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THE PRESIDENCY

No. 1263

24 November 2008

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

No. 34 of 2008: National Energy Act, 2008.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President.)
(Assented to 17 November 2008.)

ACT

To ensure that diverse energy resources are available, in sustainable quantities and at affordable prices, to the South African economy in support of economic growth and poverty alleviation, taking into account environmental management requirements and interactions amongst economic sectors; to provide for energy planning, increased generation and consumption of renewable energies, contingency energy supply, holding of strategic energy feedstocks and carriers, adequate investment in, appropriate upkeep and access to energy infrastructure; to provide measures for the furnishing of certain data and information regarding energy demand, supply and generation; to establish an institution to be responsible for promotion of efficient generation and consumption of energy and energy research; and to provide for all matters connected therewith.

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

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CHAPTER 1

DEFINITIONS AND OBJECTS

Definitions

1.	In this Act, unless the context indicates otherwise—	
	“ Board ” means the Board of the South African National Energy Development Institute contemplated in section 8;	25
	“ Department ” means the Department of Minerals and Energy;	
	“ energy carrier ” means a substance or system that moves or carries energy in a usable form from one place to another;	
	“ energy data ” means energy-related statistics, facts, figures, information and records of the energy industry and all other economic sectors;	30
	“ energy efficiency ” means economical and efficient production and utilisation of an energy carrier or resource;	
	“ energy feedstocks ” means any substance used or that can be used as a raw material in an industrial process producing energy;	35
	“ energy infrastructure ” means public and privately owned physical structures which are used for the production, transformation, conversion, transportation or distribution of energy carriers;	
	“ energy-related sectors ” means all sectors which are impacted by or have an impact on the energy sector;	40
	“ energy resource ” means non-value added material or mineral that can be used to produce energy or be converted to an energy carrier;	
	“ free basic electricity ” means a limited free amount of electricity supply deemed necessary to support basic energy services of a typical poor household as determined from time to time;	45
	“ greenhouse gases ” mean gases present in the atmosphere, which reduce the loss of heat into space and thereby contributing to an increase in global temperatures through a process known as the greenhouse effect;	
	“ Integrated Energy Plan ” means the national energy plan contemplated in section 6, approved by Cabinet and published in the <i>Gazette</i> by the Minister;	50
	“ Minister ” means the Minister of Minerals and Energy;	
	“ organ of the state ” means an organ of state as defined in section 239 of the Constitution;	

“**prescribed**” means prescribed by regulation;

“**Promotion of Access to Information Act**” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

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

“**regulation**” means any regulation made in terms of this Act;

“**renewable energy**” means energy generated from natural non-depleting resources including solar energy, wind energy, biomass energy, biological waste energy, hydro energy, geothermal energy and ocean and tidal energy; and

“**this Act**” includes regulations made in terms of this Act.

Objects of Act

2. The objects of this Act are to—

- (a) ensure uninterrupted supply of energy to the Republic;
- (b) promote diversity of supply of energy and its sources;
- (c) facilitate effective management of energy demand and its conservation;
- (d) promote energy research;
- (e) promote appropriate standards and specifications for the equipment, systems and processes used for producing, supplying and consuming energy;
- (f) ensure collection of data and information relating to energy supply, transportation and demand;
- (g) provide for optimal supply, transformation, transportation, storage and demand of energy that are planned, organised and implemented in accordance with a balanced consideration of security of supply, economics, consumer protection and a sustainable development;
- (h) provide for certain safety, health and environment matters that pertain to energy;
- (i) facilitate energy access for improvement of the quality of life of the people of Republic;
- (j) commercialise energy-related technologies;
- (k) ensure effective planning for energy supply, transportation and consumption;
- (l) contribute to sustainable development of South Africa’s economy.

CHAPTER 2

ENERGY SUPPLY, OPTIMISATION AND UTILISATION

Provision of data and access to data sources

3. (1) The Minister must establish mechanisms to ensure—

- (a) provision of any data and information reasonably required for the purposes of conducting analysis required for energy planning from any person and the time period for the provision of such data and information, where such data is not already made available to any other public institution; and
- (b) connection to any data and information management system, or any other system within the public administration, for the acquisition of energy data and information, in accordance with the Promotion of Access to Information Act and the Statistics Act, 1999 (Act No. 6 of 1999) where such data or information is collected by that public institution.

(2) The Minister may, for the purpose of ensuring optimal collection of data, subject to observation of confidentiality of information in the possession of a particular entity, permit sharing of information with any other entity within and outside of the boundaries of the Republic.

(3) The information provided under this Act that is not already in the public domain may only be supplied to persons outside of the Department subject to the provisions of the Promotion of Access to Information Act.

(4) The Minister must establish mechanisms to—

- (a) collect, collate and analyse energy data and information; 5
- (b) manage energy data and information; and
- (c) avail, in a manner prescribed, energy statistics and energy information to the public.

(5) The Minister must annually publish an analysis—

- (a) reviewing energy demand and supply for previous year; 10
- (b) forecasting energy supply and demand for no less than 20 years; and
- (c) of plausible energy scenarios of how the future energy demand and supply landscape could look like under different demand and supply assumptions.

(6) The Minister must publish—

- (a) models used for data and information analysis; 15
- (b) all the assumptions that are underpinning the models contemplated in subsection (a); and
- (c) a list of categories of information or data that have been classified as confidential and the reasons thereof.

Safety, health and environment 20

4. The Minister may, after consultation with the Minister of Trade and Industry, the Minister of Labour and the Minister of Environmental Affairs and Tourism, adopt measures not contemplated in any other legislation, to minimise the negative safety, health and environmental impacts of energy carriers.

Energy access by households 25

5. (1) The Minister must adopt measures that provide for the universal access to appropriate forms of energy or energy services for all the people of the Republic at affordable prices.

(2) The measures contemplated in subsection (1) must take into account—

- (a) the safety, health and environmental suitability of such energy; 30
- (b) the availability of energy resources;
- (c) the optimisation of existing energy infrastructure;
- (d) the need for new infrastructure;
- (e) the provision of information and training regarding energy and its optimal utilisation; 35
- (f) the sustainability of the energy provision;
- (g) affordability;
- (h) cost-effectiveness;
- (i) the State's commitment to provide free basic electricity to poor households; 40
- and
- (j) appropriate governance procedures for government sponsored programmes as prescribed by the Public Finance Management Act.

CHAPTER 3

INTEGRATED ENERGY PLANNING

Integrated energy planning 45

6. (1) The Minister must develop and, on an annual basis, review and publish the Integrated Energy Plan in the *Gazette*.

(2) The Integrated Energy Plan must deal with issues relating to the supply, transformation, transport, storage of and demand for energy in a way that accounts for—

- (a) security of supply; 50
- (b) economically available energy resources;
- (c) affordability;
- (d) universal accessibility and free basic electricity;