

(17 March 2006 – to date)

[This is the current version and applies as from **17 March 2006**, i.e. the date of commencement of the Petroleum Products Amendment Act 58 of 2003 and the Petroleum Products Amendment Act 2 of 2005 – **to date**]

PETROLEUM PRODUCTS ACT 120 OF 1977

Government Notice 1362 in Government Gazette 5672, dated 29 July 1977. Commencement date:
16 September 1977. [Proc. 222, Gazette No. 5739, dated 23 September 1977].

as amended by:

*Petroleum Products Amendment Act 72 of 1979 - Government Notice 1322 in Government Gazette 6515,
dated 22 June 1979. Commencement date: 22 June 1979.*

*Petroleum Products Amendment Act 61 of 1985 - Government Notice 1256 in Government Gazette 9779,
dated 5 June 1985. Commencement date: 21 June 1985.* [Proc. 104, Gazette No. 9811, dated 21
June 1985].

*Petroleum Products Amendment Act 68 of 1991 - Government Notice 1149 in Government Gazette 13263,
dated 24 May 1991. Commencement date: 24 May 1991.*

*Petroleum Products Amendment Act 46 of 1991 - Government Notice 566 in Government Gazette 14706,
dated 16 April 1993. Commencement date: 16 April 1993.*

*Petroleum Products Amendment Act 58 of 2003 - Government Notice 538 in Government Gazette 26293,
dated 26 April 2004. Commencement date: 17 March 2006.* [Proc. R11, Gazette No. 28638, dated
17 March 2006].

*Petroleum Products Amendment Act 2 of 2005 - Government Notice 598 in Government Gazette 27701,
dated 22 June 2005. Commencement date: 17 March 2006.* [Proc. R12, Gazette No. 28638, dated
17 March 2006].

ACT

To provide for measures in the saving of petroleum products and an economy in the cost of distribution thereof, and for the maintenance and control of a price therefor, for the furnishing of certain information regarding petroleum products, and for the rendering of services of a particular kind, or services of a particular standard, in connection with petroleum products; to provide for the licensing of persons involved in the manufacturing and sale of certain petroleum products; to promote the transformation of the South African petroleum and liquid fuels industry; to provide for the promulgation of regulations relating to such licences; and to provide for matters incidental thereto.

Prepared by:

(Long title substituted by section 6 of Act 72 of 1979)
(Long title substituted by section 6 of Act 68 of 1991)
(Long title substituted by section 14 of Act 58 of 2003)

(English text signed by the State President.)
(Assented to 11 July 1977.)

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

1. Definitions.
2. Powers of Minister and others with regard to petroleum products.
- 2A. Prohibition of certain activities
- 2B. Licensing
- 2C. Transformation of South African petroleum and liquid fuels industry
- 2D. Transitional licensing provisions
- 2E. System for allocation of licences
- 2F. System for allocation of licences for liquefied petroleum gas and paraffin
3. Appointment and powers of controllers and inspectors.
4.
- 4A.
- 4B.
5.
6. Delegation of powers.
7.
8.
9. Evidence.
10.
11.
12. Offences and Penalties
- 12A. Appeal
- 12B. Arbitration
- 12C. Regulations
13.
14. Short title and commencement.

1. Definitions.

In this Act, unless the context otherwise indicates—

“bulk” means a prescribed quantity of petroleum product;

(Definition of “bulk” inserted by section 1(a) of Act 58 of 2003)

“Charter” means the Charter in Schedule 1;

(Definition of “Charter” inserted by section 1(a) of Act 58 of 2003)

“hold”, when used in relation to land, means the owning of land for the purpose of establishing a site;

(Definition of “hold” inserted by section 1(a) of Act 58 of 2003)

“inspector” means a person appointed or authorized in terms of section 3 to act as an inspector;

“licence” means a manufacturing, wholesale, site or retail licence;

(Definition of “licence” inserted by section 1(b) of Act 58 of 2003)

“liquefied petroleum gas” means a petroleum product which consists mainly of propane or butane or both and which can be stored as a liquid under relatively low pressure for use as a fuel;

(Definition of “liquefied petroleum gas” inserted by section 1(b) of Act 58 of 2003)

“manufacture” means the manufacture of petroleum products for commercial purposes, and includes the blending and re-refining of petroleum products, and **“manufacturer”** shall be interpreted accordingly;

(Definition of “manufacture” inserted by section 1(b) of Act 58 of 2003)

“Minister” means the Minister of Minerals and Energy;

(Definition of “Minister” substituted by section 1 of Act 61 of 1985)

(Definition of “Minister” substituted by section 1(a) of Act 68 of 1991)

(Definition of “Minister” substituted by section 1(c) of Act 58 of 2003)

“outlet”, in relation to a petroleum product, means any place where any petroleum product is sold or is offered for sale to consumers;

“paraffin” means a liquid petroleum product that is a complex mixture of predominantly aliphatic hydrocarbons ranging from C9 to C16, used mainly for lighting, cooking and heating purposes, also known as kerosene;

(Definition of “paraffin” inserted by section 1(d) of Act 58 of 2003)

“petroleum product” means any petroleum fuel and any lubricant, whether used or unused, and includes any other substance which may be used for a purpose for which petroleum fuel or any lubricant may be used;

“prescribed” means prescribed by regulation made by the Minister;

(Definition of “prescribed” inserted by section 1(e) of Act 58 of 2003)

"Republic"

(Definition of "Republic" deleted by section 1(b) of Act 68 of 1991)

"retail" means the sale of petroleum products to an end-consumer at a site and **"retailer"** shall be interpreted accordingly;

(Definition of "retail" inserted by section 1(e) of Act 58 of 2003)

"retail licence" means a licence to conduct the business of a retailer;

(Definition of "retail licence" inserted by section 1(e) of Act 58 of 2003)

"service"

(Definition of "service" deleted by section 1(f) of Act 58 of 2003)

"site" means premises on land zoned and approved by a competent authority for the retailing of prescribed petroleum products;

(Definition of "site" inserted by section 1(g) of Act 58 of 2003)

"this Act" includes any regulation, notice and licence issued or given in terms of this Act;

(Definition of "this Act" substituted by section 1(h) of Act 58 of 2003)

"Treasury"

(Definition of "Treasury" deleted by section 1(i) of Act 58 of 2003)

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

(Definition of "wholesale" inserted by section 1(j) of Act 58 of 2003)

(Definition of "wholesale" substituted by section 1 of Act 2 of 2005)

"wholesale licence" means a licence to conduct the business of a wholesaler.

(Definition of "wholesale licence" inserted by section 1(j) of Act 58 of 2003)

2. Powers of Minister and others with regard to petroleum products.

- (1) The Minister may by regulation or by notice in writing served on any person, whether personally or by post, and any person authorized thereto by the Minister may by such notice so served—

(Words preceding section 2(1)(a) substituted by section 2(a) of Act 61 of 1985)

- (a) for the purposes of ensuring a saving in, and the efficient use of, petroleum products, regulate in such manner as he or she may deem fit, including the imposition upon any person of any duty in connection therewith, or prohibit —

(Words preceding section 2(1)(a)(i) substituted by section 2(a) of Act 58 of 2003)

- (i) the use of any petroleum product for any purpose specified in the regulation or notice, as the case may be, or for the performance of any act so specified in a manner so specified;
- (ii) the purchase, sale, supply, acquisition, possession, disposal, storage or transportation or the recovery and re-refinement of any petroleum product so specified;

(Section 2(1)(a) substituted by section 1 of Act 72 of 1979)

- (b) for the purposes of ensuring an economy in the cost of distribution of petroleum products or the rendering of a service of a particular kind or of services of a particular standard, regulate in such manner as he may deem fit, or prohibit—

- (i) the supply to any person of any equipment intended for the dispensing of any petroleum product;
- (ii) the establishment or creation of an outlet for the sale of any petroleum product;
- (iii) the transfer from one place to another of any business or undertaking conducted at an outlet;
- (iv) the change of suppliers of petroleum products to any business or undertaking conducted at any outlet;
- (v) the rendering of any service;
- (vi) the supply of petroleum products to any business or undertaking conducted at any outlet at which any service of a particular kind or a service of a particular standard is not available to the public;

- (c) prescribe the price, or a maximum or minimum price, or a maximum and minimum price, at which any petroleum product may be sold or bought by any person, and conditions under which the selling or buying of petroleum products other than in accordance with the prescribed, maximum or minimum price may take place;

(Section 2(1)(c) substituted by section 2 of Act 68 of 1991)

(Section 2(1)(c) substituted by section 2(b) of Act 58 of 2003)

- (d) regulate in such manner as he may deem fit, or prohibit, any business practice, method of trading, agreement, arrangement, scheme or understanding which, in the opinion of the Minister, is calculated –

- (i) to influence, or which may have the effect of influencing, directly or indirectly, the purchase or selling price of petroleum products at any outlet; or
- (ii) to cause, or which may have the effect of causing, directly or indirectly, an increase in the price referred to in paragraph (c);

(Section 2(1)(d) added by section 2(b) of Act 61 of 1985)

(Section 2(1)(d) substituted by section 1(a) of Act 46 of 1993)

- (e) regulate in such manner as he may deem fit the supply of any petroleum product to any business or undertaking conducted at any outlet, including the imposition of conditions relating to the price at which such product may be sold to such business or undertaking or at such outlet, or prohibit such supply.

(Section 2(1)(e) added by section 2(b) of Act 61 of 1985)

(Section 2(1)(e) substituted by section 1(b) of Act 46 of 1993)

- (f) oblige any person to publish the prices at which petroleum products are available for sale including conditions relating to the frequency of such publications, its content and structure, the method and manner of its publication and the displaying thereof;

(Section 2(1)(f) added by section 2(c) of Act 58 of 2003)

- (g) prescribe the quantities of crude oil or petroleum products to be maintained by any person.

(Section 2(1)(g) added by section 2(c) of Act 58 of 2003)

- (2) Different regulations or notices may be issued under subsection (1) in respect of different classes or kinds of petroleum products or services or different persons or categories or groups of persons.

2A. Prohibition of certain activities

- (1) A person may not—

- (a) manufacture petroleum products without a manufacturing licence;
- (b) wholesale prescribed petroleum products without an applicable wholesale licence;
- (c) hold or develop a site without there being a site licence for that site;
- (d) retail prescribed petroleum products without an applicable retail licence,

issued by the Controller of Petroleum Products.

- (2)

- (a) If a person engages in an activity in contravention of subsection (1) the Controller of Petroleum Products must by written notice direct that person to cease such activity forthwith.
 - (b) The Controller of Petroleum Products may allow a person to continue with an activity contemplated in paragraph (a) pending an application and the issuing of a licence if the cessation of such an activity is likely to lead to a material interruption in the supply of petroleum products.
 - (c) If an application contemplated in paragraph (b) is unsuccessful, the Controller of Petroleum Products must by written notice direct that person to cease such activity and, if applicable, to rectify any state of affairs resulting from that person's activities within the period stipulated in the notice.
- (3) If a person engages in an activity in contravention of a licence issued to that person, the Controller of Petroleum Products must by written notice direct that person to comply with the licence and, if applicable, to rectify any state of affairs resulting from such contravention within the period stipulated in the notice.
- (4) Any person who has to apply for a licence in terms of subsection (1) must—
- (a) in the case of a manufacturing licence be the owner of the property concerned and if not the owner must have the written permission of the owner;
 - (b) in the case of a site licence be the owner of the property concerned or in the case of publicly owned land have the written permission of the owner;
 - (c) in the case of retail and wholesale licences be the owner of the business concerned;
(Section 2A(4)(c) substituted by section 2 of Act 2 of 2005)
 - (d) do so in the form and manner prescribed.
- (5) No person may make use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in—
- (a) a licensed wholesaler holding a retail licence except for training purposes as prescribed, but excludes wholesalers and retailers of liquefied petroleum gas and paraffin;
 - (b) self-service by consumers of prescribed petroleum products on the premises of a licensed retailer.
- (6) A licensed manufacturer shall only sell petroleum products to a licensed wholesaler or a licensed retailer, or both, except for export purposes.

- (7) A licensed retailer shall only purchase petroleum products from a licensed wholesaler or a licensed manufacturer, or both.

(Section 2A inserted by section 3 of Act 58 of 2003)

2B. Licensing

- (1) The Controller of Petroleum Products must issue licences in accordance with the provisions of this Act.
- (2) In considering the issuing of any licences in terms of this Act, the Controller of Petroleum Products shall give effect to the provisions of section 2C and the following objectives:
- (a) Promoting an efficient manufacturing, wholesaling and retailing petroleum industry;
 - (b) facilitating an environment conducive to efficient and commercially justifiable investment;
 - (c) the creation of employment opportunities and the development of small businesses in the petroleum sector;
 - (d) ensuring countrywide availability of petroleum products at competitive prices; and
 - (e) promoting access to affordable petroleum products by low-income consumers for household use.
- (3) Any licence issued by the Controller of Petroleum Products remains valid for as long as—
- (a) the licensee complies with the conditions of the licence;
 - (b) the licensed activity remains a going concern, excluding a site; and
 - (c) in the case of a site, there is a corresponding valid retail licence.
- (4) The Controller of Petroleum Products must issue only one retail licence per site.
- (5) To ensure the continued operation of a licensed activity and the prevention of hardship the Controller of Petroleum Products may, upon application, issue a temporary licence which shall be valid for a period not longer than six months.
- (6)

(Section 2B(6) deleted by section 3 of Act 2 of 2005)

(Section 2B inserted by section 3 of Act 58 of 2003)

2C. Transformation of South African petroleum and liquid fuels industry

Prepared by:

- (1) In considering licence applications in terms of this Act, the Controller of Petroleum Products shall—
 - (a) promote the advancement of historically disadvantaged South Africans; and
 - (b) give effect to the Charter.
- (2) The Controller of Petroleum Products may require any category of licence holder to furnish information, as prescribed, in respect of the implementation of the Charter.

(Section 2C inserted by section 3 of Act 58 of 2003)

2D. Transitional licensing provisions

- (1) For the purposes of this section—

'hold' means to own or lease land, or to possess an option to purchase or lease land, that has been zoned and approved by appropriate authorities for use as a site; and

'process of developing' means the construction of, or the completion of the infrastructure necessary to use such land as a site within a period of 12 months from the date of commencement of the Petroleum Products Amendment Act, 2003.

- (2) Any person who, at the time of commencement of the Petroleum Products Amendment Act, 2003—

- (a) holds and is in the process of developing a site; or
- (b) manufactures or wholesales petroleum products, or retails prescribed petroleum products;

shall, subject to subsection (3), be deemed to be the holder of a licence for that activity.

- (3)

- (a) Any person referred to in subsection (2) shall, within a period of six months from the date of commencement of this section, apply for a manufacturing, wholesale, site or retail licence, as the case may be.
- (b) Subsection (2) shall cease to apply if the person fails to apply for a licence within the period contemplated in paragraph (a).

- (4)

- (a) An applicant contemplated in subsection (3) shall, on application, be entitled to be issued with a licence for the operation of the activity concerned if the applicant is in compliance with all national,

provincial and local government legal requirements, that are in force immediately prior to the commencement of this Act for the operation of the activity concerned.

- (b) Such applicant shall be subject to the general conditions of a licence set out in this Act, but not to any financial security requirement prescribed by regulation.

(Section 2D inserted by section 3 of Act 58 of 2003)

2E. System for allocation of licences

- (1) The Minister must prescribe a system for the allocation of site and their corresponding retail licences by which the Controller of Petroleum Products shall be bound: Provided that the Controller of Petroleum Products shall only be bound by the provisions of such a system for the period set out in that regulation or any amendment thereto or any substitution thereof which period may not exceed 10 years from the date of commencement of that regulation.

(Section 2E(1) substituted by section 4(a) of Act 2 of 2005)

- (2) The Minister shall prior to promulgating a system contemplated in subsection (1) invite public comment thereon by publishing it in the *Gazette* and duly considering such comments.

- (3) A system contemplated in subsection (1)—

- (a) must intend to transform the retail sector into one that has the optimum number of efficient sites;
- (b) must intend to achieve an equilibrium amongst all participants in the petroleum products industry within the constraints of this Act;
- (c) must be based on the objectives referred to in section 2B(2) and 2C;
- (d) must promote efficient investment in the retail sector and the productive use of retail facilities and may in this regard—
 - (i) limit the total number of site and corresponding retail licences in any period;
 - (ii) link the total number of site and corresponding retail licences in any period, to the total mass or volume of prescribed petroleum products sold by licensed retailers; and
 - (iii) use any other appropriate means;

(Section 2E(3)(d) substituted by section 4(b) of Act 2 of 2005)

- (e) must allow licensed wholesalers to trade with each other any contractual rights and obligations they may have, to supply licensed retailers with prescribed petroleum products;

(f)

(Section 2E(3)(f) deleted by section 4(c) of Act 2 of 2005)

(g) may link the issuing of a new site licence and the corresponding retail licence to the termination or transfer of ownership of one or more existing site licences and the corresponding retail licences;

(h) may link the issuing of a new retail licence to the transfer from a licensed wholesaler of contractual rights enjoyed by that wholesaler in respect of one or more licensed retailers, to another licensed wholesaler.

(4) The Minister shall from time to time review the efficacy of the system contemplated in subsection (1) against the objectives of this Act and may amend the system in an appropriate manner and the provisions of subsection (2) shall *mutatis mutandis* apply.

(5) Nothing contained in subsections (1), (2) or (3) absolves any person from the obligation to apply for and hold a licence in terms of this Act.

(Section 2E inserted by section 3 of Act 58 of 2003)

2F. System for allocation of licences for liquefied petroleum gas and paraffin

(1) For the purposes of this section 'retail' means the sale of liquefied petroleum gas or paraffin to an end-consumer and 'retailer' shall be interpreted accordingly,

(2) The Minister may by regulation, prescribe licensing systems for the wholesaling and retailing of liquefied petroleum gas or paraffin, or both, by which the Controller of Petroleum Products shall be bound.

(3) A system contemplated in subsection (2) must—

(a) be based on the objectives referred to in sections 2B(2) and 2C;

(b) be targeted at poverty alleviation for low income households;

(4) The Minister shall prior to promulgating a system contemplated in subsection (2) invite public comment thereon by publishing it in the *Gazette* and duly consider such comments.

(5) A system contemplated in subsection (2) may in designated areas, restrict the retail of liquefied petroleum gas or paraffin to one or more retailers.

(6) The Minister shall from time to time review the efficacy of a system contemplated in subsection (2) against the objectives of this Act and may amend the system in an appropriate manner and the provisions of subsection (4) shall *mutatis mutandis* apply.

(Section 2F inserted by section 3 of Act 58 of 2003)

3. Appointment and powers of controllers and inspectors.

(1) The Minister—

- (a) shall, subject to the laws governing the public service, appoint any person in the public service as Controller of Petroleum Products and may appoint persons in the public service as regional controllers of petroleum products or as inspectors for the Republic or any part thereof;
- (b) may on such conditions and at such remuneration as he or she may in consultation with the Minister of Finance determine, appoint or authorise any other person or person belonging to any other category of persons to act as regional controller of petroleum products or as inspector for the Republic or any part thereof.

(Section 3(1) substituted by section 4 of Act 58 of 2003)

(2) Subject to the provisions of this Act, the Controller of Petroleum Products, a regional controller of petroleum products and an inspector—

- (a) may assist the Minister in the exercise of his powers and the performance of his functions under this Act;
- (b) may gather such information in connection with the operation or administration of this Act as the Minister may desire, and investigate any offence relating to this Act.

(3) The Minister shall, subject to the provisions of this Act, determine the powers, duties and functions of the Controller of Petroleum Products, a regional controller of petroleum products and an inspector, and different powers, duties and functions may thus be determined in respect of different persons or categories of persons appointed or authorized under subsection (1).

(4)

- (a) Until such time as a notice is issued under section 334(1) of the Criminal Procedure Act, 1977, in respect of an inspector under this Act, the Minister may in respect of an offence under this Act, by regulation confer upon an inspector such powers as he may deem necessary, expedient or useful in respect of—
 - (i) the searching without warrant of any premises, including any vehicle, vessel or aircraft and any receptacle of whatever nature;
 - (ii) the seizure without warrant of any petroleum product and the disposal thereof.
- (b) Different powers may be conferred under paragraph (a), or under the said section 334(1), in respect of different inspectors or categories of inspectors.

(c) A notice issued under the said section 334(1) shall have the effect of repealing any regulation made under paragraph (a).

(5) An inspector, when exercising any power or performing any function under this section or a notice under section 334(1) of the Criminal Procedure Act, 1977, shall be subject to the directions and control of the Minister and no power conferred upon such inspector shall be exercised by him unless he is at the time of exercising such power in possession of a certificate of appointment issued by the Minister in terms of subsection (1)(a) or (b), which certificate shall be produced on demand.

(6) A document in the form determined by the Minister, certifying that any person has been appointed or authorized to act as Controller of Petroleum Products or as regional controller of petroleum products or as inspector under this Act, and purporting to have been signed by a person designated for the purpose by the Minister, shall be prima facie proof of such appointment or authorization.

4.

(Section 4 repealed by section 3 of Act 61 of 1985)

4A.

(Section 4A inserted by section 2 of Act 72 of 1979)

(Section 4A substituted by section 4 of Act 61 of 1985)

(Section 4A repealed by section 5 of Act 58 of 2003)

4B.

(Section 4B inserted by section 2 of Act 72 of 1979)

(Section 4B amended by section 5 of Act 61 of 1985)

(Section 4B repealed by section 6 of Act 58 of 2003)

5.

(Section 5 repealed by section 7 of Act 58 of 2003)

6. Delegation of powers.

The Minister may, subject to such conditions as he may deem fit, authorize any person to exercise on his behalf any of the powers conferred upon him by this Act.

7.

(Section 7 repealed by section 8 of Act 58 of 2003)

8.

(Section 8 amended by section 6 of Act 61 of 1985)

(Section 8 repealed by section 9 of Act 58 of 2003)

9. Evidence.

- (1) A certificate purporting to be issued by the Minister or any person authorized thereto by the Minister and setting forth the price at which it would have been permissible for any particular person to sell on any particular date or during any particular period any petroleum product specified in the certificate, shall on its mere production by any person in any criminal proceedings be *prima facie* proof of such price.
- (2) Any statement or entry contained in any book or document kept by any person or his manager, agent or employee, shall be admissible against such person in any criminal proceedings under this Act as an admission of the facts set forth in such statement or entry, unless it is proved that the statement or entry was not made by such person or his manager, agent or employee.
- (3) If it is alleged in a charge in any criminal proceedings under this Act—
 - (a) that any petroleum product alleged to have been sold or purchased, or supplied or acquired, is a petroleum product of a particular class or kind; or
 - (b) that any petroleum product or service is a petroleum product or service of a kind to which any provision of this Act applies,

such allegation shall be deemed to constitute sufficient proof of the matter alleged until the contrary is proved.

- (4) If in any prosecution for a contravention of a prohibition imposed under section 2(1)(a) relating to the use of any petroleum product specified in the charge, it is proved that the accused performed an act which would have constituted the contravention if only such petroleum product had been used for the performance of that act, it shall be presumed that only such petroleum product was used for the performance of that act, unless it is proved that other factors contributed to the performance of that act to the extent that in the absence thereof that act would not have been performed.

(Section 9(4) substituted by section 3 of Act 72 of 1979)

10.

(Section 10 substituted by section 3 of Act 68 of 1991)

(Section 10 repealed by section 10 of Act 58 of 2003)

11.

(Section 11 amended by section 4 of Act 72 of 1979)

(Section 11 amended by section 7 of Act 61 of 1985)

(Section 11 amended by section 4 of Act 68 of 1991)

(Section 11 repealed by section 11 of Act 58 of 2003)

12. Offences and Penalties

- (1) Any person who contravenes a provision of this Act, shall be guilty of an offence and be liable on conviction to a fine not exceeding R1 000 000,00, or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment: Provided that if a directive issued in terms of section 2A(2)(c) or (3) is complied with within the period specified therein, the person concerned shall be absolved from criminal liability.
- (2) The Minister may by notice in the *Gazette* amend the amount referred to in subsection (1) in order to counter the effect of inflation.

(Section 12 amended by section 5 of Act 72 of 1979)

(Section 12 amended by section 8 of Act 61 of 1985)

(Section 12 substituted by section 12 of Act 58 of 2003)

12A. Appeal

- (1) Any person directly affected by a decision of the Controller of Petroleum Products may, notwithstanding any other rights that such a person may have, appeal to the Minister against such decision.
- (2) An appeal in terms of paragraph (a) shall be lodged within 60 days after such decision has been made known to the affected person and shall be accompanied by—
 - (a) a written explanation setting out the nature of the appeal;
 - (b) any documentary evidence upon which the appeal is based.
- (3) The Minister shall consider the appeal, and shall give his or her decision thereon, together with written reasons therefor, within the period specified in the regulations.

(Section 12A inserted by section 9 of Act 61 of 1985)

(Section 12A substituted by section 13 of Act 58 of 2003)

12B. Arbitration

- (1) The Controller of Petroleum Products may on request by a licensed retailer alleging an unfair or unreasonable contractual practice by a licensed wholesaler, or vice versa, require, by notice in writing to the parties concerned, that the parties submit the matter to arbitration.
- (2) An arbitration contemplated in subsection (1) shall be heard—
 - (a) by an arbitrator chosen by the parties concerned; and
 - (b) in accordance with the rules agreed between the parties.

- (3) If the parties fail to reach an agreement regarding the arbitrator, or the applicable rules, within 14 days of receipt of the notice contemplated in subsection (1)—
- (a) the Controller of Petroleum Products must upon notification of such failure, appoint a suitable person to act as arbitrator; and
 - (b) the arbitrator must determine the applicable rules.
- (4) An arbitrator contemplated in subsection (2) or (3)—
- (a) shall determine whether the alleged contractual practices concerned are unfair or unreasonable and, if so, shall make such award as he or she deems necessary to correct such practice; and
 - (b) shall determine whether the allegations giving rise to the arbitration were frivolous or capricious and, if so, shall make such award as he or she deems necessary to compensate any party affected by such allegations;
- (5) Any award made by an arbitrator contemplated in this section shall be final and binding upon the parties concerned and may, at the arbitrator's discretion, include any order as to costs to be borne by one or more of the parties concerned.

(Section 12B inserted by section 13 of Act 58 of 2003)

12C. Regulations

- (1) The Minister may, without derogating from his or her general regulatory powers, make regulations—
- (a) regarding manufacturing, wholesale, site or retail licences, including—
 - (i) the form and manner in which an application for a licence or an amendment to an already issued licence shall be made;
 - (ii) procedures to be applied in the evaluation of an application for a licence, and the period within which it shall be considered;
 - (iii) the monies payable for licences;
 - (iv) the form of a licence;
 - (v) conditions of licence which may be imposed by the Controller of Petroleum Products in respect of a particular licence or a category of licences, including—

- (aa) the rights, duties and obligations of licensees in the manufacture, handling, storage, packaging, dispensing and sale of petroleum products;
- (bb) conditions relating to the advancement of historically disadvantaged South Africans;
- (cc) the number of retail licences that may be held by a licensed wholesaler for retail training purposes;
- (vi) the obligation of a licence holder to keep records and to furnish particular information to the Controller of Petroleum Products, and the frequency of furnishing such information;
- (vii) the transfer of ownership of licences, excluding the price of the licensed property;
- (viii) the termination of a licence and the procedures relating to such termination;
- (aA) regarding the purchase or sale, by licensed wholesalers and manufacturers, of petroleum products manufactured from coal, natural gas or vegetable matter and conditions relating thereto;
(Section 12C(1)(aA) inserted by section 5 of Act 2 of 2005)
- (aB) regarding the supply, to a licensed retailer, of petroleum products manufactured from coal, natural gas or vegetable matter and conditions relating thereto;
(Section 12C(1)(aB) inserted by section 5 of Act 2 of 2005)
- (b) prohibiting a business practice which conflicts with the objectives referred to in sections 2B(2) and 2C;
- (c) regarding the records and information to be kept by the Controller of Petroleum Products, and the furnishing thereof to third parties in accordance with the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- (d) regarding the continuity of supply of petroleum products by licensees under normal operating conditions, and in cases of potential or actual emergency, including an amendment to a licence;
- (e) regarding the specifications and standards of petroleum products;
- (f) regarding the prohibition of the blending or mixing of different petroleum products or the blending or mixing of petroleum products with other substances which will lead to deviation from prescribed petroleum product specifications or standards or for the purpose of avoiding the payment of any tax, duty or levy;

(g) regaining the rehabilitation of land used in connection with a licensed activity by the licensee concerned, including the lodging of financial security for rehabilitation purposes and the composition and amount of such security; and

(h) the period within which a decision on an appeal should be given.

(2) The Minister shall, except in an emergency, prior to promulgating any regulation contemplated in subsection (1)(e)—

(a) invite public comment thereon by publishing in the *Gazette* the full particulars of the specification or standard;

(b) allow a period of not less than two months after the date of publication of such *Gazette* for the submission of public comment; and

(c) duly consider such comments.

(Section 12C inserted by section 13 of Act 58 of 2003)

13.

(Section 13 repealed by section 5 of Act 68 of 1991)

14. Short title and commencement.

(1) This Act shall be called the Petroleum Products Act, 1977, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.