Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 676 15 October Oktober 2021 No. 45328

PART 1 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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NO FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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government printing
Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

HIGH ALERT: SCAM WARNING!!!

TO ALL SUPPLIERS AND SERVICE PROVIDERS OF THE GOVERNMENT PRINTING WORKS

It has come to the attention of the *GOVERNMENT PRINTING WORKS* that there are certain unscrupulous companies and individuals who are defrauding unsuspecting businesses disguised as representatives of the *Government Printing Works* (*GPW*).

The scam involves the fraudsters using the letterhead of *GPW* to send out fake tender bids to companies and requests to supply equipment and goods.

Although the contact person's name on the letter may be of an existing official, the contact details on the letter are not the same as the *Government Printing Works*'. When searching on the Internet for the address of the company that has sent the fake tender document, the address does not exist.

The banking details are in a private name and not company name. Government will never ask you to deposit any funds for any business transaction. *GPW* has alerted the relevant law enforcement authorities to investigate this scam to protect legitimate businesses as well as the name of the organisation.

Example of e-mails these fraudsters are using:

PROCUREMENT@GPW-GOV.ORG

Should you suspect that you are a victim of a scam, you must urgently contact the police and inform the *GPW*.

GPW has an official email with the domain as **@gpw.gov.za**

Government e-mails DO NOT have org in their e-mail addresses. All of these fraudsters also use the same or very similar telephone numbers. Although such number with an area code 012 looks like a landline, it is not fixed to any property.

GPW will never send you an e-mail asking you to supply equipment and goods without a purchase/order number. *GPW* does not procure goods for another level of Government. The organisation will not be liable for actions that result in companies or individuals being resultant victims of such a scam.

Government Printing Works gives businesses the opportunity to supply goods and services through RFQ / Tendering process. In order to be eligible to bid to provide goods and services, suppliers must be registered on the National Treasury's Central Supplier Database (CSD). To be registered, they must meet all current legislative requirements (e.g. have a valid tax clearance certificate and be in good standing with the South African Revenue Services - SARS).

The tender process is managed through the Supply Chain Management (SCM) system of the department. SCM is highly regulated to minimise the risk of fraud, and to meet objectives which include value for money, open and effective competition, equitability, accountability, fair dealing, transparency and an ethical approach. Relevant legislation, regulations, policies, guidelines and instructions can be found on the tender's website.

Fake Tenders

National Treasury's CSD has launched the Government Order Scam campaign to combat fraudulent requests for quotes (RFQs). Such fraudulent requests have resulted in innocent companies losing money. We work hard at preventing and fighting fraud, but criminal activity is always a risk.

How tender scams work

There are many types of tender scams. Here are some of the more frequent scenarios:

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to a company to invite it to urgently supply goods. Shortly after the company has submitted its quote, it receives notification that it has won the tender. The company delivers the goods to someone who poses as an official or at a fake site. The Department has no idea of this transaction made in its name. The company is then never paid and suffers a loss.

OR

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to Company A to invite it to urgently supply goods. Typically, the tender specification is so unique that only Company B (a fictitious company created by the fraudster) can supply the goods in question.

Shortly after Company A has submitted its quote it receives notification that it has won the tender. Company A orders the goods and pays a deposit to the fictitious Company B. Once Company B receives the money, it disappears. Company A's money is stolen in the process.

Protect yourself from being scammed

- If you are registered on the supplier databases and you receive a request to tender or quote that seems to be from a government department, contact the department to confirm that the request is legitimate. Do not use the contact details on the tender document as these might be fraudulent.
- Compare tender details with those that appear in the Tender Bulletin, available online at **www.gpwonline.co.za**
- Make sure you familiarise yourself with how government procures goods and services. Visit the tender website for more information on how to tender.
- If you are uncomfortable about the request received, consider visiting the government department and/or the place of delivery and/or the service provider from whom you will be sourcing the goods.
- In the unlikely event that you are asked for a deposit to make a bid, contact the SCM unit of the department in question to ask whether this is in fact correct.

Any incidents of corruption, fraud, theft and misuse of government property in the *Government Printing Works* can be reported to:

Supply Chain Management: Ms. Anna Marie Du Toit, Tel. (012) 748 6292.
Email: **Annamarie.DuToit@gpw.gov.za**

Marketing and Stakeholder Relations: Ms Bonakele Mbhele, at Tel. (012) 748 6193.
Email: **Bonakele.Mbhele@gpw.gov.za**

Security Services: Mr Daniel Legoabe, at tel. (012) 748 6176.
Email: **Daniel.Legoabe@gpw.gov.za**

Closing times for **ORDINARY WEEKLY** *GOVERNMENT GAZETTE* 2021

*The closing time is **15:00** sharp on the following days:*

- **24 December 2020,** Thursday for the issue of Thursday **31 December 2020**
- **31 December 2020,** Thursday for the issue of Friday **08 January 2021**
- **08 January,** Friday for the issue of Friday **15 January 2021**
- **15 January,** Friday for the issue of Friday **22 January 2021**
- **22 January,** Friday for the issue of Friday **29 January 2021**
- **29 January,** Friday for the issue of Friday **05 February 2021**
- **05 February,** Friday for the issue of Friday **12 February 2021**
- **12 February,** Friday for the issue of Friday **19 February 2021**
- **19 February,** Friday for the issue of Friday **26 February 2021**
- **26 February,** Friday for the issue of Friday **05 March 2021**
- **05 March,** Friday for the issue of Friday **12 March 2021**
- **12 March,** Friday for the issue of Friday **19 March 2021**
- **18 March,** Thursday for the issue of Friday **26 March 2021**
- **25 March,** Thursday for the issue of Thursday **01 April 2021**
- **31 March,** Wednesday for the issue of Friday **09 April 2021**
- **09 April,** Friday for the issue of Friday **16 April 2021**
- **16 April,** Friday for the issue of Friday **23 April 2021**
- **22 April,** Thursday for the issue of Friday **30 April 2021**
- **30 April,** Friday for the issue of Friday **07 May 2021**
- **07 May,** Friday for the issue of Friday **14 May 2021**
- **14 May,** Friday for the issue of Friday **21 May 2021**
- **21 May,** Friday for the issue of Friday **28 May 2021**
- **28 May,** Friday for the issue of Friday **04 June 2021**
- **04 June,** Friday for the issue of Friday **11 June 2021**
- **10 June,** Thursday for the issue of Friday **18 June 2021**
- **18 June,** Friday for the issue of Friday **25 June 2021**
- **25 June,** Friday for the issue of Friday **02 July 2021**
- **02 July,** Friday for the issue of Friday **09 July 2021**
- **09 July,** Friday for the issue of Friday **16 July 2021**
- **16 July,** Friday for the issue of Friday **23 July 2021**
- **23 July,** Friday for the issue of Friday **30 July 2021**
- **30 July,** Friday for the issue of Friday **06 August 2021**
- **05 August,** Thursday for the issue of Friday **13 August 2021**
- **13 August,** Friday for the issue of Friday **20 August 2021**
- **20 August,** Friday for the issue of Friday **27 August 2021**
- **27 August,** Friday for the issue of Friday **03 September 2021**
- **03 September,** Friday for the issue of Friday **10 September 2021**
- **10 September,** Friday for the issue of Friday **17 September 2021**
- **16 September,** Thursday for the issue of Thursday **23 September 2021**
- **23 September,** Thursday for the issue of Friday **01 October 2021**
- **01 October,** Friday for the issue of Friday **08 October 2021**
- **08 October,** Friday for the issue of Friday **15 October 2021**
- **15 October,** Friday for the issue of Friday **22 October 2021**
- **22 October,** Friday for the issue of Friday **29 October 2021**
- **29 October,** Friday for the issue of Friday **05 November 2021**
- **05 November,** Friday for the issue of Friday **12 November 2021**
- **12 November,** Friday for the issue of Friday **19 November 2021**
- **19 November,** Friday for the issue of Friday **26 November 2021**
- **26 November,** Friday for the issue of Friday **03 December 2021**
- **03 December,** Friday for the issue of Friday **10 December 2021**
- **09 December,** Thursday for the issue of Friday **17 December 2021**
- **17 December,** Friday for the issue of Friday **24 December 2021**
- **23 December,** Thursday for the issue of Friday **31 December 2021**

LIST OF TARIFF RATES

FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	**Page Space**	**New Price (R)**
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at R**3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works** (**GPW**) has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe* Forms. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

Closing Times for Acceptance of Notices

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.

2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

   All re-submissions will be subject to the standard cut-off times.
   All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
Extraordinary Gazettes	As required	Any day of the week	*Before 10h00 on publication date*	*Before 10h00 on publication date*
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days **after** submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days **after** submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days **after** submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days **after** submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

Extraordinary Gazettes

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

Notice Submission Process

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.

5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat* / *Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.

6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.

7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.

8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.

   8.1. Each of the following documents must be attached to the email as a separate attachment:

      8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.

         8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form

         8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.

      8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. *(Please see Quotation section below for further details)*

      8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order**. Non-Government Printing Works** account customer needs to submit the proof of payment for the notice

      8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. *(Please see the Copy Section below, for the specifications)*.

      8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.

10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE.**

11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.

12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.

    13.1. ***Take note:*** **GPW**'s annual tariff increase takes place on ***1 April*** therefore any quotations issued, accepted and submitted for publication up to ***31 March*** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.

14. Each quotation has a unique number.

15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.

    15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.

    15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.

16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS**:

    16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.

    16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.

        16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).

17. **APPLICABLE ONLY TO CASH CUSTOMERS:**

    17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.

18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).

19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.

    19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Copy (Separate Notice Content Document)

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03

    20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.

    The content document should contain only one notice. (You may include the different translations of the same notice in the same document).

    20.2. The notice should be set on an A4 page, with margins and fonts set as follows:

    Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm; Use font size: Arial or Helvetica 10pt with 11pt line spacing;

    Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm; Use font size: Arial or Helvetica 10pt with 11pt line spacing;

Cancellations

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

22. Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

Amendments to notices

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

Rejections

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:

    24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.

    24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.

    24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.

    24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Approval of notices

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.

26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

Government Printer Indemnified Against Liability

27. The Government Printer will assume no liability in respect of—

    27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;

    27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;

    27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

Liability of advertiser

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

Customer inquiries

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.
GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.
Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre ONLY.

30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Payment of cost

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.

32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.

33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.

34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.

35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.

36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.

37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

Proof of publication

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.

39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s)

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:	**Postal Address:**	**GPW Banking Details:**
Government Printing Works	Private Bag X85	**Bank:** ABSA Bosman Street
149 Bosman Street	Pretoria	**Account No.:** 405 7114 016
Pretoria	0001	**Branch Code:** 632-005

For Gazette and Notice submissions: Gazette Submissions: **E-mail:** submit.egazette@gpw.gov.za

For queries and quotations, contact: Gazette Contact Centre: **E-mail:** info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka: **E-mail:** subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. 1033 **15 October 2021**

OCCUPATIONAL HEALTH SAFETY AND ACT (ACT NO.85 OF AS 1993), AS

AMENDED

INCORPORATION OF CODE OF PRACTICE FOR COMMERCIAL ZIP LINE AND AERIAL ADVENTURE PARKS

CORRECTION NOTICE

Government Notice No. R1399 published in government gazette No.44029 dated 24 December 2020 is hereby corrected as follows.

I, Tibor Szana, appointed as the chief inspector in terms of section 27(1) of the said Act, and by virtue of the powers delegated to me by the Minister of Labour in terms of section 42(1) of the Act, I hereby replace SANS 813 referenced at clause 7.2.3.1 with EN 15567-1, and incorporate annexure A for permission to use Zipline and Aerial Adventure Park.

ANNEXURE A

DRIVEN MACHINERY REGULATIONS

PERMIT TO USE A ZIPLINE/AERIAL ADVENTURE PARK

TO: The Chief Inspector
Department of Employment and Labour
215 Francis Baard Street
Pretoria

I/We ……
……..
Hereby give notice of my/our intention to use a zipline/aerial adventure park

(Insert the official, name and address of company or person (legal person) giving notice of the installation. Use a separate form for each installation)

1. Physical address ……...…….
2. Company Registration number……
3. Type of activity ……
4. Design standard ……..…….....
5. Serial number (if applicable) ……
6. Year of installation……..

Documents accompanying the request:
Design calculations and drawings (applicable to application for new installations erected after 24 December 2020)
Certificate from professional engineer or technologist

……. ……
Signature of owner/user Date

(*Delete whichever is not applicable)

FOR OFFICIAL USE ONLY

Date received ……
Official number allocated …… Date ……
Inspector …… Office ……

.....

Tibor Szana

Chief Inspector

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 1034 **15 October 2021**

SEA FISHERY ACT, 1988
(ACT NO. 12 of 1988)

PROPOSED AMENDMENT OF LEVIES ON FISH AND FISH PRODUCTS

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment hereby, in terms of section 29 of the Sea Fishery Act, 1988 (Act No. 12 of 1988), publish draft levies on fish and fish products as set out in the schedule hereto, for public comment. The proposed levies contained in the schedule will replace the current levies published on 10 September 2010.

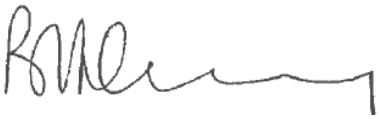
Any person who wishes to comment on the proposed levies may submit written comments to the Department in the following manner:

By post: Department of Forestry, Fisheries and the Environment
Attention: **Revenue Management**
Private Bag X2
Roggebaai
8012

By hand: **Revenue Management**: Fisheries Management, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town

By email: **revenue@environment.gov.za**

All written comments must be received by the Department within 30 calendar days of the publication of this notice in the *Gazette*. Comments received after this time may not be considered.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

1. In this schedule, any word or expression to which a meaning has been assigned in the Marine Living Resources Act, 1998 (Act No. 18 of 1998) and the Regulations under that Act published in in Notice No. R1111 in *Government Gazette* 19205 of 2 September 1998, bears the meaning so assigned to it and, unless the context otherwise indicates—

"**abalone**" means any shellfish of the species *Haliotis midae*, also known as "perlemoen";
"**albacore**" means the species *Athunnus allalunga*;
"**anchovy**" means any fish of the species *Engraulis encrasicolus* (previously known as Engraulis capensis);
"**big eye tuna**" means the species *Thunnus obesus;*
*"***east coast crustacean"** means any crustacean, including shrimps, prawns and langoustines found in the waters of the Province of Kwazulu-Natal and caught by means of bottom trawl nets;
"gutted" means cleaned by removing the viscera, but not the removing of the head or the gills;
"gutted and gilled" means cleaned by removing the viscera and the gills, but not removing the head;
"**hake"** means any fish of the genus Merluccius;
"**headed and gutted**" means cleaned by removing the head, gills and viscera;
"**horse-mackerel**" means any fish of the species *Trachurus capensis*;
"**kingklip**" mean any fish of the species *Genypterus capensis*;
"**langoustine**" means any crustacean of the species *Metanephrops mozambicus* (previously known as *Metanephrops anadamanicus);*
*"***monkfish**" means any fish of the species *Lophius vomerinus*;
"**pilchard**" means any fish of the species *Sardinops sagax* (previously known as *Sardinops ocelatus*);
"**Patagonian toothfish**" means any fish of the species *Dissostichus spp*;
"**redeye** or **round herring**" means any fish of the species *Etrumeus whitehead*;
"**red spotted sole** or **red spotted tonguefish** or **sandrat** means any fish of the species *Cynoglossus zanzibarensis*;
"**ribbonfish**" means any fish of the species *Lepidopus caudatus;*

"**seaweed**" means any marine macro-algae, including Kelp [*Ecklonia maxima* and *Laminaria pallida* (including *Laminaria schinzii*)] and other species such as *Gracilaria gracilis, Gracilariopsis spp and Gelidium spp;*

"**shark**" means any fish of the class *Chondrichthyes;*

"**shrimp**" means any crustacean of the superfamilies Caridea and Penaeoidea including the genera *Callianassa* and *Upogebia;*

"**snoek**" means any fish of the species *Thyrsites atun*;

"**south coast rock lobster**" means any rock lobster of the species *Palinurus gilchristi*;

"**southern Bluefin tuna**" means the species *Thunnus maccoyii;*

"**squid**" means any squid (chokka) of the species *Loligo vulgaris reynaudii;*

"**swordfish**" means the species *Xiphias Gladius;*

"**the Act**" means the Sea Fishery Act, 1988 (Act No. 12 of 1988);

"**tuna**" means any fish of the species *Allothunnus fallai, Euthynnus affinis, Gymnosarda unicolor, Kasuwonus pelamis, Sarda orientalis or Sardia sarda* or any species of the genus *Thunnus;*

"**west coast rock lobster**" means any Cape of spiny rock lobster of the specie *Jasus lalandii;*

"**west coast sole**" means any fish of the species *Austroglossus microlepis*; and

"**yellow tuna**" means the species *Thunnus albacares*.

Item No.	Commercial Fishery Sector	Species Type	New Levy Rate per ton
1	Small Pelagic Fish	Direct Pilchard (Industrial inclusive)	R 64.00
		Anchovy: Directed	R 19.00
		Anchovy: Sardine by-catch	R 19.00
		Other: industrial purposes	R 19.00
2	West Coast Rock Lobster	West Coast Rock Lobster	R 5 147.00
3	South Coast Rock Lobster	South Coast Rock Lobster: Tails	R 9 550.00
		South Coast Rock Lobster: Whole	R 4 297.00
4	Offshore and Midwater trawl		
		Hake	R 250.00
		Kingklip	R 384.00
		Sole	R 380.00
		Horse Mackerel	R 21.00
		Squid	R 470.00
		East Coast Crustaceans	R 186.00

		Monkfish	R 253.00
		Ribbonfish	R 24.00
		Snoek	R 30.00
5	**Inshore Trawl**	Hake	R 234.00
		Kingklip	R 384.00
		Sole	R 380.00
		Horse Mackerel	R 21.00
		Squid	R 470.00
		East Coast Crustaceans	R 186.00
		Monkfish	R 253.00
		Ribbonfish	R 24.00
		Snoek	R 30.00
6	**Abalone**	Abalone	R 34 370.00
7	**Traditional Linefish**	2 or less than 2 tonnes	R 177.00
		5 tonnes and less, but more than 2 tonnes	R 622.00
		10 tonnes and less, but more than 5 tonnes	R 1 332.00
		20 tonnes and less, but more than 10 tonnes	R 2 662.00
		30 tonnes and less, but more than 20 tonnes	R 4 439.00
		More than 30 tonnes	R 6 211.00
8	**Tuna (pole or line method)**	Tuna	R 156.00
		Tuna by-catch	R 122.00
9	**Large Pelagics**		
	South African vessels	Southern bluefin tuna	R 1 238.00
		Bigeye tuna	R 413.00
		Yellowfin tuna	R 413.00
		Swordfish	R 413.00
		All other species including by-catch	R 156.00
	Foreign Flagged vessels	Southern bluefin tuna	R 2 475.00
		Bigeye tuna	R 825.00
		Yellowfin tuna	R 825.00
		Swordfish	R 825.00
		All other species including by-catch	R 312.00
10	**Patagonian Toothfish**	Patagonian Toothfish	R 413.00
11	**Shark longline**	Shark	R 162.00
12	**Hake longline**	Hake	R 250.00
		Kingklip	R 384.00
13	**Hake handline**	Hake	R 186.00
14	**Squid**	Squid	R 470.00
15	**Seaweed**	Kelp	R 130.00
		Other Seaweed species	R 285.00

16	**KZN Prawns**	Prawns	R	186.00
17	**Horse Mackerel**	Hake	R	250.00
		Kingklip	R	384.00
		Sole	R	380.00
		Horse Mackerel	R	21.00
		Squid	R	470.00
		East Coast Crustaceans	R	186.00
		Monkfish	R	253.00
		Ribbonfish	R	24.00
		Snoek	R	30.00
18	**KZN Sardine Beach Seine**	KZN Sardine	R	19.00

19. For the purposes of item 1, the mass of pilchard, anchovy, redeye (round herring) and horse mackerel must be determined at a fish processing establishment in the presence of a Fishery Control Officer (subject to paragraph 21).

20. The levies payable in respect of fish caught during any one month must be paid before the end of the following month, except in the case of Traditional linefish and Abalone where the levies are paid a month after the end of the season. All levy payments should be accompanied by a fully completed levy declaration form, certified by the right-holder, which indicate the mass of the fish caught during the period. The levy declaration form can be obtained from the Department's website, or by emailing **revenue@environment.gov.za** or sending a **fax to 0864543703**.

21. Interest and penalties will be imposed on any overdue amount and the late submissions of the levy declaration forms. Interest of 12% will be charged on overdue amounts for as long as the debt remains outstanding. A penalty of 12% will be charged on the late submission of the levy declaration forms.

22. Levies, interest and penalties payable in terms of this schedule must be paid to the Marine Living Resources Fund by Electronic Funds Transfer (EFT) and the proof of payment may be emailed to **revenue@environment.gov.za** or **faxed to 0864543703**.

5. REPEAL

This notice repeals the levies published under Government Notice No. 796 in *Government Gazette* 33518 of 10 September 2010.

6. COMMENCEMENT

This notice commences on the date of its publication in the *Gazette*.

MARINE LIVING RESOURCES ACT, 1998
(ACT NO. 18 OF 1998)

PROPOSED AMENDMENT OF THE FISHING HARBOUR FEES

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment hereby, in terms of section 27(3) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), publish draft fees payable in respect of fishing harbours set out in the schedule hereto, for public comment. The proposed fees contained in the schedule will replace the current fishing harbour fees published on 10 September 2010.

Any person who wishes to comment on the proposed fees may submit written comments to the Department in the following manner:

By post: Department of Forestry, Fisheries and the Environment
Attention: **Revenue Management**
Private Bag X2
Roggebaai
8012

By hand: **Revenue Management**: Fisheries Management, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town

By email: **revenue@environment.gov.za**

All written comments must be received by the Department within 30 calendar days of the publication of this notice in the *Gazette*. Comments received after this time may not be considered.

BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

Definitions

1. In this notice, any word or expression to which a meaning has been assigned in the Act, bears that meaning and, unless the context otherwise indicates—

"**active lay-up**" means a vessel that is moored for a period that is longer than the norm for purposes of being repaired, altered, modified in part or whole or for some other acceptable on-going purpose, but where such vessel does not pose a threat or danger to other vessels in the harbour or to other harbour-users;

"**alongside**" means in relation to paragraph 2 item A double and multiple banked vessels directly or indirectly secured to the structures mentioned;

"**commercial activity or commercial use**" means an activity or use with the purpose of securing financial return;

"**fishing vessel**" means a vessel engaged in sea fishing for financial gain or reward;

"**hawker**" means any person who does not use a fixed or semi-fixed structure and does not lease a temporary site to trade from;

"**leisure vessel**" and "**recreational vessel**" mean a vessel that is used for an activity other than a commercial activity or any use other than commercial use;

"**Mediterranean mooring**" means the configuration of mooring a vessel so that its bow or stern is fastened to a quay, jetty, sea-wall, or breakwater, whilst its stern or bow (as applicable) is fastened to an anchor or block on the harbour floor, via a mooring line;

"**normal working hours**" means Mondays to Fridays (excluding public holidays) between the hours of 08h00 and 16h00;

"**passenger**" means any person carried in a vessel except a person employed or engaged in any capacity on board the vessel on the business of the vessel and a child under one year of age;

"**per week or part thereof**" means the period extending from Monday to Sunday;

"**per year**" or "**per month or part thereof**", means the periods extending from 1 January to 31 December of a calendar year or from the first to the last day of a month;

"**register tons and register tonnage**" has the meaning ascribed to it in section 1 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) or in any subsequent Act governing merchant shipping in the Republic;

"**Safety Certificate**" means a certificate issued under section 194(1)(a) or (b)(ii) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) or in any subsequent Act governing merchant shipping in the Republic;

"swing mooring" means a mooring configuration where the vessel is moored by one mooring line attached at one end to the bow and the other end to an anchor or block on the harbour floor;

"**the Act**" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

"**trader**" means a person who uses a fixed or semi-fixed structure and leases a temporary site to trade from;

"**trot mooring**" shall mean a configuration where a vessel is moored by means of fastening two mooring lines, one from the bow and the other from the stern, each fastened at their other ends to their own anchor or block on the harbour floor; and

"**unseaworthy vessel**" means a vessel that is not in a fit state as to the condition of its hull, equipment or machinery, the stowage of its cargo or ballast and fuel, or the number or qualifications of its master or crew,

its provisions and in all other relevant respects, to encounter the ordinary perils of the purpose to which the vessel is engaged or about to be placed or does not have a valid Safety Certificate.

2. Accommodation of vessels:

A. All seaworthy registered commercial and non-commercial vessels (fishing boats, leisure vessels, recreational vessels and other vessels) in active lay-up:

		Per day	**Per month**	**Per annum**
(i)	Mooring alongside Departmental quays, break-waters, jetties, sea-walls:			
	Per full meter of total boat length	R1,10	R10,56	R42,35
	Exceeding 8 meters: Additional charge per full meter of boat length	R2,09	R21,17	R84,70
(ii)	Mooring at a Departmental block or Departmental anchor point (swing mooring, Mediterranean mooring or trot mooring):	77% of tariff 2.A (i)		
(iii)	Mooring at a Departmental off-loading jetty other than during an off-loading operation (daily tariff only);	5 x tariff 2.A (i)		
(iv)	Mooring at a Departmental repair jetty:	1,5 x tariff 2.A (i)		
(v)	Mooring at own mooring or own jetty:	77% of tariff 2.A (i)		
(vi)	Where the vessel and vessel owner is paid-up registered members of a Department-			

	approved boat or yacht club and the vessel is moored at the jetty, quay, marina or equivalent mooring established or constructed and maintained by that club:	99% of tariff 2.A (v)
B.	Vessels which are unseaworthy other than those in active lay-up (monthly tariff only)	5 x tariff 2.A
C.	Harbour lighting and navigation light fees for any vessel utilizing a proclaimed harbour for more than 30 days:	R133, 10 per year

3. The slipping of vessels at main and side slip-ways (all harbours):

		For each 24-hour period or part thereof, including Saturdays, Sundays and public holidays on main and side slipways
A.	For each registered vessel of a gross register tonnage of <u>less than 25 tons</u> for the first 72 hours on the main or side slip:	Once off basic fee of R133,10 plus R15,40 per full meter of total vessel length
B.	For each registered vessel of a gross register tonnage of <u>more than 25 tons</u> for the first 72 hours on the main or side slip:	Once off basic fee of R497,20 plus R1,21 per ton **(GRT x 2,83)**
C.	For each registered vessel of a gross register tonnage of less than 25 tons <u>on the side-slip, after the first 72 hours</u> and up to a maximum of 90 days and thereafter tariff 2.A:	66% of tariff 3.A

D. For each registered vessel of a gross register tonnage of 25 tons or more on the side-slip, after the first 72 hours and up to a maximum of 90 days and thereafter tariff 2.B: 66% of tariff 3.B

E. Slipping or un-slipping of any vessel outside normal working hours, Saturdays, Sundays or Public holidays an additional fee shall be payable: R265,10 per vessel

4. The tariffs as set out in 3, shall include the slipping and un-slipping of vessels during normal working hours and shall, for all fishing harbours, be:

(a) measured between the extreme points the nearest full meter (only where the tariff is length-based) and calculated from the time the slipway takes the vessel until the time the vessel leaves the slipway, and

(b) payable for each continuous period of 24 hours or part thereof, including Saturdays, Sundays and public holidays, during which the slipway is occupied, accepting that the booking fee is payable in advance in order to secure a position on the slip.

5. Hauling out of vessels at Arniston and Stilbaai:

A. During normal working hours: R15,40 per vessel

B. Outside normal working hours: R30,80 per vessel

6. Departmental cranes:

A. Ordinary cranes:

1. Per hour or part thereof during normal working hours: R118,80

2 Per hour or part thereof, outside normal working hours: R193,60

7. Electrical power, availability and consumption, for each 8 hours or part thereof:

A.	per 220 volt, single-phase connection:	R33,00
	or	
B.	per 380 volt, three-phase connection:	R58,85
	or	
C.	Own meter:	at the tariff charged from time to time by the relevant supply authority to the Department from place to place

8. Fresh water, availability and consumption:

A.	Charge per connection equal to 25mm in diameter	R19,80
	or	
B.	Charge per connection exceeding 25mm in diameter	R36,30
	plus	
C.	For each kiloliter or part thereof:	at the tariff charged from time to time by the relevant supply authority to the Department from place to place

9. Use of Departmental plant and equipment;

A.	Salt water pumps (per connection per hour or part thereof):	R73,70
B.	Hydraulic jacks and turfors (per unit per day):	R36,30

C. Ladders (per ladder per day or part thereof): R30,80

D. Scaffolding (per set of two scaffolds and two trestles per day or part thereof): R30,80

10. Floating Rafts:

Per square meter per year or part thereof: R91,30

11. Temporary leasing of sites:

A. Sites not exceeding 25 square meters for repair and storage of fishing nets:

1. On quays and breakwaters (per day or part thereof): R82,50

2. Elsewhere (per day or part thereof): R12,10

B. Sites for other purposes;

1. On quays and breakwaters (per square meter, per week or part thereof): R82,50

2. Elsewhere:

(i) Per square meter per week or part thereof: R2,75

(ii) Minimum weekly tariff; R118,80

C. Sites for social/community carnivals, film shoots, and other unique private commercial or social events:

1.	Social /community carnivals:	R1 323,30
2.	Film shoots	R3 305,50

NB: Temporary leasing of sites is subject to the approval of the National Department of Public Works.

12.	**Admission of vehicles:**	**Per day**	**Per month**	**Per annum**
A.	All passenger vehicles, up to 14 seats per vehicle, motor cycles and other vehicles not exceeding 3,5 ton	R5,50	R38,50	R238,70
B.	Passenger busses with more than 15, but not exceeding 25 seats, and any other vehicles between 3,5 ton and 10 ton	R11.00	R100,10	R595,10
C.	Passenger busses with more than 25 seats, and any other vehicles exceeding 10 ton	R16,50	R198,00	R1190,20

13. Admission of vessels by road:

A. Minimum basic charge per vessel

(i)	Daily entrance	R 38.50
(ii)	Monthly entrance	R396,00
(iii)	Yearly entrance	R1 983,30

B. Charge per trailer

(i)	Daily entrance	R11,00
(ii)	Monthly entrance	R133,10
(iii)	Yearly entrance	R661,10

14. Hawkers

All types, per day or part thereof	R72,60

15. Traders

All types (for permission to trade) per month or part thereof:	R562,10

16. Use of fish-cleaning facilities:

A.	Per table, per day or part thereof:	R13,20

17.	**Erection and display of advertising signage:**	**Per month**	**Per annum**
A.	Per square meter display area or part thereof, except on a quay:	R 38,50	R133,10
B.	Per square meter on the quay: (placement subject to discretion of Harbour Manager)	R198,00	R661,10

18. Transport by vessel of passengers for commercial purposes, within or from a fishing harbour: Per vessel per period or part thereof:

		Per month	Per annum
A.	Vessels up to 10 meter	R265,10	R1 587,30
B.	Vessels exceeding 10 meter	R661,10	R3 967,70

19. Floating constructions used for commercial purposes, such as a restaurant, place of entertainment, shop or other commercial purposes:

A.	Per area of water-space occupation, determined by multiplying the length of the floating construction by its breadth (per full square meter per month or part thereof:	R14,30

20. Removal of garbage and cleaning of slip-ways on quay-way and slip-way in harbour area after using of facilities if not removed by user within 2 days, per load of 1 ton or part thereof: R1 323.,30

21. Advance payment of fees

Annual and monthly fees shall be payable in advance.

23. Exemptions

(1) The following vehicles are exempted from paying the admission of vehicles fee in terms of paragraph 12:

(a) any vehicle that is being used in connection with construction and maintenance work on behalf of the Department, on any jetty, wharf or on any other Departmental harbour works;

(b) any vehicle entering on official business, including but not limited to vehicles with officials from S.A.B.S.; S.A.P.S; N.S.R.I; ambulances and fire tenders; and

(c) Busses carrying supervised scholars and teachers on official school outings.

(2) The Minister may in writing exempt any person or group from any or all of the fees in this Notice, under section 81(1) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).

24. Transitional Provisions

Any permit or ticket issued in terms of the fees notice published under Government Notice No. 797 in *Government Gazette* 33518 of 10 September 2010, which has not expired at the commencement of this notice, is deemed to be a valid permit or ticket issued in terms of this notice to the extent that it is consistent with this notice, and where it is not, the provisions of this notice prevails.

Repeal

25. The notice titled "Fishing Harbour Fees" published under Government Notice No. 797 in *Government Gazette* 33518 of 10 September 2010 is hereby repealed.

Commencement

26. This notice takes effect on the date of its publication in the *Gazette*.

MARINE LIVING RESOURCES ACT, 1998
(ACT NO. 18 OF 1998)

PROPOSED AMENDMENT OF THE FEES PAYABLE IN RESPECT OF APPLICATIONS AND THE ISSUING OF RIGHTS, PERMITS AND LICENSES

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment hereby, in terms of sections 25(1) and (2) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), publish proposed amendments to the fees payable in respect of applications and the issuing of rights, permits and licenses. The proposed fees contained in the schedule will replace the current fees published on 10 September 2010.

Any person who wishes to comment on the proposed fees may submit written comments to the Department in the following manner:

By post: Department of Forestry, Fisheries and the Environment
Attention: **Revenue Management**
Private Bag X2
Roggebaai
8012

By hand: **Revenue Management**: Fisheries Management, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town

By email: **revenue@environment.gov.za**

All written comments must be received by the Department within 30 calendar days of the publication of this notice in the *Gazette*. Comments received after this time may not be considered.

BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

1. APPLICATION FEES

(a) Fee payable in respect of an application for a right to:

(i)	Operate a fish processing establishment	R10, 035.00
(ii)	Engage in mariculture	R10, 035.00
(iii)	Undertake subsistence fishing	R 7.00

(b) Fees payable in respect of an application for a permit to exercise a right granted to -

(i) Undertake commercial fishing (including seaweed) R 264.00
(ii) Operate a fish processing establishment R 264.00
(iii) Engage in mariculture R 264.00
(iv) To undertake subsistence fishing R 7.00

(c) Fees payable in respect of an application for a permit to undertake recreational fishing R 8.00

(d) Fees payable in respect of an application for a permit by a foreign person (does not include permits issued in terms of an international agreement):

(i) To undertake fishing or related activities R13, 335.00
(ii) To undertake exploratory fishing R 1, 333.00
(iii) To enter the exclusive economic zone R 3, 850.00

(e) Fees payable in respect of an application for a permit from a holder of a commercial fishing permit to transport any fish or any part or product thereof from any landing point: R 264.00

(f) Fees payable in respect of an application for a permit to have any gear, stake net, set net, gillnet, bottom trawl net, purse seine net, purse net, longline and/or any type of rock lobster net on board of a fishing vessel or a vessel: R 264.00

(g) Fees payable in respect of an application for a permit to import any fish or any part or product thereof on a recreational basis (recreational fishers) R 264.00

(h) Fees payable in respect of an application for a local fishing vessel license: R 264.00

(i) Fees payable in respect of an application for a high seas fishing vessel cense: R 264.00

(j) Fees payable in respect of an application for a foreign fishing vessel license (does not include vessels licensed in terms of an international agreement):

(i) In respect of a vessel to be utilised in joint venture arrangement with a South African person: R 1, 333.00
(ii) In respect of a vessel to be utilised by a foreign company R13, 335.00
(iii) In respect of a vessel to be utilised for exploratory fishing R 1, 333.00

(k) Fees payable in respect of an application for a permit or license to perform an activity in terms of the Act not mentioned in paragraphs (b) – (j) R 264.00

(l) Fees payable in respect of an application for a change of vessel R 264.00

2. PERMIT FEES

(a) Fees payable in respect of the issuing of a permit to exercise a right to:

(i) Undertake commercial fishing (including seaweed) R 914.00
(ii) Operate a fish processing establishment R 1, 828.00
(iii) Engage in mariculture R 1, 828.00
(iv) Undertake subsistence fishing R 44.00

(b) Fees payable in respect of the issuing of a permit:
(i) To undertake high seas fishing R 921.00
(ii) Authorising a foreign person to undertake fishing in South African waters (does not include permits issued in terms of an international agreement): R33, 132.00
(iii) Authorising a foreign person to take part in exploratory fishing in South African waters: R 1, 333.00

(c) Fees payable in respect of the issuing of a permit to undertake recreational fishing of:

(i)	Scuba diving in MPA's	R 94.00
(ii)	West coast rock lobster	R 96.00
(iii)	East coast rock lobster	R 96.00
(iv)	Molluscs including octopus, squid, worms, other invertebrates and aquatic plants	R 96.00
(v)	Mud crab	R 96.00
(vi)	Marine aquarium	R 96.00
(vii)	Angling	R 76.00
(viii)	Spearfishing	R 96.00
(ix)	Use of cast or throw net	R 96.00
(x)	Additional fees per vessel (only payable by the skipper)	R 96.00

(d) Fees payable in respect of the issuing of a short-term permit (only valid for four weeks) to undertake recreational fishing of:

(i)	Scuba diving in MPAs	R 46.00
(ii)	Molluscs including octopus, squid, worms, other invertebrates and aquatic plants	R 55.00
(iii)	Mud crab	R 55.00
(iv)	Marine aquarium	R 55.00
(v)	Angling	R 50.00
(vi)	Spearfishing	R 55.00
(vii)	Use of cast or throw net	R 55.00
(viii)	Additional fees per vessel (only payable by the skipper)	R 55.00

(e) Fees payable in respect of the issuing of permits to a holder of a commercial fishing permit to transport any fish or any part of product thereof from any landing point: R 292.00

(f) Fees payable in respect of an application for a permit to have any gear, stake net, setnet, gillnet, bottom trawl net, purse seine net, purse net, longline and/or any type of rock lobster net on board of a fishing vessel or a vessel: R 292.00

(g) Fees payable in respect of an application for a permit to import any fish or any part or product thereof on a recreational basis (recreational fishers) R 292.00

(h) Fees payable in respect of an application for a permit or license to perform an activity in terms of the Act not mentioned in paragraphs (a) – (g): R 292.00

3. LICENSE FEES

(a) Fees payable in respect of the issuing of a license for a local fishing vessel with a length of:

i. 5 metres and less R 296.00
ii. More than 5 metres to 8 metres R 413.00
iii. More than 8 metres to 12 metres R 667.00
iv. More than 12 metres to 20 metres R 1, 251.00
v. More than 20 metres R 1, 994.00

(b) Fees payable in respect of the issuing of a high seas fishing vessel License R 2, 158.00

(c) Fees payable in respect of the issuing of a foreign fishing vessel license (does not include vessels utilized in terms of international agreements): R15, 809.00

4. OTHER FEES

(a) Fees payable in respect of an application for a transfer of right: R 264.00

(b) Fees payable in respect of the issuing of a new right, license or permit due to the amendment of the terms or conditions of the existing right, license or permit at the request of the holder: R 292.00

(c) Fees payable in respect of the issuing of a permit to import or export fish on a commercial basis:

(i) First species to be listed on permit R 495.00
(ii) Per additional species to be listed on permit R 220.00

(d) Fees payable in respect of the issuing of a duplicate license or permit R 165.00

5. REPEAL

This notice repeals Government Notice No. 795 published in *Government Gazette* 33518 of 10 September 2010.

6. COMMENCEMENT

This notice commences on the date of its publication in the *Gazette*.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 1035 **15 October 2021**

Companies and Intellectual Property Commission

a member of the dti group

CO OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER OF CO-OPERATIVES BY CONVERSION TO ANY OTHER FORM OF JURISTIC IN TERMS SECTION 62 & 64 OF THE CO-OPERATIVE 14 OF 2015, AS AMENDED.

1. 360 WASTEPAPER RECYCLING PRIMARY CO-OPERATIVE LIMITED (2018/10849/24)
2. PLANET SUPPLY GENERAL MAINTENANCE & PROJECTS (2011/003889/24)

Notice is hereby given in terms section 26(2) of the Co-operatives Amendment Act, **No 6 of 2013,** that the names of the above mentioned co-operatives have been converted into another Juristic form by way of special resolution.

REGISTRAR OF CO OPERATIVES
Office of the Registrar of Co operatives
Dti Campus
77 Meintjies Street
Pretoria
0002

Private Bag X237
Pretoria
0001

DEPARTMENT OF WOMEN, YOUTH AND PERSONS WITH DISABILITIES

NO. 1036 **15 October 2021**

CALEDON MODDER SUBSYSTEM – LIMITING THE USE OF WATER IN TERMS OF ITEM 6 OF SCHEDULE 3 OF THE NATIONAL WATER ACT OF 1998 FOR URBAN AND IRRIGATION PURPOSES FROM THE DAMS WITHIN THE CALEDON-MODDER SUBSYSTEM

I, ***Deborah Mochotlhi***, in my capacity as Acting Director-General of the Department of Water and Sanitation, on reasonable grounds believe that a potential water shortage exists in the Caledon Modder subsystem especially in the Modder River catchment. This is due to insufficient rains and infrastructural constraint that is limiting transfer capacity from the Caledon to the Modder sub-system.

In terms of Item 6(1) of Schedule 3 to the Act, the Minister of Water and Sanitation may limit the use of water if on reasonable grounds the Minister believes that a water shortage exists within the area concerned. This power has been delegated to me in terms of section 63 (1) (b) of the Act.

Therefore, in my capacity as the Acting Director-General of the Department of Water and Sanitation, I hereby under delegated authority in terms of item 6 (1) of Schedule 3 to the Act limit the taking of water from the Caledon-Modder subsystem by all users as follows:

a) 16% restriction on water use for Domestic and Industrial supply to the Mangaung

The limitations apply from the date of this notice until further notice.

In exercising the powers, I have given preference to the maintenance of the Reserve, treated all water users on a basis that is fair and reasonable, considered the actual extent of the water shortage, the likely effects of the shortage on the water users, the strategic importance of any water use and any water rationing or water use limitations by a water services institution having jurisdiction in the area concerned under the Water Services Act 108 of 1997.

Placing limitation on the taking of water use as set out in this notice is an administrative action affecting the rights of the public as contemplated in section 4 of the Promotion of Administrative Justice Act 3 of 2000 (PAJA). After I have taken into consideration all relevant factors, including those referred in section 4 (4) (b), I have decided that it is reasonable and justifiable in the circumstances to depart from the requirements referred to in section 4 (1) (a) to (e), (2) and (3) and instituted this limitation without allowing the water users affected and other role players to comment on the matter before I institute the limitation.

This notice overrides any other previous authorization on water restrictions issued by the Department relating to this area.

ACTING DIRECTOR-GENERAL: WATER AND SANITATION

DATE: 11/09/2021

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NOTICE 599 OF 2021

GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT 1994, (ACT No. 22 OF 1994) AS AMENDED.

Notice is hereby given in terms of Section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended. This claim for the restitution of land rights have been submitted to the Regional Land Claims Commissioner for the Western Cape. The particulars regarding this claim are as follow:

Claimant	:	Mr Gerald Frederick Hamman
ODI	:	Jacob Daniel Hamman
Property Description	:	Erf 3649 Brackenfell, City of Cape Town, Western Cape measuring 2356m^2.
Date Submitted	:	31 December 1998
Reference no	:	KRK6/2/3/A/5/54/0/4 (H471)

The Regional Land Claims Commission will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 14 days from the publication of this notice, any comments / information to:

The Regional Land Claims Commission: Western Cape
Private Bag X9163
Cape Town
8000

Tel: (021)409-0300
Fax: (021) 0862746233

CHECKED.....

DATE.....31/8/2021

APPROVED.....

DATE.....2021/09/21

Mr. L.H Maphutha
Regional Land Claims Commissioner

DEPARTMENT OF ECONOMIC DEVELOPMENT

NOTICE 600 OF 2021

NORTHERN CAPE PROVINCIAL GOVERNMENT

DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM

NORTHERN CAPE CONSUMER PROTECTION BILL, 2021

The abovementioned Bill is hereby published for public comment .

Any person who wishes to comment on the said Bill must submit such comment in writing within 30 days of publication hereof.

Comments must be submitted to:

The Head of Department
Deapartement of Economic Development and Tourism
13th Floor,
Metlife Towers,
Kimberley
8300.

Or

Private Bag X6108,
Kimberley
8300.

Tel : 053 839 4002
Email : UNgomane@ncpg.gov.za

BILL

To repeal the Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012); to make provision for certain definitions; to provide for the Provincial Consumer Protection Authority as a Unit within the Department of Economic Development and Tourism; to provide for the appointment of the Consumer Protector, Deputy Consumer Protector; and to provide for all management arrangements related to the Authority and Consumer Court; to provide for the establishment of a Consumer Court for the Province; to provide for the appointment of members and a Registrar for the Consumer Court; to provide for the functioning and administration of the Consumer Court; and to provide for matters connected therewith.

PREAMBLE

WHEREAS a need exists within the Northern Cape Province to protect the rights of consumers;

AND WHEREAS national legislation provides for concurrent consumer protection functions to be exercised by provincial consumer protection entities,

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows:-

ARRANGEMENT OF ACT

CHAPTER 1

INTERPRETATION AND PURPOSE OF ACT

Part A

INTERPRETATION

1. Interpretation

Part B

OBJECTS AND APPLICATION OF ACT

2. Objects of Act
3. Application of Act

CHAPTER 2

PROVINCIAL CONSUMER PROTECTION AUTHORITY

Part A

ESTABLISHMENT OF PROVINCIAL CONSUMER PROTECTION AUTHORITY

4. The Provincial Consumer Protection Authority
5. Appointment of Consumer Protector and Deputy Consumer Protector

Part B

FUNCTIONING OF THE AUTHORITY

6. Referral of matters to Consumer Court
7. Appointment of inspectors and investigators
8. Investigation by Authority
9. Outcome of investigation
10. Consent orders
11. Referral to Consumer Court by complainant
12. Responsible Member may direct policy and other matters and require investigation

Part C

POWERS IN SUPPORT OF INVESTIGATION

13. Summons
14. Authority to enter and search under warrant
15. Powers to enter and search
16. Conduct of entry and search
17. Claims that information is confidential

CHAPTER 3

NORTHERN CAPE CONSUMER COURT

Part A

ESTABLISHMENT AND FUNCTIONING OF CONSUMER COURT

18. Establishment and constitution of Consumer Court
19. Functions of Consumer Court
20. Qualifications of members of Consumer Court
21. Term of office of members of Consumer Court
22. Deputy Chairperson of Consumer Court

23. Consumer Court proceedings
24. Hearings by Consumer Court
25. Conflicts and disclosure of interest
26. Acting by member of Consumer Court after expiry of term of office

Part B

ADMINISTRATION OF CONSUMER COURT

27. Registrar of Consumer Court

CHAPTER 4

GENERAL PROVISIONS

Part A

MATTERS PERTAINING TO MEMBERS OF CONSUMER PROTECTION UNIT

28. Eligibility to serve as functionary of a consumer protection unit
29. Conflicting interests
30. Removal from office
31. Remuneration and benefits of functionaries of consumer protection unit

Part B

ADMINISTRATIVE PROVISIONS

32. Staff of consumer protection unit

Part C

OFFENCES AND PENALTIES

33. Breach of confidence
34. Hindering administration of Act
35. Offences relating to Consumer Protector and Consumer Court
36. Offences relating to prohibited conduct
37. Penalties
38. Administrative fines
39. Vicarious liability

Part D

MISCELLANEOUS MATTERS

40. Regulations
41. Repeal of laws
42. Transitional and founding arrangements
43. Short title and commencement

CHAPTER 1

INTERPRETATION AND PURPOSE OF ACT

Part A

INTERPRETATION

Interpretation

1. (1) In this Act, any word or expression to which a meaning has been assigned in the Consumer Protection Act, 2008 (Act No. 68 of 2008) has the meaning so assigned to it, and, unless the context otherwise indicates –

"**Authority**" means the Provincial Consumer Protection Unit within the Department of Economic Development and Tourism;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**consumer**", in respect of any particular goods or services, means –

(a) a person to whom those particular goods or services are marketed in the ordinary course of the supplier's business;
(b) a person who has entered into a transaction with a supplier in the ordinary course of the supplier's business, unless the transaction is exempt from the application of the Consumer Protection Act by section 5(2) or in terms of section 5(3) of that Act;
(c) if the context so requires or permits, a user of those particular goods or a recipient or beneficiary of those particular services, irrespective of whether that user, recipient or beneficiary was a party to a transaction concerning the supply of those particular goods or services; and
(d) a franchisee in terms of a franchise agreement, to the extent applicable in terms of section 5(6)(b) to (e) of the Consumer Protection Act;

"**Consumer Court**" means the Northern Cape Consumer Court established by section 18;

"**Consumer Protection Act**" means the Consumer Protection Act, 2008 (Act No. 68 of 2008);

"**consumer protection unit**" means the Authority or the Consumer Court;

"**Consumer Protector**" means the Northern Cape Consumer Protector appointed in terms of section 5(1), subject to the Public Service Act, 1994 as amended;

"**Credit Act**" means the National Credit Act, 2005 (Act No. 34 of 2005);

"**Department**" means the Department responsible for economic development in the Province;

"**Deputy Consumer Protector**" means the Deputy Consumer Protector appointed in terms of section 5(4), subject to the Public Service Act, 1994 as amended;

"**functionary of a consumer protection unit**" means the Registrar, the Consumer Protector or the Deputy Consumer Protector and a member of the Consumer Court;

"**goods**" include –

(a) anything marketed for human consumption;
(b) any tangible object not otherwise contemplated in paragraph (a), including any medium on which anything is or may be written or encoded;
(c) any literature, music, photograph, motion picture, game, information, data, software, code or other intangible product written or encoded on any medium, or a licence to use any such intangible product;
(d) a legal interest in land or any other immovable property, other than an interest that falls within the definition of "service" in this section; and
(e) gas, water and electricity;

"**institution**" means –

(a) the Provincial Consumer Protection Authority established by section 4; or

(b) the Northern Cape Consumer Court established by section 18;

"**Province**" means the Northern Cape Province referred to in section

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103(1)(g) of the Constitution, or any part thereof;

"***Provincial Gazette***" means the *Provincial Gazette* of the Province;

"**Public Finance Management Act**" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"**Registrar**" means the Registrar of the Consumer Court appointed in terms of section 27, subject to the Public Service Act, 1994 as amended;

"**responsible Member**" means the Member of the Executive Council responsible for economic development in the Province;

"**service**" includes, but is not limited to –

(a) any work or undertaking performed by one person for the direct or indirect benefit of another;

(b) the provision of any education, information, advice or consultation, except advice that is subject to regulation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

(c) any banking services, or related or similar financial services, or the undertaking, underwriting or assumption of any risk by one person on behalf of another, except to the extent that any such service –

(i) constitutes advice or intermediary services that is subject to regulation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002); or

(ii) is regulated in terms of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

(d) the transportation of an individual or any goods;

(e) the provisions of –

(i) any accommodation or sustenance;

(ii) any entertainment or similar intangible product or access to any such entertainment or intangible product;

(iii) access to any electronic communication infrastructure;

(iv) access, or of a right of access, to an event or to any premises, activity or facility; or

(v) access to or use of any premises or other property in terms of a rental;

(f) a right of occupancy of, or power or privilege over or in connection with, any land or other immovable property, other than in terms of a rental; and

(g) rights of a franchisee in terms of a franchise agreement, to the extent applicable in terms of section 5(6)(b) to (e) of the Consumer Protection Act,

irrespective of whether the person promoting, offering or providing the services participates in, supervises or engages directly or indirectly in the service;

"**supplier**" means supplier as defined in section 1 of the Consumer Protection Act;

"supply chain' means supply chain as defined in section 1 of the Consumer Protection Act, 2008 (Act No. 68/2008);

"**this Act**" includes any regulation made under this Act; and

"**Tribunal**" means the National Consumer Tribunal established by section 26 of the Credit Act.

(2) In this Act, whenever a provision of the Consumer Protection Act or the Credit Act is to apply, read with the changes required by the context, in such application, unless the context otherwise indicates, a reference in those Acts to –

(a) the "Act" must be construed as a reference to "this Act";

(b) the "Commission" must be construed as a reference to the "Authority";

(c) the "Minister" must be construed as a reference to the "responsible Member"; and

(d) the "Tribunal" must be construed as a reference to the "Consumer Court".

Part B

OBJECTS AND APPLICATION OF ACT

Objects of Act

2. (1) The objects of this Act are to promote and advance the social and economic welfare of consumers in the Province in accordance with provisions and principles set out in the Consumer Protection Act, by providing for institutions to –

(a) investigate;

(b) mediate; or

(c) adjudicate,

any alleged infringement of consumers' rights as set out in Chapter 2 of the Consumer Protection Act.

(2) For the purposes of this Act, sections 3 and 4 of the Consumer Protection Act, each read with the changes required by the context, apply.

Application of Act

3. Subject to the exemptions set out in section 5 of the Consumer Protection Act, this Act applies within the Province to all activities referred to in that section to which that Act applies.

CHAPTER 2

PROVINCIAL CONSUMER PROTECTION AUTHORITY

Part A

ESTABLISHMENT OF PROVINCIAL CONSUMER PROTECTION AUTHORITY

Establishment of Provincial Consumer Protection Authority

4. (1) A Provincial Consumer Protection Authority for the Province functions as a unit within the Department.

(2) The Authority must, by notice in the *Provincial Gazette*, be designated by the responsible Member to have general authority to deal with consumer protection matters, and –

(a) is a unit within the Department;

(b) has jurisdiction throughout the Province;

(c) must perform the specific functions –

(i) assigned to it by this Act, any other applicable law or by the responsible Member;

(ii) assigned to a provincial consumer protection authority by the Consumer Protection Act,

in the most cost-efficient and effective manner and in accordance with the values and principles mentioned in section 195 of the Constitution.

Appointment of Consumer Protector and Deputy Consumer Protector

5. (1) The responsible Member must, subject to the provisions of the Public Service Act, 1994 as amended appoint a person with suitable experience and at least an university degree in economics, law, commerce, industry or public affairs as Provincial Consumer Protector in the Office of the Authority, who must perform all the functions of the Authority under this Act or any other law.

(2) The Head of Department is the accounting authority for the Authority, and as such is responsible for –

(a) all income and expenditure of the Authority;

(b) all revenue collected by the Authority;

(c) all assets, and the discharge of all liabilities of the Authority; and

(d) the proper and diligent implementation of the Public Finance Management Act with respect to the Authority.

(3) The responsible Member must appoint a person with suitable experience and at least an university degree in economics, law, commerce, industry or public affairs as Deputy Consumer Protector who –

(a) must assist the Consumer Protector in carrying out the functions of the Authority, and

(b) must perform the functions of the Authority whenever –

(i) the Consumer Protector is unable for any reason to perform the functions of the Authority; or

(ii) the office of the Consumer Protector is vacant.

(4) The Consumer Protector may in writing –

(a) assign management or other duties to the Deputy Consumer Protector or to employees of the Authority with appropriate skills to assist the Consumer Protector in the management or control over the functioning of the Authority; and

(b) delegate, with or without conditions, any of the powers or functions of the Authority to the Deputy Consumer Protector or to any suitably qualified employee of the Authority, but any such delegation does not divest the Consumer Protector of responsibility for the exercise of any power or performance of any such function.

Part B

FUNCTIONING OF THE AUTHORITY

Referral of matters to Consumer Court

6. (1) Subject to subsections (2) and (4), a matter to be considered by the Consumer Court in terms of this Act or the Consumer Protection Act may only be considered if referred in writing to the Consumer Court by the Authority.

(2) A person contemplated in section 4(1) of the Consumer Protection Act who seeks to enforce any right in accordance with section 69(c)(ii) of that Act by applying directly to the Consumer Court, may do so only –

(a) if a complaint has beforehand been filed with and investigated by the Authority; and

(b) the Authority has issued a notice of non-referral to the person.

(3) Proceedings before the Consumer Court must, subject to subsection (2), be prosecuted by the Authority, which may be represented by an advocate, attorney or any other person appointed in writing by the Consumer Protector.

(4) The provisions of subsections (1), (2) and (3) do not apply to a matter referred to the Consumer Court in terms of sections 140 or 141 of the Credit Act.

Appointment of inspectors and investigators

7. (1) The responsible Member, after consultation with the Consumer Protector –

(a) may appoint or designate any suitable employee of the Authority or any other suitable person employed by the Department, as an inspector or investigator; and

(b) must issue each inspector or investigator with a certificate in the prescribed form stating that the person has been appointed or designated as an inspector or investigator in terms of this Act.

(2) Whenever an inspector or investigator appointed or designated under subsection (1)(a), performs a function under this Act in the presence of any person affected thereby, the inspector or investigator must, on demand by such person, produce to him or her the certificate referred to in subsection (1)(b).

Investigation by Authority

8. (1) Upon initiating or receiving a complaint in terms of this Act or the Consumer Protection Act, the Authority may –

(a) issue a notice of non-referral to the complainant in the prescribed form, if the complaint –

(i) appears to be frivolous or vexatious;

(ii) does not allege any facts which, if true, would constitute grounds for a remedy under this Act; or

(iii) is prevented, in terms of section 116 of the Consumer Protection Act, from being referred to the Consumer Court;

(b) direct an inspector or investigator to investigate the complaint as quickly as practicable, in any other case.

(2) At any time during an investigation, the Consumer Protector may designate one or more persons to assist the inspector or investigator conducting the investigation contemplated in subsection (1).

Outcome of investigation

9. After concluding an investigation into a complaint, the Authority may –

(a) issue a notice of non-referral to the complainant in the prescribed form;

(b) refer the matter to the National Prosecuting Authority, if the Authority alleges that a person has committed an offence in terms of this Act; or

(c) if the Authority believes that a person has engaged in prohibited conduct –

(i) propose a draft consent order in terms of section 10; or

(ii) issue a compliance notice in terms of section 100 of the Consumer Protection Act.

Consent orders

10. (1) If a matter has been investigated by the Authority, and the Authority and the respondent agree to the proposed terms of an appropriate order, the Consumer Court or a court, without hearing any evidence, may confirm that agreement as a consent order.

(2) After hearing a motion for a consent order, the Consumer Court or a court must –

(a) make an order as agreed to and proposed by the Authority and the respondent;

(b) indicate any changes that must be made in the draft order before the order is made; or

(c) refuse to make the order.

(3) With the consent of a complainant, a consent order confirmed in terms of subsection (1) may include an award of damages to the complainant.

Referral to Consumer Court by complainant

11. (1) If a notice of non-referral in response to a complaint, other than on the grounds contemplated in section 116 of the Consumer Protection Act, 2008 (Act No. 68/2008) was issued, the complainant concerned may refer the matter directly to the Consumer Court, in accordance with Section 75(1)(a) of the Consumer Protection Act, 2008 (Act No. 68/2008) with leave of the Consumer Court.

(2) A referral to the Consumer Court, whether by the Authority or by a complainant in terms of subsection (1), must be in the prescribed form, subject to Provincial Legislation governing that Consumer Court.

Responsible Member may direct policy and other matters and require investigation

12. The responsible Member may –

(a) by notice in the *Provincial Gazette*, issue policy directives to the Authority with respect to the application, administration and enforcement of this Act, but any such directive must be consistent with this Act and the Consumer Protection Act; and

(b) at any time direct the Authority to –

(i) investigate an alleged contravention of this Act or the Consumer Protection Act;

(ii) investigate any matter or circumstances with respect to the purposes of this Act or the Consumer Protection Act, whether or not those circumstances appear at the time of the direction to amount to a possible contravention of this Act or the Consumer Protection Act; or

(iii) give effect to any arrangement contemplated in section 83(1) of the Consumer Protection Act.

Part C

POWERS IN SUPPORT OF INVESTIGATION

Summons

13. (1) At any time during an investigation being conducted in terms of section 8(1)(b), the Consumer Protector may issue a summons to any person who is believed to be able to furnish any information on the subject of the investigation, or to have possession or control of any book, document or other object that has a bearing on that subject –

(a) to appear before the Authority, or before an inspector or independent investigator, to be questioned at a time and place specified in the summons; or

(b) to deliver or produce to the Authority, or to an inspector or independent investigator, any book, document or other object referred to in paragraph (a) at a time and place specified in the summons.

(2) A summons contemplated in subsection (1) –

(a) must be signed by the Consumer Protector, or by an employee of the Authority designated by the Consumer Protector; and

(b) may be served in the same manner as a subpoena in a criminal case issued by the magistrate's court.

(3) An inspector or investigator before whom a person is summoned to appear, or to whom a person is required to deliver any book, document or other object, may –

(a) interrogate and administer an oath to, or accept an affirmation from, the person named in the summons; and

(b) retain any such book, document or other object for examination, for a period not exceeding two months, or such longer period as the Consumer Court, on application and good cause shown, may allow.

(4) A person questioned by the Authority or by an inspector or investigator conducting an investigation must answer each question truthfully and to the best of that person's ability, but –

(a) a person is not obliged to answer any question if the answer is self-incriminating; and

(b) the person asking the questions must inform that person of the right set out in paragraph (a).

(5) No self-incriminating answer given or statement made by any person to the Authority or an inspector or investigator exercising powers in terms of this Act, will be admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in section 37(3) or 38(2)(d), and then only to the extent that the answer or statement is relevant to prove the offence charged.

Authority to enter and search under warrant

14. (1) A judge of the High Court or a magistrate may issue a warrant to enter and search any premises that are within the jurisdiction of that judge or magistrate if, from information on oath or affirmation, there are reasonable grounds to believe that –

(a) a contravention of this Act has taken place, is taking place, or is likely to take place on or in those premises; or

(b) anything connected with an investigation in terms of this Act is in the possession of, or under the control of, a person who is on or in those premises.

(2) A warrant to enter and search may be issued at any time and must specifically –

(a) identify the premises that may be entered and searched; and

(b) authorise an inspector, investigator or a police officer to enter and search the premises and to do anything listed in section 15.

(3) A warrant to enter and search is valid until –

(a) the warrant is executed;

(b) the warrant is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;

(c) the purpose for issuing it has lapsed; or

(d) the expiry of one month after the date it was issued.

(4) A warrant to enter and search may be executed only during the day, unless the judge, regional magistrate or magistrate who issued it authorises that it may be executed at night at a time that is reasonable under the circumstances.

(5) A person authorised by warrant issued in terms of subsection (2) may enter and search premises named in that warrant.

(6) Immediately before commencing with the execution of a warrant, a person executing that warrant must either –

(a) if the owner, or person in control, of the premises to be searched is present –

(i) provide identification to that person and explain to that person the authority by which the warrant is being executed; and

(ii) hand a copy of the warrant to that person or to the person named in it; or

(b) if none of those persons is present, affix a copy of the warrant to the premises in a prominent and visible place.

Powers to enter and search

15. (1) A person who is authorised under section 14 to enter and search premises may –

(a) enter upon or into those premises;

(b) search those premises;

(c) search any person on those premises if there are reasonable grounds for believing that the person has personal possession of an article or document that has a bearing on the investigation;

(d) examine any article or document that is on or in those premises that has a bearing on the investigation;

(e) request information about any article or document from the owner of, or person in control of the premises or from any person who has control of the article or document, or from any other person who may have the information;

(f) take extracts from, or make copies of, any book or document that is on or in the premises that has a bearing on the investigation;

(g) use any computer system on the premises, or require assistance of any person on the premises to use that computer system, to-

(i) search any data contained in or available to that computer system;

(ii) reproduce any record from that data;

(h) seize any output from that computer for examination and copying; and

(i) attach and if necessary remove from the premises for examination and safekeeping anything that has a bearing on the investigation.

(2) Section 13(5) applies equally to an answer given or statement made to an inspector, investigator or police officer in terms of this section.

(3) An inspector or investigator authorised to conduct an entry and search in terms of section 14 may be accompanied and assisted by a police officer.

Conduct of entry and search

16. (1) A person who enters and searches any premises under section 15 must conduct the entry and search with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

(2) During any search under section 15(1)(c), only a female inspector, investigator or police officer may search a female person, and only a male inspector, investigator or police officer may search a male person.

(3) A person who enters and searches premises under section 15, before questioning anyone, must –

(a) advise that person of the right to be assisted at the time by an advocate or attorney; and

(b) allow that person to exercise that right.

(4) A person who removes anything from premises being searched must –

(a) issue a receipt for it to the owner of, or person in control of, the premises; and

(b) return it as soon as practicable after achieving the purpose for which it was removed.

(5) During a search, a person may refuse to permit the inspection or removal of an article or document on the grounds that it contains privileged information.

(6) If the owner or person in control of an article or document refuses in terms of subsection (5) to give that article or document to the person conducting the search, the person conducting the search may request the Registrar or sheriff of the High Court that has jurisdiction to attach and remove the article or document for safe custody until that court determines whether or not the information is privileged.

(7) A police officer who is authorised to enter and search premises under section 13, or who is assisting an inspector or investigator who is authorised to enter and search premises under section 14, may overcome resistance to the entry and search by using as much force as is reasonably required, including breaking a door or window of the premises.

(8) Before using force in terms of subsection (6), a police officer must audibly demand admission and must announce the purpose of the entry, unless it is reasonable to believe that doing so may induce someone to destroy or dispose of an article or document that is the object of the search.

(9) The Authority may compensate anyone who suffers damage because of a forced entry during a search when no one responsible for the premises was present.

Claims that information is confidential

17. (1) When submitting information to the Authority, the Consumer Court, or an inspector or investigator appointed in terms of this Act, a person may claim that all or part of that information is confidential.

(2) Any claim contemplated in subsection (1) must be supported by a written statement explaining why the information is confidential.

(3) The Authority, Consumer Court, inspector or investigator, as the case may be, must –

(a) consider any claim made in terms of subsection (1); and

(b) notify the claimant whether or not the information contemplated in subsection (1) will be treated as if it had been determined to be confidential.

(4) When making any ruling, decision or order in terms of this Act or the Consumer Protection Act, the Authority or Consumer Court may take into account any information that has been the subject of a claim in terms of subsection (1).

(5) If any reasons for a decision in terms of this Act or the Consumer Protection Act would reveal any information that has been the subject of a claim in terms of subsection (1), the Authority or Consumer Court, as the case may be, must provide a copy of the proposed reasons to the party claiming confidentiality at least five business days before publishing those reasons.

(6) Within five business days after receiving a notice in terms of subsection (3)(b), or a copy of proposed reasons in terms of subsection (5), a party may apply to a court for an appropriate order to protect the confidentiality of the relevant information.

CHAPTER 3

NORTHERN CAPE CONSUMER COURT

Part A

ESTABLISHMENT AND FUNCTIONING OF CONSUMER COURT

Establishment and constitution of Consumer Court

18. (1) There is hereby established a body to be known as the Northern Cape Consumer Court, which –

(a) is a unit within the Department;

(b) has jurisdiction throughout the Province;

(c) is a court of record; and

(d) must exercise its functions in accordance with this Act or any other applicable legislation.

(2) The Consumer Court consists of a Chairperson and not more than 6 other members appointed by the responsible Member, on a full or part-time basis.

(3) The responsible Member must, subject to section 20, –

(a) appoint the Chairperson and other members of the Consumer Court from time to time; and

(b) appoint a person to fill any vacancy on the Consumer Court.

Functions of Consumer Court

19. The Consumer Court or a member of the Consumer Court acting alone may, in accordance with this Act –

(a) adjudicate in relation to any –

(i) application that may be made to it in terms of this Act, the Credit Act or the Consumer Protection Act and make any order provided for in this Act in respect of such an application; or

(ii) allegations of prohibited conduct by determining whether prohibited conduct has occurred and, if so, by imposing a remedy provided for in this Act, the Credit Act or the Consumer Protection Act;

(b) grant an order for costs; and

(c) exercise any other power conferred on it by law.

Qualifications of members of Consumer Court

20. (1) The members of the Consumer Court, viewed collectively –

(a) must represent a broad cross-section of the population of the Province; and

(b) must comprise sufficient persons with legal training and experience to satisfy the requirements of section 23(2).

(2) Each member of the Consumer Court must –

(a) be a citizen of South Africa;

(b) have suitable experience and at least an university degree in economics, law, commerce, industry or consumer affairs; and

(c) be committed to the purposes of this Act, the Credit Act and the Consumer Protection Act.

Term of office of members of Consumer Court

21. (1) Each member of the Consumer Court serves for a term of five years.

(2) The responsible Member may re-appoint a member of the Consumer Court at the expiry of that member's term of office, but no person may be appointed to the office of the Chairperson of the Consumer Court for more than two consecutive terms.

(3) The Chairperson, on one month's written notice addressed to the responsible Member, may –

(a) resign from the Consumer Court; or

(b) resign as Chairperson, but remain as a member of the Consumer Court.

(4) A member of the Consumer Court other than the Chairperson may resign by giving at least one month's written notice to the responsible Member.

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Deputy Chairperson of Consumer Court

22. (1) The responsible Member must designate a member of the Consumer Court as Deputy Chairperson of the Consumer Court.

(2) The Deputy Chairperson performs the functions of Chairperson whenever –

(a) the office of Chairperson is vacant; or

(b) the Chairperson is for any other reason temporarily unable to perform those functions.

Consumer Court proceedings

23. (1) The Chairperson is responsible to manage the caseload of the Consumer Court, and must assign each matter referred to the Consumer Court to –

(a) a member of the Consumer Court; or

(b) a panel composed of any three members of the Consumer Court, in any other case.

(2) When assigning a matter to a member or a panel in terms of subsection (1), the Chairperson must –

(a) in the case of a single member, ensure that the member is a person who has suitable legal qualifications and experience; and

(b) in the case of a panel –

(i) ensure that at least one member of the panel is a person who has suitable legal qualifications and experience; and

(ii) designate a member of the panel to preside over the panel's proceedings.

(3) If, because of resignation, illness, death, unwillingness or withdrawal from a hearing in terms of section 21, a member of the panel is unable to complete the proceedings in a matter assigned to that panel, the Chairperson must –

(a) direct that the hearing of that matter proceed before the remaining members of the panel, subject to the requirements of subsection (2)(b); or

(b) terminate the proceedings before that panel and constitute another panel, which may include any member or members of the original panel, and direct that panel to conduct a new hearing.

(4) The decision of a panel on a matter referred to it must be in writing and include reasons for that decision.

(5) A decision of a single member of the Consumer Court hearing a matter as contemplated in subsection (1)(a), or of a majority of the members of a panel in any other case, is the decision of the Consumer Court.

Hearings by Consumer Court

24. (1) When the Consumer Court hears a matter referred to it in terms of this Act, the Consumer Protection Act or the Credit Act, the provisions of Parts D and E of Chapter 7 of the Credit Act, each read with the changes required by the context, apply to the hearing.

(2) An order of the Consumer Court made after hearing a matter contemplated in subsection (1), has the same force and effect as if it had been made by a consumer court making an order in terms of section 140 of the Credit Act or section 73 of the Consumer Protection Act, respectively.

(3) In any matter brought before the Consumer Court in terms of this Act-
The Consumer Court must-
(a) promote the spirit and purposes of this act;
(b) make appropriate orders to give practical effect to the consumer's right of access to redress, including but not limited to-
(i) any order provided for in this Act; and
(ii) any innovative order that better advances, protects, promotes and assures the realization by consumers of their rights in terms of this Act, including publication of the orders of the Consumer Court.

Conflicts and disclosure of interest

25. (1) A member of the Consumer Court may not represent any person before the Consumer Court.

(2) If, during a hearing in which a member of the Consumer Court is participating, it appears to that member that the matter concerns a financial or other interest of that member contemplated in section 29, that member must –

(a) immediately and fully disclose the fact and nature of that interest to the Chairperson and to the presiding member at that hearing; and

(b) withdraw from any further involvement in that hearing.

Acting by member of Consumer Court after expiry of term of office

26. If, on the expiry of the term of office of a member of the Consumer Court, that member is still considering a matter before the Consumer Court, that member may continue to act as a member in respect of that matter only.

Part B

ADMINISTRATION OF CONSUMER COURT

Registrar of Consumer Court

27. (1) The responsible Member must, in consultation with the Consumer Protector and subject to the provisions of the Public Service Act 1994 as amended, appoint a person with suitable experience and at least a university degree in economics, law, commerce, industry or public affairs as Registrar of the Consumer Court, who is responsible for all matters pertaining to the administrative functions of the Consumer Court.

CHAPTER 4

GENERAL PROVISIONS

Part A

MATTERS PERTAINING TO MEMBERS OF CONSUMER COURT

Eligibility to serve as functionary of a Consumer Court

28. (1) To be eligible to serve as a functionary of a Consumer Court, and to continue to hold that office, a person must –

(a) be a fit and proper person;

(b) not be subject to any disqualification set out in subsection (2);

(c) have submitted to the responsible Member the affidavit referred to in subsection (3); and

(d) be a citizen of the Republic.

(2) A person may not be a functionary of Consumer Court if that person –

(a) is a political office-bearer;

(b) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;

(c) was once, or is removed from an office of trust on account of misconduct;

(d) is subject to an order of a competent court holding that person to be mentally deranged;

(e) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty; or

(f) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine.

(3) Before being appointed a functionary of a Consumer Court, the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she –

(a) is eligible for such appointment; and

(b) is not disqualified in terms of this Act from such appointment.

(4) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any functionary of a Consumer Court or to undertake or cause to be undertaken any investigation or enquiry in that regard.

Conflicting interests

29. (1) A functionary of a Consumer Court must not –

(a) engage in any activity that may undermine the integrity of the Consumer Court;

(b) attend, participate in or influence the proceedings of the Consumer Court if, in relation to the matter before the Consumer Court, that functionary has any financial or other interest that precludes the functionary from performing the duties of a functionary of the

Consumer Court in a fair,

(c) unbiased and proper manner;

(d) vote at any of the proceedings of the Consumer Court in connection with a matter contemplated in paragraph (b);

(e) make private use of, or profit from, any confidential information obtained as a result of performing duties as a functionary of the Consumer Court; or

(e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Consumer Court.

(2) For the purpose of subsection (1)(b), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.

(3) If, at any time, it appears to a functionary of a Consumer Court that a matter before the Consumer Court concerns an interest of that functionary referred to in subsection (1)(b), the functionary must –

(a) immediately and fully disclose the nature of that interest to the Consumer Court; and

(b) withdraw from the proceedings to allow the remaining functionaries to discuss the matter and determine whether the functionary should be prohibited from participating in any further proceedings concerning that matter.

Removal from office

30. (1) The responsible Member must, by written notice, remove any functionary of a Consumer Court from office if the functionary becomes subject to a disqualification contemplated in section 28(2).

(2) The responsible Member may, after considering the findings of an investigating tribunal appointed by him or her, by written notice, remove from office any functionary of a Consumer Court if the functionary –

(a) fails or refuses to comply with the provisions of this Act incumbent on the execution of his or her duties;

(b) is, without sound reason, absent from his or her office or from two or more scheduled activities of the Consumer Court concerned in one year, or, in the case of absence due to medical reasons, fails to present a valid medical certificate;

(c) is found guilty of improper conduct, or is found to be unable to duly perform his or her duties in terms of this Act.

(3) A tribunal investigating allegations against a functionary of a Consumer Court in accordance with subsection (2), may make a finding only after considering representations made by the functionary regarding the allegations made against him or her.

(4) A notice contemplated in subsection (1) or (2) must state the reasons for removal of the functionary.

Remuneration and benefits of functionaries of Consumer Court

31. A functionary of a Consumer Court must be paid such reasonable remuneration and allowances out of the funds of the Department as the responsible Member, in consultation with the Member of the Executive Council responsible for Finance in the Province, may from time to time determine by notice in the *Provincial Gazette*.

Part B

ADMINISTRATIVE PROVISIONS

Staff of consumer protection unit

32. (1) The responsible Member must –

(a) determine a staff establishment for the consumer protection unit, and

(b) appoint such staff as may be necessary on the establishment of the unit subject to the provisions of the Public Service Act, 1994 as amended, to enable it to perform its functions.

(2) The responsible Member, in consultation with the Member of the Executive Council responsible for financial matters in the Province, must beforehand determine the salary and other terms and conditions of service of a person appointed in terms of subsection (1)(b).

(3) The responsible Member may in writing delegate the power to appoint a person in terms of subsection (1)(b) to the Consumer Protector or a functionary of the unit.

(4) All employees of the current Consumer Protection Authority are, with the commencement of this Act, transferred on the same terms and conditions of employment, including remuneration and other benefits, subject to the provisions of the Public Service Act, 1994 as amended, to the permanent staff establishment of the unit within the Department.

Part C
OFFENCES AND PENALTIES

Breach of confidence

33. (1) It is an offence to disclose any personal or confidential information concerning the affairs of any person obtained –

(a) in carrying out any function in terms of this Act; or

(b) as a result of initiating a complaint or participating in any proceedings in terms of this Act.

(2) Subsection (1) does not apply to information disclosed –

(a) for the purpose of the proper administration or enforcement of this Act;

(b) for the purpose of the administration of justice; or

(c) at the request of an inspector, investigator, regulatory authority or Consumer Court member entitled to receive the information.

Hindering administration of Act

34. (1) It is an offence to hinder, oppose, obstruct or unduly influence any person who is exercising a power or performing a function delegated, conferred or imposed on that person by this Act.

(2) A person commits an offence if that person, having been summoned –

(a) fails without sufficient cause to appear at the time and place specified or to remain in attendance until excused; or

(b) attends as required, but –

(i) refuses to be sworn in or to make an affirmation; or

(ii) fails to produce a book, document or other item as ordered, if it is in the possession of, or under the control of that person.

(3) A person commits an offence if that person, having been sworn in or having made an affirmation –

(a) fails to answer any question fully and to the best of his or her ability, subject to section 13(5); or

(b) gives false evidence, knowing or believing it to be false.

Offences relating to Consumer Protector and Consumer Court

35. (1) A person commits an offence if that person contravenes or fails to comply with an order of the Consumer Court.

(2) A person commits an offence if that person –

(a) does anything calculated to improperly influence the Consumer Court or a regulatory authority concerning any matter connected with an investigation;

(b) anticipates any findings of the Consumer Court or a regulatory authority concerning an investigation in a way that is calculated to influence the proceedings or findings;

(c) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;

(d) knowingly provides false information to a regulatory authority;

(e) brings the Consumer Court, or a member of the Consumer Court, in their respective official capacities, into disrepute;

(f) wilfully interrupts the proceedings of a hearing or misbehaves in the place where a hearing is being conducted;

(g) acts contrary to a warrant to enter and search; or

(h) without authority, but claiming to have authority in terms of section 14 –

(i) enters or searches premises; or

(ii) attaches or removes an article or document.

(3) No self-incriminating answer given or statement made by any person to the Consumer Court, Consumer Protector, or an inspector or investigator exercising powers in terms of this Act, will be admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in subsection (2)(d) or section 37(3), and then only to the extent that the answer or statement is relevant to prove the offence charged.

Offences relating to prohibited conduct

36. (1) It is an offence for any person to alter, obscure, falsify, remove or omit a

displayed price, labelling or trade description without authority.

(2) It is an offence to fail to act in accordance with a compliance notice, but no person may be prosecuted for such an offence in respect of the compliance notice if, as a result of the failure of that person to comply with that notice, the Consumer Protector has applied to the Consumer Court for the imposition of an administrative fine.

Penalties

37. (1) Any person convicted of an offence in terms of this Act is liable –

(a) in the case of a contravention of section 33(1), to a fine or to imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment; or

(b) in any other case, to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and imprisonment.

(2) Despite anything to the contrary contained in any other law, a Magistrate's Court has jurisdiction to impose any penalty provided for in subsection (1)

Administrative fines

38. (1) The Consumer Court may impose an administrative fine in respect of prohibited or required conduct.

(2) An administrative fine imposed in terms of this Act may not exceed the greater of –

(a) 10 per cent of the respondent's annual turnover during the preceding financial year; or

(b) R1 000 000,

or such higher percentage or larger sum of money as the responsible Member may, from time to time, determine by notice in the *Provincial Gazette.*

(3) When determining an appropriate administrative fine, the Consumer Court must consider –

(a) the nature, duration, gravity and extent of the contravention;

(b) any loss or damage suffered as a result of the contravention;

(c) the behaviour of the respondent;

(c) the market circumstances under which the contravention took place;

(e) the level of profit derived from the contravention;

(f) the degree to which the respondent has co-operated with the Consumer Protector and the Consumer Court; and

(g) whether the respondent has previously been found in contravention of this Act.

(4) For the purpose of this section, the annual turnover of a supplier at the time when an administrative fine is assessed, is the total income of that supplier during the immediately preceding year, as determined in the prescribed manner.

(5) A fine payable in terms of this Act must be paid into the Provincial Revenue Fund referred to in section 226 of the Constitution.

Vicarious liability

39. (1) If an employee or agent of a person is liable in terms of this Act for anything done or omitted in the course of that person's employment or activities on behalf of their principal, the employer or principal is jointly and severally liable with that person.

(2) This section does not apply in respect of criminal liability.

Part D

MISCELLANEOUS MATTERS

Regulations

40. (1) The responsible Member may make regulations regarding –

(a) any form required to be used for the purpose of this Act;

(b) any matter which in terms of this Act is required or permitted to be prescribed;

(c) any fee payable in terms of this Act; and

(d) in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act.

(2) Before making regulations in terms of subsection (1), the responsible Member must publish the draft regulations for public comment in the *Provincial Gazette.*

(3) Any regulation made in terms of subsection (1)(c) or (d), may only be made with the concurrence of the Member of the Executive Council responsible for financial matters in the Province.

Repeal and amendments of laws

41. (1) The Northern Cape Consumer Protection Act. 2012 (Act No. 1 of 2012), is hereby repealed.

(2) The responsible Member may, after consultation with the Consumer Protector and the Members of the Consumer Court, amend this Act, by proclamation.

Transitional and founding arrangements

42. (1) For the purpose of this section, "previous Act" means the Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012).

(2) Any investigation done or arrangement concluded under the previous Act, is regarded to have been done or concluded under a comparable provision of this Act.

(3) Any other thing done under a provision of the previous Act and which may be done under a corresponding provision of this Act is regarded to have been done under the latter provision.

Short title and commencement

43. This Act is called the Northern Cape Consumer Protection Act, 2021 and

comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

DEPARTMENT OF EMPLOYMENT AND LABOUR

NOTICE 601 OF 2021

LABOUR RELATIONS ACT, 1995

BARGAINING CONCIL FOR THE FURNITURE MANUFACTURING INDUSTRY KWAZULU NATAL: EXTENSION OF PERIOD OF OPERATION OF THE MAIN COLLECTIVE AGREEMENT

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby, in terms of section 32(6)(a)(i) of the Labour Relations Act, 1995, extend the period fixed in Government Notice No R.427 of 15 March 2019 and R. 411 of 9 July 2021 by a further period ending **30 June 2023**.

MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 04/10/2021

UMNYANGO WEZEMISEBENZI NEZABASEBENZI

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995

BARGAINING CONCIL FOR THE FURNITURE MANUFACTURING INDUSTRY KWAZULU NATAL: UKWELULWA KWESIKHATHI SOKUSEBENZA KWESIVUMELWANO ESIYINGQIKITHI

Mina, **THEMBELANI WALTERMADE NXESI**, uNgqongqoshe Wezemisebenzi Nezabasebenzi, lapha ngokwesigaba 32(6)(a)(i) soMthetho Wobudlelwano Kwezabasebenzi, ka-1995, ngimemezela ukuthi isikhathi sokusebenza kwesivumelwano esinqunywe kwiSaziso sikaHulumeni esingunombolo R.427 womhlaka 15 kuNdasa 2019 no R. 411 womhlaka 9 kuNtulikazi 2021 sengeziwe ngesikhathi esiphela ngomhlaka **30 kuNhlangulana 2023.**

MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI EZABASEBENZI
USUKU: 04/10/2021

LABOUR RELATIONS ACT, 1995

BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY KWAZULU NATAL: EXTENSION TO NON-PARTIES OF THE MAIN COLLECTIVE AMENDING AGREEMENT

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **Bargaining Council for the Furniture Manufacturing Industry KwaZulu Natal**, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from the Second Monday after publication of this Notice and shall remain in force until the 30 June 2023.

MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 04/10/2021

UMNYANGO WEZEMISEBEBNZI NEZABASEBENZI

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995

BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY KWAZULU NATAL: UKWELULELWA KWESIVUMELWANO PHAKATHI KWABAQASHI NABASEBENZI ESIYINGQIKITHI SELULELWA KULABO ABANGEYONA INGXENYE YESIVUMELWANO

Mina, **THEMBELANI WALTERMADE NXESI**, onguNgqongqoshe Wezemisebenzi neZabasebenzi, ngokwesigaba 32(2) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa kwi **Bargaining Council for the Furniture Manufacturing Industry KwaZulu Natal,** ngokwesigaba 31 soMthetho Wobudlelwano KwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngomSombuluko wesibili emuva kokushicilelwa kwalesisaziso kuze kube isikhathi esiphela ngomhlaka 30 kuNhlangulana 2023.

MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI EZABASEBENZI
USUKU: 04/10/2021

SCHEDULE

BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY, KWAZULU-NATAL

MAIN COLLECTIVE AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

KwaZulu-Natal Furniture Manufacturers' Association and
Allied Business Association
(hereinafter referred to as the "employers" or the "employers' organisation') of the one part,

and the

National Union of Furniture and Allied Workers' of South Africa

(hereinafter referred to as the "employees" or the "trade unions") of the other part, being the parties to the Bargaining Council for the Furniture Manufacturing Industry, KwaZulu-Natal being the parties to the Bargaining Council for the Furniture Manufacturing Industry, KwaZulu-Natal to extend, amend the Agreement published under Government Notices No. R. 427 of 15 March 2019 and R. 411 of 9 July 2021.

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4. PIECE WORK
5. INCENTIVE SCHEME

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6. OUTWORK
7. ORDINARY HOURS OF WORK
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PART 1

1. SCOPE OF APPLICATION

1. The terms of this Agreement shall be observed in the Furniture Manufacturing Industry, as defined hereunder, in KwaZulu-Natal in the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Municipal Area of KwaDakuza also referred to as Ilembe or Lower Tugela, Pietermaritzburg, Pinetown, Mount Currie and the Municipal Area of Mandini also referred to as Isithebe.

"Furniture Manufacturing Industry": means without in any way limiting the ordinary meaning of the expression, the manufacture of furniture either in whole or in part of all types of furniture irrespective of the materials used and shall include the following:

(a) Furniture:

Assembling of all items and / or components of furniture, repairing, spraying, polishing, re-polishing, wood machining, veneering, woodturning, carving, painting, staining, wood bending and laminating, the making of and / or repairing of frames, loose covers and / or cushions. Furniture manufacturing shall also include hotel, tea room or restaurant furniture, office, church, school, bar and theatre furniture, cabinets for musical instruments and radio cabinets. The veneering, laminating, papering and / or wrap of all types of doors, large or small, including the manufacturing of all items or components, whether or not such items are intended to be free standing, built in and / or affixed to a building as listed in (i) to (vii) below :

(i) dressers, cupboards, units for the housing of sinks and appliances, grocery cupboards, shelves, pigeon holes, worktops, tables, chairs, benches and pelmets ;

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(ii) multi purpose cabinets which can be used either singly or in combination with each other for various purposes, including kitchen dressers, kitchen cupboards and fittings including cupboards and / or cabinets in any other part of a building ;

(iii) headboards and pedestals for beds, wardrobes and wall units ;

(iv) other cabinets and cupboards, benches, tables, chairs, benches for laboratories, shops, offices or banks ;

(v) counters, shelves and cupboards for use in bars, hotels, shops, offices or banks.

(vi) the assembly of and fitting in any building of any type of furniture ;

(vii) the repairing or remedying in any building of any type of furniture ;

(b) Bedding :

The manufacture and / or processes involved in the manufacture of bedding, including all types of mattresses, spring mattresses, overlays, pillows, bolsters, spring units, bed spring unit mattresses and studio couches, which is designed for seating and / or conversion into a bed and of which the frame is constructed mainly of metal and the seating and / or sleeping surface consists of a mattress and / or cushion.

(c) Upholstery :

The upholstering and / or re-upholstering of all types of furniture, or item of furniture, bedding, pelmets and mattress bases.

(d) Curtain Making :

The making, altering, repairing and / or fitting of curtains, rails, rods and pelmets.

(e) Cane Furniture :

The manufacturing of furniture made principally of wicker, cane and / or grass.

(f) Ancillary Items :

The manufacture in a factory, building and / or elsewhere in conjunction with items specified under (a) to (e) products of which wood constitutes the main component, which shall include plywood, veneer boards, chip board, laminated board, block board and / or any similar product for use in ;

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(i). the erection, completion, renovation, repair, maintenance or alteration of permanent finish of buildings or structures, including but not limited to mouldings, skirting boards, panelling, shelving, banisters, partitioning and shall include doors and door frames, windows and window frames.

(g) Manufacturing of metal furniture, metal bedsteads and furniture manufactured wholly from plastic materials, shall be excluded.

2. Notwithstanding the provisions of sub-clause (1), the provisions of this Collective Agreement shall –

(a) only apply in respect of employees for whom minimum wages are prescribed in this Agreement and employers of such employees;

(b) apply to learners in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998, or any contracts entered into or any conditions fixed thereunder;

(c) not apply to professional, technical, administrative, sales and office staff: Provided that such employees are in receipt of regular remuneration in excess of the maximum rate prescribed in Annexure A of this Agreement, plus R35.00;

(d) not apply to managers, sub-managers, foremen and supervisory staff if such employees are in receipt of regular remuneration of not less than R132,870.44 per annum or, R156,312.93 per annum where the employer of such employee does not provide or maintain a registered retirement fund and a registered medical aid fund. These limits shall be increased from year to year by the same percentages as the increases granted to employees earning the highest rate set out in Annexure A of this Agreement;

(3) Notwithstanding the provisions of sub-clauses (1) and (2), employers who carry on not more than one business within the scope of application of Part 2 Annexure A of this Agreement and who employs less than five employees at all times in or in connection such business, shall be entitled to the following phasing-in concessions: Provided that their employees consent to it, in writing in the prescribed form:

Phase One : First two years from Commencement.

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During this period, the employer shall comply with the NMW in terms of Wages. The employer shall be exempt from all the other provisions as contained under Annexure A, except for the provisions of Clause 6 under Part 2 of Annexure A, provided that :

Any pro-rata holiday pay benefits accrued by employees during the first two years from commencement, must be paid by the employer in terms of the Basic Conditions of Employment Act, 1997 as amended, when due.

Phase Two : Third year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with the following:

Any pro-rata holiday pay benefits accrued by employees during the third year of commencement, must be paid by the employer in terms of the Basic Conditions of Employment Act 1997 as amended when due, including compliance under Part 2 of Annexure A.

Phase Three : Fourth year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with Clause 6, Part 2 of Annexure A.

In addition, the following contributions shall come into effect :

Clause 15 – Holidays and Holiday Fund read with Part 2 Schedule A Clause 5 Holiday Fund.

Phase Four : Fifth year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with the following :

(a) Clause 15 Holidays and Holiday Fund, read with Part 2 Schedule A, Clause 6 Holiday Fund.

(b) Provident Fund and Mortality Benefit contributions as prescribed under that Collective Agreement as amended and extended from time to time.

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Phase Five : Sixth year onwards.

All provisions of the Main Collective, Provident Fund and Mortality Benefit Association Collective Agreements which includes Part 2 Annexure A as amended and extended from time to time shall apply.

The provisions of Sub-Clause (3) above shall not apply where an employer has more than four employees in his employ at the date of coming into operation of this Agreement, and subsequently reduces this number of employees to fewer than five.

5. New Employees :

Phasing In Provision: For new employees in existing establishments other than those as identified under Sub-clause 1(3) excluding employees falling within the Scope of Annexures B and C.

A two year phasing in provision for new employees shall apply after coming into operation of this Agreement in relation to employers and employees falling under the Scope of Part 2 Schedule A, as follows :

(a) Provident Fund - exempted.
(b) Leave pay to be paid for 16 days only, directly to the employee.
(c) Mortality Fund contributions of 0.50 cents per employer and 0.50 cents per employee per week to be paid monthly towards the Mortality Benefit Association as per Chapter III of the Natal Furniture Workers' Mortality Benefit Association as it appears in Government Gazette No. 34463 dated 22 July 2011, published under Regulation No. R 589 read with correction notice under Gazette No 34511, Regulation No. 642 dated 12 August 2011, including any successor thereof,
(d) Full compliance with the provisions towards the Holiday Fund, Provident Fund and Natal Furniture Workers' Sick Benefit Society Collective Agreements, from the third year onwards.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall be binding on the Parties to this Agreement as from 01 July 2021 and shall come into operation in respect of non-parties on such date as the Minister of

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Labour extends the Agreement to non-parties and shall remain in force ending 30 June 2023.

3. CLAUSE 3. DEFINITIONS

(1) Insert the following new definition of "New Employee" after the definition of "machine feeder":

"new employee" means an employee who has never worked in the Furniture Industry before. Any employee who commences employment with a new furniture manufacturing Employer within a period of 3 (three) years after his / her termination from a previous furniture manufacturing Employer will not be regarded as a new employee and his / her service in the previous employer will be recognized.

(2) Substitute the following definition for the definition of "normal retirement age"
"normal retirement age" means the age of 60 years.

4. CLAUSE 8. LIMITATION OF OVERTIME

Substitute the following for sub-clause 8.1:

"(1) An employer may require an employee to work overtime for a period not exceeding sixteen (16) hours in any work week, payment for such overtime shall be guided by the BCEA, Act 75 of 1997, as amended from time to time."

5. CLAUSE 11. PAYMENT OF WAGES

Substitute the following for sub-clause 11.8:

"(8) In addition to any other remuneration due, an employee shall be paid a subsistence allowance of R100 per night for any one period extending one or more nights excluding accommodation."

6. CLAUSE 28. TERMINATION OF CONTRACT OF EMPLOYMENT

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Substitute the following for sub-clause 28.2(c):

"(c) Employees being dismissed as provided for in terms of sub-clause (1) above, shall be paid a retrenchment allowance:

(i) equal to one weeks' normal wages for every completed year of service;

(ii) In recognition of long service the following is payable in addition to the above

- 10 to twenty years service – one additional weeks normal wages
- Twenty years service and more - two additional weeks normal wages"

7. CLAUSE 33. FAMILY RESPONSIBILITY LEAVE

Substitute the following for sub-clause 33.2:

"(2) An employer shall grant an employee, during each annual leave cycle, at the request of the employee, three days paid leave, which the employee is entitled to take –

(a) when the employees' child is sick ; or

(b) in the event of the death of –

(i) the employees' spouse or life partner ; or

(ii) the employees' parent, adoptive parent or grand parent ; or

(iii) the employees' child, adoptive child, grand child or sibling.

(iv) when the employees' spouse is sick, provided that a medical practitioner confirms that the spouses' illness necessitated accompaniment."

8 Substitute the heading of clause **34 "NORMAL RETIREMENT AGE"** with the heading **"PARENTAL BENEFITS".**

34. PARENTAL BENEFITS

9 Substitute clause 34 in its entirety as follows:

"1) **Parental Leave**

1. An employee, who is a parent of a child, is entitled to at least ten consecutive days parental leave.

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2. An employee may commence parental leave on—
   (a) the day that the **employee's child is born**; or
   (b) the date—
      (i) that the adoption order is granted; or
      (ii)that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child, whichever date occurs first.
3. An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
   (a) commence parental leave; and
   (b) return to work after parental leave.
4. Notification in terms of subsection (3) must be given—
   (a) at least one month before the—
      (i) employee's child is expected to be born.
5. The payment of parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001 (Act No. 63 of 2001).

1) Adoption Leave

1. An employee, who is an adoptive parent of a child who is **below the age of two**, is entitled to—
   (a) adoption leave of at least ten weeks consecutively; or
   (b) the parental leave.
2. An employee may commence adoption leave on the date—
   (a) that the adoption order is granted; or
   (b) that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child, whichever date occurs first.
3. An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
   (a) commence adoption leave; and
   (b) return to work after adoption leave.
4. Notification in terms of subsection (3) must be given—
   (a) at least one month before the date referred to in subsection (2); or
   (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
5. The payment of adoption benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001 (Act No. 63 of 2001).
6. If an adoption order is made in respect of two adoptive parents, one of the adoptive parents may apply for adoption leave and the other adoptive parent may apply for the parental leave.

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2) Commissioning Parental Leave

1. An employee, who is a commissioning parent in a surrogate motherhood agreement is, entitled to—
   (a) commissioning parental leave of at least ten weeks consecutively; or
   (b) the parental leave.
2. An employee may commence commissioning parental leave on the date a child is born as a result of a surrogate motherhood agreement.
3. An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
   (a) commence commissioning parental leave; and
   (b) return to work after commissioning parental leave.
4. Notification in terms of subsection (3) must be given—
   (a) at least one month before a child is expected to be born as a result of a surrogate motherhood agreement; or
   (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
5. The payment of commissioning parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001 (Act No. 63 of 2001).
6. If a surrogate motherhood agreement has two commissioning parents, one of the commissioning parents may apply for commissioning parental leave and the other commissioning parent may apply for the parental leave. "

10. Substitute the heading of clause **35 "TWO TIER BARGAINING"** with the heading **"NORMAL RETIREMENT AGE"**.

35. NORMAL RETIREMENT AGE

11 Substitute clause 35 in its entirety as follows:

"(1) Any employee, notwithstanding his age, who enters the Industry either prior to or after the date on which this Agreement comes into operation, the normal retirement age shall be 60 years.

(2) Employees will be allowed to be employed on a fixed term contract basis between the ages of 60 and 65 years at the discretion of the Employer."

12. Substitute the heading of clause **36 "TRADE UNION SUBSCRIPTIONS"** with the heading **"TWO TIER BARGAINING"**.

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36. TWO TIER BARGAINING

13 Substitute clause 36 in its entirety as follows:

"(1) The Bargaining Council shall be the forum for the negotiation and conclusion of all agreements on substantive issues between employers' organizations and their members, on the one hand, and employees or trade unions and their members on the other hand.

(2) Non-substantive conditions of employment over and above existing ones in the prevailing Agreement, e.g. bonuses or incentive schemes that are directly related to profit or productivity, or both, may be negotiated by employee representatives or representative trade unions at establishment level and/or plant level. In the event of a deadlock in negotiations between the parties in this category of issues, the provisions of the Council's prevailing Agreement may be invoked.

(3) No trade union, employee, employers' organisation or employer may call a strike, lock-out or attempt in any way to seek, to induce or to compel negotiations on the issues referred to in Sub-clause 35(1) at any level other than at the Bargaining Council level.

(4) Any establishment or plant level agreement between an employer who is a member of a party employers' organization and a party trade union which contains provisions that are inconsistent with this Agreement –

(a) must be regarded by the parties to the establishment or plant level agreement as having been amended to created consistency with this clause; and

(b) any provisions of the establishment or plant level agreement will not be binding to the extent that those provisions are inconsistent with this clause."

14. Substitute the heading of clause 37 **"MEMBERSHIP SUBSCRIPTIONS-KZNFMA"** with the heading **"TRADE UNION SUBSCRIPTIONS".**

37. TRADE UNION SUBSCRIPTIONS

15. Substitute clause 37 in its entirety as follows:

"(1) Every employer shall deduct from the wages of those of his employees who are members of the trade union, the contributions payable to the trade union in terms of its constitution.

(2) All amounts payable in terms of this clause, shall be paid by the employer to the Secretary of the Council month by month and not later than the 10th day of each month following that in respect of which they are due. When making such payment, the employer

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shall furnish a statement in the form specified by the Council from time to time reflecting the names and amounts paid."

16. **Insert** the heading of clause **38** with the heading **"TRADE UNION REPRESENTATIVES".**

38. TRADE UNION REPRESENTATIVES

17. Insert clause 38 in its entirety as follows:

"(1) In any workplace in which at least 10 members of a representative trade union are employed, those members are entitled to elect from among themselves:

a) if there are 10 members of the trade union employed in the workplace, one trade union representative;

b) if there are more than 10 members of the trade union employed in the workplace, two trade union representatives;

c) if there are more than 50 members of the trade union employed in the workplace, two trade union representatives for the first 50 members, plus a further one trade union representative for every additional 50 members up to a maximum of seven trade union representatives;

d) if there are more than 300 members of the trade union employed in the workplace, seven trade union representatives for the first 300 members, plus one additional trade union representative for every additional 100 members up to a maximum of ten trade union representatives;

e) if there are more than 600 members of the trade union employed in the workplace, ten trade union representatives for the first 600 members, plus one additional trade union representative for every additional 200 members up to a maximum of twelve trade union representatives; and

f) if there are more than 1 000 members of the trade union employed in the workplace, twelve trade union representatives for the first 1000 members, plus one additional trade union representative for every additional 500 members up to a maximum of twenty trade union representatives."

18. Substitute the heading of clause **39 "EXPENSES OF THE COUNCIL"** with the heading **"MEMEBRSHIP SUBSCRIPTIONS-KZNFMA".**

39. MEMBERSHIP SUBSCRIPTIONS- KZNFMA

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19 Substitute clause 39 in its entirety as follows:

(1) Every employer who is a member of the KwaZulu-Natal Furniture Manufacturers' Association , shall pay subscriptions six-monthly in respect of membership and calculated in accordance with a schedule supplied to it by the said Association, based on the number of persons in his employ as at close of business in December and June annually.

(2) The amount of subscriptions so calculated, shall be paid by the employer to the Secretary of the Council as soon as possible after January and July, respectively each year.

20. Substitute the heading of clause 40 **"ADMINISTRATION OF AGREEMENT"** with the heading **"EXPENSES OF THE COUNCIL".**

40. EXPENSES OF THE COUNCIL

21. Substitute clause 40 in its entirety as follows:

(1) For the purpose of meeting the expenses of the Council, every employer shall deduct from his employees' wages and add a like amount as reflected in Part 2 of this Agreement.

22. Substitute the heading of clause 41 **"ULTRA VIRES"** with the heading **"ADMINSTRATION OF AGREEMENT".**

41. ADMINISTRATION OF AGREEMENT

23. Substitute clause 41 in its entirety as follows:

The Council shall be the body responsible for the administration of this Agreement and may issue expressions of opinion and rulings not inconsistent with the provisions thereof for the guidance of employers and employees.

24. **Insert** the heading of clause **42** with the heading **"FINES".**

42. FINES

25. Insert clause 42 in its entirety as follows:

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1 The fine that the Secretary may impose and an arbitrator shall impose for a failure to comply with a provision of the Collective Agreement –

a) Not involving a failure to pay an amount due to an employee/party in terms of any provision shall be the fine determined in terms of Table One; or

b) Involving a failure to pay an amount due to an employee/party shall be the greater of amount determined in terms of Table One or Table Two;

Table One

No previous failure to comply.	R100 per employee in respect of whom the failure to comply occurs.
A previous failure to comply in respect of the same provision.	R200 per employee in respect of whom the failure to comply occurs.
A previous failure to comply in respect of the same provision within the previous 12 months or two previous failures to comply in respect of the same provision within three years.	R300 per employee in respect of whom the failure to comply occurs.
Three previous failures to comply in respect of the same provision within three years.	R400 per employee in respect of whom the failure to comply occurs.
Four or more previous failures to comply in respect of the same provision within three years.	R500 per employee in respect of whom the failure to comply occurs.

Table Two

No previous failure to comply.	25% of the amount due including any interest owing on the amount at the date of the order.
A previous failure to comply in respect of the same provision within 3 years.	50% of the amount due including any interest owing on the amount at the date of the order.
A previous failure to comply in respect of the same provision within the previous 12 months or two previous failures to comply in respect of the same provision within three years.	75% of the amount due including any interest owing on the amount at the date of the order.
Three previous failures to comply in respect of the same provision within three years.	100% of the amount due including any interest owing on the amount at the date of the order.
Four or more previous failures to comply in respect of the same provision within three years.	200% of the amount due including any interest owing on the amount at the date of the order.

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26. **Insert** the heading of clause of clause 43 **"ULTRA VIRES"**.

43. ULTRA VIRES

27. Insert clause 43 in its entirety as follows:

"Should any provisions of this Agreement be declared *ultra vires* by any competent court of law, the remaining provisions shall be regarded to be the Collective Agreement and shall remain in operation for the duration of this Agreement."

PART 2

ANNEXURE A

1. SCOPE OF APPLICATION

1 This part of the Agreement applies to the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Pietermaritzburg, Pinetown.

2. PERIOD OF OPERATION

(1) This part of the Agreement is effective from the coming into operation of this Agreement until 30 June 2023.

3. WAGE LEVELS

28. Substitute clause 3 in its entirety with the following

3.1. Wage rates shall be based on hourly rate of pay for the duration of this Agreement.

3.2. The wage levels of wage categories referred to in Part 1 Clause 10 of this Agreement, shall apply as per Table A in the first full pay week of coming into operation of this Agreement.

3.3 The wage levels as per Table A to be increased by the same percentage increase applied to the national minimum wage.

Table A :

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Occupational Skills Level	First full pay week in July 2021 for parties and for non parties with effect from the coming into operation of the Agreement
Unskilled	As per National Minimum Wage
Semi Skilled	R23-48 per hr
Skilled	R25-10 per hr
Chargehand/ Foreman/ Supervisor	R27-07 per hr

The prescribed minimum wage rates to be increased by the same percentage increase applied to the national minimum wage.

4. WAGE INCREASE

29. Substitute clause 4 in its entirety with the following

4.1. Party Shops : Subject to the provisions of Sub-Clause 4.3 and 4.4, all categories of employees to receive a 6% wage increase on actual wages paid as from the 1 July 2021.

4.2. For those employees whom received the awarded National Minimum Wage increase of 4.48%, their wages will be increased by 1.52% from the 1 July 2021.

4.3. Non-Party Shops : All categories of employees to receive an increase of 6% on actual wages paid from date of coming into operation of this Agreement.

4.4. For those employees whom received the awarded National Minimum Wage increase of 4.48%, their wages will be increased by 1.52% from coming into operation of this Agreement.

4.5. The wage increases as per Sub-Clause 4.1. to 4.4. above, shall be subject to re-negotiations for the affected period as follows :

(a) In the event that the CPI rate be below 3,9% or above 9% the Parties to this Agreement shall meet to re-negotiate the wage increase relating to the period affected.

4.6. Wage increase per category as from the first full pay week in **July 2022** are as follows:-

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Hourly wage rates	Percentage increase agreed
To and including R30.00	6%
Including R30.01 and above	5%

6. COUNCIL EXPENSES.

30. Substitute clause 6 in its entirety with the following

"(1) Every employer shall deduct a Council Levy in the amount of R5.50 from the period of operation of this Agreement to 30 June 2022 and shall add a like amount and pay the total sum to the Secretary of the Council in the prescribed form over to the Secretary of the Council by no later than the 10th day of each month following.

(2) The Council shall be entitled to recover from an employer all monies in respect of legal fees and expenses incurred in the recovery of any monies due in terms of this Agreement, but not paid over to the Council at the appropriate attorney and client scale.

(3) Every employer shall deduct a Council Levy in the amount of R5.84 from the first full pay week in July 2022 to 30 June 2023 and shall add a like amount and pay the total sum to the Secretary of the Council in the prescribed form over to the Secretary of the Council by no later than the 10th day of each month following.

(4) The Council levy to be increased annually by the same wage increase detailed in 4.1. as would have been gazetted."

7. DEATH AND DISABILITY SCHEME

31. Substitute sub-clause 7(4) with the following

"(4) Benefits :

(a) All benefits are up to the age of 65.

(b) Life cover is equal to once annual income capped at a maximum of R12 000.00

(c) Capital disability cover equal to once annual income capped at a maximum of R12 000.00

(d) The Funeral cover for members is as follows :

Insured Amount

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Employee	R15 000.00
Spouse	R15 000.00
Child (15 to 24 years old)	R15 000.00
Child (6 to14 years old)	R7 500.00
Child (0 to 5 years old)	R3 750.00
Stillborn	R3 750.00"

ANNEXURE B

1. SCOPE OF APPLICATION

1. This part of the Agreement applies to the Municipal Area of Kwadakuza, also referred to as Ilembe and / or Lower Tugela

2. PERIOD OF OPERATION

1 This Agreement shall be binding on the Parties as from 10 August 2021 until 30 June 2023

2 This agreement shall come into operation in respect of non-parties on such date as the Minister of Labour extends the Agreement to non-parties for the period ending 30 June 2023.

3. WAGE INCREASE

32. Substitute clause 3 in its entirety with the following

"3.1. Period 10 August 2021 for parties until 30 June 2022 and from the date as determined by the Minister until 30 June 2022:

3.1.1 As from the first full pay week from 10 August 2021 for parties and from the date as determined by the Minister, the following wage increases shall apply :

(a) An Across the Board (ATB) wage increase of 5.2% on actual wages.

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(b) For those employees who received a National Minimum Wage increase during the calendar year 2021, their wages will be increased with the difference between the ATB and the increase that was awarded during March 2021.

3.2 Period from 1 July 2022 to 30 June 2023, the following wage increases shall apply:

(a) An Across the Board (ATB) wage increase of 5.2% on actual wages as from the first full pay week in July 2022.

(b) For those employees who received a National Minimum Wage increase during the calendar year 2022, their wages will be increased the difference between the ATB and the NMW increase as awarded by government during the 2022 calendar year.

(c) Employees earning above R30 per hour (ph). as at 30 June 2022, receives an increase of 1% less than the Across the board increase."

4. MINIMUM WEEKLY WAGE RATES

33. Substitute clause 4 in its entirety with the following

"4.1. Period 10 August 2021 for parties until 30 June 2023 and from the date as determined by the Minister until 30 June 2023:

Entry Level -	As per National Minimum Wage
Level 4	As per National Minimum Wage
Level 3	As per National Minimum Wage
Level 2	As per National Minimum Wage
Level 1	As per National Minimum Wage"

The prescribed minimum wage rates to be increased by the same percentage increase applied to the national minimum wage.

5. NATIONAL MINIMUM WAGE

34. Delete clause 5 in its entirety and renumber all clauses going forward under Annexure B.

5. LEAVE PAY

35. Substitute new clause 5 in its entirety with the following

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"5. LEAVE PAY

5.1. The employer to pay 15 working days leave pay calculated as per daily rate at shut down in December of each year directly to the employee."

6. YEAR-END BONUS

36. Substitute new clause 6 in its entirety with the following

"6. YEAR-END BONUS

6.1. Year-end Bonusses shall be at the discretion of the employer."

7. COUNCIL EXPENSES

37. Substitute new clause 7 in its entirety with the following

"7. COUNCIL EXPENSES

7.1. The Employer shall pay the Council a levy of R4.50 per employee per week from the first full pay week from 11 August 2021 for parties and from the date determined by the Minister the Employer to deduct an amount of R3.50 from each employee and to pay a total amount of R8.00 per employee per week monthly over to the Council in the prescribed form, by no later the 10th of each month following.

7.2 The Council shall be entitled to recover from an employer all monies in respect of legal fees as well as other expenses incurred in the recovery of all monies due not paid over to the Secretary of the Council at the appropriate attorney client scale in terms of this Agreement.

7.3 Every employer shall deduct a Council Levy in the amount of R4.00 from the first full pay week in July 2022 to 30 June 2023 and shall pay a levy of R5.50 per employee per week and pay the total sum to the Secretary of the Council in the prescribed form over to the Secretary of the Council by no later than the 10th day of each month following."

7.4 The Council levy to be increased annually by the same wage increase detailed in 3. as would have been gazetted."

AD

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Signed at Durban on this 13th day of August 2021.

J van Rooyen
Chairperson

S J van Vuuren
Vice-Chairperson

A.C Davids
Secretary of the Council

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DEPARTMENT OF EMPLOYMENT AND LABOUR

NOTICE 602 OF 2021

LABOUR RELATIONS ACT, 1995

REGISTRATION OF A TRADE UNION

I, Lehlohonolo Daniel Molefe,, Registrar of Labour Relations, hereby notify, in terms of section 109(2) of the Labour Relations Act, 1995, that **Liberated Workers Association of South Africa (LIWASA) (LR 2/6/2/3190)** has been registered as a trade union with effect from 29 September 2021.

REGISTRAR OF LABOUR RELATIONS

DATE: 29 September 2021.

DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE

NOTICE 603 OF 2021

ADVERTISEMENT

CALL FOR NOMINATIONS OF MEMBERS OF THE PUBLIC TO SERVE ON THE SOUTH AFRICAN COUNCIL FOR THE PROPERTY VALUERS PROFESSION

In terms of the Property Valuers Profession Act, 2000 (Act No.47 of 2000) (the Act); nominations are invited from the South African Council for the Property Valuers Profession (SACPVP) to serve on the Council.

The SACPVP is a statutory body established by section 2 of the Act. SACPVP provides for the registration of professionals, candidates and qualifying persons in specified categories in the property valuation profession; provides for the regulation of relationship between the profession and the Council for the Built Environment as well as transforming the valuers' profession.

Requirements

In terms of section 4(3) of the Act, the SACPVP hereby *invites nominations from members of the public, from the date of the notice and within the period specified in the notice*, to serve as members of its sixth term of office.

Council members of the SACPVP must have demonstrable leadership qualities and be committed to the development and transformation of the built environment professions. They must possess the qualification, knowledge and/or expertise of the following: built environment sector; property or real estate (valuation); economics; statistics; finance; accounting; human resources; law; education and training; regulatory environment or health and safety within the built environment. Due consideration will be given to race, gender, disability and geographic location in the composition of the Council.

Disqualification

The following persons are not eligible for appointment to the South African Council of the Property Valuers Profession in terms of section 6 of the Act.

(1) A person may not be appointed as a member of the council if that person—

(a) is not a South African citizen and ordinarily resident in the Republic;
(b) is an unrehabilitated insolvent;
(c) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
(d) subject to subsection (3), has been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
(e) has, as a result of improper conduct, been removed from an office of trust;
(f) has in terms of this Act been found guilty by the council of improper conduct.

Term of Office

The term of office of members will be four (4) years from the date of appointment by the Minister of Public Works and Infrastructure. The Council meets at least four times per annum and the appointed person may be required to serve in the committees of the Council. Council members may be reappointed for one consecutive term. Candidates will be subjected to a security screening process.

Nomination Particulars

Nominations should be made on the Nomination Form provided for on the SACPVP website or on request from the e-mail address here below. Please note that failure to comply with the above requirements may result in the disqualification of the nomination.

Nominations must be in writing, completed in the accompanying prescribed form* and contain the following information:

- Full name, address and contact details of the nominating person or organisation;
- Full name, identity number and contact details of the nominee;
- Signed acceptance of the nomination by the nominee;
- Declaration by nominee* that he/she is qualified to serve on the SACPVP in terms of section 6 of the Act;
- A Curriculum Vitae of the nominee (not more than two pages) covering the following: the nominee's full name, ID number, race, gender, contact address/es, telephone numbers, qualifications, experience, knowledge and skills and current and former council/ board memberships as well as the names and contact details of at least two referees;
- Certified copy of the nominee's South African ID document; and
- Certified copies of the nominee's qualifications.

THE CLOSING DATE FOR NOMINATIONS IS 28 JANUARY 2022

E-mail: For Attention: Gabriel Mashishi	Website:
legal@sacpvp.co.za 012 348 8634 Mondays and Tuesdays.	***The nomination form to be downloaded from the SACPVP Website:** www.sacpvp.co.za
Please forward the completed nomination form and source documents	**Post:** **77 Kariba Street, Lynnwood Glen, 0081 or** **PO Box 114, Menlyn, 0063**
Hand delivery: **Hand deliveries will be allowed ONLY if the country is at Covid-19 level 3 or below.**	**For further enquiries please contact the Registrar** **Registrar@sacpvp.co.za** **082 925 3792**

***Declaration by nominee** (to be completed and returned with his/her nomination)

I, _____(names and surname),

ID No. _____, hereby declare that I am qualified to serve on the South African Council for the Property Valuers Profession in terms of section 6 of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000), and authorise the Minister of Public Works and Infrastructure to investigate any record in relation to such qualification and requirement.

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SOUTH AFRICAN RESERVE BANK

NOTICE 604 OF 2021

FINANCIAL SURVEILLANCE DEPARTMENT

APPOINTMENT OF AN AUTHORISED DEALER IN FOREIGN EXCHANGE WITH LIMITED AUTHORITY

The Financial Surveillance Department of the South African Reserve Bank hereby gives notice, for general information, that Sasai Fintech (Pty) Limited, has been appointed as an Authorised Dealer in foreign exchange with Limited Authority for the purpose of Exchange Control Regulations published under Government Notice No. R.1111 of 1 December 1961, as amended.

S E Mazibuko

Head of Department: Financial Surveillance

FINANCIAL SURVEILLANCE DEPARTMENT

CANCELLATION OF AN AUTHORISED DEALER IN FOREIGN EXCHANGE WITH LIMITED AUTHORITY

The Financial Surveillance Department of the South African Reserve Bank hereby gives notice, for general information, that Cassava Fintech (Pty) Limited, has been removed as an Authorised Dealer in foreign exchange with Limited Authority for the purpose of Exchange Control Regulations published under Government Notice No. R.1111 of 1 December 1961, as amended.

S E Mazibuko

Head of Department: Financial Surveillance

DEPARTMENT OF WOMEN, YOUTH AND PERSONS WITH DISABILITIES

NOTICE 605 OF 2021

REPUBLIC OF SOUTH AFRICA

NATIONAL STRATEGIC FRAMEWORK ON REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES

September 2020

NATIONAL STRATEGIC FRAMEWORK ON REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES

'Human dignity cannot be fully valued or respected unless individuals are able to develop their 'humanness' to the full extent of its potential. Each human being is uniquely talented. Part of the dignity of every human being is the fact and awareness of this uniqueness. An individual's human dignity cannot be fully respected or valued unless the individual is permitted to develop his or her talents optimally.'

Constitutional Court, 1996

Explanatory Note

Whilst reasonable accommodation applies to all designated groups, this framework applies specifically to persons with disabilities.

Its purpose is:

- To guide implementation of reasonable accommodation measures to uphold, support and promote the rights of persons with disabilities;
- To support the legislative environment by encouraging the promulgation of legislation where there is none, and to accelerate consistent implementation of reasonable accommodation measures where legislation already exists;
- To guide the application of reasonable accommodation for persons with long-term impairments and persons with temporary disabilities;
- To provide a mechanism for integrated and multidisciplinary coordination of reasonable accommodation;
- To combat unfair discrimination and secondary victimisation of persons with disabilities;
- To provide for the development of procedures and norms and minimum standards for the issuing of assistive devices, reasonable accommodation measures, support services;
- To support the provision of equitable budgeting for the provision of reasonable accommodation support to persons with disabilities; and
- To provide for the specific roles and responsibilities of relevant organs of state and sector-based stakeholders to improve the application of reasonable accommodation measures; and to provide for matters connected therewith.

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Relationship of this framework to the White Paper on the Rights of Persons with Disabilities and to the National Development Plan

Persons with disabilities share the same goals and aspirations as peers without disabilities, but at times require specific support measures to be made available to enable them to participate fully and achieve equitable outcomes.

The National Development Plan (NDP), approved in 2012, envisages a country by 2030 which has eliminated poverty and has reduced inequality, a "*country wherein all citizens have the capabilities to grasp the ever-broadening opportunities available.*"

The NDP acknowledges that many persons with disabilities are not able to develop to their full potential due to a range of barriers, namely physical, information, communication and attitudinal barriers and states that "*Disability must be integrated into all facets of planning, recognising that there is no one-size-fits-all approach*".

The White Paper on the Rights of Persons with Disabilities (WPRPD), approved by Cabinet in December 2015, notes that discrimination on the basis of disability encompasses all forms of unfair discrimination, whether direct or indirect, including denial of reasonable accommodation, and defines reasonable accommodation as "*necessary and appropriate modification and adjustments, as well as assistive devices and technology, not imposing a situation, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms*".

The WPRPD direct that minimum norms and standards for reasonable accommodation support measures be developed and promulgated, and that all public and private institutions must ensure equitable access to and participation in programmes and services, which must include the development and publication of reasonable accommodation measures in service charters and standards across the full spectrum of services.

Reasonable accommodation support tends to be individual and impairment specific, and includes measures to:

- Make the physical environment accessible;
- Provide persons with disabilities with access to information and communication;
- Redress stress factors in the environment;
- Accommodate specific sensory requirements such as those relating to light, noise and spatial stimuli;
- Improve independence and mobility of persons with disabilities;
- Guarantee participation and supported decision-making by persons with disabilities; and
- Provide access and participation to quality education and work.

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Reasonable accommodation measures are therefore inclusive of assistive devices, assistive technology, personal assistance, adaptations of the built environ, signage, captioning, text available in audio, loop systems, FM systems, alerting/alarm systems for evacuation procedures, dedicated sms lines to all emergency service call centres, adaptation of (for example) work arrangements and the implementation of flexibility within the workplace to accommodate persons with disabilities.

The provision of universally accessible services results in:

- Independent living
- Participation in society
- Increased choice and options for quality of life

Therefore the relationship of this framework is to provide a toolkit to all service providers in the public and private sector; but particularly to government itself which is responsible for compliance.

Relationship of this framework to the Strategic Framework for Universal Access and Design

The inextricable link between universal access, universal design, reasonable accommodation and disability must be located within the context of the non-discrimination clause in the Bill of Rights of the Constitution of the Republic of South Africa.

It requires a paradigm shift in how we embed the provision of reasonable accommodation support in all programmes and services to compensate for barriers created by lack of universal access and design on the one hand, and additional support measures required by persons with disabilities on the other, the ultimate aim being that of full participation and equal access to opportunities.

It is therefore important that this Framework be read with the Framework on Reasonable Accommodation for Persons with Disabilities.

Mandate for the framework

The mandate for this framework is taken from the Bill of Rights of the Constitution of the Republic of South Africa, further supported by The Promotion of Equality and Prevention of Unfair Discrimination Act Number 4 of 2000 Chapter 5.

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ACKNOWLEDGEMENTS

A participatory approach was followed in developing this framework.

The zero draft was developed by, among others, giving consideration to submissions made over the past few years for purposes of developing both the Baseline Country Report to the UN Convention on the Rights of Persons with Disabilities, as well as the White Paper on the Rights of Persons with Disabilities. The zero draft was released for public comment.

A Technical Drafting Team, consisting of representatives from the Departments of Social Development, Transport, Public Works and Infrastructure and Communications and Digital Technologies, the SA Local Government Association, as well as disability sector experts, collaborated through a validation workshop and subsequent electronic consultations in finalising the draft Framework.

The contributions of the following public servants and disability rights activists in finalising the framework are acknowledged:

- Ms Petronella Linders, Ms Thandi Mdlalose (Communications and Digital Technologies)
- Ms Nozuko Monama (Department of Public Works and Infrastructure)
- Mrs Amanda Gibberd (Department of Transport)
- Mr Benny Palime, Ms Lidia Pretorius (Department of Women, Youth and Persons with Disabilities)
- Ms Winnie Mangaye (SA Local Government Association)
- Mr Christo De Klerk, Ms Parishna Ramluckan (Blind SA)
- Mr Danie Botha Marais (National Council of and for Persons with Disabilities)
- Ms Kim Fisher (Deaf Federation of SA)
- Mr Haniff Kruger (SA National Council for the Blind)
- Mr Hitten Bawa (Studio HB)
- Ms Joanne Newton (British Council)
- Ms Lurentia Truter (Daisy SA)
- Ms Mandy Latimore (QuadPara SA)
- Ms Marina Clarke (Epilepsy SA)
- Ms Mariza Jurgens and Ms Thea Iding (Retina SA)
- Ms Nomasonto Mazibuko (Albinism Society of South Africa)
- Mr Phillip Dobson (Deafblind SA)
- Mr Phillip Thompson (IDC Consultants)
- Mr Piet Nel and Mr Themba Sekukumane (Short Statured People of SA)
- Ms Shakila Maharaj (Disability Management Services)
- Dr Laurentia Truter (Daisy SA)
- Ms Sebenzile Matsebula (Lindandanda Consulting)

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PREAMBLE

Whereas the United Nations Convention on the Rights of Persons with Disabilities declares access to reasonable accommodation as a right to be afforded to persons with disabilities and urges all states to enact appropriate legislation to empower persons with disabilities;

Whereas the Republic of South Africa is a signatory to the United Nations Convention on the Rights of Persons with Disabilities and ratified the Convention binding itself as a member state to the general application of international law on reasonable accommodation;

Whereas the Constitution of the Republic of South Africa and subsequent right-based legislation provides for basic principles of justice and fairness for persons with disabilities;

Whereas the Bill of Rights (section 9, subsection 2) in the Constitution of the Republic of South Africa (1996) provides that everyone has the right amongst others to human dignity and equality before the law;

Whereas the Promotion of Equality and Prevention of Unfair Discrimination Act (2000) provides for the protection from discrimination and provision for specific individual needs which must be reasonably accommodated by duty bearers;

Whereas the Republic of South Africa recognizes these rights, by ensuring the provision of integrated and multi-disciplinary reasonable accommodation measures through a number of laws, policies and programmes;

Whereas the state has to take reasonable and necessary measures within its available resources to provide for reasonable accommodation and equitable budgeting for reasonable accommodation;

Whereas persons with disabilities may choose to, or be encouraged to declare and or disclose their reasonable accommodation needs within their living, learning or working environment;

Whereas duty bearers also have a duty become informed of reasonable accommodation measures, to create an environment which is conducive for disclosure and to promote inclusion.

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Chapter 1
INTEREPRETATION, OBJECTS AND APPLICATION OF THE FRAMEWORK

1.1 Abbreviations

AAC	Augmentative and Alternative Communication
AT	Assistive Technologies
CBO	Community-Based Organisation
CBR	Community-Based Rehabilitation
CEE	Commission for Employment Equity
CSIR	Council for Scientific and Industrial Research
EAP	Employees assistance programmes
DSD	Department of Social Development
DPO	Disabled Person's Organisation
DSO	Disability Service Organisation
ECD	Early Childhood Development
FOSAD	Forum of South African Director Generals
HSRC	Human Sciences Research Council
ICF	International Classification of Functioning, Disability and Health
ICT	Information and Communications Technology
IDPs	Integrated Development Plans
IGR	Inter Governmental Relation
ILO	International Labour Organisation
INDS	Integrated National Disability Strategy
M&E	Monitoring and Evaluation
MTSF	Medium Term Strategic Framework
NDP	National Development Plan 2030
NDRM	National Disability Rights Machinery
NEDLAC	National Economic Development and Labour Council
PANSALB	Pan South African Language Board
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
SABS	South African Bureau of Standards
SASL	South African Sign Language
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
WPRPD	White Paper on the Rights of Persons with Disabilities

1.2 Definitions and Interpretations

In this framework, unless the context otherwise indicates**:**

Adaptive behaviour - is the collection of conceptual, social and practical skills that are learnt and performed by people in their everyday lives:

- **Conceptual skills** include language and literacy; money, time, and number of concepts; and self-direction
- **Social skills** include interpersonal skills, social responsibility, self-esteem and gullibility.
- **Problem solving** includes the ability to analyse problems and overcome obstacles leading to the resolution of problems
- **Practical skills** include activities of daily living (personal care) occupational skills, health care, travel/transportation, schedules/ routines, safety, use of money, and use of technology

Affirmative action - any action taken to support or empower designated groups. In terms of disability equality this means removing barriers or providing enablers to create a situation where equal participation is possible.

Accessibility – the extent to which aspects of society can be equally, easily, safely, and appropriately used or reached by persons with disabilities (special needs) or impairments; accessibility describes the extent to which an environment, service or product allows access to as many people as possible in particular to persons with disabilities; These aspects include buildings, facilities, constructed spaces, transport, information, equipment, services, activities, resources, utilities, language, communication and technology.

Assistive devices - any device, product, equipment or tool that is designed or adapted to enable persons with disabilities to participate in activities, tasks or actions. Products may be specifically produced on generally available for persons with disabilities or according to specific needs of individual.

Assistive technology - an umbrella term that includes assistive, adaptive, and rehabilitative devices and services for persons with disabilities, which enable persons with disabilities to attain independence.

Augmentative and alternative communication - an umbrella term that encompasses the communication methods, aside from traditional speech, used to supplement or replace speech or writing for people who require an alternative means for producing or comprehending spoken or written language.

Barriers - obstacles and impediments that prevent people from free movement, decision making, association, and participation. Barriers may be social (including high cost, lack of disability awareness, prejudice, cultural differences, communication difficulties), psychological (such as fear for personal safety) or structural (including infrastructure, operations and information).

Braille - a system of writing for individuals with visual disabilities (blindness) that uses letters, numbers, and punctuations made up of raised dots and patterns. Braille was the first digital form of writing for blind persons.

Communication - verbal and nonverbal means of conveying information, inclusive of languages, display of texts, Braille, tactile communication, large print, accessible multi-media as well as written, audio, plain language, lip-speaking services, speech reading services, whisper interpretation, note-taking services and augmentative and

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alternative modes, means and formats of communication, and communication technology human reader and augmentative and alternative modes, means and formats of communications as well as accessible information communication technologies.[1]

Committee - the national Universal Access and Design (UAD) Committee which is the coordinating mechanism as established in terms of this framework

Constitution' - the Constitution of the Republic of South Africa 1996 (Supreme Law of the Republic)

Department - any government department responsible for service delivery within the three spheres of government; whether national, provincial and municipal government. It also includes the agencies of any government department, state-owned entities or sector institutions.

Disability - is an evolving concept, imposed by society when a person with a physical, psychosocial, intellectual, neurological and/or sensory impairment is denied access to full participation in all aspects of life, and when society fails to uphold the rights and specific needs of individuals with impairments.

Discrimination - any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) imposes burdens, obligations or disadvantages on; and/or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds, which include disability and any other ground that might disadvantage a person, undermines human dignity or adversely affects an individual's rights and freedoms.

Disability Discrimination - any distinction, exclusion or restriction of persons on the basis of disability, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It encompasses all forms of unfair discrimination, whether direct or indirect, including denial of reasonable accommodation.

Disability Mainstreaming - requires a systematic integration of the priorities and requirements of persons with disabilities across all sectors of society. It requires effective planning, adequate human resources, and sufficient financial investment – accompanied by specific measures such as targeted programmes and services with the outcome of enabling persons with disabilities to participate in mainstream society and to continue to participate throughout their lives.

Disabled Peoples Organisations – membership based organisations constituted to advocate for the protection of human rights of persons with disabilities and disability mainstreaming. They constitute the representative voice of persons with disabilities, inclusive of parents of children with disabilities, based on their membership demographics.

[1] UN CRPD (2006)

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Disability Services Organisation - run by service providers and/or community members. DSOs are not necessarily membership-based organisations and focus on the delivery of rehabilitation and other services to persons with disabilities and their families.

Disclosure of disability - it is a voluntary notification by persons with disabilities that the person has a disability, whether visible or invisible.

Duty-bearers - in human rights law, duty-bearers include government and their agencies national, provincial and local levels of government, traditional and tribal authorities, any government agency in any government department, all public officials and service providers in the public and private sector.

Empowerment - processes, procedures and actions aimed at affording access, equal treatment, inclusion, participation, accountability and efficiencies. [2]

Enabling environments - Interrelated physical and other infrastructures, built-environments, culture, laws, policies, processes and procedures, information and communication technologies, capacity and knowledge of staff in organisations that must be in place to facilitate the socio-economic development of all persons, regardless of age, gender, disability, culture etc.

Equality - the full and equal enjoyment of rights and freedoms as contemplated in the Constitution, including includes de jure and de facto equality and also equality in terms of outcomes[3]. It ensures that individuals or groups of individuals are treated fairly and equally and no less favourably and with dignity; specific to their requirements. It includes the removal of discrimination that ensures all opportunities and life chances are available to persons with disabilities, and people who become disabled; on an equitable basis with others.

Equity - the system of justice and fairness, where there is an even-handed treatment of all the people. Under this system, the individual needs and requirements are taken into account and treated accordingly. Equity demands fairness in every situation, i.e. whether it is the distribution of benefits or burdens. Therefore people are treated fairly but differently as their circumstances are given weight. It seeks to provide all the individuals an equal opportunity, to let them attain their maximum potential. In this way, equity ensures that all individuals are provided the resources they need to have access to the same opportunities, as the general population.

Exclusion - the act of socially isolating or marginalizing an individual or groups on the basis of disability, gender, race, language, sexual orientation culture, religion or socio-economic status, by not allowing them to participate or enabling them to benefit. Exclusion occurs when specific needs are not accommodated, by allowing or enabling someone to fully participate, or to be included in society and enjoy the same rights and privileges as others who are not discriminated against.

[2] Broad Based Black Economic Empowerment Act (Act 53 of 2003)
[3] Section 28 of Promotion of Equality and Prevention of Unfair discrimination Act (Act 52 of 2002)

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Full and equal participation - equal participation occurs if equalisation of opportunities to participate is provided through universal design and reasonable accommodation measures. In adapting to social structures, social models focus more sharply on empowerment, participation and modifications to promote equalisation of opportunities for all.

Gender equality - means equal recognition, enjoyment or exercise by a person irrespective of gender, disability or race; of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other aspects of life, through the recognition of their respective needs and their interests.

Impairment - Impairment is a perceived or actual feature in the person's body or functioning that may result in limitation or loss of activity or restricted participation of the person in society with a consequential difference of physiological and/or psychological experience of life. For example, the International Classification of Disease (ICD) could be utilised for purposes of defining physical, sensory, intellectual, psychosocial and neurological impairments.

Information and communications technology - an umbrella term which includes any kind of information and communication device or application and its content, and encompasses a wide range of access technologies, such as radio, television, satellites, GPS, mobile phones, fixed lines, computers, tablets and network hardware and software.

Independence - state of being whereby available and adequate support services, assistive devices and personal assistance to persons with all disabilities enables persons with disabilities to exercise choice, bear responsibility and participate fully in society.

Independent living - the ability of a person to live just like anyone else, to have opportunities to make decisions that affect their lives and to be able to pursue activities of their own choosing with the necessary support to enable persons with disabilities to live independently.

Mobility - the means by which a person, whether with a disability or without, moves in their current environment. It is the ease of human movement with or without the use of assistive devices, (such as devices that augment dexterity, communication, sight or hearing) and mobility aids, such as wheelchairs, crutches, guide dogs and mobility canes.

National disability rights coordinating mechanism - Function designated by the President during macro-organisation of the state in line with Article 33(1) of the UNCRPD. The function is primarily responsible for overall coordination of implementation and monitoring of the national disability rights agenda.

Person - a legal natural or juristic person.

Persons with disabilities - Persons with disabilities include those who have perceived and or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

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Progressive realisation - This standard is contained in the South African Constitution specifically in association with socio-economic rights, such as section 26 (housing), section 27 (health care, food, water and social security), and section 29 (1)(b) (further education), and defined by the Constitutional Court, which has defined progressive realisation by referring to its development in international human rights law, including Paragraph 9 of General Comment 3 of the United Nations' Committee on Economic, Social and Cultural Rights (CESCR).

The concept of progressive realisation constitutes recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. Nevertheless, the fact that realisation over time, or in other words progressively, is foreseen under the ICESCR should not be misinterpreted as depriving the obligation of all meaningful content. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal, and to be able to provide evidence that this is being achieved. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the ICESCR and in the context of the full use of the maximum available resources.

Progressive realisation as it refers to in this Framework is applicable to three dimensions: More in number (access); more in diversity (compounded aspects); and better in quality (participation).

Reasonable accommodation – Reasonable accommodation refers to necessary and appropriate modification and adjustments, as well as assistive devices and technology, not imposing a situation, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Rights holders - All human beings are inherently rights-holders who should enjoy universal human rights that must be guaranteed through the progressive implementation of legislation.

Self-representation - the practice of people being able to articulate their own issues for themselves. It refers to people being enabled and allowed to have their own voice in issues that relate to their specific needs and circumstances.

Universal access - the removal of cultural, physical, social and other barriers that prevent people with disabilities from entering, using or benefiting from the various systems of society that are available to other citizens and residents. The absence of accessibility or the denial of access is the loss of opportunities to take part in the community or society on an equal basis with others.

Universal design - the design of products, environments, programmes and services to be usable by all persons to the greatest extent possible without the need for adaptation or specialised design.

Universal Design Access Plan (UDAP) - demonstrates to the service user how they are able to access services and how implementation will take place, and in what timeframe.

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Unjustifiable hardship (legal interpretation) – unjustifiable hardship is an action that requires significant of considerable difficulty or expense; this involves considering, among other things, the effectiveness and efficiency of the accommodation and the extent to which it would seriously disrupt the operation of the business or create a disadvantage.

1.3 Objectives of the Framework

The objectives of the framework are to:

- Explain the implications of reasonable accommodation support as a fundamental human right;
- Ensure that reasonable accommodation support is approached from a human rights and inclusive development perspective;
- Ensure that all public and private sector entities make provision for reasonable accommodation in service delivery;
- Allow for and support the development of reasonable accommodation plans (RAPs) as integral components of Universal Design Access Plans (UDAPs). Where this is already sanctioned, to support the implementation of plans developed to support it;
- Facilitate the implementation of programmes or the provision of reasonable accommodation measures which includes the provision of accessible amenities and assistive devices to persons with disabilities which will enable them to fully participate in the activities of society

1.4 Application of the framework

1.4.1 The legal application of the framework

This framework must be read and used in conjunction with relevant legislation and regulations; codes of good practice, technical assistance guidelines, South African National Standards, as well as the White Paper on the Rights of Persons with Disabilities.

The framework is intended to be used as a practical guide providing information and advice for government, the private sector, and civil society; including persons with disabilities themselves, so that it can be understood and implemented.

1.4.2 South African legal context

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Section 9 of the Constitution states that [4]

> "*The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including; race, gender, sex, pregnancy, marital status, ethnic or social religion, lour, sexual orientation, age, disability, religion, conscience , believe, culture language and birth*''.

The Equality Clause is supported by The Promotion of Equality and Prevention of Unfair Discrimination Act Number 4 of 2000 Chapter 5 -

"Special measures to promote equality with regard to race, gender and disability

28. (1) If it is proved in tie prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purposes of sentence.

(2) The South African Human Rights Commission must, in its report referred to in

section 15 of the Human Rights Commission Act, 1994 (Act No. 54 of 1994), include an assessment on the extent to which unfair discrimination on the grounds of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems.

(3) (a) The State, institutions performing public functions and all persons have a duty and responsibility, in particular:
- *(i) eliminate discrimination on the grounds of race, gender and disability;*
- *(ii) Promote equality in respect of race, gender and disability.*

(b) In carrying out the duties and responsibilities referred to in paragraph (a), the State, institutions performing public functions and, where appropriate and relevant, juristic and non-juristic entities, must—

- *(i) Audit laws, policies and practices with a view to eliminating all discriminatory aspects there of;*
- *(ii) Enact appropriate laws, develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;*
- *(iii) Adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and*
- *(iv) give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability".*

[4] Republic of South Africa (1996). Act No.108 of 1996. The Constitution of the Republic of South Africa. Bill of Rights. Chapter 2, Section 9.

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A number of existing sectoral laws and policies make provision, to a more or lesser extent, for reasonable accommodation support measures to be provided to persons with disabilities, including –

- Employment Context -
  - The Employment Equity Act (1998), supported by the Code of Good Practice and Technical Assistance Guidelines
  - Job ACCESS Strategic Framework on the Recruitment, Employment and Retention of Persons with Disabilities in the Public Service.
  - The Policy on Reasonable Accommodation and Assistive Devices for Employees in the Public Service (2015);
  - Compensation for Occupational Injuries and Diseases Act (1993) as amended
  - Determination And Directive On Leave Of Absence In The Public Service (2015)
- Education Context -
  - The White Paper on Post School Education and Training (2013);
  - The Policy on Screening, Identification, Assessment and Support (2014);
  - The NSFAS Bursary Scheme for Reasonable Accommodation Support to Students with Disabilities
- Disability Services –
  - The Framework and Strategy for Disability and Rehabilitation Services in South Africa;
- Other –
  - Social Assistance Act (2004), and in particular the Grant-in-Aid benefit;
  - Income Tax Act (1962) as amended (SARS Disability Tax Benefits)'
  - The National Housing Policy (1999 adjustment to provide for special enhancements to the subsidy houses intended for persons with disabilities, taking into account a range of disabilities and assistive devices).
- Cross-cutting -
  - The White Paper on the Rights of Persons with Disabilities (2015);

Reasonable accommodation as a legal entitlement is best defined in the Employment Equity Act[5], which defines reasonable accommodation as "*any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment*". This implies that reasonable accommodation applies to all persons, regardless of disability, in function of the general principle of non-discrimination. Thus, reasonable accommodation must be provided to ensure equal opportunities on account of not only disability, but other grounds for discrimination such as age and sex.

[5] Act No. 55 of 1998

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The provision of reasonable accommodation is specifically defined as a measure of "affirmative action." Section 15.2 of the Employment Equity Act specifies that "*Affirmative action measures implemented by a designated employer must include – … making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workforce of a designated employer*".

The *Code of Good Practice on Disability in the Workplace* defines the scope of reasonable accommodation in the employment context as applying to applicants and employees, and may be required during the recruitment and selection processes; in the working environment; in the way work is usually done and evaluated and rewarded; and in the benefits and privileges of employment (paragraph 6.3). It also specifies that employers may adopt the most cost-effective means that are consistent with effectively removing the barrier to a person being able to perform the job, and to enjoy equal access to the benefits and opportunities of employment (paragraph 6.2).

The *Code of Good Practice on Disability in the Workplace* elaborates in a *non-binding* manner the scope of reasonable accommodation found in the 1998 Act. The Technical Assistance Guidelines on the Employment of People with Disabilities (chapter 5) further clarifies the concept of the "reasonableness" standard.

According to the Code, "unjustifiable hardship" is defined as "*action that requires significant or considerable difficulty or expense. This involves considering, amongst other things, the effectiveness of the accommodation and the extent to which it would seriously disrupt the operation of the business*" (paragraph 6.12).

The concept requires an objective analysis that includes consideration of not only whether the accommodation will create "*difficulty or expense that will seriously disrupt the operation of the business*" but also (1) the effectiveness of the accommodation; (2) the impact of providing or failure to provide accommodation to the employee, (3) the systemic patterns of inequality in society, as well as (4) the objectives of the Act and the Constitution.

Significantly, "unjustifiable hardship" is considered to be a more rigorous standard than "undue hardship." This more rigorous standard is necessitated by South Africa's history of providing so little employment and accommodation for persons with disabilities. The Code thus encourages employers to make more effort to reduce and eliminate discrimination and/or promote affirmative action.

The standards for reasonable accommodation measures to eradicate discrimination against persons with disabilities in South Africa are limited to certain sectors of life. South Africa has a Constitutional responsibility to undertake a legal audit; reviewing existing discriminatory laws, bringing in new legislation to address gaps and to promulgate standalone disability legislation if proved necessary. This framework will be a guiding document for any disability legislation.

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1.4.3 International legal context

The UN Convention on the Rights of Persons with Disabilities [6], defines reasonable accommodation as "*necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms",* and makes provision for reasonable accommodation in a number of Articles, inclusive of:

- **Article 4 - General obligations –** Par 1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake: (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost; and (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities.
- **Article 5 - Equality and non-discrimination –** Par 3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
- **Article 14 - Liberty and security of the person –** Par 2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.
- **Article 19 - Living independently and being included in the community –** States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that: 1 (b) Persons with disabilities have access to a range of in-, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.
- **Article 20 Personal mobility -** States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with

[6] United Nations (2007). Convention on the Rights of Persons with Disabilities.

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disabilities, including by: 1 (b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost; and 1(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

- **Article 21 - Freedom of expression and opinion, and access to information –** States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by: 1 (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions.

- **Article 24 – Education –** Par 2. In realizing this right, States Parties shall ensure that: (c) Reasonable accommodation of the individual's requirements is provided; Par 3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including: (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring; and Par 5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

- **Article 26 - Habilitation and rehabilitation –** Par 3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

- **Article 27 - Work and employment –** Par 1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia: (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

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The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (MVT), adopted by the World Intellectual Property Organisation in 2013. Its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired, and otherwise print disabled. Works "in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media", including audio books and braille, fall within the scope of the MVT regime.

1.4.4 Rights and Responsibilities of Persons with disabilities

The framework intends to assist persons with disabilities by helping you to understand your rights and by providing you with certain obligations:
The framework intends to assist rights-holders by deepening an understanding of their constitutional rights and responsibilities:

(i) Rights:

- The right not to be discriminated against in all aspects and stages of life, to be treated with fairness, respect, dignity and privacy when accessing any services, facilities, devices and procedures of departments or public and private service providers;
- The right not to be discriminated against on the basis of age, gender, disability, race or any of the factors contemplated in Section 9 of the Constitution, or in terms of Chapter 2 Section 9 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- The right to independent living and alongside everyone else, by having access to, among others, affordable, appropriate and timeous reasonable accommodation support;
- The right to reasonable accommodation measures if you are not accommodated by the mainstream service provision;

(ii) Responsibilities

- The responsibility to understand that you are entitled to be accommodated with everyone else using a facility, product or service;
- The responsibility to know and understand your reasonable accommodation requirements and to negotiate for such within the conscripts of the law if you should require any;
- The responsibility to participate as an informed partner with the service provider in the process of designing, implementing, monitoring and evaluation any service;

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- The responsibility to provide feedback if you are not receiving the same standard of service as peers without disabilities, including access to information and communication;
- The responsibility to report discrimination if you are not receiving the same standard of service as their peers without, including access to information and communication.

1.4.5 Obligations of government, business and civil society

(i) Obligation to support participation in society

Reasonable accommodation by nature relates to the needs of the individual. Therefore the underlying prescript is that all service providers must innovate to make their services accessible to any person with a disability attempting to access them, and not deny the person the right of access to services of any kind.

(ii) Obligation to support independent living

Public as well as private parties have a duty to provide and support rehabilitation and habilitation, whilst a person with a disability (whether temporary or permanent) continues to participate in life's activities. No insurance policy or life cover may contradict this basic right to participate.

Every service provider whether public or private, and whatever the nature of the service, has a duty to progressively implement universal design, access and reasonable accommodation and to be able to demonstrate at any point in time that it is doing so;

Every service provider whether public or private, and whatever the nature of the service; may not downgrade universal access and design, as well as reasonable accommodation support to a level previously provided. However, it may be necessary to rework how services are delivered to maintain competitivity, whilst maintaining equality of outcome;

Every service provider has an obligation to create an enabling environment and to provide universal access and reasonable accommodation measures.

(iii) Examples of reasonable accommodation measures which are the responsibility of service providers

Reasonable accommodation measures may include:

- Adapting or modifying existing or acquiring new information technology e.g. computer apps, websites, software and hardware including voice input output software for people with sensory impairments;

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- Reorganising the environment so that access needs are accommodated. Altering and modifying the environment when it is below minimum standards;
- Changing policies and procedures; or communication systems. For example, training and assessment materials, process and systems e.g. providing training materials on request in accessible formats, braille or tape for persons with visual impairments, lip readers, simplified text;
- Providing places to rest, or prioritising persons with disabilities who are unable to stand in queues, stress reduction;
- Identifying and hiring venues that are accessible to persons with disabilities for both internal and external services, providing sign language services.
- Providing specialised supervision and training e.g. interpreters for Deaf persons, personal aides, readers for blind persons, coaches for persons with intellectual disabilities

1.5 Limitations and exceptions

This framework shall apply to both the public and private sector in equal measure, and civil society; regardless of the size of operation. Whilst reasonable accommodation measures may vary depending on the nature of the service offered or provided, access to the service must be easily available, right of access must be assured and reasonable accommodation measures may not be limited to a claim of hardship alone.

At this stage, this framework should act as a guide, except where existing legislation makes reasonable accommodation measures compulsory, such as in employment and services affected by the Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000) and the Employment Equity Act, inclusive of all public services and most private sector services.

It is anticipated that this framework will become regulation over the next 3 years under the Promotion of Equality and Prevention of Unfair Discrimination Act.

This framework should be used to guide government reporting on the implementation of the White Paper on the Rights of Persons with Disabilities.

Failure to observe this framework by itself, may render a provider of services legally liable in any proceedings, especially where legislation requiring reasonable accommodation already exists, and where not so directly; courts and tribunals may use this framework to interpret and apply existing legislation.

1.6 Qualifying criteria for reasonable accommodation

The framework interprets qualifying criteria in order to assist in making decisions about who qualifies for reasonable accommodation in different circumstances, how they qualify, and what reasonable accommodation measures should be considered.

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The three basic criteria in this framework must all be met if a person is to qualify for reasonable accommodation on the basis of disability -

- The person requesting reasonable accommodation must have **an impairment**. An impairment may be physical, sensory, neurological, intellectual, psychosocial or a combination of these.

- The impairment may be **long term, recurring or episodic and includes progressive conditions**; in which case it is a permanent condition. Long term means that the impairment lasts or is likely to last for over twelve months or for life. Recurring and episodic conditions are conditions that are likely to happen again, and to be substantially limiting in their nature. The condition can subside for a period of time and recur again but it is never cured. This includes a constant chronic condition even if its effect fluctuates. Progressive conditions are likely to develop, change or recur. People who have progressive conditions are considered as persons with disabilities once the impairment starts to be substantially limiting in functioning.

  Progressive or recurring conditions which do not substantially limit a person are not disabilities, for example a person with cancer, tuberculosis, hypertension, diabetes, renal failure or HIV will not be covered under this framework until the symptoms progressively and substantially limit the person's ability to carry out day to day tasks without reasonable accommodation support, or until they need a continuum of care in the home environment.

- The impairment may be **substantially limiting** in nature i.e. a participation restriction and limitation of daily activities. An impairment is substantially limiting if in its nature, duration, or the effects of the impairment substantially limit a person's ability to perform essential functions of the job or daily activities independently, without been assisted. This includes people who have **temporary disabilities** for the time that they are affected.

If the effects of the impairment are not substantially limiting but are long term or recurring, it falls within the scope of this. Similarly, if the effects of the impairment are substantially limiting but are not long term or recurring, it is also included under this Framework for the period that the impairment remains substantially limiting.

1.7 Unjustifiable hardship

1.7.1 Definition

Unjustifiable hardship is legally defined as "*an action that requires significant or considerable difficulty or expense*." This involves considering, among others, the effectiveness of the accommodation and the extent to which it would seriously disrupt the operation of the business, not consideration of the actual cost alone.

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An organisation may make a case for unjustifiable hardship. However it cannot refute the need to provide reasonable accommodation measures by comparing service users with disabilities to other non-disabled service users, or the expense in itself; without due consideration to the overall size of the organisation. This is a particularly important measure for government and its agencies.

Expense on its own cannot be used as a shield against providing reasonable accommodation, due to the right of access created in the Promotion of Equality and Prevention of Unfair Discrimination Act, as well as the Consumer Protection Act and Promotion of Access to Information Act. It may be that, depending on the size and gross income of the organisation, the type of reasonable accommodation measure and the extent to which it is provided, is different for different organisations.

1.8 Legal interpretation of limitations and exceptions

This framework must be read in conjunction with sections 10 and 28 of the Promotion of Equality and Prevention of Unfair Discrimination Act, and its amendment (No. 4 of 2000 and 52 of 2002) to avoid grey areas where the needs of persons with disabilities are not adequately covered by policies, laws and regulations that are not in line with the Constitution and Bill of Rights.

Any policy, Act or legal document on reasonable accommodation is dependent on a common understanding of the meaning of reasonable accommodation as prescribed by this framework, within reason; for the protection of unjustifiable hardship (see below).

The actual experience of the rights-holder for which reasonable accommodation measures were provided, must be the ultimate litmus test as to determine the adequacy of the support provisions. If a rights-holder remains aggrieved due to his/her perception or experience that support measures are inadequate and therefore hinder equitable access and full participation, he/she may institute a grievance on the basis of inadequate accommodation through the Consumer Protection Act, the Promotion of Equality and Prevention of Unfair Discrimination Act, or the Equity Act, whichever is relevant in the specific context.

Chapter 2
REASONABLE ACCOMMODATION WITHIN THE RIGHTS PERSPECTIVE

2.1. Problem statement

Persons with disabilities throughout their life-cycle continue to experience marginalisation and exclusion, as well as risk to their personal safety and well-being

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as a result of not having access to appropriate, affordable and timeous reasonable accommodation support measures.

Equally, where accommodation measures are put in place, but are unsuitable and fail to address the particular barriers to participation that the individual experiences, the result is loss of equality of outcome and an experience of discrimination.

Measures aimed at the reduction or removal of barriers to participation that are insufficient or do not have the desired effect, are a waste of resources and cannot provide supporting evidence in a court case.

2.2 The Right to Appropriate Reasonable Accommodation Support

Reasonable accommodation combined with universal access and design facilitate full and equal participation by persons with disabilities in all activities of society. These measures must therefore be linked to, among others, service operations, customer care, facilities management, maintenance management, and with respect to employment, also occupational health and safety measures and employee wellness programmes.

Reasonable accommodation measures may vary according to the stage of life of individuals. Measures suitable for children with disabilities will not necessarily be suitable for adults; measures suitable for persons living in urban settlements might not be suitable for persons living in deep rural communities, etcetera. Different measures may be need to be tailored in relation to age, gender, culture, religion and type and severity of impairment.

The type of reasonable accommodation measures required for a person with a disability depends on three main factors including. These are:

1. A particular daily activity or task; its essential functions and inherent requirements;
2. Barriers created by any environment, including leisure, retail, social, cultural, religious, work, business, education, health, travel, or living environment,
3. A person's specific impairment.

Reasonable accommodation therefore refers to necessary and appropriate modifications and adjustments, as well as assistive devices and technology, not imposing a situation where needed in a particular case; to ensure the outcome that persons with disabilities are able to fully and activity participate in life's activities, on an equal basis with others.

2.3 Principles

The United Nations Convention on the Rights of Persons with Disabilities provides the following principles which must be applied when determining reasonable accommodation support requirements:

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- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination;
- and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The Batho Pele principles forms an integral part of service delivery for any public service. These principles are aligned to Chapter 10 of the Constitution. Reasonable accommodation measures are required for many persons with disabilities to

i. Be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice about the services that are offered.
ii. Understand service standards, i.e. what level and quality of public service they will receive so that they are aware of what to expect.
iii. Access services to which they are entitled.
iv. Be treated with courtesy and consideration
v. Be given full accurate Information about the public services they are entitled to receive.
vi. Understand how national and provincial departments are run, how much they cost and who is in charge.
vii. Access redress if the promised standard of service is not delivered; and finally
viii. Taxpayers deserve value for money through public services that are economical and efficient.

Private sector service providers must develop their own codes of conduct for interacting with the public based on the above principles.

2.4 Categories and Types of Reasonable Accommodation Measures

Reasonable support can be divided into the following main categories:

- No-tech: An accommodation that costs virtually nothing, e.g. flexi-time, additional preparation time for an individual, a color-coded filing system, adjustments to policies and protocols.

- Low-tech: Any accommodation that is technologically simple or unsophisticated, and readily available in most offices (e.g., replacing a door knob with an accessible door handle, providing a magnifier).

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- High-tech: Any accommodation that uses advanced or sophisticated devices (Assistive technology, e.g. screen reading software with synthesized speech as well as assistive devices).
- Live assistance (personal assistance; guide/service animals): Personal Assistants include amongst others personal aides, guides, lip-speakers, whisper interpreters, South African Sign Language interpreters, note-takers, interpreters for Deaf-blind persons, sexual and intimacy assistants, service dogs, guide dogs.

Specialist services may be utilised to determine need and advise on appropriate types of reasonable accommodation, but the user of the live assistance, assistive device and/or technology should in all instances be consulted and have the final say with regards suitably, safety, comfort and usability.

This Framework does not seek to provide lists of types of assistive devices or technology due to the very dynamic nature of the technology environment. Departments which have developed quite extensive reasonable accommodation support lists include the Departments of Basic Education and Health, the South African Revenue Services as well as the National Student Financial Assistance Scheme.

Any lists for purposes of planning, budgeting and provisioning therefore require as a minimum annual updating.

2.5 Services and Standard Operational Procedures

The legal obligation to make reasonable accommodation available occurs when a person with a disability discloses a disability-related accommodation need voluntarily, or when such a need is reasonably self-evident.

The type of reasonable accommodation measure offered should always be linked to the context or nature of the environment. The measure offered should add value to the quality of life of a person in terms of their experience, productivity or performance.

Reasonable accommodation should not be limited to the activity at hand or as requested but should include areas associated with the activity at hand, such as occupational safety measures, means of escape or access to service-related information.

2.5.1 Procurement, transfer and disposal of assistive devices

Procurement and disposal of assistive devices in government is governed by Section 38 subsection 1 paragraph 3 of the PFMA which maintains that the implantation of appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost effective.

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The procurement of independent related assistive devices and associated reasonable accommodation are eligible for tax rebates.

2.5.2 Utilisation, repair and maintenance of assistive devices and technology

The institution procuring assistive devices and/or technology shall remain responsible for the maintenance, repair, upgrading and replacement of such devices and/or technology.

Assessment for assistive devices and/or technology and subsequent training on effective utilisation thereof within a workplace context, must be treated as an integral component of the Workplace Skills Plan as well as the employee's personal development plan.

Chapter 3
DISCLOSURE OF REASONABLE ACCOMMODATION REQUIREMENTS

3.1 Capacity of duty bearers to understand disclosure

All service providers whether government, private or civil society have a duty to understand the needs of their customers or service users, and this includes persons with disabilities. Basic awareness that there are people with a wide variety of accommodation needs is a prerequisite to being in business, and working in government.

Therefore basic levels of reasonable accommodation should be offered as standard. This includes being able to speak a basic form of recognisable sign language, being able to guide someone who is blind, and how to offer assistance to an elderly person or someone in a wheelchair.

3.2 Voluntary and involuntary disclosure

Disclosure of disability is a voluntary notification by persons with disabilities.

Many people with in particular hidden disabilities however do not want to disclose disability, especially if there is a culture of bullying and disrespect within a service, learning or work environment. This is particularly true in situations where abuse is common.

Disclosure of disability must be linked to disclosure of reasonable accommodation requirements to facilitate a seamless management system.

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3.2.1 Legal obligation to disclose for occupational health, safety and fire egress

Confidentiality of information must be protected and this type of information should only be accessible on a need-to-know basis for the benefit of ensuring non-discrimination and/or for objective safety concerns related to a specific individual and a specific reasonable accommodation needs.

In addition to gaining written consent in the gathering of information from elsewhere, unless legally required, no persons may disclose any information related to any person's disability to anyone else without the written consent of the person.

3.2.2 Promotion of disclosure by rights holders

A person with a disability can disclose their disability at any time even if there is no need for immediate reasonable accommodation**.** If not self-evident the information may be required to confirm disability status and accommodation requirements; if the disability is not self-evident and the person discloses that they have a disability and may need accommodations, the information may be required to disclose sufficient information to confirm their disability status and their accommodation requirements.

Persons with disabilities have a responsibility to familiarise themselves with the content of existing legislation for reasonable accommodation. They must understand the relationship between independent living-related, service-delivery related and employment-related reasonable accommodation entitlements.

They must familiarise themselves with relevant legislation that has a direct bearing on the issue of disclosure. For example, Section 7 and 8 of the Employment Equity Act, Section12 and 13 of the South African Schools Act, the Mental Health Care Act and Section 10/28 of the Promotion of Equality and Prevention of Unfair Discrimination Act.

They must understand the documents that will be used to guide employers in the implementation of the Employment Equity Act and in other areas where reasonable accommodation measures are already required, most importantly they will be used to guide the courts where disputes arise.

Persons with disabilities must understand their rights in terms of third party disclosure.

Persons with no self-evident or hidden disabilities must have the right to keep their disability status confidential but must not expect to be provided with reasonable accommodation.

3.2.3 Responsibilities of Duty-Bearers

Duty-bearers are under obligation to ensure that persons with disabilities have access to timeous, accessible and relevant information with regards their rights to reasonable accommodation support. This will include –

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- Persons with disabilities being provided with information as it relates to their disabilities and reasonable accommodation support which could support their mobility and literacy independence, independent living, health status, productivity as well as safety, as an integral part of the rehabilitation and/or habilitation;
- Persons with disabilities being provided with information on their rights by disabled people organisations as well as disability service organisations;
- Persons with disabilities being provided with information on reasonable accommodation support available by education and training institutions, employers, as consumer, as well as facility and programme managers.

Duty-bearers must bear the cost of any functional assessment aimed at determining the most feasible reasonable accommodation support measures. Competent educational, vocational and occupational personnel with expertise, working in consultation with the end-users, must be used to gather the required information.

Duty-bearers must ensure that the turnaround time between identification of the type of reasonable accommodation support requested to when it is provided, be kept to te minimum. The provisioning of reasonable accommodation support is not about luxury items or services, but essential for functioning, safety, participation, learning and productivity.

When a request for reasonable accommodation and assistive devices is declined such a refusal shall always be in writing, stating explanatory reasons why the request has been declined and such a record should be kept safe.

A person with a disability whose request for reasonable accommodation or assistive devices has been declined, must be afforded an opportunity to make representation to the Accounting Officer of the said institution.

3.2.4 Legitimate purpose

Professionals including social workers, medical service personnel and health workers may only get a private information about a person with a disability if it necessary to achieve a “legitimate purpose” lawfully and with the written consent of the person or supported process.

A legitimate purpose would be to ensure access to appropriate reasonable accommodation measures through the use of information especially where independent living related reasonable accommodation is required or for educational purposes for children and adults who participate in education and training programmes; with special educational needs, educational support services, educational materials, guidance and assistance on individual educational support services or any other related needs for persons with sensory, physical, psychosocial, intellectual and neurological impairments.

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3.2.5 Right to non-disclosure and legal obligation

The person with a disability may choose to disclose their impairment and related accommodation requirements at any time for independent living related, educational, service access and employment processes. However if they choose not to disclose, and their reasonable accommodation needs are not catered for, especially if the impairment is self-evident, in this case in the prescribed manner in this framework, the organisation, institution, or employer is not obliged to provide the necessary accommodations. If the disability is self-evident, then it is lawfully reasonably expected to proactively involve rights holder and if the need arise, a service provider, to determine the accommodations which may be required.

Chapter 4
FINANCING REASONABLE ACCOMMODATION

4.1 Budgeting and resource allocation for reasonable accommodation

Organs of state, the private sector, and all other institutions that provide services to persons with disabilities must budget for reasonable accommodation and other measures. In the event that there is no sector legislation requiring this, the mandate is inferred through the plans required under the Promotion of Equality and Prevention of Unfair Discrimination Act, as well as sector-based legislation.

Within an employment or general service delivery context: Budgeting for live assistance (personal assistance) will be a Compensation of Employee responsibility, and budgeting for devices and/or technology will be a goods and service/capital expense item, depending on the cost of the item. It is therefore not necessary to have a 'special' budget, as expenses incurred for purposes of reasonable accommodation must be viewed as general expenses incurred in any business.

Within an educational, health, social welfare and disability-specific context: budget allocations must be ring-fenced to ensure that funds earmarked for reasonable accommodation support are not utilised for other purposes.

4.2 Cost-benefit and Costing of Reasonable Accommodation[7]

The cost benefit for reasonable accommodation support must be assessed weighing the direct and indirect cost to households if persons with disabilities are doomed to a life of dependence and unproductivity; the cost to the economy if persons with

[7] Dr. Jill Hanass-Hancock (2014) Assessment of the Financial and Economic Costs of Disability to Households in South Africa. Draft Report. Department of Social Development

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disabilities remain dependent on family members (who then themselves cannot contribute to the economy) as well as social assistance; viz a vie the contribution the persons with disabilities make to the economy if they are able to equip themselves with knowledge, skills and qualifications, contribute to the tax base and participate in community life.

Costing for reasonable accommodation is subject to:

- The individual needs of a person with a disability;
- Existing physical, attitudinal and communication barriers in the living environment (and or workplace);
- Price fluctuations of assistive devices and technology, especially in a non-competitive environment where purchase or procurement of large number of devices are subject to sole service providers, and where the majority of devices and technology are imported.

Centralised tenders and bulk procurement, whilst driving cost down, must never compromised individualised requirements being met.

Similarly, up scaling local production will not only drive the cost down, but also encourage development of more appropriate devices and technology for local conditions.

Chapter 5
MONITORING AND EVALUATION

Evidence that informs reasonable accommodation policy and programme development on the one hand, and strengthening accountability on the other, is derived through effective monitoring and improvement processes, research and statistics and data management as described below:

- *Monitoring and Evaluation:* All M&E processes must incorporate provision and access to appropriate, relevant and timeous access to reasonable accommodation support measures;
- *Evaluation Feedback and Improvement:* Mechanisms for interpreting and extrapolating feedback gathered from evaluations must be in place. These mechanisms should be aimed at making use of the feedback to ensure on-going improvement of policies and programmes.
- *Research:* Policy review and design of programmes and services often lack evidence-based research on the denial and/or successful access to reasonable accommodation support. Improved coordination of research focusing on the benefit and impact of appropriate, relevant and affordable access to reasonable

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accommodation support, or the absence thereof, and which provides sound evidence for future policy and practice decisions;

- *Disaggregated Data and Statistics Management:* Reliable statistics play a crucial role in the development of policies and legislation aimed at improving the lives of South Africans. Disaggregation of data and statistics makes visible how these policies and programmes impact on the lives of those at risk of marginalisation, exclusion and discrimination, enabling the development of inclusive policy and programme development. Statistics and non-financial data must include information with regards the type of reasonable accommodation support provided.

Participation in monitoring and evaluation processes must be approached, among others, within the context of the Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery (2013), which emphasises the active participation of citizenry in order to provide key perspectives on service delivery that is vital to responsiveness of government.

Monitoring and evaluation of the extent to which reasonable accommodation support was provided/not provided in relation to applications received must be done across the Government-Wide M&E System (GWMES), which encompasses the Policy Framework on the GWMES; National Treasury's Framework for Managing Programme Performance Information (FMPPI); Statistics South Africa's South African Statistical Quality Assessment Framework (SASQAF); and the 2011 National Evaluation Policy Framework (NEPF) produced by DPME.

5.1 Indicators for reasonable accommodation

Central to the development of good indicators is the engagement of persons with disabilities, particularly when they stand to be directly affected by any intervention. Such feedback is key to all facets of reasonable accommodation support - community living, housing, information and communication technologies, recreation, product design and development, and government or private services. Even with feedback channels in place, it is important that the consultation, participation, and engagement of persons with disabilities occur on an on-going basis, which can be extremely beneficial for recurring modifications, monitoring / compliance, and gaps assessment of any intervention.

This is consistent with the UNCRPD and the WPRPD which both state that persons with disabilities should have the opportunity to be actively involved in the decision make process about reasonable accommodation policies and programmes, including those directly concern them.

Indicator sets should include:

- Number of applications received
- Type of reasonable accommodation support requested
- Number of applications approved
- Turnaround time from application to provisioning

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- Extent of backlogs in provisioning
- Number of complaints received

Evaluating existing measures and evaluating potential new measures that promote universal design are both important for the achievement of universal access. The prevention of the erosion of basic thresholds to right of access through compliance with minimum standards is important in achieving access to services in a universal manner. The relationship of universal design to reasonable accommodation is a balance in evaluating implementation measures and maintaining basic minimum thresholds.

5.2 Universal Design Access Plan (Section on Reasonable Accommodation)

This section must be read on conjunction with Chapter 6 of the Strategic Framework on Universal Access and Design.

Duty-bearers use a Universal Design Access Plan (UDAP) to demonstrate progressive implementation of universally accessible services, inclusive of reasonable accommodation support to both employees as well as customers/clients.

The UDAP will become an integral component of the Equality Plans referred to in Chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act (2000).

5.3 Feedback mechanisms

All service providers have a duty to consult their users and to make sure that their needs have been accommodated. This includes government, whether national, provincial or municipal, and any agency of government. Service providers must monitor the number, nature and extent of the complaints received in relation to the service.

However, it should be noted that these feedback mechanisms do not preclude any service user from taking their concerns directly to the National Consumer Commission. a service ombudsman (such as the CCMA), the South African Human Rights Commission or the Equality Court.

5.4 Reporting

Reporting on reasonable accommodation support is an integral element of regular reporting as part of business management processes, and is the responsibility of all public and private institutions.

Annual reports must include feedback on the indicators in Par 5.3 in their Annual Reports.

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Chapter 6
ROLES AND RESPONSIBILITIES

All service providers in government, the private sector and civil society must, within their scope of responsibility:

- Give effect to and within their scope of responsibilities and enforce the rights of persons with disabilities, without prejudice;
- Render relevant reasonable accommodation to persons with disabilities in an integrated and coordinated manner;
- Provide clear, timely and consistent information about reasonable accommodation support, relevant services and legal assistance available to persons with disabilities;
- Provide training on assistive devices and technology and ensure that human and financial resources do not place an onerous, and undue burden on persons with disabilities;
- All state organs must coordinate and facilitate reasonable accommodation;
- Provide reasonable accommodation through partnerships with persons with disabilities and service providers and ensure that reasonable accommodation rendered to prescribed national norms and standards;
- Provide statutory support on reasonable accommodation;
- Provide psychosocial services as part of reasonable accommodation.

Universal access and design, inclusive of reasonable accommodation support, underpins design, planning, budgeting, implementation, monitoring, evaluation, reporting and regulation. It is therefore the responsibility of every institution (public and private), every duty-bearer and all rights-holders, all regulators and those tasked with oversight, to play their part in ensuring that it contributes to the promotion of equality and social justice for all South Africans.

In this regard, all public and private sector institutions -

- Shall develop an application guideline with criteria of qualification for reasonable accommodation support as an integral part of their standard operating procedures;
- Shall maintain an updated database of successful and unsuccessful applicants for reasonable accommodation support;
- Shall facilitate service contracts with service providers rendering reasonable accommodation support services;
- Shall provide professional assessment in the instance where a person with a disability does not know his or her exact requirement for reasonable accommodation support; or on specific request, by suitably trained staff in the relevant field;
- Shall work in collaboration with disabled people organisations to improve service delivery and access to assistive devices including economic empowerment and employment opportunities for persons with disabilities;

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6.1 The Public Sector

State organs must take appropriate measures to:

- Establish internal mechanisms and capacity to ensure that universally accessible and equitable services are delivered to all persons, regardless of age, ability, gender, language, culture or socio-economic status;
- Review, amend, develop statutory regulations, monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public to be inclusive of reasonable accommodation support measures;
- Bind by law, private entities either national or international; that offer facilities and services which are open or provided to the public and take into account all legal aspects of reasonable accommodation, in particular for persons with disabilities;
- Enable registered service providers to provide accredited training for stakeholders on reasonable accommodation support;
- Promote and support research to strengthen the design, development, production and distribution of reasonable accommodation support products and services.

The WPRPD Implementation Matrix provides targets with regards actions to be taken by government departments and entities towards 2019 as well as 2030.

6.2 Reasonable Accommodation Coordination within the Public Sector

Reasonable accommodation support in the public sector must be approached from three perspectives –

- Reasonable accommodation support to public sector employees – The Department of Public Service and Administration is the lead department, and must coordinate a government-wide Forum of HR practitioners responsible for employment equity and reasonable accommodation support to employees. This Forum could also include state-owned enterprises, which should be invited through their respective line departments.
- Reasonable accommodation support to clients/participants of public sector programmes to enable them to participate as equal participants – disability rights coordinators in government departments will report to their respective FOSAD Cluster Work Groups on strategies, measures taken and progress made. The National Disability Rights Coordinating Mechanism, currently hosted by the Department of Women Youth and Persons with Disabilities, will be responsible for overall coordination of this aspect.
- Reasonable accommodation support for purposes of rehabilitation, communication and educational access at public sector facilities – National Treasury, supported

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by the Departments of Health, Basic Education, Higher Education Science and Technology, Communications and Digital Technologies, as well as Trade and Industry, will be responsible for overall coordination with a view of accelerating centralised bidding processes for expanded access.

6.3 The Private Sector

The private sector has a responsibility to ensure that everyone is able to access their environment, products and services equitably, without discrimination. Private companies indirectly contact with the State and must make themselves aware of their responsibilities to develop an implementation plan, and to implement it within a reasonable timeframe.

6.4 The Research and Development Sector

The Research and Development sector must prioritise research into, and development of, affordable, appropriate and locally produced reasonable accommodation products in partnership with national disability organisations and persons with disabilities themselves, by, among others, formalising partnerships with international agencies in this field.

6.4 Civil Society

Participation of rights-holders in the development of products, services and standards, through recognised academic research methods particularly those that become national standards, is essential.

Chapter 7
STRENGTHENING THE LEGISLATIVE FRAMEWORK FOR REASONABLE ACCOMMODATION

7.1 Areas of participation with reasonable accommodation legislation

1. Employment, business opportunities, access to finance (employment only)
2. Education and skills development, responsibilities of professionals (Schools only)
3. Transport (air, land and sea) and access to public space (some special schools only)
4. Sports, arts and culture (Promotion of sports for persons with disabilities)

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7.2 Areas of participation with supportive reasonable accommodation legislation

- Transport (air, land and sea) and access to public space (in some areas only)
- Health and wellness (Limited)
- Education and skills development, responsibilities of professionals (Limited)
- Tourism and the environment (Limited)
- Justice, good governance, responsive institutions and consumer rights (Limited)
- Social protection (social assistance and community development) (Limited)
- Housing and settlement development (Limited)
- Sports, arts and culture (Limited)

7.3 Areas of participation which require reasonable accommodation legislation

- Justice, good governance, responsive institutions and consumer rights: (compliance oversight in the public and private sector)
- Humanitarian action, disaster management and emergency reaction
- Transport (air, land and sea) and access to public space: rural
- Education and skills development, responsibilities of professionals: (skills development, professional responsibility and compliance)
- Employment, business opportunities, access to finance: (compliance with legislation)
- Water, sanitation, clean air, energy and waste management
- Food production and the availability of goods and services

Chapter 8
GENERAL PROVISIONS

This national strategic framework serves as a prescriptive guide to for reasonable accommodation for persons with disabilities in legislation and policy within different fields of disability inclusive developments. It places reasonable accommodation within the context of universal access and design planning in its proper context and provides guidelines that are basic and simple for alignment with the White Paper on the Right of Persons with Disabilities. It is a useful tool for all practitioners and clears the mandates, roles and responsibilities for all concerned.

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8.1 Relationship between universal design, universal access, reasonable accommodation and disability

The inextricable link between universal design, universal access, reasonable accommodation and disability begins with the philosophy and design directives of planners and executors of services; whether private developers or government departments. Their philosophy governs their thoughts and actions which either result in additional unplanned costs for altering buildings and costs associated with reasonable accommodation, or if those involved fully understand and assimilate knowledge on universal design; better buildings accessible for everyone throughout their lives, and a better quality of life for all as a result.

The concept of unjustifiable hardship is applicable, but users of this concept need to be careful that they are not using it as an excuse to ingrain the discrimination that persons with disabilities have experienced for so long. Such an approach will not be supported in the outcome of equity court cases. It has not been supported in any case to date.

Most of the costs of providing a universally accessible service are overcome in the conceptualisation, planning, proper execution of project management, and full analysis of the requirements for service delivery. This is part of a general duty of care to deliver services to all who would like to use them, not a form of segregated service provision.

Research and trend analysis is helpful in monitoring the effect of improvements the quality of life of people who are the most vulnerable in society. Any research of value in this area should be undertaken with persons with disabilities, and research organisations are well placed to undertake this type of work.

CONCLUSION

> *"Everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken."*
>
> *The Constitution of the Republic of South Africa, 1996*

The equality clause in the Bill of Rights of the Constitution of the Republic of South Africa, and its relation to universal access – or the lack thereof – for persons with disabilities, have resulted in a number of court judgements in favour of rights-holders. *Juris Prudence* have been established, among others, through the following judgements:

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- W H Bosch v The Minister of Safety and Security & Minister of Public Works, Case no. 25/2005 (Equality Court)
- Esthé Muller v Minister of Justice & Minister of Public Works, Case no 01/2003 (Equality Court settlement)
- Lettie Hazel Oortman v St Thomas Aquinas Private School, Bernard Langton, Equality Court 1/2010 (Equality Court)

The above cases, although referring to physical access in the built environment, required that reasonable accommodation measures be taken to ensure access, as the existing built environment did not meet universally designed access standards.

This framework provides guidance for the embedding reasonable accommodation within the context of universal access and design in all aspects of community life in order to secure the right to equal access and participation for all citizens and residents in South Africa, regardless of age, gender, ability, religion, culture or language.

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GENERAL SECTOR BASED PROVISIONS

Purpose of the appendix

Universal design access plans (UDAP) provide the practical, implementable steps that service providers must take to enable persons with disabilities and other vulnerable groups to participate equally in social and economic life. Service providers in the public or private sector enable participation through the analysis of services (Value Chain), the identification of barriers (Non-compliance with national standards) and the design and implementation of the plan (UDAP). The purpose of this appendix is to explain how this should be done.

Whether or not a specific chapter on reasonable accommodation is required depends on the area of participation and the nature of the value chain. Thus this must be determined through the analysis of the nature of the service.

Areas of Participation

Development practitioners must apply universal access and design principles in twelve sector-based areas of participation. These are:

1. Justice, good governance, responsive institutions and consumer rights
2. Water, sanitation, clean air, energy and waste management
3. Food production and the availability of good and services
4. Humanitarian action, disaster management and emergency reaction
5. Social protection (social assistance and community development)
6. Housing and settlement development
7. Transport (air, land and sea) and access to public space
8. Health and wellness
9. Education and skills development, responsibilities of professionals
10. Employment, business opportunities, access to finance
11. Tourism and the environment
12. Sports, arts and culture

Reasonable accommodation needs to be addressed
Requires urgent action: areas where no or limited reasonable accommodation measures are currently available, or are discriminatory: • Justice, good governance, responsive institutions and consumer rights: (compliance oversight in the public and private sector) • Water, sanitation, clean air, energy and waste management • Food production and the availability of good and services • Humanitarian action, disaster management and emergency reaction • Transport (air, land and sea) and access to public space: rural

Reasonable accommodation needs to be addressed	
• Education and skills development, responsibilities of professionals: (skills development, professional responsibility and compliance) • Employment, business opportunities, access to finance: (compliance with legislation)	
Specific measures required by individual Departments	
SARS	Tax rebates for reasonable accommodation of in all spheres of life; not assistive devices only
	Modifications to buildings – where it can be proved that universal design prescripts were followed and reasonable accommodation is therefore necessary. A valid certificate of compliance with national building regulations and comply with minimum standards for the year that occupation occurred.
Departments responsible for health services (public or private)	Provision of reasonable accommodation within the health care facilities e.g. medication, assistive devices, counselling services, rights based medical testing and accessible facilities
	Training of health care and rehabilitation staff in disability rights
	Limited availability of assistive devices on health insurance or through government schemes
Social development and welfare services	Services are provided but not to a nationally compliant minimum standard Provide accessible service points and residential facilities for all welfare services and social assistance reasonable accommodation, this must include psychosocial interventions, child protection, user-friendly social assistance services and accessible information
The South African Police	Provide accessible police stations and custody facilities with the Department of correctional Services for offenders. Provide private and confidential accessible area at its station. Provide information in accessible formats. Provide referral for prosecution
Justice and Constitutional Development	Provide accessible courts facilities and sign language interpreters and accessible formats for persons with disabilities regarding their prosecution information and victim empowerment information Capacity to contract
Education	Provide affordable accessible reasonable accommodation and adequate opportunity within the education system from entry to exit. Provide transitional reasonable accommodation from school to work.

Reasonable accommodation needs to be addressed	
	Reasonable accommodation plans for learners and students with disabilities must be completed and submitted to both Basic and Higher education, as part of the UDAP. Screening, identification, assessment and support services must be applied throughout the education system. Protect learners with disabilities within inclusive or specialised learning environments Provide learners and students with reasonable accommodation support within and outside the premises or institution. Develop training support material which is accessible to the individual learner or student. Develop policies, practices and guidelines for inclusive education support. Provide immediate access to learning materials that reasonably accommodate the development needs of the learner or student.
Department of Tourism	Provide reasonable accommodation norms and standards for tourism facilities
Department of Public Works and Infrastructure Department of Trade and Industry	Enforce standards in the Built environment Provide reasonable accommodation where assessed as necessary for an individual
Department of Transport	Public transport system which is accessible, affordable, reachable, user-friendly and includes easy connectivity from one destination to the next. Where public transport is difficult to access, a subsidy policy should be introduced Reasonable accommodation must be provided on all forms of public transport, including aviation, (maritime) Road: a national parking badge scheme must be introduced Sufficient parking bays accessible to all persons with disabilities NMT: roads should have suitability designed sidewalks and safe places to cross the road SARS Rebate on the manufacture of Adapted vehicles Learners with disabilities – safe, protected and accessible transport suitable for their age
Department of Employment and Labour, and Department of	Ensure compliance with Employment Equity targets on disability and reasonable accommodation. Take non-compliance cases to the Labour courts, CCMA and bargaining councils

Reasonable accommodation needs to be addressed	
Public Service and Administration	Private sector companies, institutions and NGO's may regulate their transport policy accordingly within reasonable and necessary reasonable accommodation measures in relation to specific needs of their clients, members and employees who have disabilities. Ensure that reasonable accommodation measures are put in place for transport where there is no accessible transport system, under a determination of reasonable cost with the accounting officer. Specially adapted vehicles should be provided Transport for work should be accommodated on mainstream public transport and if this is not possible, by the employer
Employment and Labour practices (public and private sector)	Implementation of policy that includes the following: • *Procurement, transfer and disposal of assistive devices* • *Utilisation, repair and maintenance of assistive devices* • *Addressing the needs of persons with different categories of disabilities* • *Job seekers tips* • *Recruitment and selection* • *Recruitment process* • *Non-discrimination in Job profiles and specification* • *Budget allocation and ring fencing for assistive devices necessary to perform the job* • *Inclusive: Advertising, Selection, Interviews, Guidelines for interviewees and interviewers to avoid discrimination, Conditional job offers, Placement, Orientation and training, Induction (of staff member and others in the team)* • Equal treatment subject to reasonable accommodation • Disability sensitisation • Training and career advancement • Non-discrimination in career advancement • Non-discrimination in skills development • Retention • Compliance with the Employment Equity Act • Termination of employment • Operational reasons for incapacitation • Reasons why continued employment is no longer possible for incapacitation of disabled or non-disabled employees • Employment Equity Planning • Phase one –Preparation • Phase two- Implementation • Phase three-Monitoring

Reasonable accommodation needs to be addressed	
	• Supported employment model • Job coaching • Mentoring • Additional skills development • Job-reallocation • Staff relocation
Reasonable accommodation -related testing procedures for Medical and psychological testing	• Legal compliance verification • Inclusion of temporary and recurring disability • Reasonable accommodation related to the impairment category • Disability related enquires: amount of personal information that is relevant without violating personal information legislation • Restriction on information that may be obtained from 3rd parties • Testing after illness or injury • Rehabilitation and retention • Health and safety screening • Pre-benefit medical examinations • Use of assessment • Accommodation in psychometric testing • Adapting existing psychometric tests • Burden of proof • Administration guidelines
Independent living related reasonable accommodation	Persons with disabilities must: • Relate their personal experiences of daily living with their disability and explain their disability specific requirement • Have access to an enabling environment that will allow them to freely disclose their information to external professionals • Exercise the right to be treated equally for reasonable accommodation in their living home environment and in the placement process at the workplace and ask for accommodation to enable them to participate equitably • Take a role in disability awareness programmes
Social protection packages	• Compensation • Provisions related to COIDA • Unemployment Insurance Fund • Retirement fund

DEPARTMENT OF WOMEN, YOUTH AND PERSONS WITH DISABILITIES

NOTICE 606 OF 2021

REPUBLIC OF SOUTH AFRICA

NATIONAL STRATEGIC FRAMEWORK ON UNIVERSAL DESIGN AND ACCESS

- SECRET -

NATIONAL STRATEGIC FRAMEWORK ON UNIVERSAL DESIGN AND ACCESS

'Among the yardsticks by which to measure a society's respect for human rights, to evaluate the level of its maturity and its generosity of spirit, is by looking at the status that it accords to those members of society who are most vulnerable, disabled people, the senior citizens and its children.'

Republic of South Africa, (1997*). White Paper on an Integrated National Disability Strategy*.

Explanatory note

This framework provides a statutory reference for the promotion of universal design and access in South Africa.

Its purpose is:

- To integrate universal design and access into all planning, designing, budgeting, implementation, monitoring, evaluation and reporting systems;
- To provide a framework and mechanism for integrated and multi-disciplinary coordination of universal design and access implementation;
- To establish priorities that will accelerate the removal of barriers to access and participation for all sectors of society;
- To guide the development and implementation of performance standards for the accessibility of services provided to the public;
- To provide for specific roles, functions and responsibilities of relevant departments and other stakeholders; and to provide for matters connected therewith.

The concept of universal design and access impacts on the lives of all citizens, and in particular on the 20% of the population which falls in the first and last standard deviation of the 'norm' bell curve graph. These citizens often find themselves marginalised and excluded from their communities and from opportunities if the design of the environment and of services is not inclusive of age, gender, cultural and disability differentiation through the normal human life cycle,

Universal design is not a compromise but a necessity;

Universal access is a right, not a privilege.

This framework serves as a prescriptive guide for the promotion and eventual enforcement of universal design and access standards, using a disability inclusion perspective as its motivating force.

Relationship between this Framework and the White Paper on the Rights of Persons with Disabilities

Whilst the population in general draws from the benefits from universal design and access, it is pivotal in ensuring that persons with disabilities' rights are upheld. Persons with disabilities therefore constitute the largest motive force in advocating for universal design and access. The White Paper on the Rights of Persons with Disabilities (WPRPD) was approved by Cabinet in December 2015. It commits duty bearers to realising the rights of persons with disabilities by:

- Accelerating implementation of existing legislation that advocates equality for persons with disabilities;
- Taking calculated action to ensure that their rights as equal persons are upheld;
- Removing discriminatory barriers to access and participation;
- Ensuring that universal design informs access and participation in the planning, budgeting and service delivery value chain of all programmes;
- Recognising the right to self-representation;
- Acknowledging that not all persons with disabilities are alike, and that personal circumstances, gender, age, sexuality, religious and cultural backgrounds, geographical location, requires different responses; and
- Embedding the obligations contained in the UN Convention on the Rights of Persons with Disabilities in legislation, policy and service delivery.

The WPRPD places universal design and access at the centre of giving effect to the principles set out in Article 3 of the UN Convention on the Rights of Persons with Disabilities and the principles contained in the Bill of Rights in South Africa's Constitution, including:

- Respect for inherent human dignity and individual autonomy
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities and for their right to preserve their identities

Whilst Pillar One of the WPRPD has a specific focus on Breaking Barriers to Access and Participation, and provides for the following policy directives as it pertains Universal design and access, it should be noted that universal design and access has been integrated across all nine pillars of the WPRPD. Policy Directive 1.5.2 of the WPRPD directs that minimum standards and guidelines for universal design be developed and implemented.

Relationship between this Framework and the National Framework on Reasonable Accommodation for Persons with Disabilities

The inextricable link between universal access, universal design, reasonable accommodation and disability must be located within the context of the non-discrimination clause in the Bill of Rights of the Constitution of the Republic of South Africa. It requires a paradigm shift in how we design and plan the spatial and built environment as well as services, departing from the traditional approach where we use the normative curve as our basis for planning and design. Our Constitution requires that we design and plan equally for everyone, within the spirit of the credo of the 2030 Agenda for Sustainable Development, LEAVE NO ONE BEHIND.

This paradigm shift will avoid wasteful expenditure where buildings and services have to be altered or re-designed due to the access and participation barriers they pose. Designing in an inclusive and universally accessible manner will also reduce, although not eliminate, the investment required in providing reasonable accommodation support measures.

It is therefore important that this Framework be read with the Framework on Reasonable Accommodation for Persons with Disabilities.

Mandate for the Framework

The mandate for this framework is taken from the Bill of Rights of the Constitution of the Republic of South Africa, further supported by:

- The Promotion of Equality and Prevention of Unfair Discrimination Act (2000), Chapter 5[1]. The Act contains a three-step directive for preventing unfair discrimination which includes the concept of 'universal design' (2000: Chapter 2 Section 9a), 'mainstreaming' (2000: Chapter 2 Section 9b) and 'reasonable accommodation' (2000: Chapter 2 Section 9c); and
- Ratification of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol without reservation in 2007.

[1] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 5, Section 28.

ACKNOWLEDGEMENTS

A participatory approach was followed in developing this framework.

The zero draft was developed by, among others, giving consideration to submissions made over the past few years for purposes of developing both the Baseline Country Report to the UN Convention on the Rights of Persons with Disabilities, as well as the White Paper on the Rights of Persons with Disabilities. The zero draft was released for public comment.

A Technical Drafting Team, consisting of representatives from the Departments of Social Development, Transport, Public Works and Telecommunications and Postal Services, the SA Local Government Association, as well as disability sector experts, collaborated through a validation workshop and subsequent electronic consultations in finalising the draft Framework.

The contributions of the following public servants and disability rights activists in finalising the framework are acknowledged:

- Ms Petronella Linders, Ms Thandi Mdlalose (Department of Telecommunications and Postal Services)
- Ms Nozuko Monama (Department of Public Works)
- Mrs Amanda Gibberd (Department of Transport)
- Mr Benny Palime, Ms Lidia Pretorius (Department of Social Development)
- Ms Winnie Mangaye (SA Local Government Association)
- Mr Christo De Klerk, Ms Parishna Ramluckan (Blind SA)
- Mr Danie Botha Marais (National Council of and for Persons with Disabilities)
- Ms Kim Fisher (Deaf Federation of SA)
- Mr Haniff Kruger (SA National Council for the Blind)
- Mr Hitten Bawa (Studio HB)
- Ms Joanne Newton (British Council)
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- Mr Phillip Dobson (Deafblind SA)
- Mr Phillip Thompson (IDC Consultants)
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- Ms Shakila Maharaj (Disability Management Services)
- Dr Laurentia Truter (Daisy SA)
- Ms Sebenzile Matsebula (Lindandanda Consulting)

PREAMBLE

WHEREAS universal design enables all citizens to participate in society and to have recourse to their rights as provided for in the Constitution of the Republic of South Africa 1996;

WHEREAS all citizens benefit equally from an environment, products and services if these are designed in such a manner that the design takes into consideration age, gender, disability and cultural diversity;

WHEREAS the 2030 Agenda on Sustainable Development compels governments to ensure that the sustainable development goals are implemented in such a manner that *No One is Left Behind;*

WHEREAS the National Development Plan seeks to reduce inequality and eradicate poverty;

WHEREAS the Republic of South Africa, since 1994 has become an integral accepted member of the community of nations and is committed to ensure that the rights of all its citizens, and in particular those at risk of being marginalised and/or discriminated against, be upheld;

WHEREAS South Africa ratified, among others, the UN Convention on the Elimination of Discrimination against Women; the UN Convention on the Rights of the Child; the UN Convention on the Rights of Persons with Disabilities; the Africa Charter on Human and People's Rights and its Protocols and Charters;

WHEREAS Articles 2 and 9 of the United Nations Convention on the Rights of Persons with Disabilities, compels States Parties to take specific measures to enforce universal design and access;

WHEREAS the White Paper on the Rights of Persons with Disabilities was approved in December 2015 towards full domestication of the United Nations Convention on the Rights of Persons with Disabilities;

WHEREAS it is necessary to take practical steps and reasonable measures to progressively realise universal design and to achieve universal access;

WHEREAS this framework seeks to support the development, monitoring and auditing of norms, standards, guidelines, principles and indicators for universal design and access;

AND WHEREAS it is necessary to introduce enforcement mechanisms and regulations to ensure that universal design and access is implemented to give effect to the equality clause in the Bill of Rights of the Constitution of the Republic of South Africa 1996.

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Chapter 1

INTERPRETATION, OBJECTS AND APPLICATION OF THE FRAMEWORK

1.1 Abbreviations

AAC	Augmentative and Alternative Communication
AT	Assistive Technologies
BBBEE	Broad-Based Black Economic Empowerment
CBR	Community-Based Rehabilitation
CSIR	Council for Scientific and Industrial Research
DPO	Organisations of Persons with Disabilities/ Disabled People's Organisations/ Parents Organisations
DSD	Department of Social Development
DSO	Disability Service Organisation
ECD	Early Childhood Development
HSRC	Human Sciences Research Council
ICF	International Classification of Functioning, Disability and Health
ICT	Information and Communications Technology
IDPs	Integrated Development Plans
IGR	Inter Governmental Relation
INDS	Integrated National Disability Strategy
M&E	Monitoring and Evaluation
MTSF	Medium Term Strategic Framework
NDP	National Development Plan 2030
NDRM	National Disability Rights Machinery
NEDLAC	National Economic Development and Labour Council
NGO	Non-Governmental Organisation
PANSALB	Pan South African Language Board
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act 52 of 2002
SABS	South African Bureau of Standards
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SASL	South African Sign Language
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
WPRPD	White Paper on the Rights of Persons with Disabilities

This gazette is also available free online at www.gpwonline.co.za

1.2 Definitions and interpretations

In this framework, unless the context otherwise indicates**:**

Accessibility – the extent to which aspects of society can be equally, easily, safely, and appropriately used or reached by persons with disabilities (special needs) or impairments; accessibility describes the extent to which an environment, service or product allows access to as many people as possible in particular to persons with disabilities; These aspects include buildings, facilities, constructed spaces, transport, information, equipment, services, activities, resources, utilities, language, communication and technology.

Assistive devices - any device, product, equipment or tool that is designed or adapted to enable persons with disabilities to participate in activities, tasks or actions. Products may be specifically produced on generally available for persons with disabilities or according to specific needs of individual.

Assistive technology - an umbrella term that includes assistive, adaptive, and rehabilitative devices and services for persons with disabilities, which enable persons with disabilities to attain independence.

Barriers - obstacles and impediments that prevent people from free movement, decision making, association, and participation. Barriers may be social (including high cost, lack of disability awareness, prejudice, cultural differences, communication difficulties), psychological (such as fear for personal safety) or structural (including infrastructure, operations and information).

Braille - a system of writing for individuals with visual disabilities (blindness) that uses letters, numbers, and punctuations made up of raised dots and patterns. Braille was the first digital form of writing for blind persons.

Communication - verbal and nonverbal means of conveying information, inclusive of languages, display of texts, Braille, tactile communication, large print, accessible multi-media as well as written, audio, plain language, lip-speaking services, speech reading services, whisper interpretation, note-taking services and augmentative and alternative modes, means and formats of communication, and communication technology human reader and augmentative and alternative modes, means and formats of communications as well as accessible information communication technologies.[2]

Constitution - the Constitution of the Republic of South Africa 1996.

Department - any government department responsible for service delivery within the three spheres of government; whether national, provincial and municipal government.

[2] UN CRPD (2006)

It also includes the agencies of any government department, state-owned entities or sector institutions.

Disability - is an evolving concept, imposed by society when a person with a physical, psychosocial, intellectual, neurological and/or sensory impairment is denied access to full participation in all aspects of life, and when society fails to uphold the rights and specific needs of individuals with impairments.

Discrimination - any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) imposes burdens, obligations or disadvantages on; and/or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds, which include disability and any other ground that might disadvantage a person, undermines human dignity or adversely affects an individual's rights and freedoms.

Disability Discrimination - any distinction, exclusion or restriction of persons on the basis of disability, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It encompasses all forms of unfair discrimination, whether direct or indirect, including denial of reasonable accommodation.

Disability Mainstreaming - requires a systematic integration of the priorities and requirements of persons with disabilities across all sectors of society. It requires effective planning, adequate human resources, and sufficient financial investment – accompanied by specific measures such as targeted programmes and services with the outcome of enabling persons with disabilities to participate in mainstream society and to continue to participate throughout their lives.

Disabled Peoples Organisations – membership based organisations constituted to advocate for the protection of human rights of persons with disabilities and disability mainstreaming. They constitute the representative voice of persons with disabilities, inclusive of parents of children with disabilities, based on their membership demographics.

Disability Services Organisation - run by service providers and/or community members. DSOs are not necessarily membership-based organisations and focus on the delivery of rehabilitation and other services to persons with disabilities and their families.

Disclosure of disability - it is a voluntary notification by persons with disabilities that the person has a disability, whether visible or invisible.

Duty-bearers - in human rights law, duty-bearers include government and their agencies national, provincial and local levels of government, traditional and tribal authorities, any government agency in any government department, all public officials and service providers in the public and private sector.

Empowerment - processes, procedures and actions aimed at affording access, equal treatment, inclusion, participation, accountability and efficiencies. [3]

Enabling environments - Interrelated physical and other infrastructures, built-environments, culture, laws, policies, processes and procedures, information and communication technologies, capacity and knowledge of staff in organisations that must be in place to facilitate the socio-economic development of all persons, regardless of age, gender, disability, culture etc.

Equality - the full and equal enjoyment of rights and freedoms as contemplated in the Constitution, including includes de jure and de facto equality and also equality in terms of outcomes[4]. It ensures that individuals or groups of individuals are treated fairly and equally and no less favourably and with dignity; specific to their requirements. It includes the removal of discrimination that ensures all opportunities and life chances are available to persons with disabilities, and people who become disabled; on an equitable basis with others.

Equity - the system of justice and fairness, where there is an even-handed treatment of all the people. Under this system, the individual needs and requirements are taken into account and treated accordingly. Equity demands fairness in every situation, i.e. whether it is the distribution of benefits or burdens. Therefore people are treated fairly but differently as their circumstances are given weight. It seeks to provide all the individuals an equal opportunity, to let them attain their maximum potential. In this way, equity ensures that all individuals are provided the resources they need to have access to the same opportunities, as the general population.

Exclusion - the act of socially isolating or marginalizing an individual or groups on the basis of disability, gender, race, language, sexual orientation culture, religion or socio-economic status, by not allowing them to participate or enabling them to benefit. Exclusion occurs when specific needs are not accommodated, by allowing or enabling someone to fully participate, or to be included in society and enjoy the same rights and privileges as others who are not discriminated against.

Full and equal participation - equal participation occurs if equalisation of opportunities to participate is provided through universal design and reasonable accommodation measures. In adapting to social structures, social models focus more sharply on empowerment, participation and modifications to promote equalisation of opportunities for all.

Gender equality - means equal recognition, enjoyment or exercise by a person irrespective of gender, disability or race; of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other aspects of life, through the recognition of their respective needs and their interests.

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[3] Broad Based Black Economic Empowerment Act (Act 53 of 2003)

[4] Section 28 of Promotion of Equality and Prevention of Unfair discrimination Act (Act 52 of 2002)

Impairment - Impairment is a perceived or actual feature in the person's body or functioning that may result in limitation or loss of activity or restricted participation of the person in society with a consequential difference of physiological and/or psychological experience of life. For example, the International Classification of Disease (ICD) could be utilised for purposes of defining physical, sensory, intellectual, psychosocial and neurological impairments.

Information and communications technology - an umbrella term which includes any kind of information and communication device or application and its content, and encompasses a wide range of access technologies, such as radio, television, satellites, GPS, mobile phones, fixed lines, computers, tablets and network hardware and software.

Independence - state of being whereby available and adequate support services, assistive devices and personal assistance to persons with all disabilities enables persons with disabilities to exercise choice, bear responsibility and participate fully in society.

Independent living - the ability of a person to live just like anyone else, to have opportunities to make decisions that affect their lives and to be able to pursue activities of their own choosing with the necessary support to enable persons with disabilities to live independently.

Mobility - the means by which a person, whether with a disability or without, moves in their current environment. It is the ease of human movement with or without the use of assistive devices, (such as devices that augment dexterity, communication, sight or hearing) and mobility aids, such as wheelchairs, crutches, guide dogs and mobility canes.

National disability rights coordinating mechanism - Function designated by the President during macro-organisation of the state in line with Article 33(1) of the UNCRPD. The function is primarily responsible for overall coordination of implementation and monitoring of the national disability rights agenda.

Person - a legal natural or juristic person.

Persons with disabilities - Persons with disabilities include those who have perceived and or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

Progressive realisation - This standard is contained in the South African Constitution specifically in association with socio-economic rights, such as section 26 (housing), section 27 (health care, food, water and social security), and section 29 (1)(b) (further education), and defined by the Constitutional Court, which has defined progressive realisation by referring to its development in international human rights law, including Paragraph 9 of General Comment 3 of the United Nations' Committee on Economic, Social and Cultural Rights (CESCR).

The concept of progressive realisation constitutes recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. Nevertheless, the fact that realisation over time, or in other words progressively, is foreseen under the ICESCR should not be misinterpreted as depriving the obligation of all meaningful content. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal, and to be able to provide evidence that this is being achieved. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the ICESCR and in the context of the full use of the maximum available resources.

Progressive realisation as it refers to in this Framework is applicable to three dimensions: More in number (access); more in diversity (compounded aspects); and better in quality (participation).

Reasonable accommodation – Reasonable accommodation refers to necessary and appropriate modification and adjustments, as well as assistive devices and technology, not imposing a situation, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Rights holders - All human beings are inherently rights-holders who should enjoy universal human rights that must be guaranteed through the progressive implementation of legislation.

Self representation - the practice of people being able to articulate their own issues for themselves. It refers to people being enabled and allowed to have their own voice in issues that relate to their specific needs and circumstances.

Universal access - the removal of cultural, physical, social and other barriers that prevent people with disabilities from entering, using or benefiting from the various systems of society that are available to other citizens and residents. The absence of accessibility or the denial of access is the loss of opportunities to take part in the community or society on an equal basis with others.

Universal design - the design of products, environments, programmes and services to be usable by all persons to the greatest extent possible without the need for adaptation or specialised design.

Universal Design Access Plan (UDAP) - demonstrates to the service user how they are able to access services and how implementation will take place, and in what timeframe.

Unjustifiable hardship (legal interpretation) – unjustifiable hardship is an action that requires significant of considerable difficulty or expense; this involves considering, among other things, the effectiveness and efficiency of the accommodation and the extent to which it would seriously disrupt the operation of the business or create a disadvantage.

1.3 Objectives of the Framework

The objectives of the framework are to:

- Provide the context within which universal design and access must be included in national legislation;
- Ensure that universal design relates to the human condition and applies to all service users, and in particular protecting the right to the removal of barriers to access and participation for persons with disabilities;
- Ensure that all services available to the public in the private or public sector make provision for universal design and access regardless of citizenship, race, gender, sex, age, culture, disability, religious and cultural and personal circumstances;
- Provide for the development of national norms, performance standards and indicators for universal design and access;
- Provide for the development of Universal Design Access Plans (UDAPs) within the context of Equality Plans envisaged in Section 5 of PEPUDA.
- Provide for the auditing of services, for their evaluation and for the prospect of legal recourse;
- Highlight the relationship between universal design, health and safety and emergency evacuation;
- Clarify the roles and responsibilities in the management of universal design and access within the basket of services, products and facilities;
- Make provisions for the relevant institutional arrangements for universal design and access.

1.4 Application of the Framework

1.4.1 The legal application of the framework

This framework must be read and used in conjunction with relevant legislation and regulations; codes of good practice, technical assistance guidelines, SABS standards for, among others, the built environment, ICTs and transport, as well as the White Paper on the Rights of Persons with Disabilities.

The framework is intended to be used as a practical guide providing information and advice on universal design and access for government, the private sector, and civil society; including rights-holders themselves, so that it can be understood and implemented.

1.4.2 South African legal context

Section 9 of the Constitution states that " *The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including; race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, believe, culture language and birth*"[5]

The Promotion of Equality and Prevention of Unfair Discrimination Act, Chapter 5[6] states that "*Special measures to promote equality with regard to race, gender and disability*

28. (1) If it is proved in tie prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purposes of sentence.

(2) The South African Human Rights Commission must, in its report referred to in section 15 of the Human Rights Commission Act, 1994 (Act No. 54 of 1994), include an assessment on the extent to which unfair discrimination on the grounds of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems.

(3) (a) The State, institutions performing public functions and all persons have a duty and responsibility, in particular:

(i) eliminate discrimination on the grounds of race, gender and disability;

(ii) promote equality in respect of race, gender and disability.

(b) In carrying out the duties and responsibilities referred to in paragraph (a), the State, institutions performing public functions and, where appropriate and relevant, juristic and non-juristic entities, must—

(i) audit laws, policies and practices with a view to eliminating all discriminatory aspects there of;

(ii) enact appropriate laws, develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;

(iii) adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and

(iv) give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability.

The state therefore has a Constitutional responsibility to undertake a legal audit, review existing discriminatory laws, develop new legislation to address gaps and to

[5] Republic of South Africa (1996). Act No.108 of 1996. The Constitution of the Republic of South Africa. Bill of Rights. Chapter 2, Section 9.

[6] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 5, Section 28.

promulgate stand-alone disability legislation if required. This framework serves as a guiding document for this process.

Chapter 2 Section 9 of the Promotion of Equality and Prevention of Unfair Discrimination Act indicates that this Act takes precedence over all other acts.[7] In relation to universal design, this is particularly pertinent to non-compliance with minimum standards that result in direct discrimination against persons with disabilities.

The broad legal interpretation of right of access under the Promotion of Equality and Prevention of Unfair Discrimination Act makes it imperative that the private and public sector and society in general adopt a uniform practice regarding the progressive realisation of universal access; its relationship to universal design, and compliance with minimum standards.

Non-compliance with basic minimum standards and ignorance of rights-based policy leads to the progressive depletion of rights assigned under the Constitution. Erosion of rights of citizens due to the lack of knowledge of government officials and service providers leads to the following outcome; direct discrimination (undermining dignity and equality) and breaches of health and safety.

1.4.3 International legal context

This framework provides guidelines for universal design and access to give effect to human rights treaties ratified by South Africa, inclusive of the UN Convention on the Rights of Persons with Disabilities.[8]

The scope of current national standards governing sectors such as the built environment, the ICT environment and transport, as well as enforcement of compliance with these standards, is currently insufficient to comply with the requirements of, among others, the UNCRPD.

Articles 1 and 9 of the United Nations Conventions on the Rights of Persons with Disabilities refers to denial of universal design and access as a form of discrimination on the basis of disability. This is acknowledged throughout the White Paper on the Rights of Persons with Disabilities, as it impacts on all nine pillars.

1.4.4 Obligations of persons with disabilities

The framework intends to assist rights-holders by deepening an understanding of their constitutional rights and responsibilities:

(i) <u>Rights:</u>

- The right not to be discriminated against in all aspects and stages of life, to be treated with fairness, respect, dignity and privacy when accessing any services,

[7] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 1, Section 5(2)

[8] United Nations (2006). Convention on the Rights of Persons with Disabilities.

facilities, devices and procedures of departments or public and private service providers;

- The right not to be discriminated against on the basis of age, gender, disability, race or any of the factors contemplated in Section 9 of the Constitution, or in terms of Chapter 2 Section 9 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- The right to independent living and alongside everyone else, to universally designed products, facilities and environments;
- The right to reasonable accommodation measures where these are required to remove barriers to access and participation.

(ii) Responsibilities

- The responsibility to understand that you are entitled to equal access, to demand equal access to all built environments, products and services and to be accommodated with everyone else using the facility, product or service;
- The responsibility to know and understand your reasonable accommodation requirements and to negotiate for such within the conscripts of the law if you should require any;
- The responsibility to report discrimination if you are not receiving the same standard of service as their peers without, including access to information and communication;
- The responsibility to participate as an informed partner with the service provider in the process of designing, implementing, monitoring and evaluation any service;

1.4.5 Obligations of government, business and civil society

(i) Obligation to support participation in society

The purpose of universal design is to create universally accessible services that every South African can use. Therefore the underlying prescript is that all service providers must innovate to make their services equally accessible to all users, including all persons with disabilities, whether or not universal design was considered at the onset; and not to deny the person the right of access to services of any kind.

(ii) Obligation to support universally accessible services[9]

Every service provider whether public or private, and whatever the nature of the service, has a duty to progressively implement universal design, access and

[9] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 2, Section 9

reasonable accommodation and to be able to demonstrate at any point in time that it is doing so.[10]

Every service provider whether public or private, and whatever the nature of the service; may not downgrade universal design, access and reasonable accommodation to a level previously provided.[11]

The public sector is obliged to ensure that all public services comply with the values and principles for Public Administration as contained in Chapter of the Constitution, and further elaborated on in the Batho Pele principles.

(iii) Examples of universally designed services

Universally designed facilities may include:

- Public spaces and pedestrian routes that accommodate older persons, persons with disabilities and children with and without disabilities, and where they are safe from harm from road based vehicles;
- AFC/ticket machines that can be used by all public transport users with ease and vehicle that accommodate people with disabilities and non-disabled people alike, travelling together in safety;
- Housing in communal blocks or developments in which people are able to live, regardless of whether they become disabled or not because the house is designed to accommodate them throughout their lives, and to which persons with disabilities can visit on an equal basis as people without disabilities; and
- Web-based apps and information technology which accommodate accessible ICT.

1.5 Limitations and Exceptions

This framework shall apply to both the public and private sector in equal measure, and civil society; regardless of the size of operation. Whilst universal design may vary depending on the nature of the service offered or provided, access to the service must be easily available, right of access must be assured and the lack of provision of minimum standards for universally accessible services may not be limited to a claim of hardship alone.

At this stage, this framework should act as a guide, except where existing legislation establishes compulsory minimum standards, e.g. in building design, product design and services affected by the Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000); which includes all government services and most private sector services.

[10] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 5, Section 25, 26 and 27.

[11] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 2, Section 9(a)

It is anticipated that this framework will be integrated into sector-based regulations over the next 3 years, including under the Promotion of Equality and Prevention of Unfair Discrimination Act.[12]

This framework should be used to guide government reporting on the implementation of the White Paper on the Rights of Persons with Disabilities.

Failure to observe this framework by itself, may render a provider of services legally liable in any proceedings, especially where legislation requiring compliance with minimum standards already exists, and where not so directly, courts and tribunals may use this framework to interpret and apply existing legislation.

1.5.1 Scope of Application

Universal design applies to every human being and compliance with minimum standards results in environments that are easier to use.

It is therefore the responsibility of design professionals to acquaint themselves with universal design access standards and with the scope of application of such standards for their sector.

Duty-bearers have a responsibility to demonstrate that they have required compliance with minimum standards, and regulators need to strengthen auditing, monitoring and compliance enforcement practices.

Standards governing products which are universally designed apply in certain sectors.

Within the context of the built environment, PEPUDA requires that whether or not an existing building complies with minimum standards, the building owner is still obliged to upgrade the building through a universal design access plan. Case law shows that even existing buildings must be upgraded over time.[13]

It is the responsibility of built environment or other professionals to prove that they have relevant qualifications or suitable experience and to be able to demonstrate that they are indeed, qualified experts in universal design, and that they carry relevant professional indemnity insurance for this specific area of work.[14]

Public space and public transport are also by law subjected to compliance with minimum national standards on universal design for public transport environments through the development of integrated public transport networks (IPTNs).

Other standards relating to products and appliances are subject to compliance either on a sectorial basis (such as IT services) or through voluntary compliance.

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[12] Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 6, Section 30

[13] CASE NO.: 25/2005 WILLEM HENDRIK BOSCH and the MINISTER OF SAFETY AND SECURITY and the MINISTER OF PUBLICK WORKS

[14] Republic of South Africa. Building Regulations and Building Standards Act (1977), Act No 103 of 1997, as amended 2008. Part S: definition of a competent person

1.5.2 Legal interpretation of limitations and exceptions

This framework must be read in conjunction with sections 10 and 28 of the Promotion of Equality and Prevention of Unfair Discrimination Act, and its amendment (No. 4 of 2000 and 52 of 2002) to avoid grey areas where the rights of persons with disabilities are not adequately covered by policies, laws and regulations, or where these are not in line with the Constitution.

Any policy, law or legal document on reasonable accommodation is dependent on a common understanding of the meaning of a universally accessible service as prescribed by this framework, within reason; for the protection of unjustifiable hardship (see below).

Rights-holders have recourse when their rights as citizens, residents, consumers, workers, business people or learners have been violated regardless of whether duty-bearers believe they have complied with the guidelines provided by this Framework and/or national minimum standards. Rights-holder may instituting a grievance against the duty-bearer on the grounds that the service was not universally accessible through, among others, the Consumer Protection Act, The Promotion of Equality and Prevention of Unfair Discrimination Act, the Health and Safety at Work Act, and the Employment Equity Act.

1.5.3 Unjustifiable hardship

(i) Definition

Unjustifiable hardship is legally defined as "*an action that requires significant or considerable difficulty or expense*."[15] This involves considering, among others, the effectiveness of universally accessible service provision and the extent to which it would seriously disrupt the operation of the business, not consideration of the actual cost of any required measures alone.

An organisation may make a case for unjustifiable hardship. However it cannot refute

The need to provide a universally accessible service (by comparing service users with disabilities to service users without disabilities) without acknowledging equality of outcome,

The expense in itself; without due consideration to the overall size of the organisation. This is a particularly important measure for government and its agencies.

Expense on its own cannot be used as reason for not providing a universally accessible service due to the right of access created in the Promotion of Equality and Prevention of Unfair Discrimination Act, as well as the Consumer Protection Act and Promotion of Access to Information Act. It may be that, depending on the size of the

[15] Employment Equity Act (Act 55 of 1998)

organisation and gross income; the type of change required in service provision and the extent to which it is provided, is different for different organisations.

Creating a universally accessible environment is often best achieved when approached incrementally in a realistic fashion. The legal object is to build a culture of accessibility since it is not possible to bring all services and buildings in a country, developing or otherwise to a universally accessible standard immediately or at one time.

It is necessary to be realistic and prioritise interventions and investments progressively. Undue hardship shall not apply in all cases; through these decision is based on considerations of regulatory measures, structural barriers, human behaviour and operational practices, where these considerations have not be followed in a lawfully prescribed manner. This must be included in planning and implementation.

1.5.4 Legal prohibitions

Discrimination on the basis of disability constitutes any distinction, exclusions or restrictions on the basis of disability, which has the purpose or effect of unlawfully impairing or nullifying the recognition, enjoyment or exercise on equal basis with others of all human rights and fundamental freedom in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of universal design and reasonable accommodation.

Chapter 2

UNIVERSAL DESIGN AND RIGHT OF ACCESS TO SERVICES

"The interaction between people, throughout their life cycles and the environment in which they live, is dynamic; it is in a state of constant change. Universal Design recognizes this changing dynamic, and requires designers of websites, buildings and products to plan for it. Consider the design impact of:

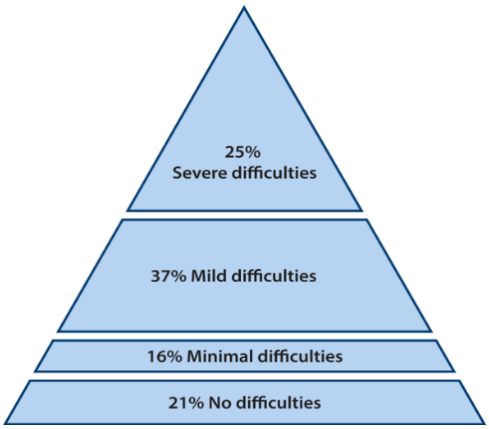
a) Differing dimensional and ability characteristics of people from various age groups;
b) People navigating the built environment and the virtual environment without sight or hearing, or even with neither sight nor hearing;
c) Changes in ability that come with the development of literacy and language skills;
d) Changes in ability that are part of the aging process;
e) Varying language and comprehension skills of people to print media, radio and television communication and websites on the Internet;
f) Consequences of disease or trauma;

g) Challenges for people with limited mobility or agility as they seek to gain employment or raise a family; and
h) Various needs of people with mobility, vision, hearing or cognitive impairments."[16]

It is important to challenge the polarised separation of 'able-bodied' and 'disabled' persons within the context of population diversity. Diversity within the population is better modelled using a pyramid to model the full range of ability variation within a population. This pyramid can then be segmented to identify various categories of users. The bottom segment of the pyramid represents those with no difficulties, and the severity of difficulties increases up the pyramid.

Population diversity has been introduced first from the perspective of ability variation, but can be further broadened to consider diversity associated with different real-world contexts, lifestyle, aspirations, gender, and past experiences. In summary, 'it's normal to be different'.[17]

The pyramid model presents a continuum of population diversity. The prevalence data and definitions of difficulty levels are drawn from the Microsoft (2003) survey.



2.1 Rights perspective, right of access and principles of universal design

2.1.1 Problem statement

Children, women, older persons and persons with disabilities are often not able to perform to the best of their abilities or to achieve a decent standard of living. They often find themselves in unsafe or unhealthy environments and experience increased stress levels due to the lack of universal design of their built environments, open spaces, in the services offered to the general public or the products they use.

Where the principles of universal design are not included in planning of services or the planning of environments in which services are provided, where minimum standards that relate to the design of the environments, facilities or products are not complied with, and where as a result, there is a failure to address the particular barriers to participation that the individual experiences; the result is loss of equality of outcome

[16] Gaates: Toolkit: Key indicators of accessibility, 2015
[17] Lange and Becerra, 2007.

and an experience of discrimination. This is particularly true for persons with disabilities.

The National Development Plan (NDP), approved in 2012, envisages a country by 2030 which has eliminated poverty and has reduced inequality, a "*country wherein all citizens have the capabilities to grasp the ever-broadening opportunities available*".[18]

The NDP acknowledges that many persons with disabilities are not able to develop to their full potential due to a range of barriers, namely physical, information, communication and attitudinal barriers. The NDP states that "*Disability must be integrated into all facets of planning, recognising that there is no one-size-fits-all approach*".

An analysis of the NDP as a strategy to reduce inequality, eradicate poverty and promote employment as it affects the lives of persons with disabilities has been conducted and should be utilised in determining actions and targets for purposes of implementation of the WPRPD[19] and therefore also for this Framework.

The provision of universally accessible services contributes significantly to:

- Independent living
- Participation in society
- Increased choice and options for quality of life

2.1.2 Right of access

Universal access must enable full and equal participation in all activities of society with an intention to 'level the playing field' through equitable participation. In addition to universal design, measures aimed at creating universally accessible services must therefore be linked to service operations: customer care, facilities management, maintenance management, occupational health and safety measures, and with respect to employment; employee wellness programmes.

Universal design supports the stages of life of individuals, whether they have disabilities or not. The provision of universal design reduces the need for the provision of reasonable accommodation, as everyone is catered for as part of the expected and normal provision of services.

2.1.3 Barriers to access and participation

Although mainstreaming gender, disability and age considerations is a prerequisite of an inclusive society; without universal access, these groups are largely ignored in the planning and provision of services in the public and private sector. This includes physical and or environmental accessibility; removing barriers, providing access

[18] Republic of South Africa (2015). White Paper on the Rights of Persons with Disabilities. Page 28

through alternative communication, and information in accessible formats, as standard.

Persons with disabilities in particular face many obstacles in the built environment that prevent them from fully exercising their right to participate in a social, cultural and professional life on an equal basis with others. This includes access to education and health services, the opportunity to earn a living and the right to participate in family, community, religious and political life.

Universal accessibility is key to social inclusion also benefits society as a whole. It is therefore the duty of all levels of government to take appropriate measures to ensure that persons with disabilities have access on an equal basis with others to the physical environment, information and communications, assistive technology and to other facilities and services open or provided to the public both in urban and rural settings. [20]

These measures, which include the identification and elimination of obstacles and barriers to accessibility as legally mandated, shall apply inter alia to; buildings, roads, spatial development, transport systems, indoor or outdoor facilities, education establishments, human settlements (spatial planning and housing), medical facilities, work and places of business, entertainment, recreation and cultural establishments. All government-related buildings and their agencies are automatically included. Recognising that this includes all forms of information, communication, electronic and other services, and emergency services.

2.1.4 Principles of universal design

Universal design is a form of design which has human function at its core; including people who are elderly, children, and people accompanying children, pregnant women, people with temporary illness or injury, as well as persons with disabilities. Thus the benefits of implementing universal design widely and applying the following seven principles are an important way of meeting the needs of as many people as possible. These seven principles are:[21]

i. **Equitable use -** Design that is useful and marketable to persons with diverse access needs.

ii. **Flexibility in use -** Design that accommodates a wide range of individual preferences and access needs.

iii. **Simple and intuitive use -** Design that is easy to understand regardless of the users experience, knowledge, language, skills or concentration level (in loco use).

[20] United Nations (2007). Convention on the Rights of Persons with Disabilities. Article 9.

iv. **Perceptible information -** Design that communicates necessary information effectively to the user regardless of ambient conditions or the users sensory access needs (*inbonafides principle*).

v. **Tolerance for error -** Design that minimises hazards and adverse consequences of accidental or unintended actions.

vi. **Low physical effort -** Design that can be used efficiently and comfortably and with a minimum of fatigue or struggle.

vii. **Size and space for approach and use -** Design that provides appropriate size and space for approach, reach, manipulation and use regardless of the users body size, posture or mobility.

2.1.5 Batho Pele principles[22]

The South African government established the following eight principles that form an integral part of all public services. These principles are aligned to Chapter 10 of the Constitution. Government officials must follow the "Batho Pele" principles which require public servants to be polite, open and transparent and to deliver good service to the public.

i. ***Consultation -*** Citizens should be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice about the services that are offered.

ii. ***Service standards -*** Citizens should be told what level and quality of public service they will receive so that they are aware of what to expect.

iii. ***Access -*** All citizens should have equal access to the services to which they are entitled.

iv. ***Courtesy -*** Citizens should be treated with courtesy and consideration.

v. ***Information -*** Citizens should be given full accurate information about the public services they are entitled to receive.

vi. ***Openness and transparency -*** Citizens should be told how national and provincial departments are run, how much they cost and who is in charge.

vii. ***Redress -*** If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when complaints are made, citizens should receive a sympathetic, positive response.

viii. ***Value for money -*** Public services should be provided economically and efficiently in order to give citizens the best possible value for money.

[22] Department of Public Service and Administration. The Batho Pele Vision – A Better Life for All South Africans by putting People First

2.1.6 Consultation across the Value Chain

Inclusive participation by affected parties is a fundamental principle and requirement of universal design and access. State organs, rights-holders, and in particular persons with disabilities and older persons, non-governmental organisations including disabled people's organisations and other stakeholders, must be consulted throughout the value chain of design, planning, budgeting, implementation, monitoring, evaluation and reporting. The needs of service users can then easily be better accommodated over time, in a realistic and reasonable matter.

Duty-bearers responsible for compliance with universal design should avoid costly mistakes through participative, sensitive and realistic considerations which cover regulatory, structural, human behaviour and operational practices of services providers, in the prescribed manner.

On-going monitoring of facilities, products, and services should be carried out every quarter once the design of the service has been completed, to maintain operational standards. This requires that duty-bearers establish structured users platforms for consultation and participation.

2.2 Products and Services

Products and services should be designed in a manner that mainstreams universal design. Products, services and facilities designers must ensure that children and persons with disabilities in particular are protected against any harm or hazards which may be caused by faulty or mechanical design or natural occurrences.

Where minimum standards are available through the South African Bureau of Standards for the design in the ICT environment, for the transport environment and for product design which support universal design principles, these should be used. Where standards themselves are discriminatory, these must be revised. Standards may only improve universal design, and may not denigrate it[23]. Where national minimum standards are not available, ISO provides standards which can be used under a reciprocal agreement. Any part of an ISO standard that provides a lessor standard of universal design to a South African National Standard, may not be used.

2.2.1 Services and Standard Operational Procedures

Mainstreaming universal accessibility shall be seen as essential to all legal instruments. Duty-bearers and service providers must ensure that the following

[23] Promotion of Equality and Prevention of Unfair Discrimination Act (2000). Act No 4 of 2000. Chapter 2 Section 9a

regulatory mechanisms and other appropriate measures (contractual instruments)[24] address the right to inclusion and universal access to services:

- Licenses (and service licences, software licences or other)
- Entertainment licences or any other licence
- Certificates of occupation
- Operational policies
- Grading schemes
- Registration (whether accredited or otherwise)
- Contracts
  Duty of care
- Insurance
- Professional services in the built environment
- Professional competence
- Planning policy and development plans
- Zoning or re-zoning requirements
- Bylaws
- Budgets and grant conditions
- Procurement
- Building works
- Maintenance and repair-related services
- Facilities management
- Gardening and cleaning services
- Health and safety
- Retrofitting schedules
- Electricity, water and other utility services

This requires that consideration be given to the appointment/designation of universal access officers on all infrastructure projects, in all institutions delivering services to the public and for all product development.

Chapter 3

UNIVERSAL ACCESS, UNIVERSAL DESIGN AND SAFETY MEASURES

3.1 Occupational Health and Safety

[24] Promotion of Equality and Prevention of Unfair Discrimination Act (2000). Act No 4 of 2000. Chapter 5 Section 26 and 27.

Typically universal access problems for particularly persons with disabilities in the built environment are health and safety related. However, training in health and safety or in facilities management does not automatically ensure that buildings will not be dangerous for persons with disabilities, unless such training covers compliance with minimum standards which support universal design, and the maintenance of these standards as part of on-going management. Historically built environment standards have not been inclusive, and therefore although modern health and safety standards support universal design, they may not have yet been adopted by institutions.

Where access has not been provided to minimum standards, other measures put in place to lift or carry people with disabilities are not supported by the findings of equality cases that have already been taken, and can lead to additional occupational health and safety cases of injury at work. If minimum standards have not been complied with in situations where accidents take place, indemnity forms or statements of lack of responsibility on behalf of building owners, do not apply.

All workers are protected by law with regards working in safe and healthy environments. Occupational health and safety plans ensure that all employees, regardless of whether they have a disability, are able to get out of buildings and to a place of safety in an emergency, and the same requirements apply to users of services under health and safety legislation; whether in permanent or temporary structures. The following regulations to the Occupational Health and Safety Act are of particular relevant within the context of universal design and access, and require revision to comply with universal design and access requirements:

- Environmental Regulations for Workplaces (1987);
- Facilities Regulations (1990);
- General Administrative Regulations (2003);
- General Health and Safety Regulations (1986);
- Lift, Escalator and Passenger Conveyor Regulations (1994);

3.2 Facilities Management

All users of services have a right to be able to use buildings, to do so in safety and with dignity, whether disabled or not.

Building standards and operational standards in universal design improve incrementally through daily, monthly and annual facilities and maintenance management programmes. This directly affects service delivery, albeit in a slow process.

However, given the cost of upgrading buildings and changing existing services, universal design is normally the most realistic and cost-effective means of bringing about progressive realisation of rights, including those for persons with disabilities. It

is therefore required that universal design forms part of on-going up grading and retrofitting programmes.

3.3 Employee Health and Wellness

Workplace assessments, occupational health and safety and employee assistance programmes are important for employees with disabilities, including employees acquiring disability or employees who have not disclosed disability or who have invisible disabilities.

Employers must note that whether or not a building they use is leased or owned, they are responsible for any accommodation requirements for existing employees who have disabilities, new recruits who apply for work and/or who are employed; and for people already in employment who become disabled.

Employers must note that the cost of accommodation in an inaccessible building is high. However, it is highly likely that this will not be a defence in dismissing the employee, as CCMA cases have shown. It is therefore in the best interests of every employer to make sure that they only accept occupation of new buildings that comply with minimum standards, whether owned by the company, or leased. Where the building is existing, the lease agreement is a particularly important tool for bringing about change. If an employee becomes disabled, the employer will still be liable for accommodating the employee, even if the building is inaccessible. Medical boarding must not be the first option.

It must be proven that accommodation, within the person's current job profile, has been tried and reasonable accommodation has been made.

Employers must accommodate changes to the employees' pattern of work as well as accommodation in the built environment. An employer must be able to demonstrate that a comprehensive workplace assessment which is sensitive to the changes in the employee's circumstance, has been carried out and implemented with the employee with a disability. Without doing so, it is not possible for employers to demonstrate fair dismissal, to justify lack of recruitment, lack of promotion, or medical boarding. Refer to the Employment Equity Act and supporting documentation, as well as the Reasonable Accommodation Framework for more information.

3.4 Emergency Services and Disaster Management

Children, pregnant women, older persons and in particular persons with disabilities, when compared to the general population, face higher risks in emergency situations and are disproportionately affected by natural and other disasters.

Disaster management plans must therefore ensure that families with very young children, older persons and persons with disabilities requiring assistance during

evacuation and disaster warning, have prioritised access to disaster management services, and that a systematic approach to accommodating their needs has been implemented.

National and provincial disaster management centres must ensure that psychosocial support service personnel with the capacity to assist persons with disabilities in particular, are available for deployment during disasters and for post-traumatic stress following disasters, and that evacuation centres are accessible.

Municipal emergency services must put in place reasonable accommodation support systems and trained emergency personnel to ensure equitable and immediate access to these services for persons with disabilities.

This requires that all emergency and disaster management services be staffed with personnel who have immediate access to the required reasonable accommodation support systems and who have been trained in assisting persons with disabilities.

Persons with disabilities and their families are a unique resource of knowledge and experience, which is often overlooked, and should therefore be included in actions aimed at reducing the risk of disasters, building resilient communities, finding solutions during situations of disasters and emergencies, and preparing disaster risk plans.

All emergency and disaster management and occupational health and safety procedures must include a protocol to ensure that persons with disabilities have access to an equitable degree of information and safety as persons without disabilities using the same service.

Chapter 4

FINANCING UNIVERSAL DESIGN AND ACCESS

Organs of state, the private sector, and all other institutions that provide services are obliged to ensure that equitable provisioning is made to reach the goal that all environments, services and products are universally accessible.

4.1 Costing for universal design and access

Financial accountability relates to the way in which government finances have been committed, and for what. This concerns the private sector whether contracting directly or indirectly with the State.

It is compulsory that the cost for universal design and access be included and addressed during the design and planning stages, as this reduces the cost of

retrofitting or replacement to correct instances of marginalisation, exclusion and discrimination as a result of poor design.

Where minimum standards have not been met, necessary modifications or adaptations must be properly planned, managed and approved; and must include the cost of retrofitting after building completion. Retrospective allocation of costs on wasted expenditure will be allocated and apportioned to remove the lack of clarity on whether responsibility lies with the procurer of services, planner, designer, draftsperson, contractor, municipal building control or associated government agency.

Of particular importance in this regard is that Section 38 (h) of the Public Finance Management Act[25] and Section 32 (2) of the Municipal Finance Management Act[26] requires that any fruitless and wasteful expenditure incurred by a public servant or municipal official must be recovered from the person liable for that expenditure after due process has been followed. Signing off on expenditure for infrastructure, service or product designs which do not comply with legislation and minimum standards governing such infrastructure, product or services, and which subsequently require retrofitting or redesign, or incurs legal costs, fall within the ambit of these clauses.

Cost reduction guidelines must take into consideration differences in local conditions and a cost-effective universal design processes, whilst maintaining national minimum standards.

Cost for accommodating accessibility must be developed by regulations.

4.2 Cost-benefit [27]

Poorly designed environments, services and products limit economic, education, health, social and other opportunities, especially for persons with disabilities, and makes them more dependent on others. This is also true for women, elderly people and children.

The following components must be considered to improve economic viability of family units and reduce the cycle of poverty that persons with disabilities and their families, in particular, are subjected to:

- Direct costs for persons with disabilities, including access to services such as travel or transport; indirect costs to support persons and or family members of persons with disabilities; and opportunity costs of foregone income for persons with disabilities. These components are compulsory to consider, but can be provided in a universal manner. Therefore cost reduction for travel can apply to everyone on the grounds of low income, whether they have a disability or not; not through

[25] Act 1 of 1999
[26] Act 56 of 2003
[27] Dr. Jill Hanass-Hancock (2014) Assessment of the Financial and Economic Costs of Disability to Households in South Africa. Draft Report. Department of Social Development

targeting people with disabilities alone. People with disabilities must be fully accommodated on the transport system;

- The cost of incorporating universal design is significant to individuals and their communities. For example wheelchair users face physical barriers, stigma and discrimination in their local communities. These barriers can lead to loss of opportunities to contribute economically as part of their families and communities, increased need for assistance to participate, and social isolation.

The provision of universally accessible services means that reasonable accommodation provision is incrementally reduced, and that the cost of providing reasonable accommodation support eventually becomes integrated into the regular costs of providing a service.

Chapter 5

INSTITUTIONAL ARRANGEMENTS FOR UNIVERSAL DESIGN AND ACCESS COORDINATION AND MANAGEMENT

Universal design and access underpins design, planning, budgeting, implementation, monitoring, evaluation, reporting and regulation. It is therefore the responsibility of every institution (public and private), every duty-bearer and all rights-holders, all regulators and those tasked with oversight, to play their part in ensuring that it contributes to the promotion of equality and social justice for all South Africans.

5.1 The Public Sector

State organs must take appropriate measures to:

- Establish internal mechanisms and capacity to ensure that universally accessible and equitable services are delivered to all persons, regardless of age, ability, gender, language, culture or socio-economic status;
- Review, amend, develop statutory regulations, monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- Bind by law, private entities either national or international; that offer facilities and services which are open or provided to the public and take into account all legal aspects of accessibility, in particular for persons with disabilities;
- Develop standards for accreditation in areas of universal design and access for purposes of registration;

- Enable registered service providers to provide accredited training for stakeholders on universal design and access;
- Enact legal measures to ensure compliance in buildings and other facilities open to the public;
- Promote and support research to strengthen the design, development, production and distribution of standards and products.

The WPRPD Implementation Matrix provides targets with regards actions to be taken by government departments and entities towards 2019 as well as 2030.

5.2 Capacitating Institutions with Specific Responsibilities

The following existing institutions have mandated aligned with the universal design and access agenda and responsibilities identified in this Framework:

- The **South African Bureau of Standards** (SABS) is a statutory body that was established in terms of the Standards Act, 1945 (Act No. 24 of 1945) and continues to operate in terms of the latest edition of the Standards Act, 2008 (Act No. 8 of 2008) as the national standardisation institution in South Africa, mandated to:
  - Develop, promote and maintain South African National Standards (SANS)
  - Promote quality in connection with commodities, products and services
  - Render conformity assessment services and assist in matters connected therewith.

  The SABS therefore provides the platform for ensuring that the built environment, products and services meet universal design and access standards. Of particular importance is the capacity of their standard setting technical committees, certification and auditing division, design institute and training academy to drive the institutionalisation of universal design and access in South Africa,
- Similarly, the **National Regulator for Compulsory Specifications (NCRS)**, established through the National Regulator for Compulsory Specifications Act (Act 5 of 2008), mandated to promote public health and safety, environmental protection and ensuring fair trade through the development and administration of technical regulations and compulsory specifications as well as through market surveillance to ensure compliance with the requirements of the compulsory specifications and technical regulations, must strengthen their regulatory capacity in institutionalising universal design and access within the built environment.
- The **Council for Scientific and Industrial Research (CSIR)**, mandated to undertake directed, multidisciplinary research and technological innovation that contributes to the improved quality of life of South Africans, must strengthen its capacity to promote universal design in its research, technological innovation as

well as industrial and scientific development programmes for the built and digital environments.

- The **South African Qualifications Authority (SAQA),** established in terms of the National Qualifications Framework Act 67 of 2008, and mandated to, among others, advance the objectives of the National Qualifications Framework (NQF); oversee the further development and implementation of the NQF; and co-ordinate the sub-frameworks, must strengthen its capacity to promote and coordinate the development of a national universal design qualifications framework.

- The **Department of Social Development**, within its role as current host of the **National Disability Rights Coordinating Mechanism**, and as owner of this Framework, must ensure its implementation through advocacy, coordination and reporting on progress made on an annual basis.

- The **Department of Telecommunications and Postal Services**, must coordinate the embedding of universal design and access within ICT policies and legislation.

- The **Department of Public Works**, as the custodian and manager of all national governments' fixed assets, with its implementing agencies must ensure that universal design access and standards are embedded in all public sector owned and leased buildings across all three spheres of government.

- The **Department of Transport**, responsible for regulation of public transport, rail transportation, civil aviation, shipping, freight and motor vehicles transportation in South Africa, must ensure that minimum standards for universal design and access are applied across the transport value chain.

- **National Treasury**, in its capacity of supporting the optimal allocation and utilisation of financial resources in all spheres of government to reduce poverty and vulnerability among South Africa's most marginalised, must ensure that all infrastructure, transport and neighbourhood development grants and tax rebate programmes incorporate a universal design and access requirement.

- The **South African Human Rights Commission, the Commission on Gender Equality, the Consumer Commission and other Regulatory Bodies** must proactively monitor and act upon discrimination which occurs due to the lack of universal design and access in the built environ, products and services.

5.3 Universal design and access Coordination within the Public Sector

Coordination at institutional level as well as sphere of government level must be through structured collaboration by the functions associated with gender mainstreaming, disability mainstreaming and mainstreaming the rights of children.

Taking into consideration that persons with disabilities have the most to lose if coordination is not effectively implemented, the lead should be the respective transversal disability rights coordinating mechanisms at national, provincial and local level, and the disability rights coordinators/focal persons at institutional level.

5.4 The Private Sector

The private sector has a responsibility to ensure that everyone is able to access their environment, products and services equitably, without discrimination. Private companies indirectly contact with the State and must make themselves aware of their responsibilities to develop an implementation plan, and to implement it within a reasonable timeframe.

5.5 The Research and Development Sector

The R&D sector must prioritise research into, and development of, universal design and access and its impact on the built environment, products and services, among others by formalising partnerships with international agencies in this field.

5.6 Civil Society

Participation of rights-holders in the development of standards, through recognised academic research methods particularly those that become national standards, is essential.

It is important therefore that affected rights-holders who could benefit from universal design and access:

- Familiarise themselves with the terms "*universal design*", *"universal access"* and *"reasonable accommodation.*"
- Are able to draw to the attention of service providers, the nature of any barriers they experience when attempting to access a service and why these obstacles create a barrier;
- Understand the difference between a benefit and universal design and access;
- Report lack of universal access to the relevant regulatory body or human rights institution.

Chapter 6

UNIVERSAL DESIGN ACCESS PLANS (UDAP)

A universal design access plan (UDAP) demonstrates the commitment of public and private service providers to implement measures to meet these targets, demonstrated by achieving indicators through reasonable measures and progressive implementation.

The UDAP must include the following measures as minimum requirements:

- Enabling environment;
- Disability awareness and customer service training;
- Provision of universal design expenditure patterns;
- Resource management planning;
- Compliance with minimum standards on universal design;
- Accountability and progressive implementation;
- Use of products and services that are universally designed and which are universally accessible.

UDAPs must be developed for every service delivered to the general public, and must be included as an integral component of institutional Equality Plans, as provided for in Chapter 5, Section 4(b) of PEPUDA, as well as Equity Plans as provided for by the Employment Equity Act. The stages and processes for the development of a UDAP are summarised below:

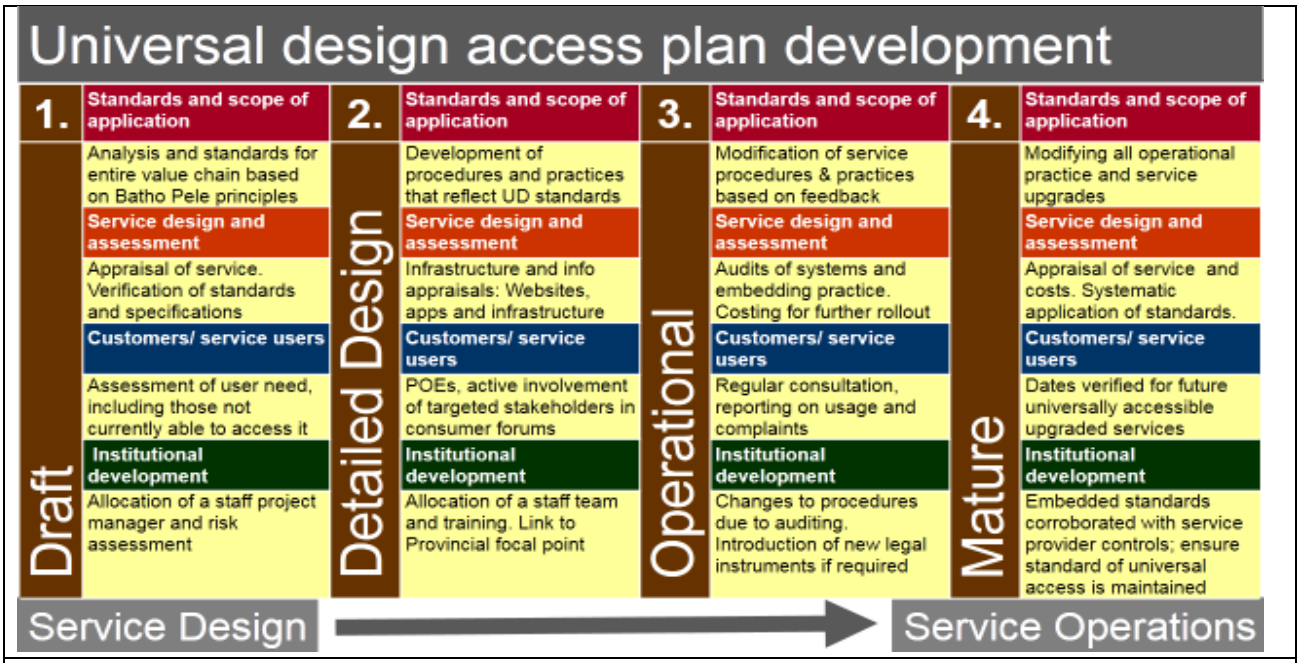


Figure 1: Diagrammatic representation of the development of a Universal Design Access Plan.
Source: Department of Transport, Public Transport.2017

6.1 Management cycle of universal design and access

A cycle of management is indicated with four overlapping phases within a framework. These phases are; policy and direction setting, planning and design, implementation and performance management, review and evaluation. Universal design in project management must relate to social inclusion as a guiding principle, and headline indicators must be developed that support social inclusion, against which to measure progress.

6.1.1 Phase 1 Policy and direction setting

This phase involves research, analysing and consulting. There is a strategic level and an operational level. It is important to:

Strategic level

- Identify and understand the governance and legislative framework; including areas of compulsory compliance, design codes and regulations on minimum standards. Create socially inclusive targets against which to measure progress, which are supported and which clearly acknowledge feedback from affected stakeholders.
- Establish whether or not laws or policies themselves have been amended so that they are disability inclusive. Certain existing sector based legislation contradicts the Constitution and laws promulgated after 1996. It is as well to be aware of these areas from the outset.
- Identify data sources for factual information on whether or not people with disabilities have already been discriminated from accessing particular services. Some of this information should be available from national government as national government has to report on complaints and resolution of complaints as part of the reporting cycle on the WPRPD. Identify civil society organisations, and disabled people organisations in particular to participate in data gathering and to provide consultation on rational design or a rational approach to operational practice, where standards are lacking or laws are still discriminatory.
- Develop a value chain that would be universal to all users, is customer focused and which relates to their use of the system, not that of service providers or operators. This forms the unique identification of the service which can then be properly analysed, and against which performance standards and programmes for the UDAP can be developed. (Refer to Appendix A). Develop performance standards for the value chain and identify the recurring programmes necessary to deliver the entire value chain.
- Make information available to project managers and planners and designers for further action. Ensure that project managers work in a team, share information; and are able to capacitate themselves in areas where they have insufficient knowledge.

Operational level

- Establish a team with a project manager, and which includes the following responsibilities: planning and design, operations and frontline staff management, marketing and customer feedback, as a minimum;
- Identify and gather data on users who are currently not able to use the service due to their disability and other related target groups in legislation. The forms the baseline information against which to measure progress in service delivery.
- Establish the minimum standards required in service delivery throughout this value chain, and gather additional information where minimum standards are currently unavailable. As well as compulsory standards where available, ensure that voluntary standards have been referenced, if indirect legislation applies. For example, building regulations may not specifically relate to an area of a building, however, health and safety will apply once the building is completed. Whilst a requirement for accessible signage is not compulsory, if the service user then is unable to make use of the service due to a lack of information available to them, this results in lack of service delivery in an area where it is very easy to comply with voluntary standards.
- If an employer or service provider does not require compliance with minimum standards in the Building Regulations when a building is upgraded, and an employee or service user is barred access or egress due to this inability to ensure compliance with national minimum standards, the employer or service provider may find themselves in Court; although they were advised by the building professional or construction company that they didn't have to comply. If an official compliance route was not taken when information was clearly available at a national level, and health and safety problems or other problems arise, the employee or building owner may find themselves vicariously liable.
- Measure and assess progress against the value chain, using the defined set of standards. Review progress and publish it, informing disability groups and other targeted stakeholders about progress and any impediments. Report on this against the White Paper and the National Development plan.

6.1.2 Phase 2 Planning and design

This phase involves planning and designing the ways in which National Treasury will finance and resource universal design investments. This must include mitigating risk management, tracking of performance through indicators and recording progress against them.

Universal design and access planning should be approached from the point of compliance with minimum standards, whilst at the same time establishing collaboration with the relevant government department(s), disability rights

representatives, planners, designers, and project managers in assistive technology. Collaboration is particularly important in situations where compulsory minimum standards do not cover all areas, and a rational approach is required to service provision.

Any service provider taking decisions this approach should be mindful of any existing case law which should guide these decisions, and that all relevant parties have been consulted, especially affected stakeholders for whom these services are intended. Where professionals take decisions on behalf of stakeholders with disabilities without reference to them, and with reference to areas of work for which they hold no qualifications or in areas that they hold no qualifying experience, they are at risk of undermining their professional indemnity.

Stakeholders should set out the parameters for proposed designs and service plans including available time, funding considerations and priorities; consider service users with different types of disabilities and design accordingly, incorporating universal design into the planning phase. In this way, costs are identified and determined as part of the total construction and design cost, not as an 'add on'.

6.1.3 Phase 3 Implementation and performance management

This phase involves managing investments to achieve agreed outcomes for universal design and access planning. Universal design must be appropriate within the South African context, which recognises the Constitutional equality of all citizens, and in particular persons with disabilities. This will impact on the development and review of legislation, policies as well as standard operating procedures to ensure compliance with minimum standards that promote universal design and access.

6.1.4 Phase 4 Review and evaluation

This phase involves reviewing and evaluating the efficiency and effectiveness of the universal design access plan and determining the outcomes for future work for a period not exceeding five years.

Development of stakeholders and their advancement must be documented as age, gender and disability inclusive lessons are learnt. These lessons must be widely circulated and incorporated into the planning of service delivery, operations, strategic infrastructure plans and projects.

Equality Court cases, health and safety findings and other published outcomes, or information and advice from the SAHRC must be widely circulated to demonstrate how these should guide planning and practice.

6.1.5 Universal design appraisals and universal access audits and post occupancy evaluation

Appraisals and audits are practical and objective operational tools to evaluate whether or not standards have been implemented. They are carried out in relation to the programmes in the value chain and the performance standards (Refer to Appendix A). Operational evaluation tools relate to the building, products and facilities. A Post Occupancy Evaluation (POE) is a means of evaluating the performance of the service for people with disabilities to ensure that they can use it, as was initially intended. Given that problems for users may be expensive to address, it is worth including POE elements throughout the planning and design process, and maintaining a reference group to check on progress. This helps to ensure that the final product is on target. It is wise to realise that the end result of ignoring user need can be a court case.

6.1.6 Feedback mechanisms

All service providers have a duty to consult their users and to make sure that their needs have been accommodated. This includes government, whether national, provincial or municipal, and any agency of government. Service providers should monitor the number, nature and extent of the complaints received in relation to the service. Where resolution processes exist, it is best practice to find ways of resolving these problems.

National coordinating mechanisms in government enable action to be taken at a policy level, however, it should be noted that these feedback mechanisms do not preclude any service user from taking their concerns directly to a consumer council, a service ombudsman or to the South African Human Rights Commission. These bodies have their own reporting mechanisms, and clearly some cases may be resolved in the Equality Courts.

6.1.7 Monitoring and reporting

Reporting on universal access is an integral element of regular reporting as part of business management processes, and is the responsibility of each government department. Evaluation of service thresholds for all service users, including those with disabilities; and updating the UDAP as the service is implemented, is specific to different services.

Evaluating existing measures and evaluating potential new measures that promote universal design are both important for the achievement of universal access. The prevention of the erosion of basic thresholds to right of access through compliance with minimum standards is important in achieving access to services in a universal manner. The relationship of universal design to reasonable accommodation is a balance in evaluating implementation measures and maintaining basic minimum thresholds.

Ultimately government (whether municipality, provincial or national, or any government agency) bears direct responsibility for ensuring and enforcing accountability on universal design and access. It is the responsibility of the South African Human Rights Commission, courts and the legal system to oversee and enforce the accountability of government.

All relevant departments, levels of government, government agencies, organs of state associated with professions, members of the disability community, and service providers must take measures to prevent unnecessary miscalculations, mistakes and hazards occurring to persons with disabilities. Negligent or reckless designs are an offence.

Any person found guilty of having committed offences relating to universal design and access that may prevent citizens from accessing facilities or services in an equitable manner and/or cause danger is liable to a fine in accordance with the adjustments of fines act or imprisonment, as determined by a court; to both such fines and imprisonment.

Chapter 7

MONITORING AND EVALUATION

Evidence that informs universal design and access policy and programme development on the one hand, and strengthening accountability on the other, is derived through effective monitoring and improvement processes, research and statistics and data management as described below:

- *Monitoring and Evaluation:* All M&E processes must incorporate the universal design and access dimension, and organisations constituting the motive forces in universal design and access, e.g. representative organisations of persons with disabilities, must be part of all citizen-based monitoring programmes;
- *Evaluation Feedback and Improvement:* Mechanisms for interpreting and extrapolating feedback gathered from evaluations must be in place. These mechanisms should be aimed at making use of the feedback to ensure on-going improvement of policies and programmes.
- *Research:* Policy review and design of programmes and services often lack evidence-based research on the exclusion and/or successful inclusion of universal design and access. Improved coordination of research focusing on the benefit and impact of universally designed goods, services and built environment, or the absence thereof, and which provides sound evidence for future policy and practice decisions, will ultimately lead to improved outcomes for all South Africans; and

- *Disaggregated Data and Statistics Management:* Reliable statistics play a crucial role in the development of policies and legislation aimed at improving the lives of South Africans. Disaggregation of data and statistics makes visible how these policies and programmes impact on the lives of those at risk of marginalisation, exclusion and discrimination, enabling the development of inclusive policy and programme development.

Participation in monitoring and evaluation processes must be approached, among others, within the context of the Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery (2013), which emphasises the active participation of citizenry in order to provide key perspectives on service delivery that is vital to responsiveness of government.

Monitoring and evaluation of the extent to which programmes and services comply to universal design and access standards must be done across the Government-Wide M&E System (GWMES), which encompasses the Policy Framework on the GWMES; National Treasury's Framework for Managing Programme Performance Information (FMPPI); Statistics South Africa's South African Statistical Quality Assessment Framework (SASQAF); and the 2011 National Evaluation Policy Framework (NEPF) produced by DPME.

7.1 Indicators on universal design and access

Key indicators are variables that aim to reflect the changes resulting in an intervention. Indicators provide specific information on the state of condition of an event, activity or outcome and they can be a rich source of signals of change.

7.1.1 Headline indicators

Care should be taken not to develop too many indicators which have to be reported on and which require access to unavailable data. If this is so, it is questionable whether the indicator is actually relevant. Relevant indicators should be easily identifiable from the information gathered at national level which is already to hand and reflected in national documents.

However, reporting on the WPRPD requires Departments to report on complaints of users who are excluded. These complaints may be received by all related service providers and by all levels of government and their agencies, not national government alone, although it is the responsibility of national government to report on them. Therefore it is important that standard operating procedures are put in place to gather and report on this information.

Headline indicators developed on universal design and access for a particular service must reflect the higher principles from which the headline indicators have been

developed. There is a relationship between these indicators and the National Development Plan.

The lower level indicators relate to the value chain established for a particular service and there must be indicators for each step in the chain which also relate to the programmes identified.

7.1.2 Lower level indicators

These indicators have to show steady progress towards meeting the goal. Whilst some information may not immediately be available for these indicators, it should still be possible to obtain it without complexity. As well as reflecting the entire value chain, these indicators must form an integrated but identifiable element of services delivered as mainstream services, otherwise the goal of universally accessible services will not be met. Again it is important to have enough indicators to demonstrate whether the UDAP can be implemented effectively, but not too many to make the process of collecting them unduly onerous.

Wherever possible, any indicator should reflect intergovernmental goals. Given that all Departments are connected areas of service delivery are mainstreaming disability as a matter of national government policy, this should be relatively straight forward. In the private sector, indicators should support the achievement of intergovernmental goals related to the National Development Plan, and the White Paper on the Rights of Persons with Disabilities.

7.1.3 Consultation in developing indicators

Consultation must continue throughout conceptualisation and design of plans, implementation, and monitoring and evaluation.

Central to the development of good indicators is the engagement of persons with disabilities, particularly when they stand to be directly affected by any intervention. Such feedback is key to all facets of community living, such as public transportation and infrastructure, housing, information and communication technologies, recreational spaces, product design and development, and government or private services. Even with feedback channels in place, it is important that the consultation, participation, and engagement of persons with disabilities occur on an on-going basis, which can be extremely beneficial for recurring modifications, monitoring / compliance, and gaps assessment of any intervention.

This is consistent with the UNCRPD and the WPRPD which both state that persons with disabilities should have the opportunity to be actively involved in the decision make process about reasonable accommodation policies and programmes, including those directly concern them.

7.1.4 Development of Universal design and access Indicators

Indicators need to provide certain information and need to pass tests of reliability, feasibility, and utility in decision-making.

One challenge in developing a set of key indicators, and in particular within the context of universal design and access, is the need to make them contextually relevant. In order to have good indicators, they need to be drawn from local contexts, culture, and perceptions of stakeholders, including government and persons with disabilities. As indicators aim to reflect the changes in line with certain objectives, it is important to note that these objectives or goals are driven by local realities and may vary from one person to another, even when they have the same disabilities, or are all children, or are all older persons.

It is therefore not the intention of this Framework to prescribe an indicator framework, but rather to guide the development of universal design and access specific indicators across the M&E environment.

Proposed indicators which should be integrated, through consultation with all affected stakeholders, into all policies, programmes and monitoring and evaluation frameworks, and which should cover the entire value chain of every service, could include:

- Number and percentage of total services/built environs/transport modes/ community facilities/websites/technology/information systems which are fully compliant with universal design and access standards;
- Number and percentage of total services/ built environs/transport modes/ community facilities/websites/technology/information systems which provide only partial access to all persons with disabilities;
- Percentage reduction in inaccessible services/ built environs/transport modes/ community facilities/websites/technology/information systems through retrofitting or redesign;
- Number of accessibility related complaints received;
- Number of accessibility related complaints resolved;
- Number of injuries resulting from accessibility related challenges;
- Incidence of exclusion from opportunities resulting from lack of accessibility concerns.

CONCLUSION

"Everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken."

The Constitution of the Republic of South Africa, 1996

The equality clause in the Bill of Rights of the Constitution of the Republic of South Africa, and its relation to universal access – or the lack thereof – for persons with disabilities, have resulted in a number of court judgements in favour of rights-holders. *Juris Prudence* have been established, among others, through the following judgements:

- W H Bosch v The Minister of Safety and Security & Minister of Public Works, Case no. 25/2005 (Equality Court)
- Esthé Muller v Minister of Justice & Minister of Public Works, Case no 01/2003 (Equality Court settlement)
- Lettie Hazel Oortman v St Thomas Aquinas Private School, Bernard Langton, Equality Court 1/2010 (Equality Court)

This framework provides guidance for the embedding of universal design and access in all aspects of community life in order to secure the right to equal access and participation for all citizens and residents in South Africa, regardless of age, gender, ability, religion, culture or language.

ANNEXURE A: GENERAL SECTOR BASED PROVISIONS

Purpose of the Annexure

Universal design access plans (UDAP) provide the practical, implementable steps that service providers must take to enable persons with disabilities and other vulnerable groups to participate equally in social and economic life. Service providers in the public or private sector enable participation through the analysis of services (Value Chain), the identification of barriers (Non-compliance with national standards) and the design and implementation of the plan (UDAP). The purpose of this appendix is to explain how this should be done.

Areas of Participation

Development practitioners must apply universal design and access principles in twelve sector-based areas of participation. These are:

- Education
- Health
- Safety and Security
- Economy
- Skills
- Infrastructure
- Rural Communities
- Human Settlements
- Local Government
- Environment
- International Relations
- Public Service
- Social Protection
- Social Cohesion

Regulatory Framework / Enabling Environment

Value Chain

Barriers to participation are created by the non-provision or removal of facilitators. Each of the areas of participation above, consists of (a) value chain(s) which can be analysed to define how the services are to be delivered in a manner that enables participation by everyone. All value chains contain the aspects included in Table 1, to which national standards apply.

Define performance standards for the value chain

The activities indicated in the value chain can be defined by a set of performance standards that demonstrate how people with disabilities and other vulnerable groups are included alongside others, to illustrate a universally accessible, inclusive service.

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Develop programmes that cover the performance standards

By defining the value chain in a particular area of participation, it is possible to identify all the standards which will then be used in the process of auditing the universal design and accessibility of the service. These are likely to fit into specific programmes, such as infrastructure, service operations and customer service/marketing; amongst others. By developing specific programmes, all barriers of a similar nature can be addressed over a reasonable time period.

Aspects of participation	Examples
Regulatory framework / Enabling environment	• Sector specific legislation and policy • Strategy on universally accessible service delivery • Grant conditions (public sector) • Ring-fenced budgets (private sector)
Attitude	• Inclusive service delivery • Positive staff attitude towards inclusion and customer care • Stakeholder engagement including involvement of user groups with disabilities • Monitoring and reconciling complaints
Communication	• Microphones and sound systems compatible with hearing aids • Sign language • Audio description • Computer-based programmes assisting speech and hearing: word-text transcriptions / note-taking/ captioning / subtitles. • Lip speaking facilitators/ interpreters • Good signage & pictograms • Emergency evacuation procedures implemented and practiced • Maintenance management that is inclusive of universal access issues
Information	• ICT and general service related information in alternative formats, including Braille • Web-based Intranet and Internet information applications • Software and operating systems • Telecommunication products • Office machinery, desktop computers and laptops • Mobile Applications (Apps) • Kiosks, pay points and ATMs and other terminals • Television and Video Material • Video Gaming • Call Centres • Signage

Aspects of participation	Examples
	• Wayfinding • Maps and building information
Built environment and products	• Planning and design of settlements • Housing • Urban /rural towns, villages and cities • Long distance and commuter transport systems (road and rail), pedestrian environments and NMT, travel by air and sea and by private vehicle • Facilities for public and private buildings where services are delivered or offered • Public space including parks and playgrounds • Hospitals and clinics • Schools • Tourism facilities hotels and leisure parks
	• Built environment and products compliant with basic national standards • Evidence of action taken where transgressions occur to basic national standards
	• Product design and testing: personal products, products related to the built environment, fixtures and fittings

Sector-based Legislation

The legislative framework for universal access has already been outlined. Many sectors already have legislation that is UA compliant, however, there are some areas where the legislation is out of date.[28]

Guidelines and Requirements

Each service provider must develop service or sector-based *Guidelines and Requirements* for service delivery which define universal access for a particular service and which explain how disability issues have been mainstreamed in line with the UDA and RA frameworks. These Guidelines and Requirements must be publically available and must be used in monitoring service delivery. Guidelines and Requirements may relate to ring-fenced budgets or to grant conditions.

Standards and scope of application

Standards relating to each part of the value chain are identified, in line with the table above. These are then applied as far as possible, and where not possible, remedial measures must be put in place until the scope can be widened to cover the entire service. The UDAP will explain how the standards are systematically being applied.

[28] Republic of South Africa (2015). Legislative Audit and Gap Analysis of Disability Rights Legislation. Department of Justice

Service design and assessment

The service must be evaluated against the standards, and monitored regularly. Where standards have been implemented incorrectly or have not been implemented, this must be identified. The reasons for non-compliance must also be identified.

Customers/service users

Market research should guide service provision, including research into why segregated groups may not currently be able to access the service. This is particularly important in the initial or draft stage of the development of the UDAP. This research provides the underlying need for modifying the service so that the correct barriers to service provision can be identified and so that mainstreaming is possible.

Institutional development

In order to deliver universally accessible services, members of the project management team must carry certain responsibilities. This team will include, amongst others; a project manager, built environment professional, service operations manager and a manager for customer service/marketing.

Risk assessment

A risk assessment identifies gaps in the ability to deliver the value chain, and in the standards available against which to implement the plan. It should also identify problems with the legislative framework, which may not comply with the WPRPD for historic reasons, and knowledge gaps of implementers.

ANNEXURE B – UNIVERSAL DESIGN AND ACCESS EXTRACTS FROM THE IMPLEMENTATION MATRIX OF THE WHITE PAPER ON THE RIGHTS OF PERSONS WITH DISABILITIES

#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
1.	**REMOVING BARRIERS TO ACCESS AND PARTICIPATION**				
1.2	**Access to the built environment**				
1.2.1	**Conduct universal design audits of all existing infrastructure to establish the degree of compliance with the SABS minimum norms and standards for the use of people with disabilities.** The universal design audit of the built environment must include all public and private sector institutions and shared spaces. Quantified and costed plans must be developed to address the outcomes of the audits and the budget must be provided for implementation of the plan.	All	100% of public sector owned and leased buildings audited with quantified and costed implementation plans for retrofitting completed	-	DPW Legislatures
1.2.2	**Develop a financing strategy to retrofit existing infrastructure** The strategy must focus on raising the finances required to retrofit all public and privately owned buildings rendering services to the public. The retrofitting must comply with the SABS minimum norms and standards.	12	Strategy and plan approved Financing mechanisms finalised	100% expenditure/uptake of financing mechanisms	NT
1.2.3	**Appoint and train infrastructure accessibility liaison officers (ALOs)** Infrastructure accessibility liaison officers must be provided with appropriate accredited training. These officers must be deployed and/or appointed as part of all infrastructure development project management teams. The trained officers must also advise on, and if necessary, develop built environment regulations and/or amendments to existing legislation to ensure that the concepts of universal design and barrier-free access are adhered to in terms of all built environment infrastructure.	05	Accredited modules and courses approved and registered with DHET Minimum of 2 persons with disabilities per municipality accredited as accessibility liaison officers	Minimum of 10 persons with disabilities per municipality accredited as accessibility liaison officers.	DPW
1.2.4	**Provide incentives for universally designed barrier-free infrastructure and built-environments** State and private sector provided incentives and reward systems must be initiated and developed towards promoting universally designed and accessible built-environments that meet regulated norms and standards. These incentives must be aimed at transforming the	12	National incentive/reward scheme to promote universal design in the built environment finalised	Implementation of incentive/reward scheme	DPW DCOG DSD (NDRCM)

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
	attitude of built-environment professionals towards designing barrier-free spaces and facilities.				
1.2.5	**Operationalize regulatory framework for accessibility to the built-environment** The regulatory framework for accessibility to the built-environment must be extended and integrated into land use management and town planning schemes and the overall design of landscapes, public open spaces and streets.	06 07 09	Regulatory framework in place & baseline established	20% improvement on baseline	DHS
1.3	**Access to transport**				
1.3.1	**Incorporate the concept of universal design and access in all transport licenses and permits** All transport-related licences and permits for all modes of transport must include universal design and access requirements.	01; 02; 04; 06; 07; 08	100% of all licenses and permits issued across the transport value chain include universal design and access requirements	50% implementation compliance	NDoT
1.3.2	**Conduct transport access audits** All public and private transport operators must conduct operational, staff and managerial audits of existing infrastructure, fleet and programmes against legislated minimum norms and standards. A costed plan must be developed to implement the outcomes of the audit. Implementation of the plan must be budgeted for.	01; 02; 04; 06; 07; 08	Minimum norms and standards for transport industry regulated	Access Audits across 100% of transport value chain completed and implementation plans costed	NDoT
1.4	**Access to information and communication**				
1.4.1	**Promote access for persons with disabilities to new information and communications technologies and systems** All public and private institutions must promote access to new information and communications technologies and systems, including the Internet. This can be done through the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become available at minimum cost.	All	Minimum norms and standards for website accessibility regulated 10% websites of public institutions comply to minimum norms and standards	100% websites of public and private institutions comply to minimum norms and standards	DTPS
1.4.2	**Provide captioning on all television programmes** This must be done by all public and private television channels.	14	100% of all news content of local television stations have captioning	25% of all locally produced television programming have captioning	ICASA
1.4.3	**Ensure equal access to information and communication platforms** All electronic media, broadcasting and print media platforms of all public and private media institutions and agencies must incorporate universal design principles, meet minimum norms	14	Baseline established by 2016	25% improvement across all platforms	DTPS DoC

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
	and standards regulatory requirements, and government agencies regulating them must publish annual compliance reports.		10% improvement across all platforms by 2019		ICASA
1.4.7	**Provide accessible emergency and disaster management information** **All emergency and disaster management and occupational health and safety procedures must include a protocol to ensure that persons with disabilities have access to an equitable degree of information and safety as persons without disabilities using the same service.**	03 09 10	100% of emergency and disaster management plans, and 100% of occupational health and safety procedures include accessibility measures for persons with disabilities	50% compliance rate at implementation level	DCOG DoL
1.5	**Universal design and access**				
1.5.1	**Develop universal design standards for the country** The South African Bureau of Standards must accelerate development of universal design access standards for the country across all standards setting that impact on the lives of persons with disabilities. The standards must reflect the key principles of the concept of universal design.	06 12	Universal design access standards reviewed and finalised for ICT transportation, assistive devices and technology, the built environment	Universal design principles integrated and applied across all standard setting bodies	SABS Thedti
1.5.2	**Develop and implement universal design access strategies, minimum standards and guidelines** This must be done by all public and private sector institutions. The institutions must also monitor implementation of the strategy, compliance with the minimum standards and utilisation of the guidelines. The standards and guidelines must include all facilities and services open or provided to the public, including those rendered by operators/contractors.	05	Universal design and access guidelines and minimum norms and standards approved	Minimum norms and standards for universal design and access regulated	DST DPW DTPS NDoT Thedti
1.5.3	**Provide education and training** (i) *provide tertiary level education on universal design* - All pre-graduate as well as post-graduate training must have compulsory modules on universal design access and disability equity. Pre-graduate and post-graduate training that directly impacts on universal design access and disability equity must design further courses in this regard. (ii) *train decision-makers and implementers on universal design and access* - All public and private institutions must provide training for decision-makers and employees on universal design access, including the removal of barriers experienced by persons with disabilities and reasonable accommodation support measures.	05	Universal design and access modules for pre-and post-graduate training approved and registered	25% of pre-and post-graduate training courses include compulsory universal design and access modules 50% of SMS members in the public service have completed universal design and access entry level modules	DHET DPSA (NSG)

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
	(iii) *Develop Accredited Universal Design and Access Training Courses* - These courses must be SAQA accredited. They must allow for differentiated accreditation for access advocates, professional categories. Where Continuing Professional Development (CPD) is required as part of professional training, professionals must be required to undertake at least one universal design access or disability equity course annually.			Universal design and access compulsory module in all CPD requirements	
1.5.4	**Ensure service licences require universal design access, in particular for persons with disabilities** All service licenses issued must require that service providers provide a service which incorporates universal design access principles and is fully accessible to persons with disabilities.	12	Regulatory framework incorporates requirement for universal design 25% compliance	100% compliance Annual reports published by all regulatory bodies	All regulatory institutions
2.3	**Access to Justice**				
2.3.1	**Strengthen recourse mechanisms** Recourse mechanisms include: • strengthening enforcement of existing legislation; • improving access to courts; • improving equitable access to service delivery and consumer complaint mechanisms and institutions; • strengthening the capacity of Chapter 9 institutions such as the SAHRC, CGE, Commission for Promotion and Protection of Rights of Cultural, Religious and Linguistic Communities, Public Protector to respond to disability related issues and complaints; • strengthening the capacity of NGOs, CBOs and FBOs, and in particular DPOs, to support persons with disabilities in accessing justice. This must include making available the full spectrum of reasonable accommodation support measures, access to the built environment, as well as procedural and age-appropriate accommodations within the police services, legal aid services and court procedures.	03 12	Reasonable accommodation support available across all services providing consumer and human rights protection 50% of all police stations, courts and consumer and human rights institution offices comply fully with built environment norms and standards	All persons with disabilities have full access to the justice system across the justice value chain 100% of all police stations, courts and consumer and human rights institution offices comply fully with built environment norms and standards	DoJCD; SAPS; DCS; DPW
2.3.2	**Strengthen monitoring systems to track access to the justice system for people with disabilities** A system to ensure barrier free access to justice must be put in place. Specific attention is required to other barriers faced by persons with intellectual and psychosocial disabilities and their resulting discrimination due to decision-making or legal capacity, lack of assessments and other relevant issues.	03 12	Monitoring system in place and baseline available	Annual reports published on access to justice for all persons with disabilities	DoJCD; SAPS; DCS; DSD (NDRCM)

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
3.	**SUPPORTING SUSTAINABLE INTEGRATED COMMUNITY LIFE**				
3.1	**Building socially cohesive communities and Neighbourhoods**				
3.1.1	**Include the rights of persons with disabilities in all social cohesion and human rights promotion programmes and messages** The rights of persons with disabilities must be integrated into all programmes and messages focusing on, among others, reducing inequality, building a united South Africa, moral regeneration, social cohesion and universal access to services.	14	50% of all social cohesion and human rights promotion programmes and messages highlights the rights of persons with disabilities	100% of all social cohesion and human rights promotion programmes and messages highlights the rights of persons with disabilities	All
3.1.2	**Ensure that all community development programmes and community facilities are accessible to persons with disabilities** This includes all social, economic, religious, cultural, sport and leisure facilities and programmes.	14	25% of existing facilities retrofitted to comply with minimum norms and standards 50% of existing programmes comply with accessibility standards	75% of existing facilities retrofitted to comply with minimum norms and standards 100% of existing programmes comply with accessibility standards	All
3.1.3	**Ensure access to residential facilities, day care and other programmes to older persons with disabilities** Residential facilities, day care and other programmes targeting older persons in general, must be made accessible to older persons with disabilities.	13 14	25% of existing facilities retrofitted to comply with minimum norms and standards 50% of existing programmes comply with accessibility standards	75% of existing facilities retrofitted to comply with minimum norms and standards 100% of existing programmes comply with accessibility standards	DHS[DSD
3.3	**Accessible human settlements/neighbourhoods**				
3.3.1	**Include supported community living plans in all Integrated Developments Plans (IDPs)** The Plans and budgets must make provision for coordinated and integrated community living support plans, focusing in particular on access to the built environment, integration of transport nodes and human settlement spatial design.	09	75% of metro municipal IDPs 50% of medium-size municipalities IDPs 15% of rural low functioning IDPs	100% of metro municipal IDPs 75% of medium-size municipalities IDPs 25% of rural low functioning IDPs	DCOG; DHS; NDoT; Municipalities

#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
3.3.2	**Ensure all modes of transport are accessible to persons with disabilities** Public and private transport systems must be designed and retrofitted to enable persons with disabilities to utilise the entire transport value chain without barriers.	06	15% of existing systems retrofitted and compliant with accessibility norms and standards across the transport value chain	75% of existing systems retrofitted and compliant with accessibility norms and standards across the transport value chain	NDoT; Provinces
3.3.3	**Provide access to subsidised housing support** Persons with disabilities and single mothers of children with disabilities must have equitable access to the full range of subsidised housing support provided by the state.	06 09	The National Needs Register has been reprioritised to give immediate access to applicants with disabilities and single mothers of children with disabilities	Waiting period for applicants with disabilities and single mothers of children with disabilities reduced to maximum 12 months for new stock and 6 months for existing stock	DHS; Provinces; Municipalities
3.3.4	**Incorporate the concept of universal design in infrastructure grants and tax rebate programmes** All infrastructure and neighbourhood development grants and tax rebate programmes must incorporate a universal design requirement.	06 12	100% of infrastructure and neighbourhood development grants and tax rebate programmes have a universal design criteria	100% of infrastructure and neighbourhood development grants and tax rebate programmes have a universal design criteria	NT
3.5	**Protection during situations of risk and disaster**				
3.5.1	**Review all government disaster management plans to ensure provisions for persons with disabilities in emergencies** The disaster plans of provincial, district and local municipalities must be reviewed. The plans must incorporate provisions to map homes and/or institutions in which persons who might require special assistance during emergencies are living, training of disaster management personnel, and to prevent injury during evacuations which might result in primary or secondary impairments. A specific Universal Design Access Plan for such situations must be developed.	09 10	100% of disaster management plans reviewed and universal design access plans developed and implemented	50% compliance with universal design access plans	DCOG; Provinces; Municipalities
3.5.2	**Provide accessible disaster relief services** National and provincial disaster management centres must ensure that psychosocial support service personnel that have the capacity to assist persons with disabilities, are available for deployment during disasters and that evacuation centres are accessible.	09	100% of national and provincial disaster management centres have formalised arrangements for availability of psychosocial support service personnel	100% of national and provincial disaster management centres have formalised arrangements for availability of psychosocial support service personnel	DCOG; Provinces

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
			with required skills for deployment during disasters	with required skills for deployment during disasters	
3.5.3	**Provide accessible emergency services** Municipal emergency services must put in place reasonable accommodation support systems and trained emergency personnel to ensure equitable and immediate access to these services for persons with disabilities.	02 09	100% of emergency personnel have been trained Reasonable accommodation measures in place in 100% of municipal emergency services, including for Deaf and hearing impaired persons	100% of emergency personnel have been trained Reasonable accommodation measures in place in 100% of municipal emergency services, including for Deaf and hearing impaired persons	Municipalities; PDoHs
4.	**PROMOTING AND SUPPORTING THE EMPOWERMENT OF PERSONS WITH DISABILITIES**				
4.1	**Early Childhood Development**				
4.1.1	**Children with disabilities must have equitable access to all ECD Programmes and Facilities** This requires that mainstream ECD programmes and facilities are made accessible for children with disabilities, i.e. that infrastructure; attitudes, equipment and activities do not hinder the participation of children with disabilities. Thus building plans, playgrounds, equipment, toys and ECD practitioner training comply with universal design norms and standards.	01 13	Minimum norms and standards for inclusive ECD programmes and facilities developed, costed and approved and baseline established	50% improvement to access and participation across the ECD value chain	DSD; DBE; PEDs
4.2	**Lifelong Education and Training**				
4.2.1	**Provide accessible education facilities** This applies to all existing and future developed public and private education institutions and campuses.	01 05 06	Minimum norms and standards approved Baseline for access established Improvement plans costed and budgeted for over 10 year period	50% improvement in access across education facility spectrum	DBE; PEDs; DHET

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
4.4	**Access to Healthy Lifestyle Support**				
4.4.1	**Provide access to affordable healthcare services** Integrated and holistic basket of accessible and affordable healthcare services at a district and community level, as well as access to higher levels of care, must be provided to all persons with disabilities.	02	Basket of accessible and affordable disability-related health care services at community level defined, costed and approved	50% of health care facilities offer the defined basket of services	DoH; PHDs
4.4.2	**Provide access to victim empowerment and recourse programmes** All persons with disabilities, and in particular women and girls with disabilities as well as older persons with disabilities, who are victims and/or survivors of disability-related and gender-based violence and crime, must have access to affordable victim empowerment and recourse programmes.	03	Protocols for full access to victim empowerment and recourse programmes for persons with disabilities developed, costed and approved 25% compliance rate	100% compliance rate	DSD; SAPS; DoJCD; DoH; PHDs
4.4.3	**Ensure all HIV and AIDS prevention and treatment programmes are accessible to persons with disabilities** This must include family planning, sexuality/sex education programmes. If it is not possible to remove all access and participation barriers, then disability-specific accessible services must be provided.	02 13	Protocols for full access to HIV and AIDS prevention and treatment programmes for persons with disabilities developed, costed and approved 25% compliance rate	100% compliance rate	DoH; PHDs; DSD; SANAC
5.	**REDUCING ECONOMIC VULNERABILITY AND RELEASING HUMAN CAPITAL**				
5.1	**Disability, Poverty, Development and Human Rights**				
5.1.3	**Develop and/or strengthen and broaden the geographic reach of programmes and projects designed to reduce poverty amongst persons with disabilities** The programmes and projects must focus on the following 7 areas: • Access to education; • Support for caregivers of children with disabilities and those for adults with severe disabilities; • Accessible and affordable transport; • Increasing household income through employment and work opportunities; • Provision of accessible transport to health care facilities;	01 02 04 07 13	Baseline for access to range of programmes in rural municipalities established 25% improvement in access by rural communities to all programmes	75% improvement in access by rural communities to all programmes	DBE; PEDs; DoH; PHDs; DSD; NDoT; DoL; DCOG; DTPS

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
	• Affordable assistive devices and support, including accessibility of information and communication technology; and The inclusion of persons with disabilities in the design of key developmental areas such as housing and transport.				
5.3.2	**Strengthen access to, and participation in, SME support programmes** This must include strengthening all support programmes for entry level SMEs owned by persons with disabilities by implementing affirmative action targets and ensuring that reasonable accommodation support is available across the SME support services value chain.	04	50% increase in participation by emerging SMEs owned by persons with disabilities in SME support programmes	100% increase in participation by emerging SMEs owned by persons with disabilities in SME support programmes	DSBD
6.	**STRENGTHENING THE REPRESENTATIVE VOICE OF PERSONS WITH DISABILITIES**				
6.1	**Strengthening Access and Participation through Self-Representation**				
6.1.1	**Include persons with disabilities in all design, planning, implementation and monitoring of policies and programmes** Government institutions at all levels and contexts of governance must consult relevant representative organisations of persons with disabilities (inclusive of parents organisations) in the design, budgeting, implementation and monitoring of legislation, programmes and services to the public in general, as well as services and programmes designed specifically for persons with disabilities.	12	All public institutions have institutionalised consultative platforms with representative organisations of persons with disabilities	All public institutions have functional consultative platforms with representative organisations of persons with disabilities	DSD (NDRCM)
6.1.2	**Ensure private entities provide accessible services** Private entities providing services to the public must be encouraged to involve representative organisations of persons with disabilities in developing and assessing the accessibility of their services	12	Guidelines developed and published	Legislation developed and approved	DSD (NDRCM)
6.3.2	**Provide accessible consultative platforms and support for self-representation** Persons with disabilities who experience barriers in representing themselves or organising themselves into representative organisations, must be provided with consultative platforms and support to represent themselves.	14	Strategy and Plan for self-representation for under-represented groups approved	At least one dedicated NDRM consultation with every under-represented group per annum convened	DSD (NDRCM)

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
6.4	**Public Participation and Consultation Programmes**				
6.4.1	**All public participation programmes must be fully accessible to persons with disabilities** This will include making use only of venues that are fully accessible, and ensuring that reasonable accommodation measures to ensure access to information and communication, are available.	12 14	Minimum norms and standards for access and participation in public participation programmes by persons with disabilities approved 50% compliance across all three spheres of government	100% compliance across all three spheres of government	DSD (NDRCM)
7.	**BUILDING A DISABILITY EQUITABLE STATE MACHINERY**				
7.1	**Disability Equitable Planning, Budgeting and Service Delivery**				
7.1.3	**Develop and implement funded Universal Design Access Plans** All public institutions must include a funded Universal Design Access Plan as an integral component of their annual performance plans and/or Integrated Development Plans. This requires that public institutions are able to illustrate how universal design principles are transforming planning and designing, and what reasonable accommodation support measures are funded.	12 14	Guidelines for Universal Design Access Plans approved 25% compliance with guidelines	100% compliance with guidelines	DSD (NDRCM); Legislatures
7.1.4	**Incorporate universal design principles in procurement of goods, services and construction of infrastructure** All state grant funding must incorporate a minimum requirement that universal design principles are included in the procurement of goods and services and construction of infrastructure. All service level agreements with state owned enterprises must include a disability dimension that contributes towards equitable outcomes for persons with disabilities.	12	100% compliance	100% compliance	NT; DSD (NDRCM)
7.1.5	**Review all programmes targeting children for access to children with disabilities** The review must be conducted on all public and private sector programmes. It must include all child-centred services and must focus on the elements of equal access and participation.	01; 02 03; 13 14	Review conducted and report with recommendations tabled to Cabinet	100% compliance with Cabinet decisions	DSD

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
7.2	**Disability Equitable Evidence informing Policy and Programme Development** (Monitoring, Evaluation, Reporting, Research, Data and Statistics)				
7.2.2	**Develop and implement a national research agenda** A national disability research agenda for purposes of policy and programme development and tracking the reduction of inequality, must be developed at five year intervals to coincide with the MTSF.	12	Costed national disability research agenda for 2020-2030 approved	100% implementation of the agenda	DSD (NDRCM)
7.3	**Public Procurement and Regulation**				
7.3.1	**All public procurement and tender documents and processes must comply with the concept of universal design** Public procurement policies must include dispositions requiring that when public agents purchase products and services with public funds, the agent must purchase the product that best meets accessibility requirements as defined by international standards.	12	Guidelines approved and issued 75% compliance	Regulatory framework approved 100% compliance	NT
7.4	**Capacity Building and Training**				
7.4.1	**Train personnel on providing services to persons with disabilities** All public and private institutions must ensure that personnel responsible for frontline service delivery, design and planning, budgeting, service delivery, administration of justice and M&E. undergo on-going training on strategies and measures to ensure equality of outcome for persons with disabilities in their programmes. Additionally, disability equity and service delivery improvement training must be included in the annual continuous development programmes of all professional staff that render services to persons with disabilities.	05	50% of personnel completed at least one module on disability equitable service delivery	100% of personnel completed at least one module on disability equitable services delivery	DPSA; Professional bodies
7.4.2	**Include modules on disability in all education materials and courses** All education materials across the learning spectrum must include modules on inclusion and disability equity. All disability equity training courses must include persons with disabilities (inclusive of parents) as part of the trainer component.	05	Disability equity and inclusion modules developed for inclusion across the learning spectrum	100% compliance	DHET; DBE; SAQA
9.	**INSTITUTIONAL ARRANGEMENTS**				
9.4	The South African Bureau of Standards must strengthen its universal design capacity in the work of their design institute and standard setting bodies.	12	Strategy and costed implementation plan developed in consultation	100% compliance with targets set	SABS

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#	Policy Directive	MTSF Outcome	2015 – 2019 Target	2020 – 2030 Target	Lead Agency
			with the disability sector, approved and implemented		
9.5	The CSIR must strengthen its capacity to promote universal design in its research, technological innovation as well as industrial and scientific development programmes.	12	Strategy and costed implementation plan developed in consultation with the disability sector, approved and implemented	100% compliance with targets set	CSIR
9.6	The South African Qualifications Authority (SAQA) must strengthen its capacity to promote and coordinate the development of a national universal design qualifications framework.	05 12	Strategy and costed implementation plan developed, approved and implemented	100% compliance with targets set	SAQA

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BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 130 OF 2021

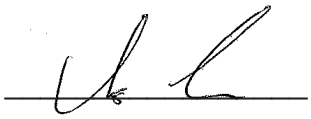
FINANCIAL SECTOR CONDUCT AUTHORITY

FINANCIAL MARKETS ACT, 2012

APPROVED AMENDMENTS TO THE JSE INTEREST RATE AND CURRENCY DERIVATIVES RULES AND THE JSE DERIVATIVES RULES – EMIGRANT CLIENT CONCEPT

The Financial Sector Conduct Authority (FSCA) hereby gives notice under section 71(3)(c)(ii) of the Financial Markets Act, 2012 (Act No. 19 of 2012) that the amendments to the JSE derivatives rules have been approved. Please be advised that the rules have been published on the official website of the FSCA (www.fsca.co.za) and the website of the JSE (www.jse.co.za).

The amendments come into operation on the date of publication.



Ms Astrid Ludin
Deputy Commissioner
Financial Sector Conduct Authority

BOARD NOTICE 131 OF 2021

SOUTH AFRICAN COUNCIL FOR THE LANDSCAPE ARCHITECTURAL PROFESSION

169 Corobay Ave, Block A, 2nd Floor, Waterkloof Glen, Pretoria
www.saclap.org.za

registrar@saclap.org.za

FOR PUBLIC COMMENT
OCTOBER 2021

The South African Council for the Landscape Architectural Profession has in terms of sections 11 and 19 of the Landscape Architectural Profession Act, Act No. 45 of 2000 (the Act) intend to prescribe the following new policies.

REGISTRATION POLICY 2021
ASSESSMENT POLICY 2021

FOR THE
SOUTH AFRICAN COUNCIL FOR THE
LANDSCAPE ARCHITECTURAL PROFESSION (SACLAP)

These policies will supersede the Registration Policy for the Landscape Architecture Profession and related documents published in this regard before this date.
The effective date for implementation will be 1 January 2023 to allow for a transitional period.

In terms of Section 36 of the Act, all interested parties are invited to submit in comments in writing. Comments may be emailed to registrar@saclap.org.za with an email subject line: SACLAP Public Comment on proposed Registration Policies All comments should reach the Registrar office no later than 18 November 2021.

The full draft policy documents are available for download from our website www.saclap.org.za under the News and Notices Section.

BOARD NOTICE 132 OF 2021

AGRICLTURAL PRODUCE AGENTS ACT,1992

(ACT NO 12 OF 1992)

UNCLAIMED MONIES PAYBLE TO PRINCIPALS OF FRESH PRODUCE AGENTS

In terms of Section 21(1) of the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992) notice is hereby given of unclaimed monies specified in the Schedule, that have been paid to the Registrar of the Agricultural Produce Agents Council in terms of Section 21(2) of the Act.

Any person who is of the opinion that he/she is entitled to an indicated amount shall claim it within 90 days from the date of publication of this notice by means of a statement, duly sworn and confirmed to the Registrar, Agricultural Produce Agents Council, Suite 69, Private Bag X9, East rand, 1462, and in which the following particulars are furnished:

a) The full name and address of claimant;
b) The names of the fresh produce agent concerned;
c) The amount claimed and quantity of produce for which it is claimed; and
d) The date on which and the address at which the produce concerned were delivered.

CF Knowles

REGISTRAR: AGRICLTURAL PRODUCE AGENTS COUNCIL

Agricultural Produce Agents Council

Unclaimed monies details list

Reporting month: 30 September 2021
Period reflected: 2021-04-01 - 2021-09-30

Gazette Number	Unadvertised

Agency	Producer (Surname and Initials)	Sum of Balance	
Algoabaai Market Agency	Page J	R	59.13
Algoabaai Market Agency Total		**R**	**59.13**
Botha Roodt Johannesburg Market Agency	Mulaudzi PJ	R	457.28
Botha Roodt Johannesburg Market Agency	Nkuna C	R	309.16
Botha Roodt Johannesburg Market Agency	Mupulani Trading & Project	R	517.21
Botha Roodt Johannesburg Market Agency Total		**R**	**1,283.65**
CL de Villiers Market Agency	Ndou J	R	105.45
CL de Villiers Market Agency	Lehong Evans	R	61.76
CL de Villiers Market Agency	Seoman MR	R	1,015.90
CL de Villiers Market Agency Total		**R**	**1,183.11**
Dapper Market Agency	Farmlink	R	2,809.68
Dapper Market Agency Total		**R**	**2,809.68**
DW Fresh Jhb Market Agency	Ngwana TA	R	291.85
DW Fresh Jhb Market Agency	Munzhelele T	R	748.10
DW Fresh Jhb Market Agency	Mamidze P	R	135.54
DW Fresh Jhb Market Agency	Matamela R	R	70.49
DW Fresh Jhb Market Agency	Rakhalaru T	R	234.09
DW Fresh Jhb Market Agency	Mabalama R	R	77.34
DW Fresh Jhb Market Agency Total		**R**	**1,557.41**
DW Fresh Tswhane Market Agency	Easy Green	R	575.88
DW Fresh Tswhane Market Agency	JM Smith	R	297.61
DW Fresh Tswhane Market Agency	Dally	R	113.51
DW Fresh Tswhane Market Agency	Thelma	R	1,284.36
DW Fresh Tswhane Market Agency	Fresh	R	192.65
DW Fresh Tswhane Market Agency	Louis	R	107.88
DW Fresh Tswhane Market Agency	Telma	R	91.25
DW Fresh Tswhane Market Agency Total		**R**	**2,663.14**
Exec-U-Fruit Market Agency	Kwinda M	R	614.68
Exec-U-Fruit Market Agency	Mawasha DL	R	450.56
Exec-U-Fruit Market Agency	Mawasha DL - Negative account sale	-R	7.52
Exec-U-Fruit Market Agency	Vhulahani S	R	203.90
Exec-U-Fruit Market Agency	Mudzweda M R (Invalid Acc)	R	1,419.92
Exec-U-Fruit Market Agency	Raphalalani T (No Details)	R	324.02
Exec-U-Fruit Market Agency	Raphalalani T (No Details) - Neg Acc	-R	34.58
Exec-U-Fruit Market Agency	Muller C S	R	249.64
Exec-U-Fruit Market Agency	D M African Enterprise (No Details)	R	4.75
Exec-U-Fruit Market Agency	Mohale J (No Details)	R	24.38
Exec-U-Fruit Market Agency	Mohale J (No Details) - Negative Acc	-R	0.58
Exec-U-Fruit Market Agency	Sithole C	R	296.80
Exec-U-Fruit Market Agency	Muedi TS	R	266.76
Exec-U-Fruit Market Agency	Maimele Glenda	R	298.98
Exec-U-Fruit Market Agency	Malatji JM	R	940.72
Exec-U-Fruit Market Agency	Tibane Moxe	R	62.91
Exec-U-Fruit Market Agency	Khosa NT	R	51.48
Exec-U-Fruit Market Agency Total		**R**	**5,166.82**
Farmers Trust Market Agency	Urban Fresh	R	541.29
Farmers Trust Market Agency	Mashabela T	R	225.46

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Farmers Trust Market Agency	Sekgota NA	R	818.74
Farmers Trust Market Agency	Headeco Green	R	103.08
Farmers Trust Market Agency	Ramabeka MG	R	80.23
Farmers Trust Market Agency	Mhlanga A	R	6.76
Farmers Trust Market Agency	Ringani G	R	83.21
Farmers Trust Market Agency	Rosina Mnette	R	566.79
Farmers Trust Market Agency	Mangena MD	R	781.54
Farmers Trust Market Agency Total		**R**	**3,207.10**
Fresh Way Market Agency	Lichi Holdings	R	3,778.54
Fresh Way Market Agency	Masikhwa LV	R	274.19
Fresh Way Market Agency Total		**R**	**4,052.73**
Mabeka Market Agency	Molele B	R	536.72
Mabeka Market Agency	Matome JM	R	80.90
Mabeka Market Agency	Xantitium Farmers Trust	R	276.18
Mabeka Market Agency	Freshly Good Co-Space	R	228.19
Mabeka Market Agency	Makalanyan	R	578.06
Mabeka Market Agency	Tokollo Kgabo	R	223.91
Mabeka Market Agency	Zolamate PTY LTD	R	416.54
Mabeka Market Agency	Mbali Farm	R	663.31
Mabeka Market Agency	Ahmed Zedan	R	503.95
Mabeka Market Agency Total		**R**	**3,507.76**
Marco Market Agency	Market Produce Supply	R	6,341.92
Marco Market Agency Total		**R**	**6,341.92**
Metro Market Agency	Tshipala TE	R	66.62
Metro Market Agency	Mamedzi J	R	369.26
Metro Market Agency	Munyai LE	R	68.75
Metro Market Agency	Makhwathana MS	R	280.27
Metro Market Agency	Maluleke D	R	240.31
Metro Market Agency Total		**R**	**1,025.21**
Noordvaal Market Agency	Abinel Matemezano	R	3.55
Noordvaal Market Agency	BONGIWE MNDWENI	R	478.52
Noordvaal Market Agency	RISABA BUS SERVICES	R	854.62
Noordvaal Market Agency	JV AND RD BDY	R	300.65
Noordvaal Market Agency	RAMOGADI DANIEL	R	1,847.03
Noordvaal Market Agency	QUALITY AGRI	R	11,622.23
Noordvaal Market Agency	A KOEN	R	1,458.64
Noordvaal Market Agency	SINDANE FAMILY PROJECT	R	17.10
Noordvaal Market Agency	FRANS MAPATLA	R	157.96
Noordvaal Market Agency	C AND M BOERDERY	R	1,247.75
Noordvaal Market Agency	AVIRAAG FRESH PRODUCE	R	111.42
Noordvaal Market Agency	SIRELANE	R	188.46
Noordvaal Market Agency	VAN DER MERWE P	R	369.88
Noordvaal Market Agency	YA BATHO COOPERATIVE	R	779.43
Noordvaal Market Agency	NKWANA BOERDERY	R	582.34
Noordvaal Market Agency	102 PWM BELEGGINGS	R	3,919.88
Noordvaal Market Agency	MANELO FARM	R	98.59
Noordvaal Market Agency	SUZAN NTULI	R	308.23
Noordvaal Market Agency	DF MAREE	R	239.75
Noordvaal Market Agency	SUZAN NTULI/TUMELE	R	595.14
Noordvaal Market Agency	DFN FARMING	R	2,132.17
Noordvaal Market Agency	LM BOERDERY	R	3,199.14
Noordvaal Market Agency	MARULANA LUFUNO	R	9,441.68
Noordvaal Market Agency	OSIKELH PTY	R	3,687.47
Noordvaal Market Agency	AGRI TEAM	R	3,379.57
Noordvaal Market Agency	KV MOKOGOLOBOTO	R	8.56
Noordvaal Market Agency	GG GOWREE GROUP	R	2,137.31
Noordvaal Market Agency	SNYMAN WIM	R	399.04
Noordvaal Market Agency	ERIC MONGWE	R	513.75

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Noordvaal Market Agency	KV MOKGOLOBOTO	R	187.55
Noordvaal Market Agency	MASHELE TSIPORA	R	248.44
Noordvaal Market Agency	MAFASI POULTRY FARM	R	280.92
Noordvaal Market Agency	JV RENSBURG AW	R	933.28
Noordvaal Market Agency	ESMARILINE BDY	R	5,936.76
Noordvaal Market Agency	OOSTHUYSEN BEISHEIDS TRUST	R	8,633.86
Noordvaal Market Agency	TSHEGOFATSO	R	462.37
Noordvaal Market Agency	M N GROWERS	R	1,157.84
Noordvaal Market Agency	W NAUDE	R	4,616.30
Noordvaal Market Agency	HIRAS STALL CC	R	560.84
Noordvaal Market Agency	BLAAUWBLOMMETJIESKLOOF	R	3,724.64
Noordvaal Market Agency	JP KRIEL	R	385.44
Noordvaal Market Agency	DAVID PHAKULA	R	209.76
Noordvaal Market Agency	SAMUEL SELOWA	R	325.49
Noordvaal Market Agency	MAKOMENE FRESH PRODUCE	R	176.35
Noordvaal Market Agency	NCUSA HOLDING PTY LTD	R	735.03
Noordvaal Market Agency	MRM FARMS	R	126.39
Noordvaal Market Agency Total		**R**	**78,781.12**
RSA Cape Town	Malibongwe S	R	204.08
RSA Cape Town Total		**R**	**204.08**
RSA Durban Market Agency	True Vission	R	2,431.18
RSA Durban Market Agency	Pro Cherry Growers	R	75,452.27
RSA Durban Market Agency	Wilnick BDY	R	69,912.04
RSA Durban Market Agency	The King Fresh Wholesalers	R	1,994.27
RSA Durban Market Agency	Yash R Fruit Veg	R	1,901.28
RSA Durban Market Agency	Nash Trevor	R	924.45
RSA Durban Market Agency	Vilizi Investment	R	3,873.52
RSA Durban Market Agency	Pecona and Trade Port DBN	R	1,438.49
RSA Durban Market Agency	Myeni MN	R	607.66
RSA Durban Market Agency	Moon CR	R	230.56
RSA Durban Market Agency	King Fresh	R	13,771.70
RSA Durban Market Agency	Bhandla Service	R	5,030.47
RSA Durban Market Agency	Bhojra S	R	827.48
RSA Durban Market Agency Total		**R**	**178,395.37**
RSA Johannesburg Market Agency	Mulaudzi O	R	98.51
RSA Johannesburg Market Agency	Hlatshwayo Bonisile	R	4,796.20
RSA Johannesburg Market Agency	Pradu Veg	R	2,189.69
RSA Johannesburg Market Agency	Honeydew Farms	R	305.97
RSA Johannesburg Market Agency	Balibali KG	R	425.27
RSA Johannesburg Market Agency	Kuza Africa	R	2.00
RSA Johannesburg Market Agency	Farm Geigerle	R	435.45
RSA Johannesburg Market Agency Total		**R**	**8,253.09**
RSA Limpopo Market Agency	Mafori Multi Trade	R	1,010.41
RSA Limpopo Market Agency Total		**R**	**1,010.41**
RSA Tshwane Market Agency	Budeli NM	R	92.71
RSA Tshwane Market Agency	Farinha D	R	6,156.09
RSA Tshwane Market Agency	Twala Z	R	92.45
RSA Tshwane Market Agency	Kareehoek BDY	R	949.72
RSA Tshwane Market Agency	De Klerk Eric	R	84.47
RSA Tshwane Market Agency	RSA Groente	R	7,309.46
RSA Tshwane Market Agency	RSA Vegs	R	646.10
RSA Tshwane Market Agency	Beyond 360 Supply	R	342.13
RSA Tshwane Market Agency	Mosoete J	R	203.24
RSA Tshwane Market Agency	Enelelo Group	R	25.34
RSA Tshwane Market Agency	Micheal Mardon	R	30.82
RSA Tshwane Market Agency	Henleo 1084	R	3,904.11
RSA Tshwane Market Agency	Morgadi LM	R	826.19
RSA Tshwane Market Agency	Mofaudinue	R	68.49

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RSA Tshwane Market Agency Total		**R**	**20,731.32**
Subtropico Tswhane Market Agency	BLUETOUCH	R	16.89
Subtropico Tswhane Market Agency	GROBLER	R	526.66
Subtropico Tswhane Market Agency	NEKHUMBE	R	656.00
Subtropico Tswhane Market Agency	MALATJIE MM	R	126.78
Subtropico Tswhane Market Agency	KOK	R	521.16
Subtropico Tswhane Market Agency	PHASWANA	R	156.55
Subtropico Tswhane Market Agency	TSHISVHE	R	279.70
Subtropico Tswhane Market Agency	PHALUKA	R	102.50
Subtropico Tswhane Market Agency	AMBOSE	R	276.55
Subtropico Tswhane Market Agency	CROCODILE	R	204.89
Subtropico Tswhane Market Agency	IMI	R	1,199.54
Subtropico Tswhane Market Agency	MUKUNJA	R	33.79
Subtropico Tswhane Market Agency	KANYI	R	60.17
Subtropico Tswhane Market Agency	MARAIS	R	612.43
Subtropico Tswhane Market Agency	MKANZI	R	569.49
Subtropico Tswhane Market Agency	Toi	R	134.80
Subtropico Tswhane Market Agency	Mariiba Fresh Produce	R	7,314.41
Subtropico Tswhane Market Agency	Netswera	R	122.47
Subtropico Tswhane Market Agency	Laas Japie	R	50.68
Subtropico Tswhane Market Agency	C10 Farm	R	6,419.32
Subtropico Tswhane Market Agency	Tlotto	R	3,240.84
Subtropico Tswhane Market Agency	Mashele	R	267.42
Subtropico Tswhane Market Agency Total		**R**	**22,893.04**
Swartberg MArket Agents	City Harvest Youth & Woman Empow	R	36.73
Swartberg MArket Agents Total		**R**	**36.73**
Tshwane Green Market Agency	Raserora T	R	17.61
Tshwane Green Market Agency Total		**R**	**17.61**
Witbank Market Agency	George	R	227.64
Witbank Market Agency Total		**R**	**227.64**
Grand Total		**R**	**343,408.07**

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