

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE DANGEROUS SUBSTANCES
HANDLING AND STORAGE LAW, 2003; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

**THE DANGEROUS SUBSTANCES HANDLING AND STORAGE
(AMENDMENT) BILL, 2016**

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Dangerous Substances Law 2003 (“the principal Law”) in order to provide for the administration of the Law by the Utility Regulation and Competition Office.

Clause 1 of the Bill specifies the short title of the Bill and the commencement provisions.

Clause 2 amends the principal Law to change the title of the “Chief Petroleum Inspector” to “Chief Fuels Inspector”.

Clause 3 amends section 2 of the principal Law by -

- (a) changing the name of the Dangerous Substances Handling and Storage Board to the Board of Directors of the Utility Regulation and Competition Office; and
- (b) inserting definitions of “Chief Executive Officer” and “Office”.

Clause 4 amends the principal Law by repealing section 5 which deals with the establishment of the Dangerous Substances Handling and Storage Board.

Clause 5 repeals section 7 of the principal Law which deals with meetings of the Board and substitutes a new section 7 which provides for the establishment of a Fuels Advisory Committee. It is proposed that the Board would appoint such Committee to advise the Board on the following matters -

- (a) matters relating to the operations of the legislation;
- (b) matters relating to the functions of the Board under the legislation;
- (c) public safety and the protection of the environment; and
- (d) any other matter which may reasonably be referred to it by the Board.

Clause 6 repeals section 8 of the principal Law which deals with the duty of confidentiality of members of the Board. This will be dealt with under the Utility Regulation and Competition Law, 2016.

Clause 7 repeals section 9 of the principal Law which deals with the remuneration of the Board. This will also be dealt with under the Utility Regulation and Competition Law, 2016.

Clause 8 makes several amendments to section 9A of the principal Law. Such amendments include changing how the secretary to the Fuel Standards Committee will be appointed and providing that the Board, and not the Cabinet, will determine the remuneration to be paid to members of the Fuel Standards Committee.

Clause 9 makes a minor amendment to section 9B(a) of the principal Law to indicate that the paragraph relates also to fuel which is being used in the Islands.

Clause 10 makes two minor amendments to section 9C of the principal Law. One of those amendments is to make the word “chairman” gender neutral.

Clause 11 amends section 10 of the principal Law by, among other things, changing the title of “petroleum inspectors” to “fuel inspectors”.

Clause 12 amends section 11 of the principal Law to provide that identification cards to be used by fuel inspectors will be issued by the Board and not by the Government.

Clause 13 makes several amendments to section 15. Among other things, the clause provides that the Chief Fuels Inspector will make periodical reports to the Board which will then submit such reports to the chief officer of the ministry.

Clause 14 contains transitional provisions. It is proposed that the current officers of the office of the Chief Petroleum Inspector will be transferred to the employ of the Utility Regulation and Competition Office and will no longer be civil servants. However, as part of such transition, the Government will fund the budget of those officers up to a date which shall be provided by Order made by Cabinet, which date shall be no later than December 31, 2017.

**THE DANGEROUS SUBSTANCES HANDLING AND STORAGE
(AMENDMENT) BILL, 2016**

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of the Dangerous Substances Handling and Storage Law, 2003
3. Amendment of section 2 - interpretation
4. Repeal of section 5 - the Dangerous Substances Handling and Storage Board established
5. Repeal of section 7 and substitution - meetings of the Board
6. Repeal of section 8 - duty of confidentiality
7. Repeal of section 9 - remuneration of the Board
8. Amendment of section 9A - Fuel Standards Committee
9. Amendment of section 9B - functions of the Committee
10. Amendment of section 9C - procedures at meetings etc. of the Committee
11. Amendment of section 10 - Chief Petroleum Inspector
12. Amendment of section 11 - identification cards of inspectors
13. Amendment of section 15 - general duties and powers of the Chief Petroleum Inspector
14. Transitional provisions - transfer of public officers to the Office

CAYMAN ISLANDS

**A BILL FOR A LAW TO AMEND THE DANGEROUS SUBSTANCES
HANDLING AND STORAGE LAW, 2003; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Dangerous Substances Handling and Storage (Amendment) Law, 2016.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by order made by the Cabinet.

2. The Dangerous Substances Handling and Storage Law, 2003, in this Law referred to as “the principal Law”, is amended by deleting the words “Chief Petroleum Inspector” wherever they appear in the Law and by substituting the words “Chief Fuels Inspector”.

Amendment of the Dangerous Substances Handling and Storage Law, 2003

3. The principal Law is amended in section 2 as follows -

Amendment of section 2 - interpretation

(a) by deleting the definition of “Board” and substituting the following -

“ “Board” means the Board of Directors of the Utility Regulation and Competition Office established by the Utility Regulation and Competition Law, 2016”; and

- (b) by inserting the following definitions in their appropriate alphabetical sequence -

“ “Chief Executive Officer” means the individual appointed as Chief Executive Officer of the Office, pursuant to section 28(a) of the Utility Regulation and Competition Law, 2016;”;

“Office” means the Utility Regulation and Competition Office established by the Utility Regulation and Competition Law, 2016;”.

Repeal of section 5 - the Dangerous Substances Handling and Storage Board established

4. The principal Law is amended by repealing section 5.

Repeal of section 7 and substitution - meetings of the Board

5. The principal Law is amended by repealing section 7 and substituting the following -

“Fuels Advisory Committee

7. (1) The Board may appoint a Fuels Advisory Committee to advise the Board on -

- (a) matters relating to the operations of this Law;
- (b) matters relating to the functions of the Board under this Law;
- (c) public safety and the protection of the environment; and
- (d) any other matter which may reasonably be referred to it by the Board.

- (2) The Fuels Advisory Committee shall comprise -

- (a) a non-executive member of the Office, who shall be chairperson;
- (b) the Chief Officer of the Ministry responsible for the Environment or the nominee of the Chief Officer;
- (c) the Chief Fire Officer or the nominee of the Chief Fire Officer;
- (d) one member appointed by the Board and who, in the opinion of the Board, has experience in any industry relating to dangerous

substances;

- (e) the Chief Fuels Inspector; and
- (f) the Secretary to the Office, who shall be the secretary and a non-voting member.

(3) The member appointed by the Board under subsection (2)(d) shall be appointed for a term of three years and shall be eligible for re-appointment.

(4) The quorum of the Committee shall be a majority of the voting members of the Committee.

(5) Subject to this Law, the Committee shall have power to regulate its own practice and procedure and shall take all actions and reach its decisions by a majority of votes.

(6) If a member of the Committee has any pecuniary or other interest in any matter to be dealt with by the Committee the member shall disclose the fact to the Committee and shall not take part in any meeting at which the matter is considered or discussed.”.

- 6. The principal Law is amended by repealing section 8. Repeal of section 8 -
duty of confidentiality
- 7. The principal Law is amended by repealing section 9. Repeal of section 9 -
remuneration of the
Board
- 8. The principal Law is amended in section 9A as follows - Amendment of section
9A - Fuel Standards
Committee
 - (a) in subsection (1), by repealing paragraph (e);
 - (b) by repealing subsection (2) and substituting the following -

“(2) The Chief Executive Officer shall appoint an individual to be secretary to the Committee, after consulting the chairperson of the Committee; and the secretary shall take minutes of meetings, carry out such other duties and perform such other functions as are assigned by the chairperson.”;
 - (c) in subsection (3), by deleting the word “standard” and by substituting the words “quality and related issues”;

- (d) in subsection (4), by deleting the word “Cabinet” and by substituting the word “Board”;
 - (e) in subsection (5), by deleting the words “the revenue of the Islands” and substituting the words “funds of the Office”; and
 - (f) in subsection (6), by deleting the word “chairman” and substituting the word “chairperson”.
- Amendment of section 9B - functions of the Committee
9. The principal Law is amended in section 9B by repealing paragraph (a) and substituting the following -
- “(a) establishing the standards of certain types of fuel to be imported, distributed and used in the Islands;”.
- Amendment of section 9C - procedures at meetings etc. of the Committee
10. The principal Law is amended in section 9C as follows -
- (a) in subsection (2), by deleting the word “chairman” and by substituting the word “chairperson”; and
 - (b) in subsection (3), by deleting the word “the” where it appears for the second time.
- Amendment of section 10 - Chief Petroleum Inspector
11. The principal Law is amended in section 10 as follows -
- (a) in subsection (1), by deleting the words “petroleum inspectors” and substituting the words “fuel inspectors”; and
 - (b) by repealing subsection (4) and substituting the following -
 - “(4) Any function of the Chief Fuels Inspector under this Law may be performed by a competent person authorised by the Chief Fuels Inspector for that purpose.”.
- Amendment of section 11 - identification cards of inspectors
12. The principal Law is amended in section 11 by deleting the word “government” and by substituting the word “Board”.
- Amendment of section 15 - general duties and powers of the Chief Petroleum Inspector
13. The principal Law is amended in section 15 as follows -
- (a) in subsection (2) -
 - (i) in paragraph (b), by inserting after the word “authority” the words “ in discharge of its function under this Law”;
 - (ii) by repealing paragraph (k) and substituting the following -
 - “(k) developing plans and budgets as may be required for the carrying out of the functions under this Law;”;
 - (iii) in paragraph (l), by deleting the words “annually reporting to the chief officer of the ministry” and substituting the words “reporting periodically to the Board”; and
 - (b) by inserting after subsection (2) the following subsection -

“(3) The Board shall submit the reports of the Chief Fuels Inspector made to it under subsection (2)(1) to the chief officer of the ministry as soon as possible after receiving such reports.”.

14. (1) Subject to subsection (2), the Chief Fuels Inspector, the fuel inspectors and any other public officer employed in the office of the Chief Fuels Inspector under this Law on the date this amending Law comes into force, shall become employees of the Office on terms and conditions of employment no less favourable than those that applied to the offices of those persons in their employment in the ministry except -

Transitional provisions -
transfer of public
officers to the Office

- (a) to the extent other terms and conditions are agreed between such employees and the Office; and
- (b) that disciplinary matters shall be dealt with in accordance with the Labour Law (2011 Revision) and the disciplinary rules and procedures of the Board and not under the Public Service Management Law (2013 Revision).

(2011 Revision)

(2013 Revision)

(2) The remuneration, benefits and other budgetary expenses relating to the Chief Fuels Inspector, the fuel inspectors and any other public officer employed in the office of the Chief Fuels Inspector shall continue to be paid out of the revenue of the Islands until such date as shall be provided by Order made by Cabinet, but no later than 31 December, 2017.

Passed by the Legislative Assembly the day of , 2016

Speaker.

Clerk of the Legislative Assembly.