



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 630

15 December  
Desember 2017

No. 41321

**PART 1 OF 4**

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

ISSN 1682-5843



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## BOARD NOTICES • RAADSKENNISGEWINGS

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# Closing times for **ORDINARY WEEKLY** **2017** **GOVERNMENT GAZETTE**

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

- **29 December**, Thursday, for the issue of Friday **06 January 2017**
- **06 January**, Friday, for the issue of Friday **13 January 2017**
- **13 January**, Friday, for the issue of Friday **20 January 2017**
- **20 January**, Friday, for the issue of Friday **27 January 2017**
- **27 January**, Friday, for the issue of Friday **03 February 2017**
- **03 February**, Friday, for the issue of Friday **10 February 2017**
- **10 February**, Friday, for the issue of Friday **17 February 2017**
- **17 February**, Friday, for the issue of Friday **24 February 2017**
- **24 February**, Friday, for the issue of Friday **03 March 2017**
- **03 March**, Friday, for the issue of Friday **10 March 2017**
- **10 March**, Friday, for the issue of Friday **17 March 2017**
- **16 March**, Thursday, for the issue of Friday **24 March 2017**
- **24 March**, Friday, for the issue of Friday **31 March 2017**
- **31 March**, Friday, for the issue of Friday **07 April 2017**
- **06 April**, Thursday, for the issue of Thursday **13 April 2017**
- **12 April**, Wednesday, for the issue of Friday **21 April 2017**
- **20 April**, Thursday, for the issue of Friday **28 April 2017**
- **26 April**, Wednesday, for the issue of Friday **05 May 2017**
- **05 May**, Friday, for the issue of Friday **12 May 2017**
- **12 May**, Friday, for the issue of Friday **19 May 2017**
- **19 May**, Friday, for the issue of Friday **26 May 2017**
- **26 May**, Friday, for the issue of Friday **02 June 2017**
- **02 June**, Friday, for the issue of Friday **09 June 2017**
- **08 June**, Thursday, for the issue of Thursday **15 June 2017**
- **15 June**, Thursday, for the issue of Friday **23 June 2017**
- **23 June**, Friday, for the issue of Friday **30 June 2017**
- **30 June**, Friday, for the issue of Friday **07 July 2017**
- **07 July**, Friday, for the issue of Friday **14 July 2017**
- **14 July**, Friday, for the issue of Friday **21 July 2017**
- **21 July**, Friday, for the issue of Friday **28 July 2017**
- **28 July**, Friday, for the issue of Friday **04 August 2017**
- **03 August**, Thursday, for the issue of Friday **11 August 2017**
- **11 August**, Friday, for the issue of Friday **18 August 2017**
- **18 August**, Friday, for the issue of Friday **25 August 2017**
- **25 August**, Friday, for the issue of Friday **01 September 2017**
- **01 September**, Friday, for the issue of Friday **08 September 2017**
- **08 September**, Friday, for the issue of Friday **15 September 2017**
- **15 September**, Friday, for the issue of Friday **22 September 2017**
- **21 September**, Thursday, for the issue of Friday **29 September 2017**
- **29 September**, Friday, for the issue of Friday **06 October 2017**
- **06 October**, Friday, for the issue of Friday **13 October 2017**
- **13 October**, Friday, for the issue of Friday **20 October 2017**
- **20 October**, Friday, for the issue of Friday **27 October 2017**
- **27 October**, Friday, for the issue of Friday **03 November 2017**
- **03 November**, Friday, for the issue of Friday **10 November 2017**
- **10 November**, Friday, for the issue of Friday **17 November 2017**
- **17 November**, Friday, for the issue of Friday **24 November 2017**
- **24 November**, Friday, for the issue of Friday **01 December 2017**
- **01 December**, Friday, for the issue of Friday **08 December 2017**
- **08 December**, Friday, for the issue of Friday **15 December 2017**
- **15 December**, Friday, for the issue of Friday **22 December 2017**
- **20 December**, Wednesday, for the issue of Friday **29 December 2017**

## LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

**COMMENCEMENT: 1 APRIL 2016**

### 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 R1000 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	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

### 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 **R3000** 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.gpwnonline.co.za](http://www.gpwnonline.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 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 15h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 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 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### 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](http://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](mailto: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.
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.

**GOVERNMENT PRINTING WORKS - BUSINESS 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](mailto: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](mailto:info.egazette@gpw.gov.za) before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

### PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za) free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s).

## GOVERNMENT PRINTING WORKS CONTACT INFORMATION

**Physical Address:**
**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](mailto:submit.egazette@gpw.gov.za)
**E-mail:** [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)
**Tel:** 012-748 6200

**Contact person for subscribers:** Mrs M. Toka:

**E-mail:** [subscriptions@gpw.gov.za](mailto:subscriptions@gpw.gov.za)
**Tel:** 012-748-6066 / 6060 / 6058

**Fax:** 012-323-9574



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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 1395

15 DECEMBER 2017

No. R. [NUMBER]

**MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)****EXEMPTION IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) TO OPERATE A COMMERCIAL FISH PROCESSING ESTABLISHMENT WITHOUT A RIGHT GRANTED IN TERMS OF SECTION 18 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998).**

The Minister of Agriculture, Forestry and Fisheries has in terms of Section 79 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), delegated the powers under Section 81 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (henceforth referred to as "the MLRA") to the Deputy Director-General: Fisheries Management, if there are sound reasons for doing so, exempt any person or group of persons or organ of state from a provision of the MLRA subject to the conditions that he or she may determine.

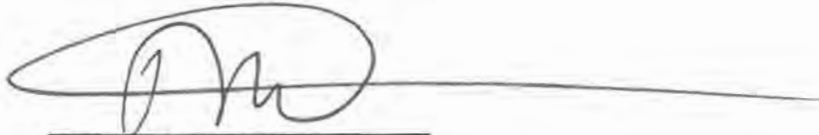
**EXEMPTION**

1. I, the Deputy Director-General: Fisheries Management, Ms. Siphokazi Ndudane hereby grant exemption to **fishmongers; restaurants; fish shops; supermarkets; large chain stores; authorised fishing vessels that only pack fish in crates or use ice to land fresh fish; those engaged in the drying of legally caught and purchased fish; and the cleaning, heading, gutting, gilling and tailing of fish on board an authorised fishing vessel from Sections 1, 13 and 18 of the MLRA for unspecified period of time or until such time that the MLRA is amended.**

**Exemption Condition**

2. Should there be an indication that any stocks of fish or aquatic life, or any species or class of fish or aquatic life in any fishery or part of a fishery may be endangered, the Minister of Agriculture, Forestry and Fisheries may in terms of Section 16 of the MLRA, suspend all or any operation of this fishery or any specified part of it or impose restrictions to address the state of emergency. Alternatively, the Minister

may at any time, in terms of Section 81(2) of the MLRA, cancel or amend the exemption granted.



**SIPHOKAZI NDUDANE**  
**DEPUTY DIRECTOR-GENERAL**  
**FISHERIES MANAGEMENT**  
DATE: 18/09/2017

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 1396

15 DECEMBER 2017

**MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996****(ACT No 47 OF 1996)****CONTINUATION OF STATUTORY MEASURE REGARDING RECORDS AND  
RETURNS IN RESPECT OF MILK AND OTHER DAIRY PRODUCTS**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 10, 13, 14 and 18 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby amend Regulation 1220, dated 20 December 2013 and to change it to be as set out in the attached Schedule.

**SENZENI ZOKWANA****MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES.**

## SCHEDULE

### 1. Definitions

In this Schedule any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context otherwise indicates -

**“consumers”** means the end users of milk;

**“milk producer”** means a person that produces milk by the milking of cows, goats or sheep;

**“retailers”** means persons that sell milk directly to consumers; and

**“the Act”** means the Marketing of Agricultural Products Act, 1996 (Act 47 of 1996), as amended.

### 2. The persons listed under 3, shall keep records of the following:

- The quantity (in kg) of raw (unprocessed) cow’s milk bought per month;
- The quantity (in kg) of raw milk (unprocessed) cow’s milk produced per month;
- The quantity (in kg) of raw (unprocessed) cow’s milk sold per month to consumers and retailers;
- The quantity of raw (unprocessed) cow’s milk (in kg) sold per month outside the jurisdiction of the Republic of South Africa or moved per month outside the jurisdiction of the Republic of South Africa;
- The quantity (in kg) of raw (unprocessed) cow’s milk used per month to produce processed, unsweetened, unflavoured milk which includes pasteurised milk, ultra-pasteurised milk, ultra-high temperature milk (or long-life or UHT milk) and sterilised milk;

- The quantity (in kg) of raw (unprocessed) cow's milk used per month to produce sweetened and/or flavoured, and/or coloured milk;
- The quantity (in kg) of raw (unprocessed) cow's milk used per month to manufacture fermented products namely maas, yoghurt, kephir and buttermilk;
- The quantity (in kg) of raw (unprocessed) cow's milk used per month to manufacture milk powder;
- The quantity (in kg) of raw (unprocessed) cow's milk used per month to manufacture cheese other than cottage and cream cheese;
- The quantity (in kg) of whey powder manufactured per month;
- The quantity (in kg) of butter manufactured per month;
- The quantity (in kg) of goat's milk sold per month to consumers and retailers;
- The quantity (in kg) of goat's milk used per month to manufacture other products;
- The quantity (in kg) of sheep's milk sold per month to consumers and retailers; and
- The quantity (in kg) sheep's milk used per month to manufacture other products.

3. The records described under 2 shall be kept by:

- a) Persons who buy raw (unprocessed) milk for the purpose of selling it after processing or to use it to manufacture other products, or to sell it to persons located outside the jurisdiction of the Republic of South Africa, or to move it outside the jurisdiction of the Republic of South Africa;
- b) Persons who are milk producers and who process the raw (unprocessed) milk produced by them, or use it to manufacture other products, or who sell it to consumers, or who sell it to persons located outside the jurisdiction of the

Republic of South Africa, or who move it outside the jurisdiction of the Republic of South Africa; and

- c) Persons who sell raw (unprocessed) milk to retailers.
4. Each of the persons described under 3, shall within 15 days of the end of each month furnish a return form, as prescribed by Milk SA and containing information regarding the records described under 2 to Milk SA.
5. The returns described under 4 shall:

- (a) when forwarded by post, be addressed to:

Milk SA  
PO Box 1961  
Brooklyn Square  
0075

- (b) when delivered by hand, delivered to:

Milk SA  
Brooklyn Forum Building  
Ground Floor (GL004)  
C/o Fehrsen & Veale Street  
Brooklyn  
Pretoria

- (c) when submitted electronically, be addressed to:

[admin@milksa.co.za](mailto:admin@milksa.co.za)



6. The statutory measure described in this schedule shall -
- (a) apply within the geographic area of the Republic of South Africa;  
and
  - (b) come into operation on the date of publication hereof and shall lapse on 31 December 2021.
7. This statutory measure will advance more than one of the objectives of the Act. The information obtained through this statutory measure, will be important in respect of the advancement of market access, efficiency of marketing of milk and other dairy products and the viability of the dairy industry. The information and the analysis thereof will make market signals visible for role players in the industry and for Government institutions and will contribute significantly to the achievement of the relevant objectives of the Act.
- The requested statutory measure can in no way impact negatively on any of the objectives set in Section 2(2) and Section 2(3) of the Act.
8. Confidential information of any person subject to this statutory measure, obtained by Milk SA through the implementation, administration and enforcement of this statutory measure, shall be dealt with by Milk SA in accordance with section 23 (2) of the Act.

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 1397

15 DECEMBER 2017

**MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996  
(ACT No 47 OF 1996)****CONTINUATION OF STATUTORY MEASURE FOR THE REGISTRATION OF  
PERSONS INVOLVED IN THE SECONDARY DAIRY INDUSTRY**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 10, 13, 14 and 19 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby amend Regulation 1219, dated 20 December 2013 and to change it to be as set out in the attached Schedule.

**SENZENI ZOKWANA**  
**MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES.**

## SCHEDULE

### 1. Definitions

In this Schedule any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context otherwise indicates -

“**consumers**” means the end users of milk;

“**milk producer**” means a person that produces milk by the milking of cows, goats or sheep;

“**retailers**” means persons that sell milk directly to consumers; and

“**the Act**” means the Marketing of Agricultural Products Act, 1996 (Act 47 of 1996), as amended.

### 2. The following persons shall register with Milk SA:

- a) Persons who buy raw (unprocessed) milk for the purpose of processing it or to use it to manufacture other products, or to sell it to persons located outside the jurisdiction of the Republic of South Africa, or to move it outside the jurisdiction of the Republic of South Africa;
- b) Persons who import milk and other dairy products classifiable under customs tariff headings 04.01, 04.02, 04.03, 04.04, 04.05 and 04.06;
- c) Persons who are milk producers and who process the raw (unprocessed) milk produced by them, or use it to manufacture other products, or who sell it to consumers, or who sell it to persons located outside the

jurisdiction of the Republic of South Africa, or who move it outside the jurisdiction of the Republic of South Africa; and

- d) Persons who sell raw (unprocessed) milk to retailers.
3. A person who should, in terms of 2, register with Milk SA shall submit an application for registration to Milk SA within 30 days from the date of commencement of this statutory measure and persons who become subject to the registration after date of commencement of this statutory measure, shall register with Milk SA within 30 days after becoming subject to the registration.
4. Application for registration shall be in the format as prescribed by Milk SA and shall contain the following details:
- \* Name
  - \* Legal status and relevant registration number and, in the case of a natural person, the identification number of the person;
  - \* Electronic address;
  - \* Telephone number;
  - \* Fax number;
  - \* Physical address
  - \* Name of contact person; and
  - \* E-mail address and identification number of the contact person.

The nature of their involvement according to the following categories:

- persons who buy raw (unprocessed) milk for the purpose of processing it or to use it to manufacture other products, or to sell it to persons located outside the jurisdiction of the Republic of South Africa, or to move it outside the jurisdiction of the Republic of South Africa;
- persons who import milk and other dairy products classifiable under customs tariff headings 04.01, 04.02, 04.03, 04.04, 04.05 and 04.06;

- persons who are milk producers and who process the raw (unprocessed) milk produced by them, or use it to manufacture other products, or who sell it to consumers, or who sell it to persons located outside the jurisdiction of the Republic of South Africa, or who move it outside the jurisdiction of the Republic of South Africa; and
  - persons who sell raw (unprocessed) milk to retailers.
5. Persons registered with Milk SA should inform Milk SA of any change in respect of the information submitted as part of the registration to Milk SA within 30 days of the change.
6. Applications for registration with Milk SA shall -

- (a) when forwarded by post, be addressed to:

Milk SA  
PO Box 1961  
Brooklyn Square  
0075

- (b) when delivered by hand, delivered to:

Milk SA  
Brooklyn Forum Building  
Ground Floor (GL004)  
C/o Fehrsen & Veale Street  
Brooklyn  
Pretoria

(c) when submitted electronically, be addressed to:

[admin@milksa.co.za](mailto:admin@milksa.co.za)

7. The statutory measure described in this schedule shall -

- (a) apply within the geographic area of the Republic of South Africa;  
and
- (b) come into operation on the date of publication hereof and shall lapse on 31 December 2021.

8. This statutory measure will advance more than one of the objectives of the Act. The information obtained through registration is important in respect of market access, efficiency of marketing and the viability of the industry and it will facilitate communication in the industry aimed at matters of common interest such as technical issues, food safety, product standards and other issues regarding the improvement of the viability of the industry.

The requested statutory measure can in no way impact negatively on any of the objectives set in Section 2(2) and Section 2(3) of the Act.

9. Confidential information of any person subject to this statutory measure, obtained by Milk SA through the implementation, administration and enforcement of this statutory measure, shall be dealt with by Milk SA in accordance with section 23 (2) of the Act.



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 1398

15 DECEMBER 2017

**MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996  
(ACT No. 47 OF 1996)****CONTINUATION OF STATUTORY LEVIES ON MILK AND OTHER DAIRY  
PRODUCTS AND THE DETERMINATION OF GUIDELINE PRICES IN RESPECT OF  
MILK AND OTHER DAIRY PRODUCTS**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 10, 13, 14 and 15 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996) hereby -

- (a) Amend the levies and other requirements as provided for in Regulation 1218, dated 20 December 2013, and to change it to be as set out in the attached Schedule; and
- (b) Determine the guideline prices for milk and other dairy products as set out in the attached Schedule.

**SENZENI ZOKWANA**  
**MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES.**

## SCHEDULE

### 1. Definitions

In this Schedule any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context otherwise indicates -

“**consumers**” means the end users of milk;

“**milk producer**” means a person that produces milk by the milking of cows, goats or sheep;

“**retailers**” means persons that sell milk directly to consumers; and

“**the Act**” means the Marketing of Agricultural Products Act, 1996 (Act 47 of 1996), as amended.

### 2. The products subject to the levies and the levies are as follows:

Customs Tariff Classification	Product Description	Levy (Vat exclusive)			
		2018 c/kg	2019 c/kg	2020 c/kg	2021 c/kg
04.01	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	1,37	1,46	1,54	1,64
04.02	Milk and cream, concentrated or containing added sugar or other sweetening matter	13,25	14,04	14,88	15,78
04.03	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing	4,98	5,28	5,59	5,93

	added fruits, nuts or cocoa				
04.04	Whey, whether or not concentrated or containing added sugar or other sweetening matter; Products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included.	4,02	4,26	4,52	4,79
04.05	Butter and other fats and oils derived from milk, dairy spreads	14,20	15,05	15,95	16,91
04.06	Cheese and Curd	19,82	21,01	22,27	23,60

3. The levies set out under 2 shall be paid by:

- a) Persons who buy raw (unprocessed) milk for the purpose of processing it or to use it to manufacture other products, or to sell it to persons located outside the jurisdiction of the Republic of South Africa, or to move it outside the jurisdiction of the Republic of South Africa;
- b) Persons who import a product which is subject to a levy in terms of 2;
- c) Persons who are milk producers and who process the raw (unprocessed) milk produced by them, or use it to manufacture other products, or who sell it to consumers, or who sell it to persons located outside the jurisdiction of the Republic of South Africa, or who move it outside the jurisdiction of the Republic of South Africa; and
- d) Persons who sell raw (unprocessed) milk to retailers.

4. The levies set out under 2, shall be paid by the persons listed in 3 to Milk SA not later than 15 days after the month in which the actions that created the levy liability, took place.

5. The payment of levies shall be accompanied by the levy return form as prescribed by Milk SA. Payment and levy return forms shall –

(a) when forwarded by post, be addressed to:

Milk SA  
PO Box 1961  
Brooklyn Square  
0075

(b) when delivered by hand, delivered to:

Milk SA  
Brooklyn Forum Building  
Ground Floor (GL004)  
C/o Fehrsen & Veale Street  
Brooklyn  
Pretoria

(c) when paid electronically, should be made to:

Milk SA  
ABSA Bank  
Acc. No. 405 895 6897  
Branch: Brooklyn  
Code: 634 156

The return form can electronically be conveyed to Milk SA at:

[admin@milksa.co.za](mailto:admin@milksa.co.za)

6. The statutory measure described in this schedule shall –
- (a) apply within the geographical area of the Republic of South Africa; and
  - (b) come into operation on the date of publication hereof and shall lapse on 31 December 2021.
7. The purpose of the levies set out under 2, is to finance actions that are necessary to further, in respect of the dairy industry, the objectives set out in section 2(2) of the Act and it is as follows:
- a) **Consumer Education**  
From a national point of view and to promote the viability of the dairy industry, consumers should be informed of the health and nutritional advantage of milk and other dairy products. Informed consumers will not only contribute to the national well-being in respect of nutrition and health, but especially also to the viability and sound development of the dairy industry. The education will be conducted in such a way that it will not erode the marketing activities of any firm in the dairy industry that are aimed at differentiating its products from that of competitors.
  - b) **Improvement of the quality of milk and other dairy products**  
From a nutritional and health point of view, milk and dairy products have important roles to play in the national household. In order to protect the integrity of milk and other dairy products, consumer interest and fair competition, the promotion of compliance of these products with the compositional, food safety and metrology standards are required. Also, work must be conducted to deal with amendments of these standards, the creation of new standards in light of, for example, technological developments and the work of Codex, as well as voluntary standards to which references are made in the legal

standards. The abovementioned actions are important issues in respect of the viability of the dairy industry and the growth of the markets for the products concerned.

c) Empowerment of previously disadvantaged individuals

The viability of the dairy industry is significantly influenced by the extent to which previously disadvantaged individuals are empowered. Empowerment will not only impact positively on the viability of the dairy industry, but also on the other objectives of the Act. The focus is on the empowerment will be to finance black role-players, in the dairy industry on enterprise development. As black role-players enterprise development in the dairy industry also requires support from other institutions in the public and private sectors, the enterprise development initiative includes the facilitation of coordinated efforts by the different relevant parties in the public and private sector regarding black role-players enterprise development. At least 50 percent of the levy income earmarked for empowerment, will be allocated to black role-players enterprise development.

Furthermore, the dairy industry demands employees with specialised skills and knowledge and the provision of such skills and knowledge is of crucial importance to facilitate transformation in the industry and the competitiveness of the industry which is a prerequisite for growth and transformation in the industry. Some aspects of skills and knowledge cannot be funded by user-pay fees or from other sources. Consequently, the levy income will also be used to finance such action.

d) Research and Development

Research and development are required to promote not only the viability of the dairy industry but also to promote the achievement of the other objectives of the Act as set out in section 2(2) of the Act.

Research is fragmented and action is required to ensure co-ordination and that research and development are functional in respect of the strategic direction of the industry namely broadening of the market for milk and other dairy products, improvement of international competitiveness of the South African industry and empowerment of previously disadvantaged individuals. Furthermore, action is required to promote the practical application of local and international research and development in South Africa.

e) Industry Information

Statistical information and other information regarding the dairy industry in South Africa and internationally and analysis of such information are required to promote market access in respect of the dairy industry, the efficiency of marketing of milk and other dairy products, and the viability of the dairy industry. The information regarding the dairy industry and the analysis thereof make market signals visible for role players in the industry which is a prerequisite for the effective functioning of markets and the prevention of the wasteful use of national resources. Also it provides information required by Government institutions and contributes significantly to the achievement of the relevant objectives of the Act.

The requested levies can in no way impact negatively on any of the matters set out in section 2 (2) and section 2 (3) of the Act.

Collectively, the requested measure will create a more viable dairy industry that will enhance the matters set out in section 2 (3) of the Act namely food security, number of employment opportunities and fair labour practice.

8. The expenditure of the income from the levies during the period in respect of which the levies exist, shall be determined in such way that:

- (a) not more than 10 per cent of the income from the levies be spend on the administration of the measure described in this schedule, and
- (b) at least 20 per cent of the income from the levies is spend on empowerment of previously disadvantaged individuals.
9. The collection of the levies and the use of the income from the levies by Milk SA, shall be annually subject to audit by the Auditor-General.
10. Confidential information of any person subject to the statutory measure, obtained by Milk SA through the implementation, administration and enforcement of this statutory measure, shall be dealt with by Milk SA in accordance with section 23 (2) of the Act.

The guideline prices for milk and other dairy products shall be as follows:

#### Guideline prices

Customs Tariff classification	Product Description	Guideline prices R/kg	Levy as a percentage of guideline price			
			2018 %	2019 %	2020 %	2021 %
04.01	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	4.65	0.29	0.31	0.33	0.35
04.02	Milk and cream, concentrated or containing added sugar or other sweetening matter	60.00	0.22	0.23	0.24	0.26
04.03	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruits, nuts or cocoa	23.00	0.21	0.22	0.24	0.25



04.04	Whey, whether or not concentrated or containing added sugar or other sweetening matter; Products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	14.00	0.28	0.30	0.32	0.34
04.05	Butter and other fats and oils derived from milk, dairy spreads	58.00	0.24	0.25	0.27	0.29
04.06	Cheese and Curd	84.00	0.23	0.25	0.26	0.28

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES****NO. 1399****15 DECEMBER 2017****PLANT BREEDERS' RIGHTS ACT, 1976 (ACT NO. 15 OF 1976)****REGULATIONS RELATING TO PLANT BREEDERS' RIGHTS: AMENDMENT**

The Minister of Agriculture, Forestry and Fisheries acting under section 44 of the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976), has made the regulations set out in the Schedule.

**SCHEDULE****Definition**

1. In this Schedule 'the Regulations' means the regulations published by Government Notice No. R1186 of 12 September 1997, as amended by Government Notices Nos. R.1582 of 28 November 1997, R. 867 of 3 July 1998, R. 1285 of 16 October 1998, R. 323 of 19 March 1999, R. 604 of 14 May 1999, R. 1271 of 29 October 1999, R. 392 of 20 April 2000, R. 690 of 14 July 2000, R. 1078 of 3 November 2000, R. 387 of 18 May 2001, R. 667 of 27 July 2001, R. 512 of 3 June 2005, R. 545 of 15 June 2006, R. 1272 of 25 November 2008, R. 287 of 13 March 2009, R. 103 of 19 February 2010, R. 517 of 17 June 2011, R. 100 of 28 December 2012, R.90 of 14 February 2014, R. 82 of 13 February 2015, R. 39679 of 12 February 2016 and R. 40621 of 17 February 2017.

**Substitution of Table 2 of the Regulations**

2. The following table is hereby substituted for Table 2 of the Regulations with effect from 1 April 2019.

**TABLE 2**  
**FEE PAYABLE W.R.T. PLANT BREEDERS' RIGHTS: 1 APRIL 2018**

<b>No.</b>	<b>Purpose</b>	<b>Amount</b>
1.	An application for the Plant Breeders' Right [Reg. 3(2)(f)]	R 2 494,00 each
2.	Examination fee for a plant breeders' right: Category A (agronomic, vegetable and pasture crops and annual ornamentals) [Reg. 3(2)(g) and /en (9)(1)]	R 4091,00 each
3.a	Examination fee for a plant breeders' right: Category B (fruit, vines, citrus and perennial ornamentals) [Reg. 3(2)(g) and /en (9)(1)]	R 5 542,00 each
3.b	Examination fee for a plant breeders' right: Category B (white and yellow maize) [Reg. 3(2)(g) and /en (9)(1)]	R 4 671,00 each
4.	A claim to give priority in terms of section 8(2) of the Act to an application for the grant of the plant breeders' right [Reg. 4(2)(c)]	R 1 293,00 each
5.	An objection to the grant of a plant breeders' right [Reg. 8(1)(e)]	R 8 048,00 each
6.	Provision of results of tests and trials undertaken by the registrar, to the appropriate in a convention country or an agreement country [Reg. 9(3)]	Tariff to fluctuate with exchange rate. 350 CHF
7.	Obtaining of results of tests and trials in the event that such test and trials are undertaken by another appropriate authority in another country [Reg. 9(3)]	Tariff to fluctuate with exchange rate. 350 CHF
8.	Annual fee for a plant breeders' right [Reg. 13(1)(d)]	R 396,00 each
9.	An application for the issue of a compulsory licence in respect of a plant breeders' right [Reg. 13(1)(d)]	R 6 504,00 each
10.	Notice of the transfer of a plant breeders' right [Reg. 14(2)(b)]	R 1 081,00 each
11.	An application for the alteration or supplementation of the denomination approved for a variety [Reg. 15(1)(b)]	R 2 626,00 each
12.	An objection against the intended approval of an alteration or supplementation of the denomination approved for a variety [Reg. 15(3)(e)]	R 1 081,00 each
13.	An objection against the intended termination of a plant breeders' right [Reg. 16(1)(f)]	R 1 081,00 per right
14.	A notice of the voluntary surrender of plant breeders' right [Reg. 17(1)(b)(i)]	Free
15.	Inspection of the register of plant breeders' right [Reg. 20(2)]	Free
16.	Inspection of a document submitted to the registrar in connection with an application for the grant of a plant breeders' right [Reg. 21(2)]	R 661,00 per occasion
17.	A copy of any particulars in the register or of a document submitted to the registrar in connection with an application for the grant of a plant breeders' right [Reg. 21(2)]	R 12,00 per application plus R 2.00 per photocopy
18.	Submission of appeal against any decision or action taken by the registrar in terms of the Act [Reg. 21(2)]	R 5 567,00 each
19.	Examination of sample to determine varietal purity	R 4 091,00 (Cat A) R 5 542,00 (Cat B) R 4 669,00 (Cat B maize)

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 1400

15 DECEMBER 2017

**GENETICALLY MODIFIED ORGANISMS ACT, 1997**

(ACT No. 15 OF 1997)

**REGULATIONS: AMENDMENTS**

The Minister of Agriculture, acting under section 20 of the Genetically Modified Organisms Act, 1997 (Act No.15 of 1997), has made the following regulations in the Schedule.

**SCHEDULE*****Definition***

1. In this Schedule “the Regulations” means the regulation published by Government Notice No.R 1420 of 26 November 1999, as amended by Government Notice Nos. R.828 of 21 June 2002, R.576 of 2 May 2003 and R.495 of 23 April 2004, R.478 of 27 May 2005, R.130 of 17 February 2006, R.41 of 26 January 2007, R.172 of 15 February 2008, R.46 of 30 January 2009, R.175 of 12 March 2010, R.106 of 18 February 2011, R.88 of 10 February 2012, R214 of 16 March 2012, R.89 of 08 February 2013, No.96 of 14 February 2014, No.38458 of 13 February 2015, No.39679 of 12 February 2016 and No.40621 of 17 February 2017.

***Substitution of Table 2 of the Regulations***

2. The following table is hereby substituted for Table 2 of the Regulations with effect from 01 April 2018:

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES****GENETICALLY MODIFIED ORGANISMS ACT, 1997**

(ACT No. 15 OF 1997)

**TARIFFS FOR SERVICES**

The Registrar of Genetically Modified Organisms hereby makes known for general information that, with effect from 01 April 2018, tariffs for services related to the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) be amended to the extent set out in the Schedule hereto.

**SCHEDULE**

<b>Nature of service, goods or supplies provided</b>	<b>Tariff</b>
GMO Status Certificates	R 250.00 each

**Ms NL Mkhonza****REGISTRAR OF GENETICALLY MODIFIED ORGANISMS**

**“TABLE 2”**  
**FEES PAYABLE**

<b>Application</b>	<b>Fees</b>
1. Importation and exportation of genetically modified organisms	R 588,00 each
2. Contained use of genetically modified organisms	R 1 725,00 each
3. Trial release of genetically modified organisms	R 4 102,00 each
4. General release or commodity clearance of genetically modified organisms	R 31 863,00 each
5. Appeal	R 6 265.00 each
6. Extension of existing field trial or contained use permit	R 513.00 each
7. Registration of facilities	R 601.00 each
8. Commodity use permit	R 356.00 each

**AUDITOR-GENERAL OF SOUTH AFRICA****NO. 1401****15 DECEMBER 2017****DIRECTIVE ISSUED IN TERMS OF THE PUBLIC AUDIT ACT, 2004**

Under the powers vested in me by section 13(3)(b) of the Public Audit Act, 2004 (Act No. 25 of 2004) (hereafter referred to as the PAA), I, Thembekile Kimi Makwetu, Auditor-General of the Republic of South Africa (hereafter referred to as the AGSA), hereby issue the following directive.

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## AUDIT FUNCTIONS PERFORMED IN TERMS OF THE PAA

### ANNUAL AUDIT

1. Financial and performance management and compliance with legislation are audited as part of the annual audit process. The auditor's report reflects an opinion or material findings on the following:
  - The financial statements or similar financial reporting.
  - Reported performance information if applicable.
  - Compliance with specific matters in key legislation
  - Internal control deficiencies that resulted in:
    - qualifications of the opinion on the financial statements
    - findings on the reported information on performance against predetermined objectives
    - findings on compliance with legislation.

### AUDITING STANDARDS AS WELL AS THE NATURE AND SCOPE OF AUDITS – SECTION 13(1)(a) AND (b) OF THE PAA

#### Auditing standards

2. The International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements issued by the International Auditing and Assurance Standards Board (IAASB)<sup>1</sup> of the International Federation of Accountants (IFAC), as well as the *Code of ethics for professional accountants* issued by IFAC's International Ethics Standards Board for Accountants (IESBA)<sup>2</sup> are applied in the audits.
3. In addition, relevant principles contained in the International Standards of Supreme Audit Institutions (ISSAIs) published by the International Organization of Supreme Audit Institutions (INTOSAI)<sup>3</sup> are applied.

#### Audit of financial statements or similar financial reporting – section 20(2)(a) of the PAA

4. In terms of section 20(2)(a) of the PAA, the auditor's report must reflect whether the annual financial statements fairly present, in all material respects, the financial position and results of operations and cash flow in accordance with the applicable financial reporting framework and legislation. This assurance is provided in the auditor's report.
5. The audit is performed in accordance with the International Standards on Auditing (ISAs).

#### Audit of compliance with applicable legislation relating to financial matters, financial management and other related matters – sections 20(2)(b) and 28(1)(b) of the PAA

6. In terms of sections 20(2)(b) and 28(1)(b) of the PAA, the auditor's report must reflect an opinion or conclusion on the auditee's compliance with any applicable legislation relating

<sup>1</sup> <http://www.ifac.org/IAASB>

<sup>2</sup> <https://www.ifac.org/ethics>

to financial matters, financial management and other related matters. Currently, the auditor's report reflects material findings on noncompliance with specific matters in key legislation but does not provide assurance by way of an opinion or conclusion.

7. The audit of compliance with legislation is performed in accordance with principles in the applicable ISSAIs and the International Standard on Assurance Engagements (ISAE) 3000, *Assurance engagements other than audits or reviews of historical financial information*.
8. The determination of compliance subject matters to be included in the scope of the compliance audit is undertaken on an annual basis as follows:
  - Predetermined at AGSA level for each category of auditee.
  - Further refinement at engagement level taking into account the specific circumstances of the auditee, including the nature and extent of its business and operations, and the impact of specific actions, transactions or events.
9. The AGSA applies the following scoping criteria in selecting the subject matters for the audit of compliance:
  - Specific areas of relevance to intended users; matters of significant national, community or public interest – as identified through consultation with internal and external parties.
  - Government priorities in all three spheres of government – as communicated in the state of the nation address, the national budget speech, the Medium Term Strategic Framework or other similar documents.
  - Results of previous assurance engagements (i.e. past experience) and how this may affect intended users' expectations about compliance, including improvement.
  - Enhancement of effective legislative oversight; enhancement of transparency, accountability and good governance; focus on continuous improvement and public confidence.
10. The auditor's report reflects material findings on compliance with relevant legislation in respect of the following subject matters selected in accordance with the criteria in paragraph 9:
  - Strategic planning and performance management
  - Financial statements, performance reports and annual reports
  - Procurement and contract management – including procurement and contract management functions performed on behalf of another organ of state (e.g. as procurement or implementing agents)
  - Human resource management and compensation
  - Expenditure management
  - Utilisation of conditional grants
  - Revenue management
  - Asset management
  - Liability management
  - Consequence management
  - Governance and oversight
11. Annexure A contains details on the applicability of the subject matters to the different categories of auditees. Where there is nothing to be reported for any of the applicable subject matters, a statement to this effect will be included in the auditor's report.

12. The criteria used to evaluate the above subject matters are derived from the applicable legislation, with specific focus on the following:
- Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and regulations and instructions issued in terms of the act
  - Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and regulations issued in terms of the act
  - Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009) (FMPPLA) and regulations issued in terms of the act
  - Division of Revenue Act (DoRA)
  - Appropriation Act
  - Municipal Structures Act, 1998 (Act No. 117 of 1998) and regulations and instructions issued in terms of the act
  - Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA) and regulations and instructions issued in terms of the act
  - Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and regulations and instructions issued in terms of the act
  - Companies Act, 2008 (Act No. 71 of 2008) and regulations and instructions issued in terms of the act
  - Public Service Act, 1994 (Act No. 103 of 1994) and regulations issued in terms of the act
  - Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and regulations and instructions issued in terms of the act
  - Construction Industry Development Board Act, 2000 (Act No. 38 of 2000) and regulations issued in terms of the act
  - State Information Technology Agency Act, 1998 (Act No. 88 of 1998) and regulations issued in terms of the act
  - Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)
  - Auditee-specific enabling legislation

**Audit of reported information on performance against predetermined objectives – sections 20(2)(c) and 28(1)(c) of the PAA**

13. In terms of sections 20(2)(c) and 28(1)(c) of the PAA, the auditor's report must reflect an opinion or conclusion on the auditee's reported information on performance against predetermined objectives. Assurance in the form of an audit opinion or conclusion on the usefulness and reliability of the reported information on performance against predetermined objectives is currently included in the report to management, with material findings being reported in the auditor's report.
14. The level of assurance provided may be reasonable or limited as predetermined by the AGSA based on the following:
- The importance of the mandate of the auditee
  - The size and nature of the auditee's business
15. Where the entity is not required to report of its performance or where it has nothing to report in the case of a dormant entity, a statement to this effect will be included in the auditor's report.

16. The audit of reported information on performance against predetermined objectives is performed in accordance with ISAE 3000 and the criteria developed from the Performance Management and Reporting Framework (PMRF), consisting of the following:
- Legislation applicable to performance planning, management and reporting, which includes the following:
    - PFMA
    - Treasury Regulations (TR), 2005, issued in terms of the PFMA
    - National Treasury (NT) Practice Note 4 of 2009/10
    - Public Service Act, 1994 (PSA)
    - Public Service Regulations, 2016, issued in terms of the PSA
    - MFMA
    - Municipal Systems Act, 2000 (MSA)
    - Regulations for Planning and Performance Management, 2001, issued in terms of the MSA
    - Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006, issued in terms of the MSA
    - FMPPLA
    - Regulations for reporting by public higher education institutions, 2014, issued in terms of the Higher Education Act, 1997 (applicable to universities only).
  - Framework for the Managing of Programme Performance Information (FMPPI), issued by the NT. This framework is applicable to all spheres of government.
  - Framework for Strategic Plans and Annual Performance Plans (FSAPP), issued by the NT. This framework is applicable to all national and provincial departments, constitutional institutions and those public entities listed in parts A and C of schedule 3 of the PFMA.
  - Circulars and guidance issued by the NT, Department of Public Service and Administration (DPSA) and supported by the Department of Planning, Monitoring and Evaluation (DPME) regarding the planning, management, monitoring and reporting of performance against predetermined objectives.
17. The criteria applicable to the different categories of auditees, as derived from the PMRF, are detailed in annexure B. Material findings on the completeness of planned performance information and overall presentation of reported information will only be included in the management report and not in the auditor's report.
18. The AGSA applies the following scoping criteria in selecting the subject matters (programmes / objectives / development priorities) for the audit:
- Qualitative and quantitative considerations such as the following considered individually and in combination:
    - Subject matters that are a requirement of a law, regulation or sector determination.
    - Subject matters that relate to the primary functions or purposes of the entity, i.e. its reason for being.
    - Subject matters that could be of significant national, community or public interest.

- Subject matters that relate to outputs of significant importance to the public, such as those with an impact on public health, safety as well as social, economic or environmental well-being.
- Any individual subject matter with a budgeted or actual expenditure or revenue amount constituting 30% or more of the total budgeted or actual expenditure or revenue amount.

#### **Internal control deficiencies, as indicated by the reference to financial management in section 4(1) and (3) of the PAA**

19. In terms of section 4(1) and (3) of the PAA, financial management must be audited and reported on. Deficiencies in internal control that resulted in the qualification of the opinion on the financial statements and in material findings on the reported performance information and compliance with legislation are included in the auditor's report.
20. The criteria used to evaluate internal control are set out in annexure C.

#### **Focus areas – section 13(1)(b) of the PAA**

21. Additional specific audit focus areas are identified based on an annual risk assessment. Guidance on the scoping of the focus areas is provided annually in a technical update. Significant findings arising from the audits are included in the reports to management and in the AGSA's general reports.

#### **Discretionary engagements – section 5(1)(a) and (d) of the PAA**

22. The AGSA may, at its discretion, perform audit-related services and special audits, including performance audits, investigations and other defined types of engagements. In addition to the International Standard on Quality Control (ISQC) 1, *Quality control for firms that perform audits and reviews of financial statements, and other assurance and related services engagements*, the following standards guide these audits:
  - Performance audits

These audits are conducted in accordance with ISSAI 300, *Fundamental principles of performance auditing* and the *Performance audit manual* developed by the AGSA.
  - Investigations

Investigations are conducted in accordance with *Standards and guidelines: Investigations* developed by the AGSA.
  - Other defined engagements

These audits are conducted in accordance with ISA 805, *Audits of single financial statements and specific elements, accounts or items of a financial statement*, ISAE 3000, *Assurance engagements other than audits or reviews of financial information* or International Standard on Related Services (ISRS) 4400, *Engagements to perform agreed-upon procedures regarding financial information*, as appropriate.

#### **Complaints against the AGSA - section 13(1)(c) of the PAA**

23. The AGSA's complaints mechanism in terms of section 13(1)(c) of the PAA accommodates complaints pertaining to the following:

- The exercising of powers, the performance of duties and the administration of the AGSA pertaining to the performance of audits and any other functions in terms of section 11 of the PAA.
  - Work performed during an audit by the AGSA, authorised auditors and other personnel where it is alleged that such work does not meet professional standards and regulatory and legal requirements.
  - Complaints of non-compliance by the AGSA, authorised auditors and other personnel with the AGSA's internal system of quality control.
  - Complaints pertaining to the auditor-general as a person.
24. Complaints against the AGSA should be addressed in writing to the:
- Complaints manager, Auditor-General of South Africa  
Physical address: 300 Middel Street, New Muckleneuk, Pretoria  
Postal address: PO Box 446, Pretoria, 0001  
Email: [ethics@agsa.co.za](mailto:ethics@agsa.co.za)

## **AUDITS OF PUBLIC ENTITIES AND OTHER INSTITUTIONS NOT PERFORMED BY THE AGSA – SECTION 4(3) OF THE PAA**

### **Audits that the AGSA has opted not to perform – section 25(1)(a) of the PAA**

25. In terms of section 4(3)(a) and (b) of the PAA, the AGSA may audit and report on the accounts, financial statements and financial management of any public entity listed in the PFMA and any other institution not mentioned in section 4(1) of the PAA and which is:
- funded from the national revenue fund or a provincial revenue fund or by a municipality, or
  - authorised in terms of any legislation to receive money for a public purpose.
26. In terms of section 25(1)(a) of the PAA, the AGSA opts not to perform the audits of any auditees within the ambit of section 4(3) of the PAA, which are not already being audited by the AGSA for the 2018-19 financial year, unless the auditee is advised otherwise before the start of that financial year.

### **Appointment of registered auditors – section 25(1)(b), (2), (3) and (4) of the PAA**

27. An auditee should proceed to appoint an audit firm registered with the Independent Regulatory Board for Auditors (IRBA) as stipulated by section 25(1)(b), read with section 25(4), of the PAA, if not advised before the start of the financial year that the AGSA will perform the audit.
28. The auditee may not appoint alternative auditors if the AGSA has opted to perform the audit or if auditee-specific legislation prescribes that the audit should be conducted by the AGSA.
29. Before appointing the auditor, the auditee must, in terms of section 25(2) of the PAA, notify the AGSA via email to [section4@agsa.co.za](mailto:section4@agsa.co.za) of the suggested appointment in order to obtain concurrence of the AGSA with the appointment. In this regard, part 1 of the document entitled *Consultation with the Auditor-General of South Africa on the appointment or discharge of the registered auditor*, attached as annexure E, must be completed and submitted together with the required supporting documentation. The AGSA may consult with the responsible executive authority on the appointment of the



audit firm. Should the auditee not comply with this requirement on the appointment of auditors the matter will be reported to the executive authority.

30. If the AGSA, within 14 days of receiving a notice by the auditee of the suggested appointment of an auditor, or such longer period as may be agreed to, rejects the auditee's appointment, the auditee must in terms of section 25(3) of the PAA recommence the process to appoint another person as its auditor.
31. If an audit firm is contracted by the auditee for a period longer than one financial year, the appointment must be reaffirmed with the AGSA for each financial year in terms of section 25(4) of the PAA by submission of Part 2 of annexure E to [section4@agsa.co.za](mailto:section4@agsa.co.za).

#### **Discharge of registered auditors – section 26 of the PAA**

32. In terms of section 26(1) of the PAA, an auditee may discharge an auditor before the term of appointment expires with the consent of the AGSA and the relevant executive authority, where applicable.
33. Before discharging the auditor, the auditee must provide the auditor with:
  - a written notice setting out the reasons for the discharge
  - an opportunity to make written representations to the AGSA within 20 days of receipt of the notice.
34. The auditee must at the same time notify the AGSA of its intention to discharge the appointed auditor by completing part 3 of the document entitled *Consultation with the Auditor-General of South Africa on the appointment or discharge of the registered auditor*, attached as annexure E, and submit it via email to [section4@agsa.co.za](mailto:section4@agsa.co.za).
35. The AGSA will consider the document and communicate its consent or otherwise to the auditee. The AGSA may consult with the relevant executive authority on this matter.
36. The AGSA will report any discharge of an audit firm to the relevant legislature.

#### **Responsibilities of registered auditors – part 2 of chapter 3 of the PAA**

37. When auditing in the public sector, the auditor must do so in accordance with the requirements, duties and responsibilities as legislated and assigned to him/her in part 2 of chapter 3 of the PAA. The auditor must take cognisance of the content of the PAA and must adhere to the following requirements when auditing auditees where the AGSA has opted not to perform the audit:
  - Appointment of auditors – section 25 of the PAA
  - Discharge of auditors – section 26 of the PAA
  - Duties and powers of auditors – section 27 of the PAA
  - The format and content of the auditor's report, as set out in the AGSA's *Reporting guide*, Auditor's report template, and any other guidance that may be published by the AGSA from time to time concerning the conducting of audits in the public sector – section 28(1) and (2) of the PAA
  - Submission of the auditor's report to the AGSA – section 28(3)(c) of the PAA
  - The requirements of this notice, as applicable
38. To assist auditors in conducting audits in the public sector, they should consider the following documents made available by IRBA that provide a perspective on auditing in the public sector:
  - *A guide for registered auditors: Auditing in the public sector*

- *Guide for registered auditors: Guidance on performing audits on behalf of the AGSA*
  - *Guide for registered auditors: Guidance on performing audits where the AGSA has opted not to perform the audit*
  - South African Auditing Practice Statement (SAAPS) 2, *Financial reporting frameworks and the auditor's report*
  - SAAPS 3, *Illustrative reports*
39. The AGSA makes available all information on the AGSA audit methodology to audit firms on the AGSA's website<sup>4</sup>.
40. The AGSA monitors compliance with the provisions of the PAA and this notice concerning the performance of an audit in terms of section 25(1)(b) of the PAA. In this regard, the appointed auditor must complete the document entitled Monitoring checklist for audits not conducted by the AGSA, attached as annexure D.

### **Request for information – sections 27(5) and 28(3)(c) of the PAA**

41. The AGSA may request information regarding the audit from an auditor appointed in terms of section 25(1)(b) of the PAA.
42. The AGSA interacts proactively with executive authorities and oversight bodies, such as the parliamentary portfolio and accounts committees. The aim of these engagements is to promote and encourage clean audit outcomes and enhance effective public governance.
43. The audit firm may be invited to attend such meetings. In terms of section 27(5) of the PAA, the AGSA may further request the audit firm to submit any information regarding the audit relevant to such meetings, including the auditor's communications with those charged with governance. The invitation to meetings and/or request for information will be communicated by the contact person at the AGSA business unit responsible for the audit of the controlling department to which the auditee reports.
44. Due to the role of the AGSA in establishing the duties and powers of appointed auditors in the public sector, the AGSA may, in addition to the above, request to attend meetings with those charged with governance of the auditee.
45. In terms of the requirements of section 28(3)(c) of the PAA, read with section 55(1)(d) of the PFMA, and in order to facilitate analysis in the AGSA's general reports, the audit firm must submit, either in hard copy or electronically, the following as soon as the annual report of the auditee has been tabled but not later than five months after the financial year-end:
- Three copies of the auditee's annual report that contain the auditor's report and audited financial statements of the auditee
  - The completed monitoring checklist (annexure D)
46. The information should be addressed to Section 4(3), 300 Middel Street Brooklyn, Pretoria, 0001, or be submitted electronically to [section4@agsa.co.za](mailto:section4@agsa.co.za).

### **Complaints against registered auditors**

47. Should a registered auditor appointed in terms of section 25(1)(b) of the PAA be found to be in contravention of the requirements in this notice or any provision of the PAA, the Auditing Profession Act, 2005 (Act No. 26 of 2005) (APA) or any act with which it is

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<sup>4</sup> <http://www.agsa.co.za>



his/her duty to comply in his/her capacity as a registered auditor, the AGSA may lodge a complaint of improper conduct against such auditor with IRBA.

48. In addition, a complaint of improper conduct may be lodged with IRBA against a registered auditor appointed in terms of section 25(1)(b) of the PAA if it comes to the attention of the AGSA that the auditor has conducted himself/herself in a manner that is improper, discreditable, unprofessional, dishonourable or unworthy or which brings the accounting profession into disrepute.

#### **AUDITEES FOR WHICH LEGISLATION IS NOT PRESCRIPTIVE IN RESPECT OF THE FINANCIAL STATEMENTS – SECTION 14(2)(b) OF THE PAA**

49. The financial statements of an auditee, as defined in section 1(1) of the PAA, that are not subject to the PFMA, the MFMA or any other legislation that is prescriptive in respect of the financial statements, must:
- be prepared in accordance with the Generally Recognised Accounting Practice (GRAP) reporting framework issued by the Accounting Standards Board (ASB)<sup>5</sup>
  - comply with the PFMA requirements applicable to entities as they pertain to the information to be contained in the financial statements, as well as the period within which the financial statements are to be submitted for auditing.
50. The above requirement regarding the application of the GRAP reporting framework is not applicable where the auditee is not required to prepare full financial statements comprising a statement of financial position, a statement of financial performance, a statement of changes in net assets, a cash flow statement and notes, including a summary of significant accounting policies and other explanatory notes.
51. Where an entity is not listed in the PFMA, even though they appear to comply with the criteria of a public entity, they should comply with paragraph 49.

#### **TIMING AND SUBMISSION OF INFORMATION FOR AUDIT PURPOSES – AND CONFIDENTIALITY OF INFORMATION - SECTION 15(2)(b) and 50 OF THE PAA**

52. In compliance with applicable legislated submission, auditing and tabling deadlines in the PFMA and the MFMA, as well as to allow adequate time for conducting the audit in accordance with the relevant auditing standards, auditees must adhere to the following:
- The annual performance reports must be submitted not later than the legislated submission date for the financial statements.
  - The trial balance and general ledger that agree with the financial statements, together with the supporting asset register, inventory register and subsidiary ledgers for receivables and payables, must be submitted together with the financial statements. All information in support of disclosures in the financial statements not included in the general and subsidiary ledgers must also be submitted concurrently with the financial statements.
  - The strategic development plan and all other documentation and information in support of the annual performance report must be submitted at the latest with the annual performance report.
  - All documentation and information in support of the financial statements, reported performance against predetermined objectives and compliance with legislation must be available on request and be retrievable within a reasonable time, as agreed per the engagement letter. If this information is not provided in the time agreed, it will be

<sup>5</sup> <http://www.asb.co.za>

regarded as a limitation on the audit, which could result in a modification of the audit opinion.

- As agreed in the audit engagement letter, the other financial and non-financial information to be included in the annual report should be made available on or before the date contained therein. If this other information is not provided before the date of the auditor's report, management will be requested to provide written representation that the information will be provided as soon as possible and before the annual report is published; this confirmation will be referred to in the auditor's report. The fact that the other information is not provided before the date of the auditor's report does not prevent the auditor from issuing the auditor's report, but the other information will be read and considered when it becomes available, which may require amendments to the auditor's report if inconsistencies or material misstatements are identified.
  - The withdrawal and re-submission of financial statements and performance reports submitted for auditing are not permitted; the financial statements and performance reports may only be adjusted for matters identified during the audit.
53. The confidentiality of information obtained in an engagement must be observed at all times. In terms of section 50 of the PAA and the code of ethics, the AGSA or an audit firm appointed in terms of section 25 of the PAA, will not disclose or make available any information obtained during an audit, other than the final auditor's report, to any third party unless this is to a state institution and the disclosure has been approved by the auditee and the auditor-general.

#### **ASSESSMENT AND RECOGNITION OF THE FINANCIAL REPORTING FRAMEWORKS APPLICABLE IN THE PUBLIC SECTOR – SECTION 20(2)(a) OF THE PAA**

54. The applicable financial reporting framework provides the criteria against which the auditor audits the financial statements. As one of the preconditions for an audit, the auditor is required to determine whether the financial reporting framework applied in preparing the financial statements is acceptable. This is done by considering the requirements of the ISAs and the guidance set out in SAAPS 2, Financial reporting frameworks and the auditor's report. The following financial reporting frameworks are recognised in the public sector and are considered fair presentation frameworks:
- International Financial Reporting Standards (IFRS)
  - South African Statements of Generally Accepted Accounting Practice (SA GAAP) only for those specific entities as set out by the ASB. SA GAAP will no longer be available after the 2017-18 financial year.
  - Standards of GRAP
  - Modified Cash Standard (MCS) prescribed by the NT
55. Departures or exemptions from the applicable financial reporting framework are granted in terms of sections 79 and 92 of the PFMA, respectively, and sections 170 and 177 of the MFMA, respectively.
56. Should an auditee be granted a departure or exemption from the applicable financial reporting framework in accordance with the requirements of the PFMA or the MFMA, additional disclosure of the nature and reasons for, the period of, and the items affected by, the departure or exemption from the applicable financial reporting framework is required in the financial statements to mitigate any possible misunderstanding by the users of the financial statements.
57. The departure or exemption or use of a financial reporting framework other than that prescribed, may affect the acceptability of the financial reporting framework and, as a

consequence, the wording of the audit opinion. This is assessed on a case-by-case basis in terms of the ISAs.

### **REPEAL OF PREVIOUS GOVERNMENT GAZETTES**

58. General Notice 618, issued in Government Gazette No. 40515 of 23 December 2016, is hereby withdrawn and replaced by the requirements as set out in this notice.

### **EFFECTIVE DATE**

59. This notice is effective for financial periods beginning on or after 1 April 2017 and is applicable until further notice. A similar notice will not necessarily be issued annually.

### **ENQUIRIES**

60. Any enquiry related to this notice should be addressed to the following office:

Business executive: Audit Research and Development, Auditor-General of South Africa

Telephone: 012 426 8000

Fax: 012 426 8333

Email: [ARDSupport@agsa.co.za](mailto:ARDSupport@agsa.co.za)

Signed and approved:

TK Makwetu

Auditor-General

## ANNEXURE A: APPLICABILITY OF COMPLIANCE SUBJECT MATTERS TO DIFFERENT CATEGORIES OF AUDITEES

SUBJECT MATTER	OBJECTIVE	APPLICABLE TO							
		(General applicability rule: compliance audits do not apply to dormant entities) (All references to materiality include both quantitative and qualitative aspects)							
		Departments	Constitutional institutions	Trading entities	Public entities	Parliament & legislatures	Municipalities	Municipal entities	Higher learning institutions
Annual financial statements, performance reports and annual reports	Transparency and accountability through reporting on an annual basis on the state of affairs of the institution, its business, its financial results, its performance against predetermined objectives and its financial positions for the year.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Expenditure management	Management of expenditure to ensure that resources are used in an effective, efficient, economical and transparent manner and that all expenditure is necessary, appropriate and paid promptly and is adequately recorded and reported. Effective / reasonable measures to prevent unauthorised, irregular as well as fruitless and wasteful expenditure.	Yes	Yes	Yes	Yes – except if total expenditure is not material	Yes	Yes	Yes – except if total expenditure is not material	Yes
Revenue management	Effective and efficient revenue management that provides for the identification, collection, recording and reconciliation of revenue.	Yes – only departments that generated material revenue other than voted and donor funds	No	Yes – only entities that generated material revenue other than voted and donor funds	Yes – only public entities that generated material revenue	No	Yes – only municipalities that generated any revenue from municipal services	Yes – only municipal entities that generated any revenue from municipal services	Yes – only institutions that generated material revenue
Asset management	Effective asset management, including the safeguarding and maintenance of assets to eliminate theft, losses, wastage and misuse and a management and	No	No	No	Yes – except if it is a small auditee	No	Yes	Yes – except if it is a small auditee	Yes

SUBJECT MATTER	OBJECTIVE	APPLICABLE TO							
		(General applicability rule: compliance audits do not apply to dormant entities) (All references to materiality include both quantitative and qualitative aspects)							
		Departments	Constitutional institutions	Trading entities	Public entities	Parliament & legislatures	Municipalities	Municipal entities	Higher learning institutions
	accounting information system that accounts for the assets. The disposal of significant assets is properly dealt with in terms of applicable legislation.								
Liability management	Effective liability management, including an accounting information system that accounts for liabilities. The focus is on borrowings (long term and short term), credit cards, guarantees, indemnities and securities.	No	No	No	Yes – except if the entity has no liabilities or liabilities are not material	No	Yes – except if the municipality has no liabilities or liabilities are not material	Yes – except if the entity has no liabilities or liabilities are not material	No
Strategic planning and performance management	Strategic planning that identifies strategically important outcome-orientated goals and objectives against which the institution's medium-term results can be measured and evaluated. Effective system for performance planning, monitoring, measurement, review, reporting and improvement.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Procurement and contract management	Procurement of goods and services in accordance with a system that is fair, equitable, transparent, competitive and cost effective.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Human resource management	Effective human resource management to ensure that adequate and sufficiently skilled resources are in place.	No	No	No	No	No	Yes	Yes – unless if it is a small auditee	Yes
Utilisation of conditional grants (DoRA)	Utilisation of grants in accordance with the conditions of the allocation.	Yes – only departments that received / utilised DoRA conditional grants	No	No	No	No	Yes – only municipalities that received DoRA conditional grants	No	No

SUBJECT MATTER	OBJECTIVE	APPLICABLE TO							
		(General applicability rule: compliance audits do not apply to dormant entities) (All references to materiality include both quantitative and qualitative aspects)							
		Departments	Constitutional institutions	Trading entities	Public entities	Parliament & legislatures	Municipalities	Municipal entities	Higher learning institutions
Consequence management	Allegations of financial misconduct (including possible fraud and improper conduct relating to supply chain management); unauthorised, irregular as well as fruitless and wasteful expenditure; and other transgressions are investigated and appropriate action is taken based on the outcome of the investigation.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governance and oversight	Exercise of ethical and effective leadership by governing and oversight bodies towards the achievement of ethical culture, good performance, effective control, and legitimacy	No	No	No	Yes- only schedule 2 entities	No	No	No	No

**ANNEXURE B: APPLICABILITY OF CRITERIA DEVELOPED FROM THE PERFORMANCE MANAGEMENT AND REPORTING FRAMEWORK TO DIFFERENT CATEGORIES OF AUDITEES**

The criteria developed from the above framework are applicable to audits in all three spheres of government unless otherwise indicated.

References to PMRF per type of institution						
Criteria	Departments/ Constitutional institutions / Trading entities	Public entities	Municipalities	Municipal entities	Parliament / Provincial legislatures	Universities
<b>Consistency: Objectives, performance indicators and targets are consistent between planning and reporting documents.</b>						
1. Reported strategic or development objectives are consistent or complete when compared to planned objectives	Section 40(3)(a) of the PFMA TR 5.2.4 NT Instruction Note 33: Implementation of the FSAPP Section 25(1) and 31(1) of the PSR	Section 55(2)(a) of the PFMA TR 28.2.2 Applicable to 3A & 3C public entities: TR 30.1.3(g) NT Instruction Note 33: Implementation of the FSAPP Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 121(3)(f) of the MFMA Section 41 (a) - (c) & 46 of the MSA	Section 121(4)(d) of the MFMA	Section 55(3)(d) of the FMPPLA	Section 5(2)(k) & 7(4)(a) of the regulations for reporting by Public Higher Education Institutions
2. Changes to strategic or development objectives are approved	TR 5.1.1 NT Instruction Note 33: Implementation of the FSAPP Section 4 of FSAPP	Applicable to 3A & 3C public entities: TR 30.1.1 NT Instruction Note 33: Implementation of the FSAPP Section 4 of FSAPP Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 25(2) of the MSA	Section 54(1)(c) of the MFMA	Section 15(1) & (2)(b) of the FMPPLA	Section 5(2)(m) & 7(4)(a) of the regulations for reporting by Public Higher Education Institutions

References to PMRF per type of institution						
Criteria	Departments/ Constitutional institutions / Trading entities	Public entities	Municipalities	Municipal entities	Parliament / Provincial legislatures	Universities
3. Reported indicators are consistent or complete when compared to planned indicators	Section 40(3)(a) of the PFMA TR 5.2.4 NT Instruction Note 33: Implementation of the FSAPP Section 25(1) of the PSR	Section 55(2)(a) of the PFMA TR 28.2.2 Applicable to 3A & 3C public entities: TR 30.1.3(g) NT Instruction Note 33: Implementation of the FSAPP Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 121(3)(f) of the MFMA Section 41 (a) - (c) & section 46 of the MSA	Section 121(4)(d) of the MFMA	Section 55(3)(d) of the FMPPLA	Section 5(2)(k) & 7(4)(a) of the regulations for reporting by Public Higher Education Institutions
4. Changes to indicators are approved	TR 5.1.1 NT Instruction Note 33: Implementation of the FSAPP Section 4 of FSAPP	Applicable to 3A & 3C public entities: TR 30.1.1 NT Instruction Note 33: Implementation of the FSAPP Section 4 of FSAPP Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 25(2) of the MSA	Section 54(1)(c) of the MFMA	Section 15(1) & (2)(b) of the FMPPLA	Section 5(2)(m) of the regulations for reporting by Public Higher Education Institutions
5. Reported targets are consistent or complete compared to planned targets	Section 40(3)(a) of the PFMA TR 5.2.4 NT Instruction Note 33: Implementation of the FSAPP Section 25(1) of the PSR	Section 55(2)(a) of the PFMA TR 28.2.2 Applicable to 3A & 3C public entities: TR 30.1.3(g) Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 121(3)(f) of the MFMA Section 41 (a) - (c) & section 46 of the MSA	Section 121(4)(d) of the MFMA	Section 55(3)(d) of the FMPPLA	Section 5(2)(k) & 7(4)(a) of the regulations for reporting by Public Higher Education Institutions



References to PMRF per type of institution						
Criteria	Departments/ Constitutional institutions / Trading entities	Public entities	Municipalities	Municipal entities	Parliament / Provincial legislatures	Universities
6. Changes to targets are approved	TR 5.1.1 NT Instruction Note 33: Implementation of the FSAPP Section 4 of FSAPP	Applicable to 3A & 3C public entities: TR 30.1.1 NT Instruction Note 33: Implementation of the FSAPP Sec 4 of FSAPP Applicable to 2; 3B & 3D public entities: TR 29.1.1 & TR 29.2	Section 25(2) of the MSA	Section 54(1)(c) of the MFMA	Section 15(1) & (2)(b) of the FMPPLA	Section 5(2)(m) of the regulations for reporting by Public Higher Education
7. Reported achievements are consistent with the planned and reported indicator and target	Section 40(3)(a) of the PFMA	Section 55(2)(a) of the PFMA	Section 121(3)(f) of the MFMA	Section 121 (4)(d) of the MFMA	Section 55(3)(d) of the FMPPLA	Section 7(4)(a) of the regulations for reporting by Public Higher Education Institutions
<b>Measurability: Performance indicators are well defined and verifiable, and targets are specific, measurable and time bound.</b>						
8. A performance indicator is well defined when it has a clear, unambiguous definition so that data will be collected consistently and is easy to understand and use	FMPPI chapter 3.2				Criteria not applicable	Section 1(d) of the regulations for reporting by Public Higher Education Institutions
9. A performance indicator is verifiable when it is possible to validate or verify the processes and systems that produce the indicator	FMPPI chapter 3.2				Criteria not applicable	
10. A target is specific when the nature and required level of performance of the target is clearly identifiable.	FMPPI chapter 3.3				Criteria not applicable	Section 1(a) of the regulations for reporting by Public Higher Education Institutions

Criteria	References to PMRF per type of institution				Universities	
	Departments/ Constitutional institutions / Trading entities	Public entities	Municipalities	Municipal entities		Parliament / Provincial legislatures
11. A target is measurable when the required performance can be measured.	FMPPi chapter 3.3				Criteria not applicable	Section 1(b) of the regulations for reporting by Public Higher Education Institutions
12. A target is time bound when the timeframes for achievement of targets are indicated.	FMPPi chapter 3.3				Criteria not applicable	Section 1(c) of the regulations for reporting by Public Higher Education Institutions
<b>Relevance: Performance indicators relate logically and directly to an aspect of the institution's mandate and the realisation of its strategic goals and objectives.</b>						
13. The performance indicator and target relates logically and directly to an aspect of the institution's mandate and the realisation of its strategic goals and objectives	FMPPi chapter 3.2				Criteria not applicable	Section 1(e) of the regulations for reporting by Public Higher Education Institutions
<b>Presentation and disclosure: Performance information in the annual performance report are presented and disclosed in accordance with the requirements contained in the legislation, frameworks, circulars and guidance.</b>						
14. Reasons for variances between planned and actual performance are disclosed in the annual performance report.	NT annual report guide for national and provincial departments Section 31(1) of the PSR	Applicable to 3A & 3C public entities: NT annual report guide for schedule 3A and 3C public entities	Criteria not applicable			
15. Reasons for variances are corroborated by source documentation.	NT annual report guide for national and provincial departments Chapter 5 of the FMPPi	Applicable to 3A & 3C public entities: NT annual report guide for schedule 3A and 3C public entities Chapter 5 of the FMPPi	Criteria not applicable			

References to PMRF per type of institution						
Criteria	Departments/ Constitutional institutions / Trading entities	Public entities	Municipalities	Municipal entities	Parliament / Provincial legislatures	Universities
16. Changes to objectives, performance indicators and performance targets are disclosed in the annual performance report	NT annual report guide for national and provincial departments  Section 31(1) of the PSR	Applicable to 3A & 3C public entities:  NT annual report guide for schedule 3A and 3C public entities	Criteria not applicable	Criteria not applicable		
17. Actual performance compared to planned targets and prior year performance is disclosed in the annual performance report.	Criteria not applicable		Section 46 of the MSA	Section 46 of the MSA	Criteria not applicable	
18. Measures taken to improve performance are disclosed in the annual performance report.	Criteria not applicable		Section 46 of the MSA	Section 46 of the MSA	Criteria not applicable	
19. Measures taken to improve performance are corroborated with audit evidence.	Criteria not applicable		Section 46 of the MSA	Section 46 of the MSA	Criteria not applicable	
<b>Reliability: Recording, measuring, collating, preparing and presenting information on actual performance achievements is valid, accurate and complete.</b>						
20. Reported performance occurred and pertains to the reporting entity.	Section 40(3)(a) of the PFMA  Chapter 5 of the FMPPI	Section 55(2)(a) of the PFMA  Chapter 5 of the FMPPI	Section 45 of the MSA  Chapter 5 of the FMPPI	Section 45 of the MSA  Chapter 5 of the FMPPI	Section 55 of the FMPPLA	Section 7 of the regulations for reporting by Public Higher Education Institutions
21. Amounts, numbers and other data relating to reported performance is recorded and reported correctly.	Section 25(1)(e) of the PSR					
22. All actual performance that should have been recorded is included in the reported performance information.						

## **ANNEXURE C: CRITERIA USED TO EVALUATE INTERNAL CONTROL**

### **LEADERSHIP**

- Provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the best interests of the auditee.
- Exercise oversight responsibility regarding financial and performance reporting, compliance and related internal controls.
- Implement effective human resource management to ensure that adequate and sufficiently skilled resources are in place and that performance is monitored.
- Establish and communicate policies and procedures to enable and support the understanding and execution of internal control objectives, processes and responsibilities.
- Develop and monitor the implementation of action plans to address internal control deficiencies.
- Establish an information technology (IT) governance framework that supports and enables the business, delivers value and improves performance.

### **FINANCIAL AND PERFORMANCE MANAGEMENT**

- Implement proper record keeping in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial and performance reporting.
- Implement controls over daily and monthly processing and reconciling of transactions.
- Prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.
- Review and monitor compliance with applicable legislation.
- Design and implement formal controls over IT systems to ensure the reliability of the systems and the availability, accuracy and protection of information.

### **GOVERNANCE**

- Implement appropriate risk management activities to ensure that regular risk assessments, including the consideration of IT risks and fraud prevention, are conducted and that a risk strategy to address the risks is developed and monitored.
- Ensure that there is an adequately resourced and functioning internal audit unit that identifies internal control deficiencies and recommends corrective action effectively.
- Ensure that the audit committee promotes accountability and service delivery through evaluating and monitoring responses to risks and overseeing the effectiveness of the internal control environment, including financial and performance reporting and compliance with legislation.

## ANNEXURE D: MONITORING CHECKLIST FOR AUDITS NOT CONDUCTED BY THE AUDITOR-GENERAL OF SOUTH AFRICA

### INSTRUCTIONS

1. This checklist should be completed by the appointed audit firm for each audit it has conducted and should be submitted together with the information required in terms of section 27(5) and 28(3)(c) above within five months after the financial year-end, i.e. 31 August.

DETAILS OF AUDITEE	
Name of auditee	
Controlling department	
Type of auditee (schedule number)	
Holding company (if applicable)	
Subsidiaries (if applicable)	
DETAILS OF AUDIT FIRM	
Engagement firm	
Engagement firm's address	
Engagement firm's contact details	
Engagement partner	
Engagement partner's contact details	
AGSA DETAILS	
Audit business unit	
Business executive	

No.	Requirements	Complied Yes / no* / not applicable	Remarks / comments
<b>Public Audit Act, 2004 (Act No. 25 of 2004) (PAA)</b>			
1.	All the requirements of the PAA and this general notice were complied with		
2.	The auditor's report to the accounting authority was submitted within the time frame prescribed by the PFMA		
3.	Three copies of the annual report, containing the auditor's report and the audited financial statements were submitted to the AGSA by 31 August		

No.	Requirements	Complied Yes / no* / not applicable	Remarks / comments
<b>Audit</b>			
4.	The auditor's report complied with the template and reporting guide provided by the AGSA.		
5.	Other technical guidance provided by the AGSA as applicable to the auditee has been complied with		
6.	Separate financial statements were audited and an auditor's report was submitted for all subsidiaries		
* Where a 'no' answer is provided, comments must be included.			

## 7. General comments:

*Insert details*

<b>Completed by engagement partner:</b>	Signature:
	Name:
	Date:

**CONCLUSION** (to be completed by the audit business unit after receipt of all information)

No.	Requirements	Complied Yes / no*	Remarks / comments
1.	Did the auditors and the auditee satisfy the requirements of sections 25 to 27 of the PAA, relating to the following:		
	• Appointment of auditors		
	• Discharge of auditors		
	• Duties and powers of auditors		
2.	Has the engagement firm satisfied the		

No.	Requirements	Complied Yes / no*	Remarks / comments
	reporting requirements of the following:		
	<ul style="list-style-type: none"> <li>• The PAA</li> </ul>		
	<ul style="list-style-type: none"> <li>• This general notice</li> </ul>		
	<ul style="list-style-type: none"> <li>• The AGSA's <i>Reporting</i> guide and reporting template</li> </ul>		
	<ul style="list-style-type: none"> <li>• Other technical guidance applicable to the auditee</li> </ul>		
* Where a 'no' answer is provided, comments must be included			

## 3. General comments:

*Insert details*

## 4. Recommended further action in terms of this notice:

*Insert details*

**Evaluated by AGSA  
business executive  
/senior manager**

Signature:

Name:

Date:

**ANNEXURE E: CONSULTATION WITH THE AUDITOR-GENERAL OF SOUTH AFRICA  
ON THE APPOINTMENT OR DISCHARGE OF THE REGISTERED AUDITOR IN TERMS  
OF SECTIONS 25 AND 26 OF THE PUBLIC AUDIT ACT**

**INSTRUCTIONS**

The auditee should submit the following details and complete the applicable sections as follows:

- PART 1 - When the auditee has not received confirmation that the AGSA has opted to perform the audit prior to the commencement of the financial year and is appointing a new audit firm
- PART 2 - When the auditee has not received confirmation that the AGSA has opted to perform the audit prior to the commencement of the financial year and the current audit firm is to be reappointed
- PART 3 - When the auditee wishes to discharge the current audit firm

<b>Particulars of auditee</b>	
<b>Name</b>	
<b>Postal address</b>	
<b>Physical address</b>	
<b>Fax number</b>	
<b>Telephone number</b>	
<b>Email address of chief financial officer</b>	
<b>Accounting authority chairperson</b>	<b>Name</b> <b>Contact details</b>
<b>Responsible minister (executive authority)</b>	<b>Name</b> <b>Contact details</b>
<b>Responsible department</b>	
<b>Contact person at department</b>	
<b>Financial year in question</b>	
<b>PFMA schedule (2, 3A, 3B, 3C or 3D)</b>	
<b>Name of holding entity (if applicable)</b>	



**PART 1 - Appointment of new audit firm****Information to be supplied**

1. Submit the following via email to [section4@agsa.co.za](mailto:section4@agsa.co.za):
  - Completed information sheet (see below)
  - Declaration of independence from the proposed audit firm (see section 3 below)
  - Confirmation and details of the process followed for procurement of the external audit services
  - BBBEE certificate of the audit firm
  - Confirmation of the IRBA registration of the audit firm
  - Approved minutes of the meeting where the appointment of the auditors was discussed
  - Proposal received from the audit firm

**Information sheet**

Particulars of audit firm	
<b>Name of audit firm</b>	
<b>Address and contact details</b>	
<b>Engagement partner</b>	
<b>Proposed audit fee</b>	

2. Details of how the quality of the audit firm's work has been assessed, e.g. results of IRBA reviews, as well as confirmation from IRBA that the appointed audit firm is in good standing at IRBA:

*Insert details*

3. Matters that may influence a decision regarding the independence, objectivity or perceived independence of the audit firm:

*Insert details*

4. Confirmation from the accounting authority / board that a procurement process was followed and no exceptions were noted:

*Insert details*

5. Costs of any audit or non-audit services provided by the audit firm during the last three years:

Financial year			
<b>Audit fees</b>			
<b>Fees for other services</b>			

<b>Total fees</b>			
<b>Non-audit fees as a percentage of total fees</b>			
<b>Nature of services performed</b>			

**Declaration of independence by audit firm**

<b>Particulars of audit firm</b>	
<b>Name of audit firm</b>	
<b>Address and contact details</b>	
<b>Engagement partner</b>	

We hereby confirm the following concerning our proposed appointment as auditors of ..... for the financial year .....

- We, nor any related network firm, undertake any audit or non-audit services at the auditee and have not done so for the preceding five years.
- We have the necessary competencies and capabilities to undertake the audit.

<b>Completed by engagement partner:</b>	Signature:
	Name:
	Date:

**Information submitted by:**

<b>Completed by auditee:</b>	Signature:
	Name and designation:
	Date:

**PART 2 – Reappointment of audit firm****Information to be supplied**

6. In this regard the following information should be submitted via email to [section4@agsa.co.za](mailto:section4@agsa.co.za):

**Information sheet**

Particulars of audit firm	
<b>Name of audit firm</b>	
<b>Address and contact details</b>	
<b>Engagement partner</b>	
<b>Financial years previously audited</b>	

7. Details of the audit committee's assessment of the effectiveness and efficiency of the performance of the external auditors, including IRBA review results:

*Insert details*

8. Details of significant disagreements between the external auditors and the accounting authority during the preceding financial year, if any:

*Insert details*

9. Indicate any matter that may influence a decision regarding the independence, objectivity or perceived independence of the auditors:

*Insert details*

10. Name of partner in charge of the audit for the last five years:

Year	Name of partner
1	
2	
3	
4	
5	

11. Name of senior audit manager in charge of the audit for the last five years:

Year	Name of senior audit manager

Year	Name of senior audit manager
1	
2	
3	
4	
5	

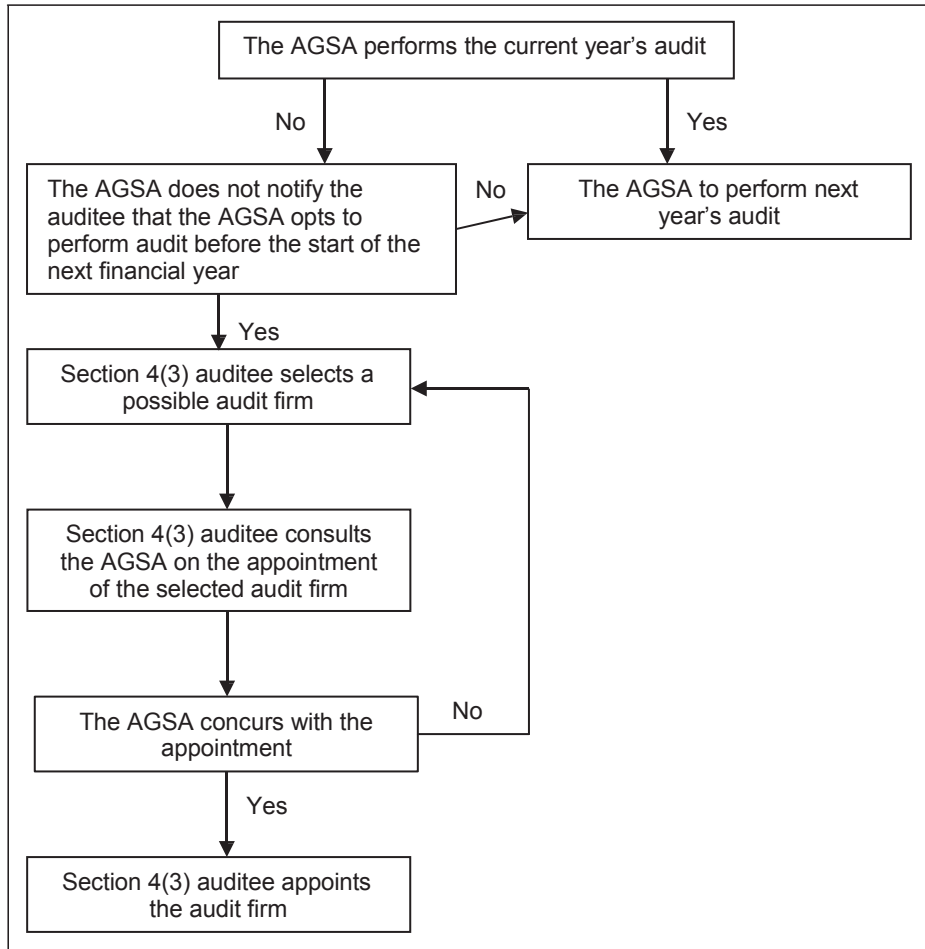
12. Costs of audit and non-audit services provided by the audit firm during the last three years:

<b>Financial year</b>			
<b>Audit fees</b>			
<b>Fees for other services</b>			
<b>Total fees</b>			
<b>Non-audit fees as a percentage of total fees</b>			
<b>Nature of services performed</b>			

Information submitted by:

<b>Completed by auditee:</b>	Signature:
	Name and designation:
	Date:

**SCHEMATIC ILLUSTRATION OF THE AUDITOR APPOINTMENT PROCESS**



**PART 3 – Discharge of audit firm****Information to be supplied**

13. In this connection the following information should be submitted via email to [section4@agsa.co.za](mailto:section4@agsa.co.za):

- Information sheet
- Notice to the auditor, giving the reasons for the impending discharge
- Written concurrence by the executive authority for the planned discharge.

**Information sheet**

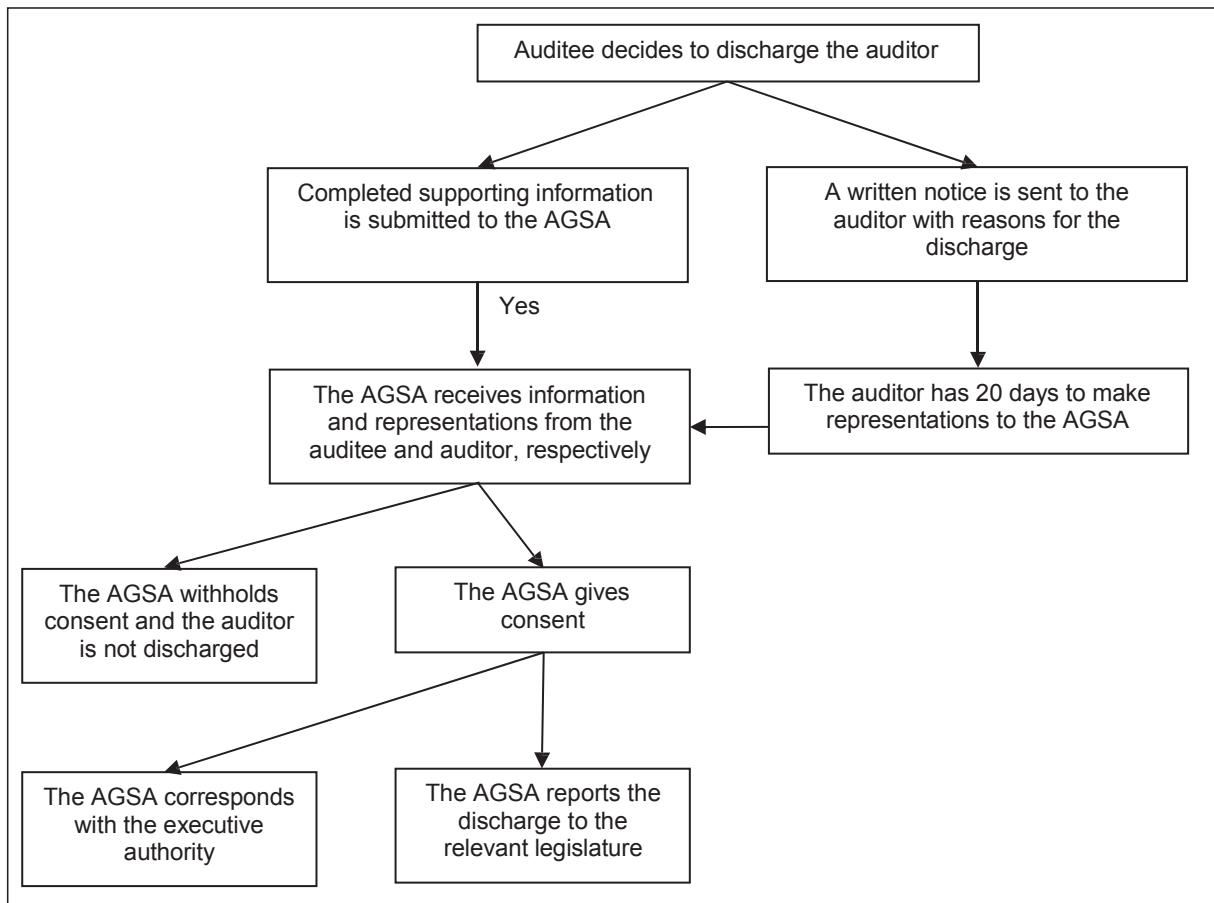
Particulars of audit firm	
<b>Name of audit firm</b>	
<b>Address and contact details</b>	
<b>Engagement partner</b>	
<b>Financial years previously engaged on the audit</b>	

14. Costs of audit and non-audit services provided by the audit firm during the last three years:

<b>Financial year</b>			
<b>Audit fees</b>			
<b>Fees for other services</b>			
<b>Total fees</b>			
<b>Non-audit fees as a percentage of total fees</b>			
<b>Nature of services performed</b>			

<b>Completed and submitted by:</b>	Signature:
	Name and designation:
	Date:

**SCHEMATIC ILLUSTRATION OF THE AUDITOR DISCHARGE PROCESS**



**ANNEXURE F: RELEVANT EXTRACTS FROM THE PUBLIC AUDIT ACT****2. Objects of this act**

The objects of this Act are -

- (b) to provide for the auditing of institutions and accounting entities in the public sector;

**4. Constitutional functions**

- (1) The Auditor-General must audit and report on the accounts, financial statements and financial management of -
  - (a) all national and provincial state departments and administrations;
  - (b) all constitutional institutions;
  - (c) the administration of Parliament and of each provincial legislature;
  - (d) all municipalities;
  - (e) all municipal entities; and
  - (f) any other institution or accounting entity required by other national or by provincial legislation to be audited by the Auditor-General.
- (2) The Auditor-General must audit and report on the consolidated financial statements of -
  - (a) the national government as required by section 8 of the PFMA;
  - (b) all provincial governments as required by section 19 of the PFMA; and
  - (c) a parent municipality and all municipal entities under its sole or effective control as required by section 122 (2) of the MFMA.
- (3) The Auditor-General may audit and report on the accounts, financial statements and financial management of -
  - (a) any public entity listed in the PFMA; and
  - (b) any other institution ... which is -
    - (i) funded from the National Revenue Fund or a Provincial Revenue Fund or by a municipality; or
    - (ii) authorised in terms of any legislation to receive money for a public purpose.

**5. Other functions**

- (1) The Auditor-General may, at a fee, and without compromising the role of the Auditor-General as an independent auditor, provide -
  - (a) audit-related services to an auditee ... or other body, which is commonly performed by a supreme audit institution on condition that -
    - (i) no services may be provided in respect of any matter that may subsequently have to be audited by the Auditor-General;
    - (ii) such service will not directly result in the formulation of policy; and



- (iii) there must be full and proper disclosure of (the categories of) such services (in the report annually submitted by the Auditor-General to the National Assembly).
  - (d) carry out an appropriate investigation or special audit of any institution ..., if the Auditor-General considers it to be in the public interest or upon the receipt of a complaint or request.
- (3) The Auditor-General may, in the public interest, report on any matter within the functions of the Auditor-General and submit such a report to the relevant legislature and to any other organ of state with a direct interest in the matter.

#### **11. Application of this part**

This part applies to all audits of auditees which the Auditor-General -

- (a) must perform in terms of section 4 (1) or (2); or
- (b) opts to perform in terms of section 4 (3).

#### **13. Standards for audits**

- (1) The Auditor-General, after consulting the oversight mechanism, must determine -
  - (a) the standards to be applied in performing audits ...
  - (b) the nature and scope of such audits; and
  - (c) procedures for the handling of complaints when performing such audits.
- (3) The Auditor-General may -
  - (a) make different determinations on the matters mentioned in subsection (1) for different categories of audits based on recognised best practice; or
  - (b) issue specific directives on those matters in any specific case.

#### **14. Submission of financial statements**

- (2) Financial statements submitted by an auditee which is not subject to the PFMA or the MFMA must be submitted within the period, be in a format, contain the information and otherwise comply with any requirements determined -
  - (a) by any legislation applicable to that auditee; or
  - (b) in the absence of such legislation, by the Auditor-General.

#### **15. General auditing powers**

- (2) The Auditor-General or an authorised auditor may for the purpose of an audit -
  - (b) direct a person to produce or to deliver at a specified place and time and in a specified format -
    - (i) any such document, book or written or electronic record or information ...

**20. Audit reports**

- (2) An audit report must reflect such opinions and statements as may be required by any legislation applicable to the auditee which is the subject of the audit, but must reflect at least an opinion or conclusion on -
  - (a) whether the annual financial statements of the auditee fairly present, in all material respects, the financial position at a specific date and results of its operations and cash flow for the period which ended on that date in accordance with the applicable financial framework and legislation;
  - (b) the auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and
  - (c) the reported information relating to the performance of the auditee against predetermined objectives.
- (3) In addition, the Auditor-General may report on whether the auditee's resources were procured economically and utilised efficiently and effectively.

**25. Appointment of auditors**

- (1) If the Auditor-General has opted not to perform the audit of an auditee ...
  - (a) the Auditor-General must give notice of his or her decision to that auditee before the start of the auditee's financial year for which the appointment is to be made; and
  - (b) the auditee must appoint as its auditor a person registered in terms of the Public Accountants' and Auditors' Act as an accountant and auditor and engaged in public practice as such.
- (2) Before appointing an auditor in terms of subsection (1), the auditee must give notice of the suggested appointment to the Auditor-General, including information on the extent to which the auditor would provide other services than audit services during the duration of the appointment, and any other information required by the Auditor-General.
- (3) If the Auditor-General, within 14 days of receiving a notice in terms of subsection (2) or such longer period as may be agreed to, rejects the auditee's appointment, the auditee must in terms of that subsection recommence the process to appoint another person as its auditor.
- (4) Appointments in terms of this section may not be for a longer period than one financial year of the auditee.

**26. Discharge of auditors**

- (1) An auditee ... may discharge an auditor ... before the expiry of that auditor's term of appointment, but only with the consent of the Auditor-General and, if that auditee has an executive authority within the meaning of the PFMA, also of the relevant executive authority.
- (2) If such an auditee intends discharging an auditor in terms of subsection (1), it must -
  - (a) give the auditor notice, in writing, setting out the reasons for the discharge; and
  - (b) give the auditor an opportunity to make representations, in writing, to the Auditor-General within 20 days of receipt of the notice.
- (3) The Auditor-General must report any discharge of an auditor in terms of subsection (1) to the relevant legislature.

**27. Duties and powers of auditors**

- (1) An auditor ... must perform the functions of office as auditor in terms of section 20 of the Public Accountants' and Auditors' Act.
- (2) In performing those functions as the auditor of an auditee, the auditor has the powers assigned to the Auditor-General in terms of section 15 (of the PAA).
- (3) An auditor may consult the Auditor-General or a person designated by the Auditor-General concerning any matter relating to the auditing of the auditee concerned.
- (4) An auditor -
  - (a) must be given notice of every meeting of the auditee's audit committee, if the auditee has such a committee; and
  - (b) may attend, and participate in, any meeting of such an audit committee at the expense of the auditee.
- (5) The Auditor-General or a person designated by the Auditor-General may request information regarding the audit from an auditor ...

**28. Audit reports and other reports**

- (1) The report of an auditor ... must reflect such opinions and statements as may be required by any legislation applicable to the auditee which is the subject of the audit, but must reflect at least an opinion or conclusion on -
  - (a) whether the financial statements of the auditee fairly present, in all material respects, the financial position at a specific date and results of its operations and cash flow for the period which ended on that date in accordance with the applicable financial framework and legislation;
  - (b) the auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and
  - (c) the reported information relating to the performance of the auditee against predetermined objectives.
- (3) The auditor must submit copies of the audit report referred to in subsection (1) -
  - (a) to the auditee;
  - (b) if the auditee has an executive authority within the meaning of the PFMA, to that executive authority for submission to the relevant legislature;
  - (c) to the Auditor-General; and
  - (d) to the National Treasury or the relevant provincial treasury, as may be appropriate.

**50. Disclosure of information**

No authorised auditor, person assisting an authorised auditor or a member of the staff of the Auditor-General may, without the permission of the Auditor-General, disclose information obtained in the course of an audit or the carrying out of duties in terms of this Act otherwise than in an audit report or in accordance with section 18(4).

## DEPARTMENT OF BASIC EDUCATION

NO. 1402

15 DECEMBER 2017

## NATIONAL EDUCATION POLICY ACT, 1996 (ACT NO. 27 OF 1996)

REPEAL OF THE PROVISIO LIMITING ACCOUNTING TO LEARNERS  
OFFERING MATHEMATICS ONLY


1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in terms of *section 3(4)(l)* of the *National Education Policy Act, 1996 (Act No. 27 of 1996)*, amend the following Policy:

National Policy pertaining to the Programme and Promotion Requirements of the National Curriculum Statement, Grades R-12 published as *Government Notice 1114* in *Government Gazette No. 36042* of 28 December 2012.

2. The Policy referred to in Paragraph 1 is set out in the attached **Schedule**.

## AVAILABILITY OF THE DOCUMENT

3. The full Policy document is available on the Departmental website: [www.education.gov.za](http://www.education.gov.za), under **Resources, Policies, Curriculum and Assessment Policies**.

  
MRS AM MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION  
DATE:

## DEPARTMENT OF BASIC EDUCATION

NO. 1403


15 DECEMBER 2017

## NOTICE 1101 OF 2017: AMENDMENT

EXTENSION OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT  
BASIC EDUCATION LAWS AMENDMENT BILL

The following paragraph is substituted for paragraph 4 of Notice 1101 of 2017  
(*Government Gazette* No. 41178 of 13 October 2017):

"The comments must reach the Department by 10 January 2018."

  
08 December 2017

ANGELINA MATSIE MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION  
DATE:

## DEPARTMENT OF BASIC EDUCATION

NO. 1404

15 DECEMBER 2017

## THE SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)

REPEAL OF THE PROVISO LIMITING ACCOUNTING TO LEARNERS  
OFFERING MATHEMATICS ONLY

1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in terms of *section 61(c) and (d) of the South African Schools Act, 1996 (Act. No. 84 of 1996)* amend the following Regulations:

Regulations pertaining to the National Curriculum Statement Grades R-12 published as *Government Notice 1114 in Government Gazette No. 36041* of 28 December 2012.

2. The Regulations referred to in Paragraph 1(a) are set out in the attached **Schedule**.

## AVAILABILITY OF THE DOCUMENT

3. The full Regulations document is available on the Departmental website: [www.education.gov.za](http://www.education.gov.za), under **Resources, Policies, Curriculum and Assessment Policies**.



MRS AM MOTSHEKGA, MP

MINISTER OF BASIC EDUCATION

DATE:

## DEPARTMENT OF BASIC EDUCATION

NO. 1405

15 DECEMBER 2017

## SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO 84 of 1996)

## NATIONAL NORMS AND STANDARDS FOR SCHOOL FUNDING (NNSSF)

1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in accordance with section 39(10) of the South African Schools Act, 1996 (Act No. 84 of 1996), publish the list per province, of schools that may not charge school fees.
2. The Members of the Executive Council (MECs) responsible for education in provinces have identified the specific schools in the province that may not charge school fees [that will be no-fee schools as contemplated in section 39(9) of the South African Schools Act, 1996] in 2017.
3. The list of schools per province with the details per school may be accessed as follows:
  - 3.1 From the office of:

Assistant Director: Financial Planning  
Ms E Lubbe  
Department of Basic Education  
Private Bag X895  
PRETORIA, 0001, Tel: (012) 357 4298;  
Fax: (012) 323 9155; Email: [lubbe.e@dbe.gov.za](mailto:lubbe.e@dbe.gov.za)
  - 3.2 From the Department of Basic Education's website, [www.education.gov.za](http://www.education.gov.za).
4. All schools identified in the list must be notified by letter that the school is a no-fee school.



5. Specific questions regarding schools identified in the no fee schools list should be addressed to the MECs for Education in the provinces, at the following addresses:

<p>Mr M Makapula MEC: Education <b>Eastern Cape Province</b> Private Bag X0032 BISHO 5605 Tel. 040 608 4202/3 Fax <b>040 608 4247</b></p>	<p>Mr PHI Makgoe MEC: Education <b>Free State Province</b> PO Box 20565 BLOEMFONTEIN 9300 Tel. 051 404 8411/8079 Fax <b>051 404 8295</b></p>	<p>Ms D Schäfer MEC: Education <b>Western Cape Province</b> Private Bag X9144 CAPE TOWN 8000 Tel. 021 467 2523/6 Fax <b>021 425 5689</b></p>
<p>Mr MB Bartett MEC: Education <b>Northern Cape Province</b> Private Bag X5029 KIMBERLEY 8300 Tel. 053 830 7160/7162 Fax <b>053 830 7177</b></p>	<p>Mr S Lehari MEC: Education <b>North West Province</b> Private Bag X2044 MMABATHO 2735 Tel. 018 388 2559 Fax <b>018 384 5016/1872</b></p>	<p>Mr MI Kgetjepe MEC: Education <b>Limpopo Province</b> Private Bag X9489 POLOKWANE 0700 Tel. 015 297 0013 Fax: 015 297 0885 /086 5310539</p>
<p>Ms R Mhaule MEC: Education <b>Mpumalanga Province</b> Private Bag X11341 NELSPUIT 1200 Tel. 013 766 5555/3590 Fax <b>013 7663459</b></p>	<p>Mr HA Lesufi MEC: Education <b>Gauteng Province</b> PO Box 7710 JOHANNESBURG 2000 Tel. 011 355 0909/0145 Fax <b>011 355 0542</b></p>	<p>Mr M Dlungwana MEC: Education <b>KwaZulu-Natal Province</b> Private Bag X9137 PIETERMARITZBURG 3200 Tel. 033 355 2450/1 Fax <b>033 394 0893</b></p>

*M. A. Motshekga*  
**MRS AM MOTSHEKGA, MP**  
 Minister of Basic Education  
 Date: *28-11-2017*



## DEPARTMENT OF BASIC EDUCATION

NO. 1406

15 DECEMBER 2017

## NATIONAL EDUCATION POLICY ACT, 1996 (ACT NO. 27 OF 1996)


CALL FOR SUBMISSIONS FROM MEMBERS OF THE PUBLIC AND  
STAKEHOLDER BODIES ON THE DRAFT RURAL EDUCATION POLICY TO BE  
PUBLISHED IN THE GOVERNMENT GAZETTE

1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in terms of section 3(4)(l) of the *National Education Policy Act, 1996 (Act No. 27 of 1996)*, and after consultation with the Council of Education Ministers, call for comments on the following draft policy document:

**RURAL EDUCATION POLICY**

## AVAILABILITY OF THE POLICY DOCUMENT

2. The policy document referred to in paragraph 1 is available on the following Departmental websites: [www.education.gov.za](http://www.education.gov.za), Resources, Policies: Curriculum and Assessment

  
MRS AM MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION

DATE: 22.10.2017



**basic education**

**Department:  
Basic Education  
REPUBLIC OF SOUTH AFRICA**

**RURAL EDUCATION DRAFT  
POLICY**

**SEPTEMBER 2017**

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**ACRONYMS**

ASIDI	Accelerated Schools Infrastructure Development Initiative
CRDP	Comprehensive Rural Development Programme
CPD	Continuing Professional Development
CRDP	Comprehensive Rural Development Programme
DBE	Department of Basic Education
DoE	Department of Education
ECD	Early Childhood Development
GET	General Education and Training
FET	Further Education and Training
HEI	Higher Education Institutions
ICT	Information and Communication Technology
ITE	Initial Teacher Education
LOLT	Language of Learning and Teaching
LTSM	Learning and Teaching Support Materials
MCRE	Ministerial Committee on Rural Education
MCRE	Ministerial Committee on Rural Education
NDP	National Development Plan
NEPA	National Education Policy Act
NSNP	National School Nutrition Programme
NSC	National Senior Certificates
NMF	Nelson Mandela Foundation
PED	Provincial Education Department
RE	Rural Education
REAC	Rural Education Advisory Committee
SASA	South African Schools Act
SDG	Sustainable Development Goals
SGB	School Governing Body
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization

## DEFINITIONS

<b>‘Agricultural education’</b>	means the teaching of agriculture, natural resources and land management through hands-on experience and guidance to prepare learners for entry level jobs or to further education to prepare them for advanced agricultural jobs;
<b>‘classification’</b>	means a set of discrete, exhaustive and mutually exclusive categories that can be assigned to one or more variables or items;
<b>‘cluster of schools’</b>	more than one school with their own facilities on the same site. The site name is registered in the same name of one of the schools.
<b>‘communal land’</b>	means land which is occupied or used by members of a community, subject to rules of custom of the community;
<b>‘curriculum’</b>	a statement of intended outcomes to be achieved, what knowledge content is to be acquired, which competencies are to be developed and the levels of performance that are expected from learners in each of the grades;
<b>‘district’</b>	the geographic area within a province that has been demarcated by the MEC for Education as the first level of administration and sub-division within a PED;
<b>‘Early Childhood Development’</b>	an umbrella term that applies to the process by which children from birth to at least nine years grow and thrive, physically, mentally, emotionally, spiritually, morally and socially;
<b>‘education’</b>	education undertaken is an educational Institution established, declared or registered in terms of the <i>Child Care Act</i> , <i>South African Schools Act</i> , <i>Adult Basic Education Act</i> , <i>Further Education and Training Colleges Act</i> , <i>Higher Education Act</i> or provincial law;
<b>‘focus schools’</b>	A school that specializes in an area of the curriculum;

<b>‘foundation phase’</b>	The first phase of a school curriculum applicable in Grades R , 1 , 2 and 3;
<b>‘functional school’</b>	means a school where learners and teachers have access to the following basic social services: health, social development, a library, and transport.
<b>‘Further Education and Training’</b>	all learning and training programmes leading to qualifications on level 2, 3 and 4 of the National Qualification Framework;
<b>‘General Education and Training’</b>	all programmes leading to a qualification at level 1 on the National Qualification Framework;
<b>‘Grade R’</b>	the reception year for a learner in a school or and ECD Centre, that is, the grade immediately before Grade 1;
<b>‘Higher Education Institution’</b>	Any institution that provides higher education on a full time, part time or distance basis which is established, deemed to be established or declared as a public higher education Institution, or registered or conditionally registered as a private higher education Institution under the <i>Higher Education Institution Act</i> .
<b>‘home language’</b>	the language that is spoken most frequently at home by a learner;
<b>‘indicators’</b>	a measure designed to assess the performance of a system, policy, programme or project;
<b>‘indigenous languages’</b>	a language that originated in a specified territory or community and was not brought in from elsewhere;
<b>‘intermediate phase’</b>	the second phase of the school curriculum applicable in Grades 4, 5 and 6;
<b>‘learning outcomes’</b>	a description of what knowledge, and skills values learners need to know, demonstrate and be able to do;

<b>‘literacy’</b>	ability to read and write with understanding in any language;
<b>‘Language of Learning and Teaching’</b>	Is a language medium through which learning and teaching, including assessment occurs
<b>‘multilingualism’</b>	ability to speak more than two languages; proficiency in many languages;
<b>‘National School Nutrition Programme’</b>	A national programme managed by the Department of Basic Education, targeted at poor communities, whose objectives are to contribute to enhanced learning capacity through school feeding; promote and support the Implementation of food production Initiatives in schools; and strengthen nutrition education for school communities;
<b>‘National Senior Certificate’</b>	the NSC is a 130 credit certificate at level 4 on the National Qualification Framework (NQF);
<b>‘primary school’</b>	a school that offers all or a selection of grades from Grade R to 7;
<b>‘private land’</b>	means a land that is not owned by the state or any organ of state;
<b>‘public school’</b>	a school contemplated in <i>Chapter 3 of the South African Schools Act 1996</i> ;
<b>‘qualified educator’</b>	a person who is in possession of an approved professional teaching qualification for employment in public education;
<b>‘rural areas’</b>	farms and traditional areas characterised by low population densities, low levels of economic activity and low levels of infrastructure;
<b>‘School Governing Body’</b>	A statutory body vested in the governance of a public school and it may perform only such functions and obligations and exercise such rights as prescribed by the <i>South African Schools Act. 84 of 1996</i> ;
<b>‘secondary school’</b>	a school that offers all or a selection of grades from Grade 8 to Grade 12;



<b>'self-esteem'</b>	indicates children's and teachers' valuing of themselves, an identity and sense of pride in oneself and the place where one lives, learns and works;
<b>'senior phase'</b>	the third phase of the school curriculum applicable in Grades 7, 8 and 9;
<b>'social connectedness'</b>	points towards being connected to meaningful others and belonging to a group, that is school communities using partnerships to function as educational units of wellbeing, learning and teaching;
<b>'subjects'</b>	a specific body of academic knowledge selected and organised as part of a curriculum;
<b>'teachers'</b>	school-based educators whose core responsibility is that of classroom teaching at a school.



## SCHEDULE

### CHAPTER 1

#### INTRODUCTION TO THE POLICY

##### 1. Purpose of the Policy

- 1) This rural education policy aims to improve access to education, as well as the quality of education for all in rural schools. The policy provides a framework for:
  - a. the development of context-specific, relevant and sustainable strategies to deal with the challenges in rural schools whilst drawing on strengths in rural communities; and
  - b. improving the quality of education in rural schools that will allow the creation of appropriate strategies and practical intervention to improve the quality of education in rural schools.
- 2) A number of pro-poor initiatives aimed at promoting equity and improving the quality of education in previously disadvantaged schools, including rural schools have been implemented since 1994. In spite of these significant interventions, a large number of rural schools are still characterised by inadequate resources, teacher shortages, absenteeism and learners that dropout from school, and above all, poor educational outcomes.
- 3) The policy grapples with the often recognised disadvantage of rural communities and schools (inadequate resources, teacher shortages, absenteeism and learners that dropout from school, and poor educational outcomes) on one hand, and the various assets that exist in rural communities (e.g., indigenous knowledge systems) which can be harnessed to enrich teaching and learning in rural schools.
- 4) The policy recognises the role of the community and sense of belonging (both to the community and the school) and connectedness among stakeholders.

- 5) The policy aims to reflect the realities in rural communities and provide a framework for the development of context-specific and sustainable interventions for rural schools.
- 6) This policy applies uniformly in all provincial departments of education, districts and schools. The provincial education departments can use this policy as a framework for the development of policy, guidelines and strategies for rural education.

## CHAPTER 2

### RATIONALE FOR THE POLICY

#### 2. Policy Context

- 1) South Africa is a signatory to various international protocols. One of the most recent, the Sustainable Development Goals (SDG), addresses extreme poverty in its many dimensions and, in particular, SDG 4: Quality Education, aims to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” (UN, 2015, p.21). The Framework for Action (UNESCO, 2015a) further prioritises inclusion and equity in and through education by improving education policies and the way they work together.
- 2) South Africa is committed to achieving these internationally mandated goals through effecting the values underpinning the Constitution of South Africa, 1996 and the Bill of Rights, notably, principles of human dignity, the achievement of equality and the advancement of human rights and freedoms, including the right to education.
- 3) The National Development Plan (NDP, 2011), through its education and training vision, highlights the need for access to quality education for all. In this context, good educational outcomes must be aligned to the interests of all stakeholders and be responsive to local community needs and economic development.
- 4) In line with the above, as stated in the Department of Basic Education’s *Action Plan to 2019: Towards the Realisation of Schooling 2030*, the DBE has implemented varied pro-poor initiatives aimed at promoting equity in access to primary and secondary education and by improving the quality of education in previously disadvantaged schools, including rural schools. Progress towards achieving these goals is uneven, with rural schools continuing to bear the brunt inequality (in human and material resources) and poor performance.
- 5) The policy must be read in with the following policies and legislation:
  - a. The Constitution of South Africa, 1996

- b. The South African Schools Act, 1996 (Act No. 84 of 1996)
- c. Education White Paper 6 on Special Needs Education: Building an Inclusive and Training System (2001)
- d. Employment of Educators Act, 1998 (Act No. 76 of 1998)
- e. National Norms and Standards for School Funding (DoE, 1998)
- f. The National Minimum Uniform Norms and Standards for School Infrastructure
- g. Language in Education Policy

### 3. Sustainable Rural Education and Development

- 1) A report from a study on rural schools commissioned by the Nelson Mandela Foundation (NMF), *Emerging Voices* (2005), argued for a holistic response to the special circumstances facing rural communities. The report was informed by the view that social justice depends on policy and programme responses that provide quality educational environment in all schools, including rural schools, so as to assure children's wellbeing as well as the communities' social progress and political participation. It recommended that state provision of rural schooling should be resourced and organised differently from urban schools as a necessary measure to meet the needs of rural learners.
- 2) The 2005 report of the MCRE made recommendations on the policy environment relating to rural schools. Rural education was to be re-visioned away from a focus on deficits to one that examined opportunities for transformation within rural communities, to promote a participatory and democratic governance and management process.
- 3) At a systemic level, the MCRE report, recommended a special focus on rural education that would recognise the uniqueness of the rural landscape. An outcome was the establishment of a rural directorate at the DBE having provincial counterparts. Its task was to consider policy formulation to address the special needs of rural schools and to oversee implementation. Such a structure is needed to

monitor the implementation of this rural education policy and provide support to provinces.

- 4) The CRDP accepted by Cabinet in 2009 highlights the need for the transformation of the rural economy through programmes that facilitate integrated development and social cohesion through participatory approaches in partnership with all sectors of society.



## CHAPTER 3

### PRINCIPLES OF THE POLICY

#### 4. The Constitution of the Republic of South Africa, 1996 and Bill of Rights

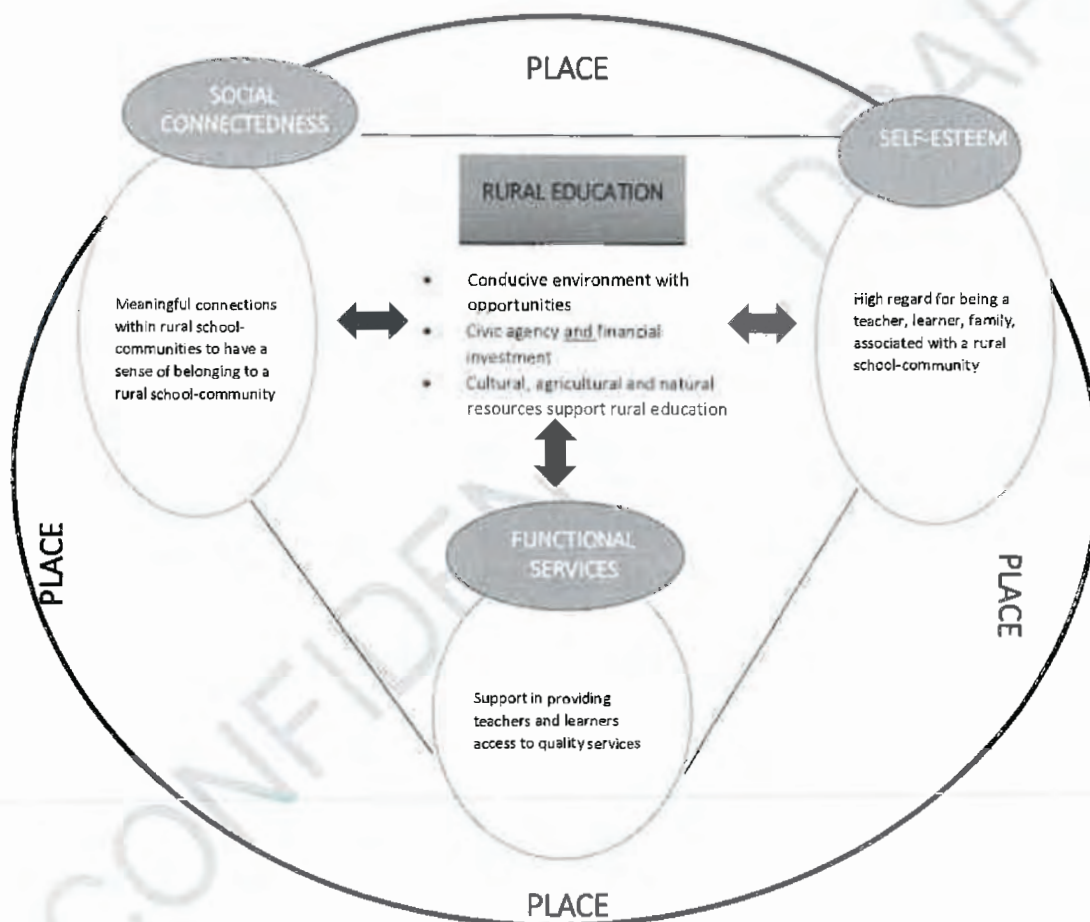
- 1) This rural education policy is informed by the principles enshrined in the Constitution, including the right to basic education, equity and the dignity of learners and teachers.
- 2) The policy further follows the principles outlined in the preamble to the SASA to combat unfair discrimination, to uphold the rights of all learners, and to contribute to the eradication of poverty.
- 3) In order to realize the above imperatives, the policy is premised on the notion that challenges facing rural school communities can be addressed by engaging civic agency where community actions make use of existing rural resources, as well as targeted fiscal investments aimed at addressing the resource shortages experienced by rural schools.

#### 5. Conceptual Framework

- 1) This policy proposes rural education provisioning that capitalises on resources available in rural communities. The provision of quality education in rural schools requires not only targeted fiscal, but also civic agency, with the DBE working in collaboration with rural communities to mobilise resources (including socio-cultural, agricultural and natural resources, as well as indigenous knowledge systems).
- 2) The policy aims to address the isolation, disconnectedness, shame and distrust, as well as the lack of development often associated with rural communities and schools.
- 3) From this perspective, developmental outcomes (learning, wellbeing) are less aligned with economic riches and more aligned with:
  - a. Self-esteem: Children's and teachers' valuing of themselves, an identity and sense of pride in oneself and the place where one lives, learns and works.

- b. **Social Connectedness:** Being connected to meaningful others and belonging to a group, i.e. school communities using partnerships to function as educational units of wellbeing, learning and teaching.
- c. **Functional Services:** Learners and teachers must have access to basic development services that includes but not limited to the following: health, social development, and libraries.

**Figure 1: Conceptual framework: three interrelated dimensions of “place” influencing rural education.**



## CHAPTER 4

### DEVELOPING QUALITY RURAL EDUCATION

#### 6. Classifying rural schools

- 1) In South Africa there is no single definition of 'rural' as rurality is characterised by diverse contexts. 'Rural' refers to areas that consist of the tribal lands controlled by traditional leaders; as well as agricultural areas. While 'rural' usually refers to settings that are sparsely populated and where agriculture is the major means of economic activity, the concept also includes areas of dense settlement created by colonial and apartheid-driven land settlements. Several 'mining' areas where mining is no longer active also fall into this category.
- 2) A lack of a single definition for rural and diversity within these contexts make it difficult to formulate policies and develop programmes that are tailor-made for rural schools. It also hampers efforts to intervene meaningfully in improving the quality of education in rural schools.
- 3) Overcoming this challenge requires a rigorous classification of rural schools. Such a classification could be informed by a set of indicators or filters to be included in a classification index:
  - a. Location: public schools in rural areas may be situated on government land, communal land or private land (primarily on farms and on church land); isolationism and remoteness; and dispersed settlements.
  - b. Other filters could include: School phase; various social and economic deprivation factors; poverty; distance from services/facilities and service delivery; the physical and cultural environment; and the size of the school.
  - c. The analysis must also extend the multi-deprivational indices, developed by Statistics South Africa to categorise public schools in Limpopo and the Eastern Cape, to all public schools in rural domains.



## 7. Reviewing and aligning curriculum policy

- i) This rural education policy views rurality as a driver of educational reform, not a follower of urban agendas and priorities. Therefore, curriculum development, provisioning, resourcing and subject choice for rural schools should be guided by three key principles which should be incorporated in the implementation of curriculum in rural schools.
  - a. A curriculum that promotes a sense of place, pride and belonging in the school community but at the same time allows for individual mobility.
  - b. A curriculum that recognises resource scarcity in rural areas but that acknowledges and harnesses the resources and knowledge that exists in rural communities. For example, environmental concerns and agriculture are core resources intrinsic to the lived experiences of rural communities.
  - c. A curriculum that reflects the aspirations of the individual learner and the community whilst responding to the well-being and development needs of the community.

## 8. Language

- 2) The language situation in rural communities across South Africa is complex. Most school communities in rural areas are multilingual, although it is often the case that teachers and learners have different home languages. This diversity of home language is increased, given current migration patterns. Despite the limited number of people with English as a home language, English retains the status of the preferred LOLT for many parents and teachers. Poor learning outcomes are a direct result of this decision at SGB level. This requires:
  - a. The development of the skills of teachers to teach effectively given multilingualism in education.
  - b. The development of LSTM in home languages and reflecting rural contexts
  - c. Strengthening SGB capacity with knowledge of the value of literacy development in home language in parallel with English as a subject and not the LOLT.
  - d. Creation of programmes on public and social media that popularise and support the learning of indigenous languages.

### 9. Agriculture

- 3) Agriculture is a key economic sector in South Africa, with a long history of subsistence and agribusiness in rural areas. Agricultural education can play a role in responding to the changing labour markets and environment changes through providing an inclusive and responsive agricultural and environmental curriculum.
- 4) The education system can contribute to further economic, social and human development in rural areas by expanding agricultural education and investing in appropriate LTSMs, teacher training, and partnerships with key role-players and by:
  - a. Formalising agriculture as a teaching subject in GET and FET.
  - b. Establishing focus schools for agriculture in all provinces.

### 10. Arts, Culture and Sports

- 5) The implementation of the curriculum in arts, culture and sports in rural schools is not adequate. Key reasons stem from the limited value placed on indigenous activities and resources inherent to rural spaces, that include cultural capital and natural resources that can be used to support across the curricula.
- 6) To strengthen implementation of these subjects in rural context will require:
  - a. Ensuring all rural schools include arts and culture teaching in their formal curriculum.
  - b. Establish focus schools for Arts, Culture and Sports in rural areas at FET level.
  - c. Investing in appropriate LTSMs, teacher training, and partnerships with key role-players.

## CHAPTER 5

### RESOURCING RURAL SCHOOLS

#### 11. Mobilising communities to facilitate education and development initiatives

- 1) Relevant place-based education in rural areas requires the participation of role-players in rural communities to access available resources to enhance teaching and learning. This requires:
  - a. Recruiting young people (matriculants and unemployed graduates) as volunteers in curriculum support (numeracy, literacy, reading, ICT and homework), administrative support, as well as sports and culture. The intention is to recruit and train local young people to enter the teaching profession.
  - b. Mobilising the school community in development initiatives (environmentally specific: agriculture, mining, fishing, wildlife management, nutrition).
  - c. Mobilising elders to share cultural and natural heritage of the community (history, arts and culture, language).
  - d. Establishing partnerships with the local community to support teaching, learning and wellbeing in the school community (businesses, local government, service providers, faith based organisations, traditional councils).

#### 12. Recruitment, retention and development of teachers

- 2) It is difficult to recruit, retain and develop qualified teachers in a rural setting due to distances of schools from towns, poor infrastructure and limited service delivery.

Addressing these challenges requires:

- a. Creating a package of teacher incentives that goes beyond finance and includes teacher development, career progression, transport, accommodation, recreation and other essential services.
- b. Offering teachers incentives on the basis of the classification of rural schools described in paragraph 5.1.

- 5) Establishing teacher villages that include teacher development centres as hubs for school development, as well as safe accommodation, recreation and other essential services for teachers employed in a cluster of schools.
- 6) Establishing edu-villages, which could be modelled after and linked to existing agri-villages and/or other programmes, where none exist, new ones could be built. These could form hubs for school development and the provision of services for teachers and other school personnel in a district. These initiatives will not only contribute to improving the quality of education in rural contexts, but will also contribute to sustainable rural development by providing additional job opportunities and services to rural communities and serve as a resource to rural schools.
- 7) Mobilising HEIs to offer programmes and courses relevant to rural education in initial teacher education and continuing professional development. HEIs should offer programmes and courses in rural education in various modes, privileging distance education, onsite ITE, and placement of student teachers for practicums/teaching practice in rural schools.
- 8) Providing various types of support for specialised educators (science, maths, agriculture, technology, language and ECE) so that they can work in a cluster of schools, in particular remote schools.

### **13. Small schools in rural areas**

- 1) The implications of closing small schools in rural areas are far bigger than closing small schools in urban settings. For example, in sparsely populated areas where distances between schools and poor road conditions are not conducive to public transport use, small schools can be the only means of access to education. In such cases it is necessary to prescribe a minimum package for small primary and secondary school to support learning and teaching.
- 2) In a primary school a minimum of 6 teachers is needed, excluding the principal and Grade R practitioner, so that schools do not have multi-grade classes across phases.



- 3) A minimum requirement per primary school is:
  - a. 1 x foundation phase teacher;
  - b. 5 teachers in the intermediate and senior phases: 1 x EFAL; 1 x HL; 1 x Maths/Natural Sciences/Technology; 1 x Social Sciences/Creative Arts/Life Orientation; and 1 x Economic Management Sciences.
- 4) For secondary schools each subject must be taught by a qualified teacher.
- 5) In a secondary school teachers should teach a maximum of 2 subjects at FET level
- 6) Itinerant teachers may be used to serve more than one school where qualified teachers are not available, provided the distance allows this
- 7) Other requirements for small schools include:
  - a. Support staff including a senior admin clerk, a cleaner and a security guard.
  - b. Until all schools are given the required resources, the district can establish a centre for a cluster of schools. This will allow the school cluster rather than the individual school to become administrative and resource entity. This will ensure a more efficient and effective provisioning to each school. It can also allow the sharing of human and physical resources, including recreational facilities and specialised rooms like libraries, laboratories etc.
  - c. Provision of LTSM: ICT package for small schools to include a server with preloaded content for Grade R, GET and FET Bands, data projector, computer hardware and internet connectivity; Library facilities; and Laboratories.

## CHAPTER 6

### ROLES AND RESPONSIBILITIES

#### 14. National level

- 1) The DBE is responsible for setting guidelines; developing strategies; and monitoring and evaluating the implementation of the rural education policy. It is responsible for ensuring that resources required for the implementation of the policy are available. To do this:
  - a. The Minister will establish a REAC comprising key role players and stakeholders to advise the Minister on the implementation of the rural education policy; funding rural education programmes; and monitoring and evaluating the impact of policies on rural schools.
  - b. The Director-General will establish inter-departmental collaborations to strengthen the support and the delivery of quality education in rural schools.
  - c. The Director-General will establish a national team of key heads of branches that meets to plan, implement and account for the ways in which their branches respond to this rural education policy mandate. Further, this team will report on other programmes and initiatives that target rural schools.
  - d. The Director-General will establish an interprovincial rural education committee that will comprise of officials responsible for rural education in all provinces. This committee will be responsible for the coordination of a multidisciplinary approach to support rural schools in providing quality education.

#### 15 Provincial level

- 2) Each province is responsible for implementing the policy. To do this provinces should:
  - a. Establish a dedicated Directorate or sub-directorate (guided by the number of rural schools) for rural education.
  - b. Establish a provincial rural education committee that interpret national policies, prepare implementation plans and coordinate the activities embracing rural education across the province.

- c. Prepare plans for implementation at individual and school cluster level and plan the placement of edu-villages and teacher development centres.
- d. Secure the required financial, material and human resources to implement the policy.
- e. Monitor and evaluate the implementation of the rural education policy.

#### **16. District level**

- 3). Establish a District Rural Education Committee to oversee and monitor the implementation process and to support the schools in rural areas. To strengthen this Committee:
  - a. Allocate a dedicated person responsible for rural education in all districts;
  - b. Facilitate the training of SGBs in specialised functions arising from the policy.

#### **17. School level**

- 4) The SGB's responsibilities include:
  - a. Mobilising the community to enhance the participation of the broader school community and various stakeholders in school development;
  - b. Identifying and harnessing resources (cultural, natural, material, social) to support teaching and learning.

## CHAPTER 7

### CONCLUSION

- 1) The rural education policy aims to ensure that rural schools provide quality education for all learners, in line with the democratic principles of the Constitution as well as the vision of the NDP. This requires overcoming many challenges of concern to the macro environment as well as school level disparities across the public school system.
- 2) The next step in this policy process is to provide a detailed implementation plan that includes a carefully constructed financial plan. For most recommendations the DBE and the RE Directorate together with their counterparts in the PEDs will spearhead the implementation process, coordinating activities at provincial and local levels of management and governance.
- 3) The DBE is to develop a rural monitoring and evaluation programme to assess whether and in what ways the rural education policy and subsequent programme initiatives are being implemented and what impact on they have on the quality of education in rural schools.
- 4) The improvement of rural education in SA is inextricably linked to effective service delivery in other sectors. These include, among others, health, social development, transport and economic development.
- 5) In addition, educational access and success in one phase are interlinked with similar outcomes across the system – ECD, Basic Education (GET and FET) and Higher Education and Training - and that poor educational outcomes in any one phase hinder access to and performance in the next phase. Consequently, although this report considers the GET and FET phases, it recognises that reform of rural education depends on a holistic view of transformation where education mediates development.



## FINANCIAL SERVICES BOARD

NO. 1407

15 DECEMBER 2017

**LONG-TERM INSURANCE ACT, 1998 (ACT NO. 52 OF 1998)****REPLACEMENT OF THE POLICYHOLDER PROTECTION RULES**

I, Caroline Dey Da Silva, Deputy Registrar of Long-term Insurance hereby, under the Long-term Insurance Act, 1998 (Act No. 52 of 1998), promulgate the replacement of the Policyholder Protection Rules ("PPRs") made under section 62 of the Long-term Insurance Act, 1998 as set out in the schedule.

The replacement of the PPRs is necessary to give effect to a number of conduct of business reforms.

This Notice comes into operation on 1 January 2018.



CD DA SILVA

DEPUTY REGISTRAR OF LONG-TERM INSURANCE

**SCHEDULE**

**POLICYHOLDER PROTECTION RULES (LONG-TERM INSURANCE), 2017**

**Section 62, Long-term insurance Act, 1998**

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## CHAPTER 1 INTERPRETATION

### 1. Application

1.1 These rules, except where the context indicates otherwise, do not apply to reinsurance policies.

1.2 These rules apply to all new and existing policies from the date on which a rule takes effect as set out in Chapter 8, except where otherwise indicated in a rule.

1.3 An insurer remains responsible for meeting the requirements set out in these rules, irrespective of –

- (a) reliance on a person to whom a function has been outsourced to facilitate compliance with a rule or a part thereof; or
- (b) reliance on a representative to facilitate compliance with a rule or a part thereof.

### 2. Definitions

2.1 In these rules “the Act” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998), including the Regulations promulgated under section 72 of the Act, and any word or expression to which a meaning has been assigned in the Act bears, subject to context, that meaning unless otherwise defined, and –

“**advice**” has the meaning assigned in the FAIS Act;

“**beneficiary**” means –

- (a) a person nominated by the policyholder as the person in respect of whom the insurer should meet policy benefits; or
- (b) in the case of a fund member policy, a fund policy or a group scheme, a person nominated by the fund, member of the fund or member of the group scheme, or otherwise determined in accordance with the rules of that fund or group scheme as the person in respect of whom the insurer should meet policy benefits;

“**claim**” means, unless the context indicates otherwise, a demand for policy benefits by a person in relation to a policy, irrespective of whether or not the person’s demand is valid;

“**claimant**” means a person who makes a claim;

“**credit life insurance**” has the meaning assigned to it in the National Credit Act;

“**exclusion**” means a loss or risk event not covered under a policy;

“**existing policy**” means a policy entered into before the date on which the relevant rule takes effect;

“**FAIS Act**” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

**“FAIS General Code of Conduct”** means the General Code of Conduct for Authorised Financial Services Providers and Representatives published in Board Notice No. 80 of 2003, and amended from time to time, under section 15 of the FAIS Act;

**“fund member policy”** has the meaning assigned to it in Part 3A of the Regulations;

**“independent intermediary”** has the meaning assigned to it in Part 3A of the Regulations;

**“insurer”** means a long-term insurer;

**“intermediary”** means a an independent intermediary or representative, respectively;

**“investment value”** means the value of a policy calculated as the accumulated basic premium and investment return stated in or ascertainable from the policy, less deductions specifically provided for in the policy;

**“loyalty benefit”** means any benefit (including a so-called cash- or premium-back bonus) that is directly or indirectly provided or made available to a policyholder by an insurer or an associate of the insurer, which benefit is wholly or partially contingent upon –

- (a) the policy or policies of that policyholder with that insurer remaining in place;
- (b) the policyholder increasing any policy benefit to be provided under a policy; or
- (c) the policyholder entering into any other policy or policy benefit or utilising any related services offered by that insurer or its associate;

**“mandatory credit life insurance”** means credit life insurance contemplated in section 106(1)(a) of the National Credit Act;

**“member”** means a member of a fund or a member of a group scheme;

**“member of a fund”** means any person in respect of whom a fund, under a fund policy, insures its liability to provide benefits to such person in terms of its rules;

**“member of a group scheme”** means –

- (a) a person who participates in a group scheme to insure him or herself; or
- (b) a person who participates in a group scheme to insure the lives of one or more other persons in which the first-mentioned person has an insurable interest;

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

**“new policy”** means a policy entered into on or after the date on which the relevant rule takes effect;

**“no-claim bonus”** means any benefit that is directly or indirectly provided or made available to a policyholder by an insurer in the event that the policyholder does not claim or does not make a certain claim under the policy within a specified period of time;

**“ombud”** has the meaning assigned to it in the –

- (a) Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) up until such time as such Act is repealed through Schedule 4 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017); and
- (b) Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) from the date on which such Act repeals the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) through Schedule 4 of such Act;

**“optional credit life insurance”** means credit life insurance contemplated in section 106(3) of the National Credit Act;

**“outsourcing”** means any arrangement of any form between an insurer and another person, whether that person is regulated or supervised under any law or not, in terms of which that party performs a function that is integral to the nature of the insurance business that an insurer provides, which would otherwise be performed by the insurer itself in conducting long-term insurance business, and includes rendering services under a binder agreement, but excludes rendering services as intermediary, and “outsourced” has a corresponding meaning;

**“plain language”** means communication that -

- (a) is clear and easy to understand;
- (b) avoids uncertainty or confusion; and
- (c) is adequate and appropriate in the circumstances,

taking into account the factually established or reasonably assumed level of knowledge of the person or average persons at whom the communication is targeted;

**“policy”** means a long-term policy;

**“policyholder”** has the meaning assigned to it in the Act and includes any person in respect of whom a fund, under a fund member policy, insures its liability to provide benefits to such person in terms of its rules;

**“potential member”** means a person who –

- (a) has applied to or otherwise approached an insurer, an intermediary, a fund or a group scheme to become a member;
- (b) has been solicited by an insurer, an intermediary, a fund or a group scheme to become a member; or
- (c) has received advertising, as defined in rule 10, in relation to any fund or group scheme;

**“potential policyholder”** means a person who –

- (a) has applied to or otherwise approached an insurer or an intermediary to become a policyholder;
- (b) has been solicited by an insurer or an intermediary to become a policyholder; or
- (c) has received advertising, as defined in rule 10, in relation to any policy or related service of an insurer;

**“Regulations”** means the Regulations made under the Long-term Insurance Act, 1998, promulgated by GN R.1492 of 27 November 1998 and amended from time to time;

**“related service”** means any service or benefit provided or made available by an insurer or any associate of that insurer, together with or in connection with any policy or policy benefit, and includes a loyalty benefit and a no-claim bonus;

**“representative”** has the meaning assigned to it in Part 3A of the Regulations;

**“risk policy”** means a policy that provides risk benefits only or that provides primarily risk benefits;

**“service provider”** means any person (whether or not that person is the agent of the insurer) with whom an insurer has an arrangement relating to the marketing, distribution, administration or provision of policies or related services;

**“variation of a policy”** means any act that results in a change to –

- (a) the premium;
- (b) any term;
- (c) any condition;
- (d) any policy benefit;
- (e) any exclusion; or
- (f) the duration of a policy,

excluding any explicit pre-determined or determinable variation stated or provided for in the policy, and “variation of an existing policy” and “varying” has a corresponding meaning;

**“waiting period”** means a period during which a policyholder is not entitled to policy benefits;

**“white labelling”** refers to the marketing of or offering of a specific policy of an insurer under the brand of another person who is not the insurer in terms of an arrangement between the insurer and that other person; and

**“writing”** includes any communication by any appropriate electronic medium that is accurately and readily reducible to written or printed form; and **“written”** has a corresponding meaning.

2.2 Despite section 2.1, the meanings assigned to the following terms in the Regulations shall not have such meanings for purposes of these rules, and the grammatical meaning of these terms will apply –

**“charge”** as defined in Part 5A of the Regulations; and

**“enter into”** as defined in Part 6 of the Regulations.

## **CHAPTER 2 FAIR TREATMENT OF POLICYHOLDERS**

### **RULE 1: REQUIREMENTS FOR THE FAIR TREATMENT OF POLICYHOLDERS**

1.1 For purposes of this rule, **“policyholder”** includes a potential policyholder and **“member”** includes a potential member, where appropriate to the context.

1.2 An insurer, at all times, must act with due skill, care and diligence when dealing with policyholders.

1.3 An insurer must –

- (a) in any engagement with a policyholder, and in all communications and dealings with a policyholder, act honourably, professionally and with due regard to the fair treatment of the policyholder; and
- (b) at the start of any engagement initiated by the insurer clearly explain the purpose thereof.

1.4 An insurer must have appropriate policies and procedures in place to achieve the fair treatment of policyholders. The fair treatment of policyholders encompasses achieving at least the following outcomes:

- (a) policyholders can be confident that they are dealing with an insurer where the fair treatment of policyholders is central to the insurer’s culture;
- (b) products are designed to meet the needs of identified types, kinds or categories of policyholders and are targeted accordingly;
- (c) policyholders are given clear information and are kept appropriately informed before, during and after the time of entering into a policy;
- (d) where policyholders receive advice, the advice is suitable and takes account of their circumstances;
- (e) policyholders are provided with products that perform as insurers or their representatives have led them to expect, and the associated service is both of an acceptable standard and what they have been led to expect; and
- (f) policyholders do not face unreasonable post-sale barriers to change or replace a policy, submit a claim or make a complaint.



*Funds and Group schemes*

1.5 For purposes of rules 1.2 to 1.4, “policyholder” includes a member.

1.6 Despite rule 1.5, in circumstances where an insurer can demonstrate that due to the nature of the fund or group scheme it is not reasonably practicable for the insurer to engage directly with the member in the normal course of business, rule 1.4 applies as follows:

- (a) rule 1.4(a) entitles the member to have confidence that the fund or group scheme concerned is dealing with an insurer where the fair treatment of its members is central to the insurer’s culture;
- (b) for purposes of achieving rule 1.4(c) the insurer must have arrangements in place with the policyholder concerned that facilitate and support the provision of the required information by the policyholder to the member;
- (c) in the case where advice is provided to the policyholder rather than the members, rule 1.4(d) requires that the advice should be suitable in relation to both the circumstances of the policyholder and the known or reasonably assumed circumstances of the members;
- (d) rule 1.4(e) entitles the member to be provided with products that perform as either the member of the group scheme or the policyholder has been led to expect by the insurer or its representative and services of the standard that either the member or the policyholder has been led to expect, in relation to the member’s interest in the fund or group scheme; and
- (e) for purposes of achieving rule 1.4(f) the insurer must have arrangements in place with the policyholder concerned that facilitate and support the member’s ability to make changes in relation to the member’s interest in the fund or group scheme (to the extent permitted in terms of the rules of the fund or group scheme) or to submit claims or make complaints without unreasonable barriers.

1.7 All policies, procedures and arrangements required by rule 1.6 in relation to a fund policy or a group scheme must enable the insurer to monitor the extent to which fair treatment of members is being achieved. Where it becomes apparent to the insurer that fair treatment is compromised, including as a result of non-compliance by the policyholder (excluding a member) concerned with agreed policies, procedures and arrangements, the insurer must take reasonable steps to mitigate the risks to members or future members.

1.8 Despite rules 1.5 to 1.7 and any requirements in these rules specifically applicable to funds and group schemes -

- (a) where any other provision of these rules prescribes a specific requirement in relation to members, that requirement must be complied with; and
- (b) if a member is also a policyholder of the group scheme policy or fund policy relating to the group scheme or fund of which it is a member, all the requirements relating to policyholders contained in these rules apply in respect of such a member.

*Suitable advice*

1.9 Where advice is provided by an intermediary other than the insurer's representative, rules 1.4(d) and 1.6(c) must be read to require the insurer to take reasonable steps to mitigate the risk of unsuitable advice. Such steps should take into account the nature of the business relationship between the insurer and the intermediary and any likelihood that such relationship may potentially influence the advice provided.

*Review of policies and procedures*

1.10 An insurer must regularly review its policies and procedures referred to in this rule and document any changes thereto.

### **CHAPTER 3 PRODUCTS**

#### **RULE 2: PRODUCT DESIGN**

2.1 In this rule, "financial instrument" has the meaning assigned to it in the Financial Sector Regulation Act (Act No. 9 of 2017);

2.2 An insurer must in developing products –

- (a) make use of adequate information on the needs of identified types, kinds or categories of policyholders or members;
- (b) undertake a thorough assessment, by competent persons with the necessary skills, of the main characteristics of a new product, the distribution methods intended to be used in relation to the product and the disclosure documents related thereto in order to ensure that the product, distribution methods and disclosure documents –
  - (i) are consistent with the insurer's strategic objectives, business model and risk management approach and applicable rules and regulations;
  - (ii) target the types, kinds or categories of policyholders or members for whose needs the product is likely to be appropriate, while mitigating the risk of the product being used by types, kinds or categories of policyholders or members for whom it is likely to be inappropriate; and
  - (iii) take into account the fair treatment of customers;
- (c) that are subject to white labelling arrangements, undertake due diligence assessments in respect of the governance, resources and operational capability of the persons with whom the insurer has such arrangements and ensure compliance with paragraph (b) above; and
- (d) that comprise underlying financial instruments or other assets, undertake due diligence assessments in respect of the underlying financial instruments or other assets and ensure compliance with paragraph (b) above.

2.3 Before an insurer starts to market, offer or enter into specific policies in respect of a new product, a managing executive of the insurer must in writing approve the product and

confirm that the product, distribution methods and disclosure documents meet the principles set out in rule 2.2(b).

2.4 This rule only applies to the development of any new product and any material change in design of an existing product.

### **RULE 3: CREDIT LIFE INSURANCE**

#### **3.1 Mandatory credit life insurance**

3.1.1 An insurer must not provide a mandatory credit life insurance policy to a policyholder, unless that policy and the costs associated with that policy comply with any relevant credit life insurance regulations made by the Minister of Trade and Industry under section 171 of the National Credit Act.

3.1.2 Rule 3.1.1 only applies to new policies.

#### **3.2 Substitution of credit life insurance policy**

3.2.1 An insurer must, where a policyholder or member of a group scheme informs that insurer, or the insurer otherwise should reasonably be aware, that the policyholder or member wishes to, or has, exercised the right under subsection 106(4)(a) of the National Credit Act to substitute any other credit life insurance with a policy issued by the insurer, assist the policyholder or member, in relation to the substituted policy, to comply with –

- (a) any demands of a credit provider under section 106(6) of the National Credit Act; or
- (b) regulation 7 of the credit life insurance regulations made under the National Credit Act.

3.2.2 An insurer must, where an insurer is aware that a policyholder or member of a group scheme has substituted any other credit life insurance with a policy issued by that insurer, in writing and within a reasonable time of being requested to do so by the credit provider confirm to the credit provider that the policy is in force and that the credit provider is recorded as the beneficiary, cessionary or loss payee on the policy.

### **RULE 4: COOLING-OFF RIGHTS**

4.1 For purposes of this rule a reference to the “variation” of a policy or a “varied” policy only includes a variation requested or initiated by the policyholder.

4.2 A policyholder may –

- (a) in any case where no benefit has yet been paid or claimed or an event insured against has not yet occurred; and
- (b) within a period of 31 days after the later of –
  - (i) the date of receipt of the summary contemplated in section 48 of the Act, or a reasonable date on which it can be deemed that the policyholder received that summary; or

- (ii) the date of receipt of the information contemplated in rule 11.5, or a reasonable date on which it can be deemed that the policyholder received that information,

cancel a policy entered into with an insurer or any variation of such policy, excluding any policy or variation that has a duration of 31 days or less, by way of a cancellation notice to the insurer.

4.3 All premiums or moneys paid by the policyholder to the insurer up to the date of receipt of the cancellation notice referred to in rule 4.2 or received at any date thereafter in respect of the cancelled or varied policy, must be refunded to the policyholder, subject to the deduction of –

- (a) the cost of any risk cover actually enjoyed; and
- (b) any market loss where the market value of the investments made has decreased in the intervening period due to prevailing market conditions.

4.4 An insurer must comply with the request for cancellation received from a policyholder in accordance with rule 4.2 no later than 31 days after the insurer receives the cancellation notice.

4.5 Where a policy can in law not be cancelled, or is by virtue of its terms and nature not capable of being cancelled, such fact must be disclosed to the policyholder by the intermediary involved or the insurer before entering into the policy.

4.6 An insurer must ensure that, where the policyholder is a group scheme in which member participation is voluntary, the policy places an obligation on that policyholder to afford every member of the group scheme a right to end participation in the group scheme equal to the right afforded to a policyholder to cancel a policy in accordance with rules 4.2 and 4.3.

4.7 This rule only applies to new policies and variations of existing policies.

#### **RULE 5: NEGATIVE OPTION SELECTION OF POLICY TERMS OR CONDITIONS**

5.1 An insurer or any person acting on behalf of the insurer may not, where more than one option in respect of a policy term or condition (including, but not limited to, options relating to a premium increase, variation of benefits or exclusion) is available to the policyholder, potential policyholder, member or potential member on entering into, varying or renewing the policy or becoming a member, stipulate that a specific term or condition will apply except if such person explicitly elects a different term or condition.

5.2 Rule 5.1 does not apply –

- (a) to a specific term or condition that is required by legislation; or
- (b) where a specific term or condition is designed to address circumstances that arise during the duration of a policy that require a policyholder or member to make an election, provided the insurer can demonstrate that the specific term or condition is reasonably required to achieve fair treatment of the policyholder or member, and the policyholder or member fails to make the required election.

5.3 Any specific term or condition applied in terms of rule 5.2 must be clearly and prominently disclosed to the policyholder or member in accordance with rule 11.5.1(i) and may only be implemented after the insurer has taken reasonable steps to enable the policyholder or member to make the election concerned.

5.4 This rule only applies to new policies or variations or renewals of existing policies.

#### **RULE 6: DETERMINING PREMIUMS**

6.1 A premium payable under a policy must reasonably balance the interests of the insurer and the reasonable benefit expectations of a policyholder or member, and be based on assumptions that are realistic and that the insurer reasonably believes are likely to be met over the term of the policy.

6.2 An insurer may not charge a policyholder or member any fee or charge in addition to the premium payable under the policy.

6.3 The fee referred to in rule 6.2 does not include a fee or charge –

- (a) deducted from the policy's investment value or policy benefits, where the deduction is explicitly provided for in the policy; or
- (b) that is permitted in terms of legislation.

6.4 Any fee referred to in rule 6.3 must be clearly and prominently disclosed to the policyholder or member in accordance with rule 10.15 and before the policy is entered into.

6.5 This rule only applies to new policies and changes to the premium or fee structure of existing policies.

#### **RULE 7: VOID PROVISIONS**

7.1 A provision of a policy is void to the extent that it provides expressly or by implication –

- (a) that in connection with any claim made under the policy, the policyholder or claimant may be obliged to undergo a polygraph, lie detector or truth verification test, or any other similar test or procedure which is furnished or made available by the insurer or any other person in terms of an arrangement with the insurer and which is conducted under the control of the insurer or such other person;
- (b) for an inducement of any nature for a policyholder or claimant to voluntarily agree to undergo a test or procedure envisaged in paragraph (a);
- (c) that where a policyholder or claimant under other circumstances than those contemplated in paragraph (b) voluntarily agrees to undergo a test or procedure envisaged in paragraph (a) of this rule, and the policyholder or claimant fails to pass such a test, the claim will be repudiated or the policy will become void merely as a result of such failure to pass the test or procedure;

- (d) that in the event of any dispute arising under the policy, the dispute can only be resolved by means of arbitration;
- (e) that an insurer may repudiate a claim because a premium was not paid on the due date, if payment was made during a period referred to in section 52(1) of the Act, whether or not the payment was made prior to the event giving rise to the claim.

7.2 Rule 7.1(d) shall not be construed as rendering void a provision of a policy that the parties may, after a dispute under the policy has arisen, voluntarily agree to submit the dispute to arbitration or, in the absence of such a provision, as voiding any agreement between the parties to that effect.

### **RULE 8: WAIVER OF RIGHTS**

No insurer or intermediary may request or induce in any manner a policyholder, potential policyholder, member or potential member or claimant or potential claimant to waive any right or benefit conferred on that person by or in terms of a provision of these rules, or recognise, accept or act on any such waiver, and any such waiver is null and void.

### **RULE 9: SIGNING OF BLANK OR UNCOMPLETED FORMS**

No insurer or intermediary may in connection with any transaction relating to a policy require, permit or allow a policyholder, potential policyholder, member or potential member or claimant or potential claimant to sign any blank or partially completed form necessary for the purpose of the transaction, where another person will be required, permitted or allowed to fill in other required detail, or conclude any such transaction where any such signing and providing of detail have occurred.

## **CHAPTER 4 ADVERTISING AND DISCLOSURE**

### **RULE 10: ADVERTISING**

#### **10.1 Definitions**

In this rule –

**“advertisement”** means any communication published through any medium and in any form, by itself or together with any other communication, which is intended to create public interest in the business, policies or related services of an insurer, or to persuade the public (or a part thereof) to transact in relation to a policy or related service of the insurer in any manner, but which does not purport to provide detailed information to or for a specific policyholder regarding a specific policy or related service;

**“comparative”** refers to a direct or indirect comparison between insurers or between the policies or related services of one or more insurers;

**“endorsements”** refer to public statements declaring the virtues of a policy or related service of an insurer or recommending the entering into of a policy or related service;



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

**“holding company”** has the meaning assigned to it in the Companies Act, 2008 (Act No. 71 of 2008);

**“publish”** means to –

- (a) make generally known;
- (b) make public announcement of;
- (c) disseminate to the public; or
- (d) produce or release for distribution;

and “publication” has a corresponding meaning;

**“puffery”** means any value judgments or subjective assessments of quality based solely on the opinion of the evaluator and where there is no pre-established measure or standard; and

**“social media”** means websites, applications and other digital platforms that enable users to create and share content or participate in social networking and includes social and professional networks, forums, image and video-sharing platforms.

## 10.2 Application

10.2.1 For purposes of this rule, “policyholder” includes a potential policyholder, a member and a potential member.

10.2.2 The principles, requirements and standards contained in this rule apply regardless of the medium used to publish an advertisement.

10.2.3 This rule applies to any advertisement published on or after the date on which this rule takes effect, regardless of whether the advertisement was also previously published prior to this rule taking effect.

## 10.3 General principles

10.3.1 An insurer must have documented processes and procedures for the approval of advertisements by a managing executive or a person of appropriate seniority to whom the managing executive has delegated the approval.

10.3.2 An insurer must, prior to publishing an advertisement, take reasonable measures to ensure that the information provided in the advertisement is consistent with this rule.

10.3.3 Where feasible, measures must provide for an objective review of an advertisement other than by the person that prepared or designed them.

10.3.4 Where an advertisement is produced or published by another person the insurer must –

- (a) where the person producing or publishing the advertisement is the insurer's representative or is otherwise acting on behalf of the insurer in relation to the advertisement, ensure that the advertisement is consistent with this rule and have appropriate processes in place to ensure such consistency; and
- (b) where the person producing or publishing the advertisement is not acting on behalf of the insurer in relation to the advertisement but the insurer is aware or ought reasonably to be aware of the production or publication, take reasonable steps to mitigate the risk of the advertisement not being consistent with this rule.

10.3.5 Where an insurer becomes aware that an advertisement that relates to its business, policies or related services, whether published by the insurer or any other person, is not consistent with this rule, the insurer must –

- (a) as soon as reasonably practicable correct or withdraw the advertisement; or
- (b) take reasonable steps to ensure that it is corrected or withdrawn; and
- (c) notify any persons who it knows to have relied on the advertisement.

#### **10.4 Factually correct, balanced and not misleading**

10.4.1 Advertisements must –

- (a) be factually correct, excluding aspects of an advertisement constituting puffery;
- (b) provide a balanced presentation of key information; and
- (c) not be misleading.

##### *Factually correct*

10.4.2 If statistics, performance data, achievements or awards are referenced in an advertisement the source and the date thereof must be disclosed.

10.4.3 An advertisement that refers to premiums must –

- (a) in the case where the premium will escalate automatically, indicate the escalation rate or basis; and
- (b) where the premium (with or without automatic escalations) is not guaranteed for the full term of the policy but is subject to review after a period as contemplated in rule 15, indicate the period for which the premium is guaranteed.

##### *Balanced*

10.4.4 Descriptions in an advertisement must not exaggerate benefits or create expectations regarding policy performance or the performance of related services that the insurer does not reasonably expect to achieve.



10.4.5 Descriptions in an advertisement, in respect of a specific policy or related service, must include key limitations, exclusions, risks and charges, which must be clearly explained and must not be worded positively to imply a benefit.

10.4.6 Notwithstanding rule 10.4.5, but subject to all other requirements of this rule, where an insurer can demonstrate that, due to the nature of the medium used for the advertisement, it is not reasonably practicable for the information required in rule 10.4.5 to be fully included in the advertisement itself, the advertisement must indicate –

- (a) that additional information on key limitations, exclusions, risks and charges related to the policy or related service being advertised is available; and
- (b) where and how the additional information in paragraph (a) may be accessed.

10.4.7 The information referred to in rule 10.4.6 must be publicly available and readily accessible to the average policyholder targeted by the advertisement.

*Not misleading*

10.4.8 An advertisement, when examined as a whole, must not be constructed in such a way as to lead the average targeted policyholder to any false conclusions he or she might reasonably rely upon.

10.4.9 For the purposes of rule 10.4.8, an insurer must when constructing an advertisement consider the conclusions likely to be made by policyholders that are subject to the advertisement, and in doing so have regard to –

- (a) the literal meaning of the words;
- (b) impressions from nonverbal portions of the advertisement; and
- (c) materials and descriptions omitted from the advertisement.

10.4.10 An advertisement must not obscure information.

10.4.11 Each piece of information in an advertisement must be prominent enough in accordance with rule 10.15 and proximate enough to other information so as not to mislead the average targeted policyholder.

10.4.12 An advertisement must not be designed to exaggerate the need for urgency which could encourage the average targeted policyholder to make unduly hasty decisions.

**10.5 Public interest**

An advertisement must not disparage or make inaccurate, unfair or unsubstantiated criticisms about any financial product, financial service, product supplier or intermediary.

**10.6 Identification of insurer**

10.6.1 An advertisement relating to a policy must clearly and prominently in accordance with rule 10.15 identify the insurer.

10.6.2 An advertisement must not use the group or parent company name or the name of any other associate of an insurer to create the impression that any entity other than the insurer is financially liable under a policy.

10.6.3 An advertisement must not use the name of another person to mislead or deceive as to the true identity of the insurer or to create the impression that any person other than the insurer is financially liable under a policy.

10.6.4 An advertisement relating to a policy that is subject to a white labelling arrangement must clearly and prominently in accordance with rule 10.15 identify the insurer.

## **10.7 Appropriate language and medium**

10.7.1 An advertisement must use plain language.

10.7.2 Terms must be defined or explained if the average targeted policyholder could not reasonably be expected to understand them.

10.7.3 An insurer must consider the appropriateness of the medium to be used to publish any advertisement in relation to the complexity of the policy features or other information being communicated.

## **10.8 Record keeping of advertisements**

10.8.1 An insurer must keep adequate records of all advertisements.

10.8.2 All records referred to in rule 10.8.1 must be kept for a period of at least 5 years after publication.

## **10.9 Negative option marketing**

An insurer or any person acting on its behalf may not offer to enter into a policy on the basis that the policy will automatically come into existence unless the policyholder explicitly declines the insurer's offer to enter into the policy.

## **10.10 Unwanted direct advertising**

10.10.1 Where an insurer or any person acting on its behalf uses a telephone or mobile phone call, voice or text message or other electronic communication for an advertisement, it must allow the policyholder during that call or within a reasonable time after receiving the message, the opportunity to demand that the insurer or other person does not publish any further advertisements to the policyholder through any of these mediums.

10.10.2 An insurer or any person acting on its behalf may not charge a policyholder a fee or allow a service provider to charge a policyholder any fee for making a demand in terms of rule 10.10.1.

## **10.11 Comparative marketing**

10.11.1 Where a survey or other product or service comparison informs a comparative advertisement, the survey or other product or service comparison –

- (a) must be undertaken by an independent person or, if it is not reasonably practicable that it is undertaken by an independent person, the advertisement must be so qualified;

- (b) must be conducted at regular intervals if relied on or referenced on an on-going basis;
- (c) must ensure that policies, products or related services being compared have the same or similar characteristics;
- (d) must take account of comparable features across the policy, product or related service offerings included in the sample to ensure that not only the price (e.g. the Rand value of premiums) is being compared, but also the benefits provided under the policies, products or related services concerned;
- (e) in particular, in the case of comparisons between policies, must ensure that price comparisons are based on policies with equivalent terms and conditions, including insured events, cover levels, exclusions, waiting periods and other key features to those of the insurer's policies used in the comparison; and
- (f) may not focus on the price of a policy, product or related service to the exclusion of the suitability of the policy, product or related service or its delivery on customer expectations.

10.11.2 The survey or other comparison source and date thereof must be referenced in the advertisement and the methodology applied must be publicly available and readily accessible to the public in an easily understandable format.

## **10.12 Puffery**

Advertisements that include puffery must be consistent with the provisions relating to puffery in the Code of Advertising Practice issued by the Advertising Standards Authority of South Africa as amended from time to time.

## **10.13 Endorsements**

### **10.13.1 Testimonials and third party endorsements used in an advertisement –**

- (a) must be the genuine opinion and actual experience of the person making the testimonial or endorsement and be properly attributed to such person;
- (b) must be based upon actual statements made for testimonial or endorsement purposes; and
- (c) may use a pseudonym instead of the real name of the person making the testimonial or endorsement, provided this is stated in the advertisement concerned.

10.13.2 If the person making the testimonial or endorsement, or their employer or principal or any associate, has any financial interest or relationship to the insurer or any associate of the insurer or person acting on behalf of the insurer, or will or has been compensated for the endorsement by any person (other than through reimbursement of actual costs incurred by the person making the endorsement), this must be disclosed in the advertisement.

10.13.3 Any endorsement in an advertisement must clearly and prominently in accordance with rule 10.15 state that the endorsement does not constitute financial advice.

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# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 630

15 December 2017  
Desember

No. 41321

**PART 2 OF 4**

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

ISSN 1682-5843



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

## **10.14 Loyalty benefits or bonuses**

10.14.1 An advertisement that references a loyalty benefit or no-claim bonus must not create the impression that such benefit or bonus is free and must adequately –

- (a) indicate if the loyalty benefit or no-claim bonus is optional or not; and
- (b) regardless of whether or not the loyalty benefit or no-claim bonus is optional, express the cost of the benefit or bonus including, where applicable, the impact that such cost has on the premium, unless the impact is negligible.

10.14.2 Rule 10.14.1 does not apply in respect of benefits a policyholder may receive from an insurer because that policyholder, together with all the policyholders of that insurer, is an owner or a member of the direct holding company of that insurer.

10.14.3 For purposes of rule 10.14.1 –

- (a) the impact is deemed to be negligible if the cost of the loyalty benefit or no-claim bonus comprises less than 10% of the total premium payable under the policy;
- (b) where the impact of a loyalty benefit or no-claim bonus is not negligible and where the advertisement refers to the actual premium payable –
  - (i) the cost of the benefit or bonus must be shown as a percentage of that premium; and
  - (ii) the insurer must be able to demonstrate that the premium and benefit cost used in the advertisement presents a true reflection of the cost impact for the average targeted policyholder; and
- (c) where the impact of a loyalty benefit or no-claim bonus is not negligible and where the advertisement does not refer to the actual premium payable, the average cost of the benefit or bonus as a percentage of premium must be provided.

10.14.4 Where an advertisement highlights a loyalty benefit or no-claims bonus as a significant feature of a policy and makes reference to a projected loyalty benefit value or no-claim bonus value that is payable on the expiry of a period in the future, it must also express the value of the projected benefit or bonus in present value terms, using reasonable assumptions about inflation.

10.14.5 An advertisement must clearly state whether the availability or extent of a loyalty benefit or no-claims bonus is contingent on future actions of the policyholder or any factors not within the policyholder's control.

10.14.6 An advertisement may not create the impression that the bonus or benefit is guaranteed or more likely to materialise than the insurer reasonably expects for the average targeted policyholder.

## **10.15 Prominence**

10.15.1 In determining prominence, whenever information must be disclosed prominently as required by these rules, consideration must, as appropriate, be given to –

- (a) the target audience of the advertisement;
- (b) the likely information needs of the average targeted policyholder;
- (c) prominence in the context of the advertisement as a whole;
- (d) positioning of the text and audibility and speed of speech;
- (e) the duration of displays of key information;
- (f) background;
- (g) colour; and
- (h) font size.

10.15.2 A statement or information in an advertisement is not regarded as being prominent if, amongst other things, the statement or information is –

- (a) obscured through the close proximity of promotional illustrations and/or additional text;
- (b) difficult to read due to the use of small font sizes, unclear type styles or the duration for which it is displayed;
- (c) likely to be overlooked due to its position;
- (d) superimposed across a coloured or patterned background which lessens its visual impact; or
- (e) difficult to hear or understand due to the volume or speed at which speech is delivered.

10.15.3 Subject to rule 10.15.4, in an advertisement relating to a policy that is subject to a white labelling arrangement, the name of the insurer must be as frequently mentioned, as audible or as visible as that of the white label and, in respect of written media, must be at least the same font size as that of the white label.

10.15.4 Rule 10.15.3 does not apply to an advertisement relating to a policy that is subject to a white labelling arrangement where –

- (a) the white label arrangement is with another insurer, a bank or a discretionary investment manager that is part of the same group of companies that the insurer is part of;
- (b) the advertisement uses the brand of the other insurer or the bank or discretionary investment manager; and
- (c) all requirements of rule 10.15.1 and 10.15.2 are complied with in relation to the identification of the insurer.

## **10.16 Principles relating to policies that have an investment value**

10.16.1 This rule 10.16 applies to any advertisement in relation to policies that have an investment value.

10.16.2 No projected benefits (including but not limited to maturity, income, death, disability or full or partial surrender benefits) may be included in advertisements, if the policy benefits depend on future unknown investment performance, unless used to demonstrate the benefits of savings generally.

10.16.3 When past investment performance is provided for or referred to in an advertisement –

- (a) all information must be accurate and must be provided in the correct context, and the insurer must be able to substantiate all claims made; and
- (b) a statement must be included that past performance cannot be extrapolated into the future and is not an indication of future performance.

10.16.4 If tax advantages are referenced in an advertisement such advantages must be explained, and any key restrictions, penalties, and mitigating circumstances must be disclosed.

10.16.5 Any reference to guaranteed elements or features must indicate whether the guarantee is subject to any requirements and conditions and where disclosure of those requirements and conditions can be found.

10.16.6 Where a policy comprises participatory interests in an underlying collective investment scheme referred to in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), or where a policy provides for investment of policyholder's funds into collective investment scheme portfolios, any advertisement must, in addition to the applicable requirements of this rule, comply with any determination of advertising and marketing requirements for collective investment schemes made under the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).

## RULE 11: DISCLOSURE

### 11.1 Definitions

In this rule –

**“direct marketing”** means the marketing of a policy by or on behalf of an insurer by way of telephone, internet, digital application platform, media insert, direct or electronic mail in a manner which entails the completion or submission of an application, proposal, order, instruction or other contractual information required by the insurer in relation to the entering into of a policy or other transaction in relation to a policy or related services, but excludes the publication of an advertisement;

**“policy loan”** includes any loan granted by an insurer under a policy, including a premium loan referred to under section 52(2) of the Act;

**“significant exclusion or limitation”** means an exclusion or limitation in a policy that may affect the decision of the average targeted policyholder to enter into the policy and includes –

- (a) any deferred payment periods;



- (b) any exclusion relating to certain diseases or medical conditions;
- (c) a waiting period;
- (d) any limit on the amount or amounts of cover;
- (e) any limit on the period for which benefits will be paid; and
- (f) any restrictions on eligibility to claim such as age, residence or employment.

## **11.2 Application**

11.2.1 All requirements in this rule relating to information applicable to a policy apply equally to information applicable to a related service.

11.2.2 For purposes of this rule, "policyholder" includes a potential policyholder.

11.2.3 This rule applies to all communications from the date on which this rule takes effect, unless specifically excluded in relation to a specific requirement.

## **11.3 General disclosure requirements**

### *Language and format*

11.3.1 Any communication by an insurer to a policyholder in relation to a policy must –

- (a) be in plain language;
- (b) not be misleading;
- (c) be provided using an appropriate medium, taking into account the complexity of the information being provided;
- (d) where applicable, be in clear and readable print size, spacing and format; and
- (e) in respect of any amount, sum, premium, value, charge, fee, remuneration or monetary obligation mentioned or referred to therein, be stated in actual monetary terms, provided that where any such amount, sum, premium, value, charge, fee, remuneration or monetary obligation is not reasonably pre-determinable, its basis of calculation must be clearly and appropriately described.

### *Timing of the provision of information to policyholders*

11.3.2 Subject to any specific provision in this rule relating to the timing of the provision of information, an insurer must take reasonable steps to ensure that a policyholder is given appropriate information about a policy in good time so that the policyholder can make an informed decision about the policy prior to inception and throughout the duration of the policy.

11.3.3 In determining what is "in good time", an insurer must consider the importance of the information to the policyholder's decision-making process and the point at which the information may be most useful.

*Content of the provision of information to policyholders*

11.3.4 Information provided must enable a policyholder to understand the features of the policy and help the policyholder understand whether it meets the policyholder's requirements. In determining the level of information to be disclosed the insurer must consider –

- (a) the **factually** established or reasonably assumed knowledge and experience of the policyholder or average targeted policyholder at whom the communication is targeted;
- (b) the policy terms and conditions, including its main benefits, exclusions, limitations, conditions and its duration;
- (c) the policy's overall complexity, including whether it is entered into together with other goods and services; and
- (d) whether the same information has been provided to the policyholder previously and, if so, when.

11.3.5 An insurer must take particular care to provide adequate information in respect of more complex or bundled features which are likely to be difficult for a policyholder to understand, particularly regarding the costs and risks involved, including defining or explaining terms that could not reasonably be expected to be understood.

*Respective responsibilities of insurers and intermediaries*

11.3.6 Where an insurer relies on or permits a representative to provide any information required by this rule to a policyholder or mandates an independent intermediary, binder holder or any other person to do so on its behalf, the insurer remains responsible to ensure that such information is provided in accordance with this rule.

11.3.7 Where the distribution model concerned is based on an intermediary agreement referred to in rule 12 between the insurer and an independent intermediary, the insurer -

- (a) must ensure that the intermediary agreement clarifies the respective responsibilities of the insurer and the intermediary in relation to the provision of information to policyholders, in a manner that will ensure that the requirements in rules 11.3.1 to 11.3.5, 11.4 and 11.5 are met;
- (b) must take reasonable steps to ensure that all applicable information required by this rule is in fact provided to the policyholder at the appropriate times; and
- (c) must take reasonable steps to mitigate risks to policyholders of the independent intermediary failing to meet its disclosure obligations in terms of the intermediary agreement or any applicable law.

*Identification of the insurer*

11.3.8 All information referred to in this rule must clearly and prominently identify the insurer in the same manner as contemplated in rules 10.6 and 10.15.1 to 10.15.3.

*Group schemes and funds*

11.3.9 An insurer must, wherever it is reasonably practicable for the insurer to communicate directly with a member, provide the member with any information that an insurer is required to disclose to a policyholder in accordance with this rule that –

- (a) could reasonably be expected to affect the rights or obligations of the member or his or her benefits under the fund or group scheme; and
- (b) such member could reasonably require in order to make an informed decision in relation to his or her benefits.

11.3.10 Where due to the nature of the fund or group scheme it is not reasonably practicable for the insurer to communicate directly with a member in the normal course of business, the insurer must ensure that policies and processes as contemplated in rules 1.6 and 1.7 are in place that –

- (a) identify information that must be disclosed to a member in accordance with rule 11.3.9; and
- (b) reasonably facilitate and support the provision of such information by the policyholder to the member.

11.3.11 The insurer must have policies and processes in place to monitor compliance with rule 11.3.10.

#### **11.4 Disclosure before a policy is entered into**

11.4.1 This rule 11.4 applies in the following circumstances –

- (a) where the insurer provides a policyholder or intermediary, before a policy is entered into, with a policy quotation or similar communication that purports to provide detailed information to or for the specific policyholder regarding a specific policy, and it may reasonably be expected that the policyholder will rely on the information to make a decision whether to enter into the policy or not, the quotation or communication must include the information set out in rule 11.4.2; and
- (b) where a policy is entered into as a result of direct marketing, the information set out in rule 11.4.2 must be provided by the insurer before the policy is entered into.

11.4.2 An insurer must provide a policyholder with the following information –

- (a) the name of the insurer and its contact details;
- (b) the type of policy and a reasonable and appropriate general explanation of the relevant policy;
- (c) the nature and extent of policy benefits, including, where applicable, when the insurance cover begins and ends and a description of the risk insured by the policy;
- (d) concise details of all of the following, where applicable –
  - (i) any charges or fees to be levied against the policy or the premium;

- (ii) any commission or remuneration payable to any intermediary or binder holder in relation to the policy, and the recipient thereof; and
  - (iii) any material tax considerations;
- (e) in respect of premiums –
  - (i) the premium that is payable under the policy;
  - (ii) the frequency at which the premium is payable;
  - (iii) details of any premium increases, including the frequency and basis thereof;
  - (iv) whether an increase will be linked to any commensurate increase in policy benefits and any options relating to premium increases that the policyholder may select;
  - (v) the implications of a failure to pay a premium at the frequency referred to in subparagraph (ii); and
  - (vi) in the case of policies where the premium (with or without contractual escalations) is not guaranteed for the full term of the policy but is subject to review after a period as contemplated in rule 15, the period for which the premium is guaranteed, including the frequency at which or the circumstances in which a review will take place;
- (f) what cooling-off rights are offered and procedures for the exercise thereof;
- (g) concise details of any significant exclusions or limitations, which information must be provided prominently as contemplated in rule 10.15;
- (h) where a policy is entered into in connection with other goods or services (a bundled product), the premium payable in respect of the policy separately from any other prices for such other goods and services and whether entering into the policy or any policy benefit is a prerequisite for entering into or being eligible for any other goods or services;
- (i) if the policy to be entered into is a credit life insurance policy the insurer must, where this information is known or should reasonably be known to the insurer, disclose to the policyholder whether the policy is a mandatory or optional credit life insurance policy and the difference between the two;
- (j) the existence of any circumstance that could give rise to an actual or potential conflict of interest in dealing with the policyholder;
- (k) any obligation to disclose material facts, including information to ensure that a policyholder knows what must be disclosed as well as the consequences of non-compliance with the obligations;
- (l) where applicable, the right to request recordings of any telephonic disclosures; and
- (m) the right to complain, including details on how and where to complain and the contact details of the insurer and contact details of the relevant ombud.

*Policies that have an investment value*

11.4.3 In addition to rule 11.4.2, an insurer must provide a policyholder with the following information before a policy that has an investment value is entered into –

- (a) any guaranteed minimum benefits or other guarantees, where relevant;
- (b) any restrictions on access to policy benefits or values or the fact that penalties for early termination or withdrawal from or transfer of the policy apply, which information must be provided prominently as contemplated in rule 10.15;
- (c) concise details of all of the following, where applicable –
  - (i) any charges or fees to be levied against the policy or the premium including, where the policy has an investment component, the net investment amount ultimately invested for the benefit of the policyholder;
  - (ii) that the policyholder may, where applicable, request details of the past investment performance of the policy. Where such details are requested, they must be provided over periods and at intervals which are reasonable with regard to the type of policy involved; and
  - (iii) any material investment risk or other risks associated with the policy, which information must be provided prominently as contemplated in rule 10.15.
- (d) Where information provided about a policy that has an investment value includes an indication of past, illustrative or future performance, any limits on upside or downside potential and a prominent warning as contemplated in rule 10.15 that past performance is not a reliable indicator of future performance.

**11.5 Disclosure after inception of policy**

11.5.1 An insurer must at the earliest reasonable opportunity after inception of the policy, but no later than 60 days after such inception, provide the policyholder with all information referred to in rule 11.4 in writing, to the extent that any such information has not already been provided in writing by the insurer under rule 11.4, as well as the following information –

- (a) evidence of cover;
- (b) the timing and manner in which the policy benefits will or may be made available to the policyholder or a beneficiary;
- (c) comprehensive details of any restrictions on access to policy benefits and any penalties for early termination or withdrawal from or transfer of the policy, or other implications of such termination, withdrawal or transfer;
- (d) comprehensive details of all of the following, where applicable, including the amount and frequency thereof, the recipient thereof, the purpose thereof and the manner of payment –

- (i) any charges or fees to be levied against the policy or the premium including, where the policy has an investment component, the net investment amount ultimately invested for the benefit of the policyholder and the anticipated impact of such charges and fees on the policy benefits;
  - (ii) any commission or remuneration payable to any intermediary or binder holder in relation to the policy; and
  - (iii) any material tax consideration.
- (e) comprehensive details of all exclusions or limitations, including prominent disclosure as contemplated in rule 10.15 of any significant exclusions or limitations;
- (f) any obligation to monitor cover, and that the policyholder may need to review and update the cover periodically to ensure it remains adequate;
- (g) any right to cancel, including the existence and duration of, and any conditions relating to, the right to cancel;
- (h) the right to claim benefits, including conditions under which the policyholder can claim and the contact details for notifying the insurer of a claim; and
- (i) any requirement to make an election during the duration of the policy, including any default provisions that may apply if such election is not made, as contemplated in rule 5.

11.5.2 Where any information referred to in rule 11.5.1 has previously been provided in a quotation or similar communication referred to in rule 11.4.1(a), the insurer must confirm whether and to what extent the information remains accurate and applicable in relation to the policy as issued.

11.5.3 An insurer may include the information referred to in rules 11.5.1 and 11.5.2 in the summary required in terms of section 48 of the Act.

11.5.4 In respect of fund policies, an insurer in addition to the information referred to in rule 11.5.1 –

- (a) must issue and deliver a fund policy to either the principal officer of the fund, the trustees of the fund or any person managing the fund, at the earliest reasonable opportunity after the commencement date of such policy, but not later than 60 days after such commencement date;
- (b) notwithstanding paragraph (a), may, with the approval of the Registrar and subject to such conditions as the Registrar may determine, postpone the issue, delivery or both of a fund policy. The insurer's application for approval must be submitted to the Registrar in the form determined by the Registrar.

## 11.6 Ongoing disclosure



11.6.1 An insurer must in writing disclose to the policyholder information on any contractual changes during the duration of the policy and, on an ongoing basis, disclose to the policyholder relevant information depending on the type of policy.

*Ongoing information on terms and conditions*

11.6.2 Information that must be provided on an ongoing basis, and at least annually, includes any changes to information referred to in rules 11.4 and 11.5 to the extent that the policyholder can reasonably be expected to require such information in order to make an informed decision as to whether the policy continues to meet the policyholder's requirements.

11.6.3 Information that must be provided at least annually in respect of investment policies in addition to the information referred to in rule 11.6.2, includes –

- (a) the current value of the investment and the amount of such value which is accessible to the policyholder;
- (b) premiums paid to date; and
- (c) for linked policies or market related policies –
  - (i) a summary containing adequate details of the transactions that took place over the relevant period on a policy level, including where applicable the opening value of the investment, premiums received, all charges and taxes deducted, taxes, bonuses, added, dividends and income added, market movements and closing value of the investment fund balance;
  - (ii) details of the current fund and termination value, including number and value of units per underlying investment fund; and
  - (iii) confirmation that full details of the investment performance of the policy (including where applicable performance of underlying funds, changes of investments, investment strategy, market movements, and number and value of units and transactions for each underlying fund number and value of the units and movements during the past year, administration fees, taxes, charges and current status of the account of the contract) are available on request.

*Information on changes to terms and conditions*

11.6.4 An insurer must provide the following to a policyholder in writing –

- (a) notification of any change to the premium payable under a policy;
- (b) appropriate details of the reasons for any change to the premium payable under a policy, other than where the change is a premium escalation explicitly provided for in the policy;
- (c) appropriate details of the reasons for any change to the provisions, terms or conditions of the policy, together with an explanation of the implications of that change;



- (d) appropriate details of any change to or addition to the information referred to in rules 11.4 and 11.5 arising from any change referred to in paragraphs (a) to (c); and
- (e) an explanation of the policyholder's rights and obligations regarding such changes, including what cooling-off rights are offered and procedures for the exercise thereof.

11.6.5 The details referred to in rule 11.6.4 must –

- (a) where the change to the terms and conditions is effected at the specific request of the policyholder, be provided to the policyholder at the earliest reasonable opportunity but no later than 60 days after the change takes effect and may, where applicable, include the information in the summary required by section 48 of the Act;
- (b) in any case other than as contemplated in paragraph (a), be provided to the policyholder at least 31 days before the change takes effect.

*Information on renewal of policy*

11.6.6 An insurer must, at least 31 days before the renewal date of a policy, where applicable, provide the following to a policyholder in writing –

- (a) the premium to be paid by the policyholder on renewal of the policy;
- (b) the premium last paid by the policyholder under the policy to enable the policyholder to compare the premium to the premium referred to in paragraph (a);
- (c) any change to the terms or conditions on renewal of the policy, together with an explanation of the implications of that change;
- (d) any change to or addition to the information referred to in rules 11.4 and 11.5 arising from the renewal;
- (e) the policyholder's rights and obligations regarding the renewal, including what cooling-off rights are offered and procedures for the exercise thereof; and
- (f) a statement indicating that the policyholder should consider whether the level of cover to be offered on the renewal is appropriate for the policyholder's needs.

*Information on policy loans and cessions*

11.6.7 An insurer must provide the following to a policyholder in writing –

- (a) on entering into a policy loan –
  - (i) the interest payable on the loan at the time of entering into it;
  - (ii) whether the interest rate on the loan fluctuates (if applicable); and
  - (iii) the repayment arrangements of the loan;

- (b) quarterly the amount of the policy loan and accrued interest in relation to the value of the policy;
- (c) quarterly the interest rate applicable to the policy loan and any changes thereto;
- (d) when the loan is about to equal the value of the policy; and
- (e) when the benefits under the policy cease as a result of the policy loan equaling the value of the policy.

11.6.8 On receipt of notification of a cession, an insurer must disclose to a policyholder in writing -

- (a) the fact that the cession is recorded in the insurer's records;
- (b) whether the cession is an outright cession or a cession securing a debt;
- (c) the name of the cessionary; and
- (d) how the insurer will deal with any claim for policy benefits in respect of the ceded policy.

*Information on the insurer*

11.6.9 An insurer must, in addition to complying with any regulatory obligations, inform policyholders of –

- (a) any change in the name of the insurer, its legal form or the address of its head office and any other offices as appropriate;
- (b) any acquisition by another person resulting in organisational changes that may affect the policyholder; and
- (c) a transfer of insurance business from that insurer to another insurer where the transfer of business relates to such policyholders (including the policyholders' rights in this regard).

## CHAPTER 5 INTERMEDIATION AND DISTRIBUTION

### RULE 12: ARRANGEMENTS WITH INTERMEDIARIES AND OTHER PERSONS

#### 12.1 Definitions

In this rule –

**“FAIS product knowledge competency requirements”** means the requirements relating to class of business training and product specific training prescribed under the FAIS Act; and

**“intermediary agreement”** means an agreement entered into between an insurer and an intermediary setting out the terms under which the intermediary will render services as intermediary in respect of the policies of the insurer.

## **12.2 Intermediary agreements**

**12.2.1** An insurer may only enter into an intermediary agreement with an intermediary where –

- (a) in the case of an independent intermediary, that person has been licensed as a financial services provider and authorised to render financial services in respect of the policies offered by the insurer in accordance with section 8 of the FAIS Act, and the insurer has taken reasonable steps to satisfy itself that the independent intermediary and, where applicable, any persons rendering services as intermediary on the independent intermediary’s behalf, meet the FAIS product knowledge competency requirements in respect of the policies offered by the insurer; or
- (b) in the case of a representative of that insurer, that person has been duly appointed as a representative of the insurer in accordance with section 7(1)(b) of the FAIS Act and meets any requirements to be fit and proper prescribed under the FAIS Act in respect of that representative and the policies offered by the insurer including but not limited to the FAIS product knowledge competency requirements.

**12.2.2** An intermediary agreement must be entered into directly between the insurer and the intermediary concerned and may not be entered into by a third party acting on behalf of either the insurer or the intermediary.

**12.2.3** An insurer must, where an intermediary agreement has been entered into, furnish the intermediary with a written copy of the intermediary agreement setting out the terms and conditions thereof.

**12.2.4** Despite any provision of an intermediary agreement or any provision in law to the contrary, when –

- (a) a licence referred to in rule 12.2.1(a) becomes inoperative by virtue of the licence being suspended or withdrawn in terms of section 9 of the FAIS Act or lapsing in terms of section 11 of the FAIS Act; or
- (b) the appointment of the representative referred to in rule 12.2.1(b) is terminated,

an intermediary agreement terminates.

## **12.3 Requests for information**

**12.3.1** An insurer must at the written request of an intermediary that is authorised in writing by a policyholder or a member provide that intermediary or the policyholder or member with the information referred to in the authorisation, within a reasonable time after receipt of the request, irrespective of the fact that the intermediary does not have an intermediary agreement with that insurer.

12.3.2 Where the insurer provides the information referred to in rule 12.3.1 to the policyholder or member, the insurer must also provide the policyholder or member with a fair and objective explanation as to why the information was not provided to the intermediary.

12.3.3 An insurer must, at the written request of an intermediary with whom an intermediary agreement has been entered into, provide that intermediary, within a reasonable time after receipt of the request, with all information reasonably required by the intermediary to comply with any disclosure or other requirements binding on the intermediary by virtue of the FAIS Act or any other law.

#### **12.4 Facilitation of fees payable by policyholder to an intermediary or any other person**

12.4.1 An insurer may not facilitate the deduction or charging of any fee payable by a policyholder to an intermediary or any other person, unless the insurer has satisfied itself that the amount and purpose of the fee have been explicitly agreed to by the policyholder in writing, and that it appears from such agreement that the fee -

- (a) relates to an actual service provided to a policyholder;
- (b) relates to a service other than rendering services as intermediary; and
- (c) does not result in the intermediary or other person being remunerated for any service that is also remunerated by the insurer.

## **CHAPTER 6 PRODUCT PERFORMANCE AND ACCEPTABLE SERVICE**

### **RULE 13: DATA MANAGEMENT**

13.1 In this rule any reference to "policyholder" includes a potential policyholder, a member and a potential member, except for rule 13.4, in which "policyholder" excludes a potential policyholder and potential member.

13.2 In this rule "processing" has the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and includes processing of all policy-level and policyholder-level data including personal information.

13.3 An insurer must have an effective data management framework that includes appropriate strategies, policies, systems, processes and controls relating to the processing of any data which enables the insurer at all times to –

- (a) have access, as and when required, to data that is up-to-date, accurate, reliable, secure and complete;
- (b) properly identify, assess, measure and manage the conduct of business risks associated with its insurance business to ensure the ongoing monitoring and consistent delivery of fair outcomes to policyholders;
- (c) comply with all relevant legislation relating to confidentiality, privacy, security and retention of data;
- (d) comply with any regulatory reporting requirements;

- (e) assess its liability under each of its policies, including data pertaining to each risk that is covered by a policy and each outstanding claim in respect of a policy;
- (f) adequately categorise, record and report on complaints as required in terms of rule 18; and
- (g) have access to any other relevant data as prescribed by the Registrar.

13.4 An insurer must at a minimum, for the purposes of complying with rule 13.3, have access to the names, identity numbers and contact details of all its policyholders.

13.5 The contact details referred to in rule 13.4 must be as complete as possible, and where available include the mobile number and email address of the policyholder.

13.6 Where an insurer outsources the processing of any data, the insurer must be able to access such data at any time as and when required by the insurer.

13.7 An insurer must have sufficient organisational resources and the operational ability to ensure that its data management framework is effective, adequately implemented and complies with this rule.

13.8 An insurer must regularly review its data management framework and document any changes thereto.

#### **RULE 14: ON-GOING REVIEW OF PRODUCT PERFORMANCE**

14.1 An insurer must on an ongoing basis monitor a product, related distribution methods and disclosure documents after the launch of a product, taking into account any event that could materially affect the potential risk to targeted policyholders or members, in order to assess whether –

- (a) the product and its related disclosure documents remain consistent with the needs of targeted policyholders and continue to deliver fair outcomes for policyholders and members; and
- (b) the distribution method or methods remain appropriate.

14.2 An insurer must, where any shortcomings are identified through the assessment contemplated in rule 14.1 or in any other manner, implement appropriate remedial action to address such shortcomings.

#### **RULE 15: PREMIUM REVIEWS**

15.1 A premium payable under a policy may only be reviewed if the policy provides for a review and states the frequency at which and the circumstances in which a review will take place.

15.2 Where a policy provides for a review an insurer may only undertake the review at the frequency stated in the policy and when the circumstances contemplated in the policy prevail.

15.3 The circumstances referred to in rules 15.1 and 15.2 may not –

- (a) give an insurer the discretion to increase profitability margins beyond those assumed at the outset of the policy;
- (b) allow an insurer to adjust premiums that were not based on assumptions that meet the standard in rule 6.1; and
- (c) directly or indirectly aim to achieve any of the purposes in rule 15.5;

15.4 Any review of a premium payable under a policy –

- (a) must reasonably balance the interests of the insurer and the reasonable benefit expectations of policyholders or members;
- (b) be justified with reference to the extent to which the assumptions on which the premium was based have been met; and
- (c) in the case of a policy that has an investment component and a risk component, must take into account the reasonable benefit expectations of the policyholder or member in respect of both components.

15.5 A review of a premium payable under a policy will not comply with 15.4 if the primary purpose or effect of the review is to –

- (a) allow the insurer to recoup its losses on the policy incurred prior to the date of the review;
- (b) increase profitability margins beyond those assumed at the outset of the policy;
- (c) unfairly target a particular group of policyholders or members for an increase in premium;
- (d) seek to cover losses or increased expenses arising in the business not related to the profitability of the product concerned;
- (e) allow for the adjustment of a low initial premium consciously based on overly optimistic assumptions about investment performance; or
- (f) in case of a policies with both an investment and a risk component, allow for an increase in investment management charges to compensate for the fact that the cost of risk benefits has increased where this cost has not accurately been reflected in the risk benefit charge.

15.6 An insurer must timeously and in writing inform a policyholder of a pending review and the timing of the review if the review is expected to result in a premium increase.

15.7 If a premium payable under a risk policy will be increased as a result of a review, an insurer must take reasonable steps to afford a policyholder alternatives (such as the option to terminate the policy, to reduce the policy benefit or to enter into an alternative policy) to mitigate the impact of the increase on the policyholder.

15.8 Rules 15.1 to 15.3 do not apply to existing policies.

**RULE 16: RECORD KEEPING**

- 16.1 In this rule, any reference to “policyholder” includes a reference to a member.
- 16.2 This rule applies, in addition to any other record keeping requirements provided for in any other rule, to all communications related to a policy or a policyholder.
- 16.3 An insurer must have appropriate systems, processes and procedures in place to –
- (a) record all policy related communications with a policyholder;
  - (b) store and retrieve transaction documentation (including the policy) and all other material documentation relating to the policy and the policyholder; and
  - (c) keep the policy and policyholder records and documentation safe from destruction.
- 16.4 Records referred to in rule 16.3 –
- (a) may be kept in an appropriate electronic or recorded format, which is accessible and readily reducible to written or printed form;
  - (b) must be kept for a period of at least five years after the policy came to end, or where the record does not relate to a particular policy, five years after the communication concerned; and
  - (c) must on request, timeously be made available to the Registrar, policyholder, former policyholder or, where the beneficiary is entitled to the information, to the beneficiary on request.

**CHAPTER 7  
NO UNREASONABLE POST-SALE BARRIERS**

**RULE 17: CLAIMS MANAGEMENT****17.1 Definitions****17.1.1** In this rule –

“**business day**” means any day excluding a Saturday, Sunday or public holiday; and

“**repudiate**” in relation to a claim means any action by which an insurer rejects or refuses to pay a claim or any part of a claim, for any reason, and includes instances where a claimant lodges a claim –

- (a) in respect of a loss event or risk not covered by a policy; and
- (b) in respect of a loss event or risk covered by a policy, but the premium or premiums payable in respect of that policy are not paid.

**17.1.2** For purposes of this rule, reference to a “policyholder” includes a member.



## **17.2 Establishment of claims management framework**

17.2.1 An insurer must establish, maintain and operate an adequate and effective claims management framework to ensure the fair treatment of policyholders and claimants that –

- (a) is proportionate to the nature, scale and complexity of the insurer's business and risks;
- (b) is appropriate for the business model, policies, services, and policyholders and beneficiaries of the insurer;
- (c) enables claims to be assessed after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of claimants;
- (d) does not impose unreasonable barriers to claimants; and
- (e) address and provide for, at least, the matters provided for in this rule.

17.2.2 An insurer must regularly review its claims management framework and document any changes thereto.

## **17.3 Requirements for claims management framework**

17.3.1 The claims management framework must, at least, provide for –

- (a) relevant objectives, key principles and the proper allocation of responsibilities for dealing with claims across the business of the insurer;
- (b) appropriate performance standards and remuneration and reward strategies (internally and where any functions are outsourced) for claims management in general and specifically for claims assessment to –
  - (i) prevent conflicts of interest and the incentivisation of behaviour which could threaten the fair treatment of policyholders or claimants; and
  - (ii) ensure objectivity and impartiality;
- (c) documented procedures for the appropriate management of the claims process from the time the claim is received until it is finalised, including the expected timeframes for each of the stages and the circumstances under which any of the timeframes may be extended;
- (d) documented procedures setting out the circumstances in which interest will be payable in the event of late payment of claims, the process to be followed in such an instance and the rate of the interest payable;
- (e) documented procedures which clearly define the escalation and decision-making, monitoring and oversight and review processes within the claims management framework;
- (f) appropriate claims record keeping, monitoring and analysis of claims, and reporting (regular and ad hoc) to the executive management, the board of directors and any relevant committee of the board on –

- (i) identified risks, trends and actions taken in response thereto; and
- (ii) the effectiveness and outcomes of the claims management framework;
- (g) appropriate communication with claimants and their authorised representatives on the claims processes and procedures;
- (h) meeting requirements for reporting to the Registrar and public reporting in accordance with this rule; and
- (i) the establishment of a compliance programme for combating fraud and money laundering appropriate to the insurer's exposure and vulnerabilities, which programme must be consistent with the relevant risk management policies of the insurer.

#### **17.4 Allocation of responsibilities**

17.4.1 The board of directors of an insurer is responsible for effective claims management and must approve and oversee the effectiveness of the implementation of the insurer's claims management framework.

17.4.2 Any person that is responsible for making decisions or recommendations in respect of claims generally or a specific claim must –

- (a) be adequately trained;
- (b) be experienced in claims handling and be appropriately qualified;
- (c) not be subject to a conflict of interest; and
- (d) be adequately empowered to make impartial decisions or recommendations.

17.4.3 A claim received by an independent intermediary, binder holder or any other service provider that has been mandated by the insurer to manage claims on its behalf, or a claim received by a representative of the insurer, is deemed to have been received by the insurer itself.

17.4.4 The outsourcing of the claims management process or any part thereof to an intermediary, a binder holder or any other person, or any other involvement of an intermediary, binder holder or other person, in the claims management process does not in any way diminish the insurer's responsibilities in terms of this rule.

#### **17.5 Claim escalation and review process**

17.5.1 An insurer must establish and maintain an appropriate internal process in terms of which claims decisions can be escalated and/or reviewed and claims related disputes can be resolved.

17.5.2 Procedures within the claims escalation or review process should not be overly complicated, or impose unduly burdensome paperwork or other administrative requirements on claimants.

17.5.3 The escalation or review process should –

- (a) follow a balanced approach, bearing in mind the legitimate interests of all parties involved including the fair treatment of claimants;
- (b) provide for internal escalation of complex or unusual claims at the instance of the initial claim handler;
- (c) provide for claimants to escalate claims not resolved to their satisfaction; and
- (d) be allocated to an impartial, senior functionary within the insurer or appointed by the insurer for managing the claims escalation or review process of the insurer.

17.5.4 An insurer may structure its claims escalation and review process as a component of the complaints escalation and review process required by rule 18.6, provided such process complies with all relevant provisions of this rule insofar as it applies to claims-related complaints.

## **17.6 Decisions relating to claims and time limitation provisions for the institution of legal action**

17.6.1 An insurer must accept, repudiate or dispute a claim or the quantum of a claim for a benefit under a policy within a reasonable period after receipt of a claim.

17.6.2 An insurer must within 10 days of taking any decision referred to in rule 17.6.1, notify the claimant in writing of its decision.

17.6.3 If the insurer repudiates or disputes a claim or the quantum of a claim, the notice referred to in rule 17.6.2 must, in plain language, inform the claimant –

- (a) of the reasons for the decision, in sufficient detail to enable the claimant to dispute such reasons if the claimant so chooses;
- (b) that the claimant may within a period of not less than 90 days after the date of receipt of the notice make representations to the relevant insurer in respect of the decision;
- (c) of details of the internal claim escalation and review process required by rule 17.5;
- (d) of the right to lodge a complaint to a relevant ombud and the relevant contact details and time limitation and other relevant legislative provisions relating to the lodging of such a complaint;
- (e) in the event that the relevant policy contains a time limitation provision for the institution of legal action, of that provision and the implications of that provision for the claimant; and
- (f) in the event that the relevant policy does not contain a time limitation provision for the institution of legal action, of the prescription period that will apply in terms of the Prescription Act, 1969 (Act No. 68 of 1969) and the implications of that Act for the claimant.

17.6.4 If a claim or quantum of a claim is repudiated or disputed as contemplated in rule 17.6.1 on behalf of an insurer by a person other than the insurer, such other person must

provide the notice contemplated in rule 17.6.2 and include in that notice, in addition to the information referred to in rule 17.6.3, the name and contact details of the insurer and a statement that any recourse or enquiries must be directed directly to that insurer.

17.6.5 If the claimant makes representations to the relevant insurer in accordance with the internal claim escalation and review process referred to in rule 17.5 the insurer must within 45 days of receipt of the representation, in writing, notify the claimant of its decision to accept, repudiate or dispute the claim or the quantum of the claim.

17.6.6 If the insurer, despite the representations of the claimant, confirms the decision to repudiate or dispute the claim or the quantum of the claim, the notice referred to in rule 17.6.5 must –

- (a) inform the claimant of the reasons for the decision in sufficient detail to enable the claimant to dispute such reasons if the claimant so choose;
- (b) include the facts that informed the decision; and
- (c) include the information referred to in rules 17.6.3(c) to (f).

17.6.7 Any time limitation provision for the institution of legal action that may be provided for in a policy entered into before 1 January 2011 may not include the period referred to in rule 17.6.3(b) in the calculation of the time limitation period.

17.6.8 Any time limitation provision for the institution of legal action that may be provided for in a policy entered into on or after 1 January 2011 –

- (a) may not include the period referred to in rule 17.6.3(b) in the calculation of the time limitation period; and
- (b) must provide for a period of not less than 6 months after the expiry of the period referred to in rule 17.6.3(b) for the institution of legal action.

17.6.9 Despite the expiry of the period allowed for the institution of legal action in a time limitation clause provided for in a policy entered into before or after 1 January 2011, a claimant may request the court to condone non-compliance with the clause if the court is satisfied, among other things, that good cause exists for the failure to institute legal proceedings and that the clause is unfair to the claimant.

17.6.10 For the purposes of section 12(1) of the Prescription Act, 1969 (Act No. 68 of 1969) a debt is due after the expiry of the period referred to in rule 17.6.3(b).

## **17.7 Record keeping, monitoring and analysis**

17.7.1 An insurer must ensure accurate, efficient and secure recording of all claims received, irrespective of whether the claims are valid or not.

17.7.2 The following must be recorded in respect of each claim received –

- (a) all relevant details of the claimant and the subject matter of the claim;
- (b) copies of all relevant evidence, correspondence and decisions; and
- (c) progress and status of the claim, including whether such progress is within or outside any set timelines.

17.7.3 An insurer must maintain the following claims related data on an ongoing basis –

- (a) number and quantum of claims received;
- (b) number and quantum of claims paid;
- (c) number and quantum of repudiated claims and reasons for the repudiation;
- (d) number of claims escalated by claimants to the internal claims escalation and review process and their outcome, which data must also be included in the records and reports required by rule 18 in relation to the category of complaints referred to in rule 18.5.1(h);
- (e) number of claims referred to an ombud and their outcome, which data must also be included in the records and reports required by rule 18.8.3(e); and
- (f) total number of claims outstanding.

17.7.4 Claims information recorded in accordance with this rule must be scrutinised and analysed by an insurer on an ongoing basis and utilised to manage conduct risks and effect improved outcomes and processes for its policyholders, and to prevent recurrences of poor outcomes and errors.

17.7.5 An insurer must establish and maintain appropriate processes for reporting of the information in rule 17.7.3 to its board of directors, executive management or relevant committees of the board.

## **17.8 Communications with claimants**

17.8.1 An insurer must ensure that its claims processes and procedures are transparent, visible and accessible through channels that are appropriate to the insurer's policyholders and claimants.

17.8.2 All communications with a claimant must be in plain language.

17.8.3 An insurer must disclose to the claimant –

- (a) the type of information required from the claimant;
- (b) where, how and to whom a claim and related information must be submitted;
- (c) any time limits on submitting claims;
- (d) details of any administrative fee payable in relation to management of the claim; and
- (e) any other relevant responsibilities of the claimant.

17.8.4 A claim is deemed to have been received on the day the insurer or its representative, or an independent intermediary, binder holder or any other service provider that has been mandated by the insurer to manage claims on its behalf, receives notification thereof and an insurer or such independent intermediary, binder holder, service provider or representative must within a reasonable time after receipt of a claim acknowledge receipt

thereof and inform a claimant of the process to be followed in processing the claim, including –

- (a) contact details of the person or department that will be processing the claim;
- (b) indicative timelines for finalising the claim; and
- (c) details of any outstanding requirements.

17.8.5 An insurer must only require from a claimant information or documentation which is essential to the assessment of the claim.

17.8.6 Claimants must be kept adequately informed of –

- (a) the progress of their claim;
- (b) causes of any delay in the finalisation of a claim and revised timelines; and
- (c) the insurer's decision in response to the claim.

17.8.7 An insurer must record a claim by no later than the first business day after the date that the initial claim is received and may not delay recording the claim until such time as all requirements relating to the claim have been received.

17.8.8 When an insurer makes a final payment or offer of settlement to a claimant, the insurer must explain to the claimant what the payment or settlement is for and the basis used for the payment or settlement.

17.8.9 Where the claimant is a member or a beneficiary referred to in paragraph (b) of the definition of "beneficiary", the insurer must on receipt of the claim either –

- (a) obtain the contact details of the claimant to enable all communications required by this rule to take place directly with the claimant; or
- (b) obtain consent from the claimant that communications required by this rule may take place through the policyholder concerned.

## **17.9 Reporting of claims information**

An insurer must have appropriate processes in place to ensure compliance with any prescribed requirements for reporting claims information to any relevant designated authority or to the public as may be required by the Registrar.

## **17.10 Prohibited claims practices**

17.10.1 An insurer may not –

- (a) dissuade a claimant from obtaining the services of an attorney or adjustor;
- (b) deny a claim without performing a reasonable investigation; or
- (c) deny a claim based solely on the outcome of a polygraph, lie detector, truth verification or similar test or procedure referred to in rule 7.1(a).



**RULE 18: COMPLAINTS MANAGEMENT****18.1 Definitions**

In this rule –

**“complainant”** means a person who submits a complaint and includes a –

- (a) policyholder or the policyholder's successor in title;
- (b) beneficiary or the beneficiary's successor in title;
- (c) person whose life is insured under a policy;
- (d) person that pays a premium in respect of a policy;
- (e) member; or
- (f) potential policyholder or potential member whose dissatisfaction relates to the relevant application, approach, solicitation or advertising or marketing material,

who has a direct interest in the agreement, policy or service to which the complaint relates, or a person acting on behalf of a person referred to in paragraphs (a) to (f);

**“complaint”** means an expression of dissatisfaction by a person to an insurer or, to the knowledge of the insurer, to the insurer's service provider relating to a policy or service provided or offered by that insurer which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a policyholder query, that –

- (a) the insurer or its service provider has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the insurer or to which it subscribes;
- (b) the insurer or its service provider's maladministration or willful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- (c) the insurer or its service provider has treated the person unfairly;

**“compensation payment”** means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of an insurer to a complainant to compensate the complainant for a proven or estimated financial loss incurred as a result of the insurer's contravention, non-compliance, action, failure to act, or unfair treatment forming the basis of the complaint, where the insurer accepts liability for having caused the loss concerned, but excludes any –

- (a) goodwill payment;
- (b) payment contractually due to the complainant in terms of a policy; or
- (c) refund of an amount paid by or on behalf of the complainant to the insurer where such payment was not contractually due;



and includes any interest on late payment of any amount referred to in paragraphs (b) or (c);

**“goodwill payment”** means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of an insurer to a complainant as an expression of goodwill aimed at resolving a complaint, where the insurer does not accept liability for any financial loss to the complainant as a result of the matter complained about;

**“policyholder query”** means a request to the insurer or the insurer's service provider by or on behalf of a policyholder, for information regarding the insurer's policies, services or related processes, or to carry out a transaction or action in relation to any such policy or service;

**“rejected”** in relation to a complaint means that a complaint has not been upheld and the insurer regards the complaint as finalised after advising the complainant that it does not intend to take any further action to resolve the complaint and includes complaints regarded by the insurer as unjustified or invalid, or where the complainant does not accept or respond to the insurer's proposals to resolve the complaint;

**“reportable complaint”** means any complaint other than a complaint that has been –

- (a) upheld immediately by the person who initially received the complaint;
- (b) upheld within the insurer's ordinary processes for handling policyholder queries in relation to the type of policy or service complained about, provided that such process does not take more than five business days from the date the complaint is received; or
- (c) submitted to or brought to the attention of the insurer in such a manner that the insurer does not have a reasonable opportunity to record such details of the complaint as may be prescribed in relation to reportable complaints; and

**“upheld”** means that a complaint has been finalised wholly or partially in favour of the complainant and that –

- (a) the complainant has explicitly accepted that the matter is fully resolved; or
- (b) it is reasonable for the insurer to assume that the complainant has so accepted; and
- (c) all undertakings made by the insurer to resolve the complaint have been met or the complainant has explicitly indicated its satisfaction with any arrangements to ensure such undertakings will be met by the insurer within a time acceptable to the complainant.

## **18.2 Establishment of complaints management framework**

**18.2.1** An insurer must establish, maintain and operate an adequate and effective complaints management framework to ensure the fair treatment of complainants that –

- (a) is proportionate to the nature, scale and complexity of the insurer's business and risks;
- (b) is appropriate for the business model, policies, services, policyholders, and beneficiaries of the insurer;
- (c) enables complaints to be considered after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of complainants;
- (d) does not impose unreasonable barriers to complainants; and
- (e) must address and provide for, at least, the matters provided for in this rule.

18.2.2 An insurer must regularly review its complaints management framework and document any changes thereto.

### **18.3 Requirements for complaints management framework**

18.3.1 The complaints management framework must at least, provide for –

- (a) relevant objectives, key principles and the proper allocation of responsibilities for dealing with complaints across the business of the insurer;
- (b) appropriate performance standards and remuneration and reward strategies (internally and where any functions are outsourced) for complaints management to ensure objectivity and impartiality;
- (c) documented procedures for the appropriate management and categorisation of complaints, including expected timeframes and the circumstances under which any of the timeframes may be extended;
- (d) documented procedures which clearly define the escalation, decision-making, monitoring and oversight and review processes within the complaints management framework;
- (e) appropriate complaint record keeping, monitoring and analysis of complaints, and reporting (regular and ad hoc) to executive management, the board of directors and any relevant committee of the board on –
  - (i) identified risks, trends and actions taken in response thereto; and
  - (ii) the effectiveness and outcomes of the complaints management framework;
- (f) appropriate communication with complainants and their authorised representatives on the complaints and the complaints processes and procedures;
- (g) appropriate engagement between the insurer and a relevant ombud;
- (h) meeting requirements for reporting to the Registrar and public reporting in accordance with this rule;

- (i) a process for managing complaints relating to the insurer's service providers, insofar as such complaints relate to services provided in connection with the insurer's policies or related services, which process must –
  - (i) enable the insurer to reasonably satisfy itself that the service provider has adequate complaints management processes in place to ensure fair treatment of complainants;
  - (ii) provide for monitoring and analysis by the insurer of aggregated complaints data in relation to complaints received by the service provider and their outcomes;
  - (iii) include effective referral processes between the insurer and the service provider for handling and monitoring complaints that are submitted directly to either of them and require referral to the other for resolution; and
  - (iv) include processes to ensure that complainants are appropriately informed of the process being followed and the outcome of the complaint; and
- (j) regular monitoring of the complaints management framework generally.

#### **18.4 Allocation of responsibilities**

18.4.1 The board of directors of an insurer is responsible for effective complaints management and must approve and oversee the effectiveness of the implementation of the insurer's complaints management framework.

18.4.2 Any person that is responsible for making decisions or recommendations in respect of complaints generally or a specific complaint must –

- (a) be adequately trained;
- (b) have an appropriate mix of experience, knowledge and skills in complaints handling, fair treatment of customers, the subject matter of the complaints concerned and relevant legal and regulatory matters;
- (c) not be subject to a conflict of interest; and
- (d) be adequately empowered to make impartial decisions or recommendations.

#### **18.5 Categorisation of complaints**

18.5.1 An insurer must categorise reportable complaints in accordance with the following minimum categories –

- (a) complaints relating to the design of a policy or related service, including the premiums or other fees or charges related to that policy or service;
- (b) complaints relating to information provided to policyholders;
- (c) complaints relating to advice;

- (d) complaints relating to policy performance;
- (e) complaints relating to service to policyholders, including complaints relating to premium collection or lapsing of policies;
- (f) complaints relating to policy accessibility, changes or switches;
- (g) complaints relating to complaints handling;
- (h) complaints relating to insurance risk claims, including non-payment of claims; and
- (i) other complaints.

18.5.2 An insurer must, in addition to the categorisation set out in rule 18.5.1, consider additional categories relevant to its chosen business model, policies, services and policyholder base that will support the effectiveness of its complaint management framework in managing conduct risks and effecting improved outcomes and processes for its policyholders.

18.5.3 An insurer must categorise, record and report on reportable complaints by identifying the category contemplated in rules 18.5.1 and 18.5.2 to which a complaint most closely relates and group complaints accordingly.

## **18.6 Complaints escalation and review process**

18.6.1 An insurer must establish and maintain an appropriate internal complaints escalation and review process.

18.6.2 Procedures within the complaints escalation and review process should not be overly complicated, or impose unduly burdensome paperwork or other administrative requirements on complainants.

18.6.3 The complaints escalation and review process should -

- (a) follow a balanced approach, bearing in mind the legitimate interests of all parties involved including the fair treatment of complainants;
- (b) provide for internal escalation of complex or unusual complaints at the instance of the initial complaint handler;
- (c) provide for complainants to escalate complaints not resolved to their satisfaction; and
- (d) be allocated to an impartial, senior functionary within the insurer or appointed by the insurer for managing the escalation or review process of the insurer.

## **18.7 Decisions relating to complaints**

18.7.1 Where a complaint is upheld, any commitment by the insurer to make a compensation payment, goodwill payment or to take any other action must be carried out without undue delay and within any agreed timeframes.

18.7.2 Where a complaint is rejected, the complainant must be provided with clear and adequate reasons for the decision and must be informed of any applicable escalation or review processes, including how to use them and any relevant time limits.

## **18.8 Record keeping, monitoring and analysis of complaints**

18.8.1 An insurer must ensure accurate, efficient and secure recording of complaints-related information.

18.8.2 The following must be recorded in respect of each reportable complaint –

- (a) all relevant details of the complainant and the subject matter of the complaint;
- (b) copies of all relevant evidence, correspondence and decisions;
- (c) the complaint categorisation as set out in rule 18.5; and
- (d) progress and status of the complaint, including whether such progress is within or outside any set timelines.

18.8.3 An insurer must maintain the following data in relation to reportable complaints categorised in accordance with rule 18.5 on an ongoing basis -

- (a) number of complaints received;
- (b) number of complaints upheld;
- (c) number of rejected complaints and reasons for the rejection;
- (d) number of complaints escalated by complainants to the internal complaints escalation process;
- (e) number of complaints referred to an ombud and their outcome;
- (f) number and amounts of compensation payments made;
- (g) number and amounts of goodwill payments made; and
- (h) total number of complaints outstanding.

18.8.4 Complaints information recorded in accordance with this rule must be scrutinised and analysed by an insurer on an ongoing basis and utilised to manage conduct risks and effect improved outcomes and processes for its policyholders, and to prevent recurrences of poor outcomes and errors.

18.8.5 An insurer must establish and maintain appropriate processes for reporting of the information in rule 18.8.4 to its board of directors, executive management or relevant committee of the board.

## **18.9 Communication with complainants**

18.9.1 An insurer must ensure that its complaint processes and procedures are transparent, visible and accessible through channels that are appropriate to the insurer's policyholders and beneficiaries.

18.9.2 An insurer may not impose any charge for a complainant to make use of complaint processes and procedures.

18.9.3 All communications with a complainant must be in plain language.

18.9.4 An insurer must, wherever feasible, provide policyholders with a single point of contact for submitting complaints.

18.9.5 An insurer must disclose to a complainant –

- (a) the type of information required from a complainant;
- (b) where, how and to whom a complaint and related information must be submitted;
- (c) expected turnaround times in relation to complaints; and
- (d) any other relevant responsibilities of a complainant.

18.9.6 An insurer must within a reasonable time after receipt of a complaint acknowledge receipt thereof and promptly inform a complainant of the process to be followed in handling the complaint, including –

- (a) contact details of the person or department that will be handling the complaint;
- (b) indicative timelines for addressing the complaint;
- (c) details of the internal complaints escalation and review process if the complainant is not satisfied with the outcome of a complaint; and
- (d) details of escalation of complaints to the office of a relevant ombud where applicable.

18.9.7 Complainants must be kept adequately informed of –

- (a) the progress of their complaint;
- (b) causes of any delay in the finalisation of a complaint and revised timelines; and
- (c) the insurer's decision in response to the complaint.

## **18.10 Engagement with ombud**

18.10.1 An insurer must –

- (a) have appropriate processes in place for engagement with any relevant ombud in relation to its complaints;
- (b) clearly and transparently communicate the availability and contact details of the relevant ombud services to complainants at all relevant stages of the insurance relationship, including at point of sale, in relevant periodic communications, and when a complaint is rejected or a claim is repudiated;

- (c) display and/or make available information regarding the availability and contact details of the relevant ombud services at the premises and/or on the web site of the insurer;
- (d) maintain specific records and carry out specific analysis of complaints referred to them by the ombud and the outcomes of such complaints; and
- (e) monitor determinations, publications and guidance issued by any relevant ombud with a view to identifying failings or risks in their own policies, services or practices.

18.10.2 An insurer must –

- (a) maintain open and honest communication and co-operation between itself and any ombud with whom it deals; and
- (b) endeavour to resolve a complaint before a final determination or ruling is made by an ombud, or through its internal escalation process, without impeding or unduly delaying a complainant's access to an ombud.

#### 18.11 Reporting complaints information

An insurer must have appropriate processes in place to ensure compliance with any prescribed requirements for reporting complaints information to any relevant designated authority or to the public as may be required by the Registrar.

### RULE 19: REPLACEMENT OF POLICIES

#### 19.1 Definitions

In this rule –

**“Individual risk policy”** means a risk policy that is an individual policy;

**“replacement”** means the action or process of –

- (a) substituting an individual risk policy (the “replaced policy”), wholly or in part, with another individual risk policy (the “replacement policy”);
- (b) the termination or variation of an individual risk policy (the “replaced policy”) and the entering into or variation of another individual risk policy (the “replacement policy”);

with the purpose of meeting the same or similar needs or objectives of the policyholder or in anticipation of, or as a consequence of, effecting the substitution or variation, irrespective of the sequence of the occurrence of the transactions;

**“termination of an individual risk policy”** means the termination of the policy by the policyholder, including the full surrender of the policy or cancellation of the policy from inception;

**“variation of an individual risk policy”** –



- (a) in relation to the replaced policy, includes –
  - (i) a reduction in the premium payable;
  - (ii) making the policy paid-up;
  - (iii) the cessation of premiums;
  - (iv) the application of the policy value as premiums payable in respect of the relevant policy referred to in section 52(2) of the Act;
  - (v) the reduction or removal of any benefit in respect of the policy;
  - (vi) the policy becoming static because an option to update cover or premiums has not been exercised; and
  - (vii) the partial surrender of the policy;
- (b) in relation to the replacement policy, means any change to the policy that results or will result in an increase to the premium.

## **19.2 Replacement of individual risk policies**

19.2.1 An insurer must, before entering into an individual risk policy in respect of which an intermediary rendered services as intermediary, obtain confirmation from that intermediary as to whether or not the policy to be entered into would constitute a replacement policy.

19.2.2 If an intermediary confirms that a policy to be entered into by the insurer would constitute a replacement policy, the insurer must obtain a copy of the record of advice that the intermediary is required to provide to the policyholder in accordance with section 9(1)(d) of the FAIS General Code of Conduct (the replacement advice record), unless the intermediary confirms that they did not provide advice.

19.2.3 An insurer must no later than 14 days after receiving the replacement advice record, provide the insurer of the replaced policy with a copy of the replacement advice record.

19.2.4 A managing executive of the replacing insurer or a person of appropriate seniority to whom the managing executive has delegated the responsibility must no later than 14 days after receipt of the replacement advice record referred to in rule 19.2.2 confirm, in writing, that –

- (a) the replacement advice record complies with the disclosure requirements contained in section 8(1)(d) of the General Code; and
- (b) the replacement advice record contains sufficient information regarding the replacement policy and the replaced policy to indicate that the intermediary took reasonable steps to satisfy himself or herself that the replacement policy is more suitable to the policyholder's needs than retaining or modifying the replaced policy.

19.2.5 If at any time the replacing insurer establishes that an intermediary failed to disclose to the insurer that a policy is a replacement policy after the insurer requested the intermediary to provide such confirmation in accordance with rule 19.2.1, the insurer must –

- (a) report such non-disclosure to the Registrar; and
- (b) if the non-disclosure is established within a period of 6 months from the date on which the insurer entered into the replacement policy, inform the policyholder that the policyholder may cancel the replacement policy in accordance with rule 4 within a period of 31 days from the date on which the policyholder is so notified.

19.2.6 The Registrar may determine the format for a replacement advice record or other notification required by this rule.

## RULE 20: TERMINATION OF POLICIES

### 20.1 Definitions

For purposes of this rule –

**“material change”** means any change in circumstances that results in a policyholder or beneficiary not being entitled to claim a policy benefit under a policy; and

**“termination”** or any derivative of the term, in relation to a policy, means that a policy comes to an end, for any reason, and includes –

- (a) the cancellation or lapsing of a policy; or
- (b) the non-renewal of a policy where the policy provides for the automatic renewal of that policy or if the policyholder has a legitimate expectation that the policy will be renewed.

### 20.2 Termination of policies by insurer

#### *Individual policies*

20.2.1 If an insurer intends to terminate a policy because of circumstances other than –

- (a) non-payment of a premium, subject to the insurer complying with the provisions of section 52 of the Act; or
- (b) a material change in the risk covered under the policy that, in terms of the policy, –
  - (i) results in the policy automatically coming to an end; or
  - (ii) provides the insurer with a right to end the policy; or
- (c) where immediate termination is required in law;

the insurer, despite any terms and conditions provided for in a policy, must give the policyholder at least 31 days' written notice of the intended termination.

20.2.2 In the event that the insurer terminates a policy in circumstances other than those set out in rule 20.2.1(a) – (c), the insurer will remain liable under the policy for the shorter of -

- (a) a period of 31 days after the date on which the insurer receives proof that the policyholder has been made aware of the intended termination of the policy; or
- (b) the period until the insurer receives proof that the policyholder has entered into another policy in respect of similar risks to those covered under the policy that the insurer intends to terminate.

20.2.3 In the event that the insurer is unable to obtain the proof referred to in rule 20.2.2 above, the insurer must be able to prove that –

- (a) a period of 31 days had passed since notification was sent to the last known address of the policyholder; and
- (b) it took all reasonable steps to –
  - (i) ensure the contact information of the policyholder is correct, and
  - (ii) to contact the policyholder.

#### *Group schemes policies*

20.2.4 If an insurer intends to terminate a group scheme policy, the insurer, despite any terms and conditions provided for in a policy, must –

- (a) give the policyholder and the Registrar at least 31 days' written notice of the intended termination; and
- (b) be able to demonstrate that it has taken reasonable steps to provide the members of the group scheme with notice of the intended termination.

20.2.5 Where the insurer can demonstrate that due to the nature of the group scheme it is not reasonably practicable to directly notify the members of the group scheme of the intended termination as contemplated in rule 20.2.4(b), the insurer must –

- (a) provide the policyholder with reasonable support in providing the notice of intended termination to the members of the group scheme; and
- (b) satisfy itself that the policyholder concerned has provided the notice of intended termination to the members of the group scheme.

20.2.6 An insurer referred to in rule 20.2.4 will remain liable under the policy for the shorter of –

- (a) a period of 31 days after the date on which the insurer has complied with rule 20.2.4 and 20.2.5; or
- (b) the period until the insurer receives proof that the policyholder has entered into another policy providing cover to the members of the group scheme in respect of similar risks as those covered under the policy that the insurer intends to terminate.

### **20.3 Termination and replacement of group scheme policy by policyholder**

20.3.1 If a policyholder terminates or intends to terminate a group scheme policy, the insurer of the policy being terminated must notify the Registrar of the termination or intended termination as soon as reasonably possible after becoming aware of the termination or proposed termination.

20.3.2 An insurer must before entering into a group scheme policy determine whether the group scheme policy is intended to replace or substitute a group scheme policy.

20.3.3 It would, for purposes of rule 20.3.2, constitute prima facie evidence that it is the intention to substitute or replace a group scheme policy if –

- (a) the policyholder under the new group scheme policy to be entered into is the same person as the policyholder under the previous group scheme policy; and
- (b) the lives to be insured under the new group scheme policy are substantially the same as the lives insured under the previous group scheme policy.

20.3.4 If the group scheme policy is intended to substitute or replace a group scheme policy as contemplated in rule 20.3.2, the insurer must, subject to rule 20.3.5, at least 31 days before entering into the group scheme policy, take reasonable steps to provide the members with details of –

- (a) any material differences between the terms and conditions of the new group scheme policy and the group scheme policy being substituted or replaced, and
- (b) the reasons for the differences referred to in paragraph (a).

20.3.5 Where the insurer can demonstrate that due to the nature of the group scheme it is not reasonably practicable to communicate directly with the members of the group scheme as contemplated in rule 20.3.4, the insurer must –

- (a) provide the policyholder with reasonable support in providing such information to the members; and
- (b) satisfy itself that the policyholder concerned has provided the information referred to in rule 20.3.4 to the members of the group scheme.

20.3.6 Any new waiting periods imposed by an insurer in respect of a group scheme policy which substitutes or replaces a previous group scheme policy will be void.

#### **20.4 Communication with members of a group scheme**

For purposes of rules 20.2.4(b) and 20.3.4 an insurer must be able to demonstrate that –

- (a) it has taken reasonable steps to communicate with the members using the contact details referred to in rules 13.4 and 13.5; and
- (b) where it has any reason to believe that the contact details of the members of a group scheme are incomplete or there is a material risk that the required information may not reach members, it has made reasonable efforts to communicate with such members using other appropriate communication channels.

## CHAPTER 8 ADMINISTRATION

### 1. Repeal and saving provision

1.1 The Policyholder Protection Rules published under Government Notice R.1129 in *Government Gazette* 26854 of 30 September 2004 and amended by Government Notice 1214 in *Government Gazette* 33881 of 17 December 2010 are hereby repealed.

1.2 Despite the repeal referred to in section 1.1, the following rules of the previous Policyholder Protection Rules referred to in section 1.1 continue to apply to all new and existing policies, products, services and arrangements as follows:

- (a) for a period of 12 months from the date of publication of these Policyholder Protection Rules in the *Gazette*:
  - (i) Rule 4, Part III: Basic Rules for Direct Marketers;
  - (ii) Rule 6, Part V: Rules on Cancellations of policies and Cooling-Off;
  - (iii) Rule 18 on Policy Loans and Cessions, Part VIII: Additional Insurer Duties; and
- (b) for a period of 24 months from the date of publication of these Policyholder Protection Rules in the *Gazette*:
  - (i) Rules 8 to 15, Part VII: Assistance Business Group Schemes.

### 2. Short title and commencement

2.1 These rules are called the Policyholder Protection Rules (Long-term Insurance), 2017.

2.2 These rules will come into operation as follows –

Chapter	Rule	Commencement
Chapter 1: Interpretation		Date of publication of this notice in the <i>Government Gazette</i>
Chapter 2: Fair treatment of policyholders	Rule 1.1 to 1.4	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 1.5 to 1.9	12 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 1.10	Date of publication of this notice in the <i>Government Gazette</i>
Chapter 3: Products	Rule 2	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 3	Date of publication of this notice in the

		<i>Government Gazette</i>
	Rule 4	12 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 5	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 6.1	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 6.2 to 6.4	6 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 6.5	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 7	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 8	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 9	Date of publication of this notice in the <i>Government Gazette</i>
Chapter 4: Advertising and Disclosure	Rule 10	6 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 11	12 months after date of publication of this notice in the <i>Government Gazette</i>
Chapter 5: Intermediation and distribution	Rule 12.1 to 12.3 except for 12.2.1 and 12.2.2 in insofar as they relate to existing intermediary agreements	Date of publication of this notice in the <i>Government Gazette</i>
	Rule 12.2.1 and 12.2.2 insofar as they relate to existing intermediary agreements	12 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 12.4	12 months after date of publication of this notice in the <i>Government Gazette</i>

Chapter 6: Product performance and acceptable service	Rule 13	24 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 14	6 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 15	6 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 16	12 months after date of publication of this notice in the <i>Government Gazette</i>
Chapter 7: No unreasonable post-sale barriers	Rule 17, except insofar as it relates to group schemes	12 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 17, insofar as it relates to group schemes	18 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 18, except insofar as it relates to group schemes	12 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 18, insofar as it relates to group schemes	18 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 19	6 months after date of publication of this notice in the <i>Government Gazette</i>
	Rule 20	24 months after date of publication of this notice in the <i>Government Gazette</i>
Chapter 8: Administration		Date of publication of this notice in the <i>Government Gazette</i>



## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 1408

15 DECEMBER 2017

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT,  
1994 (ACT NO.22 OF 1994)**

Notice is hereby given in terms of section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No.22 of 1994 as amended) that a claim for restitution of land rights on:

REFERENCE : 6/2/2/D/200/0/0/8

CLAIMANT : Sechaba Floyd Edward Khabanyana

PROPERTY DESCRIPTION	EXTENT OF LAND
Portion 1 of Farm Drumleary no. 130, Matatiele	407.1617 hectares
Portion 2 of Farm Drumleary no. 130, Matatiele	407.1894 hectares

TITLE DEED : n/a

DISTRICT MUNICIPALITY : Alfred Nzo

DATE SUBMITTED : 29/12/1998

CURRENT OWNER : Department of Rural Development and Land Reform

Has been submitted to the Regional Land Claims Commissioner and that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of the Act in due course. Any person who has an interest in the above-mentioned land is hereby invited to submit, within sixty (60) days from the publication of this notice, any comments/information to

**Office of the Regional Land Claims Commissioner : Eastern Cape**  
**Department of Rural Development and Land Reform**  
**PO Box 1375**  
**East London**  
**5200**  
**Tel : 043 700 6000**  
**Fax : 043 743 3687**



**Mr. L.H. Maphutha**  
**Regional Land Claims Commissioner**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

NO. 1409

15 DECEMBER 2017

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT,  
1994 (ACT NO.22 OF 1994)**

Notice is hereby given in terms of section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No.22 of 1994 as amended) that a claim for restitution of land rights on:

REFERENCE : 6/2/2/D/1073/0/0/68

CLAIMANT : Msingathi Bantu Matshikiza

PROPERTY DESCRIPTION : A portion of unsurveyed and unregistered land in Esikhobeni Village, Cofimvaba

EXTENT OF LAND : 35 Hectares

TITLE DEED : n/a

DISTRICT MUNICIPALITY : Chris Hani

DATE SUBMITTED : 31<sup>st</sup>/12/1998

CURRENT OWNER : Department of Rural Development and Land Reform

Has been submitted to the Regional Land Claims Commissioner and that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of the Act in due course. Any person who has an interest in the above-mentioned land is hereby invited to submit, within sixty (60) days from the publication of this notice, any comments/information to

**Office of the Regional Land Claims Commissioner : Eastern Cape**  
**Department of Rural Development and Land Reform**  
**PO Box 1375**  
**East London**  
**5200**  
**Tel : 043 700 6000**  
**Fax : 043 743 3687**

  
**Mr. L.H. Maphutha**  
**Regional Land Claims Commissioner**

## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 1410

15 DECEMBER 2017

**AMENDMENT OF GAZETTE 1209 OF 2001 DATED 8<sup>th</sup> JUNE 2001 AS CONTAINED IN GOVERNMENT GAZETTE NUMBER 22326 IN RESPECT OF THE FARM 699 SITUATED IN STOKENSTROM, RAYMOND MHLABA LOCAL MUNICIPALITY UNDER AMATHOLE DISTRICT, EASTERN CAPE PROVINCE.**

Notice is hereby given in terms of Section 11 A (4) of the Restitution of Land Rights Act, No, 22 of 1994 as amended, due to a an error in the gazette notice 1209 of 2001 dated the 8<sup>th</sup> June 2001 as Contained in the Gazette Number 22326.

The above mentioned gazette notice is hereby amended to include the correct claimant under claim.

Reference No. : KRO: ~~6/2/2/D/1078/1/12~~ <sup>6/2/2/D/1078/0/0/12</sup>

Claimant : Mr. Charley Williams

Property Description : Farm 699, Stockenstrom, Raymond Mhlaba Local municipality in Amathole district , Eastern Cape.

Extent of Land : 14.3897 HA

Current Title Deed : T210/1985

Date Submitted : 14 December 1998

Current Owner : Republic of South Africa


Current Land Use : Residence

Has been submitted to the Regional Land Claims Commissioner for the Eastern Cape and that the Commission on Restitution of Land Rights will further investigate the claims in terms of the provisions of the Act, as amended in due course.

Any party who has an interest in the abovementioned land claim is hereby invited to submit, within 30 days from the date of the publication of this Notice, any comments / information to :

**The Regional Land Claims Commissioner**  
**Eastern Cape Province**  
**P .O. Box 1375**  
**East London**  
**5201**

Tel: (043) 700 6000  
 Fax: (043) 743 3687

  
**Mr. Lebjane Maphutha**  
**Regional Land Claims Commissioner**  
**(Eastern Cape)**

Date: 2017/11/02

## DEPARTMENT OF SCIENCE AND TECHNOLOGY

NO. 1411

15 DECEMBER 2017

**REGULATIONS ON THE PROTECTION OF THE KAROO CENTRAL ASTRONOMY ADVANTAGE AREAS IN TERMS OF THE ASTRONOMY GEOGRAPHIC ADVANTAGE ACT, 2007**

I, Grace Naledi Mandisa Pandor, Minister of Science and Technology, in accordance with sections 50 and 51 of the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007) (hereinafter referred to as "the Act") and having obtained the concurrence of the Independent Communications Authority of South Africa (ICASA) and the Minister of Finance (to the extent that these Regulations have financial implications), hereby make Regulations for the protection of the Karoo Central Astronomy Advantage Areas, as set out in the attached Schedules listed hereunder:

Schedule A - Regulations to prohibit and restrict the use of certain radio frequency spectrum and certain radio activities in the Karoo central astronomy advantage areas declared for radio astronomy purposes;

Schedule B - Regulations on administrative matters regarding Schedule A for the Karoo central astronomy advantage areas declared for radio astronomy purposes;

Schedule C - Regulations on financial compensation procedures for the Karoo central astronomy advantage areas; and

Schedule D - Regulations restricting interference due to electrical activities within the Karoo central astronomy advantage area 1.

These Regulations apply to the Karoo Central Astronomy Advantage Areas declared for the purpose of radio astronomy and related scientific endeavours in terms of section

9(1) and (2) of the Act under Notice Number 198 published on 12 March 2014, in Government Gazette number 37434.

These Regulations shall become operational on a date to be determined by the Minister by notice in the Gazette, which date shall not be later than 365 calendar days after the date that these Regulations are published. The notice determining the date shall be published 90 calendar days before the date so determined.



**MRS GNM PANDOR, MP**  
**MINISTER OF SCIENCE AND TECHNOLOGY**



## REGULATIONS FOR THE PROTECTION OF THE KAROO CENTRAL ASTRONOMY ADVANTAGE AREAS

### ARRANGEMENT OF REGULATIONS

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## SCHEDULE A OF THESE REGULATIONS

**Regulations to prohibit and restrict the use of certain radio frequency spectrum and certain radio activities in the Karoo central astronomy advantage areas declared for radio astronomy purposes.**

### 1. Definitions

For purposes of these Schedule A Regulations unless the context indicates otherwise –

“**the Act**” means the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007);

“**assessment point**” means the SKA Virtual Centre or another geographical location or point defined in terms of these regulations, which location is used as the assessment point for the applicable protection measures as prescribed in these regulations;

“**dBm**” means the radio frequency power level expressed in decibels relative to one milliwatt;

“**designated service**” means a radio communications service used in the Karoo central astronomy advantage areas that is classified as a designated service in terms of the criteria and procedures prescribed in regulation 7 of Schedule B of these Regulations;

“**Electronic Communications Act**” means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

“**effective radiated power**” means the product of the power level supplied to the antenna and the antenna gain relative to a half-wave dipole in the relevant direction;

“**ICASA**” means the Independent Communication Authority of South Africa, an independent regulatory body established in terms of the Independent Communication Authority of South Africa Act, 2000 (Act No. 13 of 2000),

responsible for regulating broadcasting, postal services and electronic communications in the Republic;

**“ICASA Spectrum Regulations 2015”** means the radio frequency spectrum regulations published by ICASA on 30 March 2015 in *Government Gazette* No. 38641, under Notice No. 279;

**“Karoo central astronomy advantage areas”** means the Karoo central astronomy advantage areas declared on 12 March 2014 in *Government Gazette* No. 37434, under Notice No. 198;

**“Karoo core astronomy advantage area”** means the Karoo core astronomy advantage area declared on 20 August 2010 in *Government Gazette* No. 33462, under Notice No. 723;

**“licence exempt operator”** means a person who provides a service pursuant to an exemption granted by ICASA in terms of section 6 of the Electronic Communications Act, 2005 or uses radio frequency spectrum which is exempt from requiring a radio frequency spectrum licence by virtue of section 31(6) of the Electronic Communications Act, 2005 and regulations made in terms thereof, and includes the users of the radio equipment;

**“licensee”** as defined in the Electronic Communications Act, 2005, means a person issued with a licence to provide services in terms of Chapter 3 or to use the radio frequency spectrum in terms of Chapter 5 of the Electronic Communications Act, 2005;

**“management authority”** means the organ of state to which the Minister has assigned the management of the Karoo central astronomy advantage areas in terms of section 15 of the Act and includes any party with whom the management authority has entered into a co-management agreement for the co-management of the Karoo central astronomy advantage areas in terms of section 18 of the Act;

**“protection corridors”** means 10-km wide corridors of land, centred on a radio astronomical spiral arms configuration, within which SKA stations in the Karoo



Central Astronomy Advantage Area 1 are to be positioned, that also applies to the Karoo Central Astronomy Advantage areas 2 and 3 depending on the radio frequency spectrum used, as depicted and described in Annexure A of this Schedule A;

**“Protection Levels Regulations 2012”** means the regulations on radio astronomy protection levels to be applied in core and central astronomy advantage areas declared for the purposes of radio astronomy published on 10 February 2012, in *Government Gazette* No. 35007, under Notice No. R90;

**“radio astronomy station”** means one or more receiving systems at a location, including accessory equipment, for receiving radio waves of cosmic origin for the purposes of radio astronomy;

**“radio communication”** means the emission, transmission or reception of information, including, without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of radio or other electromagnetic waves without the aid of a tangible conductor;

**“radio equipment”** means a product or relevant component thereof, capable of communications by means of radio waves utilising spectrum allocated to terrestrial/space radio communication;

**“radio frequency interference”** means the detrimental effect of received radio communication signals that exceed the protection levels prescribed in the Protection Levels Regulations, 2012, for more than 5% of the time over a 24-hour period;

**“radio station”** means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying an electronic communications service, broadcasting service or any electronic communications authorised by ICASA, and any radio equipment used at a specific geographical location;

**“radio waves”** means electromagnetic waves of frequencies from 8.3 kHz to 3000 GHz, propagated in space without an artificial guide;

**“saturation level”** means the total received power level of (minus) -100 dBm, or higher, within the transmission bandwidth of the radio communication producing the radio frequency interference level at which the saturation phenomenon occurs at a radio astronomy station or at a specified assessment point or points, or within a specified area;

**“Schedule B Regulations 2017”** means the regulations on administrative matters for the Karoo central astronomy advantage areas, which is Schedule B of these Regulations;

**“Schedule C Regulations 2017”** means the regulations on financial compensation procedures for the Karoo central astronomy advantage areas, which is Schedule C of these Regulations;

**“SKA”** means the Square Kilometre Array radio telescope consisting of an array of radio astronomy stations to be located within the Republic of South Africa and in participating African countries in accordance with the decision of the SKA Organisation; and

**“SKA Virtual Centre”** means the geographical point located at geographical coordinates 30.71292 degrees south and 21.44380 degrees East that relates to the SKA array of radio astronomy stations within the Karoo astronomy advantage areas and is specified as the assessment point for the application of the protection levels as defined in the Protection Levels Regulations, 2012.



## 2. Scope of the regulations in this Schedule A

- (1) These regulations apply to the Karoo central astronomy advantage areas 1, 2 and 3 according to the radio frequency spectrum declared for radio astronomy purposes in the declaration of the Karoo central astronomy advantage areas, as follows:
  - (a) Karoo central astronomy advantage area 1 with respect to the use of frequency spectrum from 100 to 2 170 MHz;
  - (b) Karoo central astronomy advantage area 2 with respect to the use of frequency spectrum from 2 170 to 6 000 MHz; and
  - (c) Karoo central astronomy advantage area 3 with respect to the use of frequency spectrum from 6 000 to 25 500 MHz.
- (2) With respect to aviation:
  - (a) These regulations are not applicable to aeronautical mobile, aeronautical radio-navigation and radiolocation services operating in the frequency bands allocated to these services in the National Radio Frequency Plan published by ICASA in terms of section 34(12) of the Electronic Communications Act, 2005.
  - (b) The measures necessary for the protection of the Karoo Core and Central Astronomy Advantage Areas, which shall be applicable to the aeronautical mobile, aeronautical radio-navigation and radiolocation services, and to the use of aircraft within the Karoo Core and Central Astronomy Advantage Areas, shall, after concurrence is reached between the Minister of Science and Technology and the Minister of Transport, be promulgated by the Minister of Transport and be administered and enforced by the Civil Aviation Authority established in terms of Chapter 6 of the Civil Aviation Act, 2009 (Act No. 13 of 2009).
- (3) If there are irreconcilable differences between the English and the Afrikaans texts of these regulations, the English text will take precedence.

### 3. Prohibition and restrictions on radio frequency spectrum use and transmissions

- (1) The prohibition of radio frequency spectrum use and radio communication transmissions therein, as provided for in this regulation 3, shall apply to the radio frequency spectrum and to radio transmissions within that spectrum according to the radio frequency spectrum allocations made in terms of sub-regulation 2(1) to the respective geographical areas.
- (2) From one (1) year after the date that these regulations become operational, no licensee or licence exempt operator shall use, or continue to use, the radio frequency spectrum from 100 MHz to 25.5 GHz as allocated in sub-regulation 2(1) to the respective areas, and conduct radio transmissions within that spectrum and within the Karoo central astronomy advantage areas, unless –
  - (a) it is required for the purposes of radio astronomy and related scientific endeavours declared to be so in terms of section 28(1) of the Act; or
  - (b) the following conditions are complied with:
    - (i) that the spectrum to be used has been exempted from this prohibition in terms of regulation 3 of Schedule B of these Regulations; and
    - (ii) the management authority has considered possible radio frequency interference when considering the licensee or licence exempt operator's application for a permit in terms of regulation 4 of Schedule B of these Regulations, and has subsequently issued to that person a permit with relevant specifications and limitations to be complied with;or
  - (c) the exemptions on this requirement in terms of regulation 5 of this Schedule A, are applicable.



- (3) From the date that these regulations come into operation, no licensee or licence exempt operator shall use radio frequency spectrum and conduct radio communication transmissions therein for any new construction, upgrade, or expansion of a radio station or use of new radio equipment, within the Karoo central astronomy advantage areas unless sub-regulation 3(2)(b) of this Schedule A has been complied with, or sub-regulation 3(2)(c) applies.
- (4) Any radio frequency spectrum use and radio communication transmissions contemplated in sub-regulations 3(2)(b) and 3(3) shall comply with the conditions for radio frequency spectrum use and radio communication transmissions prescribed in regulation 4 of this Schedule A.
- (5) From one (1) year after the date that these regulations come into operation, no television broadcasting service licensee or broadcasting signal distribution licensee shall transmit a television broadcasting service in analogue format from a terrestrial transmitting station within the Karoo central astronomy advantage areas.

#### **4. Conditions for radio frequency spectrum use and transmissions**

- (1) In order for the permit contemplated in sub-regulation 3(2)(b)(ii) to be issued, the radio frequency interference caused by spectrum use and radio communication transmissions shall not exceed –
  - (a) the saturation level within the protection corridors in the Karoo central astronomy advantage area 1, as defined in Annexure A of this Schedule A or within a circle with a radius of 20 kilometres around the SKA Virtual Centre; and
  - (b) the protection levels prescribed in the Protection Levels Regulations 2012, as applied at the SKA Virtual Centre, unless the use or activity is for a designated service for which a specified interference level in excess of the prescribed protection level has been specified in a permit issued in terms of regulation 4 in Schedule B of these Regulations, to the person using that spectrum and making that transmission.



- (2) A compliance assessment shall be carried out by the management authority or alternatively by the applicant for a permit prior to the issuing of any permit in terms of regulation 4 in Schedule B of these Regulations, that shall include the following aspects to the extent that they are applicable –
- (a) The calculation of the radio frequency interference levels to determine whether the applicable protection level is exceeded at the SKA Virtual Centre and whether the saturation level is exceeded within the protection corridors in the Karoo central astronomy advantage area 1 as defined in Annexure A of this Schedule A, or within a radius of 20 km around the SKA Virtual Centre.
  - (b) The determination of radio frequency interference referred to in sub-regulation 4(2)(a) shall be carried out on the base (fixed) radio stations or radio equipment located at a fixed geographical location.
  - (c) If radio frequency interference or saturation level interference is likely to be caused by mobile or portable radio stations or radio equipment used in conjunction with the base station or radio equipment at a fixed location, the worst-case radio frequency interference conditions shall be determined with respect to the mobile or portable radio equipment.
  - (d) The determination and assessment of radio frequency interference may also be required by the management authority for radio equipment exempted by ICASA from radio frequency spectrum licensing in Part III, regulation 4 of the ICASA Spectrum Regulations 2015, that produces a radiated power level of greater than 250 milliwatt.
- (3) Conditions, which may include limitations on the geographical area in which mobile or portable radio stations or radio equipment may be used or any other method that will restrict the interference to the protection level, shall be added to any permit already granted in the event that-

- (a) a mobile or portable radio station or radio equipment used in conjunction with a base radio station for which a permit had been granted causes radio frequency interference at the SKA Virtual Centre; or
  - (b) saturation level radio frequency interference occurs within the protection corridors in the Karoo central astronomy advantage areas described in Annexure A of this Schedule A, or within 20 km of the SKA Virtual Centre.
- (4) Any person who operates radio equipment for which radio frequency spectrum licence exemptions have been prescribed by ICASA, in Part III, regulation 4 of the ICASA Spectrum Regulations, 2015, shall not operate or use such equipment within 50 km of the SKA Virtual Centre unless a permit has been granted by the management authority.

**5. Exemptions to the prohibition, restrictions and conditions**

- (1) The prohibition in sub-regulation 3(2) does not apply to existing radio communication transmissions within the spectrum from 100 MHz to 200 MHz which were lawful immediately before the promulgation of these Regulations: subject thereto that the spectrum being used, must be exempted in terms of regulation 3 of Schedule B of these Regulations and a permit must be acquired by that person in relation to the use of that spectrum and those radio communication transmissions, in terms of regulations 3 and 4 of Schedule B of these Regulations.
- (2) Radio equipment, for which radio frequency spectrum licence exemptions have been prescribed in Part III, regulation 4 of the ICASA Spectrum Regulations, 2015, is exempted from the restrictions prescribed in sub-regulations 3(2) and 3(3) on the use of the related radio frequency spectrum and the transmissions, and from the requirement for the possession of a permit, provided that:
- (a) the frequency spectrum use has been exempted from the prohibition in sub-regulation 3(2) in terms of regulation 3 of Schedule B of these Regulations;



- (b) the radio equipment produces a radio frequency effective isotropically radiated power (e.i.r.p.) level of less than or equal to 250 milliwatt;
  - (c) the radio equipment in sub-regulation 5(2)(b) complies with the relevant requirements and conditions that are stated in Annexure B of the ICASA Spectrum Regulations 2015;
  - (d) the radio equipment is used individually in accordance with the specifications in the ICASA Spectrum Regulations 2015 and not in conjunction with multiple units linked into networks or the radiated radio frequency power is not increased in any way;
  - (e) radio frequency interference exceeding the relevant protection level, as prescribed in the Protection Levels Regulations 2012, is not caused by the radio equipment at the SKA Virtual Centre or saturation level interference is not caused within the protection corridors or within a 20-km radius from the SKA Virtual Centre.
- (3) Radio equipment, such as cell phones, portable and mobile two-way radio communication stations, that is used in conjunction with fixed radio base stations licensed by ICASA and are included in the relevant ICASA radio frequency spectrum licences, is exempted from the restrictions prescribed in these regulations on use of the related radio frequency spectrum and radio communication transmissions, and from the requirement of having an individual permit, provided that the radio equipment complies with the applicable technical standards prescribed by ICASA and that the fixed radio stations to which it connects, complies with Schedule A of these Regulations.
- (4) Should any of the radio equipment contemplated in sub-regulations 5(2), and 5(3) cause radio frequency interference or saturation level interference, then –
- (a) a compliance assessment, as contemplated in sub-regulations 4(5) and 4(6) of Schedule B of these Regulations, shall be carried out to determine the extent of the radio frequency interference and an

application for a permit shall be filed with the management authority; or

(b) the relevant management authority may investigate the radio frequency interference or saturation level interference caused and determine permit conditions for the use of that category of radio equipment; or

(c) the Minister may declare a core astronomy advantage area within which all the exempted radio equipment may not be used as prescribed in the Core Astronomy Advantage Areas Regulations for Radio Astronomy published on 22 June 2012, in *Government Gazette* No. 35450, under Notice No. R.465.

(5) The granting or amendment of a permit contemplated in sub-regulation 5(4)(b) shall be subject to the procedures and criteria prescribed in Schedule B of these Regulations.

#### **6. Extension of the one-year period**

The Minister may, by notice in the *Gazette*, extend the one-year period contemplated in sub-regulations 3(2) and 3(5).

#### **7. Financial compensation**

Any financial compensation contemplated in terms of section 23(3)(a) of the Act with respect to a restriction on radio communication transmissions that were lawful within the Karoo central astronomy advantage areas before the publication of these Regulations shall be subject to Schedule C of these Regulations.

#### **8. Contraventions and penalties**

(1) Contraventions for which a prosecution may be instituted in a Court of Law, are the following:

(a) failure to be in possession of a permit within the time specified for obtaining a permit as required in terms of sub-regulations 3(2) and 3(3);

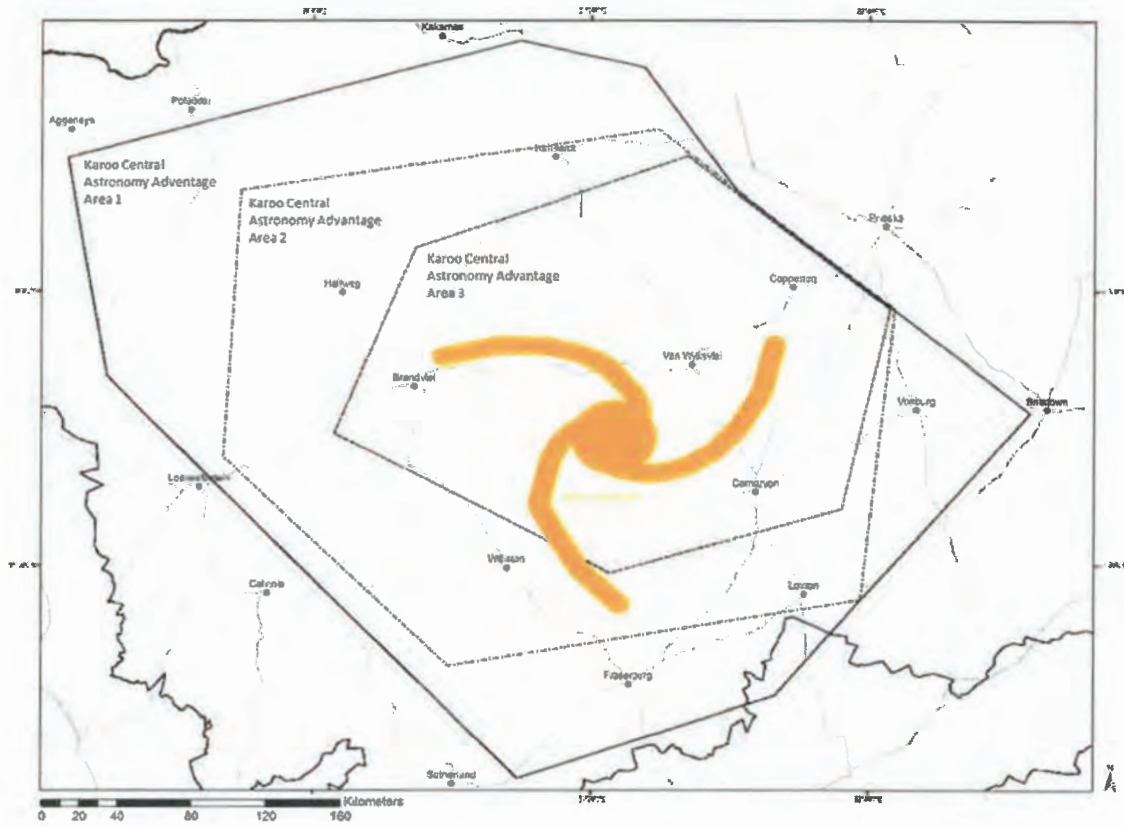


- (b) failure to comply with the conditions of a permit as required in sub-regulation 3(2)(b)(ii);
  - (c) failure by a user of radio equipment exempted in terms of sub-regulations 5(2) or 5(3), that is causing radio frequency interference to comply with permit conditions determined in terms of sub-regulation 5(4)(b) to avoid the interference;
  - (d) failure in radio frequency spectrum use and conducting radio communication transmission, contemplated in sub-regulations 3(2)(b) and 3(3), to abide by the conditions for such spectrum use or radio communication transmission as specified in regulation 4 of this Schedule A;
  - (e) failure by a television broadcasting licensee or a broadcasting signal distributor licensee to abide by sub-regulation 3(5) of this Schedule A;
  - (f) failure by a permit holder not to exceed the conditions provided for in sub-regulations 4(1) or 4(3); and
  - (g) failure by a user of a radio equipment to act within the conditions stated in sub-regulation 4(4).
- (2) The maximum fine for an intentional contravention of sub-regulation 8(1)(a), 8(1)(b), 8(1)(d), 8(1)(e), 8(1)(f), or 8(1)(g) is R200 000 and for a negligent contravention is R100 000.
- (3) The maximum fine for an intentional contravention of sub-regulation 8(1)(c) is R20 000 and for a negligent contravention R5000.
- (4) The fines referred to in sub-regulations 8(2) and 8(3) may be suspended as a whole or in part subject to a condition that the person convicted is not found guilty of the same offence within a maximum period of three years.

**Annexure A to Schedule A – Map of protection corridors****Map of protection corridors containing the SKA radio astronomy stations within the Karoo Central Astronomy Advantage Area 1**

- (1) The map on the next page depicts the 20-km radius circle around the SKA Virtual Centre, within which approximately 173 SKA radio astronomy stations will be located. The map also depicts three protection corridors required for approximately 24 SKA radio astronomy stations located within the Karoo Central Astronomy Advantage Area 1.
- (2) Although the geographical area for the protection corridors is related to that for the Karoo Central Astronomy Advantage Area 1, any radio frequency interference and the applicable restrictions must be attended to in terms of the radio frequency spectrum allocations to the geographical areas as set out in sub-regulation 2(1) of this Schedule A.
- (3) A smaller scale version of the map on the next page and/or a GIS-shape file is available on request from the management authority. The perimeters of the corridors are 5 km distant on either side of the spiral arms.
- (4) Applicants for a permit, who are determining radio frequency interference levels in terms of sub-regulation 4(2)(a), may request the management authority to provide the applicable geographical locations on the periphery of the protection corridors or on the 20-km circle around the SKA Virtual Centre for the radio frequency interference sources under consideration.





## SCHEDULE B OF THESE REGULATIONS

### Regulations on administrative matters regarding Schedule A for the Karoo central astronomy advantage areas declared for radio astronomy purposes

#### 1. Definitions

For purposes of these Schedule B Regulations, unless the context indicates otherwise –

**"the Act"** means the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007);

**"assessment point"** means the geographical location or any relevant point within an area defined in Schedule A of these Regulations, which location or point is used as the assessment point for the applicable protection measures prescribed in Schedule A of these Regulations;

**"competent person"** means a person who meets each of the criteria prescribed in regulation 8 of these Schedule B Regulations;

**"compliance assessment"** means the process that includes the activities prescribed in sub-regulation 4(3) of these Schedule B Regulations;

**"dBm"** means the radio frequency power level expressed in decibels relative to one milliwatt;

**"designated service"** means a radio communications service used in the Karoo central astronomy advantage areas that is classified as a designated service in terms of the criteria and procedures prescribed in regulation 7 of these Schedule B Regulations;

**"Electronic Communications Act"** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

**"effective radiated power"** means the product of the power level supplied to the antenna and the antenna gain relative to a half-wave dipole in the relevant direction;

**"ICASA"** means the Independent Communication Authority of South Africa, an independent regulatory body established in terms of the Independent Communication Authority of South Africa Act, 2000 (Act No. 13 of 2000), responsible for regulating broadcasting, postal services and electronic communications in the Republic;

**"ICASA Spectrum Regulations 2015"** means the radio frequency spectrum regulations published by ICASA on 30 March 2015, in *Government Gazette* No. 38641, under Notice No. 279;

**"ITU"** means the International Telecommunication Union;

**"Karoo central astronomy advantage areas"** means the Karoo central astronomy advantage areas declared on 12 March 2014 in *Government Gazette* No. 37434, under Notice No. 198;

**"licence exempt operator"** means a person who provides a service pursuant to an exemption granted by ICASA in terms of section 6 of the Electronic Communications Act, 2005, or uses radio frequency spectrum which is exempt from requiring a radio frequency spectrum licence by virtue of section 31(6) of the Electronic Communications Act, 2005, and regulations made in terms thereof;

**"licensee"** as defined in the Electronic Communications Act, 2005) means a person issued with a licence to provide services in terms of Chapter 3 or to use the radio frequency spectrum in terms of Chapter 5 of the Electronic Communications Act, 2005;

**"management authority"** means the organ of state to which the Minister has assigned the management of the Karoo central astronomy advantage areas in terms of section 15 of the Act and includes any party with whom the management authority has entered into a co-management agreement for the co-



management of the Karoo central astronomy advantage areas in terms of section 18 of the Act;

**"Protection Levels Regulations 2012"** means the regulations on radio astronomy protection levels applicable in astronomy advantage areas declared for the purposes of radio astronomy published on 10 February 2012 in *Government Gazette* No. 35007, under Notice No. R.90;

**"radio astronomy station"** means one or more receiving systems at a location, including accessory equipment, for receiving radio waves of cosmic origin for the purposes of radio astronomy;

**"radio communication"** means the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of radio or other electromagnetic waves without the aid of a tangible conductor;

**"radio communications network service licensee"** means an electronic communications network service licensee to whom ICASA has issued an electronic communications network service licence in terms of section 5(2) or 5(4) of the Electronic Communications Act, 2005;

**"radio communications service"** means an electronic communications service provided to the public, sections of the public, the State, or the subscribers to such service, which consists wholly or mainly of the conveyance by any means of radio communications over a radio communications network;

**"radio equipment"** means a product or relevant component thereof, capable of communication by means of radio waves utilising spectrum allocated to terrestrial/space radio communication;

**"radio frequency interference"** means the detrimental effect of received radio communication signals that exceed the protection levels prescribed in the Protection Levels Regulations 2012, for more than 5% of the time over a 24-hour period;

**"radio station"** means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying an electronic communications service, broadcasting service or any electronic communications authorised by ICASA, and any radio equipment used at a specific geographical location;

**"radio waves"** means electromagnetic waves of frequencies from 8.3 kHz to 3000 GHz, propagated in space without an artificial guide";

**"restricted radio frequency spectrum"** means radio frequency spectrum the use of which is prohibited or restricted by the Minister in terms of section 22 of the Act as determined in Schedule A of these Regulations;

**"saturation level"** means the total received power level of (minus) -100 dBm, or higher, within the transmission bandwidth of the radio communication producing the radio frequency interference level at which the saturation phenomenon occurs at a radio astronomy station or at a specified assessment point or points, or within a specified area;

**"Schedule A Regulations"** means the regulations to prohibit and restrict the use of certain radio frequency spectrum in terms of section 22 of the Act and certain declared activities in terms of section 23 of the Act, within the Karoo central astronomy advantage areas, which is Schedule A of these Regulations; and

**"Transmission characteristics"** means the geographical features of a radio station site, including the geographical location, and the effective height and terrain roughness as defined by the ITU, or another internationally recognised standard, and the technical features of the radio transmission, including the radio frequency, effective radiated power and wave polarisation, as required to calculate the radio frequency interference level at a specified geographical location.



## 2. Scope of the regulations in this Schedule B

- (1) These regulations apply to the Karoo central astronomy advantage areas declared for radio astronomy purposes as contemplated in section 9 of the Act.
- (2) If there are irreconcilable differences between the English and the Afrikaans texts of these regulations, the English text will take precedence.

## 3. Exemption of restricted radio frequency spectrum

- (1) Read with Schedule A of these Regulations, the Minister will give notice in the *Gazette*, after these Regulations have been published, of a list of the radio frequency spectrum to be considered for exemption from the prohibition on its use for transmissions located within the Karoo central astronomy advantage areas.
- (2) The notice contemplated in sub-regulation (1) –
  - (a) may also provide for the clustering of radio frequency spectrum assignments within any spectrum allocation to an application that is already being used in the Karoo central astronomy advantage areas; and
  - (b) will invite interested or affected parties to submit written representations on the notice within sixty (60) days from the date of the notice.
- (3) Before gazetting the notice contemplated in sub-regulation (1), the Minister will –
  - (a) request concurrence from ICASA on the radio frequency spectrum to be considered for exemption and on clustering of spectrum used in the allocated frequency bands; and
  - (b) in the manner contemplated in section 22(4) of the Act, notify all existing licensees and licence exempt operators who operate radio stations in the Karoo central astronomy advantage areas and who are listed in the permanent register of interested or affected parties for that area, of the notice to be gazetted.



- (4) The Minister will give consideration to the presentations or objections received and may request additional information from any person who made a written presentation and will, by notice in the *Gazette*, publish the list of exempted radio frequency spectrum within six (6) months after the date that these Regulations are made operational.
- (5) One year after the publication of the notice contemplated in sub-regulation 3(4), ICASA may submit to the Minister, a list of additional radio frequency spectrum to be exempted for use within the Karoo central astronomy advantage areas. Upon concurrence between the Minister and ICASA on additional radio frequency spectrum to be exempted, the Minister will publish the additional exemptions by notice in the *Gazette*.

#### **4. Requirements and procedures for compliance assessment and permit applications**

- (1) Prior to the issuing of any permit for frequency spectrum use and the transmission of a radio communication signal from a radio station within the Karoo central astronomy advantage areas, a compliance assessment shall be performed on each such transmission by the management authority, or alternatively by the licensee or licence exempt operator carrying out, or intending to carry out, the transmission. The applicant for a permit must indicate in the permit application whether he will perform the compliance assessment, or arrange for it to be done by a contractor, or request the management authority to do it.
- (2) The compliance assessment shall be performed by a competent person, as contemplated in regulation 8 of these Schedule B Regulations, who is employed or contracted by the management authority or the licensee or the licence exempt operator transmitting or intending to transmit the signal.
- (3) The compliance assessment must determine:
  - (a) The radio frequency interference level at the SKA Virtual Centre as prescribed in Schedule A of these Regulations and the comparison thereof with the applicable protection level for radio astronomy observations prescribed in the Protection Levels Regulations, 2012,

according to the criteria prescribed in regulation 6 of these Schedule B Regulations; and

- (b) The radio frequency interference level within the areas prescribed for the prohibition of saturation level interference in Schedule A of these Regulations and the comparison thereof with the saturation level, all according to the criteria prescribed in regulation 6 of these Schedule B Regulations; and
- (c) Whether there is compliance with all the applicable regulations made in terms of the Act.

[A list of the regulations that must be complied with in the compliance assessment for a permit application is provided in Annexure A to these Schedule B Regulations to assist applicants: provided that this list shall not be considered as exhaustive as there may be further or different aspects involved in a particular application.]

- (4) The report for compliance assessment based on computer modelling shall include all the information and data required as listed and described in a schedule to be obtained from the management authority.
- (5) In the event of a dispute between the applicant and the management authority, about:
  - (a) the validity of the radio frequency interference levels determined by means of computer modelling, or
  - (b) the accuracy of the determined radio frequency interference levels, that are considered to be unacceptable by the management authority,

then appropriate and feasible measurements of the interference level at a measurement point to be determined by the management authority, with acceptance of the location by the applicant, must be carried out in accordance with the relevant provisions in regulation 6 of these Schedule B Regulations. The party raising the dispute will be liable for the costs of the measurements to be done, provided that, if the results of the measurements proves that the dispute raised was valid, then the costs must be shared between the parties as agreed to in advance according to an estimate.



- (6) The results of the measurements, contemplated in sub-regulation 4(5), shall be reported in a separate detailed measurement report. The report shall include a description of the measurement process and standards used, the list of measuring and ancillary equipment used with calibration certificates, full information on measurement parameters (including location, height, date, time, and weather conditions) and the measurement results.
- (7) An application for a permit shall be done on a form obtained from the management authority and include all the information and data required therein. The application shall indicate whether the applicant chose to arrange for the compliance assessment to be performed or whether it is requested that the assessment must be performed by the management authority.
- (8) The completed application form and the compliance assessment report, if applicable, must be submitted by the licensee or licence exempt operator to the management authority for consideration and evaluation.

#### **5. Evaluation of compliance assessments and permit applications**

- (1) The management authority must evaluate each compliance assessment report and application for a permit submitted to it.
- (2) If an incomplete compliance assessment report or permit application is received –
  - (a) the applicant will be notified thereof in writing within fourteen (14) days of receiving the application;
  - (b) the incomplete report and/or application may be replaced with a complete version; and
  - (c) the evaluation process will only commence when the complete versions of the report and the application are available.
- (3) The management authority must, within thirty (30) days from the date the permit application and the assessment report, if applicable, was received by it, excluding the time taken for responses to external consultations required in terms of these regulations or responses to requests for

information to the applicant, inform the applicant in writing of the outcome, with reasons given, of its consideration of the application and if applicable, the evaluation of the compliance assessment report.

- (4) A permit will only be issued if the following criteria have been met -
  - (a) the radio frequency spectrum to be used is exempted in terms of regulation 3 of these Schedule B Regulations; and
  - (b) the determined radio frequency interference levels do not exceed the applicable prescribed protection levels; and
  - (c) the permit application complies with all the applicable requirements as listed in Annexure A to these Schedule B Regulations and any other matters identified.
- (5) A licensee or licence exempt operator, who receives a written notification that the criteria prescribed in sub-regulation 5(4) have not been met, may investigate and consider methods to comply with the criteria, and resubmit the permit application.
- (6) If the management authority requires more time than the time specified, within which to make a decision in terms of sub-regulation 5(3), or it is decided that an extensive technical evaluation and/or measurements is required, it may, within the specified period of time, including any valid additional time, inform the licensee or operator that additional time, up to a maximum of one hundred and eighty (180) days, is required and provide reasons why it is required.
- (7) If the management authority fails to act within the period specified in sub-regulation 5(3), or where the authority, in terms of sub-regulation 5(6) has extended the period by a certain amount of time and fails to act within an extended period determined by the management authority, the authority is regarded as having granted the permit applied for.
- (8) A permit issued to a licensee or a licence exempt operator by the management authority must specify the frequencies or frequency band that may be used, together with the transmission characteristics and the conditions within which the licensee or licence exempt operator must



comply. The permit must also specify any time required, and agreed to by the management authority, to modify an existing radio station installation or radio equipment in order to comply with the permit conditions.

- (9) If the management authority receives a written complaint, after a permit has been issued that the radio frequency interference level measured is higher than the level recorded in the permit, and exceeds the applicable protection level, the compliance assessment report must be reviewed by the management authority, to determine the validity of the original assessment, taking the accuracy of the computer modelling or measurements done, into account. The results of the review will determine whether the transmission characteristics specified in the permit issued, need to be adjusted to avoid the applicable protection level being exceeded. The management authority shall inform the permit holder in writing that the matter will be attended to in terms of sub-regulation 5(12).
- (10) If a licensee or licence exempt operator, to whom a permit has been issued, seeks to amend the frequencies or frequency band that may be used, or the transmission characteristics or the conditions specified in its permit, then an application for a new permit shall be made to the management authority for such amendment.
- (11) Sub-regulations 4(1) to 4(9), read with the necessary changes, apply to such application for an amendment of a permit issued.
- (12) If the management authority finds, thirty (30) days after the issuing of a permit, taking into account any time provided for in the permit to modify an existing radio station installation or radio equipment, and having granted the permit holder seven days to respond to the allegation, that the conditions specified in the permit are not complied with, then the permit may immediately be withdrawn by the management authority. The holder of such permit must immediately cease any activity conducted under such permit and will be regarded as not possessing a permit as required in terms of Schedule A of these Regulations.

## 6. Criteria for determination of radio frequency interference levels

- (1) The radio frequency interference level produced by any radio communication transmission within the Karoo central astronomy advantage areas, shall be determined by using the transmission characteristics stated in the permit application according to the technical criteria prescribed in the sub-regulations that follow.
- (2) The determination of the radio frequency interference levels should in the first instance be carried out by means of computer modelling which employs scientific methods and standards listed in Annexure B to these Schedule B Regulations and which calculates the radio frequency interference levels related to the protection conditions prescribed in Schedule A of these Regulations and the criteria set out in sub-regulation 6(4).
- (3) If computer modelling is not feasible or appropriate, or if greater accuracy is required than computer modelling can provide, then –
  - (a) the radio frequency interference levels must be determined by means of measurements by a person or persons regarded as competent and who has the required measurement equipment available; and
  - (b) the measurement standards and techniques to be used must be described in writing by the competent person who is performing the measurements; and
  - (c) an agreement must be reached between the management authority and the applicant for a permit or the holder of a permit on the designated person or persons to perform the measurements and the measurement equipment, standards and techniques to be used; and
  - (d) if an agreement cannot be reached, the management authority must make the necessary determinations.
- (4) The calculation or measurement of radio frequency interference levels must be based on the following criteria –
  - (a) the application of the relevant standard for the calculation method to predict the radio frequency interference level as defined in, but not



- limited to, the calculation standards and methods set out in Annexure B to these Schedule B Regulations;
- (b) signal levels that shall not be exceeded for more than 5% of the time, over a twenty-four (24) hour period;
  - (c) a reference height of 10 meters above ground level at the assessment points for the protection conditions prescribed in Schedule A of these Regulations;
  - (d) an isotropic antenna condition with 0dB gain at the assessment points for the protection conditions prescribed in Schedule A of these Regulations;
  - (e) the use of a digital terrain model that will produce acceptable results and which may take clutter data and ground conductivity into account; and
  - (f) the transmission characteristics provided in the compliance assessment.
- (5) The determination of the radio frequency interference levels must include the following –
- (a) a point-to-point calculation of the radio frequency interference level on the propagation path between the radio station or location of the radio equipment and the specified assessment points for the protection conditions prescribed in Schedule A of these Regulations; and
  - (b) the calculation of the signal path losses over the propagation paths referred to in (a), in dB.

#### **7. Criteria, procedures and conditions that apply to a designated service**

- (1) Radio communication transmissions that provide the services listed below may be considered by the management authority for classification as designated services –
- (a) broadcasting signal distribution via geostationary satellites for distribution to terrestrial broadcasting transmitters and for direct-to-home reception and VHF/FM sound broadcasting transmissions;

- (b) electronic communications network services of provincial and national scope licensed by ICASA in terms of section 5(3) of the Electronic Communications Act, 2005;
  - (c) electronic communications for the operation and maintenance of electricity transmission and distribution power systems;
  - (d) electronic communications for the operation and maintenance of rail transport;
  - (e) electronic communications for security services and their objects as defined in Chapter 11 of the Constitution of the Republic of South Africa 1996, local government and their objects as defined in Chapter 7 of the Constitution, health services and emergency services; and
  - (f) geostationary satellite communications.
- (2) An application for a permit in terms of regulation 4(7) of these Schedule B Regulations for a radio communication service that may qualify to be classified as a designated service in terms of sub-regulation 7(1), must –
- (a) request such classification in the permit application;
  - (b) state the transmissions and the radio frequency interference level that cannot be reduced to comply with the applicable protection level without significantly affecting that service;
  - (c) provide an explanation and the reasons why the interference level cannot be reduced; and
  - (d) request that a radio frequency interference level in excess of the prescribed value be permitted.
- (3) In the determination by the management authority of whether a radio communication service in sub-regulation 7(1) should be classified as a designated service, or not, consideration must be given to –
- (a) the existence of a functionally suitable and economically feasible alternative which complies with or better meets the conditions prescribed in regulation 4 of Schedule A of these Regulations; and
  - (b) the possible use of an alternative frequency band and/or an alternative technology that has a lesser radio frequency interference impact on the protection of radio astronomy.



- (4) The classification for each different type of radio communication service, operating in a different frequency band or using a different technology, in particular for licensees providing multiple types of services, must be determined separately and so indicated in the permit to be issued.
- (5) The management authority must, before the evaluation process for the compliance assessment and the application for a permit prescribed in regulation 5 of this Schedule B Regulations commences, determine whether the radio communication service involved will be classified as a designated service.
- (6) A radio communication service classified as a designated service must comply with the conditions prescribed in regulation 4 of these Schedule A Regulations, provided that a radio frequency interference level in excess of the prescribed value may be permitted.
- (7) A classification as a designated service may be cancelled by the management authority when a different electronic communication system that is functionally suitable and economically feasible becomes available, which complies with or to a greater extent meets the restrictions, conditions and standards prescribed in Schedule A of these Regulations for the protection of radio astronomy. However, any cancellation contemplated, must first provide a reasonable opportunity to the permit holder to study the consequences of the cancellation, to consider alternative options and to submit an alternative solution in this regard.
- (8) No relief may be granted by the management authority where radio frequency interference is likely to exceed the saturation level at any applicable assessment point or area prescribed in Schedule A of these Regulations.

#### **8. Criteria to be met by a person carrying out compliance assessment**

- (1) A person who carries out a compliance assessment and compiles the report, must:
  - (a) possess an academic qualification in electronic or radio frequency engineering at least at the level that would qualify that person to be

registered as a professional engineering technologist in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);

- (b) have access to or be able to obtain access to a computerised frequency spectrum planning system that is usable to carry out the computer modelling for the radio frequency signal level calculations based on the relevant methods and standards listed in Annexure B to these Schedule B Regulations, and uses a digital terrain model that will produce acceptable results; and
  - (c) be able to provide at least two references for work carried out successfully in the preceding five (5) years which involved the determination of radio wave propagation and signal levels.
- (2) Alternative to sub-regulation 8(1), the management authority shall perform an assessment of the skills and experience of a person wishing to carry out the compliance assessment and the compilation of the report to determine whether the person possesses the required ability and capacity.
  - (3) The format of the assessment report to be compiled by the person who performs the compliance assessment and the information required therein shall be in accordance with a schedule to be obtained from the management authority.
  - (4) The management authority must advise the applicant for a permit in writing whether the person who carried out the compliance assessment and submitted the required information, met the requirements stated in sub-regulation 8(1), or not, or if a skills and experience assessment was undertaken, what the outcome was. A person who met the requirements or who had a positive outcome in an assessment, will be presumed to be competent to carry out further compliance assessments if the person is shown, to the satisfaction of the management authority, to have remained actively engaged in the work that led to that person's having been regarded as competent: in which case the said person shall only have to provide his name and an appropriate identification number for further permit applications, the compliance assessment of which was carried out by him.



**9. Permit conditions and permit register**

- (1) Each permit granted by the management authority in terms of regulation 5 of these Schedule B Regulations, shall include the permissible transmission characteristics and the conditions for the required protection that the permit holder shall comply with.
- (2) The transmission characteristics and the conditions specified in each permit issued in terms of regulation 5 of these Schedule B Regulations, must be entered, by the management authority, into a permit register for the Karoo central astronomy advantage areas, such register being held at the management authority.
- (3) The detailed information to be entered in the permit register must include the transmission characteristics used for the compliance assessment and the assessment results for each radio communication signal and assessment point involved.
- (4) Access to the register is limited to the manager of the management authority under whose control the register is placed by the Minister or, with written permission of the manager, a person in the service of that management authority provided that access to the Register may be gained by the permit holder with the written authorisation of the manager or the person authorised by him or, in the absence thereof, consequent upon a court order granted to the permit holder or another person, on good cause shown; provided further that a certified copy may be provided to such a permit holder by way of registered post by the manager or the person authorised by him.



### **Annexure A to Schedule B: Table of Compliance Requirements for Permit Applications**

The table below is provided to assist applicants for permits to determine whether the applicants have complied with all the administrative requirements for permit applications prescribed in these Schedule B Regulations. These Schedule B Regulations provides in regulation 4(3)(c) that compliance with all applicable regulations made in terms of the Act need to be determined and regulation 5(2) states the manner in which incomplete applications are to be dealt with.

<u>Reference</u>	<u>Summary of requirement</u>
Regulation 4(1)	A compliance assessment shall be performed before the submission of a permit application if the permit applicant chooses to perform the compliance assessment.
Regulation 4(2)	The compliance assessment shall be performed by a competent person.
Regulation 4(3)	The compliance assessment must include the activities prescribed in sub-regulations 4(3) (a), (b) and (c).
Regulation 4(4)	The compliance assessment report shall comply with the format and information requirements in the schedule to be obtained from the management authority.
Regulation 4(7)	A permit application shall comply with a form to be obtained from the management authority.
Regulation 6	Criteria for determination of radio frequency interference levels.
Regulation 7(2)	Respond to the sub-items if consideration as a designated service is sought.

**Annexure B to Schedule B: Propagation calculation standards and methods**

This annexure relates to sub-regulation 6(4)(a) of these Schedule B Regulations. The intention of the information provided in this annexure is to assist competent persons or any other person involved in the determination of radio frequency interference levels. The information is not meant to be prescriptive or limiting of the standards and techniques that may be used and that may provide results with a higher level of accuracy. The options stated may be considered as the minimum standards applicable to carry out radio frequency interference level predictions.

1. ITU Recommendation ITU-R P.1144 - Guide to the application of the propagation methods of Radiocommunication Study Group 3. This recommendation lists the ITU-R radio wave propagation prediction methods that may be used for the different applications. The options applicable to radio frequency interference predictions that relate to Schedule A of these Regulations, are listed below.
  - 1.1. Recommendation ITU-R P.452 – Service employing stations on the surface of the Earth; interference
  - 1.2. Recommendation ITU-R P.526 – Propagation by diffraction
  - 1.3. Recommendation ITU-R P.528 – Aeronautical mobile
  - 1.4. Recommendation ITU-R P.530 – Line-of-sight fixed links
  - 1.5. Recommendation ITU-R P.617 – Trans-horizon fixed links
  - 1.6. Recommendation ITU-R P.2001 – Terrestrial services
2. The Longley-Rice model accepted by the Federal Communications Commission in the United States of America may also be used as it is employed in a number of computerised prediction programmes on the market.
3. Other methods for determining the propagation path loss may also be used with agreement of the management authority.



## **SCHEDULE C OF THESE REGULATIONS**

### **Regulations on financial compensation procedures for the Karoo central astronomy advantage areas**

#### **1. Definitions**

For purposes of these Schedule C Regulations, unless the context indicates otherwise –

**"the Act"** means the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007);

**"affected person"** means a person who –

- (a) lawfully conducted an activity in a central astronomy advantage area prior to the restriction of that activity by virtue of Schedules A and D of these Regulations; and
- (b) is required by the Minister in terms of Schedules A and D of these Regulations to cease that activity or to comply with conditions prescribed in terms of Schedules A and D of these Regulations;

**"Electronic Communications Act"** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

**"financial loss"** means –

- (a) the substantiated monetary loss incurred by an affected person as a result of having to comply with a restriction or implement a requirement or a condition imposed in terms of section 23 of the Act as provided for in Schedules A and D of these Regulations; and
- (b) the connecting cost and additional user cost to a radio communications service user for an electronic communications service that is different to the electronic communications service used by that user prior to the publication of a regulation in terms of section 23 of the Act;

**"GPS"** means a global positioning system;

**"ICASA"** means the Independent Communication Authority of South Africa, an independent regulatory body established in terms of the Independent

Communication Authority of South Africa Act, 2000 (Act No. 13 of 2000), responsible for regulating broadcasting, postal services and electronic communications in the Republic;

**"licence exempt operator"** means a person who provides a service pursuant to an exemption granted by ICASA in terms of section 6 of the Electronic Communications Act, 2005, or uses radio frequency spectrum which is exempt from requiring a radio frequency spectrum licence by virtue of section 31(6) of the Electronic Communications Act, 2005, and regulations made in terms thereof;

**"licensee"** means a person to whom ICASA has issued a licence to provide a service in terms of Chapter 3 or to use radio frequency spectrum in terms of section 31 of the Electronic Communications Act, 2005;

**"management authority"** means the organ of state to which the Minister has assigned the management of the relevant central astronomy advantage area in terms of section 15 of the Act and includes any party with whom the management authority has entered into a co-management agreement for the co-management of the relevant central astronomy advantage area in terms of section 18 of the Act;

**"Schedule A Regulations"** means the regulations to prohibit and restrict the use of certain radio frequency spectrum in terms of section 22 of the Act and certain declared activities in terms of section 23 of the Act, within the Karoo central astronomy advantage areas, which is Schedule A of these Regulations; and

**"Schedule D Regulations"** means the regulations to restrict certain electrical activities in terms of section 23 of the Act, within the Karoo central astronomy advantage area 1, which is Schedule D of these Regulations.



## **2. Scope of the regulations in this Schedule C**

- (1) These regulations apply to any central astronomy advantage area declared for radio astronomy purposes and related scientific endeavours.
- (2) If there are irreconcilable differences between the English and the Afrikaans texts of these regulations, the English text will take precedence.

## **3. Procedures and criteria to apply for financial compensation**

- (1) An affected person who has suffered a substantiated financial loss solely as a direct result of that person's compliance with a requirement or a condition imposed in terms of Schedules A and D of these Regulations, or a person whose use of the service of a licensee or a licence exempt operator is adversely affected as a direct result of that operator's compliance with a requirement or a condition imposed in terms of Schedule A of these Regulations, may apply to the Minister for compensation in terms of this regulation.
- (2) The application for compensation contemplated in sub-regulation (1) must be submitted on the form which may be obtained from the management authority or the website of the management authority and submitted to the management authority within two (2) years of the implementation of the relevant requirement or condition.
- (3) If an applicant applies for compensation in relation to different activities or services, the applicant must submit a separate application for each activity or service.

## **4. Processing of the application by the management authority**

- (1) Upon receipt of the application, the management authority may request further information from the applicant, in writing, and, if deemed necessary, the applicant must by way of a sworn statement provide such further information to the management authority, for consideration of the application and the applicant must respond to the request for further information within thirty (30) days from the date that the request was sent.
- (2) The management authority must consult ICASA, on each application received, to determine whether the activity involved in the application for



financial compensation was lawfully conducted within the relevant central astronomy advantage area immediately before the Schedule A Regulations were published.

- (3) The management authority must, within sixty (60) days from the date that the last information required was received, refer the application, all relevant documentation and any further particulars submitted by the applicant, with a recommendation to the Minister for a decision, provided that the Minister may extend the period of sixty (60) days on good cause shown, as set out by the management authority, by notice to the applicant.
- (4) The management authority must within thirty (30) days of receipt of the Minister's decision, inform the applicant in writing of the Minister's decision and provide the applicant with written reasons for the decision, which includes an offer of compensation as determined in accordance with regulation 5 of these Schedule C Regulations.

#### **5. Determination of compensation by the Minister**

If the Minister approves that the applicant should receive compensation, the Minister must determine the amount of compensation, having regard to all the relevant circumstances, including –

- (a) the nature and extent of the activity lawfully conducted or the service used by the applicant immediately before the implementation of the relevant requirement or condition;
- (b) the extent to which the applicant ceased the relevant activity, the nature and extent to which the applicant modified its conduct of the relevant activity, or the extent and nature to which the applicant's use of the service was adversely affected, solely as a direct result of compliance with the requirement(s) or conditions imposed in terms of Schedules A and D of these Regulations;
- (c) the property or equipment which was owned or used by the applicant to conduct the relevant activity or use the service and the extent to which the use thereof had been adversely affected solely as a direct result of compliance with the requirement(s) or conditions imposed in terms of Schedules A and D of these Regulations; and

- (d) the substantiated actual financial loss suffered by the applicant solely as a direct result of compliance with the requirement or conditions imposed in terms of Schedules A and D of these Regulations.

**6. Acceptance of the offer by the applicant**

- (1) Within thirty (30) days of receipt of the offer in sub-regulation 4(4), the applicant must inform the management authority in writing of its acceptance or rejection of the offer.
- (2) If the applicant accepts the offer made in terms of sub-regulation 4(4), the management authority must pay the applicant the amount in a manner and within the period agreed upon by the applicant and the management authority, which period may not be more than sixty (60) days after receipt of notice of acceptance of the offer from the applicant.



## SCHEDULE D OF THESE REGULATIONS

### Regulations restricting interference due to electrical activities within the Karoo central astronomy advantage area 1

#### 1. Definitions

For purposes of these regulations unless the context indicates otherwise –

**"the Act"** means the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007);

**"CENELEC"** means the European Committee for Electrotechnical Standardisation;

**"CISPR"** means the International Special Committee on Radio Interference setting standards for controlling electromagnetic interference in electrical and electronic devices;

**"electrical equipment"** means any electrical machinery, electrical systems, appliances or devices, including any wireless data communications used for the operation of these facilities, used for construction, distribution and transmission power systems, exploration, farming, household, manufacturing, maintenance, or mining purposes;

**"electrical infrastructure"** means any infrastructure or facility, including any wireless data communications used for the operation of the electrical infrastructure, to be used in any way for electricity generation, electricity distribution, electricity transmission, or for a distribution or transmission power system, and electrical facilities and equipment used for these applications;

**"electricity generation"** means the production of electricity by any means including inverters converting direct current into alternating current;

**"Electricity Regulation Act"** means the Electricity Regulation Act, 2006 (Act No. 4 of 2006);

**“electromagnetic emissions”** means unintentional radio frequency emissions by electrical infrastructure, and electrical equipment, which characteristically occupies broad parts of the radio frequency spectrum and causes radio frequency interference;

**“existing electrical equipment and infrastructure”** means electrical equipment and infrastructure that is in operation or in use or where construction on site has started, prior to the date on which these regulations are promulgated by publication in the *Government Gazette*;

**“isotropic antenna”** means a theoretical point source or destination of electromagnetic waves which radiates the same intensity of radiation or has the same sensitivity of reception in all directions;

**“IEC”** means the International Electrotechnical Commission that prepares and publishes international standards for electrical, electronic and related technologies;

**“IEEE”** means the Institute of Electrical and Electronics Engineers in the United States of America which makes, maintains and publishes standards;

**“ITU”** means the International Telecommunication Union;

**“Karoo Central Astronomy Advantage Areas 1, 2 and 3”** means the Karoo Central Astronomy Advantage Area 1, 2 and 3 declared on 12 March 2014 in *Government Gazette* No. 37434, under Notice No. 198;

**“management authority”** means the organ of state to which the Minister has assigned the management of the Karoo central astronomy advantage areas in terms of section 15 of the Act and includes any party with whom the management authority has entered into a co-management agreement for the co-management of the Karoo central astronomy advantage areas in terms of section 18 of the Act;

**“protection corridors”** means 10-km wide corridors of land, centred on a radio astronomical spiral arms configuration, within which SKA stations within the Karoo Central Astronomy Advantage Area 1 are to be positioned, that also



applies to the Karoo Central Astronomy Advantage areas 2 and 3, depending on the radio frequency used, and as depicted and described in Annexure A to these Schedule D Regulations;

**"Protection Levels Regulations 2012"** means the regulations on radio astronomy protection levels to be applied in astronomy advantage areas declared for the purposes of radio astronomy on 10 February 2012, in *Government Gazette* No. 35007, under Notice No. R.90;

**"radio astronomy station"** means one or more receiving systems at a location, including accessory equipment, for receiving radio waves of cosmic origin for the purposes of radio astronomy;

**"radio frequency interference"** means the detrimental effect of received radio signals or signals from electromagnetic emissions that exceed the radio astronomy observation protection levels prescribed in the Protection Levels Regulations, 2012;

**"SABS"** means the South African Bureau of Standards established by section 3 of the Standards Act, 2008 (Act No. 8 of 2008);

**"SANS"** means a South African National Standard developed by the SABS in terms of the Standards Act, 2008 (Act No. 8 of 2008), and includes international standards adopted by the SABS;

**"saturation level"** means the total received power level of (minus) -100 dBm, or higher, within the transmission bandwidth of the radio communication producing the radio frequency interference level at which the saturation phenomenon occurs at a specified assessment point or points, or within a specified area;

**"separation distance"** means the distance required between any electrical equipment or infrastructure and the nearest SKA Infrastructure Territory or the SKA Virtual Centre, taking into account any mitigation applied to reduce the radio frequency interference, which distance is required not to exceed the applicable protection levels prescribed in the Protection Levels Regulations, 2012;



**“SKA”** means the Square Kilometre Array radio telescope consisting of an array of radio astronomy stations to be located in the Republic of South Africa and in participating African countries in accordance with the decision of the SKA Organisation;

**“SKA Infrastructure Territory”** means the protection corridors within the Karoo Central Astronomy Advantage Area 1 as depicted and described in Annexure A to these Schedule D Regulations and the 20km radius circular area around the SKA Virtual Centre; and

**“SKA Virtual Centre”** means the geographical point located at geographical coordinates 30.71292 degrees South and 21.44380 degrees East that relates to the SKA array of radio astronomy stations within the Karoo Astronomy Advantage Areas.

## **2. Scope of the regulations in this Schedule D**

- (1) These Schedule D Regulations apply to any electrical infrastructure and electrical equipment within the geographical area of the Karoo Central Astronomy Advantage Area 1 with respect to –
  - (a) electromagnetic emissions within the radio frequency spectrum from 100 MHz to 2170 MHz declared for radio astronomy purposes; and
  - (b) radio transmissions involved in wireless data communication used for the functioning of electrical infrastructure and electrical equipment within the radio frequency spectrum from 100 MHz to 25,5 GHz declared for radio astronomy purposes.
- (2) Radio communications used for support services on an infrastructure site, and externally to the site, shall be subject to the provisions of Schedule A of these Regulations.
- (3) If there are irreconcilable differences between the English and the Afrikaans texts of these regulations, the English text will take precedence.

## **3. Conditions for electrical infrastructure and equipment**

- (1) No person may construct, install, operate or use any electrical infrastructure and electrical equipment within the Karoo Central Astronomy Advantage Area 1 unless it complies with these Schedule D Regulations and the management authority has issued a permit in relation thereto; or, it has been exempted from the possession of a permit as provided for in sub-regulations 3(3), 3(4) and 3(5).
- (2) All electrical infrastructure and any electrical equipment used in connection therewith or on its own –
  - (a) shall not cause radio frequency interference due to electromagnetic emissions within the SKA Infrastructure Territory;
  - (b) shall not cause radio frequency interference, due to any wireless communications used within an infrastructure installation, at the SKA



Virtual Centre or saturation level interference within the SKA Infrastructure Territory; and

- (c) shall be separated from the nearest SKA Infrastructure Territory and from the SKA Virtual Centre by the required separation distances that are determined in accordance with regulation 6 of these Schedule D Regulations in order to comply with sub-regulations 3(2)(a) and 3(2)(b).
- (3) Existing electrical equipment and infrastructure is exempted from the requirement to acquire and possess a permit unless it is found that radio frequency interference is caused.
- (4) New electrical equipment and infrastructure, with an electrical power rating of greater than 100 kVA and within a distance of 30 km from the nearest SKA Infrastructure Territory, or within a distance of 50 km for electricity generation by means of wind turbines, require a permit in terms of regulation 4 of these Schedule D Regulations. At greater distances, these facilities are exempted from the requirement to acquire and possess a permit unless it is found that radio frequency interference is caused.
- (5) New electrical equipment and infrastructure with an electrical power rating of equal to or less than 100 kVA, is exempted from the requirement to acquire and possess a permit unless it is found that radio frequency interference is caused.
- (6) In the event that radio frequency interference is caused within the nearest SKA Infrastructure Territory or at the SKA Virtual Centre by electrical equipment and infrastructure exempted in terms of sub-regulations 3(3), 3(4) and 3(5), the situation shall be attended to as follows –
- (a) the interference caused shall be investigated by the management authority to determine the source and level of interference;
- (b) the radio frequency interference must be removed in order to ensure compliance with sub-regulations 3(2)(a) and 3(2)(b); and
- (c) to facilitate ongoing compliance, the management authority shall determine the required permit conditions that must be complied with and issue the permit under which the electrical equipment and

infrastructure may continue to operate without causing radio frequency interference.

#### **4. Criteria and procedures for a permit application**

- (1) An applicant for a permit, contemplated in sub-regulations 3(1) and 3(4), of these Schedule D Regulations, taking into account the exemptions provided for in sub-regulations 3(3), 3(4) and 3(5), must file a permit application at the management authority on a form obtained from the management authority.
- (2) The permit application contemplated in sub-regulation 4(1) must be accompanied by the information listed and described in a schedule to be obtained from the management authority.
- (3) The information to be provided, as contemplated in sub-regulation 4(2), must comply with the requirements of regulations 5 and 6 of these Schedule D Regulations.
- (4) The management authority must consider each application for a permit filed at the management authority and evaluate the information provided in terms of sub-regulation 4(2), as applicable, and if the management authority is satisfied that there is compliance, as applicable, with regulations 3 and 4(1) of these Schedule D Regulations, a permit must be issued to the applicant no later than sixty (60) days after the date that the application was received.
- (5) If the application does not comply, as applicable, with regulations 3 or 4(1) of these Schedule D Regulations, the management authority must inform the applicant in writing within a period of thirty (30) days of the date that the application was received and allow the applicant to re-submit the application with further information, measures or plans, as is relevant.
- (6) The management authority must take into account any mitigating measures or plans, submitted with the permit application or with a re-submission of the permit application.
- (7) If the management authority decides to grant the permit,
  - (i) the authority must issue the permit; and



- (ii) the permit must include all the conditions that the permit holder must comply with relating to the electrical infrastructure and equipment.
- (8) If a person who has been issued a permit ceases operations or ceases to use any electrical infrastructure or equipment to which the permit relates, that person must give written notice thereof to the authority which granted the permit within ninety (90) days of such cessation.
- (9) If a person who has been issued a permit, carries out design retrofits or alterations to the electrical infrastructure or equipment to which the permit relates, that will increase the level of electromagnetic emissions or radio transmissions that will result in non-compliance with sub-regulations 3(2)(a) and 3(2)(b) of these Schedule D Regulations, the permit issued will become invalid and the person must submit a new application in accordance with these Schedule D Regulations.

#### **5. Determination of electromagnetic emission and radio transmission levels**

- (1) For the purposes of these Schedule D Regulations, electromagnetic emissions must be determined in accordance with any applicable standard published by the CENELEC, CISPR, IEC, IEEE, ITU or SANS or a standard prescribed in terms of the Electricity Regulation Act, 2006. The management authority and the applicant must consider the applicable options for the standard to be applied and agree on the standard to be used.
- (2) If the electromagnetic emission standard has not been determined as contemplated in sub-regulation 5(1), or the emissions are different to those specified in the applicable standard, a detailed measurement report of the actual emission levels based on the applicable international or SANS measurement standard or a measurement report from an accredited measurement laboratory in the Republic or another country must be provided by the applicant to the management authority, together with supporting documentation.
- (3) If an applicable standard, as contemplated in sub-regulation 5(1) or (2) above, is not available or deemed to be inappropriate by the management authority, or if an agreement on the standard to be applied cannot be reached, and the undertaking of a measurement is not possible due to technical or other



reasons, the management authority must determine which existing standard is the most appropriate that must be used.

(4) A suitable standard may also be established in terms of section 37 of the Act.

(5) For radio transmissions involved in wireless communications in the electrical system at the site, the aggregate values of all the transmissions at the infrastructure site on the various frequencies must be determined in accordance with the applicable standard chosen from those listed in Annexure B to these Schedule D Regulations.

#### **6. Determination of the required separation distances**

(1) The required separation distances shall be the distances required to comply with both sub-regulations 3(2)(a) and 3(2)(b) of these Schedule D Regulations, over which distances the electromagnetic and radio signal levels, after signal loss through any mitigation at the site has been taken into account, shall be reduced to the applicable protection levels prescribed in the Protection Levels Regulations, 2012.

(2) The frequency dependent propagation path lengths required, shall be determined by physical measurements or by using the applicable methods and standards for propagation calculations listed in Annexure B to these Schedule D Regulations, and shall be the required separation distances for the radio frequency interference signals involved.

(3) The measurements or propagation calculations shall be based on the following criteria:

(a) the maximum height above sea level of the electrical equipment or infrastructure;

(b) the ground level height above sea level plus 10 metres at the nearest SKA Infrastructure Territory and the SKA Virtual Centre;

(c) interference levels that will not be exceeded for more than 5% of the time over a twenty-four-hour period;

(d) use of an isotropic antenna with 0dB gain at the nearest SKA Infrastructure Territory and at the SKA Virtual Centre; and

- (e) use of a digital terrain model that will produce acceptable results and which may take ground conductivity and clutter data for the Karoo Central Astronomy Advantage Area 1 into account.
- (4) The required separation distances to comply with sub-regulations 3(2)(a) and 3(2)(b) of these Schedule D Regulations are those reflecting the highest levels of radio frequency interference, respectively at the nearest SKA Infrastructure Territory related to electromagnetic emissions and at the SKA Virtual Centre related to radio signals.

## **7. Procedures to resolve radio frequency interference**

In the event that radio frequency interference is caused by electrical infrastructure or electrical equipment exempted from the possession of a permit in terms of sub-regulations 3(3), 3(4) or 3(5) of these Schedule D Regulations or by electrical infrastructure or electrical equipment for which a permit has been issued, due to errors or accuracy limitations in the calculations to determine the separation distances, the following criteria and procedures shall apply-

- (1) The management authority must request a detailed measurement report on the actual electromagnetic interference levels based on the applicable SANS measurement standards, or a different applicable standard as determined by the management authority, with supporting documentation, to be provided to the management authority by the person in possession of the infrastructure or electrical equipment.
- (2) If the person who possesses the electrical infrastructure or electrical equipment is not able to provide the report, then the management authority must, at the cost of the permit holder for the infrastructure or electrical equipment, arrange for the measurements to be done in order to determine to what extent the applicable protection level prescribed in the Protection Levels Regulations, 2012, is exceeded.
- (3) The electromagnetic interference must be reduced to below the applicable protection level prescribed in the Protection Levels Regulations, 2012, by establishing the required separation distance determined according to regulation 6 of these Schedule D Regulations or by implementing



appropriate mitigation measures around the source of the radio frequency interference.

- (4) When the radio frequency interference situation has been resolved and the required conditions determined, a permit must be issued by the management authority in which the conditions for the ongoing operation of the electrical infrastructure or electrical equipment are specified.
- (5) The person who incurred the cost to generate the radio frequency interference report may recover that cost, to the extent that it can be verified as applicable and reasonable, from the management authority in the event that the particular electrical infrastructure or equipment under consideration was wrongfully identified as the source of the radio frequency interference.
- (6) If it is found that existing electrical equipment and infrastructure is causing radio frequency interference, then any cost for generating interference reports shall be borne by the management authority which shall carry out or arrange the required measurements.

## **8. Contraventions and penalties**

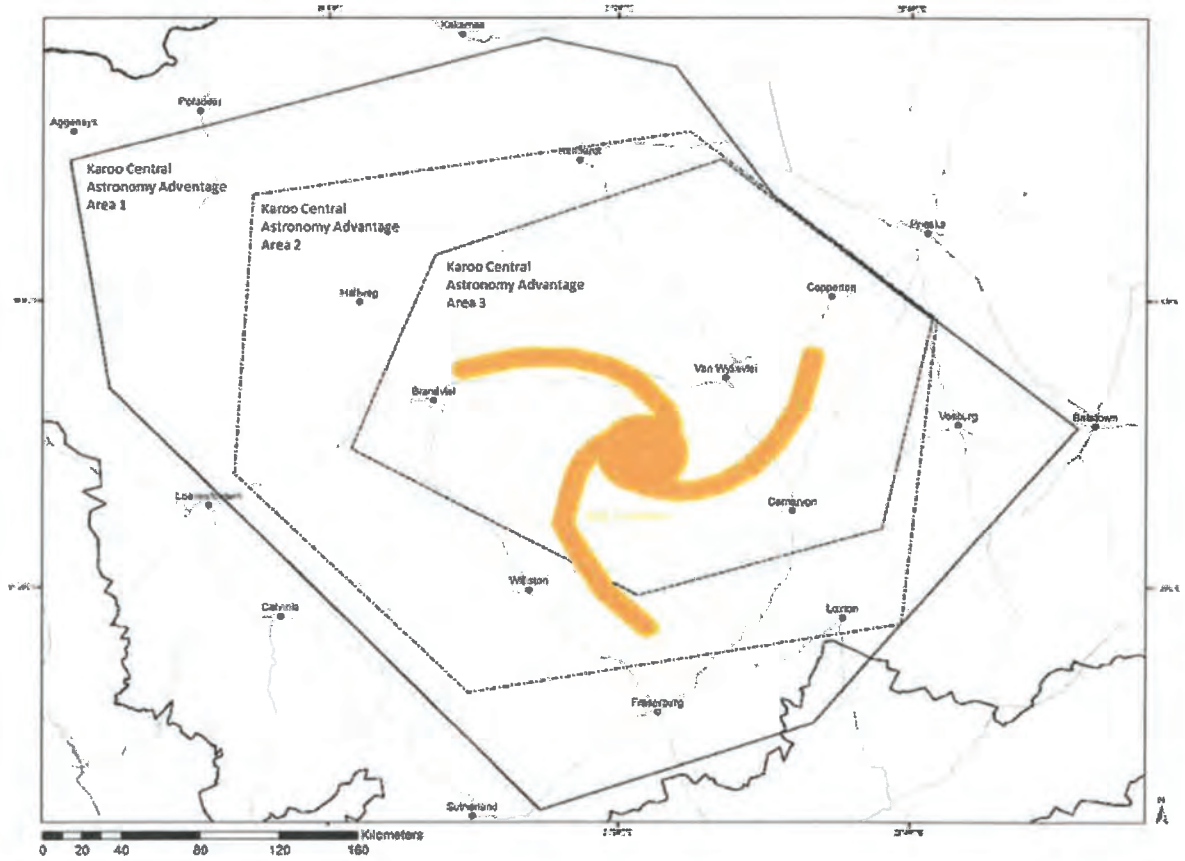
- (1) Contraventions for which a prosecution may be instituted in a Court of Law, are the following:
  - (a) failure to be in possession of a permit where it is required, according to sub-regulations 3(1), 3(4) and 3(6)(c);
  - (b) failure to comply with the conditions of a permit according to sub-regulations 3(1) and 4(7);
  - (c) failure to abide by prescribed measures in these regulations to resolve interference as set out in sub-regulation 3(6)(c) and in regulation 7; and
  - (d) failure by a permit holder to comply with the prescribed protection conditions as set out sub-regulation 3(2).
- (2) The maximum fine for an intentional contravention of sub-regulation 8(1)(a), 8(b) or 8(1)(d) is R200 000 and for a negligent contravention is R100 000.
- (3) The maximum fine for an intentional contravention of subsection 8(1)(c) is R20 000 and for a negligent contravention R5000.

- (4) The fines referred to in sub-regulations 8(2) and 8(3) may be suspended as a whole or in part subject to a condition that the person convicted is not found guilty of the same offence within a maximum of period of three years.

**Annexure A to Schedule D Regulations – Map of protection corridors  
Map of protection corridors containing the SKA radio astronomy stations  
within the Karoo Central Astronomy Advantage Area 1**

- (1) The map on the next page depicts the 20-km radius circle around the SKA Virtual Centre, within which radius circle approximately 173 SKA radio astronomy stations will be located. The map also depicts three protection corridors required for approximately 24 SKA radio astronomy stations located within the Karoo Central Astronomy Advantage Area 1.
- (2) Although the geographical area referred to is that related to the declared Karoo Central Astronomy Advantage Area 1, to define the SKA radio astronomy stations involved, the radio frequency interference to be restricted is that occurring in the whole of the radio frequency spectrum from 100 MHz to 25.5 GHz.
- (3) A smaller scale version of the map on the next page and/or a GIS-shape file is available on request from the management authority. The perimeters of the corridors are 5 km distant on either side of the spiral arms.
- (4) Applicants for a permit, who are determining radio frequency interference levels in terms of regulation 5, and required separation distances in terms of regulation 6 of these Schedule D Regulations, may request the management authority to provide the applicable geographical location on the periphery of the protection corridors or on the 20-km circle around the SKA Virtual Centre for the electromagnetic emissions under consideration.





**Annexure B to Schedule D Regulations - Propagation standards****Propagation standards to determine propagation path loss**

This annexure relates to regulation 6(2) of these Schedule D Regulations. The intention of the information provided in this annexure is to assist persons involved in the determination of the propagation path loss required to determine the separation distance. The information is not meant to be prescriptive or limiting of the standards and techniques that may be used and that may provide results with a higher level of accuracy. The options stated may be considered as the minimum standards to be applied to calculate the propagation path loss.

1. ITU Recommendation ITU-R P.1144 - Guide to the application of the propagation methods of Radiocommunication Study Group 3. This recommendation lists the ITU-R radio wave propagation prediction methods that may be used for the different applications. The options applicable to electromagnetic interference predictions that relate to these Schedule D Regulations, are listed below.
  - 1.1. Recommendation ITU-R P.452 – Service employing stations on the surface of the Earth; interference
  - 1.2. Recommendation ITU-R P.526 – Propagation by diffraction
  - 1.3. Recommendation ITU-R P.528 – Aeronautical mobile
  - 1.4. Recommendation ITU-R P.530 – Line-of-sight fixed links
  - 1.5. Recommendation ITU-R P.617 – Trans-horizon fixed links
  - 1.6. Recommendation ITU-R P.2001 – Terrestrial services
2. The Longley-Rice model accepted by the Federal Communications Commission in the United States of America may also be used as it is employed in a number of computerised prediction programmes on the market.
3. Other methods for determining the propagation path loss may also be used with agreement of the management authority.

## DEPARTEMENT VAN WETENSKAP EN TEGNOLOGIE

NO. 1411

15 DESEMBER 2017

**REGULASIES OOR DIE BESKERMING VAN DIE KAROO SENTRALE ASTRONOMIEVOORDEELGEBIEDE KRAGTENS DIE WET OP GEOGRAFIESE ASTRONOMIEVOORDEEL, 2007**

Kragtens artikels 50 en 51 van die Wet op Geografiese Astronomievoordeel, 2007 (Wet No. 21 van 2007) ("die Wet"), maak ek, Grace Naledi Mandisa Pandor, Minister van Wetenskap en Tegnologie, hiermee die Regulasies vir die beskerming van die Karoo Sentrale Astronomievoordeelgebiede, verklaar vir die doeleindes van radio-astronomie en verwante wetenskaplike aktiwiteite, soos dit in die aangehegte Skedules hieronder gelys, uiteengesit is, nadat ek die instemming van die Onafhanklike Kommunikasie-owerheid van Suid-Afrika (OKOSA) en van die Minister van Finansies (tot die mate dat hierdie Regulasies finansiële implikasies het), verkry het.

Skedule A - Regulasies om die gebruik van sekere radiofrekwensiespektrum en sekere aktiwiteite in die Karoo sentrale astronomievoordeelgebiede te verbied en te beperk;

Skedule B - Regulasies oor administratiewe aangeleenthede met betrekking tot Skedule A vir die Karoo sentrale astronomievoordeelgebiede verklaar vir radio-astronomie doeleindes;

Skedule C - Regulasies oor finansiële vergoedingsprosedures vir die Karoo sentrale astronomievoordeelgebiede; en

Skedule D - Regulasies om steuring deur elektriese aktiwiteite te beperk binne die Karoo sentrale astronomievoordeelgebied 1.



Hierdie Regulasies is van toepassing op die Karoo Sentrale Astronomievoordeelgebiede verklaar vir die doeleinde van radio-astronomie en verwante wetenskaplike ondernemings kragtens artikels (9)(1) en (2) van die Wet, gepubliseer onder Kennisgewing Nommer 198 op 12 Maart 2014, in Staatskoerant Nommer 37434.

Hierdie Regulasies sal in werking tree op 'n datum wat deur die Minister bepaal sal word deur middel van 'n kennisgewing in die Staatskoerant, welke datum nie later sal wees nie as 365 kalenderdae na die datum waarop hierdie kennisgewing gepubliseer is. Die kennisgewing wat die datum bepaal, sal 90 dae voor die betrokke datum, gepubliseer word.

  
MEV GNM PANDOR, LV

**MINISTER VAN WETENSKAP EN TEGNOLOGIE**

## REGULASIES VIR DIE BESKERMING VAN DIE KAROO SENTRALE ASTRONOMIEVOORDEELGEBIEDE

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## SKEDULE A VAN HIERDIE REGULASIES

**Regulasies om die gebruik van sekere radiofrekwensiespektrum en sekere aktiwiteite in die Karoo sentrale astronomievoordeelgebiede verklaar vir radio-astronomie doeleindes, te verbied en te beperk.**

### 1. Woordomsrywings

Vir die doeleindes van hierdie Skedule A Regulasies, tensy dit uit die samehang anders blyk, beteken—

**"aangewese diens"** 'n radiokommunikasiediens in die Karoo sentrale astronomievoordeelgebiede in gebruik wat as 'n aangewese diens geklassifiseer is kragtens die kriteria en prosedures voorgeskryf in regulasie 7 van Skedule B van hierdie Regulasies;

**"beskermingsgange"** 10-km wye gange van grond, op die radio-astronomiese spiraal arms konfigurasie gesentreer, waar SKA-stasies binne die Karoo sentrale astronomievoordeelgebied 1 geplaas sal word, wat ook op die Karoo sentrale astronomievoordeelgebiede 2 en 3 van toepassing is, afhangende van die radiofrekwensie spektrum in gebruik, soos uitgebeeld en omskryf in Bylae A van hierdie Skedule A;

**"Beskermingsvlakke Regulasies 2012"** die regulasies oor radio-astronomie beskermingsvlakke wat toegepas word in kern en sentrale astronomievoordeelgebiede wat vir radio-astronomie doeleindes verklaar is, en op 10 Februarie 2012, gepubliseer is in Staatskoerant No. 35007, onder Kennisgewing No. R.90;

**"bestuursgesag"** die staatsorgaan waaraan die Minister die bestuur van die Karoo sentrale astronomievoordeelgebiede toegewys het kragtens artikel 15 van die Wet en sluit enige persoon in met wie die bestuursgesag 'n medebestuursooreenkoms aangegaan het vir die medebestuur van die Karoo sentrale astronomievoordeelgebiede kragtens artikel 18 van die Wet;

**"dBm"** die radiofrekwensie kragvlak uitgedruk in desibels met verwysing na een milliwatt;



**"die Wet"** die "Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007)".

**"effektiewe uitgestraalde krag"** die produk van die radiofrekwensiekrag aan die antena gelewer en die antennawins, relatief tot 'n half golflengte dipool, in die betrokke rigting;

**"Karoo kern astronomievoordeelgebied"** die Karoo kern astronomievoordeelgebied verklaar op 20 Augustus 2010 in Staatskoerant No. 33462, onder Kennisgewing No. 723;

**"Karoo sentrale astronomievoordeelgebiede"** die Karoo sentrale astronomievoordeelgebiede verklaar op 12 Maart 2014 in Staatskoerant No. 37434, onder Kennisgewing No. 198;

**"lisensie vrygestelde operateur"** 'n persoon wat 'n diens verskaf ingevolge die vrystelling deur OKOSA toegestaan kragtens artikel 6 van die Wet op Elektroniese Kommunikasie, 2005 of radiofrekwensiespektrum gebruik wat vrygestel is van die vereiste vir 'n radiofrekwensiespektrum lisensie ingevolge artikel 31(6) van die Wet op Elektroniese Kommunikasie, 2005 en regulasies daarkragtens gemaak, en sluit gebruikers van die radio toerusting in;

**"lisensiehouer"** soos omskryf in die Wet op Elektroniese Kommunikasie, 2005, 'n persoon aan wie 'n lisensie uitgereik is om dienste te verskaf kragtens Hoofstuk 3 of om die radiofrekwensiespektrum te gebruik kragtens Hoofstuk 5 van die Wet op Elektroniese Kommunikasie, 2005;

**"OKOSA"** die Onafhanklike Kommunikasie-owerheid van Suid-Afrika, 'n onafhanklike regulatoriese liggaam gestig kragtens die Independent Communication Authority of South Africa Act, 2000 (Act No. 13 of 2000), verantwoordelik vir die regulering van uitsaaiwese, posdienste en elektroniese kommunikasie in die Republiek;

**"OKOSA Spektrum Regulasies 2015"** die radiofrekwensiespektrum regulasies deur OKOSA gepubliseer op 30 Maart 2015 in Staatskoerant No. 38641, onder Kennisgewing No. 279;

**"radio-astronomie stasie"** een of meer ontvangstelsels by 'n plek, insluitend die bybehorende toerusting, vir die ontvangs van radiogolwe van kosmiese oorsprong vir die doeleindes van radio-astronomie;

**"radiofrekwensiesteuring"** die nadelige effek van radioseine ontvang wat die beskermingsvlakke in die Beskermingsvlakke Regulasies, 2012, voorgeskryf vir meer as 5% van die tyd oor 'n tydperk van 24 uur oorskry;

**"radio golwe"** elektromagnetiese golwe van frekwensies vanaf 8.3 kHz tot 3000 GHz, voortgeplant in die ruimte sonder 'n kunsmatige geleier;

**"radiokommunikasie"** die uitstraling, transmissie of ontvangs van inligting, insluitend, sonder beperking, stem, klank, data, teks, video, animasie, visuele beelde, bewegende beelde en prente, seine of 'n kombinasie daarvan deur middel van radio of ander elektromagnetiese golwe sonder die hulp van 'n tasbare geleier;

**"radiostasie"** een of meer senders of ontvangers of 'n kombinasie van senders en ontvangers, insluitend die bybehorende toerusting, wat op een plek nodig is om 'n elektroniese kommunikasiediens, 'n uitsaaidiens of enige elektroniese kommunikasie wat deur OKOSA gemagtig is, oor te dra en enige radio-apparaat wat by 'n spesifieke geografiese ligging gebruik word;

**"radio toerusting"** 'n produk of 'n relevante onderdeel daarvan wat in staat is tot kommunikasie deur middel van radiogolwe met die gebruik van spektrum toegewys aan terrestriële/ruimte radiokommunikasie;

**"SKA"** die Square Kilometre Array-radioteleskoop bestaande uit 'n opset van radio-astronomie stasies om in die Republiek van Suid-Afrika en in deelnemende Afrika-lande geplaas te word volgens die besluit van die SKA-organisasie;

**"SKA Virtuele Middelpunt"** die geografiese punt by die geografiese koördinate 30.71292 grade Suid en 21.44380 grade Oos wat verband hou met die SKA-opset van radioastronomie stasies binne die Karoo Astronomievoordeelgebiede en wat as die waardebevestigingspunt gespesifiseer is vir die toepassing van beskermingsvlakke soos in die Beskermingsvlakke Regulasies, 2012, bepaal;



**“Skedule B Regulasies 2017”** die regulasies oor administratiewe aangeleenthede vir die Karoo sentrale astronomievoordeelgebiede, wat die Skedule B van hierdie Regulasies is;

**“Skedule C Regulasies 2017”** die regulasies oor finansiële vergoeding prosedures vir die Karoo sentrale astronomievoordeelgebiede, wat die Skedule C van hierdie Regulasies is;

**“versadigingsvlak”** die totale krag ontvang, op 'n vlak van (minus) -100 dBm, of hoër, binne die transmissie bandwydte van die radiokommunikasie wat die radiofrekwensie steuringsvlak produseer waarby die versadigingsverskynsel voorkom by 'n radio-astronomie stasie of by 'n gespesifiseerde waardebepalingspunt of -punte of binne 'n gespesifiseerde area;

**“waardebepalingspunt”** die SKA Virtuele Middelpunt of 'n ander geografiese ligging of punt gedefinieer kragtens hierdie regulasies, wat gebruik word as die waardebepalingspunt vir die toepassing van die toepaslike beskermingsmaatreëls soos voorgeskryf in hierdie regulasies; en

**“Wet op Elektroniese Kommunikasie”** die Electronic Communications Act, 2005 (Act No. 36 of 2005).



## 2. Toepassing van die regulasies in hierdie Skedule A

- (1) Hierdie regulasies is van toepassing op die Karoo sentrale astronomievoordeelgebiede 1, 2 en 3 volgens die radio frekwensiespektrum verklaar vir radio-astronomie doeleindes in die verklaring van die Karoo sentrale astronomievoordeelgebiede, soos volg:
  - (a) Karoo sentrale astronomievoordeelgebied 1 met betrekking tot die gebruik van die frekwensiespektrum vanaf 100 MHz tot 2 170 MHz;
  - (b) Karoo sentrale astronomievoordeelgebied 2 met betrekking tot die gebruik van die frekwensiespektrum vanaf 2 170 MHz tot 6 000 MHz; en
  - (c) Karoo sentrale astronomievoordeelgebied 3 met betrekking tot die gebruik van die frekwensiespektrum vanaf 6 000 MHz tot 25 500 MHz.
- (2) Met betrekking tot lugvaart:
  - (a) Hierdie regulasies is nie van toepassing op lugvaartkundige mobiele, lugvaartkundige radionavigasie en radio-plekbepaling dienste nie wat in die frekwensiebande werk soos aan die dienste toegewys in die Nasionale Radiofrewensieplan deur OKOSA gepubliseer kragtens artikel 34(12) van die Wet op Elektroniese Kommunikasie, 2005.
  - (b) Die maatreëls nodig vir die beskerming van die Karoo Kern en Sentrale Astronomievoordeelgebiede, wat van toepassing sal wees op lugvaartkundige mobiele, lugvaartkundige radionavigasie en radio-plekbepaling dienste, en op die gebruik van vliegtuie binne die Karoo Kern en Sentrale Astronomievoordeelgebiede, sal, nadat instemming bereik is tussen die Minister van Wetenskap en Tegnologie en die Minister van Vervoer, deur die Minister van Vervoer gepromulgeer word, en geadministreer en toegepas word deur die Burgerlugvaart-owerheid ingestel kragtens Hoofstuk 6 van die Wet op Burgerlugvaart 2009 (Wet No. 13 van 2009).
- (3) Indien daar onversoenbare verskille tussen die Engelse en Afrikaanse tekste van hierdie regulasies is, sal die Engelse teks voorrang geniet.

### 3. Verbod en beperkinge op radiofrekwensiespektrum gebruik en transmissies

(1) Die verbod op radiofrekwensiespektrum gebruik en radiokommunikasie transmissies daarin, soos voorsien in hierdie regulasie 3, sal van toepassing wees op die radiofrekwensiespektrum en radio transmissies binne daardie spektrum in ooreenstemming met die radiofrekwensiespektrum toewysings kragtens subregulasie 2(1) aan die onderskeie geografiese gebiede gemaak.

(2) Vanaf een (1) jaar na hierdie regulasies in werking gestel is, mag geen lisensiehouer of lisensie-vrygestelde operateur die radiofrekwensie spektrum vanaf 100 MHz tot 25.5 GHz, soos toegewys in subregulasie 2(1) aan die onderskeie gebiede, gebruik nie, of aanhou om dit te gebruik nie, en transmissies binne daardie spektrum en binne die Karoo sentrale astronomievoordeelgebiede uit te voer nie, tensy –

(a) dit nodig is vir die doeleindes van radio-astronomie en verwante wetenskaplike ondernemings as sodanig verklaar kragtens artikel 28(1) van die Wet; of

(b) daar aan die volgende voorwaardes voldoen word:

(i) dat die spektrum om gebruik te word van hierdie verbod vrygestel is kragtens regulasie 3 van Skedule B van hierdie Regulasies; en

(ii) die bestuursgesag die moontlike radiofrekwensiesteuring oorweeg het tydens die oorweging van die lisensiehouer of lisensie-vrygestelde operateur se aansoek vir 'n permit kragtens regulasie 4 van Skedule B van hierdie Regulasies en daarna 'n permit aan daardie persoon uitgereik het met die betrokke spesifikasies en beperkinge waaraan voldoen moet word;

of

(c) die vrystellings van hierdie vereiste kragtens regulasie 5 van hierdie Skedule A, van toepassing is.

(3) Vanaf die datum waarop hierdie regulasies in werking tree, mag geen lisensiehouer of lisensie vrygestelde operateur radiofrekwensie spektrum gebruik of radiokommunikasie transmissies daarin uitvoer nie vir enige nuwe konstruksie, opgradering of uitbreiding van 'n radiostasie of gebruik van nuwe



radio toerusting binne die Karoo sentrale astronomievoordeelgebiede nie, tensy daar aan subregulasie 3(2)(b) van hierdie Skedule A voldoen word of subregulasie 3(2)(c) van toepassing is.

(4) Enige radiofrekwensiespektrum gebruik en radiokommunikasie transmissies beoog in subregulasies 3(2)(b) en 3(3) moet aan die voorwaardes vir radiofrekwensiespektrum gebruik en radio kommunikasie transmissies in regulasie 4 van hierdie Skedule A voorgeskryf, voldoen.

(5) Vanaf een (1) jaar na die datum waarop hierdie regulasies in werking tree, mag geen televisie uitsaaidienslisensiehouer of uitsaaisein verspreidingslisensiehouer 'n televisie-uitsaaidiens in analogo formaat vanaf 'n terrestriële sendstasie binne die Karoo sentrale astronomievoordeelgebiede, uitsend nie.

#### **4. Voorwaardes vir radiofrekwensiespektrum gebruik en transmissies**

(1) Ten einde 'n permit in subregulasie 3(2)(b)(ii) beoog, uit te reik, mag die radiofrekwensie steuring deur spektrum gebruik en radiokommunikasie transmissies veroorsaak, nie die volgende oorskry nie –

(a) die versadigingsvlak binne die beskermingsgange soos in Bylae A van hierdie Skedule A gedefinieer in die Karoo sentrale astronomie voordeelgebied 1, of binne 'n radius van 20km rondom die SKA Virtuele Middelpunt; en

(b) die beskermingsvlakke in die Beskermingsvlakke Regulasies 2012 voorgeskryf, soos toegepas by die SKA Virtuele Middelpunt, tensy die gebruik of aktiwiteit vir 'n aangewese diens is waarvoor 'n gespesifiseerde steuringsvlak hoër as die voorgeskrewe beskermingsvlak gespesifiseer is in die permit uitgereik kragtens regulasie 4 in Skedule B van hierdie Regulasies, aan die persoon wat daardie spektrum gebruik en die transmissie doen.

(2) 'n Voldoeningsbeoordeling sal uitgevoer word deur die bestuursgesag of alternatiewelik deur die aansoeker vir 'n permit voor die uitreiking van enige permit kragtens regulasie 4 in Skedule B van hierdie Regulasies, wat die volgende aspekte sal insluit in die mate wat hulle van toepassing is –

- (a) Die berekening van radiofrekwensie steuringsvlakke om te bepaal of die toepaslike beskermingsvlak by die SKA Virtuele Middelpunt oorskry is en of die versadigingsvlak oorskry is binne die beskermingsgange in die Karoo sentrale astronomie voordeelgebied 1 soos in Bylae A van hierdie Skedule A gedefinieer is, of binne 'n straal van 20 km rondom die SKA Virtuele Middelpunt.
  - (b) Die bepaling van radiofrekwensie steuringsvlakke na verwys in subregulasie 4(2)(a) sal op die basis (vaste) radiostasies, of radio-apparaat by 'n vaste geografiese ligging, uitgevoer word.
  - (c) Indien dit waarskynlik is dat radiofrekwensie steuring of versadigingsvlak steuring veroorsaak sal word deur mobiele of draagbare radiostasies of radio-apparaat wat in verbinding met die basis stasie of radio-apparaat by 'n vaste ligging gebruik word, moet die ergste radiofrekwensie steuringstoestand bepaal word met betrekking tot die mobiele of draagbare radio-apparaat.
  - (d) Die bepaling en voldoeningsbeoordeling van radiofrekwensie steuring mag ook deur die bestuursgesag vereis word vir radio-apparaat wat deur OKOSA vrygestel is van radiofrekwensie spektrum lisensiëring in Deel III, regulasie 4 van die OKOSA Spektrum Regulasies 2015, waar 'n uitgestraalde kragvlak van groter as 250 milliwatt geproduseer word.
- (3) Voorwaardes, wat beperkinge mag insluit op die geografiese gebied waarin mobiele of draagbare radiostasies gebruik mag word, of enige ander metode wat die steuringsvlak tot die beskermingsvlak sal beperk, sal by enige permit wat reeds toegestaan is, gevoeg word, in die geval dat –
- (a) 'n mobiele of draagbare radiostasie of radio-apparaat wat in verbinding met 'n basis radiostasie waarvoor 'n permit reeds toegestaan is, gebruik word, radiofrekwensie steuring by die SKA Virtuele Middelpunt veroorsaak; of
  - (b) versadigingsvlak radiofrekwensie steuring voorkom binne die beskermingsgange in die Karoo sentrale astronomie voordeelgebiede soos omskryf in Bylae A van hierdie Skedule A, of binne 20 km vanaf die SKA Virtuele Middelpunt.



(4) Enige persoon wat radio toerusting bedryf, waarvoor radiofrekwensiespektrum lisensiëring vrystelling deur OKOSA voorgeskryf is in Deel III, regulasie 4 van die OKOSA Spektrum Regulasies 2015, mag nie sulke toerusting bedryf of gebruik binne 50 km vanaf die SKA Virtuele Middelpunt nie tensy 'n permit daarvoor toegestaan is deur die bestuursgesag.

#### **5. Vrystellings op die verbod, beperkings en voorwaardes**

(1) Die verbod in subregulasie 3(2) is nie van toepassing op enige bestaande radiokommunikasie transmissies binne die spektrum vanaf 100 MHz tot 200 MHz nie wat onmiddellik voor die afkondiging van hierdie Regulasies wettig was: onderworpe daaraan dat die spektrum wat gebruik word, vrygestel is kragtens regulasie 3 van Skedule B van hierdie Regulasies en dat 'n permit bekom moet word deur daardie persoon in verband met die gebruik van daardie spektrum en daardie kommunikasie transmissies, kragtens regulasies 3 en 4 van Skedule B van hierdie Regulasies.

(2) Radio toerusting, waarvoor radiofrekwensie-spektrumlisensie vrystellings deur OKOSA in Deel III, regulasie 4 van die OKOSA Spektrum Regulasies 2015 voorgeskryf is, word vrygestel van die beperkings voorgeskryf in subregulasies 3(2) en 3(3) van die gebruik van die betrokke radiofrekwensiespektrum en die transmissies, en van die vereiste vir die besit van 'n permit, onderworpe daaraan dat:

(a) die spektrum wat gebruik word, vrygestel is van die verbod in subregulasie 3(2) kragtens regulasie 3 van Skedule B van hierdie Regulasies;

(b) die radio toerusting 'n effektiewe isotropiese uitgestraalde kragvlak van gelyk aan of minder as 250 milliwatt produseer;

(c) die radio toerusting in subregulasie 5(2)(b) voldoen aan die betrokke vereistes en voorwaardes voorgeskryf in Bylae B van die OKOSA Spektrum Regulasies 2015;

(d) die radio toerusting individueel gebruik word volgens die spesifikasies in die OKOSA Spektrum Regulasies 2015, en nie in verbinding met veelvuldige eenhede in netwerke gekoppel nie of dat die uitgestraalde radiofrekwensie krag op enige manier verhoog is nie;



- (e) radiofrekwensie steuring van meer as die betrokke beskermingsvlak soos in die Beskermingsvlakke Regulasies 2012 voorgeskryf, nie by die SKA Virtuele Middelpunt of versadigingsvlak steuring binne die beskermingsgange of binne 'n 20 km radius vanaf die SKA Virtuele Middelpunt veroorsaak word nie.
- (3) Radio toerusting, soos selfone, draagbare en mobiele twee-rioting radiokommunikasie stasies, wat gebruik word tesame met vaste radio basis-stasies deur OKOSA gelisensieer en by die betrokke OKOSA frekwensiespektrum lisensie ingesluit is, is vrygestel van die beperkings in hierdie regulasies voorgeskryf op die gebruik van die betrokke radiofrekwensie spektrum en die radiokommunikasie transmissies, en van die vereiste vir die besit van 'n individuele permit, onderworpe daaraan dat die radio toerusting voldoen aan die toepaslike tegniese standaarde deur OKOSA voorgeskryf, en dat die vaste radio stasie waarmee dit in verbinding is, voldoen aan Skedule A van hierdie Regulasies.
- (4) Indien enige van die radio toerusting in subregulasie 5(2) en 5(3) oorweeg, radiofrekwensie steuring of versadigingsvlak steuring veroorsaak, dan –
- (a) moet 'n voldoeningsbepaling, soos beoog in subregulasie 4(5) en 4(6) van Skedule B van hierdie Regulasies, uitgevoer word om te bepaal wat die omvang van die radiofrekwensie steuring is en moet 'n aansoek vir 'n permit by die bestuursgesag ingedien word; of
- (b) die betrokke bestuursgesag mag die radiofrekwensie steuring of versadigingsvlak steuring veroorsaak, ondersoek en permit voorwaardes bepaal vir die gebruik van daardie kategorie van radio toerusting; of
- (c) die Minister mag 'n kern astronomievoordeelgebied verklaar waarbinne al die vrygestelde radio toerusting nie gebruik mag word nie, soos voorgeskryf in die Kern Astronomievoordeelgebiede Regulasies vir Radio-astronomie op 22 Junie 2012, gepubliseer, in Staatskoerant No. 35450, onder Kennisgewing No. R.465 .
- (5) Die toestaan of wysiging van 'n permit, in subregulasie 5(4)(b) beoog, is onderworpe aan die voorwaardes en kriteria voorgeskryf in Skedule B van hierdie Regulasies.

## 6. Verlenging van die een-jaar tydperk

Die Minister mag die een-jaar tydperk in subregulasies 3(2) en 3(5) beoog, verleng by wyse van 'n kennisgewing in die Staatskoerant.

## 7. Finansiële vergoeding

Enige finansiële vergoeding beoog kragtens artikel 23(3)(a) van die Wet in verband met 'n beperking op radiokommunikasie transmissies wat wettig uitgevoer is binne die Karoo sentrale astronomievoordeelgebiede voordat hierdie regulasies afgekondig gepubliseer is, sal onderworpe wees aan Skedule C van hierdie Regulasies.

## 8. Oortredings en boetes

(1) Oortredings waarvoor 'n vervolging in 'n Hof ingestel mag word, is die volgende:

- (a) die versuim om besit van 'n permit te bekom binne die tyd toegelaat om 'n permit te verkry soos kragtens subregulasies 3(2) en 3(3) vereis word;
- (b) die versuim om te voldoen aan die voorwaardes van 'n permit soos vereis word in subregulasie 3(2)(b)(ii);
- (c) die versuim van 'n gebruiker van radio toerusting, vrygestel kragtens subregulasies 5(2) of 5(3), wat radiofrekwensie steuring veroorsaak, om aan permit voorwaardes kragtens subregulasie 5(4)(b) bepaal, te voldoen om die steuring te vermy;
- (d) die versuim in radiofrekwensiespektrum gebruik en uitvoering van radiokommunikasie transmissies, beoog in subregulasies 3(2)(b) en 3(3), om die voorwaardes na te kom vir sodanige spektrum gebruik of radiokommunikasie transmissies, soos gespesifiseer in regulasie 4 van hierdie Skedule A;
- (e) die versuim van 'n uitsaailisensiehouer of 'n uitsaai-seinverspreiding lisensiehouer om aan subregulasie 3(5) van hierdie Skedule A te voldoen;
- (f) die versuim van 'n permithouer om die perke in subregulasies 4(1) of 4(3) gestel, nie te oorskry nie; en
- (g) die versuim van 'n gebruiker van radio toerusting om binne die perke van subregulasie 4(4) op te tree.

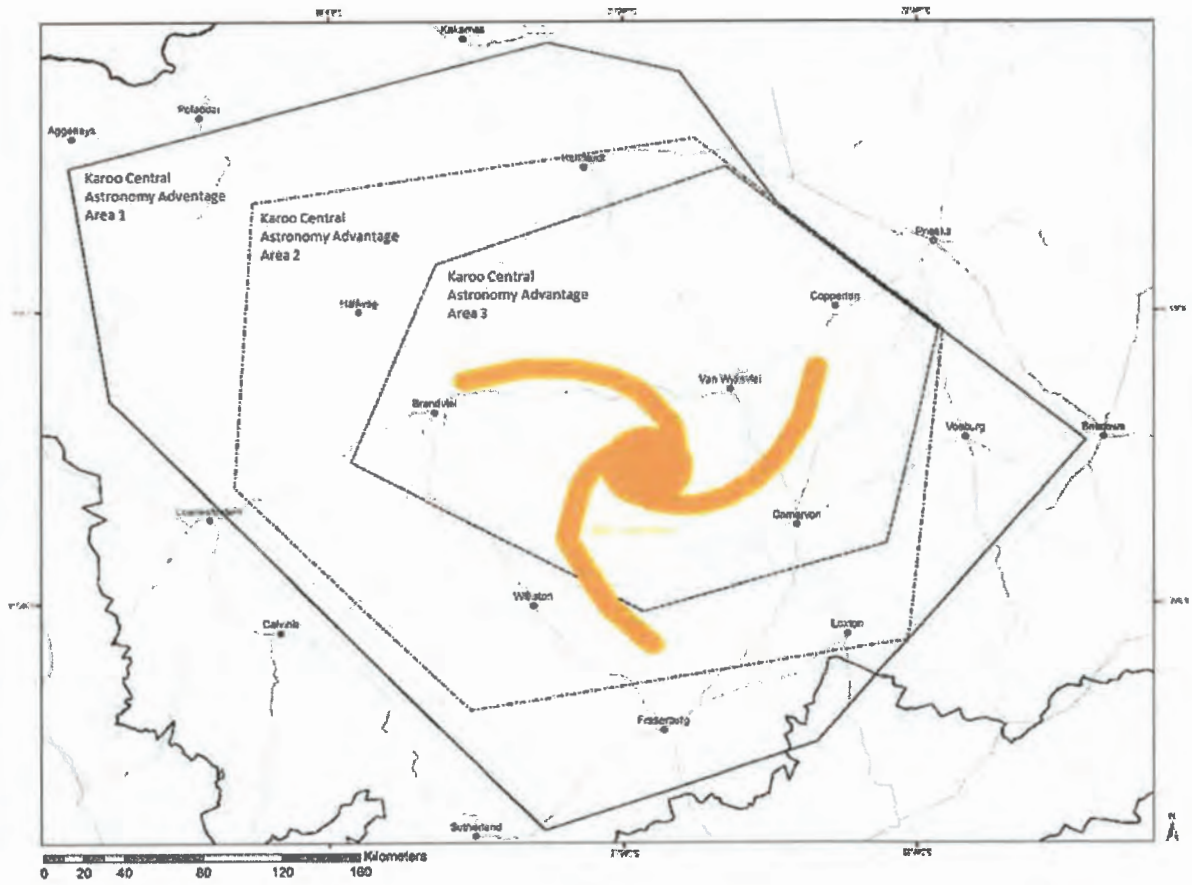


- (2) Die maksimum boete vir 'n opsetlike oortreding van subregulasie 8(1)(a), 8(1)(b), 8(1)(d), 8(1)(e), 8(1)(f), of 8(1)(g) is R200 000 en vir 'n nalatige oortreding R100 000.
- (3) Die maksimum boete vir 'n opsetlike oortreding van subregulasie 8(1)(c) is R20 000 en vir 'n nalatige oortreding R5 000.
- (4) Die boetes na verwys in subregulasies 8(2) en 8(3) mag in die geheel, of gedeeltelik, opgeskort word, onderworpe aan die voorwaarde dat die persoon skuldig bevind, nie weer skuldig bevind word aan dieselfde oortreding binne 'n maksimum periode van drie jaar nie.



**Bylae A tot Skedule A – Kaart van beskermingsgange****Kaart van die beskermingsgange waarin die SKA radio-astronomie stasies binne Karoo Sentrale Astronomievoordeelgebied 1 geleë is**

- (1) Die kaart op die volgende bladsy beeld die 20-kilometer straal sirkel rondom die SKA Virtuele Middelpunt uit, waarbinne ongeveer 173 SKA radio-astronomie stasies geplaas sal word. Die kaart toon ook die drie beskermingsgange nodig om ongeveer 24 SKA radio-astronomie stasies binne die Karoo Sentrale Astronomievoordeelgebied 1 te plaas.
- (2) Alhoewel die geografiese gebied vir die beskermingsgange verband hou met die Karoo sentrale astronomievoordeelgebied 1, moet enige radiofrekwensie sturing en die toepaslike beperkings behandel word volgens die radiofrekwensiespektrum toekennings aan die geografiese gebiede, soos uiteengesit in subregulasie 2(1) van hierdie Skedule A.
- (3) 'n Kleiner skaal weergawe van die kaart op die volgende bladsy en / of 'n GIS-vorm lêer is op versoek beskikbaar van die bestuursgesag. Die buitegrense van die gange is op 'n afstand van 5 km aan weerskante van die spiraal arms.
- (4) Aansoekers om 'n permit, wat die radiofrekwensie sturingsvlakke kragtens subregulasie 4(2)(a) bepaal, mag die bestuursgesag versoek om die toepaslike geografiese liggings op die buitegrens van die beskermingsgange of op die 20-km sirkel om die SKA Virtuele Middelpunt te verskaf vir die sturingsbronne onder oorweging.



## SKEDULE B VAN HIERDIE REGULASIES

### Regulasies oor administratiewe aangeleenthede met betrekking tot Skedule A vir die Karoo sentrale astronomievoordeelgebiede

#### 1. Woordomsrywings

Vir die doeleindes van hierdie Skedule B Regulasies, tensy dit uit die samehang anders blyk, beteken–

**"aangewese diens"** 'n radiokommunikasiediens in die Karoo sentrale astronomievoordeelgebiede in gebruik wat as 'n aangewese diens geklassifiseer is kragtens die kriteria en prosedures voorgeskryf in regulasie 7 van Skedule B van hierdie Regulasies;

**"beperkte radiofrekwensiespektrum"** die radiofrekwensiespektrum waarvan die gebruik deur die Minister kragtens artikel 22 van die Wet verbied of beperk is soos bepaal in Skedule A van hierdie Regulasies;

**"Beskermingsvlakke Regulasies 2012"** die regulasies oor radio-astronomie beskermingsvlakke wat toegepas word in kern en sentrale astronomievoordeelgebiede wat vir radio-astronomie doeleindes verklaar is, en op 10 Februarie 2012 gepubliseer is in Staatskoerant No. 35007, onder Kennisgewing No. R.90;

**"bestuursgesag"** die staatsorgaan waaraan die Minister die bestuur van die Karoo sentrale astronomievoordeelgebiede toegewys het kragtens artikel 15 van die Wet en sluit enige persoon in met wie die bestuursgesag 'n medebestuursooreenkoms aangegaan het vir die medebestuur van die Karoo sentrale astronomievoordeelgebiede kragtens artikel 18 van die Wet;

**"bevoegde persoon"** 'n persoon wat aan elkeen van die vereistes voldoen wat in regulasie 8 van hierdie Skedule B Regulasies voorgeskryf is;

**"dBm"** die radiofrekwensie kragpeil uitgedruk in desibels met verwysing na een milliwatt;



**"die Wet" die "Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007)";**

**"effektiewe uitgestraalde krag"** die produk van die krag aan die antenna gelewer en die antennawins, relatief tot 'n half golflengte dipool, in die betrokke rigting;

**"ITU"** die "International Telecommunication Union";

**"Karoo sentrale astronomievoordeelgebiede"** die Karoo sentrale astronomievoordeelgebiede verklaar op 12 Maart 2014 in Staatskoerant No. 37434, onder Kennisgewing No. 198;

**"lisensie vrygestelde operateur"** 'n persoon wat 'n diens verskaf ingevolge die vrystelling deur OKOSA toegestaan kragtens artikel 6 van die Wet op Elektroniese Kommunikasie, 2005 of radiofrekwensiespektrum gebruik wat vrygestel is van die vereiste vir 'n radiofrekwensiespektrum lisensie ingevolge artikel 31(6) van die Wet op Elektroniese Kommunikasie, 2005, en regulasies daarkragtens gemaak en sluit gebruikers van die radio toerusting in;

**"lisensiehouer"** soos omskryf in die Wet op Elektroniese Kommunikasie, 2005, 'n persoon aan wie 'n lisensie uitgereik is om dienste te verskaf kragtens Hoofstuk 3 of om die radiofrekwensiespektrum te gebruik kragtens Hoofstuk 5 van die Wet op Elektroniese Kommunikasie, 2005;

**"OKOSA"** die Onafhanklike Kommunikasie-owerheid van Suid-Afrika, 'n onafhanklike regulatoriese liggaam gestig kragtens die Independent Communication Authority of South Africa Act, 2000 (Act No. 13 of 2000), verantwoordelik vir die regulering van uitsaaiwese, posdienste en elektroniese kommunikasie in die Republiek;

**"OKOSA Spektrum Regulasies 2015"** die radiofrekwensiespektrum regulasies deur OKOSA gepubliseer op 30 Maart 2015 in Staatskoerant No. 38641, onder Kennisgewing No. 279;

**"radio-astronomie stasie"** een of meer ontvangstelsels by 'n plek, insluitend die bybehorende toerusting, vir die ontvangs van radiogolwe van kosmiese oorsprong vir die doeleindes van radio-astronomie;



**"radiofrekwensiesteuring"** die nadelige effek van radioseine ontvang wat die beskermingsvlakke in die Beskermingsvlakke Regulasies, 2012 voorgeskryf, vir meer as 5% van die tyd oor 'n tydperk van 24 uur oorskry;

**"radio golwe"** elektromagnetiese golwe van frekwensies vanaf 8.3 kHz tot 3000 GHz, voortgeplant in die ruimte sonder 'n kunsmatige geleier;

**"radiokommunikasie"** die uitstraling, transmissie of ontvangs van inligting, insluitend sonder beperking, stem, klank, data, teks, video, animasie, visuele beelde, bewegende beelde en prente, seine of 'n kombinasie daarvan deur middel van radio of ander elektromagnetiese golwe sonder die hulp van 'n tasbare geleier;

**"radiokommunikasiediens"** 'n elektroniese kommunikasiediens voorsien aan die publiek, dele van die publiek, die Staat, of intekenaars tot so 'n diens, wat in sy geheel of hoofsaaklik bestaan uit oordrag met enige soort radiokommunikasie oor 'n radiokommunikasie netwerk;

**"radiokommunikasie netwerkdiens lisensiehouer"** 'n elektroniese kommunikasie netwerk lisensiehouer aan wie OKOSA 'n elektroniese kommunikasie netwerkdiens lisensie kragtens Artikels 5(2) of 5(4) van die Wet op Elektroniese Kommunikasie, 2005, uitgereik het;

**"radiostasie"** een of meer senders of ontvangers of 'n kombinasie van senders en ontvangers, insluitend die bybehorende toerusting, wat op een plek nodig is om 'n elektroniese kommunikasiediens, 'n uitsaaidiens of enige elektroniese kommunikasie wat deur OKOSA gemagtig is, oor te dra, en enige radio-apparaat wat by 'n spesifieke geografiese ligging gebruik word;

**"radio toerusting"** 'n produk of 'n relevante onderdeel daarvan wat in staat is tot kommunikasie deur middel van radiogolwe met die gebruik van spektrum toegewys aan terrestriële/ruimte radiokommunikasie;

**"Skedule A Regulasies"** die regulasies om die gebruik van sekere radiofrekwensiespektrum kragtens artikel 22 van die Wet en sekere verklaarde aktiwiteite kragtens artikel 23 van die Wet binne die Karoo sentrale

astronomievoordeelgebiede, te verbied of te beperk, wat die Skedule A van hierdie Regulasies is;

**“Transmissie eienskappe”** die geografiese kenmerke van ’n radiostasie perseel, insluitend die geografiese ligging, die effektiewe hoogte en die terrein ongelykheid soos deur die ITU gedefinieer, of ’n ander erkende internasionale standaard, en die tegniese kenmerke van die radio-transmissie, insluitend die radiofrekwensie, effektiewe uitgestraalde krag en golf polarisasie, soos benodig om die radiofrekwensie steuringsvlak by ’n spesifieke geografiese ligging te bereken;

**“versadigingsvlak”** die totale krag ontvang, op ’n vlak van (minus) -100 dBm, of meer, binne die transmissie bandwydte van die radiokommunikasie wat die radiofrekwensie steuringsvlak produseer waarby die versadigings verskynsel voorkom by ’n radio-astronomie stasie of by ’n gespesifiseerde verwysingspunt of -punte of binne ’n gespesifiseerde area;

**“voldoeningsbepaling”** die proses wat die aktiwiteite insluit wat in subregulasie 4(3) van hierdie Skedule B Regulasies voorgeskryf is;

**“waardebepalingspunt”** die geografiese ligging, of enige betrokke punt binne ’n area, wat in Skedule A van hierdie Regulasies gedefinieer is vir gebruik as die waardebepalingspunt vir die toepaslike beskermings maatreëls voorgeskryf in Skedule A van hierdie Regulasies; en

**“Wet op Elektroniese Kommunikasie”** die Electronic Communications Act, 2005 (Act No. 36 of 2005).



## 2. Toepassing van die regulasies

- (1) Hierdie regulasies is van toepassing op die Karoo sentrale astronomievoordeelgebiede wat vir die doeleindes van radio-astronomie verklaar is soos beoog in artikel 9 van die Wet.
- (2) Indien daar onversoenbare verskille tussen die Engelse en Afrikaanse tekste van hierdie regulasies is, sal die Engelse teks voorrang geniet.

## 3. Vrstelling van beperkte radiofrekwensiespektrum

- (1) Tesame met Skedule A van hierdie Regulasies gelees, sal die Minister in die Staatskoerant kennis gee, nadat hierdie Regulasies gepubliseer is, van 'n lys van die radiofrekwensiespektrum om vir vrystelling oorweeg te word van die beperking op die gebruik daarvan vir transmissies binne die Karoo sentrale astronomievoordeelgebiede geleë.
- (2) Die kennisgewing in sub-regulasie (1) beoog -
  - (a) mag ook voorsiening maak vir die bondeling van radiofrekwensiespektrum toewysings binne enige spektrum aanwysing vir 'n toepassing wat reeds binne die Karoo sentrale astronomievoordeelgebiede in gebruik is; en
  - (b) moet belanghebbende en geaffekteerde persone uitnooi om geskrewe voorleggings op die kennisgewing in te dien, binne sestig (60) dae vanaf die datum van die kennisgewing.
- (3) Voor die publikasie van die kennisgewing in subregulasie (1) beoog, moet die Minister -
  - (a) Die instemming van OKOSA versoek oor die radiofrekwensiespektrum wat vir vrystelling oorweeg word en oor die bondeling van die spektrum in gebruik in die toegewysde frekwensiebande; en
  - (b) volgens die metode in artikel 22(4) van die Wet beoog, al die bestaande lisensiehouers en lisensie vrygestelde operateurs wat radiostasies binne die Karoo sentrale astronomievoordeelgebiede bedryf en wat in die permanente register van belanghebbende en geaffekteerde persone vir daardie gebied gelys is, in kennis stel van die kennisgewing wat in die Staatskoerant gepubliseer sal word.

- (4) Die Minister sal die voorleggings of besware ontvang, oorweeg, mag bykomende inligting van 'n persoon wat die geskrewe voorlegging gemaak het, aanvra en sal, met 'n kennisgewing in die Staatskoerant, die lys van vrygestelde radiofrekwensiespektrum publiseer binne ses (6) maande na die datum wat hierdie Regulasies in werking getree het.
- (5) Een jaar na die publikasie van die kennisgewing in subregulasie 3(4) beoog, mag OKOSA 'n lys van bykomende radiofrekwensie spektrum om vrygestel te word vir gebruik binne die Karoo sentrale astronomievoordeelgebiede aan die Minister voorlê. Na instemming tussen die Minister en OKOSA oor die bykomende radiofrekwensie spektrum om vrygestel te word, sal die Minister die addisionele vrygestellings met 'n kennisgewing in die Staatskoerant publiseer.

#### **4. Vereistes en prosedures vir voldoeningsbepaling en permit aansoeke**

- (1) Voor die uitreiking van enige permit vir frekwensiegebruik en die transmissie van 'n radiokommunikasie sein vanaf 'n radiostasie binne die Karoo sentrale astronomievoordeelgebiede, moet 'n voldoeningsbepaling vir elke sodanige transmissie deur die bestuursgesag uitgevoer word, of alternatiewelik deur die lisensiehouer of lisensie vrygestelde operateur wat die transmissie doen of van voorneme is om dit te doen. Die aansoeker vir 'n permit moet in die permitaansoek aandui of hy die voldoeningsbepaling wil doen, of reëlings tref dat 'n kontrakteur dit doen, of in die permit-aansoek versoek dat die bestuursgesag dit doen.
- (2) Die voldoeningsbepaling moet deur 'n bevoegde persoon uitgevoer word, soos beoog in regulasie 8 van hierdie Skedule B Regulasies, wat in die diens is van of gekontrakteer is deur die bestuursgesag of die lisensiehouer of die lisensie vrygestelde operateur wat die transmissie doen of van voorneme is om dit te doen.
- (3) Die voldoeningsbepaling moet:
  - (a) Die radiofrekwensie steuringsvlak by die SKA Virtuele Middelpunt bepaal soos voorgeskryf in Skedule A van hierdie Regulasies en dit vergelyk met die toepaslike beskermingsvlak vir radio-astronomie waarnemings



voorgeskrif in die Beskermingsvlakke Regulasies 2012, volgens die kriteria voorgeskrif in regulasie 6 van hierdie Skedule B Regulasies; en

- (b) Die radiofrekwensie steuringsvlak bepaal binne die gebiede voorgeskrif vir die verbod op versadigingsvlak-steuring in Skedule A van hierdie Regulasies en dit vergelyk met die versadigingsvlak, alles volgens die kriteria voorgeskrif in regulasie 6 van hierdie Skedule B Regulasies; en
- (c) Bepaal of daar voldoen is aan al die toepaslike regulasies kragtens die Wet gemaak.

[n Lys van die regulasies waaraan voldoen moet word, in die voldoeningbepaling vir 'n permitaansoek, is beskikbaar in Bylae A tot hierdie Skedule B om aansoekers van hulp te wees: onderworpe daaraan dat die lys nie as allesomvattend beskou sal word nie omdat daar ander of verskillende aspekte by 'n spesifieke aansoek betrokke mag wees.]

- (4) Die verslag oor voldoeningbepaling van toepassing op rekenaarmodellering moet al die inligting en data insluit soos gelys en beskryf in 'n skedule wat by die bestuursgesag verkry moet word.
- (5) In die geval van 'n dispuut tussen die aansoeker en die bestuursgesag, oor:
  - (a) Die geldigheid van die radiofrekwensie steuringsvlakke deur middel van rekenaar modellering bepaal, of
  - (b) Die akkuraatheid van die bepaalde radiofrekwensie steuringsvlakke, wat as onaanvaarbaar beskou word deur die bestuursgesag,

moet toepaslike en gangbare metings van die steuringsvlak volgens toepaslike kriteria in regulasie 6 van hierdie Skedule B Regulasies, uitgevoer word by 'n meetpunt deur die bestuursgesag bepaal met aanvaarding van daardie ligging deur die aansoeker.

Die persoon wat die dispuut aanvoer, sal verantwoordelik wees vir die koste van die metings wat gedoen word, onderworpe daaraan dat indien die resultate van die metings bewys dat die dispuut aangevoer geldig was, die koste tussen die partye gedeel moet word soos vooraf ooreengekom deur middel van 'n beraming.

- (6) Die resultate van die metings, beoog in subregulasie 4(5), sal gerapporteer word in 'n afsonderlike gedetailleerde metingsverslag. Die verslag moet 'n beskrywing van die metingsproses en standarde gebruik, die lys van meet- en bybehorende toerusting gebruik met kalibrasie sertifikate, volledige inligting oor die metingsparameters (insluitend ligging, hoogte, datum, tyd en weerstoestande) en die metingsresultate.
- (7) 'n Aansoek om 'n permit moet gedoen word op 'n vorm vanaf die bestuursgesag verkry en moet al die inligting en data daarin vereis, insluit. Die aansoek moet aandui of die aansoeker verkies het om reëlings te tref om die voldoeningsbepaling uit te voer of, alternatiewelik, dat dit versoek is dat die bestuursgesag die voldoeningsbepaling uitvoer.
- (8) Die voltooide aansoekvorm en die voldoeningsbepaling verslag, indien van toepassing, moet deur die lisensiehouer of lisensie vrygestelde operateur by die bestuursgesag ingedien word vir oorweging en evaluering.

#### **5. Evaluering van voldoeningsverslae en permit aansoeke**

- (1) Die bestuursgesag moet elke voldoeningsverslag en aansoek vir 'n permit ingedien, evalueer.
- (2) Indien 'n onvolledige voldoeningsverslag of permit aansoek ontvang word –
  - (a) moet die aansoeker daarvan skriftelik in kennis gestel word binne veertien (14) dae na ontvangs van die aansoek;
  - (b) mag die onvolledige verslag en/of aansoek deur 'n volledige weergawe vervang word; en
  - (c) sal die evalueringsproses slegs 'n aanvang neem wanneer die volledige weergawes van die verslag en aansoek beskikbaar is.
- (3) Die bestuursgesag moet binne dertig (30) dae vanaf die datum waarop die permitaansoek en voldoeningsverslag, indien van toepassing, ontvang is, uitgesluit die tydsverloop vir verpligte eksterne raadplegings kragtens hierdie regulasies of reaksies op versoeke vir inligting aan die aansoeker, die aansoeker skriftelik inlig oor die resultaat, met redes verstrek, van die oorweging van die aansoek, en indien van toepassing, die evaluering van die voldoeningsverslag.



- (4) 'n Permit sal slegs uitgereik word, indien daar aan die volgende kriteria voldoen is –
- (a) die radiofrekwensiespektrum wat gebruik sal word, vrygestel is kragtens regulasie 3 van hierdie Skedule B Regulasies; en
  - (b) die radiofrekwensie steuringsvlakke soos bepaal nie die toepaslike voorgeskrewe beskermingsvlakke oorskry nie; en
  - (c) die permitaansoek voldoen aan al die toepaslike vereistes soos in Bylae A tot hierdie Skedule B Regulasies gelys en enige ander items geïdentifiseer.
- (5) 'n Lisensiehouer of 'n lisensie vrygestelde operateur, wat 'n geskrewe kennisgewing ontvang dat die kriteria in subregulasie 5(4) voorgeskryf, nie aan voldoen is nie, mag ondersoek instel en metodes oorweeg om aan die kriteria te voldoen, en die permitaansoek weer indien.
- (6) Indien die bestuursgesag meer tyd benodig as die tyd gespesifiseer om 'n besluit te neem kragtens subregulasie 5(3), of daar besluit word dat 'n uitgebreide tegniese evaluering en/of metings benodig word, mag die gesag binne die gespesifiseerde tydperk, insluitend enige geldige bykomende tyd, die lisensiehouer of operateur inlig dat bykomende tyd, tot 'n maksimum van een honderd en tagtig (180) dae nodig is en redes verstrek waarom dit nodig is.
- (7) Indien die bestuursgesag versuim om binne die tydperk in subregulasie 5(3) gespesifiseer, op te tree, of waar die gesag kragtens subregulasie 5(6) die tydperk met 'n bepaalde tydperk verleng het en versuim om binne 'n verlengde tydperk deur die bestuursgesag bepaal, op te tree, word dit geag dat die permit waarvoor aansoek gedoen is, toegestaan is.
- (8) 'n Permit wat deur die bestuursgesag aan 'n lisensiehouer of 'n lisensie vrygestelde operateur uitgereik is, moet die frekwensies of die frekwensieband wat gebruik mag word spesifiseer tesame met transmissie eienskappe en voorwaardes waaraan die lisensiehouer of operateur moet voldoen. Die permit moet ook enige tydperk spesifiseer, soos aanvaar deur die bestuursgesag, om 'n bestaande radiostasie installasie of radio-apparaat te verander om aan die permit-voorwaardes te voldoen.



- (9) Indien die bestuursgesag 'n geskrewe klagte ontvang, nadat 'n permit uitgereik is, dat die radiofrekwensie steuring gemeet hoër is as die vlak wat in die permit aangeteken is en die betrokke beskermingsvlak oorskry, moet die voldoeningbepalingsverslag hersien word deur die bestuursgesag om die geldigheid van die oorspronklike voldoeningsbepaling te bepaal, met inagneming van die akkuraatheid van rekenaar modellering of metings gedoen. Die resultate van die hersiening sal bepaal of die transmissie eienskappe, in die uitgereikte permit gespesifiseer, aangepas moet word om te voorkom dat die toepaslike beskermingsvlak oorskry word. Die bestuursgesag moet die permithouer skriftelik inlig dat die saak kragtens subregulasie 5(12) hanteer sal word.
- (10) Indien 'n lisensiehouer of 'n lisensie vrygestelde operateur, aan wie 'n permit uitgereik is, wysiging verlang van die frekwensies of die frekwensieband wat gebruik mag word, of die transmissie eienskappe, of die voorwaardes in die permit voorgeskryf, moet daar by die bestuursgesag aansoek gedoen word vir 'n nuwe permit vir sodanige wysiging.
- (11) Subregulasies 4(1) tot 4(9), met die nodige wysigings geles, is van toepassing op sodanige aansoek vir die wysiging van 'n uitgereikte permit.
- (12) Indien die bestuursgesag dertig (30) dae na die uitreiking van 'n permit bevind, met inagneming van enige tyd toegestaan in die permit om 'n bestaande radiostasie installasie of radio-apparaat te verander, en met sewe dae aan die permithouer toegestaan om op die aantyging te reageer, dat die voorwaardes in die permit nie nagekom word nie, mag die permit onmiddellik deur die bestuursgesag teruggetrek word. Die houer van so 'n permit moet onmiddellik enige aktiwiteit wat kragtens die permit uitgevoer word staak en sal geag word nie in besit van 'n permit te wees nie, waar dit kragtens Skedule A van hierdie Regulasies vereis word.

## **6. Kriteria vir die bepaling van radiofrekwensie steuringsvlakke**

- (1) Die radiofrekwensie steuringsvlak veroorsaak deur enige radiokommunikasie transmissie binne die Karoo sentrale astronomievoordeelgebiede, sal bepaal word deur die gebruik van die transmissie eienskappe in die permit aansoek verskaf volgens die tegniese kriteria voorgeskryf in die subregulasies wat volg.



- (2) Die bepaling van die radiofrekwensie steuringsvlakke behoort in die eerste plek deur middel van die rekenaarmodellering gedoen te word wat wetenskaplike metodes en standarde gebruik wat in Bylae B tot hierdie Skedule B Regulasies gelys is en wat radiofrekwensie steuringsvlakke bereken, ooreenkomstig die beskermingsmaatreëls in Skedule A van hierdie Regulasies voorgeskryf en die kriteria in subregulasie 6 (4) uiteengesit.
- (3) As rekenaarmodellering nie haalbaar of toepaslik is nie, of as groter akkuraatheid vereis word as wat rekenaarmodellering kan voorsien, moet –
- (a) die radiofrekwensie steuringsvlakke deur middel van metings bepaal word deur 'n persoon of persone wat as bevoeg geag word en wat die nodige meettoerusting beskikbaar het; en
  - (b) die meet standarde en tegnieke wat gebruik sal word moet skriftelik beskryf word deur die bevoegde persoon wat die metings sal uitvoer; en
  - (c) ooreenstemming bereik word tussen die bestuursgesag en die aansoeker om 'n permit oor die aangewese persoon of persone om die metings te doen, en die meettoerusting, standarde en tegnieke wat gebruik sal word; en
  - (d) indien ooreenstemming nie bereik kan word nie, moet die bestuursgesag die nodige bepalinge maak.
- (4) Die berekening of meting van radiofrekwensie steuringsvlakke moet gebaseer wees op die volgende kriteria -
- (a) die toepassing van die relevante standaard vir die berekeningsmetode vir die voorspelling van die radiofrekwensie steuringsvlak soos gedefinieer in, maar nie daartoe beperk nie, die berekening standarde en metodes soos in Bylae B tot hierdie Skedule B Regulasies uiteengesit;
  - (b) seinvlakke wat vir nie meer as 5% van die tyd oor 'n vier en twintig (24) uur periode oorskry sal word nie;
  - (c) 'n verwysingshoogte van 10 meter bo die grondvlak by die waardebepalingspunte vir die beskermingsmaatreëls in Skedule A van hierdie Regulasies voorgeskryf;

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# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 630

15 December 2017  
Desember

No. 41321

**PART 3 OF 4**

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

ISSN 1682-5843



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

- (d) 'n isotropiese antenna toestand met 0 dB wins by die waardebelegingspunte vir die beskermingsmaatreëls in Skedule A van hierdie Regulasies voorgeskryf;
  - (e) die gebruik van 'n digitale terrein model wat aanvaarbare resultate sal lewer en wat voorwerpe wat golfvoortplanting mag beïnvloed en grondgeleiding in ag kan neem; en
  - (f) die transmissie eienskappe in die voldoeningsbepaling verskaf.
- (5) Die bepaling van die radiofrekwensie steuringsvlakke moet die volgende insluit –
- (a) 'n punt-tot-punt berekening van die radiofrekwensie steuringsvlak oor die golfvoortplantingspad tussen die radiostasie of ligging van die radio-apparaat en die gespesifiseerde waardebelegingspunte vir die beskermingsmaatreëls in Skedule A van hierdie Regulasies voorgeskryf; en
  - (b) die berekening van die seinpadverliese oor die golfvoortplantingspaaie na verwys in (a), in dB.

## **7. Kriteria, prosedures en voorwaardes van toepassing op 'n aangewese diens**

- (1) Radiokommunikasie transmissies wat die dienste lewer soos hieronder gelys, mag deur die bestuursgesag oorweeg word vir klassifikasie as aangewese dienste -
- (a) uitsaaiseinverspreiding via geostasionêre satelliete vir verspreiding na terrestriële uitsaaiesenders en direk-na-huis ontvangs, en BHF/FM klank uitsaaiuitsendings;
  - (b) elektroniese kommunikasienetwerkdienste van provinsiale en nasionale omvang deur OKOSA gelisensieer kragtens artikel 5(3) van die Wet op Elektroniese Kommunikasie, 2005;
  - (c) elektroniese kommunikasie vir die bedryf en instandhouding van elektrisiteitstransmissie en -verspreiding kragstelsels;
  - (d) elektroniese kommunikasie vir die bedryf en instandhouding van spoorvervoer;



- (e) elektroniese kommunikasie vir sekerheidsdienste en hul doelwitte soos in Hoofstuk 11 van die Grondwet van die Republiek van Suid-Afrika, 1996, omskryf, plaaslike regering en hul doelwitte soos in Hoofstuk 7 van die Grondwet omskryf, gesondheidsdienste en nooddienste; en
  - (f) geostasionêre satellietkommunikasie.
- (2) 'n Aansoeker om 'n permit kragtens regulasie 4(7) van hierdie Skedule B Regulasies vir 'n radiokommunikasie diens wat as 'n aangewese diens mag kwalifiseer kragtens subregulasie 7(1), moet-
- (a) sodanige klassifikasie in die permitaansoek versoek;
  - (b) die transmissies noem en die radiofrekwensie steuringsvlak wat nie verminder kan word om aan die toepaslike beskermingsvlak te voldoen sonder om daardie diens weselik te beïnvloed nie;
  - (c) 'n verduideliking en redes verskaf hoekom die steuringsvlak nie verminder kan word nie; en
  - (d) versoek dat 'n radiofrekwensie steuringsvlak van meer as die voorgeskrewe waarde toegelaat word.
- (3) In die bepaling deur die bestuursgesag of 'n radiokommunikasiediens in subregulasie 7 (1) as 'n aangewese diens geklassifiseer behoort te word of nie, moet oorweging gegee word aan –
- (a) die bestaan van 'n funksioneel geskikte en ekonomies gangbare alternatief wat voldoen aan, of meer as voldoen aan, die voorwaardes voorgeskryf in regulasie 4 van Skedule A van hierdie Regulasies; en
  - (b) die moontlike gebruik van 'n alternatiewe frekwensieband en/of 'n alternatiewe tegnologie wat 'n mindere radiofrekwensie steuringsimpak op die beskerming van radio-astronomie het.
- (4) Die klassifikasie vir elke tipe radiokommunikasiediens, wat in 'n ander frekwensieband werk of 'n ander tegnologie gebruik, in die besonder vir lisensiehouers wat die verskillende tipes dienste verskaf, moet afsonderlik bepaal word en so aangedui word in die permit wat uitgereik word.
- (5) Die bestuursgesag moet, voordat die evalueringsproses vir die voldoeningsbepaling en die aansoek om 'n permit soos in regulasie 5 van hierdie Skedule B Regulasies voorgeskryf, 'n aanvang neem, bepaal of die

radiokommunikasiediens betrokke as 'n aangewese diens geklassifiseer sal word.

- (6) 'n Radiokommunikasie diens, wat as 'n aangewese diens geklassifiseer word, moet voldoen aan die voorwaardes voorgeskryf in regulasie 4 van hierdie Skedule A Regulasies: onderworpe daaraan dat 'n radiofrekwensie steuringsvlak van meer as die voorgeskrewe waarde toegelaat mag word.
- (7) 'n Klassifikasie as 'n aangewese diens mag deur die bestuursgesag gekanselleer word as 'n ander elektroniese kommunikasiestelsel beskikbaar word wat funksioneel geskik en ekonomies gangbaar is en voldoen aan of in 'n groter mate voldoen aan die beperkings, voorwaardes en standaarde in Skedule A van hierdie Regulasies vir die beskerming van die radio-astronomie voorgeskryf. Desnieteenstaande, wanneer enige kansellering beoog word, moet daar eers 'n redelike geleentheid aan die permithouer gebied word om die gevolge van die kansellering te bestudeer, om alternatiewe opsies te oorweeg en om 'n alternatiewe oplossing in die verband in te dien.
- (8) Geen toegewing mag deur die bestuursgesag toegestaan word nie, waar dit waarskynlik is dat radiofrekwensie steuring die versadigingsvlak sal oorskry by enige toepaslike verwysingspunt of in 'n gebied soos in Skedule A van hierdie Regulasies voorgeskryf.

#### **8. Kriteria vir die persoon wat die voldoeningsbepaling uitvoer**

- (1) 'n Persoon wat die voldoeningsbepaling uitvoer en die verslag opstel, moet:
  - (a) beskik oor 'n akademiese kwalifikasie in elektroniese of radiofrekwensie ingenieurswese, ten minste op die vlak wat die persoon sal kwalifiseer om as 'n professionele ingenieurstechnoloog kragtens die Wet op die Ingenieursweseprofessie, 2000 (Wet No 46 van 2000) te registreer;
  - (b) toegang hê tot of in staat wees om toegang te bekom tot 'n gerekenariseerde frekwensiespektrum beplanningstelsel wat bruikbaar is om rekenaarmodellering uit te voer vir die radiofrekwensie seïnvlak berekeninge op die betrokke metodes en standaarde gelys in Bylae B tot hierdie Skedule B Regulasies en 'n digitale terreinmodel gebruik wat aanvaarbare resultate sal lewer; en



- (c) in staat wees om ten minste twee verwysings te verskaf vir werk wat suksesvol binne die voorafgaande vyf (5) jaar uitgevoer is en die bepaling van radiogolf voortplanting en seinsterktes behels het.
- (2) As alternatief tot sub-regulasie 8(1), moet die bestuursgesag 'n evaluering doen van die vaardighede en ervaring van 'n persoon wat die voldoeningsbepaling en die samestelling van die verslag wil uitvoer om te bepaal of die persoon oor die nodige vermoë en kapasiteit beskik.
- (3) Die formaat van die voldoeningsverslag wat saamgestel word deur die persoon wat die voldoeningsbepaling uitvoer en die inligting wat daarin vereis word, moet ooreenstem met dit wat in 'n vorm uiteengesit word en by die bestuursgesag verkry moet word.
- (4) Die bestuursgesag moet die aansoeker vir 'n permit skriftelik in kennis stel of die persoon wat die voldoeningsbepaling uitgevoer het en die vereiste inligting verskaf het, aan die vereistes in subregulasie 8(1) gestel voldoen het of nie, of as 'n evaluering van die vaardighede en ervaring onderneem was, wat die uitslag is: met dien verstande dat 'n persoon wat aan die vereistes voldoen het, of 'n positiewe uitslag in die evaluering gehad het, sal aanvaar word as bevoeg om verdere voldoeningsbepalings uit te voer indien dit gewys kan word, tot die bevrediging van die bestuursgesag, dat die persoon aktief betrokke gebly het in die werk wat daartoe gelei het dat die persoon as bevoeg geag is: in welke geval die genoemde persoon slegs sy naam en 'n toepaslike identifikasie nommer moet verstrekk vir verdere permit aansoeke, waar die voldoeningsbepalings deur hom uitgevoer is.

## **9. Permitvoorwaardes en permitregister**

- (1) Elke permit toegestaan deur die bestuursgesag kragtens regulasie 5 van hierdie Skedule B Regulasies, moet die toelaatbare transmissie eienskappe en die voorwaardes vir die vereiste beskerming insluit waaraan die permithouer moet voldoen.
- (2) Die transmissie eienskappe en die voorwaardes gespesifiseer in elke permit, wat kragtens regulasie 5 van hierdie Skedule B Regulasies uitgereik is, moet deur die bestuursgesag in 'n permit-register vir die Karoo sentrale

astronomievoordeelgebiede ingeskryf word, welke register by die bestuursgesag gehou moet word.

- (3) Die besonderhede van die inligting wat in die permit-register ingeskryf moet word, moet die transmissie eienskappe wat vir die voldoeningsbepaling gebruik is en die voldoeningsresultate insluit vir elke radiokommunikasie sein en die betrokke waardebepalingspunt.
- (4) Toegang tot die register is beperk tot die bestuurder van die bestuursgesag onder wie se beheer die register geplaas is deur die Minister of, met geskrewe magtiging deur die bestuurder, 'n persoon in die diens van daardie bestuursgesag: onderworpe daaraan dat toegang tot die register verkry mag word deur die permithouer met die geskrewe magtiging van die bestuurder of die persoon deur hom gemagtig, of in die afwesigheid daarvan, op grond van 'n hofbevel toegestaan aan die permithouer of 'n ander persoon, op redelike gronde, met dien verstande dat 'n gesertifiseerde afskrif deur middel van geregistreerde pos verskaf mag word aan sodanige permithouer deur die bestuurder of die persoon deur hom gemagtig.



**Bylae A tot Skedule B: Tabel van voldoeningsvereistes vir permit aansoeke**

Die onderstaande tabel word verskaf om permitaansoekers by te help in die bepaling of aansoekers aan al die administratiewe vereistes vir permitaansoeke in die Skedule B Regulasies voorgeskryf, voldoen het. Die Skedule B Regulasies maak voorsiening in regulasie 4(3)(c) dat voldoening aan al die toepaslike regulasies kragtens die Wet gemaak, bepaal moet word en regulasie 5(2) bepaal hoe onvolledige aansoeke hanteer moet word.

Verwysing	Opsomming van die vereiste
Regulasie 4(1)	'n Voldoeningsbepaling sal uitgevoer word voor die indiening van 'n permitaansoek indien die permitaansoeker verkies om die voldoeningsbepaling uit te voer.
Regulasie 4(2)	Die voldoeningsbepaling sal deur 'n bevoegde persoon uitgevoer word.
Regulasie 4(3)	Die voldoeningsbepaling moet die aktiwiteite insluit wat in subregulasies 4(3)(a), (b) en (c) voorgeskryf is.
Regulasie 4(4)	Die voldoeningsbepaling verslag moet voldoen aan die formaat en inligtingsvereistes in die voorskrif wat van die bestuursgesag bekom moet word.
Regulasie 4(7)	'n Permitaansoek moet voldoen aan die vorm wat by die bestuursgesag bekom moet word.
Regulasie 6	Kriteria vir die bepaling van radiofrekwensie steuringsvlakke.
Regulasie 7(2)	Reageer op die subitems, as oorweging as 'n aangewese diens verlang word.

**Bylae B tot Skedule B: Golfvoortplanting berekening standarde en metodes**

Die bylae hou verband met subregulasie 6(4)(a) van hierdie Skedule B Regulasies. Die bedoeling van die inligting verskaf in hierdie bylae is om bevoegde persone of enige ander persoon betrokke in die bepaling van radiofrekwensie steuringsvlakke te help. Die inligting is nie bedoel om voorskriftelik of beperkend te wees nie op standarde en tegnieke wat gebruik mag word en resultate met 'n hoër vlak van akkuraatheid mag verskaf. Die opsies wat genoem word mag beskou word as die minimum toepaslike standarde om radiofrekwensie steuringsvlak voorspellings uit te voer.

1. Die ITU standarde hier genoem, word met hul oorspronklike Engelse titels verskaf:

ITU Recommendation ITU-R P.1144 - Guide to the application of the propagation methods of Radiocommunication Study Group 3. This recommendation lists the ITU-R radio wave propagation prediction methods that may be used for the different applications. The options applicable to radio frequency interference predictions that relate to Schedule A of these Regulations, are listed below.

- 1.1. Recommendation ITU-R P.452 – Service employing stations on the surface of the Earth; interference;
  - 1.2. Recommendation ITU-R P.526 – Propagation by diffraction;
  - 1.3. Recommendation ITU-R P.528 – Aeronautical mobile;
  - 1.4. Recommendation ITU-R P.530 – Line-of-sight fixed links;
  - 1.5. Recommendation ITU-R P.617 – Trans-horizon fixed links; and
  - 1.6. Recommendation ITU-R P.2001 – Terrestrial services.
2. Die Longley-Rice model deur die Federal Communications Commission in die Verenigde State van Amerika aanvaar, mag ook gebruik word, aangesien dit gebruik word in 'n aantal gerekenariseerde voorspellingsprogramme op die mark.
  3. Ander metodes om die golfvoortplantingsverlies te bepaal, mag ook met die instemming van die bestuursgesag gebruik word.



## SKEDULE C VAN HIERDIE REGULASIES

### Regulasies oor finansiële vergoedingsprosedures vir die Karoo sentrale astronomievoordeelgebiede

#### 1. Woordomsrywings

Vir die doeleinde van hierdie Skedule C Regulasies tensy dit uit die samehang anders blyk, beteken–

“bestuursgesag” die staatsorgaan waaraan die Minister die bestuur van die Karoo sentrale astronomievoordeelgebiede toegewys het kragtens artikel 15 van die Wet en sluit enige persoon in met wie die bestuursgesag ’n medebestuursooreenkoms aangegaan het vir die medebestuur van die Karoo sentrale astronomievoordeelgebiede kragtens artikel 18 van die Wet;

“die **Wet**” die “Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007)”;

“finansiële verlies” –

- (a) die gestaafde geldelike verlies gely deur ’n geaffekteerde persoon as gevolg van voldoening aan ’n beperking of om ’n vereiste of ’n voorwaarde te implementeer wat kragtens artikel 23 van die Wet voorgeskryf is, soos bepaal in Skedules A en D van hierdie Regulasies; en
- (b) die aansluitingskoste en bykomende gebruikskoste vir ’n radiokommunikasiediens gebruiker van ’n elektroniese kommunikasiediens wat anders is as die elektroniese kommunikasiediens wat deur daardie gebruiker benut is voor die publikasie van ’n regulasie kragtens artikel 23 van die Wet;

“geaffekteerde persoon” ’n persoon wat –

- (a) wettiglik ’n aktiwiteit in ’n sentrale astronomievoordeelgebied uitgevoer het voor die beperking van daardie aktiwiteit ooreenkomstig Skedules A en D van hierdie Regulasies; en
- (b) deur die Minister vereis word om kragtens Skedules A en D van hierdie Regulasies daardie aktiwiteit te staak of om aan voorwaardes te voldoen wat voorgeskryf is kragtens Skedules A en D van hierdie Regulasies;

**"GPS"** die "global positioning system";

**"lisensiehouer"** 'n persoon aan wie OKOSA 'n lisensie uitgereik het om 'n diens kragtens Hoofstuk 3 te verskaf of om radiofrekwensiespektrum te gebruik kragtens artikel 31 van die Wet op Elektroniese Kommunikasie, 2005;

**"lisensie vrygestelde operateur"** 'n persoon wat 'n diens verskaf ingevolge die vrystelling deur OKOSA toegestaan kragtens artikel 6 van die Wet op Elektroniese Kommunikasie, 2005 of radiofrekwensiespektrum gebruik wat vrygestel is van die vereiste vir 'n radiofrekwensie spektrum lisensie ingevolge artikel 31(6) van die Wet op Elektroniese Kommunikasie, 2005, en regulasies daarkragtens gemaak en sluit gebruikers van radio toerusting in;

**"Skedule A Regulasies"** die regulasies om die gebruik van sekere radiofrekwensiespektrum kragtens artikel 22 van die Wet en sekere verklaarde aktiwiteite kragtens artikel 23 van die Wet binne die Karoo sentrale astronomievoordeelgebiede, te verbied of te beperk, wat die Skedule A van hierdie Regulasies is;

**"Skedule D Regulasies"** die regulasies om sekere elektriese aktiwiteite kragtens artikel 23 van die Wet binne die Karoo sentrale astronomievoordeelgebied 1, te beperk, wat die Skedule D van hierdie Regulasies is; en

**"Wet op Elektroniese Kommunikasie"** die Electronic Communications Act, 2005 (Act No. 36 of 2005)".



## **2. Toepassing van die regulasies in hierdie Skedule C**

- (1) Die regulasies is van toepassing op enige sentrale astronomievoordeelgebied verklaar vir radio-astronomie doeleindes en verwante wetenskaplike ondernemings.
- (2) Indien daar onversoenbare verskille tussen die Engelse en Afrikaanse tekste van hierdie regulasies is, sal die Engelse teks voorrang geniet.

## **3. Prosedures en kriteria om vir finansiële vergoeding aansoek te doen**

- (1) 'n Geaffekteerde persoon wat 'n gestaafe geldelike verlies gely het, alleenlik as 'n direkte oorsaak van daardie persoon se voldoening aan 'n vereiste of voorwaarde voorgeskryf kragtens Skedules A en D van hierdie Regulasies, of 'n persoon wie se gebruik van 'n diens verskaf deur 'n lisensiehouer of 'n lisensie vrygestelde operateur, nadelig geaffekteer is, as 'n direkte gevolg van daardie operateur se voldoening aan 'n vereiste of voorwaarde voorgeskryf kragtens Skedule A van hierdie Regulasies, mag by die Minister aansoek doen vir vergoeding kragtens hierdie regulasie.
- (2) Die aansoek om vergoeding in sub-regulasie (1) beoog, moet gedoen word op 'n vorm van die bestuursgesag verkry, of van die webblad van die bestuursgesag, en moet by die bestuursgesag ingedien word binne twee (2) jaar na die implementering van die betrokke vereiste of voorwaarde.
- (3) Indien 'n aansoeker vir vergoeding in verband met verskillende aktiwiteite of dienste aansoek doen, moet die aansoeker 'n afsonderlike aansoek vir elke aktiwiteit of diens indien.

## **4. Verwerking van die aansoek deur die bestuursgesag**

- (1) By ontvangs van die aansoek mag die bestuursgesag skriftelik sodanige verdere besonderhede as wat nodig mag wees van die aansoeker aanvra, en indien dit nodig geag word, mag die aansoeker deur middel van 'n beëdigde verklaring sodanige addisionele inligting aan die bestuursgesag verskaf vir oorweging van die aansoek en die aansoeker moet binne dertig (30) dae na die aanvraag vir addisionele inligting afgestuur is, daarop reageer.
- (2) Die bestuursgesag moet OKOSA raadpleeg op elke aansoek ontvang, om vas te stel of die aktiwiteit betrokke in die aansoek om finansiële vergoeding wettig



binne die betrokke sentrale astronomievoordeelgebied uitgevoer was onmiddellik voordat die betrokke Skedule A Regulasies gepubliseer is.

- (3) Die bestuursgesag moet, binne sestig (60) dae vanaf die datum nadat die laaste vereiste inligting ontvang is, die aansoek, al die betrokke dokumentasie en enige verdere besonderhede deur die aansoeker ingedien met 'n aanbeveling na die Minister verwys vir 'n beslissing: onderworpe daaraan dat die Minister die sestig (60) dae tydperk mag verleng op grond van goeie redes deur die bestuursowerheid verstrek, met kennisgewing aan die aansoeker.
- (4) Die bestuursgesag moet binne dertig (30) dae na die ontvangs van die Minister se besluit die aansoeker skriftelik van die Minister se besluit in kennis stel en die aansoeker met geskrewe redes vir die besluit voorsien, insluitend 'n aanbod vir vergoeding wat volgens Regulasie 5 van hierdie Skedule C Regulasies bepaal is.

#### **5. Bepaling van vergoeding deur die Minister**

- (1) Indien die Minister goedkeuring verleen dat 'n aansoeker vergoed behoort te word, moet die Minister die bedrag van die vergoeding bepaal met inagneming van al die betrokke omstandighede, insluitend-
  - (a) die aard en omvang van die aktiwiteit wettig uitgevoer, of die diens deur die aansoeker gebruik onmiddellik voor die inwerkingstelling van die betrokke vereiste of voorwaarde;
  - (b) die mate waartoe die aansoeker die betrokke aktiwiteit gestaak het, die aard en omvang waartoe die aansoeker sy uitvoering van die betrokke aktiwiteit verander het, of die mate en aard waartoe die aansoeker se gebruik van die diens nadelig geaffekteer is, alleenlik as 'n direkte resultaat van voldoening aan die vereiste of voorwaardes voorgeskryf kragtens Skedules A en D van hierdie Regulasies;
  - (c) die eiendom of toerusting wat deur die aansoeker besit of gebruik was om die betrokke aktiwiteit uit te voer, of die diens te gebruik en die mate waartoe die gebruik daarvan nadelig geaffekteer is, alleenlik as 'n direkte resultaat van voldoening aan die vereiste of voorwaardes voorgeskryf kragtens Skedules A en D van hierdie Regulasies; en

- (d) die gesubstansieerde werklike finansiële verlies deur die aansoeker gely, alleenlik as 'n direkte resultaat van voldoening aan die vereiste of voorwaardes voorgeskryf kragtens Skedules A en D van hierdie Regulasies.

**6. Aanvaarding van die aanbod deur die aansoeker**

- (1) Binne dertig (30) dae na die ontvangs van die aanbod in subregulasie 4(4), moet die aansoeker die bestuursgesag skriftelik in kennis stel of die aanbod aanvaar of verwerp word.
- (2) Indien die aansoeker die aanbod kragtens subregulasie 4(4) gemaak, aanvaar, moet die bestuursgesag die aansoeker die bedrag betaal op 'n manier en binne die tydperk waarop daar tussen die aansoeker en die bestuursgesag ooreengekom is, welke tydperk nie meer as sestig (60) dae mag wees nie na die ontvangs van die kennisgewing van aanvaarding van die aanbod deur die aansoeker.



## SKEDULE D VAN HIERDIE REGULASIES

### Regulasies om steuring deur elektriese aktiwiteite te beperk binne die Karoo sentrale astronomievoordeelgebied 1

#### 1. Woordomsrywings

Vir die doeleindes van hierdie Skedule D Regulasies tensy dit uit die samehang anders blyk, beteken—

**"beskermingsgange"** 10-km wye gange van grond, op 'n radio astronomiese spiraal arms konfigurasie gesentreer, waarbinne SKA-stasies binne die Karoo Sentrale Astronomievoordeelgebied 1 geplaas sal word, wat ook op die Karoo sentrale astronomievoordeelgebiede 2 en 3 van toepassing is, afhange van die radiofrekwensie in gebruik, en soos uitgebeeld en omskryf in Bylae A tot hierdie Skedule D Regulasies;

**"Beskermingsvlakke Regulasies, 2012"** die regulasies op radio-astronomie beskermingsvlakke om toegepas te word in astronomievoordeelgebiede wat vir radioastronomie doeleindes verklaar is op 10 Februarie 2012 in Staatskoerant No. 35007, onder Kennisgewing No. R.90;

**"bestuursgesag"** die staatsorgaan waaraan die Minister die bestuur van die Karoo sentrale astronomievoordeelgebiede toegewys het kragtens artikel 15 van die Wet en sluit enige persoon in met wie die bestuursgesag 'n medebestuursooreenkoms aangegaan het vir die medebestuur van die Karoo sentrale astronomievoordeelgebiede kragtens artikel 18 van die Wet;

**"bestaande elektriese toerusting en infrastruktuur"** elektriese toerusting en infrastruktuur wat in werking of in gebruik was of waar konstruksie op 'n perseel begin het, voor die datum waarop hierdie regulasies gepromulgeer is deur publikasie in die Staatskoerant;

**"CENELEC"** die "European Committee for Electrotechnical Standardisation";

**"CISPR"** die "International Special Committee on Radio Interference" wat standarde daarstel vir die beheer van elektromagnetiese steuring in elektriese en elektroniese toestelle;



**"elektrisiteitsopwekking"** die produksie van elektrisiteit op enige manier, insluitend omsitters wat gelykstroom na wisselstroom verander;

**"elektriese toerusting"** enige elektriese masjinerie, elektriese stelsels, toerusting of toestelle, insluitend enige draadlose data kommunikasie gebruik vir die werking van hierdie fasiliteite, wat gebruik word vir konstruksie, distribusie en transmissie kragstelsels, eksplorاسie, boerdery, huishouding, vervaardiging, instandhouding, of mynbou doeleindes;

**"elektriese infrastruktuur"** enige infrastruktuur of fasiliteit, insluitend enige draadlose data kommunikasie gebruik vir die werking van die elektriese infrastruktuur, wat op enige manier gebruik word vir die opwekking van elektrisiteit, verspreiding van elektrisiteit, transmissie van elektrisiteit, of vir 'n elektriese krag distribusie- of transmissiestelsel, en elektriese fasiliteite en toerusting gebruik vir enige van hierdie toepassings;

**"elektromagnetiese uitstraling"** onbedoelde radiofrekwensie uitstraling deur elektriese infrastruktuur en elektriese toerusting, wat kenmerkend wye dele van die radiofrekwensiespektrum beset en radiofrekwensie steuring veroorsaak;

**"IEC"** die "International Electrotechnical Commission" wat internasionale standaarde vir elektriese, elektroniese en verwante tegnologie voorberei en publiseer;

**"IEEE"** die "Institute of Electrical and Electronics Engineers" in die Verenigde State van Amerika wat standaarde saamstel, in stand hou en publiseer;

**"isotropiese antenna"** 'n teoretiese puntbron of bestemming van elektromagnetiese golwe wat in alle rigtings met dieselfde stralingsintensiteit uitstraal of dieselfde ontvangsensitiwiteit het;

**"ITU"** die "International Telecommunication Union";

**"Karoo Sentrale Astronomievoordeelgebiede 1, 2 en 3"** die Karoo Sentrale Astronomievoordeelgebiede 1, 2 en 3 verklaar op 12 Maart 2014, in Staatskoerant No. 37434, onder in Kennisgewing No. 198;

**"radioastronomie stasie"** een of meer ontvangstelsels by 'n plek, insluitend die bybehorende toerusting, vir die ontvangs van radiogolwe van kosmiese oorsprong vir die doeleindes van radioastronomie;

**"radiofrekwensie steuring"** die nadelige effek van radioseine ontvang of seine van elektromagnetiese uitstralings wat die radio-astronomie waarneming beskermingsvlakke, soos in die Beskermingsvlakke Regulasies, 2012 voorgeskryf, oorskry;

**"SABS"** die Suid-Afrikaanse Buro van Standaarde ingestel deur artikel 3 van die Wet op Standaarde, 2008, (Wet No. 8 van 2008);

**"SANS"** 'n Suid-Afrikaanse Nasionale Standaard wat deur die SABS kragtens die Wet op Standaarde, 2008 (Wet No. 8 van 2008) ontwikkel is en sluit internasionale standaarde in, wat deur die SABS geïnkorporeer is;

**"SKA"** die Square Kilometre Array-radioteleskoop bestaande uit 'n opset van radio-astronomie stasies om in die Republiek van Suid-Afrika en in deelnemende Afrika-lande geplaas te word volgens die besluit van die SKA-Organisasie;

**"SKA Virtuele Middelpunt"** die geografiese punt geleë by geografiese koördinate 30.71292 grade Suid en 21.44380 grade Oos wat verband hou met die SKA-opstelling van radioastronomie stasies binne die Karoo Astronomievoordeelgebiede;

**"skeidingsafstand"** die afstand nodig tussen enige elektriese toerusting of infrastruktuur en die naaste SKA Infrastruktuur Grondgebied, of die SKA Virtuele Middelpunt, met in agneming van enige beskerming aangebring om die radiofrekwensie steuring te verminder, welke afstand nodig is ten einde nie die toepaslike beskermingsvlakke in die Beskermingsvlakke Regulasies, 2012, voorgeskryf, te oorskry nie;

**"SKA Infrastruktuur Grondgebied"** die beskermingsgange binne die Karoo sentrale astronomievoordeelgebied 1 soos uitgebeeld en beskryf in Bylae A tot hierdie Skedule D Regulasies en die sirkelvormige gebied met 'n 20km straal om die SKA Virtuele Middelpunt;



**"versadigingsvlak"** die totale krag ontvang, op 'n vlak van (minus) -100 dBm, of meer, binne die transmissie bandwydte van die radiokommunikasie wat die radiofrekwensie steuringsvlak produseer waarby die versadigings verskynsel voorkom by 'n radio-astronomie stasie of by 'n gespesifiseerde verwysingspunt of -punte of binne 'n gespesifiseerde area;

**"Wet op Elektrisiteitsregulering"** die Wet op Elektrisiteitsregulering, 2006 (Wet No. 4 van 2006); en

**"Wet"** die "Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007)".

## **2. Toepassing van die regulasies**

- (1) Hierdie Skedule D Regulasies is van toepassing op enige elektriese infrastruktuur en elektriese toerusting binne die geografiese gebied van die Karoo Sentrale Astronomievoordeelgebied 1, met betrekking tot –
  - (a) elektromagnetiese uitstralings binne die radio frekwensie spektrum vanaf 100 MHz tot 2170 MHz verklaar vir radio-astronomie doeleindes; en
  - (b) radio transmissies betrokke in draadlose data kommunikasie gebruik vir die werking van elektriese infrastruktuur en elektriese toerusting binne die radiofrekwensie spektrum vanaf 100 MHz tot 25.5 GHz verklaar vir radio-astronomie doeleindes
- (2) Radio kommunikasie gebruik vir steundienste op 'n infrastruktuur perseel, en ekstern tot die perseel, is onderworpe aan die voorskrifte in Skedule A van hierdie Regulasies.
- (3) Indien daar onversoenbare verskille tussen die Engelse en Afrikaanse tekste van hierdie regulasies is, sal die Engelse teks voorrang geniet.

## **3. Voorwaardes vir elektriese infrastruktuur en toerusting**

- (1) Geen persoon mag enige elektriese infrastruktuur en toerusting binne die Karoo Astronomievoordeelgebied 1 oprig, installeer, bedryf of gebruik nie tensy dit aan hierdie Skedule D Regulasies voldoen en die bestuursgesag 'n permit in verband daarmee uitgereik het; of as dit is vrygestel is van die beskikking van 'n permit soos voorsien in subregulasies 3(3), 3(4) en 3(5).
- (2) Alle elektriese infrastruktuur en enige elektriese toerusting wat in verband daarmee gebruik word of op sy eie -
  - (a) mag nie radiofrekwensie steuring as gevolg van elektromagnetiese uitstraling binne die SKA Infrastruktuur Grondgebied veroorsaak nie; en
  - (b) mag nie radiofrekwensie steuring as gevolg van enige draadlose data kommunikasie in 'n infrastruktuur installasie gebruik, by die SKA Virtuele Middelpunt of versadigingsvlak steuring binne die SKA Infrastruktuur Grondgebied veroorsaak nie; en



- (c) moet van die naaste SKA Infrastruktuur Grondgebied en van die SKA Virtuele Middelpunt met die nodige skeidingsafstande verwyderd wees, soos bepaal volgens regulasie 6 van hierdie Skedule D Regulasies om sodoende te voldoen aan subregulasies 3(2)(a) en 3(2)(b).
- (3) Bestaande elektriese toerusting en infrastruktuur is vrygestel van die vereiste om 'n permit te bekom en daarvoor te beskik tensy daar bevind word dat radiofrekwensie steuring veroorsaak word.
- (4) Nuwe elektriese infrastruktuur, met 'n elektriese kragvermoë van groter as 100 kVA en binne 'n afstand van 30 km vanaf die naaste SKA Infrastruktuur Grondgebied, of binne 'n afstand van 50 km vir elektrisiteit opwekking deur middel van windturbines, benodig 'n permit kragtens regulasie 4 van hierdie Skedule D Regulasies. By groter afstande, is hierdie fasiliteite vrygestel van die vereiste om 'n permit te verkry en om daarvoor te beskik tensy daar bevind word dat radio frekwensie steuring veroorsaak word.
- (5) Nuwe elektriese toerusting en infrastruktuur met 'n elektriese kragvermoë gelyk aan of minder as 100 kVA, is vrygestel van die vereiste om 'n permit te verkry en om daarvoor te beskik tensy daar bevind word dat steuring veroorsaak word.
- (6) In die geval dat radiofrekwensie steuring veroorsaak word binne die naaste SKA Infrastruktuur Grondgebied of by die SKA Virtuele Middelpunt deur elektriese toerusting en infrastruktuur vrygestel kragtens subregulasies 3(3), 3(4) en 3(5), moet die situasie soos volg hanteer word –
- (a) Die steuring veroorsaak sal deur die bestuursgesag ondersoek word om die bron en die steuringsvlak vas te stel; en
- (b) Die radiofrekwensie steuring moet verwyder word sodat daar voldoening is aan subregulasies 3(2)(a) en 3(2)(b); en
- (c) Om volgehoue voldoening te ondersteun, sal die bestuursgesag die nodige permit voorwaardes bepaal waaraan voldoen moet word en die permit uitreik waarkragtens die elektriese toerusting en infrastruktuur in werking mag voortgaan sonder om radiofrekwensie steuring te veroorsaak.

#### 4. Kriteria en prosedures vir 'n permit aansoek

- (1) 'n Aansoeker vir 'n permit, beoog in subregulasie 3(1) en 3(4), van hierdie Skedule D Regulasies, met inagneming van die vrystellings voorsien in subregulasies 3(3), 3(4) en 3(5), moet die permitaansoek by die bestuursgesag indien op 'n vorm van die bestuursgesag verkry.
- (2) Die permit aansoek in subregulasie 4(1) beoog, moet die inligting insluit soos gelys en beskryf in 'n skedule wat by die bestuursgesag verkry moet word.
- (3) Die inligting wat verskaf moet word, soos in subregulasie 4(2) beoog, moet voldoen aan die vereistes van regulasies 5 en 6 van hierdie Skedule D Regulasies.
- (4) Die bestuursgesag moet elke aansoek om 'n permit wat by die bestuursgesag ingedien is, oorweeg en die inligting wat kragtens subregulasie 4(2) verskaf is, evalueer, soos van toepassing, en as die bestuursgesag tevrede is dat daar voldoening is, soos van toepassing, met regulasies 3 en 4(1) van hierdie Skedule D, moet 'n permit uitgereik word aan die aansoeker nie later nie as sestig (60) dae na die ontvangs van die aansoek.
- (5) As die aansoek nie voldoen nie, soos van toepassing, aan regulasies 3 of 4(1) van hierdie Skedule D Regulasies, moet die bestuursgesag die aansoeker skriftelik daarvan in kennis stel binne 'n tydperk van dertig (30) dae vanaf die datum wat die aansoek ontvang is en toelaat dat die aansoeker die aansoek weer indien met verdere inligting, maatreëls of planne, soos van toepassing.
- (6) Die bestuursgesag moet enige metodes of planne vir tempering van die steuring met die permitaansoek ingedien, of met die herindiëning van die permitaansoek, in ag neem.
- (7) Indien die bestuursgesag besluit om die permit toe te staan,
  - (i) moet die bestuursgesag die permit uitreik; en
  - (ii) die permit moet al die voorwaardes insluit waaraan die permithouër moet voldoen met betrekking tot die elektriese infrastruktuur en toerusting.
- (8) As 'n persoon aan wie 'n permit uitgereik is, sy bedryf staak of ophou om enige elektriese infrastruktuur waarmee die permit verband hou, te gebruik, moet daardie persoon binne neëntig (90) dae na die staking van gebruik of die



sluiting, geskrewe kennis daarvan gee aan die bestuursgesag wat die permit uitgereik het.

- (9) As 'n persoon of 'n entiteit aan wie 'n permit uitgereik is, ontwerpverbeteringe of veranderinge aanbring aan die elektriese infrastruktuur of toerusting waarop die permit van toepassing is, wat die elektromagnetiese uitstralingsvlak of radio transmissies sal verhoog en daartoe sal lei dat daar nie aan subregulasies 3(2)(a) en 3(2)(b) van hierdie Skedule D Regulasies voldoen word nie, sal die uitgereikte permit verval en sal die persoon of entiteit 'n nuwe aansoek volgens hierdie Skedule D Regulasies moet indien.

#### **5. Bepaling van elektromagnetiese uitstraling- en radio transmissievlakke**

- (1) Vir die doeleindes van hierdie Skedule D Regulasies, moet elektromagnetiese uitstraling bepaal word in ooreenstemming met enige toepaslike standaard gepubliseer deur CENELEC, CISPR, IEC, IEEE, ITU of SANS of 'n standaard voorgeskryf kragtens die Wet op Elektrisiteitsregulering. Die bestuursgesag en die aansoeker moet die toepaslike opsies vir die standaard om toegepas te word, oorweeg en saamstem oor die standaard om gebruik te word.
- (2) Indien die elektromagnetiese uitstraling standaard nie bepaal is soos in subregulasie 5(1) beoog nie, of die uitstraling is anders as dit wat in die toepaslike standaard gespesifiseer is, moet 'n gedetailleerde metingsverslag van die werklike uitstralingsvlakke op toepaslike internasionale of SANS meetstandaarde gebaseer verskaf word, of moet 'n metingsverslag van 'n geakkrediteerde metingslaboratorium in Suid-Afrika of in 'n ander land deur die aansoeker aan die bestuursgesag verskaf word,, tesame met ondersteunende dokumentasie.
- (3) Indien 'n toepaslike standaard, soos in sub-regulasie 5(1) of 5(2) hierbo beoog, nie beskikbaar is nie of deur die bestuursgesag geag onvanpas te wees, of as samestemming nie bereik kan word op die standaard wat toegepas moet word nie, en die onderneming van 'n metingsveldtog nie moontlik is nie, as gevolg van tegniese of ander redes, moet die bestuursgesag bepaal watter standaard die mees geskikte is, wat gebruik moet word.

- (4) 'n Geskikte standaard kan ook kragtens artikel 37 van die Wet uitgevaardig word.
- (5) Vir radio transmissies betrokke in draadlose kommunikasie in die elektriese stelsel op 'n perseel, moet die versamelde waardes van al die transmissies op die infrastruktuur perseel, op die verskeie frekwensies, bepaal word in ooreenstemming met die toepaslike standaard gekies uit die standarde uiteengesit in Bylae B tot hierdie Skedule D Regulasies.

## 6. Bepaling van die vereiste skeidingsafstande

- (1) Die vereiste skeidingsafstande is die afstande nodig om aan beide subregulasies 3(2)(a) en 3(2)(b) van hierdie Skedule D Regulasies te voldoen: oor welke afstande die elektromagnetiese en radioseinvlakke, na seinverswakking deur enige tempering by die perseel in ag geneem is, sal verminder tot die toepaslike beskermingsvlakke voorgeskryf in die Beskermingsvlakke Regulasies 2012.
- (2) Die frekwensie afhanklike golfvoortplantingspad lengtes nodig, moet bepaal word deur fisiese metings of deur die gebruik van toepaslike metodes en standarde vir golfvoortplantingsberekeninge soos gelys in Bylae B van hierdie Skedule D Regulasies, en sal die vereiste skeidingsafstande wees vir die radiofrekwensie steuringseine betrokke.
- (3) Die metings of die golfvoortplantingsberekeninge moet op die volgende kriteria gebaseer wees -
  - (a) die maksimum hoogte bo seevlak van die elektriese toerusting of infrastruktuur;
  - (b) die grondhoogte bo seevlak plus 10 meter by die naaste SKA Infrastruktuur Grondgebied en by die SKA Virtuele Middelpunt;
  - (c) steuringsvlakke wat nie vir meer as 5% van die tyd oor 'n tydperk van vier-en-twintig (24) uur oorskry sal word nie;
  - (d) gebruik van 'n isotropiese antenne met 0 dB wins by die naaste SKA Infrastruktuur Grondgebied en by die SKA Virtuele Middelpunt; en
  - (e) die gebruik van 'n digitale terrein model wat aanvaarbare resultate sal lewer en wat voorwerpe wat golfvoortplanting mag beïnvloed en



grondgeleiding vir die Karoo sentrale astronomievoordeelgebiede in ag kan neem.

- (4) Die vereiste skeidingsafstande om aan subregulasies 3(2)(a) en 3(2)(b) van hierdie Skedule D Regulasies te voldoen, is daardie afstande wat die hoogste vlakke van radiofrekwensie steuring kan hanteer, onderskeidelik by die naaste SKA Infrastruktuur Grondgebied met betrekking tot elektromagnetiese uitstralings en by die SKA Virtuele Middelpunt met betrekking tot radioseine.

## **7. Prosedures om radiofrekwensie steuring op te los**

In die geval dat radiofrekwensie steuring veroorsaak word deur elektriese infrastruktuur of elektriese toerusting wat vrygestel is van die beskikking van 'n permit kragtens subregulasies 3(3), 3(4) of 3(5) van hierdie Skedule D Regulasies, of deur elektriese infrastruktuur of elektriese toerusting waarvoor 'n permit uitgereik is, as gevolg van foute of akkuraatheid beperkings van berekeninge om skeidingsafstande te bepaal, sal die volgende kriteria en prosedures van toepassing wees:

- (1) Die bestuursgesag moet 'n volledige metingsverslag van die werklike elektromagnetiese steuringsvlakke aanvra, gebaseer op die toepaslike SANS meet standaarde, of 'n ander toepaslike standaard soos deur die bestuursgesag bepaal, wat saam met ondersteunende dokumentasie aan die bestuursgesag verskaf moet word deur die persoon in besit van die infrastruktuur of elektriese toerusting.
- (2) As die persoon in besit van die elektriese infrastruktuur of elektriese toerusting nie in staat is om die verslag te voorsien nie, moet die bestuursgesag met koste vir die permithouer reël dat die metings gedoen word, om te bepaal tot watter mate die toepaslike beskermingsvlak in die Beskermingsvlakke Regulasies, 2012, voorgeskryf, oorskryf word.
- (3) Die elektromagnetiese steuring moet verminder tot onder die toepaslike vlak voorgeskryf in die Beskermingsvlakke Regulasies, 2012, deur die vereiste skeidingsafstand daar te stel volgens regulasie 6 van hierdie Skedule D Regulasies of om gepaste temperingsmaatreëls rondom die bron van die radiofrekwensie steuring te implementeer.

- (4) Wanneer die radiofrekwensie steuring situasie opgelos is en die vereiste voorwaardes bepaal is, moet die bestuursgesag 'n permit uitreik waarin die voorwaardes vir die voortgesette bedryf van die elektriese infrastruktuur of elektriese toerusting gespesifiseer word.
- (5) Die persoon of entiteit wat die koste aangegaan het om die radiofrekwensie steuringsverslag te verskaf, mag daardie koste van die bestuursgesag verhaal tot die mate dat dit toepaslik en redelik bevestig kan word dat die spesifieke elektriese infrastruktuur en toerusting onder oorweging verkeerdelik geïdentifiseer is as die bron van die radiofrekwensie steuring.
- (6) Indien dit bevind word dat bestaande elektriese toerusting en infrastruktuur radiofrekwensie steuring veroorsaak, moet die bestuursgesag enige koste vir die opstel van steuringsverslae dra en die nodige metings doen of reëlings daarvoor tref.

## 8. Oortredings en boetes

- (1) Oortredings waarvoor 'n vervolging in 'n Hof ingestel mag word, is die volgende:
  - (a) die versuim om besit van 'n permit te bekom waar dit vereis word volgens subregulasies 3(1), 3(4) en 3(6)(c);
  - (b) die versuim om te voldoen aan die voorwaardes van 'n permit volgens subregulasies 3(1) en 4(7);
  - (c) die versuim om te voldoen aan voorgeskrewe maatreëls in hierdie regulasies om steuring op te los soos uiteengesit in subregulasie 3(6)(c) en in regulasie 7; en
  - (d) die versuim van 'n permithouer om te voldoen aan die voorgeskrewe beskerming voorwaardes soos uiteengesit in subregulasie 3(2).
- (2) Die maksimum boete vir 'n opsetlike oortreding van subregulasie 8(1)(a), 8(1)(b) of 8(1)(d) is R200 000 en vir 'n nalatige oortreding R100 000.
- (3) Die maksimum boete vir 'n opsetlike oortreding van subregulasie 8(1)(c) is R20 000 en vir 'n nalatige oortreding R5 000.

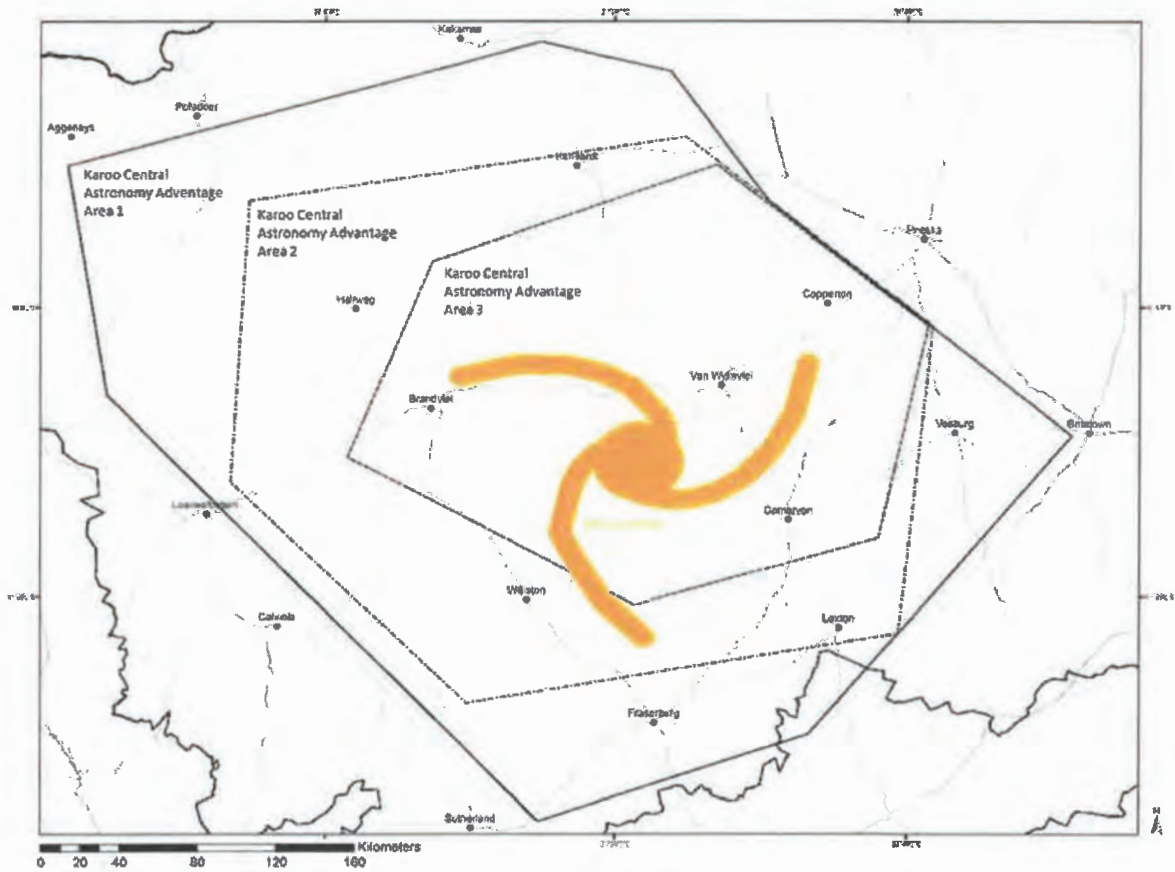


- (4) Die boetes na verwys in subregulasies 8(2) en 8(3) mag in die geheel, of gedeeltelik, opgeskort word, onderworpe aan die voorwaarde dat die persoon skuldig bevind nie weer skuldig bevind word aan dieselfde oortreding binne 'n maksimum periode van drie jaar nie.

**Bylae A tot Skedule D Regulاسies – Kaart van beskermingsgange****Kaart van die beskermingsgange waarin die SKA radio-astronomie stasies binne Karoo sentrale astronomievoordeelgebied 1 geleë is**

- (1) Die kaart op die volgende bladsy beeld die 20-kilometer straal sirkel rondom die SKA Virtuele Middelpunt uit, waarbinne ongeveer 173 SKA radio-astronomie stasies geplaas sal word. Die kaart toon ook die drie beskermingsgange nodig vir ongeveer 24 SKA radio-astronomie stasies binne die Karoo sentrale astronomievoordeelgebied 1 geleë.
- (2) Alhoewel die geografiese gebied vir die beskermingsgange verband hou met die Karoo sentrale astronomievoordeelgebied 1, om die SKA radio-astronomie stasies betrokke te definieer, is die radiofrekwensie steuring wat beperk moet word, dit wat in die hele radiofrekwensie spektrum vanaf 100 MHz tot 25.5 GHz voorkom.
- (3) 'n Kleiner skaal weergawe van die kaart op die volgende bladsy en / of 'n GIS-vorm lêer is op versoek beskikbaar van die bestuursgesag. Die buitengrense van die gange is op 'n afstand van 5 km aan weerskante van die spiraal arms.
- (4) Aansoekers om 'n permit, wat die radiofrekwensie steuringsvlakke kragtens regulاسie 5 bepaal, en die vereiste skeidingsafstande volgens regulاسie 6 van hierdie Skedule D Regulاسies, mag die bestuursgesag versoek om die toepaslike geografiese liggings op die buitengrense van die beskermingsgange of op die 20-km sirkel om die SKA Virtuele Middelpunt te verskaf vir die elektromagnetiese uitstralings onder oorweging.





## **Bylae B tot Skedule D Regulasies – Golfvoortplanting standaarde**

### **Voortplanting standaarde om voortplanting padverlies te bepaal**

Die bylae hou verband met subregulasie 6(2) van hierdie Skedule D Regulasies. Die doel van die inligting in hierdie bylae verskaf, is om bevoegde persone, of enige ander persoon wat betrokke is in die bepaling van radiofrekwensie steuringsvlakke te help. Die inligting is nie bedoel om voorskriftelik of beperkend te wees nie op die standaarde en tegnieke wat gebruik mag word en wat resultate met 'n hoër vlak van akkuraatheid mag verskaf. Die opsies wat genoem word mag as die minimum toepaslike standaarde beskou word om radiofrekwensie steuringsvlak voorspellings uit te voer.

Die ITU standaarde hier genoem, word met hul oorspronklike Engelse titels verskaf:

1. ITU Recommendation ITU-R P.1144 - Guide to the application of the propagation methods of Radiocommunication Study Group 3. This recommendation lists the ITU-R radio wave propagation prediction methods that may be used for the different applications. The options applicable to radio frequency interference predictions that relate to Schedule A of these Regulations, are listed below.
  - 1.2. Recommendation ITU-R P.452 – Service employing stations on the surface of the Earth; interference;
  - 1.3. Recommendation ITU-R P.526 – Propagation by diffraction;
  - 1.4. Recommendation ITU-R P.528 – Aeronautical mobile;
  - 1.5. Recommendation ITU-R P.530 – Line-of-sight fixed links;
  - 1.6. Recommendation ITU-R P.617 – Trans-horizon fixed links; and
  - 1.6. Recommendation ITU-R P.2001 – Terrestrial services.
2. Die Longley-Rice model deur die Federal Communications Commission in die Verenigde State van Amerika aanvaar, mag ook gebruik word, aangesien dit gebruik word in 'n aantal gerekenariseerde voorspellingsprogramme op die mark.
3. Ander metodes om die golfvoortplantingsverlies te bepaal, mag ook met die instemming van die bestuursgesag gebruik word.

## DEPARTMENT OF TRADE AND INDUSTRY

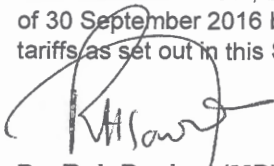
NO. 1412

15 DECEMBER 2017

## LEGAL METROLOGY ACT, 2014 (ACT 9 OF 2014)

## REGULATIONS RELATING TO THE TARIFF OF FEES CHARGED FOR SERVICES RENDERED IN TERMS OF THE LEGAL METROLOGY ACT BY THE NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS (NRCS): AMENDMENTS

It is hereby made known under Section 13(1)(c) of the Legal Metrology Act, 2014 (Act 9 of 2014), that the Minister of Trade and Industry, hereby with effect from date of publication, amends Schedules A, B, C and D of the Regulations published by Government Notice No. 40313 of 30 September 2016 by the deletion of the existing tariffs and the substitution thereof with the tariffs as set out in this Schedule.



**Dr. Rob Davies, (MP)**  
Minister of Trade and Industry

SCHEDULEPART A: CHARGES FOR VERIFICATION OF INSTRUMENTS

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Hourly charge for verification of measuring instruments provided that charges for part of an hour shall be calculated on a pro rata basis subject to the prescribed minimum charges. These charges are subject to the additional charges in Part C, as applicable.	Inspector	Per hour or part thereof	<b>R 603.00</b>
	Assistant	Per hour or part thereof	<b>R 182.00</b>
	Prescribed minimum charges :		
	Mass measuring instruments	Minimum	<b>R 303.00</b>
	Length and area measuring instruments: All types	Minimum	<b>R 160.00</b>
	Simple volume measuring devices for the delivery of single quantities	Minimum	<b>R 160.00</b>
	Volume meters, lubricating oil dispensers, watermeters, gasmeters, volume measuring devices of all types not specified, and all liquid fuel dispensers	Minimum	<b>R 303.00</b>
	Masspieces and length and volumetric measures: All types	Minimum	<b>R 160.00</b>

**PART B: CHARGES FOR TYPE APPROVAL OF MEASURING INSTRUMENTS**

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Charges for type approval of measuring instruments, masspieces, length and volumetric measures. These charges are subject to the additional charges in Part C, as applicable.	Labour	Per hour or part thereof	R 603.00
In the case of an evaluation test conducted by a testing laboratory outside of the NRCS or where any charges are levied by such testing laboratory for services rendered during an evaluation test, the charge shall be in accordance with the charge levied by such testing laboratory.	Private testing or hire of laboratories or services		Actual cost to NRCS

**PART C: GENERAL ADDITIONAL COSTS**

In addition to the tariff of charges specified in A, B and D the NRCS shall be entitled to levy the following charges:

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Travelling time where measuring instruments are tested on site.	Inspector	Per hour or part thereof	R 603.00
	Assistant	Per hour or part thereof	R 182.00
	Driver/Operator	Per hour or part thereof	R 285.00
Subsistence costs for an inspector, assistant and driver/operator, where applicable.	Inspector, assistant and driver/operator		Actual cost to NRCS
Transport costs for an inspector, driver/operator and any assistant, where applicable.	Inspector, assistant and driver/operator		Actual cost to NRCS
Hire of casual labour to assist with the verification or type approval tests, if necessary.	Casual labour hire		Actual cost to NRCS
Where it is necessary for a rail vehicle scale test unit to be hauled by Transnet for the purpose of conducting a verification or a type approval test, charges shall be in accordance with the charges levied upon the NRCS by Transnet for the full period that the equipment is in the possession of the user or submitter of the instrument.	Haulage charges		Actual cost to NRCS



CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Hire charge for the rail vehicle test unit (2 trucks) for the purpose of conducting a verification or a type approval test, subject to the prescribed maximum charges.	Hire charges	Per hour or part thereof per set	<b>R 1,703.00</b>
	Prescribed maximum hire charges	Per 24 hour period	<b>R 13,624.00</b>
Charges for delay of the rail vehicle scale test unit before or during a verification or type approval test at the request of the user or submitter for adjustments to the measuring instrument being tested, subject to the prescribed maximum charge. Saturdays and Sundays will not be included for the purpose of these charges.	Delay charges	Per hour or part thereof per set	<b>R 1,703.00</b>
	Prescribed maximum delay charges	Per 24 hour period	<b>R 13,624.00</b>
Transport charges where it is necessary for a NRCS road vehicle scale test unit to undertake a journey for the purpose of conducting a verification or a type approval test.	Transport charges	Per kilometer	<b>R 24.00</b>
Charges for the use of a NRCS road vehicle scale test unit for the purpose of conducting a verification or a type approval test, subject to the prescribed maximum charge.	Hire charges	Per hour or part thereof	<b>R 1,723.00</b>
	Prescribed maximum hire charges	Per 24 hour period	<b>R 13,780.00</b>
Delay charges where the road vehicle scale test unit is delayed before or during a verification or type approval test at the request of the owner or submitter for adjustments to the measuring instrument being tested, or is delayed owing to any other cause in connection with such test or intended test. Saturdays and Sundays will not be included for the purpose of these charges.	Delay charges	Per hour or part thereof	<b>R 1,723.00</b>
	Prescribed maximum delay charges	Per 24 hour period	<b>R 13,780.00</b>
Charges where it is necessary for the NRCS to hire equipment or contract specialised services in order to conduct verification or approval tests on a measuring instrument.	Charges for equipment hired or specialised services contracted by the NRCS.		<b>Actual cost to NRCS</b>

**PART D: LEGAL METROLOGY: OTHER FEES**

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
	Application for Letter of Compliance (LOC) Non refundable	Application	R 1,742.00
	Application for LOC update Non refundable	Application	R 408.00
Verification officer Examination/ Re-examination	Inspector	Per paper	R 572.00
Verification Officer practical evaluation	Inspector	Per hour or part thereof	R 603.00
Certificate of Authority	Verification Laboratories	Per annum	R 848.00
Verification Officer certificate inspection	Inspector		R 250.00
E- mark inspection fee for registration purposes	Inspector	Per hour	R 603.00

**PART E: LEGAL METROLOGY CALIBRATION FEES**

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
<b>Masspieces calibrated in the NRCS laboratory</b>			
Masspieces in a set containing less than 25 masspieces	Per masspiece		R 92.00
Masspieces	Per hour		R 530.00
<b>Masspieces calibrated on-site</b>			
Masspieces of value above 20 kg but below 500 kg	Per hour		R 530.00
Masspieces of value 500 kg and above	Per hour		R 530.00
<b>Calibration of Volumetric Measures - Metal</b>			
5 ℓ & 20 ℓ LFD Volumetric Measures	Per measure		R 452.00
200 ℓ Volumetric Measure	Per measure		R 2,153.00
500 ℓ Volumetric Measure	Per measure		R 2,586.00
1 000 ℓ Volumetric Measure	Per measure		R 3,314.00
1 500 ℓ Volumetric Measure	Per measure		R 5,250.00
2 000 ℓ Volumetric Measure	Per measure		R 5,606.00
2 500 ℓ Volumetric Measure	Per measure		R 6,797.00
4 000 ℓ Volumetric Measure	Per measure		R 13,674.00
Volumetric Measures above 4 000 ℓ	Per hour with a minimum of R 12 900,00		R 530.00
<b>Calibration of Volumetric Measures - Glass</b>			
First graduation	Firsts graduation		R 460.00
Any number of graduations thereafter	Per graduation		R 305.00
<b>Calibration of weighing instruments/ balances</b>			
up to and including 200 kg	Per weighing instrument/ balance		R 651.00
>200 kg up to and including 500 kg	Per weighing instrument/ balance		R 905.00
>500 kg up to and including 1 500 kg	Per weighing instrument/ balance		R 1,587.00
>1 500 kg up to and including 5 000 kg	Per weighing instrument/ balance		R 1,911.00

CHARGE	DESCRIPTION	UNIT	NEW TARIFF PER UNIT
SANAS Certificates	Per Certificate		R 287.00
Test Certificate	Per Certificate		R 217.00
<b>Calibration On-site and the refurbishing of UUT</b>			
Labour hours		Per hour	R 530.00
Assistant Labour		Per hour	R 305.00
km	Actual cost to the NRCS	Per km	Actual cost to NRCS
Travel time		Per hour	R 530.00
Accommodation (Per night)	Actual cost to NRCS	Per night	Actual cost to NRCS
Subsistence (Per night)	Actual cost to NRCS	Per night	Actual cost to NRCS
Toll Fees	Actual cost to NRCS		Actual cost to NRCS
Miscellaneous e.g. courier services, hire or purchase of additional equipment	Actual cost to NRCS		Actual cost to NRCS
Painting/cleaning of masspieces	Per Masspiece		R 71.00
Cleaning of Petrol Measures	Per Petrol Measure		R 114.00
Cleaning of Trailer Measures	Per Trailer Measure		R 357.00

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 1413

15 DECEMBER 2017

## NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT (ACT 5 OF 2008)

## REGULATIONS RELATING TO THE PAYMENT OF LEVY AND FEES WITH REGARD TO COMPULSORY SPECIFICATIONS: AMENDMENTS

It is hereby made known under section 14(3) (b) of the National Regulator for Compulsory Specifications Act, (Act 5 of 2008), that the Minister of Trade and Industry, hereby with effect from date of publication, amends the schedule of the Regulations published by Government Notice No. 40313 of 30 September 2016 by the deletion of the existing tariffs for Automotive; Chemical, Mechanical and Materials; Electrotechnical; and Food & Associated Industries, and the substitution thereof with the tariffs as set out in this Schedule.



**Dr. Rob Davies, (MP)**  
Minister of Trade and Industry

SCHEDULE1(a) AUTOMOTIVE: LEVY TARIFFS

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT
85222	M1 – Passenger Cars (VC8022)	1 Item	R 19.43
85233	M2 – Buses (VC8023)	1 Item	R 316.44
852333	M3 – Buses (VC8023)	1 Item	R 316.44
85200	N1 – Light Commercial Vehicles (VC8024)	1 Item	R 19.64
85211	N2/N3 – Heavy Commercial Vehicles (VC8025)	1 Item	R 285.65
85244	O1 – Trailer < 750 kg (VC8026)	1 Item	R 34.14
85255	O2 – Trailer 750 kg to 3 500 kg (VC8026)	1 Item	R 34.14
85266	O3 – Trailer 3 500 kg to 10 000 kg (VC8027)	1 Item	R 124.16
85267	O4 – Trailer > 10 000 kg (VC8027)	1 Item	R 124.16
85366	Agricultural Tractors (Slow Moving Vehicles) (VC8057)	1 Item	R 215.39
85277	M2 – Buses (Custom Built Bodies and Modifications / Conversions) ( VC8023)	1 Item	R 316.44
852777	M3 – Buses (Custom Built Bodies and Modifications / Conversions) (VC8023)	1 Item	R 316.44
85377	M1 and N1 – Light Passenger and Commercial Vehicles (Custom Built Bodies and Modifications / Conversions) (VC8022 & VC8024)	1 Item	R 14.72
85388	N2 – Heavy Commercial Vehicles (Custom Built Bodies and Modifications / Conversions) (VC8025)	1 Item	R 29.44
85399	N3 – Heavy Commercial Vehicles (Custom Built Bodies and Modifications / Conversions) (VC8025)	1 Item	R 40.86
85400	L1 to L7 – Motorcycles (VC9098)	1 Item	R 58.16



CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
8528	Replacement disc brake pad for categories M1 and N1 road vehicles (including minibuses) (VC8053)	Axle set	R 0.73	R 0.66
8534	Replacement disc brake pad for categories M2 (excluding minibuses), M3, N2, N3, O2, O3 and O4 road vehicles (VC8053)	Axle set	R 8.17	R 7.36
8530	Replacement roll-stock friction material for categories M, N and O road vehicles (including minibuses) (VC8053)	Per meter	R 0.60	R 0.54
8529	Replacement brake shoe friction material segment for categories M, N and O road vehicles, and minibuses (VC8053)	Per segment	R 0.22	R 0.20
8535	Replacement brake shoe friction material segment for categories M2 (excl. minibuses), M3, N2, N3, O2, O3 and O4 road vehicles (VC8053)	Per segment	R 0.67	R 0.60
8610	Replacement secondary lights for motor vehicles (VC8050)	1 Item	R 2.26	R 2.03
8611	Replacement headlights for motor vehicles (VC8049)	1 Item	R 3.45	R 3.10
8612	Replacement incandescent lamps for motor vehicles (VC8048)	1 Item	R 0.14	R 0.13
8615	Replacement halogen lamps for motor vehicles (VC8048)	1 Item	R 0.29	R 0.26
8613	Replacement safety glass (laminated) for use in road vehicles (VC8051)	1 Item	R 3.45	R 3.10
8614	Replacement safety glass (toughened) for use in motor vehicles (VC8051)	1 Item	R 2.26	R 2.03
3610	Hydraulic brake and clutch fluid (VC8013)	Per 100 l	R 8.28	R 7.45
3611	Ball type couplings and towing brackets for towing caravans and light trailers (VC8065)	1 Item	R 3.53	R 3.18
8210	Child restraining devices for use in motor vehicles (VC8033)	1 Item	R 12.04	R 10.84
8410	Elastomeric cups and seals for hydraulic brake systems - Loose (VC8080)	Per 100	R 8.98	R 8.08
8411	Elastomeric cups and seals for hydraulic brake systems - Kit form (VC8080)	Per kit	R 0.40	R 0.36
8510	Safety helmets for motor cyclists (VC8016)	1 Item	R 4.04	R 3.64
8230	New tyres - for passenger vehicles and their trailers (VC8056)	1 Item	R 0.29	R 0.26
8231	New tyres - for commercial vehicles and their trailers (VC8059)	1 Item	R 0.40	R 0.36

**1(b) AUTOMOTIVE: FEES**

COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Homologation: M1 - Passenger Cars	Model	R 43,950.00
Homologation: M2 - Buses	Model	R 43,950.00
Homologation: M3 - Buses	Model	R 43,950.00
Homologation: M1, N1 and L (Conversions/ Modifications)	Model	R 3,230.00
Homologation: M2, M3, N2 and N3 (Conversions/Modifications)	Model	R 6,043.00
Homologation: N1 - Light Commercial Vehicles	Model	R 43,950.00
Homologation: N2/N3 - Heavy Commercial Vehicles	Model	R 43,950.00
Homologation: O1 - Trailer < 750 kg	Model	R 3,230.00
Homologation: O2 - Trailer 750 kg to 3 500 kg	Model	R 6,045.00
Homologation: O3 -Trailer 3 500 kg to 10 000 kg	Model	R 6,045.00
Homologation: O4 -Trailer > 10 000 kg	Model	R 6,045.00
Homologation: Agricultural Tractors (Slow Moving Vehicles)	Model	R 8,790.00
Homologation: M2 - Buses (Custom Built Bodies)	Model	R 43,950.00
Homologation: M3 - Buses (Custom Built Bodies)	Model	R 43,950.00
Homologation: N1 - Light Commercial Vehicles (Custom Built Bodies)	Model	R 3,230.00
Homologation: N2 – Heavy Commercial Vehicles (Custom Built Bodies)	Model	R 6,045.00
Homologation: N3 – Heavy Commercial Vehicles (Custom Built Bodies)	Model	R 6,045.00
Homologation: L1 to L7 - Motorcycles	Model	R 4,225.00
Homologation: Motorcycle Helmets	Model	R 300.00
Homologation: Child Restraining Devices for use in Motor Vehicles	Model	R 1,052.00
Notification of New Vehicle Model Form Processing (Special Vehicles and where no Homologation fee is relevant) (NVM)	Model	R 832.00
Application for NVM amendments and reprints	Per reprint	R 82.00
Vehicle Identification Number Assignment Process (VIN)	Application	R 832.00
Component Letter of Authority Processing (LOA) - Non refundable	Application	R 915.00
Application for a Sales Permit - Non refundable	Application	R 2,970.00

**2(a) CHEMICAL, MECHANICAL AND MATERIALS: LEVY TARIFFS**

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
8290	Powered filtering devices incorporating a helmet or a hood (SANS 12941) (VC8072)	1 Item	R 131.66	R 118.50
82900	Power assisted filtering devices incorporating full-face masks, half masks or quarter masks (SANS12942) (VC8072)	1 Item	R 131.66	R 118.50
8281	Full-face masks (SANS 50136) (VC8072)	1 Item	R 12.59	R 11.33
8294	Self-contained open-circuit compressed air breathing apparatus (SANS 50137) (VC8072)	1 Item	R 181.75	R 163.57
8292	Fresh air hose breathing apparatus for use with full-face mask, half mask or mouthpiece assembly (SANS 50138) (VC8072)	1 Item	R 83.17	R 74.85
8291	Compressed air line breathing apparatus with demand valve for use with a full-face mask (SANS 54593-1) (VC8072)	1 Item	R 83.17	R 74.85
82912	Compressed air line breathing apparatus with demand valve for use with a half mask at positive pressure (SANS 54593-2) (VC8072)	1 Item	R 83.17	R 74.85
82920	Powered fresh air hose breathing apparatus incorporating a hood (SANS 50269) (VC8072)	1 Item	R 83.17	R 74.85
82910	Continuous flow compressed air line breathing apparatus (SANS 54594) (VC8072)	1 Item	R 83.17	R 74.85
8282	Half masks and quarter masks (SANS 50140) (VC8072)	1 Item	R 1.49	R 1.35
8284	Half masks without inhalation valves and with separable filters to protect against gases or gases and particles or particles only (SANS 51827) (VC8072)	1 Item	R 1.49	R 1.35
8280	Gas filters and combined filters (SANS 54387) (VC8072)	1 Item	R 0.40	R 0.36
82802	Filters for connection by means of breathing hoses to facepieces (SANS 275) (VC8072)	1 Item	R 0.40	R 0.36
8285	Particle filters (SANS 50143) (VC8072)	1 Item	R 0.31	R 0.28
8293	Self-contained closed-circuit breathing apparatus of the compressed oxygen or compressed oxygen-nitrogen type (SANS 50145) (VC8072)	1 Item	R 1,240.00	R 1,116.00
8283	Filtering half masks to protect against particles (SANS 50149) (VC8072)	1 Item	R 0.14	R 0.13
8295	Self-contained closed-circuit breathing apparatus for escape (SANS 53794) (VC8072)	1 Item	R 162.15	R 145.93
82951	Self-contained open-circuit compressed air breathing apparatus with full-face mask or mouthpiece assembly for escape (SANS 50402) (VC8032)	1 Item	R 249.44	R 224.50
82952	Filtering devices with hood for self-rescue from fire (SANS 50403) (VC8032)	1 Item	R 33.87	R 30.48
82953	Filter self-rescuers for protection against carbon monoxide (SANS 50404) (VC8032)	1 Item	R 16.93	R 15.24

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
82830	Valved filtering half masks to protect against gases or gases and particles (SANS 50405) (VC8032)	1 Item	R 8.11	R 7.30
82955	Compressed air escape apparatus with a hood (SANS 51146) (VC8032)	1 Item	R 212.22	R 191.00
4310	Swimming aids that are carried or worn on the body (SANS 53138-1) (VC8032)	1 Item	R 0.29	R 0.26
4312	Swim seats (SANS 53138-3) (VC8032)	1 Item	R 0.68	R 0.61
4314	Buoyancy aids (level 50) (SANS 12402-5) (VC8032)	1 Item	R 8.16	R 7.35
4315	Special purpose buoyancy aids (SANS 12402-6) (VC8032)	1 Item	R 8.16	R 7.35
4313	Lifejackets for inland/close to shore conditions (level 100) (SANS 12402-4) (VC8032)	1 Item	R 16.32	R 14.69
43131	Lifejackets for offshore conditions (level 150) (SANS 12402-3) (VC8032)	1 Item	R 16.32	R 14.69
43132	Lifejackets for extreme offshore conditions (level 275) (SANS 12402-2) (VC8032)	1 Item	R 16.32	R 14.69
43133	Lifejackets for seagoing ships (SANS 12402-1) (VC8032)	1 Item	R 16.32	R 14.69
43134	Special purpose lifejackets (SANS 12402-6) (VC8032)	1 Item	R 16.32	R 14.69
8310	.22-Rim firearms (VC8028)	1 Item	R 13.43	R 12.09
8311	Revolvers (VC8028)	1 Item	R 20.34	R 18.31
8312	Centre fire rifles and pistols (VC8028)	1 Item	R 20.34	R 18.31
8313	Double-barrel shotguns (VC8028)	1 Item	R 20.34	R 18.31
8314	Single-barrel shotguns (VC8028)	1 Item	R 17.31	R 15.58
8315	All types of replacement barrels (VC8028)	1 Item	R 13.43	R 12.09
8316	Modified rim- and centre fire rifles, revolvers and pistols (VC8028)	1 Item	R 26.43	R 23.79
8317	Modified double-barrel shotguns (VC8028)	1 Item	R 26.43	R 23.79
8318	Modified single-barrel shotguns (VC8028)	1 Item	R 24.41	R 21.97



CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
4510	Disposable lighters (for cigarettes,cigars and pipes) (VC8076)	100 Lighters	R 3.57	R 3.21
4511	Refillable lighters (for cigarettes,cigars and pipes) (VC8076)	100 Lighters	R 3.57	R 3.21
8110	Coal-burning stoves and heaters (VC8034)	1 Item	R 169.49	R 152.54
8120	Non-pressure paraffin stoves and heaters (VC9089)	1 Item	R 3.10	R 2.79
8130	Pressurised paraffin fuelled appliances (VC9093)	1 Item	R 3.10	R 2.79
8700	Disinfectants & detergent-disinfectants (VC8054)	100 ℓ / 100 kg	R 7.32	R 6.59
5310	Microbiological safety cabinets, classes I, II and III (VC8041)	1 Item	R 5,290.00	R 4,761.00
8400	Cement (VC9085)	1 t	R 0.22	R 0.20
4710	Preservative Treated Timber (VC9092)	1 m <sup>3</sup>	R 1.33	R 1.20
4800	Small arms shooting ranges (VC9088)	1 Shooting Range	R 1,205.00	
4600	Safety Footwear (VC9002)	1 Pair	R 0.36	R 0.32
4400	Safety glass and other safety glazing material (VC9003)	m <sup>2</sup>	R 0.23	R 0.21

**2(b) CHEMICAL, MECHANICAL AND MATERIALS: FEES**

COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT
Application fee for the approval of Respiratory Protective Devices (RPD's) - Non refundable	Per RPD type	R 1,352.00
Application fee for the approval of Personal Flotation Aids (PFD's) - Non refundable	Per PFD type	R 1,352.00
Application fee for the approval of Swimming Aids - Non refundable	Per swimming aid type	R 1,352.00
Application fee for the homologation of Lighters - Non refundable	Per lighter type	R 1,352.00
Application fee for a Letter of Authority (LOA) for Lighters - Non refundable	Per appliance type	R 1,233.00
Application fee for the homologation of non-pressure Paraffin Stoves and Heaters - Non refundable	Per appliance type	R 1,352.00
Application fee for the registration of Disinfectants and Detergent-disinfectants - Non refundable	Per formulation	R 1,352.00
Application fee for the homologation of Microbiological Safety Cabinets (MSC's) - Non refundable	Per MSC type	R 1,352.00
Application fee for a Letter of Authority (LOA) for Plastic Carrier Bags and Flat Bags - Non refundable	Per bag type	R 1,233.00
Application fee for the approval of Cement - Non refundable	Per cement type	R 1,352.00
Application fee for the approval of a manufacturing facility for the preservative treatment of Timber - Non refundable	Per facility	R 1,352.00
Application fee for an extension of registration, homologation or approval - Non refundable	Per type/ facility/ formulation	R 570.00
Application fee for a certificate of compliance for Small Arms Shooting Ranges - Non refundable	Per facility	R 5,820.00
Application fee for re-issue of a certificate of compliance for Small Arms Shooting Ranges - Non refundable	Per facility	R 272.00
Application fee for a Sales Permit - Non refundable	Per application	R 2,970.00
Application fee for the approval of Safety Footwear - Non refundable	Per type	R 1,352.00
Application fee for the approval of Safety Glass and other Safety Material - Non refundable	Per type	R 1,352.00
Application fee for the reissue/reprint of a Certificate	Per reprint	R 82.00

**3(a) ELECTROTECHNICAL: LEVY TARIFFS**

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
7120	Portable television antennae (VC8055)	100 Items	R 9.16	R 8.24
7121	Audio equipment; e.g. hi-fi systems, radios, etc. (VC8055)	10 Items	R 6.59	R 5.93
7123	Audio equipment; e.g. hi-fi systems, radios, etc. - Energy Efficiency and Labelling (VC9008)	10 Items	R 12.58	R 11.32
7122	Visual equipment; e.g. TV's, VCR's, DVD players, etc. (VC8055)	1 Item	R 1.90	R 1.71
7124	Visual equipment; e.g. TV's, VCR's, DVD players, etc. - Energy Efficiency and Labelling (VC9008)	1 Item	R 1.35	R 1.21
7209	Lamp control gear (VC9087)	1 Item	R 0.59	R 0.53
7210	Luminaires and lighting appliances; e.g. fluorescent, fixed, portable, hand-held lamps, lighting chains, flood lights, Christmas tree lighting sets, etc. (VC9012)	10 Items	R 1.83	R 1.65
7211	Lamp holders (VC8011)	100 Items	R 3.64	R 3.28
7212	Starters for tubular fluorescent lamps (VC8039)	100 Items	R 1.83	R 1.65
7213	Incandescent lamps (globes) (VC8043)	100 Items	R 1.83	R 1.65
7214	Single capped fluorescent lamps (CFL) (VC9091)	10 Items	R 1.67	R 1.50
7510	Plugs (VC8008)	100 Items	R 1.83	R 1.65
7511	Socket outlets (VC8008)	10 Items	R 1.83	R 1.65
7512	Socket outlet adapters, including "Janus" couplers (VC8008)	100 Items	R 12.80	R 11.52
7513	Switches for fixed installations (VC8003)	100 Items	R 10.99	R 9.89
7514	Switches for appliances (VC8052)	100 Items	R 3.64	R 3.28
7517	Cord sets with plug and appliances coupler (VC8029)	100 Items	R 14.66	R 13.19
7518	Cord extension sets without switches (VC8029)	10 Items	R 2.76	R 2.48
7519	Cord extension sets with switches (VC8029)	10 Items	R 4.95	R 4.45
7520	Cord extension sets with switches and MCCB (VC8029)	10 Items	R 16.10	R 14.49
7521	Cord extension sets with switches and ELPU (VC8029)	10 Items	R 19.05	R 17.14
7610	Flexible cords (VC8006)	100 kg	R 5.49	R 4.94
7611	Cables MV - Medium Voltage (VC8077); and Cables LV - Low Voltage (VC8075)	100 kg	R 5.49	R 4.94
7710	Moulded case circuit breakers - single pole (VC8036)	10 Items	R 2.02	R 1.82
7711	Moulded case circuit breakers - double pole (VC8036)	10 Items	R 6.77	R 6.10
7712	Moulded case circuit breakers - triple pole (VC8036)	10 Items	R 9.53	R 8.58
7713	Moulded case circuit breakers - four pole (VC8036)	10 Items	R 11.35	R 10.21

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT	PRODUCT CERTIFICATION TYPE 5 TARIFF PER UNIT
7719	Transportable motor operated tools; e.g. table saw thickness planers, etc. (VC8055)	10 Items	R 13.36	R 12.02
7720	Hand-held electric power tools; e.g. lathes, saws, grinders, drills, electric gardening and agricultural equipment, etc. (VC8055)	10 Items	R 10.80	R 9.72
7721	Earth leakage protection unit - single phase (VC8035)	10 Items	R 15.76	R 14.18
7722	Earth leakage protection unit - multi phase (VC8035)	10 Items	R 29.83	R 26.85
7810	Appliance couplers (VC8012)	100 Items	R 5.49	R 4.94
7811	Appliances - <b>SMALL</b> ; e.g. vacuum cleaners, heaters, electric irons, heated blankets, fans, hairdryers, kettles, motor-operated appliances, instantaneous water heaters, soldering irons, etc. (VC8055)	10 Items	R 1.83	R 1.65
7812	Information Technology (IT) equipment and business systems; e.g. computers, monitors, printers, copiers, fax machines, scanners, modems, routers, etc. (VC8055)	1 Item	R 5.44	R 4.90
7813	Appliances - <b>LARGE</b> ; e.g. freezers, refrigerators, dishwashers, washing machines, tumble dryers, airconditioning units, catering equipment, microwave ovens, stoves, etc. (VC8055)	1 Item	R 2.31	R 2.08
7817	Appliances - <b>LARGE</b> ; Only freezers, refrigerators, dishwashers, washing machines, tumble dryers, washer-dryer combinations, electric ovens and air conditioners - Energy Efficiency and Labelling (VC9008)	1 Item	R 2.76	R 2.48
7815	Hot water storage tanks for domestic use (VC9006)	1 Item	R 2.31	R 2.08
7816	Integral and close-coupled domestic solar water heaters (VC9004)	1 Item	R 6.37	R 5.73
7814	Information Technology (IT) components; e.g. power supplies, cell phone battery chargers, motherboards, etc. (VC8055)	100 Items	R 56.76	R 51.08

### 3(b) ELECTROTECHNICAL: FEES

COMMODITY DESCRIPTION	CURRENT TARIFF PER UNIT	UNIT	NEW TARIFF PER UNIT
Application for Letter of Authority (LOA) - Safety only - Non refundable	R 1,840.00	Application	R 1,950.00
Application for Letter of Authority (LOA) - Energy Efficiency only - Non refundable	R 1,840.00	Application	R 1,950.00
Application for Letter of Authority (LOA) - Both Safety and Energy Efficiency - Non refundable	R 3,680.00	Application	R 3,900.00
Application for Regulators Compliance Certificate (RCC) - Non refundable	R 2,060.00	Application	R 2,185.00
Registration Fee for RCC - Non refundable	R 820.00	Application	R 870.00
Application for a Sales Permit - Non refundable	R 2,800.00	Application	R 2,970.00



## 4(a) FOOD AND ASSOCIATED INDUSTRIES: LEVY TARIFFS

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT
5751+5752	Canned abalone (VC8014)	1 000 kg	R 951.00
5710	Canned crustaceans (VC8014)	1 000 kg	R 767.00
5711+5712	Canned fish and canned fish products (other than fish paste) (VC8014)	1 000 kg	R795.00 for 1st ten (10) units R332.00 for 11th to 60th unit R90.00 for 61st to 560th unit R60.00 for each subsequent unit
5714+5715	Canned marine molluscs (VC8014) (other than abalone)	1 000 kg	R 696.00
5716+5717	Canned meat and canned meat products (VC8019)	1 000 kg	R812.00 for 1st ten (10) units R236.00 for 11th to 60th unit R208.00 for 61st to 1 000th unit
5719+5720	Fish paste (VC8014)	1 000 kg	R 165.00
5743+5744	Frozen cephalopods (VC8017)	1 000 kg	R742.00 for 1st ten (10) units R157.00 for each subsequent unit
5741+5742	Frozen crabs (VC8031)	1 000 kg	incorporated with Commodity 5739 and 5740
5721+5722	Frozen fish and frozen fish products (VC8017)	1 000 kg	R736.00 for 1st ten (10) units R168.00 for 11th to 60th unit R42 for 61st to 560th unit R26 for 561st to 2 560th unit
5725	Frozen unpackaged (loose) fish and ungutted, boxed fish (VC8017)	1 000 kg	R440.00 for 1st ten (10) units R100.00 for 11th to 60th unit R24 for 61st to 560th unit R16 for 561st to 2 560th unit
5727+5728	Frozen marine molluscs and frozen marine mollusc products (VC8017) (other than mussels)	1 000 kg	R 711.00
5745+5746	Frozen mussels (VC8017)	1 000 kg	R669.00 for 1st twenty (20) units R285.00 for each subsequent unit

CODE	COMMODITY DESCRIPTION	UNIT	NEW TARIFF PER UNIT
5739+5740	Frozen prawns, shrimps, langoustines and crabs (VC8031)	1 000 kg	R659.00 for 1st twelve (12) units R390.00 for each subsequent unit
5734+5749	Frozen whole rock lobster, cooked and uncooked (VC8020)	30 kg	R327.00 for 1st ten (10) units R20.00 for each subsequent unit
5730+5748	Frozen rock lobster tails, leg and breast meat (VC8020)	10 kg	R327.00 for 1st ten (10) units R20.00 for each subsequent unit
5736	Smoked snoek (VC 8021)	1 000 kg	R 235.00
5753	Live aquacultured abalone (VC9001)	1 000 kg	R 459.00
5754	Live Lobster (VC 9104)	1 000 kg	R 501.00

**4(b) FOOD AND ASSOCIATED INDUSTRIES: FEES**

<u>PRODUCT</u>	<u>SPONSORS</u>	<u>NEW TARIFF</u>
Frozen Fish, Molluscs, Lobster, Prawns, Salted Fish, Frozen Abalone (VC8017, VC8020, VC8031) (Squid in Eastern Cape excluded)	<u>Levy payers</u>	Inspection – R313.00 Export documentation* – R223.00 Export documentation* when prepared by Industry – R138.00
	<u>Agents</u>	Inspection – R1 225.00 Export documentation* – R223.00
Squid - Eastern Cape (VC8017)	<u>Agents</u>	Export documentation* – R1 025.00 (includes inspection cost)
Live Lobster & Live Molluscan Shellfish Live Abalone (VC9001), Oysters, Mussels	<u>Levy payers</u>	Export documentation* – R233.00
	<u>Agents</u>	Export documentation* – R697.00
Chilled Fish	<u>Agents</u>	Inspection – R695.00 per hour for normal hours R780.00 per hour for after hours Export documentation* – R223.00 R4.77 per km travelled
Canned Fish (VC8014) & Meat (VC8019)	<u>Levy payers</u>	Inspection – R313.00 Export documentation* – R223.00
Pre-importation Samples Label evaluation for imported products	<u>Agents</u>	Inspection – R552.00 Plus R43.00 per code Report – R552.00
Additional administration fee for non compulsory related work	<u>Land based facilities</u>	Registration fee – R10 205.00 (Excluding accommodation and travelling costs) An annual fee for land based factories and factory freezer vessels (excluding factories packing squid and lobster only)
		Registration fee – R6 125.00 An annual fee for land based squid factories, rock lobster factories and molluscan shellfish factories
	<u>Freezer vessels</u>	Registration fee – R2 040.00
	<u>Squid vessels</u>	Registration fee – R1 130.00
Annual registration fee in terms of the VC per establishment	<u>Establishment</u>	Registration fee – R1 590.00
Application for a Sales Permit	<u>Levy payers</u>	1st Application – R705.00

*\*Issue of necessary export documents including health guarantees or other documents required by the importing country.*

<u>VESSEL INSPECTIONS (FOR EU VESSELS ONLY)</u>	
<u>DESCRIPTION OF VESSEL</u>	<u>NEW TARIFF</u>
Ski-boat (One-day vessel)	R 1,011.00
Ice Vessel (RSW & CSW)	R 1,290.00
Re-inspection (if necessary)	R 695.00

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 1414

15 DECEMBER 2017

## MEMORANDUM OF UNDERSTANDING

Between

**Broad-Based Black Economic Empowerment Commission**

A statutory entity established in terms of section 13B of the Broad-Based Black Economic Empowerment Act, Act No. 53 of 2003, as amended, herein represented by **Zodwa Ntuli** in her capacity as Acting Commissioner, and duly authorised to enter into this agreement

(hereinafter referred as the "B-BBEE COMMISSION")

and

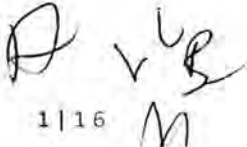
**Companies and Intellectual Property Commission**

A public entity established in terms of section 185 of the Companies Act, 2008 (Act No. 71 of 2008), within the Department of Trade & Industry group of Institutions, herein represented by **Adv. Rory Voller** in his capacity as Commissioner and duly authorised thereto

(hereinafter referred to as the "CIPC")

Concerning

mutual co-operation and assistance between the B-BBEE COMMISSION and the CIPC (hereinafter referred to as "the Parties") relating to the fulfilment of responsibilities and obligations under the Companies Act, 71 of 2008 ("the Act") and the Broad-Based Black Economic Empowerment Act, 53 of 2003, as amended ("B-BBEE Act") and any other legislation applicable to the Parties.

  
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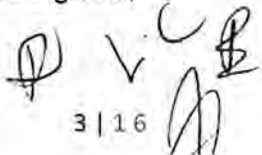
## 1. PREAMBLE

**WHEREAS** the Parties acknowledge the importance of consultation, mutual support and co-operation regarding aspects such as the disclosure of investigations, information, training and in general, mutual co-operation and assistance;

**AND WHEREAS** the CIPC was established as a juristic person to function as an organ of state within the public administration but as an institution outside the public service, entrusted with powers to provide efficient and effective registration of companies; maintain accurate, up-to-date and relevant information concerning companies; promote education and awareness of company and intellectual property laws and related matters, promote compliance with the Act and efficient, effective and widest possible enforcement to achieve the objectives of the Act;

**AND WHEREAS** the CIPC has jurisdiction throughout the Republic of South Africa and its functions are, as set out in section 187 of the Act:

- a) promoting voluntary resolution of disputes arising in terms of the Act between a company on the one hand and a shareholder or director on the other, as contemplated in Part C of Chapter 7, without intervening in, or adjudicating on any such dispute;
- b) monitoring proper compliance with the Act;
- c) receiving or initiating complaints concerning alleged contraventions of the Act, evaluating those complaints and initiating investigations into complaints;
- d) receiving direction from the Minister in terms of section 190, concerning investigations to be conducted into alleged contraventions of the Act, or other circumstances, and conducting any such investigation;
- e) ensuring that contraventions of the Act are promptly and properly investigated;

  
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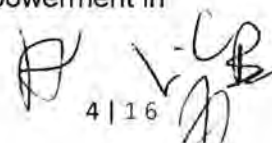
- f) negotiating and concluding undertakings and consent orders contemplated in section 169(1)(b) and 173;
- g) issuing and enforcing compliance notices;
- h) referring alleged offences in terms of the Act to the National Prosecuting Authority; and
- i) referring matters to a court, and appearing before the court or the Companies Tribunal, as permitted or required by the Act.

**AND WHEREAS** the function and objectives of the CIPC (as expressed in the Act) are to exercise or perform the powers, duties and functions assigned to or conferred upon the CIPC by the Act in respect of matters referred to it in terms of section 187 of the Act.

**AND WHEREAS** the B-BBEE COMMISSION is an entity within the administration of the Department of Trade and Industry established in terms of section 13B of the B-BBEE Act, entrusted with powers to oversee the implementation of the B-BBEE Act, promote compliance with the B-BBEE Act in the interest of the public, strengthen and foster collaboration between the public and private sector to achieve the objectives of the B-BBEE Act;

**AND WHEREAS** the B-BBEE Commission has jurisdiction throughout the Republic of South and its functions are, as set out section 13F of the B-BBEE Act as follows:

- (a) To oversee, supervise and promote adherence to the B-BBEE Act in the interest of the public;
- (b) To strengthen and foster collaboration between the public and private sector in order to promote and safeguard the objectives of broad-based black economic empowerment;
- (c) To receive complaints relating to broad-based black economic empowerment in accordance with the B-BBEE Act;

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- (d) To investigate, either on its own initiative or in response to complaints received, any matter concerning broad-based black economic empowerment;
- (e) To promote advocacy, access to opportunities and educational programmes and initiatives of broad-based black economic empowerment;
- (f) To maintain a register of major broad-based black economic empowerment transactions, above a threshold determined by the Minister in the Gazette;
- (g) To receive and analyse such reports as may be prescribed concerning broad-based economic empowerment compliance from organs of state, public entities and private sector enterprises;
- (h) To promote good governance and accountability by creating an effective environment for the promotion and implementation of broad-based black economic empowerment;
- (i) To exercise such other powers which are not in conflict with the B-BBEE Act as may be conferred on the B-BBEE Commission in writing by the Minister; and
- (j) Increase knowledge of the nature and dynamics and promote public awareness of matters relating to broad-based black economic empowerment by implementing education and awareness measures, providing guidance to the public and conducting research on matters relating to its mandate and activities.

**AND WHEREAS** the B-BBEE COMMISSION has identified synergies and need for cooperation to effectively execute its mandate given non-compliance with the B-BBEE Act and the scourge of fronting that the B-BBEE Commission is required to address.

**AND WHEREAS** the Parties acknowledge the importance of investigating the fronting practices and the relationship between corruption, derailment of economic transformation, lack of protection to minority rights, lack of access to company

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information, fraudulent attainment of high level B-BBEE status and flouting of corporate governance, and further acknowledging that each Party may have specialised skills and specialist knowledge that assist in conducting investigations;

**AND WHEREAS** the Parties acknowledge that everything dealt with and agreed to herein is in the context of and subject to all legislation, as amended from time to time, applicable to a Party.

**NOW THEREFORE** the Parties agree to enter into this Memorandum of Understanding and record the terms of their agreement as follows:

## 2. DEFINITIONS

In this MOU, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings—

**“B-BBEE Act”** means the Broad-Based Black Economic Empowerment Act 53 of 2003, as amended by Act 46 of 2013;

**“B-BBEE Commission”** means Commission established in terms of section 13B of the B-BBEE Act;

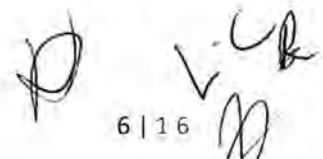
**“CIPC”** means the CIPC established in terms of 185 of the Companies Act 71 of 2008;

**“MOU”** means this Memorandum of Understanding;

**“Requested Party”** means a Party from whom a request under this MOU is addressed;


**“Requesting Party”** means a Party making a request under this MOU;

**“the Act”** means the Companies Act, 71 of 2008;

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### 3. PURPOSE

- 3.1 This ("MOU") sets forth the points of agreement between the B-BBEE COMMISSION and CIPC regarding exchange of certain information and interface of system in order to *inter alia* enable the B-BBEE COMMISSION to have access to CIPC business registration information for purposes of improving B-BBEE COMMISSION's processes concerned.
- 3.2 Most specifically, this MOU sets out arrangements that both Parties have agreed to implement in order to ensure that the information concerned pursuant and during the implementation of this MOU –
- (a) is kept confidential and may not be disclosed to any person except as authorised;
  - (b) is collected, processed and stored by each Party in a manner as required by South African law (e.g. the Companies Act, 2008, IP related legislation and POPI Act);
  - (c) is used solely for the purpose of improving the Parties' processes concerned as reflected in this MOU.
- 3.3 As this is a partnership agreement (MOU) between two public entities within the sphere of government, no remuneration, financial contribution or charge is applicable between the Parties for purpose of this MOU with regard to information or training etc, unless so agreed between the Parties in the form of a formal written amendment to this MOU as signed off by the duly authorised signatory of each Party.
- 3.4 With regard to inaccessibility of the CIPC and/or B-BBEE COMMISSION systems / networks - The Parties acknowledge that the B-BBEE COMMISSION and CIPC systems may not be always accessible due to maintenance or due to circumstances beyond the reasonable control of either of the Parties, including at

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- least virus infection, unauthorised access or hacking, power failure or fault with a telecommunications network, or any other instance of force majeure beyond the reasonable control of either of the Parties.
- 3.5 The Parties recognise that requests in terms of this MOU will not be denied solely on the grounds of differences in the definitions used by or applicable to the Requesting and Requested Parties.
- 3.6 This MOU embodies the understanding of the Parties with regard to a relationship of consultation, mutual support and co-operation between them, and serves to strengthen and formalise a relationship between the Parties with reference to investigation, and training within the parameters of the Act and legislation and policies regulating the B-BBEE COMMISSION.
- 3.7 The Parties agree to provide mutual assistance, subject to their relevant governing laws and any other applicable legislation.
- 3.8 The Parties acknowledge that this MOU does not modify or supersede any laws and that it does not create legally binding obligations or enforceable rights between them.
- 3.9 Anything performed under this MOU will be subject to applicable legislation. It will furthermore be subject to applicable policies and standard operating procedures of the Parties and/or any other terms and conditions as may be agreed upon between the CIPC and the B-BBEE COMMISSION.
- 3.10 Neither Party may cede, assign or transfer its rights and obligations in respect of this MOU, or any part thereof, either directly or indirectly, to any third party.
- 3.11 Each Party will provide the fullest possible measure of assistance to the other subject to applicable legislation and policies and any other terms and conditions agreed upon between the CIPC and the B-BBEE COMMISSION.

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- 3.12 Each request for assistance will be assessed on a case-by-case basis by the requested Party to determine whether assistance can or may be provided and subject to processes set out in attached Annexures.
- 3.13 The provisions of this MOU will not give rise to a right on the part of any other person, directly or indirectly, to obtain, suppress or exclude any evidence or to challenge the execution of any conduct under this MOU.

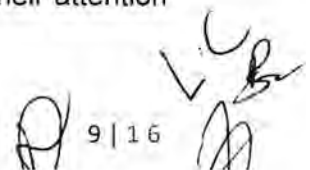
#### 4. GUIDELINES FOR MUTUAL ASSISTANCE

- 4.1 The Parties may agree to participate in the conduct and review of projects which may be deemed necessary from time to time.
- 4.2 In the event of the Parties identifying and agreeing on a specific form of **Co-operation** that requires funding, the Parties will –
- (a) comply with the process(es) concerned / applicable (if any) to obtain approval for such funding / payment; and
  - (b) thereafter formalise the specifics, rights and obligations of the **Parties** in a separate legally binding contract.
- 4.3 Each Party remains responsible for its own expenses, except as may be agreed in a contract contemplated in clause 4.2 above.
- 4.4 No legally binding obligations shall arise from a contract contemplated in clause 4.4 above, where a Party's applicable policies and procedures relating to the commitment of funding or other resources has not been complied with.

#### 5. PRINCIPLES OF CO-OPERATION

- 5.1 The Parties will endeavour to co-operate with one another on the prevention, detection and investigation of unlawful activities which come to their attention during the execution of their respective legal mandates.

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- 5.2 The Parties will facilitate and foster co-operation between them in relation to investigation of matters that fall within their respective legal mandates and disclosure of information as envisaged in clause 5.3 hereunder.
- 5.3 Co-operation contemplated in this MOU shall be subject to *inter alia* CIPC processes (see Annexures) and based upon principles such as:
- (a) Mutual trust, respect and benefit to the Parties;
  - (b) Technical information, knowledge and expertise exchanged between the Parties shall not be passed to a third party without the prior written consent of the other (originating) Party;
  - (c) Commitment to joint training and exchange of information where applicable to enhance knowledge, skills and an understanding of the functions of the respective Parties as per *inter alia* CIPC processes (see Annexures); and
  - (d) Adherence to the legislative frameworks governing the Parties, while also giving due consideration to political, economic and social considerations where applicable.

## 6. GUIDELINES FOR THE DISCLOSURE OF INFORMATION

- 6.1 In response to requests for information and assistance subject to any conditions established, a Party will provide the fullest possible measure of mutual assistance, subject to its governing statutes and regulations and overall policy.
- 6.2 Such assistance may include, *inter alia*, the disclosure of information in pursuance of the respective mandates subject to the limitations of the Act, the B-BBEE Act, Protection of Personal Information Act (POPI) and any other

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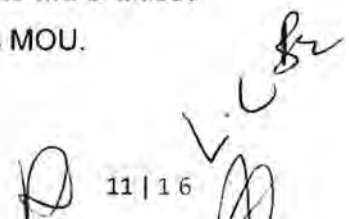
legislation applicable to the Parties and as per CIPC processes (see Annexures).

## 7. TRAINING AND INVESTIGATIONS

- 7.1 The Parties may assist one another to plan and implement training programmes designed to share expertise and skills in common areas and in order to do so, may also when appropriate, make use of, *inter alia*, conferences and seminars. See in this regard CIPC training process attached as an Annexure
- 7.2 The Parties shall endeavour to stimulate discussion of matters / issues of mutual concern and / or interest.
- 7.3 As already stipulated in section 13K of the B-BBEE Act, B-BBEE can obtain information from CIPC by issuing CIPC with a summons. Further, section 13B(5) obliges each organ of state to assist the B-BBEE Commission to execute its authority and perform its functions effectively.

## 8. COMMENCEMENT AND TERMINATION

- 8.1 This MOU supersedes and replaces all previous oral or written (if any) agreements or MOUs between the Parties, excluding any access to CIPC database agreements between CIPC and B-BBEE Commission.
- 8.2 This MOU will come into effect on the date of signature of the Party signing last in time, the **Effective Date**, and shall endure, subject to its terms and conditions, for a period three (3) of years, and may be terminated by either Party by giving thirty (30) days written notice to the other Party.
- 8.3 The termination of this MOU will not prejudice the completion, in accordance with their terms, of any ongoing projects or activities under this MOU unless otherwise agreed to by the Parties at or after termination of this MOU.

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## 9. UNSOLICITED INFORMATION

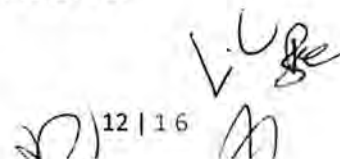
- 9.1 The information acquired in terms of this MOU is subject to any confidentiality requirements in law and in particular any legislation applicable to the B-BBEE COMMISSION.
- 9.2 If one Party comes into possession of information which would be likely to assist the other Party in administrating or enforcing the laws for which it is responsible, the first-mentioned Party may notify the other Party of the existence of that information, subject to 9.1, and 6.1(a) above and 11.1 below.

## 10. PERMISSIBLE USES AND CONFIDENTIALITY

- 10.1 The Parties and their officials are obliged to treat information under this MOU as confidential, except where compliance with a legal duty or compulsion by law necessitates disclosure. In the event of such disclosure the other Party shall be informed in writing without delay.
- 10.2 Where information may be and is disclosed in terms of this MOU such information will be disclosed by the Requested Party to the Requesting Party as soon as is reasonably possible. In regard to exchanges of confidential information, each Party agrees not to disclose any such information to a third Party except as provided for in applicable legislation and in the event of such disclosure the other Party shall be informed in writing without delay.
- 10.3 Information supplied will be used for the purpose only for which it was requested.

## 11. ANNEXURES TO THIS MOU

- 11.1 This is a founding general agreement between the Parties. Further details with regard to matters agreed to in terms of this MOU will be dealt with between the applicable business unit of the B-BBEE COMMISSION and the CIPC.

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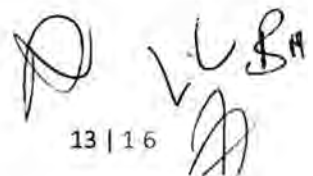
- 11.2 Such other specific additional agreements or procedures and processes as the case may be, will be in writing and agreed to by signature thereof by both Parties and will come into effect on the date of signature of the Party signing last in time.
- 11.3 Such additional agreements, procedures and processes will form part of this MOU and any such agreement, procedure or process' existence will be conditional upon the existence or continuing existence of this MOU or any amendment or replacement thereof.

## 12. SETTLEMENT OF DISPUTES

When a dispute arises out of the interpretation, operation and implementation of this MOU, the Parties must in good faith, make every reasonable effort to settle the dispute amicably through direct negotiation with the other Party or negotiations through an intermediary.

## 13. REVIEW AND AMENDMENT

- 13.1 The operation and implementation of this MOU shall be subject to periodic review by the Parties but not less than once in the three (3) year period from the **Effective Date** of this MOU.
- 13.2 Notwithstanding the aforesaid, in the event of material changes in legislation affecting the content of this MOU, the Parties shall review and amend this MOU within a period of thirty (30) days from the date of the relevant changes coming into effect, in order to comply with the legislative amendments and with retrospective effect where necessary.
- 13.2 Any amendment agreed to by the Parties shall be in writing and signed off by the authorised signatory of each Party. Such an amendment shall form part of this MOU and such amendment will come into effect on such a date as agreed upon by the Parties.



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## 14. GOOD FAITH

The Parties undertake to implement this MOU based on a foundation of mutual trust and good faith.

## 15. COMPLIANCE WITH POPI

- 15.1. The Parties acknowledge their respective obligations to comply with the substantive provisions of the Protection of Personal Information Act, 4 of 2013, which in essence comprises of both Parties allowing the other Party access to records on the condition that the identifiable person (or his or her guardian or curator) to whom the records relates has furnished prior written consent for the disclosure of the records.
- 15.2. A Party understands and acknowledges that the restrictions and obligations accepted by the other Party pursuant to this MOU are reasonable and necessary in order to protect the interests of the other Party, its employees and stakeholders and that a Party's failure to comply with this MOU in any respect could cause irreparable harm to the B-BBEE Commission the other Party, its employees and stakeholders for which there may be no adequate legal remedy.
- 15.3. A Party therefore understands and agrees, notwithstanding any contrary provision in any other agreement between the Parties, that each Party retains its full rights to pursue legal or equitable remedies in the event of any breach or threatened breach of this MOU, and may prevent the other Party, any of its agents (if any) or subcontractors (if any), or any third party who has received records from that Party from violating this MOU by any legal means available. Each Party further understands that violation of this MOU may subject that Party to applicable legal penalties, including those provided under POPI and termination of any agreements entered into between the B-BBEE COMMISSION and CIPC.

  
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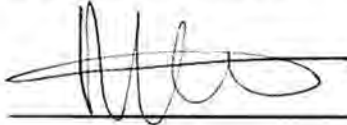
Party to applicable legal penalties, including those provided under POPI and termination of any agreements entered into between the B-BBEE COMMISSION and CIPC.

**FOR B-BBEE COMMISSION**

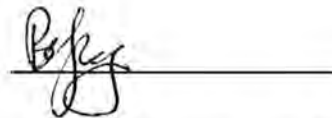
Signed at CENTURION on this 05 day of JUNE 2017



**Ms. Zodwa Ntuli  
Acting Commissioner  
B-BBEE Commission**



**Witness**



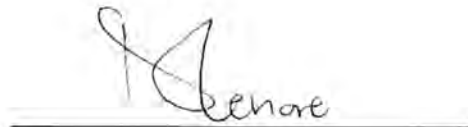
**Date:** 05 / 06 / 2017

**FOR CIPC**

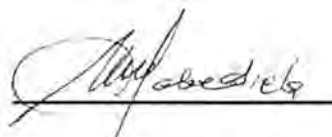
Signed at Pepin on this 08 day of June 2017



**Adv. Rory Voller  
Commissioner  
CIPC**



**Witness**



**Date:** 08 / June / 2017.

## DEPARTMENT OF WATER AND SANITATION

NO. 1415

15 DECEMBER 2017

**PROPOSAL FOR THE ESTABLISHMENT OF THE SINGLE CATCHMENT MANAGEMENT AGENCY IN TERMS OF SECTION 78(3) OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)**

I, Nomvula Paula Mokonyane, Minister of Water and Sanitation, hereby, in terms of section 78(3) of the National Water Act, 1998 (Act No. 36 of 1998), propose -

- a) the establishment of a single catchment management agency, boundaries of the single CMA will cover the entire nine Water Management Areas in the whole countries which include all catchments and aquifer boundaries. These boundaries are not aligned with provincial or local government boundaries.
- b) that the agency be named the National Water Resource Management Agency.

A proposal for the establishment of the Single Catchment Management Agency, as contemplated in section 77 of the National Water Act, 1998, will be lying for inspection at:

[www.dws.gov.za](http://www.dws.gov.za), click on sites/ Institutional Oversight/ Catchment Management Agencies/ CMA establishment process. Hard copy can be accessed in all nine DWS provincial offices.

All interested persons are invited to comment in writing on the proposal which is available for comment for a period of 60 days. All such comments must be addressed to:

Director-General  
Department of Water and Sanitation  
Private Bag X313  
**PRETORIA**  
0001

For attention: Ms T Sigwaza  
Email: [sigwazat@dws.gov.za](mailto:sigwazat@dws.gov.za)  
Tel: 012 336-6600



**MRS NP MOKONYANE**  
**MINISTER OF WATER AND SANITATION**  
**DATE:**

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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**ECONOMIC DEVELOPMENT DEPARTMENT****NOTICE 951 OF 2017****COMPETITION TRIBUNAL****NOTIFICATION OF COMPLAINT REFERRAL**

The Competition Tribunal gives notice in terms of Section 51(3) & (4) of the Competition Act 89 of 1998 as amended, that it received the complaint referrals listed below. The complaint(s) alleges that the respondent(s) engaged in a prohibited practice in contravention of the Competition Act 89 of 1998.

<b>Case No.</b>	<b>Complainant</b>	<b>Respondent</b>	<b>Date received</b>	<b>Sections of the Act</b>
CRP225Nov17	Protea Automation Solutions (Pty) Ltd	Ivensys PLC Ivensys Systems (UK) Ltd; Eurothem Ltd; EOH Holdings Ltd; EOH Mthombo (Pty) Ltd	03/11/2017	8(c),8(d)(i),8(d)(ii)

**The Chairperson  
Competition Tribunal**



**ECONOMIC DEVELOPMENT DEPARTMENT****NOTICE 952 OF 2017****COMPETITION TRIBUNAL****NOTIFICATION OF DECISION TO APPROVE MERGER**

The Competition Tribunal gives notice in terms of rules 34(b)(ii) and 35(5)(b)(ii) of the "Rules for the conduct of proceedings in the Competition Tribunal" as published in Government Gazette No. 22025 of 01 February 2001 that it approved the following mergers:

Case No.	Acquiring Firm	Target Firm	Date of Order	Decision
LM203Oct17	Gallus Holdings Limited	Sovereign Food Investments Limited	02/11/2017	Approved Subject to Conditions
LM117Jul17	MIH Ecommerce Holdings (Pty) Ltd	The Car Trader (Pty) Ltd	02/11/2017	Approved Subject to Conditions
LM148Aug17	Murray and Roberts Limited	Bombela Civils Joint Venture (Pty) Ltd	08/11/2017	Approved
LM212Oct17	RMB Property HOLDCO 1 (Pty) Ltd	Celasys (Pty) Ltd	08/11/2017	Approved
LM135Aug17	McCarthy Limited	Cargen (Pty) Ltd Specifically the Paarl Ford and Mazda Motor Dealership and the Stellenbosch Ford motor Dealership, both t/a Novel Motor Company	16/11/2017	Approved
LM217Oct17	PSG Retirement Holdings (Pty) Ltd	Evergreen Retirement Holdings (Pty) Ltd	16/11/2017	Approved
LM210Oct17	ABSA Bank Ltd	Pacific Heights Investment 196 (Pty) Ltd	16/11/2017	Approved
LM214Oct17	Community Property Company (Pty) Ltd	The immovable property comprising Heidelberg Mall	16/11/2017	Approved
LM161Sep17	Main Street 1477 (Pty) Ltd (Trading as Amrod)	Wizard Collective (Pty) Ltd	22/11/2017	Approved
LM198Oct17	Old Mutual Retirement Accommodation Fund (Pty) Ltd	Faircape Life Right Holdings (Pty) Ltd	22/11/2017	Approved
LM147Aug17	DENEB Investments Limited	New Just Fun Group (Pty) Ltd	24/11/2017	Approved Subject to Conditions
LM216Oct17	Vestfund (Pty) Ltd	Diversity Urban Renewal Fund (Pty) Ltd; Sterland Property Development (Pty) Ltd; The Property Letting Enterprise known as the Situation East Building owned by Propertuity Development (Pty) Ltd; Buffprop 1 (Pty) Ltd; Pan Africa Developments (Pty) Ltd; and Vestfund Resi (Pty) Ltd	29/11/2017	Approved
LM178Sep17	Bearing Man Group (Pty) Ltd	The Fenner Conveyor Sales and Service Business as well as certain Distribution	29/11/2017	Approved

		Rights and Customer Contracts of Fenner Conveyor Belting (South Africa) Pty (Ltd)		
LM221Nov17	Thebe Investment Corporation (Pty) Ltd	New Africa Investments Ltd	29/11/2017	Approved
LM211Oct17	HCI 111 Commissioner (Pty) Ltd	Redefine Properties Ltd In Respect of The Property Letting Enterprise Known as 111 Commissioner Street	29/11/2017	Approved
LM191Jan17	K2014202010 (Pty) Ltd	AM Alberts (Pty) Ltd (in business rescue) t/a Progress Milling	30/11/2017	Approved Subject to Conditions
LM081Jun17	K2014202010 (Pty) Ltd	Noorfed (Pty) Ltd	30/11/2017	Approved Subject to Conditions

**The Chairperson  
Competition Tribunal**

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
NOTICE 953 OF 2017

**PROMOTION OF ACCESS TO INFORMATION ACT, 2000**

**DESCRIPTION SUBMITTED IN TERMS OF SECTION 15(1)**

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services, hereby publish under section 15(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the descriptions submitted to me in terms of section 15(1) of the said Act by the –

**EAST LONDON IDZ**

As set out in the Schedule



**TSHILOLO MICHAEL MASUTHA, MP (ADV)**  
**MINISTER FOR JUSTICE AND CORRECTIONAL SERVICES**

## Form D

Automatically available records and access to such records

[\(Section 15](#) of the Promotion of Access to Information Act, 2000 [\(Act 2 of 2000\)](#)[\[Regulation 5A\]](#)

[Form D added by GN R466 of 1 June 2007.]

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website) (SECTION 15(1)(b))
<b>FOR INSPECTION IN TERMS OF SECTION 15(1)(a)(i):</b>	
1.1 Marketing Brochures of the ELIDZ 1.2 The Special Economic Zones Act & Regulations 1.3 Current ELIDZ Tender Information 1.4 Information relating to potential partnerships with investors 1.5 Corporate Social Investment Projects and how to get involved 1.6 ELIDZ Annual Review 1.7 General Information 1.8 Operators Permit	Information may be accessed by visiting the ELIDZ head office situated at: Lower Chester Road, Sunnyridge, East London, Eastern Cape, South Africa WEB: <a href="http://www.elidz.co.za">http://www.elidz.co.za</a>
<b>FOR PURCHASING IN TERMS OF SECTION 15(1)(a)(ii):</b>	
2. Tender Documents	Upon request at the reception of the ELIDZ situated at: Lower Chester Road, Sunnyridge, East London, Eastern Cape, South Africa
<b>FOR COPYING IN TERMS OF SECTION 15(1)(a)(ii):</b>	
1.1 Marketing Brochures of the ELIDZ  1.2 ELIDZ Annual Review  1.3 General Information	Information may be accessed by visiting the ELIDZ head office situated at: Lower Chester Road, Sunnyridge, East London, Eastern Cape, South Africa
<b>AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 15(1)(a)(ii):</b>	
1.1 Marketing Brochures of the ELIDZ 1.2 Current ELIDZ Tender Information 1.3 Information relating to potential partnerships with investors 1.4 Corporate Social Investment Projects and how to get involved	Information may be accessed by visiting the ELIDZ website: WEB: <a href="http://www.elidz.co.za">http://www.elidz.co.za</a>



1.5 ELIDZ Annual Review	
1.6 General Information	

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
NOTICE 954 OF 2017

**PROMOTION OF ACCESS TO INFORMATION ACT, 2000**

**DESCRIPTION SUBMITTED IN TERMS OF SECTION 15(1)**

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services, hereby publish under section 15(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the descriptions submitted to me in terms of section 15(1) of the said Act by the –

**OFFICE OF THE PREMIER, KWAZULU-NATAL**

As set out in the Schedule



**TSHILOLO MICHAEL MASUTHA, MP (ADV)**  
**MINISTER FOR JUSTICE AND CORRECTIONAL SERVICES**



## REPUBLIC OF SOUTH AFRICA

## OFFICE OF THE PREMIER, KWAZULU-NATAL

## FORM D

**AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS:  
(Section 15 of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))**

## [Regulation 5A]

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website)(SECTION 15(1)(a))
CATEGORIES	MANNER OF ACCESS TO RECORD
<b>1. FOR INSPECTION IN TERMS OF SECTION 15(1)(a)(i)</b>	
1.1 State of the Province Address; 1.2 Budget Speech; 1.3 Departmental Strategic Plan; 1.4 Provincial Growth and Development Strategy; 1.5 Annual Performance Plan 1.6 Annual Strategic Plan; 1.7 Service Delivery Improvement Plan; 1.8 Citizens' Charter; 1.9 Employment Equity Report; 1.10 Approved Organisational Structure; 1.11 Anti- Fraud Anti-Corruption Strategy; 1.12 Provincial Training Academy Courses; 1.13 Premier's speeches; 1.14 Circulars of advertised posts; and 1.15 Magazines, newspapers and newsletters.	The records may be inspected at the Office of the Deputy Information Officer as follows –  <b>Office of the Premier</b> 300 Langalibalele Street (Moses Mabhida Building) PIETERMARITZBURG 3201 Telephone: +27 33 341 3382/+27 33 341 3388 or (033) 341 3382/88 Fax: +27 33 394 4153 Email: <a href="mailto:tashini.naldoo@kznpremier.gov.za">tashini.naldoo@kznpremier.gov.za</a> or <a href="mailto:mark.serfontein@kznpremier.gov.za">mark.serfontein@kznpremier.gov.za</a>

1.16 Magazines, newspapers and newsletters.	
<b>2. FOR PURCHASING IN TERMS OF SECTION 15(a)(ii)</b>	
2.1 Bid Documents	<p>Bid documents may be purchased at the Office of the Premier:  300 Langalibalele Street  (Moses Mabhida Building)  PIETERMARITZBURG  3201  At the Supply Chain Management Directorate.</p>
<b>3. FOR COPYING IN TERMS OF SECTION 15(a)(ii)</b>	
3.1 State of the Province Address; 3.2 Budget Speech; 3.3 Departmental Strategic Plan; 3.4 Provincial Growth and Development Strategy; 3.5 Annual Performance Plan; 3.6 Service Delivery Improvement Plan; 3.7 Citizens' Charter; 3.8 Employment Equity Report; 3.9 Approved Organisational Structure; 3.10 Anti-Corruption Strategy; 3.11 Provincial Training Academy Courses; 3.12 Premier's speeches; 3.13 Circulars of advertised posts; and 3.14 Magazines, newspapers and newsletters.	<p>The records may be accessed for copying at the Office of the Deputy Information Officers as follows –</p> <p>Office of the Premier  300 Langalibalele Street  (Moses Mabhida Building)  PIETERMARITZBURG  3201  Telephone: +27 33 341 3382/+27 33 341 3388 or (033) 341 3382/88  Fax: +27 33 394 4153  Email: <a href="mailto:tashini.naidoo@kznpremier.gov.za">tashini.naidoo@kznpremier.gov.za</a>  or <a href="mailto:mark.serfontein@kznpremier.gov.za">mark.serfontein@kznpremier.gov.za</a></p>
<b>4. FOR COPYING IN TERMS OF SECTION 15(a)(ii)</b>	
4.1 State of the Province Address; 4.2 Citizens' Charter; 4.3 Provincial Training Academy Courses; 4.4 Premier's speeches; 4.5 Circulars of advertised posts; and 4.6 Magazines, newspapers and newsletters.	<p>The records may be accessed for copying at the Office of the Deputy Information Officers as follows –</p> <p>Office of the Premier  300 Langalibalele Street  (Moses Mabhida Building)  PIETERMARITZBURG  3201  Telephone: +27 33 341 3382/+27 33 341 3388 or (033) 341 3382/88  Fax: +27 33 394 4153  Email: <a href="mailto:tashini.naidoo@kznpremier.gov.za">tashini.naidoo@kznpremier.gov.za</a>  or <a href="mailto:mark.serfontein@kznpremier.gov.za">mark.serfontein@kznpremier.gov.za</a></p>



**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 955 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	<b>Remainder of Sub 348 of the farm Piezang Revier No. 805</b>
<b>Extent of property</b>	:	<b>6, 7495 ha</b>
<b>Magisterial District</b>	:	<b>Ethekwini</b>
<b>Administrative District</b>	:	<b>KwaZulu-Natal</b>
<b>Previous Title Deed No.</b>	:	<b>T15582/1987</b>
<b>Claimant</b>	:	<b>Shanitha Devi Baliram</b>
<b>Date claim lodged</b>	:	<b>26 July 1998</b>
<b>Reference number</b>	:	<b>KRN6/2/3/E/8/817/2471/3</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 956 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	<b>That portion of Durban commonly known as Shack No. 10 Newlands</b>
<b>Magisterial District</b>	:	<b>Ethekwini</b>
<b>Administrative District</b>	:	<b>KwaZulu-Natal</b>
<b>Claimant</b>	:	<b>Bheki Hezekial Mkhize</b>
<b>Date claim lodged</b>	:	<b>30 December 1998</b>
<b>Reference number</b>	:	<b>KRN6/2/3/E/8/817/1637/83</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA**  
**REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL**  
**DATE:**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 957 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	<b>Undivided Portion 6 of Sub B of Lot 15 No. 1680</b>
<b>Extent of property</b>	:	<b>4, 0486 ha</b>
<b>Magisterial District</b>	:	<b>Lower Tugela</b>
<b>Administrative District</b>	:	<b>KwaZulu-Natal</b>
<b>Claimant</b>	:	<b>Dayananthan Pyneevale Moodley</b>
<b>Date claim lodged</b>	:	<b>30 December 1998</b>
<b>Reference number</b>	:	<b>KRN6/2/2/E/20/0/0/50</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 958 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	<b>Remainder of Alexandra Native Location No. 1 No. 16457</b>
<b>Extent of property</b>	:	<b>800 dum</b>
<b>Magisterial District</b>	:	<b>Umzinto</b>
<b>Administrative District</b>	:	<b>KwaZulu-Natal</b>
<b>Current Title Deed No.</b>	:	<b>G4670/1875</b>
<b>Current Owner</b>	:	<b>Ingonyama Trust-Trustees</b>
<b>Bonds &amp; Restrictive Conditions (Interdicts)</b>	:	<b>None</b>
<b>Claimant</b>	:	<b>Johnson Vivian Ogle on behalf of the Ogle Family</b>
<b>Date claim lodged</b>	:	<b>31 December 1998</b>
<b>Reference number</b>	:	<b>KRN6/2/2/E/47/0/0/24</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**



**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 959 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	1. Subdivision 150 (of 10) of the farm Groeneberg No. 844 2. Lot 151 (of 10) of the farm Groeneberg No. 844
<b>Extent of property</b>	:	1. 2, 0234 ha 2. 2, 0234 ha
<b>Magisterial District</b>	:	Ethekwini
<b>Administrative District</b>	:	KwaZulu-Natal
<b>Current Title Deed No.</b>	:	T27193/1987
<b>Current Owner</b>	:	Regional & Land Affairs
<b>Bonds &amp; Restrictive Conditions (Interdicts)</b>	:	None
<b>Claimant</b>	:	Mownee Sewkissoon on behalf of the Sewkissoon Family
<b>Date claim lodged</b>	:	26 December 1998
<b>Reference number</b>	:	KRN6/2/2/E/14/0/0/65

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 960 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	:	<b>That portion of Durban, commonly known as 102 Fairbreeze Cato Manor</b>
<b>Magisterial District</b>	:	<b>Ethekwini</b>
<b>Administrative District</b>	:	<b>KwaZulu-Natal</b>
<b>Claimant</b>	:	<b>Mandla Xulu on behalf of the Xulu Family</b>
<b>Date claim lodged</b>	:	<b>30 April 1997</b>
<b>Reference number</b>	:	<b>KRN6/2/3/E/8/817/2716/2707</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400

Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 961 OF 2017**

**GENERAL NOTICE IN TERMS SECTION 11 (1) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)**

Notice is hereby given in terms of Section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) that a claim for the restitution of land rights on the following properties have been lodged with the Regional Land Claims Commissioner: KwaZulu-Natal and that the Commission on Restitution of Land Rights will further investigate the claim in terms of provisions of the Act in due course:

<b>Property</b>	<b>:</b>	<b>That portion of Durban commonly known as Shack No. 274 Newlands</b>
<b>Magisterial District</b>	<b>:</b>	<b>Ethekwini</b>
<b>Administrative District</b>	<b>:</b>	<b>KwaZulu-Natal</b>
<b>Claimant</b>	<b>:</b>	<b>Enoch Ndubane Mthethwa</b>
<b>Date claim lodged</b>	<b>:</b>	<b>31 December 1998</b>
<b>Reference number</b>	<b>:</b>	<b>KRN6/2/3/E/8/817/1637/108</b>

Any party/parties who have an interest in the above-mentioned properties is hereby invited to submit, within **30 days** from the date of publication of this notice, any representations and/ or information which shall assist the Commissioner in proving or disproving this claim.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigation.

Any comments and information should be submitted to:

The Regional Land Claims Commissioner: KwaZulu-Natal  
Private Bag X9120  
Pietermaritzburg 3200

Tel: (033) 355 - 8400  
Fax: (033) 342 - 3409

Submissions may also be delivered to Second Floor, African Life Building, 200 Church Street, Pietermaritzburg.

**LEBJANE MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER: KWAZULU NATAL  
DATE:**

**SOUTH AFRICAN RESERVE BANK  
NOTICE 962 OF 2017**

**Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**Tian Shui International and Forwarding Close Corporation  
(Registration number 2009/089175/23)**

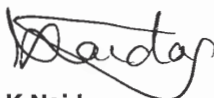
**(hereinafter referred to as the Respondent)**

of:

P O Box 752070  
Garden View  
2047

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the capital amount of R1 475 397,21 standing to the credit of the Respondent in account number 9225800016 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 20 day of 11 2017.



**K Naidoo  
Deputy Governor  
South African Reserve Bank**



**SOUTH AFRICAN RESERVE BANK****NOTICE 963 OF 2017****Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**QFGC International Forwarding Close Corporation**  
(Registration number 2009/089174/23)

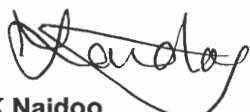
(hereinafter referred to as the Respondent)

of:

P O Box 752070  
Garden View  
2047

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the capital amount of R1 477 959,10 standing to the credit of the Respondent in account number 9227640951 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 20 day of Nov 2017.



**K Naidoo**  
Deputy Governor  
South African Reserve Bank

**SOUTH AFRICAN RESERVE BANK  
NOTICE 964 OF 2017**

**Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**SA Chang Tao International and Forwarding Close Corporation  
(Registration number 2008/174748/23)**

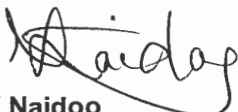
**(hereinafter referred to as the Respondent)**

of:

Shop 201 Asia City  
Marcia Street  
Bruma  
2198

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the capital amount of R1 501 262,52 standing to the credit of the Respondent in account number 4072649082 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 20 day of NOVEMBER 2017.



**K Naidoo  
Deputy Governor  
South African Reserve Bank**

**SOUTH AFRICAN RESERVE BANK  
NOTICE 965 OF 2017**

**Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**SA Kin Ma International and Forwarding Close Corporation  
(Registration number 2008/174749/23)**

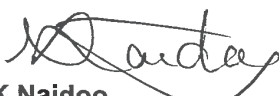
**(hereinafter referred to as the Respondent)**

of:

Shop 201 Asia City  
Marcia Street  
Bruma  
2198

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the capital amount of R2 418 473,44 standing to the credit of the Respondent in account number 9223589414 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 20 day of Nov 2017.



**K Naidoo  
Deputy Governor  
South African Reserve Bank**

**SOUTH AFRICAN RESERVE BANK  
NOTICE 966 OF 2017**

**Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**Heng An International and Forwarding Close Corporation  
(Registration number 2009/089234/23)**

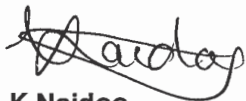
**(hereinafter referred to as the Respondent)**

of:

P O Box 752070  
Garden View  
2047

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the capital amount of R1 465 196,90 standing to the credit of the Respondent in account number 9225621747 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 20 day of Nov 2017.



**K Naidoo  
Deputy Governor  
South African Reserve Bank**



**DEPARTMENT OF TRADE AND INDUSTRY**  
**NOTICE 967 OF 2017**  
**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF**  
**SOUTH AFRICA**

**NOTICE OF INITIATION OF THE SUNSET REVIEW OF THE ANTI-DUMPING DUTY  
ON GLASS FRIT ORIGINATING IN OR IMPORTED FROM BRAZIL**

In accordance with the provisions in Article 53.1 of the Anti-Dumping Regulations, any definitive anti-dumping duty shall be terminated on a date not later than five years from the date of imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

On 21 July 2017, the International Trade Administration Commission of South Africa (the Commission) notified the SACU industry through Notice No. 546 in the *Government Gazette* No. 40998, that unless a substantiated request is made by it indicating that the expiry of the anti-dumping duties on the subject product originating in or imported from Brazil would likely lead to the continuation or recurrence of dumping and injury, the anti-dumping duties on the subject product originating in or imported from Brazil will expire on 14 February 2018. A detailed response to the Commission's sunset review questionnaire was received from Ferro South Africa (Pty) Ltd on 12 October 2017.

**THE APPLICANT**

The application was lodged by Ferro South Africa (Pty) Ltd, the major producer of glass frit within the SACU.

The Applicant alleges that the expiry of the duty would likely lead to the recurrence of dumping and the recurrence of material injury. The Applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that a sunset review investigation of the anti-dumping duty on glass frit originating in or imported from Brazil be initiated.

**THE PRODUCT**

The anti-dumping duty subject to this sunset review is the duty applicable on glass frit classifiable under tariff subheading 3207.40 originating in or imported from Brazil.

**THE ALLEGATION OF THE RECURRENCE OF DUMPING**

The allegation of recurrence of dumping is based on the comparison between the

normal value and the export price.

As the Applicant could not obtain actual domestic prices of glass frit in Brazil, the normal value was determined based on Brazil's exports to a third country, namely Bolivia. The information on Brazil's exports to all third countries, were obtained from its Ministry of Industry, Foreign Trade and Services.

Since there were no imports of glass frit from Brazil during the period of investigation, the export price for Brazil was determined based on a quote from a Brazilian manufacturer of the subject product.

On this basis, the Commission found that there was *prima facie* proof of the likelihood of recurrence of dumping.

### **THE ALLEGATION OF RECURRENCE OF MATERIAL INJURY**

The Applicant alleges and submitted sufficient evidence to show that it would experience a decline in sales, profit, output, productivity, capacity utilisation, net cash flow, employment, and growth, if the duty expires.

On this basis, the Commission found that there was *prima facie* proof of the likelihood of the recurrence of material injury.

### **PERIOD OF INVESTIGATION**

The investigation period for dumping is from 1 July 2016 to 30 June 2017 and the injury investigation involves the evaluation of data for the period 1 July 2014 to 30 June 2017, and 2018 estimates in the event the duty expires.

### **PROCEDURAL FRAMEWORK**

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of an investigation, the Commission has begun an investigation in terms of section 16 of the International Trade Administration Act, 2002 (the ITA Act).

The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR).

Both the ITA Act and the ADR are available on the Commission's website ([www.itac.org.za](http://www.itac.org.za)) or from the Trade Remedies section, on request.

In order to obtain the information it deems necessary for its investigation, the Commission will send non-confidential versions of the application and questionnaires to all known importers and exporters and known representative associations. The trade representative of the country of origin has also been notified.

Importers and other interested parties are invited to contact the Commission as soon as possible in order to determine whether they have been listed and were furnished with the relevant documentation. If not, they should immediately ensure that they are sent copies. The questionnaire has to be completed and any other representations must be made within the time limit set out below.

### **CONFIDENTIAL INFORMATION**

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- X where confidential information has been omitted and the nature of such information;
- X reasons for such confidentiality;
- X a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- X in exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).

Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the

requirements.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of information should identify whether such information is *confidential by nature* or is *otherwise confidential* and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

Section 2.3 of the ADR provides as follows:

*“The following list indicates “information that is by nature confidential” as per section 33(1) (a) of the Main Act, read with section 36 of the Promotion of Access to Information Act (Act 2 of 2000):*

- (a) management accounts;*
- (b) financial accounts of a private company;*
- (c) actual and individual sales prices;*
- (d) actual costs, including cost of production and importation cost;*
- (e) actual sales volumes;*
- (f) individual sales prices;*
- (g) information, the release of which could have serious consequences for the person that provided such information; and*
- (h) information that would be of significant competitive advantage to a competitor;*

*provided that a party submitting such information indicates it to be confidential.*

## **ADDRESS**

The response to the questionnaire and any information regarding this matter and any arguments concerning the allegation of the recurrence of dumping injury must be submitted in writing to the following address:

### **Physical address**

The Senior Manager: Trade Remedies I  
International Trade Administration Commission  
Block E – The DTI Campus  
77 Meintjies Street  
SUNNYSIDE  
PRETORIA  
SOUTH AFRICA

### **Postal address**

The Senior Manager:  
Trade Remedies I  
Private Bag X753  
PRETORIA  
0001  
SOUTH AFRICA

## **PROCEDURES AND TIME LIMITS**

The Senior Manager: Trade Remedies I, should receive all responses, including non-confidential copies of the responses, not later than 30 days from the date hereof, or



from the date on which the letter accompanying the abovementioned questionnaire was received. The said letter shall be deemed to have been received seven days after the day of its dispatch.

Late submissions will not be accepted except with the prior written consent of the Commission. The Commission will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original 30-day period. Merely citing insufficient time is not an acceptable reason for an extension. Please note that the Commission will not consider requests for extension by the Embassy on behalf of foreign producers.

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. The Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted would subsequently be available for verification. Specifically, it is planned to verify the information submitted by the foreign producers within three to five weeks subsequent to the submission of the information.

This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with the prior written consent of the Commission, which should be requested at the time of the submission. It should be noted that unavailability of, or inconvenience to appointed representatives, will not be considered to be good cause.

Parties should also ensure when they engage representatives that they will be available at the requisite times, to ensure compliance with the above time frames. Parties should also ensure that all the information requested in the applicable questionnaire is provided in the specified detail and format. The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the ITA Act and the ADR. The Commission may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format.

A failure to submit a non-confidential version of the response that complies with the rules set out above under the heading *Confidential Information* will be regarded as an incomplete submission.

Parties, who experience difficulty in furnishing the information required, or submitting information in the format required, are urged to make written applications to the Commission at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Commission's requirements. The Commission will give due consideration to such a request on good cause shown.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submissions only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing must provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

If the required information is not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

Should you have any queries, please do not hesitate to contact the investigating officers Mr Busman Makakola at +27 12 394 3380 and Ms Charity Ramaposa at +27 12 394 1817 or at fax number +27 12 394 0518.

**DEPARTMENT OF TRANSPORT****NOTICE 968 OF 2017****AIRPORTS COMPANY SOUTH AFRICA LIMITED**

AIRPORTS COMPANY ACT, 1993 (ACT No. 44 OF 1993), AS AMENDED

**PUBLICATION OF AIRPORT CHARGES**

In terms of section 5 (2) (f) of the Airports Company Act, 1993 (Act No. 44 of 1993), as amended, it is hereby published for general notice that as from 1 April 2018, the Airports Company South Africa Limited, Reg. No. 1993/04149/06, will levy the airport charges set out in the Schedule by virtue of a permission granted in terms of section 12 of the said Act.

**B MASEKO**  
Managing Director

**SCHEDULE****AIRPORT CHARGES****1. Liability to pay airport charges**

- (1) Subject to the provisions of these rules, airport charges shall be payable by the operator of an aircraft to the Company.
- (2) Airport charges consist of:-
  - (a) a landing charge, payable at the company airport where a flight terminates;
  - (b) a parking charge, payable at the company airport where an aircraft is parked;
  - (c) a passenger service charge collected by the operator and payable at the company airport where a flight commences.
- (3) Subject to the provisions of these rules, the tariff of landing, parking and passenger service charges shall be as set out in Annexures A, B and C, respectively.

**2. Notification of movement of aircraft and payment of charges**

- (1) Immediately after an aircraft has landed on a company airport the operator of that aircraft shall give notice to the airport manager, in the form provided by the latter for the purpose, of the time of arrival of that aircraft together with such other information as such operator is required by the airport manager to furnish when completing the notice in the said form.
- (2) Immediately before an aircraft is to take off from a company airport the operator of that aircraft shall give notice to the airport manager, in the form provided by the latter for the purpose, of the expected time of departure of that aircraft, supply such other information as such operator is required by the airport manager to furnish when completing the notice in the said form and pay all airport charges payable to the airport manager, unless such operator has previously entered into an agreement with the Company for payment.
- (3) The aircraft operator who has in terms of sub rules (1) and (2), given notice to the airport manager of the arrival or expected departure of that aircraft, shall, as soon as such operator becomes aware of any variation in the information furnished by him in the said notice advise the airport manager of such variation.
- (4) The operator shall pay the appropriate charges for the landing, taking-off and parking of an aircraft, as set out in the schedules of charges. The operator shall also pay for any supplies, services or facilities provided to him or to the aircraft at the airport by or on behalf of the Company at the charges determined by the

Company. All charges referred to in this paragraph shall accrue on a daily basis and shall become due on the day they were incurred and shall be payable to the Company on demand and in any event before the aircraft departs from the airport unless otherwise agreed to by the Company (which agreement may be withdrawn at any time at the sole discretion of the Company) or unless otherwise provided for in terms for payment included in the invoice for such charges.

- (5) Payment shall be made without deductions (including taxes or charges). If the applicable law requires any tax or charge to be deducted before payment the amount shall be increased so that the payment made will equal the amount due to the Company as if no such tax or charge had been imposed.
- (6) All sums due which are not paid on the due date shall bear interest from day to day at prime overdraft rate from the date when such sums were due until date of payment (both dates inclusive).
- (7) Where an aircraft operator has not used the airport in the previous 12 months (as calculated from the date that the operator proposes to commence operations), the airport manager will, require a deposit to be lodged with the Company before any flights by that operator commence. Any such deposit shall be paid to the Company and shall be in such a sum as the airport manager shall consider to be equivalent to the anticipated charges that the aircraft operator shall incur (based on the anticipated frequency and type of aircraft used and type of flight planned) for 3 months by that operator. Such deposit or the balance then remaining shall be refunded to the operator when the operator ceases to operate any flights from the airport subject to the right of the Company (which is hereby reserved) to set off against any such deposit any appropriate charges that have not been settled in accordance with the above provisions.
- (8) The operator shall not without the express written consent of the Company be entitled in respect of any claim he/she may have against the Company or otherwise to make any set off against or deduction from the charges provided for in this notice. He/she must pay such charges in full pending resolution of any claim.
- (9) Any queries relating to invoices should be logged with the credit control department at the relevant airport in writing within thirty days of the invoice date. Contact numbers are shown on all invoices and statements.

### 3. Data

- (1) The operator or its designated agent shall furnish on demand, in such form as the Company may from time to time determine:
  - a. Information relating to the movements of its aircraft or aircraft handled by the agent at the airport of the Company within 24 hours of each of these movements. This will include information about the total number of passengers per category, embarked and disembarked at the airport, total freight and mail carried in kilograms, IATA/ICAO prefix and local airport SITA address of the operator who is to be invoiced.
  - b. Details of the maximum design take-off weight in respect of each aircraft owned or operated by the operator.
  - c. Any changes in the maximum design take-off weight of each aircraft owned or operated by the operator.
- (2) The operator or its designated agent shall also provide to the Company details of all aircraft operators by timely transmission of complete and accurate operational data preferably by automatic electronic means using (and conforming to) IATA messaging and communications standards.



- (3) The required operational data includes:
  - a. aircraft registration (including aircraft substitutions)
  - b. variation to schedule (including flight number, aircraft type, route and scheduled time of operation)
  - c. estimated times of operation
  - d. actual times on and off stand
  - e. stand departure delays greater than 15 minutes
- (4) The Company may request in writing, within 60 days, copies of aircraft load sheets to enable verification of all details with respect to the passengers carried on any or all flights departing from that airport during a specified period and extracts from aircraft flight manuals to enable verification of aircraft weight. The operator shall, following a request in writing made by the Company, supply it with the original copies of such documents.
- (5) The operator shall inform the Company of details regarding the configuration of their aircraft and to notify the Company when any changes to these configurations occur.
- (6) Where the operator, or its handling agent, fails to provide the information required in paragraph 3(1) within the period stipulated herein, the Company shall be entitled to assess, at its sole discretion the charges payable hereunder by the operator by reference to the maximum take-off weight and the maximum passenger capacity of the aircraft type.

#### **4. Landing Charges**

- (1) The landing charges set out in paragraph 2 of Annexure A shall only apply to an aircraft engaged in a flight which commenced at an airport within one of the States or territories mentioned in that paragraph and:-
  - (a) where the operator of such aircraft has the right, granted by the South African aeronautical authority, to take on passengers, cargo or mail at the said airport of departure and to discharge those passengers or at that cargo or mail at the company airport where the flight terminated; or
  - (b) where, notwithstanding the provisions of sub rule (2), the flight immediately preceding such flight commenced at an airport within the Republic, irrespective of whether or not the right referred to in subparagraph (a) has been granted to the operator of such aircraft.
- (2) If an aircraft is engaged in a flight between an airport within one of the States or territories mentioned in paragraph 2 of Annexure A and a company airport, and the operator of that aircraft does not have the right referred to in sub rule (1), then the previous airport from where such aircraft took off and where such right has been granted to such operator, shall be deemed to be the airport of departure for the purpose of calculating the appropriate landing charge when landing at that company airport.
- (3) A landing charge in respect of a helicopter shall be 20 per cent of the appropriate landing charge prescribed and set out in Annexure A, for an aircraft of equal maximum certificated mass.
- (4) When a landing is carried out solely for the purpose of aircrew training, the landing charge shall be 20 per cent of the appropriate charge set out in Annexure A.
- (5) When a landing is carried out solely for the purpose of military training, the landing charge shall be 10 per cent of the appropriate charge set out in Annexure A.

**5. Parking charges**

- (1) A parking charge shall be payable after an aircraft has been parked at a company airport for a period exceeding four hours: Provided that the parking charge payable shall be doubled if such aircraft has been parked at any company airport at a parking bay where a passenger loading bridge is in operation.
- (2) A parking charge shall be calculated for any period of 24 hours or any part thereof from 4 hours for which an aircraft has been parked.

**6. Passenger service charges**

- (1) The passenger service charge collected and payable by the operator shall be calculated on the basis of the number of embarking passengers on an aircraft and the appropriate tariff applicable to each passenger as set out in Annexure C.
- (2) The following passengers shall not be regarded as embarking passengers:
  - (a) a passenger who does not disembark from an aircraft after such an aircraft has landed at a company airport and who remains on board that aircraft until such aircraft takes off from that company airport; or
  - (b) a passenger who is not older than two years of age.

**7. General rules**

- (1) Airport charges shall be payable in respect of South African and foreign state aircraft unless other provision has been made by means of an agreement with the Company.
- (2) No airport charge shall be payable in respect of:-
  - (a) an aircraft engaged in any flight for the calibration of any air navigation infrastructure;
  - (b) an aircraft engaged in search and rescue operations; and
  - (c) an aircraft engaged in a test flight, when such flight is required by the Commissioner for Civil Aviation in terms of the regulations made under the Aviation Act, 1962 (ACT No. 74 of 1962), for the purpose of issuing or rendering effective a certificate of airworthiness or after any major modification to an aircraft.

**8. Interpretation**

For the purposes of these rules, unless the context otherwise indicates:-

- (a) "aircraft" means an aircraft as defined in section 1 of Aviation Act, 1962;
- (b) "air navigation infrastructure" means air navigation infrastructure as defined in section 1 of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993);
- (c) "airport" means an airport as defined in section 1 of the Aviation Act, 1962, and includes a company airport;
- (d) "airport charge" means a landing charge, a parking charge and a passenger service charge;
- (e) "airport manager" means a person designated by the Company for the purpose of these rules;
- (f) "Company" means the Airports Company South Africa Limited.
- (g) "company airport" means a company airport as defined in section 1 of the Airports Company Act, 1993 (Act No. 44 of 1993);
- (h) "crew member" means a person assigned by an operator to do duty on an aircraft during flight time;
- (i) "flight" means a flight as defined in regulation 1.3 of the Air Navigation Regulations, 1976, as amended;

- (j) "helicopter" means a helicopter as defined in regulation 1.3 of the Air Navigation Regulations, 1976, as amended;
- (k) "international flight" means a flight which commences or terminates at an airport outside the Republic;
- (l) "maximum certificated mass" means a maximum certificated mass as defined in regulation 1.3 of the Air Navigation Regulations, 1976, as amended;
- (m) "operator", in relation to an aircraft, means:-
  1. a licensee as defined in section 1 of the Air Services Licensing Act, 1990 (Act No. 115 of 1990), or an air carrier as defined in section 1 of the International Air Services Act, 1949 (Act No. 51 of 1949);
  2. any airline of another State which operates a scheduled international air transport service in terms of a bilateral agreement as contemplated in section 2 (2) (a) of the International Air Services Act, 1949; or any person who uses an aircraft under an authorisation by the Commissioner for Civil Aviation as contemplated in section 2 (2A) of the said Act;
  3. the owner of such aircraft;
- (n) "owner", in relation to an aircraft, means the person in whose name such aircraft is registered and includes any person who is or has been acting as agent in the Republic for a foreign owner, or a person by whom such aircraft is hired at the time;
- (o) "passenger" means any person other than a crew member on board an aircraft in flight;
- (p) "state aircraft" means any state aircraft as contemplated in article 3 of the Convention of International Civil Aviation signed at Chicago on 7 December 1944.

**ANNEXURE A****AIRPORT CHARGES: LANDING CHARGES**

1. The landing charge in respect of an aircraft which lands at a company airport and which has been engaged in a flight where the airport of departure of the that aircraft was within the Republic:

Maximum Take-off Weight (MTOW) in kg of the aircraft up to and including:-	Per single landing	
	VAT	
	Exclusive R	Inclusive R
500.....	59.06	67.33
1 000.....	87.55	99.81
1 500.....	111.94	127.61
2 000.....	135.18	154.11
2 500.....	159.54	181.88
3 000.....	183.91	209.65
4 000.....	256.67	292.61
5 000.....	327.48	373.33
6 000.....	399.07	454.94
7 000.....	472.94	539.15
8 000.....	544.19	620.37
9 000.....	612.29	698.02
10 000.....	687.72	784.00
and thereafter, for every additional 2 000 kg or part thereof.....	103.99	118.54

2. The landing charge in respect of an aircraft which lands at a company airport and which has been engaged in a flight where the airport of departure of that aircraft was within Botswana, Lesotho, Namibia or Swaziland:

Maximum Take-off Weight (MTOW) in kg of the aircraft up to and including:-	Per single landing	
	VAT	
	Exclusive R	Inclusive R
500.....	66.59	75.91
1 000.....	103.18	117.63
1 500.....	145.81	166.23
2 000.....	184.66	210.52
2 500.....	224.28	255.68
3 000.....	264.99	302.08
4 000.....	360.96	411.49
5 000.....	455.83	519.65
6 000.....	549.86	626.84
7 000.....	646.19	736.66
8 000.....	739.84	843.42
9 000.....	833.93	950.69
10 000.....	930.24	1 060.48
and thereafter, for every additional 2 000 kg or part thereof.....	154.61	176.25



3. The landing charge in respect of an aircraft which lands at a company airport and which has been engaged in a flight where the airport of departure of that aircraft was within the State or territory other than those mentioned in paragraph 1 and 2:

Maximum Take-off Weight (MTOW) in kg of the aircraft up to and including:-	Per single landing	
	VAT	
	Exclusive	Inclusive
	R	R
500.....	74.29	84.69
1 000.....	119.17	135.86
1 500.....	179.35	204.46
2 000.....	233.41	266.09
2 500.....	288.65	329.06
3 000.....	345.35	393.70
4 000.....	466.06	531.31
5 000.....	583.76	665.48
6 000.....	700.25	798.29
7 000.....	818.71	933.32
8 000.....	934.80	1 065.67
9 000.....	1 053.63	1 201.14
10 000.....	1 172.81	1 337.00
and thereafter, for every additional 2 000 kg or part thereof.....	205.21	233.94

## ANNEXURE B

### AIRPORT CHARGES: PARKING CHARGES

Maximum Take-off Weight (MTOW) in kg of the aircraft up to and including:-	Per 24 hours or part thereof	
	VAT	
	Exclusive	Inclusive
	R	R
2 000.....	44.65	50.90
3 000.....	91.82	104.67
4 000.....	130.73	149.03
5 000.....	179.50	204.63
10 000.....	264.29	301.29
15 000.....	347.52	396.17
20 000.....	438.07	499.40
25 000.....	522.90	596.11
50 000.....	691.73	788.57
75 000.....	860.97	981.51
100 000.....	1 032.25	1 176.76
150 000.....	1 298.58	1 480.38
200 000.....	1 567.03	1 786.41
300 000.....	1 791.60	2 042.42
400 000.....	2 256.52	2 572.43
And thereafter, for every additional 100 000 kg or part thereof.....	347.52	396.17

**ANNEXURE C****AIRPORT CHARGES: PASSENGER SERVICE CHARGES**

	VAT	
	Exclusive	Inclusive
	R	R
1. Passenger service charge per embarking passenger where such passengers will disembark from the aircraft at an airport within the Republic.....	75.44	86.00
2. Passenger service charge per embarking passengers where such passengers will disembark from the aircraft at an airport within Botswana, Lesotho, Namibia or Swaziland.....	157.02	179.00
3. Passenger service charge per embarking passenger where such passengers will disembark from the aircraft within any State or territory other than those mentioned in paragraphs 1 and 2.....	207.02	236.00

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**BOARD NOTICES • RAADSKENNISGEWINGS**

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**BOARD NOTICE 191 OF 2017**

**THE ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA** hereby gives notice in terms of **Sections 21 and 22** of the Allied Health Professions Act (Act No.63 of 1982), as amended, that the following names have been removed from the relevant registers after consultation with the relevant professional boards, in terms of Regulation 19 of Regulations No. R 127 of 12 February 2001:

**Application code under 'Reason'**

<b>NPF.....Non-Payment of Fees</b>
<b>Deceased</b>
<b>Appeal dismissal</b>
<b>Expired work permit</b>
<b>O/R.....Own request</b>

AHPCSA DEREGISTERED PRACTITIONERS/THERAPISTS:2017						
NUMBER	LASTNAME	FIRSTNAME	PROFESSION	DATE	REASON	
A00128	ANDERSON	MICHAEL	CHIROPRACTIC	17/3/2017	O/R	
A11545	ATKINSON	JOHN	ACUPUNCTURE	9/5/2017	O/R	
A00411	BEARE	RONALD	HOMEOPATHY	12/4/2017	DECEASED	
A00411	BEARE	RONALD	NATUROPATHY	12/4/2017	DECEASED	
A10593	BEUMER	MARTHA	THERAPEUTIC REFLEXOLOGY	17/3/2017	O/R	
A10816	BLAKENEY	CARMEN	CHIROPRACTIC	9/1/2017	O/R	
A08125	BRAAF	ERNESTINE	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R	
A00520	BROM	BERNARD	HOMEOPATHY	9/1/2017	O/R	
A11277	BURGER	NADIA	THERAPEUTIC REFLEXOLOGY	23/3/2017	O/R	
A00986	CHARTERS	VICTORIA	THERAPEUTIC MASSAGE THERAPY	17/3/2017	O/R	
A01052	CHURCH	LAURA	THERAPEUTIC REFLEXOLOGY	28/2/2017	O/R	
A11334	COETZEE	COENRAD	CHIROPRACTIC	27/3/2017	O/R	
A11271	DAY	BRIAN	THERAPEUTIC REFLEXOLOGY	18/8/2017	O/R	
A01500	DE FRANCA	MONIQUE	THERAPEUTIC REFLEXOLOGY	24/4/2017	O/R	
A02119	DE MEILLON	MICHEL	THERAPEUTIC REFLEXOLOGY	17/1/2017	O/R	
A01334	DENNIS	MELANIE	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF	
A11837	DENNIS	STACY-LEE	NATUROPATHY	27/11/2017	O/R	
A10611	DOCKRAT	IMRAN	UNANI-TIBB	20/10/2017	NPF	
A01242	DOLLEY	ALVIN	CHIROPRACTIC	11/4/2017	DECEASED	
A01266	DREW	CHERELYN	CHIROPRACTIC	9/1/2017	O/R	
A10982	DUANI	VICTOR	CHIROPRACTIC	24/5/2017	O/R	
A09905	DUKES	GLORIA	THERAPEUTIC AROMATHERAPY	16/11/2017	O/R	
A09905	DUKES	GLORIA	THERAPEUTIC REFLEXOLOGY	16/11/2017	O/R	
A10402	EDWARDS	ALAN	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF	
A03059	EDWARDS	MANUELA	THERAPEUTIC MASSAGE THERAPY	26/1/2017	O/R	
A01608	ESSEX-CLARK	PETER	NATUROPATHY	9/1/2017	DECEASED	
A01608	ESSEX-CLARK	PETER	HOMEOPATHY	9/1/2017	DECEASED	
A11292	FORD	TIMOTHY	CHIROPRACTIC	22/3/2017	O/R	
A08672	FOURIE	JULIANA	THERAPEUTIC AROMATHERAPY	4/8/2017	O/R	
A02036	FRESE	MONICA	CHIROPRACTIC	16/1/2017	O/R	
A11196	FURMAN	LINDA	THERAPEUTIC REFLEXOLOGY	9/1/2017	O/R	
A02446	GIWU	BONGIWE	HOMEOPATHY	11/4/2017	NO CONTACT	
A11356	GRANT	HEIDI	THERAPEUTIC REFLEXOLOGY	20/2/2017	NPF	



A10798	HANNAFORD	SHARON	THERAPEUTIC REFLEXOLOGY	9/1/2017	O/R
A02914	HAMILTON	THERESA	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R
A11354	HARRIS	KELLY	CHIROPRACTIC	28/3/2017	O/R
A03119	HOETS	CATHERINE	THERAPEUTIC MASSAGE THERAPY	28/3/2017	O/R
A10951	HOHLS	QUINTIN	CHIROPRACTIC	31/3/2017	OR
A03001	HOLTZHAUSEN	SOPHIA	THERAPEUTIC REFLEXOLOGY	11/4/2017	O/R
A03001	HOLTZHAUSEN	SOPHIA	THERAPEUTIC AROMATHERAPY	11/4/2017	O/R
A10882	HOUGH	PHILIP	CHIROPRACTIC	8/2/2017	O/R
A10919	HUGHES	NICHOLLA	CHIROPRACTIC	28/3/2017	O/R
A03233	INGRAM	HELEN	OSTEOPATHY	24/1/2017	O/R
A03624	JANSEN VAN RENSBURG	HENDRIK	HOMEOPATHY	24/4/2017	DECEASED
A03736	JENSEN	MARGOT	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A06117	KAHN	KELLY	THERAPEUTIC REFLEXOLOGY	23/8/2017	O/R
A04101	KARA	MAYA	THERAPEUTIC REFLEXOLOGY	7/2/2017	O/R
A04171	KEEN	YVONNE	THERAPEUTIC AROMATHERAPY	6/10/2017	O/R
A04195	KILIAN	HERMANUS	THERAPEUTIC REFLEXOLOGY	3/4/2017	DECEASED
A04203	KILLIAN	MOIRA	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R
A04235	KIRWAN	GARY	CHIROPRACTIC	5/6/2017	O/R
A04121	KREIN	ANDREW	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R
A10112	LIN	PAI-HIS	CHINESE MEDICINE AND ACUPUNCTURE	31/3/2017	O/R
A04418	LOTZ	GIDEON	HOMEOPATHY	20/10/2017	DECEASED
A04418	LOTZ	GIDEON	NATUROPATHY	20/10/2017	DECEASED
A04418	LOTZ	GIDEON	OSTEOPATHY	20/10/2017	DECEASED
A10069	LOMBARD	LISA	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A11657	McALERY	CARYN	CHIROPRACTIC	16/11/2017	O/R
A11564	MACQUILKAN	KIM	HOMEOPATHY	22/2/2017	O/R
A04803	MACRAE	MURDO	NATUROPATHY	20/10/2017	DECEASED
A04803	MACRAE	MURDO	OSTEOPATHY	20/10/2017	DECEASED
A04803	MACRAE	MURDO	HOMEOPATHY	20/10/2017	DECEASED
A01418	MARAI	HENRIETTA	THERAPEUTIC REFLEXOLOGY	17/1/2017	O/R
A05121	MAREE	JACOBA	THERAPEUTIC REFLEXOLOGY	19/01/2017	O/R
A11705	MCDONNELL	KELLY	CHIROPRACTIC	20/10/2017	NPF
A01440	MOOLLA	FARIDA	THERAPEUTIC AROMATHERAPY	3/8/2017	O/R
A04961	MUIR	HELEN	HOMEOPATHY	20/10/2017	OR
A05084	MURUGEN	SAROJINI	THERAPEUTIC REFLEXOLOGY	22/2/2017	O/R



A10587	NAJBICZ	SARAH	THERAPEUTIC REFLEXOLOGY	18/1/2017	O/R
A05292	NAIDOO	UMAVATHEE	THERAPEUTIC AROMATHERAPY	20/10/2017	NPF
A05225	NOBELIS	CONSTANTIN	NATUROPATHY	3/7/2017	O/R
A05292	NAIDOO	UMAVATHEE	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A11580	NORTJE	JESSICA	THERAPEUTIC MASSAGE THERAPY	5/6/2017	O/R
A06255	PALMER-OWEN	DELIA	CHIROPRACTIC	2/3/2017	O/R
A10801	PARBHOO	BHAVISHA	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A06273	PEACOCK	DOMA	NATUROPATHY	20/10/2017	NPF
A10579	PETENI	NOMATHEMBA	UNANI-TIBB	20/10/2017	O/R
A10988	PHILLIPS	REED	CHIROPRACTIC	20/10/2017	O/R
A06267	PIETERS	LEONORA	THERAPEUTIC REFLEXOLOGY	9/1/2017	O/R
A11501	PUTTERGILL	THERESA	THERAPEUTIC REFLEXOLOGY	26/1/2017	O/R
A06984	RAVJEE	BHAVNA	THERAPEUTIC AROMATHERAPY	3/3/2017	O/R
A06984	RAVJEE	BHAVNA	THERAPEUTIC REFLEXOLOGY	3/3/2017	O/R
A11025	RIGGIEN	CATHERINE	HOMEOPATHY	27/3/2017	O/R
A05335	RINGELMANN	ANGELIKA	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A06969	ROESE	LISA	THERAPEUTIC MASSAGE THERAPY	3/3/2017	O/R
A06851	ROWLEY	NEIL	CHIROPRACTIC	20/10/2017	NPF
A07288	SELTZER	ARTHUR	ACUPUNCTURE	20/10/2017	O/R
A01573	SHEARD	JILL	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R
A07581	SHUNN	DORAIN	THERAPEUTIC MASSAGE THERAPY	22/2/2017	O/R
A07587	SKWEYIYA	NKULULEKO	CHIROPRACTIC	20/10/2017	NPF
A07742	SMITH	LIESEL	HOMEOPATHY	27/3/2017	O/R
A10416	TREHEARN	HAZEL	THERAPEUTIC REFLEXOLOGY	11/1/2017	O/R
A08413	VAN DER WALT	LOUIS	HOMEOPATHY	8/8/2017	DECEASED
A11294	VAN DER WALT	MARGARETHA	THERAPEUTIC REFLEXOLOGY	9/1/2017	O/R
A11266	VAN HEERDEN	COLLEEN	THERAPEUTIC REFLEXOLOGY	7/4/2017	O/R
A11522	VAN NIEKERK	EMMERENTIA	CHIROPRACTIC	27/3/2017	O/R
A08617	VAUGHN	MICHELE	THERAPEUTIC MASSAGE THERAPY	20/10/2017	NPF
A08441	VERMAAS	ADRIAAN	HOMEOPATHY	27/1/2017	O/R
A08441	VERMAAS	ADRIAAN	NATUROPATHY	27/1/2017	O/R
A08441	VERMAAS	ADRIAAN	OSTEOPATHY	27/1/2017	O/R
A10478	WARD	SUSAN	THERAPEUTIC REFLEXOLOGY	10/1/2017	O/R
A09006	WIBLIN	ELAINE	THERAPEUTIC AROMATHERAPY	6/2/2017	O/R
A11183	WILLS	MONICA	THERAPEUTIC AROMATHERAPY	9/1/2017	O/R

A10072	WILSON	JENNIFER	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A08902	WITTHOFT	ERIKA	THERAPEUTIC REFLEXOLOGY	20/10/2017	NPF
A08837	WOOD	ROGER	CHIROPRACTIC	27/3/2017	O/R
A10657	XUMA	NOMAKHOSI	UNANI-TIBB	12/1/2017	O/R
A09516	YOUNG	GEORGE	THERAPEUTIC AROMATHERAPY	24/4/2017	O/R
A09810	ZHENG	XIONG	CHINESE MEDICINE AND ACUPUNCTURE	20/10/2017	NPF

## BOARD NOTICE 192 OF 2017



**ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA (AHPCSA)**  
**ALLIED HEALTH PROFESSIONS ACT (ACT No. 63 of 1982) AS AMENDED**

NOTICE TO INCREASE FEES PAYABLE TO THE AHPCSA BY STUDENTS, INTERNS  
 AND PRACTITIONERS, AS APPROVED BY THE AHPCSA ON 17 AUGUST 2017

**DEFINITION**

1. In this notice, “**the regulations**” means the Regulations pertaining to the Allied Health Professions ACT (No. 63 of 1982), as amended, and published by Government Notice No. R127 of 12 February 2001.

**ANNUAL FEES**

2. The amounts of the fees referred to in 37 (1) and (2), 38, 39, 40, 41 and 42 (1) and (2) of the regulations, have been determined by the Council as shown in the table below.
3. These amounts apply to annual fees in respect of the calendar year 1 January 2018 to 31 December 2018, which are due on 1 January 2017, and which must be received by Council by 31 March 2018 (final date for payment); kindly note fee increase thereafter as per the table below under **Registration fees**.

<b>Application Fees</b>	R 2140 & pro-rata annual fee, if applicant is registered
<b>Student Fees</b>	
(1st year)	R 485
(Subsequent years)	R 424
<b>Internship Fees</b>	R 849
Students that did not register prior to graduating and applying for registration	R 3576
<b>Registration Fees</b>	
1 Modality: Fees received Jan to March	R 1860
Fees received April	R 2127
Fees received May	R 2528
Fees received June	R 3147



2 Modalities:	Fees received Jan to March	R 1860 x 2
	Fees received April	R 2127 x 2
	Fees received May	R 2528 x 2
	Fees received June	R 3147 x 2
3 Modalities:	Fees received Jan to March	R 1860 x 3
	Fees received April	R 2127 x 3
	Fees received May	R 2528 x 3
	Fees received June	R 3147 x 3
<b>Senior Citizens Fees</b>		
	(70 – 74 years)	-50%
	(75+ years) cost per profession	R 236
<b>Restoration Fees</b>		
	Deregistration own request	R 2140 Application fee, then if approved, pro-rata annual fee & certificate fee.
	Deregistration due to non-payment of fees (Outstanding fees plus interest payable before submitting application)	R 2140 Application fee, then if approved, 2x annual fee as restoration (within 6 months of deregistration and 3x annual fee thereafter) as restoration, plus pro-rata fee & certificate fee.
	Deregistration as a result of disciplinary action (Outstanding fees plus interest payable before submitting application)	R 2140 Application fee, then if approved 4x annual fee (after 6 months but within 12 months and thereafter 5x annual fee) as restoration, plus pro-rata fee, certificate fee and legal costs.
	<b>Lost certificate/re-issue</b>	R 727
	<b>Letters of goodstanding</b>	R 727
	<b>Registration letter replacement</b>	R 727

4. These annual fee amounts will not apply to annual fees paid before the date of publication of this notice in the Gazette.
5. These annual fee amounts will apply to all subsequent years until such time that the fees are amended by a notice in the Gazette.
6. The fees prescribed in above are inclusive of value-added tax (VAT).

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**DR LOUIS MULLINDER**  
**Registrar**  
**Allied Health Professions Council of South Africa**

**BOARD NOTICE 193 OF 2017****ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA**

6 CASTELLI, IL VILLAGGIO, 5 DE HAVILLAND CRESCENT SOUTH, PEREQUOR TECHNOPARK, PRETORIA, 0184

Telephone: (012) 349 2331 Facsimile: (012) 349 2327

Email: [registrar@ahpcsa.co.za](mailto:registrar@ahpcsa.co.za)

Website: [www.ahpcsa.co.za](http://www.ahpcsa.co.za)

... December 2017

**UNPROFESSIONAL CONDUCT BOARD NOTICE:  
ADVISING PATIENTS ON THERMOGRAPHY AND MAMMOGRAPHY**

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The Allied Health Professions Council of South Africa (AHPCSA) is a statutory health body established in terms of the Allied Health Professions Act, 63 of 1982 ("the Act") in order to control all allied health professions, which includes Ayurveda, Chinese Medicine and Acupuncture, Chiropractic, Homeopathy, Naturopathy, Osteopathy, Phytotherapy, Therapeutic Aromatherapy, Therapeutic Massage Therapy, Therapeutic Reflexology and Unani-Tibb.

The AHPCSA, taking into account section 1(2)(a) of the Act, read together with section 4 of the Act, and after due consideration and in consultation with the Professional Board: Ayurveda, Chinese Medicine and Acupuncture and Unani-Tibb (PBACMU); the Professional Board: Chiropractic and Osteopathy (PBCO); and the Professional Board: Homeopathy, Naturopathy and Phytotherapy (PBHNP), resolved that any practitioner registered in any one of these professions must advise any patient or potential patient that : -

- The Food and Drug Administrations (FDA) approval for thermography is conditional only on it being used in conjunction with mammography;
- Thermography is not a substitute for mammography; and
- Screening mammography is the 'gold standard' for the detection of early breast cancer.

and no practitioner in any one of the above-mentioned professions shall denigrate mammography in any manner whatsoever.



**DR LOUIS MULLINDER**  
**REGISTRAR: ALLIED HEALTH PROFESSION COUNCIL OF SOUTH AFRICA**

**BOARD NOTICE 194 OF 2017****FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****(ACT NO 37 OF 2002)****DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES  
PROVIDERS, 2017**

I, Caroline Dey da Silva, the Deputy Registrar of Financial Services Providers, hereby under section 6A of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), determine the fit and proper requirements for financial services providers as set out in the Schedule.



**CD da Silva,**  
*Deputy Registrar of Financial Services Providers*



## SCHEDULE

## DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2017

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## CHAPTER 1

### INTERPRETATION, PURPOSE AND APPLICATION OF DETERMINATION

#### Definitions

1. In this Schedule a word or expression to which a meaning has been assigned in the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), has the same meaning as in that Act, and –

**“accredited provider”** means a person that is recognised and certified or accredited by a Quality Council as having the capacity or provisional capacity to offer a qualification or part-qualification registered on the NQF at the required standard, or a foreign person that is so recognised and certified or accredited by a foreign authority that is equivalent to a Quality Council;

**“administration of assistance policies”** means work performed by a person relating to the offsetting of claims, processing of claims or payment of fees or commission in respect of an assistance policy;

**“Administrative Code of Conduct”** means the code of conduct for administrative FSPs published under section 15 of the Act;

**“administrative FSP”** means an administrative FSP as defined in the Administrative Code of Conduct;

**“applicant”** means a person who submits an application for authorisation;

**“assessed”** in relation to competence requirements, means the structured process of gathering reliable evidence to determine the level of a person’s competence in relation to a pre-determined standard, and the extent to which the person’s competence meet the pre-determined standard;

**“assistance business FSP”** means a person that performs the administration of assistance policies and includes a person who is a binder holder as defined in the Regulations under the Long-term Insurance Act, where such administration is performed by that binder holder;

**“assistance policy”** means an assistance policy as defined in section 1 of the Long-term Insurance Act;

**“automated advice”** means the furnishing of advice through an electronic medium that uses algorithms and technology without the direct involvement of a natural person;

**“Banks Act”** means the Banks Act, 1990 (Act No. 94 of 1990);

**“bonds”** in relation to financial product means –

- (a) bonds as contemplated in the definition of “securities” as defined in the Financial Markets Act; and
- (b) bonds as contemplated in paragraph (a) that have a foreign currency denomination;

**“category of FSP”**, means a specific category of FSPs referred to in section 3;

**“category II financial services”** means the financial services referred to in the definition of ‘discretionary FSP’;

**“category IIA financial services”** means the financial services referred to in the definition of ‘hedge fund FSP’;

**“category III financial services”** means the financial services referred to in the definition of ‘administrative FSP’;

**“category IV financial services”** means the financial services referred to in the definition of ‘assistance business FSP’;

**“cash”** means –

- (a) physical currency consisting of Reserve Bank notes and coins;
- (b) any balance in an account with a -
  - (i) bank as defined in section 1(1) of the Banks Act;
  - (ii) ‘branch’, ‘branch of a bank’ or a ‘mutual bank’ as defined in section 1(1) of the Banks Act;
- (iii) bank established in a country other than the Republic and which lawfully conducts in such other country a business similar to the business of a bank, excluding a facility that extends credit;

**“class of business”** means the respective classes of business set out in Table 1 in Annexure Four;

**“class of business training”** means the training referred to in section 29(4) in respect of a class of business and which training is provided and assessed by an accredited provider or an education institution;

**“collective investment scheme”** means a collective investment scheme as defined in section 1(1) of the Collective Investment Schemes Control Act, and includes a portfolio as defined in section 1(1) of that Act;

**“Collective Investment Schemes Control Act”** means the Collective Investment Schemes Control Act, No. 45 of 2002;

**“competence”** means having the skills, knowledge and expertise needed for the proper discharge of a person’s responsibilities in the performance of his or her functions;

**“CPD”** means continuous professional development;

**“CPD activity”** means an activity that is-

- (a) accredited by a Professional Body;
  - (b) allocated a hour value or a part thereof by that Professional Body; and
  - (c) verifiable,
- and excludes-
- (i) an activity performed towards a qualification; and
  - (ii) product specific training;

**“CPD cycle”** means a period of 12 months commencing on 1 June of every year and ending 31 May of the following year;

**“debentures and securitised debt”** in relation to financial product means –

- (a) debentures and securitised debt as referred to in paragraph (a)(ii) of the definition of ‘financial product’ in section 1 of the Act;
- (b) debentures as contemplated in the definition of “securities” as defined in the Financial Markets Act; and
- (c) debenture and securitised debts contemplated in paragraph (a) and (b) that have a foreign currency denomination;

**“derivative instrument”** in relation to financial product means-

- (a) a derivative instrument as defined in the Financial Markets Act; and
- (b) a derivative instrument contemplated in paragraph (a) that has a foreign currency denomination,



excluding-

- (i) warrants, certificates or other instruments; and
- (ii) a forex investment;

**“Discretionary Code of Conduct”** means the code of conduct for discretionary FSPs published under section 15 of the Act;

**“discretionary FSP”** means a discretionary FSP as defined in the Discretionary Code of Conduct;

**“education institution”** has the meaning assigned to it in section 1(1) of the NQF Act;

**“examination body”** means a body that, in terms of section 6 of the Act, has been delegated the function of setting, administering and/or conducting regulatory examinations on behalf of the Registrar;

**“execution of sales”** means an intermediary service performed by a person on instruction of a client to buy, sell, deal, invest or disinvest in, replace or vary one or more financial products;

**“experience”** means continuous practical working experience that entails the active and on-going gaining of knowledge, skills and expertise relevant to a particular category of FSP, particular financial service and, where applicable, a financial product that was -

- (a) in relation to an FSP and representative, gained through the rendering of a particular financial service in respect of a particular category of FSP and a particular financial product; or
- (b) in relation to a key individual, gained through the management or oversight of the rendering of a particular financial service in respect of a particular category of FSP; and
- (c) gained either within or outside the Republic of South Africa, with no break in service of more than 5 years between the individual’s last working experience and the date of assessment of that individual’s experience;

**“family member”** means a natural person who is –

- (a) recognised in law or the tenets of religion as a spouse, life partner or civil union partner;
- (b) a child, including a stepchild, adopted child and a child born out of wedlock;
- (c) a parent or stepparent;
- (d) a grandparent; or
- (e) dependent on a another person who is recognised in law or appointed by a Court as the person legally responsible for managing the affairs of or meeting the daily care needs of the dependent person;

**“Financial Markets Act”** means the Financial Markets Act, 2012 (Act 19 of 2012);

**“financial product”** includes-

- (a) any subcategory of a financial product; and
- (b) in respect of each financial product or subcategory of a financial product, a product that is issued by a foreign product supplier that is similar in nature to such product or subcategory of product;

**“foreign professional programme”** means a programme offered by a foreign body that is equivalent to an education institution or a professional body which sets an internationally accepted standard for a specialised profession relevant to the financial services industry;

**“forex investment”** has the meaning assigned to it in section 1(1) of the Code of Conduct for Authorised Financial Services Providers and their Representatives involved in Forex Investment Business, 2004;

**“friendly society benefit”** means a benefit provided by a friendly society contemplated in paragraph (d)(ii) of the definition of “financial product” in section 1(1) of the Act;

“**FSP**” means a financial services provider as defined in section 1(1) of the Act;

“**General Code of Conduct**” means the general code of conduct for authorised FSPs published under section 15 of the Act;

“**fund member policy**” means a fund member policy as defined in Part 5A of the Regulations under the Long-term Insurance Act;

“**health service benefit**” means a benefit referred to in paragraph (g) of the definition of ‘financial product’ in section 1(1) of the Act;

“**CIS hedge fund**” means a hedge fund as defined in the Declaration made by the Minister under section 63 of the Collective Investment Schemes Control Act;

“**hedge fund FSP**” means a hedge fund FSP as defined in in the Discretionary Code of Conduct;

“**juristic**”, in relation to a representative, means a representative that is not a natural person;

“**key individual**” includes a key individual of a juristic representative of an FSP;

“**limited underwriting**” means where the only requirements a prospective policyholder or life insured must comply with in order for a product supplier to accept risk or pay a claim are–

- (a) the furnishing of a health declaration by such policy holder of life insured, structured as answers to no more than eight questions relating to specific medical conditions;
- (b) a requirement that the policyholder of life assured must undergo an HIV test;
- (c) the requirements imposed by the National Credit Act, No. 34 of 2005; or
- (d) a combination of any of the requirements referred to in paragraphs (a), (b) and (c).

“**long-term deposit**” means a deposit as defined in section 1(1) of the Banks Act, including a foreign currency deposit, with a term exceeding 12 months but excluding a structured deposit;

“**Long-term Insurance Act**” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

“**long-term insurance subcategory A**” means an assistance policy;

“**long-term insurance subcategory B1**” means a disability, health and life policy as defined in section 1(1) of the Long-term Insurance Act which provides only risk benefits as contemplated in the Regulations under that Act, but excludes–

- (a) a fund policy as defined in section 1(1) of that Act;
- (b) a fund member policy;
- (c) an investment policy as defined in Part 5B of those Regulations; and
- (d) a policy referred to in the definitions of long-term insurance subcategories A, B1-A, B2, B2-A and C;

“**long-term insurance subcategory B1-A**” means those long-term insurance policies referred to in the definition of long-term insurance subcategory B1 which require no or limited underwriting;

“**long-term insurance subcategory B2**” means a long-term policy as defined in section 1 of the Long-term Insurance Act which is –

- (a) an investment policy as defined in Part 5B of the Regulations under that Act and which guarantees a minimum return of any premium paid at a specified future date or dates, and where such minimum is ascertainable in Rand terms at inception;
- (b) a disability, health or life policy that provides risk benefits as contemplated in the Regulations under that Act and has a guaranteed investment value or a materially equivalent value;

- (c) an annuity which guarantees a minimum annuity for the term of the policy which annuity is ascertainable in Rand terms at inception; or
- (d) a policy which combines the any of the policy features referred to in paragraphs (a) to (c), but excludes a fund policy, a fund member policy and a policy referred to in the definitions of long-term insurance categories A, B1, B1-A, B2-A and C;

**“long-term insurance subcategory B2-A”** means those long-term insurance policies referred to in the definition of long-term insurance subcategory B2 which provide for the premiums to be invested in an investment portfolio managed by the product supplier with no option by the policyholder to request a change or amendment to that portfolio;

**“long-term insurance subcategory C”** means a long-term policy as defined in section 1(1) of the Long-term Insurance Act, but excludes—

- (a) a fund policy as defined in section 1(1) of that Act;
- (b) a fund member policy; and
- (c) a policy referred to in the definitions of long-term insurance subcategories A, B1, B1-A, B2 and B2-A;

**“money-market instruments”** in relation to financial product means –

- (a) money-market instruments as referred to in paragraph (a)(iii) of the definition of ‘financial product’ in section 1 of the Act; and
- (b) money-market instruments contemplated in paragraph (a) that have a foreign currency denomination;

**“no underwriting”** means there is no requirement by a product supplier for any medical, financial, demographic or lifestyle information to be provided by a prospective policyholder or life insured in order for such product supplier to accept risk or pay a claim;

**“NQF”** has the meaning assigned to it in the NQF Act and includes the sub-frameworks as defined in section 1 of that Act;

**“NQF Act”** means the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);

**“offsetting of claims”** means the payment of policyholder’s claims and the offsetting of such claims against premium received from policyholders for remittal to a long-term insurer;

**“participatory interest in a CIS hedge fund”** means a participatory interest in a collective investment scheme that is a hedge fund;

**“participatory interest in a collective investment scheme”** means a participatory interest in one or more collective investment schemes as referred to in paragraph (b) of the definition of ‘financial product’ in section 1(1) of the Act excluding a participatory interest in a CIS hedge fund;

**“particular financial product”** in relation to product specific training, means a specific product of a product supplier with its own specific characteristics, features, terms and conditions and which product is a financial product;

**“particular financial service”** means the financial services performed by a category of FSP referred to in section 3, and in respect of a Category I FSP, advice or intermediary services;

**“part qualification”** has the meaning assigned to it in section 1(1) of the NQF Act;

**“pension fund benefit”** means a financial product contemplated in paragraph (d)(i) of the definition of ‘financial product’ in section 1(1) of the Act, including a fund policy, but excluding a retail pension benefit;

**“product specific training”** means the training referred to in section 29(5) in respect of a particular financial product and which training is assessed, including any amendments to that particular financial product;

**“professional body”** means a body recognised by the SAQA as a professional body for purposes of the NQF Act;

**“professional programme”** means a programme at post-graduate level offered by an education institution or a professional body for the purposes of providing specialised competence in a specific field of the financial services industry;

**“qualification”** means a-

- (a) qualification as defined in the NQF Act, excluding a part qualification as defined in that Act, that is offered by an education institution or an accredited provider;
- (b) professional programme; or
- (c) foreign qualification or foreign professional programme that has been evaluated by SAQA as being equivalent to a qualification or programme referred to in paragraphs (a) and (b) above;

**“Quality Council”** has the meaning assigned to it in section 1 of the NQF Act;

**“qualifying criteria”**, in relation to a regulatory examination, means the criteria against which a regulatory examination must be set;

**“RE 1”** means the regulatory examination developed in terms of the criteria set out in Table 1 of Annexure Five;

**“RE 3”** means the regulatory examination developed in terms of the criteria set out in Table 2 of Annexure Five;

**“RE 4”** means the regulatory examination developed in terms of the criteria set out in Table 3 of Annexure Five;

**“RE 5”** means the regulatory examination developed in terms of the criteria set out in Table 4 of Annexure Five;

**“recognised qualification”** means a qualification that is recognised by the Registrar in terms of section 24 and that is published as a recognised qualification on the official web site of the Financial Services Board;

**“regulatory examination”** means a regulatory examination based on the qualifying criteria set out in the Tables in Annexure Five, the purpose of which is to test a person’s knowledge, understanding and application of legislation, including a financial sector law as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), and all measures promulgated in terms of those Acts, directly applicable to an FSP, representative or key individual:

**“related parties”** means related parties as defined in International Accounting Standard (IAS 24);

**“regulatory authority”** includes -

- (a) any organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996, responsible for the supervision or enforcement of legislation, or a similar body designated in the laws of a country other than the Republic to supervise or enforce legislation of that country;



- (b) a market infrastructure that is responsible for the supervision of persons authorised by such infrastructure under the Financial Markets Act, 2012 (Act No. 19 of 2012); and
- (c) an Ombud established under Financial Services Board legislation or a recognised Scheme under the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004);

**“retail pension benefit”** means a benefit provided by a retirement annuity fund, preservation pension fund or preservation provident fund, as defined by the Income Tax Act, 1962 (Act No. 58 of 1962), and includes a benefit provided by a fund member policy, as defined in the Regulations to the Long-term Insurance Act, but excludes a pension fund benefit;

**“securities and instruments”** means -

- (a) securities and instruments that are not defined in this Determination as separate product categories; and
- (b) securities and instruments contemplated in paragraph (a) that have a foreign currency denomination,

**“shares”** in relation to financial product means –

- (a) shares referred to in paragraph (a)(i) of the definition of ‘financial product’ in section 1 of the Act; and
- (b) shares that have a foreign currency denomination;

**“short-term deposit”** means a deposit as defined in section 1(1) of the Banks Act, including a foreign currency deposit, with a term not exceeding 12 months but excluding a structured deposit;

**“Short-term Insurance Act”** means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

**“short-term insurance commercial lines”** means short-term insurance policies referred to in the Short-term Insurance Act purchased by juristic persons and natural persons acting in a business capacity;

**“short-term insurance personal lines”** means short-term insurance policies referred to in the Short-term Insurance Act purchased by natural persons acting otherwise than in a business capacity, but excludes a policy referred to in the definition of short-term insurance personal lines A1;

**“short-term insurance personal lines A1”** means the short-term insurance policies referred to in the definition of ‘short-term insurance personal lines’, excluding-

- (a) marine policies; and
- (b) engineering policies and guarantee policies as defined in section 1 of the Short-term Insurance Act, and which policies–
  - (i) require no or limited underwriting;
  - (ii) define policy benefits as a sum insured, provide for the replacement of the insured asset or provide for the settlement of outstanding balances due and payable to credit providers;
  - (iii) have contract terms of 24 months or less;
  - (iv) are not subject to the principle of average; and
  - (v) do not provide for any exclusions or conditions from liability of the insurer other than-
    - (aa) exclusions relating to unlawful conduct, provided that such exclusions may only be applied or relied on if there is a direct link between the cause of the loss and the unlawful conduct;
    - (bb) special risks referred to in the Conversion of the SASRIA Act, No. 134 of 1998;
    - (cc) exclusions relating to the condition of any asset insured at inception of the policy other than exclusions relating to the wear and tear of the asset;
    - (dd) exclusions relating to the maintenance and usage of the insured asset under a policy that insures against unforeseen mechanical or electrical component failure;
    - (ee) exclusions relating to consequential loss; or
    - (ff) any combination of (aa) to (ee);

“**SAQA**” has the meaning assigned to it in section 1 of the NQF Act;

“**structured deposit**” means a -

- (a) combination of a short-term deposit or a long-term deposit and another Tier 1 financial product; or
- (b) a short-term deposit or long-term deposit where the return or value is dependent on the performance of or is derived from the return or value of one or more underlying financial product, asset, rate or index, on a measure of economic value or on a default event;

“**sole proprietor**”, in relation to an FSP, means an FSP who is a natural person;

“**the Act**” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

“**Tier 1 financial products**” means the financial products listed in column A of Table 1 in Annexure Three;

“**Tier 2 financial products**” means the financial products listed in column B of Table 1 in Annexure Three;

“**verifiable**” in relation to CPD activities means activities that can be objectively verified and includes evidence of the identity of the person who partook in such activities and proof of the completion thereof;

“**warrants, certificates or other instruments**” in relation to financial product means –

- (a) any warrant, certificate, and other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert securities and instruments as referred to in paragraph (a)(iv) of the definition of ‘financial product’ in section 1 of the Act; and
- (b) warrants, certificates or other instruments as contemplated in paragraph (a) that have a foreign currency denomination;

“**wear and tear**” means the normal expected deterioration of the insured asset arising from normal usage and age.

### **Purpose of Determination**

2. The purpose of this Determination is to determine–
- (a) the categories of FSPs envisaged in section 6A of the Act; and
  - (b) the fit and proper requirements for–
    - (i) each of the categories of FSPs;
    - (ii) representatives in each of the categories of FSPs; and
    - (iii) key individuals in each of the categories of FSPs.

### **Categories of FSPs**

3. The categories of FSPs are:
- (a) Category I FSPs, i.e. FSPs who are not Category II, IIA, III or IV FSPs;
  - (b) Category II FSPs, i.e. discretionary FSPs;
  - (c) Category IIA FSPs, i.e. hedge fund FSPs;
  - (d) Category III FSPs, i.e. administrative FSPs; and
  - (e) Category IV FSPs, i.e. assistance business FSPs .

### **Fit and proper requirements**

4. (1) The fit and proper requirements for each of the categories of FSPs, key individuals and representatives are –
- (a) personal character qualities of honesty and integrity, as set out in Chapter 2;
  - (b) good standing, as set out in Chapter 2;
  - (c) competence, as set out in Chapter 3;

- (d) continuous professional development, as set out in Chapter 4;
  - (e) operational ability, as set out in Chapter 5; and
  - (f) financial soundness, as set out in Chapter 6.
- (2) To qualify for authorisation, approval or appointment as an FSP, key individual or representative a person must comply with the fit and proper requirements to the extent applicable to FSPs, key individuals and representatives in the relevant categories.

**On-going compliance with fit and proper requirements**

5. For an FSP, key individual or representative to remain authorised, approved or appointed that person must, as required by section 8A of the Act, at all times comply with the fit and proper requirements referred to in section 4 to the extent applicable to FSPs, key individuals and representatives in the relevant categories.

**Specific requirement for FSPs and representatives rendering financial services in respect of the financial product: Health Service Benefit**

6. To qualify for authorisation as an FSP or appointment as a representative of an FSP or to remain so authorised or appointed to render financial services in respect of the financial product: Health Service Benefit, a person must be accredited as a broker or an apprentice broker in terms of regulation 28B of the Regulations issued in terms of section 67 of the Medical Schemes Act, 1998 (Act No. 131 of 1998).

**CHAPTER 2****HONESTY, INTEGRITY AND GOOD STANDING****Application of Chapter**

7. (1) The fit and proper requirements relating to honesty, integrity and good standing contained in this Chapter apply to all FSPs, key individuals and representatives.
- (2) A reference in this Chapter to the Registrar must be read as including a reference to an FSP insofar it relates to the FSP's responsibilities in respect of its key individuals and representatives.

**Honesty, integrity and good standing**

8. (1) A person referred to in section 7(1) must be a person who is –
- (a) honest and has integrity; and
  - (b) of good standing.
- (2) In determining whether a person complies with subsection (1), the Registrar may refer to any information in possession of the Registrar or brought to the Registrar's attention.

**Incidents indicating when persons are not honest, or lack integrity or good standing**

9. (1) Without limiting the generality of section 8(1), any of the following constitutes *prima facie* evidence that a person does not qualify in terms of section 8(1):

The person –

- (a) has been found guilty (and that conviction has not been expunged) in any criminal proceedings or liable in any civil proceedings by a court under any law in any jurisdiction of-
  - (i) an offence under a law relating to the regulation or supervision of a financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) or a corresponding offence under the law of a foreign country;
  - (ii) theft, fraud, forgery, uttering a forged document, perjury or an offence involving dishonesty, breach of fiduciary duty, dishonourable or unprofessional conduct; or
  - (iii) an offence under the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992) or Parts 1 to 4, or section 17, 20 or 21, of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence under the law of a foreign country;
- (b) has been convicted (and that conviction has not been expunged) of any other offence committed after the Constitution of the Republic of South Africa, 1996, took effect, where the penalty imposed for the offence was or may be imprisonment without the option of a fine, or a significant fine;
- (c) has accepted civil liability for, or has been the subject of a civil judgment in respect of, theft, fraud, forgery, uttering a forged document, perjury or an any conduct involving dishonesty, breach of fiduciary duty, misrepresentation, or negligent, dishonourable and unprofessional conduct;
- (d) has been the subject of frequent or material preventative, remedial or enforcement actions by the Registrar or a regulatory authority;
- (e) has been removed from an office of trust for theft, fraud, forgery, uttering a forged document, misrepresentation, dishonesty, breach of fiduciary duty or business conduct;
- (f) has breached a fiduciary duty;
- (g) has been suspended, dismissed or disqualified from acting as a director, managing executive, public officer, auditor or statutory actuary (or his or her alternate) under any law or any action to achieve one of the aforementioned outcomes has been instituted against the person;



- (h) has been refused a registration, approval, authorisation or licence to carry out a trade, business or profession, or has had that registration, approval, authorisation or licence suspended, revoked, withdrawn or terminated by a regulatory authority;
  - (i) has been denied registration or membership of any professional body or has had that registration or membership revoked, withdrawn or terminated by a professional body because of matters relating to honesty, integrity, or business conduct;
  - (j) has been disciplined, reprimanded, disqualified, or removed in relation to matters relating to honesty, integrity, incompetence or business conduct by a –
    - (i) professional body; or
    - (ii) regulatory authority,or any action to achieve one of the aforementioned outcomes has been instituted against the person;
  - (k) has knowingly been untruthful or provided false or misleading information to, or been uncooperative in any dealings with, the Registrar or a regulatory authority;
  - (l) has demonstrated a lack of readiness and willingness to comply with legal, regulatory or professional requirements and standards;
  - (m) has been found to be not fit and proper by the Registrar or a regulatory authority in any previous assessments of fitness and propriety and the reasons for being found not fit and proper have not been remedied;
  - (n) has been involved or is involved as a director, trustee, member, partner, controlling shareholder or managing executive, or is concerned in the management, of a business that has been –
    - (i) the subject of any matter referred to in subparagraphs (a), (b), (c), (d), (f), (h), (j)(ii), (k), (l), (m), or (o); or
    - (ii) placed in liquidation or business rescue;while that person has been connected with that organisation or within one year of that connection; or
  - (o) has failed to disclose information required to be disclosed in terms of the Act, including a failure to disclose information in accordance with section 10.
- (2) Without limiting subsection (1), compliance with section 8(1) by a person that is not a natural person must be demonstrated through its corporate behaviour or conduct and through the personal behaviour or conduct of the persons who control or govern that first mentioned person or who is a member of a body or group of persons which control or govern that person, including directors, members, trustees, partners or key individuals of that person.
- (3) Notwithstanding subsection (1), the Registrar must, in assessing whether a person meets the requirements in section 8(1) have due regard to -
- (a) the seriousness of a person's conduct, whether by commission or omission, or behaviour, and surrounding circumstances to that conduct or behaviour that has or could potentially have a negative impact on a person's compliance with section 8(1);
  - (b) the relevance of such conduct or behaviour that has or could potentially have a negative impact on the persons' compliance with section 8(1), to the duties that are or are to be performed and the responsibilities that are or are to be assumed by that person; and
  - (c) the passage of time since the occurrence of the conduct or behaviour that had a negative impact on the person's compliance with section 8(1).

#### **Disclosure of information relating to honesty, integrity and good standing**

- 10.** An FSP and key individual must disclose to the Registrar, and a representative must disclose to its FSP, promptly and on own initiative, fully and accurately, all information, not limited to information in relation to matters referred to in section 9, which may be relevant in determining whether that person complies or continues to comply with the requirements relating to honesty, integrity and good standing.

**CHAPTER 3****COMPETENCE REQUIREMENTS*****Part 1: Application and General Requirements*****Application of Part**

11. The fit and proper requirements relating to competence contained in this Part apply to all FSPs, key individuals and representatives.

**General competence requirements**

12. An FSP, key individual and representative must -
- (a) have adequate, appropriate and relevant skills, knowledge and expertise in respect of the financial services, financial products and functions that it performs;
  - (b) comply with the minimum requirements set out in Part 2, 3, 4 and 5 of this Chapter; and
  - (c) maintain their competence.

**Responsibilities of an FSP**

13. (1) An FSP must establish, maintain and apply adequate policies, internal systems, control and monitoring mechanisms to ensure that it, its key individuals and representatives -
- (a) comply and continue to comply with section 12 and, where applicable, the minimum requirements set out in Part 2, 3, 4 and 5 of this Chapter;
  - (b) are aware of the procedures which must be followed for the proper discharge of their responsibilities in the performance of their functions;
  - (c) possess appropriate general and technical knowledge so as to be able to comply with all relevant disclosure obligations to clients;
  - (d) are appropriately trained regarding the requirements of the Act and the financial services and financial products in respect of which they are appointed;
  - (e) undertake CPD to maintain and update the knowledge and skills that are appropriate for their activities;
  - (f) are able to assess whether it is appropriate to offer or provide a client a particular financial service or product taking into account the needs, circumstances, risk tolerance and capacity of the client and the client's capacity to understand the features and complexity of the service or product; and
  - (g) who do not meet the competency requirements, and staff of the FSP who are not appointed as representatives, do not render financial services.
- (2) A Category I FSP that appoints representatives to perform the execution of sales as contemplated in section 22(b)(ii) must be able to demonstrate compliance with the requirements set out in that section.
- (3) An FSP must be able to demonstrate and record that it has evaluated and reviewed at regular and appropriate intervals-
- (a) its representatives' and key individuals' competence and has taken appropriate action to ensure that they remain competent for the activities they perform; and
  - (b) the appropriateness of the training and CPD referred to in subsection 1(d) and (e).
- (4) The evaluation and review contemplated in subsection (3) must, *inter alia*, take into account -
- (a) technical knowledge and its application;
  - (b) skills and expertise; and
  - (c) changes in the market, to financial products, financial services and legislation.

- (5) An FSP must establish, maintain and update on a regular basis a competence register in which all qualifications, successfully completed regulatory examinations, product specific training, class of business training and CPD of the FSP, its key individuals and representatives are recorded.
- (6) An FSP must, in the form and manner and at the intervals prescribed by the Registrar, furnish to the Registrar the information in the register referred to in paragraph (5).
- (7) An FSP must notify the Registrar immediately after it becomes aware, or has information which reasonably suggests, that a key individual does not comply or no longer complies with any requirement set out in this Determination.
- (8) The requirements set out in Parts 2, 3, 4 and 5 of Chapter 3 and Chapter 4 are minimum requirements and compliance with that requirements does not in itself serve as evidence that a person complies with the general competence requirements in section 12.

## ***Part 2: Minimum experience***

### **Application of Part**

**14.** The competence requirements relating to experience contained in this Part apply to all FSPs, key individuals and representatives.

### **General experience requirement**

- 15.** (1) An FSP and representative must have adequate and appropriate experience in the rendering of a particular financial service in respect of a -
- (a) particular financial product; and
  - (b) particular category of FSP,
- for which it is authorised or appointed or in respect of which authorisation or appointment is sought.
- (2) A key individual must have adequate and appropriate experience to manage or oversee the rendering of a particular financial service in respect of a particular category of FSP for which it is approved or in respect of which approval is sought.

### **Lapsing of experience**

- 16.** (1) The experience gained by an FSP or a representative lapses when the FSP or representative has not rendered the particular financial service in respect of a particular financial product relevant to a particular category of FSP for a period of five consecutive years.
- (2) The experience gained by a key individual lapses when the key individual has not managed or overseen the rendering of a particular financial service in respect of a particular category of FSP for a period of five consecutive years.

### **Minimum experience requirements per Category of FSPs**

#### **Category I FSPs**

- 17.** (1) A Category I FSP and its representatives must in relation to the financial products listed in Column A of Table 1 in Annexure One have the minimum experience listed in column B and/or C of that Table in respect of the particular financial services for which it is authorised or appointed or in respect of which authorisation or appointment is sought.
- (2) A key individual of a Category I FSP must have at least one year's experience in the management or oversight of the rendering of a particular financial service by a Category I FSP.

#### **Category II FSPs**

- 18.** (1) A Category II FSP and its representative must in relation to a financial product listed in Column A of Table 2 in Annexure One have the minimum experience in the rendering of Category II financial services in respect of the financial products listed in column B of the Table.
- (2) A key individual of a Category II FSP must have at least one year's experience in the management or oversight of category II financial services.

#### **Category IIA FSPs**

- 19.** (1) A Category IIA FSP and its representatives must have at least three years' experience in the rendering of category IIA financial services.
- (2) A key individual of a Category IIA FSP must have at least one year's experience in the management or oversight of category IIA financial services.



**Category III FSPs**

- 20.** (1) A Category III FSP and its representatives must have at least three years' experience in the rendering of category III financial services.
- (2) A key individual of a Category III FSP must have at least one year's experience in the management or oversight of category III financial services.

**Category IV FSPs**

- 21.** (1) A Category IV FSP and its representatives must have at least one year's experience in the rendering of category IV financial services.
- (2) A key individual of a Category IV FSP must have at least one year's experience in the management or oversight of category IV financial services.

### **Part 3: Minimum Qualifications**

#### **Application of Part**

- 22.** The competence requirements relating to qualifications contained in this Part-
- (a) subject to paragraph (b), apply to all FSPs, key individuals and representatives;
  - (b) do not apply to-
    - (i) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
    - (ii) a representative of a Category I FSP that is appointed only to perform the execution of sales in respect of a financial product provided that -
      - (aa) the representative has a Grade 12 National Certificate or an equivalent qualification;
      - (bb) the execution of sales is performed –
        - (aA) in accordance with a script approved by a key individual and the relevant governance structure of the FSP; and
        - (aB) under the direct oversight of a key individual;
      - (cc) where the execution of sales is performed by telephone, all conversations with clients are recorded and the recordings are stored and retrievable;
      - (dd) the FSP has sufficient and adequate controls in place to ensure and to monitor that -
        - (aA) the representative does not furnish clients with advice; and
        - (aB) the sales practices and techniques employed by the representative are not misleading, false, inappropriate to the expected target clients or will not result in unfair outcomes for clients; and
      - (ee) the FSP on a regular basis -
        - (aA) reviews the recordings referred to in (cc) and/or monitors the representatives, to ensure that they do not deviate from the script or supplement the script with content not approved as contemplated in (bb);
        - (aB) reviews and monitors the adequacy and efficiency of its controls and quality assurance processes in relation to the execution of sales; and
        - (aC) reviews the script for appropriateness and compliance with applicable legislation.

#### **General requirement**

- 23.** An FSP, a key individual and a representative must have a qualification recognised by the Registrar in terms of section 24.

#### **Recognition of qualifications**

- 24.** (1) The Registrar, on application or on own initiative and subject to subsection (2), may recognise a qualification as appropriate for -
- (a) each of the categories of FSPs;
  - (b) representatives of in each of the categories of FSPs;
  - (c) key individuals in each of the categories of FSPs; or
  - (d) different types of financial services and financial products.
- (2) The following criteria must be considered by the Registrar in assessing the appropriateness of a qualification:
- (a) it must provide a person with the relevant, abilities, knowledge and skills based on an appropriate curriculum framework containing a body of knowledge and learning outcomes that is necessary for the person to discharge his or her responsibilities under the Act;

- 
- (b) the curriculum, body of knowledge and learning outcomes referred to in (a) must be quantitatively and qualitatively relevant to the role of and functions to be performed by the person under the Act;
  - (c) in the case of a non-unit standards based qualification -
    - (i) it must contain at least three modules/subjects that appear in the Appropriate Subject List in Table 1 in Annexure Two;
    - (ii) where the qualification is at Certificate or Diploma level and it provides for major subjects, at least one of the subjects referred to in subparagraph (i) must be a major subject at final year level; and
    - (iii) where the qualification is at Degree level, at least one of the subjects referred to in subparagraph (i) must be a major subject at final year level;
  - (d) in the case of a unit standards based qualification, the core and elective unit standards must relate to at least three modules/subjects that appear in the Appropriate Subject List in Table 1 in Annexure Two; and
  - (e) for purposes of a Category II, IIA or III FSP and a key individual, or representative of such FSP, the qualification must be at degree level.
- (3) An application for recognition of a qualification must be submitted in the form and manner determined by the Registrar.

### Part 4: Regulatory examinations

#### Application of Part

25. The competence requirements relating to regulatory examinations contained in this Part-
- (a) subject to paragraph (b), apply to all FSPs, key individuals and representatives;
  - (b) do not apply to -
    - (i) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
    - (ii) a representative of a Category I FSP that is appointed only to -
      - (aa) perform the execution of sales in respect of a Tier 1 financial product provided that the requirements in section 22(b)(ii) are complied with; and/or
      - (bb) render financial services in respect of a Tier 2 financial product.

#### Regulatory examination requirements

26. (1) A *Category I* FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column A of Table A.
- (2) A *Category II* FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column B of Table A.
- (3) A *Category IIA* FSP, its key individuals and representatives must successfully pass applicable the regulatory examination listed in Column C of Table A.
- (4) A *Category III* FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column D of Table A.
- (5) A *Category IV* FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column E of Table A.
- (6) An FSP, a key individual and a representative must successfully pass the applicable regulatory examinations before that person's authorisation, approval or appointment.

TABLE A					
	Column A (Category I)	Column B (Category II)	Column C (Category IIA)	Column D (Category III)	Column E (Category IV)
<b>FSP</b>	RE 1	RE 1; and RE 3	RE 1; and RE 3	RE 1; and RE 4	RE 1
<b>Key Individual</b>	RE 1	RE 1; and RE 3	RE 1; and RE 3	RE 1; and RE 4;	RE 1
<b>Representative</b>	RE 5	RE 5	RE 5	RE 5	RE 5

#### Setting and taking of regulatory examinations

27. (1) Regulatory examinations may be set and delivered by examination bodies recognised for that purpose by the Registrar.
- (2) All regulatory examinations must be set in accordance with the criteria set out in the applicable Tables in Annexure Five.



**Part 5: Class of business Training and Product Specific Training****Application of Part**

28. (1) Subject to subsection (2) and (3), the competence requirements relating to class of business and product specific training contained in this Part apply to all FSPs, key individuals and representatives.
- (2) The competence requirements relating to class of business training contained in this Part do not apply to-
- (a) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
- (b) a representative of a Category I FSP that is appointed to only –
- (i) perform the execution of sales in respect of a Tier 1 financial product provided that the requirements in section 22(b)(ii) are complied with; and/or
- (ii) render financial services in respect of a Tier 2 financial product.
- (3) The competency requirements relating to product specific training contained in this Part do not apply to –
- (a) a Category II, Category IIA or a Category III FSP or its representatives; and
- (b) key individuals of all categories of FSPs, provided they comply with section 12.
- (4) The competency requirements relating to class of business training apply to key individuals only in respect of the classes of business for which they are approved to act as key individuals or in respect of which approval is sought.

**Class of business training and product specific training**

29. (1) An FSP and representative must, prior to the rendering of any financial service in respect of a particular financial product, complete –
- (a) the class of business training; and
- (b) product specific training,
- relevant to that financial product and for which they are authorised or appointed or in respect of which authorisation or appointment is sought.
- (2) A key individual must, prior to managing or overseeing the rendering of any financial service, complete the class of business training in respect of the classes of business it manages or oversees and for which it is approved to act as key individual or for which approval is sought.
- (3) An FSP must ensure that it, its key individuals and representatives are proficient in respect of, understand, and have completed adequate and appropriate class of business training and product specific training relevant to, the particular financial products in respect of which they render financial services or manages or oversees the rendering of financial services.
- (4) Class of business training, where appropriate, must include training on –
- (a) the range of financial products within the class of business;
- (b) the general characteristics, terms and features of financial products in the class of business and any specialist characteristics, terms and features in respect of financial products in the class of business;
- (c) the typical fee structures, charges and other costs associated with products in the class of business;
- (d) general risks associated with investing, purchasing or transacting in the products in the class of business;

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# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 630

15 December 2017  
Desember

No. 41321

**PART 4 OF 4**

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

ISSN 1682-5843



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- (e) investment and risk principles, options and strategies in respect of products in the class of business;
  - (f) the appropriateness of different products or product features in the class of business for different types of clients or groups of clients;
  - (g) the typical role players or market participants in respect of products in the class of business, including their legal structure;
  - (h) the impact of applicable legislation, including taxation laws, on products in the class of business;
  - (i) the impact of applicable economic and environmental factors such as -
    - (i) the economic and business environment and cycles;
    - (ii) inflation;
    - (iii) government monetary and fiscal policies; and
    - (iv) interest rates and exchange rates,on the products in the class of business and the performance of those products;
  - (j) any inter-relationship within and between particular classes of business; and
  - (k) industry standards and codes of conduct relevant to the class of business.
- (5) Product specific training, where appropriate, must include training on –
- (a) the specific characteristics, terms and features of the product, including any specific complexities or material differentiation from the general characteristics, terms and features of products in the class of business concerned;
  - (b) the nature and complexity of the financial product and any underlying components of that product;
  - (c) how the financial product and any underlying components of the product are structured and priced;
  - (d) the fee structure, charges and other costs associated with the product and their impact on the real return or benefits of the product;
  - (e) the nature and features of any guarantees and the costs associated with them;
  - (f) the risks associated with investing, purchasing or transacting in the product and any underlying components of the product;
  - (g) the risks associated with particular investment concepts and strategies in respect of the product;
  - (h) the impact of tax on the benefits or real return of the product;
  - (i) the potential impact of abnormal or extreme market, economic or other relevant conditions on the performance of the product;
  - (j) any investment options or strategies within the product;
  - (k) any flexible benefit or service options available within the product;
  - (l) the accessibility of benefits or funds under the product and any restrictions or limitations on such accessibility;
  - (m) the level of liquidity of the product or its underlying components;
  - (n) the intended target market of the product and the outcomes it is intended to deliver for customers, including identifying customers or groups of customers for whom the product is not expected to be suitable;
  - (o) the identity of the product supplier and the providers of any underlying components of the product, including their good standing and regulatory status;
  - (p) particular disclosures, whether or not prescribed by legislation, applicable or relevant to the product, its underlying components and the product supplier;
  - (q) the lock-in periods and relevant termination conditions, exit options and associated costs;
  - (r) the accessibility of benefits or funds under the financial product and any associated restrictions or limitations; and
  - (s) the expected outcomes that will be achieved for clients.
- (6) The class of business training may be undertaken separately from or in combination with –



- (i) product specific training; or
  - (ii) a recognised qualification provided a person is able to demonstrate that the content of the qualification meets the criteria referred to in subsection (3).
- (7) Where a financial product incorporates one or more other underlying financial products, the training referred to in subsections (1) and (2) must include class of business training in respect of the underlying products.

### **Record keeping and reporting requirements**

**30.** An FSP must -

- (a) within 15 days after the training has occurred, record in the competence register of the FSP the product specific or class of business training of the FSP, its key individuals and representatives;
- (b) retain all information and documentation relating to the training referred to in (a) for a period not less than five years after -
  - (i) the FSP or the representative on behalf of that FSP, has ceased to render financial services in respect of a particular financial product or a particular class of business; and
  - (ii) the key individual has ceased to manage or oversee the rendering of financial services by the FSP in respect of a particular financial product or a particular class of business;
- (c) within a reasonable time after being requested to do so -
  - (i) by a product supplier, provide confirmation to that product supplier that it, or its representatives have obtained the requisite class of business and product specific training, where the product supplier requires the confirmation in order to ensure compliance with its own legal obligations; and
  - (ii) by a key individual or representative of, or a former key individual or representative of the FSP, provide confirmation to the key individual or representative of the product specific and class of business training completed by that key individual or representative.

## CHAPTER 4

### CONTINUOUS PROFESSIONAL DEVELOPMENT

#### Application of Chapter

31. (1) Subject to subsection (2) the fit and proper requirements relating to CPD contained in this Chapter apply to all FSPs, key individuals and representatives.
- (2) The fit and proper requirements relating to CPD contained in this Chapter do not apply to -
- (a) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
  - (b) a representative of a Category I FSP that is appointed to only-
    - (i) render a financial service in respect of a Tier 2 financial product; and/or
    - (ii) render an intermediary service in respect of a Tier 1 financial product.

#### General requirements

32. (1) An FSP, key individual and representative must -
- (a) maintain the required competence to render or manage or oversee the financial services for which the FSP, key individual and representative are authorised, approved or appointed;
  - (b) comply with the minimum CPD requirements set out in this Chapter;
  - (c) ensure that the type and combination of CPD activities undertaken -
    - (i) are relevant to the functions and role of the FSP, key individual and representative;
    - (ii) contributes to the skill, knowledge, expertise and professional and ethical standards of the FSP, key individual and representative;
    - (iii) addresses any identified needs or gaps in -
      - (aa) the technical knowledge of the FSP, key individual and representative;
      - (bb) the generic knowledge and understanding of the environment in which the financial service is rendered or managed or overseen; and
      - (cc) the knowledge and understanding of applicable laws; and
    - (iv) adequately takes into account changing internal and external conditions relevant to the classes and subclasses of business, the category of financial services and the financial products for which the FSP, key individual or representative is authorised, approved or appointed.
- (2) An FSP must establish and maintain policies and procedures on CPD that include:
- (a) how the FSP, key individual and representative will-
    - (i) maintain knowledge and skills that are appropriate for their activities and responsibilities;
    - (ii) update their knowledge and skills; and
    - (iii) develop new knowledge and skills to assist with their current functions and responsibilities or functions contemplated in the future;
  - (b) training plans for each CPD cycle to ensure that CPD -
    - (i) is relevant and appropriate for the authorisation, approval and appointment of the FSP, key individual and representative;
    - (ii) addresses any identified needs, knowledge and skills gaps; and
    - (iii) continually improves the professional standards and practices of the FSP, its key individuals and representatives.
- (3) An FSP must-
- (a) within 30 days after the expiry of each CPD cycle, record in the competence register the -

- (i) CPD activities of the FSP, its key individuals and representatives; and
- (ii) reduction of CPD hours of a representative as contemplated in section 34;
- (b) calculate the total number of CPD hours completed by each person referred to in (a) as at the end of each CPD cycle;
- (c) obtain and retain relevant supporting evidence of the CPD activities recorded in the competence register;
- (d) record the dates of, reasons for and retain supporting evidence for, any decision of the FSP to reduce CPD requirements in accordance with section 34; and
- (e) retain the evidence referred to in (c) and (d) for a period not less than five years from the end of the CPD cycle concerned.

### Minimum CPD hours

33. (1) An FSP, key individual and representative authorised, approved or appointed to render or manage or oversee the rendering of financial services in respect of -
- (a) a single subclass of business within a single class of business must complete a minimum of 6 hours of CPD activities per CPD cycle;
  - (b) more than one subclass of business within a single class of business must complete a minimum of 12 hours of CPD activities per CPD cycle; or
  - (c) more than one class of business must complete a minimum of 18 hours of CPD activities per CPD cycle.
- (2) Key individuals and representative must submit evidence of their CPD activities to the FSP within 15 days after expiry of the CPD cycle.
- (3) An FSP, key individual and representative must ensure that the CPD activities are tailored to meet the specific knowledge and skills, needs and/or gaps arising from changing internal and external conditions having cognisance of classes and subclasses of business and the financial product category for which it is authorised, approved or appointed.
- (4) An FSP, key individual and representative that is authorised, approved or appointed for a period of less than 12 months in a particular CPD cycle, must by the end of that CPD cycle complete a pro-rated minimum number of CPD hours calculated as follows:

$(X \div 12) \times Y = Z$	$X$ = Number of annual required CPD hours
	$Y$ = number of months authorised, approved or appointed during a particular CPD cycle
	$Z$ = Required pro rata CPD hours

### Reduction of CPD hours

34. (1) An FSP may pro rata reduce the CPD hours in respect of a representative for the period of time during which that representative is continuously absent from work if that absence is due to
- (a) maternity, paternity or adoption leave;
  - (b) long-term illness or disability; or
  - (c) the representative's responsibilities to care for a family member of that representative who has a long-term illness or disability.

(2) The reduced CPD hours must be calculated as follows:

$(X \div 12) \times (12 - Y) = Z$	<b>X</b> = Number of annual required CPD hours
	<b>Y</b> = number of months absent from work in a particular CPD cycle
	<b>Z</b> = Required pro rata CPD hours

- (3) An FSP may not reduce the CPD hours of a representative for consecutive CPD cycles except where the absence referred to in subsection (1) commenced in a particular CPD cycle and uninterruptedly continues into the consecutive CPD cycle.
- (4) The reduction referred to in subsection (3) may only be applied for a maximum period of three consecutive CPD cycles.



**CHAPTER 5****OPERATIONAL ABILITY****Application of Chapter**

**35.** The fit and proper requirements relating to operational ability contained in this Chapter apply to the extent set out in this Chapter to FSPs, representatives and key individuals.

**General requirements**

**36. (1)** An FSP must-

- (a) have the operational ability, including adequate and appropriate human, technical and technological resources, to effectively function as a particular category of FSP and to render the financial services in relation to the financial product for which it is authorised;
  - (b) adopt, document and implement an effective governance framework that provides for the fair treatment of clients and prudent management and oversight of the business of the FSP; and
  - (c) at all times have-
    - (i) a fixed physical business address from where the business is operated or controlled;
    - (ii) adequate access to communication facilities, including a full-time telephone or cell phone service;
    - (iii) adequate storage and filing systems for the safe-keeping of records, business communications and correspondence;
    - (iv) a bank account with a registered bank, including, where required in the Act, a separate bank account for client funds; and
    - (v) adequate and appropriate key individuals to effectively manage or oversee the activities of the FSP relating to the rendering of financial services, including having at least one key individual per class of business in respect of which the FSP is authorised.
- (2) The key individual referred to in subsection (1)(c)(v) insofar it relates to the requirement that the FSP must have at least one key individual per class of business in respect of which the FSP is authorised, could be a single person responsible for managing or overseeing the rendering of financial services in respect of all or multiple classes of business of the FSP provided that it -
- (a) is approved for all such classes of business; and
  - (b) has the operational ability to oversee or manage the rendering of financial services in respect of all such classes of business.

**Governance requirements**

**37.** The governance framework of an FSP must -

- (1) be proportionate to the nature, scale, risks and complexity of the business of the FSP;
- (2) include, but not limited to, effective and adequate systems of corporate governance, risk management (including conduct risk management) and internal controls that subject to subsection (1) includes -
  - (a) a business plan setting out the aims and scope of the business, the business strategies and related matters;
  - (b) risk management policies, procedures and systems, including-
    - (i) effective procedures for risk assessment, which identify the risks relating to the FSP's activities, processes and systems, and where appropriate, set the level of risk tolerated by the FSP;
    - (ii) effective procedures and systems -
      - (aa) to ensure compliance by the FSP, its officers, employees, key individuals and representatives with the Act and other applicable laws, including the Financial

- Intelligence Centre Act, 2001 and other applicable anti-money laundering or terrorist financing legislation;
- (bb) to ensure compliance with decisions and decision-making procedures at all levels of the FSP;
  - (cc) to detect any risk of failure by the FSP to comply with applicable legislation, and put in place measures and procedures to minimise such risk; and
  - (dd) that provide for corrective actions to be taken in respect of non-compliance, weak oversight, failure of controls or lack of sufficient management;
- (ii) systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, including -
    - (aa) electronic data security and internal and external cybersecurity;
    - (bb) physical security of assets and records;
    - (cc) system application testing;
    - (dd) back-up and disaster recovery plans and procedures for systems and electronic data; and
  - (iii) systems and processes to ensure accurate, complete and timeous processing of data, reporting of information and the assurance of data integrity;
- (c) accounting policies and procedures to enable the FSP to record, report and deliver in a timely manner to the Registrar financial reports which reflect a true and fair view of its financial position and which comply with the applicable reporting and accounting standards and requirements;
  - (d) sound and sustainable remuneration policies and practices which promote the alignment of interests of the FSP with those of its clients and which avoid excessive risk taking and unfair treatment of customers;
  - (e) a business continuity policy aimed at ensuring, in the case of an interruption to the FSP's systems and procedures, that any losses are limited, the preservation of essential data and functions, and the maintenance of its regulated activities, or where that is not possible, the timely recovery of such data and functions and the timely resumption of those activities;
  - (f) a recovery plan for the restoration of the FSP's financial situation following a significant deterioration and viable resolution plan setting out options for the orderly resolution of the FSP in the case of failure; and
  - (g) provide for regular monitoring and evaluation of the adequacy and effectiveness of its systems, processes and internal control mechanisms and measures to address any deficiencies and to determine whether it serves reasonably to ensure -
    - (i) risk detection and compliance with applicable legislation;
    - (ii) the integrity of the FSP's practices, including the treatment of clients with due care, skill and diligence and in a fair, honest and professional manner; and
    - (iii) appropriate segregation of key duties and functions, particularly those duties and functions which, when performed by the same individual, may result in undetected errors or may be susceptible to abuses which expose the FSP or its clients to inappropriate risks.

#### **Additional requirements applicable to FSPs that provide automated advice**

**38.** In addition to the requirements set out in section 37, an FSP that provides automated advice must-

- (a) have adequate and appropriate human resources that have the required competence to-
  - (i) understand the technology and algorithms used to provide the automated advice;
  - (ii) understand the methodological approaches, including assumptions, embedded in the algorithms;
  - (iii) understand the preferences or biases that exist in the approaches referred to in (ii);
  - (iv) understand the risks and rules underpinning the algorithms;
  - (v) identify the risks to clients arising from the automated advice; and
  - (vi) monitor and review the automated advice generated by algorithms to ensure quality and suitability of the advice and compliance with the Act;

- (b) establish, implement and maintain adequate policies and procedures –
  - (i) to monitor, review and test the algorithms and the advice generated by it;
  - (ii) to monitor, review and test the filters implemented to ensure clients for whom the automated advice is not suitable are filtered out; and
  - (iii) that set out the level of human review that will be undertaken on the advice generated;
- (c) in relation to the monitoring and testing of the algorithms and filters referred to in (b), -
  - (i) have appropriate system design documentation that sets out the purpose, scope and design of the algorithms and filters;
  - (ii) have a documented test strategy that explains the scope of testing, including test plans, test cases, test results, defect resolution, and final test results;
  - (iii) have appropriate processes for managing any changes to an algorithm and filters that include having security arrangements in place to monitor and prevent unauthorised access to the algorithms;
  - (iv) be able to control, monitor and reconstruct any changes to algorithms or filters;
  - (v) review and update algorithms whenever there are factors that may affect their relevance (such as market changes and changes in the law);
  - (vi) have in place controls and processes to suspend the provision of advice if an error within an algorithm or filters is detected; and
  - (vii) be able to frequently monitor and supervise the performance of algorithms and filters through an adequate and timely review of the advice provided;
- (d) have adequate and sufficient technological resources to-
  - (i) maintain client records and data integrity;
  - (ii) protect confidential and other information; and
  - (iii) meet current and anticipated operational needs, including in relation to system capacity.

#### **Outsourcing of functions to a person other than a representative of the FSP**

- 39.** (1) An FSP must exercise due skill, care and diligence when entering into (including the selection process), managing or terminating any arrangement for the outsourcing to any person other than a representative of the FSP of -
- (a) a function that the Act or another law requires to be performed or requires to be performed in a particular way or by a particular person;
  - (b) a function that is integral to the nature of the financial services for which the FSP is authorised; or
  - (c) any material important operational function of the FSP.
- (2) An FSP, where it outsources a function or activity referred to in (1), must -
- (a) ensure that the person to whom the function or activity has been outsourced –
    - (i) has the ability, capacity, and any authorisation required by law to perform the outsourced functions, services or activities reliably and professionally;
    - (ii) is able to carry out the outsourced services effectively, to which end the FSP must establish methods for assessing the standard of performance of that person;
  - (b) have a written contract that governs the outsource arrangement and which clearly provides for all material aspects of the outsourcing arrangement, including –
    - (i) addressing the rights, responsibilities, and service-level requirements of all parties;
    - (ii) providing for access by the FSP and the Registrar to the person's business and information in respect of the outsourced function or activity;
    - (iii) addressing sub-outsourcing; and
    - (iv) addressing confidentiality, privacy and the security of information of the FSP and clients of the FSP;
  - (c) properly supervise the carrying out of the outsourced functions, and adequately manage the risks associated with the outsourcing, including any risks to the FSP's clients;

- (d) take appropriate action if it appears that the person may not be carrying out the functions effectively and in compliance with applicable laws and regulatory requirements;
- (e) retain the necessary expertise to supervise the outsourced functions effectively and manage the risks associated with the outsourcing;
- (f) be able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of financial services to clients;
- (g) establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities;
- (h) have effective access to data related to the outsourced activities, including any data relating to the FSP's clients, as well as to the business premises of the person; and
- (i) ensure that the outsourcing arrangement does not –
  - (i) compromise the fair treatment of or continuous and satisfactory service to the FSP's clients; or
  - (ii) result in key decision making responsibilities being removed from the FSP.

### **Appointment of representatives**

- 40.** (1) An FSP must ensure that where it appoints a person as a representative -
- (a) the person-
    - (i) is not declared insolvent or provisionally insolvent;
    - (ii) is not under liquidation, provisional liquidation or business rescue; and
    - (iii) is not subject to any pending proceedings which may lead to an outcome referred to in subparagraph (i) to (ii);
  - (b) the person, in the case of a juristic representative, has sufficient operational ability and financial resources to perform the activities for which it is appointed as a representative; and
  - (c) such appointment does not-
    - (i) materially increase any risk to the FSP or to the fair treatment of its clients;
    - (ii) materially impair the quality of the governance framework of the FSP, including the FSP's ability to manage its risks and meet its legal and regulatory obligations;
    - (iii) compromise the fair treatment of or continuous and satisfactory service to clients;
    - (iv) prevent the FSP from acting in the best interests of its clients; or
    - (v) result in key decision making responsibilities being removed from the FSP.
- (2) An FSP must ensure that any remuneration or fee paid in respect of an activity or function for which a person is appointed as a representative-
- (a) is reasonable and commensurate with the actual function or activity; and
  - (b) is not structured in a manner that may increase the risk of unfair treatment of clients.
- (3) An FSP must develop appropriate contingency plans to ensure the continued function of the FSP's business and continued service to its clients in the event that the appointment of the representative is terminated or becomes ineffective.
- (4) An FSP may not permit a representative to outsource or sub-delegate any activity or part thereof relating to the rendering of financial services that that representative performs on behalf of the FSP.

### **Representatives**

- 41.** (1) A representative of an FSP must have the operational ability to effectively function as a representative of the FSP or perform the activities for which that person was appointed.
- (2) A juristic representative must at all times have at least one key individual responsible for managing or overseeing the financial services rendered by the representative.



**Key individuals**

42. (1) A key individual must have the operational ability to effectively manage and oversee the financial services related activities of the FSP or juristic representative and the financial services in relation to the financial product for which the key individual was approved or appointed.
- (2) A key individual, where he or she is-
- (a) approved or appointed as a key individual of more than one FSP or juristic representative; or
  - (b) approved or appointed as a key individual of an FSP or juristic representative and appointed as a representative of an FSP other than the first mentioned FSP,
- must be able to demonstrate to the Registrar, in a form and manner which may be determined by the Registrar, that he or she has the required operational ability to effectively and adequately manage or oversee the financial services related activities of all the FSPs or juristic representatives for which the key individual was approved or appointed.
- (3) An FSP must, on a regular basis, assess the operational ability of its key individuals to adequately and effectively perform their functions taking into account individual circumstances, the nature, scale, range and complexity of the FSP's financial services related activities and whether the key individuals are approved as key individuals or appointed as representatives of other FSPs.

**CHAPTER 6****FINANCIAL SOUNDNESS*****Part 1 Application and General Requirements*****Application of Chapter**

- 43.** The fit and proper requirements relating to financial soundness contained in this Chapter –
- (a) subject to paragraph (b), apply to-
    - (i) all FSPs; and
    - (ii) juristic representatives;
  - (b) do not apply to-
    - (i) a key individual or a representative that is a natural person; and
    - (ii) an FSP who is a registered Bank as defined in section 1 of the Banks Act, or a registered insurer as defined in sections 1 of the Short-term Insurance Act or Long-term Insurance Act, provided that the FSP complies with the financial soundness requirements prescribed by those Acts.

**General requirements**

- 44.** (1) An FSP and a juristic representative must at all times maintain financial resources that are adequate both as to amount and quality to carry out their activities and supervisory arrangements and to ensure that liabilities are met as they fall due.
- (2) An FSP, other than a Category I FSP that does not hold or receive monies in respect of a financial product, and a juristic representative of such FSP, must have sound, effective and comprehensive strategies, processes and systems to assess and maintain, on an ongoing basis, the amounts, types and distribution of financial resources that it considers adequate to cover:
- (a) the nature and level of the risks to which it is, or might be, exposed;
  - (b) the risk that the FSP or juristic representative might not be able to meet the requirements set out in this Chapter.
- (3) No person may become or continue as an FSP or juristic representative if-
- (a) declared insolvent or provisionally insolvent;
  - (b) placed under liquidation or provisional liquidation;
  - (c) subject to section 9(3), it is subject to any pending proceedings which may lead to an outcome referred to in paragraph (a) to (b); or
  - (d) subject to section 9(3), it seriously and persistently failed or fails to manage any of its financial obligations satisfactorily.
- (4) No person may become an FSP or a juristic representative if business rescue proceedings have commenced in respect of that person.

***Part 2: Requirements for specific Category I FSPs and their juristic representatives*****Application of Part and Requirement**

- 45.** (1) This part applies to a Category I FSP and a juristic representative of a Category I FSP that does not hold, control or has access to client assets or that does not collect, hold or receive premiums or other monies in respect of a financial product.
- (2) The assets of a –
- (a) Category I FSP; and
  - (b) juristic representative of a Category I FSP,
- must at all times exceed the liabilities of that FSP or that juristic representative.

### **Part 3: Requirements applicable to specific Categories of FSPs and juristic representatives**

#### **Application of Part**

- 46.** (1) The requirements contained in this Part -
- (a) apply, subject to paragraph (b) to-
    - (i) a Category I FSP that holds, controls or has access to client assets or that collects, holds or receives premiums or other monies in respect of a financial product;
    - (ii) a Category II, IIA, III and IV FSP; and
    - (iii) a juristic representative of an FSPs referred to in subparagraph (ii);
  - (b) does not apply to-
    - (i) a Category I FSP that does not hold, controls or has access to client assets or that does not collect, hold or receive premiums or other monies payable in respect of a financial product.

#### **Definitions**

**47.** For purposes of this Part, unless the context indicates otherwise, -

**“additional asset requirement”** means the additional asset requirement referred to in Table B of this Part;

**“annual expenditure”** means -

- (a) the expenditure set out in the latest set of financial statements of an FSP; or
- (b) in the case of an applicant commencing business, the budgeted expenditure as expressed in the budget or financial accounts,

less-

- (i) staff bonuses;
- (ii) employees' and directors', partners' or members' share in profit;
- (iii) emoluments of directors, members, partners or sole proprietor;
- (iv) other appropriation of profits to directors, members and partners;
- (v) remuneration that is linked to-
  - (aa) a percentage of the FSP's revenue; or
  - (bb) a percentage of the revenue generated by an employee, representative or contractor of the FSP; and
 that in the absence of such revenue the FSP has no obligation to pay the remuneration;
- (vi) depreciation;
- (vii) bad debts; and
- (viii) any loss resulting from the sale of assets;

**“assets”** in relation to the general solvency requirement and the additional asset requirement means the assets of an FSP excluding the following assets:

- (a) goodwill;
- (b) intangible assets; and
- (c) investments in and loans to related parties;

**“general solvency requirement”** means the requirement referred to in section 48(1);

**“liabilities”** in relation to the general solvency requirement means the liabilities of the FSP excluding loans subordinated in favour of other creditors;

**“liquid assets”** means-

- (a) cash;
- (b) a participatory interest in a money market portfolio;

- (c) 70% of the market value of a participatory interest in a collective investment scheme, other than an investment in a money market portfolio or a CIS hedge fund; or
- (d) 70% of the market value of a security listed on a licensed exchange provided it does not constitute more than 50% of total liquid assets,
- (e) provided that -
  - (i) the assets referred to in paragraphs (a) and (b) are capable of being converted, without any penalty on capital in terms of the conditions of the asset, into cash as follows:
    - (aa) 50% within 7 days; and
    - (bb) 50% within 30 days; and
  - (ii) the assets referred to in paragraphs (c) and (d) are capable of being converted into cash within 7 days;

**“liquidity requirement”** means the liquidity requirement referred to in Table B of this Part;

**“money market portfolio”** means a money market portfolio as contemplated in the Collective Investments Schemes Control Act;

**“remuneration”** for purposes of the definition of ‘annual expenditure’, includes salaries, wages, commissions, fees and any other payment, paid directly or indirectly by an FSP to an employee, representative or contractor of that FSP either directly or indirectly;

**“working capital requirement”** means the working capital requirement referred to in Table B of this Part.

#### **Specific requirements**

- 48.** (1) The assets of a person referred to in section 46(1)(a) must at all times exceed the liabilities of that person.
- (2) A person referred to in section 46(1)(a) must at all times comply with the additional asset, working capital and liquidity requirements as set out in Table B.
  - (3) An FSP referred to in section 46(1)(a) must submit to the Registrar Form A in Annexure Six -
    - (a) in the case of a Category II, IIA and III FSP, on a half yearly basis calculated in terms of the FSP’s financial year;
    - (b) in the case of a Category I and IV FSP, on an annual basis.
  - (4) A juristic representative referred to in section 46(1)(a) must submit to its FSP, on a half yearly basis calculated in terms of the representative’s financial year, Form A in Annexure Six.
  - (5) The form referred to in subsections (3) and (4) must be submitted –
    - (a) in the case of persons referred to in subsections (3)(a) and (4), within 45 days after every half year-end of the FSP or juristic representative as the case may be; and
    - (b) in the case of Category I and IV FSPs, simultaneously with the financial statements of the FSP as contemplated in section 19 of the Act.



<b>TABLE B</b>			
<b>Category of FSP and juristic representative</b>	<b>Additional Asset Requirement</b>	<b>Working Capital Requirement</b>	<b>Liquidity Requirement</b>
<b>Category I</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure
<b>Category II</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 8/52 weeks of annual expenditure
<b>Category IIA</b>	Assets of the FSP must exceed the FSP's liabilities by at least R3 million	Current assets must exceed current liabilities	Liquid assets equal to or greater than 13/52 weeks of annual expenditure
<b>Category III</b>	Assets of the FSP must exceed the FSP's liabilities by at least R3 million	Current assets must exceed current liabilities	Liquid assets equal to or greater than 13/52 weeks of annual expenditure
<b>Category IV</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure

### Early warning requirements

49. (1) An FSP referred to in section 46(1)(a) must, in writing, immediately notify the Registrar when-
- the assets of the FSP or that of its juristic representative exceed the liabilities by less than 10%;
  - the current assets of the FSP or that of its juristic representative exceeds the current liabilities by less than 10%;
  - in respect of a Category IIA and III FSP and juristic representatives of that FSPs, the additional assets of the FSP or that of its juristic representative exceeds the minimum requirement by less than 10%;
  - the FSP or its juristic representative does not meet any of the requirements in this Chapter; or
  - the FSP becomes aware of an event or situation that may or will result in the effect contemplated in paragraphs (a), (b) and (c).

- (2) The notification referred to in subsection (1) must be certified by the chief executive officer, controlling member, managing or general partner, or trustee, of the FSP as the case may be.
- (3) The requirements set out in subsection (1) apply, with the necessary changes to a juristic representative referred to in section 45(1)(a)(iii), provided that the notification referred to in that subsection must be made to the FSP of the juristic representative.
- (4) If any of the factors in subsection (1) arises, the FSP may not directly or indirectly make any payment by way of a loan, advance, bonus, dividend, repayment of capital or a loan or any other payment or other distribution of assets to any director, officer, partner, shareholder, related party or associate without the prior written approval of the Registrar.

**Multiple Category FSPs**

- 50.** A person authorised as an FSP or appointed as a juristic representative under more than one category of FSP must comply with the most onerous of the financial soundness requirements applicable to the different categories of FSPs for which that person is authorised or appointed.

## CHAPTER 7

### MISCELLANEOUS: Repeal of previous Board Notices on fit and proper requirements, savings, and transitional provisions

#### Repeals

51. (1) The following are hereby repealed:
- (a) the Notice on Determination of Qualifying Criteria and Qualifications for Financial Services Providers, Number 1 of 2008, published by Board Notice 105 of 2008 in *Government Gazette* 31514 of 15 October 2008;
  - (b) the Notice on Determination of Fit and Proper Requirements for Financial Services Providers, 2008, published by Board Notice 106 of 2008 in *Government Gazette* 31514 of 15 October 2008; and
  - (c) the Notice on Exemption of Certain Persons from the Level 1 Regulatory Examination Requirements, 2012, published by Board Notice 102 of 2012 in *Government Gazette* 35422 of 6 June 2012.

#### Transitional provisions

##### *Qualifications*

52. (1) The qualifications obtained by an FSP, key individual or a representative –
- (a) relating to a particular financial product and particular financial service in relation to a specific category of FSP in respect of which the FSP, key individual or representative was authorised, approved or appointed prior to 1 January 2010; and
  - (b) that complied with the relevant requirements set out in section 10 of the Notice referred to in section 51(1)(b),
- is deemed to meet the minimum qualification requirements set out in Part 3 of Chapter 3 but only insofar it relates to that particular financial product and particular financial service in respect of which it was so authorised, approved or appointed.
- (2) The qualifications recognised by the Registrar and published on the List of Recognised Qualifications in terms of the Notices referred to in section 51(1)(a) and (b) is deemed to be recognised in terms of Part 3 of Chapter 3 for the particular financial product and particular financial service for which the qualification was recognised.

##### *Experience*

- (3) The experience gained by an FSP or a representative, excluding a representative working under supervision, who was authorised or appointed for a particular financial product and particular financial service in relation to a specific category of FSP prior to the commencement of this Notice is deemed to meet the minimum experience requirements set out in Part 2 of Chapter 3 for that particular financial product and particular financial service.
- (4) The experience gained by a key individual approved prior to the commencement of this Notice to manage or oversee the rendering of a particular financial service in respect of a particular financial product in relation to a specific category of FSP is deemed to meet the minimum experience requirements set out in Part 2 of Chapter 3.

##### *Product specific training*

- (5) Subject to subsection (6), an FSP or representative, excluding representatives working under supervision, authorised or appointed prior to the commencement of this Notice is deemed to have completed the product specific training contemplated in Part 5 of Chapter 3 for the financial products for which they were authorised or appointed.

- (6) The deeming provision in subsection (5) –
- (a) is limited to the particular financial products for which the FSP or representatives was authorised or appointed and in respect of which financial services were rendered prior to the commencement of this Notice; and
  - (b) does not apply to the requirement to complete product specific training on amendments to particular financial products where those amendments occurred after the commencement of this Notice.
- (7) A representative working under supervision at commencement of this Notice has three months from the date on which section 29(1)(b) comes into effect to comply with the product specific training requirements set out in Part 5 of Chapter 3.
- (8) A person authorised or appointed after commencement of this Notice but prior to the date on which section 29(1)(b) comes into effect has three months from the effective date of section 29(1)(b) to comply with the product specific training requirements set out in Part 5 of Chapter 3.

*Class of business training*

- (9) An FSP, key individual, other than a key individual of a Category I FSP, or representative, excluding a representative working under supervision, authorised, approved or appointed prior to commencement of this Notice is deemed to have completed the class of business training contemplated in Part 5 of Chapter 3 in respect of the financial products for which they were so authorised, approved or appointed.
- (10) A key individual of a Category I FSP approved prior to commencement of this Notice is deemed to have completed the class of business training contemplated in Part 5 of Chapter 3 in respect of the financial products for which the –
- (a) key individual was approved to manage or oversee; or
  - (b) Category I FSP, in respect of which the key individual was approved, was authorised, during any period prior to the commencement of this Notice.
- (11) A key individual referred to in subsection (10) must –
- (a) within six months after commencement of this Notice inform the Registrar of the classes of business it currently manages and oversees in respect of all FSPs for which it is approved; and
  - (b) submit the information referred to in paragraph (a) in the manner and format prescribed by the Registrar.
- (12) A representative working under supervision at commencement of this Notice has 12 months from the date on which section 29(1)(a) comes into effect to comply with the class of business training requirements set out in in Part 5 of Chapter 3 for the financial products in respect of which they are working under supervision.
- (13) A person authorised, approved or appointed after commencement of this Notice but prior to the date on which section 29(1)(a) comes into effect has 12 months from the effective date of section 29(1)(a) to comply with the class of business training requirements set out in in Part 5 of Chapter 3.

*Restrictions on licence*

- (14) The restrictions on the licence of an FSP authorised at the date of commencement of this Notice for the financial products listed in Column A of Table C will be –
- (a) amended by the Registrar to include the corresponding financial products listed in Column B of the Table; and



- (b) deemed to be authorised for the corresponding financial products listed in column B until such time the Registrar has amended the restrictions of its licence.

TABLE C	
Column A	Column B
Short-term Insurance Personal Lines	Short-term Insurance Personal Lines A-1
Long-term Insurance subcategory B1	Long-term Insurance subcategory B1-A
Long-term Insurance subcategory B2	Long-term Insurance subcategory B2-A

- (15) The FSP referred to in subsection (14) must within three months after the amendment by the Registrar of the restrictions on its licence update the central representative register to correctly reflect the financial products in respect of which a representative is appointed to render financial services.
- (16) The first date on which an FSP, key individual or representative was authorised, approved or appointed for the financial products referred to in Column A of Table C, where that date occurred prior to the commencement of this Notice, will be deemed to be the date on which the FSP, key individual or representative was first authorised, approved or appointed for the financial products referred to in Column B.
- (17) An FSP that-
- renders financial services in respect of a financial product listed in Column A of Table D; and
  - at commencement of this Notice is authorised to render the services in respect of the financial product referred to in paragraph (a);
- is deemed to be authorised for the corresponding financial product listed in Column B of Table D -
- provided the FSP submits an application for authorisation to render the services in respect of the financial product listed in Column B of Table D to the Registrar within three months after commencement of this Notice; and
  - until such time the Registrar has finally approved or rejected the application referred to in subparagraph (i).

TABLE D	
Column A	Column B
Participatory interest in a collective investment scheme	Participatory interest in a CIS hedge fund
Short-term deposit	Structured deposit
Long-term deposit	Structured deposit

### Short title and commencement

53. (1) This Notice is called the Determination of Fit and Proper Requirements, 2017, and comes into operation on 1 April 2018, except those sections of the Notice specified in the first column of the Table hereunder, which will take effect on the dates as indicated in the second column of the Table.

Section in Notice	Effective Date
Sections 13(3) and (5)	1 May 2018
Section 29(1)(a)	1 August 2018

Section 29(1)(b)	1 May 2018
Section 29(2)	1 August 2018
Sections 31 – 34	1 June 2018
Section 38	1 May 2018
Sections 44(1) and (2); 45; 48 and 49 but only insofar it relates to a juristic representative	1 March 2019

## ANNEXURE ONE

**MINIMUM EXPERIENCE****TABLE 1: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY I FSPs**

<b>TABLE 1</b>			
<b>TABLE 1: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY I FSPs</b>			
	<b>Column A Financial products</b>	<b>Column B Advice: Min. experience</b>	<b>Column C: Intermediary services: Min. experience</b>
1.1	Long-term Insurance subcategory A	6 months	2 months
1.2	Short-term Insurance Personal Lines	1 year	6 months
1.3	Long-term Insurance subcategory B1	1 year	6 months
1.4	Long-term Insurance subcategory C	1 year	6 months
1.5	Retail Pension Benefits	1 year	6 months
1.6	Short-term Insurance Commercial Lines	1 year	6 months
1.7	Pension Fund Benefits	1 year	6 months
1.8	Shares	2 years	1 year
1.9	Money-market instruments	2 years	1 year
1.10	Debentures and securitised debt	2 years	1 year
1.11	Warrants, certificates or other instruments	2 years	1 year
1.12	Bonds	2 years	1 year
1.13	Derivative instruments	2 years	1 year
1.14	Participatory interest in a collective investment scheme	1 years	1 year
1.15	Forex Investment	2 years	1 year
1.16	Health Service Benefits	2 years	2 years
1.17	Long-term Deposits	6 months	3 months
1.18	Short-term Deposits	6 months	3 months
1.19	Friendly Society Benefits	6 months	2 months
1.20	Long-term Insurance subcategory B2	1 year	6 months
1.21	Long-term Insurance subcategory B2-A	1 year	6 months
1.22	Long-term Insurance subcategory B1-A	1 year	6 months
1.23	Short-term Insurance Personal Lines A1	1 year	6 months
1.24	Structured Deposits	2 years	1 year
1.25	Securities and instruments	2 years	1 year
1.26	Participatory interest in a CIS hedge fund	2 years	1 year

**TABLE 2: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY II FSPs**

<b>TABLE 2</b>		
<b>EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY II FSPs</b>		
	<b>Column A Financial Product</b>	<b>Column B: Minimum Experience</b>
2.1.	Long-term Insurance subcategory B1	2 years
2.2	Long-term Insurance subcategory C	2 years
2.3	Retail Pension Benefits	2 years
2.4	Pension Fund Benefits	2 years
2.5	Shares	3 years
2.6	Money market instruments	3 years
2.7	Debentures and securitised debt	3 years
2.8	Warrants, certificates and other instruments	3 years
2.9	Bonds	3 years
2.10	Derivative instruments	3 years
2.11	Participatory Interests in a collective investment scheme	2 years
2.12	Forex Investment	3 years
2.13	Long-term Deposits	1 year
2.14	Short-term Deposits	1 year
2.15	Long-term Insurance subcategory B2	2 years
2.16	Long-term Insurance subcategory B2-A	2 years
2.17	Long-term Insurance subcategory B1-A	2 years
2.18	Structured Deposits	3 years
2.19	Securities and instruments	3 years
2.20	Participatory interest in a CIS hedge fund	3 years



## ANNEXURE TWO

**APPROPRIATE SUBJECT LIST**

<b>TABLE 1</b>		
<b>APPROPRIATE SUBJECT LIST</b>		
<b>All Categories</b>		
Accounting	Equities Settlement	Mercantile Law
Actuarial Science	Equity Investments	Micro-economics
Advanced Investment Advice	Equity/ Equities	Money Laundering Control
Agricultural Economics	Estate and Trust Law	Money laundering schemes
Applied Accountancy Skills	Estate Planning	Money Market
Applied Mathematics	Ethics	Money Market Settlement
Applied Statistics	Finance	Network Administration
Applied Time Value of Money	Finance For Non-Financial Managers	Operational Risk Management
Asset Classes & Basic Investment Principles	Financial Accounting	Payment Of Entitlement
Auditing	Financial Advice	Performance and Risk Strategy
Auditing and Internal Control	Financial Analysis	Personal Financial Planning
Authorisations And Approvals (Trading)	Financial Calculations	Personal Insurance Products and Practice
Banking	Financial Engineering	Portfolio Management
Banking Operations	Financial Governance	Practical Accounting Data Processing
Basic Economic Principles	Financial Management	Primary, secondary and wholesale markets
Behavioural Finance & Economics	Financial Market Operations	Principles Of Ethics In A Business Environment
Blockchain	Financial Market Regulatory Environment	Principles of Insurance
Bond and stock markets	Financial Markets	Principles of Life Insurance
Bonds	Financial Mathematics	Principles of Strategy, Financial Management and Risk
Bonds Settlement	Financial Operations	Principles of Taxation
Business Administration	Financial Planning	Process Management (Process Modeling And Control)
Business Assurance	Financial Planning Principles	Production Management
Business Economics	Financial Reporting	Prudential Requirements
Business Entities	Financial Services Industry	Quality Control In Call Centres
Business Environment	Financial Services Operations	Quantitative Economics
Business Ethics	Financial Services Preparations	Quantitative Finance
Business Finance	Financial Statements	Quantitative Investment Analysis

TABLE 1 APPROPRIATE SUBJECT LIST		
Business Informatics	Forex Exposure Management	Quantitative Techniques
Business Information Systems	Fundamentals Of Financial Services	Regulatory Environment
Business Insurance	General Management	Responsibilities of financial institutions
Business Integration	Global Business Environment	Retirement Finance
Business Management	Governance, Risk And Compliance Management	Retirement Planning
Business Management & Financial Risk Assessment	Group Retirement Benefits	Retirement Related Legislation
Business Mathematics	Health Benefits/ Health Care Benefits	Retirement Wealth Preservation
Business to Business Marketing	Human Computer Interaction	Risk Financing
Call Centre Management	Independent audits and reviews	Risk Management
Capital market frameworks and concepts	Informatics	Risk Management and Insurance
Claims Management	Information Technology Architecture	Securities Information and Market Conditions
Client / Customer Services	Information Technology Enterprise	Securities Markets
Client Investment Needs	Insurance	Settlement (Finance)
Client Services and Financial Advice	Insurance & Risk Management	Small Business Management
Collateral Management	Interest-Bearing Investment	South African Financial System
Collective Investment Scheme Product Solutions	International Finance	Statistics or Analytical Techniques
Commercial Insurance Products and Practice	International Trade	STRATE
Commercial Law	Interpretation Of Statutes	Strategic Communication Management Skills
Companies Law	Introduction To The Financial Markets	Strategic Management
Complaints And Disputes	Introductory Financial Accounting	Strategy
Compliance function	Investment Management	Structured Systems Analysis and Design
Computer Architecture	Investment or Portfolio Management	Tax/ taxation
Conduct Of Business (Regulation)	Investment Planning	Taxation Law
Consumer Behaviour	Investor Psychology	Taxation Planning
Corporate Finance	Law Of Contract Or Delict	The Bond Market
Corporate Financial Planning	Law Of Succession	The Derivatives Market
Corporate Governance	Legal Environment	The Equity Market
Corporate Law	Legislative Impact On Financial Advisors/ Planners	The Regulation And Ethics Of The South African Financial Markets
Cost Accounting	Long-Term Product Solutions	The South African Foreign Exchange Market
Cost and Financial Management	Macro Economics	Trade and Business Law

**TABLE 1**  
**APPROPRIATE SUBJECT LIST**

Costing and Estimating	Management	Trading On The Exchange
Creation of Wealth	Management Accounting	Treasury Management
Credit Risk Management	Managing Client Assets	Trustee management
Crypto Banking	Market Conduct	Visual Programming
Crypto Currency	Market Risk Management	Wealth Creation
Debt Instrument Solutions	Marketing	Wealth Management
Descriptive Statistics and Probability	Mathematical Analysis	
E-commerce in Business	Mathematical Economics	
Econometrics	Mathematical Statistics	
Economics	Mathematics	
Employee Benefits	Mathematics for Finance and Business	
Entrepreneurship	Medical Schemes	

## ANNEXURE THREE

**TIER 1 AND TIER 2 FINANCIAL PRODUCTS**

TABLE 1 FINANCIAL PRODUCTS	
Column A Tier 1 Financial Products	Column B Tier 2 Financial Products
Structured Deposits	Short-term Insurance Personal Lines A1
Short-term Insurance Personal Lines	Long-term Insurance subcategory A
Short-term Insurance Commercial Lines	Long-term Insurance subcategory B1-A
Long-term Insurance subcategory B1	Long-term Insurance subcategory B2-A
Long-term Insurance subcategory B2	Friendly Society Benefits
Long-term Insurance subcategory C	Short-term Deposits
Retail Pension Benefits	Long-term Deposits
Pension Fund Benefits	
Participatory interest in a collective investment scheme	
Participatory interest in a CIS hedge fund	
Forex Investment	
Health Service Benefits	
Shares	
Money market instruments	
Debentures and securitised debt	
Warrants, certificates and other instruments	
Bonds	
Derivative instruments	
Securities and Instruments	



## ANNEXURE FOUR

### CLASSES OF BUSINESS

1. In this Annexure –

“**Accident and health policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Assistance policy**” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“**Engineering policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Fund policy**” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“**Guarantee policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Long-term investment policy**” means a life policy as defined in section 1(1) of the Long-term Insurance Act other than a life risk policy;

“**Liability policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Life risk policy**” means a disability, health or life policy as defined in section 1(1) of the Long-term Insurance Act that provides risk benefits only;

“**Long-term reinsurance policy**” means a reinsurance policy as defined in section 1(1) of the Long-term Insurance Act;

“**Miscellaneous policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Motor policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Property policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“**Short-term reinsurance policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act;

“**Sinking fund**” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“**Transportation policy**” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy.

<b>TABLE 1</b>	
<b>CLASSES OF BUSINESS</b>	
<b>1.</b>	<b>Short-term Insurance: Personal Lines</b>
<b>Subclasses</b>	
1.1	Personal lines: Accident and health policy
1.2	Personal lines: Liability policy
1.4	Personal lines: Miscellaneous policy
1.5	Personal lines: Motor policy
1.6	Personal lines: Property policy
1.7	Personal lines: Transportation policy
1.8	Personal lines: Short-term reinsurance policy
<b>2.</b>	
<b>Short-term Insurance: Commercial Lines</b>	
<b>Subclasses</b>	
2.1	Commercial lines: Accident and health policy
2.2	Commercial lines: Engineering policy
2.3	Commercial lines: Guarantee policy
2.4	Commercial lines: Liability policy
2.5	Commercial lines: Miscellaneous policy
2.6	Commercial lines: Motor policy
2.7	Commercial lines: Property policy
2.8	Commercial lines: Transportation policy
2.9	Commercial lines: Short-term reinsurance policy
<b>3.</b>	
<b>Long-term Insurance</b>	
<b>Subclasses</b>	
3.1	Assistance policy
3.2	Life risk policy
3.3	Life investment, policy
3.4	Fund policy
3.5	Sinking fund policy
3.6	Long-term reinsurance policy
<b>4.</b>	
<b>Pension Fund Benefits</b>	
<b>5.</b>	
<b>Short-term and Long-term Deposits</b>	
<b>6.</b>	
<b>Structured Deposits</b>	

<b>TABLE 1</b>	
<b>CLASSES OF BUSINESS</b>	
<b>7.</b>	<b>Investments</b>
<b>Subclasses</b>	
7.1	Shares
7.2	Money market instruments
7.3	Debentures and securitised debt
7.4	Bonds
7.5	Derivative instruments, warrants, certificates or other instruments
7.6	Securities and Instruments
7.7	Participatory interests in a collective investment scheme
7.8	Participatory interest in a CIS hedge fund
7.9	Retail Pension Benefits
<b>8.</b>	<b>Forex Investments</b>
<b>9.</b>	<b>Health Services Benefits</b>

## ANNEXURE FIVE

**REGULATORY EXAMINATIONS****Contents****Table 1:** Regulatory Examination: FSPs and Key Individuals in all Categories of FSPs**Table 2:** Regulatory Examination: FSPs and Key Individuals in Categories II and IIA**Table 3:** Regulatory Examination: FSPs and Key Individuals in Category III**Table 4:** Regulatory Examination: Representatives in all Categories of FSPs**TABLE 1: REGULATORY EXAMINATION: FSPs AND KEY INDIVIDUALS IN ALL CATEGORIES OF FSPs**

TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
1	Demonstrate understanding of the FAIS Act as a regulatory framework	1	Describe the FAIS Act and subordinate legislation	K
		2	Explain how the FAIS Act is integrated with other Financial Services Board legislation	K
		3	Describe the requirements when interaction between FSPs takes place	K
		4	Explain in general which departments of the Registrar's office deal with which FSP matters	K
		5	Interact with the Registrar when and where required	S
		6	Explain what is the correct format of communication with the Registrar	K
		7	Explain what processes are required to remain updated with regards to published changes to legislation that will affect the FSP.	K
2	Define financial products and financial services.	1	Provide an overview of the financial services and different types of financial products an FSP can deal with.	K
		2	Apply knowledge of the financial products within the financial services environment.	S
		3	Explain the different financial products with examples of products in each category.	K
3	Maintain the licence of the FSP	1	Describe the requirement for licensing of an FSP	K
		2	Apply for an FSP licence	S
		3	Describe the requirements for changing any aspect of an FSP licence	K
		4	Explain the impact of licensing conditions on an FSP.	K
		5	Manage the licensing conditions.	S
		6	Describe what changes to the FSP licensing details must be communicated to the Registrar	K
		7	Confirm that the Registrar is informed within the prescribed timeframes of any changes to the FSP licensing details.	S
		8	Describe the implications for the FSP if any of the licensing conditions are not met	K
		9	Discuss the requirements around the display of licences.	K
		10	Verify that the FSP has internal controls and procedures in place to ensure that financial services are rendered	S



TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
			within the limitations on categories and subcategories for which the licence is issued.	
		11	Explain the implications when a Key Individual leaves the employ of the FSP.	K
		12	Explain the implications for a Key Individual and/or FSP if an accreditation is suspended or withdrawn or lapsed in terms of the Medical Schemes Act, 1998, or any other enabling legislation	K
		13	Explain what levies are payable to the Registrar and when they should be paid.	K
		14	Verify that there are processes in place to pay the levies within the prescribed timeframes	S
		15	Explain the reasons why a licence can be suspended or withdrawn.	K
		16	Describe the conditions under which suspensions, withdrawals and reinstatements of authorisation may be imposed.	K
		17	Explain what recourse an FSP has where its licence has been suspended or withdrawn.	K
		18	Discuss why a licence would be lapsed	K
		19	Describe how lapsing a licence differs from suspension or withdrawal of a licence	K
		20	Discuss the effect of voluntary sequestration, winding-up or closure of a business on its licensing status	K
		21	Describe the requirements where business rescue or application by Registrar for sequestration or liquidation takes place	K
		22	Explain what is meant by "undesirable practices."	K
		23	Check that there are processes in place to check whether the Registrar has published notices regarding undesirable practices	S
		24	Verify that there are processes in place to ensure that the business is aware of declared undesirable practices and that they cease any such practices	S
		25	Describe the implications for an FSP if the Registrar declares a business practice to be undesirable	K
		26	Explain the reparation measures available to the Registrar if an FSP continues with undesirable business practices.	K
		27	Explain the implications where the Registrar issues a directive	K
		28	Describe the process of On-site inspections by the Registrar	K
		29	Describe the FAIS Act offences	K
		30	Ensure that there are processes in place to avoid actions that can be regarded as offences under the FAIS Act.	S
		31	Define the recourse that an FSP has in the event of a decision made by the Registrar	K

TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		32	Explain the process of enforcement as provided for in legislation	K
4	Operate as a key individual in terms of the FAIS Act.	1	Describe the roles and responsibilities of key individuals as defined in the FAIS Act.	K
		2	Explain the requirements for approval of a key individual by the Registrar	K
		3	Describe the regulated management and oversight responsibilities of a key individual	K
		4	Perform the regulated management and oversight responsibilities of a key individual	S
		5	Explain the controls required to ensure sufficient management and oversight of the financial services that are rendered	K
		6	Explain when an individual can commence acting as a key individual.	K
		7	Describe the good standing, honesty and integrity requirements for a key individual.	K
		8	Check whether a current/potential key individual meets the good standing, honesty and integrity requirements.	S
		9	Explain the implications for a key individual should the key individual no longer meet the good standing, honesty and integrity requirements	K
		10	Take appropriate action where a current key individual no longer meets the good standing, honesty and integrity requirements.	S
		11	Explain the implications for an FSP should a key individual no longer meet the good standing, honesty and integrity requirements	K
		12	Describe the competence requirements for a key individual	K
		13	Check whether a current/potential key individual meets the competence requirements.	S
		14	Describe the on-going training and development requirements for key individuals.	K
		15	Verify that the record keeping required for the on-going meeting of fit and proper requirements for key individuals is in place	S
5	Manage and oversee the operational ability of the FSP.	1	Describe the operational ability requirements prescribed in the FAIS Act.	K
		2	Confirm that there is adequate storage and filing systems for the safe keeping of records, business communications and correspondence.	S
		3	Verify that the FSP has the required bank accounts	S
		4	Implement and maintain the prescribed professional indemnity or fidelity insurance cover	S
		5	Ensure that disaster recovery and business continuity plans are in place	S
		6	Describe the financial soundness requirements for an	K

TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
			FSP	
		7	Confirm that the financial soundness requirements are met	S
		8	Describe the requirements when outsourcing an administration or system function relating to financial services	K
		9	Ensure, where activities are outsourced, that written service level agreements are in place	S
		10	Check that there are processes in place to ensure that suitable providers are selected for any outsourced functions	S
		11	Confirm that where outsourced entities provide financial services, that they are authorised FSP's.	S
6	Adhere to the General Code of Conduct	1	Describe the general and specific duties of a provider	K
		2	Describe the processes that need to be in place to manage conflict of interest	K
		3	Describe what could possibly be a conflict of interest	K
		4	Define what needs to be in a conflict of interest policy	K
		5	Ensure that the FSP is managing potential conflicts of interest.	S
		6	Apply the requirements of the General Code of Conduct for FSPs and Representatives.	S
		7	Explain the disclosures that need to be made before rendering a financial service	K
		8	Explain disclosures that must be made when rendering a financial service	K
		9	Check that disclosures are adequate to enable client's to make an informed decision.	S
		10	Explain the requirements for an FSP when custody of financial products and funds occurs.	K
		11	Confirm that there is a separate bank account with a registered bank into which client monies are deposited.	S
		12	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to risk management and insurance	K
		13	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to marketing and advertising	K
		14	Explain the manner in which complaints are to be handled by the FSP as required by General Code of Conduct for FSPs and Representatives.	K
		15	Verify that complaints procedures and processes are in place.	S
		16	Follow the complaints procedures and processes that are in place for the FSP.	S
		17	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to the termination of agreement or business	K

TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
7	Manage and oversee the compliance functions as required by the FAIS Act.	1	Describe the compliance arrangements required by the FSP	K
		2	Explain the requirements of the compliance function within the FSP.	K
		3	Establish the compliance function within the FSP.	S
		4	Establish and maintain compliance and reporting arrangements for the FSP	S
		5	Check that the compliance arrangements specify frequency of monitoring and reporting	S
		6	Implement and maintain a documented process to ensure the adequacy of the FSP's compliance and monitoring arrangements.	S
		7	Describe when a Compliance Officer should be appointed	K
		8	Explain the criteria for approval of a Compliance Officer by the Registrar.	K
		9	Ensure that the Compliance Officer is approved by the Registrar	S
		10	Describe the role and function of a Compliance Officer.	K
		11	Confirm that the compliance function / compliance practice has sufficient resources to provide an efficient compliance service	S
		12	Explain why it is important for the Compliance Officer to act independently from the management of the FSP.	K
		13	Confirm that the Compliance Officer / compliance practice can function objectively and sufficiently independently of the FSP and avoids conflicts of interest	S
		14	Explain why it is important for the Compliance Officer to be able to avoid conflicts of interest during the execution of their duties	K
		15	Manage potential conflict of interest where there is not a specifically appointed Compliance Officer / compliance practice	S
		16	Understand the content of the compliance report(s) in order to be able to sign it off.	K
		17	Confirm that where the Compliance Officer found any instances of non-compliance that this is addressed and rectified.	S
		18	Replace the Compliance Officer if he/she does not have the required approval of the Registrar.	S
8	Comply with regulated record keeping requirements	1	Explain the record keeping obligations as prescribed by the FAIS and FIC Acts.	K
		2	Verify that record keeping and retrieval of records is carried out in terms of the obligations prescribed by the FAIS and FIC Acts	S
		3	Describe the requirements imposed when record keeping is outsourced to a third party.	K
		4	Confirm that third party outsourcing agreements are executed correctly.	S



TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		5	Explain the security requirements for record keeping in terms of confidentiality and access to records.	K
9	Manage and oversee the accounting and auditing requirements	1	Describe the accounting and auditing requirements prescribed by the FAIS Act	K
		2	Check that the required accounting and auditing requirements are in place and carried out accurately and timeously.	S
		3	Describe the requirements for appointing an auditor or accounting officer	K
		4	Ensure that the audit report submitted to the Registrar where funds are received meets the regulatory requirements	S
10	Manage and oversee the requirements of the FIC Act and Money Laundering and Terrorist Financing control regulations, as it applies to the FSP.	1	Explain the requirements specific to an FSP prescribed by the FIC Act	K
		2	Verify that all requirements for internal rules as required by the FIC Act are in place	S
		3	Verify that the FSP has processes in place to ensure compliance with the identification, verification, record-keeping and reporting obligations under the FIC Act.	S
		4	Check that there are processes in place to ensure that employees receive training in respect of, and are aware of, their obligation to report suspicious transactions.	S
11	Deal with complaints that have been submitted to the Ombud for FSPs	1	Explain the role and authority of the Ombud for FSPs	K
		2	Discuss the obligations of the FSP in respect of an investigation conducted by the Ombud for FSPs	K
		3	Check that there are processes in place to ensure that the FSP cooperates in the case of an investigation by the Ombud.	S
12	Define the role of the representative in terms of the FAIS Act.	1	Describe the roles and responsibilities of representatives as defined in the FAIS Act.	K
		2	Explain when an individual must be appointed as a representative in terms of the FAIS Act	K
		3	Describe the purpose and requirements of the register of representatives	K
		4	Verify that the FSP maintains a register of representatives that meets the requirements of the FAIS Act	S
13	Manage and oversee the appointment of representatives.	1	Explain what needs to be in place when appointing a representative	K
		2	Verify that there are processes that enable the FSP to check that a representative meets the fit and proper requirements and can be appointed	S
14	Manage the rendering of services under supervision.	1	Explain when representatives can act under supervision.	K
		2	Confirm that there are sufficient qualified individuals to act in the role of supervisor	S
		3	Describe the requirements that must be in place when representatives act under supervision.	K
		4	Ensure that the supervisors understand their role and	S

TABLE 1				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
			have the capacity for the number of supervisees	
		5	Verify that there is supervision in place to oversee representatives	S
		6	Perform the necessary supervision functions on representatives	S
		7	Explain the disclosure requirements for a representative under supervision	K
15	Manage and oversee the representatives appointed by an FSP.	1	Describe the on-going Fit and Proper requirements for representatives.	K
		2	Verify that the record keeping required for the on-going meeting of Fit and Proper requirements for representatives is in place	S
		3	Implement and maintain a documented process to ensure that all representatives are competent and will provide financial services on behalf of the FSP in accordance with the FAIS Act	S
		4	Check that there are processes to ensure that representatives are making progress towards the Fit and Proper requirements.	S
		5	Describe the implications if a representative no longer meets the Fit and Proper requirements	K
16	Debar representatives that have failed to comply with any provision of the FAIS Act in a material manner	1	Define the purpose of debarment	K
		2	Describe when debarment should be considered.	K
		3	Check that the employment/mandatory agreement with representatives include scope of activities as a representative and reasons for possible debarment	S
		4	Explain the debarment process that should be followed in the event of a possible contravention of the FAIS Act	K
		5	Confirm that all role players in the FSP are informed about the reasons why debarment would be considered, the process that would be followed and any recourse that a representative may have	S
		6	Verify that there are internal processes and procedures in place for the debarment of representatives	S
		7	Explain the timeframe and process to notify the Registrar of a debarment	K

**TABLE 2: REGULATORY EXAMINATION: FSPs AND KEY INDIVIDUALS IN CATEGORIES II AND IIA FSPs**

TABLE 2				
No	Task	Knowledge Criteria	Skill Criteria	
1	Apply the Category II and/or IIA FSP business model	Describe the characteristics of a Category II and/or IIA FSP and how that differentiates it from other financial services providers in Cat I and/or III.	Take the difference between Category II and/or IIA FSPs and other financial services providers into account when making business related decisions	
		Discuss the separation of client assets from category II and/or IIA FSP's assets.	Perform the fiduciary duty of the CAT II and/or IIA FSP.	
			Identify which assets belong to the client and which belong to the category II and/or IIA FSP.	
			Interpret basic financial systems.	
			Implement systems and processes to separate client and CAT II and/or IIA FSP assets.	
		Explain the role and responsibilities of the different parties involved, including but not limited to: <ul style="list-style-type: none"> <li>• different parties/ legal entities involved,</li> <li>• nominee,</li> <li>• MANCO,</li> <li>• insurers,</li> <li>• pension funds,</li> <li>• 3rd party FSPs,</li> <li>• Financial Advisors,</li> <li>• brokers,</li> <li>• clients</li> </ul>		
		Describe the need for relevant contractual agreements to be in place with the relevant other party.	Verify that the relevant contractual agreements are in place with the relevant other party.	
	Business is conducted in accordance with the contractual agreements.			
2	Manage the role of the independent nominee	Describe the duties the nominee company is responsible for.	Verify that there are processes in place to check that the nominee company executes its' responsibilities towards the Category II and/or IIA FSP.	
		Explain the purpose of the nominee company.	Confirm the nominee company complies with its duties.	
3	Manage and oversee client mandates	Explain why the category II and/or IIA FSP must use mandates that have been approved by the FSB.	Manage client mandates in accordance to mandatory requirements.	

TABLE 2			
No	Task	Knowledge Criteria	Skill Criteria
		Explain why a mandate cannot be used if it is not approved by the FSB.	
		Explain why a mandate cannot be used if it is not signed by the client or his duly authorised representative.	
		Explain why such a mandate must adhere to the requirements in the Discretionary Code of Conduct.	
		Explain what the requirements are for mandates.	
4	Manage and oversee typical daily transactions	Explain how different products have different turnaround times and should be adhered to.	Check that the systems and processes enable the implementation and execution of different turnaround times for different products.
		Describe how there should be adequate controls in place to manage risks.	Check that the systems and processes have embedded controls to manage and contain risk.
5	Manage and oversee disclosures	Explain how to ensure transparency and manage conflict of interests.	Confirm that disclosures are adequate to enable client's ability to make an informed decision.
6	Understand the legal environment of the CAT II and/or IIA FSP	Explain the liquidity requirement.	Apply the liquidity requirements to own business.
		Explain the implications of the liquidity requirements.	
		Describe the fidelity cover requirements.	Apply the fidelity requirements to own business.
		Explain the implications of the fidelity cover requirements.	
		Describe the applicable capital requirement.	Apply the applicable capital requirements to own business.
		Explain the implications of the capital requirements.	
		Explain why the Category II and/or IIA FSP is not allowed to engage in the netting of transactions.	Verify that there are systems in place to check that netting of transactions will not take place.
		Explain why a Category II and/or IIA FSP must ensure that it only conducts business with another FSP that has the appropriate categories/ subcategories on its license, and that business must also be conducted within the parameters of the client mandate.	Verify that it only conducts business with another FSP that has the appropriate categories/ subcategories on its license, and that business must also be conducted within the parameters of the client mandate, to ensure that all business is legitimate.



TABLE 2			
No	Task	Knowledge Criteria	Skill Criteria
		Describe what the continual compliance with the license requirements and conditions are.	Check that there are systems in place to check that new products or proposed business ventures will meet the limitations of the license requirements and conditions are.
7	Apply the record keeping requirements	Explain the period for which records must be kept.	Incorporate the record keeping requirements when planning system updates and strategic initiatives.
		Describe the requirements specifically applicable to telephone and/or electronic requirements.	Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions.
8	Comply with requirements when reporting to clients	Explain why clients must receive written reports at quarterly intervals, that provide them with investment and related information.	Verify that there are systems and processes that enable the preparation and delivery of accurate quarterly reports.
9	Institute a personal account Trading policy	Describe why a Discretionary FSP should have a personal account policy and why this is important.	Check that there is a personal account trading policy and that there are controls to check that this is adhered to.
10	Apply prohibitions in terms of the Discretionary Code of Conduct	Explain the prohibitions in terms of the Discretionary Code of Conduct.	Check that there are processes and controls in place to ensure that the FSP adheres to the prohibitions in terms of the Discretionary Code of Conduct.
11	Deal with Nominee Regulations	Describe the requirements of the Nominee Regulations, and what the FSP and the nominees must adhere to.	Check that there are processes and controls in place to ensure that the FSP adheres to the requirements in terms of the Nominee Regulations.

**TABLE 3: REGULATORY EXAMINATION: FSPs AND KEY INDIVIDUALS IN CATEGORY III FSPs – correct all references to discretionary code to admin code**

TABLE 3			
No	Task	Knowledge Criteria	Skill Criteria
1	Apply the Category III FSP business model	Describe the characteristics of a category III FSP and how that differentiates it from other product providers such as insurers and unit trusts.	Take the difference between Category III FSPs and other product providers into account when making business related decisions.
		Describe the reason for separation of client assets from Category III FSP's assets.	Perform the fiduciary duty of the category III FSP.
			identify which assets belong to the client and which belong to the category III FSP.
			Interpret basic financial systems.
		Explain the role and responsibilities of the different parties involved, including but not limited to: <ul style="list-style-type: none"> <li>• different parties/ legal entities involved,</li> <li>• nominee,</li> <li>• MANCO,</li> <li>• insurers,</li> <li>• pension funds,</li> <li>• 3rd party FSPs,</li> <li>• Financial Advisors,</li> <li>• brokers,</li> <li>• clients</li> </ul>	Check that there are systems and processes to separate client and Category III FSP assets.
			Explain the concept of bulking and pooling of assets into a single account with investment provider.
		Explain the relevant contractual agreements need to be in place with the relevant other party.	Confirm that the relevant contractual agreements are in place with the relevant other party and business is conducted in accordance with the contractual agreements.
2	Understand the role of the independent nominee	Explain the duties the nominee company is responsible for.	Verify that there are processes in place to check that the nominee company executes its' responsibilities towards the Category III FSP – reporting independence.
		Explain the purpose of the nominee company	Check the nominee company complies with its duties.

TABLE 3			
No	Task	Knowledge Criteria	Skill Criteria
3	Manage and oversee client mandates	Explain why the category III FSP must use mandates that have been approved by the FSB.	Manage client mandates in accordance to mandatory requirements.
		Explain why a mandate cannot be used if it is not approved by the FSB.	
		Explain why a mandate cannot be used if it is not signed by the client or his duly authorised representative.	
		Explain why such a mandate must adhere to the requirements in the Administrative Code of Conduct.	
		Explain what the requirements are for mandates.	
4	Manage/oversee typical daily transactions	Explain how different products have different turnaround times and should be adhered to.	Check that the systems and processes enable the implementation and execution of different turnaround times for different products.
		Describe how there should be adequate controls in place to manage risks.	Check that the systems and processes have embedded controls to manage and contain risk.
		Explain how Category III FSPs are only allowed to take in one day's interest.	Check that the processes and systems only take one day's interest.
5	Manage and oversee disclosures	Explain how to ensure transparency and manage conflict of interests.	Confirm that disclosures are adequate to enable client's ability to make an informed decision.
6	Understand the legal environment of the Category III FSP.	Explain the liquidity requirement.	Apply the liquidity requirements to own business.
		Explain the implications of the liquidity requirements,	
		Describe the fidelity cover requirements.	Apply the fidelity requirements to own business.
		Explain the implications of the fidelity cover requirements.	
		Describe the applicable capital requirement.	Apply the applicable capital requirements to own business.
		Explain the implications of the capital requirements.	
		Explain why the Category III FSP is not allowed to engage in the netting of transactions.	Verify that there are systems in place to check that netting of transactions will not take place.

TABLE 3			
No	Task	Knowledge Criteria	Skill Criteria
		Explain how a Category III FSP must ensure that it only conducts business with another FSP that has the appropriate categories/ subcategories on its license, and that business must also be conducted within the parameters of the client mandate	Confirm that it only conducts business with another FSP that has the appropriate categories/ subcategories on its license, and that business must also be conducted within the parameters of the client mandate, to ensure that all business is legitimate.
		Describe what the continual compliance with the license requirements and conditions are.	Check that there are systems in place to check that new products or proposed business ventures will meet the limitations of the license requirements and conditions are.
7	Apply the record keeping requirements.	Explain the period for which records must be kept.	Incorporate the record keeping requirements when planning system updates and strategic initiatives.
		Describe the requirements specifically applicable to telephone and/or electronic requirements.	Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions.
8	Comply with requirements when reporting to clients	Explain why clients must receive written reports at quarterly intervals, that provide them with investment and related information.	Verify that there are systems and processes that enable the preparation and delivery of accurate quarterly reports.
9	Apply knowledge of the accounting and unit reconciliations	Explain how the accounting and unit reconciliations work.	
10	Apply knowledge of how intermediaries must be licensed before they can do business.	Explain how intermediaries must be licensed before they can do business.	
11	Deal with rebates	Explain how rebates work.	
		Explain all the related disclosures as it applies to rebates.	



**TABLE 4: REGULATORY EXAMINATION: REPRESENTATIVES IN ALL CATEGORIES OF FSPs**

TABLE 4				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
1	Demonstrate understanding of the FAIS Act as a regulatory framework	1	Describe the FAIS Act and subordinate legislation	K
		2	Provide an overview of the financial services and different types of financial products a Representative can deal with.	K
		3	Apply knowledge of the financial products within the financial services environment.	S
		4	Describe the role and function of a Compliance Officer.	K
2	Contribute towards maintaining an FSP licence.	1	Explain the requirements an FSP must meet to maintain an FSP licence.	K
		2	Assist in maintaining an FSP licence by executing the required actions as a Representative, in terms of the Act.	S
		3	Discuss the requirements around the display of licences.	K
		4	Explain the implications for a Representative if an accreditation is suspended or withdrawn or lapsed in terms of the Medical Schemes Act, 1998, or any other enabling legislation	K
		5	Explain what is meant by "undesirable practices."	K
		6	Check that the execution of duties and actions as a Representative does not constitute undesirable business practices.	S
		7	Describe the implications for a Representative if the Registrar declares a business practice to be undesirable	K
		8	Explain the reparation measures available to the Registrar if a Representative continues with undesirable business practices.	K
		9	Describe the offenses prescribed by the FAIS Act	K
3	Define the role of the key individual in terms of the FAIS Act.	1	Describe the roles and responsibilities of key individuals as defined in the FAIS Act.	K
		2	Describe the regulated management and oversight responsibilities of a key individual	K
		3	Explain the implications for a Representative should a key individual no longer meet the good standing, honesty and integrity requirements	K
4	Adhere to the specific Codes of Conduct	1	Describe the general and specific duties of a provider	K
		2	Describe what could possibly be a conflict of interest	K
		3	Define the requirements and impact of the disclosure rules on the FSP.	K
		4	Apply the requirements of the General Code of Conduct for FSPs and Representatives.	S
		5	Explain the disclosures that need to be made by a Representative before rendering a financial service	K
		6	Explain disclosures that must be made by a Representative when rendering a financial service	K

TABLE 4				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		7	Describe the required disclosures regarding the provider, product supplier and financial service.	K
		8	Explain the specific disclosure requirements regarding fees and commission	K
		9	Apply disclosure requirements in terms of financial services	S
		10	Explain the process of advice that should be followed by a Representative	K
		11	Explain the requirements when a Representative receives custody of financial products and funds	K
		12	Explain the manner in which complaints are to be handled by a Representative as required by the General Code of Conduct for FSPs and Representatives.	K
		13	Follow the complaints procedures and processes that are in place for Representatives.	S
		14	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to the termination of an agreement	K
5	Comply with regulated record keeping requirements	1	Explain the record keeping obligations by a Representative as prescribed by the FAIS and FIC Acts.	K
		2	Carry out the record keeping and retrieval of records functionality correctly	S
6	Comply with the requirements of the FIC Act and Money Laundering and Terrorist Financing control regulations, as it applies to the FSP.	1	Explain the requirements specific to an FSP prescribed by the FIC Act	K
		2	Describe how the FIC Act impacts a Representatives' interaction with a client.	K
7	Dealing with complaints that have been submitted to the Ombud for FSPs	1	Explain the role and authority of the Ombud for FSPs	K
8	Operate as a Representative in terms of the FAIS Act.	1	Describe the roles and responsibilities of Representatives as defined in the FAIS Act.	K
		2	Apply knowledge of the role of the Representative in terms of the FAIS Act.	S
		3	Explain the fit and proper requirements that apply to a Representative (good standing, honesty, integrity, qualifications, experience, knowledge tested through regulated examinations and continuous professional development)	K
		4	Distinguish between advice and intermediary services in terms of the FAIS Act.	K
		5	Describe the purpose and requirements of the register of Representatives	K
		6	Explain when a Representative should be under supervision.	K

TABLE 4				
Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		7	Explain the disclosure requirements for a Representative under supervision	K
		8	Describe the implications if a Representative no longer meets the Fit and Proper requirements	K
		9	Define the purpose of debarment	K
		10	Describe when debarment should be considered.	K
		11	Explain the debarment process that should be followed in the event of a possible contravention of the FAIS Act	K
		12	Explain what recourse a debarred Representative may have.	K

## ANNEXURE SIX

**FORM A: LIQUIDITY CALCULATION**

FSP Name

FSP No.

(Liquidity calculation as at \_\_\_\_\_ with comparative figures as  
at \_\_\_\_\_ )

**Notes**

- (1) This form must be completed by the key individual/s of the FSP or in the case of an FSP that is a natural person by such natural person.
- (2) A person that is authorised for multiple categories must submit a single form based on the calculation of the most onerous liquidity requirement.

Component		Current reporting period	Previous reporting period
<b>LIQUID ASSETS</b>			
1.	Cash		
	Capable of being converted without any penalty on capital into cash within 7 days		
	Capable of being converted without any penalty on capital into cash within 30 days		
2.	100% of market value of a participatory interest in a money market portfolio		
	Capable of being converted without any penalty on capital into cash within 7 days		
	Capable of being converted without any penalty on capital into cash within 30 days <b>[Note:</b> The total assets referred to in line 1 and 2 that are capable of being converted into cash within 30 days may not constitute more than 50% of the total assets in line 1 and 2]		
3.	70% of the market value of a participatory interest in a collective investment scheme, other than a participatory interest in a money market portfolio or CIS hedge fund, provided that participatory interest are capable of being converted into cash within 7 days		



Component		Current reporting period	Previous reporting period
4.	70% of the market value of a security listed on a licensed exchange provided it does not constitute more than 50% of total liquid assets		
5.	<b>TOTAL LIQUID ASSETS</b>		
<b>ANNUAL EXPENDITURE</b>			
6.	Total annual expenditure (including sales costs, finance costs and operational costs)		
7.	Less staff bonuses		
8.	Less employees' and directors', partners' or members' share in profit		
9.	Less emoluments of directors, members, partners or sole proprietor		
10.	Less other appropriation of profits to directors, members and partners		
11.	Less remuneration that is linked to- (a) a percentage of the FSP's revenue; or (b) a percentage of the revenue generated by an employee, representative or contractor of the FSP; and  that in the absence of such revenue the FSP has no obligation to pay the remuneration		
12.	Less depreciation		
13.	Less bad debt		
14.	Less any loss resulting from the sale of assets		
15.	<b>TOTAL ADJUSTED ANNUAL EXPENDITURE</b>		
<b>CALCULATION</b>			
16.	Divide total adjusted annual expenditure by 52 (no. of weeks per year)		
17.	Multiply the amount reflected in line 16 with-		
	(a) 4, in the case of a Category I FSP		
	(b) 8, in the case of Category II FSP		

Component		Current reporting period	Previous reporting period
	(c) 13, in the case of a Category IIA FSP		
	(d) 13, in the case of a Category III FSP		
	(e) 4, in the case of a Category IV FSP		
18.	Total liquid assets required (Amount reflected in line 17)		
19.	Deduct total liquid assets required from total liquid assets (Line 5 minus line 18)		

#### Management Declaration

*This declaration must be signed by the Chief Financial Officer of the FSP or in the absence of such a person, a person of equivalent status, or the provider in the case of a provider being a sole proprietor (responsible person).*

I, ....., (name of responsible person) declare that the information provided in this form is true and correct.


I am aware that the information provided may be subject to verification by the Registrar of Financial Services Providers, and should I submit false, incorrect or misleading information to the Registrar, this may impact on my compliance with the fit and proper requirements contemplated in section 6A of the Act.

.....  
**Date**

.....  
**Signature**

**BOARD NOTICE 195 OF 2017****FINANCIAL SERVICES BOARD****LANGUAGE POLICY FOR THE FINANCIAL SERVICES BOARD PUBLISHED IN TERMS  
OF SECTION 4(2)(h) OF THE USE OF OFFICIAL LANGUAGES ACT, 2012 (ACT NO.  
12 OF 2012)**

I, Dube Phineas Tshidi, Executive Officer of the Financial Services Board, hereby publish the attached **REVIEWED** language policy of the Financial Services Board for public knowledge in terms of section 4(2) (h) of the Use of Official Languages Act, 2012 (Act No. 12 of 2012).



**D P TSHIDI  
EXECUTIVE OFFICER  
FINANCIAL SERVICES BOARD**

# FINANCIAL SERVICES BOARD



# LANGUAGE POLICY



APPROVAL BODY	DATE
Executive Committee	9 FEBRUARY 2017
Risk Committee	30 AUGUST 2017
FSB BOARD	18 OCTOBER 2017

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## 1. DEFINITIONS

In this Policy, unless the context indicates otherwise:

- 1.1 "**The Act**" means the Use of Official Languages Act, 2012 (No. 12 of 2012);
- 1.2 "**Board**" means the board of the FSB being the governing and accounting authority of the FSB;
- 1.3 "**Braille**" means a form of written language for blind people, in which characters are represented by patterns of raised dots that are felt with the fingertips;
- 1.4 "**Constitution**" means the Constitution of the Republic of South Africa, 1996;
- 1.5 "**Equitable Use**" means the use of language which is fair, impartial and even-handed;
- 1.6 "**EO**" means Executive Officer of the FSB;
- 1.7 "**FSB**" means the Financial Services Board, a juristic entity established in terms of section 2 of the Financial Services Board Act, 1990 (Act No.97 of 1990);
- 1.8 "**Interpreter**" means a person who transposes or interprets an utterance from one language into the other;
- 1.9 "**Interpreting**" in relation to oral utterance, means transposing of utterance of one language into utterance of another language, in relation to sign utterance, means the transposing of sign language signed into a spoken language and the other way around, with "**interpret**" having a corresponding meaning;
- 1.10 "**Language of Record**" means the language chosen for keeping records or archiving the FSB records;
- 1.11 "**Minister**" means the Minister of Arts and Culture;
- 1.12 "**Multilingualism**" means the use of three or more languages by an individual or group of a people;
- 1.13 "**PanSALB**" means the Pan South African Languages Board;
- 1.14 "**Policy**" means this Language policy;
- 1.15 "**SASL**" means South African Sign Language;
- 1.16 "**Senior Language Specialist**" means an employee of the FSB who heads the Language Business Unit;
- 1.17 "**Republic**" means the Republic of South Africa;
- 1.18 "**Terminology**" means standardised terms established for specific subject field;
- 1.19 "**Translation**" means the transposing of a text from one language to the other, "**translate**" having a corresponding meaning;
- 1.20 "**The Unit**" means The Financial Services Board's Language Business Unit.



## 2. PREAMBLE

- 2.1. The Constitution of the Republic of South Africa (RSA) 1996 recognises 11 official languages, i.e. English, Afrikaans, Tshivenda, Xitsonga, Sepedi, Setswana, Sesotho, isiZulu, isiXhosa, isiNdebele and Siswati; recognises the diminished use and status of indigenous languages and requires of the State to take practical and positive measures to elevate the status and advance the use of indigenous languages. The Constitution further requires all official languages to enjoy parity of esteem and to be treated equitably.
- 2.2. To this end, the Act has been promulgated to encourage the use of official languages in communicating with members of the public, provide for the regulation and monitoring of the use of official languages by national government for government purposes, to require the adoption of a language policy by a national department, national public entity and national public enterprise and the establishment of a language unit for a national department, national public entity and national public enterprise.
- 2.3. The Act applies to all national public entities. The FSB is a national public entity, being so listed in Schedule 3 of the Public Finance Management Act, 1999. This Policy has therefore been developed by the FSB in compliance with the provisions of the Act.

## 3. PURPOSE

The purpose of this Policy is to outline how the FSB will comply with the Act, and use official languages to improve service to members of the public at large and regulated institutions and to improve compliance levels.

## 4. LEGISLATIVE INSTRUMENTS

- 4.1. The Constitution;
- 4.2. The Act;
- 4.3. Regulations made in terms of section 13 of the Act.

## 5. SCOPE AND APPLICATION

The Policy is applicable to all FSB employees, including contractors, board members and anyone executing a function on behalf of the FSB.

## 6. REGULATORY CONTEXT OF THIS POLICY

This Policy is prescribed by section 4 of the Act, as follows:

- 6.1. section 4(1) provides that every national department, national public entity and national public enterprise must adopt a language policy on its use of official languages;
- 6.2. section 4(2) provides that a language policy adopted in terms of subsection (1) must:
  - 6.2.1. identify at least three official languages that the national department, national public entity or national public enterprise will use for government purposes;
  - 6.2.2. stipulate how official languages will be used in effectively communicating with the public, official notices, government publications, and inter- and intra-government communication;



6.2.3. describe how the national department, national public entity or national public enterprise will effectively communicate with members of the public whose language of choice is not one of its chosen official languages, or whose language of choice is South African Sign Language;

6.2.4. describe how members of the public can access the language policy, and

6.2.5. provide a complaints mechanism to enable members of the public to lodge complaints regarding the use of official languages by a national department, national public entity or national public enterprise;

6.2.6. be published in the Gazette as soon as reasonably practicable but within 90 days of its adoption.

## 7. PRINCIPLES

The principles underpinning this Policy are:

- 7.1. Taking measures to elevate the status and advancement of the use of indigenous languages;
- 7.2. Commitment to the promotion of all languages in the Republic in order to ensure parity of esteem and the equitable treatment of the official languages required by our democratic dispensation;
- 7.3. Recognition of multilingualism as a resource to maximize collaborative partnerships in nation building, economic development and social cohesion;
- 7.4. Promotion of good language management by the FSB to ensure efficient public service administration that meets the needs of the public and ensures equitable access to the services and information of the FSB;
- 7.5. Prevention of the use of any language(s) for the purposes of exploitation, domination and discrimination within the FSB;

## 8. NATURE OF THE FSB'S BUSINESS

The FSB is an independent institution established by statute to oversee the South African Non-Banking Financial Services Industry in the public interest. As stipulated in section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), the functions of the FSB are, to:

- 8.1. supervise and enforce compliance with laws regulating financial institutions and the provision of financial services;
- 8.2. advise the Minister of Finance on matters concerning financial institutions and financial services, either of its own accord or at the request of the Minister; and
- 8.3. provide, promote or otherwise support financial education, awareness and confidence regarding financial products, institutions and services.

## 9. ADOPTION OF OFFICIAL LANGUAGES

### 9.1. Official Languages of the FSB

- 9.1.1. The Act requires the FSB to adopt a language policy identifying at least 3 (three) of the Official Languages of which the FSB will use for "government purposes". This

refers to languages which are mainly to be used when communicating with members of the public.

- 9.1.2. In identifying the official languages, the FSB is *inter alia* enjoined to consider the promotion of the previously marginalised indigenous languages.
- 9.1.3. In determining which official languages to use, the FSB shall be guided in each instance by the following factors:
- 9.1.3.1.1. Practicability;
  - 9.1.3.1.2. Associated costs;
  - 9.1.3.1.3. Geographic location;
  - 9.1.3.1.4. Interests of the public and/or specific targeted group; and
  - 9.1.3.1.5. FSB capacity.
- 9.1.4. Although the FSB recognises all official languages of the Republic, the following languages have accordingly been adopted:
- 9.1.4.1. **English** (Medium of communication)
  - 9.1.4.2. From the Nguni language group (isiZulu, isiNdebele, Siswati and isiXhosa), **isiZulu** has been adopted;
  - 9.1.4.3. From the Sotho language group (Setswana, Sepedi, and Sesotho), **Setswana** has been adopted;
  - 9.1.4.4. **Tshivenda**, one of the previously disadvantaged languages that does not belong to a language group, has been adopted; and
  - 9.1.4.5. **Afrikaans**, one of the languages that do not belong to a language group, has also been adopted.
- 9.1.5. The FSB will ensure that it uses languages indicated in 9.1.4 for legal publications.

## 9.2. Use of Official Languages by the FSB

- 9.2.1. A description of which languages will be used for business purposes as well as for communication with members of the public, and the manner in which such languages will be used, is set out herein below.

### **Business Purposes**

- 9.2.2. The FSB adopts English as the main medium of communication and a language of records for business purposes -
- 9.2.2.1. to communicate with its various clients (regulated entities) in accordance with its mandates;
  - 9.2.2.2. in respect of internal communication within the FSB; and
  - 9.2.2.3. in relation to its communications with departments and/or Parliament through the responsible Minister.
- 9.2.3. In cases where documents meant to be produced in English only are requested in any official language other than English, the FSB will make summarised translated versions available, subject to the conditions stipulated in 9.1.4 above.

### **Government purposes**

- 9.2.4. The FSB shall use English and the official languages stipulated in 9.1.4. above on a case by case basis for the following purposes:



- 9.2.4.1. Communication with members of the public, both orally and written - i.e. among others, public notices and announcements, public information signs, signage identifying facilities and services (summarised versions in case of technical documents);
- 9.2.4.2. Communication with the media (e.g. print, radio, television, web) - depending on purpose and platform;
- 9.2.4.3. Official publications and correspondences;
- 9.2.4.4. Other stakeholder engagement activities; and
- 9.2.4.5. Public hearings/consultations and other official proceedings.

#### **Regulatory and general administrative action instruments**

- 9.2.5. In respect of all regulatory instruments related to the conduct of business (including all subordinate legislation, circulars, notices, guidance and the like made under the laws administered by the FSB, and policy documents relating to future primary and subordinate legislation) and general administrative actions (i.e. actions that will affect a type or category of financial institution) taken by the FSB, the following approach to making and translating such instruments will be applicable:
  - 9.2.5.1. All consultation on draft regulatory instruments and general administrative actions will take place in English and the summarised versions of the draft regulatory instrument will be made available on the FSB website for public knowledge in the languages referred to in 9.1.4 above;
  - 9.2.5.2. During the consultation period the Language Business Unit will work on the instrument for translation and familiarisation purposes to ensure that the final translated instrument will be speedily available in the relevant languages. To this end the Language Unit must be constantly apprised of developments during the consultation period to ensure that any amendments are taken account of in preparing for the relevant translations;
  - 9.2.5.3. The final document(s) will be made available in English with the translations being made available in the languages referred to in 9.1.4 above, within a reasonable period of time. In the event of a conflict between the English version and the translation of an instrument, the English version will apply.

#### **Consumer education**

- 9.2.6. The FSB will take appropriate and reasonable steps to ensure that it conducts consumer education and financial literacy sessions in as many official languages as possible considering the language preference of the community attending such sessions.

#### **Call centre**

- 9.2.7. The FSB's call centre shall ensure that it communicates with the members of the public in all official languages of the Republic as contemplated in 2 above.

### **9.3. Provision of services in a language other than the Official Languages selected by the FSB**

- 9.3.1. Where a member of the public wishes to receive services in an official language other than the languages used (e.g. in a publication), such a member shall notify the FSB of such request, in writing, addressed to the Senior Language Specialist. The FSB shall make arrangements to meet such request within a reasonable period of not less than thirty (30) working days upon receipt of the request.
- 9.3.2. In cases of oral communication, like meetings and any other need for interpreting, a request must be made in writing and at least thirty (30) working days prior to that event.

### **9.4. Communication with members of the public whose language of choice is the SASL**

- 9.4.1. A member of the public who wishes to communicate with the FSB in SASL must notify the Senior Language Specialist in writing.
- 9.4.2. The communication referred to in clause 9.3.1 must reach the Senior Language Specialist at least twenty (20) working days before the date on which the service is required to enable the FSB to arrange for appropriate interpretation.

## **10. ESTABLISHMENT AND STRUCTURE OF THE LANGUAGE BUSINESS UNIT**

- 10.1. As required by section 7 of the Act, the FSB has established a language business unit and it shall ensure that the unit is provided with human resources, administrative resources and other resources necessary to perform its functions effectively and in accordance with the law.
- 10.2. The Unit shall be headed by a Senior Language Specialist, and also appoint such other staff members as may be appointed by the FSB from time to time.

## **11 TRAINING AND CAPACITY**

In order to achieve the professional and efficient implementation of this Policy, the Unit will advise on training and capacity building.

## **12 PUBLICATION OF AND ACCESS TO THIS POLICY**

- 12.1. This Policy will be published in all official languages of the Republic.
- 12.2. It will be available on the FSB's website (<https://www.fsb.co.za>).
- 12.3. It will be available in Braille or alternatively in audio on the FSB's website (<https://www.fsb.co.za>).
- 12.4. A summary of this policy will be displayed at the FSB office in such a manner and place that it can be read by the public.
- 12.5. In addition, printed versions will be available in all official languages at the FSB's premises.



### 13. COMPLAINTS MECHANISM

- 13.1. Any person who is dissatisfied with a decision of the FSB regarding its use of official languages may lodge a complaint in writing directing it to the EO.
- 13.2. A complaint must be lodged:
- 13.2.1. in writing,
  - 13.2.2. within three months of the complaint arising.
  - 13.2.3. stating the name, address, and contact information of the person lodging the complaint.
  - 13.2.4. providing a full and detailed description of the complaint.
- 13.3. The EO may request a complainant to supply any additional information necessary to consider the complaint and to attend a meeting for the purpose of making an oral enquiry into the complaint.
- 13.4. The EO will consider the complaint and make a decision, not later than three (3) months after the complaint was lodged, and inform the complainant of the decision.

### 14. APPEAL PROCESS

- 14.1. A complainant dissatisfied with a decision of the EO as contemplated in clause 13.4 of this Policy may lodge an appeal with the Board of the FSB, being the accounting authority of the FSB.
- 14.2. An appeal submitted to the Board must be addressed to the Chairperson of the Board, be lodged within a period of one (1) month of the decision of the EO.
- 14.3. The provisions of clauses 13.2.1, 13.2.2, 13.2.3 and 13.2.4 of this Policy shall apply as they are to an appeal lodged in terms of clause 13.1 of this Policy.

### 15. POLICY REVIEW

The Policy will be reviewed annually.

### 16. APPROVAL

This is the final Language policy of the Financial Services Board approved on 18 October 2017

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
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Publications: Tel: (012) 748 6053, 748 6061, 748 6065