



Tuvalu

PETROLEUM ACT

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Tuvalu

PETROLEUM ACT

AN ACT TO REGULATE THE IMPORTATION, STORAGE AND SALE OF PETROLEUM AND TO PROVIDE FOR MATTERS RELATING AND INCIDENTAL THERETO¹

Commencement [1st September 1968]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Petroleum Act.

2 Interpretation

(1) In this Act, unless the context otherwise requires —

“**the Customs Officer**” bears the meaning ascribed to that term by section 2 of the Customs Act²;

“**dangerous petroleum**” means petroleum having a flash point which is less than 73degrees Fahrenheit;

“**flash point**” means, in relation to petroleum, the temperature at which it gives off inflammable vapour;

“**harbour master**” means, in respect of any port, the person for the time being appointed as harbour master thereof under section 5 of the Harbours Act;³

“**the Inspector**” means the Inspector of Petroleum appointed under subsection (2);

“**licensed building**” means any building, tank with pipelines or other erection in respect of which the Inspector has issued a licence for the storage of petroleum under section 6(2);

“**motor conveyance**” means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;

“**ordinary petroleum**” means petroleum other than dangerous petroleum;

“**petroleum**” means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid), containing liquid hydrocarbon;

“**port**” bears the meaning ascribed to that term by section 2 of the Customs Act;

“**proper officer**” bears the meaning ascribed to that term by section 2 of the Customs Act;

“**warehouse**” means any place or building provided by the Minister for the storage of petroleum under section 6(1).

- (2) The Minister may by notice appoint a person whom he considers to be suitably qualified to be the Inspector of Petroleum for the purposes of this Act.
- (3) The Minister may by notice declare that the provisions of this Act relating to petroleum shall apply to such other inflammable liquid or substance as may be specified in such notice subject to any modifications as may be prescribed therein, and any such notice may be varied or revoked by any subsequent notice.

PART II - IMPORTATION

3 Mooring, loading and discharging of craft with petroleum on board

- (1) The master of any craft with a cargo consisting wholly or in part of petroleum, shall from the time such craft enters any port in Tuvalu, or from the time any petroleum is placed on board of such craft until it goes out to sea or until the petroleum is removed from on board, conform to such directions in respect of the place at which it is to be moored, loaded or discharged as may be issued generally for all such craft or specially for any such craft by the harbour master, Customs Officer or other proper officer of the port.
- (2) If any such craft is moored, loaded or discharged at any place in contravention of any such directions, the owner and master of such craft shall each be liable to a fine of \$300; and the harbour master, Customs Officer or other officer as aforesaid may cause such craft to be removed at the expense of the owner or

master thereof to such place as may be in conformity with such directions, and all expenses incurred in such removal may be sued for and recovered by the harbour master, Customs Officer or other officer against such owner or master.⁴

- (3) This section shall not apply to petroleum contained in the supply tanks or bunkers of craft the motive power of which is obtained from petroleum.

4 Removal of petroleum after landing

- (1) All petroleum imported shall, on being landed, be removed immediately by the importer from the wharf and shall be stored in a warehouse or licensed building:

Provided however that nothing in this section shall apply to —

- (a) petroleum landed for immediate transit from the port of arrival to other places in Tuvalu;
 - (b) petroleum which is immediately upon landing transferred to another vessel; or
 - (c) any ordinary petroleum which the Customs Officer has exempted in writing from the provisions of this section during the period specified by him in such exemption.
- (2) Any person contravening any of the provisions of this section shall be liable to a fine of \$200.

5 Conditions of keeping petroleum

- (1) Except as otherwise provided in this Act, no person shall keep —
- (a) dangerous petroleum in any quantity exceeding 44 gallons;
 - (b) ordinary petroleum in any quantity exceeding 100 gallons; in any place other than a warehouse or licensed building:

Provided that the Inspector may authorise any fit and proper person in writing to keep for sale in any store, shop or other building and in such place as may be approved by him, ordinary petroleum in any quantity not exceeding 1500 gallons.

- (2) Any person who keeps dangerous petroleum or ordinary petroleum otherwise than in accordance with the provisions of this section, and the occupier of any premises wherein such petroleum is so kept, shall be liable on summary conviction to a fine of \$1,000 and the petroleum shall be forfeited.⁵
- (3) This section shall not apply to —
- (a) petroleum for the time being contained in the tank of any motor conveyance;

- (b) petroleum being transported in accordance with the provisions of this Act; or
- (c) methylated spirits in any quantity not exceeding 4 gallons kept by a chemist or pharmacist.

6 Petroleum warehouses and licensed buildings

- (1) Government warehouses for the storage of petroleum and of dangerous petroleum may be provided from time to time by the Government and every such warehouse shall be under the charge of the Customs Officer or such other officer as the Minister may from time to time appoint.
- (2) The Inspector may issue to any person applying therefor a licence authorising him to use any building, tank with pipe-lines, or other erection for the storage of petroleum, and such licence shall specify the time it shall remain in force, and the maximum quantity and kind or kinds of petroleum that may be stored within such building, tank or other erection; and the Inspector may at any time renew such licence.⁶
- (3) The Inspector may for any cause which he may deem sufficient refuse to issue a licence, or revoke or suspend any licence already issued.
- (4) No licence shall be transferred without the previous consent in writing of the Inspector.
- (5) A licensed building shall be under the charge of the licensee, who will be held responsible for the carrying out in relation thereto of the provisions of this Act and the regulations made thereunder.
- (6) For every licence issued, renewed or transferred a fee shall be paid of such amount or amounts as may by regulation be prescribed.⁷

7 Marking and packing of petroleum

- (1) Each lot of dangerous petroleum or ordinary petroleum stored in a warehouse or licensed building shall be stored separately, and shall have a distinguishing mark and be so packed that an account may be taken of the same as often as may be deemed necessary or expedient.
- (2) The owner of petroleum in a warehouse, or his agent, shall have free access to the warehouse during such hours as the warehouse may be open for the receipt or delivery of petroleum, to examine and inspect the same, and subject to any regulations made under section 17, to take all necessary precautions for preventing leakage and waste.

8 Hours of delivery

- (1) Petroleum shall not be received into or delivered from any licensed building except between the hours of 6am and 6pm, except with the permission of the person in charge of the nearest police station:

Provided that this subsection shall not apply to petroleum required for the bona fide locomotion of vehicles and delivered by means of a sealed pipeline, so controlled that it is unnecessary to open the enclosure in which the storage receptacles are situated.

- (2) If any petroleum is received or delivered contrary to this section, the licensee of such building shall be liable to a fine of \$200.

9 Prohibition of naked light, etc., or smoking in any warehouse or licensed building

- (1) No lighted candle, lamp, lantern or naked light of any kind, no match, no article of an explosive or highly inflammable nature, other than petroleum, shall under any pretence or for any purpose whatsoever be taken into or dangerously near any licensed building, warehouse, or vehicle used for the hawking of petroleum; and no wire as a fixture or as a wandering lead used as a conductor for electricity shall be so taken into any licensed building or warehouse.
- (2) No person shall under any circumstances smoke in or dangerously near any licensed building, warehouse, or vehicle used for the hawking of petroleum.
- (3) Any person contravening any of the provisions of this section shall be liable to a fine of \$200 or to imprisonment for 6 months.

10 Use of petroleum in certain machines to be licensed

- (1) No person shall use any machine for the manufacture of gas from petroleum or any machine, other than a motor conveyance, which uses petroleum as fuel, in any dwelling, house, factory, warehouse, shop, store, shed, garage or other building without having first obtained a licence to do so from the Inspector; and no such licence shall be granted unless the Inspector is satisfied that the use of the machine to which it relates is unattended with material risk or danger and that the building in which such machine is used is so situated and constructed as to be consistent with public safety.
- (2) Every licence issued under subsection (1) shall contain a full description of the machine to which it relates and of the building in which the use of such machine is permitted, and shall be in force during such times as may be specified therein.
- (3) There may be annexed to any licence issued under the provisions of subsection (1), any conditions as to the time of use of the machine, the mode

or manner in which the petroleum it uses for the manufacture of gas or as fuel is to be stored, and any other matters which the Inspector may think necessary for diminishing the risk from explosion or fire, and the building in which such use is so licensed shall be subject to similar control and inspection as any licensed building under this Act.

- (4) Any licensee who violates any condition of a licence issued under this section may have his licence forfeited, and shall be liable to a fine of \$200:

Provided that in any proceedings hereunder in computing the quantity of petroleum which the licensee is authorised by the licence to have and use upon his premises, the quantity contained in the machine in respect of which the licence is granted shall be excluded from the computation, unless the quantity of petroleum contained in any such machine exceeds the limit specified in the licence.

PART IV - MISCELLANEOUS PROVISIONS

11 Seizure of petroleum kept in contravention of the Act

If any petroleum is imported, kept, used, offered or exposed for sale contrary to the provisions of this Act or the conditions of any licence issued under this Act, the same shall be liable to be seized by any officer of customs, or police officer and, upon proof of such importation, keeping, use or offering or exposing for sale, may be adjudged to be forfeited.

12 Issuing of warrant for searching house, etc, in which petroleum is suspected to be unlawfully kept

- (1) Any magistrate or justice of the peace on reasonable cause being assigned upon oath before him may issue a warrant under his hand for searching in the day time any house, storehouse, warehouse, shop, cellar, yard, wharf, or other place in which petroleum is suspected to be kept contrary to this Act.
- (2) All petroleum found to be kept contrary to this Act, and also the vessels or other receptacles in which the same is kept, shall be immediately seized by the person finding the same, who, unless the Minister shall otherwise direct, shall with all convenient speed after the seizure remove such petroleum and the vessels and other receptacles in which it is contained to a warehouse or licensed building, and may detain such petroleum and such vessels and other receptacles until it is adjudged whether the same shall be forfeited:

Provided that proceedings for forfeiture shall be commenced within 7 days after the seizure.

- (3) Any person so seizing or detaining petroleum, vessels or receptacles shall not be liable to any action for such seizure or detention, or for any loss or damage

which may be occasioned thereby otherwise than through his wilful act or neglect.

13 Forfeiture of petroleum where quantity in excess is kept

If there is stored in any place a greater quantity of petroleum than the quantity permitted by this Act or by any licence issued under this Act to be kept in such place, the whole of the petroleum in such place may be forfeited, and the person occupying or using such place or the licensee, if the place be a licensed building, shall be liable to a fine of \$200.

14 Disposal of forfeited petroleum

Any petroleum forfeited under this Act, together with the vessels or other receptacles containing the same, shall be dealt with as the Minister may direct.

15 Penalty for assault on persons acting under this Act

Every person who assaults, molests, or obstructs any person acting under this Act, shall be liable to a fine of \$500.⁸

16 Procedure

All prosecutions and proceedings for offences, forfeitures and penalties under this Act or any regulations made thereunder, may be instituted by the Inspector, any harbour master, officer of customs, police officer, or other person appointed by the Inspector under this Act.

17 Power to make regulations

- (1) The Minister may make regulations for any of the purposes of this Act, and in particular with relation to —
 - (a) the importation, landing, discharge, receiving, depositing, transportation, guarding, delivery, hawking and removing from one place to any other place of petroleum;
 - (b) the conditions upon which the persons to whom and the premises for which any licence under this Act may be issued;
 - (c) the general management and regulation of warehouses and licensed buildings and oil engines, and the duties and conduct of any person or persons in charge thereof or employed in connection therewith;
 - (d) the kind and quantity of petroleum that may be kept in any licensed building, specifications for and the nature of the buildings in which petroleum may be stored and the surroundings and situation of the

- premises on which such buildings stand, and the nature, size and capacity of the receptacles, including tanks with pipelines, which petroleum may be stored or transported in, and the due and proper inspection of all buildings, premises and receptacles;
- (e) the sale of petroleum, whether by wholesale or retail, including the quantity or amount permitted to be sold, the packages in which it shall be contained and the persons to whom it may be sold;
 - (f) the examination and testing of petroleum and the tests to be applied to ascertain the temperature at which it gives off inflammable vapour and the methods of applying such tests;
 - (g) the prevention of the escape or discharge of petroleum, or water mixed with any petroleum, from any vessel into inland or tidal water;
 - (h) the conditions to be observed upon, or in respect of, vessels or vehicles carrying petroleum;
 - (i) the amount or amounts of fees to be paid in accordance with section 6(6) for the issue, renewal or transfer of a licence.
- (2) There may be annexed to the breach of any regulation a penalty not exceeding \$200.

ENDNOTES

¹ 1990 Revised Edition, Cap. 42 – Acts 4 of 1965, 8 of 1971, 3 of 1972, 3 of 1990, LN 16/1974, LN 30/1976, LN 50/1968

Amended by Act 4 of 2009, commencement 6 July 2009

² Cap. 26.04

³ Cap. 48.08

⁴ Amended by Act 4 of 2009

⁵ Amended by Act 4 of 2009

⁶ By LN 25/1984, the Petroleum (Sales Permit) Regulations, it was provided —

“2 Wholesale and Retail Sales Permits

Where a licence to store petroleum has been issued under section 6 of the Petroleum Act, the licensee shall each calendar year obtain from the Inspector a sales permit being either;

- (a) a wholesale sales permit where the minimum quantity of petroleum sold is 200 litres; or
- (b) a retail sales permit where the quantity of petroleum sold is less than 200 litres.

3 Sales Permit Fees

A licensee may apply for both wholesale and retail sales permits.

The sales permit fee shall be for a Wholesale Sales Permit \$250 and for a Retail Sales Permit \$50.”

⁷ By LN 3/1992, the Petroleum (Licence Fee) Regulations, the fee “for the issue, renewal or transfer of a licence in accordance with section 6(6) of the Petroleum Act shall be twenty dollars (\$20)”

⁸ Amended by Act 4 of 2009