

# FUEL AND ENERGY

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## Petroleum Products and Energy Act 13 of 1990

**Summary:** This Act ([GG 64](#)) provides measures for the saving of petroleum products and economy in the cost of distributing such products. It controls pricing and certain information about petroleum products, and regulates certain services in connection with motor vehicles. The Act also establishes a National Energy Fund and a National Energy Council, and provides for levies on fuel. It repeals the *Petroleum Products Act 120 of 1977* and the Levy on Fuel Proclamation AG. 16 of 1984.

**Amendments:** Act 29/1994 ([GG 979](#)) amends sections 2, 14, 15 and 21.

Act 3/2000 ([GG 2289](#)), which was brought into force on 3 July 2000 by GN 154/2000 ([GG 2357](#)), amends sections 1, 6, 8 and 21 and inserts section 2A and 4A.

Act 16/2003 ([GG 3113](#)), which was brought into force on 17 March 2005 by GN 29/2005 ([GG 3396](#)), amends sections 1, 2A, 11,13, 17, 18, 19, and the long title, and inserts sections 11A, 11B, 18A, 18B, 19A and 19B.

**Regulations:** Section 23(2) is a savings clause which states:

“A regulation made, notice given or any other act done under any provision of the Act or Proclamation referred to in subsection (1), and which is in force at the repeal of that Act and Proclamation by this section, shall, notwithstanding such repeal, remain in force after the commencement of this Act in so far as it deals with any matter in respect of which the Minister may make regulations or give any notice or perform any act under this Act, until it is repealed, replaced, amended or withdrawn under any provision of this Act.”

Pre-independence regulations have not yet been comprehensively researched. However, GN 38/1993 ([GG 617](#)) repeals the Regulations in respect of Petroleum Products made under the repealed Act in RSA GN R.1614/1985 ([RSA GG 9846](#)), without promulgating any new regulations.<sup>65</sup>

The following regulations are issued under the current Act:

**Regulations relating to the purchase, sale, supply, acquisition, possession, disposal, storage, transportation, recovery and re-refinement of used mineral oil** are contained in GN 48/1991 ([GG 183](#)), which is replaced by GN 112/1991 ([GG 281](#)).

**Petroleum Products Regulations** are contained in GN 155/2000 ([GG 2357](#)), which repeals the regulations in RSA GN R.1829 of 28 August 1981, R.1614 of 19 July 1985 (already repealed by GN 38/1993, as noted above), R.2298 of 11 October 1985 and R.1100 of 2 June 1986. GN 155/2000 is amended by GN 202/2002 ([GG 2866](#)), GN 122/2016 ([GG 6036](#)) and GN 270/2021 ([GG 7698](#)).

GN 122/2016 states that these regulations were amended by GN 3/2001. This is incorrect. GN 3/2001 ([GG 2468](#)) was an extension of a time period issued under regulation 64(3)(a) and has no relevance beyond 2001.

GN 122/2016 also states that these regulations were amended by GN 75/2003, dated 23 July 2003. This is incorrect. GN 75/2003 ([GG 2946](#)) is actually dated 1 April 2003. It was an application of certain specifications and standards under regulation 44 which was withdrawn by GN 166/2007 ([GG 3900](#)).

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<sup>65</sup> These regulations repeal RSA GN R.1129 dated 24 May 1985.

**Regulations for arbitration procedures** are contained in GN 93/2003 ([GG 2970](#)).

**Regulations on funding of approved agencies** are contained in GN 230/2004 ([GG 3307](#)), which is withdrawn by GN 30/2005 ([GG 3397](#)), which publishes new regulations on the same topic. However, GN 247/2013 ([GG 5287](#)) purports to amend the regulations in GN 230/2004, leaving the correct text of these regulations uncertain.

**Regulations relating to the reselling price of petrol and petrol products** are issued frequently, with each one revoking or replacing the previous one. These have not been recorded here.

**Notices:** Pursuant to regulation 44 of the Petroleum Products Regulations promulgated by GN 155/2000, GN 166/2007 ([GG 3900](#)) and GN 149/2013 ([GG 5222](#)) apply certain **codes of practice and specifications and standards**. (Previous codes, specifications and standards were contained in GN 21/2002 ([GG 2696](#)) and GN 75/2003 ([GG 2946](#)).)

There is some confusion here. GN 166/2007 ([GG 3900](#)) withdraws GN 75/2003. However, GN 149/2013 ([GG 5222](#)) purports to repeal the same GN 75/2003. It appears that GN 149/2013 ([GG 5222](#)) may have intended to repeal GN 166/2007.

Pursuant to sections 2 and 2A of the Act, certain **specifications and standards of petroleum products and storage** were initially contained in GN 54/2016 ([GG 5984](#)), which was repealed and replaced by GN 69/2020 ([GG 7140](#))

**A levy on electricity supplied by NamPower as a transmission licensee** is imposed in terms of section 19(1) of the Act by a series of Government Notices, each of which replaces the previous one: GN 296/2012 ([GG 5094](#)), with the particulars referred to in section 19(3) of the Act set out in the Schedule; GN 93/2014 ([GG 5509](#)); GN 225/2014 ([GG 5606](#)); GN 145/2016 ([GG 6059](#)) and GN 331/2017 ([GG 6494](#)).

**Levies imposed on gasoil diesel and unleaded petrol** are issued from time to time, with each one revoking or replacing the previous one. These have not been recorded here.

#### **Cases:**

*BP Namibia (Pty) Ltd v Southline Retail Centre CC* 2009 (1) NR 268 (HC) (Note: The Act is mistakenly referred to in the headnote as the Petroleum Products Act 120 of 1977.)

*Southline Retail Centre CC v BP Namibia (Pty) Ltd* 2011 (2) NR 562 (HC) (section 4A and Regs 29 and 30 of the Petroleum Products Regulations in relation to whether or not Minister has a direct legal interest in proceedings between wholesaler and operator and section 4A(1)(e) on promotion of security of tenure).

## **INTERNATIONAL LAW**

*Convention of the African Energy Commission, 2001*

*Framework Agreement on the establishment of the International Solar Alliance (ISA), 2016*

*SADC Protocol on Energy, 1996*

*†Statute of the International Atomic Energy Agency (IAEA), 1956*

*Statute of the International Renewable Energy Agency (IRENA), 2009*

See also **ELECTRICITY**.

See also Atomic Energy and Radiation Protection Act 5 of 2005 (**ENVIRONMENT**).