

Fuel and Services Control Act 1973

ACT NO. 19 OF 1973

[Date Assented to 28th February, 1974]

[Date of Commencement 22nd March, 1974]

ACT

To exercise control over fuel and services involving the use of fuel and to provide for matters incidental thereto.

Enacted by the Assembly

1. This Act may be cited as the Fuel and Services Control Act 1973. Short title

2. In this Act, unless the context otherwise requires — Interpreta-
tion
“controller” means a person appointed as such in terms of section 11;

“fuel” means any solid, liquid or gaseous substance whatsoever or any mixture or combination of such substances capable of being used for the production of energy or electricity howsoever produced;

“inspector” means a person appointed as such in terms of section 11;

“Minister” means the minister for the time being charged with the administration of this Act;

“service” or “services” when used as a noun means a service or services involving the use of fuel.

3. Whenever the Minister deems it necessary or expedient for good order or the security of the State, he or any person authorized thereto by him may — Minister's
powers in
regard to the
hiring or
supply of
fuel or
services

(a) notwithstanding anything to the contrary in any other law contained, and on such conditions and in such manner as he may determine —

(i) acquire or hire in or outside Lesotho any fuel or services for the State or on behalf of any other person or direct any person so to acquire or hire any fuel or services;

(ii) supply in or outside Lesotho any fuel or services to any person or direct any person so to supply any fuel or services;

(iii) import fuel for the State or on behalf of any person or direct any person so to import any fuel;

(iv) make arrangements in connection with the supply, storage, insurance, sale, disposal and distribution of fuel acquired, hired or imported in terms of this paragraph, or direct any person to make such arrangements;

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(b) by notice in the Gazette or by notice in writing to the person concerned —

(i) prohibit the acquisition, disposal or use of any fuel or the supply or use of any service specified in that notice, either generally or except in accordance with such conditions as may be specified;

(ii) order any person who comes into possession of any fuel specified in that notice to store or otherwise deal with that fuel in such manner as may be specified in that notice;

(c) issue orders regulating the acquisition, disposal or use of any fuel or the supply or use of any service in such manner as he may think fit.

4. (1) Whenever the Minister deems it necessary or expedient for good order and the security of Lesotho, he, or a controller acting subject to his directions, may by notice in the Gazette or by notice in writing to the person concerned, order any person who —

Minister or
controller
may demand
fuel or
services

(a) is capable of supplying any fuel or services; or

(b) is the owner or has the power to dispose of or has in his possession or under his control any fuel, or is a supplier of any service,

to supply or deliver or sell such fuel or a specified quantity thereof, or to supply such service to the Minister or a specified person.

(2) Any person who has received an order under subsection (1) shall be deemed to be capable of performing the act which he is ordered to perform, unless he proves that he is not so capable.

(3) In respect of any fuel supplied, delivered or sold, or any service supplied in pursuance of the provisions of this section, the person concerned shall, when called upon to do so, declare and certify the cost to him of every item invoiced, in addition to stating the selling price, in the case of fuel, and the amount of the compensation, in the case of a service, claimed by him.

(4) The Minister may institute, through any person designated by him for that purpose, a cost investigation in connection with any fuel or service in respect of which an order has been issued in terms of this section.

(5) In every contract resulting from an order issued in terms of this section or from the acceptance, by or on behalf of the Minister, of an offer for the supply of any fuel or for the supply of any service, there shall be deemed to be incorporated a condition that the price or compensation stipulated by the seller or supplier concerned shall be subject to confirmation or adjustment by the Minister.

(6) Any person who supplies any service or supplies, delivers or sells any fuel in accordance with an order issued in terms of this section, shall, in the absence of agreement, be paid by the Minister or the person concerned, as the case may

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be, compensation or a price equal to the amount of the cost to him of the supply of the service or fuel in question, plus a percentage of such cost or an amount fixed in the relevant notice, or, where the Minister has instituted a cost investigation in terms of subsection (4), the compensation or price determined by the Minister.

Seizure of fuel and use of certain facilities and property

5. If any person wilfully refuses or fails to comply with any order issued in terms of section 4(1) the Minister, or a controller acting subject to the directions of the Minister, may without legal process, seize the fuel in question or make use of any facilities or property at the disposal of the person concerned for supplying the service in question, and in such case a compensation shall be payable on the basis provided for in section 4(6).

Confiscation of illegally acquired fuel and suspension of certain services

6. (1) The Minister, or a controller acting subject to the directions of the Minister, may, without legal process, confiscate any fuel which, in his opinion, has been acquired in contravention of the provisions of a notice issued under section 3(b), or order that any service which, in his opinion, is being supplied in contravention of those provisions be suspended, and, unless the owner of that fuel or the person in whose possession it has been found, or the supplier or the person who controls the supply of such service within fourteen days after such confiscation or such order proves to the satisfaction of the Minister that that fuel has been acquired or such service is being lawfully supplied, such fuel or any facility or property used for supplying such service, may be dealt with at the absolute discretion of the Minister without payment of any compensation.

(2) The provisions of this section shall not exempt the person concerned from any criminal liability which he may have incurred in respect of the fuel or service in question.

Obtaining of information

7. (1) The Minister or a controller may for the purposes of this Act and by notice in the Gazette or by written notice to the person concerned —

- (a) order any person who deals or has dealt in any fuel specified in the notice, or who, in the ordinary course of his business or trade, handles or has handled such fuel, or who supplies or has supplied or controls or has controlled the supply of a service so specified, to furnish the Minister or the controller, as the case may be, within the time and in the form specified in the notice, with such information and returns as are so specified and relating to his business or trade or to any such fuel which he or his agent has or has had in his possession or custody or over which he or his agent has or has had any control, or relating to any such service;
- (b) order any person owning or having power to dispose of or being in possession or control of fuel specified in the notice, to furnish the Minister or controller, as the case may be, within the time and in the form so specified, with such returns and other information relating to the said fuel and to the business (if any) of that person as are so specified;

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(c) order any person referred to in paragraph (a) to keep such records relating to any fuel or service referred to in that paragraph, and to his business, as may be specified in the notice.

(2) Any person referred to in subsection (1) shall, at the request of an inspector, forthwith produce to such inspector any book or document at his disposal which relates to any fuel or service referred to in the said subsection, and permit the inspector to take an extract therefrom or to make a copy thereof, and shall furnish the inspector with such other information at his disposal relating to such fuel or service as the inspector may demand from him.

(3) Any person —

(a) who refuses or fails to comply forthwith with an order made in terms of subsection (1);

(b) who refuses or fails to comply forthwith with a request or demand referred to in subsection (2); or

(c) who knowingly or negligently furnishes to the Minister, a controller or an inspector information for the purposes of subsection (1) or (2) which is incorrect, or in any return or record furnished or kept for the purposes of subsection (1) makes any entry which is incorrect, shall be guilty of an offence and liable on conviction to the penalties prescribed in section 14.

8. (1) For the purposes of obtaining or ascertaining the correctness of any information whatsoever required by the Minister or a controller for the purposes of this Act, any inspector may at all reasonable times, without prior notice, enter any premises whatsoever, make such examination and inquiry therein or thereupon as he may deem necessary and, against the issue of a receipt, take samples of any fuel found therein or thereon.

Right of entry

(2) Any person in connection with whose business any premises are occupied or used for the purpose of storing, supplying or disposing of any fuel or of supplying any service in terms of an order issued under section 4, and every person employed by him, shall at all reasonable times furnish to an inspector such facilities as are required by him for entering those premises and exercising his powers under subsection (1) in respect thereof.

9. Any person who discloses, except to a person whose duty it is to deal with the subject matter of the disclosure, or when required to do so as a witness in a court of law, or for the purposes of this Act, any information in relation to any person or business acquired in the performance of his duties or in the exercise of his powers under this Act, shall be guilty of an offence and liable on conviction to the penalties prescribed by section 14.

Secrecy

10. The Minister may, by notice in the Gazette, impose in respect of every application for an authorization provided for by virtue of the provisions of this Act, such fee in respect of such quantity of fuel or such services and payable in such manner and at such time as may be specified in the said notice.

Imposition of fees in respect of applications for certain authorizations and permits

Constitution of certain bodies and appointments of controllers, officials and inspectors	11. The Minister may —	Sect
	(a) subject to the laws governing the public service, appoint a controller in respect of fuel or services specified in a notice issued under section 3(b); and (b) on such conditions and at such remuneration as he may determine, constitute such bodies and, subject to the laws governing the public service, appoint such officials and inspectors as he may deem necessary to assist him in the exercise of his powers and the performance of his functions under this Act.	1 2
Financial arrangements	12. (1) The Minister, or any person authorized by him to exercise any of the powers or to perform any of the functions conferred upon or assigned to him by this Act, may incur liabilities for expenditure under this Act, and shall subject to the provisions of this Act, finance such expenditure in the manner determined by him.	3 4
	(2) The Minister may —	5 6
	(a) on such basis as he may determine —	7
	(i) fix the selling price of any fuel acquired or imported in terms of section 3(a);	8
	(ii) levy charges in respect of fuel acquired or services acquired, hired or supplied in terms of section 3(a);	9 10
(b) make arrangements for the recovery of such payments as are in terms of this Act to be made to or through him.	11	
Delegation of powers	13. The Minister may, subject to such conditions as he may deem fit, authorize any person to exercise on his behalf any of the powers conferred upon him by this Act.	12 13
	Offences and penalties	14. If any person contravenes or fails to comply with any of the provisions of this Act or contravenes or refuses or fails to comply forthwith with any notice, order or prohibition under this Act, and such contravention, failure or refusal is not elsewhere in this Act declared to be an offence, or hinders any other person in the exercise of his powers or the performance of his duties under this Act, he shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.