

ACTS SUPPLEMENT

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Act 14

Biofuels Act

2020

THE BIOFUELS ACT, 2020

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SCHEDULE

THE BIOFUELS ACT, 2020

An Act to regulate the production, storage and transportation of biofuels and the blending of biofuels with petroleum products; to provide for the functions of the Ministry with regard to the production, storage and transportation of biofuels and the blending of biofuels with petroleum products; to regulate the licensing of the production, storage and transportation of biofuels and of the blending of biofuels in petroleum products; to provide for the obligations of the persons granted licences to produce biofuels and to blend biofuels in petroleum products; to provide for the offences and penalties and for related matters.

DATE OF ASSENT: 4th June, 2018

Date of Commencement: 4th June, 2018

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Commencement

This Act shall come into force on the date of assent by the President.

2. Interpretation

In this Act, unless the context otherwise requires—

“biofuels” means biodiesel, bioethanol and other fuels made from biomass and primarily used for motive, thermal and power generation, with quality specifications in accordance with the national standards;

“blended petroleum product” means a petroleum product that is blended with a biofuel;

“currency point” has the value assigned to it in the Schedule;

“feedstock” means the raw material from which biofuel is manufactured and includes animal fats, molasses and sweet sorghum stalks;

“Minister” means the minister responsible for energy;

“Ministry” means the Ministry responsible for energy;

“petroleum product” means petrol and diesel.

3. Petroleum products supplied in Uganda to be blended with biofuels

(1) Petroleum products to be supplied in Uganda may be blended with biofuels, in accordance with the requirements of this Act.

(2) The Petroleum Supply Act shall apply to all blended petroleum products to be supplied in Uganda under this Act.

PART II—LICENSING

4. Functions of the Ministry

The Ministry shall, for the purposes of regulating the production, blending of biofuels in petroleum products and the utilisation of biofuels—

- (a) promote the production of biofuels and plan for the implementation, expansion and sustainability of the production of biofuels;
- (b) in liaison with the relevant authorities, create awareness on the production and utilisation of biofuels;
- (c) in liaison with the respective authorities, ensure that in the production of biofuels, a person granted a licence to produce biofuels complies with the occupational health and public safety laws and the environmental laws and that food security is not negatively affected;
- (d) act as the “lead agency” within the meaning of the National Environment Act, in the process of conducting environmental impact assessments and audits and implementing other requirements for environmental protection in the production, storage and transportation of biofuels and in the blending of biofuels in petroleum products, in accordance with the applicable laws;
- (e) coordinate with the appropriate authority, as the case may be, under the relevant law to assist a person who applies for a licence under this Act, where an environmental impact assessment or audit is required or a condition regarding public health or public safety is to be met by the person;
- (f) determine the appropriate amount of biofuels to be blended in a petroleum product;
- (g) grant licences for—
 - (i) the production of biofuels;
 - (ii) the storage and transportation of biofuels; and
 - (iii) the blending of biofuels in a petroleum product;

- (h) for the purposes of paragraph (g), receive, evaluate and process applications for, and approve the granting or renewal licences;
- (i) where necessary, suspend or revoke licences;
- (j) monitor the utilisation of biofuels;
- (k) liaise with the Uganda National Bureau of Standards in setting national standards and in ensuring compliance with these standards; and
- (l) liaise with the relevant authorities in setting occupational health, public safety and environmental standards.

5. Declaration of licensing authority

The Minister shall by statutory order in the *Gazette*, declare a Commissioner in the Ministry to be the licensing authority, for purposes of this Act.

6. Licensing

A person shall not produce, store or transport biofuels or blend biofuels in petroleum products without a licence granted by the licensing authority in accordance with the requirements of this Act.

7. Application for licence

(1) A person who intends to—

- (a) produce biofuels;
- (b) store or transport biofuels; or
- (c) blend biofuels in petroleum products,

shall submit a written application for a licence, in the prescribed form, to the licensing authority.

(2) An application for a licence shall, as may be required by the licensing authority, be accompanied by—

- (a) a statement of the feasibility of the business for which the licence is applied;
- (b) the business plan indicating the location of the proposed business;
- (c) the type of feedstock to be used to produce the biofuel;
- (d) the acreage of the land to be used for the business;
- (e) the technology to be used in the production, storage, transportation or blending of biofuels in petroleum products, as the case may be;
- (f) the occupational health, public safety and environmental measures to be applied in the production, storage, transportation or blending, of biofuels in petroleum products, as the case may be;
- (g) confirmation of compliance with the National Environment Act with regard to environmental regulation;
- (h) where the application is for the production of biofuels, a certificate granted by the Ministry responsible for agriculture confirming that the feedstock to be used conforms to the ecosystem of Uganda and that the food security of Uganda will not be compromised by the proposed production;
- (i) any other authorisation that may be required under any other law; and
- (j) the prescribed fees, which shall be paid into the Consolidated Fund.

(3) The requirements for the application of the respective licences and the procedure for submitting applications shall be prescribed by Regulations made under this Act.

8. Granting of licence

(1) A licensing authority shall, before granting a licence for which an application is made under section 7—

- (a) determine that the requirements of the National Environment Act and the Uganda National Bureau of Standards Act are complied with and that the Ministry responsible for agriculture confirmed that the feedstock to be used conforms to the ecosystem of Uganda and that the food security of Uganda will not be compromised by the proposed production;
- (b) consider the selection of the feedstock to be used in the production of the biofuel;
- (c) consider the availability of the feedstock and the quality of the feedstock;
- (d) consider the environmental precautions established, including the water restrictions; and
- (e) consider any other matters as may be prescribed by regulations.

(2) A licensing authority may grant a licence or where the licensing authority deems it appropriate, reject an application.

(3) The procedure for evaluating, approving or rejecting an application shall be prescribed by Regulations made under this Act.

9. Conditions of licence

(1) Where a licensing authority grants a licence, the licence shall be granted upon such terms and conditions as the licensing authority considers appropriate.

(2) A licence shall, as the case may be, authorise the person to whom it is granted to construct and operate a facility for the production, storage or transportation of biofuels or for blending of biofuels in petroleum products.

(3) A licence granted under this Act shall be valid for such period as may be prescribed by regulations.

10. Suspension and revocation of licence

Notwithstanding the penalties in sections 14, 15 and 16, a licence may be suspended or revoked by a licensing authority where the person granted a licence—

- (a) contravenes a provision of this Act or of any other law concerning the protection of occupational health, public safety or the environment or breaches a condition of the licence or contravenes any provision of this Act; or
- (b) fails to remedy a contravention of a provision of this Act or repeats a contravention of a provision of this Act, concerning the protection of occupational health, public safety or the environment or breaches a condition of the licence or contravenes any provision of this Act.

11. Assignment of licence

A licence shall not be assigned by a licensee or otherwise transferred to another person without the prior approval, in writing, of the licensing authority, and payment of the prescribed fees, unless otherwise provided for by regulations.

Obligations of persons granted licences

12. Obligations of person granted licence to produce biofuels

(1) A person who is granted a licence to produce biofuels shall—

- (a) maintain a minimum stock of biofuel, as may be prescribed by regulations;

- (b) comply with the occupational health and public safety laws and the environmental laws as specified in the conditions of the licence;
- (c) establish quality assurance systems; and
- (d) submit to the licensing authority, data and information, on the stocks, production and sale, of biofuels, as the case may be.

(2) The facilities used in the production of biofuels shall be in conformity with the national standards formulated by the Uganda National Bureau of Standards.

(3) Where a person who is granted a licence to produce biofuels intends to cease producing biofuels, the person shall notify the Ministry of the intention, one year before the expiry of the licence and submit a proposal for ceasing production indicating the information that may be prescribed by regulations.

13. Obligations of person granted licence to blend biofuels in petroleum products

A person who is granted a licence to blend biofuels in petroleum products shall—

- (a) comply with the occupational health and public safety laws and the environmental laws as specified in the conditions of the licence;
- (b) comply with the established quality assurance systems; and
- (c) submit to the licensing authority, data and information, on the stocks, production and sale, of biofuels, as the case may be.

PART III—OFFENCES AND PENALTIES

14. Offences and penalties

(1) A person commits an offence under this Act, where the person—

- (a) uses biofuels for any purpose other than the purpose specified in this Act;
- (b) sell biofuels that do not meet the national standards specified under this Act;
- (c) does not appropriately label the containers where biofuels are stored;
- (d) does not comply with the terms and conditions of a licence granted under this Act;
- (e) refuses or fails to submit records or other information required to be submitted under this Act or knowingly or without reasonable grounds for believing it to be true, furnishes records or information which is false or misleading in any material particular; or
- (f) resists, hinder or obstructs an entry or inspection of premises or any area of premises or of a vehicle or examination of records as may be required under this Act.

(2) A person who commits an offence under subsection (1) shall on conviction be liable to a fine not exceeding five thousand currency points and in case of a continuing offence, to an additional fine not exceeding two thousand currency points for every day or part of the day during which the offence continues.

15. Offences by directors, employees etc

(1) Where a person charged with an offence under this Act is a body corporate, every person who, at the time the offence is committed, was director, manager, secretary or similar officer or agent of the 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) A partner in any unincorporated enterprise, firm or joint venture shall be jointly 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, agent or partner is not liable under the subsections, where 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) An employer is answerable and liable for any acts or omission of the employees which constitute a contravention of this Act, so far as they concern the business of the employer.

16. Settlement of cases by licensing authority

(1) The licensing authority may, where he or she is satisfied that a person has committed an offence under sections 14 or 15, order the person to pay a sum of money not exceeding the amount of the fine to which the person would be liable to if the person was fined by a court of law.

(2) The licensing authority shall not exercise his or her powers under this section unless the person admits, in a form to be prescribed, to the commission of the offence and requests the licensing authority to deal with the offence under this section.

(3) The order by the licensing authority made under subsection (1) shall be in the form prescribed in regulations made under this Act.

(4) Where a person who commits an offence does not admit to the offence or where a person who admits to an offence refuses to pay the fine, the case shall be referred to court.

PART IV—MISCELLANEOUS

17. Powers of the Ministry

(1) In the performance of the functions under this Act, the Ministry shall have powers—

- (a) to enter upon and inspect, during working hours, any area or premises, including the facilities, where biofuels are produced or stored or blended with petroleum products;
- (b) to enter upon premises and examine, during working hours, records of the sales of biofuels and any information or evidence that may be required to ascertain the sales made and where necessary, to seize the records;
- (c) to stop and search, at any reasonable time, any vehicle used to transport biofuels; and
- (d) to obtain samples of biofuels.

(2) An inspection under subsection (1) (a) or (b) may be on notice or without notice, but shall always be performed in the company of a representative of the person in charge of the premises or a representative of that person.

18. Powers of Minister to give directives

The Minister may give directives, in writing, with respect to the policy to be observed and implemented for the purposes of this Act and the officials of the Ministry shall comply with the directives.

19. Prohibition of activities against fair competition

(1) A person granted a licence to produce biofuels or to blend biofuels with petroleum products shall not create artificial shortages of biofuels or engage in any other restrictive trade practices or any acts which are contrary to the principles of fair competition or which are intended to impede the function of a free market for biofuels in Uganda.

(2) A person granted a licence to produce biofuels or to blend biofuels with petroleum products shall sell biofuels without any form of discrimination with respect to the quality, quantity or price of the biofuels.

(3) The price of biofuels at all stages for which licences are granted shall be governed by the rules of supply and demand in a free and competitive market.

(4) A person who contravenes this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand currency points.

20. Regulations

(1) The Minister shall by statutory instrument make regulations for giving effect to the provisions of this Act.

(2) Regulations made under this Act may, without prejudice to subsection (1), provide for—

- (a) the procedure and requirements for application for licences;
- (b) the minimum stock of biofuels to be maintained;
- (c) the storage and transportation of biofuels;
- (d) the blending of biofuels in petroleum products and the percentage of biofuel to be blended in petroleum products;

- (e) the fees to be paid under this Act;
- (f) the data and information to be submitted by a person granted a licence to produce, blend or sell biofuels; and
- (g) anything required to be prescribed under this Act.

(3) Regulations made under this Act may prescribe in respect of contravention of the regulations a penalty not exceeding two thousand currency points and in case of a continuing offence and additional fine not exceeding five hundred currency points for each day or part of the day on which the offence continues.

(4) Regulations made under this Act shall be laid before Parliament within three months.

21. Amendment of Schedule

The Minister may with the approval of Cabinet, by statutory instrument, amend the Schedule to this Act.

22. Transitional provision

(1) A person who prior to the commencement of this Act is involved in any activity for which a licence is required under this Act shall, apply for a licence within one year after the commencement of this Act.

(2) A licence granted to carry out any activity for which a licence is required under this Act, shall be replaced with a licence granted under this Act.

SCHEDULE

Section 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings