



Tonga

PETROLEUM ACT

Chapter 46.06

2016 Revised Edition



PETROLEUM ACT

Arrangement of Sections

Section

1	Short title	5
2	Interpretation	5
3	Import and export at appointed places	6
4	Permit required for import or export	6
5	Notice of arrival	6
6	Anchorage of vessels carrying petroleum	6
7	Storage.....	7
8	Powers of inspection	7
9	Power to lay pipes	7
10	Regulations	8
11	Penalty	8



PETROLEUM ACT

AN ACT TO CONTROL AND REGULATE THE CARRIAGE AND STORAGE OF PETROLEUM¹

Commencement [14th September, 1959]

1 Short title

This Act may be cited as the Petroleum Act.

2 Interpretation

In this Act unless the context otherwise requires —

“**crude oil**” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes —

- (i) crude oil from which certain distillate fractions may have been removed; and
- (ii) crude oil to which certain distillate fractions may have been added;²

“**flash point**” means the degree of temperature at which petroleum gives off an inflammable vapour upon being tested by the Able Close test apparatus;

“**fuel oil**” means petroleum which has a flash-point of not less than 65 degrees Celsius and not more than 90 per cent distilling below 300 degrees centigrade and which is intended for use as fuel;³

“**IMDG Code**” means the International Maritime Dangerous Goods Code as defined in the Shipping Act;⁴

“**Minister**” means the Minister responsible for transport;⁵

“**package**” means any case, barrel, drum or container and includes every means by which petroleum may be encased or contained having a capacity of less than 400 litres;⁶

“**petroleum**” means any oil, liquid or spirit derived wholly or in part from any crude oil, shale, coal, peat, bitumen or any similar substance but does not include any oil ordinarily used for lubricating purposes or having a flash-point above 95 degrees Celsius;⁷

“**Secretary**” means the Secretary for Marine and Ports;⁸

“**street**” includes every public square or place and every bridge, culvert, drain, channel, footway, gate, building or other thing belonging thereto or lying upon the line or within the limits thereof.

3 Import and export at appointed places

No petroleum shall be imported or exported except at or from a declared harbour under section 2 of the Harbours Act⁹ or at such other place or places as may be appointed for that purpose by Cabinet to be notified in the Gazette.¹⁰

4 Permit required for import or export

- (1) No person shall import or export petroleum except under and in accordance with this Act or any regulations made thereunder.
- (2) No petroleum contained on board any vessel in properly constructed bunkers or receptacles and used solely as the propelling power of such vessel shall be deemed to have been imported or exported contrary to this Act.

5 Notice of arrival

The master of any vessel carrying petroleum as cargo or the agent of such vessel shall, on or before the arrival of such vessel, notify the Secretary of the time of arrival of the vessel and supply all such information as may be required by the harbour master in respect of such petroleum.¹¹

6 Anchorage of vessels carrying petroleum

Any vessel having petroleum on board as cargo, whether it is intended to be discharged or transhipped or is merely passing through a port or has been loaded in the port, shall, on being so ordered by the Secretary, proceed to such anchorage as the Secretary shall direct, whether within or without the limits of such port.¹²

7 Storage

No petroleum shall be stored or kept within the Kingdom except under and in accordance with this Act or any regulation made thereunder.¹³

8 Powers of inspection

- (1) Any police officer of or above the rank of sub-inspector or other person duly appointed by the Minister shall, for the purposes of this Act, have power to —
 - (a) enter, inspect and examine between the hours of 7 a.m. and 6 p.m. any premises, other than a dwelling-house, on which he has reasonable cause to believe petroleum is stored or kept;
 - (b) take samples of any petroleum stored or kept in such premises;
 - (c) seize or detain any petroleum stored or kept in such premises contrary to the provisions of this Act;
 - (d) make such examination and inquiry as may be necessary to ascertain whether the provisions of the Act are complied with.¹⁴
- (2) Any person who refuses to permit any such officer or other person duly appointed by the Minister to enter or inspect any premises, or hinders or obstructs any such officer or other person in the execution of his duty under this Act, or refuses to allow any such officer or other person to take samples in pursuance of this section or to give him facilities for the purpose commits an offence and shall be liable upon conviction to a fine not exceeding \$1,000.¹⁵
- (3) Where a person is convicted of an offence against the provisions of this Act, the Court may order any petroleum seized and detained to be forfeited and to be sold or otherwise disposed of, or, in its discretion, to be returned to the person appearing to be entitled to it.

9 Power to lay pipes¹⁶

Notwithstanding any rights or powers vested in any person or persons or body of persons, whether incorporated or unincorporated, Cabinet in accordance with the law may, subject to such conditions as it shall think fit to impose, grant permission to any person or persons or company erecting a tank or magazine for the storage of petroleum for the purpose of the conveyance of petroleum to and from such tank or magazine to enter upon, open and break up the surface of any land belonging to any private owner or owners and the soil and pavement of all or any streets, and to open up any sewers, drains or tunnels within or under such privately owned land or such streets, and to lay down, place and maintain under such privately owned land and under all or any of such streets, pipes, conduits, service pipes and other works, and from time to time to repair, alter or remove the same and to do all other acts which such person or persons or company as aforesaid shall from time to time deem necessary for the conveyance of such petroleum as aforesaid, doing as little damage

as may be in the execution of the powers hereby granted, restoring as far as possible the land affected to its former state, and making compensation for any damage which may be done in the execution of such powers.

10 Regulations

- (1) Cabinet may make regulations for all or any of the following purposes¹⁷ —
- (a) regulating the transport of petroleum whether by land or water;
 - (b) regulating the discharging and loading of petroleum from vessels to the shore or wharves and vice versa;
 - (c) prescribing the quantity or mode of storage of and the receptacles in which petroleum may be carried in any vessel, cart, truck or other vehicle and the quantities to be contained in such receptacles;
 - (d) providing for the examination and testing of petroleum and prescribing the tests to be applied to ascertain its flash-point and the method of applying the same;
 - (e) prescribing the quantity of petroleum which may be stored or kept in unlicensed premises and the manner of storing or keeping such petroleum;
 - (f) providing for the licensing of places in which petroleum is stored;
 - (g) prescribing the rules to be observed in any place where petroleum is kept, stored, used or conveyed, whether licensed or not;
 - (h) prescribing the marking of packages containing petroleum;
 - (i) prescribing licence fees and penalties not exceeding a fine of \$1,000 for the breach of any such regulations.¹⁸
 - (j) generally for the better carrying out of the purposes of this Act.
- (2) The power to make regulations under this section with respect to petroleum includes the power to make regulations with respect to any particular class of petroleum.

11 Penalty

Any person who acts in contravention of or fails to comply with the provisions of this Act shall be guilty of an offence and, where no special penalty is provided, shall be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 6 months or both.¹⁹

ENDNOTES

- ¹ Cap. 135 1988 Revised Edition - Acts 6 of 1959 and 7 of 1981
Amended by Act 20 of 1997, commencement 5 November 1997
Amended by Act 5 of 2012, commencement 30 July 2012
- ² Inserted by Act 20 of 1997
- ³ Amended by Act 7 of 1981
- ⁴ Inserted by Act 20 of 1997
Cap. 48.18
- ⁵ Inserted by Act 20 of 1997 and Amended by Act 5 of 2012
- ⁶ Amended by Act 7 of 1981
- ⁷ Amended by Acts 7 of 1981 and 20 of 1997
- ⁸ Inserted by Act 20 of 1997
- ⁹ Cap. 48.08
- ¹⁰ Amended by Act 42 of 2010
- ¹¹ Amended by Act 20 of 1997
- ¹² Amended by Act 20 of 1997
- ¹³ Substituted by Act 20 of 1997
- ¹⁴ Amended by Act 20 of 1997
- ¹⁵ Amended by Act 20 of 1997
- ¹⁶ Amended by Act 42 of 2010
- ¹⁷ Amended by Act 42 of 2010
- ¹⁸ Amended by Act 20 of 1997
- ¹⁹ Amended by Act 20 of 1997