

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 906.

24 April 1985

No. 906.

24 April 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

—No. 46 of 1985: State Oil Fund Amendment Act, 1985.

No. 46 van 1985: Wysigingswet op die Staatsoliefonds, 1985.

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the State Oil Fund Act, 1977, so as to change the names of the company SOF (Proprietary) Limited and the State Oil Fund to CEF (Proprietary) Limited and the Central Energy Fund, respectively; to provide for the appointment of a board of directors to manage and control the affairs of CEF (Proprietary) Limited; to entrust CEF (Proprietary) Limited with the control of the Central Energy Fund, the Equalization Fund and the SFF Association; to determine the share capital of CEF (Proprietary) Limited and the SFF Association and to regulate the taking up of shares in the said companies; to provide for accountability in respect of money in the Central Energy Fund and the Equalization Fund as well as in respect of all other money entrusted to CEF (Proprietary) Limited and the SFF Association; to provide for the investigation, examination and auditing of the books, accounts and statements kept and prepared in connection with the transactions entered into by CEF (Proprietary) Limited and the SFF Association; and to provide for the submission to Parliament of a report relating to the said investigation, examination and auditing; and to provide for matters connected therewith.

(English text signed by the State President.)  
(Assented to 12 April 1985.)

**BE IT ENACTED** by the State President and the Parliament of the Republic of South Africa, as follows:—

Substitution of section 1 of Act 38 of 1977, as amended by section 1 of Act 74 of 1979 and sections 1 and 4 of Act 73 of 1984.

1. The following section is hereby substituted for section 1 of the State Oil Fund Act, 1977 (hereinafter referred to as the principal Act):

- “Payment of certain moneys into Central Energy Fund, utilization and investment thereof and management of affairs of CEF (Proprietary) Limited.
1. (1) There shall be paid into the **[State Oil] Central Energy Fund**, controlled by **[SOF] CEF (Proprietary) Limited**, a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973)—
- (a) **[as a charge to the State Revenue Fund, an amount of 4 cents of the customs or excise duty on a litre of petrol, distillate fuel or residual fuel oil paid into the State Revenue Fund, in respect of which no rebate or refund is applicable] such moneys as may accrue to the Central Energy Fund by virtue of section 1A (1) (b) or (c);**
- (b) **such moneys as may accrue to the [State Oil] Central Energy Fund by virtue of section 11 of the Petroleum Products Act, 1977 (Act No. 120 of 1977), or any other law; and**

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- (c) with the concurrence of the Minister of Mineral and Energy Affairs and the Minister of Finance, such other moneys as may accrue to the said Fund from any other source.
- (2) (a) Moneys paid under subsection (1) into the said **[State Oil] Central Energy Fund**, shall be utilized in accordance with directions of the Minister of Mineral and Energy Affairs for the financing or promotion of—
- (i) the acquisition of coal, the exploitation of coal deposits, the manufacture of liquid fuel, oil and other products from coal, the marketing of the said products and any matter connected with the said acquisition, exploitation, manufacture and marketing;
  - (iA) the acquisition, generation, manufacture, marketing or distribution of any other form of energy, and research connected therewith;
  - (ii) any other object for which that Fund may be applied, and which has been designated or approved by the said Minister **[in consultation]** with the concurrence of the Minister of Finance.
- (b) Any such moneys which in the opinion of the Minister of Mineral and Energy Affairs—
- (i) are not immediately required for a purpose mentioned in paragraph (a), shall be invested in such manner as the said Minister with the concurrence of the Minister of Finance may determine;
  - (ii) are not required for any such purpose, shall be paid into the State Revenue Fund.
- (3) The affairs of CEF (Proprietary) Limited shall be managed and controlled by a board of directors.
- (4) The board of directors referred to in subsection (3) shall consist of—
- (a) a chairman appointed by the Minister of Mineral and Energy Affairs for a period not exceeding five years, on such conditions, including conditions relating to remuneration and allowances, as the said Minister may, with the concurrence of the Minister of Finance, determine, and who may be reappointed;
  - (b) two officers in the Department of Mineral and Energy Affairs appointed by the Minister of Mineral and Energy Affairs, one of whom possesses, in the opinion of the said Minister, expert knowledge of crude oil supply and fuel matters; and
  - (c) not more than five other directors appointed by the Minister of Mineral and Energy Affairs on such conditions, including conditions relating to remuneration and allowances, as the said Minister may, with the concurrence of the Minister of Finance, determine.
- (5) A director referred to in subsection (4) (c) shall hold office for such period, but not exceeding five years, as the Minister of Mineral and Energy Affairs may determine at the time of his appointment, and shall be eligible for reappointment: Provided that if in his opinion good reasons exist for doing so, the said Minister may at any time terminate the period of office of any such director.
- (6) A member of Parliament, the President's Council or a provincial council may not be appointed

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as a director, and a director shall, on becoming such a member, vacate his office.

(7) Subject to the provisions of subsection (8), the remuneration and allowances of a director, and the cost of transport facilities or other benefits afforded to him in respect of his services as a director, shall be paid out of moneys appropriated by Parliament for such purpose. 5

(8) A director who is in the full-time service of the State shall not in respect of the services rendered by him as a director of CEF (Proprietary) Limited be paid any remuneration in addition to his salary by virtue of such service, nor shall any such director be paid any travel and subsistence allowances at a rate other than that applicable to him by virtue of such service. 10 15

(9) A director shall not be personally liable for any loss or damage arising out of, or in connection with, the performance of his duties by virtue of his appointment as a director, unless the loss or damage is due to anything done by the director in bad faith or to gross negligence on his part, or to a failure by him to comply with any provision of this Act." 20

Amendment of section 1A of Act 38 of 1977, as inserted by section 1 of Act 30 of 1979 and amended by section 2 of Act 74 of 1979, section 1 of Act 68 of 1980 and sections 2 and 4 of Act 73 of 1984.

2. Section 1A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister of Mineral and Energy Affairs may **[in consultation]** with the concurrence of the Minister of Finance—

(a) by notice in the *Gazette* or by notice in writing served on any person, whether personally or by post, impose a levy for the benefit of the Equalization Fund controlled by **[the SFF Association, a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973),]** CEF (Proprietary) Limited, on every litre of petrol, aviation spirit, kerosene, distillate fuel, residual fuel oil, naphtha, base oil, products of base oil or every kilogram of grease or liquefied petroleum gas which is manufactured, distributed or sold by an undertaking at any point in the Republic, or imported by any person into the Republic; or 35 40

(b) by like notice impose a levy for the benefit of the Central Energy Fund on every litre of petrol, distillate fuel or residual fuel oil on which customs or excise duty is payable in respect of which no rebate or refund is applicable; or 45

(c) by like notice impose a levy referred to in paragraph (a) as well as a levy referred to in paragraph (b)."; 50

(b) by the substitution for subsection (1A) of the following subsection:

"(1A) A levy referred to in subsection (1) may differ according to the purpose for which the product in question is used or the place where or the method by which the product in question is sold."; 55

(c) by the substitution for subsection (2) of the following subsection:

"(2) The notice shall state the amount of the levy, the interest payable in the event of the non-payment of the levy, the person who shall be liable for the payment thereof, the product referred to in subsection (1) in respect of which it shall be payable, the person who shall be responsible for the collection thereof and the times 60

when and the manner in which it shall be paid to a person mentioned in the notice and be handed over by that person to the **[Equalization]** Fund in question.”; and

(d) by the addition to subsection (3) of the following paragraph:

“(d) such other petroleum products as the Minister may from time to time determine.”.

Amendment of section 1B of Act 38 of 1977, as inserted by section 1 of Act 30 of 1979 and amended by section 3 of Act 73 of 1984.

3. Section 1B of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph: 10

“(b) without lawful reason refuses or fails to comply with any reasonable demand for information made by a person who is responsible in terms of a notice under section 1A for the collection of any levy, or by an officer in the service of **CEF (Proprietary) Limited**, the **SFF Association [or of the Department of Industries and Commerce]** or of the Department of Mineral and Energy Affairs;” 15

Insertion of sections 1D and 1E in Act 38 of 1977.

4. The following sections are hereby inserted in the principal Act after section 1C: 20

“Share capital of CEF (Proprietary) Limited and SFF Association.”

**1D. (1) The share capital of CEF (Proprietary)**

Limited and the share capital of the SFF Association, a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973), shall consist of those amounts, respectively, which the Minister of Mineral and Energy Affairs shall, with the concurrence of the Minister of Finance, determine from time to time on the recommendation of the board of directors of CEF (Proprietary) Limited, and shall be divided into ordinary shares of one rand each. 25

(2) Shares in CEF (Proprietary) Limited shall be taken up by the State only and shares in the SFF Association shall be taken up by CEF (Proprietary) Limited only, and no stamp duty, or fees in respect of any act performed in the Companies Registration Office, shall be payable in connection with a taking up of shares in terms of this subsection. 30

(3) The State shall take up shares in CEF (Proprietary) Limited to such extent and subject to such conditions, including conditions relating to the issue of any quantity of those shares to the State free of charge, as the Minister of Mineral and Energy Affairs may determine from time to time with the concurrence of the Minister of Finance. 35

(4) Subject to the provisions of subsection (3), shares in CEF (Proprietary) Limited shall be paid for from money appropriated by Parliament for that purpose. 40

(5) Shares in CEF (Proprietary) Limited and shares in the SFF Association shall not be transferable. 45

Accountability in respect of Central Energy Fund and Equalization Fund and auditing of accounts of and reporting on transactions of CEF (Proprietary) Limited and SFF Association.

**1E. (1) The chairman of the board of directors of CEF (Proprietary) Limited shall be the accounting officer charged with the responsibility of accounting for all money received by CEF (Proprietary) Limited or the SFF Association, and for all payments made by CEF (Proprietary) Limited out of the Central Energy Fund and the Equalization Fund and other payments made by CEF (Proprietary) Limited or the SFF Association.** 55

(2) The accounting officer shall—

(a) keep full and true records of all transactions entered into by CEF (Proprietary) Limited for account of the Central Energy Fund or the Equalization Fund and of all other transactions of CEF (Proprietary) Limited and the SFF Association; 60

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- (b) cause the books and accounts relating to the transactions referred to in paragraph (a) to be balanced as at the thirty-first day of March in each year;
  - (c) after the balancing referred to in paragraph (b) prepare, in respect of the Central Energy Fund, the Equalization Fund, CEF (Proprietary) Limited and the SFF Association, separate statements of income and expenditure during the preceding financial year and balance sheets showing their assets and liabilities as at the end of that financial year.
- (3) The books, accounts, statements and balance sheets referred to in subsection (2), shall be investigated, examined and audited by the Auditor-General.
- (4) (a) As soon as is practicable after completion of every audit in terms of subsection (3) in respect of a particular financial year, the Auditor-General shall transmit a report, signed by him, relating to the investigation, examination and auditing in question, together with his certificate as contemplated in section 45 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), to the Minister of Finance, who shall, within seven days after he has received it, lay that report upon the Table in the respective Houses of Parliament if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within seven days after the commencement of its next ensuing ordinary session: Provided that the Auditor-General may at any time, if he considers it desirable, transmit a special report on any matter connected with his duties and powers under this Act or any other Act to the Minister of Finance for tabling *mutatis mutandis* in the manner and within the period hereinbefore in this subsection prescribed in respect of an ordinary report.
- (b) The provisions of section 45 (2) of the Exchequer and Audit Act, 1975, shall be applicable, *mutatis mutandis*, in respect of a tabling contemplated in paragraph (a).
- (5) The Auditor-General shall for the purposes of subsection (4) report on the books, accounts, statements and balance sheet relating to the affairs of the SFF Association and to the transactions entered into for account of the Equalization Fund, with due regard to the special nature of the transactions recorded in those documents and the national interest which may be involved, and shall limit such report to the extent that he, after consultation with the State President, the Minister of Mineral and Energy Affairs and the Minister of Finance, may determine.
- (6) The chairman of the board of directors of CEF (Proprietary) Limited shall furnish the Minister of Mineral and Energy Affairs with such information as the Minister may from time to time call for relating to the activities of CEF (Proprietary) Limited and the SFF Association or relating to the transactions entered into for account of, or the financial state of, the Central Energy Fund, the Equalization Fund or any other account of CEF (Proprietary) Limited or the SFF Association.”

Substitution of long title of Act 38 of 1977, as amended by section 2 of Act 30 of 1979.

5. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To provide for the payment [ , as a charge to the State Revenue Fund,] of certain moneys into the [State Oil] Central

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Energy Fund and for the utilization and investment thereof; for the imposition of a levy on fuel and for the utilization and investment thereof; for the control of the affairs of CEF (Proprietary) Limited by a board of directors; for the keeping of records of all transactions entered into for account of the Central Energy Fund or the Equalization Fund and of certain other transactions; for the investigation, examination and auditing of the books, accounts and statements kept and prepared in connection with the said transactions; and for the submission to Parliament of a report relating to the said investigation, examination and auditing; and to provide for [incidental] matters connected therewith."

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Substitution of section 3 of Act 38 of 1977.

6. The following section is hereby substituted for section 3 of the principal Act:

“Short title and commencement. 3. This Act shall be called the [State Oil] Central Energy Fund Act, 1977, and shall be deemed to have come into operation on 10 January 1977.”

Transitional provisions.

7. (1) As soon as is practicable after the commencement of this Act the name of the company known as SOF (Proprietary) Limited shall be changed, in terms of the provisions of section 44 of the Companies Act, 1973 (Act No. 61 of 1973), to CEF (Proprietary) Limited.

(2) Any reference in any other law or in any document to SOF (Proprietary) Limited or to the State Oil Fund shall be construed as a reference to CEF (Proprietary) Limited or to the Central Energy Fund, respectively.

Short title.

8. This Act shall be called the State Oil Fund Amendment Act, 1985.