

## **ENERGY SECTOR LEVIES (AMENDMENT) BILL, 2021**

### **MEMORANDUM**

The object of the Bill is to amend the Energy Sector Levies Act, 2015 (Act 899) to provide for an Energy Sector Recovery Levy and Sanitation and Pollution Levy.

The Energy Sector Levies Act, 2015 (Act 899), was enacted to consolidate the existing energy sector levies for their efficient utilisation, defray legacy debts and other liabilities within the energy sector, facilitate sustainable long-term investments in the energy sector, and provide for related matters.

Since its passage in 2015, the Energy Sector Levies have contributed significantly to paying down the legacy liabilities of State-Owned Enterprises operating in the sector. More recently however, as new Power Purchase Agreements have come on stream, the excess capacity charges resulting from the take or pay nature of the power Purchase Agreements have continued to accumulate to extraordinary levels. The situation is further compounded by the inability of the Electricity Company of Ghana to pay for Light Crude Oil and Diesel supplied via the banks to generate power under the terms of the Power Purchase Agreements.

Since these capacity charges cannot typically be passed on to the consumer in its entirety through an increase in the end user tariff, Government has had to constantly step in albeit its tight fiscal stance and budget rigidities, to support the Electricity Company of Ghana defray these costs in order to ensure continuous supply of power to businesses and households, as well as avert the negative ramifications of breaching the Power Purchase Agreements.

An assessment of the performance of ongoing sector-wide reforms under the Energy Sector Recovery Programme supported by the World Bank, revealed that the successes achieved in the sector since 2017, which includes the clearance of legacy liabilities under the Energy Sector Levies Act and the rollout of the cash waterfall mechanism, will be eroded if measures are not taken to minimise the huge fiscal burden created by the continuous support of Government to the Electricity Distribution Companies to fund requests submitted for power, capacity and feedstock.

Hence the proceeds from the Energy Sector Recovery Levy will be utilised to meet the funding shortfall occasioned by the inability of the Electricity Distribution Companies to cover the cost of power supplied by Power Producers and the associated capacity costs and related matters.

Additionally, the Sanitation and Pollution Levy is being imposed on specified petroleum products to provide funds to support programmes and projects to improve air quality and provide sustainable funding for the collection, treatment and disposal of liquid and solid waste. The proceeds from the Sanitation and Pollution Levy will be utilised to improve air quality in urban areas of the country, combat pollution, design, construct, re-engineer and maintain waste disposal and treatment plants including land fill sites and medical and other specialised waste treatment facilities. The proceeds from the Levy are to be utilised for the construction of sanitation facilities to accelerate the elimination of open defecation and provide support for fumigation of public spaces, schools, health centres and markets.

The Sanitation and Pollution Levy will be applied in accordance with the objective of Government to make Ghana one of the cleanest nations in Africa as well as contribute towards the achievement of Sustainable Development Goals 3 and 6. This is to ensure among others, sustainable sanitation management for all, protect lives, livelihoods, and the most vulnerable populations, and improve air quality. Air pollution and poor sanitation are a major driver of non-communicable diseases such as heart attacks, strokes and lung cancer which claims several lives every year.

It is estimated that total receipts will be six hundred and sixty-six million, two hundred and thirty thousand Ghana Cedis (GH¢666,230,000) and three hundred and eleven million, six hundred and sixty thousand Ghana Cedis (GH¢311.660,000) respectively in 2021.

*Clause 1* of the Bill amends section 5 of Act 899 to empower the Minister to cause to be opened and maintained an account to receive moneys realised from the Energy Sector Recovery Levy. Moneys in the account are to be used to support the payment of capacity charges in the energy sector and to pay energy sector bills.

The *clause* further establishes a Sanitation and Pollution Levy to be imposed on specified petroleum products.

Clause 2 amends section 6 of Act 899 to provide for the realignment of levies collected in excess of the annual target and unutilised balances to alleviate funding shortfalls for the purposes of sections 3, 4 and 5 of the Act and *clause* 1 of the Bill.

Clause 3 amends the First Schedule to Act 899 by including the Energy Sector Recovery Levy and Sanitation and Pollution Levy as part of the levies imposed under Act 899.

  
(Osei Kyeyi Mensah Bonsu)  
Minister responsible for Finance

Date: 25<sup>th</sup> MARCH 2021

# ENERGY SECTOR LEVIES (AMENDMENT) BILL, 2021

## ARRANGEMENT OF SECTIONS

### *Section*

1. Sections 5A and 5B inserted
2. Section 6 of Act 899 amended
3. First Schedule to Act 899 amended

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ENTITLED

**ENERGY SECTOR LEVIES (AMENDMENT) ACT, 2021**

**AN ACT** to amend the Energy Sector Levies Act, 2015 (Act 899) to provide for an Energy Sector Recovery Levy and Sanitation and Pollution Levy to be imposed on specified petroleum products and for related matters.

PASSED by Parliament and assented to by the President:

**Sections 5A and 5B inserted**

1. The Energy Sector Levies Act, 2015 (Act 899), referred to in this Act as the "principal enactment", is amended by the insertion after section 5, of

**"Energy Sector Recovery Account**

5A. (1) There is imposed by this Act, an Energy Sector Recovery Levy.

(2) The Minister shall cause to be opened and maintained an account to be known as the Energy Sector Recovery Account for the purpose of receiving moneys realised from the Energy Sector Recovery Levy.

(3) Moneys in the Energy Sector Recovery Account shall be used to support the payment of

- (a) capacity charges in the energy sector; and
- (b) energy sector bills including support for Feedstock.

**Sanitation and Pollution Account**

5B. (1) There is imposed by this Act, a Sanitation and Pollution Levy on specified petroleum products.

(2) The Minister shall cause to be opened and maintained an account to be known as the "Sanitation and Pollution Account" for the purpose of receiving moneys realised from the Sanitation and Pollution Levy.

(3) Moneys in the Sanitation and Pollution Account shall be used to

- (a) improve air quality in urban areas of the country and combat pollution;
- (b) design, construct, re-engineer and maintain waste disposal and treatment plants including landfill sites, medical and other specialised waste treatment facilities;
- (c) construct sanitation facilities to accelerate the elimination of open defecation; and
- (d) support fumigation of public spaces, schools, health centres and markets."

#### **Section 6 of Act 899 amended**

2. The principal enactment is amended by the substitution for section 6, of

#### **"Management of account**

6. (1) The Minister shall realign any levies collected under this Act in excess of the annual target, and any unutilised balances within the reporting period, to alleviate funding shortfalls for the purposes established in sections 3, 4, 5, 5A and 5B.

(2) The Minister shall submit to Parliament an annual report on the management of the accounts established under sections 3, 4, 5, 5A and 5B."

#### **First Schedule to Act 899 amended**

3. The principal enactment is amended in the First Schedule by the addition after the sixth row, of the seventh and eighth rows as follows:

<b>Y</b>	<b>RATE</b>	<b>PURPOSE</b>	<b>COLLECTING AGENCY</b>	<b>PAYMENT TO</b>
<b>Energy Sector Levy</b>	Ghp20 per litre on Petrol and Diesel Ghp18 per kg of LPG	Support the payment of energy sector bills, capacity charges, and Feedstock	Ghana Revenue Authority	Energy Sector Recovery Account
<b>Sanitation and Pollution Levy</b>	Ghp10 per litre on Petrol and Diesel	<p>(a) Improve air quality in urban areas of the country and combat pollution,</p> <p>(b) design, construct, re-engineer and maintain waste disposal and treatment plants including landfill sites and medical and other specialised waste treatment facilities,</p> <p>(c) construct sanitation facilities to accelerate the elimination of open defecation, and</p> <p>(d) support fumigation of public spaces, schools, health centres and markets.</p>	Ghana Revenue Authority	Sanitation and Pollution Levy Account