

CAYMAN ISLANDS



UTILITY REGULATION AND COMPETITION (AMENDMENT) BILL, 2022

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A BILL FOR AN ACT TO AMEND THE UTILITY REGULATION AND COMPETITION ACT (2021 REVISION) TO CHANGE THE STRUCTURE AND CONSTITUTION OF THE BOARD IN ORDER TO IMPROVE THE GOVERNANCE OF THE OFFICE; TO AMEND THE CONSTITUTION OF THE NOMINATING COMMITTEE; TO AMEND THE INDEMNIFICATION PROVISION TO PROVIDE THAT ONLY CLAIMS CAUSED BY BAD FAITH WILL NOT BE INDEMNIFIED BY THE GOVERNMENT; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Border Control and Labour (BCL)



Memorandum of OBJECTS AND REASONS

This Bill amends the Utility Regulation and Competition Act (2021 Revision) (the “principal Act”) to change the structure and constitution of the Board in order to improve the governance of the Office, to amend the constitution of the Nominating Committee, to amend the indemnification provision to provide that only claims caused by bad faith will not be indemnified by the Government, and for incidental and connected purposes.

Clause 1 provides the short title of the legislation.

Clause 2 amends section 2 of the principal Act to insert a definition for the words “chief officer”. The words “chief officer” are defined as the person appointed pursuant to the Public Service Management Act (2018 Revision) as chief officer in the ministry with responsibility for the Office.

Clause 3 amends section 14(2) of the principal Act to provide for the new structure and constitution of the Board. The proposed subsection (2) provides that, subject to section 14(3) and (4) of the principal Act, the Board shall consist of eleven individuals being —

- (a) the Chair;
- (b) nine non-executive members; and
- (c) the Chief Executive Officer, as an *ex officio* executive member.

Clause 4 amends section 18(2) of the principal Act to replace the Cabinet Secretary as the chairperson of the Nominating Committee with the chief officer.

Clause 5 provides for consequential amendments to section 19 of the principal Act to remove references to the Cabinet Secretary and replace them with references to the chief officer.

The amendment provides, among other things, that a non-executive member who is eligible for reappointment shall indicate by instrument in writing addressed to the chief officer the member’s interest in being reappointed as a non-executive member not later than one hundred and twenty days prior to the expiration of the member’s term.

Clause 6 provides for a consequential amendment to section 21 of the principal Act to remove references to the Cabinet Secretary and replace them with references to the chief officer.

The amendment provides that a Member may resign office by instrument in writing addressed to the Cabinet, and the resignation shall take effect as from the date of the receipt of the instrument by the chief officer.

Clause 7 provides for a consequential amendment to section 23(5) of the principal Act to remove references to the Executive Directors and the Chief Fuels Inspector as clause 3 of this Bill seeks to remove these officers from the Board.



Clause 8 amends section 26 of the principal Act to provide that the chairperson of the Risk and Audit Subcommittee shall be appointed from among the Members.

Clause 9 amends section 110 of the principal Act to remove the words “negligence or”, thereby providing that the only claims which will not be indemnified by the Government will be claims caused by bad faith.



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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Act may be cited as the Utility Regulation and Competition (Amendment) Act, 2022.

Amendment of section 2 of the Utility Regulation and Competition Act (2021 Revision) - interpretation

2. The *Utility Regulation and Competition Act (2021 Revision)*, in this Act referred to as the “principal Act”, is amended in section 2(1) by inserting after the definition of the words “**Chief Fuels Inspector**”, the following definition —

“**chief officer**” means the person appointed pursuant to the *Public Service Management Act (2018 Revision)* as chief officer in the ministry with responsibility for the Office”;

Amendment of section 14 - structure of Board

3. The principal Act is amended in section 14 by repealing subsection (2) and substituting the following subsection —
- “(2) Subject to subsections (3) and (4), the Board shall consist of eleven individuals being —
- (a) the Chair;
 - (b) nine non-executive members; and
 - (c) the Chief Executive Officer, as an *ex officio* executive member.”.

Amendment of section 18 - appointment of non-executive members

4. The principal Act is amended in section 18(2)(a) by deleting the words “Cabinet Secretary” and substituting the words “chief officer, ”.

Amendment of section 19 - reappointment of non-executive members

5. The principal Act is amended in section 19 by deleting the words “Cabinet Secretary”, wherever they appear, and substituting the words “chief officer”.

Amendment of section 21 - resignation

6. The principal Act is amended in section 21 by deleting the words “Cabinet Secretary” and substituting the words “chief officer”.

Amendment of section 23 - procedure and meetings

7. The principal Act is amended in section 23(5) by deleting the words “, the Executive Directors and Chief Fuels Inspector”.

Amendment of section 26 - the Risk and Audit Subcommittee

8. The principal Act is amended in section 26(2) as follows —
- (a) by inserting after the words “The Office shall appoint the chairperson” the words “from among the Members”; and
 - (b) in paragraph (a), by deleting the words “a Member or”.



Amendment of section 110 - indemnity

9. The principal Act is amended in section 110 by deleting the words “negligence or”.

Passed by the Parliament the day of , 2022.

Speaker

Clerk of the Parliament

