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DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 5445 **21 October 2024**

PUBLICATION OF DRAFT PETROLEUM PRODUCTS BILL, 2024 FOR PUBLIC COMMENTS

I, **SAMSON GWEDE MANTASHE**, **MP**, Minister of Mineral Resources and Energy, hereby publish the draft Petroleum Products Bill, 2024 for public comments.

Interested and affected parties are invited to submit written representations on the draft Petroleum Products Bill, 2024. The representations mentioned above must be marked for the attention of **Ms Vania Mahotas** and hand-delivered, emailed, or sent by post within 60 days of publication of this notice to the following addresses:

70 Meintjies street	**or**	**Private Bag X59**
Sunnyside		**Arcadia**
0001		**0007**

Email address: petroleum.policy@dmre.gov.za

A copy of the draft Retroleum Products Bill, 2024 is attached hereto.

MR SAMSON GWEDE MANTASHE (MP)
DEPARTMENT OF MINERAL RESOURCES AND ENERGY
DATE: 10/10/2024

REPUBLIC OF SOUTH AFRICA

PETROLEUM PRODUCTS BILL, 2024

(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill published in Government Gazette No. 51418 of 21st of October 2024)

(The English text is the official text of the Bill)

(MINISTER OF MINERAL AND PETROLEUM RESOURCES)

[B - 2024]

BILL

To provide for the efficient, cost effective, broadly representative and competitive manufacturing, wholesaling and retailing of petroleum products in South Africa through the control and management of the petroleum products industry; to provide for the Controller, Regional Controllers and inspectors of petroleum products; to provide for licensing of persons involved in the manufacturing, sale or purchase, wholesale, site and retail of petroleum products and for end consumers certificates for own consumption; to promote the transformation and good industry practices of the South African petroleum products and liquid fuels sector; to enforce and improve compliance with the Act through issuing of instructions and compliance notices and conducting inspections; to provide for an appeal mechanism; to empower the Minister to make regulations; to provide for the repeal of the Petroleum Products Act, 1977; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER 1
DEFINITIONS AND OBJECTS

Definitions

1. In this Act, unless the context indicates otherwise—

"**B-BBEE Act**" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"**bulk**" means a prescribed minimum quantity of petroleum product dispensed in a single lot in a sale of petroleum products by a licensed manufacturer or licensed wholesaler to a licensed manufacturer, licensed wholesaler, licensed retailer or a certified end consumer facility;

"compliance notice" means a demand made by the Controller or Regional Controller in terms of sections 14 (9) and (10) or 19;

"**Controller**" means the controller of petroleum products appointed in terms of section 6;

"**distributor**" means a licensed wholesaler or an outlet that is authorised to sell petroleum products on behalf of a licensed wholesaler;

"**efficient manufacturing**" means the production by the licensed manufacturer of the planned production capacity or more than the planned production capacity of petroleum products as prescribed by the Minister;

“efficient retailing” means the maximum number of retailers per magisterial zone or district as prescribed by the Minister;

“efficient wholesaling” means competitive prices in the distribution and storage of bulk petroleum products as prescribed by the Minister;

"**end consumer certificate**" means a certificate issued by the Controller in terms of section 13 for a person to purchase petroleum products in bulk and operate an end consumer facility for the purposes of own consumption;

"**end consumer facility**" means a building, storage tank, dispensing pump or piping that a consumer employs for the purposes of dispensing a petroleum product into own or hired petroleum products consuming equipment or own or hired vehicle;

"**financial provision**" means the insurance, bank guarantee, or cash, which applicants for a licence or end consumer certificate in terms of this Act must provide, guaranteeing the availability of sufficient funds to undertake the rehabilitation of

licensed activities or the remediation of negative environmental impacts of the licensed activities;

"force majeure" means an event beyond the control of a licensee, which could not have been foreseen by, and which did not arise out of the negligence of a licensee, and which causes the unreasonable delay of any performance of such licensees' obligations in terms of the licence;

"**going concern**" means the licensed activity is not interrupted or ended for a continuous period of more than 12 months in terms of section 12;

"**hold**", when used in relation to a site, means the ownership or lease of land for the purpose of establishing a site;

"**inspector**" means a person appointed by the Minister in terms of section 6;

"instruction" means a demand or requirement made by a Regional Controller in terms of section 8 or by an inspector in terms of section 9;

"**licence**" means a written document issued by the Controller in terms of section 11, permitting the licensee to operate in petroleum products manufacture, wholesale, site and retail, and includes a temporary licence;

"**licensee**" means the person to whom a licence has been issued;

"**liquefied petroleum gas**" means a petroleum product which consists mainly of propane or butane or both and which can be stored as a liquid under relatively low pressure;

"**manufacture**" means the production of petroleum products for commercial purposes, and includes the blending and re-refining of petroleum products;

"**manufacturing licence**" means a licence to conduct the business of a manufacturer;

"**Minister**" means the Minister of Mineral Resources and Energy;

"notice" means a notice issued by the Minister in terms of this Act and published in the *Gazette*;

"**outlet**", in relation to a petroleum product, means any place where any petroleum product is sold or is offered for sale to end consumers excluding retailers;

"**own consumption**" means an activity necessary to operate an end consumer facility and includes obtaining, handling, possession, storage and dispensing of petroleum products at such a facility for specific purposes excluding trading in petroleum products;

"**paraffin**" means a liquid petroleum product that is a complex mixture of predominantly aliphatic hydrocarbons ranging from C9 to C16, used mainly for lighting, cooking and heating purposes, also known as illuminating kerosene;

"**petroleum product**" means any petroleum fuel and any lubricant, whether used or unused, derived from refining or processing of petroleum crude oils or synthetic fuels and includes any other substance which may be used for a purpose for which petroleum fuel or any lubricant may be used, namely—

(a) bunkers and heavy residual fuel oils for combustion engines or industrial heat processes;

(b) methane, ethane, propane, butane and other similar petroleum gases, biogas and a mixture of these gases, whether in gaseous or liquefied state;

(c) petrol or automotive diesel, biodiesel, synthetic diesel;

(d) paraffin, bioethanol product or kerosene or other similar oils for illumination or combustion applications;

(e) turbo fuels for jet propulsion engines; or

(f) substance from an alternative source;

"**prescribed**" means prescribed by regulation made by the Minister;

"**Regional Controller**" means a controller of petroleum products responsible for a region as determined by the Minister and appointed in terms of section 6;

"**retail**" means a single transaction or sale of petroleum products, dispensed in a single lot below the prescribed bulk quantity to an end consumer facility, at a site;

"**retail licence**" means a licence to conduct the business of a retailer;

"**Sector Charter**" means the sector transformation charter, as contemplated in section 12 of the B-BBEE Act for the petroleum products and liquid fuels sectors;

"**Sector Codes**" means the transformation codes developed in terms of the B-BBEE Act for the petroleum products and liquids fuels sector;

"**Sector Council**" means the sector body appointed in terms of the B-BBEE Act by the Minister responsible for the petroleum products and liquid fuels sectors for the development of sector codes;

"**site**" means premises for one licensed retail activity on land zoned and approved by a competent authority for the retailing of prescribed petroleum products;

"**site licence**" means a licence for a site;

"**storage facility**" means a facility in which wholesale business of petroleum products is carried out and includes buildings, storage tanks, pipeline, pump house, loading gantry and dispensing pump;

"**temporary licence**" means a licence issued in terms of the Act for a period of not more than six months;

"**this Act**" includes—

(a) the Schedule;

(b) the regulations;

(c) a notice;

(d) the conditions of a licence or certificate; and

(e) the Sector Charter,

issued under or in terms of this Act;

"**trade**" means the purchase, importation and sale in bulk of petroleum products by a licensed wholesaler that does not operate a petroleum products storage facility to another licensed wholesaler, licensed retailer or certified end consumer facility;

"**wholesale**" means the purchase, importation or sale, in bulk, of petroleum products by a licensed wholesaler that operates a petroleum products storage facility to:

(a) another licensed wholesaler, or

(b) a licensed manufacturer, or

(c) a licensed retailer; or

(d) a certified end consumer facility for own consumption; and

"**wholesale licence**" means a licence to conduct the business of a wholesaler.

Objects of this Act

2. The objects of this Act are to—

(a) promote an efficient manufacturing, efficient wholesaling, and efficient retailing petroleum products industry;

(b) facilitate an environment conducive to efficient and commercially justifiable investment;

(c) create employment opportunities and develop small businesses in the petroleum sector;

(d) ensure countrywide availability of petroleum products at competitive prices;

(e) promote access to affordable petroleum products by low income consumers for household use;

(f) regulate the petroleum products industry through the issuing of licences and certificates;

(g) transform the industry by regulating the licencing requirements for new entrants that were previously disadvantaged and excluded from participating in petroleum products activities;

(h) change the landscape of the petroleum products industry by prohibiting vertical integration; and

(i) ensure security of supply.

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CHAPTER 2
CONTROL AND MANAGEMENT OF PETROLEUM PRODUCTS

Control and management of petroleum products by Minister

3. (1) Petroleum products must be controlled and managed in a manner that ensures—

(a) that it is used in an economical and efficient manner;

(b) an economical cost of its distribution;

(c) the rendering of a service of a particular standard;

(d) security of supply or efficiency;

(e) competition; and

(f) the transformation of the petroleum products industry.

(2) The Minister may for purposes of subsection (1) determine, specify, require or prohibit—

(a) the use of any petroleum product for a specified purpose or for the performance of any act in a manner as specified;

(b) the purchase, sale, supply, acquisition, possession, disposal, storage or transportation or the recovery and re-refinement of any specified petroleum product;

(c) the supply to any person of any equipment intended for the dispensing of any petroleum product;

(d) the establishment or creation of an outlet for the sale of any petroleum product;

(e) the transfer from one place to another of any business or undertaking conducted at an outlet;

(f) the change of suppliers of petroleum products to any business or undertaking conducted at any outlet;

(g) the rendering of any service;

(h) the supply of petroleum products to any business or undertaking conducted at any outlet at which any service of a particular kind or a service of a particular standard is not available to the public;

(i) the price and margin, or a maximum or minimum price, or a maximum and minimum price, at which any petroleum product may be sold or bought by any person, and conditions under which the selling or buying of petroleum products, other than in accordance with the set, maximum or minimum price and margin, may take place;

(j) any business practice, margin, method of trading, agreement, arrangement, scheme or understanding which, in the opinion of the Minister, is calculated—

(i) to influence, or which may have the effect of influencing, directly or indirectly, the purchase or selling price of petroleum products; or

(ii) to cause, or which may have the effect of causing, directly or indirectly, an increase in the price referred to in paragraph *(i)*;

(k) the supply of any petroleum product to any business or undertaking conducted, including the imposition of conditions relating to the price and margin at which such product may be sold to such business or undertaking, or prohibit such supply;

(l) any person to publish the prices at which petroleum products are available for sale, including conditions relating to the frequency of such publications, its content and structure, the method and manner of its publication and the displaying thereof;

(m) the quantities of crude oil or petroleum products to be maintained by any person; and

(n) the minimum quantities of crude oil or petroleum products that must be imported by the State.

Regulations and notices on control of petroleum products

4. (1) The Minister may make regulations on matters provided for in section 3(2).

(2) Different regulations may be made under subsection (1) in respect of different classes or kinds of petroleum products or services or different persons or categories or groups of persons.

(3) Prior to making the regulations under subsection (1), the Minister must publish draft regulations in the *Gazette* for public comment and consider submissions made.

(4) *(a)* The Minister may issue a written notice to persons or licensees under this Act, determining, specifying, requiring or prohibiting any matter provided for in section 3(2)—

(i) that is not fitting for regulations under subsection (1); or

(ii) to ensure compliance with the regulations under subsection (1); and

(b) Unless it will demonstrably defeat the purpose of the notice, a notice contemplated in paragraph *(a)* may only be issued after the Minister

has notified the persons or licensees concerned and considered any submissions made: Provided that a notice that affects or pertains to a section or the whole of the petroleum products and liquid fuels sector must be published in the *Gazette*.

(5) A person who contravenes a—

(a) determination;

(b) specification;

(c) requirement; or

(d) prohibition,

in terms of a regulation or notice under this section is guilty of an offence in respect of the relevant matter under section 3(2) and is liable on conviction to a penalty as set out in Part 1 of the Schedule.

CHAPTER 3
ADMINISTRATION OF PETROLEUM PRODUCTS

Powers and functions of Minister

5. In addition to any power or function of the Minister in terms of this Act, the Minister—

(a) may prescribe subordinate legislation on the regulation of petroleum products in the Republic to promote the objects of this Act;

(b) may, for purposes of sections 7, 8 and 9, determine any additional powers, duties and functions of the Controller, Regional Controller and inspectors;

(c) must, after consultation with the Sector Council or the Department of Trade, Industry and Competition, prescribe the system for allocation of licences in terms of sections 15 and 16;

(d) must appoint persons to consider appeals as contemplated in Chapter 6; and

(e) makes the final decision in terms of this Act.

Appointment of Controller, Regional Controllers and inspectors

6. (1) The Minister, subject to the laws governing the public service—

(a) must appoint a person as Controller for the Republic;

(b) must, after determining respective regions, appoint persons as Regional Controllers; and

(c) must appoint, inspectors for the Republic or any part thereof.

(2) The appointments contemplated in subsection (1) are subject to such conditions and remuneration as the Minister may determine in consultation with the Minister of Finance.

(3) A document in the form determined by the Minister, certifying that a person has been designated as Controller or Regional Controller or inspector under this Act, and purporting to have been signed by the person designated for that purpose by the Minister, is *prima facie* proof of such appointment.

(4) The Department responsible for the administration of this Act will be responsible for the administrative support and designation of support staff to the office of the Controller, Regional Controllers and inspectors.

Powers and functions of Controller

7. (1) Without limiting any statutory duty of any other person in terms of this Act, the Controller must—

(a) ensure that the provisions of this Act are enforced and complied with;

(b) ensure that the duties imposed upon the Controller, Regional Controllers and inspectors are performed;

(c) comply with, promote and implement the policies under this Act;

(d) monitor, promote and enforce compliance with this Act by—

(i) issuing licences in terms of this Act;

(ii) determining the validity of a licence issued in terms of this Act in the prescribed manner;

(iii) issuing end consumer certificates;

(iv) overseeing the inspections under this Act;

(v) investigating transgressions of provisions of this Act;

(vi) confirming, amending or setting aside an instruction issued by a Regional Controller in terms of section 8(1)*(c)*; and

(vii) issuing compliance notices in terms of this Act;

(e) collect, process and make information relating to petroleum products available to the public;

(f) develop and maintain an integrated petroleum products database and reporting system;

(g) conduct or commission research in relation to petroleum products industry;

(h) conduct regular transformation audits;

(i) establish the facts of an unfair and unreasonable contractual practice in a dispute between two licensees before the matter is referred to arbitration in terms of section 32(1);

(j) impose conditions in respect of a particular licence or end consumer certificate; and

(k) perform any other duty that this Act requires him or her to perform.

(2) Subject to the provisions of this Act, the Controller must, upon the Minister's request, in writing, assist the Minister—

(a) in the exercise of his or her powers and the performance of his or her functions under this Act;

(b) by gathering such information in connection with the operation or administration of this Act as the Minister requires; and

(c) report timeously to the Minister on the matters under this subsection.

(3) The Controller may impose the following conditions in the prescribed manner to licences or end consumer certificates in terms of subsection (1)(j)-

(a) the manner in which the licensee must carry out construction or operation activities for which the licence is granted;

(b) the promotion of black or disadvantaged persons in terms of the B-BBEE Act, but not limited to-

(i) the Sector Charter requirements of management and control, ownership, sustainability, supportive culture, employment equity, procurement, access to infrastructure, capacitation of new entrants, skills development; enterprise and supplier development, socio economic development;

(ii) Sector codes; or

(iii) B-BBEE Act requirements;

(c) the appropriate volumes of supply of petroleum products that must be held by the licensee to ensure security of supply;

(d) the reporting data or information that must be furnished to the Controller and the frequency for furnishing such information;

(e) the manner in which the licensees must maintain the manufacturing, wholesale, retail or end consumer facility in full operational condition;

(f) the time period within which the licenced facility must become operational;

(g) the standards, specifications and good industry practices or other legislation which the licensee must adhere to;

(h) the health, safety and environmental standards or legislation which the licensee must comply with;

(i) the emergency plan for implementation in the event of an accident or other emergency;

(j) the environmental management plan approved by the competent authority;

(k) the method and quantum of financial provision required for rehabilitation;

(l) the visible display of the licences on site or at the place of business;

(m) the requirement to pay the prescribed annual licence fee;

(n) allow any person authorised by the Controller in accordance with this Act access to the relevant site or land related to the licenced activity for the purposes of inspections or investigations;

(o) comply with this Act;

(p) carry out instructions from the Controller, Regional Controllers and inspectors;

(q) submit information requested by the Controller in the prescribed manner the records of trade activities, audited annual financial report, the price of petroleum products, volumes of petroleum products purchased or sold during the specified period, licence conditions compliance requirements, and stock levels of petroleum products; and

(r) the non-transferability of a licence.

Powers and functions of Regional Controllers

8. (1) Without limiting any statutory duty of any other person in terms of this Act, the Regional Controller must—

(a) confirm, amend or set aside a decision made by an inspector;

(b) investigate any prohibited activity under this Act;

(c) issue compliance notices to persons in terms of this Act;

(d) verify licence applications made in terms of this Act; and

(e) recommend the licences that may be granted or not to the Controller.

(2) Subject to the provisions of this Act, the Regional Controller, may—

(a) recommend to licensees concerned that a dispute between those licensees undergoes mediation by a certified mediator agreed upon by the licensees concerned;

(b) inspect a site, outlet, premises or private dwelling where petroleum activities are taking place or suspected to be taking place in accordance with Chapter 5; and

(c) establish a need for the site.

Powers and functions of inspectors

9. (1) An inspector may, at any licensed site, outlet or place where activities in terms of this Act are taking place or suspected to be taking place, for the purposes of monitoring or enforcing compliance with this Act—

(a) question any person on any matter to which this Act relates;

(b) require any person who has control over, or custody of, any document, including, but not limited to, a plan, book or record to produce that document to the inspector immediately or at any other time and place that the inspector requires;

(c) require from any person, referred to in paragraph *(b)*, an explanation of any entry or non-entry in any document over which that person has custody or control;

(d) examine any document produced in terms of paragraph *(b)*, and make a copy of it or take an extract from it;

(e) inspect—

(i) any article, substance or machinery;

(ii) any work performed;

(iii) any condition; or

(iv) arrangements made by the manager of employees;

(f) seize any document, article, substance or machinery or any part or sample of it;

(g) issue an instruction for operations to be suspended or halted and may place conditions on the performance of that activity or practice; and

(h) perform any other function that this Act requires him or her to perform.

(2) *(a)* An inspector, in conducting any inspection in terms of this Act, may exercise the powers conferred on a peace officer by the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(b) Until such time as a notice is issued under section 334(1) of the Criminal Procedure Act, 1977, in respect of an inspector under this Act, an

inspector has such powers as conferred in terms of this Act or as the Minister considers necessary, expedient or useful in respect of inspections.

(c) Different powers may be conferred under paragraph *(b)*, or under section 334(1) of the Criminal Procedure Act, 1977, in respect of different inspectors or categories of inspectors.

(3) An inspector, when exercising any power or performing any function under this section or a notice under section 334(1) of the Criminal Procedure Act, 1977, is subject to the directions and control of the Minister and no power conferred upon such inspector may be exercised by him unless he is, at the time of exercising such power, in possession of a form of identification issued by the Minister in terms of section 6(3), which identification must be produced on demand.

Delegation by Minister

10. (1) The Minister may, in writing—

(a) delegate any function, duty or power, except the power to make regulations, subject to such conditions as he or she considers necessary, to the Controller, Regional Controller or inspector; or

(b) amend or revoke a delegation contemplated in paragraph *(a)*.

(2) A delegation by the Minister under subsection (1) must be in writing and specify the period for which such power, function or duty is delegated, the purpose of the delegation and any conditions and restrictions that the Minister may impose.

(3) A delegation contemplated in subsection (1) does not—

(a) prevent the Minister from exercising that function or power or performing that duty; and

(b) absolve the Minister from responsibility or accountability for anything done in terms of or under the delegation.

CHAPTER 4
LICENCING AND CERTIFICATION

Issuing of licences by Controller

11. (1) Any person who intends to manufacture, wholesale in bulk or retail petroleum products or hold or develop a site for purposes of retailing petroleum products, must apply to the Controller, in the form and manner as prescribed, for a—

(a) manufacturing licence;

(b) wholesale licence;

(c) site licence; or

(d) retail licence,

to conduct such activity.

(2) The Controller may, upon receipt of an application contemplated in subsection (1), prior to taking a decision, require the applicant to submit additional information relating to the activity applied for and to promote efficient manufacturing, efficient retailing, or efficient wholesaling, as specified by the Controller.

(3) The Controller may, in accordance with the provisions of this Act and the relevant regulations, issue the relevant manufacture, wholesale, retail or site licence applied for: Provided that the Controller—

(a) must issue one retail licence per site; and

(b) must issue a licence for the petroleum product applied for.

(4) The Controller may not unreasonably withhold its approval of any application contemplated in subsection (1).

(5) If the application is rejected or not approved, the Controller must provide reasons within a reasonable time to the applicant for rejecting or not approving the application and draw the applicant's attention to Chapter 6.

Validity of licence

12. (1) A licence issued by the Controller in terms of section 11 remains valid for as long as—

(a) the licensee complies with the conditions of the licence;

(b) the licensed activity remains a going concern, excluding a site licence;

(c) in the case of a site licence, there is a corresponding valid retail licence;

(d) in the case of a licensee, who is not the owner of the land, there is a valid corresponding lease agreement or written permission from the licensed site or landowner;

(e) the validity period specified in the licence has not expired; and

(f) the licence has not been revoked or suspended by the Controller.

(2) To ensure the continued operation of a licensed activity, the Controller may, upon receiving an application for a new licence, within six calendar months of the licensed activity becoming a going concern, issue a temporary licence

for the licensed activity for a period not longer than six months, as long as it meets the requirements of subsection (1) and considering the following factors-

(a) the continuity of employees' contracts, premises, assets, goodwill of the business, continuity of operations, security of supply to consumers, obligations under existing client contracts and short-term liabilities; and

(b) the solvency and liquidity of the business in terms of the Companies Act, 2008 (Act No. 71 of 2008).

(3) If a licensed activity requires more than 12 months of interruption, an application for an additional six months may be made to the Controller based on but not limited to the factors in subsection (2).

(4) The Controller may, for purposes of ensuring the continued operation of a licenced activity, determine the period of the temporary licence to be longer than six months, but not exceeding 24 months, if the licensed activity has been affected by *force majeure* or other reasonably justifiable factors including, but not limited to—

(a) war;

(b) terrorism;

(c) a natural disaster;

(d) the sequestration of the licensee's estate; or

(e) pending legal disputes in relation to the licensed activity.

Issuing of end consumer certificate by Controller

13. (1) Any person may apply in the prescribed manner to the Controller for an end consumer certificate for the use of petroleum products for own consumption in an end consumer facility.

(2) The Controller may issue end consumer certificates in the prescribed manner to applicants that meet the prescribed requirements.

Prohibited activities and conditions for licences and certificates

14. (1) A person may not—

(a) manufacture petroleum products without a manufacturing licence;

(b) wholesale in bulk prescribed petroleum products without an applicable wholesale licence;

(c) hold or develop a site without there being a site licence for that site; or

(d) retail prescribed petroleum products without an applicable retail licence, issued by the Controller.

(2) Any person who applies for a licence contemplated in section 11 must—

(a) in the case of a manufacturing licence, be the owner of the property concerned and if not, the applicant must have the written permission of the owner;

(b) in the case of a site licence, be the owner of the property concerned or, the applicant must have the written permission of the owner; and

(c) in the case of retail and wholesale licences, be the owner of the business concerned.

(3) A licensed manufacturer may only sell petroleum products to a licensed wholesaler, certified end consumer facility or a licensed retailer, except for export purposes.

(4) A licensed retailer may only purchase petroleum products from a licensed wholesaler or a licensed manufacturer, or both.

(5) A licensed wholesaler may not sell petroleum products to an end consumer or engage in a retail activity.

(6) A certified end consumer facility may only use petroleum products for own consumption and may not sell or trade petroleum products nor engage in any wholesale or retail activity.

(7) No person may make use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in—

(a) a licensed wholesaler holding a retail licence or engaging in retail activities, but excludes wholesalers, distributors, storage facilities and retailers of liquefied petroleum gas and paraffin;

(b) a licensed retailer holding a wholesale licence or engaging in wholesale activities, but excludes retailers and wholesalers, distributors, storage facilities of liquefied petroleum gas and paraffin; or

(c) self-service by consumers of prescribed petroleum products on the premises of a licensed retailer.

(8) *(a)* If it comes to the attention of the Controller that a person engages in an activity in contravention of subsections (1) to (7) the Controller must,

issue such person with a compliance notice in writing, directing that person to immediately or where applicable within a stipulated time, cease such activity.

(b) Subject to subsection (10), a person that is found to be in contravention of a compliance notice in terms of paragraph *(a)* is guilty of an offence in respect of the activity contravened under subsections (1) to (7).

(9) *(a)* If it comes to the attention of the Controller that a person is engaging in an activity in contravention of a licence condition, the Controller must issue that person with a compliance notice in writing, directing that person to comply with the licence condition and, if applicable, to rectify any state of affairs resulting from such contravention within the period stipulated in the compliance notice.

(b) Subject to subsection (10), a person that is found to be in contravention of a compliance notice issued in terms of paragraph *(a)* is guilty of an offence in respect of the licence condition contravened.

(10) A person against whom the Controller had issued a compliance notice in terms of subsection (8) and (9), has the right to appeal any adverse finding in respect of that notice, to the Minister in terms of section 23.

System for allocation of site and retail licences

15. (1) Subject to subsection (2), the Minister must prescribe a system for the allocation of sites and their corresponding retail licences, which promotes efficient retailing and by which the Controller is bound for the period set out in that regulation.

(2) The Minister must, prior to promulgating a system contemplated in subsection (1), or any review or amendment thereof, invite public comment thereon by publishing it in the *Gazette* and duly considering such comments.

(3) A system contemplated in subsection (1)—

(a) must intend to transform the retail sector into one that has the optimum number of efficient sites;

(b) must intend to achieve an equilibrium amongst all participants in the petroleum products industry within the constraints of this Act;

(c) must be based on the objects referred to in section 2;

(d) must promote efficient investment in the retail sector and the productive use of retail facilities, and may—

(i) limit the total number of site and corresponding retail licences in any period; or

(ii) link the total number of site and corresponding retail licences in any period,

to the total mass or volume of prescribed petroleum products sold by licensed retailers;

(e) must allow licensed wholesalers to trade with each other any contractual rights and obligations they may have, to supply licensed retailers with prescribed petroleum products;

(f) may link the issuing of a new site licence and the corresponding retail licence to the termination or transfer of ownership of one or more existing site licences and the corresponding retail licences; and

(g) may link the issuing of a new retail licence to the transfer from a licensed wholesaler of contractual rights enjoyed by that wholesaler in respect of one or more licensed retailers, to another licensed wholesaler.

(4) Subject to subsection (2), the Minister must, from time to time, review the efficacy of the system contemplated in subsection (1) against the objects of this Act and may amend the system in an appropriate manner.

(5) Nothing contained in subsections (1), (2) or (3) absolves any person from the obligation to apply for and hold a licence in terms of this Act.

System for allocation of licences for liquefied petroleum gas and paraffin

16. (1) For the purposes of this section, "**retail**" means the sale of liquefied petroleum gas or paraffin to an end consumer facility and "**retailer**" has a corresponding meaning.

(2) Subject to subsection (4), the Minister may prescribe licensing systems for the wholesaling or retailing of liquefied petroleum gas or paraffin, or a review or amendment thereof, by which the Controller is bound.

(3) A system contemplated in subsection (2) must—

(a) be based on the objects contemplated in section 2;

(b) be targeted at poverty alleviation for low-income households; and

(c) promote efficient wholesaling or efficient retailing.

(4) The Minister must, prior to promulgating a system contemplated in subsection (2) or any review or amendment thereof, publish it in the *Gazette* for public comments and duly consider such comments.

(5) The system contemplated in subsection (2) may, in designated areas, restrict the retail of liquefied petroleum gas or paraffin to one or more retailers.

(6) Subject to subsection (4), the Minister must, from time to time, review the efficacy of a system contemplated in subsection (2) against the objects of this Act and may amend the system in an appropriate manner.

Transformation of the sector

17. (1) In considering applications for licences or certificates in terms of this Act, the Controller must—

(a) promote persons in the petroleum products sector in accordance with the Sector Codes issued in terms of the B-BBEE Act; and

(b) give effect to the transformation targets prescribed by the Minister in accordance with the B-BBEE Act and the Sector Charter.

(2) The Controller may require any category of licensees to furnish information, as prescribed, in respect of the implementation of the Sector Charter or Sector Codes.

CHAPTER 5
COMPLIANCE

Issuing of instructions

18. (1) If the inspector, Regional Controller or Controller suspects that any occurrence, practice or activity contrary to the provisions of this Act is taking place at a licenced site, outlet or premises, the inspector may, make such enquiries into the matter that the inspector deems necessary.

(2) If the inspector, Regional Controller or Controller finds that a licensee or any person has failed to comply with the provisions of this Act, the inspector must instruct the licensee or person, in writing, to take the necessary steps to comply with the relevant provision and such steps must be specified in the instruction including that—

(a) operations at the licensed site, outlet or premises be halted;

(b) the performance of any act or practice at a licensed site, outlet or premises be suspended or halted, and may place conditions on the performance of that act or practice;

(c) the person in control of the premises must take the steps set out in the instruction, within the specified period, to rectify the occurrence, practice or condition; or

(d) all affected persons, other than those required to assist in terms of paragraph *(c)*, must be moved from the relevant site, outlet or premises.

(3) An instruction issued under subsection (2)—

(a) must be given to the manager or person designated to be manager or, in their absence, the most senior employee available at the place to whom the instruction can be issued;

(b) must specify the prescribed period within which the steps must be taken and that period may be extended by the inspector at any time by giving instruction, in writing, to the person concerned;

(c) is effective from the time and date of issue by the inspector and remains in force until set aside in terms of paragraph *(d)* and if it is not set aside, until the inspector's instructions have been complied with; and

(d) must as soon as practicable be confirmed, varied or set aside by the Regional Controller—

(i) upon considering a written request by the inspector concerned which request must include any representations made by the licensee or person concerned; and

(ii) must be set aside if the licensee or person concerned is able to prove that there was compliance with this Act at the time that the inspector issued the instruction.

(4) Failure to comply with an instruction issued by an inspector in terms of this section is a non-compliance subject to an administrative penalty.

Issuing of compliance notices by Controller and Regional Controller

19. (1) If a person engages in an activity in contravention of a licence issued to that person, the Controller or Regional Controller must, in the prescribed manner, issue a compliance notice with instructions to the licensee or person engaging in the activity to comply with the licence and, if applicable, to rectify any state of affairs resulting from such contravention within the period stipulated in the compliance notice.

(2) Failure to comply with a compliance notice issued by the Controller or Regional Controller is a non-compliance in terms of this Act which may be subject to an administrative penalty, suspension or revocation of the licence.

(3) (a) Any person issued with a prescribed administrative fine by the Controller, Regional Controller or inspector must pay within the prescribed period.

(b) The Controller may apply to a court for the prescribed fine to be made an order of that court if the person fails to pay the prescribed administrative fine in subsection (3)(a) within the prescribed period.

Duty to comply with requests during inspections

20. (1) Any person who must hold a licence, certificate or any other document in terms of this Act must produce it at the request of the Controller, Regional Controller or any inspector and failure to do so is an offence in terms of this Act.

(2) The Controller, Regional Controller or inspector may request an employer, employee or any other person who performs an activity regulated by this Act or any former employer, employee or person who performed an activity regulated by this Act, to appear before the Controller, Regional Controller or inspector to be questioned on any matter to which this Act relates and failure to do so is an offence.

(3) Persons questioned by the Controller, Regional Controller or inspector in terms of subsection (5), must answer each question to the best of their ability, but no person is required to answer any question if the answer may be self-incriminating and the Controller, Regional Controller or inspector must inform that person before questioning him or her of this right.

(4) When performing any function in terms of this Act, the Controller, Regional Controller or inspector may be accompanied by an interpreter, or any other person reasonably required to assist the Controller, Regional Controller or inspector.

(5) Failure to grant the Controller, Regional Controller or inspector access to conduct an inspection in terms of section 21 or 22 is an offence.

(6) Any person who wilfully hinders the Controller, Regional Controller or inspector in the exercise of his or her powers or in the performance of his or her duties in terms of this Act, is guilty of an offence.

(7) When the Controller, Regional Controller or inspector enters any place the licensee and each employee performing any work there must provide any facility that the Controller, Regional Controller or inspector reasonably requires and failure to do so is an offence in terms of this Act.

(8) During any search, only a female Controller, Regional Controller or inspector or female police officer may search a female person and only a male Controller, Regional Controller or inspector or male police officer may search a male person.

(9) The Controller, Regional Controller or inspector who removes anything from premises being searched must—

(a) issue a written receipt for it to the owner, or person in control, of the premises, in sufficient detail to identify each specific item so removed; and

(b) return it in good order as soon as practicable after achieving the purpose for which it was removed to the person from whose control it was taken, unless it is to be used as evidence in any subsequent proceedings, in which case the railway safety inspector must, in writing, inform the person from whose control it was taken of that fact.

Regular inspections to licensees

21. (1) When conducting regular inspections to licensees, the Controller, Regional Controller or inspector may at any reasonable time and without prior notice without a warrant—

(a) enter and inspect any premises excluding a private dwelling, but including any vehicle, vessel or aircraft and any receptacle of whatever nature that has a bearing on the inspection;

(b) make such enquiries to the licensee, its employees or agents relevant to the inspection; and

(c) require any person at the premises to—

(i) identify, point out or demonstrate any product, substance, material or object or combination of products, substances, material or objects, system or mechanism of a petroleum product;

(ii) identify or point out any facility or unit on or around the premises where petroleum products may be kept or stored;

(iii) produce a sample of any petroleum product;

(iv) measure or quantify any petroleum product on the premises;

(v) produce any book, record or other document relevant to the inspection in the possession of, or under the control of, that licensee, its employee or its agent; and

(vi) furnish such information in respect of the licence at such premises and in such a manner as the inspector may determine.

(2) Upon determining that there may have been non-compliance on the part of a licensee, the Controller, Regional Controller or inspector may—

(a) hand over a written instruction to that person which prohibits the use, removal or destruction of any product, substance, material, machinery, object, system, or data, book, record or other document relevant to the inspection in the possession, or under the control, of that licensee, employee or agent;

(b) photograph or otherwise record the attributes of any machinery, object or system;

(c) examine or make extracts from or copies of any data, book, record or other document relevant to the inspection;

(d) take a sample of any petroleum product or a substance thereof for further examination or analyses; or

(e) seize and remove any petroleum product or material, machinery or object or part thereof, or a data, book, record or other document in the premises, provided that the licensee or person concerned from whose possession these items are taken—

(i) consents to such seizure and removal;

(ii) if he or she does not consent, the Controller, Regional Controller or inspector may in any event seize and remove such items if the Controller, Regional Controller or inspector is of the opinion based on reasonable grounds that a warrant would be issued under section 22 and the delay of obtaining the warrant would defeat the purpose of the seizure or removal; and

(iii) must at his or her request and at his or her expense, be allowed to photograph or otherwise record the items seized or to make copies thereof or extracts therefrom under the supervision of the Controller, Regional Controller or inspector concerned.

(3) Any person who wilfully uses, removes or destroys any product, substance, material, machinery, object, system, or data, book, record or other document in respect of which the Controller, Regional Controller or inspector has issued a prohibition contemplated in subsection (2)*(a)*, is guilty of an offence.

Enforcement inspections

22. (1) The Controller, Regional Controller or inspector may, , if he or she suspects that prohibited activities in terms of this Act are taking place at any licensed site, outlet or place or private dwelling, and after obtaining the necessary warrant—

(a) exercise any necessary power as contemplated under section 21 at the premises;

(b) search the premises including requesting any person to unlock or otherwise provide unhindered access to any safe, storage facility or other receptacle, or to point out any other person on the premises who can do so;

(c) search any person on the premises, if there are reasonable grounds for believing that the person has personal possession of an object, a system, data, book, document or record that has a bearing on the inspection;

(d) examine any object, system, data, book, document or record that is on or in those premises that has a bearing on the inspection;

(e) enquire from any person on the premises to provide information relevant to the inspection;

(f) close site;

(g) issue instructions;

(h) enter and search any other place, including a private dwelling if there are reasonable grounds for believing that there is a product, substance, material, machine, object, a system, data, book, document or record that has a bearing on the inspection at or in such dwelling; and

(i) bring into and use at such premises vehicles, equipment and material necessary to perform any function in terms of this Act.

(2) A warrant contemplated in subsection (1) may only be issued by a judge or magistrate on written application by an inspector setting out under oath or affirmation—

(a) that there are reasonable grounds for suspecting that a contravention of this Act has occurred or is occurring;

(b) the need to enter a place other than a licenced one, including a private dwelling;

(c) a search of the premises is likely to yield information to the alleged contravention; and

(d) the search is necessary for the purpose of enforcing the Act.

(5) The warrant contemplated in subsection (1) must—

(a) identify the premises that may be entered and searched; and

(b) specify the parameters within which the inspector may perform an entry, search or seizure.

(6) The warrant contemplated in subsection (1) may be executed only during the hours of 08h00 and 17h00 of a day, other than a Saturday, Sunday or

public holiday, unless the judge or the magistrate who issued the warrant authorises that it may be executed at any other time that is reasonable in the circumstances.

(7) The warrant contemplated in subsection (1) is valid only until—

(a) the warrant is executed;

(b) the warrant is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;

(c) the purpose for which it was issued, has elapsed; or

(d) the expiry of one month after the date when it was issued,

whichever occurs first.

(8) An inspector who conducts an inspection in terms of this section may be accompanied and assisted by one or more police officers, labour inspectors, environmental inspectors and health and safety inspectors or any other necessary regulatory compliance inspector or officer.

(9) An inspector, police officer and any compliance officer accompanying him or her must, when entering and searching any premises in terms of this section, conduct the entry and search with strict regard to decency and every person's right to dignity, freedom, security and privacy.

(10) A police officer who is assisting an inspector in terms of subsection (8) may use necessary force to overcome resistance by any person to the entry, search or seizure, including—

(a) breaking a door or window of the premises; or

(b) breaking any lock or other barrier which prevents the search of any safe, storage facility or other receptacle on the premises.

(11) Before using force in terms of subsection (10), a police officer must audibly demand admission or access and must announce the purpose of entry, unless it is reasonable to believe that doing so may induce someone to destroy, dispose of or conceal an object, system, data, article, document or record that forms part of the search or is otherwise relevant to the search.

(12) A person may refuse to permit the removal of an article, system, data, document or record on the grounds that it contains privileged or protected information, but that person may not cause such article, system, data, document or record to be amended, altered or destroyed until the inspector has been afforded a reasonable time to act under subsection (13), and any person who wilfully does so, is guilty of an offence.

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(13) If the owner or person in control of an object, system, data, document or record refuses to give that object, system, data, document or record to the inspector conducting the search, the Controller, Regional Controller or inspector may request the registrar or sheriff of the High Court that has jurisdiction, to attach and remove that object, system, data, document or record for safe custody until a court determines whether or not the information contained in it is privileged or protected.

(14) The Controller may coordinate the exercise of the functions of the management of this Act with other organs of state to regulate, and promote transformation and good industry practices of the South African petroleum products, and liquid fuels sector.

CHAPTER 6
APPEALS

Appeals

23. (1) Subject to subsections (2) and (3), any person directly affected by a decision of the Controller or Regional Controller, may, lodge an appeal to the Minister, in the prescribed manner, against such decision.

(2) An appeal lodged in terms of subsection (1) must be accompanied by—

(a) a written explanation setting out the nature of the appeal;

(b) any documentary evidence upon which the appeal is based; and

(c) be limited to a decision of the Controller.

(3) An appeal must be lodged—

(a) within 60 days of the date on which the affected person became aware of, or ought to have become aware of, the decision being made; and

(b) upon payment of the prescribed fee.

(4) An appeal lodged in terms of this section does not suspend the decision by the Controller or Regional Controller pending the outcome of the appeal.

(5) The Minister may extend the prescribed period for lodging an appeal as contemplated in subsection (3)*(a)* by 30 days if the delay was not unduly caused by the person lodging the appeal.

Establishment and functions of appeal body

24. (1) The Minister must establish an independent appeal body to consider appeals lodged in terms of section 23.

(2) The appeal body consists of a chairperson, and not less than two, but not more than six, members appointed by the Minister.

(3) The members of the appeal body, viewed collectively, must have qualifications, experience, training and expert knowledge of the petroleum products industry, economics, law, commerce or any other related field.

(4) The Minister must prescribe the manner and procedure for the hearing of an appeal.

(5) The decisions of the appeal body must be in writing and include reasons for that decision.

(6) The appeal body must recommend that the Minister either—

(a) confirm, vary or set aside any decision under appeal; or

(b) set aside the decision and remit the matter for reconsideration by the Controller.

(7) The Minister may accept the recommendation by the appeal body or make any other appropriate decision and communicate the outcome to the persons concerned.

Chairperson of appeal body

25. (1) The Minister must appoint a chairperson of the appeal body.

(2) The chairperson or, if he or she is temporarily absent, the remaining members of the appeal body, may appoint from amongst themselves an acting chairperson to perform the functions of the chairperson.

(3) The chairperson of the appeal body is responsible for convening, administrating and conducting meetings of the appeal body.

Members of appeal body

26. (1) A person may not be a member of the appeal body if that person—

(a) is a member of Parliament or a provincial legislature or is a municipal councillor;

(b) is a member of Cabinet or the Executive Council of a province;

(c) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine or, in the case of fraud, to a fine or imprisonment or both;

(d) is an unrehabilitated insolvent;

(e) is declared to be of unsound mind; or

(f) has been removed from an office of trust.

(2) *(a)* A member of the appeal body is appointed for a period determined by the Minister, which period must not exceed three years.

(b) The Minister must have regard to the decision that is being appealed when determining the period of appointment of members of the appeal body.

(3) A member of the appeal body may resign by giving the Minister one month's written notice in advance.

(4) The chairperson may resign as the chairperson, but remain as a member of the appeal body.

(5) If, because of resignation, illness, death, withdrawal from an appeal or recusal due to conflict of interest, a member of the appeal body is unable to complete the consideration of the appeal, the Minister may—

(a) appoint a new member to the appeal body;

(b) direct that the consideration of the appeal must proceed before the remaining members of the appeal body; or

(c) terminate the proceedings before that appeal body and constitute another appeal body, which may include any member of the original appeal body, to consider the appeal.

Removal of member of appeal body

27. (1) The Minister must remove a member of the appeal body if that member—

(a) meets any of the criteria listed in section 26(1);

(b) conducts serious misconduct;

(c) failed to fully disclose an interest under section 29;

(d) resigns by written notice addressed to the Minister; or

(e) has, without the leave of the Minister, been absent from more than two consecutive meetings of the appeal body.

(2) The Minister may after following due process remove a member of the appeal body—

(a) if the performance of the member is unsatisfactory;

(b) if the member is unable to perform the functions effectively; or

(c) on any reasonable ground as may be prescribed.

(3) A member contemplated under subsection (2) may prior to a decision for his or her removal make any relevant objections concerning his or her removal to the Minister, which must be considered by the Minister.

Remuneration outside of public service

28. A member of the appeal body who is not in the full-time employment of the State must be paid the remuneration, allowances and other benefits as the Minister, in consultation with the Minister of Finance, may determine.

Disclosure by member of appeal body

29. If, before or during the consideration of an appeal in which a member is participating, it becomes apparent that the member or a family member of such member has an interest in the appeal, that member must—

(a) immediately and fully disclose this interest, in writing, to the chairperson and the other members of the appeal body; and

(b) withdraw from any further involvement in the appeal.

CHAPTER 7
GENERAL AND MISCELLANEOUS

Evidence

30. (1) A notice issued by the Minister or any person authorised thereto by the Minister, setting out the price at which it would have been permissible for any particular person to sell, on any particular date or during any particular period, any petroleum product specified in the certificate, is on its mere production by any person in any criminal proceedings *prima facie* proof of such price.

(2) Any statement or entry contained in any record or document kept by any person or his manager, agent or employee, is admissible against such person in any criminal proceedings as an admission of the facts set out in such statement or entry, unless it is proved that the statement or entry was not made by such person or his manager, agent or employee.

(3) A document in a charge in any criminal proceedings that shows—

(a) that any petroleum product alleged to have been sold or purchased, or supplied or acquired, is a petroleum product; or

(b) that any petroleum product is a petroleum product of a kind to which any provision of this Act applies,

is deemed to constitute sufficient proof of the matter alleged until the contrary is proven.

(4) If in any prosecution for a contravention of a prohibition imposed under section 3(2) *(a)* and *(b)*, relating to the use of any petroleum product specified in the charge, it is proved that the accused performed an act, which would have constituted the contravention if only such petroleum product had been used for the performance of that act, it is presumed that only such petroleum product was used for the performance of that act, unless it is proved that other factors contributed to the performance of that act to the extent that in the absence thereof that act would not have been performed.

Offences and penalties

31. (1) *(a)* Any person who holds a licence in terms of this Act and does not comply with the licence conditions for that licence, after being issued with a compliance notice contemplated in section 14(9), is liable to a prescribed administrative fine of not more than R500 000 per day of an infringement: Provided that such person may after exhausting the appeal process contemplated in section 23, apply to a court with jurisdiction to review the imposition of that administrative fine: Provided further that such person may not be prosecuted in respect of that infringement.

(b) Subject to paragraph *(c)*, a person convicted of an offence in terms of this Act for which no penalty is otherwise expressly determined, may be sentenced to a fine of R50 000.

(c) Any person who is convicted of an offence committed in terms of a section of this Act as mentioned in—

(i) Column 1 of Table 1 of the Schedule, may be sentenced to a fine or imprisonment not exceeding the amount or period in column 2, 3, 4 or 5 of Table 1, respectively; and

(ii) Column 1 of Table 2 of the Schedule may be sentenced to a fine or imprisonment not exceeding the amount or period mentioned in Column 2, 3 or 4 of Table 2.

(2) In respect of an offence referred to in subsection 1*(c)*(i) committed by a repeat offender, the maximum fine and term of imprisonment is double the fine and term of imprisonment stated in column 2, 3, 4 and 5 respectively.

(3) The Minister may, by notice in the *Gazette*, in consultation with the Minister responsible for justice, amend the amount referred to in subsection (1)*(a)*, *(b)* and *(c)* in order to counter the effect of inflation.

(4) Despite the penalties imposed in terms of subsection (1), the Controller may, in the prescribed manner, suspend or revoke a licence of any person that does not comply with the provisions of this Act or the licence conditions.

Arbitration

32. (1) The Controller may, on request of a licensee who is alleging an unfair or unreasonable contractual practice by another licensee, request, in writing to the parties concerned, that the parties submit the matter to arbitration.

(2) An arbitration contemplated in subsection (1) must be heard—

(a) by an arbitrator chosen by the parties concerned; and

(b) in accordance with the rules agreed between the parties.

(3) If the parties fail to reach an agreement regarding the arbitrator, or the applicable rules within 14 calendar days of receipt of the request by the Controller in subsection (1)—

(a) the Controller must, upon notification of such failure, appoint a suitable person to act as arbitrator within 14 calendar days; and

(b) the arbitrator must determine the applicable rules.

(4) An arbitrator contemplated in subsection (2) or (3)—

(a) must determine whether the alleged contractual practices concerned are unfair or unreasonable and, if so, must make such award as he or she considers necessary to correct such practice; and

(b) must determine whether the allegations giving rise to the arbitration were frivolous or capricious and, if so, must make such award as he or she considers necessary to compensate any party affected by such allegations.

(5) Any award made by an arbitrator contemplated in this section is final and binding upon the parties concerned and may, at the arbitrator's discretion, include any order as to costs to be borne by one or more of the parties concerned.

(6) The Controller must, within 14 days of the start of any arbitration proceedings, be notified by the licensee, in writing, of a licensee in terms of this Act that is undergoing arbitration.

(7) The Controller must, within 14 days after an arbitration award, be notified, in writing, by the licensee of the award made by the arbitrator.

Regulations

33. (1) The Minister may make regulations—

(a) regarding anything that must or may be prescribed under this Act;

(b) regarding manufacturing, wholesale, site or retail licences, including—

(i) the form and manner in which an application for a licence or an amendment to an already issued licence must be made;

(ii) procedures to be applied in the evaluation of an application for a licence, and the period within which it must be considered;

(iii) the fees payable for licences;

(iv) the form of a licence;

(v) the conditions of a licence that may be imposed by the Controller in respect of a particular licence or a category of licences, including—

(aa) the rights, duties and obligations of licensees in the manufacture, handling, storage, packaging, dispensing and sale of petroleum products;

(bb) conditions relating to the advancement of historically disadvantaged South African persons in the petroleum products sector in accordance with the B-BBEE Act; and

(cc) the number of retail licences that may be held by a licensed wholesaler for retail training purposes;

(vi) the obligation of a licensee to keep records and to furnish particular information to the Controller, and the frequency of furnishing such information;

(vii) the transfer of ownership of licences, excluding the price of the licensed property;

(viii) the termination of a licence and the procedures relating to such termination; and

(ix) the total number of licences for any category or categories of licences in any period to promote efficiency in the petroleum products sector;

(c) regarding the purchase or sale, by licensed wholesalers and manufacturers, of petroleum products conditions relating thereto;

(d) regarding the supply, to a licensed retailer, of petroleum products and conditions relating thereto;

(e) prohibiting a business practice which conflicts with the objects referred to in section 2;

(f) regarding the records and information to be kept by the Controller, and the furnishing thereof to third parties in accordance with the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

(g) regarding the continuity of supply of petroleum products by licensees under normal operating conditions, and in cases of potential or actual emergency, including an amendment to such licence;

(h) regarding the specifications and standards of petroleum products;

(i) regarding the prohibition of the blending or mixing of different petroleum products or the blending or mixing of petroleum products with other substances which will lead to deviation from prescribed petroleum product specifications or standards or for the purpose of avoiding the payment of any tax, duty or levy;

(j) regarding the rehabilitation of land used in connection with a licensed activity by the licensee concerned, including the lodging of financial security for rehabilitation purposes and the composition and amount of such security; and

(k) the period within which a decision on an appeal should be given.

(2) The Minister must, except in an emergency, prior to promulgating any regulation contemplated in subsection (1)—

(a) invite public comments thereon by publishing in the *Gazette* the full particulars of the specification or standard;

(b) allow a period of not less than two months after the date of publication of such *Gazette* for the submission of public comments; and

(c) duly consider such comments.

(3) The Minister may, as appropriate, when making regulations in terms of subsection (1)*(j)* regarding the rehabilitation of land used in connection with a licensed activity, prescribe—

(a) the financial security for rehabilitation purposes and the composition and amount of such security;

(b) who will retain and use such a financial provision as may be required for rehabilitation; and

(c) how, the person the Minister deems fit, will use such a portion of the financial provision as may be required for rehabilitation.

Transitional provisions

34. (1) For the purposes of this section-

"licence holder" means a manufacturer, wholesaler, retailer or end consumer that holds licence or certificate issued in terms of this Act, subject to section 3.

(2) Any person, who at the time of the commencement of this Act-

(a) is a site licence holder;

(b) is developing a retail site; and

(c) is in the process of obtaining a retail licence

shall be deemed to be a licence holder in terms of this Act.

(3) All existing Petroleum Products Act, 1977 licence holders must apply for a licence in terms of this Act within 6 (six) months from the date of commencement of this Act.

(4) The appointed inspectors, Regional Controllers and Controller in terms of the Petroleum Products Act, 1977 and the administrative support staff will continue to execute the functions until such time as the Minister appoints them in terms of this Act.

Repeal of laws

35. The Petroleum Products Act, 1977 (Act No. 120 of 1977) is hereby repealed.

Short title and commencement

36. This Act is called the Petroleum Products Act, 2024, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.

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PETROLEUM PRODUCTS BILL, 2004

SCHEDULE

MAXIMUM PERIOD OF IMPRISONMENT FOR OFFENCES

TABLE 1

OFFENCES UNDER CHAPTER 2

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
3(2)*(a)*	the use of any petroleum product for a specified purpose or for the performance of any act in a manner as specified	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(b)*	the purchase, sale, supply, acquisition, possession, disposal, storage or transportation or the	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	recovery and re-refinement of any specified petroleum product				
3(2)*(c)*	the supply to any person of any equipment intended for the dispensing of any petroleum product	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(d)*	the establishment or creation of an outlet for the sale of any petroleum product	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(e)*	the transfer from one place to another of any	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	business or undertaking conducted at an outlet				
3(2)*(f)*	the change of suppliers of petroleum products to any business or undertaking conducted at any outlet	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(g)*	the rendering of any service	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(h)*	the supply of petroleum products to any business or undertaking conducted at any outlet at which any service of a particular kind or a service of	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	a particular standard is not available to the public				
3(2)*(i)*	the price and margin, or a maximum or minimum price, or a maximum and minimum price, at which any petroleum product may be sold or bought by any person, and conditions under which the selling or buying of petroleum products, other than in accordance with the set, maximum or	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	minimum price and margin, may take place				
3(2)*(j)*	any business practice, margin, method of trading, agreement, arrangement, scheme or understanding which, in the opinion of the Minister, is calculated— (i) to influence, or which may have the effect of influencing, directly or indirectly, the purchase or selling price of	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	petroleum products; or (ii) to cause, or which may have the effect of causing, directly or indirectly, an increase in the price referred to in paragraph *(i)*				
3(2)*(k)*	the supply of any petroleum product to any business or undertaking conducted, including the imposition of conditions relating to the price and margin at which such	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
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	product may be sold to such business or undertaking, or prohibit such supply				
3(2)*(l)*	any person to publish the prices at which petroleum products are available for sale, including conditions relating to the frequency of such publications, its content and structure, the method and manner of its publication and the	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

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Section and nature of offence		**Contravention of a determination in terms of section 4(5)(a)**	**Contravention of a specification in terms of section 4(5)(b)**	**Contravention of a requirement in terms of section 4(5)(c)**	**Contravention of a Prohibition in terms of section 4(5)(d)**
	displaying thereof				
3(2)*(m)*	the quantities of crude oil or petroleum products to be maintained by any person	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years
3(2)*(n)*	the minimum quantities of crude oil or petroleum products that must be imported by the State	R500 000 per day of infringement or 5 years	R100 000 per day of infringement or 1 year	R50 000 per day of infringement or 6 months	R500 000 per day of infringement or 5 years

TABLE 2

OTHER OFFENCES

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
Prohibited activities and conditions for licences and certificates				
14(1)*(a)*	A person who manufactures petroleum products without a manufacturing licence	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(1)*(b)*	A person who wholesales bulk petroleum products without a wholesale licence	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(1)*(c)*	A person who holds or develops a site without a site licence for that site	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(1)(d)	A person who retails petroleum products for retail without a retail licence	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(3)	A licensed manufacturer may only sell petroleum products to a licensed wholesaler, certified end consumer facility	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment

Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	or a licensed retailer			
14(4)	A licensed retailer who purchases petroleum products from a person other than a licensed wholesaler or a licensed manufacturer,	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(5)	A licensed wholesaler who sells petroleum products to an end consumer or engage in a retail activity	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(6)	A certified end consumer facility may only use petroleum products for own consumption but who also sells or trades petroleum products or engages in any wholesale or retail activity	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
14(7)*(a)*	A person, excluding wholesalers, distributors, storage facilities and retailers of liquefied petroleum gas and paraffin, who makes use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in a licensed wholesaler holding a retail licence or engaging in retail activities	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
14(7)*(b)*	A person, excluding retailers and wholesalers, distributors, storage facilities of liquefied petroleum gas and	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	paraffin, who makes use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in a licensed retailer holding a wholesale licence or engaging in wholesale activities			
14(7)*(c)*	A person who make use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in self-service by consumers of prescribed petroleum	The financial benefit arrived from the illegal activity PLUS 3% of the revenue made in the period of the infraction or R1 000 000 per day of infraction (whichever is highest).	5 years	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	products on the premises of a licensed retailer			
Issuing of instructions by inspectors				
18(4) read with 18(2)(a)	Failure by a licensee or person to take the necessary steps to comply with the relevant provision and such steps specified in the instruction - Operations at the licence site, outlet or premises be halted	R1 000 000 Spot fine or stopping of operations and seizure of documents, articles, substance or machinery	10 years	Double the fine and term of imprisonment
18(4) read with 18(2)(b)	Failure by a licensee or person to take the necessary steps to comply with the relevant provision and such steps specified in the instruction Performance of any act, practice at licenced site,	R500 000 spot fine or stopping of operations and seizure of documents, articles, substance or machinery	5 years	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	outlet, premises be suspended or halted and conditions on the performance of act or practice			
18(4) read with 18(2)(c)	Failure by a licensee or person to take the necessary steps to comply with the relevant provision and such steps specified in the instruction within the specified period to rectify the occurrence, practice or condition	R500 000 spot fine or stopping of operations and seizure of documents, articles, substance or machinery	5 years	Double the fine and term of imprisonment
18(4) read with 18(2)(d)	Failure by a licensee or person to take the necessary steps to comply with the relevant provision and such steps specified in the instruction	R1 000 000 Spot fine or stopping of operations and seizure of documents, articles,	10 years	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	Movement of person from site, outlet of persons	substance or machinery		
Issuing of notices by Controller and Regional Controller				
19(2)	Failure to comply with a compliance notice issued by the Controller or Regional Controller in terms of section 19(1)	R500 000 per day of infringement	5 years	Double the fine and term of imprisonment
Duty to comply with requests and inspections				
20(1)	Any person who must hold a licence, certificate or other document in terms of this Act and who fails to produce it at the request of the Controller, Regional Controller or any inspector	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment
20(2)	Failure to appear before the inspector,	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	Regional Controller or Controller to be questioned on any matter to which this Act relates			
20(5)	Failure to grant the Controller, Regional Controller or inspector access to conduct an inspection in terms of section 21 or 22	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment
20(6)	Any person who wilfully hinders the Controller, Regional Controller or inspector in the exercise of his or her powers or in the performance of his or her duties in terms of this Act	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment
20(7)	Failure to provide access to conduct an inspection to a facility that the Controller,	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	Regional Controller or inspector reasonably require			
Regular inspection to licensees				
21(3)	Any person who wilfully uses, removes or destroys any product, substance, material, machinery, object, system, or data, book, record or other document in respect of which an inspector has issued a prohibition contemplated in section 21(2)*(a)*	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment
Compliance inspection				
22(12)	A person who causes an article, system, data, document or record to be	R50 000 per day of infringement	6 months	Double the fine and term of imprisonment

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Clauses	Offence committed	Column 2 Maximum fine	Column 3 Maximum term of imprisonment	Column 4 Maximum fine and term of imprisonment for repeat offenders
	amended, altered or destroyed pending a judicial attachment of such items under section 22 (13)			

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