

PETROLEUM PRODUCTS ACT 120 OF 1977[/SAPL4]

[ASSENTED TO 11 JULY 1977] [DATE OF COMMENCEMENT: 16
SEPTEMBER 1977]

(English text signed by the State President)

as amended by

Petroleum Products Amendment Act 72 of 1979
Petroleum Products Amendment Act 61 of 1985
Petroleum Products Amendment Act 68 of 1991
Petroleum Products Amendment Act 46 of 1993

Regulations under this Act

REGULATIONS IN RESPECT OF THE SAVING OF PETROLEUM PRODUCTS
ACT

To provide measures for the saving of petroleum products and an economy in the cost of the distribution thereof, and for the maintenance and control of a price therefore; for control of the furnishing of certain information regarding petroleum products; and for the rendering of services of a particular kind, or services of a particular standard, in connection with motor vehicles; and to provide for matters incidental thereto.

[Long title substituted by s. 6 of Act 72 of 1979 and by s. 6 of Act 68 of 1991.]

[a120y1977s1]1 Definitions

In this Act, unless the context otherwise indicates-

'inspector' means a person appointed or authorized in terms of section 3 to act as an inspector;

'Minister' means the Minister of Mineral and Energy Affairs and Public Enterprises;

[Definition of 'Minister' substituted by s. 1 of Act 61 of 1985 and by s. 1 (a) of Act 68 of 1991.]

'outlet', in relation to a petroleum product, means any place where any petroleum product is sold or is offered for sale to consumers;

'petroleum product' means any petroleum fuel and any lubricant, whether used or unused, and includes any other substance which may be used for a purpose for which petroleum fuel or any lubricant may be used;

'Republic'

[Definition of 'Republic' deleted by s. 1 (b) of Act 68 of 1991.]

'service' means the repair and maintenance of motor vehicles, and includes any other service provided at an outlet in connection with a motor vehicle;

'this Act' includes any regulation or notice issued or given in terms of this Act;

'Treasury' means the Minister of Finance or an officer in the Department of Finance who, by virtue of a division of work in that Department, deals with the matters assigned to the Treasury by this Act.

[a120y1977s2]2 Powers of Minister and others with regard to petroleum products

(1) The Minister may by regulation or by notice in writing served on any person, whether personally or by post, and any person authorized thereto by the Minister may by such notice so served-

(a) for the purposes of ensuring a saving of petroleum products, regulate in such manner as he may deem fit, including the imposition upon any person of any duty in connection therewith, or prohibit-

(i) the use of any petroleum product for any purpose specified in the regulation or notice, as the case may be, or for the performance of any act so specified in a manner so specified;

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

[Para. (a) substituted by s. 1 of Act 72 of 1979.]

(b) for the purposes of ensuring an economy in the cost of distribution of petroleum products or the rendering of a service of a particular kind or of services of a particular standard, regulate in such manner as he may deem fit, or prohibit-

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

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

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

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

(v) the rendering of any service;

(vi) 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;

(c) prescribe the price, or a maximum or minimum price, or a maximum and minimum price, at which any petroleum product may be sold by any person;

[Para. (c) substituted by s. 2 of Act 68 of 1991.]

(d) regulate in such manner as he may deem fit, or prohibit, any business practice, 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 at any outlet; or

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

[Para. (d) added by s. 2 (b) of Act 61 of 1985 and substituted by s. 1 (a) of Act 46 of 1993.]

(e) regulate in such manner as he may deem fit the supply of any petroleum product to any business or undertaking conducted at any outlet, including the imposition of conditions relating to the price at which such product may be sold to such business or undertaking or at such outlet, or prohibit such supply.

[Para. (e) added by s. 2 (b) of Act 61 of 1985 and substituted by s. 1 (b) of Act 46 of 1993.]

[Sub-s. (1) amended by s. 2 (a) of Act 61 of 1985.]

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

[a120y1977s3]3 Appointment and powers of controllers and inspectors

(1) The Minister may-

(a) subject to the laws governing the public service, appoint any person in the public service as Controller of Petroleum Products and appoint persons in the public service as regional controllers of petroleum products or as inspectors for the Republic or any part thereof;

(b) on such conditions and at such remuneration as he may in consultation with the Treasury determine, appoint or authorize any other person or person belonging to any other category of persons to act as regional controller of petroleum products or as inspector for the Republic or any part thereof.

(2) Subject to the provisions of this Act, the Controller of Petroleum Products, a regional controller of petroleum products and an inspector-

(a) may assist the Minister in the exercise of his powers and the performance of his functions under this Act;

(b) may gather such information in connection with the operation or administration of this Act as the Minister may desire, and investigate any offence relating to this Act.

(3) The Minister shall, subject to the provisions of this Act, determine the powers, duties and functions of the Controller of Petroleum Products, a regional controller of petroleum products and an inspector, and different powers, duties and functions may thus be determined in respect of different persons or categories of persons appointed or authorized under subsection (1).

(4) (a) 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, the Minister may in respect of an offence under this Act, by regulation confer upon an inspector such powers as he may deem necessary, expedient or useful in respect of-

(i) the searching without warrant of any premises, including any vehicle, vessel or aircraft and any receptacle of whatever nature;

(ii) the seizure without warrant of any petroleum product and the disposal thereof.

(b) Different powers may be conferred under paragraph (a), or under the said section 334 (1), in respect of different inspectors or categories of inspectors.

(c) A notice issued under the said section 334 (1) shall have the effect of repealing any regulation made under paragraph (a).

(5) 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, shall be subject to the directions and control of the Minister and no power conferred upon such inspector shall be exercised by him unless he is at the time of exercising such power in possession of a certificate of appointment issued by the Minister in terms of subsection (1) (a) or (b), which certificate shall be produced on demand.

(6) A document in the form determined by the Minister, certifying that any person has been appointed or authorized to act as Controller of Petroleum Products or as regional controller of petroleum products or as inspector under this Act, and purporting to have been signed by a person designated for the purpose by the Minister, shall be prima facie proof of such appointment or authorization.

[a120y1977s4]4

[S. 4 repealed by s. 3 of Act 61 of 1985.]

[a120y1977s4A]4A Regulation or prohibition of publication, releasing, announcement, disclosure or conveyance of information, or making of comment

The Minister may by regulation or by notice in writing served on any person, whether personally or by post, and any person authorized thereto by the Minister may by such notice so served, regulate in such manner as he may deem fit, or prohibit, the publication, releasing, announcement, disclosure or conveyance to any person of information or the making of comment regarding-

(a) the source, manufacture, transportation, destination, storage, consumption, quantity or stock level of any petroleum product acquired or manufactured or being acquired or manufactured for or in the Republic;

(b) the taking place and particulars of negotiations in respect of the acquisition of petroleum products for the Republic and the transportation or

consumption thereof, or of any other business transaction in connection with any such petroleum product.

[S. 4A inserted by s. 2 of Act 72 of 1979 and substituted by s. 4 of Act 61 of 1985.]

[a120y1977s4B]4B Minister may enter into certain agreement

(1) The Minister may enter into an agreement with any person or category of persons to exempt such person or category of persons from the provisions of a regulation or notice referred to in section 4A, and to regulate the publication, releasing, announcement, disclosure or conveyance of, or making of comments regarding, information in connection with petroleum products by such person or category of persons.

[Sub-s. (1) substituted by s. 5 (a) of Act 61 of 1985.]

(2) (a) Any agreement in terms of subsection (1) shall be published in the Gazette and may not be unilaterally cancelled save in the case of a serious breach of the provisions thereof.

(b) In the case of a dispute as to the question whether or not there is such a breach, such dispute shall be submitted to a tribunal specified in the agreement, for a decision.

(3) In the event of the cancellation of any such agreement the provisions of the said regulation or notice referred to in section 4A shall apply to such person or category of persons with effect from the date of notification of the cancellation by notice in the Gazette.

[Sub-s. (3) substituted by s. 5 (b) of Act 61 of 1985.]

[S. 4B inserted by s. 2 of Act 72 of 1979.]

[a120y1977s5]5 Exemptions

The Minister may on such conditions as he may deem fit, by regulation or by notice in writing to any person or category or group of persons, exempt such person or category or group of persons from any provision of this Act.

[a120y1977s6]6 Delegation of powers

The Minister may, subject to such conditions as he may deem fit, authorize any person to exercise on his behalf any of the powers conferred upon him by this Act.

[a120y1977s7]7 Liability of employer or principal

(1) An act or omission of an employee, manager or agent which constitutes an offence under this Act, shall be deemed to be the act or omission of his employer or principal, and such employer or principal may be convicted and sentenced in respect thereof unless he proves-

(a) that he did not permit or connive at such act or omission;

(b) that he took all reasonable measures to prevent an act or omission of the nature in question; and

(c) that an act or omission, whether legal or illegal, of the nature in question did not under any condition or in any circumstances fall within the course of employment or the scope of the authority of the employee, manager or agent concerned.

(2) For the purposes of subsection (1) (b) the fact that an employer or principal forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he took all reasonable measures to prevent such an act or omission.

(3) The provisions of subsection (1) shall not relieve the employee, manager or agent concerned of liability to be convicted and sentenced in respect of the act or omission in question.

[a120y1977s8]8 Application of certain regulations to persons in service of State

(1) The Minister may by notice in the Gazette declare any regulation issued under section 2 (1) (a) or 4A to apply also with reference to any person or category of persons in the service of the State while acting in the performance of his or their duties.

[Sub-s. (1) substituted by s. 6 of Act 61 of 1985.]

(2) A notice issued under subsection (1) may grant exemption from the provisions thereof or may provide for the granting of such exemption.

[a120y1977s9]9 Evidence

(1) A certificate purporting to be issued by the Minister or any person authorized thereto by the Minister and setting forth 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, shall on its mere production by any person in any criminal proceedings be prima facie proof of such price.

(2) Any statement or entry contained in any book or document kept by any person or his manager, agent or employee, shall be admissible against such person in any criminal proceedings under this Act as an admission of the facts set forth 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) If it is alleged in a charge in any criminal proceedings under this Act-

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

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

such allegation shall be deemed to constitute sufficient proof of the matter alleged until the contrary is proved.

(4) If in any prosecution for a contravention of a prohibition imposed under section 2 (1) (a) 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 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.

[Sub-s. (4) substituted by s. 3 of Act 72 of 1979.]

[a120y1977s10]10 Construction of reference in Criminal Procedure Act, 1977, to certain amounts

In the application of sections 56, 57 and 112 of the Criminal Procedure Act, 1977 (Act 51 of 1977), in respect of an offence under this Act, any reference in any such section to an amount of R300 shall be construed as a reference to an amount of R500.

[S. 10 substituted by s. 3 of Act 68 of 1991.]

[a120y1977s11]11 Disposal of certain moneys

The Minister may, in consultation with the Minister of Finance-

(a) from time to time direct that any moneys recovered by way of fines or estreated bail in connection with an offence or category of offences under this Act and specified in the direction, shall be paid to-

(i) any local authority established under section 84 (1) (f) of the Provincial Government Act, 1961 (Act 32 of 1961);

[Sub-para. (i) substituted by s. 7 of Act 61 of 1985.]

(ii) a provincial administration;

[Sub-para. (ii) substituted by s. 4 of Act 68 of 1991.]

(iii) a government of any territory which is a self-governing territory within the Republic in terms of any law;

(iv) any other person; or

(v) any fund established by any law,

which is designated, or determined in accordance with the requirements, circumstances or particulars stated, in the direction;

[Para. (a) substituted by s. 4 of Act 72 of 1979.]

(b) amend or revoke any direction given under paragraph (a).

[a120y1977s12]12 Offences and penalties

(1) If any person contravenes or fails to comply with any provision of this Act, and such contravention or failure is not elsewhere in this Act declared an offence, or hinders an inspector in the exercise of his powers or the performance of his duties under this Act, he shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Sub-s. (1) substituted by s. 5 (a) of Act 72 of 1979.]

(1A) Any person who-

(a) contravenes any prohibition referred to in section 2 (1) (d), 2 (1) (e) or 4A;

(b) fails to comply with a provision of a regulation or a notice referred to in section 2 (1) (d), 2 (1) (e) or 4A, or commits an act in contravention of such a regulation or provision,

shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand rand or to imprisonment for a period not exceeding seven years or to both such fine and such imprisonment.

[Sub-s. (1A) inserted by s. 5 (b) of Act 72 of 1979 and substituted by s. 8 (a) of Act 61 of 1985.]

(2) Except in the case of an offence under section 7 or subsection (1A) of this section, in so far as the said subsection creates an offence relating to section 4A, the court may, in addition to any penalty under subsection (1), on such conditions as it may deem fit to impose-

(a) suspend or cancel the driver's licence, or the licence, permit or authorization to use a motor vehicle for a particular purpose, of any person who committed the offence in question by using, or by means or with the aid of, a motor vehicle;

(b) suspend or cancel the trading licence, permit or authorization of the person convicted, which is required in respect of the sale of any petroleum product, if the offence in question relates to the sale of any petroleum product;

(c) confiscate any property of the person convicted, which was used to commit the offence in question or by means or with the aid of which the offence in question was committed.

[Sub-s. (2) amended by s. 5 (c) of Act 72 of 1979 and by s. 8 (b) of Act 61 of 1985.]

[a120y1977s12A]12A Jurisdiction

(1) Any act prohibited by regulation or notice referred to in section 4A and which is committed outside the Republic by any South African citizen or any person domiciled in the Republic, shall be deemed to have been committed in the Republic.

(2) Any offence contemplated in subsection (1) shall for the purposes of jurisdiction be deemed to have been committed in any place in the Republic where the accused happens to be.

(3) For the purposes of this section and any regulation or notice under this Act, 'petroleum product' shall include crude oil.

[S. 12A inserted by s. 9 of Act 61 of 1985.]

[a120y1977s13]13

[S. 13 repealed by s. 5 of Act 68 of 1991.]

[a120y1977s14]14 Short title and commencement

(1) This Act shall be called the Petroleum Products Act, 1977, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.