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**Correction Notice, this Gazette is replacing Gazette No. 49711 that was Published on the 13th of November 2023 with Government Notice No. 4062**

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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF MINERAL RESOURCES AND ENERGY****NO. 4066****13 November 2023****PUBLICATION OF DRAFT SOUTH AFRICAN NATIONAL PETROLEUM COMPANY (SANPC) BILL, 2023 FOR PUBLIC COMMENT.**

I, **SAMSON GWEDE MANTASHE, MP**, Minister of Mineral Resources and Energy, hereby publish the SANPC Bill, 2023 for public comment.

Interested and affected parties are hereby invited to submit written comments on the Bill. The aforesaid comments must be marked for the attention of **Ms Stella Mamogale** and hand delivered, emailed or sent by post within 30 days of publication of this notice to the following addresses:

70 Mentjies street  
Sunnyside  
0001

or

Private Bag X59  
Arcadia  
0007

Email address: [representations@dmre.gov.za](mailto:representations@dmre.gov.za)

A copy of the Draft South African National Petroleum Company Bill, 2023 is attached hereto.

  
**MR SAMSON GWEDE MANTASHE, MP**  
**MINISTER OF MINERAL RESOURCES AND ENERGY**

**DATE:** 09/11/2023

**REPUBLIC OF SOUTH AFRICA**

**DRAFT SOUTH AFRICAN NATIONAL PETROLEUM COMPANY BILL, 2023**

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*(As introduced in the National Assembly (proposed section 75); explanatory  
summary of Bill published in Government Gazette No. of) (The English text is the  
official text of the Bill)*

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**(MINISTER OF MINERAL RESOURCES AND ENERGY)**

**[B — 2023]**

**BILL**

To provide for the establishment of the South African National Petroleum Company; to provide for the objects and functions of the company; to provide for the constitution of its board and the management thereof; to provide for its finances; to provide for its chief executive officer and staff; to provide for transitional arrangements for transferring human resources and assets from the South African Gas Development Company (iGas), Strategic Fuel Fund (SFF) and Petroleum Oil and Gas Corporation of South Africa (PetroSA) to the South African National Petroleum Company and to provide for matters connected therewith.

## PREAMBLE

**ACKNOWLEDGING** that South Africa's petroleum resources belong to the nation and the State is the custodian thereof;

**RECOGNISING** the need to maximise the nation's economic benefit from exploitation of petroleum and renewable energy resources;

**BEING COMMITTED** to the realisation of the nation's developmental imperatives through exploration and exploitation of petroleum and renewable resources to achieve industrialisation, infrastructure development, and security of energy supply by promoting economic growth and social development, training and development capabilities of South Africans and sharing of technology for South Africans' use;

**EMPHASISING** the government's role to accelerate socio-economic development for all the people of South Africa; and

**AFFIRMING** the State's obligation to protect the environment for the benefit of present and future generations and to ensure ecologically sustainable development of petroleum resources.

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

## ARRANGEMENT OF SECTIONS

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## **Definitions**

1. In this Act, unless the context indicates otherwise—

**"board"** means the board of the Company established in terms of section 13 of this Act;

**"CEF"** means Central Energy Fund SOC Ltd, registration number 1976/001141/30, a state-owned company incorporated in accordance with the laws of the Republic of South Africa;

**"Chief Executive Officer"** means the person appointed in terms of section 21(1) of this Act as the Chief Executive Officer of the Company;

**"Companies Act"** means the Companies Act, 2008 (Act No. 71 of 2008);

**"Company"** means the South African National Petroleum Company established in terms of section 3(1);

**"Constitution"** means the Constitution of the Republic of South Africa, 1996;



**"consolidation"** means a combination of different business units or companies into a single, larger organisation;

**"Department"** means the department responsible for mineral resources and energy;

**"employee"** means an employee of the Company appointed in terms of section 23(1);

**"financial year"** means the financial year of the Company referred to in section 26(3);

**"gas"** means any naturally occurring mixture of hydrocarbons in gaseous state, principally methane with varying quantities of ethane, propane, butane and other gases used as fuel or feedstock, whether—

(a) pressurised to be transported and distributed through pipelines, lateral lines and spur line;

(b) compressed in special cylinders or vessels, to be efficiently transported or stored as compressed natural gas (CNG) by special trucks or ships; or

(c) liquefied using special facilities, to be efficiently transported as liquefied natural gas (LNG);

**"gas infrastructure"** means facilities for gas gathering, processing, transportation and distribution, liquefaction, re-gasification, storage depot, retail stations and industries that use gas as feedstock;

**"iGas"** refers to the South African Gas Development Company SOC Limited, a subsidiary of CEF Group SOC Limited with registration number 2000/024548/30, and a company incorporated in accordance with the laws of the Republic of South Africa;

**"Minister"** means the Minister responsible for Mineral Resources and Energy;

**"natural gas"** means natural gas as defined in the Upstream Petroleum Resources Development Act;

"**oil**" means naturally occurring liquid hydrocarbon (crude oil) and the refined products obtained from it;

"**person**" means an individual, corporation, company or trust;

"**petroleum**" means petroleum as defined in the Upstream Petroleum Resources Development Act;

"**PetroSA**" refers to the Petroleum Oil and Gas Corporation of South Africa SOC Limited, a subsidiary of CEF Group SOC Limited with registration number 1970/008130/30, and a company incorporated in accordance with the laws of the Republic of South Africa;

"**prescribed**" means prescribed by regulation;

"**Public Finance Management Act**" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"**renewable energy**" means the energy that is derived from renewable resources such as wind, sun, biomass, hydrogen, ocean, geothermal, hydroelectric, that are naturally replenished over time;

"**SFF**" refers to the Strategic Fuel Fund Association, a subsidiary of CEF Group SOC Limited with registration number 1964/010277/08, and a non-profit company incorporated in accordance with the laws of the Republic of South Africa;

"**this Act**" includes the regulations made thereunder; and

"**Upstream Petroleum Resources Development Act**" means the Upstream Petroleum Resources Development Act, 2021.

## **Objects of Act**

2. The objects of this Act are to provide for the—
- (a) establishment of the South African National Petroleum Company;
  - (b) governance of the South African National Petroleum Company; and
  - (c) consolidation and transfer of assets to the Company in line with the relevant legislation.

## **Establishment of Company**

3. The South African National Petroleum Company is hereby established as a juristic person to be incorporated in accordance with the Companies Act.

## **Legal status of Company**

4. The Company is a national public entity as defined in section 1 of the Public Finance Management Act.

## **Share Capital of Company**

5. (1) The Minister is the sole shareholder of the Company.
- (2) The rights attached to the shares in the Company, must be exercised by the Minister.

### **Objects of Company**

6. The objects of the Company are to—

(a) be the State's energy champion and facilitator of energy infrastructure across the energy value chain with functions including, but not limited to the following:

- (i) Management of the State's exploration and production rights, interests acquired and exercised in terms of the Upstream Petroleum Resources Development Act, and interests preceding this Act or the common law, on behalf of the State;
- (ii) ensuring that petroleum resources are developed in a sustainable manner to the best interest of the people of South Africa;
- (iii) facilitating and providing for an energy and petroleum infrastructure;
- (iv) providing for middle and downstream petroleum, petroleum products and gas supply;
- (v) providing for storage and distribution of petroleum products;
- (vi) undertaking commercial aspects of petroleum in the upstream, midstream and downstream operations including but not limited to aggregation, marketing and trading;
- (vii) providing for renewable energy; and
- (viii) providing for the acquisition, generation, manufacture, marketing or distribution of any form of energy;

(b) be financially sustainable and independent and carry out its business, operations and activities in a sustainable manner whilst pursuing opportunities through legally acceptable business modalities;

- (c) ensure national energy security to support economic development and growth;
- (d) support South Africa's just energy transition; and
- (e) contribute to greater social development and prosperity.

### **Cooperative governance**

7. The Company may conclude a cooperation agreement with any relevant organ of state to—

- (a) ensure the effective management of the operations of the Company;
- (b) ensure the effective overseeing of the operations of the Company;
- (c) coordinate the performance of the functions of the Company provided for in section 8;
- (d) minimise the duplication of functions and procedures between the Company and such other relevant organ of state that the Company has concluded a cooperation agreement with; and
- (e) promote consistency in the performance of the functions of the Company and that of the other relevant organ of state that the Company has concluded a cooperation agreement with.

### **Functions of Company**

8. The functions of the Company are to—

- (a) ensure that the objects of the company are achieved, to

- hold exploration and production rights, and reconnaissance permits, in terms of the Upstream Petroleum Resources Development Act;
- (b) manage and control the State's participation and interests, including the country's share of petroleum received in kind as provided for in the Upstream Petroleum Resources Development Act;
  - (c) manage and control, on behalf of the State, any other interests acquired and exercised by the Company in terms of any other Act or partnership;
  - (d) manage the State's strategic crude oil stockpile and commercialise crude oil storage facilities;
  - (e) acquire, by agreement, and hold rights or interests in any undertaking, enterprise or project related to exploration or production operations in terms of the Upstream Petroleum Resources Development Act;
  - (f) carry out its business, operations and activities, whether as a principal agent, contractor or otherwise, and either alone or in conjunction with any other person;
  - (g) purchase, hire, possess or otherwise acquire movable and immovable property and let, encumber or dispose of such property;
  - (h) maximise the State's economic benefit from the exploitation of petroleum resources through energy security, industrialisation and infrastructure development;
  - (i) contribute to the socio-economic development of the country;
  - (j) investigate and propose new upstream, midstream and downstream investment joint ventures locally and internationally;

- (k) develop in depth expertise in the petroleum industry, including facilitating skills development and training for South Africans through collaboration with partners;
- (l) manage the State's upstream exploration, production rights and pursue free carry model through the Upstream Petroleum Resources Development Act and various forms of legally and commercially acceptable modalities to safeguard national energy interests;
- (m) be a developer, operator and owner of major energy infrastructure across the energy value chain for market entry and transmission and to pursue Liquefied Natural Gas (LNG) regasification, Gas transmission and Gas to power through various forms of legally and commercially acceptable modalities;
- (n) be a developer, operator and owner of major refined product infrastructure for market entry and transfer, with trading and distribution for refined product storage and trading capabilities;
- (o) champion the aggregation of energy products to ensure security of energy supply; and
- (p) perform any other function as the Minister may direct in support of security of energy supply and economic development.

**Determination of Company's rights by Minister**

9. The Minister may, for the purpose of ensuring security of energy supply, determine the Company's rights over petroleum, upstream, midstream and downstream value chain.

**Exercise of powers of Company outside Republic**

10. (1) The Company may undertake various investments and strategic joint partnerships to support national economic imperatives and security of energy supply across the energy value chain outside the Republic of South Africa in terms of relevant laws.

(2) The Company may only undertake the activities referred to in subsection (1)—

- (a) with the approval of the Minister following a request made by the Company; or
- (b) pursuant to a determination made by the Minister.

**Establishment of subsidiary companies**

11. (1) For purposes of achieving the objects of the Company, the board may, subject to the Public Finance Management Act and with the approval of the Minister acting with the concurrence of the Minister of Finance, establish one or more subsidiary companies which must be incorporated in terms of the Companies Act.



(2) A subsidiary company may perform such functions as the board may delegate to it, subject to such conditions as the board may impose.

(3) The Minister may approve the establishment of a subsidiary company only if the subsidiary company poses no financial or other risk to the Company.

### **Transfer and consolidation of assets and rights to Company**

12. (1) All assets and rights issued or held or deemed to have been issued or held by iGas, PetroSA and SFF or as a result of joint ventures in terms of any legislation may, with the written concurrence of the relevant Minister responsible for that organ of State or as agreed by the parties, be consolidated and transferred to the Company.

(2) The transfer and consolidation referred to in subsection (1) must comply with relevant legislation, where applicable.

### **Establishment and composition of board**

13. (1) The affairs of the Company are managed and controlled by the board in terms of this Act.

(2) The board is the accounting authority for the Company as contemplated in section 49(2)(a) of the Public Finance Management Act.

(3) The board consists of ten members, who must reflect the gender and racial composition of the country, appointed by the Minister.

(4) The board consists of—

- (a) the chairperson;
- (b) the Chief Executive Officer by virtue of holding that office;
- (c) the Chief Financial Officer of the Company by virtue of holding that office;
- (d) five other persons with appropriate skills and expertise; and
- (e) two representatives from the Department.

### **Functions of board**

**14.** (1) Subject to this Act, the board controls and manages the property, business and funds of the Company and any other affairs and concerns of the Company.

(2) The board must—

- (a) submit to the Minister an annual work programme, a budget, an annual report and an audited financial statement;
- (b) approve items of income and expenditure in the budget;
- (c) subject to the guidelines or directives issued by the Minister, act as conciliator or appoint arbitrators in the settlement of disputes or claims affecting the Company and in general, take an appropriate action of a legal nature for safeguarding the Company's interests;
- (d) recommend to the Minister the formation of affiliate or subsidiary Companies;
- (e) administer the rights and powers vested in the Company by this Act;
- (f) administer, invest and utilise the welfare and provident funds of the Company's employees with due regard to the interests of the employees, where the welfare and provident funds of the Company's employees do not constitute part of the Company's assets and funds;

- (g) submit to the Minister an annual comprehensive report on the actions taken with respect to the welfare and provident funds of the Company;
  - (h) submit proposals to the Minister with respect to the utilisation of the Company's general reserves; and
  - (i) perform any other act, not inconsistent with this Act or any other law as may be expedient or necessary for the achievement of the objects of the Company.
- (3) The board may in consultation with the Minister issue policy directions to the Company in respect of the performance of its functions under this Act.

#### **Term of office of members of board**

**15.** (1) A member or alternate member of the board, except the Chief Executive Officer and the Chief Financial Officer, holds office for such period as the Minister may determine at the time of his or her appointment, which period may not exceed three years.

(2) A person whose term of office as member or alternate member of the board has expired is eligible for reappointment for one additional term not exceeding three years.

(3) If a member or an alternate member of the board for any reason vacates his or her office, the Minister may appoint another person in the place of such member or alternate member for the unexpired period of his or her term of office.

**Meetings of board**

16. (1) The chairperson or, in his or her absence, the deputy chairperson of the board presides over the meetings of the board.
- (2) The board meets at such times and places determined by itself, but the first meeting of the board must be held at a time and place determined by the chairperson.
- (3) The meetings of the board must be held on written notice to the members and the notice must state the agenda for the meeting.
- (4) The notice must be delivered to each member of the Board at least seven days prior to the meeting unless a majority of the members of the board decide to waive the requirements in respect of the seven days period.
- (5) The minutes of the meetings of the board must be kept by the Company Secretary appointed for that purpose by the board and must be signed by the chairperson and kept in the custody of the Company Secretary.
- (6) The chairperson may at any time, or must at the request of not less than two thirds of the members of the board in office at the time, convene a special meeting of the board, and must determine the time and place of the meeting.
- (7) The quorum for a meeting of the board is the majority of its members present at the meeting.
- (8) The board may adopt rules not inconsistent with this Act for the proper conduct of its meetings.

### **Committees of board**

17. (1) The board may establish a committee or committees, which must, subject to the directions of the board, during the periods between meetings of the board, perform such functions of the board as the board may determine from time to time.

(2) A committee consists of any members of the board as the board may determine.

(3) Each committee must appoint its own chairperson from amongst its members.

(4) If the chairperson of a committee is absent, the members present must elect another member of the committee to chair the meeting of the committee whilst ensuring the quorum is in place.

(5) The board is not discharged from responsibility for the performance of a function entrusted to a committee in terms of this section.

(6) The board may vary or set aside a decision of the committee.

### **Disqualification of members of board**

18. A person may not be appointed as a member of the board if he or she—

- (a) has been declared by a court to be mentally ill or disordered;
- (b) is an unrehabilitated insolvent;
- (c) is not a citizen of or permanently resident in the Republic;
- (d) was declared a delinquent; or

- (e) has been convicted of an offence and has been sentenced therefor to imprisonment without the option of a fine.

#### **Vacation of office by members of board**

**19.** (1) A member of the board must vacate his or her office if he or she—

- (a) becomes disqualified as contemplated in section 18 or, in the case of an official in the service of the State, ceases to be such an official;
- (b) has been absent for more than two consecutive meetings of the board without notice to the board;
- (c) tenders his or her resignation, in writing, to the Minister; or
- (d) is removed from the office by the Minister in terms of subsection (2).

(2) The Minister may remove or suspend a member of the board from office—

- (a) on account of misconduct or inability to perform the functions of his or her office effectively; or
- (b) if the member has engaged in an activity that may undermine the integrity of the board, which activity may include—
  - (i) an activity with regard to a matter in respect of which that member has a financial or personal interest and with regard to which the member is subject to an investigation, hearing or decision;
  - (ii) making private use of, or profiting from, confidential information obtained as a result of performing his or her functions as a member of the board; or

- (iii) divulging information referred to in subparagraph (ii) to a third party, except as required by or under this Act or the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

### **Remuneration of members of board**

**20.** A member or alternate member of the board, or a member of a committee of the board, who is not in the full-time employment of the State, must be paid such remuneration as the Minister, with the concurrence of the Minister of Finance, may determine.

### **Appointment of Chief Executive Officer of Company**

**21. (1)** The board must, with the concurrence of the Minister, appoint a person with suitable qualifications as Chief Executive Officer of the Company.

(2) A person may not be appointed as or remain Chief Executive Officer if he or she is disqualified in terms of section 18.

(3) The Chief Executive Officer is appointed for a period not exceeding five years and may be reappointed at the expiry of his or her term of office for one additional term of five years.

(4) The board, with the concurrence of the Minister, may remove or suspend the Chief Executive Officer from office—

- (a) if the Chief Executive Officer fails to perform the functions of his or her office efficiently;

- (b) if, due to a physical or mental illness or disability, the Chief Executive Officer becomes incapable of performing the functions of that office or performs them inefficiently; or
- (c) on account of serious misconduct.

(6) If the Chief Executive Officer is for any reason unable to perform any of his or her functions for a period exceeding one month, the chairperson of the board must appoint an employee of the Company to act as Chief Executive Officer until the Chief Executive Officer is able to resume the performance of his or her functions.

(7) An acting Chief Executive Officer may exercise all powers and must perform all the duties of the Chief Executive Officer as delegated by the board.

(8) If the Chief Executive Officer is for any reason unable to resume the performance of his or her functions as contemplated in subsection (6) resulting in the position becoming vacant, the board must embark on a new appointment process.

### **Appointment of Chief Financial Officer of Company**

**22.** (1) Subject to subsection (3), the Chief Executive Officer must, in consultation with the board, appoint a Chief Financial Officer.

(2) A person is disqualified from being appointed as or remaining Chief Financial Officer if he or she is disqualified as contemplated in section 18.

(3) (a) The Chief Financial Officer holds office for a period not exceeding five years.



(b) The Chief Financial Officer may be reappointed upon the expiry of the term of his or her office for one additional term of five years.

(c) The terms and conditions of service of the Chief Financial Officer are determined by the board and approved by the Minister.

(4) The board, with the concurrence of the Minister, may remove or suspend the Chief Financial Officer from office—

- (a) if the Chief Financial Officer fails to perform the functions of his or her office;
- (b) if, due to a physical or mental illness or disability, the Chief Financial Officer becomes incapable of performing the functions of that office or performs them inefficiently; or
- (c) on account of serious misconduct.

(5) If the Chief Financial Officer is for any reason unable to perform any of his or her functions for a period exceeding one month, the chairperson of the board must appoint an employee of the Company to act as Chief Financial Officer until the Chief Financial Officer is able to resume the performance of his or her functions.

(6) An acting Chief Financial Officer may exercise all powers and must perform all the duties of the Chief Financial Officer as delegated by the board.

(7) If the Chief Financial Officer is for any reason unable to resume the performance of his or her functions as contemplated in subsection (5) resulting in the position becoming vacant, the Chief Executive Officer must embark on a new appointment process.

**Appointment of staff of Company**

23. (1) The Chief Executive Officer must, in consultation with the board, appoint members of the executive and other employees of the Company as are necessary to perform the work arising from or connected with the Company's functions for such period and on such conditions as the board may determine.

(2) The employees must be paid remuneration, allowances and benefits as may be approved by the board from time to time.

**Funds of Company**

24. (1) The funds of the Company consist of —

- (a) moneys that accrue as a result of exploration and production operations or activities;
- (b) any other money received from any other source with the approval of the Minister;
- (c) any money provided for under the Upstream Resource Development Act;
- (d) income received from technical, commercial, engineering or any other related services, rendered by the Company to external parties; and
- (e) funding sourced from lending institutions or government.

(2) The Company must utilise its funds to pay the expenses incurred in the performance of its functions under this Act.

(3) The Chief Executive Officer must—

(a) open an account in the name of the Company with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and

(b) deposit into the account all moneys received in terms of subsection (1).

(4) The Chief Executive Officer may invest, on behalf of the Company, any money received in terms of subsection (1) which is not required for immediate use with any institution determined by the board and approved by the Minister with the concurrence of the Minister of Finance.

(5) The Company may use interest derived from the investment referred to in subsection (4) to pay expenses in connection with the performance of its functions.

(6) The Company may, when it considers it necessary, with the approval of the Minister acting with the concurrence of the Minister of Finance—

(a) authorise the establishment of reserve funds; and

(b) deposit such funds in the account opened in terms of subsection (3)(a).

(7) The Company must in each financial year, on or before a date determined by the Minister, submit a statement of its income and estimated expenditure for the following financial year to the Minister for approval.

### **Government advances and grants**

**25.** (1) The Minister of Finance may from time to time approve advances and grants to the Company out of money provided for that purpose.

(2) Subject to applicable legislation, the Minister of Finance may approve special levies to provide funds for the Company during the first five years after the establishment of the Company.

**Accountability of Company**

- 26.** (1) The Company must perform its functions subject to and in accordance with the Public Finance Management Act.
- (2) The financial records of the Company must be audited by the Auditor General.
- (3) The financial year of the Company starts on the first day of April in each year and ends on the last day of March in the following year.

**Reporting by Company**

- 27.** (1) The board must in accordance with the Public Finance Management Act, prepare and submit to the Minister an annual report on the performance of the Company under this Act, including any other matters that may be prescribed.
- (2) The board must submit the annual report referred to in subsection (1) to the Minister within three months after the end of the financial year concerned.
- (3) The Minister must table the annual report submitted to him or her in terms of subsection (1) in Parliament in accordance with the Public Finance Management Act.

### **Judicial management and liquidation of Company**

**28.** Despite the provisions of any other law, the Company may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted especially for that purpose.

### **Delegation and assignment of powers**

**29.** (1) The board may, subject to such conditions as the board may determine, in writing—

- (a) delegate to the chairperson, deputy chairperson, or any other member of the board, including the Chief Executive Officer, or any other employee of the Company or to a committee established under section 17, any power conferred upon the board by or under this Act; or
- (b) authorise the chairperson, deputy chairperson or any other member of the board, including the Chief Executive Officer, or any other employee of the Company or a committee established under section 17, to perform any duty assigned to the board by or under this Act.

(2) The Chief Executive Officer may, subject to such conditions as he or she may determine and with the approval of the board, in writing—

- (a) delegate to an employee of the Company any power conferred upon the Chief Executive Officer by or under this Act in his or her capacity as Chief Executive Officer; or

- (b) authorise an employee of the Company to perform any duty assigned to the Chief Executive Officer by or under this Act in his or her capacity as Chief Executive Officer.

(3) The board or the Chief Executive Officer may at any time—

- (a) withdraw a delegation or authorisation made in terms of subsection (1) or (2);
- or
- (b) withdraw or amend any decision made by a person exercising a power or performing a duty delegated or assigned in terms of subsection (1) or (2).

(4) The board and the Chief Executive Officer are not absolved or exempted from any duty delegated or assigned in terms of subsection (1) or (2).

## Regulations

**30.** The Minister may, by notice in the *Gazette*, make regulations regarding—

- (a) any matter that is permitted or required to be prescribed in terms of this Act;
- (b) the process to be followed before the lodgment by the Company of an application for exploration and production rights and reconnaissance permit or renewals thereof in terms of the Upstream Petroleum Resources Development Act; and
- (c) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

**Transitional provisions and savings**

**31.** (1) (a) Every person who is in the service of iGas, PetroSA and SFF on the date this Act takes effect must be transferred to the service of the Company.

(b) A person transferred in terms of paragraph (a) must be regarded as having been appointed in terms of this Act.

(2) The remuneration and other terms and conditions of service of a person contemplated in subsection (1) may not be less favorable than the remuneration and other terms and conditions of service applicable to that person immediately before this Act takes effect and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including, where applicable—

- (a) membership of a pension fund;
- (b) membership of a medical aid scheme;
- (c) employer contributions in connection with the memberships contemplated in paragraphs (a) and (b);
- (d) accrued pensionable service;
- (e) accrued leave benefits; and
- (f) retirement at a specific age.

(3) (a) A person transferred to the service of the Company in terms of subsection (1), who immediately before such transfer was a member of a pension fund, remains a member of that pension fund upon such transfer notwithstanding any provision to the contrary in any law or in the rules of that pension fund.

(b) The Company must contribute to the pension fund in respect of the person referred to in paragraph (a) to the same extent as an employer is required in terms of the laws and rules regulating that pension fund to contribute in respect of an employee who is a member of that fund.

(4) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), a change of employer may not be regarded as having taken place when a person is transferred to the service of the Company in terms of subsection (1) and the position of such a person in respect of the phasing-in of tax levied on benefits or advantages derived by reason of employment or the holding of any office as contemplated in the Seventh Schedule to the Income Tax Act, 1962, must be regarded as not having changed.

(5) All assets, rights, liabilities and obligations which, on the date this Act takes effect vest in the entities referred to in subsection (1), pass to the Company.

### **Short title and Commencement**

**32 (1)** This Act is called the South African National Petroleum Company Act, 2023 and comes into operation on a date fixed by the President by proclamation in the *Gazette*.









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