



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

MINISTRY OF MINES AND ENERGY

No. 202 2002

AMENDMENT OF PETROLEUM PRODUCTS REGULATIONS PETROLEUM PRODUCTS AND ENERGY ACT, 1990

The Minister of Mines and Energy has under sections 2(1) and 2A of the Petroleum Products and Energy Act, 1990 (Act No. 13 of 1990) made the regulations set out in the Schedule.

SCHEDULE

Definition

1. In this Schedule "the Regulations" means the Petroleum Products Regulations promulgated under Government Notice No. 155 of 23 June 2000.

Amendment of regulation 7

2. Regulation 7 of the Regulations is amended by the addition to subregulation (2) of the following paragraph:

"(e) any other matter which the Minister considers to be in the interest of -

- (i) the safe, economically efficient and orderly supply of petroleum products in Namibia;
- (ii) the maintenance, security and continuity of petroleum product supplies in Namibia;
- (iii) the maintenance of contingency and reserve petroleum product stocks.”.

Amendment of regulation 14

3. Regulation 14 of the Regulations is amended by the addition to subregulation (2) of the following paragraph:

- “(e) any other matter which the Minister considers to be in the interest of -
- (i) the safe, economically efficient and orderly supply of petroleum products in Namibia;
 - (ii) the maintenance, security and continuity of petroleum product supplies in Namibia;
 - (iii) the maintenance of contingency and reserve petroleum product stocks.”.

Amendment of regulation 21

4. Regulation 21 of the Regulations is amended by the addition to subregulation (2) of the following paragraph:

- “(e) any other matter which the Minister considers to be in the interest of -
- (i) the safe, economically efficient and orderly supply of petroleum products in Namibia;
 - (ii) the maintenance, security and continuity of petroleum product supplies in Namibia;
 - (iii) the maintenance of contingency and reserve petroleum product stocks.”.

Amendment of regulation 28

5. Regulation 28 of the Regulations is amended -

- (a) by the substitution for subregulation (2) of the following subregulation:

“(2) An application for a duplicate licence or certificate shall be made to the Minister in the form of Form PP/8 as set out in Annexure B, and shall be accompanied by the appropriate fee imposed by Annexure A for such an application.”; and

- (b) by the addition of the following subregulation:

“(5) A duplicate retail licence, wholesale licence or certificate shall be issued upon payment of the appropriate fee imposed by Annexure A for the issue of such a duplicate.”.

Substitution of regulation 30

6. The following regulation is substituted for regulation 30 of the Regulations:

“Amendment of licence or certificate

30. (1) If any information on a licence or certificate is to be changed, the licence-holder or certificate-holder shall prior to such change apply to the Minister for an amendment of the licence or certificate, as the case may be.

- (2) If any such change of information relates -
- (a) to a change of the relevant premises, the provisions of regulation 27 shall be complied with; or
 - (b) in the case of a retail licence, to a change in the name of the operator, the records required in terms of regulation 4(2) shall be supplied with regard to the proposed new operator, and the proposed new operator shall complete Form PP/1 as set out in Annexure B, in as far as it is applicable, together with the application for an amendment.

(3) Notwithstanding regulation 31(4) and (5), if a retail licence-holder operates a retail outlet in terms of an agreement with a wholesaler that is the owner of such retail outlet, that wholesaler may in the following circumstances apply to the Minister for a change in the name of the operator, whether to that of the wholesaler or to any other operator:

- (a) If it is alleged by the wholesale licence-holder that the agreement between the wholesale licence-holder and the retail licence-holder -
 - (i) has been terminated by reason of breach of contract on the part of the retail licence-holder; or
 - (ii) has lapsed through the effluxion of time, without renewal of the agreement;
 - (b) if the retail licence-holder surrenders the retail licence in accordance with regulation 31(1) without the prior approval of that wholesale licence-holder;
 - (c) if the retail licence-holder's licence is suspended or cancelled under regulation 31(2); or
 - (d) if the retail licence ceases to have effect because the retail licence-holder became subject to a disqualification set out in regulation 25.
- (4) The Minister shall not, upon an application in the circumstances contemplated in subregulation (3)(a), amend a licence unless the Minister -
- (a) has given the relevant retail licence-holder notice in writing of the wholesaler's application;
 - (b) has invited the retail licence-holder to make representations to the Minister, within a specified period, not being less than 14 days after receipt of the notice, concerning the wholesaler's application; and

- (c) has after the end of that period considered any representations made by the retail licence-holder.

(5) Upon the occurrence of an event referred to in subregulation (3) the wholesaler concerned shall, until the Minister decides on the application under subregulation (4), be deemed to be the holder of the retail licence, except if, in the circumstances contemplated in subregulation (3)(a) the fact whether the agreement has lawfully been terminated or has lapsed is a dispute between the parties.

- (6) The Minister may at the Minister's own initiative -

(a) substitute, add, remove or amend a special condition of a licence or certificate;

(b) amend a licence or certificate if it has come to the knowledge of the Minister that any particulars of a licence or certificate has changed and the licence-holder or certificate-holder has failed to inform the Minister thereof or if any other sufficient cause exists.

(7) If the Minister proposes to exercise any power under subregulation 6(a) or (b), the Minister must first give notice in writing to the holder of the licence or certificate concerned -

(a) stating the reasons for the proposed action; and

(b) inviting the holder to make representations to the Minister in connection with the proposed action within a specified period, not being less than 14 days after receipt of the notice.

(8) (a) An application for the amendment of a licence or certificate in terms of subregulation (1) or (3) shall be made to the Minister in the form of Form PP/9 as set out in Annexure B and shall be accompanied by the application fee imposed by Annexure A.

(b) The appropriate fee imposed by Annexure A for the issue of a licence or certificate shall be paid by the relevant licence-holder or certificate-holder for the issue of an amended licence or certificate issued upon an amendment under subregulation (1) or (3) or (6)(b) but no fee is payable for the issue of a licence or certificate under subregulation (6)(a).

(9) If the Minister amends a licence or certificate on the Minister's own initiative under subregulation (6), the Minister shall within a period of 14 days after such amendment in writing inform the holder thereof of the amendment, and any such amendment shall become of effect upon expiry of a period of 21 days after the date on which the holder is so informed.

(10) An amendment of a licence or certificate in terms of this regulation may be effected -

(a) by endorsement of the licence or certificate; or

(b) by notice in writing to the licence-holder or certificate-holder.”.

Insertion of regulation 31A

7. The following regulation is inserted in the Regulations after regulation 31:

“Return of original licence or certificate to Minister

31A. If, under these Regulations, a licence or certificate has been amended (except in the case of an amendment effected in accordance with regulation 30(10)), surrendered, suspended or cancelled, or ceases to have effect or a duplicate licence or certificate has been issued, the relevant licence-holder or certificate-holder must return the original licence or certificate, as the case may be, to the Minister.”

Amendment of regulation 44

8. Regulation 44 of the Regulations is amended by the addition of the following subregulation:

“(4) If a standard or specification has been made applicable under subregulation (1) with regard to the composition of a particular petroleum product, no person may sell or distribute, or in any other manner make available to any other person or, for the purpose of propelling or operating a vehicle or other mechanical device on or in a public road or public place, use -

- (a) any petroleum product of the kind to which such standard or specification relates, unless that product conforms to the requirements of that standard or specification; or
- (b) any other product or substance, or a mixture of any products or substances, which can be used for the purpose for which that particular petroleum product is used, unless that product or substance or mixture conforms to the requirements of that standard or specification.”

Amendment of Annexure A

9. The following is substituted for the table of fees set out in Annexure A to the Regulations:

**“ANNEXURE A
FEES**

Item	Applicable Regulation	Description of fee	Amount
1	Regulation 4(3)	Application of fee for retail licence	N\$ 100,00
2	Regulation 5(4)	Fee for issue of retail licence	N\$ 250,00
3	Regulation 11(4)	Application fee for wholesale licence	N\$ 100,00
4	Regulation 12(4)	Fee for issue of wholesale licence	N\$1000,00
5	Regulation 17(3)	Application fee for consumer installation certificate	N\$ 100,00
6	Regulation 18(5)	Fee for issue of consumer installation certificate	N\$ 250,00
7	Regulation 28(2)	Application fee for duplicate licence or certificate	N\$ 100,00
8	Regulation 28(5)	Fee for issue of duplicate retail licence	N\$ 250,00
9	Regulation 28(5)	Fee for issue of duplicate wholesale licence	N\$1000,00
10	Regulation 28(5)	Fee for issue of duplicate consumer installation certificate	N\$ 250,00
11	Regulation 30(8)	Application fee for amendment of licence or certificate	N\$100,00.”