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REPHABOLIKI YA AFORIKA BORWA

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THE PRESIDENCY

No. 2 8 January 2014

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

Act No. 36 of 2013: Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, 2013

MO-PRESIDENTE

No. 2 8 January 2014

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebiswa ya kakaretso:—

No 36 wa 2013: Molao wa Ditseka tša Tshepetšo ka Dikepe (Sekhwama sa Bosetšhaba sa Phumola Megokga ya Tšhilafatšo ya Oli), 2013



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

(English text signed by the President)
(Assented to 21 December 2013)

ACT

To provide for the imposition of the International Oil Pollution Compensation Fund Contributions Levy on persons referred to in Article 10 of the 1992 Fund Convention; to provide for the manner in which the levy is determined; to provide that levies and interest due to be paid to the International Oil Pollution Compensation Fund are a direct charge against the National Revenue Fund; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

1. Definitions 5
2. Imposition of levy
3. Determination of levy
4. Contributions and interest direct charge against National Revenue Fund
5. Short title and commencement

Definitions 10

1. In this Act, unless the context indicates otherwise, any meaning ascribed to a word or expression in the Merchant Shipping (International Oil Pollution Compensation Fund) Act, 2013, the Merchant Shipping (International Oil Pollution Compensation Fund) Administration Act, 2013, or the Tax Administration Act, 2011 (Act No. 28 of 2011), has the meaning so ascribed, and— 15

“**associated person**”, in relation to a person, means a subsidiary as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

“**contributing oil**” means crude oil or fuel oil;

“**crude oil**” means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, including, but not limited to, crude oils from which certain distillate fractions have been removed (also known as topped crudes) or to which certain distillate fractions have been added (also known as spiked or reconstituted crudes); 20

“**Director of the Fund**” means the Director of the Fund referred to in paragraph 2 of Article 2 of the 1992 Fund Convention; 25

“**fuel oil**” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D 396-69)” or heavier;

“**levy**” means the levy referred to in section 2 and determined in accordance with section 3; 30

“**tax period**” means a calendar year.

(English text signed by the President)
(Assented to 21 December 2013)

MOLAO

Go phethagaletša kgapeletšo ya Tefišo ya Ditseka tša Sekhwama sa Bosetšhaba sa Phumola megokgo ya Tšhilafatšo ya Oli go batho bao ba hlalošitšwego go Athekele ya 10 ya Kopano ya Sekhwama ya 1992; go phethagaletša mokgwa woo tefišo e tla laelwago ka gona; go phethagaletša gore ditefišo le tswala tše swanetšego go lefelwa Sekhwameng sa Bosetšhaba sa Phumola megokgo ya Tšhilafatšo ya Oli ke ditefišo thwii kgahlanong le Sekhwama sa Letseno sa Bosetšhaba; mme le go phethagaletša merero ye malebana.

PALAMENTE YA REPUBLIC YA AFRIKA BORWA ka moo, e dira molao ka mo go latelago:—

THULAGANYO YA DIKAROLO

Dikarolo

- | | | |
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| 1. | Dihlalošo | 5 |
| 2. | Kgapeletšo ya tefišo | |
| 3. | Taolo ya tefišo | |
| 4. | Ditseka le tefišo thwii ya tswala kgahlanong le Sekhwama sa Letseno sa Bosetšhaba | |
| 5. | Thaetlele ye kopana le go thoma go šoma ga Molao | 10 |

Dihlalošo

1. Mo Molaong wo, ntle le ge tshwaraganyo e hlalošo ka tsela ye nngwe, hlašo efe goba efe ye neilwego lentšu goba mmolelwana go Tshepetšo ka dikepe (Sekhwama sa Bosetšhaba sa Phumola megokgo ya Tšhilafatšo ya Oli) Molao , 2013, Tshepetšo ka dikepe (Sekhwama sa Bosetšhaba sa Phumola megokgo ya Tšhilafatšo ya Oli) Molao wa Taolo, 2013, goba Molao wa Tshepetšo ya Motšhelo, 2011 (Molao 28 wa 2011), o na le hlalošo ye neilwego moo, mme—

“**motho yo malebana**”, malebana le motho, e ra mothuši bjalo ka ge go hlalošitšwe go karolo 1 ya Molao wa Dikhamphani, 2008 (Molao 71 wa 2008);

“**oli ye amegago**” e ra oli ye tala goba oli ya makhura;

“**oli ye tala**” e ra motswako wa haetrokhabone ofe goba ofe wa seela wo bago gona ka hlago lefaseng, go sa kgathalatšege gore o hlwekišitšwe gore o sepetšwe ka senamelwa, go akaretšwa efela go sa felele go, dioli tše tala yeo e arogantšwego go tše dingwe (gape e tsebja bjalo ka mašaledi) goba woo dikarolo tše itšego di okeditšwego(e tsebja bjalo ka tswakanyo ya oli);

“**Molaodi wa Sekhwama**” e ra Molaodi wa Sekhwama se hlalošitšwego go tema 2 ya Athekele 2 ya Kopano ya Sekhwama ya 1992;

“**oli ya makhura**” e ra diripana tše boima goba mašaledi gotšwa go oli ye tala goba metswako ya ditlabakelo tše ye tlilego go dirišwa bjalo ka makhura bakeng sa tšweletšo ya phišo goba maatla a boleng bjo lekanago le “Mokgatlo wa Amerika wa Dihlahlobo le Taetšo ya Ditlabakelo bakeng sa Oli ya Makhura ya Nomoro ya Bone (Lefelo D 396-69)” goba boima bja go feta;

“**tefišo**” e ra tefišo ye hlalošitšwego go karolo 2 mme e laolwa go ya ka karolo 3; “**nako ya motšhelo**” e ra nako ye itšego ya tšhupamabaka.

Imposition of levy

2. (1) A levy is payable to the Commissioner by any person who, during the tax period, has received contributing oil in total quantities exceeding 150 000 metric tons—
- (a) in the ports or terminal installations of the Republic, contributing oil which has been carried by sea to such ports or terminal installations; and 5
 - (b) in any installations situated in the Republic, contributing oil which has been carried by sea and discharged in a port or terminal installation of a non-Contracting State of the 1992 Fund Convention, provided that contributing oil shall only be taken into account in terms of this paragraph on first receipt in the Republic. 10
- (2) For the purposes of subsection (1), where the quantity of contributing oil received in the Republic by any person in the tax period when aggregated with the quantity of contributing oil received in the Republic by any associated person exceeds 150 000 metric tons, each person must pay contributions in respect of the actual quantity of oil received by that person, despite the fact that the quantity did not exceed 150 000 metric tons. 15

Determination of levy

3. (1) The Minister must, by notice in the *Gazette*, determine the rate of the levy for the particular tax period, taking into account the following:
- (a) The contributions calculated and invoiced by the Director of the Fund in terms of Article 12 of the 1992 Fund Convention in respect of the tax period; and 20
 - (b) the volume of contributing oil imported in the tax period.
- (2) The Minister must specify the date on which the levy is due and payable in the notice referred to in subsection (1).

Contributions and interest direct charge against National Revenue Fund 25

4. (1) The Government, in accordance with Article 14 of the 1992 Fund Convention, must pay to the Fund the amount of contributions invoiced by the Director of the Fund in respect of persons liable to pay the levy for the tax period in terms of Article 10 of the 1992 Fund Convention, read with section 2, and any interest on unpaid amounts to the Fund. 30
- (2) The total amount which the Government must pay to the Fund in terms of subsection (1) is a direct charge against the National Revenue Fund.
- (3) The Commissioner is authorised on behalf of the Government to receive invoices for contributions issued by the Director of the Fund in respect of persons liable to pay the levy in terms of section 2. 35

Short title and commencement

5. This Act is called the Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, 2013, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

Kgapeletšo ya tefišo

2. (1) Tefišo ye lefelwago go Mokhomišenare ke motho ofe goba ofe, yoo mo nakong ya motšhelo, a hweditšego oli ye amegago ya palomoka ya go feta bontšhi bja dithone tše 150 000—

- (a) boemakepeng goba bošomelong bjo Rephabliki, oli ye amegago yeo e sepeditšwego lewatleng go ya boemakepeng bjo goba mafelong a bošomelo; gape 5
- (b) bošomelong bofe goba bofe bo lego moo Rephabliki, oli ye amegago yeo e sepeditšwego lewatleng mme ya tšhetšwa boemakepeng goba bošomelong bja Naga ye e sa amegago kwanong ya Kopano ya Sekhwama ya 1992, ge fela e le gore oli ye amegago e tla akanywa go ya ka tema ye ge e hwetšwa la mathomo mo Rephabliki. 10

(2) Bakeng sa mabaka a karolwana (1), moo botšhi bja oli ye amegago bo hweditšwe mo Rephabliki ke motho ofe goba ofe ge e kopanywa le bontšhi bja oli ye amegago ye hweditšwego mo Rephabliki ke motho ofe goba ofe yo amegago e feta bontšhi bja dithone tše 150 000, motho yo mongwe le yo mongwe o swanetše go lefela ditseka go ya ka bontšhi bja oli yeo a e hweditšego, go sa kgathalatšego gore bontšhi bja oli ga se ba feta dithone tše 150 000. 15

Taolo ya tefišo

3. (1) Tona o swanetše go, ka tsebišo Kuranteng ya Mmušo, laola bogodimo bja tefišo bakeng sa nako ya motšhelo ye itšego, go akanywa tše latelago: 20

- (a) Ditseka tše lekanyeditšwego mme tše kgopetšwego ke Molaodi wa Sekhwama go ya ka Athekele 12 wa 1992 ya Kopano ya Sekhwama malebana le nako ya motšhelo; le
- (b) bolumo ya oli ye amegago ye rometšwego ka ntle nakong ya motšhelo. 25

(2) Tona o swanetše go tšweletša letšatšikgwedi leo tefišo e hlokegago ka lona tsebišong ye hlalošitšwego go karolwana (1).

Ditseka le tefišo thwii ya tswala kgahlanong le Sekhwama sa Letseno sa Bosetšhaba

4. (1) Mmušo, go ya ka Athekele 14 ya Kopano ya Sekhwama ya 1992, o swanetše go lefela go Sekhwama tšhelete yeo e kgopetšwego ke Molaodi wa Sekhwama go ya ka batho bao ba swanetšego go lefela tefelo bakeng sa nako ya motšhelo go ya ka Athekele 10 ya Kopano ya Sekhwama ya 1992, ye balwago le karolo 2, le tswala efe go efe go diroto tše sa lefelwago Sekhwameng. 30

(2) Palomoka yeo e swanetšego ke go lefela ke Mmušo go ya ka karolwana (1) ke tefišo thwii kgahlanong le Sekhwama sa Letseno sa Bosetšhaba. 35

(3) Mokhomešenare o dumeletšwe, boemong bja Mmušo, go hwetša dikgopelo tša tefelo bakeng sa ditseka tše filwego ke Molaodi wa Sekhwama malebana le batho bao ba swanetšego go lefela tefišo go ya ka karolo 2.

Thaetlele ye kopana le go thoma go šoma ga Molao

5. Molao wo o bitšwa Molao wa Ditseka tša Tshepetšo ka dikepe (Sekhwama sa Bosetšhaba sa Phumola Megokgo ya Tšhilafatšo ya Oli), 2013, mme o tla thoma go šoma ka letšatšikgwedi leo le tla laelwago ke Mopresidente ka kgoeletšo Kuranteng ya Mmušo. 40

