

REPUBLIC OF SOUTH AFRICA

DRAFT

MERCHANT SHIPPING (INTERNATIONAL OIL POLLUTION COMPENSATION FUND)
CONTRIBUTIONS BILL

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

(MINISTER OF FINANCE)

B I L L

To provide for the imposition of the International Oil Pollution Compensation Fund Contributions tax period on persons referred to in Article 10 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992; 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
2. Imposition of levy
3. Determination of levy
4. Contributions and interest direct charge against National Revenue Fund
5. Short title and commencement

Definitions

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 Administration Act or the Tax Administration Act, 2011 (Act No. 28 of 2011), has the meaning so ascribed, and—

"Administration Act" means the Merchant Shipping (International Oil Pollution Compensation Fund) Administration Act, 2013;

"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);

"Director of the Fund" means the Director of the Fund referred to in paragraph 2 of Article 2 of the 1992 Fund Convention;

"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 and Materials' Specification for Number Four Fuel Oil (Designation D 396-69)' or heavier;

"levy" means the International Oil Pollution Compensation Fund Contributions Levy referred to in section 2 and determined in accordance with section 3;

"tax period" means a calendar year.

Imposition of levy

2. (1) The International Oil Pollution Compensation Fund Contributions Levy is payable to the Commissioner by any person who, during the tax period, has received in total quantities exceeding 150 000 metric tons—

- (a) in the ports or terminal installations of the Republic contributing oil carried by sea to such ports or terminal installations; and
- (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 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, provided that contributing oil shall only be taken into account in terms of this paragraph on first receipt in the Republic.

(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 that that quantity did not exceed 150 000 metric tons.

Determination of levy

3. (1) The Minister must, by notice in the *Gazette*, determine the rate of the levy, taking into account the following:

- (a) The calculation by the Director of the Fund in terms of Article 12 of the 1992 Fund Convention;

- (b) the volume of contributing oil imported in the previous tax period;
- (c) an estimate of the volume of contributing oil that will be imported during the current tax period;
- (d) the total amount of contributions that the Government of the Republic of South Africa was liable to pay to the Fund in terms of section 4 in respect of the previous tax period;
- (e) an estimate of the likely amount of contributions that will be payable to the Fund in respect of the current tax period; and
- (f) any over- or under-collection of levies in the previous tax period in relation to the actual amount that the Government was required to pay to the Fund in terms of section 4 in respect of that 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

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 in terms of Article 10 of the 1992 Fund Convention, read with section 2, and any interest on unpaid amounts to the Fund.

(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.

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*.