

THE PETROLEUM SUPPLY ACT, 2003.

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THE PETROLEUM SUPPLY ACT, 2003.

AN ACT to provide for the supervision and monitoring, the importation, exportation, transportation, processing, supply, storage, distribution and marketing of petroleum products; to provide for the establishment of the Minister responsible for the petroleum sector as the regulatory authority, to provide for the licensing and control of activities and installations, for the safety and protection of public health and the environment in petroleum supply operations and installations; to encourage and protect fair competition in the petroleum supply market; to repeal certain related laws; and to provide for connected matters.

DATE OF ASSENT: 28th August, 2003.

Date of commencement: See Section 2.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title

This Act may be cited as the Petroleum Supply Act, 2003.

2. Commencement

This Act shall come into force on a date appointed by the Minister by statutory instrument; and different days may be appointed for the commencement of different provisions of this Act.

3. Objectives

The objectives of this Act are—

- (a) to ensure that petroleum supply in Uganda is adequate, reliable, efficient and economical for the country and the consumers according to the prevailing conditions at any given time;
- (b) to strengthen the institutional capacity of the Government in order to better formulate and implement petroleum supply policies;
- (c) to improve petroleum governance by clarifying the functions of institutions responsible for petroleum supply and to make the operations of those institutions more accountable and transparent;
- (d) to ensure public safety and protection of public health and the environment in all petroleum supply operations and installations;
- (e) to ensure effective delivery of petroleum products and services to consumers and to ensure equal access to petroleum products of adequate quality at competitive prices for all consumers;
- (f) to encourage and promote fair competition within the petroleum supply market, to eliminate discrimination or preferential treatment of any

participant and to prevent monopolistic control of any segment of the supply chain;

(g) to create favourable conditions for operators and investors in order to increase the diversification of the sources of supply, to improve services and to expand the infrastructure of the supply chain; and

(h) to ensure a steady supply of petroleum products by the development and maintenance of national strategic stocks.

4. Application

(1) This Act applies to the import, export, re-export, transport, processing, supply, storage, distribution, wholesale and retail sale and sale to industrial consumers of petroleum products and related activities and installations in Uganda.

(2) The provisions of this Act which relate to petroleum products, as defined in section 5, also apply to natural gas, whether imported or produced in Uganda, including compressed natural gas (CNG) and liquefied natural gas (LNG).

(3) This Act applies to all persons, all departments and other agencies of the Government and all public corporations, subject to specific exemptions as prescribed by regulations.

(4) This Act does not apply to the requirement of any enactment for a permit or a licence for prospecting, exploration, development or production of petroleum in Uganda or the transportation, storage, processing or transformation of that petroleum subject to the conditions of the permit or licence and within the area covered by that permit or licence.

5. Interpretation

In this Act, unless the context otherwise requires—

“Code of practice” means the code of practice declared as such under section 14 of the Uganda National Bureau of Standards Act, 1983, except as otherwise provided in this Act;

“Commissioner” means the Commissioner heading the Department of Petroleum Supply within the Ministry;

“Committee” means the Technical Petroleum Committee established under section 8;

“consumer price index” means the national and consumer price index published by the Uganda National Bureau of Statistics;

"currency point" has the value specified in the First Schedule;

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

“Emergency Petroleum Supply Plan” means the Emergency Petroleum Supply Plan approved in accordance with section 34;

"environmental impact assessment" means a systematic examination conducted in accordance with the National Environment Statute, 1995, to determine whether or not a project will have any adverse impact on the environment; and includes environmental reviews, environmental evaluations and environmental impact studies and all related procedures;

"licence" means a petroleum operations licence issued under subsection (2) of section 17;

"licensee" means the holder of a licence;

"Minister" and "Ministry" means respectively, the Minister and the Ministry responsible for petroleum supply;

"national standard" means a standard produced or adopted by the Uganda National Bureau of Standards for use in Uganda in accordance with the Uganda National Bureau of Standards Act, 1983;

"National Strategic Stocks" means petroleum products kept in storage in Uganda by or on behalf of the Government under section 35 for purposes of security of supply;

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

"permit" means a petroleum construction permit issued under subsection (1) of section 17;

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

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

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

(a) asphalts, bitumens, petroleum coke and other residual products;

- (b) bunkers or heavy residual fuel oils for combustion engines or industrial heat processes, such as burners for boilers or heating furnaces;
- (c) commercial gases namely, methane, ethane, propane, butane and other similar petroleum gases produced in the refining process, or mixtures of those gases, whether in gaseous or liquefied state;
- (d) gas oil or automotive, industrial or marine diesels;
- (e) gasolines (petrol) or naphtha products;
- (f) kerosenes or other similar oils for illumination or combustion applications;
- (g) lubricating oils namely base oils and refined and blended finished oils;
- (h) turbo fuels for jet propulsion engines; and
- (i) other products or by-products of petroleum crude processing having a flash point lower than 120 degrees Celsius, as determined in a Pensky-Martens closed test apparatus;

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

"specifications" has the meaning assigned to it in section 43 of the Uganda National Bureau of Standards Act, 1983;

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

"throughput" means the average amount of product handled or consumed or both;

"working stock" means petroleum products kept in storage in Uganda by participants in the supply chain for trading purposes.

PART II—ADMINISTRATION.

6. Regulatory authority of the Minister

(1) The Minister shall be responsible for the implementation of this Act.

(2) The Minister shall have the following specific functions in relation to this Act—

- (a) to initiate legislation and make the necessary regulations in order to support and promote a continuous, secure and adequate supply of petroleum products at competitive cost for all consumers and to create favourable conditions for the availability of adequate import, transport, storage and distribution facilities within or, if necessary, outside Uganda;
- (b) to promote the increase of opportunities for regional petroleum trade and encourage a diversity of supply sources, routes and means of transportation;
- (c) to approve by order the Emergency Petroleum Supply Plan prepared by the Commissioner under subsection (1) of section 34;
- (d) to appoint the members of the Committee in accordance with section 9; and
- (e) perform any other function given to the Minister by this Act.

(3) For the purposes of the carrying out of the functions of the Minister under this Act, there shall be established in the Ministry, a Department of Petroleum Supply.

(4) Subject to the Constitution and other laws providing for the appointment of public officers, the department established under subsection (3) shall be headed by a Commissioner and shall have such other public officers as may be necessary for the effective performance of the functions of the Minister under this Act.

7. Functions of Commissioner

(1) The Commissioner shall supervise, control and ensure the effectual and impartial enforcement of this Act and other applicable laws, regulations, administrative orders, standards, specifications, codes of practice and the recommendations of the Committee.

(2) The Commissioner shall have the following specific functions—

- (a) to provide technical advice to the Minister in all legislative and regulatory matters concerning petroleum supply operations;
- (b) to establish, implement and administer an effective and equitable licensing system for petroleum supply operations and installations in accordance with this Act;
- (c) to receive, evaluate and process all applications for and approve the granting, renewal, assignment, suspension or revocation of all permits and licences in accordance with this Act;
- (d) to ensure the establishment, maintenance and periodic updates of the National Petroleum Information System and the evaluation and

dissemination of the information derived from the Petroleum Information System in accordance with this Act;

- (e) to organise, implement and co-ordinate with other Government agencies the monitoring process of the operations, installations and participants in the supply chain, including domestic and international market prices, in accordance with this Act;
- (f) to encourage, monitor and enforce the implementation of, and the observance of the principles of the free market and fair competition in co-ordination with other Government agencies in accordance with this Act;
- (g) to create and implement effective and adequate procedures to receive and resolve without undue delay, all inquiries and complaints by other Government agencies, by consumers, recognised consumer organisations or participants in the supply chain, concerning the safety of petroleum supply operations and installations or the quality, quantity or prices of petroleum products distributed or sold in Uganda;
- (h) to develop and maintain national strategic petroleum stocks; and
- (i) to perform such other functions as may be conferred or imposed upon him or her under this Act, or by any other law or by order of the Minister.

PART III—THE TECHNICAL PETROLEUM COMMITTEE.

8. Establishment of Technical Petroleum Committee

(1) There shall be a committee to be known as the Technical Petroleum Committee, in this Act, referred to as the Committee.

(2) The Committee shall consist of a Chairperson and eight other members appointed by the Minister.

(3) The members of the Committee shall be appointed from among persons who possess qualifications and expertise in respect of petroleum supply and related matters.

9. Appointment of members of Committee

(1) Subject to section 8, the Minister shall appoint as Chairperson of the Committee a person whether a public officer or not, who has neither been employed by, nor has had direct business relations with, the Ministry or any of the authorities or bodies or groups referred to in subsection (2) during the period of one year preceding the date of appointment.

(2) The other members of the Committee to be appointed by the Minister shall be—

- (a) one representative of the Ministry responsible for transport nominated by the Minister responsible for transport;
- (b) one representative of the Uganda National Bureau of Standards nominated by the Executive Director of the Bureau;
- (c) one representative of the Ministry responsible for finance nominated by the Minister responsible for finance;
- (d) one person representing the licensees or associations of licensees for petroleum retail operations;
- (e) one person representing consumers of petroleum products;
- (f) two persons representing licensees or associations of licensees for petroleum import, re-export, wholesale or storage operations; and
- (g) one person representing licensees or associations of licensees of petroleum transporters.

(3) The members to be appointed under paragraphs (d), (e), (f) and (g) of subsection (3) shall not be public officers.

(4) In the case of members to be appointed under paragraphs (d), (f) and (g) of subsection (2), the Minister shall appoint the members in consultation with the bodies or groups referred to in those paragraphs, and in the case of paragraph (e) of subsection (2) in consultation with consumer organisations.

10. Secretary to the Committee

(1) The Commissioner shall be the Secretary of the Committee and shall attend or be represented at all meetings of the Committee and its sub-committees but shall not have a right to vote.

(2) Where the Committee intends to consider a matter concerning the Commissioner personally, it may resolve, by majority vote, that the attendance of the Commissioner or his or her representative should be dispensed with.

11. Deputy Chairperson and Deputy Secretary

(1) The Committee shall elect from the members appointed under paragraphs (d), (e), (f) and (g) of subsection (2) of section 9, a Deputy Chairperson and a Deputy Secretary of the Committee.

(2) The Deputy Chairperson shall, notwithstanding subsection (1) of section 9, exercise the functions of the Chairperson in the absence of the Chairperson.

(3) The Deputy Secretary shall exercise the functions of the Secretary in absence of the Secretary.

12. Tenure of office of members of Committee

(1) All members of the Committee shall be appointed for three years and each member is eligible for reappointment for one more term.

(2) Any member of the Committee may resign at any time by giving notice in writing to the Minister, specifying the effective date of the resignation.

(3) A member of the Committee may be removed by the Minister—

(a) for inability to perform the functions of his or her office arising out of physical or mental incapacity;

(b) for misbehaviour;

(c) for misconduct;

(d) for incompetence;

(e) upon a written request by the nominating authority withdrawing his or her nomination; or

(f) if he or she fails to attend five consecutive meetings of the Committee without reasonable excuse.

(4) If a vacancy occurs on the Committee for any reason other than the expiration of the term of office of the member, the Minister shall appoint a replacement for the member ceasing to hold office for his or her remaining term in office in accordance with section 9, except that if the remaining period of the term is less than six months, no replacement shall be appointed under this subsection.

13. Functions of Committee

The Committee shall—

(a) advise the Minister on proposed legislation, technical standards and specifications relating to petroleum products and the supply chain;

(b) develop and submit to the Minister proposals for the improvement of the petroleum supply policies, systems, regulations, technical standards and codes of practice;

(c) co-ordinate the preparation of the Emergency Petroleum Supply Plan referred to in section 34 and review its final draft and any updates before submission to the Minister for approval;

(d) advise and support the Minister and the Commissioner in the implementation of this Act and other applicable laws;

(e) advise the Minister on matters concerning taxes or levies on petroleum products and other petroleum supply operations and related matters;

- (f) serve as mediating body in disputes between the participants in the supply chain and between the participants and the Commissioner as provided for in section 40; and
- (g) do any other act provided for by or under this Act or any other law or as may be assigned to the Committee by the Minister.

14. Meetings of Committee

The Second Schedule shall have effect in relation to meetings of the Committee and other matters set out in that Schedule.

15. Subcommittees of Committee

(1) The Committee may appoint one or more subcommittees, whether adhoc or otherwise, to assist it in the performance of its functions and may assign to any such subcommittee such functions subject to such conditions as the Committee may determine.

(2) The Committee shall determine the procedure of a subcommittee appointed under this section.

(3) Section 16 of this Act shall apply for the determination of allowances to members of subcommittees appointed under this section.

16. Remuneration of members

A member of the Committee or any person attending any meeting of the Committee may be paid such sitting and other allowances as the Minister may, approve in relation to him or her.

PART IV—PETROLEUM CONSTRUCTION PERMITS AND PETROLEUM OPERATING LICENCES.

17. Obligation to obtain permit or licence

(1) No person shall carry out the construction or major modification, of an installation or facility of the supply chain without having obtained a petroleum construction permit under this Act.

(2) No person shall perform petroleum supply operations without having obtained a petroleum operating licence under this Act.

(3) For the purposes of this section the Minister shall make regulations under section 44 to prescribe what amounts to major modification as referred to in subsection (1).

18. Application for permit or licence

(1) To obtain a permit or a licence for one or more activities in the supply chain under section 17 or for a renewal or assignment of a permit or licence, the applicant shall submit to the Commissioner a written application in the prescribed form.

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

(3) During the processing of an application, evaluation, approval or rejection, all applicants shall be treated equally without any discrimination or preferences, and the Commissioner may not require or impose any terms or conditions which are not specified or authorised by or under this Act.

(4) Any approval by the Commissioner required under this section in relation to a permit or licence shall not be unreasonably withheld or delayed.

(5) The applicant, with the assistance of the Commissioner, shall obtain additional authorisations from other competent authorities if and when required by the applicable laws.

(6) An applicant for a permit or a licence or for the renewal or assignment of a permit or licence shall pay an application fee to the Commissioner prescribed by regulations.

(7) The Commissioner may, subject to this Act grant or reject any application under this section.

(8) The Commissioner shall cause to be paid into the Consolidated Fund all fees collected under subsection (6).

19. Employment of experts

(1) The Commissioner, with the agreement, and at the expense, of the applicant, may employ local or international experts for the purpose of evaluating applications for permits or licences.

(2) The amounts and the terms of payment of the fees and the reimbursement of expenses for experts under subsection (1) shall be as may be agreed with the applicant.

(3) If no agreement is reached with the applicant concerning the selection or compensation of any expert, the Commissioner may reject the application.

20. Commissioner to submit returns to Committee

(1) At the end of each month, the Commissioner shall forward to the Committee a list of all applications for permits and licences submitted during that month and the action taken by the Commissioner on the applications, and shall provide additional information as requested by the Committee.

(2) Information and particulars furnished with an application and classified as confidential by the applicant shall not be published or otherwise disclosed by the Commissioner or any other person obtaining knowledge of them without prior consent of the applicant.

21. Validity of permits and licences

(1) A permit shall be valid for five years or until the completion of the work in question and the acceptance of the work by the Commissioner according to the procedure prescribed by regulations, whichever is sooner, but may be extended for five years upon the payment of the prescribed fee.

(2) A licence shall be valid for a period not exceeding twenty five years, as prescribed by regulations, depending on the type of activity to which it relates, and shall be renewable, in accordance with conditions prescribed by regulations, subject to payment of the prescribed fee.

22. Assignment of permits and licences

No permit or licence may be assigned by or otherwise transferred from the holder to another person without the prior approval in writing of the Commissioner and subject to the payment of the prescribed fee, unless otherwise provided for by regulations.

23. Suspension or revocation of a permit or licence.

Notwithstanding any other remedies or penalties for offences provided for under this Act or any other enactment—

- (a) a permit or licence may be suspended by the Commissioner where there is a contravention of any provision of this Act or any other enactment concerning the protection of occupational health, public safety and the environment or for any other reason stated by or under this Act;
- (b) a permit or licence may be revoked by the Commissioner where the holder fails to remedy or repeats any contravention of any provisions of this Act or regulations made under this Act concerning the protection of occupational health, public safety and the environment, or for any other reason specified by or under this Act.

PART V—OBLIGATIONS OF THE HOLDERS OF PERMITS AND LICENCES.

24. Maintenance of records and furnishing information

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

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

25. Inspection

(1) For the purpose of ensuring that this Act and regulations made under it are complied with, the Commissioner or any person authorised by the Commissioner in writing, may, at any time during regular business hours, enter upon and inspect any area or premises where petroleum operations or construction works for facilities of the supply chain are being performed.

(2) An inspection may be announced or unannounced, as the Commissioner may consider necessary, but shall always be performed in the company of a representative of the operator whose area or premises are to be inspected.

(3) A person carrying out an inspection under subsection (1) may, inspect the works, facilities and records including books and accounts connected with the operations of the holder of the permit or licence for ensuring that this Act is complied with.

(4) The Commissioner or any person authorised in writing by the Commissioner, may, at any reasonable time stop and search any vehicle or vessel belonging to a holder of a permit or licence for the purpose of ensuring that this Act is complied with.

26. Minimum working stock requirements

(1) In order to assure continuity of the petroleum supply of Uganda, every licensee shall at his or her expense, maintain minimum working stocks of petroleum products as prescribed by regulations.

(2) The level of the stocks under subsection (1) shall not be less than ten days of the average amount of any product handled or consumed by the respective licensee within Uganda during the period of three months preceding the effective date of determination.

(3) For the purposes of this section, the minimum working stocks shall include all petroleum products held in storage depots in Uganda and shall exclude petroleum products—

- (a) in transit within Uganda or to and from any other country;
- (b) held in retail service or filling stations; and
- (c) held in consumer storage locations.

(4) Where changes occur in the levels of minimum stocks for any licensee of petroleum products by the amendment of any regulations made by virtue of subsection (2), those changes shall only apply to new licences or the renewal of existing licences.

(5) The level of minimum working stock for new licensees shall be determined at start of operations, based on the information furnished with the

application, for an initial period of one year, at the end of which the final determination shall be made according to this section.

(6) Any person who fails, without lawful excuse, to comply with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points.

(7) For the avoidance of doubt, section 23 applies to any contravention of this section.

PART VI—THE NATIONAL PETROLEUM INFORMATION SYSTEM.

27. National Petroleum Information System

(1) There is established an information system to be known as National Petroleum Information System.

(2) The National Petroleum Information System shall be organised and maintained by the Commissioner.

(3) The National Petroleum Information System shall consist of an integrated and centralised database and information system covering all petroleum supply operations and installations, the principal market activities and statistics of Uganda as well as international reference data.

(4) For the purposes of this section all licensees shall submit to the Commissioner periodic reports and other information as prescribed by regulations.

(5) The Commissioner shall publish the data contained in the National Petroleum Information System in aggregate form with the exception of information which has been qualified as confidential by the licensee in order to protect proprietary market data, or for any other reasons as determined by the Commissioner.

28. Central Registry of Petroleum Operations

(1) The Commissioner shall establish and maintain a Central Petroleum Registry for the purpose of monitoring the supply chain.

(2) The Central Petroleum Registry shall form part of the National Petroleum Information System and shall include a record of all applications, grants, variations, assignments, other transfers, suspensions and revocations of permits and licences and all relevant information about the holders and their operations and installations.

PART VII—MARKET COMPETITION AND ASSURANCE OF SUPPLY.

29. Supply chain open to all persons

Any person, whether Ugandan or foreign, may participate in all or any activities of the supply chain, subject to this Act and any other applicable laws.

30. Prohibition of activities against fair competition

(1) Participants in the supply chain shall not form cartels or attempt to control prices or create artificial shortages of products or services, or engage in any other restrictive trade practices or any other acts or omissions which are contrary to the principles of fair competition or are intended to impede the functioning of the free market for petroleum products in Uganda.

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

(3) Except where a petroleum supply emergency has been declared under section 34, the prices for petroleum products throughout the supply chain shall be governed solely by the rules of supply and demand in a free and competitive market.

(4) The Commissioner shall monitor the conditions of the market and the trade practices of the participants in the supply chain.

(5) The reference prices used for monitoring of prices under this section shall be calculated by the Commissioner according to a formula established by order of the Minister after consultation with the Committee.

(6) The reference prices shall be updated from time to time.

(7) Where, as a result of any monitoring carried out by the Commissioner under subsection (4), the Commissioner identifies any cases of contravention of subsection (1), (2) or (3), the Minister may, on the recommendation of the Commissioner and after consultation with the Committee by order take appropriate action.

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

(9) Subsections (7) and (8) shall have effect without prejudice to the liability of any person to prosecution under section 37.

(10) In this section “reference price” means the price used by the Commissioner to establish whether the price of a petroleum product is excessive or not.

31. Negotiated access to unused capacities of third party facilities

For the purpose of promoting the creation of a competitive petroleum product market for participants in the supply chain, there are established the following conditions for the access to essential components of the infrastructure of the supply chain, such as depots, pipelines and other facilities—

- (a) that a licensee who owns or operates a facility which has unused capacity, may negotiate in good faith with any qualified person interested in the use of that capacity in order to establish the tariff and other reasonable terms and conditions for using the facility; and
- (b) that the interested person must be a person who holds or has applied for the licence required for the operation in question and provides proof of his or her capacity to pay the tariff and fulfil other reasonable financial and technical conditions as agreed upon with the owner or operator or both, of the facility.

PART VIII—PROTECTION OF PUBLIC SAFETY AND
THE ENVIRONMENT.

32. Adoption and adaptation of international standards and specifications

(1) The Commissioner shall develop and implement or cause the implementation of a programme of gradual adoption and adaptation of the prevailing international standards, technical specifications and codes of practice in relation to the petroleum supply industry in co-operation with the Uganda National Bureau of Standards and the Committee.

(2) The standards, specifications, and codes of practice as established by the standards developing organisations which are recognised by the international petroleum industry in matters of quality, industrial safety and environmental protection, shall be adopted by the Uganda National Bureau of Standards by reference and declared as national standards in accordance with section 14 of the Uganda National Bureau of Standards Act, 1983 after being adapted as necessary, taking into account the socio-economic realities of the petroleum products market of Uganda.

(3) Where the relevant international standards, specifications or codes of practice have not been formally adopted according to subsection (2), the Minister may, after consultation with the Committee and the Uganda National Bureau of Standards, approve the temporary application of standard specifications and codes of practice by reference to any international standard, proposed by the Commissioner, with such adaptations as the Commissioner may recommend.

33. Environmental impact assessments

(1) The Commissioner shall act as the “lead agency” within the meaning of the National Environment Statute, 1995, in the process of conducting environmental impact assessments and audits and implement other requirements for environmental protection in the supply chain, in accordance with the applicable laws.

(2) The Commissioner shall prepare a classification of petroleum operations and projects and, in consultation with the National Environment Management Authority, prepare guidelines for environmental impact assessments and audits, but where appropriate, may continue with the guidelines for the time being in force.

(3) The Commissioner shall, periodically, inform the Committee and seek its opinion about the preparation of, or changes in, the classifications and guidelines referred to in subsection (2).

(4) Where environmental impact assessments or audits are performed or required or other conditions are to be met by the holder of a permit or licence in accordance with the laws applicable to public health, public safety and the environment, the Commissioner shall co-ordinate with the National Environment Management Authority and other appropriate authorities under the relevant laws and assist the holder in the fulfilment of those requirements.

34. Emergency petroleum supply plan

(1) In order to respond to interruptions in, or serious distortions of, the petroleum supply, occasioned by accidents, political disturbances, natural disasters or similar events or by the negligence of any person, the Commissioner, shall, in co-operation with other Government departments and agencies, the Committee and participants in the supply chain, prepare an emergency petroleum supply plan.

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

(3) Where the Minister is satisfied that any of the events described in subsection (1) has occurred, the Minister may, by statutory order declare that a petroleum supply emergency has occurred.

(4) Where the Minister has made a declaration under subsection (3) the Commissioner may, with the approval of the Minister, temporarily intervene in the supply chain and implement such measures as are provided for in the emergency petroleum supply plan.

(5) Regulations shall prescribe the method of preparation, the contents and mode of implementation of the emergency petroleum supply plan.

PART IX—NATIONAL STRATEGIC STOCKS.

35. National Strategic Stocks

Notwithstanding section 26, the Government shall, at its expense, maintain such strategic stocks, in this Act referred to as the National Strategic Stocks.

36. Maintenance of strategic stocks subject to this Act

Subject to section 35 all installations and operations for the purpose of establishing and maintaining strategic stocks under this section, including, but not limited to, the storage, transport and sale or any other form of disposition of the stored products, shall be subject to the provisions of this Act.

PART X—CONTRAVENTIONS AND SANCTIONS.

37. Offences and penalties

(1) Any person who—

- (a) refuses, delays or fails to produce any document or other information required to be submitted to any authority under this Act relating to petroleum supply operations and installations or which he or she is required to produce under this Act;
- (b) knowingly or without reasonable grounds for believing it to be true, furnishes any document or information which is false or misleading in any material particular, whether upon demand or otherwise;
- (c) endangers the functioning of the free market or the competitive supply system in contravention of section 30;
- (d) resists, hinders or obstructs the Commissioner, or any person authorised by the Commissioner to enter or inspect any premises or area or to stop and search any vehicle or vessel or to examine any books, accounts or other records, or to otherwise discharge his or her functions and rights under this Act;
- (e) publishes or otherwise discloses any information which is considered confidential under section 20(2), 27 (5) or under regulations made under this Act; or
- (f) refuses, delays or fails to comply by wilful misconduct or by negligence with any order, prohibition, direction, demand, requirement or notice lawfully made, served, published or otherwise given under this Act;

commits an offence.

(2) A person convicted of an offence under subsection (1) is liable, on conviction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

(3) Any person who, in contravention of section 17, constructs, uses, works any installation or facility in the supply chain or breaches any term or condition of the permit issued to him or her, commits an offence and is liable, on conviction, to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both; and in the case of a continuing offence, to an additional fine not exceeding ten currency points for every day or part of the day during which the offence continues.

(4) Any person, who in contravention of section 17, performs petroleum supply operations or breaches the terms and conditions of the licence issued to him or her, commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding one year or both; and in the case of a continuing offence to an additional penalty not exceeding ten currency points for every day or part of a day on which the offence continues.

38. Offences by directors, agents, employees *etc*

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

(2) Any partner in any unincorporated enterprise, firm or joint venture shall be jointly and severally liable for the acts or omissions of any other partner in so far as the acts concern the enterprise, firm or joint venture.

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

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

39. Initiation of actions by consumers

Any holder of a permit or licence, any consumer of petroleum product or any recognised consumer organisation may initiate civil legal proceedings before a court of competent jurisdiction or subject to the powers of the Director Public Prosecutions, file a criminal complaint, as the case may be, against any holder of a permit or licence for any offence under this Act, if he or she has previously filed a

complaint with the Commissioner and feels aggrieved by any act or omission of the Commissioner in response to the complaint.

PART XI—MEDIATION AND REVIEWS.

40. Non-binding mediation by the Technical Petroleum Committee

(1) Any dispute between the holders of permits or licences, or between such holders and the Commissioner concerning the implementation of this Act or regulations made under this Act may be submitted by the parties involved to the Committee for non-binding mediation.

(2) The Committee may—

(a) request the parties to appear before it;

(b) request any information, documents or testimony by witnesses or experts which it considers necessary; and

(c) conduct other investigations.

(3) The Committee shall submit a written opinion about the dispute to the parties involved within sixty days from the receipt of the request for mediation, unless the period is extended by the Committee by written notice to the parties.

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

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

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

(7) The fees and expenses prescribed under subsection (6) shall be collected by the Commissioner and paid into the Consolidated Fund.

41. Administrative review by Minister

(1) Any person aggrieved by any decision of the Commissioner or of any officer authorised by the Commissioner, may within twenty one days after being notified of the decision, request, in writing, an administrative review of the decision by the Minister.

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

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

42. Application to the High Court for judicial review

(1) Any person aggrieved by—

(a) the rejection by the Minister of a request for administrative review under section 41; or

(b) any direction or order by the Minister under this Act; or

(c) any other act or omission by the Minister under this Act,

may, within thirty days after receipt of notification of the act or omission complained of, or, if the Minister fails to decide on an administrative review, within thirty days after the expiration of the period prescribed in subsection (2) of section 41, apply to the High Court for judicial review.

(2) On an application to the High Court under this section, the High Court may make such orders as it may consider just.

PART XII—MISCELLANEOUS.

43. Protection of members of Committee, public servants and others

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

44. Regulations

(1) The Minister may, after consultation with the Committee, by statutory instrument, make regulations for giving full effect to the provisions of this Act.

(2) The Minister shall, in particular, make regulations under subsection (1), to provide for anything required or authorised by this Act to be prescribed by regulations.

(3) The Minister may make regulations establishing a petroleum fee to enable Government to maintain the National Strategic Stocks under section 35 and the regulations shall provide—

(a) for the petroleum fee to be charged on such petroleum products as shall be prescribed in the regulations;

(b) for the amount of the fee to be prescribed by the Minister in consultation with the Minister responsible for finance but the fee shall not be more than 0.0005 currency points per litre; and

(c) for the fee to be collected monthly by the Commissioner and to be paid into the Consolidated Fund.

(4) Regulations made under this Act may, without prejudice to subsection (1)—

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

(b) prescribe in respect of any contravention of the regulations—

- (i) a penalty not exceeding forty eight currency points or imprisonment not exceeding two years or both;
- (ii) in the case of a second or subsequent offence, a penalty not exceeding seventy two currency points or imprisonment not exceeding three years or both;
- (iii) in the case of a continuing offence an additional fine not exceeding ten currency points for each day or part of a day on which the offence continues.
- (iv) a requirement that the court convicting a person of an offence under the regulations may order the forfeiture to the state of anything involved in the commission of the offence.

45. Amendment of First Schedule

(1) The Minister may, by statutory instrument and with the approval of Cabinet, amend the First Schedule to this Act.

(2) The Minister may, by statutory instrument amend the Second Schedule to this Act.

46. Transitional provisions

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

(2) The provisions of Part IV of this Act concerning permits and licences shall be taken to have replaced the provisions of the following Acts so far as petroleum products are concerned—

(a) the External Trade Act;

(b) the Distribution and Price Control Act; and

(c) the Trade (Licensing) Act, 1969.

(3) Persons who are participants in the supply chain at the commencement of this Act shall upgrade or adjust their operations and facilities in order to comply with the provisions of this Act within a transition period of three years from the

commencement of this Act subject to a transitory regime prescribed by regulations proposed by the Commissioner and approved by order by the Minister.

47. Repeals *etc*

(1) The Petroleum Act and all statutory instruments existing under that Act at the commencement of this Act, are repealed.

(2) The Uganda Oil Board Statute, 1991 is repealed.

(3) The Petroleum Filling Station Rules are revoked.

(4) On the coming into force of this Act the following Acts shall cease to apply to the issue of permits and licences in respect of petroleum products—

(a) the East Africa Industrial Licensing Act;

(b) the External Trade Act;

(c) the Distribution and Price of Goods Act; and

(d) the Trade (Licensing) Act, 1969.

SCHEDULES

FIRST SCHEDULE

Section 5. 45

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE

Section 14

MEETING OF THE COMMITTEE

1. Meetings of Committee

The Committee shall meet at least once every three months at such times and places as the Chairperson may direct.

(2) Additional meetings of the Committee shall be called by the Chairperson within ten days if so requested in writing by at least three members, or by the Minister or by the Commissioner.

2. Quorum

The quorum of the Committee is five, including the Chairperson or the Deputy Chairperson.

3. Presiding at meetings

The Chairperson shall preside at all meetings of the Committee and in his or her absence the Deputy Chairperson shall preside; and in the absence of both the Chairperson and the Deputy Chairperson the members present shall elect one person from among their number to preside.

4. Decisions of Committee

(1) Decisions of the Committee shall be taken by the votes of the majority of members present and voting.

(2) The person presiding shall have a casting vote where there is an equality of votes at a meeting of the Committee.

(3) Dissenting members may request that their opinion be reflected in the minutes of the meeting.

(4) With the consent of all members, meetings of the Committee may be held by the circulation of papers and the voting of members by writing.

5. Attendance of meetings by advisers

The Committee may invite to any of its meetings any person whose advice the Committee considers to be necessary on any matter to be discussed at the meeting; and a person so invited may participate in the discussion on the matter in connection with which he or she is invited but shall have no right to vote on any matter coming for decision before the meeting.

6. Disclosure of interest]

(1) A member of the Committee who has any personal interest in a matter being considered by the Committee shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest to the Committee.

(2) A disclosure of interest under subsection (1) of this section shall be recorded in the minutes of the meeting of the Committee and the member making the disclosure shall not, unless the Committee otherwise determines in respect of that matter—

(a) be present during any deliberation on the matter by the Committee; or

(b) take part in the decision of the Committee on the matter.

(3) For the purposes of this section an institutional or business interest of the entity or group which nominated a member shall not by itself constitute a personal interest of the member concerned.

(4) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part in a meeting under sub-paragraph(2) shall be treated to be present.

7. Minutes of Committee

(1) The Secretary shall cause proper minutes of the proceedings of the Committee to be kept and in such form as the Committee may approve.

(2) The minutes of any meeting of the Committee shall be subject to confirmation at the next subsequent meeting of the Committee and when confirmed, shall be signed by the person presiding at the latter meeting in the presence of the other members attending the meeting.

8. Vacancy not to affect the validity of proceedings

The validity of the proceedings of the Committee shall not be affected by any vacancy in the membership of the Committee.

9. Miscella-neous

Subject to the provisions of this Schedule, the Committee shall regulate the procedure at its meetings.