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## THE PRESIDENCY

No. 698

7 June 2004

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

**No. 60 of 2003: Petroleum Pipelines Act, 2003.**

## IHHOVISI LIKAMONGAMELI

No. 698

7 June 2004

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

**Ino 6 ka 2003: Umthetho wamaPayiphi ePhethroliyam, 2003.**



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**



*(English text signed by the President.)  
(Assented to 31 May 2004.)*

# ACT

**To establish a national regulatory framework for petroleum pipelines; to establish a Petroleum Pipelines Regulatory Authority as the custodian and enforcer of the national regulatory framework; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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(English text signed by the President.)  
(Assented to 31 May 2004.)

# UMTHETHO

Inhloso wukusungula umhlahlandlela kazwelonke wokwenganyelwa kwamaphayiphi athwala iphethroliyam, ukusungula uMkhandlu wokwengamela amaPayiphi athwala iPhethroliyam nokuyiwona ozosingatha futhi ubheke ukusebenza komhlahlandlela kazwelonke kanye nezindaba eziphathelele nawo.

UMA UPHASISWA yiPhalamende laseNingizimu Afrika:—

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**CHAPTER 1****DEFINITIONS AND OBJECTS****Definitions**

1.	In this Act, unless the context indicates otherwise—	30
	“ <b>Authority</b> ” means the Petroleum Pipelines Regulatory Authority established by section 3;	
	“ <b>Chief Executive Officer</b> ” means the person appointed in terms of section 11(1);	
	“ <b>crude oil</b> ” means natural mineral oil, including condensate, but excluding petroleum products;	35
	“ <b>licensee</b> ” means any person holding a licence granted by the Authority under this Act;	
	“ <b>loading facility</b> ” means any marine facility that is or can be used to load or off-load petroleum and includes any auxiliary pipelines connected thereto but excludes bunkering facilities;	40
	“ <b>Minister</b> ” means the Minister of Minerals and Energy;	
	“ <b>payment</b> ” includes commercial services in lieu of financial payment provided to the owner or operator of a pipeline, loading facility or storage facility;	
	“ <b>person</b> ” includes any organ of state as defined in section 239 of the Constitution;	
	“ <b>petroleum</b> ” means crude oil and petroleum products;	45
	“ <b>petroleum pipeline</b> ” means a pipeline used to transport petroleum excluding those located on the premises of—	
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	(b) a storage facility;	

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## ISAPHLUKO 1

## IZINCAZELO NEZINHLOSO

## Izincazelo

1. Ngaphandle uma okubhaliwe kunika okwehlukile, kulo Mthetho— 30
  - “uMkhandlu owengamele amaPayiphi athwala iPhethroliyam” kusho uMkhandlu owengamele amaPayiphi athwala iPhethroliyam osungulwe ngokwesigaba sesi-3;
  - “Isikhulu esiyinhloko” sisho umuntu oqokwe ngokulandela isigaba se-11(1);
  - “uwoyela ongahluziwe” usho uwoyela wemithombo yendalo, kubandakanywa 35 oshisiswe wabuye wapholiswa, kodwa ingabalwa imikhiqizo yephethroliyam;
  - “umnikazi welayisensi” kushiwo umuntu onelayisensi ekhishwe nguMkhandlu owengamele izindaba zamapayiphi athwala iPhethroliyam;
  - “isikhungo sokulayisha” lapha kushiwo nanoma yisiphi isikhungo sokulayisha kumbe sokudiliza esisemanzini kanti lapha kubalwa namapayiphi okwengeza 40 angabe exhunywe kuso kodwa akubalwa *ibunkering facility*;
  - “UNgqongqoshe” kushiwo uNgqongqoshe wezamaGugu ambiwa phansi naMandla;
  - “inkokhelo” ibandakanya imisebenzi yezohwebo ephathelene nalokho okukhokhelwe umnikazi noma umsebenzisi wephayiphi, isikhungo sokulayisha 45 noma isikhungo sokugcina;
  - “umuntu” Lapha kushiwo nanoma yisiphi isakhiwo sikahulumeni njengoba sichazwe esigabeni 239 soMthethosisekelo;
  - “iphethroliyam” lapha kushiwo uwoyela omngahluziwe kanye nemikhiqizo yephethroliyam; 50
  - “ipayiphi lephethroliyam” lapha kushiwo iphayiphi lokuthwala iphethroliyam singakubali lokho okusemagcekeni—
    - (a) omenzi wemikhiqizo yephethroliyam;
    - (b) endawo yokugcina impahla;

- (c) a retailer of petroleum products;
- (d) an agricultural cooperative;
- “petroleum products”** means any liquid petroleum fuel and any lubricant, whether used or unused, and includes any other substance which will be used for a purpose for which petroleum fuel or any lubricant may be used; 5
- “regulation”** means a regulation made under section 33(1);
- “rules”** means rules made under section 33(3);
- “storage facility”** means any bulk storage facility and its auxiliary equipment that is or is intended to be used for the storage of petroleum and excludes storage facilities— 10
  - (a) on the premises at which petroleum products are manufactured and where such storage facilities are integral to the process of manufacture;
  - (b) for own final use;
  - (c) used for the retailing of petroleum products to the public;
  - (d) used by an agricultural cooperative exclusively for its members; and 15
  - (e) used to transport petroleum by road, rail, sea and air;
- “tariff”** means a written statement of rates, terms and conditions for services relating to petroleum pipelines, loading facilities or storage facilities;
- “this Act”** includes the regulations and rules; and
- “uncommitted capacity”** means capacity determined by the Authority that is not required to meet contractual obligations. 20

### Objects of Act

- 2. The objects of this Act are to—
  - (a) promote competition in the construction and operation of petroleum pipelines, loading facilities and storage facilities; 25
  - (b) promote the efficient, effective, sustainable and orderly development, operation and use of petroleum pipelines, loading facilities and storage facilities;
  - (c) ensure the safe, efficient, economic and environmentally responsible transport, loading and storage of petroleum; 30
  - (d) promote equitable access to petroleum pipelines, loading facilities and storage facilities;
  - (e) facilitate investment in the petroleum pipeline industry;
  - (f) provide for the security of petroleum pipelines and related infrastructure;
  - (g) promote companies in the petroleum pipeline industry that are owned or controlled by historically disadvantaged South Africans, by means of licence conditions to enable them to become competitive; 35
  - (h) promote the development of competitive markets for petroleum products;
  - (i) promote access to affordable petroleum products; and
  - (j) ensure an appropriate supply of petroleum to meet market requirements. 40

(c) omdayisi wemikhiqizo yephethroliyam; 5

(d) obambiswano kwezolimo.

“**imikhiqizo yephethroliyam**” kushiwo nanoma yiluphi uhlobo lwamafutha noma isivikelansimbi, esesisebenzile noma esingakasebenzi kanti kubalwa nanoma yini enye engasetshenziswa esikhundleni sikaphethroli kumbe 5 sesivikelansimbi;

“**okunqunywe**” kushiwo lokho okunqunywe yisiqondiso noma wumthetho;

“**isiqondiso**” kushiwo isiqondiso esenziwe ngaphansi kwesigaba 33(1);

“**imithetho**” kushiwo imithetho eyenziwe ngokulandela isigaba 33(3);

“**isikhungo sokugcina**” indawo yokugcina impahla isho noma iyiphi indawo 10 yokugcina impahla eningi nokokusiza okuhloswe ukuba isetshenziselwe ukugcina iphethroliyam kanti azibalwa izindawo zokugcina impahla—

(a) emagcekeni lapho kwenziwa khona imikhiqizo yephethroliyam nalapho lezindawo zokugcina impahla ziyinxenye yomsebenzi wokukhiqiza; 15

(b) ezisetshenziselwa umnikazi;

(c) ezisetshenziselwa ukudayisela umphakathi imikhiqizo yephethroliyam;

(d) ezisetshenziswa wubambiswano kwezolimo emalungwini alo kuphela; kanye

(e) nezisetshenziselwa ukuthutha iphethroliyam ngomgwaqo, ngesitimela, 20 ngemikhumbi nangezindiza;

“**intela**” isho isitatimende esibhalwe phansi samareyithi, imibandela kanye nezimo zemisebenzi ephathelene namaPayiphi ephethroliyam, isikhungo sokulayisha kanye nesokugcina iphethroliyam;

“**lo Mthetho**” ubandakanya iziqondiso ezikhishiwe kanye nezaziso ezikhishwe 25 ngaphansi kwazo; kanti

“**ungazibophezeli**” kusho izinga elinqunywe uMkhandlu owengamele amaPayiphi athwala iPhethroliyam, hhayi njengoba lidingeka ngokwezibopho zenkontileka.

## Izinhloso zoMthetho

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### 2. Izinhloso zalo Mthetho yilezi—

- (a) ukukhuthaza ukuncintisana ekwakhiweni kanye nasekusebenzeni kwamapayiphi athwala iphethroliyam, izikhungo zokulayisha kanye nezikhungo zokugcina uwoyela;
- (b) ukukhuthaza intuthuko ebonakalayo neqhubekayo futhi ehlelekile kanye 35 nokusebenza ngendlela kwamapayiphi kawoyela, izikhungo zokulayisha kanye nezikhungo zokugcina uwoyela;
- (c) ukuqinisekisa indlela ephephile, esebenza ngokugculisayo, ebhekela umnotho kanye nemvelo yokuhambisa, ukulayisha kanye nokugcinwa kukawoyela;
- (d) ukukhuthaza ubuqotho nokubakhona kwabathuba alinganayo okukwazi 40 ukusebenzisa amaphayiphi athwala uwoyela, ukulayisha kanye nokugcinwa kukawoyela;
- (e) ukuxhumanisa ezinhlelweni zokutshalwa kwemali embonini yamapayiphi athwala iphethroliyam;
- (f) ukuhlinzekela ukuphepha kwamapayiphi athwala uwoyela kanye 45 nengqalasizinda ephathelene nawo;
- (g) ukukhuthaza izinkampani ezimbonini yamaphayiphi athwala iphethroliyam okungezabantu ababencishwe amathuba esikhathini esedlule, ngokuthi imibandela yamalayisensi ibeke lezo nkampani esimeni sokuncintisana;
- (h) ukukhuthaza ukuthuthuka kwezimakethe zemikhiqizo kawoyela 50 ezinokuncintisana;
- (i) ukukhuthaza ukuba kube lula ukuthola imikhiqizo kawoyela engabizi kakhulu; futhi
- (j) qinisekisa umkhiqizo ofanelekile wephethroliyam ozohlangabezana nezidingo zemakethe. 55

## CHAPTER 2

### AUTHORITY AND MEMBERS

#### Establishment of Authority

3. The Petroleum Pipelines Regulatory Authority is hereby established as a juristic person. 5

#### Powers and duties of Authority

4. The Authority must, as appropriate, in accordance with this Act—

- (a) issue licences for—
  - (i) the construction and conversion of petroleum pipelines, loading facilities and storage facilities; and 10
  - (ii) the operation of petroleum pipelines, loading facilities and storage facilities;
- (b) gather and store information relating to the construction, conversion and operation of petroleum pipelines, loading facilities and storage facilities;
- (c) undertake investigations and enquiries into the activities of licensees; 15
- (d) act as mediator or arbitrator in accordance with the provisions of this Act;
- (e) consult, where necessary, with Government Departments and other bodies and institutions regarding any matter contemplated in this Act;
- (f) set or approve tariffs and charges in the manner prescribed by regulation;
- (g) monitor and take appropriate action, if necessary, to ensure that access to petroleum pipelines, loading facilities and storage facilities is provided in a non-discriminatory, fair and transparent manner; 20
- (h) expropriate land or any right in or any right in respect of land, necessary for the exercise of a licensee's rights;
- (i) promote competition in the petroleum pipeline industry; 25
- (j) take decisions that are not at variance with published Government policy;
- (k) perform any activity incidental to the performance of its duties;
- (l) make rules in accordance with section 33(3); and
- (m) exercise any power or perform any duty conferred or imposed on it under any law. 30

#### Constitution of Authority

5. (1) The Authority consists of five members appointed by the Minister.

(2) The Minister must designate one of the members appointed under subsection (1) as chairperson of the Authority.

(3) If the chairperson for any reason is unable to perform his or her duties, the other members must choose another person from among themselves to act as chairperson until the chairperson can resume his or her duties or another chairperson is designated by the Minister. 35

(4) (a) A member of the Authority holds office for a period of four years.

(b) The Minister may reappoint a member. 40

(c) If a member of the Authority ceases to hold office, the Minister may appoint another person in his or her place for the remainder of the term of office of that member.

(5) Members of the Authority must be paid for their services such remuneration and allowances as the Authority may determine with the approval of the Minister and with the concurrence of the Minister of Finance. 45

**ISAHLUKO 2****ISKHULU ESIYINHLOKO NAMALUNGU****Ukusungulwa koMkhandlu owengamele amaPayiphi athwala iPhethroliyam**

3. UMkhandlu owengamele amaPhayiphi athwala iPhethroliyam uyasungulwa njengesakhiwo esizoba namalungelo omthetho.

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**Amandla nemisebenzi koMkhandlu**

4. Umkhandlu kufanele, njengoba kufanelekile, ngokuhambisana naloMthetho—

- (a) ukhiphe amalayisensi—
  - (i) okwakha nokuguqula amapayipi ephethroliyam, izindawo zokulayisha nezindawo zokugcina impahla; kanye 10
  - (ii) nawokusebenzisa amapayipi ephethroliyam, izindawo zokulayisha nezindawo zokugcina impahla;
- (b) uqoqe futhi ugcine imininingwane emayelana nokwakhiwa, ukuguqulwa nokusetshenziswa kwamapayipi ephethroliyam, izindawo zokulayisha nezindawo zokugcina impahla; 15
- (c) uphenye futhi uhlolisise mayelana nalokho okwenziwa ngabanikazi bamalayisensi;
- (d) usebenze njengomlamuli noma umxazululi ngokuhambisana nezimiso zaloMthetho;
- (e) ubonisane, uma kunesidingo, nemiNyango kaHulumeni nezinye izinhlaka nezizinda mayelana nanoma yiluphi udaba olukuloMthetho; 20
- (f) usungule noma uvume izinkokhelo ngendlela ebekwe yimithetho;
- (g) ugade futhi uthathe izinyathelo ezifanelekile, uma kunesidingo, ukuqinisekisa ukuthi ukusetshenziswa kwamapayipi athwala iphethroliyam, izindawo zokulayisha nezokugcina impahla kwenziwa ngendlela engabandlululi, enobulungiswa nengafihlekile; 25
- (h) udle umhlaba noma yiliphi ilungelo elimayelana nomhlaba, ngenhloso yokusetshenziswa kwamalungelo alowo onelayisensi;
- (i) ugqugquzele ukuncintisana embonini yamapayipi athwala iphethroliyam;
- (j) uthathe izinqumo ezingaphikisani nenqubo-mgomo kaHulumeni eshicilelwe; 30
- (k) wenze namuphi omunye umsebenzi ohambisana nokwenziwa kwemisebenzi yawo;
- (l) ushaye imithetho ngokuhambisana nesigaba 33(3); futhi
- (m) usebenzise noma yimaphi amandla noma wenze noma yimuphi umsebenzi onikezwe kona ngaphansi kwanoma yimuphi umthetho. 35

**UMthethosisekelo woMkhandlu**

5. (1) UMkhandlu owengamele amaPayiphi athwala iPhethroliyam uyokwakhiwa ngamalungu amahlanu ayoqokwa nguNgqongqoshe.

(2) UNgqongqoshe kumele aqoke ilungu elilodwa kumalungu aqokwe ngokwesigatshana (1) libe ngusihlalo woMkhandlu owengamele amaPayiphi athwala iPhethroliyam. 40

(3) Uma nganoma yisiphi isizathu usihlalo engaphumeleli ukwenza umsebenzi wakhe, lana amanye amalungu ayoqoka omunye umuntu phakathi kwawo ozoba yibamba likasihlalo kuze kube usihlalo usengakwazi ukuqhubeka nomsebenzi wakhe, noma kuze kube sekunomunye umuntu oqokwe nguNgqongqoshe. 45

(4) (a) Ilungu loMkhandlu owengamele amaPayiphi athwala iPhethroliyam liyoba sesikhundleni isikhathi esiyiminyaka emine.

(b) UNgqongqoshe unako ukuphinda aqoke umuntu oseke waqokwa.

(c) Uma ilungu loMkhandlu owengamele amaPayiphi athwala iPhethroliyam lishiya esikhundleni, uNgqongqoshe angaqoka omunye umuntu ozongena esikhundleni salo kuze kuphele isikhathi ebelizosihlala libambe esikhundleni. 50

(5) Amalungu oMkhandlu owengamele amaPayiphi athwala iPhethroliyam kumele akhokhelwe ngomsebenzi awenzayo, kanti iholo lawo nezibonelelo uMkhandlu unganquma uma kuyovunywa nguNgqongqoshe ngokubonisana noNgqongqoshe wezeziMali. 55

### Disqualification and requirements regarding appointment of members to Authority

6. (1) A person may not be appointed or remain a member of the Authority if that person—
- (a) is not a South African citizen resident in the Republic of South Africa; 5
  - (b) is an unrehabilitated insolvent;
  - (c) has been convicted of an offence involving dishonesty; or
  - (d) is in the employ of, or affiliated to, an organ of state in any sphere of government, or has any conflict of interest in this regard.
- (2) The Minister must appoint, as members of the Authority, persons who— 10
- (a) have adequate legal, technical, business, economic or other experience relevant to petroleum pipelines;
  - (b) are collectively representative of South African society as a whole; and
  - (c) demonstrate impartiality and objectivity.
- (3) Before appointing members to the Authority, the Minister must by notice in the 15  
*Gazette*, call for nominations from members of the public.
- (4) All members must—
- (a) upon appointment, disclose if they are in the employ of or act as consultants to, or have any relationship with any person, firm, association or company engaged in the petroleum pipelines industry, or have any pecuniary interest in 20  
any such firm, association or company;
  - (b) upon appointment, disclose if their spouse, life partner, child, business partner or associate or employer is in the employ of or acts as a consultant to, or has any relationship with any person, firm, association or company engaged in the petroleum pipelines industry, or has any pecuniary interest in any such firm, 25  
association or company; and
  - (c) notify the Minister and the Authority when those interests change.
- (5) A member must not at any time be present during the discussion of, or the making of a decision on, or take part in any, matter before the Authority in which that member or his or her spouse, life partner, child, business partner, associate or employer, other 30  
than the State, has a direct or indirect interest.
- (6) If a member acquires or contemplates acquiring an interest contemplated in subsection (4)(a), such member must immediately, in writing, declare that fact to the Minister and the Authority.

### Vacation of office and termination of appointment 35

7. (1) A member of the Authority must vacate his or her office if that member—
- (a) becomes of unsound mind;
  - (b) has been absent from more than two consecutive meetings without leave of the chairperson for each absence;
  - (c) resigns by giving written notification to the Minister; 40
  - (d) materially fails to perform any duty imposed on him or her in terms of this Act; or
  - (e) becomes disqualified from being a member on any of the grounds referred to in section 6(1).
- (2) The Minister may terminate the appointment of a member of the Authority if such 45  
member contravenes section 9.

### Meetings of Authority

8. (1) (a) The Authority must meet at such times and places as may be determined by the chairperson.
- (b) The chairperson must convene such meetings of the Authority as are necessary for 50  
the proper performance of its functions.

**Ukukhishwa kanye nemibandela ebekelwe ukuqokelwa eMkhandlwini**

6. (1) Umuntu akufanele aqokelwe ukuba yilungu noma aqhubeke nokuba yilungu loMkhandlu uma lowomuntu—
- (a) engesona isakhamuzi saseNingizimu Afrika esihlala eRiphabhliki yaseNingizimu Afrika; 5
  - (b) enezikweletu angeke esasizakala kuzo;
  - (c) esake walahlwa yicala elibandakanya ukungathembeki; noma
  - (d) eqashwe, noma enobudlelwane, nohlaka lukahulumeni olukunoma yimuphi umkhakha, noma kukhona akwenzayo okungangqubuzana nezinhlalo zalomsebenzi. 10
- (2) UNgqongqoshe kufanele aqoke, njengamalungu oMkhandlu, abantu—
- (a) abanolwazi olwenele lwezomthetho, lwezobuchwepheshe, lwezebhizinisi, lwezomnotho nolunye oluhambelana namaphayiphi ephethroliyamu;
  - (b) sebebonge abamele imiphakathi ehlukahlukene yaseNingizimu Afrika; futhi
  - (c) abakhombisa ukungachemi nomqondo ozimele 15
- (3) Ngaphambi kokuqokela amalungu kuMkhandlu, uNgqongqoshe kufanele asebenzise isaziso *kuSomqulu kaHulumeni (Gazette)*, acele ukuba umphakathi uphakamise amagama.
- (4) Wonke amalungu kufanele—
- (a) uma eqashwa, adalule uma kuwukuthi aqashwe noma angabeluleki, noma anobudlelwano obuthile nanoma yimuphi umuntu, ifemu, inhlango noma inkampani ababambe iqhaza embonini yamapayipi athwala iphethroliyamu, noma kukhona izimali azitshalile kunoma iyiphi ifemu, inhlango noma inkampani yalolohlobo; 20
  - (b) uma eqashwa, adalule uma ngabe ashade naye, uphathina wempilo, ingane yakhe, uphathina kwezebhizinisi noma umqashi uqashwe noma usebenza njengomeluleki ku, noma unanoma yibuphi ubudlelwano nanoma yimuphi umuntu, ifemu, inhlango noma inkampani ebambe iqhaza embonini yamapayipi athwala iphethroliyamu, noma kukhona izimali azitshalile kunoma iyiphi ifemu, inhlango noma inkampani yaloluhlobo; futhi 25
  - (c) azise uNgqongqoshe noMkhandlu uma lezozimo ziguquka. 30
- (5) Ilungu kakufanele nganoma yisiphi isikhathi libe khona umakudingidwa, noma kwenziwa isinqumo mayelana, noma libambe iqhaza kunoma yiluphi udaba oluphambi koMkhandlu, uma lelolungu, noma oshade nalo, uphathina wempilo, ingane yalo, uphathina webhizinisi, umqashi, ngaphandle kukaHulumeni, bethinteka ngqo noma ngandlelathize kulokho. 35
- (6) Uma ilungu lithola noma licabanga ukuthola igunya elibekwe kwisigatshana (4)(a), lelolungu kufanele ngokuphazima kweso, ngokubhala incwadi, likudalule lokho kuNgqongqoshe nakuMkhandlu.

**Ukushiya isikhundla nokuhoxiswa kokuqokwa 40**

7. (1) Ilungu loMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kuyomele lishiye esikhundleni, uma lelo lungu —
- (a) liba nokungaphili engqondweni;
  - (b) liphuthe emihlanganweni elandelayo engaphezulu kwemibili libe linganikiwe ikhefu ngusihlalo kuko kokubili lokho kuphutha kwalo; 45
  - (c) libhale incwadi yokwesula layiqondisa kuNgqongqoshe;
  - (d) lehluleka ukwenza umsebenzi elinikwe wona ngokoMthetho; noma
  - (e) uma likhishwa ekubeni yilungu ngesinye sesizathu esivezwe esigabeni 6(1).
- (2) UNgqongqoshe angakuhoxisa ukuqokelwa kwelungu eMkhandlwini owengamele amaPhayiphi athwala iPhethroliyamu, uma lelo lungu linga hambisani nezimiso zesigaba 9. 50

**Imhlangano yoMkhandlu**

8. (1) (a) UMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kumele uhlangane ngezikhathi nasendaweni eyonqunywa ngusihlalo.
- (b) Usihlalo kumele abize leyo mihlangano yoMkhandlu owengamele amaPayiphi athwala iPhethroliyamu njengalokhu idingakalela ukusebenza kwawo ngendlela efanele. 55

(2) The chairperson must, upon a written request of the Chief Executive Officer or two other members, convene a special meeting to be held within two weeks after the date of receipt of such request.

(3) Unless other procedures are prescribed by rule, the chairperson of any meeting of the Authority must determine the procedures to be followed at such meeting. 5

(4) The quorum for any meeting of the Authority is a majority of its members.

(5) (a) The decision of the majority of the members present at a meeting constitutes a decision of the Authority.

(b) In the event of an equality of votes on any matter the person presiding at the meeting has a casting vote in addition to his or her deliberative vote. 10

(6) No decision taken by the Authority is invalid merely because of a vacancy on the Authority or because any person not entitled to sit as a member sat as a member at the time when the decision was taken if the rest of the members present at the meeting and entitled to sit as members at the meeting constituted a quorum and the decision was taken by a majority of those members present and entitled to vote. 15

(7) The Chief Executive Officer, or if unavailable an employee of the Authority designated by the Chief Executive Officer, must attend all meetings of the Authority and has the right to speak, but not to vote, at such meetings.

(8) (a) Any meeting of the Authority is open to the public unless confidential, proprietary or commercially sensitive information is tabled for discussion, in which case an affected person must convince the Authority why such information should not be disclosed to the public. 20

(b) If the Authority takes a decision in any other manner than at a formal meeting, such decision comes into effect immediately but must be recorded in writing, signed by a majority of the members and submitted for noting at the first formal meeting of the Authority following the decision. 25

(c) The Authority must keep a record of all of its proceedings.

#### Duties of members of Authority

9. Members of the Authority may exercise all their powers under this Act and must—

- (a) perform all their duties in terms of this Act; 30
- (b) act in a justifiable and transparent manner whenever the exercise of their discretion is required;
- (c) at all times act in the interest of the Authority and not in their own or sectoral interests;
- (d) act independently of any undue influence or instruction; 35
- (e) recuse themselves from and refrain from voting on or discussing any matter before the Authority in which they have a direct or indirect interest; and
- (f) act in a manner that is required and expected from the holder of a public office.

#### Decisions of Authority

10. (1) Any decision of the Authority must be— 40

- (a) consistent with the Constitution and this Act;
- (b) in the public interest;
- (c) within the powers of the Authority, as set out in this Act;
- (d) taken within a procedurally fair process in which all affected persons have the opportunity to submit their views and present relevant facts and evidence at 45 their own expense to the Authority;

(2) Usihlalo kuyothi ngokucelwa ngencwadi yisiKhulu esiyiNhloko noma ngamanye amalungu amabili abize umhlangano ophuthumayo oyobanjwa engakapheli amasonto amabili ngemuva kosuku okutholwe ngalo lesi siculo.

(3) Usihlalo wanoma yimuphi umhlangano woMkhandlu owengamele amaPayiphi athwala iPhethroliyam kumele anqume inqubo ezolandelwa kulowo mhlango, ngaphandle uma kunenye inqubo ebekiwe okumele ilandelwe. 5

(4) Inani elinelungelo lokubamba umhlangano woMkhandlu owengamele amaPayiphi athwala iPhethroliyam yilelo eliyiningi enanini lamalungu.

(5) (a) Isinqumo esithathwe yiningi lamalungu akhona emhlanganweni siyoba yisinqumo soMkhandlu owengamele amaPayiphi athwala iPhethroliyam. 10

(b) Uma kuba nokulingana kwamavoti kunanoma yiluphi udaba olunqunywayo umuntu owengamele umhlangano uyoba nelungelo levoti lesinqumo ngaphezu kwavoti asuke elifake ngesikhathi kusavota wonke umuntu.

(6) Akukho sinqumo soMkhandlu owengamele amaPayiphi athwala iPhethroliyam esiyothathwa ngokuthi asisebenzi ngenxa yesikhala eMkhandlwini owengamele amaPayiphi athwala iPhethroliyam noma ngoba umuntu othile obengafanele ukuthathwa njengalungu ubekhona ngesikhathi kuthathwa isinqumo uma wonke amanye amalungu ekhona emhlanganweni futhi enelungelo lokuhlangana njengamalungu esibalo esivumelekile ukubamba umhlangano futhi isinqumo sibe sithathwe yiningi lamalungu akhona emhlanganweni futhi enelungelo lokuvota. 20

(7) Isikhulu esiyiNhloko noma uma singekho umsebenzi woMkhandlu owengamele amaPayiphi athwala iPhethroliyam othunye yisiKhulu esiyiNhloko, uyokwethamela yonke imihlangano yoMkhandlu owengamele amaPayiphi athwala iPhethroliyam, abe nelungelo lokukhuluma kuyona kodwa angabi nalungelo lokuvota kuleyo mihlangano.

(8) (a) Nanoma yimuphi umhlangano woMkhandlu owengamele amaPayiphi athwala iPhethroliyam uvulelekile ekutheni ungethanyelwa wumphakathi ngaphandle uma kunolwazi olubucayi noluyimfihlo oluthinta ubunikazi noma uhwebo okumele kuxoxwe ngalo, kanti kuleso simo lowo muntu othintekayo kumele abeke izizathu ezizwakalayo eMkhandlwini owengamele amaPayiphi athwala iPhethroliyam zokuthi yingani lolo lwazi lungenako ukuthi ludalulelwe umphakathi. 30

(b) Uma uMkhandlu owengamele amaPayiphi athwala iPhethroliyam uthatha isinqumo nganoma yiyiphi indlela ngaphandle kokuba semhlanganweni ohleliwe, lesi sinqumo siqala ukusebenza ngaleso sikhathi kanti kumele sibhalwe phansi sisayinwe yiningi lamalungu futhi sethulwe emhlanganweni wokuqala ohleliwe woMkhandlu owengamele amaPayiphi athwala iPhethroliyam ngemuva sithathiwe ukuze sifakwe emibhalweni. 35

(c) UMkhandlu owengamele amaPayiphi athwala iPhethroliyam kumele uqiniseke ngokuthi wonke amarekhodi okusebenza kwawo ayagcinwa.

### Umsebenzi wamalungu oMkhandlu

9. Amalungu oMkhandlu angasebenzisa wonke amandla anikwe wona ngaphansi kwalo Mthetho kanti kumele — 40

- (a) enze imisebenzi yawbo ngokwezimiso zalo Mthetho;
- (b) enze ngendlela enobuqotho nengafihli lutho njalo lapho kumele enze ngokubona kwawo;
- (c) ngazo zonke izikhathi asebenze ngendlela enokubhekela izifiso zoMkhandlu angasebenzi ngokubhekela izifiso zawo kumbe izifiso zomkhakha othile; 45
- (d) asebenze ngokuzimela nangaphandle komthelela kumbe ukuyalelwa okungadingekile; futhi
- (e) acele uxolo futhi angazibandakanyi ekuvoteni nasekuxoxeni nganoma yiluphi udaba olubhungwa athwala iPhethroliyam, aziyo ukuthi luyawathinta ngqo noma ngezinye izindlela ezicashile. 50

### Izinqumo zoMkhandlu

10. (1) Nanoma yisiphi isinqumo soMkhandlu owengamele amaPayiphi athwala iPhethroliyam—

- (a) kumele sihambisane noMthethosisekelo kanye nalo Mthetho; 55
- (b) sibhekele lokho okuyizifiso zomphakathi;
- (c) ngokwamandla oMkhandlu, njengoba kushiwo kuloMthetho;
- (d) kube ngesithathwe ngokulandela inqubo eqotho, lapho wonke umuntu othintekayo ethole ithuba lokubeka imibono yakhe, wethula namaphuzu

- (e) based on facts and evidence that must be summarised and recorded with the decision;
  - (f) in writing; and
  - (g) explained clearly as to its factual and legal basis and the reasons therefor.
- (2) Any decision of the Authority and the reasons therefor must be available to the public. 5
- (3) Any person adversely affected by a decision of the Authority may bring such decision under review by the High Court.

#### **Personnel of Authority**

11. (1) The Authority must appoint a Chief Executive Officer for the Authority. 10
- (2) Subject to the directions of the Authority, the Chief Executive Officer is responsible for—
- (a) the day-to-day management of the affairs of the Authority; and
  - (b) administrative control over the employees appointed under subsection (3).
- (3) The Chief Executive Officer may appoint employees, or contract with any person, 15 to assist the Authority in the performance of its functions.
- (4) The Chief Executive Officer and other members of the personnel of the Authority must be paid such remuneration, allowances, subsidies and other benefits as the Authority, with the approval of the Minister and the Minister of Finance, may determine.
- (5) Notwithstanding subsections (1) and (3), the Minister may determine that the 20 Authority appoint or make use of persons employed or contracted by another licensing or regulatory authority falling under the Minister's jurisdiction.
- (6) Section 9 applies to any member of the personnel of the Authority, with the changes required by the context.

#### **Funds of Authority**

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12. The funds of the Authority consist of—
- (a) appropriations from the National Revenue Fund;
  - (b) levies imposed by or under separate legislation;
  - (c) charges for dispute resolution and other services rendered.

#### **Accounting by Authority**

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13. (1) The Authority must perform its functions in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (2) The Authority must open one or more accounts in its name with one or more recognised financial institutions and deposit therein all money received from the sources contemplated in section 12. 35
- (3) The financial records of the Authority must be audited by the Auditor-General.
- (4) The financial year of the Authority starts on 1 April of one year and ends on 31 March of the following year.

#### **Reporting by Authority**

14. The annual report for public entities required in terms of the Public Finance 40 Management Act, 1999 (Act No. 1 of 1999), must be accompanied by information on the following matters:
- (a) Licences granted, amended or withdrawn;
  - (b) regulations made and directives issued;

afanele nobufakazi ngezindleko zakhe, ekwethula eMkhandlwini owengamele amaPayiphi athwala iPhethroliyamu;

(e) kumele sesekelwe emaphuzwini kumbe ebufakazini okumele bufingqwe bese bubhalwa naso isinqumo; futhi

(f) kumele sibhalwe phansi.

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(2) Nanoma yisiphi isinqumo soMkhandlu owengamele amaPayiphi athwala iPhethroliyamu nezizathu zaso kumele umphakathi ukwazi ukusithola.

(3) Noma wubani ongaphathekile kahle ngenxa yesinqumo soMkhandlu angaletha lesosinqumo eNkantolo ePhakeme ukuze sibuyekwezwe.

### Abasebenzi boMkhandlu

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11. (1) UMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kumele uqoke isiKhulu esiyiNhloko soMkhandlu owengamele amaPayiphi athwala iPhethroliyamu.

(2) Ngokulandela imiyalo yoMkhandlu owengamele amaPayiphi athwala iPhethroliyamu, isiKhulu esiyiNhloko siyonikwa umsebenzi—

(a) wokwengamela imisebenzi yansuku zonke yoMkhandlu owengamele amaPayiphi athwala iPhethroliyamu; futhi

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(b) sengamele ezokuphatha ezithinta abasebenzi abaqokwe ngaphansi kwesigatshana (3).

(3) Isikhulu esiyiNhloko singaqoka abasebenzi noma senze isivumelwano esinqunyelwe isikhathi nanoma yimuphi umuntu ukuba asize uMkhandlu owengamele amaPayiphi athwala iPhethroliyamu ekwenzeni umsebenzi wawo.

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(4) Isikhulu esiyiNhloko kanye nabanye abasebenzi boMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kumele bakhokhelwe iholo, bathole izibonelelo nezimali zoxhaso eziyonqunywa nguMkhandlu owengamele amaPayiphi athwala iPhethroliyamu bese zivunywa nguNgqongqoshe noNgqongqoshe weziMali.

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(5) Ngaphezu kwezigatshana (1) no (3), uNgqongqoshe anganquma ukuthi uMkhandlu mawuqashe noma usebenzise abantu abaqashwe noma abangaphansi komunye umnyango ophethe noma wamalayisensi ongaphansi kwesandla sikaNgqongqoshe.

(6) Isigaba 9 sisebenza kunoma yimuphi umsebenzi woMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kube nezinguquko ezihambelana nokuqokethwe.

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### Izimali zoMkhandlu

12. Izimali zoMkhandlu owengamele amaPayiphi athwala iPhethroliyamu ziyokwakhiwa—

(a) yimali ethathwe esiKhwameni sikaZwelonke seziMali;

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(b) intela eqoqwe ngokulandela omunye umthetho;

(c) izimali ezikhokhelwa ukusonjululwa kwezingxabano kanye neminye imisebenzi eyenziwe.

### Ukusingathwa kwezimali zoMkhandlu

13. (1) UMkhandlu owengamele kumele ukwenza umisebenzi yawo ngokuhambisa noMthetho ka 1999 wokweNganyelwa kweziMali zoMphakathi (UMthetho onguNombolo 1 ka 1999).

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(2) UMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kumele uvule i-akhawunti eyodwa noma ngaphezulu nesinye sezikhungo ezigunyazwe ngokomthetho bese ufaka kuyo zonke izimali ezitholakale emithonjeni ecatshangwa esigabeni 12.

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(3) Amarekhodi ezimali oMkhandlu kumele acutshungulwe nguMcebungulu mabhuku oMkhulu.

(4) Unyaka wezimali woMkhandlu athwala uqala mhla lu-1 ku-April wonyaka uphele mhla zingama-31 kuMarch onyakeni olandelayo.

### Imibiko woMkhandlu

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14. Umbiko wonyaka wezinkampani zomphakathi odingeka ngokwezimiso zoMthetho iPublic Finance Management Act, 1999 (uMthetho onguNombolo 1 ka 1999), kufanele uhambisane neminingwane emayelana nalokhu okulandelayo:

(a) Amalayisensi akhishiwe, aguquliwe nayekisiwe;

(b) imithetho neziqondiso okwenziwe;

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- (c) the envisaged strategies of the Authority;
- (d) the existing position and envisaged commercial developments with respect to the construction and operation of petroleum pipelines, loading facilities and storage facilities;
- (e) the position regarding labour, health, safety and environmental issues in the industry; 5
- (f) such other matters as the Authority may consider necessary.

### CHAPTER 3

#### LICENCES

##### Activities requiring licence

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15. (1) A person may not, without a licence issued by the Authority—
- (a) construct a petroleum pipeline, a loading facility or a storage facility; or
  - (b) operate a petroleum pipeline, a loading facility or a storage facility.
- (2) The Authority may—
- (a) determine whether any person is engaged in any of the activities requiring a licence; 15
  - (b) direct any person engaged in any of the activities requiring a licence in terms of subsection (1) who is not in possession of the necessary licence to cease such activity.
- (3) (a) Nothing in this Act precludes any potential licensee from discussing the contemplated construction or operation of petroleum pipelines, loading facilities or storage facilities with the Authority prior to filing a licence application. 20
- (b) The Authority must furnish an applicant contemplated in paragraph (a) with all information that is necessary to facilitate the filing of an application in terms of this Act.
- (4) A request for further information, notification or discussions referred to in subsection (3) may not be construed as conferring any right or expectation upon an applicant. 25

##### Application for licence

16. (1) Any person who has to apply for a licence in terms of section 15 must be the owner of the pipeline or facility in question and must do so in the form and in accordance with the procedure prescribed by rule, and an application must be accompanied by the application fee prescribed by rule. 30
- (2) Any application contemplated in subsection (1) must include—
- (a) the name, company number (if any) and principal place of business of the applicant; 35
  - (b) particulars of the owners or shareholders of the applicant if the applicant is not a natural person;
  - (c) documents demonstrating the administrative, financial and technical abilities of the applicant;
  - (d) a description of the proposed pipeline, loading facility or storage facility to be constructed or operated, including maps and diagrams where appropriate, 40
  - (e) a description of the tariff policies to be applied;
  - (f) the plans and the ability of the applicant to comply with applicable labour, health, safety, security and environmental legislation;
  - (g) the identity and particulars of the individual who will be responsible for the control, management and operation of the pipeline or facility in question; and 45
  - (h) such other particulars as may be prescribed by rule.
- (3) The applicant may request confidential treatment of commercially sensitive information contained in an application and, subject to the concurrence of the Authority, such information may be withheld from publicly available copies of the application. 50

- (c) amasu oMkhandlu ahlongozwayo;
- (d) isimo njengamanje nokuthuthukiswa ngokomnotho okuhlongozwayo mayelana nokwakhiwa nokusetshenziswa kwamapayiphi athwala iphethroliyam, izindawo zokulayisha nezokugcina impahla;
- (e) isimo mayelana nezabasebenzi, ezempilo, ezokuphepha nezokugcinwa kwemvelo embonini;
- (f) ezinye izindaba ezifana nalezo uMkhandlu ocabanga ukuthi ziyadingeka.

### ISAHLUKO SESI-3

#### AMALAYISENSI

#### Imisebenzi edinga ilayisensi 10

15. (1) Akukho muntu ongathi engenayo ilayisensi ekhishwe wuMkhandlu—
- (a) akhe iphayiphi lokuthwala iphethroliyam, isikhungo sokulayisha noma isikhungo sokuyigcina; noma
  - (b) aqhube umsebenzi wephayiphi lokuthwala iphethroliyam, isikhungo sokulayisha noma isikhungo sokuyigcina. 15
- (2) UMkhandlu owengamele amaPayiphi athwala iPhethroliyam
- (a) unganquma ukuthi nanoma yimuphi umuntu uzibandakanye kunanoma yimiphi emisebenzini edinga ilayisensi yini;
  - (b) ungakhipha umyalo wokuthi nanoma yimuphi umuntu obambe iqhaza kunanoma yimuphi umsebenzi odinga ilayisensi ngokwesigatshana (1), ebe lowo muntu engenayo ilayisensi akayeke ukwenza lowo msebenzi. 20
- (3) (a) Akukho lutho kulo Mthetho olunqabela lowo ofisa ukufaka isicelo selayisensi ekutheni axoxe noMkhandlu owengamele amaPayiphi athwala iPhethroliyam ngalokho akucabangayo mayelana nokwakhiwa noma ukusebenza kwephayiphi elithwala iphethroliyam, isikhungo sokulayisha noma sokugcina iphethroliyam, lokho ekwenza ngaphambi kokufaka isicelo sakhe 25
- (b) UMkhandlu owengamele amaPayiphi athwala iPhethroliyam uyonika lowo ofisa ukufaka isicelo nokukhulunywa ngaye epharagrafini (a) lonke ulwazi olubona ludingeka nolungaba wusilo lapho efaka isicelo selayisensi ngokulandela lo Mthetho.
- (4) Akukho sicelo solwazi oluthe xaxa, isaziso noma ukuxoxisana okukhulunywe ngako esigatshaneni sesi-3 okuyothathwa ngokuthi kunika nanoma yiliphi igunya noma ithemba kulowo ofake isicelo. 30

#### Ukufaka isicelo selayisensi

16. (1) Nanoma yimuphi umuntu odinga ukufaka isicelo selayisensi ngokwesigaba 15, kube wumnikazi wepayiphi noma isizinda okukhulunywa ngako futhi kufanele kumele agcwalise ifomu eyenzelwe lokho futhi alandele inqubo ebekiwe, kanti isicelo sakhe kumele siphelzelwe yimali enqunyiwe yokufaka isicelo. 35
- (2) Nanoma yisiphi isicelo okukhulunywa ngaso esigatshaneni (1) siyobandakanya—
- (a) igama, inombolo yenkampani (uma inayo) kanye nendawo lapho umfaki sicelo eqhubekela khona ibhizinisi lakhe; 40
  - (b) imininingwane yabanikazi noma abanikazi bamasheya omfaki sicelo uma umfaki sicelo kuyinkampani;
  - (c) imibhalo ekhombisa ikhono lezokuphatha, ezezimali kanye nolwazi lomsebenzi lwalowo ofake isicelo;
  - (d) incazelo yephayiphi elihlongozwayo, isikhungo sokulayisha kumbe sokugcina iphethroliyam esizokwakhiwa noma esizosetshenziswa, kubandakanya nemidwebo yebalazwe kanye neminye imidwebo yamadayagramu lapho kudingeka khona; 45
  - (e) incazelo yemigomo ezosetshenziswa yentela;
  - (f) izinhlelo zekhono lalowo ofake isicelo lokukwazi ukuhlonipha imithetho ephathelene nezabasebenzi, ezempilo, ezokuphepha, ezokuvikeleka, ezemvelo, umthetho othinta ukusebenza ngaphansi komunye kanye neminye imibandela engahle isebenze; 50
  - (g) ubuyena nemininingwane kwalowo ozobhekana nokulaula, ukuphatha nokusebenzisa ipayipi noma isizinda okukhulunywa ngako; kanye 55
  - (h) neminye imininingwane enjalo egayalelwa wumthetho.

**Advertising of application for licence**

17. (1) When an application is made for a licence as contemplated in section 16, the applicant must publish a notice of the application in at least two newspapers circulating in the area of the proposed activity in any two official languages.

(2) The advertisement must state—

- (a) the name of the applicant;
- (b) the object of the application;
- (c) the place where the application will be available for inspection by any member of the public;
- (d) the period within which any objections to the issue of the licence may be lodged with the Authority;
- (e) the address of the Authority where any objections may be lodged; and
- (f) that objections must be substantiated by way of an affidavit or solemn declaration.

(3) The advertisement contemplated in subsection (1) must be published for such period or in such number of issues of a newspaper as may be prescribed by rule.

**Particular information to be supplied by applicant**

18. Before considering an application for a licence in terms of this Act, the Authority—

- (a) if it is of the view that the proposed construction of a petroleum pipeline, loading facility or storage facility should be altered to provide access to third parties, must inform the applicant of that view and request the applicant to supply reasons as to why the application should not be considered subject to the imposition of such condition;
- (b) may direct the applicant to alter the plans for the proposed construction of petroleum facilities in order to comply with applicable health, safety, security and environmental legislation;
- (c) must furnish the applicant with all substantiated objections contemplated in section 17(2)(f) in order to allow the applicant to respond thereto; and
- (d) may request such additional information as may be necessary to consider the application properly.

**Finalisation of application**

19. (1) The Authority must decide on an application within 60 days after—

- (a) the expiration of the period contemplated in section 17(2)(d), if no objections have been received; or
  - (b) receiving the response of the applicant as contemplated in section 18(c).
- (2) The Authority must provide the applicant with a copy of its decision as well as a list of the factors on which the decision was based.
- (3) The Authority may issue separate or combined licences for—
- (a) the construction of petroleum pipelines or pipeline systems, loading facilities and storage facilities; and
  - (b) the operation of petroleum pipelines or pipeline systems, loading facilities and storage facilities.

**Conditions of licence**

20. (1) The Authority may impose licence conditions within the following framework of requirements and limitations:

- (a) A licensee must carry out the construction or operations activities for which the licence is granted;
- (b) to promote historically disadvantaged South Africans, in the manner prescribed;

**Ukukhangisela isicelo selayisensi**

17. (1) Lapho kufakwa isicelo njengoba kukhulunywe ngaso esigabeni 16, lowo ofaka isicelo kumele abhale isaziso esizoshicilelwa emaphephandabeni afanele atholakala endaweni ahlongoza ukuqhuba kuyo umsebenzi, isaziso kumele sibhalwe ngezilimi ezimbili ezigunyazwe ngokomthetho (olulodwa lwazo kumele kube yisiNgisi) 5

(2) Isikhangiso kumele sisho —

- (a) igama lomuntu ofake isicelo;
- (b) inhloso yomfaki sicelo;
- (c) indawo lapho isicelo sizotholakala khona lapho umphakathi unesifiso sokusibhekisisa; 10
- (d) isikhathi esibekelwe ukwethulwa kweziphakamiso eziphikisa ukukhishwa kwelayisensi, nezingethulwa eMkhandlwini owengamele amaPayiphi athwala iPhethroliyam; 15
- (e) ikheli loMkhandlu owengamele amaPhayiphi athwala iPhethroliyam nokuyilapho kungahanjiswa khona iziphakamiso zokuphikisa; 15
- (f) iziphakamiso zokuphikisa ukukhishwa kwelayisensi kumele ziphelezwe yisititimende ezifungelwe ngokomthetho noma ngokwenkolo.

(3) Isikhangiso esibalulwe esigatshaneni (1) kumele sishicilelwe isikhathi esinqunyiwe noma kulelo nani lamaphephandaba eliyonqunywa.

**Ulwazi oluthile okumele lunikwe yilowo ofaka isicelo 20**

18. Ngaphambi kokuba ucubungule isicelo selayisensi ngokwalo Mthetho, uMkhandlu owengamele amaPayiphi athwala iPhethroliyam—

- (a) uma unombono wokuthi kumele kube nezinguquko ezithile ekwakhiweni kwephayiphi, isikhungo sokulayisha kumbe sokugcina iphethroliyam ngenhloso yokubonelela umuntu wesithathu, kumele wazise lowo ofake isicelo ngalowo mbono bese umcela ukuba ahlinzeke izizathu zokuthi yingani isicelo sakhe singenakubekelwa leyo mibandela; 25
- (b) ungayalela ukuba lowo ofake isicelo enze uguquko ezinhlelweni zakhe zokwakha isikhungo sephethroliyam ukuze abhekele ukuhlonipha umthetho wezempilo, ezokuphepha nezemvelo; 30
- (c) kumele unikeze umuntu ofake isicelo ngobufakazi beziphakamiso eziphikisayo nokukhulunywa ngazo esigabeni 17(2)(f) ukuze lowo ofake isicelo ezokwazi ukuziphendula; kanye 35
- (d) ungacela olunye ulwazi oluthe xaxa njengoba lungahle ludingeke ukuze ukwazi ukubheka isicelo ngendlela efanele.

**Ukuphuthulwa kokubhekwa kwesicelo**

19. (1) Umkhandlu kumele unqume ngesicelo esifakiwe ulandela indlela ebekiwe zingakapheli izinsuku ezingama-60—

- (a) ngemuva kokuphela kwesikhathi esivezwe esigabeni 17(2)(d), uma kungekho ziphakamiso zokuphikisa ezitholakele; noma 40
- (b) ngemuva kokuba uthole impendulo yalowo ofake isicelo okukhulunywa ngayo esigabeni 18(c).

(2) Umkhandlu kumele unike umuntu ofake isicelo ikhophi yesinqumo sawo kanjalo nohla lwamaphuzu okuthathelwe kuwo isinqumo.

(3) Amalaysensi ahlange kumbe ehlukene angakhishwa okuba— 45

- (a) kwakhiwe iphayiphi lephethroliyam, izinhlelo zamaphayiphi, isikhungo sokulayisha noma sokugcina iphethroliyam; kanye
- (b) nokusebenza kwamaphayiphi ephethroliyam, izinhlelo zamaphayiphi, isikhungo sokulayisha nokugcina iphethroliyam.

**Imibandela yelayisensi 50**

20. (1) Umkhandlu ungabeka imibandela yelayisensi ngokulandela lolu hlaka lwezidingo nemikhawulo;

- (a) umnikazi welayisensi uyakwakha kumbe aqhube imisebenzi ekhishelwe ilayisensi;
- (b) ukuqhubekisa abantu baseNingizimu Afrika abebencisheke amathuba, 55 ngendlela egunyaziwe;

- (c) to provide for an appropriate supply of petroleum products to meet market requirements;
- (d) licensees must provide the prescribed information to the Authority on the commercial arrangements regarding the participation of historically disadvantaged South Africans in the licensees' activities; 5
- (e) the petroleum loading, pipeline and storage activities of vertically integrated companies may be required to be managed separately with separate accounts and data and with no cross-subsidisation;
- (f) a petroleum pipeline may be licensed for either crude oil or petroleum products, or both, as long as sufficient pipeline capacity is available for crude oil to enable the uninterrupted operation of the crude oil refinery located at Sasolburg, to operate at its normal operating capacity at the commencement of this Act and for so long as that refinery continues as a going concern; 10
- (g) shippers of petroleum must have access to petroleum pipelines and a pipeline's capacity must be shared among all users and prospective users thereof in proportion to their needs and within the commercially reasonable and operational constraints of the pipeline, subject to paragraph (f) and an appropriate payment to reserve the required capacity as a condition of service; 15
- (h) interested parties must be allowed to negotiate changes with pipeline licensees in the routing, size and capacity of proposed petroleum pipelines; 20
- (i) pipeline licensees are not obliged to incur any additional expenditure to provide the changes referred to in paragraph (h) and the total cost for the pipeline must be shared equitably between the pipeline licensee and the parties requesting the change;
- (j) licensees must allow interconnections with the facilities of other licensees, as long as the interconnection is technically feasible and the person requesting the interconnection bears the increased costs occasioned thereby; 25
- (k) third parties must have access to loading facilities with the capacity being shared among all users and prospective users in proportion to their needs, subject to an appropriate payment to reserve the required capacity as a condition of service; 30
- (l) interested parties may negotiate with loading facility licensees for changes in the capacity of loading facilities;
- (m) loading facility licensees are not obliged to incur any additional expenditure to provide the changes contemplated in paragraph (l) and the total cost for the loading facility must be shared equitably between the loading facility licensee and the party requesting the change; 35
- (n) third parties must in the manner prescribed by regulation have access on commercially reasonable terms to uncommitted capacity in storage facilities: Provided that an applicant for a storage facility licence or an amendment of such licence may elect to give users access to the facility on the basis that the capacity is shared among all users in proportion to their needs; 40
- (o) interested parties may negotiate with storage licensees for changes in the capacity of storage facilities;
- (p) storage licensees are not obliged to incur any additional expenditure to provide the changes contemplated in paragraph (o) and the total cost for the storage facility must be shared equitably between the storage licensee and the party requesting the change; 45
- (q) tariffs set by the Authority for petroleum pipelines;

- (c) ukubhekela ukulethwa okufanelekile kwemikhiqizo yephethroliyam ukuze kuhlangukshwane nezidingo zezimakethe;
- (d) iphayiphi lephethroliyamu liyonikwa ingunya lokuthwala uwoyela ongahluziwe kuphela noma lithwale imikhiqizo yephethroliyam kuphela, aliyukukuthwala kokubili. UMkhandlu ukungahoxisa ukusebenza kwalo mbandela uma kunesimo esiphuthumayo; 5
- (e) abantu abangenisiwe ebhizinisini kumele kuthi ngokulandela indlela ebekiwe bakwazi ukusebenzisa ngendlela enokubonelela okungena kuzibophezela amaphayiphi ephethroliyamu enganyelwe zinkampani ezizimele;
- (f) ipayipi elithwala iphethroliyamu linganikezwa ilayisensi kawoyela ongahluziwe noma imikhiqizo yephethroliyamu, noma kokubili, inqobo nje uma ukhona umthamo owenele wepayipi wokuba isihluzi sikawoyela saseSasolburg sisebenze ngokungaphazamiseki, sisebenze ngokomthamo waso owawujwayelekile ekuqalisweni kwaloMthetho futhi kuqhubeke ngasosonke isikhathi isihluzi esizolokhu siyisizinda esisebenzayo ngaso; 10 15
- (g) abathumeli bephethroliyamu kufanele babe nelungelo lokusebenzisa amapayipi athwala iphethroliyamu futhi umthamo wepayipi kufanele uhlukaniswe phakathi kwabobonke abasebenzisi bepayipi nabafuna ukulisebenzisa ngokulingene nezidingo zabo nangokuhambisana nemikhawuko ekhaliphile ngakwezokuhweba wepayipi, ngokuhambisana nengxenywe (f) nokukhokha imali efanelekile yokubekela umthamo odingekayo njengomgomo wosizo; 20
- (h) izinkampani zikahulumeni eziqhuba umsebenzi wamapayiphi amashu ephethroliyamu aqale ukusebenza ngemuva kokwethulwa kwalo Mthetho, kungathi ngokubona kwazo zifake isicelo selayiseni ezohambisana nesimo sokusebenza esivezwe ku (e) noma ku (f); 25
- (i) abantu abathintekayo kumele bavunyelwe ukuxoxisana nomnikazi welayisensi wepayiphi ngokuphathelele nomgudu, ubukhulu kanjalo nomthamo wamaphayiphi ahlongozwayo ephethroliyamu;
- (j) abanikazi bamalayisensi epayiphi ababophezelekile ekutheni bangene ezindlekweni ngoguquko okukhulunywa ngalo kupharagrafu (i), kanti izindleko zonke zepayiphi kumele zithwale ngokulinganayo ngumnikazi welayisensi kanye nalabo abacele ukuba kwenziwe izinguquko ezithile; 30
- (k) abanikazi bamalayisensi kumele bakuvumele ukuxhunyaniswa nezikhungo zabanye abanamalayisensi inqobo uma lokho kukhumana kunendlela yokuthi kwenzeke, futhi lowo muntu ocele ukuxhumana ezozithwala izindleko ezabangwe wukuxhumana lokho; 35
- (l) amaqembu esithathu kufanele akwazi ukufinyelela ezindaweni zokulayisha bese umthamo wehlukaniselwane phakathi kwabobonke abasebenzisi nabazoba ngabasebenzisi kulingane nezidingo zabo, ngaphansi komgomo wenkokhelo efanele yokubekisa umthamo odingekayo ngaphambi kokusizwa; 40
- (m) abantu abangenisiwe ebhizinisini kumele kuthi ngokulandela indlela ebekiwe bakwazi ukusebenzisa ngendlela enokubonelela okungena kuzibophezela isikhungo sokulayisha; 45
- (n) abanikazi bamalayisensi esikhungo sokulayisha ababophezelekile ekutheni bangene ezindlekweni ngoguquko okukhulunywa ngalo kupharagrafu (j), kanti izindleko zonke zesikhungo sokugcina iphethroliyam kumele zithwalwe ngokulinganayo ngumnikazi welayisensi yesikhungo sokulayisha kanye nalabo abacele ukuba kwenziwe izinguquko ezithile: Inqobo uma ofake isicelo selayisensi yendawo yokugcina impahla noma sokuguqulwa kwaleyolayisensi ezokhetha ukunikeza abasebenzisi ilungelo lokusebenzisa leyondawo ngesisekelo sokuthi umthamo kuhlukaniselwana ngayo phakathi kwabobonke abasebenzisi ngokuhambisana nezidingo zabo; 50
- (o) abantu abangenisiwe ebhizinisini kumele kuthi ngokulandela indlela ebekiwe bakwazi ukusebenzisa ngendlela enokubonelela okungena kuzibophezela isikhungo sokugcina iphethroliyamu; 55
- (p) abantu abathintekayo bangaxoxisana nomnikazi welayisensi yesikhungo sokugcina iphethroliyamu ngokuphathelele nezinguquko okumele zenziwe esikhungweni sokugcina iphethroliyamu; 60
- (q) abanikazi bamalayisensi esikhungo sokugcina ababophezelekile ekutheni bangene ezindlekweni ngoguquko okukhulunywa ngalo kupharagrafu (o),

- (r) tariffs approved by Authority for loading facilities and storage facilities;
  - (s) licensees must maintain their licensed loading facilities, petroleum pipelines or storage facilities in a fully operational condition;
  - (t) the time period within which petroleum pipelines, loading facilities or storage facilities must become operational must be fixed; 5
  - (u) licensees must provide information necessary for the Authority to perform its functions;
  - (v) standards of construction and operation approved by the Authority, including incorporating by reference any existing standard in terms of other legislation;
  - (w) health, safety, and environmental standards required by the Authority, including incorporating by reference any existing standard in terms of other legislation; 10
  - (x) licensees must—
    - (i) submit to the Authority annually an emergency plan for implementation in the event of system failures, accidents and other emergencies; 15
    - (ii) train the appropriate operating and maintenance employees with regard to the applicable portions of the plan; and
    - (iii) establish liaison with the appropriate emergency response officials with respect to the plan;
  - (y) petroleum pipeline licensees must have a plan for reviewing changes in conditions affecting the integrity and safety of their pipelines, including periodic patrolling and reporting of construction activities and such changes of conditions; 20
  - (z) licensees must establish and maintain liaison with local authorities that issue permissions for excavations by third parties that could damage the licensees pipelines; 25
  - (aa) licence conditions may be temporarily changed by the Authority in an emergency and, where possible, in consultation with the licensee; and
  - (bb) strategic security standards required by the Authority, including incorporating by reference any existing standard in terms of other legislation. 30
- (2) (a) Any person aggrieved by a condition imposed by the Authority in terms of subsection (1) may in the prescribed manner apply to the Authority to amend or delete the condition.
- (b) If the aggrieved person is not the licensee the Authority must inform the licensee of the application. 35
- (c) Whenever there is an application in terms of paragraph (a), the Authority must conduct an investigation and may, for that purpose, summon witnesses to appear before it.
- (d) At the conclusion of the investigation the authority must grant or refuse the application and furnish reasons for its decision. 40

### Non-discrimination

21. Licensees may not discriminate between customers or classes of customers regarding access, tariffs, conditions or service except for objectively justifiable and identifiable grounds approved by the Authority.

### Term of licence

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22. (1) Any licence issued in terms of this Act is valid for a period of 25 years.
- (2) A licensee may apply to have his or her licence renewed.

kanti izindleko zonke zesikhungo sokugcina iphethroliyamu kumele zithwalwe ngokulinganayo ngumnikazi welayisensi yesikhungo sokugcina kanye nalabo abacele ukuba kwenziwe izinguquko ezithile;

- (r) ukumquma intela yamapayiphi ephethroliyamu;
- (s) ukuvuma intela yesikhungo sokulayisha kanye nesokugcina iphethroliyamu; 5
- (t) abanikazi bamalayisensi kumele bagcine isikhungo sokulayisha, amapayiphi ephethroliyamu noma isikhungo sokugcina iphethroliyamu esinelayisensi sisesimeni sokusebenza kahle;
- (u) kumele kunqunywe isikhathi okumele kuthi singakapheli isikhungo sephethroliyamu, isikhungo sokulayisha kanye nesikhungo sokugcina iphethroliyamu kube sekusebenza; 10
- (v) abanikazi bamalayisensi kumele banike uMkhandlu ulwazi oludingakalela ukuba ukwazi ukuqhuba umsebenzi wawo;
- (w) ukuvunywa kwezinga lokwakhiwa nokusebenza okubandakanya ukufakwa kwanoma yimaphi amanye amazinga akhona ngokomunye umthetho noma umthetho ongaphansi; 15
- (x) izidingo zempilo, ezokuphepha nezemvelo okubandakanya ukufakwa kwanoma yimaphi amanye amazinga akhona ngokomunye umthetho noma umthetho ongaphansi;
- (y) abanamalayisensi kufanele: 20
  - (i) balethe kuMkhandlu kanye ngonyaka amasu esimo esibucayi ayosetshenziswa uma kubheda izinhlelo, kunezingozi noma kunezinye izimo eziphuthumayo;
  - (ii) baqeqeshe abasebenzi abafanelekile abazokwazi ukusebenzisa lelosu; bese 25
  - (iii) besungula ukuxhumana nezikhulu ezibhekele izimo ezibucayi mayelana nalelosu;
- (z) abanamalayisensi amapayipi athwala iphethroliyamu kufanele babe nesu lokubuyekeza izinguquko ezimweni ezithinta ubumsulwa nokuphepha kwamapayipi abo, okubandakanya ukuzulazula eduze kwawo ngezikhathi ezithile nokubika ngemisebenzi yezokwakha nezinguquko ezifana nalezo zezimo; 30
- (aa) abanamalayisensi kufanele basungule futhi bagcine ukuxhumana neziphathimandla zendawo ezikhipha izimvume zokumba okwenziwa ngamaqembu esithathu okungahle kulimaze amapayipi alowo onelayisensi. 35
- (bb) imigomo yelayisensi ingaguqulwa wuMkhandlu okwesikhashana esikhathini esibucayi futhi ngokubonisana nomnikazi welayisensi uma kwenzeka.

2 (a) Nanoma yimuphi umuntu onokuphazamiseka ngesimo esibekwe nguMkhandlu owengamele amaPayiphi athwala iPhethroliyamu ngokulandela isigatshana (1) kungathi ngokulandela indlela ebekiwe afake isicelo eMkhandlwini ukuba leso simo sibuyekezwe. 40

(b) Uma umuntu ophazamisekile engeyena umnikazi welayisensi uMkhandlu owengamele amaPayiphi athwala iPhethroliyamu kumele wazise umnikazi welayisensi ukuthi kunesicelo sokubuyekeza.

(c) Nanoma yini lapho kunesicelo sokubuyekeza esifakwe ngokukapharagrafu (a) uMkhandlu kumele wenze uphenyo kanti ngalokho kunokwenzeka ubize ofakazi ukuba bazovela kuwo. 45

(d) ekupheleni kophenyo isikhulu kufanele sisivume noma sesenqabe isicelo futhi sibeke isizathu ngesinqumo saso.

## Ukungabandlululi

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21. (1) Abanikazi bamalayisensi abeyubandlulula abathengi noma izigaba zabathengi ngokuphathelene nokusebenzisa intela, izimo kanye nomsebenzi ngaphandle uma lokho kwenziwa ngokusebenzisa umehluko obonakalayo okuvunyelwe nguMkhandlu.

## Isikhathi sokusebenza kwelayisensi nokwelulwa kwaso

22. (1) Nanoma yiyiphi ilayisensi ekhishwe ngokulandela izimiso zalo Mthetho izosebenza iminyaka engamashumi amabili nanhlanu (25) noma isikhathi ubude baso obuyonqunywa nguMkhandlu. 55

(2) Umnikazi welayisensi angafaka isicelo sokuvuselela ilayisensi yakhe.

(3) Every application for renewal must be granted if the licensee has complied with the licence conditions.

(4) When renewing a licence the Authority may impose different conditions within the framework set out in section 20.

(5) A licensee may not sell or assign his or her licence. 5

(6) Any person taking over the business of a licensee must apply for a licence in his or her own right and section 15 applies in respect of such person.

### Amendment of licence

23. (1) The Authority may vary, suspend or remove any of the licence conditions, or may include additional conditions— 10

(a) on application by the licensee;

(b) with the permission of the licensee;

(c) upon non-compliance by a licensee with a licence condition;

(d) if it is necessary for the purposes of this Act;

(e) on application by any affected party; 15

(f) in the case of an emergency.

(2) The procedure to be followed in varying, suspending, removing or adding any licence conditions must be prescribed by rule.

### Revocation of licence on application

24. (1) The Authority may revoke a licence on the application of a licensee if— 20

(a) the licensed facility or activity is no longer required;

(b) the licensed facility or activity is not economically justifiable; or

(c) another person is willing and able to assume the rights and obligations of the licensee concerned in accordance with the requirements and objectives of this Act, and a new licence is issued to such person. 25

(2) Licensees must give the Authority notice in writing, at least 12 months or such shorter period as the Authority may approve in advance, of their intention to cease their activities.

(3) The form and procedure to be followed in revoking a licence under subsection (1) must be prescribed by rule. 30

### Contraventions

25. (1) If a licensee contravenes or fails to comply with a condition of a licence or any provision of this Act, the Authority may serve a notice on such licensee in which the licensee is directed to comply with the condition or the provision of the Act within a reasonable period specified in the notice. 35

(2) If a licensee fails to comply with a notice contemplated in subsection (1), the Authority may sit as a tribunal and, with due regard to section 10, decide on the matter and may impose a penalty or a fine not exceeding R2 000 000 per day for each day on which the contravention or failure to comply continues.

(3) The Authority must consider the severity of the non-compliance when deciding the amount of any penalty. 40

(4) The Minister may from time to time by notice in the *Gazette* amend the amount referred to in subsection (2) in order to counter the effect of inflation.

### Revocation of licence by court

26. (1) The Authority may by way of application on notice of motion apply to the High Court for an order suspending or revoking a licence if there is any ground 45

(3) Igunya lokuvuselelwa kwelayisensi linganikwa yinqobo uma uMkhandlu uzonquma imibandela emisha neyehlukile yelayisensi.

(4) Umnikazi welayisensi angeke akwazi ukuthi angedlulisela ilayisensi yakhe komunye umuntu.

(5) Umnikazi welayisensi akavunyelwe ukudayisa noma anikezele ngelayisensi yakhe. 5

(6) Noma subani othatha ibhizinisi lomnikazi welayisensi kufanle afake isicelo selayisensi yakhe qobo futhi kusebenza isigaba 15 kulowo muntu.

### Ukuchibiyelwa kwelayisensi

23. (1) UMkhandlu owengamele ungenza uguquko, umise ekusebenzeni okukanye 10 ususe nanoma yimuphi umbandela welayisensi noma ufake eminye imibandela eyengeziwe —

- (a) kufakwe isicelo ngumnikazi welayisensi;
- (b) ngemvume yomnikazi welayisensi;
- (c) lapho umnikazi welayisensi ehlulekile wukuhlonipha imibandela ebekelwe 15 ilayisensi;
- (d) lapho kunesidingo ngenhloso yokubhekela lo Mthetho; noma
- (e) lapho kunesicelo esifakwe wumuntu obe nokuthinteka ngandlela thize;
- (f) lapho kunesimo esiphuthumayo.

(2) Indlela eyolandelwa lapho kwenziwa uguquko, kumiswa ukusebenza okukanye 20 kususwa noma kwengezwa nanoma yimuphi umbandela welayisensi injengoba ichaziwe.

### Ukwesulwa kwelayisensi lapho kufakwe isicelo

24. (1) UMkhandlu ungayesula ilayisensi lapho umnikazi welayisensi efake isicelo uma— 25

- (a) isikhungo esinikwe ilayisensi noma umsebenzi esiwenzayo ungasadingeki;
- (b) isikhungo esinikwe ilayisensi noma umsebenzi esiwenzayo ungenamthelela emnothweni; noma
- (c) kunomunye umuntu ozimisele futhi osesimeni sokuthatha amalungelo nezibopho zomnikazi welayisensi ngaphansi kwemibandela nezinhlalo zalo 30 Mthetho, bese kukhishwa ilayisensi entsha enikwa lowo muntu.

(2) Abanamalayisensi kufanele bazise uMkhandlu ngokubhala incwadi, okungenani kusasele 12 wezinyanga noma isikhathi esifushane kunaleso esingavunywa wuMkhandlu ngaphambi kwaso, ngenhloso yabo yokuyeka ukusebenza.

(3) Indlela nenqubo eyolandelwa lapho kwesulwa ilayisensi ngaphansi 35 kwesigatshana (1) injengoba ibhaliwe.

### Ukwephulwa kwemibandela yelayisensi

25. (1) Uma umnikazi welayisensi ephula kumbe ehluleka ukuhlonipha umbandela welayisensi noma esinye sezimiso zalo Mthetho, uMkhandlu ungakhipha incwadi yesexwayiso eya kulo mnikazi welayisensi emyalela ukuba ahloniphe umbandela noma isimiso soMthetho kungakapheli isikhathi esiyobe sibekwe kuleyo ncwadi yesixwayiso. 40

(2) Uma umnikazi welayisensi ehluleka ukwenza lokho akuyalelwa yincwadi yesexwayiso okukhulunywa ngayo esigatshaneni (1), uMkhandlu ungabiza isigcawu, ngokulandela isigaba 10, bese uthatha isinqumo ngalolu daba kanti ungahlawulisa umnikazi welayisensi imali ewu-R2 000 000,00 ngosuku, kulolo nalolo suku okube 45 nokuhubeka nokwehluleka ukuhlonipha umbandela welayisensi.

(3) UMkhandlu uyobheka ukuthi kube kukhulu kangakanani ukwephula umthetho lapho unquma inani lenhlawulo.

(4) UNgqongqoshe kungathi ngokufaka isaziso kusoMqulu kaHulumeni aguqule inani lemali elivezwe esigatshaneni sesi-(2) ngenhloso yokubhekana nesimo sokwehla 50 kwamandla emali.

### Ukwesulwa kwelayisensi yinkantolo

26. (1) UMkhandlu owengamele amaPayiphi athwala iPhethroliyamunye ungafaka isicelo eNkantolo ePhakeme sokuba inkantolo ikhiphe umyalo omisa ukusebenza noma owesula ilayisensi uma kunezizathu ezanele zokuba kumiswe ukusebenza kumbe 55

justifying such suspension or revocation such as failure of the licensee to carry out the construction and operation activities for which the licence was granted.

(2) The court before which an application is made under subsection (1) may grant or refuse the application, and may make such order as to costs and maintaining the service of the licensee as it may deem fit.

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### Health, safety, security and environment

27. The Authority may require a licensee to submit financial security, or make such other arrangements as may be acceptable to the Authority, to ensure compliance with any licence condition relating to health, safety, security or the environment, prior to, during or after the period of validity of the licence.

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### Setting and approval of tariffs

28. (1) The Authority must set as a condition of a license the tariffs to be charged by a licensee in the operation of a petroleum pipeline and approve the tariffs for storage facilities and loading facilities.

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(2) A tariff charged in terms of subsection (1)—

(a) must be—

(i) based on a systematic methodology applicable on a consistent and comparable basis;

(ii) fair;

(iii) non-discriminatory;

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(iv) simple and transparent;

(v) predictable and stable;

(vi) such as to promote access to affordable petroleum products;

(b) becomes effective from the date set out in the licence;

(c) must be reviewed by the Authority within the period set out in the licence; and

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(d) may be adjusted by the Authority on review.

(3) The tariffs set or approved by the Authority must enable the licensee to—

(a) recover the investment;

(b) operate and maintain the system; and

(c) make a profit commensurate with the risk.

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(4) The Authority must monitor the application of tariffs and take appropriate action when necessary to ensure that they are applied in a non-discriminatory manner and licensees must provide the information required by the Authority in this regard.

(5) A licensee may request the Authority to review its tariff from time to time and may submit a proposal to the Authority in this regard, and—

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(a) such proposed tariff, if set or approved, comes into effect from the date determined by the Authority;

(b) the existing tariff remains in force until a new tariff takes effect.

(6) A licensee may not charge a tariff for the licensed activity in question other than that set or approved by the Authority.

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yesulwe, okufana ne ukwehluleka komnikazi welayisensi ukhwakha nokwenza umsebenzi anikwe ilayisensi yawo, nokho lokhu kungebe ngukuphela kwesizathu.

(2) Inkantolo okufakwe kuyo isicelo ngokwesigatshana (1) ingasamukela kumbe isichithe isicelo kanti ingakhipha umyalo kuye ngokubona kwayo ngokuphathele ne nezindleko nokuqhutshwa komsebenzi owenziwa ngumnikazi welayisensi.

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### Ezempilo, ezokuphepha ezokuvikeleka nezemvelo

27. Mkhandlu udinga ukuba umnikazi welayisensi ethule ukuphepha kwezezemali noma enze amalungiselelo azokwamukeleka eMkhandlwini, ukuqinisekisa ukuthi uzowuhlonipha umbandela ophathelene nezempilo, ezokuphepha, ukuvikeleka kanye nezemvelo ngaphambi kokusebenza, ngesikhathi sokusebenza nangemuva kokuphela kwesikhathi sokusebenza ilayisensi.

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### Ukunqunywa kanye nokuvunywa kwamanani

28. (1) UMkhandlu uyobheka ukunqunywa kwamanani ayobizwa ngumnikazi welayisensi lapho eqhuba umsebenzi wepayiphi lephethroliyamu bese efuvuma izinkokhelo zezindawo zokulayisha nezokugcina impahla.

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(2) Inani elibizwayo ngokwesigatshana (1)—

(a) kufanele—

(i) kube nesisekelo sohlelo lwezindlela ezihlelekile olusebenza ngendlela eqhubekayo neqhathanisekayo;

(ii) kube nobulungiswa;

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(iii) kungabi nobandlululo;

(iv) kube lula kungabi namfihlo;

(v) kwazeke ngako kungakenzeki futhi kusimame

(vi) ngendlela ezogququzela ukutholakala kwemikhiqizo engabizi yephethroliyamu;

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(b) liyoqala ukusebenza ngosuku oluvezwe elayisensini;

(c) liyobuyekeza nguMkhandlu esikhathini esivezwe elayisensini;

(d) lingaguqulwa nguMkhandlu ubuyekeza.

(3) Izinkokhelo ezibekwe nezivunywe wuMkhandlu kufanele zenze onelayisensi akwazi—

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(a) ukubuyisa imali ayitshalile;

(b) ukusebenzisa abuye agcine esimweni loluhlelo; futhi

(c) enze inzuzo elingana nengozi.

(4) UMkhandlu kufanele ugade ukusebenza kwezinkokhelo bese uthatha izinyathelo ezifanele uma kudingekile ukuqinisekisa ukuthi zisetshenziswa ngendlela engabandlululi futhi abanamalayisensi kufanele balethe imininingwane edingwa wuMkhandlu mayelana nalokhu.

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(5) Umninilayisensi angafaka isicelo sokuthi uMkhandlu uhlale ngokuyibuyekeza intela kanti futhi angenza nesiphakamiso eMkhandlwini, kanti—

(a) leyo ntela ephakanyisiwe, uma seyingquniwe futhi yemukelwa, izoqala ukusebenza kusukela ngosuku oluyomiswa nguMkhandlu;

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(b) intela esebenzayo ngaleso sikhathi izoqhubeka isebenze kuze kuqale ukusetshenziswa kwentela entsha.

(6) Umnikazi welayisensi akavunyelwe ukubiza inkokhelo yomsebenzi anelayisensi yokuwenza ngaphandle kwalowo obekwe novunywe wuMkhandlu.”

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## CHAPTER 4

### GENERAL PROVISIONS

#### Entry, inspection and gathering of information by Authority

29. (1) For the purposes of this Act, any person authorised thereto in writing by the Authority may— 5
- (a) at all reasonable times enter any property on which a licensed activity is taking place and inspect any facility, equipment, machinery, book, account or other document found thereat; and
  - (b) require any person to furnish the Authority with such information, returns or other particulars as may be necessary for the proper administration of this Act. 10
- (2) The Authority may require that the accuracy of any information, return or particular furnished in terms of subsection (1) be verified on oath or by way of a solemn declaration.
- (3) A person authorised by the Authority as contemplated in subsection (1) must show his or her authorisation to any person requesting it. 15
- (4) No information obtained by the Authority in terms of this Act which is of a non-generic, confidential, personal, commercially sensitive or proprietary nature may be made public or otherwise disclosed to any person without the permission of the person to whom that information relates, except in terms of an order of the High Court.

#### Voluntary resolution of disputes by Authority 20

- 30.(1) (a) The Authority may, with the approval of all parties to a dispute, act as mediator or arbitrator in any matter falling within the ambit of this Act.
- (b) When acting as arbitrator, the Authority must issue a decision on the matter.
- (2) (a) The Authority may, on request of the parties involved, appoint a suitable person acceptable to all the parties to act as mediator or arbitrator on its behalf in any matter contemplated in subsection (1). 25
- (b) Any decision of an arbitrator so appointed must be regarded as being the decision of the Authority.
- (3) Any decision taken by the Authority acting as arbitrator or by an arbitrator contemplated in subsection (2) is binding on the parties to the dispute. 30

#### Investigations by Authority

31. (1) The Authority must conduct investigations into complaints of—
- (a) discrimination regarding tariffs or conditions of access;
  - (b) failure to obtain access to petroleum pipelines, loading facilities or storage facilities; and 35
  - (c) failure to abide by tariffs set or approved by the Authority.
- (2) A complaint contemplated in subsection (1) must be submitted within the period and in the manner prescribed by rule and be accompanied by—
- (a) supporting information; and
  - (b) a description of efforts made to resolve the dispute before resorting to the Authority. 40

#### Expropriation of land by Authority

32. (1) In pursuit of the objects of this Act, the Authority may expropriate land or any right in, over or in respect of land on behalf of a licensee in accordance with section 25 of the Constitution. 45
- (2) The procedure to be followed in giving effect to subsection (1) must be prescribed by regulation.

**ISIAHLUKO 4****IZIMISO NGOKUBANZI****Ukungena, ukuhlola, kanye nokuqoqwa kolwazi nguMkhandlu owengamele amaPayiphi athwala iPhethroliyam**

**29.** (1) Ukwenzela ukusebenza ngendlela kwalo Mthetho, nanoma yimuphi umuntu 5  
onikwe igunya ngokubhala phansi nguMkhandlu—

(a) kungathi njalo ngezikhathi ezifanele angene kunoma yisiphi isakhiwo okuqhutshwa kuso umsebenzi okhishelwe ilayisensi afike ahlole nanoma yisiphi isikhungo, impahla yokusebenza, imishini, amabhuku, i-akhawunti noma eminye imibhalo etholakale lapho; futhi 10

(b) angafuna ukuba noma wubani alethe eMkhandlwini ulwazi, amafomu entela kanye neminye imininingwane engadingakalela ukusebenza ngendlela efanele kwalo Mthetho.

(2) UMkhandlu ungadinga ukuthi ulwazi, amafomu entela kanye neminye imininingwane elethwe ngokwesigatshana (1) iqinisekise ngesifungo sasenkantolo 15  
noma sangokwenkolo.

(3) Umuntu onikwe igunya nguMkhandlu njengoba kucatshangwa esigatshaneni (1) kuyothi lapho ecelwa avezele nanoma yimuphi muntu omcelayo incwadi emgunyazayo.

(4) Akukho lwazi olungekho banzi, oluyimfihlo, nolubucayi kwezohwebo, noma oluthinta ibhizinisi olutholwe nguMkhandlu okuyovumeleka ukuba lwaziswe 20  
umphakathi noma oluyodalulelwa nanoma yimuphi umuntu ngaphandle kwemvume yalowo muntu olumthintayo, ngaphandle uma lokho kudalulwa kwalo kukhishwa ngumyalo weNkantolo ePhakeme.

**Ukuxazululwa kwezingxabano nguMkhandlu**

**30.** (1) (a) UMkhandlu kungathi ngokuvumelana kwazo zonke izinhlangano 25  
ezixabene, ube ngumlamuli noma umxazululi kunanoma yiluphi udaba olungena kulo Mthetho.

(b) Lapho usebenza njengomxazululi, uMkhandlu owengamele amaPayiphi athwala iPhethroliyam kumele uthathe isinqumo odabeni osuke uluxazulula.

(2) (a) UMkhandlu kungathi ngokucelwa yilabo abathintekayo odabeni, uqoke 30  
umuntu ofanele ozowumela ekubeni ngumxazululi noma umlamuli kunanoma yiluphi udaba olucatshangwa esigatshaneni (1).

(b) Nanoma yisiphi isinqumo somlamuli okhethwe ngalendlela kumele sithathwe ngokuthi siyisinqumo soMkhandlu.

(3) Nanoma yisiphi isinqumo esithathwe nguMkhandlu lapho ulamula kumbe 35  
uxazulula njengoba kucatshangwa esigatshaneni sesi-2, siyoba yisibopho kubona bonke lapho abathinteka engxabanweni.

**Uphenyo oluyokwenziwa uMkhandlu**

**31.** (1) UMkhandlu kumele wenze uphenyo lapho kunezikhalo—

(a) zokubandlulula mayelana namanani noma izimo zokusebenzisa; 40

(b) nokwehluleka ukuthola ilungelo lokusebenzisa amapayiphi ephethroliyam, isikhungo sokulayisha kanye nesikhungo sokugcina iphethroliyam; kanye

(c) ukwehluleka ukugcina izinkokhelo ezibekwe nezivunye wuMkhandlu.

(2) Isikhalo okukhulunywa ngaso esigatshaneni (1) kumele sethulwe kungapheli isikhathi esinqunyiwe, sethulwa ngokulandela indlela ebekiwi kanti kumele 45  
siphelezwe —

(a) wulwazi lokuseseka;

(b) incazelo yemizamo eyenziwe ukuxazulula leyo ngxabano ngaphambi kokuba yethulwe eMkhandlwini.

**Ukuthathwa komhlaba nguMkhandlu**

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**32.** (1) Ngenhloso yokufeza izinhloso zalo Mthetho, uMkhandlu ungathatha umhlaba noma nanoma yiliphi ilungelo elikhona, lokho ukwenzela umnikazi welayisensi ngokulandela isigaba 25 soMthethosisekelo.

(2) Inqubo ezolandelwa ukunika amandla isigatshana (1) kumele ishiwo.

(3) The Authority may exercise the powers contemplated in subsection (1) only if it is satisfied that—

- (a) a licensee is unable to acquire land or a right in, over or in respect of such land by agreement with the owner; and
- (b) the land or any right in, over or in respect of such land is reasonably required by a licensee for facilities which will enhance the Republic's petroleum pipelines infrastructure. 5

### Regulations and rules

33. (1) The Minister must as appropriate, by notice in the *Gazette*, make regulations regarding— 10

- (a) ensuring fair administrative action by the Authority;
- (b) the rehabilitation of land used in connection with a licensed activity, including the provision of financial security for rehabilitation purposes and the composition and amount of such security;
- (c) the procedure to be followed and fees to be paid in mediation and arbitration proceedings; 15
- (d) the procedure to be followed at expropriation proceedings, and the time within which such proceedings must be conducted;
- (e) the rendering of information to the Authority;
- (f) mechanisms to promote historically disadvantaged South Africans; 20
- (g) liaison between licensees and local authorities as contemplated in section 20(1)(x) and (z); and
- (h) any other matter that may or has to be prescribed, or determined or provided for by regulation in terms of this Act.

(2) Before promulgating regulations contemplated in subsection (1), the Minister must— 25

- (a) consult with the Authority;
- (b) invite public comments on such regulations; and
- (c) duly consider the comments.

(3) The Authority may make rules regarding— 30

- (a) the public notification of, and the procedures to be followed at meetings of, the Authority;
- (b) the keeping of records by the Authority;
- (c) the form, manner and contents of licence applications;
- (d) the publishing of licence applications and the contents thereof; 35
- (e) the form and manner in which objections to licence applications must be lodged and the furnishing thereof to the applicant for his or her response thereto;
- (f) the procedure to be followed in considering licence applications;
- (g) the publishing of information relating to uncommitted capacity; 40
- (h) the procedure to be followed in the variation, suspension, removal or the revocation of licence conditions;
- (i) the procedures to be followed in investigations, including the summoning of witnesses and the payment of witness fees;
- (j) the inspection of and enquiry into the construction and operation of any petroleum pipeline, loading facility or storage facility; and 45
- (k) consultation with interested and affected parties.

### Prohibition of agreements contrary to Act

34. (1) An agreement may not contravene any—

- (a) provision of this Act; 50
- (b) licence granted by the Authority;
- (c) condition attached to a licence granted by the Authority;
- (d) regulation, rule or directive issued under this Act.

(2) Any agreement in contravention of subsection (1) is void.

(3) UMkhandlu ungasebenzisa amandla ahlongozwa esigatshaneni (1) kuphela uma ugculisekile ukuthi—

- (a) umnikazi welayisensi akakwazi ukuthi athole umhlaba noma ilungelo lawo noma ngokwesivumelwano nomnikazi wawo;
- (b) umhlaba noma nanoma yiliphi ilungelo lawo uyalidinga umnikazi welayisensi ngenhloso yokuba nezikhungo ezizosimamisa ingqalasizinda yamapayiphi ephethroliyam eRiphabhliki. 5

### Iziqondiso nemithetho

33. (1) Ungqongqoshe ufanele ngendlele efanekile ngokukhipha isaziso kusoMqulu kaHulumeni enze iziqondiso ezimayelana— 10

- (a) nokuqiniseka ukuthi uwenza ngobuqotho umsebenzi wawo wokuphatha;
- (b) ukuvuselelwa komhlaba osetshenziswa maqondana nomsebenzi ovunyelwe yilayisensi, kubandakanya ukulethwa kokuphepha kwezezimali ngezinhloso zokuvuselela kanye nohlobo nenani lalokokuphepha;
- (c) nenqubo ezolandelwa kanye nezimali ezizokhokhwa lapho kunesithangami sokuxazulula ingxabano kumbe sokulamula; 15
- (d) inqubo ezolandelwa, kanye nesikhathi okumele kwenzeke ngaso ukwedluliswa kwempahla;
- (e) ukunikezwa kolwazi eMkhandlwini;
- (f) indlela yokufukula abantu baseNingizimu Afrika ababencishwe amathuba; 20
- (g) ukuxhumana phakathi kwabanamalayisensi neziphathimandla zendawo njengoba kubekiwe esigabeni 20(1)(x) no (z), bese
- (h) nanoma yiluphi olunye udaba olunganqunywa kumbe okuhlinzekelwe ukuba lubhekelle ngokweziqondiso zalo Mthetho.

(2) Ngaphambi kokumemezela njengomthetho iziqondiso ezivezwe esigatshaneni (1), uNgqongqoshe kumele — 25

- (a) axhumane noMkhandlu;
- (b) acele umphakathi ukuba unike uvo lwawo ngalezo ziqondiso; futhi
- (c) ayibhekise imibono eyethuliwe.
- (3) UMkhandlu ungenza imithetho mayelana: 30
- (a) nenqubo eyolandelwa emihlanganweni yoMkhandlu;
- (b) nokugcinwa kwamarekhodi oMkhandlu owengamele amaPayiphi athwala iPhethroliyam;
- (c) ukwaziwa kwako emphakathini kanye nenomumo, indlela kanye nokuyoqokathwa yizicelo zelayisensi; 35
- (d) ukushicilelwa kwezicelo zelayisensi nomongo wokushicilelwe;
- (e) indlela yokwethula iziphakamiso eziphikisa isicelo selayisensi, nokwedluliselwa kwazo kulowo ofake isicelo ukuze akwazi ukuphendula ngazo;
- (f) inqubo okumele ilandelwe lapho kucutshungulwa izicelo zelayisensi; 40
- (g) ukushicilelwa kolwazi oluphathelele nokungazibophezeli;
- (h) inqubo okumele ilandelwe lapho kwenziwa uguquko, kumiswa ukusebenza kwelayisensi, kususwa noma kwesulwa imibandela yelayisensi;
- (i) inqubo eyolandelwa lapho kunophenyo, okubandakanya ukubizwa kofakazi kanye nokukhokhwa kwezimali zofakazi; 45
- (j) ukuhlola nokuthola imininingwane ngokwakhiwa kanye nokusebenza kwesikhungo sephethroliyam; kanye
- (k) nokuxhumana nabo bonke labo abathintekayo.

### Ukwenqatshwa kwezivumelwano eziphikisana noMthetho

34. (1) Akukho sivumelwano okumele ziphikisane— 50

- (a) nesimiso salo Mthetho;
- (b) nelayisensi ekhishwe nguMkhandlu;
- (c) nombandela ohambisana nelayisensi ekhishwe uMkhandlu;
- (d) nesiqondiso kumbe umyalo okhishwe ngokwalo Mthetho.

(2) Nanoma yisiphi isivumelwano esiphikisana isigatshana (1) asiyusebenza kulabo abathintekayo ngalokho sedluliselwe enkantolo. 55

**Transitional provisions**

**35.** (1) Any person owning petroleum pipelines, loading facilities or storage facilities prior to the commencement of this Act must, within six months after the commencement of this Act, submit to the Authority an application for a licence in terms of this Act.

(2) (a) The Authority must grant a licence contemplated in subsection (1), unless it finds that the applicant is unable or unwilling to own or operate petroleum pipelines, loading facilities or storage facilities in a manner consistent with the objectives and provisions of this Act. 5

(b) Any licence issued in terms of paragraph (a) must for all purposes be regarded as a licence issued in terms of section 19. 10

**Short title and commencement**

**36.** This Act is called the Petroleum Pipelines Act, 2003, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

**Izimo zesikhashana**

**35.** (1) Nanoma yimuphi umuntu ongumnikazi amapayiphi ephethroliyam, isikhungo sokulayisha noma sokugcina iphethroliyam ngaphambi kokuqala kokusebenza kwalo Mthetho, kumele afake isicelo selayisensi eMkhandlwini zingakapheli izinyanga eziyisithupha. 5

(2) (a) UMkhandlu owengamele amaPayiphi athwala iPhethroliyam kumele ukhiphe ilayisensi okukhulunywa ngayo esigatshaneni (1), ngaphandle uma uthola ukuthi lowo ofake isicelo selayisensi angeke akwazi ukuphatha kumbe ukusebenzisa amaphayiphi ephethroliyam, isikhungo sokulayisha kanye nesikhungo sokugcina iphethroliyam ngendlela ehambisana nezinhloso nezimiso zalo Mthetho. 10

(b) Noma yiyiphi ilayisensi ekhishwe ngokulandela upharagrafu (a) kumele ngazo zonke izikhathi ithathwe njengelayisensi ekhishwe ngokwezimiso zesigaba se-19.

**Isihloko ngokufingqiwe nokuqala ukusebenza**

**36.** Lo Mthetho uzokwaziwa ngokuthi wuMthetho ka 2002 wamaPayiphi ePhethroliyam. 15

