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20 December 2004  
Desember 2004

**No. 27122**

## THE PRESIDENCY

No. 1472

20 December 2004

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

**No. 28 of 2004: Petroleum Pipelines Levies Act, 2004.**

## IHOVISI LIKAMONGAMELI

INo. 1472

20 December 2004

Lokhu wukwazisa umphakathi ukuthi uMongameli uyavumelana naloMthetho olandelayo oshicilelwe ulwazi jikelele:—

**No. 28 ka 2004: UmThetho weziNtela zamaPayipi aThwala iPhethiloliyamu, 2004.**



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 (English text signed by the President)  
 (Assented to on 14 December 2004)  
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# ACT

**To provide for the imposition of levies by the Petroleum Pipelines Regulatory Authority; and to provide for matters connected therewith.**

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

## Definitions

1. In this Act, unless the context indicates otherwise—
  - “**Authority**” means the Authority established by section 3 of the Petroleum Pipelines Act; 5
  - “**importer**” means the owner, at the point of importation, of petroleum imported into the Republic;
  - “**levy**” means the amount imposed under section 2;
  - “**Minister**” means the Minister of Minerals and Energy; 10
  - “**petroleum**” means petroleum as defined in the Petroleum Pipelines Act;
  - “**petroleum pipeline**” means a petroleum pipeline as defined in the Petroleum Pipelines Act;
  - “**Petroleum Pipelines Act**” means the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003); 15
  - “**producer**” means a producer of petroleum from liquid or solid hydrocarbons in the Republic;
  - “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
  - “**refiner**” means a refiner of petroleum. 20

## Imposition of levies

2. (1) The Authority may by notice in the *Gazette*—
  - (a) impose levies for the purpose of meeting the general administrative and other costs of the Authority and the functions performed by the Authority; 25
  - (b) specify the intervals and times in respect of payment of such levies;
  - (c) determine interest as contemplated in section 4; and
  - (d) vary levies.
- (2) The levies imposed under subsection (1) must be—
  - (a) based on the amount of petroleum, measured in litres, delivered by importers, refiners and producers to inlet flanges of petroleum pipelines; and 30
  - (b) paid by the person holding the title to the petroleum immediately after it has entered the inlet flange.
- (3) Before imposing levies, varying levies, or determining interest, the Authority must—
  - (a) publish the proposed levies, variation or determination in such a manner as it considers appropriate in order to bring the proposed levies, variation or determination to the attention of stakeholders in the petroleum pipelines industry, together with a statement explaining the reasons for the proposed imposition or variation of levies or determination of interest and an invitation for representations to be made to the Authority within a specified and 35 40  
reasonable time;

(English text signed by the President.)  
(Assented to on 14 December 2004.)

# UMTHETHO

**Ukubhekela ukunqunywa kwezintela wuMkhandlu oPhethe amaPayipi ePhethroliyam; nokubhekela izindaba ezixhumene nalokho.**

**M** AKWENZIWE UMTHETHO yiPhalamende leRiphabhliki yaseNingizimu Afrika, ngendlela elandelayo:-

## Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi ikhomba okunye—
  - “UMkhandlu” usho uMkhandlu owasungulwa yisigaba 3 soMthetho wamaPayipi ePhethroliyam; 5
  - “umngenisi wempahla” usho umnikazi, lapho kungeniswa khona impahla ephuma kwelinye izwe, wephethroliyam engeniswe eRiphabhliki;
  - “intela” isho izimali ezikhokhiswa ngaphansi kwesigaba 2;
  - “UNgqongqoshe” usho uNgqongqoshe wezokuMbiwayo nezaMandla; 10
  - “iphethroliyam” isho iphethroliyam njengoba ichazwe kuMthetho wamaPayipi ePhethroliyam;
  - “ipayipi lephethroliyam” lisho ipayipi elithwala iphethroliyam njengoba kuchazwe kuMthetho wamaPayipi ePhethroliyam;
  - “UMthetho wamaPayipi aThwala iPhethroliyam” usho uMthetho wamaPayipi aThwala iPhethroliyam, 2003 (uMthetho onguNombolo 60 ka 2003); 15
  - “umkhiqizi” usho okhiqiza iphethroliyam ngoketshezi noma ngama-hydrocarbons aqinile eRiphabhliki;
  - “UMthetho wokuPhathwa kwezemiMali zoMphakathi” usho uMthetho wokuPhathwa kwezemiMali zoMphakathi, 1999 (uMthetho onguNombolo 1 ka 1999); 20
  - “umhluzi” usho ohluza iphethroliyam.

## Ukunqunywa kwezintela

2. (1) UMkhandlu ungenza okulandelayo ngesaziso kwi-Gazette (UMqulu kaHulumeni wezaziso)— 25
  - (a) ukunquma izintela ngenhloso yokuhlangabezana nezindleko zokuphatha nezinye zoMkhandlu kanye nemisebenzi eyenziwa wuMkhandlu;
  - (b) ukubeka izikhathi okuzokhokhwa ngazo lezintela;
  - (c) ukunquma inzalo njengokulandisa kwesigaba 4; kanye 30
  - (d) nokuguqula izintela.
- (2) Izintela ezinqunywe ngaphansi kwesigatshana (1) kufanele —
  - (a) zisuselwe kumthamo wephethroliyam, okalwa ngamalitha, olethwa ngabangenisi, abahluzi nabakhiqizi ngaphakathi emapayipini ephethroliyam; futhi
  - (b) zikhokhwe wumuntu ophethe itayitela lephethroliyam ngokushesha emva kokuba isingene ngaphakathi. 35
- (3) Ngaphambi kokunquma izintela, kokuguqula izintela, noma kokunquma inzalo, uMkhandlu kufanele—
  - (a) ushicilele izintela ezihlongozwayo, izinguquko noma inzalo ngendlela obanga ukuthi ifanele ngenhloso yokuthi izintela ezihlongozwayo, izinguquko noma inzalo kwaziwe yilabo ababambe iqhaza embonini yamapayipi 40

- (b) have regard to any representation made to it in terms of paragraph (a);
- (c) give the Minister notice in writing of the proposed imposition or variation of levies, or determination of interest, and specify the period for which such imposition, variation or determination is intended to be operational;
- (d) provide the Minister with reasons for the imposition or variation of levies or determination of interest; 5
- (e) provide the Minister with evidence of consultation with stakeholders or attempts to consult with stakeholders in the petroleum pipelines industry and of the degree of concurrence among such stakeholders with regard to the imposition or variation of levies or determination of interest. 10

(4) The Minister must, with the concurrence of the Minister of Finance, within a period of 60 days after receiving a notice contemplated in subsection (3)(c), give the Authority written approval or disapproval of the proposed imposition, variation or determination and, in the event of disapproving that imposition, variation or determination, also give reasons for the disapproval thereof. 15

(5) After receipt of the notice as contemplated in subsection (4), the Minister may, with the concurrence of the Minister of Finance, recommend an alternative levy or interest determination.

(6) The Authority may impose or vary levies or determine interest under subsection (1) only after the levies or interest has been approved by the Minister with the concurrence of the Minister of Finance. 20

(7) The Authority must publish the notice contemplated in subsection (1) at least 30 days before the commencement of that imposition, variation or determination.

(8) The levies imposed, levies varied or interest determined under subsection (1) must be reviewed annually by the Authority. 25

#### **Disposal and management of levies**

3. (1) The levies imposed, levies varied and interest determined under section 2(1) form part of the funds of the Authority.

(2) The levies and interest collected by the Authority must be paid into a bank account designated for that purpose by the Authority and approved by the National Treasury in terms of section 7(2) of the Public Finance Management Act. 30

(3) (a) At least six months before the start of the financial year of the Department of Minerals and Energy, or such other period as may be agreed upon between the Minister and the Authority, the Authority must submit to the Minister—

- (i) a budget of estimated revenue and expenditure for the next financial year of the Authority as required by section 53 of the Public Finance Management Act; and 35
- (ii) a business plan in the format prescribed under section 54(1) of the Public Finance Management Act, covering the affairs of the Authority for the following three financial years.

(b) The budget and business plan contemplated in paragraph (a) must be submitted for the approval of the Minister and the concurrence of the Minister of Finance. 40

#### **Non-payment of levies**

4. (1) Where a levy is not paid by the person contemplated in section 2(2)(b) on the day such levy became due and payable, that person is, apart from payment of the levy, liable to interest calculated upon the unpaid amount of the levy from that date, subject to subsections (2) and (3). 45

(2) The calculation of interest due and payable to the Authority must be based on the uniform interest rate contemplated in section 80(1)(b) of the Public Finance Management Act.

(3) Levies and interest due shall be deemed to be a debt due to the Authority and may be recovered by the Authority by judicial process in any competent court. 50

#### **Levy imposition to lapse after five years**

5. (1) Subject to subsection (2), any levy imposed in terms of section 2(1)(a) lapses five years after the day on which it was introduced.



UMTHETHO WEZINTELA ZAMAPAYIPI ATHWALA  
IPHETHILOLIYAMU, 2004

Act No. 28, 2004

ephethroliyamu, kuhlange ne zizathu zokunqunywa noma ukuguqulwa kwezintela noma ukunqunywa kwezintela okuhlongozwayo kanye nesimemo sokuba kwethulwe ukuphawula kuMkhandlu singakapheli isikhathi esithile esamukelekile;

- (b) ubhekisise noma yikuphi ukuphawula okwenziwe ngaphansi kwesisigaba (a); 5
- (c) wazise uNgqongqoshe ngencwadi mayelana nokunqunywa kwezintela nenzalo kanye nokuguqulwa kwezintela, bese ubeka isikhathi okuhloswe ngaso ukuba ukunqunywa noma ukuguqulwa kwezintela nokunqunywa kwezintela kuqale ukusebenza;
- (d) unikeze uNgqongqoshe izizathu zokunqunywa noma ukuguqulwa kwezintela nokunqunywa kwezintela; 10
- (e) unike uNgqongqoshe ubufakazi bokubonisana nababambe iqhaza noma imizamo yokubonisana nababambe iqhaza embonini yamapayipi ephethroliyamu kanye nobezinga lokuvumelana phakathi kwalaba ababambe iqhaza mayelana nokunqunywa noma ukuguqulwa kwezintela noma ukunqunywa kwezintela. 15

(4) UNgqongqoshe kufanele, ngokuvumelana noNgqongqoshe wezeziMali, singakapheli isikhathi esiyizinsuku eziwu-60 emva kokuthola isaziso ngaphansi kwesigatshana (3)(c), anike uMkhandlu ukuvunywa noma ukwenqatshwa okubhalwe phansi kokunqunywa noma ukuguqulwa kwezintela nokunqunywa kwezintela bese, uma ekunqaba ukunqunywa noma ukuguqulwa kwezintela noma ukunqunywa kwezintela, abuye anikeze izizathu zalokho kwenqaba. 20

(5) Emva kokuthola isaziso njengokulandisa kwesigatshana (4), uNgqongqoshe angancoma, ngokuvumelana noNgqongqoshe wezeziMali, olunye uhlobo lwentela noma lwenzalo. 25

(6) UMkhandlu unganquma noma uguqule izintela noma inzalo ngaphansi kwesigatshana (1) kuphela emva kokuba izintela noma inzalo sekuvunywe wuNgqongqoshe evumelana noNgqongqoshe wezeMali.

(7) UMkhandlu kufanele ushicilele isaziso ngokwesigatshana (1) okungenani kusasele izinsuku eziwu-30 ngaphambi kokuqala kwalokho kunqunywa, ukuguqulwa noma inzalo. 30

(8) Izintela ezinqunyiwe, izintela eziguquliwe noma inzalo enqunyiwe ngaphansi kwesigatshana (1) kufanele kubuyekizwe minyaka yonke wuMkhandlu.

**Ukusetshenziswa nokuphathwa kwezintela**

3. (1) Izintela ezinqunyiwe, izintela eziguquliwe nenzalo enqunyiwe ngaphansi kwesigaba 2(1) kwenza ingxenywe yezimali zoMkhandlu. 35

(2) Izintela nenzalo okuqoqwe wuMkhandlu kufanele kufakwe kwi-akhawunti yasebhange ekhethelwe khona wuMkhandlu futhi evunywe yiNqolobane yoMcebo kaZwelonke (National Treasury) ngokwesigaba 7(2) soMthetho wokuPhathwa kwezeziMali zoMphakathi (Public Finance Management Act). 40

(3) (a) Okungenani kusasele izinyanga eziyisithupha ngaphambi kokuqala konyaka wezimali woMnyango wezokumbiwayo nezaMandla, noma ngesinye isikhathi okungavunyelwana ngaso phakathi kukaNgqongqoshe noMkhandlu, uMkhandlu kufanele wethule kuNgqongqoshe—

- (i) isabelo esiyisilinganiswe sezimali ezizongena nezizosetshenziswa sonyaka ozayo wezimali woMkhandlu njengoba kudingwa yisigaba 53 soMthetho wokuPhathwa kweziMali zoMphakathi; kanye 45
- (ii) nepulani lebhizinisi ngendlela ebalulwe ngaphansi kwesigaba 54(1) soMthetho wokuPhathwa kwezeziMali zoMphakathi, echaza izindaba zoMkhandlu eminyakeni yezimali emithathu ezayo. 50

(b) Isabelo sezimali nepulani lebhizinisi okubalulwe kusigaba (a) kumele kwethulwe ukuze kuvunywe wuNgqongqoshe ehlangene noNgqongqoshe wezeziMali.

**Ukungakhokhwa kwezintela**

4. (1) Uma intela engayikhokhi umuntu obalulwe esigabeni 2(2)(b) ngosuku okufanele ikhokhwe ngalo, lowomuntu uzophoqeka ukuba, ngaphandle kokukhokha intela, akhokhe nenzalo ezobalwa ngemali engakhokhiwe yentela kusukela kulolo suku, ngokulandisa kwezigatshana (2) no (3). 55

(2) The Minister must, at least three months but not more than 12 months before the day on which an imposition of a levy contemplated in section 2(1)(a) would otherwise lapse, on written request of the Authority and with the concurrence of the Minister of Finance, give the Authority in writing approval or disapproval of a re-imposition of such levy and, in the event of disapproving the re-imposition, also give reasons for the disapproval thereof. 5

(3) Before approving a re-imposition contemplated in subsection (2), the Minister must commission a review of the performance of the Authority as contemplated in section 6.

#### **Assessment of performance of Authority**

6. (1) In this section, “performance” in relation to the Authority means all or any of the following matters: 10

- (a) The efficiency, economy and effectiveness of the Authority’s management of the financial resources at its disposal;
- (b) the benefits deriving from the Authority’s work to those who bear the levies and other charges imposed by the Authority; and 15
- (c) any other matter determined by the Minister in writing and with the concurrence of the Minister of Finance.

(2) The Minister may, after consultation with the Authority, appoint any person to conduct an assessment of, and report to the Minister and the Minister of Finance on the performance of the Authority if the Minister is satisfied that— 20

- (a) there is sufficient concern among stakeholders in the petroleum pipelines industry about the performance of the Authority to justify an assessment of that performance; or
- (b) the performance of the Authority is inadequate.

(3) (a) Notwithstanding subsection (2), the Minister must commission an assessment of the performance of the Authority at least once every five years. 25

(b) The person appointed to conduct the assessment contemplated in paragraph (a) must report to the Minister and the Minister of Finance.

#### **Short title and commencement**

7. This Act is called the Petroleum Pipelines Levies Act, 2004, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 30

(2) Ukubalwa kwenzalo okufanele ikhokhelwe uMkhandlu kufanele kususelwe ezingeni lenzalo eliwujikelele elibalulwe esigabeni 80(1)(b) soMthetho wokuPhathwa kwezeziMali zoMphakathi (Public Finance Management Act).

(3) Izintela nenzalo okumele kukhokhwe kuyothathwa njengesikweletu okumele sikhokhelwe uMkhandlu futhi kungafunwa wuMkhandlu ngezinyathelo zomthetho nganoma iyiphi inkantolo efanelekile. 5

#### **Ukunqunywa kwezintela makuphelelwe yisikhathi emva kweminyaka emihlanu**

5. (1) Ngokuhambisana nesigatshana (2), noma yiziphi izintela ezinqunyiwe ngokwesigaba 2(1)(a) zizophelelwa yisikhathi eminyakeni emihlanu emva kosuku ezaqaliswa ngalo. 10

(2) UNgqongqoshe kufanele, okungenani kusasele izinyanga ezintathu kodwa hhayi ezingaphezu kweziwu-12 ngaphambi kosuku ukunqunywa kwentela ebalulwe esigabeni 2(1)(a) obekuzophelelwa yisikhathi ngalo, ngesicelo esibhalwe phansi soMkhandlu nangokuvumelana noNgqongqoshe wezeziMali, anike uMkhandlu ngokubhala phansi ukuvunywa noma ukwenqatshwa kokunqunywa kabusha kwalentela bese, uma ekunqaba ukunqunywa kabusha, abuye anike izizathu zaloko kwenqaba. 15

(3) Ngaphambi kokuvuma ukunqunywa kabusha okubalulwe kwisigatshana (2), uNgqongqoshe kufanele agunyaze ukubuyekeza komsebenzi woMkhandlu njengoba kubalulwe esigabeni 6.

#### **Ukuhlaziywa kokusebenza koMkhandlu**

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6. (1) Kule sigaba, "ukusebenza" okumaqondana noMkhandlu kusho konke noma yikuphi kwalokhu okulandelayo:

- (a) Ukuzikhandla, ukonga nokuveza imiphumela kwendlela uMkhandlu ophethe ngayo izimali onazo;
- (b) izinzuzo ezivezwa wumsebenzi woMkhandlu kulabo abethweswe izintela nezinye izinkokhelo ezinqunywe wuMkhandlu; kanye 25
- (c) nanoma yikuphi okanye okuzobalulwa wuNgqongqoshe ngokubhala phansi futhi ngokuvumelana noNgqongqoshe wezeziMali.

(2) UNgqongqoshe angaqoka, emva kokubonisana noMkhandlu, noma yimuphi umuntu ukuba ahlole, futhi enze umbiko kuNgqongqoshe nakuNgqongqoshe wezeziMali mayelana nokusebenza koMkhandlu uma uNgqongqoshe enelisekile ngokuthi— 30

- (a) kunokungeneliseki okwenele phakathi kwababambe iqhaza embonini yama-payipi ephethroliyamu ngokusebenza koMkhandlu okuphoqa ukuhlolwa kwalokho kusebenza; noma 35
- (b) ukusebenza koMkhandlu akwenele.

(3) (a) Ngaphezu kwesigatshana (2), uNgqongqoshe kufanele agunyaze ukuhlolwa kokusebenza koMkhandlu okungenani kanye njalo emva kweminyaka emihlanu.

(b) Umuntu oqokelwe ukuhlola okubalulwe kusigaba (a) kufanele abike kuNgqongqoshe nakuNgqongqoshe wezeziMali. 40

#### **Isihloko esifushane nokuqaliswa**

7. Lo Mthetho ubizwa ngokuthi wuMthetho weziNtela zamaPayipi aThwala iPhethroliyam, 2004, futhi uzoqala ukusebenza ngosuku oluzonqunywa wuMongameli ngesimemezelo kwi-Gazette.

