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REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

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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

IMPORTANT NOTICE:

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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](mailto:gpw@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** **2024**

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

- **28 December 2023**, Thursday for the issue of Friday **05 January 2024**
- **05 January**, Friday for the issue of Friday **12 January 2024**
- **12 January**, Friday for the issue of Friday **19 January 2024**
- **19 January**, Friday for the issue of Friday **26 January 2024**
- **26 January**, Friday for the issue of Friday **02 February 2024**
- **02 February**, Friday for the issue of Friday **09 February 2024**
- **09 February**, Friday for the issue of Friday **16 February 2024**
- **16 February**, Friday for the issue of Friday **23 February 2024**
- **23 February**, Friday for the issue of Friday **01 March 2024**
- **01 March**, Friday for the issue of Friday **08 March 2024**
- **08 March**, Friday for the issue of Friday **15 March 2024**
- **14 March**, Thursday for the issue of Friday **22 March 2024**
- **20 March**, Wednesday for the issue of Thursday **28 March 2024**
- **27 March**, Wednesday for the issue of Friday **05 April 2024**
- **05 April**, Friday for the issue of Friday **12 April 2024**
- **12 April**, Friday for the issue of Friday **19 April 2024**
- **19 April**, Friday for the issue of Friday **26 April 2024**
- **25 April**, Thursday for the issue of Friday **03 May 2024**
- **03 May**, Friday for the issue of Friday **10 May 2024**
- **10 May**, Friday for the issue of Friday **17 May 2024**
- **17 May**, Friday for the issue of Friday **24 May 2024**
- **24 May**, Friday for the issue of Friday **31 May 2024**
- **31 May**, Friday for the issue of Friday **07 June 2024**
- **07 June**, Friday for the issue of Friday **14 June 2024**
- **13 June**, Thursday for the issue of Friday **21 June 2024**
- **21 June**, Friday for the issue of Friday **28 June 2024**
- **28 June**, Friday for the issue of Friday **05 July 2024**
- **05 July**, Friday for the issue of Friday **12 July 2024**
- **12 July**, Friday for the issue of Friday **19 July 2024**
- **19 July**, Friday for the issue of Friday **26 July 2024**
- **26 July**, Friday for the issue of Friday **02 August 2024**
- **01 August**, Thursday for the issue of Thursday **08 August 2024**
- **08 August**, Thursday for the issue of Friday **16 August 2024**
- **16 August**, Friday for the issue of Friday **23 August 2024**
- **23 August**, Friday for the issue of Friday **30 August 2024**
- **30 August**, Friday for the issue of Friday **06 September 2024**
- **06 September**, Friday for the issue of Friday **13 September 2024**
- **13 September**, Friday for the issue of Friday **20 September 2024**
- **19 September**, Thursday for the issue of Friday **27 September 2024**
- **27 September**, Friday for the issue of Friday **04 October 2024**
- **04 October**, Friday for the issue of Friday **11 October 2024**
- **11 October**, Friday for the issue of Friday **18 October 2024**
- **18 October**, Friday for the issue of Friday **25 October 2024**
- **25 October**, Friday for the issue of Friday **01 November 2024**
- **01 November**, Friday for the issue of Friday **08 November 2024**
- **08 November**, Friday for the issue of Friday **15 November 2024**
- **15 November**, Friday for the issue of Friday **22 November 2024**
- **22 November**, Friday for the issue of Friday **29 November 2024**
- **29 November**, Friday for the issue of Friday **06 December 2024**
- **06 December**, Friday for the issue of Friday **13 December 2024**
- **12 December**, Thursday for the issue of Friday **20 December 2024**
- **18 December**, Wednesday for the issue of Friday **27 December 2024**

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 **R3026.32** 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
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
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 be 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.gpwnonline.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:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

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 AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 4253

19 January 2024

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, Act No. 22 of 1994 as amended, that the late Ms. Mehlaba Masingi lodged a land claim for restitution of land rights, on Malamangwa which is known as part of portion 0 of the farm Sterkstroom 277 MT measuring 9999.50 square meters, situated within the Vhembe District of the Limpopo. This land claim was lodged on the 11 January 1998. **Further details of the property under claim are as follows:**

FARM NAME	OWNER	CLAIMED EXTENT	TOTAL EXTENT	ENDORSEMENTS	HOLDER	TITLE DEED
Part of portion 0 of the farm Sterkstroom 277 MT	National Government of the RSA	9999.50 m2	3446.3179	K18/1997RMVNPTA	Randgold & Exploration CO LTD	T1858/1927 VNPTA


Take further notice that the Office of the Regional Land Claims Commissioner: Limpopo is investigating this land claim. Any party that has an interest in the above-mentioned property is hereby invited to submit in writing within **30** days of publication of this notice, any comment, and/or objection to the Regional Land Claims Commissioner at the addresses set out below under reference number **KRP 8953**.

Take further notice that a meeting of all interested parties will be convened upon publication of this notice, for the purpose of information sharing and outlining of the Restitution process.

The office of the Regional Land Claims
Commissioner: Limpopo
Private Bag x9552
POLOKWANE
0700

Submission may also be delivered to:
13th – 15th Floor Thabakgolo Nedbank Building
50 -58 Landros Mare Street
POLOKWANE
0700

Old Mutual Building
62 Mphephu Drive
THOHOYANDOU
0950


L H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER
DATE: 2023/12/13

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 4254

19 January 2024

LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

Notice is hereby given, in terms of Section 17 (2) (c) of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996) ("the LTA"), that applications for acquisition of land or rights in land were lodged with the Director General of the erstwhile Department of Land Affairs by the Applicants, and in respect of the Property, described in the Schedule.

Any party who may have an interest in the applications appearing in the Schedule is hereby invited to make written representations to the Director General, within 30 days from the publication of this Notice. The representations must be forwarded to:

The Director General**c/o Director: Tenure Reform Implementation**

Department of Agriculture, Land Reform & Rural Development
Vryheid Regional SSC, Newcastle Office
46 Voortrekker Street
Newcastle
2940

Tel (034) 312 8460

Fax: (034) 312 7337

Email: makhosazane.madonsela@dalrrd.gov.za

Nonduduzo.mafuleka@dalrrd.gov.za

File Reference: **See attachment**

SIGNED BY: MS. M. MADONSELA

DEPUTY DIRECTOR: TENURE REFORM IMPLEMENTATION

DULY AUTHORISED

For DIRECTOR-GENERAL: AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

SCHEDULE

ADMIN DETAILS		DETAILS OF THE APPLICANTS		DETAILS OF THE PROPERTY			
No.	File No / Reference	Name and Surname	Identity Number	Property Description	Locality (District)	Current Title Deed No	Bonds and Restrictive Conditions (Interdicts)
1.	19/3-9/6/A/26	MR. BHEKIZIWE ROGERS SITHOLE (DECEASED)	560604 5682 084	THE REMAINING EXTENT OF THE FARM FRONTIER NO. 4298, HS	NEWCASTLE	T20379/2012	FIRSTSTRAND BANK LIMITED
2.	19/3-9/6/A/24	MR. FAYINDOLO ELLIOT SHABALALA MR. FIKASHO TIMOTHY TSHABALALA (DECEASED) MR. MESHACK MHLONIPHENI TSHABALALA	661127 5723 086 490305 5681 085 750802 6187 083	PORTION 1 OF THE FARM LA BELLA ESPERANCE NO. 3338, HS	NEWCASTLE	T24446/2019	NEDBANK LIMITED
3.	19/3-9/6/A/29	MR. SIFISO SHADRACK KHUMALO (DECEASED) MR. MAKHOSONKE MBONGELENI KHUMALO (ASSOCIATE) MR. DANIEL MSELANTO KUMALO	721122 5923 081 870410 5501 081 510510 5478	PORTION 0 OF THE FARM LANGBERG NO. 4563, HS	NEWCASTLE	T29512/2022	ABSA BANK LIMITED

4.	19/3- 9/6/A/27	MR. SIPOTI SIMON MNDAWENI (DECEASED)	390313 5197 087	PORTION 1 OF THE FARM CRAIG NO. 2989, HS	NEWCASTLE	T20781/ 1971	EERSTEPLAN LANDGOED PTY LTD	FIRSTRAND BANK LTD NATAL NAVIGATION COLLIERIES & ESTATE CO LTD
		MR. PETER SIPRIEN MNDAWENI (ASSOCIATE)	900804 5510 082					
		MR. ZIKHALI RICHARD HLATSHWAYO	48050 2546 5087					
		MS. SIZAKELE BRIGHTNESS SITHEBE	69120 40681 882					
		MR. THEMBA GEORGE SITHEBE	631226 5304 082					
		MR. LUTHENI HERY SITHEBE	650604 5461 084					
		MR. SKHUMBUZO MAXWELL (DECEASED)	610701 5523 084					
		MS. NONHLANHLA LUCY (ASSOCIATE)	940122 1110 084					
		MRS. NOKUTHULA GERTRUDE MAVIMBELA (DECEASED)	280501 0202 083	PORTION 0 OF THE FARM STONEHENG E NO. 8988, GS	NEWCASTLE	T6849/1 998	KRUGERSWENS TRUST- TRUSTEES	N/A
5.	19/3- 9/6/A/28							

		MS, NOMGIBELO MITA TSHABALALA (SUCCESSOR)	800704 0228 089							
6.	19/3- 9/6/A/23	MR. STEPHEN BAFANA MOFOKENG (DECEASED) MR THABO MOFOKENG (ASSOCIATE) MR. SAUL MATALAZA RADEBE	570928 5560 083 760927 5436 088 460807 5328 084	REM OF HARTEBEEST BULT FARM NO.9197-HS	AMAJUBA	T24690/ 2016	AVELEDA PROPRIETARY LIMITED	N/A		
7.	19/3- 9/6/B/36	BOYI Z MNDEBELE (RELOCATED) MZAYIFANI Z QWABE (DECEASED) BHEKITHEMBA DOCTOR QWABE (SUCCESSOR) VUSUMUZI P QWABE (UNKNOWN) MR. MBHEKENI J MBULI (DECEASED)	590722 5766 089 480427 5273 085 740622 5429 085 651202 5337 088 660803 5469 083 791003 0889 086	PORTION 8 OF THE FARM WATERVAL NO 51 HT	AMAJUBA	T26227/ 2004	MARTIQ 922 CC	N/A		

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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 4255

19 January 2024

LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

Notice is hereby given, in terms of Section 17 (2) (c) of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996) ("the LTA"), that applications for acquisition of land or rights in land were lodged with the Director General of the erstwhile Department of Land Affairs by the Applicants, and in respect of the Property, described in the Schedule.

Any party who may have an interest in the applications appearing in the Schedule is hereby invited to make written representations to the Director General, within 30 days from the publication of this Notice. The representations must be forwarded to:

The Director General**c/o Deputy Director: Tenure Reform Implementation**

Department of Agriculture, Land Reform & Rural Development

Vryheid Regional SSC, Newcastle Office

46 Voortrekker Street

Newcastle

2940

Tel: (012) 319 6000/ 012 319 7972

Email: Makhosazane.madonsela@dalrrd.gov.zaNonduduzo.mafuleka@dalrrd.gov.zaFile Reference: **See attachment****SIGNED BY: Ms. M. Madonsela**

DEPUTY DIRECTOR: TENURE REFORM IMPLEMENTATION

DULY AUTHORISED

For DIRECTOR-GENERAL: DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

SCHEDULE

ADMIN DETAILS		DETAILS OF THE APPLICANTS		DETAILS OF THE PROPERTY				Bonds and Restrictive Conditions (Interdicts)
No.	File No / Reference	Name and Surname	Identity Number	Property Description	Locality (District)	Current Title Deed No	Current Owner	
1.	19/3-9/6/B/38	Boy Albert Masondo Bhekuyise C Shabangu Fanuhcupheka Moses Linda Bikela Johannes Zwane Loloza Khumalo	580619 5308 080 430322 5298 086 410926 5367 081 660403 5875 080 370416 5180 088	Portion 3 of the farm Goede Hoop No. 177 HT	Amajuba	T7919/2004	Goedehoop NR 177 Farming CC	N/A
2.	19/3-9/6/B/33	Paulos Mduuzi Luvuno (Deceased) Mandla Griba Luvuno (Successor) Sibongile Getrude Ndhlovu (Deceased)	730811 5834 087 721129 5341 081 180308 0133 081 700701 0527 081	Portion 3 of the farm Zoetmelkriveir No. 86 HT	Amajuba	T28692/2010	Winlake Trading 22 CC	N/A

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5.	19/3-9/6/B/39	Jabulani Willie Gule	480815 5565 080	Portion 0 of the farm Altemooi No. 18787 HT	Amajuba	T30683/2022	Die Bertus Burgers Familie Trust	N/A
6.	19/3-9/6/C/10	Mr. Henry Sabatha Mabele	510606 5302 085	The remaining extent of Portion 2 of the farm Klip Poort No. 2952 GS, The remaining extent of the farm Klip Poort No. 2952 GS, and the farm Dassie Krantz 8088 GS	Amajuba	T8651/1961	Rall Johrine, Rall Irma, Pletsen Wihna Van	N/A
7.	19/3-9/6/A/17	Vincent Cijimpi Makhubo Eunice Sibongile Kubheka	521016 5779 083 560405 0566 086	Portion 7 of the farm Trek Boer No.3322-HS	Amajuba	T2020/2005	Napier Nolan Joseph	N/A
8.	19/3-9/9/A/18	Ntombezingi Melka Buthelezi	640215 0631 085	Remainder of the farm Trek Boer No.3322-HS	Amajuba	T24328/2003	Taag Trust-Trustees	N/A

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 4256

19 January 2024

**MARINE LIVING RESOURCES ACT, 1998
(ACT NO. 18 OF 1998)****CONSULTATION ON THE PROPOSED REGULATIONS RELATING TO THE ENTRY OF FOREIGN
FISHING VESSELS INTO SOUTH AFRICAN WATERS**

I, Barbara Dallas Creecy, the Minister of Forestry, Fisheries and the Environment, hereby publish for public comment, the draft Regulations relating to the entry of foreign fishing vessels into South African Waters in terms of sections 77(1), 77(2)(g), (j), (k), (o) and 42(4) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), as set out in the schedule hereto.

The draft regulations seek to create a discreet notification and permitting procedure applicable to foreign fishing vessels that wish to traverse South African waters or enter into port and simultaneously to domesticate relevant aspects of the Agreement on Port State Measures, to which South Africa is a party. The intention is to provide certainty for such vessels, as to the process and procedures required prior to entering South African waters, to ensure that South Africa is aware of the presence of foreign fishing vessels in its waters at any given time, to ensure that if fishing gear is carried on board it is properly stowed and to minimise illegal, unreported and unregulated fishing.

Members of the public are invited to submit written comments or input, within 30 days from the date of the publication of this Notice in the *Government Gazette*, or the newspaper whichever is the later date, in the following manners:

Department of Forestry, Fisheries and the Environment

Attention: Aphiwe Nonkeneza
Private Bag X2
VLAEBERG
8018

By hand: 4th Floor Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town


By email: ffvregs@dffe.gov.za

Telephone queries: 021 402 3026 / 066 4711 451

Comments or input received after the closing date may not be considered.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated into a comments and response report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his or her name, or the name of the represented

company/ organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this Government Notice.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

ARRANGEMENT OF REGULATIONS

CHAPTER 1 - DEFINITIONS AND PURPOSE

1. Definitions
2. Application
3. Purpose

CHAPTER 2 – PASSING THROUGH SOUTH AFRICAN WATERS AND ENTRY INTO AND USE OF PORTS

4. Notification of entry into South African waters
5. Entry into port
6. Permit application procedure

CHAPTER 3 – GENERAL

7. Compliance
8. Stowage of fishing gear
9. Vessel Automatic identification system

CHAPTER 4 – OFFENCES AND PENALTIES

10. Offences
11. Penalties
12. Short title and commencement

CHAPTER 1

DEFINITIONS AND PURPOSE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act has the same meaning in these regulations, and in addition—

“Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998) and includes any regulations published thereunder;

“Agreement on Port State Measures” means the Agreement on Port State Measures to Prevent, Deter and Eliminate, Illegal, Unreported and Unregulated Fishing adopted in 2009;

“authorised official” means a fishery control officer, or other authority authorised to implement legislation that regulates access and operations within ports including the inspection of vessels;

“IUU fishing” means illegal, unreported and unregulated fishing;

“port” has the meaning assigned to it in section 1 of the National Ports Act, 2005 (Act No. 12 of 2005);

“the Regulations” mean these Regulations Relating to the Entry of Foreign Fishing Vessels in South African Waters; and

“vessel” means a foreign fishing vessel.

2. Application

These Regulations apply to vessels that intend to enter South African waters.

3. Purpose

The purpose of these regulations is to—

- (a) regulate the passage of vessels through South African waters;
- (b) regulate the entry of vessels into a port;
- (c) prevent, deter and eliminate IUU fishing; and
- (d) domesticate into South African law, the Agreement on Port State Measures.

CHAPTER 2

PASSING THROUGH SOUTH AFRICAN WATERS AND ENTRY INTO AND USE OF PORTS

4. Notification of entry into South African waters

- (1) The master of a vessel which does not intend to enter a port, may not traverse South African waters unless the Minister has been notified of the intention to enter and traverse South African waters at least 24 hours prior to entry and such notification must include the following:
 - (a) Estimated time and point of entry into South African waters;
 - (b) estimated time of and point of exit from South African waters;
 - (c) reason for entry; and
 - (d) description of the path to be traversed.
- (2) Notification required in terms of sub-regulation (1) must be submitted by email to VMSops@dfre.gov.za.
- (3) The Minister may refuse a vessel entry into South African waters where the vessel is, on reasonable grounds, suspected of being involved in IUU fishing, or is listed on an IUU vessel list by any country or in terms of any international agreement.

5. Entry into port

No vessel may enter a port without a permit issued by the Minister.

6. Permit Application Procedure

- (1) The master or a representative of the owner of a vessel must, ten days before entering a port, apply to the Minister for a permit to enter port.
- (2) The application must be made in the form obtainable from the Department and be accompanied by the application fee if prescribed.
- (3) The Minister must within seven days of receipt of the application decide whether to:
 - (a) issue the permit subject to conditions; or
 - (b) refuse to issue the permit and provide reasons for such refusal.
- (4) Notwithstanding sub-regulations (1) and (3), the South African Maritime Safety Authority may authorise a vessel to enter a port for reasons of force majeure or distress, without a permit issued in terms of sub-regulation (3).
- (5) The master of a vessel that obtains entry in terms of sub regulation (4) must—

- (a) notify the Minister in writing in the form obtainable from the Department;
- (b) comply with regulations 7, 8 and 9; and
- (c) comply with any other direction which the Minister may impose.

CHAPTER 3

GENERAL

7. Compliance

- (1) Upon entering South African waters and a port, a vessel is required to comply with the provisions of the Act.
- (2) A vessel within South African waters or a port may, at any time, be boarded and inspected by an authorised official.
- (3) The master of a vessel must—
 - (a) accommodate the boarding and inspection of a vessel by an authorised official at any time while in South African waters and a port; and
 - (b) comply with lawful instructions of an authorised official.

8. Stowage of fishing gear

- (1) The master of a vessel must stow fishing gear in accordance with sub-regulation (2), before entering and when traversing South African waters and within a port.
- (2) Fishing gear must be stowed in the following manner:
 - (a) In the case of line fishing, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;

- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other suitable container;
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or placed into a bait well, where available.

9. Vessel Automatic Information System

- (1) The master of a vessel must ensure that the vessel automatic information system is functional and reporting 50 nautical miles prior to entering South African waters and whilst within South African waters without interruption.
- (2) The master of a vessel must immediately report an interruption of the signal of the vessel automatic information system for more than 20 minutes to the Fisheries operations room by email at VMSops@dffe.gov.za and submit hourly reports until the vessel automatic information system is functional.
- (3) The format of the report referred to in sub-regulation (2) must include the date, time (South African local time), latitude, longitude degrees minutes and decimal minutes, course and speed in knots.

CHAPTER 4

OFFENCES AND PENALTIES

10. Offences

In addition to any offence contained in section 58 of the Act, any person who contravenes or fails to comply with:

- (a) regulations 4(1), 5, 6(1), 6(5), 7(1), 7(3), 8(1), 8(2) or 9; or
- (b) a lawful instruction of an authorised officer,

is guilty of an offence.

11. Penalties

A person found guilty of an offence in terms of regulation 10 shall be liable on conviction to—

- (a) imprisonment for a period not exceeding two years;
- (b) a fine not exceeding two million Rand; or
- (c) to both such fine and such imprisonment.

12. Short title and commencement

These Regulations are called the Regulations Relating to the Entry of Foreign Fishing Vessels into South African Waters, 2023, and commence on the date of publication in the *Gazette*.

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 4257

19 January 2024

PUBLICATION OF THE GAS AMENDMENT BILL, 2023 FOR PUBLIC COMMENTS

I, **SAMSON GWEDE MANTASHE, MP**, Minister of Mineral Resources and Energy, having obtained Cabinet approval, hereby publish the Gas Amendment Bill, 2023 for public comments.

All interested persons and organisations are hereby invited to comment in writing on the proposed Bill from the date of publication of this notice to 29 February 2024.

Comments should be directed to the Director-General of the Department of Mineral Resources and Energy for the attention of **Mr Robert Phupheli** or **Ms Rudzani Tshibalo** by-

- (a) Post to : Department of Mineral Resources and Energy
Private Bag X59
ARCADIA,
0007;
- (b) Hand delivery to : Department of Mineral Resources and Energy
Trevenna Campus, Building 2C
C/o Meintjes and Francis Baard Street
PRETORIA,
0001; or
- (c) Email to : Gas.Policy@dmre.gov.za

Kindly provide the name, address, telephone number and email address of the person or organisation submitting the comments. A copy of the Gas Amendment Bill, 2023 is attached hereto.



Hon. Samson Gwede Mantashe, MP
Minister of Mineral Resources and Energy

Date: 04/01/2024

REPUBLIC OF SOUTH AFRICA

GAS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill and prior notice of its introduction published in Government Gazette
No of)
(The English text is the official text of the Bill)*

(MINISTER OF MINERAL RESOURCES AND ENERGY)

[B — 2023]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.
_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Gas Act, 2001, so as to amend and insert certain definitions; to provide for the promotion of the orderly development of the gas industry; to enhance the national regulatory framework; to promote broad-based black economic empowerment; to provide for socio-economic and environmentally sustainable development; to provide for new developments and changing technologies in the gas sector; to facilitate gas infrastructure development and investment; to provide for cooperation between the private and public sectors; to strengthen enforcement and improve compliance; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 48 of 2001, as amended by section 15 of Act 40 of 2004

1. Section 1 of the Gas Act, 2001 (Act No. 48 of 2001) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the insertion before the definition of "chief executive officer" of the following definitions:

"**applicant**" means a person who has submitted an application for a licence in relation to any activity referred to in section 15;

'**associate company**' means a company which is a subsidiary in the same group of companies as an applicant for a licence in terms of this Act;

'**BBBEE Act**' means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

'**black persons**' is a generic term which means Africans, Coloureds and Indians—

(a) who are citizens of the Republic of South Africa by birth or descent; or

(b) who became citizens of the Republic of South Africa by naturalisation—

(i) before 27 April 1994; or

(ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;

(b) by the deletion of the definition of "chief executive officer";

- (c) by the insertion after the definition of "chief executive officer" of the following definitions:

" **'Competition Act'** means the Competition Act, 1998 (Act No. 89 of 1998);

'complainant' means a person who has submitted a complaint in terms of section 31;

'Constitution' means the Constitution of the Republic of South Africa, 1996;

'Co-operatives Act' means the Co-operatives Act, 2005 (Act No.14 of 2005);";

- (d) by the substitution for the definition of "customer" of the following definition:

" **'customer'** means a person purchasing gas [,] or purchasing transmission, storage **[or]**, distribution **[or]**, liquefaction **[or]**, compression or re-gasification services;"

- (e) by the insertion after the definition of "customer" of the following definition:

" **'day'** means any day other than a Saturday, Sunday or public holiday and, for the purposes of calculating any period relating to licensing, the period between 16 December and 15 January (both dates inclusive) must not be taken into account;"

- (f) by the substitution for the definition of "Department" of the following definition:

" **'Department'** means the Department **[of Minerals and Energy]** responsible for mineral resources and energy;"

- (g) by the substitution for the definition of "distribution" of the following definition:

" **'distribution'** means the **[distribution of bulk gas supplies and the]** transportation **[thereof by pipelines]** of gas, including transportation by pipeline, with a general operating pressure of more

than 2 bar gauge and less than 15 bar gauge **[according to criteria prescribed by regulation to points of ultimate consumption]** to an end consumer, or to reticulation systems, or to both **[points of ultimate consumption]** and any other activity incidental thereto, and **'distribute' [and], 'distributing' and 'distributor'** have corresponding meanings;"

- (h) by the substitution for the definition of "distribution company" of the following definition:

" 'distribution company' means any person [distributing gas] licenced to operate a gas distribution facility under section 19;"

- (i) by the substitution for the definition of "eligible customer" of the following definition:

" 'eligible customer' means a customer who [in the prescribed manner may buy gas directly from suppliers without the intervention of a distribution company] meets the qualifying threshold prescribed by the Minister;"

- (j) by the insertion after the definition of "eligible customer" of the following definitions:

" 'end consumer' means a person purchasing gas for their own consumption;

'Energy Regulator' means the National Energy Regulator established in terms of section 3 of the National Energy Regulator Act;

'excessive price' means a price that is higher than a competitive price and where such difference is unreasonable, determined by taking into account all relevant factors, which may include, but are not limited to —

- (a) relevant comparator firm's prices and level of profits in a competitive market;
- (b) price-cost margin, internal rate of return, return on capital invested or profit history;
- (c) the licensee's prices—
 - (i) in markets in which there are competing products;
 - (ii) to customers in other geographic markets;
 - (iii) for similar products in other markets; or
 - (iv) historically;
- (d) the length of time the prices have been charged at that level;
- (e) the structural characteristics of the relevant market, including the extent of the licensee's market share, the degree of contestability of the market, barriers to entry and past or current advantage that is not due to the licensee's own commercial efficiency or investment, such as direct or indirect state support for a firm or firms in the market;";

'Expropriation Act' means the Expropriation Act, 1975 (Act No. 63 of 1975);

'facility' means all the necessary and incidental infrastructure associated with the activities referred to in section 15;"

- (k) by the substitution for the definition of "gas" of the following definition:

" **'gas'** means all hydrocarbon gases **[transported by pipeline]**, including natural gas, artificial gas, hydrogen rich gas, methane rich gas, synthetic gas, coal bed methane gas, liquefied natural gas, compressed natural gas, re-gasified liquefied natural gas, re-gasified

liquefied petroleum gas or any combination thereof, and any low-carbon and renewable gases that may be prescribed by the Minister;";

- (l) by the deletion of the definition of "Gas Regulator";
- (m) by the insertion after the definition of "Gas Regulator" of the following definitions:

"'group of companies' has the meaning assigned to it in the Companies Act, 2008 (Act No. 71 of 2008);

'infrastructure or market development plan' means the plan referred to in section 22A.

'integrated energy project' means a project provided for under a determination made by the Minister in terms of section 28A(7);";

- (n) by the substitution for the definition of "licensee" of the following definition:

" 'licensee' means any person holding a licence granted by the [Gas]Energy Regulator in terms of this Act;";

- (o) by the substitution for the definition of "liquefaction" of the following definition:

" 'liquefaction' means converting [natural] gas from a gaseous state to a liquid gas state, and "liquefy", "liquefied" and "liquefying" have corresponding meanings;";

- (p) by the deletion of the definition of "mine";

- (q) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister [of Minerals and Energy] responsible for mineral resources and energy;";

- (r) by the insertion after the definition of "Minister" of the following definition:

"National Energy Regulator Act" means the National Energy Regulator Act, 2004 (Act No. 40 of 2004);";

- (s) by the insertion after the definition of "person" of the following definition:

" 'port' has the meaning assigned to it in section 1 of the National Ports Act, 2005 (Act No. 12 of 2005);";

- (t) by the substitution for the definition of "prescribed" of the following definition:

" 'prescribed' means prescribed by regulation or by rules in terms of this Act;";

- (u) by the substitution for the definition of "price" of the following definition:

" 'price' means the monetary charge for gas [to a distributor, reticulator or final] to a customer;";

- (v) by the insertion after the definition of "price" of the following definition:

" 'private sector party' means any natural or juristic person in which the Government or an organ of state does not hold a controlling ownership interest (whether direct or indirect);";

- (w) by the deletion of the definition of "production";

- (x) by the insertion after the definition of " production" of the following definitions:

'Promotion of Access to Information Act' means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

'Promotion of Administrative Justice Act' means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

'Protection of Personal Information Act' means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);";

- (y) by the substitution for the definition of "re-gasification" of the following definition:

" 're-gasification' means converting liquefied natural gas to a gaseous state at a land-based re-gasification plant, or on a floating re-gasification unit located in the territorial waters of the Republic or within

a port, and "re-gasify", "re-gasified" and "re-gasifying" have corresponding meanings;"

- (z) by the substitution for the definition of "regulation" of the following definition:

" **'regulation'** means a regulation made by the Minister [under] in terms of section 34(1);" ;

- (zA) by the substitution for the definition of "reticulation" of the following definition:

" **'reticulation'** means **[the division of bulk gas supplies and]** the transportation of **[bulk]** gas by pipelines with a general operating pressure of no more than 2 bar gauge **[to points of ultimate consumption,]** to end consumers and any other activity incidental thereto, and **"reticulate", [and] "reticulating" and "reticulator"** have corresponding meanings;" ;

- (zB) by the substitution for the definition of "rule" of the following definition:

" **'rule'** means **[by]** a rule made by the Energy Regulator [under] in terms of section 34(3);" ;

- (zC) by the substitution for the definition of "service" of the following definition:

" **'service'** means any service provided by a licensee to a third party, including a company in the same group of companies, relating to the transmission, distribution, storage, **[trading,]** liquefaction or re-gasification of gas;" ;

- (zD) by the substitution for the definition of "specification" of the following definition:

" **'specification'** means the chemical and physical composition, calorific values and Wobbe Index of the gas that conforms to recognised international standards **[and the pressure of the gas at point of entry to shared systems]**;" ;

- (zE) by the substitution for the definition of "storage" of the following definition:

" **'storage'** means the holding of gas **[as a service]** in fixed and mobile infrastructure and any other activity incidental thereto, but excludes the storage of gas [in pipelines which are used primarily for the transmission and distribution of gas]—

(i) for own use;

(ii) at a transmission, distribution, liquefaction or upstream pipeline;

or

(iii) where the primary purpose of such storage is for gas to be used in a production operation, or in the manufacture of synthetic or artificial gas;"

(zF) by the deletion of the definition of "storage company";

(zG) by the substitution for the definition of "tariff" of the following definition:

" **'tariff'** means the monetary charge for providing gas services to any customer;"

(zH) by the substitution for the definition of "this Act" of the following definition:

" **'this Act'** includes the regulations, rules and determinations made under this Act;"

(zI) by the insertion after the definition of "this Act" of the following definition:

" **'trader'** means any person licensed to trade gas under section 19;"

(zJ) by the substitution for the definition of "trading" of the following definition:

" **'trading'** means the sale of gas as a commodity by any person and any activity incidental thereto, including the construction and operation of trading infrastructure, but excluding the construction and operation of liquefaction, re-gasification, transmission, storage and distribution facilities, and "trade" or "trader" have corresponding meanings;"

(zK) by the insertion after the definition of "trading" of the following definition:

" **'trading infrastructure'** includes all fixed and mobile infrastructure used in non-pipeline delivery of gas to ultimate points of consumption, including compression infrastructure and mobile storage units, but excluding liquefaction, re-gasification, transmission, storage and distribution facilities;"

(zL) by the substitution for the definition of "transmission" of the following definition:

" **'transmission'** means transport of gas by pipeline (other than in an upstream pipeline), at a general operating pressure of 15 bar gauge or more and **'transmit'** and **'transmitting'** have corresponding meanings;"

(zM) by the substitution for the definition of "transmission company" of the following definition:

" **'transmission company'** means any person **[transmitting gas]** licensed to operate a gas transmission facility under section 19;"

(zN) by the substitution for the definition of "uncommitted capacity" of the following definition:

" **'uncommitted capacity'** means such capacity as determined in accordance with a methodology prescribed by the **[Gas]** Energy Regulator in a liquefaction, re-gasification, transmission, storage or distribution facility, as is not required to meet contractual obligations~~[.]~~;" and

(zO) by the insertion after the definition of "uncommitted capacity" capacity of the following definition:

"'unreasonable price' means a price that is discriminatory, predatory, or exclusionary in nature, and "price discrimination", "predatory price" and "exclusionary Act" would have the same meaning as per the definitions contained in sections 1 and 9(1) of the Competition Act."

Amendment of section 2 of Act 48 of 2001

2. Section 2 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
- "(a) promote the efficient, effective, sustainable and orderly **[development]** construction and operation of gas transmission, storage, distribution, liquefaction and re-gasification facilities **[and the provision of efficient, effective and sustainable gas transmission, storage, distribution, liquefaction, re-gasification and trading services]**";
- (b) by the insertion after paragraph (a) of the following paragraphs:
- "(aA) promote the provision of efficient, effective and sustainable gas transmission, storage, distribution, liquefaction and re-gasification services;
- (aB) promote competitive and sustainable trade in gas;";
- (c) by the substitution for paragraph (c) of the following paragraph:
- "(c) **[ensure]** promote the safe, efficient, economic and environmentally responsible transmission, distribution, storage, liquefaction and re-gasification of gas";
- (d) by the insertion after paragraph (c) of the following paragraphs:

"(cA) facilitate the development of integrated energy projects,
including gas-to-power projects;

(cB) facilitate the development of gas markets and gas facilities;"

(e) by the substitution for paragraphs (d), (e) and (f) of the following paragraphs, respectively:

"(d) promote companies in the gas industry that are owned or controlled by **[historically disadvantaged South Africans by means of licence conditions so as to enable them to become competitive]** black persons in accordance with the BBBEE Act and any other relevant gas sector specific codes or requirements, as may be applicable from time to time;

(e) **[ensure that]** promote the equitable provision of gas transmission, storage, distribution, [trading,] liquefaction and re-gasification services [are provided on an equitable basis and that the interests and needs of all parties concerned are taken into consideration] in the public interest; and

(f) promote skills **[among employees]** development and employment equity in the gas industry;"

(f) by the deletion of paragraphs (g) and (h); and

(g) by the addition of the following subsection, the existing section becoming subsection (1):

"(2) The Energy Regulator must, in carrying out its functions set out in section 4, have regard to the objects set out in subsection (1)."

Substitution of heading of Chapter II of Act 48 of 2001

3. The following heading is hereby substituted for the heading of Chapter II of the principal Act:

"[NATIONAL GAS] ENERGY REGULATOR ".

Substitution of section 4 of Act 48 of 2001

4. The following section is hereby substituted for section 4 of the principal Act:

"Functions of Energy Regulator

4. (1) The Energy Regulator must, in accordance with this Act—
- (a) consider applications for licences in respect of the activities regulated by this Act and may issue licences for—
- (i) the construction or conversion of a facility referred to in section 15(1)(a);
 - (ii) the operation of a facility referred to in section 15(1)(b); and
 - (iii) trading in gas;
- (b) impose licence conditions in accordance with section 21(1) or 21(1A) and registration conditions in accordance with section 21A(1), and review these in accordance with section 21(2) or section 21A(2);

- (c) regulate third party access to gas facilities in accordance with the principles prescribed by regulation;
- (d) consider and decide on applications for exclusivity in accordance with the principles prescribed by the Minister;
- (e) regulate, facilitate and promote participation in the gas industry in accordance with Government policy and plans, and ensure adherence by licensees, persons contemplated in section 15(3), and persons contemplated in section 15B, with their statutory obligations under this Act;
- (f) integrate decision-making in respect of integrated energy projects contemplated in section 28A (7), where the Energy Regulator is also empowered to exercise its powers and perform its functions under this Act and under any other statute in a coordinated and integrated manner;
- (g) gather information relating to the transmission, storage, distribution, trading, liquefaction and re-gasification of gas and, subject to section 29A, publish or make available such information;
- (h) issue compliance notices and, if necessary, take remedial action in terms of sections 26 and 27;
- (i) receive complaints, undertake investigations, inspections and inquiries into the activities of licensees and activities that are required to be licenced or are regulated by this Act, and take appropriate action;
- (j) consult with Government departments and other relevant bodies and institutions regarding any matter contemplated in this Act;
- (k) if necessary to achieve one or more of the objects set out in section 2(1), enter into an agreement with any regulator, organ of state or

Government department, in order to coordinate and harmonise the performance of functions similar, or related, to those of the Energy Regulator, including concluding, pursuant to section 28A(9), an agreement referred to in that section;

- (l) consult with gas regulatory authorities of other countries to promote and facilitate the development of gas transmission, storage, distribution, liquefaction and re-gasification facilities and gas services in accordance with Government policy and plans;
- (m) regulate tariffs and prices in accordance with the requirements of section 22B;
- (n) ensure that prices and tariffs are applied, as contemplated in section 22, without unfair discrimination;
- (o) provide all information and data requested by the Department or the Minister for the purposes of gas policy formulation, subject to section 29A;
- (p) consult with the Minister concerning expropriation of land or any right in, or over, such land as is necessary in terms of section 32;
- (q) strengthen compliance with this Act through monitoring and enforcement;
- (r) take decisions that are in accordance with Government policy;
- (s) perform any activity incidental to the performance of its functions;
- (t) make rules in accordance with section 34(3); and
- (u) exercise any power or perform any duty conferred or imposed on it under this Act, the Energy Regulator Act or any other applicable law."

Substitution of heading of Chapter III of Act 48 of 2001

5. The following heading is hereby substituted for the heading of Chapter III of the principal Act:

"GAS [LICENCES] LICENSING AND REGISTRATION".

Amendment of section 15 of Act 48 of 2001

6. Section 15 of the principal Act is hereby amended—
(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"No person may without a licence issued by the **[Gas] Energy**
Regulator—"; and

(b) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) construct—

(i) a gas transmission **[,] facility**;

(ii) a gas storage **[,] facility**;

(iii) a gas distribution **[,] facility**;

(iv) a gas liquefaction facility; **[and] or**

(v) a re-gasification **[facilities] facility**,

or convert infrastructure into such **[facilities] a facility**;

(b) operate—

(i) a gas transmission **[,] facility**;

(ii) a gas storage **[,] facility**;

(iii) a gas distribution **[,] facility**;

(iv) a gas liquefaction facility; or

(v) a re-gasification [facilities] facility; or";

(c) by the deletion of subsection (2);

(d) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The **[Gas]** Energy Regulator may, without prejudice to its powers under sections 26 and 34(3)—

(e) by the deletion in subsection (3) of paragraph (a).

(f) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

"(b) direct any person engaged in any of the activities requiring a licence in terms of subsection (1) who is not in possession of the necessary licence to cease such activity until such time as that person has applied for and been granted the necessary licence."; and

(g) by the substitution for subsection (4) of the following subsection:

"(4) (a) Nothing in this Act precludes any person from discussing the contemplated construction of **[, or conversion of infrastructure into,]** gas facilities, the operation thereof or the envisaged trading in gas with the **[Gas]** Energy Regulator prior to **[filing]** lodging a licence application nor from undertaking activities, including geotechnical studies, required for an impact assessment or feasibility study.

(b) The **[Gas]** Energy Regulator must, subject to section **[29(4)] 29A**, furnish a person contemplated in paragraph (a) with such information as may **[facilitate the filing of an application]**

assist that person to decide whether to engage in the licensable activities contemplated in paragraph (a) and as may later facilitate the lodging of a licence application."

Insertion of section 15A and section 15B in Act 48 of 2001

7. The following sections are hereby inserted after section 15 of the principal Act:

"Activities no longer requiring licensing"

15A. The Minister may, after consultation with the Energy Regulator, declare, by notice in the *Gazette*, any activity contemplated in section 15(1) as an activity that no longer requires a licence, from the date set out in such notice.

Registration

15B. (1) A person undertaking any of the following activities must register the prescribed information, with the Energy Regulator—

- (a) the exportation or importation of gas;
- (b) an activity referred to in items 1, 2 and 5 of Schedule 1;
- (c) the purchasing of gas as an eligible customer; or
- (d) any other activity as may be prescribed by the Minister.

(2) The person contemplated in subsection (1) must provide the Energy Regulator with such information as may be prescribed by the Energy Regulator.

(3) Any application for registration in terms of subsection (1), must be submitted in the form and manner as prescribed by the Energy Regulator.

Amendment of section 16 of Act 48 of 2001

8. Section 16 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Application for licence application";

(b) by the substitution for subsection (1) of the following subsection:

"(1) Any person who has to apply for a licence in terms of section 15 must do so in the **[prescribed form and in accordance with the prescribed procedure]** form and manner prescribed by the Energy Regulator, which may differentiate between different types of gas facilities and services."

(c) by the deletion of subsection (2);

(d) by the substitution for subsection (3) of the following subsection:

"(3) The applicant may, in accordance with the Promotion of Access to Information Act request confidential treatment of commercially sensitive information contained in an application and, subject to concurrence by the **[Gas]** Energy Regulator, such information may be withheld from publicly available copies of the application."; and

- (e) by the addition of the following subsection:

"(4) The Energy Regulator must, subject to section 29A, furnish a person applying for a licence with such information as may facilitate the lodging of a licence application."

Amendment of section 17 of Act 48 of 2001

9. Section 17 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:

"[Advertising] Publication of notice of application for licence";

- (b) by the substitution for subsection (1) of the following subsection:

"(1) When an application is made for a licence as contemplated in section 16, the [person] applicant [concerned] must, subject to subsection (4), publish a notice of the application in [at least two newspapers circulating in the area of the proposed activity in any two official languages, one of which must be English] the manner prescribed by the Energy Regulator."

- (c) by the deletion of subsection (2);

- (d) by the substitution for subsection (3) of the following subsection:

"(3) The [advertisement] notice contemplated in subsection (1) must be published for such period [or] and in such [number of issues of a newspaper] a manner as may be prescribed by the Energy Regulator." and

- (e) by the addition of the following subsection:

"(4) The applicant may not publish the notice of the application until the Energy Regulator has taken a decision on the request contemplated in section 16(3)."

Amendment of section 18 of Act 48 of 2001

10. Section 18 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Consideration of application by Energy Regulator";

(b) by the substitution for the words preceding paragraph (a) of the following words:

"[Before] In considering an application for a licence in terms of this Act, the **[Gas] Energy Regulator—"**;

(c) by the deletion of paragraph (a);

(d) by the substitution for paragraph (b) of the following paragraph:

"(b) may direct the applicant to alter the plans for the proposed construction of gas facilities or the proposed [provision of gas services] operation of a gas facility in order to comply with applicable health, safety or environmental legislation;"; and

(e) by the deletion of paragraphs (c) and (e);

(f) by the substitution for paragraph (d) of the following paragraph:

"(c) may request such additional information as may be necessary to consider the application properly. [and]; and

(g) by the insertion of the following subsections, the existing section becoming subsection (1):

"(2) The Minister may, in writing, direct that when the Energy Regulator considers a licence application, the Energy Regulator must satisfy itself that such application meets, *inter alia*, any additional criteria specified by the Minister, which criteria must be based upon, and must reflect—

- (a) the objects of the Act;
- (b) the national interest;
- (c) the promotion of regional growth; or
- (d) any other social objective.

(3) If the Minister makes a direction in terms of subsection (2), the Energy Regulator must publish the criteria contemplated in section 19(2), if the criteria is applicable, and allow the applicant an opportunity to amend its application."

Insertion of section 18A in Act 48 of 2001

11. The following section is hereby inserted in the principal Act after section 18:

"Objection to licence application

18A. (1) Any interested and affected party may object to a licence application contemplated in section 16, but must do so within the period prescribed by the Minister and in the manner prescribed by the Energy Regulator.

(2) The Energy Regulator must, within 14 days of receipt of an objection, furnish the applicant with a copy of the objection and allow the applicant an opportunity to respond thereto.

(3) The applicant must, within 30 days of receipt of the objection, provide the Energy Regulator with a response to the objection in a manner prescribed by the Energy Regulator."

Substitution of section 19 of Act 48 of 2001

12. The following section is hereby substituted for section 19 of the principal Act:

"Finalisation of application

19. (1) The Energy Regulator must decide on an application contemplated in section 16 within 60 days—

(a) after the expiration of the prescribed objection period, if no objections have been received;

(b) after receiving and considering the objections and the response of the applicant to the objections as contemplated in section 18A (3); or

(c) after receiving the additional information contemplated in section 18(c), if any, where this information is only received after the period contemplated in paragraph (a), and the response contemplated in paragraph (b), has been received, as the case may be.

(2) Without derogating from any other provision of this Act, the Energy Regulator may issue a licence if it is satisfied that such a decision

is not at variance with the objects of the Act and there is sufficient evidence that the applicant has the necessary organisational, financial and technical abilities for the proper performance of the duties associated with the licence applied for.

(3) The Energy Regulator must grant or refuse the licence and must provide the applicant with written reasons for its decision.

(4) If an applicant or an associate company holds a licence for the construction of a gas facility, the Energy Regulator may issue an operation licence for such gas facility and, if necessary, any associated trading licence, if the application meets the requirements for a valid application as prescribed by the Energy Regulator in terms of section 16 and the said application is made within five years of the date of issue of that construction licence, unless—

(a) the construction licence has been revoked; or

(b) the Energy Regulator is entitled to issue, or has issued, a compliance notice in respect of a failure of the licensee as contemplated in section 27(1)(d), which entitles the Energy Regulator to revoke the construction licence.

(5) If the Energy Regulator decides to issue a licence it may, as appropriate in the circumstances of each case, issue separate licences in respect of the activities referred to in section 15(1)."

Repeal of section 20 of Act 48 of 2001

13. Section 20 of the principal Act is hereby repealed.

Amendment of section 21 of Act 48 of 2001

14. Section 21 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The **[Gas]** Energy Regulator may **[impose]** make any licence subject to conditions within the following framework, [of requirements and limitations;] including such additional conditions as may be prescribed by the Minister:";

- (b) by the substitution in subsection (1) for paragraphs (a) to (k) of the following paragraphs, respectively:

- "(a) **[a licence must]** A licensee's obligation to carry out the construction, operation or trading activities and to provide the operation and trading services for which the licence is granted, within a specified time period and for the term of the licence;
- (b) **[licensees must]** a licensee's obligation to provide information to the **[Gas]** Energy Regulator **[of]** about the **[commercial]** arrangements regarding **[the participation of historically disadvantaged South Africans]** broad-based black economic empowerment in the **[licensees' activities]** licensee's activity as may be prescribed by **[regulation]** the Minister and any other relevant legislation;
- (c) the gas transmission, storage, distribution, trading, liquefaction and re-gasification activities of vertically integrated companies must be managed separately with separate management, separate accounts and data and with no cross-subsidisation;

- (d) third party access to uncommitted capacity in any gas facility and interconnection, where appropriate, in accordance with the principles prescribed by the Minister;
 - (e) the maximum gas prices and tariffs regulated by the Energy Regulator for the licensee, subject to adjustment at intervals in the manner prescribed for licensing, or subject to adjustment, by the Energy Regulator following a review at the request of the licensee;
 - (f) exclusivity for distributors where appropriate, in accordance with the requirements contemplated in section 22A;
 - (g) transparency in pricing and the information to be provided to the Energy Regulator and customers in this regard;
 - (h) construction and operation of gas facilities to conform to any applicable norms and standards stipulated in the licence, or published by the Energy Regulator;
 - (i) trading infrastructure to conform to any applicable norms and standards stipulated in the licence or published by the Energy Regulator;
 - (j) prohibiting a licensee from charging unreasonable or excessive prices;
 - (k) sub-contracting by the licensee of the performance of the licensed activities, including the construction and operation (including maintenance) of gas facilities and the provision of gas services;"
- (c) by the substitution in subsection (1) for paragraphs (n) to (q) of the following paragraphs, respectively:

- "(n) decommissioning of gas facilities on termination, abandonment or lapse of a licence, rehabilitation of affected land and funding for decommissioning and rehabilitation costs;
- (o) the termination of the provision of gas or the operation of gas facilities, including the provision of gas services, where this is necessary from an environmental or health and safety perspective, and reconnection as soon as reasonably possible without undue discrimination;
- (p) maximum gas prices **[for distributors, reticulators and all classes of consumers approved by the Gas Regulator]** where there is inadequate competition as contemplated in **[Chapters 2 and 3]** Chapter 2, section 12A (2) and section 43A of the Competition Act 1998 (Act No. 89 of 1998);
- (q) **[an]** any advisory service with regard to the safe and efficient use, handling and storage of gas **[must be provided to]** for customers to be provided by [other than eligible customers, by the] a trading licensee;"
- (d) by the substitution in subsection (1) for paragraph (u) of the following paragraph:
- "(u) [licensees must provide information] information to be provided to the Energy Regulator which is necessary for the [Gas] Energy Regulator to perform its functions.";
- (e) by the insertion after subsection (1) of the following subsection:
- "(1A) The Energy Regulator may impose any other license condition that may be required for the purposes of fulfilling one or more of the objects of this Act."; and

(f) by the substitution for subsection (2) of the following subsection:

"(2) (a) Any person aggrieved by a condition imposed by the **[Gas]** Energy Regulator in terms of subsection (1), or (1A) may, in the **[prescribed]** manner prescribed by the Energy Regulator, apply to the **[Gas]** Energy Regulator to have the condition reviewed.

(b) If the aggrieved person is not the licensee, the **[Gas]** Energy Regulator must inform the licensee **[regarding]** of the application for review.

(c) Whenever there is an application for review in terms of paragraph (a), the **[Gas]** Energy Regulator **[must]** may conduct an investigation and may for that purpose summon witnesses to appear before it.

(d) The Energy Regulator must decide on any review application, and must, in writing, notify the aggrieved person or licensee of the outcome of such review, within a reasonable time period."

Insertion of section 21A in Act 48 of 2001

15. The following section is hereby inserted in the principal Act after section 21:

"Registration Conditions

21A. (1) The Energy Regulator may, in respect of any activity registered in terms of this Act, impose any condition that is demonstrably consistent with the nature and extent of the activity concerned and the fulfilment of one or more of the objects of this Act.

(2) The provisions of section 21(2) apply with changes necessitated by context in respect of persons aggrieved by any registration condition imposed under subsection (1)."

Substitution of section 22 of Act 48 of 2001

16. The following section is hereby substituted for section 22 of the principal Act:

"Non-discrimination

22. (1) **[Licensees]** A licensee may not discriminate between customers **[or classes of customers]** regarding access, tariffs, prices, conditions or service except for objectively justifiable and identifiable differences regarding such matters as quantity, transmission distance, take or pay provision, length of contract, load profile, interruptible supply or other distinguishing feature approved, in writing by the **[Gas]** Energy Regulator.

(1A) Nothing in this section may be construed as promoting non-adherence to the provisions of section 9(1)(a)(ii) of the Competition Act."

Insertion of sections 22A and 22B in Act 48 of 2001

17. The following sections are hereby inserted in the principal Act after section 22:

"Exclusivity

22A. (1) An applicant for a licence to construct a distribution facility within a particular geographic area, or to sell gas in a particular area, may, at the time of submitting the licence application, request the Energy Regulator to grant it the exclusive right to this licence and to the associated licences within that geographic area, for a particular range of specifications of gas and for a specified period.

(2) The Minister may prescribe additional principles applicable to an application for exclusivity and the Energy Regulator may take decisions on such applications in accordance with the rules made by the Energy Regulator.

(3) Gas must be supplied by a licensee granted exclusivity by the Energy Regulator to any person within its exclusive geographic area on request, if the gas can be delivered in an economically viable manner.

(4) All customers in a distribution area for which a licensee has been granted exclusivity, other than eligible customers, reticulators and customers of reticulators, must purchase their gas from the relevant licensee.

(5) Any licensee granted exclusivity must be bound to an infrastructure or market development plan approved by the Energy Regulator for the area of exclusivity.

(6) The Energy Regulator must undertake a periodic review of the plan contemplated in subsection (5) and the licence must contain provisions allowing, in addition to any other remedies the Energy Regulator may have, for partial or complete withdrawal of exclusivity to the extent that the licensee has not met the goals stated in the plan.

Regulation of tariff and maximum prices

22B. (1) The Energy Regulator must regulate tariffs and maximum prices that may be charged by a licensee according to the principles set out in this section and such additional principles as may be prescribed by the Minister.

(2) A tariff or maximum price contemplated in subsection (1) must be based on the systematic methodology or methodologies developed by the Energy Regulator, applied on a consistent and comparable basis, which is fair, non-discriminatory, simple, transparent, predictable and stable, in order to promote the development of a gas industry and access to affordable gas in the Republic.

(3) The tariffs regulated by the Energy Regulator must enable the licensee to—

- (a) recover its investment;
- (b) recover its prudently and efficiently incurred costs for operating and maintaining its gas facilities; and
- (c) make a profit commensurate with its risk.

(4) The maximum price regulated by the Energy Regulator must enable the licensee to—

(a) recover all efficient and prudently incurred investment and operational costs; and

(b) make a profit or add a trading margin commensurate with the risk.

(5) A licensee may not charge a price in excess of the maximum price determined and approved by the Energy Regulator.”.

Substitution of section 23 of Act 48 of 2001

18. The following section is hereby substituted for section 23 of the principal Act:

"Term of licence and non-transferability

23. (1) Any licence issued in terms of this Act to operate a gas facility, to provide a gas service, or trade in gas, is valid for a period **[of] not exceeding 25 years [or such longer period as the Gas Regulator may determine].**

(1A) A licence to construct a gas facility issued in terms of this Act, is valid for the period specified in the licence, and determined by the Energy Regulator, taking into consideration such factors as may be relevant, including the applicant's estimate of the construction period and the magnitude of the construction project concerned.

(1B) A licence comes into effect on the effective date stated in the licence or on the date of issue if no effective date is stated.

(2) A licensee may apply, in the form and manner prescribed by the Energy Regulator, to renew a [have his or her] licence [renewed].

(3) An application for renewal **[must]** may be granted for such further period as the Energy Regulator may determine, but the **[Gas]** Energy Regulator may set new or different licence conditions.

(4) A licensee may not assign, cede or transfer its licence to another **[party]** person unless approved by the Energy Regulator upon application.

Insertion of section 23A in Act 48 of 2001

19. The following section is hereby inserted in the principal Act after section 23:

"Registration term and non-transferability

23A. Registrations made under this Act are valid for the period stated in the registration certificate and no registrant may assign, cede or transfer its registration to another person."

Amendment of section 24 of Act 48 of 2001

20. Section 24 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
- "Amendment of licence conditions";**
- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The **[Gas]** Energy Regulator may vary, suspend or remove any of the licence conditions, or may include additional conditions—";

- (c) by the deletion in subsection (1) of paragraph (b);
- (d) by the substitution for subsection (2) of the following subsection:

"(2) The procedure to be followed in varying, suspending, removing or adding any licence conditions is as prescribed by the Energy Regulator.";

- (e) by the addition of the following subsections:

"(3) The Energy Regulator may proceed with the variation, suspension, removal or addition in accordance with subsection (1)(c) to (e) after providing the licensee an opportunity to be heard.

"(4) If the Energy Regulator proceeds with the variation, suspension, removal or addition without the consent of the licensee, then the licensee may seek to have the variation, suspension, removal or addition set aside by a competent court following judicial review proceedings brought under the Promotion of Administrative Justice Act."

Substitution of section 25 of Act 48 of 2001

21. The following section is hereby substituted for section 25 of the principal Act:

"[Revocation of licence on application] Surrender of licence by licensee

25. (1) The **[Gas Regulator]** licensee may **[revoke]** surrender a licence on **[the]** application **[of a licensee]** to the Energy Regulator in the prescribed manner as contemplated in subsection (3), if—

- (a) the licensed facility or activity is no longer required by the licensee;
- (b) the licensed facility or activity is not considered by the licensee to be economically justifiable; or
- (c) another person is willing and demonstrably able to assume the rights and obligations of the licensee concerned in accordance with the requirements and objectives of this Act, and a new licence is issued to such person in respect of the licensed facility or activity.

(2) Licensees must give the **[Gas]** Energy Regulator at least 12 **[months]** month's notice in writing, of their intention to cease their licensed activities, but this time period is not applicable in the case of a surrender in terms of subsection (1)(c).

(3) The form and procedure to be followed in **[revoking]** surrendering a licence under subsection (1) is as prescribed by the Energy Regulator".

Insertion of section 25A in Act 48 of 2001

22. The following section is hereby inserted in the principal Act after section 25:

"Cancellation of registration

25A. (1) The Energy Regulator may cancel a registration in terms of this Act if—

- (a) the registrant brings an application for the cancellation of registration;
- (b) the registrant fails to comply with any condition of its registration or with the provisions of this Act, which failure has been the subject of a compliance notice in terms of section 26 and has not been rectified, following the issuance of such compliance notice;
- (c) the registrant repeatedly fails to comply with any condition of its registration;
- (d) the registrant repeatedly contravenes the provisions of this Act; or
- (e) no meaningful purpose can be discerned from the continued registration of any activity.

(2) The procedure to be followed in cancelling any registration is as prescribed.

(3) Any registration cancellation takes effect from the date of decision by the Energy Regulator, and no one may engage in a formerly registered activity after this date."

Substitution of section 26 of Act 48 of 2001

23. The following section is hereby substituted for section 26 of the principal Act:

"Compliance notice

26. (1) The Energy Regulator may issue a compliance notice to any person whom the Energy Regulator, on reasonable grounds, believes—

- (a) has failed to comply with a provision of this Act;
- (b) has failed, where this is required, to obtain a licence in terms of section 15(1) or to obtain registration in terms of section 15B;
- (c) is engaged in an activity in a manner that is materially inconsistent with this Act; or
- (d) has failed to comply with any condition of a licence, which includes, but is not limited to, non-compliance with the conditions regarding broad-based black economic empowerment, health and safety, third party access, non-discrimination, tariffs and prices, a failure to timeously commence or continue with activities authorised under a licence, or a failure to fully carry out an infrastructure or market development plan.

(2) Before issuing a compliance notice under subsection (1), the Energy Regulator must—

- (a) give written notice to the affected person indicating the intention to issue the compliance notice;
- (b) set out the reasons in the written notice regarding why the Energy Regulator is considering issuing the compliance notice; and
- (c) afford the affected person a reasonable opportunity to submit, in writing, reasons why the compliance notice should not be issued.

(3) The compliance notice must direct the person to whom it is issued to take specified measures within a specified period of time to

remedy a specific contravention, breach or failure, in order to comply with this Act or a licence.

(4) If the Energy Regulator issues a compliance notice under subsection (1), it may also, at the Energy Regulator's discretion, decide to suspend the licence for the period referred to in subsection (3), in which circumstances the compliance notice must also contain details of the Energy Regulator's decision to suspend the licence.

(5) If the person to whom a compliance notice is addressed does not comply with the compliance notice issued, the Energy Regulator may impose an administrative fine by giving notice to the person, after having—

(a) given the person to whom the compliance notice is addressed a reasonable opportunity to make representations to the Energy Regulator regarding why an administrative fine should not be imposed; and

(b) considered any such representations.

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

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

(b) R2 000 000, 00 or such higher amount as may be prescribed by the Minister from time to time, for each day on which the contravention, breach or failure to comply continues.

(7) For the purpose of this section, the annual turnover of a licensee at the time when an administrative fine is assessed, is the total

income of that licensee during the immediately preceding year, as determined in the prescribed manner by the Energy Regulator.

(8) When imposing an appropriate administrative fine, in terms of subsection (5), the Energy Regulator must consider the following factors—

(a) the nature, duration, severity, gravity and extent of the contravention, breach or non-compliance;

(b) any loss to, or damage suffered by, any person as a result of the contravention or non-compliance;

(c) the behaviour of the person who committed the contravention or who failed to comply;

(d) market circumstances in which the contravention took place;

(e) the degree to which the person has cooperated with the Energy Regulator; and

(f) whether the person has previously been found in contravention of this Act.

(9) A compliance notice issued in terms of subsection (1) remains in force and must be complied with by the person to whom it is issued, until—

(a) the Energy Regulator withdraws the compliance notice following the receipt of new information regarding the matters referred to in subsection (1);

(b) the compliance notice is set aside by a competent court; or

(c) such time of any suspension of the licence in terms of subsection (4) is lifted.

(10) Any person issued with a compliance notice as contemplated in subsection (1), including any suspension of the licence under subsection (4), or an administrative fine under subsection (5), may seek to have the decision reviewed by a competent court in proceedings brought under the Promotion of Administrative Justice Act.

Substitution of section 27 of Act 48 of 2001

24. The following section is hereby substituted for section 27 of the principal Act.

"Revocation of licence

27. (1) The Energy Regulator may revoke a licence if it is satisfied that the licensee—

- (a) obtained a licence by fraud or deliberate submission of false information or statements;
- (b) has entered insolvency proceedings including winding up, business rescue or liquidation (other than for the purpose of a consolidation, amalgamation or merger);
- (c) has made any general assignment, arrangement or compromise with, or for the benefit of, its creditors;
- (d) has failed to comply with the terms and conditions of the licence or with the provisions of this Act, which failure has been the subject of a compliance notice in terms of section 26 and has not been rectified following the issuance of the compliance notice; or

(e) has lodged a surrender application with the Energy Regulator in terms of section 25.

(2) A licence may not be revoked by the Energy Regulator in terms of subsection (1)(d) until the statutory time periods for launching a judicial review against a compliance notice have passed without such judicial review proceedings having been launched or, if launched, until any such judicial review has been abandoned, struck off the relevant court roll or finally decided.

Repeal of section 28 of Act 48 of 2001

25. Section 28 of the principal Act is hereby repealed.

Insertion of sections 28A and 28B in Act 48 of 2001

26. The following sections are hereby inserted in the principal Act after section 28:

"Powers of Minister regarding new gas facilities, services or gas and integrated energy projects

28A. (1) The Minister may, by notice in the *Gazette*, after consultation with the Energy Regulator—

(a) make a determination that new gas facilities, services or gas are required to promote the objects of this Act; and

- (b) require that the new gas facility, service or gas must be established or acquired through a procedure which is fair, equitable, transparent, competitive and cost-effective.

(2) A determination referred to in subsection (1) may include provisions dealing with—

- (a) the nature, type and extent of the required gas facilities, services or gas;
- (b) whether or not the person who intends to construct, manage, maintain or operate the required gas facility or service, is an organ of state, a private sector party including co-operatives in terms of the Co-operatives Act, or any form of association with a juristic personality, or a combination of these;
- (c) whether or not the person who intends to supply and trade in the required gas is an organ of state, a private sector party including co-operatives in terms of the Co-operatives Act, or any form of association with juristic personality, or a combination of these;
- (d) whether the required gas facilities, services or gas are purchased or used by a person designated in the determination as the customer, buyer or user;
- (e) whether the required gas facilities, services or gas are required for an integrated energy project as contemplated in subsection (7); and
- (f) where applicable, the identity of any procurer responsible for preparing and conducting any relevant procurement process related to the required gas facilities, services or gas which may be a person different to the customer, buyer or user referred to in paragraph (d).

(3) In order to give effect to the determination referred to in subsection (1), the Minister is empowered to—

- (a) undertake such management and development activities, including entering into contracts, as may be necessary to prepare and conduct any procurement processes for the development, construction, commissioning and operation of a gas facility or for the procurement of gas or gas services;
- (b) purchase, hire or let anything or acquire or grant any right or incur obligations for, or on behalf of, the state, including an organ of state or prospective participant in any relevant procurement process;
- (c) subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), issue any guarantee, indemnity or security, or enter into any other transaction that binds the State to any future financial commitment that is necessary or expedient for the development, construction, commissioning or effective operation of a public or privately owned gas facility and for the establishment of gas supply or gas services; and
- (d) delegate in writing, subject to such conditions he or she may impose, any power conferred on him or her under this subsection, to any official in the Department or to any suitable employee of any other organ of state by agreement with that organ of state.

(4) The Energy Regulator, in exercising its powers and performing its functions under this Act, is bound by any determination made by the Minister in terms of subsection (1).

(5) Any organ of state named as the buyer, user or procurer in any determination made by the Minister in terms of subsection (1) is bound by such determination.

(6) In considering any tariff applicable to a licensee bound by a determination, the Energy Regulator must allow the licensee to recover the prudently and reasonably incurred costs associated with the implementation of the determination.

(7) A determination contemplated in subsection (1) may also provide for the establishment of an integrated energy project which may include one or more gas facilities, as well as other interconnected or related energy infrastructure, installations, buildings, structures, systems, services or processes as well as the procurement of gas and all infrastructure necessary for a project, in which case, all the provisions of this section must, with the necessary changes, apply to the determination regarding the entire integrated energy project.

(8) Nothing in this section is intended to preclude or prohibit the trading in gas, development, construction and operation of gas storage, distribution or reticulation facilities without a Ministerial determination issued in terms of this section.

(9) No person may, subject to subsection (10), construct or operate a new transmission or re-gasification facility, or expand an existing facility without a Ministerial determination issued in terms of this section, or a Ministerial exemption issued in terms of section 34C.

(10) The prohibition in subsection (9) only applies to—
(a) the construction and operation of a new transmission facility which is larger than a capacity threshold prescribed by the Minister; and

(b) the expansion of an existing transmission facility that is more than 10 percent of the approved capacity or length in a year.

Indicative licence conditions pursuant to a determination

28B. (1) A procurer of gas facilities or services pursuant to a determination under section 28A may, in writing, request the Energy Regulator to determine indicative licence conditions or the applicable methodologies that must be applied by the Energy Regulator at the licensing stage to the successful participant or participants in any relevant procurement process.

(2) The Energy Regulator must respond to any request contemplated in subsection (1) within a reasonable time.

(3) The Energy Regulator is competent but not compellable, to apply any indicative licence conditions or applicable methodologies provided to the procurer in terms of subsection (1) at the licensing stage in respect of the relevant gas facilities, services or trading activities."

Substitution of section 29 of Act 48 of 2001

27. The following section is hereby substituted for section 29 of the principal Act:

"Entry, inspection and gathering of information by [Gas] Energy Regulator

29. (1) For the purposes of this Act, any person authorised thereto in writing by the **[Gas] Energy** Regulator may—
- (a) at all reasonable times enter any property on which **[a licensed]** an activity regulated under section 15(1) or registrable activity under section 15B is taking place and inspect any facility, equipment, machinery, book, account or other document found thereat; and
 - (b) require any person to furnish the **[Gas] Energy** Regulator with such information as may be necessary for the proper application of this Act.

(1A) A person authorised in terms of subsection (1), may enter a private dwelling for entry and inspection as contemplated in subsection (1)(a) only—

(a) with the consent of the owner or occupier; or

(b) if authorised to do so by a warrant issued in terms of subsection (1B).

(1B) The warrant contemplated in subsection (1A) may be issued by a judge or a magistrate if it appears from written information, given by the inspector contemplated in subsection (1) on oath or affirmation, that there are reasonable grounds for believing that a contravention of this Act has been or is being committed on a property that is within the area of jurisdiction of that judge or magistrate.

(1C) An inspector who enters and inspects any premises under this section must conduct the entry and inspection with strict regard for decency and order, and with regard to each person's right to dignity, freedom, security and privacy.

(1D) An inspector who removes any item from the property being searched must—

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

and

(b) return the item as soon as practicable, after it has served the purpose for which it was removed.

(2) The **[Gas]** Energy Regulator may require that the accuracy of any information furnished in terms of subsection (1)(b) be verified on oath or by way of a solemn declaration, as the case may be.

(3) **[A person authorised by the Gas Regulator as contemplated in subsection (1)]** The inspector must show **[the]** his or her authorisation to any person requesting it.

[(4) No information obtained by the Gas Regulator in terms of this Act which is of a non-generic, confidential, personal, commercially sensitive or of a proprietary nature may be made public or otherwise disclosed to any person without the permission of the person to whom that information relates, except in terms of an order of the High Court.]".

Insertion of section 29A in Act 48 of 2001

28. The following section is hereby inserted in the principal Act after section 29:

"Handling of confidential information by Energy Regulator

29A. No information obtained by the Energy Regulator in terms of this Act which is of a non-generic, confidential, personal, commercially sensitive or of a proprietary nature, may be made public or otherwise disclosed to any

person without the permission of the person to whom that information relates, except for the purposes of complying with, or enforcing, this Act or any other law, in accordance with the procedure provided for in the Promotion of Access to Information Act, the Promotion of Personal Information Act, and any other applicable law such as the Competition Act, or in terms of an order of a High Court."

Substitution of section 30 of Act 48 of 2001

29. The following section is hereby substituted for section 30 of the principal Act:

"Voluntary resolution of disputes by [Gas] Energy Regulator

30. (1) (a) **[The Gas]** Without in any way restricting the powers conferred upon it elsewhere in this Act or in any other legislation, the Energy Regulator may, with the [approval] written consent of the parties to a dispute, act as mediator or arbitrator in any matter concerning the trading of gas or the rendering of services, where it considers that it is appropriate to do so under the circumstances.

(b) When acting as an arbitrator, the **[Gas]** Energy Regulator must issue a decision on the matter that is not at variance with this Act or any applicable licence conditions.

(2) (a) The **[Gas]** Energy Regulator may, on request and with the written consent of the parties involved, appoint a person, suitable to the **[Gas]** Energy Regulator and such parties, to act as mediator or arbitrator

on behalf of the **[Gas] Energy** Regulator in any matter contemplated in subsection (1).

(b) Any decision of an arbitrator so appointed must be regarded as being the decision of the **[Gas] Energy** Regulator.

(3) Any decision taken by the **[Gas] Energy** Regulator acting as arbitrator or by an arbitrator contemplated in subsection (2) is binding on the parties to the dispute."

Substitution of section 31 of Act 48 of 2001

30. The following section is hereby substituted for section 31 of the principal Act:

"Investigations by **[Gas] Energy Regulator"**

31. (1) The **[Gas] Energy** Regulator must conduct investigations into complaints by—

- (a) customers relating to the supply of gas;
- (b) customers relating to unreasonable or excessive prices, or tariffs imposed by a licensee; and
- (c) any customer concerning unreasonable differences regarding the supply of gas or gas services by licensees.

(1A) Notwithstanding subsection (1), the Energy Regulator may at its own initiative conduct investigations if the conditions stipulated in subsection (1)(a) to (c) exist and a complaint has not been laid by a customer but the Energy Regulator is of the view that it warrants an investigation.

(2) Notwithstanding subsection (1) and (1A), the **[Gas]** Energy Regulator may not conduct investigations into disputes concerning breach of contract between a licensee and an eligible customer.

(3) A complaint contemplated in subsection (1) must be submitted within the prescribed period and in the **[prescribed]** form and manner prescribed by the Energy Regulator and be accompanied by—

- (a) supporting relevant information; and
- (b) a description of efforts made to resolve the dispute before resorting to the **[Gas]** Energy Regulator.

(4) If the Energy Regulator finds, following an investigation contemplated in subsections (1) or (1A), that there has been a breach by a licensee of any provision of this Act or the terms and conditions of a licence, the Energy Regulator may, in addition to any action contemplated in section 26, require the licensee to refund any customer where the breach has resulted in an over-payment by the customer."

Substitution of section 32 of Act 48 of 2001

31. The following section is hereby substituted for section 32 of the principal Act:

"Expropriation of land [by Gas Regulator]

32. (1) In pursuit of the objects of this Act, the **[Gas Regulator]** State may expropriate land, or any right in, over₁ or in respect of land₁ on behalf of a licensee for any gas **[transmission, storage, distribution,**

liquefaction or re-gasification] facilities, in accordance with section 25 of the Constitution.

(2) The procedure to be followed in giving effect to subsection (1) must be prescribed by the Minister.

(3) The **[Gas Regulator]** State may exercise the powers contemplated in subsection (1) only if it is satisfied that—

- (a) a licensee is unable to acquire land or a right in, over₁ or in respect of₁ such land by agreement with the owner; and
- (b) the land or any right in, over₁ or in respect of₁ such land is reasonably required by a licensee for gas **[transmission, storage, distribution, liquefaction or re-gasification]** facilities which will enhance the Republic's gas infrastructure.

Insertion of section 32A in Act 48 of 2001

32. The following section is hereby inserted in the principal Act after section 32:

"Rehabilitation of land no longer required in connection with licensed activity

32A. Without derogating from the provisions of section 25, a licensee who intends to terminate, relinquish or abandon any licensed activity must comply with the applicable legislation in respect of land rehabilitation."

Amendment of section 33 of Act 48 of 2001

33. Section 33 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) Subject to subsections (2) and (3), a **[licensee]** distribution company may lay and construct pipes for the distribution of gas under **[or]**, over, or along, any **[such]** street or road, and may from time to time repair, alter or remove any pipes so laid or constructed within its licenced area of supply.

(b) The **[licensee]** distribution company is responsible for any restoration necessary as a result of the acts referred to in paragraph (a).";

(b) by the substitution for subsection (2) of the following subsection:

"(2) Before exercising a power contemplated in subsection (1)(a), a **[licensee]** distribution company must consult and coordinate with the authority in whose area of jurisdiction the street or road in question is situated, except in cases of emergency.";

(c) by the substitution for subsection (3) of the following subsection:

"(3) A **[licensee]** distribution company must exercise **[a]** the power contemplated in subsection (1)(a)—

(a) in accordance with a route and in terms of specifications approved by the authority concerned; **[and]**

(b) except in cases of emergency, under the supervision of the authority concerned~~[.]~~;

(c) in compliance with any applicable laws; and

(d) within a reasonable time.";

(d) by the substitution for subsection (5) of the following subsection:

"(5) Subject to subsection (6), a licensee or any person
[authorised thereto in writing by] in possession of the necessary
written authorisation from either the Energy Regulator or a licensee
may at all reasonable times enter any premises to which gas is or has
been supplied—

(a) in order to inspect, repair, replace or alter any **[pipe, meter,**
fitting, work and apparatus] gas equipment belonging to such
licensee;

(b) for the purpose of ascertaining the quantity of gas consumed; or

(c) where **[a]** gas supply is no longer required, for the purpose of
removing any **[pipe, meter, fitting, work and apparatus]** gas
equipment belonging to such licensee.";

(e) by the substitution in subsection (6) for the words preceding paragraph (a) of
the following words:

"Any person entering **[a]** premises **[under]** in terms of subsection (5)
must—"; and

(f) by the substitution in subsection (6) for paragraph (c) following paragraph:

"(c) exhibit **[his or her]** written authorisation at the request of **[such]**
the occupant or owner.".

Amendment of section 34 of Act 48 of 2001

34. Section 34 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
- "(a) ensuring fair administrative action by the **[Gas] Energy Regulator** in line with the Promotion of Administrative Justice Act and any other applicable legislation";
- (b) by the insertion in subsection (1) after paragraph (b) of the following paragraphs:
- "(bA) in addition to section 21, the conditions subject to which the Energy Regulator may issue a licence;"
- "(bB) activities which must be registered under this Act;"
- (c) by the substitution in subsection (1) for paragraphs (c) and (d) of the following paragraphs, respectively:
- "(c) **[the] setting** qualifying thresholds and other requirements that must be met by a person in order to qualify as an eligible customer **[and the conditions under which such eligible customer may purchase gas from a supplier or trader]**;
- (d) the decommissioning of licenced gas facilities and rehabilitation of land used in connection with the transmission, storage, distribution, liquefaction or re-gasification of gas or the trading therein, the provision of security for rehabilitation purposes and the composition and amount of such security";
- (d) by the insertion in subsection (1) after paragraph (e) of the following paragraph:
- "(eA) the principles applicable to third party access and interconnection, which principles may distinguish between classes or categories of gas facilities, gas services, licensees or

customers, including mechanisms for resolving disputes
regarding third party access and interconnection;";

- (e) by the substitution in subsection (1) for paragraphs (g), (h), (i) and (j) of the following paragraphs, respectively:

"(g) the procedure to be followed **[at, and the time within which, expropriation proceedings must be conducted]** for expropriations;

(h) the rendering of information to the **[Gas]** Energy Regulator;

(i) tariff and maximum price regulation procedures and principles;

(j) mechanisms to promote **[historically disadvantaged South Africans]** broad-based black economic empowerment";

- (f) by the insertion in subsection (1) after paragraph (j) of the following paragraph:

"(jA) facilitation of cross border gas infrastructure";

- (g) by the substitution in subsection (1) for paragraph (k) of the following paragraph:

"(k) any other matter that may or **[has to]** must be prescribed, **[or]** determined or provided for by the Minister by regulations in terms of this Act.";

- (h) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) consult with the **[Gas]** Energy Regulator";

- (i) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

"(c) duly consider the comments from the Energy Regulator and the public.";

- (j) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The **[Gas]** Energy Regulator may make rules regarding—";

- (k) by the substitution in subsection (3) for paragraphs (a), (b) and (c) of the following paragraphs, respectively:

"(a) the procedures to be followed at meetings of the **[Gas]** Energy Regulator;

(b) the keeping of records by the **[Gas]** Energy Regulator;

(c) the form, **[and]** manner **[,]** and contents of licence applications;";

- (l) by the substitution in subsection (3) for paragraphs (e) and (f) of the following paragraph, respectively:

"(e) the form and manner in which objections to licence applications must be lodged and the furnishing thereof to the applicant for **[his or her]** the response thereto;";

(f) the procedure to be followed in considering licence applications;";

- (m) by the insertion in subsection (3) after paragraph (f) of the following paragraph:

"(fA) the form, manner and content of third party access requests;";

- (n) by the substitution in subsection (3) for paragraph (g) of the following paragraph:

"(g) the methodology for determining uncommitted capacity and the publishing of information relating to uncommitted capacity by the holders of liquefaction, re-gasification, transmission, distribution or storage licences and the publishing of prices for gas supplied

to customers other than eligible customers by the holders of

[distribution] trading licences; ";

- (o) by the insertion in subsection (3) after paragraph (g) of the following paragraphs:

"(gA) the methodology for determining whether unreasonable or excessive prices are being charged by a licensee, which methodology may distinguish between categories or classes of gas facilities, gas services, licensees and customers;
(gB) the determination of gas specifications, including operating pressure;
(gC) norms and standards applicable to the construction and operation of any gas facilities and the provision of gas services, and norms and standards applicable to the construction and operation of trading infrastructure."

- (p) by the substitution in subsection (3) for paragraph (h) of the following paragraph:

"(h) the procedure to be followed in the review, variation, suspension, addition or removal **[or the revocation]** of licence conditions;"

- (q) by the insertion in subsection (3) after paragraph (h) of the following paragraph:

"(hA) the procedure to be followed in processing suspension and revocation of licences and in considering licence surrender applications;"

- (r) by the substitution in subsection (3) for paragraph (i) of the following paragraph:

- "(i) the information to be provided with registrations and the form and manner in which registration must be lodged;
- (s) by the insertion in subsection (3) after paragraph (i) of the following paragraph:
- "(iA) the procedure to be followed in effecting registration cancellations;"
- (t) by the substitution in subsection (3) for paragraphs (j), (k) and (l) of the following paragraphs, respectively:
- (j) the form, manner and content for lodging complaints and the procedures to be followed in investigations, including the summoning of witnesses, administering of oaths or affirmations and the payment of witness fees;
- (k) the inspection of, and enquiry into, the construction and operation of any gas facility or the provision of any gas services or [any] trading in gas; [and]
- (l) consultation with interested and affected parties [.]"; and
- (u) by the addition in subsection (3) of the following paragraph:
- "(m) any other matter that may, or must, be prescribed in terms of this Act."

Insertion of sections 34A, 34B and 34C in Act 48 of 2001

35. The following sections are hereby inserted in the principal Act after section 34:

"Offences

34A. (1) A person commits an offence if the person—

- (a) contravenes section 15(1);
- (b) fails, neglects or refuses to pay an administrative fine imposed in terms of section 26(5), unless the Energy Regulator withdraws the compliance notice or the administrative fine is set aside by a court of law in review proceedings;
- (c) fails or refuses to furnish the information contemplated in section 15B, or knowingly furnishes false or incorrect information in that regard;
- (d) fails or refuses to furnish the information contemplated in section 29(1)(b), or knowingly furnishes false or incorrect information in that regard;
- (e) obstructs or hinders any authorised personnel of the Energy Regulator in the discharge of their duties in terms of this Act;
- (f) does anything calculated to improperly influence any member or personnel of the Energy Regulator concerning any matter connected with an investigation;
- (g) does anything in connection with an investigation that would be regarded as contempt of court if the proceedings had occurred in a court of law;
- (h) fails to comply with a direction given by the chairperson of a hearing of the Energy Regulator that is being conducted in terms of this Act, which direction is necessary for the orderly conduct of the hearing; or
- (i) contravenes or fails to comply with any other provision of this Act.

(2) A person convicted of an offence stipulated in subsection (1)(a) and (b) is liable to a fine or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

(3) A person convicted of an offence stipulated in subsections (1)(c) to (i) is liable to a fine or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.

Consent orders

34B. (1) If, during or after the completion of any investigation, the Energy Regulator, respondent, complainant or aggrieved person, as the case may be, agrees to the proposed terms of an appropriate consent order, the Energy Regulator may, without hearing any evidence, confirm that agreement as a consent order.

(2) After hearing a motion for a consent order, the Energy Regulator may—

(a) make an order as agreed to and proposed by all the parties referred to in subsection (1), as the case may be;

(b) indicate any changes, if any, that must be made in the draft consent order before the Energy Regulator makes the order; or

(c) refuse to make the order, and provide reasons therefor.

(3) With the consent of the complainant, a consent order may include an award of damages to the complainant or aggrieved person:

Provided that the complainant or aggrieved person may not be precluded from applying for an award of civil damages in a competent court of law, or for the recovery of awarded damages, as the case may be, where the respondent

has failed, refuses or neglects to pay damages to the complainant or aggrieved person within the period recorded in the confirmed consent order.

(4) The Energy Regulator may approach the High Court to make the consent order an order of court."

Exemptions

34C. (1) The Minister may, in consultation with the Energy Regulator and any other relevant Minister, by notice in the *Gazette*, issue and publish an exemption from compliance with this Act if it is likely to—

(a) safeguard the national security of the Republic;

(b) promote the national, strategic or economic interests of the Republic;

or

(c) discharge an international obligation of the Republic.

(2) The Minister may issue an exemption contemplated in subsection (1) on such terms and conditions as may be appropriate, having regard to the circumstances which give rise to the need to issue the exemption, and also taking into account the objects of this Act."

Substitution of section 35 of Act 48 of 2001

36. The following section is hereby substituted for section 35 of the principal Act:

"Transitional provisions

35. (1) Any person owning or operating gas facilities or trading in gas prior to the commencement of this Act, who did not require a licence in terms of the Gas Act, 2001 (Act No. 48 of 2001)—

(a) must, if a licence is required for the relevant activity under this Act, within six months after the commencement, submit to the **[Gas]** Energy Regulator an application for a licence in terms of this Act;

(b) may, despite the provisions of this Act, continue with the relevant activity without a licence, while the application contemplated in paragraph (a) is under consideration by the Energy Regulator.

(2) **[(a)]** The **[Gas]** Energy Regulator must grant a licence contemplated in subsection (1), unless it finds that the applicant is unable or unwilling to **[own or]** operate gas facilities or to trade in gas in a manner consistent with the objectives and provisions of this Act.

[(b)] (3) Any licence issued in terms of **[paragraph (a)]** subsection (2) must for all purposes be regarded as a licence issued in terms of section 19."

Amendment of Schedule 1 of Act 48 of 2001

37. Schedule 1 of the principal Act is hereby amended—

(a) by the substitution for items 1, 2 and 3 of the following items:

"1. Any person engaged in the transmission or distribution of gas for that person's exclusive use.

2. **[Small]** Any biogas projects **[in rural communities]** not connected to **[the national gas pipeline grid]** a transmission or distribution facility.
3. Gas reticulation and any trading activity **[incidental thereto]** by a reticulator."; and

(b) by the addition of the following item:

"5. Any person trading gas solely with an associate company."

Short title and commencement

38. This Act is called the Gas Amendment Act, 2023, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

DEPARTMENT OF TRANSPORT

NO. 4258

19 January 2024

SOUTH AFRICAN CIVIL AVIATION AUTHORITY

PROPOSAL FOR THE AMENDMENT OF A DETERMINATION MADE BY THE SOUTH AFRICAN CIVIL AVIATION AUTHORITY IN TERMS OF SOUTH AFRICAN CIVIL AVIATION AUTHORITY LEVIES ACT, 1998

The South African Civil Aviation Authority, in terms of the provisions of section 2(7) of the South African Civil Aviation Authority Levies Act, 1998 (Act No. 41 of 1998), intends to amend the Determination, as contained in the Schedule of Amendment below, published in Government Notice No. R1665 of 14 December 1998, as amended by Government Notice No. R.932 of 30 July 1999, Government Notice No. R. 1033 of 27 August 1999, Government Notice No. R. 1101 of 9 November 2005; Government Notice No. R. 473 of 25 April 2008, Government Notice No. 199 of 26 February 2010, Government Notice No. R. 231 of 12 March 2010, Government Notice No. R 317 of 8 April 2011, Government Notice No. R. 511 of 30 June 2014, Government Gazette No. R. 1052 of 22 December 2014, Government Gazette No. R. 1285 of 24 December 2015, Government Gazette No. R. 1286 of 24 December 2015, Government Gazette No. R. 585 of 23 June 2017, Government Gazette No. R. 54 of 26 January 2018, Government Gazette No. R. 1461 of 12 November 2019, Government Gazette No. R995 of 1 October 2021, Government Gazette No. R48330 of 29 March 2023.

Comments or representations on the proposed amendments must be submitted in writing on or before 19 February 2024 to:

The Director of Civil Aviation

Attention: Mr Nhlanhla Jali,

Private Bag 73 Halfway House, 1685, or

e-mail: Jalin@caa.co.za or RDSecretariat@caa.co.za



Roppy Khoza

Director of Civil Aviation

SOUTH AFRICAN CIVIL AVIATION AUTHORITY**SCHEDULE OF AMEDNMENT****Amendment of the Determination**

1. The Determination is hereby amended by:
 - (a) the substitution in the list of Arrangement of Paragraphs of the Determination:

"ARRANGEMENT OF PARAGRAPHS

1. **Definitions**
2. **Levies**
3. **List of Exempt Schedule Passenger Air Service Operators and Wholesale Distributors**
4. **Application for Registration as a Wholesale Distributor**
5. **Renewal**
6. **Payment of the Fuel Levy**
7. **Commencement date**

(b) the substitution for the Determination of the following Determination:

1. **Definitions**

In this Determination, unless the context indicates otherwise, any expression given a meaning in the Act has that meaning and—

'the Act' means the South African Civil Aviation Authority Levies Act, 1998 (Act No. 41 of 1998);

'Wholesale Distributor' means, for the purpose of payment of the South African Authority fuel levy:-

- (a) any enterprise engaged in acquiring aviation fuel from local refineries or importation, with the purpose of distributing the fuel on a wholesale basis;
or
- (b) any enterprise deemed to be a Wholesale Distributor by the Authority through the issuing of a certificate of registration.

2. **Levies**

- 2.1 Subject to the provisions of paragraph (2.2), a levy of 20,83 cents per litre is payable by consumers (including a wholesale distributor) on the sale of all aviation fuel which is manufactured, distilled, imported or sold in the Republic for the financial year 2023/2024 or until such year as amended by the South African Civil Aviation Authority.
- 2.2 A levy on aviation fuel is payable by any Wholesale Distributor on the products which are manufactured, distributed, imported, sold or consumed by it at any point in the Republic of South Africa.

2.3 A levy on aviation fuel is not payable –

- (a) on fuel exports to a foreign country or when sold to foreign aviation passenger operator of a country which have entered into air transport agreement with the Government of the Republic of South Africa in respect of which the levy is not payable;
- (b) in respect of a scheduled public air transport flight or part of a flight in terms of which the Passenger Safety Charge as specified in Regulation 187.02.1 of the Civil Aviation Regulations, 2011, is payable; and
- (c) where a Wholesale Distributor sells aviation fuel to another Wholesale Distributor and the seller has paid the fuel levy to the South African Civil Aviation Authority.

2.4 A levy on aviation fuel on a specific supply is only payable once.

2.5 Value-added Tax is not payable on the levy referred to in paragraph (2.1).

3. **List of Exempt Schedule Passenger Air Service Operators and Wholesale Distributors**

3.1 The South African Civil Aviation Authority shall regularly publish on its website the particulars of:

- (a) scheduled passenger air service operators normally conducting scheduled public air transport flights and collecting the Passenger Safety Charge as specified in Part 187 of the Civil Aviation Regulations, 2011; and

- (b) Wholesale Distributors.

4. Application for Registration as a Wholesale Distributor

4.1 An application for registration as a Wholesale Distributor shall be made to the South African Civil Aviation Authority and shall—

- (a) state name and address of an applicant;
- (b) provide proof that an applicant satisfies the requirements to be a Wholesale Distributor;
- (c) contain any information, views or reasons supporting an application;
and
- (d) be accompanied by certified copies of the following documents:
 - (i) Wholesaler's license issued by the Department of Mineral Resources and Energy (where applicable);
 - (ii) Latest Annual Financial Statements; and
 - (iii) Valid clearance certificate issued by the South African Revenue Service.

4.2 The South African Civil Aviation Authority may, before deciding whether to grant or refuse an application, afford the applicant an opportunity to make representations either in writing or in person, regarding the merits of the application.

4.3 The South African Civil Aviation Authority shall issue a certificate of registration upon completion of a successful application.

4.4 Where the South African Civil Aviation Authority does not renew a certificate of registration in terms of paragraph (5), a new application for such certificate may be submitted.

5. Renewal

- 5.1 A certificate of registration shall be valid for a maximum period of 12 months unless suspended or cancelled by the South African Civil Aviation Authority before it expires.
- 5.2 A certificate of registration is renewable every 12 months.
- 5.3 The renewal shall be administered by the South African Civil Aviation Authority without the submission of an application by the Wholesale Distributor, subject to the Wholesale Distributor being in good standing with the South African Civil Aviation Authority and in compliance with this Determination.
- 5.4 If a Wholesale Distributor fails to declare any fuel volumes for a period longer than 12 months, the registration shall become invalid and shall automatically not be renewed.

6. Payment of the Fuel Levy

- 6.1 Subject to the provision of paragraph (2.2), payment shall be made on all products invoiced by the Wholesale Distributor up to the end of the Wholesale Distributor's accounting month and paid into the South African Civil Aviation Authority's bank account, not later than the 21st day of the following month.
- 6.2 The record of amounts to be paid by Wholesale Distributors in terms of paragraph (6.1), shall be forwarded to the South African Civil Aviation Authority by email in the form prescribed in Annexure 1, submitted at the same time as the payment.
- 6.3 Interest at a rate of 2% above prime lending rate per annum, compounded monthly, is payable in respect of the outstanding balance of the levy after the due date.

- 6.4 Monthly payment must be made into the South African Civil Aviation Authority's bank account: Banker: Standard Bank South Africa, Branch: Brooklyn, South Africa, Branch code: 011245, Current Account Number: 0000013007971, referencing the payment by way of the customer identification number allocated by the South African Civil Aviation Authority.
- 6.5 In addition to interest charged in terms of paragraph (6.3), the South African Civil Aviation Authority shall impose a 10% penalty of the value of the amount owed should the Wholesale Distributor fail to pay over monies to the South African Civil Aviation Authority within 21 days from the end of the month during which such monies become due and payable.
- 6.6 Returns and payments of a Wholesale Distributor must be audited by a reputable external auditor appointed by the South African Civil Aviation Authority at its own cost.
- 6.7 The audits in terms of paragraph (6.6) shall be conducted for periods commencing from 1 January to 30 June, and 1 July to 31 December of each calendar year.
- 6.8 When an auditor appointed by the South African Civil Aviation Authority requests any information from a Wholesale Distributor such information shall be provided without delay and before the deadline date provided by the auditor.

7. Substitution of certain words and expressions

The Determination is hereby amended by the substitution for the expression "Regulation" of the expression Determination wherever it occurs."

8. Commencement date

This notification shall come into operation 30 days from the date of publication in the Gazette.

ANNEXURE 1

RETURN FOR PAYMENT: CIVIL AVIATION AUTHORITY FUEL LEVY

WHOLESALE DISTRIBUTOR / AGENT / SUB-AGENT

"(A)	(B)	(C)	(D)	(E) ADJUSTMENTS			(F)	(G)
Product Local Sales	Levy No VAT c/l	Volume Litres	Amount Paid (R)	Volume Litres	Amount (R)	Month	Adjusted Volumes Litres	Payable Adjusted amount (R)
Jet A1								
Avgas								
SUB TOTAL								
Adjustments per month (L)								
Amount of payment								
Product Foreign Sales	Levy No VAT c/l	Volume Litres	Amount Paid (R)	Volume Litres	Amount (R)	Month	Adjusted Volumes Litres	Payable Adjusted amount (R)
Jet A1								
Avgas								
SUB TOTAL								
Adjustments per month (L)								
Amount of payment								

TOTAL FOR THE MONTH (LOCAL AND FOREIGN SALES)						
(A)	(B)	(C)	(D)	(E)	(F)	(G)"

"NOTE: Volumes must be adjusted for

own use prior to inclusion in column CAPACITY

(C) and in column (A) DATE

E-mail to: Fuellevy@caa.co.za

Motivation

The South African Civil Aviation Authority ("SACAA") proposes to amend the definition to align with the decentralisation of the aviation fuel industry and the manner in which payment of the aviation fuel levy is managed by the Authority. The SACAA further consolidate the terms and condition into the Determination. Furthermore it makes an amendment to the reference of term Regulations in the heading of the Determination South African Civil Aviation Authority levies Regulations to read South African Civil Aviation Levies Determination and anywhere such reference is made in the Determination. This is done to remove any ambiguity which may be created by assuming that the SACAA can make Regulations.

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