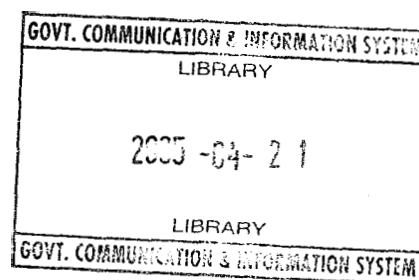


REPUBLIC OF SOUTH AFRICA

PETROLEUM PRODUCTS AMENDMENT BILL

*(As amended by the Portfolio Committee on Minerals and Energy (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF MINERALS AND ENERGY)



[B 16B—2004]

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GENERAL EXPLANATORY NOTE:

- I] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Petroleum Products Act **so** as to effect certain technical amendments: to delete a condition regarding the purchase and sale of certain petroleum products; to adjust the provision dealing with the system for the allocation of certain licences: to extend the power of the Minister of Minerals and Energy to make regulations: and **to** provide for matters connected therewith.

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

Amendment of section 1 of Act **120 of 1977**, as amended by section **1 of Act 61 of 1985**, section 1 of Act **68 of 1991** and section **1 of Act 58 of 2003**

1. Section 1 of the Petroleum Products Act, 1977 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "wholesale" of the following definition: 5

“ 'wholesale' means the purchase and sale in bulk of petroleum products by a licensed wholesaler to or from another licensed wholesaler, or to or from a licensed manufacturer, or sale to a licensed retailer or to an end-consumer for own consumption and 'wholesaler' shall be interpreted accordingly:” 10

Amendment of section **2A** of Act **120 of 1977**, as inserted by section **3 of Act 58 of 2003**

2. Section 2A of the principal Act is hereby amended by the substitution in subsection (4) for paragraph (c) of the following paragraph: 15

“(c) in the case of retail and wholesale licences be the owner of the business [entity] concerned;”.

Amendment of section **2B** of Act **120 of 1977**, as inserted by section **3 of Act 58 of 2003**

3. Section 2B of the principal Act is hereby amended by the deletion of subsection (6). 20

Amendment of section 2E of Act 120 of 1977, as inserted by section 3 of Act 58 of 2003

4. Section 2E of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 - "(1) The Minister must prescribe a system for the allocation of site and their corresponding retail licences **[and the supply of prescribed petroleum products to such licensees,]** by which the Controller of Petroleum Products shall be bound: Provided that the Controller of Petroleum Products shall only be bound by the provisions of such a system for the period set out in that regulation or any amendment thereto or any substitution thereof which period may not exceed 10 years from the date of commencement of that regulation.";
- (b) by the substitution in subsection (3) for paragraph (d) of the following paragraph:
 - "(d) must promote efficient investment in the retail sector and the productive use of retail facilities and may in this regard—
 - (i) **[by limiting]** limit the total number of site and corresponding retail licences in any period
 - (ii) **[by linking]** 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: and
 - (iii) **[by]** use any other appropriate means:"; and
- (c) by the deletion in subsection (3) of paragraph (f).

Amendment of section 12C of Act 120 of 1977, as inserted by section 9 of Act 61 of 1991 and as substituted by section 13 of Act 58 of 2003

5. Section 12C of the principal Act is hereby amended by the insertion after subsection (1)(a) of the following paragraphs:

- "(aA) regarding the purchase or sale, by licensed wholesalers and manufacturers, of petroleum products manufactured from coal, natural gas or vegetable matter and conditions relating thereto;
- (aB) regarding the supply, to a licensed retailer, of petroleum products manufactured from coal, natural gas or vegetable matter and conditions relating thereto:".

Short title

- 6. This Act is called the Petroleum Products Amendment Act, 2005, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.**

MEMORANDUM ON THE OBJECTS OF THE PETROLEUM PRODUCTS AMENDMENT BILL, 2004

1. OBJECTS OF BILL

The Petroleum Products Amendment Bill, 2004 ("the Bill"), seeks to ensure that governance of the liquid fuels sector is in line with Government's policy objectives and with developments in the sector. The purpose of the Bill is to amend the Petroleum Products Act, 1977 (Act No. 120 of 1977), so as to effect certain technical adjustments, to substitute or delete certain conditions regarding the purchase and sale of petroleum products manufactured from coal, natural gas or vegetable matter and to authorise the Minister of Minerals and Energy to make regulations in this regard and to make amendments to the envisaged licensing system.

The Petroleum Products Amendment Act, 2003 (Act No. 58 of 2003), was approved by Parliament in September 2003 after extensive consultation with relevant stakeholders. The policy that underlies that Act is to achieve equilibrium in the required number of service stations within a period of 10 years. However, an unintended consequence of that Act is to postpone, rather than phase in, the reduction in the number of service stations when the industry is eventually deregulated.

In view of the unintended consequence it is now proposed that a more market-oriented approach be followed by specifically enabling the Minister to introduce regulations to curb the excesses of the market should this be necessary. Amendments to sections 2B, 2E(3) and 12C are proposed.

2. FINANCIAL IMPLICATIONS FOR STATE

The 2004 amendment of the Petroleum Products Act, 1977 (Act No. 120 of 1977), will have no additional cost implications.

3. CONSULTATION

All stakeholders were extensively consulted in the process leading up to the 2003 amendment and during the parliamentary process additional consultative meetings were held. No new issues are introduced by the 2004 amendment. The relevant stakeholders and affected parties have been informed of the proposed amendments.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Minerals and Energy are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or section 76 of the Constitution applies.