

REPUBLIC OF SOUTH AFRICA

GAS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75) (explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No 44438 of
13 April 2021)
(The English text is the official text of the Bill)*

(MINISTER OF MINERAL RESOURCES AND ENERGY)

[B 9—2021]

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[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

To amend the Gas Act, 2001, so as to amend and insert certain definitions; to provide for the promotion of the orderly development of the gas industry; to enhance the national regulatory framework; to promote broad-based black economic empowerment; to provide for socio-economic and environmentally sustainable development; to provide for new developments and changing technologies in the gas sector; to facilitate gas infrastructure development and investment; to provide for cooperation between the private and public sectors in the gas industry; to strengthen enforcement and improve compliance; and to provide for matters connected therewith.

Amendment of section 1 of Act 48 of 2001, as amended by section 15 of Act 40 of 2004

1. Section 1 of the Gas Act, 2001 (Act No. 48 of 2001) (hereinafter referred to as the “principal Act”), is hereby amended—

(a) by the insertion before the definition of “chief executive officer” of the following definitions:

“ **‘applicant’** means a person who has submitted or intends to submit an application for any activity listed in section 15;

‘associate company’ means a company which is a subsidiary in the same group of companies as an applicant for a licence in terms of this Act;

‘BBBEE Act’ means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

‘black people’ has the meaning assigned to it in the BBBEE Act;” 15

(b) by the deletion of the definition of “chief executive officer”;

(c) by the insertion after the definition of “chief executive officer” of the following definitions:

“ **‘complainant’** means a person who has submitted a complaint in terms of section 31;

'Constitution' means the Constitution of the Republic of South Africa, 1996;

‘Co-operatives Act’ means the Co-operatives Act, 2005 (Act No.14 of 2005);”;

- (d) by the substitution for the definition of “customer” of the following definition:
 “**‘customer’** means a person purchasing gas[,], or purchasing transmission, storage [**or**], distribution [**or**], liquefaction [**or**], compression or re-gasification services;”;
- (e) by the insertion after the definition of “customer” of the following definition:
 “**‘day’** means any day other than a Saturday, Sunday or public holiday and, for the purposes of calculating any period relating to licensing, the period between 16 December and 15 January (both dates inclusive) must not be taken into account;”;
- (f) by the substitution for the definition of “Department” of the following definition:
 “**‘Department’** means the Department responsible for [**of Minerals and Energy**] energy;”;
- (g) by the substitution for the definition of “distribution” of the following definition:
 “**‘distribution’** means the [**distribution of bulk gas supplies and the** transportation [**thereof by pipelines**] of gas, including transportation by pipeline, with a general operating pressure of more than 2 bar gauge and less than 15 bar gauge or transportation by pipelines with such other operating pressure as the [**National**] Energy Regulator may permit [**according to criteria prescribed by regulation to points of ultimate consumption**] to an end consumer, (excluding eligible customers) or to reticulation systems, or to both [**points of ultimate consumption**] an end consumer, (excluding eligible customers) and to reticulation systems, and any other activity incidental thereto, and **‘distribute’** [**and**], **‘distributing’** and **‘distributor’** have corresponding meanings;”;
- (h) by the substitution for the definition of “distribution company” of the following definition:
 “**‘distribution company’** means any person [**distributing gas**] licensed to operate a gas distribution facility under section 19;”;
- (i) by the substitution for the definition of “eligible customer” of the following definition:
 “**‘eligible customer’** means a [**customer**] consumer who [**in the prescribed manner may buy gas directly from suppliers without the intervention of a distribution company**] meets the qualifying threshold determined by the Minister;”;
- (j) by the insertion after the definition of “eligible customer” of the following definitions:
 “**‘end consumer’** means a person purchasing gas for their own consumption;
‘Energy Regulator’ means the National Energy Regulator established in terms of section 3 of the National Energy Regulator Act;
‘Expropriation Act’ means the Expropriation Act, 1975 (Act No. 63 of 1975);
‘facility’ means all the necessary and incidental infrastructure associated with the activity as defined for each of transmission, storage, distribution, liquefaction or re-gasification;”;
- (k) by the substitution for the definition of “gas” of the following definition:
 “**‘gas’** means all hydrocarbon gases [**transported by pipeline**], including natural gas, artificial gas, hydrogen rich gas, methane rich gas, synthetic gas, coal bed methane gas, liquefied natural gas, compressed natural gas, re-gasified liquefied natural gas, re-gasified liquefied petroleum gas or any combination thereof;”;
- (l) by the insertion after the definition of “gas” of the following definition:
 “**‘gas master plan’** means an indicative, forward-looking plan for gas supply and demand, compiled in accordance with the provisions of section 28A in order to reflect national policy on gas infrastructure planning, which considers the sources from which gas is, and may be, supplied, and also considers the development, strengthening, upgrading and refurbishment of the gas transmission network and the linkages between this system and any relevant facilities for the import or export of gas necessary to supply the anticipated demand;”;

- (m) by the deletion of the definition of “Gas Regulator”;
- (n) by the insertion after the definition of “Gas Regulator” of the following definitions:
- “**‘group of companies’** has the meaning assigned to it in the Companies Act, 2008 (Act No. 71 of 2008);” 5
- “**‘infrastructure or market development plan’** means the plan that must be prepared by a distributor or trader, respectively, in respect of the area for which exclusivity is sought or granted in terms of section 22A;”
- “**‘integrated energy project’** means a project provided for under a determination made by the Minister in terms of section 28B(7);” 10
- (o) by the substitution for the definition of “licensee” of the following definition:
- “**‘licensee’** means any person holding a licence granted by the [Gas] Energy Regulator in terms of this Act;”;
- (p) by the substitution for the definition of “liquefaction” of the following definition: 15
- “**‘liquefaction’** means converting [natural] gas from a gaseous state to a liquid gas state, and “**‘liquefy’**”, “**‘liquefied’**” and “**‘liquefying’**” have corresponding meanings;”;
- (q) by the insertion after the definition of “mine” of the following definition: 20
- “**‘Mineral and Petroleum Resources Development Act’** means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);”;
- (r) by the deletion of the definition of “mine”;
- (s) by the substitution for the definition of “Minister” of the following definition: 25
- “**‘Minister’** means the Minister [of minerals and Energy] responsible for energy;”;
- (t) by the insertion after the definition of “Minister” of the following definition:
- “**‘National Energy Regulator Act’** means the National Energy Regulator Act, 2004 (Act No. 40 of 2004);”;
- (u) by the insertion after the definition of “person” of the following definition: 30
- “**‘port’** has the meaning assigned to it in section 1 of the National Ports Act, 2005 (Act No. 12 of 2005);”;
- (v) by the substitution of the definition of “prescribed” of the following definition: 35
- “**‘prescribed’** means prescribed by regulation or by rules in terms of this Act;”;
- (w) by the substitution for the definition of “price” of the following definition:
- “**‘price’** means the monetary charge for gas [to a distributor, reticulator or final] to a customer;”;
- (x) by the insertion after the definition of “price” of the following definition: 40
- “**‘private sector party’** means any natural or juristic person in which the Government or an organ of state does not hold a controlling ownership interest (whether direct or indirect);”;
- (y) by the deletion of the definition of “production”;
- (z) by the insertion after the definition of “production” of the following definitions: 45
- “**‘production area’** has the meaning ascribed to it in the Mineral and Petroleum Resources Development Act;
- ‘production operation’** has the meaning ascribed to it in the Mineral and Petroleum Resources Development Act;
- ‘production right’** has the meaning ascribed to it in the Mineral and Petroleum Resources Development Act; 50
- ‘Promotion of Access to Information Act’** means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- ‘Promotion of Administrative Justice Act’** means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);” 55
- (zA) by the substitution for the definition of “re-gasification” of the following definition:
- “**‘re-gasification’** means converting liquefied natural gas to a gaseous state at a land-based re-gasification plant, or on a floating re-gasification unit located in the territorial waters of the Republic or within a port, and “**‘re-gasify’**”, “**‘re-gasified’**” and “**‘re-gasifying’**” have corresponding meanings;” 60

- (zB) by the substitution for the definition of “regulation” of the following definition:
 “**‘regulation’** means a regulation made by the Minister [under] in terms of section 34(1);”;
- (zC) by the substitution for the definition of “reticulation” of the following definition: 5
 “**‘reticulation’** means **[the division of bulk gas supplies and]** the transportation of **[bulk]** gas by pipelines with a general operating pressure of no more than 2 bar gauge **[to points of ultimate consumption]** or by pipelines with such other operating pressure as the 10
Energy Regulator may permit, by a municipality to end consumers, (excluding eligible customers), and any other activity incidental thereto, and “reticulate” [and], “reticulating” and “reticulator” have corresponding meanings;”;
- (zD) by the substitution for the definition of “rule” of the following definition: 15
 “**‘rule’** means **[by]** a rule made by the Energy Regulator [under] in terms of section 34(3);”;
- (zE) by the substitution for the definition of “service” of the following definition:
 “**‘service’** means any service provided by a licensee to a third party, including a company in the same group of companies, relating to the 20
 transmission, distribution, storage, **[trading,]** liquefaction or re-gasification of gas;”;
- (zF) by the substitution for the definition of “specification” of the following definition:
 “**‘specification’** means the chemical and physical composition, calorific 25
 values and Wobbe Index of the gas that conforms to recognised international standards **[and the pressure of the gas at point of entry to shared systems];**”;
- (zG) by the substitution for the definition of “storage” of the following definition:
 “**‘storage’** means the holding of gas **[as a service] in fixed infrastruc-** 30
ture and any other activity incidental thereto, but excludes the storage of gas [in pipelines which are used primarily for the transmission and distribution of gas]—
 (i) for own use;
 (ii) at a transmission, distribution, liquefaction or upstream pipeline; 35
 or
 (iii) where the primary purpose of such storage is for gas to be used in a production operation, or in the manufacture of synthetic or artificial gas;”;
- (zH) by the deletion of the definition of “storage company”; 40
- (zI) by the substitution for the definition of “tariff” of the following definition:
 “**‘tariff’** means the monetary charge for providing gas services to any customer;”;
- (zJ) by the substitution for the definition of “this Act” of the following definition:
 “**‘this Act’** includes the regulations, rules and determinations made 45
under this Act;”;
- (zK) by the insertion after the definition of “this Act” of the following definition:
 “**‘trader’** means any person licensed to trade gas under section 19;”;
- (zL) by the substitution for the definition of “trading” of the following definition:
 “**‘trading’** means the sale of gas— 50
 (a) to a reticulator;
 (b) to an end consumer; and
 (c) by a transmission company or a distribution company, 55
 and any activity incidental thereto, including the construction and operation of trading infrastructure, but excluding the construction and operation of liquefaction, re-gasification, transmission, storage and distribution facilities, and **“trade” or “trader”** have corresponding meanings;”;
- (zM) by the insertion after the definition of “trading” of the following definitions: 60
 “**‘trading infrastructure’** includes all fixed and mobile infrastructure used in non-pipeline delivery of gas to ultimate points of consumption, including compression infrastructure and mobile storage units, but