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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1381.

28 October 1998

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

No. 77 of 1998: Port of Ngqura Establishment Act, 1998.

No. 1381.

28 Oktober 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 77 van 1998: Wet op die Instelling van Ngqura-Hawe, 1998.

(English text signed by the President.)
(Assented to 20 October 1998.)

ACT

To provide for the establishment of a commercial port at Ngqura; for the construction, equipment, control, management, possession and maintenance of such port by Transnet Limited; and to provide for matters connected therewith.

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

Definitions

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

- (i) “Company” means Transnet Limited, being the company referred to in section 2 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
- (ii) “Minister” means the Minister for Public Enterprises;
- (iii) “port” means the port referred to in section 2.

Establishment of port of Ngqura

2. (1) The area described in the Schedule is hereby established as a port to be known as the Port of Ngqura and is hereby declared as an area within which a port may be constructed for the regulation of international and national shipping and matters related thereto.

(2) The construction, equipment, control, management, possession and maintenance of the port shall be undertaken by the Company as from a date to be determined by the President by proclamation in the *Gazette*.

(3) In exercising its powers in terms of subsection (2) the company must pay due regard to the social and economic welfare of the people living in the area and protect the environment of the area by—

- (a) promoting the generation of employment opportunities;
- (b) promoting the establishment and success of small, medium and micro enterprises; and
- (c) complying with all laws and directives regarding the protection of the environment.

(4) The Company shall have the power to construct, equip, control, manage, possess and maintain approach, entrance and navigational channels and turning basins with accompanying buoying, wharves, docks, basins, jetties, piers, signal stations, navigational aids, breakwaters, yards, railway lines, sidings, roads and services, storage areas, buildings, and other facilities or appurtenances or additional works necessary for or incidental to the proper working of the port.

(5) (a) That portion of the area described in the Schedule as “sea area” shall, on the date of the proclamation referred to in subsection (2), vest in the Company.

(b) On the written request of the Minister the relevant Registrar of Deeds must make the necessary entries or endorsements in the records of the deeds registry in question to record the transfer of the property as a result of such vesting and no office fee, transfer duty, tax or other charge is payable in respect of that transfer.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 20 Oktober 1998.)*

WET

Om voorsiening te maak vir die instelling van 'n handelshawe te Ngqura; vir die bou, toerusting, beheer, bestuur, besit en instandhouding deur Transnet Beperk van bedoelde hawe; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 (i) “hawe” die hawe bedoel in artikel 2;
 - (ii) “Maatskappy” Transnet Beperk, synde die maatskappy bedoel in artikel 2 van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet No. 9 van 1989);
 - (iii) “Minister” die Minister vir Openbare Ondernemings.

10 Instelling van Ngqura-hawe

2. (1) Die gebied beskryf in die Bylae, word hierby as 'n hawe ingestel wat bekend sal staan as Ngqura-hawe en word hierby tot 'n gebied verklaar waarin 'n hawe gebou kan word vir die regulering van internasionale en nasionale skeepvaart en aangeleenthede wat daarmee in verband staan.
- 15 (2) Die bou, toerusting, beheer, bestuur, besit en instandhouding van die hawe word deur die Maatskappy onderneem vanaf 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.
- (3) By die uitoefening van sy bevoegdthede ingevolge subartikel (2) moet die maatskappy behoorlike ag slaan op die welvaart van die mense wat in die gebied woon
- 20 en die omgewing van die gebied beskerm deur—
- (a) die ontwikkeling van werksgeleenthede te bevorder;
 - (b) die instelling en vooruitgang van klein, medium en mikro-ondernemings te bevorder; en
 - 25 (c) aan alle wette en voorskrifte met betrekking tot die beskerming van die omgewing te voldoen.
- (4) Die Maatskappy het die bevoegdheid om die toegangskanaal, vaargeuls, draaikompe met bybehorende beboeiing, kaaie, dokke, hawekompe, hawehoofde, piere, seinstasies, navigasiehulpmiddels, golfbrekers, terreine, spoorlyne, syllyne, paaie en dienste, opslagplekke, geboue en ander geriewe of toebehore of bykomende werke
- 30 wat vir die behoorlike werking van die hawe nodig is of daarmee in verband staan, te bou, toe te rus, te beheer, te bestuur, te besit en in stand te hou.
- (5) (a) Daardie gedeelte van die gebied omskryf in die Bylae as “seegebied” vestig, vanaf die datum van die proklamasie bedoel in subartikel (2), in die Maatskappy.
- (b) Op die skriftelike versoek van die Minister doen die betrokke Registrateur van
- 35 Aktes die nodige inskrywings of endossemente in die register van die betrokke aktekantoor ten einde die oordrag van die eiendom, as gevolg van sodanige vestiging te boekstaaf, en geen kantoorgelde, hereregte, belasting of enige ander koste is betaalbaar ten opsigte van sodanige oordrag nie.

Costs of establishment of port

3. The costs of construction, equipping, control, operation, management, possession, and maintenance of the port shall be financed by the Company.

Powers of Company

4. (1) In addition to its powers in terms of any other law the Company shall, for the purposes of this Act, have the power— 5

- (a) to construct, equip, control, manage, operate, possess and maintain the port;
- (b) to purchase, hire or otherwise acquire or to sell, let or otherwise dispose of or to construct or cause to be constructed and to manage, work and maintain the facilities required for cargo handling, including storage sheds and silos, storage areas, railyards, roads and services, pipelines, conveyors, ship loaders and dischargers, cranes, and any other mobile and other equipment for handling, transfer, storage and conveyance of all cargo, including but not limited to solids, liquids or gases, together with all works and appurtenances incidental thereto, and to determine, and from time to time to alter, the conditions applicable to the use of the aforementioned; 10 15
- (c) to provide, maintain and control navigational aids;
- (d) to provide and maintain, for the purposes of the port, radio, telegraphic, telephonic or other forms of communication;
- (e) to provide and maintain such safety equipment and such other works and appliances as may be required for the needs of the port; 20
- (f) to provide tugs, pilot boats and other facilities and services for the navigation and berthing of vessels in the port, and to that end, to employ pilots, tug masters, crew and such other staff as is necessary;
- (g) to control, manage and operate the port, docks or other similar works including control of the persons working or otherwise engaged on or at the port, the goods and persons arriving at or departing from the port and, if necessary, to limit the right to land, warehouse, deliver or ship any goods within the port; 25
- (h) to stevedore, land or ship goods within the port, and to warehouse, deliver and collect any such goods, and to land or ship persons, either by itself or through its duly constituted agents; 30
- (i) to fix, and from time to time alter, all fees, charges, dues and rates for the use of the facilities at the port; and
- (j) generally to execute and do all such acts, deeds and things as may be necessary for the construction, equipping, operation, control, management, possession and maintenance of the port. 35

(2) The powers conferred upon the Company by or under this Act may be exercised either by the Company or by a subsidiary company formed or to be formed for that purpose and such subsidiary company may exercise on behalf of the Company any power conferred on the Company by or under this Act. 40

(3) The Company may, with the concurrence of the Minister and on conditions which the Minister must determine, assign any part of the port to a subsidiary company and thereupon such subsidiary company shall exercise, in respect of such part of the port, the powers which the Company could have exercised in respect of that part before such assignment. 45

Administration of port

5. The Company may administer the port either as a separate administrative entity or jointly with or as part of, any other port the control and management of which is vested in the Company. 50

Koste van instelling van hawe

3. Die koste van die bou, toerusting, beheer, bedryf, bestuur, besit en instandhouding van die hawe word deur die Maatskappy gefinansier.

Bevoegdhede van Maatskappy

- 5 4. (1) Bykomend tot die bevoegdhede wat die Maatskappy ingevolge enige ander wet besit, het die Maatskappy vir die doeleindes van hierdie Wet die bevoegdheid om—
- (a) die hawe te bou, toe te rus, te beheer, te bedryf, te bestuur, te besit en in stand te hou;
 - 10 (b) die fasiliteite vir vraghantering benodig, insluitende bergingsloodse en silo's, opslaggebiede, spoorlyne, paaie en dienste, pypleidings, vervoerbande, skeepslaaiers en skeepsontlaaiers, hyskrane en enige ander mobiele en ander toerusting vir die hantering, oorpasing, opberging en vervoer van alle vrag, insluitende maar nie beperk tot vaste stowwe, vloeistowwe of gasse, tesame met alle werke en toebehore wat daarmee in verband staan, te koop, huur of
 - 15 andersins te verkry of te verkoop, te verhuur of andersins van die hand te sit, of om te bou, of te laat bou en te bestuur, bedryf en onderhou en om die voorwaardes van toepassing op die gebruik van voorgaande te bepaal en van tyd tot tyd te wysig;
 - (c) navigasiehulpmiddels op te rig, in stand te hou en te beheer;
 - 20 (d) vir die doeleindes van die hawe radio, telegrafiese of telefoniese verbinding of ander vorms van kommunikasie te voorsien en in stand te hou;
 - (e) veiligheidstoerusting en ander werke en toestelle te voorsien en in stand te hou wat vir die behoeftes van die hawe benodig mag word;
 - 25 (f) sleepbote, loodsbote en ander fasiliteite en dienste vir die navigasie en aanlê van skepe in die hawe te voorsien en sodoende om loodse, sleepbootmeesters, bemanning en ander personeel, soos benodig, te voorsien en in diens te neem;
 - (g) die hawe, dokke of ander soortgelyke werke te beheer, bestuur en bedryf, met inbegrip van beheer oor die persone wat daarin of daarop werk of hul
 - 30 andersins daarmee besig hou, asook oor die goedere en persone wat daar aankom of daarvandaan vertrek en, indien nodig, om beperkings te stel op die reg om goedere binne die hawe aan wal te bring, in pakhuisse te berg, af te lewer of te verskeep;
 - (h) óf self óf deur sy behoorlik daartoe aangewese agente, goedere binne die
 - 35 hawe te stu, aan wal te bring of te verskeep, en sodanige goedere in pakhuisse te berg, af te lewer of af te haal, en om persone aan wal of aan boord te bring;
 - (i) alle kostes, heffings, gelde en tariewe vir die gebruik van alle fasiliteite in die hawe te bepaal en van tyd tot tyd te wysig; en
 - 40 (j) oor die algemeen die handelinge en sake te verrig en uit te voer wat vir die bou, toerusting, bedryf, beheer, bestuur, besit en instandhouding van die hawe nodig is.

(2) Die bevoegdhede van die Maatskappy by of kragtens hierdie Wet verleen, kan deur die Maatskappy of enige filiaalmaatskappy van die Maatskappy wat vir sodanige doeleindes ingestel is of ingestel word, verrig word, en sodanige filiaalmaatskappy kan

45 enige bevoegdheid wat by of kragtens die Wet aan die Maatskappy verleen is, namens die Maatskappy uitoefen.

(3) Die Maatskappy kan met die instemming van die Minister, en op die voorwaardes wat die Minister moet bepaal, 'n gedeelte van die hawe aan 'n filiaalmaatskappy toewys, en daardie filiaalmaatskappy oefen ten opsigte van daardie gedeelte dieselfde

50 bevoegdhede uit wat die Maatskappy voor die toewysing ten opsigte daarvan kon uitgeoefen het.

Bestuur van hawe

5. Die Maatskappy kan die hawe óf as 'n afsonderlike administratiewe entiteit óf gesamentlik met of as gedeelte van enige ander hawe waarvan die beheer en bestuur in

55 die Maatskappy gesetel is, bestuur.

Application of Schedule 1 to Act 9 of 1989

6. The provisions of Schedule 1 to the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989), shall apply in relation to the construction, equipping, operation, control, management, possession and maintenance of the port.

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Regulations

7. The Minister may make regulations regarding any matter which is necessary or desirable for facilitating the construction, equipping, operation, control, management, possession and maintenance of the port.

Short Title

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8. This is the Port of Ngqura Establishment Act, 1998.

Toepassing van Bylae 1 by Wet 9 van 1989

6. Die bepalings van Bylae 1 by die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet No. 9 van 1989), is van toepassing met betrekking tot die bou, toerusting, bedryf, beheer, bestuur, besit en instandhouding van die hawe.

Regulasies

7. Die Minister kan regulasies uitvaardig aangaande enige aangeleentheid wat nodig of wenslik is om die bou, toerusting, bedryf, beheer, bestuur, besit en instandhouding van die hawe te fasiliteer.

10 Kort titel

8. Hierdie Wet heet die Wet op die Instelling van Ngqura-hawe, 1998.

SCHEDULE

Sea area

The area bounded by a line commencing at the extreme point on the east bank of the Swartkops River thence due east (true) for a distance of 1 609 metres to a point in the Indian Ocean; thence from that point to a second point in the Indian Ocean 1 609 metres due east (true) from Cape Recife; thence from that point to a third point in the Indian Ocean 1 609 metres south east (true) from the extreme point on the east bank of the Sunday's River; thence from that point 1 609 metres due north west to the extreme point on the east bank of the Sunday's River; thence along the high water mark between the extreme point of the east bank of the Sunday's River and the extreme point of the east bank of the Swartkops River, excluding the Islands of Jahleel, St. Croix and Brenton, and the 500 metre marine reserve surrounding each island.

Land area

The land area bounded to the north west by the N2 National Road; to the north east by the boundary between Hougham Park and Sonop Farms; to the south west by the line joining a point on the N2 National Road and the high water mark, which will become the boundary between St. George's Strand and the Ngqura DZ; to the south east by the high water mark between these boundaries.

BYLAE

Seegebied

Die gebied begrens deur 'n lyn getrek vanaf die uiterste punt op die oostelike oewer van die Swartkopsrivier ooswaarts (ware) na 'n punt in die Indiese Oseaan op 'n afstand van 1 609 meter; van daardie punt na 'n tweede punt in die Indiese Oseaan op 'n afstand van 1 609 meter ooswaarts (ware) vanaf Kaap Recife; dan van daardie punt na 'n derde punt in die Indiese Oseaan 1 609 meter suidoos (ware) vanaf die uiterste punt op die oostelike oewer van die Sondagsrivier; daarvandaan 1 609 meter noordwes tot die uiterste punt van die oostelike oewer van die Sondagsrivier; van daar langs die hoogwatermerk tussen die uiterste punt op die oostelike oewer van die Sondagsrivier en die uiterste punt op die oostelike oewer van die Swartkopsrivier, met uitsluiting van die eilande van Jahleel, St Croix en Brenton, en die mariene reserwe van 500 meter rondom elke eiland.

Grondgebied

Die grondgebied begrens aan die noordweste deur die N2-Nasionale pad; aan die noordooste deur die grens tussen Hougham Park en Sonop Farms; aan die suidweste deur 'n lyn wat aansluit by 'n punt op die N2-Nasionale pad en die hoogwatermerk, wat die grens tussen St. George's-strand en die Ngqura-ontwikkelingsone sal word, aan die suidooste deur die hoogwatermerk tussen hierdie grense.

