Service Station Licence

- (1) A licensed service station shall remain a going concern.
- (2) A licensed service station shall purchase petroleum products only in bulk from other licensed service stations, licensed manufacturers, or licensed importer of petroleum products.
- (3) A service station licence, or a certified copy thereof, shall be prominently displayed at the place of business, where any person entering the place of business may read it; and
- (4) A licence 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 21.
 - (c) may not be tempered with or defaced in any manner;
 - (d) may not be altered in any manner; and
 - (e) is only transferable on the prior written approval of the Minister.

15. Temporary Bulk Licence

- (1) A temporary bulk licence may be issued only in respect of a project upon the payment, by the applicant, of the temporary bulk licence fee as determined by the Authority.
- (2) An application for a temporary bulk licence shall be made to the Authority on the Authority's relevant application form, and shall:
- (a) be in writing;
 - (b) only be in respect of a project activity;

- (c) Include proof of hardship that would result if the licensed activity ceased to be licensed;
 - (d) be accompanied by a certified copy of the original licence certificate;
 - (e) be accompanied by a certified copy of the applicant's identity document if the applicant is a natural person; and
 - (f) be accompanied by a certified copy of the business entity's registration documents.
- (3) The Authority may set special conditions for a temporary bulk licence according to the circumstances presented in the application envisaged in paragraph (2).

16. Amendment of Service Station Licence

- (1) A licensed service station may apply, in writing, to the Minister for a licence to be amended by:
- (a) Specifying the amendment sought; and
 - (b) Providing reasons for seeking such an amendment.
- (2) The Minister shall consider the request envisaged in paragraph (1) and may issue an amended licence: 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 service station prior to such change; and
 - (b) The applicant has paid the amendment licence fee as determined by the Authority.

17. Documentation to be submitted to the Authority upon Successful Application

- (1) When an application has been successful, and upon request from the Authority, the applicant shall:
- (a) Submit proof of payment of the relevant licence fee as determined by the Authority; and
 - (b) In the case of a person in respect of whom constructions of his/her facilities or installations are certified shall:
 - (i) Submit an Environmental Sustainability Management Plan; and
 - (ii) Provide proof of financial provision for the purposes of rehabilitation of the environment affected by the service station activities upon cessation of such activities.

18. Information to be submitted annually to the Authority by Licensed Service Station

- (1) A licensed service station shall submit to the Authority, in the relevant form issued by the Authority, not later than the end of February of each year, the following information in respect of the preceding calendar 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 Republic of The Gambia;
- (c) The total number of employees distinguished by gender and disability;
- (d) With regard to training of persons in the employ of the licensed service station, a report on:
 - (i) The number of employees trained in general; and
 - (ii) The number and title of qualifications obtained by employees (by gender) which are accredited by the competent authority.

19. Declaration

A declaration by the applicant on the veracity of the information provided on the prescribed application form issued by the Authority

20. Application for Duplicate Service Station Licence

- (1) When a service station licence has been lost, damaged or destroyed the licensed service station apply to the Authority for a duplicate thereof;
- (2) An application envisaged in paragraph (1) shall 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 licence number of the licence that has been lost, damaged or destroyed; and
 - (d) Proof of payment of the duplicate licence fee as determined by the Authority.

21. Surrender of Licence

A licensed service station may, at any time, by written notice surrender a licence to the Authority.

22. Suspension or Revocation of a Licence

- (1) When a licensed service station fails to comply with any provision of the Act or these Regulations, or any condition of a licence, or contravenes any such provision or condition, the Minister by virtue of section 11(1) (a) and (b) of the Act may, notwithstanding any other penalty, which may be imposed under the Act or any other law, and subject to paragraph (2) below, suspend or revoke the licence.
- (2) The Minister may not suspend or revoke a licence unless:

(a) The licensed service station has been informed in writing of the intention to revoke or suspend such licence:

(i) Setting out the particulars of the alleged failure or contravention; and

(ii) Calling upon the licensed service station to make the representations to the Minister that may be necessary within 30 days after the date of that notice.

(b) The Minister has considered:

(i) Steps taken by the licensed service station to remedy the alleged failure or contravention concerned or to prevent any such failure or contravention from being repeated; and

(ii) Any other relevant matter submitted by way of the representations envisaged in paragraph (a) (ii).

23. Validity of Licence

(1) A licence ceases to be valid when:

(a) The licence is surrendered to the Authority;

(b) The licence is cancelled by the Minister in accordance with section 22(2); or

(c) The licensed activity is no longer a going concern.

(d) The license expires

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

24. Refusal to Issue Licence

If the Minister declines to issue any licence that may be issued under these Regulations, the applicant is informed in writing, with reasons, of that decision.

25. Appeals

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

26. False Declarations

The Minister may revoke or amend any decision or the award of any licence that was influenced by a false declaration, including any material nondisclosure, in accordance with section 22(2) of these Regulations.

27. Additional Information

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

28. Publication of Data by Commissioner

- (1) The Commissioner shall, not later than 12 months after the commencement of the Acts, and thereafter the end of June and December of each year, within 30 days of the end of those months, publish data on:
 - (a) The number of valid service station licences;
 - (b) The number of service station and licences issued in the calendar year concerned;
 - (c) The number of lapsed service station licences in the calendar year concerned; and
 - (d) The licence numbers of all valid licences.
 - (e) Any other as may be deemed necessary by the Commissioner in accordance with section 16 and 17 of the Petroleum Products Act 2016.

PART 3 THE COMMITTEE

29. Application of Part 3

For section 4(2) of the Act, this Part sets out matters relating to members of the Committee appointed by the Minister.

30. Term of Appointment

The term of appointment for a member shall not be more than 3 years, renewable once.

31. Disclosure of Interests

- (1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Committee shall, as soon as possible after the relevant facts have come to the knowledge of the member, disclose the nature of the interest at a meeting of the Committee.
- (2) A member who makes a disclosure under paragraph (1) shall not, unless the Committee or the Minister otherwise determines:
 - (a) be present during any deliberation of the Committee about the matter; or
 - (b) Take part in any decision of the Committee about the matter.

- (3) A member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:
- (a) Be present during any deliberation of the Committee about making a determination under paragraph (2); or
 - (b) Take part in making the determination.
- (4) A member is not taken to have an interest for this regulation only because of a direct or indirect interest that the member has only through being a representative mentioned in section 4(2) of the Act.

32. Resignation

A member may resign by giving written notice to the Minister.

33. Termination of Appointment

- (1) The Minister may terminate the appointment of a member:
- (a) for misbehaviour or physical or mental incapacity; or
 - (b) for incompetence or inefficiency; or
 - (c) who:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of the law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (d) who is convicted of an offence punishable by imprisonment for 1 year or longer; or
 - (e) who does not comply with section 31;
 - (f) who is absent, except on leave of absence, from 3 meetings of the Committee that he or she was expected to attend; or
 - (g) If, because of a change in employment, residence or other circumstance, he or she ceases, in the Minister's opinion, to be an appropriate representative on the Committee.

34. Leave of Absence

- (1) The Minister may grant leave of absence to the Chairperson.
- (2) The Chairperson may grant leave of absence to another member.

PART 4 ENFORCEMENT

35. Form of Identity Cards for Inspectors

- (1) For the purpose of section (15) of the Act, an identity card 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.

36. Procedure For Dealing With Petroleum Products Samples

For the purpose of section 15 of the Act, the Authority sets out the procedures for dealing with samples of petroleum, petroleum additive or evidential material, taken by an inspector.

37. Taking Samples

- (1) An inspector who takes a sample shall:
- (a) take two or more samples that are as uniform as practicable; and
 - (b) put each sample into a separate container; and
 - (c) securely seal and label the containers; and
 - (d) send one or more of the containers to an accredited laboratory or accredited person by means that will ensure the safe arrival of its contents; and
 - (c) Keep one or more of the containers for any further inspection, examination, measuring or testing.
- (2) When the occupier, or another person who apparently represents the occupier, of the premises where the samples are taken is present when the samples are taken:
- (a) the inspector may ask the occupier or other person to inspect the containers to satisfy himself or herself that they have been sealed and labelled properly; and
 - (b) When the samples are of petroleum products that are in a liquid state at standard temperature and pressure, one of the containers may be given to the occupier or the other person.

- (3) When there is no person described in paragraph (2) present and the samples are of petroleum products that is in a liquid state at standard temperature and pressure, the inspector may:
 - (a) Keep one of the containers; and
 - (b) When the occupier of the premises asks for the container within one week after the sample was taken, give the container to that person.
- (4) For sampling of petroleum products, substantial compliance with the procedures mentioned in paragraph (2) (a) is sufficient and the procedure need not be strictly complied with.
- (5) In this regulation, a reference to *standard temperature and pressure* is a reference to a temperature of 0-25 degrees Celsius and a pressure of 100 kilopascals.

38. Identification of Samples

- (1) An inspector who takes a sample shall:
 - (a) Record:
 - (i) Enough details to identify it; and
 - (ii) The address of the premises where it was taken; and
 - (b) Ask the occupier, or another person who apparently represents the occupier, of the premises to sign the record as soon as possible after the sample is taken.
- (2) For sampling of petroleum products, substantial compliance with the procedures mentioned in paragraph (1) (b) is sufficient and the procedure need not be strictly complied with.

39. Method of Securing Samples

- (1) An inspector who takes a sample shall ensure that:
 - (a) the container of the sample is marked so that the sample is clearly identifiable, but in a way that prevents a person testing the sample from identifying the source of the sample; and
 - (b) the container cannot be opened, or the identification of the sample removed, without breaking the seal; and
 - (c) the sample is packed, stored and transported so that:
 - (i) the integrity of the sample is preserved; and
 - (ii) Testing of the sample produces the same results as would have been obtained if the sample had been tested immediately after it was taken.

40. Payment for Samples

When a sample is taken from a place where it could be sold legally, the Authority may be liable to pay, to the owner of material from which the sample is taken, the market value, at the time the sample was taken, of any part of the sample removed by an inspector.

41. Accredited Laboratories

(1) For the testing of petroleum products, it is 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 :

- (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.

42. Accredited Persons

For section 15 of the Act, an accredited person is an individual who is accredited by TGSB.

43. Authorised Persons

For section 15 of the Act, an authorised person is an individual who is approved by TGSB as an authorised representative.

PART 5 RECORD KEEPING AND REPORTING OBLIGATIONS

44. Record Keeping

(1) For the purpose of section 13 of the Act, this part sets out the records that be kept.

(2) A record that be kept under this part shall:

- (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.

45. Records of Producers or Blenders of Petroleum Products

- (1) A supplier who produces or blends petroleum products shall keep the following records:
 - (a) the kind and grade of petroleum product produced or blended, or its product code;
 - (b) the quantity of petroleum product produced or blended;
 - (c) 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;
 - (d) for each supply of petroleum product, the following details:
 - (i) how the petroleum product was supplied;
 - (ii) the quantity supplied;
 - (iii) the kind and grade of petroleum product, or its product code;
 - (iv) to whom it was supplied;
 - (v) delivery docket numbers;
 - (e) Records by which the petroleum product supplied can be traced to delivery docket numbers for the petroleum product;
 - (f) Records by which each receipt of petroleum product into the supplier's tanks can be traced to petroleum product supplied from the tanks;
 - (g) Stock reconciliation records (except in relation to petroleum product for which it is not possible for the supplier to keep separate reconciliation records).

46. Records for Service Station Operators and Distributors

- (1) A supplier who operates a service station or is a distributor of petroleum products shall keep the following records:
 - (a) Copies of all documents received or provided under section 13 of the Act;
 - (b) Stock reconciliation records, including all delivery records received;
 - (c) 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.

47. Annual Statements

- (1) For the purpose of section 16 and 17 of the Act, an annual statement shall be provided to the Authority by:
 - (a) Delivering it to the Authority; or
 - (b) Sending it, by pre-paid post, to the Authority's postal address; or
 - (c) Sending it electronically to the Authority's email address for petroleum product quality matters

PART 6 CONSTRUCTION PERMIT AND OPERATION LICENCE FOR SERVICE STATION

48. Application for Construction Permit

- (1) A person or company who intends to obtain a service station construction permit under section 6 (1) of the Act shall submit to the permit issuing authority.
- (2) The Authority may consult with the authority issuing construction permit in respect of the following:
 - (a) A letter of sponsorship from an existing oil marketing company, or where the retail outlet is being constructed by an individual and or sponsored by an OMC.
 - (b) Proof of Title to the land/indenture.
 - (c) A Fire Prevention Plan approved by the Chief Fire Officer evidencing that arrangements proposed for the prevention and fighting of fire coupled with good housekeeping practices at the site are satisfactory.
 - (d) An environmental impact assessment approval from the NEA, and
 - (e) Three copies of the approved plan(s) showing building(s), existing or proposed, on the site and the relation of the site to road, electrical transmission and power lines, water bodies and adjoining properties. The copies are labeled "**TO BE CONSTRUCTED**".
 - (f) No objection letters from the utility companies as well as the Gambia National Roads Authority, wherever applicable.

- (g) Where there is a community or public outcry/dispute regarding the intended site, a favourable, public/town hall meeting report is deposited. The meeting, under the auspices of the Authority, will be attended at least by the aggrieved party and local leaders of the area.

49. Construction Specifications

- (1) All civil works shall conform to the prescribed standards by the permit issuing authority.
- (2) All buildings shall comply with the Building regulations as may be issued by the Department of Physical Planning.
- (3) All islands shall conform to the prescribed specifications by the permit issuing authority.
- (4) All tanks, pipes, valves and pipe fittings shall be designed and built in accordance with the regulating authorities specified standards and shall have a safety factor that is adequate for the conditions of service.
- (5) It is recommended that all buried pipelines be pressure-tested annually throughout their service life.
- (6) All service bays shall conform to the prescribed specifications by the permit issuing authority.
- (7) All sashing bays shall conform to the prescribed specifications by the permit issuing authority.
- (8) All Canopies shall conform to the prescribed specifications by the permit issuing authority.
- (9) All other works, equipment etc., shall conform to the prescribed specifications by the permit issuing authority.

50. Construction Operations, Inspection and Certification of Completion

- (1) Construction operations shall be started within ninety days from the effective date of the permit unless otherwise approved in writing by the permit issuing authority.
- (2) The permit issuing authority shall carry out inspections in order to verify compliance with the conditions of the permit during the execution and activities of the works.
- (3) The permit issuing authority shall issue the certificate of completion after conducting final inspection in respect of the project.

51. Persons to Whom a Licence shall not be granted

A licence 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 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.

52. Environmental Impact Assessment

- (1) There shall be an EIA for all construction sites/spaces meant to receive, store, dispense, dispose, reuse (individually or severally) of petroleum products, in fulfilment of section 22 of the Act.
- (2) The environmental impact statement shall be approved by the NEA in consultation with the Authority.

53. Environmental Audit for Construction

- (1) After completion of construction and submission of an environmental impact statement, the permit holder shall undertake an initial environmental audit of the project within a period of twelve months.
- (2) The initial environment audits under the paragraph (1) shall be carried out by a certified environment practitioner.
- (3) Following the initial environment audits, the Authority may require the holder to conduct such audits at such times as he or she may consider necessary.
- (4) Subject to paragraph (3), a comprehensive environment audit report shall be prepared and submitted to the Authority.

54. Environmental Audit for Operations

The holder of an operating licence shall undertake an environmental audit of the project within a period of twelve months or as need may arise after commencement of operations.

55. Registration of Application

- (1) All applications for the grant, renewal or assignment of a permit or licence made to the Authority or other relevant regulating authorities under these Regulations shall be registered immediately in the Central Petroleum Register maintained by the Commissioner in accordance with section 16 and 17 of the Act.
- (2) The Authority shall issue an official receipt and an application number, 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.

56. Form of Licence

The application forms of all licences to be granted, and any change of the form shall be as prescribed by the Authority.

57. Duration of Licence

The period of validity of a Petroleum Products Service Station shall as determined by the Authority.

58. Legal or Regulatory Changes

During the period of validity of a permit or licence where changes such as:

- (1) The issuance of new technical standards or specifications occur which require changes or adaptations of petroleum products, installations; or
- (2) Equipment of the supply chain or in the performance of petroleum supply operations, all holders of permits and licences, shall comply with the respective rules within a reasonable transition period established by the order of the Minister, made in consultation with the competent authority, unless the transition period is provided for by the respective law or regulatory change.

59. Renewal of Licence

- (1) A holder of a licence issued under these Regulations may apply to the Authority for renewal of the licence not later than three months before the date of the expiry of the licence.
- (2) Sections 5 to 8 shall apply to the processing of the application, for renewal of a licence.

60. Transfer or Assignment of Licence

- (1) A holder of a licence, who wishes to assign or transfer the licence, shall file a written application with the Authority.
- (2) Sections 5 to 8 shall apply to the processing of the application for transfer or assignment of licence.
- (3) The approval of the assignment or transfer shall not change the remaining period of validity of the original licence.
- (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) Approval shall not be provided for 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 licence where there is a death of a natural person, otherwise the licence shall expire.

- (8) A licence shall not be assigned or transferred under section (51) of these regulations to a person to whom that licence could not have been granted under the Act.

61. Exemptions from the Requirements for Licences

A licence shall not be required:

- (1) By a department of the Government or the armed forces for the transport or storage of petroleum products. Government departments and armed forces shall however, be required to comply with the necessary provisions of the Act, in respect of health, safety, environment and security, as well as product quality;
- (2) Where approvals and permissions have been issued by the Ministry of Petroleum before the commencement of the Act, reviews of compliance shall be done in accordance with the Act and the regulations made under the Act;
- (3) For the storage of the following petroleum products:
 - (a) AGO, PMS and Kerosene not exceeding two hundred liters if contained in securely Stoppard metal containers;
 - (b) HFO, paraffins not exceeding 1,000 liters contained in two hundred (200) liters drums, but stored in accordance with conditions issued by a licensing officer;
 - (c) LPG stored in potable cylinders with combined capacity of up to 100kg.

PART 7 FIRE SAFETY REQUIREMENTS FOR PETROLEUM SERVICE STATION

62. Siting of Petroleum Service Station

- (1) Any site chosen shall be sufficiently spacious for it to be designed to minimize the risks of any unauthorized person to be at or near the filling stations. (i.e., it be sited away from normal human traffics and isolated from other buildings' entrances and exits).
- (2) Petroleum service stations shall be sited away from places of public assembly, residential buildings and where there is large number of people, such as town centres, neighbourhood centres, important buildings and key installations.

63. Warning Signs

- (1) Standard warning signs shall be conspicuously posted at the individual dispensing area incorporating the following wordings: "WARNING – NO SMOKING, NO NAKED LIGHTS, STOP ENGINE, etc". The lettering shall be at least 50mm high.

- (2) The signs shall be posted not less than 1.8m and not more than 2.5m above the ground level.

64. Fire Control

- (1) **Fire Extinguishers** - Approved types of fire extinguishers of rating not less than 70B (9kg) or 34B (2 x 4.5kg) shall be provided at the individual dispensing units and protected from the weather.
- (2) **Absorbents** - Adequate quantity of absorbent or sand (as a guide, 1 full bucket minimum of 40 litres) shall be provided at the service station to mop up any spillage. These absorbent materials shall be kept in a container in a close fitting lid and shall be installed in an accessible place.

65. Reports of Changes in Representations, Accidents or Temporary Interruptions

- (1) Licence 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 licence was granted.
- (2) Licence holder(s) shall provide the Minister or his/her or designated agency/agent with verbal situation report immediately 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) Licence holder(s) shall follow up on (2) within 48 hours and file a written detailed situation report, and similarly with all major cases of temporary interruptions or reductions of the petroleum supply operations or of events which cause or pose HSE 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) Licence holder shall provide daily update briefing, as in the case of spills, accidents or disaster, until normalcy returns.
- (5) Licence holder will submit a Comprehensive Report within 60 days of the situation returning to normal.
- (6) Proof of comprehensive insurance of the supply chain operations shall be provided by licence 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.....