



BERMUDA

REGULATORY AUTHORITY (TRANSITIONAL FUELS PRICING) INTERIM GENERAL DETERMINATION 2025

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The Regulatory Authority, in the exercise of the power conferred by sections 62 and 66 of the Regulatory Authority Act 2011 and section 29 of the Fuels Act 2022, makes the following Interim General Determination:

Citation

1 This Interim General Determination (“IGD”), which is made pursuant to the Consultation entitled “Fuel Pricing Methodology Consultation Document” dated 29 December 2023 and the Explanatory Note entitled “Regulatory Authority (Transitional Fuels Pricing) Interim General Determination 2025” dated 6 February 2025, may be cited as the Regulatory Authority (Transitional Fuels Pricing) Interim General Determination 2025.

Interpretation

2 (1) In this IGD—

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“Fuels Act” means the Fuels Act 2022;

“Final Methodology” means a methodology established under section 29(1) of the Fuels Act following the completion of the Consultation underpinning this IGD;

“fuels operator” means a person engaged in business in the fuels sector; and

“RAA” means the Regulatory Authority Act 2011.

(2) In all other cases, expressions have the meaning assigned by section 2 of the Fuels Act.

Purpose

3 The purpose of this IGD is to enable the Authority to set prices for fuel until such time as a Final Methodology is established and approved retail prices are set in accordance with that Final Methodology.

Regulation of variations of charges by fuels operators

4 (1) Subject to subsection (2) and section 9, no fuels operator may vary the maximum price or charge for a fuel or any published schedule of prices or charges therefor unless notice in writing of the variation and of the amount thereof has been duly given to the Authority.

(2) Any variation in installation charges, labour charges for repairs or other charges made in connection with the installation or use of any apparatus used for the supply of or necessary for the beneficial enjoyment of a fuel, or of the delivery charges for such commodity, is deemed not to be a variation of the price or charge of fuel for the purposes of subsection (1).

(3) When notice of intention to vary maximum prices or charges to which subsection (1) applies has been duly given to the Authority, those prices or charges may not be varied otherwise than—

- (a) in the event of the Authority giving a direction under section 5 within a period of 30 days beginning with the date on which that notice of intention was given, to the extent and in such amount as may be permitted by the direction;
- (b) in any other case, until after the expiration of the said period of 30 days.

(4) Once a month, a fuels operator must submit to the Authority—

- (a) a price submission, which includes notice of intention to vary maximum prices or charges to which subsection (1) applies or a statement that it does not seek to vary prices or charges; and
- (b) such information regarding the movement of global fuel prices as the Authority may direct.

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(5) The Authority must seek to make any variations of maximum prices or charges under this section to be effective on the first business day after the 15th day of each month.

Power of Authority on receipt of notice of variation

5 (1) On receipt of a notice given under section 4(1) the Authority may, after making such inquiry in the matter as it may think fit for the purpose of ascertaining that the variation is just and reasonable, give a direction—

- (a) approving the variation; or
- (b) disallowing the variation either wholly or in part; or
- (c) postponing the date upon which the variation is intended to be effective to such other date as may be specified; or
- (d) otherwise setting out the terms and conditions upon which the variation may be made.

(2) In the exercise of its discretion under subsection (1) the Authority must have regard to—

- (a) the cost to the supplier of the fuel;
- (b) the needs of the supplier for adequate working capital and to establish reasonable reserves;
- (c) the need to afford investors a reasonable rate of return on their investment;
- (d) the public interest;
- (e) any other matters which appear relevant to the Authority.

(3) The burden of proof to show that any variation in the maximum price or charge of a fuel is just and reasonable is upon the fuels operator seeking the variation.

Appeal

6 (1) A person that is aggrieved by a direction of the Authority under section 5 may appeal to the Supreme Court on that account.

(2) Section 96 of the RAA applies in relation to such an appeal.

Further powers to obtain information

7 (1) The Authority may, for the purposes of this IGD, by notice to a fuels operator require such operator—

- (a) to furnish, whether by periodical returns or other means, such estimates or other information as may be specified or described in the notice;
- (b) to produce to the Authority, any documents so specified or described;
- (c) to keep such records as may be so specified or described.

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(2) A notice under this section may specify the way in which, and the time during which, it is to be complied with.

(3) If a fuels operator fails to comply with a notice under this section, such fuels operator is liable to enforcement proceedings under section 93 of the RAA.

Enforcement of price control provisions

8 A fuels operator that—

(a) varies any maximum price or charge or published schedule of prices or charges for a fuel without giving notice as required by section 4(1); or

(b) fails to comply with a direction of the Authority under section 5,

is liable to enforcement proceedings under section 93 of the RAA.

Authority may endorse arrangement or scheme with industry

9 The Authority may, by administrative determination, authorize the establishment of an arrangement or scheme which is agreed to by fuels operators with respect to the maximum price or charge for a fuel or any published schedule of prices or charges therefor and with respect to ancillary matters thereto.

Effective date and expiration of IGD

10 (1) This IGD takes effect on the day it is published in the Official Gazette.

(2) This IGD expires on the date on which a Final Methodology is established or six months from the date on which this IGD becomes effective, whichever is sooner.

Signed this 17th day of February 2025

Chairman, Regulatory Authority

[Operative Date: 24 February 2025]