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DEPARTMENT OF THE PRIME MINISTER

No. 1322.

22 June 1979.

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

No. 72 of 1979: Petroleum Products Amendment Act, 1979.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1322.

22 Junie 1979.

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

No. 72 van 1979: Wysigingswet op Petroleumprodukte, 1979.

Act No. 72, 1979

PETROLEUM PRODUCTS AMENDMENT ACT, 1979.

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 Petroleum Products Act, 1977, so as to extend certain control of petroleum products; to prohibit the publication of certain information regarding petroleum products; to regulate afresh certain presumptions with reference to criminal proceedings under the said Act; and to further regulate the disposal of certain moneys; and to provide for matters incidental thereto.

(English text signed by the Acting State President.)
(Assented to 13 June 1979.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of
section 2 of
Act 120 of 1977.

1. Section 2 of the Petroleum Products Act, 1977 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph: 5

“(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— 10

- (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; 15
- (ii) the purchase, sale, supply, acquisition, possession, disposal, storage or transportation or the recovery and re-refinement of any petroleum product so specified;”.

Insertion of
sections 4A
and 4B in
Act 120 of 1977.

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

“Prohibition
of publication
of certain
information.

4A. (1) No person shall publish in any newspaper, periodical, book or pamphlet or by radio, television or any other means—

- (a) information in relation to— 25
 - (i) the source, manufacture, transportation, destination, storage, quantity or stock level of any petroleum products acquired or manufactured or being acquired or manufactured for or in the Republic; 30
 - (ii) the taking place and particulars of negotiations in respect of the acquisition of petroleum products for the Republic and the transportation thereof; or

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ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

 Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Petroleumprodukte, 1977, ten einde sekere beheer oor petroleumprodukte uit te brei; die publikasie van sekere inligting aangaande petroleumprodukte te verbied; sekere vermoedens met betrekking tot strafregtelike verrigtinge kragtens genoemde Wet opnuut te reël; en die beskikking oor sekere geld verder te reël; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Waarnemende Staatspresident geteken.)
(Goedgekeur op 13 Junie 1979.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 2 van die Wet op Petroleumprodukte, 1977 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van
artikel 2 van
Wet 120 van 1977.

- „(a) ten einde 'n besparing van petroleumprodukte te verseker—
- 10 (i) die gebruik van 'n petroleumprodukt vir 'n doel vermeld in die regulasie of kennisgewing, na gelang van die geval, of vir die verrigting van 'n handeling aldus vermeld op 'n wyse aldus vermeld;
- 15 (ii) die koop, verkoop, verskaffing, verkryging, besit, beskikking oor, opberging of vervoer of die herwinning en herraffinering van 'n petroleumprodukt aldus vermeld,
- reël op die wyse wat hy goedvind, met inbegrip van die oplegging van pligte in verband daarmee aan
- 20 enigiemand, of verbied;”.

2. Die volgende artikels word hierby in die Hoofwet na artikel 4 ingevoeg:

Invoeging van
artikels 4A
en 4B in
Wet 120 van 1977.

- „Verbod op publikasie van sekere inligting.
- 25 4A. (1) Niemand mag in 'n nuusblad, tydskrif, boek of pamflet of per radio, televisie of op enige ander wyse—
- (a) inligting met betrekking tot—
- 30 (i) die oorsprong, vervaardiging, vervoer, bestemming, opberging, hoeveelheid of voorraadpeil van enige petroleumprodukte wat vir of in die Republiek verkry of vervaardig is of word;
- (ii) die plaasvind en besonderhede van onderhandelings ten opsigte van die verkryging van petroleumprodukte vir die Republiek en die vervoer daarvan; of
- 35

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(b) any statement, comment or rumour calculated directly or indirectly to convey such information or anything purporting to be such information, except—

- (i) on the written authority of the Minister or of the Controller of Petroleum Products;
- (ii) for the purpose of performing his duties or functions in terms of this Act;
- (iii) when required to do so by order of any court of law or in terms of any law; or
- (iv) in terms of an exemption under an agreement envisaged in section 4B and published as determined in that section.

(2) Any person who contravenes the provisions of subsection (1), and the proprietor, printer, publisher or editor of any newspaper, periodical, book or pamphlet, or the broadcaster of any radio or television programme, in which any information referred to in subsection (1) has been published in contravention of subsection (1), shall be guilty of an offence.

(3) Any person who causes to be published outside the Republic anything of which the publication is prohibited by subsection (1), shall be guilty of an offence.

(4) Any act prohibited in subsection (1) 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 also in the Republic.

(5) Any offence contemplated in subsection (4) shall for the purposes of jurisdiction be deemed to have been committed in any place in the Republic where the accused happens to be.

(6) For the purposes of this section 'petroleum product' includes crude oil.

Minister
may enter
into certain
agreement.

4B. (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 section 4A and to regulate the publication by such person or category of persons of anything referred to in that section.

(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 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*.

Amendment of
section 9 of
Act 120 of 1977.

3. Section 9 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(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 had been used for the performance of that act, it shall be presumed **[unless the contrary is proved]** that **[the accused used]** 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.”

WYSIGINGSWET OP PETROLEUMPRODUKTE, 1979.

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- (b) enige verklaring, kommentaar of gerug wat daarop bereken is om regstreks of onregstreks sodanige inligting of iets wat heet sodanige inligting te wees, oor te dra,
 5 publiseer nie, behalwe—
 (i) kragtens die skriftelike magtiging van die Minister of van die Kontroleur van Petroleumprodukte;
 (ii) vir die doeleindes van die verrigting van sy pligte of werksaamhede ingevolge hierdie Wet;
 10 (iii) wanneer hy by bevel van 'n geregshof of ingevolge 'n wet aangesê is om dit te doen; of
 (iv) ingevolge 'n vrystelling kragtens 'n ooreenkoms beoog in artikel 4B en gepubliseer soos in daardie artikel bepaal.
 15 (2) Iemand wat die bepalinge van subartikel (1) oortree, en die eienaar, drukker, uitgewer of redakteur van 'n nuusblad, tydskrif, boek of pamflet, of die omroeper van enige radio- of televisieprogram, waarin inligting in subartikel (1) bedoel in stryd met subartikel (1) gepubliseer is, is aan 'n misdryf skuldig.
 20 (3) Iemand wat enigiets waarvan die publikasie ingevolge subartikel (1) verbied word, buite die Republiek laat publiseer, is aan 'n misdryf skuldig.
 25 (4) 'n Handeling wat in subartikel (1) verbied word en wat deur 'n Suid-Afrikaanse burger of iemand wat in die Republiek gedomisileer is, buite die Republiek gepleeg word, word geag ook in die Republiek gepleeg te wees.
 30 (5) 'n Misdryf beoog in subartikel (4) word vir die doeleindes van jurisdiksie geag gepleeg te wees op enige plek waar die beskuldigde hom in die Republiek bevind.
 (6) By die toepassing van hierdie artikel beteken
 35 'petroleumproduk' ook ru-olie.
 4B. (1) Die Minister kan 'n ooreenkoms aangaan met enige persoon of kategorie persone om sodanige persoon of kategorie persone vry te stel van die bepalinge van artikel 4A en om die publikasie deur
 40 sodanige persoon of kategorie persone van enigiets wat in daardie artikel bedoel word, te reël.
 (2) (a) Enige ooreenkoms kragtens subartikel (1) moet in die *Staatskoerant* gepubliseer word en mag nie eensydig gekanselleer word nie behalwe in die geval van 'n ernstige verbreking van die bepalinge daarvan.
 45 (b) In die geval van 'n geskil oor die vraag of daar so 'n verbreking is al dan nie, word sodanige geskil voorgelê aan 'n tribunaal vermeld in die ooreenkoms, vir 'n beslissing.
 50 (3) In die geval van die kansellering van enige sodanige ooreenkoms, is die bepalinge van artikel 4A op sodanige persoon of kategorie persone van toepassing met ingang van die datum van bekendmaking van die kansellering by kennisgewing in die *Staatskoerant*.
 55

3. Artikel 9 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

- 60 „(4) Indien by 'n vervolging weens 'n oortreding van 'n verbod kragtens artikel 2 (1) (a) opgelê met betrekking tot die gebruik van 'n petroleumproduk in die aanklag vermeld, bewys word dat die beskuldigde 'n handeling verrig het wat die oortreding sou uitmaak indien slegs bedoelde petroleum-
 65 produk vir die verrigting van daardie handeling gebruik was, word daar vermoed **[tensy die teendeel bewys word]** dat slegs **[die beskuldigde]** bedoelde petroleumproduk vir die verrigting van daardie handeling gebruik **[het]** is, tensy bewys word dat ander faktore tot die verrigting van daardie handeling bygedra het in dié mate dat by ontstentenis daarvan daardie handeling nie verrig sou gewees het nie.”

Wysiging van
 artikel 9 van
 Wet 120 van 1977.

Act No. 72, 1979

PETROLEUM PRODUCTS AMENDMENT ACT, 1979.

Amendment of
section 11 of
Act 120 of 1977.

4. Section 11 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:
- “(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 Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);
 - (ii) a provincial administration (including the Administration of South West Africa); **[or]**
 - (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,
- [and]** which is designated, or determined in accordance with the requirements, circumstances or particulars stated, in the direction;”.

Amendment of
section 12 of
Act 120 of 1977.

5. Section 12 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:

“(1) **[Any person who]** 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 [who] 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.”;
 - (b) by the insertion after subsection (1) of the following subsection:

“(1A) Any person shall on conviction of an offence mentioned in subsection 4A be liable 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.”; and
 - (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) Except in the case of an offence under section 4 or 7, or mentioned in section 4A, the court may, in addition to any penalty under subsection (1), on such conditions as it may deem fit to impose—”.

Substitution of
long title of
Act 120 of 1977.

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

“ACT

To provide measures for the saving of petroleum products and an economy in the cost of the distribution thereof, and for the maintenance of a price therefor; 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.”.

Short title.

7. This Act shall be called the Petroleum Products Amendment Act, 1979.

WYSIGINGSWET OP PETROLEUMPRODUKTE, 1979.

Wet No. 72, 1979

4. Artikel 11 van die Hoofwet word hierby gewysig deur Wysiging van paragraaf (a) deur die volgende paragraaf te vervang: artikel 11 van Wet 120 van 1977.

- 5 „(a) van tyd tot tyd gelas dat enige gelde wat by wyse van boetes of verbeurde borggeld ingevorder is in verband met 'n misdryf of kategorie misdrywe ingevolge hierdie Wet en in die lasgewing vermeld, betaal moet word aan—
- 10 (i) 'n plaaslike bestuur kragtens artikel 84 (1) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961), ingestel;
- (ii) 'n provinsiale administrasie (met inbegrip van die Administrasie van Suidwes-Afrika); **[of]**
- (iii) 'n regering van 'n gebied wat ingevolge 'n wet 'n selfregerende gebied binne die Republiek is;
- 15 (iv) enige ander persoon; of
- (v) 'n fonds wat by 'n wet ingestel is,
- [en]** wat aangewys word, of bepaal word ooreenkomstig die vereistes, omstandighede of besonderhede vermeld, in die lasgewing;”.

20 5. Artikel 12 van die Hoofwet word hierby gewysig— Wysiging van artikel 12 van Wet 120 van 1977.

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 25 „(1) **[Iemand wat]** Indien iemand 'n bepaling van hierdie Wet oortree of **[wat]** versuim om so 'n bepaling na te kom, en bedoelde oortreding of versuim nie elders in hierdie Wet tot 'n misdryf verklaar word nie, of **[wat]** 'n inspekteur by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte kragtens hierdie Wet hinder, is hy aan 'n misdryf skuldig en by
- 30 skuldigbevinding strafbaar met 'n boete van hoogstens tweeduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sodanige boete sowel as sodanige gevangenisstraf;”;
- 35 (b) deur die volgende subartikel na subartikel (1) in te voeg:
- „(1A) Iemand is by skuldigbevinding aan 'n misdryf in artikel 4A vermeld, strafbaar met 'n boete van hoogstens seweduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens sewe jaar of met sodanige boete sowel as sodanige gevangenisstraf;” en
- 40 (c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- 45 „(2) Behalwe in die geval van 'n misdryf kragtens artikel 4 of 7, of in artikel 4A vermeld, kan die hof, benewens enige straf kragtens subartikel (1), op die voorwaardes wat hy na goeddunke opla—”.

6. Die lang titel van die Hoofwet word hierby deur die Vervanging van lang titel van Wet 120 van 1977.

„WET

- 50 Om voorsiening te maak vir maatreëls vir besparing op petroleumprodukte en die verspreidingskoste daarvan; vir die handhawing van 'n prys vir petroleumprodukte; vir beheer oor die verstrekking van sekere inligting aangaande petroleumprodukte; en vir die verkaffing van
- 55 dienste van 'n bepaalde soort, of dienste van 'n bepaalde gehalte, in verband met motorvoertuie; en om vir bykomstige aangeleenthede voorsiening te maak.”.

7. Hierdie Wet heet die Wysigingswet op Petroleumprodukte, Kort titel. 1979.

