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Closing times for **ORDINARY WEEKLY** **REGULATION GAZETTE** **2017**

*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.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 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.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .
(Please see *Quotation* section below for further details)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
 - 8.1.5. Any additional notice information if applicable.
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). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

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

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

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

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre ONLY.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

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

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:
Government Printing Works

149 Bosman Street

Pretoria

Postal Address:

Private Bag X85

Pretoria

0001

GPW Banking Details:
Bank: ABSA Bosman Street

Account No.: 405 7114 016

Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za
E-mail: info.egazette@gpw.gov.za
Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**NO. R. 1271****17 NOVEMBER 2017****AGRICULTURAL PESTS ACT, 1983****(ACT NO. 36 OF 1983)****CONTROL MEASURES: AMENDMENT**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries acting under section 6 of the Agricultural Pests Act, 1983 (Act No. 36 of 1983), hereby amend the Control Measures set out in the Schedule in order to prevent and combat the spreading of prohibited pests.

S. Zokwana
Minister of Agriculture, Forestry and Fisheries

SCHEDULE

Definitions

1. In this Schedule “the Control Measures” means the control measures published in Government Notice No. R. 110 of 27 January 1984, as amended by Government Notices R.909 of 4 May 1984, R. 1770 of 17 August 1984, R. 845 of 12 April 1985, R.1518 of 12 July 1985, R. 1442 of 11 July 1986, R. 87 of 22 January 1988, R.1349 of 8 July 1988, R.1954 of 30 September 1988, R. 2416 of 16 October 1990, R. 18 of 4 January 1991, R. 2840 of 29 November 1991, R.2 269 of 14 August 1992, R. 2876 of 16 October 1992, R.1560 of 20 August 1993, R. 451 of 11 March 1994, R.1373 of 5 August 1994, R.1636 of 27 October 1995, R.1977 of 22 December 1995, R. 2029 of 13 November 1996 As revoked by, R.1012 of 01 August 1997, R. 288 of 27 February 1998, R.1470 of 20 November 1998, R. 666 of 28 May 1999, R.1016 of 27 August 1999, R. 613 of 23 June 2000, R. 83 of 22 January 2001, R. 397 of 18 May 2001, R. 810 of 31 August 2001, R. 368 of 5 April 2002, R. 714 of 24 May 2002, R. 831 of 21 June 2002, R.1364 of 8 November 2002, R. 465 of 4 April 2003, R.144 of 9 February 2004, R. 243 of 24 March 2005, R. 457 of 20 May 2005 as revoked by, R. 563 of 17 June 2005, R.1223 of 23 December 2005 as corrected by the Correction Notice published on page 2 of Government Gazette No. 28356 of 30 December 2005 and R. 369 of 21 April 2006, R. 43 of 26 January 2007, R. 117 of 8 February 2008, R. 461 of 25 April 2008, R. 258 of 13 March 2009, R. 1148 of 11 December 2009, R. 48 of 5 February 2010, R. 74 of 12 February 2010, R. 19 of 21 January 2011, R.189 of 11 March 2011, R.129 of 24 February 2012, R. 76 of 8 February 2013, R. 1002 of 20 December 2013, R. 442 of 6 June 2014, R. 49 of 30 January 2015, R. 66 of 29 January 2016 and R. 133 of February 2017.

Amendment of definitions of the Control Measures

2. The definitions of the Control Measures are hereby amended by the insertion of the following definitions-

“phytosanitary procedures” means any official method for implementing phytosanitary measures including the performance of inspections, tests, surveillance or treatments in connection with prohibited pests;

“regulated article” means any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved; and

“test” means official examination, other than visual, to determine if pests are present or to identify pests.

Amendment of control measure 2 of the Control Measures

3. The control measure 2 is hereby amended by insertion of the sub-control measure after sub-control measure 2(5):

Prohibition relating to the occurrence and removal of certain pathogens and insects

“2 (6) No user of land shall remove any plants or plant products from any quarantine area within the Republic without authorization.”

Amendment of control measure 4A of the Control Measures

4. The control measure 4(A) of the Control Measures is hereby substituted by the following expression:

Exemption from a prohibition

“4A (1) The executive officer may, by means of a removal permit, exempt a user of a land from a prohibition referred to in-

(a) Control measure 2, 3, and 4, if the executive officer or authorised person is satisfied that the necessary phytosanitary procedures have been taken to reduce the risk of introduction and spread of prohibited pests which include the cleansing of plants from prohibited pests; and

(b) Control measure 4(2), if the executive officer or authorised person is satisfied that the plant material for which the permit is required is only obtained from a

mother plant grown in a structure which prevents infection or infestation by the prohibited pests of concerned; and

- (c) Control measure 4(2), if the executive officer or authorised person is satisfied that the plants or plant products is originating from a specified or demarcated area of low pest prevalence or area is free from regulated pest and necessary phytosanitary procedures have been taken.”

- (2) When the executive officer conducts an investigation in connection with an application for a removal permit, the fees specified in Table 10 shall be payable in respect thereof.”

Amendment of control measure 8 of the Control Measures

- 5. The control measure 8 is hereby amended by the insertion of the sub-control measure after sub-control measure 8(2):

Compulsory notification

“8 (3) Upon national pest reporting, the executive officer shall immediately undertake necessary phytosanitary procedures to prevent the establishment and further spread of prohibited pest/s.”

Insertion of control measure 9 of the Control Measures

6. “Destruction of plants, plant products and other regulated articles

9. (1) If the executive officer has suspected on reasonable grounds or established that plants, plant products and other regulated articles have been kept or cultivated, removed or conveyed contrary to the provisions of these Control Measures, may-

- (a) destroy such plants, plant products and other regulated articles;
- (b) order that such products in question are sent back to a specified quarantine area;
- (c) subject a person in question to an offence in terms of section 13 of this Act.

(2) If the executive officer has identified and/or confirmed or suspected occurrence of a regulated pest or any pest specified in these Control Measures in a pest free area, place of production or production site, may-

- (a) destroy infested or infected plants, plant products and other regulated articles;

- (b) order that infested or infected plants, plant products and other regulated articles be destroyed.”

Amendment of Table 1 of the Control Measures

7. Table 1 of the Control Measures is hereby amended by the insertion of the following pest:

TABLE 1
PROHIBITED PATHOGENS
[Control measure 2]

Scientific name	Common name
<i>Banana bunchy top virus</i>	Bunchy top of banana

”

Amendment of Table 2 of the Control Measures

8. Tables 2 of the Control Measures is hereby amended due to the change of the pest name: *Bactrocera invadens* to *Bactrocera dorsalis*, as follows:

“TABLE 2
PROHIBITED INSECTS
[Control measure 2]

Scientific name	Common name
<i>Bactrocera dorsalis</i>	Oriental Fruit Fly

”

Amendment of Table 6 of the Control Measures

9. Table 6 of the Control Measures is hereby amended by substitution of item 6 of the table with the following expression:

“TABLE 6

PLANTS WHICH THE REMOVAL TO CERTAIN AREAS IS PROHIBITED EXCEPT ON AUTHORITY
OF PERMIT

[Control measure 4(2)]

No.	Kind of plant and pest of concern	Area from which removal is prohibited	Area to which removal is prohibited
6.	Species of the genera <i>Achra</i> , <i>Anacardium</i> , <i>Annona</i> , <i>Averrhoa</i> , <i>Blighia</i> , <i>Capsicum</i> , <i>Carica</i> , <i>Chrysophyllum</i> , <i>Citrullus</i> , <i>Citrus</i> , <i>Coffea</i> , <i>Cordia</i> , <i>Cordyla</i> , <i>Cydonia</i> , <i>Cucumis</i> , <i>Cucurbita</i> , <i>Diospyros</i> , <i>Dracaena</i> , <i>Eriobotrya</i> , <i>Ficus</i> , <i>Flacourtia</i> , <i>Fortunella</i> , <i>Garcinia</i> , <i>Hylocereus</i> , <i>Juglans</i> , <i>Irvingia</i> , <i>Landolphia</i> , <i>Lichi</i> , <i>Luffa</i> , <i>Maerua</i> , <i>Malus</i> , <i>Manilkara</i> , <i>Mangifera</i> , <i>Momordica</i> , <i>Morus</i> , <i>Murraya</i> , <i>Musa</i> (ripe bananas), <i>Opuntia</i> , <i>Passiflora</i> , <i>Persea</i> , <i>Physalis</i> , <i>Poncirus</i> , <i>Prunus</i> , <i>Psidium</i> , <i>Pyrus</i> , <i>Punica</i> , <i>Richardella</i> , <i>Sarcocypalus</i> , <i>Sclerocarya</i> , <i>Solanum</i> , <i>Sorindeia</i> , <i>Spondias</i> , <i>Strychnos</i> , <i>Syzygium</i> , <i>Terminalia</i> , <i>Theobroma</i> , <i>Vitellaria</i> , <i>Vitis</i> and <i>Ziziphus</i> ; only the fruits thereof due to <i>Bactrocera dorsalis</i> .	The provinces of, Limpopo, Mpumalanga, North West, Gauteng, Kwazulu-Natal (excluding magisterial districts of Amajuba, uMgungundlovu, uMzinyathi, uThukela and Zululand).	The provinces of Western Cape, Northern Cape, Eastern Cape and Free State.

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Amendment of Table 9 of the Control Measures

10. Table 9 of the Control Measures is hereby amended due to the change of the pest name: *Bactrocera invadens* to *Bactrocera dorsalis*, as follows:

“TABLE 9
PROHIBITED PATHOGENS AND INSECTS
[Control measure 2]

Scientific name	Common name
<i>Bactrocera dorsalis</i>	Oriental Fruit Fly

”

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 1272

17 NOVEMBER 2017

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF
THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE HIGH COURT OF SOUTH
AFRICA

The Rules Board for Courts of Law has under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

Expressions in square brackets in bold [] indicate omissions from existing rule.

Expressions with solid underline indicate insertions into existing rule.

Definition

1. In this Schedule the "Rules" means the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa published under Government Notice No. R. 48 of 12 January 1965, as amended by Government Notices Nos. R. 235 of 18 February 1966, R. 2004 of 15 December 1967, R. 3553 of 17 October 1969, R. 2021 of 5 November 1971, R. 1985 of 3 November 1972, R. 480 of 30 March 1973, R. 639 of 4 April 1975, R. 1816 of 8 October 1976, R. 1975 of 29 October 1976, R. 2477 of 17 December 1976, R. 2365 of 18 November 1977, R. 1546 of 28 July 1978, R. 1577 of 20 July 1979, R. 1535 of 25 July 1980, R. 2527 of 5 December 1980, R. 500 of 12 March 1982, R. 773 of 23 April 1982, R. 775 of 23 April 1982, R. 1873 of 3 September 1982, R. 2171 of 6 October 1982, R. 645 of 25 March 1983, R. 841 of 22 April 1983, R. 1077 of 20 May 1983, R. 1996 of 7 September 1984, R. 2094 of 13 September 1985, R. 810 of 2 May 1986, R. 2164 of 2 October 1987, R. 2642 of 27 November 1987, R. 1421 of 15 July 1988, R. 210 of 10 February 1989, R. 608 of 31 March 1989, R. 2628 of 1 December 1989, R. 185 of 2 February 1990, R. 1929 of 10 August 1990, R.

1262 of 30 May 1991, R. 2410 of 30 September 1991, R. 2845 of 29 November 1991, R. 406 of 7 February 1992, R. 1883 of 3 July 1992, R. 109 of 22 January 1993, R. 960 of 28 May 1993, R. 974 of 1 June 1993, R. 1356 of 30 July 1993, R. 1843 of 1 October 1993, R. 2365 of 10 December 1993, R. 2529 of 31 December 1993, R. 181 of 28 January 1994, R. 411 of 11 March 1994, R. 873 of 31 May 1996, R. 1063 of 28 June 1996, R. 1557 of 20 September 1996, R. 1746 of 25 October 1996, R. 2047 of 13 December 1996, R. 417 of 14 March 1997, R. 491 of 27 March 1997, R. 700 of 16 May 1997, R. 798 of 13 June 1997, R. 1352 of 10 October 1997, R. 785 of 5 June 1998, R. 881 of 26 June 1998, R. 1024 of 7 August 1998, R. 1723 of 30 December 1998, R. 315 of 12 March 1999, R. 568 of 30 April 1999, R. 1084 of 10 September 1999, R. 1299 of 29 October 1999, R. 502 of 19 May 2000, R. 849 of 25 August 2000, R. 373 of 30 April 2001, R. 1088 of 26 October 2001, R. 1755 of 5 December 2003, R. 229 of 20 February 2004, R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R. 516 of 8 May 2009, R. 518 of 8 May 2009, R. 86 of 12 February 2010, R. 87 of 12 February 2010, R. 88 of 12 February 2010, R. 89 of 12 February 2010, R. 90 of 12 February 2010, R. 500 of 11 June 2010, R. 591 of 09 July 2010, R. 980 of 19 November 2010, R. 981 of 19 November 2010, R. 464 of 22 June 2012, R. 992 of 7 December 2012, R. 114 of 15 February 2013, R. 262 of 12 April 2013, R. 471 of 12 July 2013, R. 472 of 12 July 2013, R. 759 of 11 October 2013, R. 212 of 28 March 2014, R. 213 of 28 March 2014, R. 214 of 28 March 2014, R. 30 of 23 January 2015, R. 31 of 23 January 2015, R. 317 of 17 April 2015, R. 781 of 31 August 2015, R. 3 of 19 February 2016, R. 678 of 3 June 2016 and R. 1055 of 29 September 2017.

Substitution of rule 46 of the Rules

2. The following rule is hereby substituted for rule 46 of the Rules:

“RULE 46 EXECUTION - IMMOVABLE[S] PROPERTY”

- (1)(a) Subject to the provisions of rule 46A, [No] no writ of execution against the immovable property of any judgment debtor shall be issued [until] unless—
- (i) a return **[shall have]** has been made of any process **[which may have been]** issued against the movable property of the judgment debtor from which it appears that the said person has **[not]** insufficient movable property to satisfy the writ; or
 - (ii) such immovable property **[shall have]** has been declared to be specially executable by the court[;] or [, **in the case of a judgment granted in terms of rule 31(5), by the registrar:**] where judgment is granted by the registrar under rule 31(5).

[Provided that, where the property sought to be attached is the primary residence of the judgment debtor, no writ shall issue unless the court, having considered all the relevant circumstances, orders execution against such property.]

(b) A writ of execution against immovable property shall contain—

(i) a full description of the nature, **[and] magisterial district [, situation (including the address)]** and physical address of the immovable property to enable it to be traced and identified by the sheriff; and **[shall]**

(ii) **[be accompanied by]** sufficient information to enable **[him or her]** the sheriff to give effect to subrule (3) hereof.

(2) **[An]** The attachment of the immovable property shall be made by any sheriff of the district in which the property is situated **[or by any sheriff of the district in which the office of the registrar of deeds or other officer charged with the registration of such property is situate]**, upon a writ corresponding substantially with Form 20 of the First Schedule.

(3) (a) **[The mode of attachment of immovable property shall be by [n]Notice [in writing]** of the attachment, corresponding substantially with Form 20A of the First Schedule, shall be served by the sheriff **[served]** upon the owner **[thereof]** of the immovable property~~[,]~~ and upon the registrar of deeds or other officer charged with the registration of such **[immovable]** property, and if the property is **[in the occupation of]** occupied by some person other than the owner, also upon such occupier.

(b) Any **[such]** notice **[as aforesaid]** referred to in paragraph(a) shall—

(i) draw attention to the provisions of subrule (8)(a)(iii); and

(ii) be served according to the provisions of rule 4, except that service upon the registrar of deeds or other officer charged with the registration of immovable property may also be effected by the sheriff by means of a registered letter, duly prepaid and posted, addressed to the officer intended to be served.

(4)

(a) When effecting the attachment, the sheriff may enter buildings or structures on the immovable property in order to ascertain the improvements made to the immovable property, as well as the condition of such improvements: Provided that where the sheriff after reasonable attempts is unable to gain access onto the immovable property or into any building or structure on account of the property, building or structure being locked, the sheriff may use a locksmith to gain entry.

[(a)]

(b) After attachment, any sale in execution shall take place in the district in which the attached immovable property is situated and shall be conducted by the sheriff of such district who first attached the property:

Provided that the sheriff in the first instance and subject to the provisions of paragraph **[(b)]** (d) of subrule (8) may on good cause shown authorise such sale to be conducted elsewhere and by another sheriff.

[(b)]

(c) Upon receipt of written instructions from the execution creditor to proceed with such sale, the sheriff shall ascertain and record **[what]** the bonds or other encumbrances which are registered against the attached immovable property together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered and shall thereupon notify the execution creditor accordingly.

(5) Subject to rule 46A and any order made by the court, [No] no immovable property which is subject to any claim preferent to that of the execution creditor shall be sold in execution unless—

(a) the execution creditor has caused notice **[, in writing,]** of the intended sale to be served **[by registered post]** upon— **[the preferent creditor, if his address is known and, if the property is rateable, upon the local authority concerned]**

(i) preferent creditors;

(ii) the local authority, if the property is rated; and

(iii) the body corporate, if the property is a sectional title unit;

calling upon **[them]** the aforesaid entities to stipulate within **[ten]** 10 days of a date to be stated, a reasonable reserve price or to agree in writing to a sale without reserve, and has provided proof to the sheriff that **[the preferent creditor has]** such entities have so stipulated or agreed, or

(b) the sheriff is satisfied that it is impossible to notify any preferent creditor, in terms of this rule, of the proposed sale, or such creditor, having been notified, has failed or neglected to stipulate a reserve price or to agree in writing to a sale without reserve as provided for in paragraph (a) **[of this subrule]** within the time stated in such notice.

(6) The sheriff may by notice served upon any person require **[him]** such person to deliver up to **[him]** the sheriff forthwith, all documents in **[his]** such person's possession or control relating to the debtor's title to the said property.

(7)(a) The sheriff conducting the sale shall appoint a day and place for the sale of **[such]** the attached immovable property, such day being, except by special leave of a magistrate, not less than **[one month]** 45 days after service of the notice of attachment and shall forthwith inform all other sheriffs appointed in the district of such day and place.

(b) (i) The execution creditor shall, after consultation with the sheriff conducting the sale, prepare a notice of sale containing a short description of the attached immovable property, its improvements, magisterial district and

physical address **[situation and street number, if any]**, the time and place for the holding of the sale and the fact that the conditions may be inspected at the office of the sheriff conducting the sale **[, and he or she shall furnish the said sheriff with as many copies of the notice as the latter may require]**.

(ii) The execution creditor must furnish the sheriff with as many copies of the notice of sale as the sheriff may require.

(c) The execution creditor shall—

(i) publish the notice once in a newspaper circulating daily or weekly in the district in which the attached immovable property is situated and in the [Government] Gazette not less than [5] five days and not more than 15 days before the date of the sale; and

(ii) provide the sheriff conducting the sale, by hand, or by facsimile or electronic mail, with one satisfactory photocopy of each of the notices published in the newspaper and the [Government] Gazette, respectively [, or in the case of the Government Gazette, the number of the Government Gazette in which the notice was published].

(d) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall forward **[by registered post]** a copy of the notice of sale referred to in paragraph (b) **[above]** to every **[judgment/]** execution creditor who had caused the said immovable property to be attached and to every mortgagee thereof whose address is known and shall simultaneously furnish a copy of the notice of sale to all other sheriffs appointed in that district.

(e) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall affix—

(i) one copy of the notice on the notice-board of the magistrate's court of the district in which the attached immovable property is situated, or if the said property [be] is situated in the district [in which] where the court out of which the writ was issued is situated, then on the notice-board of such court;[,] and

(ii) one copy at or as near as may be to the place where the said sale is actually to take place.

(8)(a)(i) **[The conditions of sale shall, not] Not less than [20]35 days prior to the date of the sale, [be prepared by] the execution creditor shall prepare the conditions of sale, corresponding substantially with Form 21 of the First Schedule, upon which the attached property is to be sold and [the said conditions of sale shall be submitted] shall submit such conditions to the sheriff conducting the sale, [to settle] for the purposes of settling them.**

(ii) In addition to any other terms, the conditions of sale shall include any conditions ordered by the court.

(iii) Not less than 25 days prior to the date of the sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.

- (iv) Not less than 20 days prior to the date of the sale, the sheriff shall settle the conditions of sale.
- (v) The sale in execution and the conditions of sale shall comply with the provisions of any law relating to auctions, in particular the Consumer Protection Act, 2008 (Act No. 68 of 2008), and the Regulations promulgated thereunder.
- (b) [(ii)](i) The execution creditor shall thereafter supply the said sheriff with [two] three copies of the conditions of sale, one of which shall lie for inspection by interested parties at [his or her] the office of the sheriff for 15 days prior to the date of the sale.[and the]
- (ii) The sheriff conducting the sale shall forthwith furnish a copy of the conditions of sale to all other sheriffs appointed in that district.
- (c) Not less than 15 days prior to the date of the sale, the sheriff shall serve one copy of the conditions of sale on the judgment debtor.
- (d) [(b)] **[Any interested party may, not less than 10 days prior to the date of the sale,]** Not less than 10 days prior to the date of the sale, any interested party may, subject to rule 46A and any order made by the court under the provisions thereof, and upon [twenty-four] 24 hours' notice to [the execution creditor and the bondholders] all known affected parties apply to the magistrate of the district in which the attached immovable property is to be sold for any modification of the conditions of sale and the magistrate may make such order thereon, including an appropriate order as to costs [, as to him may seem meet].
- (9) The execution creditor **[may]** shall appoint **[an attorney]** a conveyancer to attend to the transfer of the attached immovable property **[when]** sold in execution: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.
- (10) Immoveable property attached in execution shall be sold by the sheriff by public auction.
- (11)(a) (i) If the purchaser fails to carry out any **[of his or her]** obligations due by the purchaser under the conditions of sale, the sale may be cancelled by a judge summarily on the report of the sheriff conducting the sale, after due notice to the purchaser, and the attached immovable property may **[again]** be put up for sale again.
- (ii) The report shall be accompanied by a notice corresponding substantially with Form 21A of the First Schedule.
- (iii) If the sale is cancelled, the sheriff shall inform the judgment debtor of the cancellation.

- (b) **[The purchaser shall be responsible for any]** Any loss sustained by reason of **[his or her]** the purchaser's default **[,which loss]** may, on the application of any aggrieved creditor whose name appears on the **[said]** sheriff's distribution account, be recovered from **[him or her]** the purchaser under judgment of **[the]** a judge **[pronounced summarily]** given on a written report by the **[said]** sheriff, after **[such purchaser shall have received]** notice in writing has been given to the purchaser that **[such]** the report will be laid before **[the]** a judge for **[such]** the aforesaid purpose.
- (c) If **[such]** the purchaser is already in possession of the immovable property, the said sheriff may, on **[10 days']** notice to affected persons apply to a judge for an order **[ejecting him or her]** evicting the purchaser or any person claiming to **[hold under him or her therefrom]** occupy the property through the purchaser or otherwise occupying the property.
- (12) Subject to the provisions of rule 46A and subrule (5) hereof,—
- (a) the sale shall be **[without reserve and]** conducted upon the conditions stipulated under subrule (8); and
- (b) the immovable property shall be sold to the highest bidder.
- (13)
- (a) All moneys in respect of the purchase price of the immovable property sold in execution shall be paid to the sheriff and the sheriff shall retain such moneys in his or her trust account until transfer has been given to the purchaser.
- (b) The sheriff conducting the sale shall give transfer to the purchaser against payment of the purchase money and upon performance of the conditions of sale and may for that purpose do anything necessary to effect registration **[or]** of transfer, and anything so done by him or her shall be as valid and effectual as if he or she were the owner of the property.
- (c) No amount of the purchase money shall be paid out until the provisions of subrule (14) have been complied with.
- (14)
- [(a) The sheriff conducting the sale shall not pay out to the creditor the purchase money until transfer has been given to the purchaser, but upon receipt thereof he or she shall forthwith pay into the deposit account of the magistrate of the district all moneys received in respect of the purchase price and simultaneously inform all other sheriffs appointed in that district of such payment.]**
- (a) After conclusion of the sale, but before preparation by the sheriff of a plan of distribution, the execution creditor or his or her attorney shall provide the sheriff with a certificate of all money paid by the judgment debtor to the execution creditor or his or her attorney after the issue of the writ of execution.

[(b) The said sheriff shall as soon as possible after the sale prepare in order of preference, as hereinafter provided, a plan of distribution of the proceeds and shall forward a copy of such plan to the registrar of the court and to all other sheriffs appointed in that district. Immediately thereafter the said sheriff shall give notice by registered post to all parties who have lodged writs and to the execution debtor that the plan will lie for inspection for 15 days from a date mentioned at his or her office and at the office of the registrar, and unless such parties shall signify, in writing, their agreement to the plan, such plan shall so lie for inspection.]

(b) (i) Within 10 days after the date of registration of the transfer, the sheriff shall have prepared a plan of distribution of the proceeds in order of preference, and must forward a copy of such plan to the registrar and to all other sheriffs appointed in that district.

(ii) Immediately thereafter the said sheriff shall give notice to all parties who have lodged writs and to the execution debtor that the plan of distribution will lie for inspection at his or her office and the office of the registrar for 15 days from a date mentioned, and unless such parties signify in writing their agreement to the plan, such plan will so lie for inspection.

(c) After deduction from the proceeds of the costs and charges of execution, the following shall be the order of preference:

(i) **[the claims]** Claims of preferent creditors ranking in priority in their legal order of preference; and thereafter

(ii) **[the claims]** Claims of other creditors whose writs have been lodged with the sheriff in the order of preference appearing from sections **[ninety-six]** 96, and **[ninety-nine]** 98A to **[one hundred and three]** 103 (inclusive) of the Insolvency Act, 1936 (Act No. 24 of 1936) **[as amended]**.

(d) **[Any interested person objecting to such plan shall, within five days of the expiry of the period referred to in paragraph (b) of this subrule give notice in writing to the sheriff and all other interested persons of the particulars of his objection and shall bring such objection before a judge for review on 10 days' notice to the sheriff and the said persons.]**

Any interested person objecting to the plan must—

(i) before the expiry of the period referred to in paragraph (b)(ii), give notice in writing to the sheriff and all other interested persons of the particulars of the objection; and

(ii) within 10 days after the expiry of the period referred to in paragraph (b)(ii), bring such objection before a judge for review upon 10 days notice to the sheriff and the said persons.

(e) The judge on review shall hear and determine the matter in dispute and may amend or confirm the plan of distribution or may make such order including an order as to costs as he or she deems **[to him or her seems meet]** appropriate.

(f) If—

- (i) no objection **[be]** is lodged to such plan~~[,]~~; or
- (ii) the interested parties signify their concurrence therein~~[,]~~; or
- (iii) the plan is confirmed or amended on review,

the **[magistrate]** sheriff shall, on production of a certificate from the conveyancer that transfer has been given to the purchaser **[and on the request of the sheriff]**, pay out in accordance with the plan of distribution. **[If the address of a payee is not known the amount due to him shall be paid into the Guardian's Fund established under any law relating to the Administration of Estates.]**

(15) Neither a sheriff nor any person on behalf of the sheriff shall at any sale in execution purchase any **[of the]** immovable property offered for sale either for himself or herself or for any other person.

(16) In this rule, the word “days” shall have the same meaning as “court days” as defined in rule 1 of these Rules.”

Insertion of rule 46A in the Rules

3. The following rule is hereby inserted in the Rules after rule 46:

“46A Execution against residential immovable property

(1) This rule applies whenever an execution creditor seeks to execute against the residential immovable property of a judgment debtor.

(2)(a) A court considering an application under this rule must—

- (i) establish whether the immovable property which the execution creditor intends to execute against is the primary residence of the judgment debtor; and
- (ii) consider alternative means by the judgment debtor of satisfying the judgment debt, other than execution against the judgment debtor's primary residence.

- (b) A court shall not authorise execution against immovable property which is the primary residence of a judgment debtor unless the court, having considered all relevant factors, considers that execution against such property is warranted.
- (c) The registrar shall not issue a writ of execution against the residential immovable property of any judgment debtor unless a court has ordered execution against such property.
- (3) Every notice of application to declare residential immovable property executable shall be—
 - (a) substantially in accordance with Form 2A of Schedule 1;
 - (b) on notice to the judgment debtor and to any other party who may be affected by the sale in execution, including the entities referred to in rule 46(5)(a): Provided that the court may order service on any other party it considers necessary;
 - (c) supported by affidavit which shall set out the reasons for the application and the grounds on which it is based; and
 - (d) served by the sheriff on the judgment debtor personally: Provided that the court may order service in any other manner.
- (4)(a) The applicant shall in the notice of application—
 - (i) state the date on which the application is to be heard;
 - (ii) inform every respondent cited therein that if the respondent intends to oppose the application or make submissions to the court, the respondent must do so on affidavit within 10 days of service of the application and appear in court on the date on which the application is to be heard;
 - (iii) appoint a physical address within 15 kilometres of the office of the registrar at which the applicant will accept service of all documents in these proceedings; and

(iv) state the applicant's postal, facsimile or electronic mail address where available.

(b) The application shall not be set down for hearing on a date less than five days after expiry of the period referred to in paragraph (a)(ii).

(5) Every application shall be supported by the following documents, where applicable, evidencing:

(a) the market value of the immovable property;

(b) the local authority valuation of the immovable property;

(c) the amounts owing on mortgage bonds registered over the immovable property;

(d) the amount owing to the local authority as rates and other dues;

(e) the amounts owing to a body corporate as levies; and

(f) any other factor which may be necessary to enable the court to give effect to subrule (8):

Provided that the court may call for any other document which it considers necessary.

(6)(a) A respondent, upon service of an application referred to in subrule (3), may—

(i) oppose the application; or

(ii) oppose the application and make submissions which are relevant to the making of an appropriate order by the court; or

(iii) without opposing the application, make submissions which are relevant to the making of an appropriate order by the court.

(b) A respondent referred to in paragraph (a)(i) and (ii) shall—

(i) admit or deny the allegations made by the applicant in the applicant's founding affidavit; and

- (ii) set out the reasons for opposing the application and the grounds on which the application is opposed.
- (c) Every opposition or submission referred to in paragraphs (a) and (b) shall be set out in an affidavit.
- (d) A respondent opposing an application or making submissions shall, within 10 days of service of the application—
 - (i) deliver the affidavit referred to in paragraph (c);
 - (ii) appoint a physical address within 15 kilometres of the office of the registrar at which documents may be served upon such respondent; and
 - (iii) state the respondent's postal, facsimile or electronic mail address where available.
- (7) The registrar shall place the matter on the roll for hearing by the court on the date stated in the Notice of Application.
- (8) A court considering an application under this rule may—
 - (a) of its own accord or on the application of any affected party, order the inclusion in the conditions of sale, of any condition which it may consider appropriate;
 - (b) order the furnishing by—
 - (i) a municipality of rates due to it by the judgment debtor; or
 - (ii) a body corporate of levies due to it by the judgment debtor;
 - (c) on good cause shown, condone—
 - (i) failure to provide any document referred to in subrule (5); or
 - (ii) delivery of an affidavit outside the period prescribed in subrule (6)(d);

- (d) order execution against the primary residence of a judgment debtor if there is no other satisfactory means of satisfying the judgment debt;
- (e) set a reserve price;
- (f) postpone the application on such terms as it may consider appropriate;
- (g) refuse the application if it has no merit;
- (h) make an appropriate order as to costs, including a punitive order against a party who delays the finalisation of an application under this rule; or
- (i) make any other appropriate order.

(9)(a) In an application under this rule, or upon submissions made by a respondent, the court must consider whether a reserve price is to be set.

(b) In deciding whether to set a reserve price and the amount at which the reserve is to be set, the court shall take into account—

- (i) the market value of the immovable property;
- (ii) the amounts owing as rates or levies;
- (iii) the amounts owing on registered mortgage bonds;
- (iv) any equity which may be realised between the reserve price and the market value of the property;
- (v) reduction of the judgment debtor's indebtedness on the judgment debt and as contemplated in subrule (5)(a) to (e), whether or not equity may be found in the immovable property, as referred to in subparagraph (iv);
- (vi) whether the immovable property is occupied, the persons occupying the property and the circumstances of such occupation;

- (vii) the likelihood of the reserve price not being realised and the likelihood of the immovable property not being sold;
 - (viii) any prejudice which any party may suffer if the reserve price is not achieved; and
 - (ix) any other factor which in the opinion of the court is necessary for the protection of the interests of the execution creditor and the judgment debtor.
- (c) If the reserve price is not achieved at a sale in execution, the court must, on a reconsideration of the factors in paragraph (b) and its powers under this rule, order how execution is to proceed.
- (d) Where the reserve price is not achieved at a sale in execution, the sheriff must submit a report to the court, within 5 days of the date of the auction, which report shall contain—
- (i) the date, time and place at which the auction sale was conducted;
 - (ii) the names, identity numbers and contact details of the persons who participated in the auction;
 - (iii) the highest bid or offer made; and
 - (iv) Any other relevant factor which may assist the court in performing its function in paragraph (c).
- (e) The court may, after considering the factors in paragraph (d) and any other relevant factor, order that the property be sold to the person who made the highest offer or bid.”

Substitution of Form 21 of the Rules

4. The following Form is hereby substituted for Form 21 in the First Schedule of the Rules:

"FORM 21

CONDITIONS OF SALE IN EXECUTION OF IMMOVABLE PROPERTY*In re:*

.....

[Plaintiff] Execution Creditorand

.....

[Defendant] Judgment Debtor

The immovable property (hereinafter referred to as the "property") which will be put up **[to]** for auction on the day of **[19]** 20....., consists of:

.....

The sale shall be **[subject to]** conducted on the following conditions:

1. The sale shall be conducted in accordance with the provisions of rule 46 of the Uniform Rules of Court and all other applicable law.

[1.]2. The property shall be sold by the sheriff of atto the highest bidder without reserve/**[with]** subject to a reserve price of.....

[2.]3. The sale shall be for rands, and no bid for less than one thousand rands shall be accepted.

[3.]4. If any dispute arises about any bid, the property may **[be]** again be put up **[to]** for auction.

[4.]5(a) If the **[auctioneer]** sheriff makes any mistake in selling, such mistake shall not be binding on any of the parties, but may be rectified.

(b) If the **[auctioneer]** sheriff suspects that a bidder is unable to pay either the deposit referred to in condition **[6]** 7 or the balance of the purchase price, **[he]** the sheriff may

refuse to accept the bid of such bidder, or accept it provisionally until the bidder satisfies **[shall have satisfied him]** the sheriff that **[he]** such bidder is **[in a position]** able to pay **[both such amounts]** the deposit and the balance of the purchase price.

(c) On the refusal of a bid under **[such]** circumstances referred to in paragraph (b), the property may immediately **[be again]** be put up **[to]** for auction again.

[5.]6(a) The purchaser shall, as soon as possible after the sale~~[,]~~ and immediately on being requested by the ~~[.....]~~ sheriff, sign these conditions ~~[, and if he has bought qua qualitate, state the name of his principal]~~.

~~(b) If the purchaser purchases in a representative capacity, the purchaser shall disclose the name of the principal or person on whose behalf the property is being purchased.~~

[6.]7(a) The purchaser shall pay to the sheriff a deposit of **[ten]** 10 per cent of the purchase price in cash or by bank guaranteed cheque on the day of the sale~~[,]~~.

~~(b) [the]~~The balance shall be paid against transfer **[to]** and shall be secured by a **[bank or building society]** guarantee issued by a financial institution ~~[, to be]~~ approved by **[plaintiff's]** the execution creditor or his or her attorney, **[to]** and shall be furnished to the sheriff within days after the date of sale.

[(b) If transfer of the property is not registered within one month after the sale, the purchaser shall be liable for payment of interest to the plaintiff at the rate of per cent p.a. and to thebondholder at the rate of per cent p.a. on the respective amounts of the award to the plaintiff and the bondholder in the plan of distribution as from the expiration of one month after the sale to date of transfer.]

[7. Inasmuch as the defendant is a member of the Group, no bids will be accepted by or on behalf of a person who is not a member of such Group, unless such person exhibits to the auctioneer at the sale a permit from the Minister of the Interior authorizing him to acquire such property.]

8. (a) If the purchaser fails to carry out any **[of his]** obligation~~[s]~~ due by the purchaser under the conditions of sale, the sale may be cancelled by a judge summarily on the

report of the sheriff after due notice to the purchaser, and the property may again be put up for sale. **[; and]**

(b) In the event of the circumstances in paragraph (a) occurring, the purchaser shall be responsible for any loss sustained by reason of **[his]** such default, which loss may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from **[him]** the purchaser under judgment of **[the]** a judge pronounced **[summarily]** on a written report by the sheriff, after such purchaser **[shall have received]** has been given notice in writing that such report will be laid before the judge for such purpose.**[; and]**

(c) **[if he]** If the purchaser is already in possession of the property, the sheriff may, on **[seven days']** notice to affected parties, apply to a judge for an order **[ejecting]** evicting **[him]** the purchaser or any person claiming to **[hold under him therefrom]** occupy the property through the purchaser or otherwise occupying the property.

9[.] **(a)** The purchaser shall immediately on demand pay **[auctioneer's charges on the day of sale and in addition, transfer dues, costs of transfer, and arrear rates, taxes and other charges necessary to effect transfer, upon request by the attorney for the execution creditor.]** the sheriffs' commission calculated as follows:

.....;

(b) The purchaser shall be liable for and pay, within 10 days of being requested to do so by the appointed conveyancer, the following:

(i) All amounts due to the municipality servicing the property, in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties that may be due to a municipality; and where applicable

(ii) All levies due to a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) or amounts due to a home owners or other association which renders services to the property.

(iii) The costs of transfer, including conveyance fees, transfer duty and any other amount necessary for the passing of transfer to the purchaser.

10[.](a) The property may be taken possession of **[immediately]** after signature of the conditions of sale, payment of the **[initial]** deposit[,], and upon the balance of the purchase price being secured in terms of condition 7(b). **[and shall after such deposit be at the risk and profit of the purchaser.]**

(b) Should the purchaser receive possession of the property, the purchaser shall be liable for occupational rental at the rate of R.....per month from.....to date of transfer.

[b] (c) Upon the purchaser taking (occupation) possession, the property shall be at the risk and profit of the purchaser.

[c] (d) The execution creditor and the sheriff give no warranty that the purchaser shall be able to obtain personal and/or vacant occupation of the property or that the property is not occupied.

11.(a) The purchaser **[may]** shall be entitled to obtain transfer forthwith **[if he pays]** upon payment of the whole purchase price and **[complies]** compliance with condition 9, [in which case any claim for interest shall lapse,] [otherwise] alternatively, transfer shall be passed only after the purchaser has complied with the provisions of conditions 7 and 9 hereof.

(b) If the transfer is delayed by the purchaser, the purchaser shall be liable for interest at the rate ofper cent per annum on the purchase price.

12[.] (a) The sheriff may demand that any **[buildings standing on]** improvements to the property sold shall be immediately insured by the purchaser for **[the] their** full value, **[of the same and the insurance policy handed to him]** proof of insurance given to the sheriff and such insurance policy kept in force **[as long as the whole price has not been paid:]** until transfer is registered.**[if he does not do so, the sheriff may effect the insurance at the purchaser's expense.]**

(b) Should the purchaser fail to comply with the obligations in paragraph (a), the sheriff may effect the necessary insurance, the cost of which insurance shall be for the purchaser's account.

13.](a) The property is sold as represented by the title deeds and diagram [,] or sectional plan, subject to all servitudes and conditions of establishment, whichever applies to the property.

(b) [the]The sheriff [not holding himself] shall not be liable for any deficiency that may be found to exist in the property [and renouncing all excess]. [The property is also sold subject to all servitudes and conditions specified in the deed of transfer.]

14. The execution creditor shall **[be entitled to]** appoint **[an attorney]** the conveyancer to [attend to the] effect transfer of the property to the purchaser[.]: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.

Dated at this day of **[19]**
20.....

Sheriff

I certify hereby that to-day the in my presence the
hereinbefore-mentioned property was sold for to
.....
.....
.....

I, the undersigned, residing at in the
district of do hereby bind myself as the purchaser of the hereinbefore-
mentioned property to pay the purchase price and to perform all and singular the
conditions mentioned above.”

Insertion of Form 2A in the Rules

5. The following Form is hereby inserted in the First Schedule of the Rules after Form 2:

“FORM 2A

**NOTICE OF APPLICATION TO DECLARE IMMOVABLE PROPERTY EXECUTABLE
IN TERMS OF RULE 46A**

In the High Court of South Africa
(..... Division)

Case No.

In the matter between:

.....Applicant

and

.....Respondent

Please take notice that the applicant herein intends to make application to the above Honourable Court on.....ator as soon thereafter as the matter may be heard for an order in the following terms:

(a)

(b)

(c)

And take notice that—

(a) the affidavit ofannexed hereto, together with annexures thereto, will be used in support of the application; and

(b) the applicant appoints the address below as the address at which service of documents in this application will be accepted.

The/any respondent may oppose the application or make relevant submissions to the court. A respondent intending to do so must—

(a) set out such opposition or submissions in an affidavit;

(b) serve a copy of the affidavit on the applicant/attorney and file the original with the registrar of the above court within 10 days of service of this notice of application;

(c) together with service and filing of the affidavit, appoint an address within 15 kilometres of the office of the registrar of the above court where documents may be served on the respondent; and

(d) appear at the above court on

A respondent who opposes the application must in addition in such respondent's affidavit—

(a) admit or deny the allegations made by the applicant; and

(b) state the reasons for opposing the application and set out the grounds upon which the opposition is based.

Failure by a respondent to do any of the things mentioned in this notice of application may result in the court granting the orders prayed for above.

DATED at this day of 20.....

.....

Applicant /his or her Attorney

Address:

.....

To: The Registrar of the High Court

And to:

.....Respondent

Address:

.....”

Insertion of Form 20A in the Rules

6. The following Form is hereby inserted in the First Schedule of the Rules after Form 20:

“FORM 20A

NOTICE OF ATTACHMENT IN EXECUTION

In the High Court of South Africa

Case No.

In the matter between

..... Execution Creditor

And

..... Judgment Debtor

To:

Take notice that I have this day laid under judicial attachment the property in the attached inventory in pursuance of a warrant directed to me by the registrar of the above Honourable Court, whereby I am required to cause to be raised of your property in this district the sum of R..... and R costs recovered against you

by judgment of this court in this action together with my charges in respect of the said warrant.

Your attention is drawn to the provisions of rule 46(8)(a)(iii) of the Uniform Rules of the above Honourable Court which reads:

“(iii) Not less than 25 days prior to the date of the sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.”

The conditions of sale upon which the attached property is to be sold by public auction will be prepared by the execution creditor.

Dated at..... this day of,
20.....

.....

Sheriff.”

Insertion of Form 21A in the Rules

7. The following Form is hereby inserted in the First Schedule of the Rules after Form 21:

“FORM 21A

**NOTICE TO CANCEL SALE OF IMMOVABLE PROPERTY IN TERMS OF RULE
46(11)(a)**

IN THE HIGH COURT OF SOUTH AFRICA

(..... Division)

Case No.....

In the matter between:

The Sheriff of

Applicant

and

.....

Purchaser

In re:..... Execution
Creditor

and

..... Judgment
Debtor

PLEASE TAKE NOTICE that the Sheriff of.....intends to request a Judge in chambers, on a date to be allocated by the registrar, to cancel the sale of the immovable property described as, sold by public auction on 20.....and to authorise the said property being put up for sale again.

TAKE NOTICE FURTHER that the report of the said sheriff, upon which the request to the Judge will be made to cancel the sale, is attached hereto.

DATED at..... this day of20.....

Sheriff of the High Court

..... (Area)

.....

(Address)

To: The Registrar of the above Honourable Court

.....

And to:

Purchaser

.....

.....

(Address)”

Commencement

8. These rules shall come into operation on 22 December 2017.

GOEWERMENTSKENNISGEWING
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 2017

WET OP REËLSRAAD VIR GEREESHOWE, 1985 (WET NO. 107 VAN 1985)

**WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE VERSKILLENDEN
PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOË HOF VAN SUID-AFRIKA
GEREËL WORD**

Die Reëlsraad vir Gereeshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Gereeshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie en Korrektiewe Dienste, die reëls in die Bylae gemaak.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

Uitdrukkings in [] **vet druk** dui uitlatings uit bestaande reëls aan.

Uitdrukkings met 'n volstreep daaronder dui invoegings in bestaande reëls aan.

Woordomskrywing

1. In hierdie Bylae beteken die "Reëls" die Reëls waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hoë Hof van Suid-Afrika gereël word gepubliseer kragtens Goewermentskennisgewing No. R. 48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings No. R. 235 van 18 Februarie 1966, R. 2004 van 15 Desember 1967, R. 3553 van 17 Oktober 1969, R. 2021 van 5 November 1971, R. 1985 van 3 November 1972, R. 480 van 30 Maart 1973, R. 639 van 4 April 1975, R. 1816 of 8 Oktober 1976, R. 1975 van 29 Oktober 1976, R. 2477 van 17 Desember 1976, R. 2365 van 18 November 1977, R. 1546 van 28 Julie 1978, R. 1577 van 20 Julie 1979, R. 1535 van 25 Julie 1980, R. 2527 van 5 Desember 1980, R. 500 van 12 Maart 1982, R. 773 van 23 April 1982, R. 775 van 23 April 1982, R. 1873 van 3 September 1982, R. 2171 van 6 Oktober 1982, R. 645 van 25 Maart 1983, R. 841 van 22 April 1983, R. 1077 van 20 Mei 1983, R. 1996 van 7 September 1984, R. 2094 van 13

September 1985, R. 810 van 2 Mei 1986, R. 2164 van 2 Oktober 1987, R. 2642 van 27 November 1987, R. 1421 van 15 Julie 1988, R. 210 van 10 Februarie 1989, R. 608 van 31 Maart 1989, R. 2628 van 1 Desember 1989, R. 185 van 2 Februarie 1990, R. 1929 van 10 Augustus 1990, R. 1262 van 30 Mei 1991, R. 2410 van 30 September 1991, R. 2845 van 29 November 1991, R. 406 van 7 Februarie 1992, R. 1883 van 3 Julie 1992, R. 109 van 22 Januarie 1993, R. 960 van 28 Mei 1993, R. 974 van 1 Junie 1993, R. 1356 van 30 Julie 1993, R. 1843 van 1 Oktober 1993, R. 2365 van 10 Desember 1993, R. 2529 van 31 Desember 1993, R. 181 van 28 Januarie 1994, R. 411 van 11 Maart 1994, R. 873 van 31 Mei 1996, R. 1063 van 28 Junie 1996, R. 1557 van 20 September 1996, R. 1746 van 25 Oktober 1996, R. 2047 van 13 Desember 1996, R. 417 van 14 Maart 1997, R. 491 van 27 Maart 1997, R. 700 van 16 Mei 1997, R. 798 van 13 Junie 1997, R. 1352 van 10 Oktober 1997, R. 785 van 5 Junie 1998, R. 881 van 26 Junie 1998, R. 1024 van 7 Augustus 1998, R. 1723 van 30 Desember 1998, R. 315 van 12 Maart 1999, R. 568 van 30 April 1999, R. 1084 van 10 September 1999, R. 1299 van 29 Oktober 1999, R. 502 van 19 Mei 2000, R. 849 van 25 Augustus 2000, R. 373 van 30 April 2001, R. 1088 van 26 Oktober 2001, R. 1755 van 5 Desember 2003, R. 229 van 20 Februarie 2004, R. 1343 van 12 Desember 2008, R. 1345 van 12 Desember 2008, R. 516 van 8 Mei 2009, R. 518 van 8 Mei 2009, R. 86 van 12 Februarie 2010, R. 87 van 12 Februarie 2010, R. 88 van 12 Februarie 2010, R. 89 van 12 Februarie 2010, R. 90 van 12 Februarie 2010, R. 500 van 11 Junie 2010, R. 591 van 09 Julie 2010, R. 980 van 19 November 2010, R. 981 van 19 November 2010, R. 464 van 22 Junie 2012 en R. 992 van 7 Desember 2012, R. 114 van 15 Februarie 2013, R. 262 van 12 April 2013, R. 471 van 12 Julie 2013, R. 472 van 12 Julie 2013, R. 759 van 11 Oktober 2013, R. 212 van 28 Maart 2014, R. 213 van 28 Maart 2014, R. 214 van 28 Maart 2014, R. 30 van 23 Januarie 2015, R. 31 van 23 Januarie 2015, R. 317 van 17 April 2015, R. 781 van 31 Augustus 2015, R. 3 van 19 Februarie 2016, R. 678 van 3 June 2016 en R. 1055 van 29 September 2017.

Vervanging van reël 46 van die Reëls

2. Die volgende reël vervang hierby reël 46 van die Reëls:

**“REËL 46
UITWINNING -
ONROERENDE GOED**

- (1)(a) **[Geen]** Behoudens die bepalings van reël 46A, word geen uitwinningslasbrief teen die onroerende goed van enige vonnisskuldenaar **[sal]** uitgeneem **[word]** nie **[totdat]** tensy—
- (i) 'n relaas gemaak is teen enige lasbrief **[wat]** uitgereik **[kon wees]** teen die roerende goed van die vonnisskuldenaar en waaruit dit voorkom dat sodanige persoon **[nie voldoende]** onvoldoende roerende goed besit om die lasbrief na te kom **[nie]**; of
 - (ii) **[in]** sodanige onroerende goed spesiaal as vatbaar vir eksekusie deur die hof verklaar is of **[, in die geval waar vonnis neergelê is ooreenkomstig reël 31(5), deur die griffier:]** waar vonnis kragtens reël 31(5) deur die griffier 'n eergelê is.
- [Met dien verstande dat, waar die eiendom waarop beslag gelê gaan word, die primêre woning van die vonnisskuldenaar is, geen lasbrief uitgereik sal word nie behalwe as die hof, nadat alle toepaslike omstandighede in oorweging gebring is, 'n bevel teen sodanige eiendom uitvaardig.]**
- (b) 'n Uitwinningslasbrief teen onroerende goed—
- (i) moet 'n volledige beskrywing bevat van die aard **[en ligging (insluitend die adres)]**, landdrosdistrik en fisieke adres van die onroerende goed om die balju in staat te stel om dit op te spoor en te identifiseer **[,]; en**
 - (ii) moet **[vergesel gaan van]** voldoende inligting bevat om **[hom of haar]** die balju in staat te stel om uitvoering te gee aan subreël (3).
- (2) Beslaglegging op die onroerende goed moet uitgevoer word deur 'n balju van die distrik waarin die goed geleë is **[of deur 'n balju van die distrik waarin die kantoor van die registrateur van aktes of ander beampte belas met die registrasie van sodanige eiendom, geleë is]**, kragtens 'n lasbrief wesenlik bewoord soos Vorm 20 in die Eerste Bylae.
- (3) (a) **[Die wyse van beslaglegging van onroerende goed sal wees deur middel van skriftelike kennisgewing]** Kennisgewing van die beslaglegging, wesenlik bewoord soos Vorm 20A in die Eerste Bylae, moet deur die balju **[wat]** aan die eienaar **[daarvan]** van die goed **[beteken sal word,]** en aan die registrateur van akte of ander beampptes belas met die registrasie van sodanige **[onroerende]** goed beteken word, en indien die goed deur iemand anders as die eienaar geokkupeer word, ook aan sodanige okkupant.
- (b) Enige **[sodanige]** kennisgewing **[soos voorheen vermeld]** in paragraaf (a) bedoel sal—
- (i) die aandag op die bepalings van subreël (8)(a)(iii) vestig; en
 - (ii) beteken word behoudens reël 4, behalwe dat betekening aan die registrateur van aktes of ander beampte belas met die registrasie van onroerende goed uitgevoer kan word deur die balju deur middel van 'n

geregistreerde brief, behoorlik vooruitbetaal en gepos, geadresseer aan die beampte aan wie beoog word om dit te beteken.

(4)

(a) By die uitvoer van die beslaglegging, kan die balju geboue of strukture op die onroerende goed betree ten einde vas te stel watter verbeteringe aan die onroerende goed aangebring is, asook die toestand van sodanige verbeteringe: Met dien verstande dat waar die balju na redelike pogings nie toegang tot die onroerende goed of tot enige gebou of struktuur kan kry nie omdat die goed, gebou of struktuur gesluit is, kan die balju 'n slotmaker gebruik om toegang te verkry.

[(a)]

(b) Die uitwinningsverkoop vind plaas in die distrik waar die inbeslaggenome onroerende goed geleë is, en **[word]** moet waargeneem word deur die balju van die distrik wat eerste op die goed beslag gelê het: Met dien verstande dat die balju in die eerste instansie en behoudens paragraaf **[(b)]** van subreël (8), by aanvoering van goeie redes die verkoping elders en deur 'n ander balju kan magtig.

[(b)]

(c) By ontvangs van 'n skriftelike opdrag van die vonnisskuldeiser om met die verkoping voort te gaan, moet die balju vasstel en aanteken watter verbande of ander beswarings teen die inbeslaggenome onroerende eiendom geregistreer is, asook die name en adresse van die persone in wie se guns dit geregistreer is en die vonnisskuldeiser dienooreenkomstig in kennis stel.

(5) **[Onroerende]** Behoudens reël 46A en enige bevel deur die hof gegee word onroerende goed wat onderworpe is aan 'n eis wat voorkeur geniet bo dié van die vonnisskuldeiser [word] nie ter uitwinning verkoop nie tensy-

(a) die vonnisskuldeiser **['n skriftelike]** kennisgewing van die voorgenome verkoping **[per geregistreerde pos]** aan— **[die preferente skuldeiser laat stuur het indien sy adres bekend is en, as die eiendom belasbaar is, ook aan die betrokke plaaslike bestuur,]**

(i) preferente krediteure;

(ii) die plaaslike bestuur, indien die eiendom belas is; en

(iii) die regspersoon, indien die goed 'n deeltiteleenheid is,

laat beteken het waarby **[hulle]** die bogenoemde entiteite opgeroep word om binne **[tien]** 10 dae na 'n bepaalde datum 'n redelike reserweprys vas te stel of skriftelik toe te stem tot 'n verkoping sonder reserwe; en hy aan die balju bewys gelever het dat **[die preferente skuldeiser]** daardie entiteite aldus vasgestel of toegestem het, of

(b) die balju oortuig is dat dit onmoontlik is om enige preferente skuldeiser ingevolge hierdie reël van die voorgenome verkoping kennis te gee of so 'n

skuldeiser, nadat aan hom kennis gegee is, nagelaat het om binne die gestelde tyd 'n reserweprys te bepaal of skriftelik toe te stem tot 'n verkoping sonder reserwe soos in paragraaf (a) bedoel.

- (6) Die balju kan by kennisgewing aan enigiemand vereis dat **[hy]** daardie persoon onverwyld alle dokumente in [sy] daardie persoon se besit of onder [sy] daardie persoon se beheer wat betrekking het op die skuldenaar se titel in die genoemde eiendom, aan [hom] die balju lewer.
- (7)(a) Die balju wat die verkoping hou bepaal 'n dag en plek vir die verkoping van die inbeslaggenome onroerende eiendom, maar behalwe met spesiale verlof van 'n landdros, nie minder as **[een maand] 45 dae** na betekening van die kennisgewing van beslaglegging nie en stel onverwyld al die ander balju's wat in die distrik aangestel is van die dag en die plek in kennis.
- (b) (i) Die vonnisskuldeiser moet in oorleg met die balju 'n kennisgewing van verkoping opstel wat 'n kort beskrywing van die inbeslaggenome onroerende eiendom bevat, **[sy ligging en straatnommer (as daar een is)]** die verbeterings daaraan gedoen, die landdrostdistrik en fisieke adres daarvan, die tyd en plek van die verkoping en die feit dat die voorwaardes by die kantoor van die balju wat die verkoping hou ingesien kan word **[, en hy of sy moet soveel eksemplare daarvan aan genoemde balju verskaf as wat hy verlang].**
- (ii) Die vonnisskuldeiser moet soveel eksemplare van die kennisgewing van verkoping soos die balju vereis, aan die balju voorsien.
- (c) Die eksekusieskuldeiser moet—
- (i) die genoemde kennisgewing een maal in 'n koerant laat plaas wat daaglik of weeklik in die distrik sirkuleer waar die inbeslaggenome onroerende eiendom geleë is en in die *Staatskoerant* minstens **[5] vyf** dae en nie meer as 15 dae voor die datum van die verkoping; en
- (ii) aan die balju wat die verkoping hou een bevredigende fotokopie van elk van die kennisgewings wat onderskeidelik in die koerant en die *Staatskoerant* verskyn het **[of, in die geval van die Staatskoerant, die nommer van die Staatskoerant waarin die kennisgewing verskyn het],** per hand, of per faksimile of elektroniese pos verskaf.
- (d) Minstens 10 dae voor die datum van die verkoping moet die balju wat die verkoping hou **[per geregistreerde pos]** 'n eksemplaar van die kennisgewing van verkoping in paragraaf (b) bedoel, stuur aan elke vonnisskuldeiser wat op die onroerende goed beslag laat lê het en aan elke verbandhouer wie se adres bekend is en moet tegelyk daarmee 'n afskrif van die kennisgewing van verkoping aan al die ander balju's aangestel in daardie distrik stuur.
- (e) Minstens 10 dae voor die verkoping moet die balju wat die verkoping hou—
- (i) een eksemplaar van die kennisgewing op die kennisgewingbord van die landdroshof van die distrik waarin die inbeslaggenome onroerende eiendom geleë is, aanbring, of as die eiendom geleë is in die distrik

[waarin] waar die hof waar die lasbrief uitgereik is, geleë is, dan op die kennisgewingbord van daardie hof~~[,]~~; en

(ii) een eksemplaar op of so na moontlik aan die plek waar die verkoping werklik sal plaasvind, aanbring.

(8)(a)(i) Die vonnisskuldeiser moet minstens **[20]** 35 dae voor die datum van die verkoping die verkoopsvoorwaardes opstel, wesenlik **[bewoord]** bewoord soos Vorm 21 in die Eerste Bylae, waarop die inbeslaggenome eiendom verkoop moet word en dit aan die balju wat die verkoping hou vir **[goedkeuring]** die doeleindes van vasstelling voorlê.

(ii) Benewens enige ander terme, sluit die verkoopsvoorwaardes enige voorwaardes deur die hof beveel, in.

(iii) Enige belanghebbende party kan, minstens 25 dae voor die datum van die verkoping, verdere of gewysigde verkoopsvoorwaardes skriftelik aan die balju voorlê.

(iv) Die balju moet, minstens 20 dae voor die datum van die verkoping, die verkoopsvoorwaardes vasstel.

(v) Die uitwinningsverkoping en die verkoopsvoorwaardes moet voldoen aan die bepalings van enige wet wat verband hou met veilings, in die besonder die 'Consumer Protection Act, 2008' (Wet No. 68 van 2008), en die Regulasies daarkragtens uitgevaardig.

(b) **[(ii)]**(i) Die vonnisskuldeiser moet daarna aan genoemde balju **[twee]** drie eksemplare van die verkoopsvoorwaardes gee, waarvan een in **[sy of haar]** die kantoor van die balju ter insae van belanghebbende partye moet lê vir 15 dae voor die datum van die verkoping. **[en die]**

(ii) Die balju wat die verkoping hou, moet onverwyld 'n afskrif van die verkoopsvoorwaardes verskaf aan alle ander balju's wat in die distrik aangestel is.

(c) Die balju moet, minstens 15 dae voor die datum van die verkoping, een eksemplaar van die verkoopsvoorwaardes aan die vonnisskuldenaar beteken.

(d) **[(b) As 'n belanghebbende party die verkoopsvoorwaardes gewysig wil hê, moet hy minstens 10 dae voor die datum van die verkoping]** Minstens 10 dae voor die datum van die verkoping kan enige belanghebbende party, behoudens reël 46A en enige bevel deur die hof kragtens die bepalings daarvan gegee en met **[vier-en-twintig uur kennisgewing]** 24-uur-kennisgewing aan **[die vonnisskuldeiser en die verbandhouders]** alle bekende geraakte partye by die landdros van die distrik waarin die inbeslaggenome onroerende eiendom verkoop sal word, daarom aansoek doen en die landdros kan daarop **[na goeddunke]** 'n bevel gee, ook 'n gepaste bevel betreffende koste.

- (9) Die vonnisskuldeiser **[kan]** moet 'n **[prokureur]** aktebesorger aanstel om die transport van die **[uitgewonne]** inbeslaggenome onroerende eiendom te doen wanneer dit ter uitwinning verkoop is: Met dien verstande dat die balju die reg het om 'n nuwe aktebesorger aan te stel sou die aktebesorger deur die vonnisskuldeiser aangestel nie betyds of bevredigend met die transport voortgang maak nie.
- (10) Onroerende goed waarop vir uitwinning beslag gelê is, moet deur die balju by openbare veiling verkoop word.
- (11)(a) (i) As die koper versuim om enige **[van sy of haar]** verpligtinge deur die koper verskuldig ingevolge die verkoopsvoorwaardes na te kom, kan die koop summier deur 'n regter op grond van 'n verslag van die balju wat die verkoping hou en na behoorlike kennisgewing aan die koper, gekanselleer word en die inbeslaggenome onroerende eiendom kan weer te koop aangebied word.
- (ii) Die verslag moet vergesel gaan van 'n kennisgewing wat wesenlik bewoord is soos Vorm 21A in die Eerste Bylae.
- (iii) Indien die verkoping gekanselleer word, moet die balju die vonnisskuldenaar van die kansellasië verwittig.
- (b) **[Die koper is aanspreeklik vir]** Enige verliese gelyk vanweë **[sy of haar]** die koper se versuim **[en dit]** kan op aansoek van 'n benadeelde skuldeiser wie se naam op **[genoemde]** die balju se distribusierekening verskyn, van **[hom of haar]** die koper verhaal word kragtens vonnis van **[die]** 'n regter wat **[summier]** op grond van 'n skriftelike verslag van genoemde balju gegee word nadat die koper skriftelik in kennis gestel is dat **[so 'n]** die verslag vir [daardie] die genoemde doel voor **[die]** 'n regter gelê sal word.
- (c) As **[sodanige]** die koper reeds in besit van die onroerende eiendom is, kan genoemde balju met **[10 dae]** kennisgewing aan geraakte persone by 'n regter 'n uitsettingsbevel kry teen **[hom of haar]** die koper of teen iemand wat voorgee **[namens hom of haar te besit]** die eiendom deur die koper te okkupeer of die eiendom andersins okkupeer.
- (12) Behoudens reël 46A en subreël (5) hiervan—
- (a) geskied die verkoping **[sonder reserwe en]** op die voorwaardes ingevolge subreël (8) bepaal~~[,]~~ en
- (b) die onroerende eiendom word aan die hoogste bieder verkoop.
- (13)
- (a) Alle gelde ten opsigte van die koopprys van die onroerende eiendom in uitwinning verkoop, word aan die balju betaal en die balju hou daardie gelde in die balju se trustrekening totdat transport aan die koper gegee is.
- (b) Die balju wat die verkoping hou gee transport aan die koper teen betaling van die koopsom en vervulling van die verkoopsvoorwaardes. Hy kan vir daardie

doel al die nodige doen en enigiets aldus deur hom of haar gedaan is ewe geldig asof hy of sy die eienaar was.

- (c) Geen bedrag van die kooppeld word uitbetaal totdat aan die bepalings van subreël (14) voldoen is nie.

(14)

[(a) Die balju wat die verkoping hou moet onverwyld alle gelde wat hy of sy ten opsigte van die koopprys ontvang, in die depositorekening van die landdros van die distrik stort en terselfdertyd al die ander balju's wat in daardie distrik aangestel is, inlig oor sodanige inbetaling en dit nie aan die skuldeiser oorbetaal voordat transport gegee is nie.]

- (a) Na die afsluiting van die verkoping, maar voor voorbereiding deur die balju van 'n distribusieplan, moet die vonnisiskuldeiser of sy of haar prokureur die balju voorsien van 'n sertifikaat van alle geld deur die vonnisiskuldenaar of sy of haar prokureur betaal na die uitreiking van die uitwinningslasbrief.

- [(b) Genoemde balju moet so gou moontlik na die verkoping 'n distribusieplan van die opbrengs opstel in rangorde van voorkeur soos hierna bepaal, en 'n afskrif daarvan aan die griffier en aan al die ander balju's wat in daardie distrik aangestel is stuur. Genoemde balju onmiddellik per aangetekende pos kennis gee aan alle partye wat lasbriewe ingedien het en aan die eksekusieskuldenaar dat die plan 15 dae vanaf 'n bepaalde datum in sy of haar kantoor en in die griffierskantoor ter insae sal lê en tensy die partye skriftelik hul goedkeuring van die plan te kenne gee, moet die plan aldus ter insae lê.]**

- (b) (i) Binne 10 dae na die registrasiedatum van die transport, moet die balju 'n distribusieplan van die opbrengs voorberei hê in rangorde van voorkeur, en moet 'n eksemplaar van daardie plan aan die griffier en aan al die ander balju's in daardie distrik aangestel, stuur.

(ii) Onmiddellik daarna moet die genoemde balju kennis gee aan alle partye wat lasbriewe ingedien het en aan die vonnisiskuldenaar dat die distribusieplan vir insae by sy of haar kantoor en die kantoor van die griffier sal lê vir 15 dae vanaf 'n genoemde datum en tensy sodanige partye hul instemming tot die plan skriftelik aandui, sal daardie plan aldus vir insae lê.

- (c) Na aftrekking van uitwinningskoste word die opbrengs in die volgende rangorde van voorkeur verdeel:

- (i) **[die eise]** Eise van preferente skuldeisers in die volgorde van hul geregtelike voorkeur; en daarna

- (ii) **[die eise]** Eise van ander skuldeisers wie se lasbriewe by die balju ingedien is, in die rangorde van voorkeur soos vasgelê in artikels **[ses-en-negentig]** 96, en **[nege-en-negentig]** 98A tot en met **[eenhonderden-drie]** 103 van die Insolvensiewet, 1936 (Wet No. 24 van 1936)[, **soos gewysig**].

- (d) **[’n Belanghebbende persoon wat teen so ’n plan beswaar het, moet binne vyf dae na verstryking van die tyd in paragraaf (b) van hierdie subreël vasgestel, skriftelik aan die balju en alle ander belanghebbende persone die besonderhede van sy beswaar meedeel en dit met 10 dae kennisgewing aan hulle, voor ’n regter vir hersiening bring.]**

’n Belanghebbende persoon wat teen so ’n plan beswaar het-

(i) moet voor die verstryking van die tydperk in paragraaf (b)(ii) bedoel, skriftelik aan die balju en alle ander belanghebbende persone skriftelik kennis gee van die besonderhede van die beswaar;

(ii) binne 10 dae na die verstryking van die tydperk in paragraaf (b)(ii) bedoel, sodanige beswaar voor ’n regter bring vir hersiening met 10 dae kennisgewing aan die balju en die genoemde persone.

- (e) Die regter moet die geskilpunt aanhoor en beslis en hy kan die distribusieplan wysig of bekragtig of na goeddunke ’n bevel gee, ook betreffende koste.

- (f) Indien-

- (i) geen beswaar teen so ’n plan ingedien word nie; of
- (ii) die belanghebbende partye te kenne gee dat hulle daarmee saamstem; of
- (iii) die plan by hersiening bekragtig of gewysig word,

moet die **[landdros]** balju na voorlegging van ’n sertifikaat van die aktebesorger dat transport aan die koper gegee is, **[en op versoek van die balju,]** uitbetaal ooreenkomstig die distribusieplan. **[As die adres van ’n geregtigde nie bekend is nie, word die bedrag aan hom verskuldig gestort in die Voogdyfonds, tot stand gebring deur enige wet op die bereddering van boedels.]**

- (15) Nóg ’n balju nóg iemand namens die balju koop by enige verkoping in eksekusie hetsy vir **[homself]** sigself of vir enige ander persoon enige **[van die]** onroerende goed wat te koop aangebied word.

- (16) In hierdie reël, beteken die woord "dae" "hofdae" soos omskryf in reël 1 van die Reëls.”.

Invoeging van reël 46A in die Reëls

3. Die volgende reël word hierby na reël 46 in die Reëls ingevoeg:

“46A Uitwinning teen residensiële onroerende goed

- (1) Hierdie reël is van toepassing wanneer 'n uitwinningskuldeiser teen die residensiële onroerende goed van 'n vonnisskuldenaar wil uitwin.
- (2)(a) 'n Hof wat 'n aansoek ingevolge hierdie reël oorweeg moet—
- (i) vasstel of die onroerende goed waarteen die uitwinningskuldeiser voorneme is om uit te win, die primêre woning van die vonnisskuldeiser is; en
 - (ii) ander maniere oorweeg waarop die vonnisskuldenaar die vonnisskuld kan betaal, anders as uitwinning teen die vonnisskuldenaar se primêre woning.
- (b) 'n Hof magtig nie uitwinning teen onroerende goed wat die primêre woning van 'n vonnisskuldenaar is nie tensy die hof, na oorweging van alle tersaaklike faktore, van oordeel is dat uitwinning teen daardie goed geregverdig is nie.
- (c) Die griffier reik nie 'n lasbrief van uitwinning teen die residensiële onroerende goed van enige vonnisskuldenaar uit tensy 'n hof uitwinning teen daardie goed beveel het nie.
- (3) Elke kennisgewing van aansoek om residensiële onroerende goed vatbaar vir eksekusie te verklaar—
- (a) moet wesenlik soos Vorm 2A van Bylae 1 bewoord wees;
 - (b) moet geskied by kennisgewing aan die vonnisskuldenaar en aan enige ander party wat deur die uitwinningsverkoping geraak kan word, met inbegrip van die entiteite in reël 46(5)(a) bedoel: Met dien verstande dat die hof betekening aan enige ander party wat die hof nodig ag, kan beveel;
 - (c) moet ondersteun word deur 'n beëdigde verklaring wat die redes vir die aansoek en die gronde waarop dit gebaseer is, uiteensit; en
 - (d) moet persoonlik deur die balju aan die vonnisskuldenaar beteken word: Met dien verstande dat die hof betekening op enige ander wyse kan gelas.

- (4)(a) Die applikant moet in die aansoekkennisgewing–
- (i) die datum stel waarop die aansoek aangehoor sal word;
 - (ii) elke respondent daarin vermeld inlig dat indien die respondent voornemens is om die aansoek teen te staan of om verhoër aan die hof te rig, die respondent dit in 'n beëdigde verklaring moet doen binne 10 dae vanaf betekening van die aansoek en voor die hof verskyn op die datum waarop die aansoek aangehoor sal word;
 - (iii) 'n fisieke adres aanwys binne 15 kilometer van die kantoor van die griffier waar die applikant betekening van alle dokumente in hierdie verrigtinge sal aanvaar; en
 - (iv) die applikant se pos-, faks- of elektroniese posadres stel, indien beskikbaar.
- (b) Die aansoek word nie terrolle geplaas vir aanhoring op 'n datum minder as vyf dae na verstryking van die tydperk in paragraaf (a)(ii) bedoel nie.
- (5) Elke aansoek word deur die volgende dokumente ondersteun, waar van toepassing, wat bewys gee van:
- (a) die markwaarde van die onroerende goed;
 - (b) die plaaslike bestuur se waardasie van die onroerende goed;
 - (c) die bedrae verskuldig op verbande waarmee die onroerende goed beswaar is;
 - (d) die bedrag aan die plaaslike owerheid as belastinge en ander gelde verskuldig;
 - (e) die bedrae aan 'n regspersoon as heffings verskuldig; en
 - (f) enige ander faktor wat nodig mag wees om die hof in staat te stel om aan subreël (8) gevolg te gee:
- Met dien verstande dat die hof enige ander dokument wat die hof nodig ag, kan aanvra.
- (6)(a) 'n Respondent, by betekening van 'n aansoek in subreël (3) bedoel, kan–
- (i) die aansoek teenstaan; of

- (ii) die aansoek verdedig en verhoë rig wat betrekking het op die gee van 'n gepaste bevel deur die hof; of
 - (iii) sonder om die aansoek te verdedig, verhoë rig wat betrekking het op die gee van 'n gepaste bevel deur die hof.
- (b) 'n Respondent in paragraaf (a)(i) en (ii) bedoel—
 - (i) erken of ontken die bewering deur die applikant in die applikant se openingsverklaring gemaak; en
 - (ii) die redes vir die verdediging van die aansoek en die gronde waarop die aansoek verdedig word, uiteensit.
- (c) Elke verdediging of verhoë in paragrafe (a) en (b) bedoel moet in 'n beëdigde verklaring uiteengesit word.
- (d) 'n Respondent wat 'n aansoek verdedig of verhoë rig moet, binne 10 dae vanaf betekening van die aansoek—
 - (i) die beëdigde verklaring in paragraaf (c) bedoel, lewer;
 - (ii) 'n fisieke adres binne 15 kilometer van die kantoor van die griffier aanwys waar dokumente aan sodanige respondent beteken kan word; en
 - (iii) die respondent se pos-, faks- of elektroniese posadres, waar van toepassing, verstrek.
- (7) Die griffier moet die aangeleentheid terrolle plaas vir verhoë deur die hof op die datum in die Kennisgewing van Aansoek gestel.
- (8) 'n Hof wat 'n aansoek kragtens hierdie reël oorweeg—
 - (a) kan uit eie beweging of by aansoek deur enige geraakte party, gelas dat enige voorwaarde wat die hof gepas ag, in die verkoopsvoorwaardes ingesluit word;

- (b) kan die voorsiening gelas deur—
 - (i) 'n munisipaliteit van belastings deur 'n vonnisskuldenaar daaraan verskuldig;
of
 - (ii) 'n regspersoon van heffings deur 'n vonnisskuldenaar daaraan verskuldig;
 - (c) by die aanvoer van goeie gronde—
 - (i) versuim om enige dokument in bedoel in subreël (5) te voorsien, kondoneer;
of
 - (ii) lewering van 'n beëdigde verklaring buite die tydperk in subreël (6)(d) voorgeskryf;
 - (d) uitwinning gelas teen die primêre woning van 'n vonnisskuldenaar indien daar geen ander bevredigende middele is om die vonnisskuld te betaal nie;
 - (e) 'n reserweprys vasstel;
 - (f) die aansoek op sodanige terme uitstel wat die hof gepas ag;
 - (g) die aansoek weier indien dit geen meriete dra nie;
 - (h) 'n gepaste bevel gee oor koste, met inbegrip van 'n strafbevel teen 'n party wat die afhandeling van 'n aansoek kragtens hierdie reël vertraag; of
 - (i) enige ander gepaste bevel gee.
- (9)(a) In 'n aansoek kragtens hierdie reël, of by die rig van versoë deur 'n respondent, moet die hof oorweeg of 'n reserweprys vasgestel moet word.
- (b) Wanneer besluit word of 'n reserweprys vasgestel moet word en die bedrag waarteen die reserwe vasgestel sal word, moet die hof—
- (i) die markwaarde van die onroerende goed;
 - (ii) die bedrae verskuldig as belastings of heffings;

- (iii) die bedrae verskuldig op geregistreerde verbande;
 - (iv) enige eie kapitaal wat tussen die reserweprys en die markwaarde van die goed gerealiseer kan word;
 - (v) vermindering van die vonnisskuldenaar se skuld op die vonnisskuld en soos beoog in subreël (5)(a) tot (e), hetsy eie kapitaal in die onroerende goed gevind kan word al dan nie, soos in subparagraaf (iv) hierbo bedoel;
 - (vi) die onroerende goed geokkupeer is, die persone wat die goed okkupeer en die omstandighede van daardie okkupasie;
 - (vii) die waarskynlikheid dat die reserweprys nie behaal word nie en die waarskynlikheid dat die onroerende goed nie verkoop gaan word nie;
 - (viii) enige benadeling wat enige party kan ly indien die reserweprys nie behaal word nie; en
 - (ix) enige ander faktor wat na mening van die hof nodig is vir die beskerming van die belange van die vonnisskuldeiser en die vonnisskuldenaar, in ag neem.
- (c) Indien die reserweprys nie behaal word nie, moet die hof, by herooring van die faktore in paragraaf (b) en die bevoegdhede daarvan kragtens hierdie reël, beveel hoe uitwinning moet voortgaan.
- (d) Waar die reserweprys nie by 'n uitwinningsverkoop behaal word nie, moet die balju 'n verslag aan die hof voorlê, binne vyf dae vanaf die datum van die veiling, welke verslag—
- (i) die datum, tyd en plek waar die veiling gehou is;
 - (ii) die name, identiteitsnommers en kontakbesonderhede van die persone wat aan die veiling deelgeneem het;

- (iii) die hoogste bod of aanbod gemaak; en
- (iv) enige ander tersaaklike faktor wat die hof kan bystaan in die verrigting van die hof se funksie in paragraaf (c),
bevat.
- (e) Die hof kan, na oorweging van die faktore in paragraaf (d) en enige ander tersaaklike faktor, beveel dat die goed verkoop word aan die persoon wat die hoogste aanbod of bod gemaak het.

Vervanging van Vorm 21 van die Reëls

4. Vorm 21 in die Eerste Bylae van die Reëls word hierby deur die volgende vorm vervang:

“VORM 21

VERKOOPSVOORWAARDES BY UITWINNING VAN ONROERENDE GOED

Insake:

.....

[Eiser] Uitwinningskuldeiser

.....

en

[Verweerder] Vonnisskuldenaar

Die onroerende eiendom (hierna die “eiendom” genoem) wat te koop aangebied sal word op die dag van **[19] 20**....., bestaan uit:

Die verkoping sal **[aan]** volgens die volgende voorwaardes **[onderworpe wees]** gehou word:

1. Die verkoping word behoudens die bepalings van die Eenvormige Hofreëls en alle ander toepaslike wetsbepalings gehou word.

[1.]2. Die eiendom sal deur die balju van te aan die hoogste bieder sonder 'n reserweprys/[met] onderhewig aan 'n reserweprys van..... verkoop word.

[2.]3. Die verkoping geskied in rande en geen bod van minder as [een] eenduisend rand sal aanvaar word nie.

[3.]4. Indien 'n geskil betreffende 'n bod ontstaan, kan die eiendom weer vir verkoping aangebied word.

[4.]5(a) Indien die [afslaer] balju 'n fout by die verkoping maak, is so 'n fout nie op enige van die partye bindend nie maar kan dit reggestel word.

(b) Indien die [afslaer] balju vermoed dat 'n bieder nie in staat is om of die deposito wat in voorwaarde [6] 7 genoem word of die balans van die koopprys te betaal nie, kan [hy] die balju weier om die bod van so 'n bieder te aanvaar of kan hy dit voorwaardelik aanvaar totdat die bieder [hom] die balju oortuig [het] dat [hy] die beider in staat is om [beide sodanige bedrae] die deposito en die balans van die koopprys te betaal.

(c) By die weiering van 'n bod in die omstandighede in paragraaf (b) bedoel, kan die eiendom onmiddellik weer vir verkoping aangebied word.

[5.]6(a) Die koper moet so spoedig doenlik na die verkoping en onmiddellik wanneer deur die [.....] balju versoek, hierdie voorwaardes onderteken [en indien hy as verteenwoordiger gekoop het, die naam van sy prinsipaal vermeld].

(b) Indien die koper as verteenwoordiger koop, moet die koper die naam van die prinsipaal of persoon namens wie die eiendom gekoop word, bekendmaak.

[6.]7(a) Die koper moet 'n deposito van [tien] 10 persent van die koopprys kontant of per bankgewaarborgde tjek op die dag van die verkoping aan die balju betaal[.].

(b) [die] Die balans [betaalbaar] word teen transport betaal en verseker [te word] deur 'n waarborg [van 'n bank of bougenootskap] uitgereik deur 'n finansiële instelling [wat] deur die [eiser se] vonnisskuldeiser of sy of haar prokureur goedgekeur [is], en die waarborg [aan die balju] moet binnedae na die datum van die verkoping aan die balju verstrek [te] word.

[(b) Indien die transport van die eiendom nie binne een maand na die verkoping geregistreer is nie, sal die koper aanspreeklik wees vir die betaling van rente aan die eiser teenpersent per jaar en aan die verbandhouer teenpersent per jaar op die onderskeie bedrae van die toekenning aan die eiser en die verbandhouer in die distribusieplan, vanaf die verloop van een maand na die verkoping tot die datum van transport.

7. Aangesien die verweerder 'n lid van die groep is, sal geen bod gemaak deur of namens iemand wat nie 'n lid van dieselfde groep is nie, aanvaar word nie tensy so iemand aan die afslaer by die verkoping 'n permit van die Minister van Binnelandse Sake toon waarby hy gemagtig word om die eiendom te verkry.]

8. (a) As die [verkoper] koper versuim om enige [van sy] verpligting[e] van die koper ingevolge die verkoopsvoorwaardes na te kom, kan die koop summier deur 'n regter op grond van 'n verslag van die balju en na behoorlike kennisgewing aan die koper, gekanselleer word en die eiendom kan weer te koop aangebied word.[: en]

(b) [Die] Indien die omstandighede in paragraaf (a) voorkom, is die koper [is] aanspreeklik vir verliese gelyk vanweë [sy] sodanige versuim en dit kan op aansoek van 'n benadeelde skuldeiser wie se naam op die balju se distribusierekening verskyn, van [hom] die koper verhaal word kragtens vonnis van [die] 'n regter wat [summier] op grond van 'n skriftelike verslag van die balju gegee word nadat die koper skriftelik in kennis gestel is dat so 'n verslag vir daardie doel voor die regter gelê sal word.

(c) As die koper reeds in besit van die eiendom is, kan die balju met sewe dae kennisgewing by 'n regter 'n [uitsettingsbevel] bevel kry [teen hom] wat die koper of [teen] iemand wat voorgee die eiendom deur [hom te besit] die koper te okkupeer of die eiendom andersins okkupeer, uitsit.

9[.] (a) Die koper moet [afslaersgelde op die dag van die verkoping betaal en ook hereregte, transportkoste en agterstallige belastinge en ander uitgawes wat nodig is om transport te laat geskied, op versoek van die prokureur van die vonnisskuldeiser] onmiddellik op aandrang die balju se kommissie betaal, wat soos volg bereken word:

.....:

(b) Die koper is aanspreeklik om, binne 10 dae nadat die koper deur die aangestelde aktebesorger versoek is om dit te doen, die volgende te betaal:

(i) Alle bedrae verskuldig aan die munisipaliteit wat die eiendom bedien, ingevolge die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), vir munisipale diensgelde, ekstra betalings op gelde, eiendombelasting en ander munisipale belastinge, heffings en regte wat aan 'n munisipaliteit verskuldig kan wees; en waar van toepassing

(ii) Alle heffings verskuldig aan 'n regspersoon ingevolge die Wet op Deeltitels, 1986 (Wet No. 95 van 1986) of bedrae verskuldig aan 'n huiseienaars- of ander vereniging wat dienste aan die eiendom lewer.

(iii) Die koste van transport, met inbegrip van aktebesorgingsgeld, hereregte en enige ander bedrag nodig vir die oordrag van transport na die koper.

10. **[a]** Die eiendom kan **[onmiddellik]** na ondertekening van verkoopsvoorwaardes, betaling van die **[eerste]** deposito en wanneer die balans van die koopprys ingevolge voorwaarde 7(b) gewaarborg is in besit geneem word **[en sal na die betaling daarvan op die risiko en tot voordeel van die koper gehou word]**.

(b) Indien die koper besit van die eiendom neem, is die koper aanspreeklik vir okkupasiehuur teen die koers van R.....per maand van.....tot datum van transport.

[b] (c) Wanneer die koper besit neem, is die eiendom op die risiko en tot voordeel van die koper.

((c)) (d) Die vonnisskuldeiser en die balju gee geen waarborg dat die koper persoonlike en/of vakante okkupasie van die eiendom sal kan kry nie of dat die eiendom nie geokkupeer is nie.

11. **(a)** Die koper **[kan]** is geregtig om onverwyld transport te kry **[as hy]** by betaling van die hele koopprys **[betaal]** en by voldoening aan voorwaarde 9 **[voldoen in welke geval]**

enige eis vir rente verval]. Anders sal transport gegee word eers nadat die koper voorwaardes [6] 7 en 9 hiervan nagekom het.

(b) Indien die transport deur die koper verdraag word, is die koper aanspreeklik vir rente teen die koers vanpersent per jaar op die koopprys.

12[.] (a) Die balju kan eis dat enige **[gebou]** verbetering op die verkoopte eiendom onmiddellik deur die koper vir die volle waarde daarvan verassureer word **[en dat die assuransiepolis aan hom oorhandig en],** bewys van assuransie aan die balju gegee word en sodanige assuransiepolis van krag gehou word **[vir solank as wat die koopprys nog nie ten volle betaal is nie]** totdat transport geregistreer is. **[As hy dit nie doen nie, kan die balju die assuransie op die koper se koste uitneem.]**

(b) Sou die koper versuim om aan die verpligtinge in paragraaf (a) te voldoen, kan die balju die nodige assuransie uitneem en die koste van daardie assuransie sal op die koper se koste wees.

13[.](a) Die eiendom word verkoop soos deur die titelaktes en kaart of deelplan voorgestel[;], behoudens alle serwitute en voorwaardes van vestiging, watter ook al op die eiendom van toepassing is.

(b) [die] Die balju is nie aanspreeklik vir enige tekort wat op die eiendom gevind mag word nie **[en doen afstand van enige oorskot].** **[Die eiendom word ook verkoop onderhewig aan alle serwitute en voorwaardes in die transportakte vermeld.]**

14. Die vonnisskuldeiser **[is geregtig om 'n prokureur aan te]** stel 'n aktebesorger aan om die transport van die eiendom na die koper te behartig[.]; Met dien verstande dat die balju geregtig sal wees om 'n nuwe aktebesorger aan te stel sou die aktebesorger deur die vonnisskuldeiser aangestel nie betyds of bevredigend met die transport voortgaan nie.

Te hierdie dag van **[19]**
20......

Balju

Ek sertifiseer dat die voormelde eiendom vandag vir aan
in my teenwoordigheid verkoop
 is:.....

Ek, die ondergetekende,....., woonagtig te in die distrik
 verbind my hierby as koper van die voormelde eiendom om die koopprys
 te betaal en om al die bogenoemde voorwaardes na te kom.”

Invoeging van Vorm 2A in die Reëls

5. Die volgende Vorm word hierby in die Eerste Bylae van die Reëls na Vorm 2 ingevoeg:

“VORM 2A

KENNISGEWING VAN AANSOEK OM ONROERENDE GOED VATBAAR VIR UITWINNING INGEVOLGE REËL 46A TE VERKLAAR

In die Hooggeregshof van Suid-Afrika
 (..... Afdeling)

Saakno.

In die aangeleentheid tussen:

.....Applikant

en

.....Respondent

Neem asseblief kennis dat die applikant hierin voornemens is om by die bogenoemde
 Agbare Hof op om of so gou daarna as wat die
 aangeleentheid aangehoor kan word, aansoek te doen om 'n bevel luidens die volgende:

(a)

(b)

(c)

En neem kennis dat—

(a) die beëdigde verklaring vanhierby aangeheg, saam met aanhangsels daarby, ter ondersteuning van die aansoek gebruik sal word; en

(b) die applikant die adres hieronder aanwys as die adres waar betekening van dokumente in hierdie aansoek aanvaar sal word.

Die/enige respondent kan die aansoek verdedig of tersaaklike verdoel aan die hof rig. 'n Respondent wat dit wil doen moet—

(a) sodanige verdediging of verdoel in 'n beëdigde verklaring uiteensit;

(b) 'n afskrif van die beëdigde verklaring aan die applikant/prokureur beteken en die oorspronklike liasseer by die griffier van die bogenoemde hof binne 10 dae vanaf betekening van hierdie aansoekkennisgewing;

(c) saam met betekening en liassering van die beëdigde verklaring, 'n adres binne 15 kilometer van die kantoor van die griffier van die bogenoemde hof aanwys waar dokumente aan die respondent beteken kan word; en

(d) voor die bogenoemde hof verskyn op

'n Respondent wat die aansoek verdedig moet benewens daardie respondent se beëdigde verklaring—

(a) die bewerings deur die applikant gemaak erken of ontken; en

(b) die redes stel vir die verdediging van die aansoek en die gronde uiteensit waarop die verdediging gegrond is.

Versuim deur 'n respondent om enige van die dinge in hierdie aansoekkennisgewing genoem te doen, kan daartoe lei dat die hof die bevel waarvoor hierbo gevra word, toestaan.

GEDATEER te hierdie dag van
20.....

.....

Applikant /sy of haar prokureur

Adres:

.....

Aan: Die Griffier van die Hooggeregshof

En aan:

.....Respondent

Adres:

.....”

Invoeging van Vorm 20A in die Reëls

6. Die volgende Vorm word hierby in die Eerste Bylae van die Reëls na Vorm 20 ingevoeg:

“VORM 20A

KENNISGEWING VAN GEREGETELIKE BESLAGLEGGING

In die Hooggeregshof van Suid-Afrika

Saakno.

In die aangeleentheid tussen

.....

Vonnisskuldeiser

En

..... Vonnisskuldenaar

Aan:

Neem kennis dat ek op hierdie dag die goed in die aangehegte inventaris onder geregtelike beslaglegging geneem het ingevolge 'n lasbrief aan my gerig deur die griffier van die bogenoemde Agbare Hof, waarvolgens daar van my vereis word om uit u eiendom in hierdie distrik die som byeen te bring van R..... en R kostes teen u verhaal deur vonnis van hierdie hof in hierdie aksie saam met tariewe ten opsigte van die genoemde lasbrief.

U aandag word gevestig op die bepalings van reël 46(8)(a)(iii) van die Eenvormige Reëls van die bogenoemde Agbare Hof, wat bepaal:

“(iii) Enige belanghebbende party kan, minstens 25 dae voor die datum van die verkoping, verdere of gewysigde verkoopsvoorwaardes skriftelik aan die balju voorlê.”

Die verkoopsvoorwaardes waaronder die inbeslaggenome goed deur openbare veiling verkoop staan te word, sal deur die vonnisskuldeiser voorberei word.

Gedateer te..... hierdie dag van
....., 20.....

.....

Balju.”

Invoeging van Vorm 21A in die Reëls

7. Die volgende Vorm word hierby na vorm 21 in die Eerste Bylae van die Reëls ingevoeg:

"VORM 21A**KENNISGEWING OM VERKOPING VAN ONROERENDE GOED TE KANSELLEER
INGEVOLGE REËL 46(11)(a)****IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA**

(..... Afdeling)

Saakno.

In die aangeleentheid tussen:

Die Balju van

Applikant

en

..... Koper

Insake:

.....
Vonnisskuldeiser

en

.....
Vonnisskuldenaar

NEEM ASSEBLIEF KENNIS dat die Balju van..... voornemens is om 'n Regter in kamers, op 'n datum deur die griffier toegeken, te versoek om die verkoping te kanselleer van onroerende goed beskryf as, verkoop deur openbare veiling op 20.....en om te magtig dat die genoemde eiendom weer opgeveil word.

NEEM VERDER KENNIS dat die verslag van die genoemde balju, waarop die versoek aan die Regter gemaak sal word om die verkoping te kanselleer, hierby aangeheg is.

GEDATEER te..... hierdie dag van
.....20.....

Balju van die Hooggeregshof

..... (Area)

.....

(Adres)

Aan: Die Griffier van die bogenoemde Agbare Hof

.....

En aan:

Koper

.....

.....

(Adres)"

Inwerkingtreding

8. Hierdie reëls tree in werking op 22 Desember 2017.

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)**AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE
MAGISTRATES' COURTS OF SOUTH AFRICA**

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE**GENERAL EXPLANATORY NOTE:**

Expressions in square brackets in bold [] indicate omissions from the existing rules

Expressions with **solid underline** indicate insertions into the existing rules.

Definition

1. In this Schedule "the Rules" means the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa published under Government Notice No. R. 740 of 23 August 2010, as amended by Government Notice Nos. R. 1222 of 24 December 2010, R. 611 of 29 July 2011, R. 1085 of 30 December 2011, R. 685 of 31 August 2012, R. 115 of 15 February 2013, R. 263 of 12 April 2013, R. 760 of 11 October 2013, R. 183 of 18 March 2014, R. 215 of 28 March 2014 and R. 507 of 27 June 2014, R. 5 of 9 January 2015, R. 32 of 23 January 2015, R. 33 of 23 January 2015, R. 318 of 17 April 2015, R. 545 of 30 June 2015, R. 2 of 19 February 2016 and R. 1055 of 29 September 2017.

Amendment of TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES

2. The TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES is hereby amended by the substitution thereof for the following TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES:

<i>“Rule No.</i>	<i>Subject</i>	<i>Previous Rule No.</i>
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1	Purpose and application of rules	1
2	Definitions	2
[CHAPTER 1 (rules 3-69)]		
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14	Summary judgment	14
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16	Further particulars	16
17	Plea	17
18	Offer to settle	18
18A	Interim payments	18A
19	Exceptions and applications to strike out	19
20	Claims in reconvention	20
21	Replication and plea in reconvention	21
21A	Close of pleadings	21A
21B	Failure to deliver pleadings – barring	21B
22	Set-down of trial	22
23	Discovery of documents	23
24	Medical examinations, inspection of things, expert testimony and tendering in evidence any plan, diagram, model or photograph	24
25	Pre-trial procedure for formulating issues	25
26	Subpoenae, interrogatories and commissions <i>de bene esse</i>	26

27	Withdrawal, dismissal and settlement	27
28	Intervention, joinder, and consolidation of actions	28
28A	Third party procedure	28A
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30	Record of proceedings in civil matters	30
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32	Non-appearance of a party - withdrawal and dismissal	32
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Substitution of rule 43 of the Rules

3. The following rule is hereby substituted for rule 43 of the Rules:

"43 Execution against immovable property

(1)(a) Subject to the provisions of rule 43A, no warrant of execution against the immovable property of any judgment debtor shall be issued unless—

- (i) a return has been made of any process issued against the movable property of the judgment debtor from which it appears that the said person has insufficient movable property to satisfy the warrant; or
- (ii) such immovable property has been declared to be specially executable by the court.

(b) A warrant of execution against immovable property shall contain—

(i) a full description of the nature, magisterial district and physical address of the immovable property to enable it to be traced and identified by the sheriff; and

(ii) sufficient information to enable the sheriff to give effect to subrule (3) hereof.

(2) The attachment of the immovable property shall be made by any sheriff of the district in which the property is situated, upon a warrant of execution corresponding substantially with Form 32 of Annexure 1.

(3)(a) Notice of the attachment, corresponding substantially with Form 33 of Annexure 1, shall be served by the sheriff upon the owner of the immovable property and upon the registrar of deeds or other officer charged with the registration of such property, and if the property is occupied by some person other than the owner, also upon such occupier.

(b) Any notice referred to in paragraph (a) shall—

(i) draw attention to the provisions of subrule (8)(a)(iii); and

(ii) be served according to the provisions of rule 9, except that service upon the registrar of deeds or other officer charged with the registration of immovable property may also be effected by the sheriff by means of a registered letter, duly prepaid and posted, addressed to the officer intended to be served.

(4)(a) When effecting the attachment, the sheriff may enter buildings or structures on the immovable property in order to ascertain the improvements made to the immovable property, as well as the condition of such improvements: Provided that where the sheriff after reasonable attempts is unable to gain access onto the immovable property or into any building or structure on account of the property, building or structure being locked, the sheriff may use a locksmith to gain entry.

(b) After attachment, any sale in execution shall take place in the district in which the attached immovable property is situated and shall be conducted by the sheriff of such district who first attached the property: Provided that the sheriff in the first instance and subject to the provisions of paragraph (d) of subrule (8) may on good cause shown authorise such sale to be conducted elsewhere and by another sheriff.

(c) Upon receipt of written instructions from the execution creditor to proceed with such sale, the sheriff shall ascertain and record the bonds or other encumbrances which are registered against the attached immovable property together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered and shall thereupon notify the execution creditor accordingly.

(5) Subject to rule 43A and any order made by the court, no immovable property which is subject to any claim preferent to that of the execution creditor shall be sold in execution unless—

(a) the execution creditor has caused notice of the intended sale, corresponding substantially with Form 34 of Annexure 1, to be served upon—

(i) preferent creditors personally;

(ii) the local authority, if the property is rated; and

(iii) the body corporate, if the property is a sectional title unit;

calling upon the aforesaid entities to stipulate within 10 days of a date to be stated, a reasonable reserve price or to agree in writing to a sale without reserve, and has provided proof to the sheriff that such entities have so stipulated or agreed, or

(b) subject to the provisions of section 66(2)(b) of the Act, the sheriff is satisfied that it is impossible to notify any preferent creditor, in terms of this rule, of the proposed sale, or such creditor, having been notified, has failed or neglected to stipulate a reserve price or to agree in writing to a sale without reserve as provided for in paragraph (a) within the time stated in such notice.

(6) The sheriff may by notice served upon any person require such person to deliver up to the sheriff forthwith, all documents in such person's possession or control relating to the debtor's title to the said property.

(7)(a) The sheriff conducting the sale shall appoint a day and place for the sale of the attached immovable property, such day being, except by special leave of a magistrate, not less than 45 days after service of the notice of attachment and shall forthwith inform all other sheriffs appointed in the district of such day and place.

(b) (i) The execution creditor shall, after consultation with the sheriff conducting the sale, prepare a notice of sale containing a short description of the attached immovable property, its improvements, magisterial district and physical address, the time and place for the holding of the sale and the fact that the conditions may be inspected at the office of the sheriff conducting the sale.

(ii) The execution creditor must furnish the sheriff with as many copies of the notice of sale as the sheriff may require.

(c) The execution creditor shall—

(i) publish the notice once in a newspaper circulating daily or weekly in the district in which the attached immovable property is situated and in the Gazette not less than five days and not more than 15 days before the date of the sale; and

- (ii) provide the sheriff conducting the sale, by hand, or by facsimile or electronic mail, with one satisfactory photocopy of each of the notices published in the newspaper and the Gazette, respectively.
- (d) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall forward a copy of the notice of sale referred to in paragraph (b) to every execution creditor who had caused the said immovable property to be attached and to every mortgagee thereof whose address is known and shall simultaneously furnish a copy of the notice of sale to all other sheriffs appointed in that district.
- (e) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall affix—
- (i) one copy of the notice on the notice-board of the magistrate's court of the district in which the attached immovable property is situated, or if the said property is situated in the district where the court out of which the warrant was issued is situated, then on the notice-board of such court; and
- (ii) one copy at or as near as may be to the place where the said sale is actually to take place.
- (8)(a) (i) Not less than 35 days prior to the date of the sale, the execution creditor shall prepare the conditions of sale, corresponding substantially with Form 33A of Annexure 1, upon which the attached property is to be sold and shall submit such conditions to the sheriff conducting the sale, for the purposes of settling them.
- (ii) In addition to any other terms, the conditions of sale shall include any conditions ordered by the court.
- (iii) Not less than 25 days prior to the date of the sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.
- (iv) Not less than 20 days prior to the date of the sale, the sheriff shall settle the conditions of sale.
- (v) The sale in execution and the conditions of sale shall comply with the provisions of any law relating to auctions, in particular the Consumer Protection Act, 2008 and the Regulations promulgated thereunder.
- (b) (i) The execution creditor shall thereafter supply the said sheriff with three copies of the conditions of sale, one of which shall lie for inspection by interested parties at the office of the sheriff for 15 days prior to the date of the sale.
- (ii) The sheriff conducting the sale shall forthwith furnish a copy of the conditions of sale to all other sheriffs appointed in that district.
- (c) Not less than 15 days prior to the date of the sale, the sheriff shall serve one copy of the conditions of sale on the judgment debtor.

- (d) Not less than 10 days prior to the date of the sale, any interested party may, subject to rule 43A and any order made by the court under the provisions thereof, and upon 24 hours' notice to all known affected parties apply to the magistrate of the district in which the attached immovable property is to be sold for any modification of the conditions of sale and the magistrate may make such order thereon, including an appropriate order as to costs.
- (9) The execution creditor shall appoint a conveyancer to attend to the transfer of the attached immovable property sold in execution: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.
- (10)(a) Immovable property attached in execution shall be sold by public auction by the sheriff or a private auctioneer appointed in terms of paragraph (b).
- (b) The execution creditor or any person having an interest in the due and proper realisation of the attached immovable property may, by notice given to the sheriff within 15 days after attachment, but subject to the provisions hereinafter contained, require that such property be sold by an auctioneer in the ordinary course of business and may in such notice nominate the auctioneer to be employed.
- (c)(i) Where a notice in terms of paragraph (b) is given by any person other than the execution creditor, such notice must be accompanied by the deposit of a sum sufficient to cover the additional expense of sale by an auctioneer in the ordinary course of business, and in default of such a deposit such notice shall be void.
- (ii) A notice in terms of paragraph (b) shall lapse if the services of an auctioneer are not obtainable.
- (iii) If after satisfying the claim of the execution creditor and all warrants of execution lodged with the sheriff on or before the day immediately preceding the date of the sale and all costs there are surplus proceeds of the sale of the immovable property, the deposit must be refunded to the depositor: Provided that if there is no surplus, such deposit must, as far as may be necessary, be applied in payment of the auctioneer's fees and expenses.
- (d) If two or more notices in terms of paragraph (b) are given, the first shall have preference.
- (11)(a)(i) If the purchaser fails to carry out any obligations due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on the report of the sheriff conducting the sale, after due notice to the purchaser, and the attached immovable property may be put up for sale again.
- (ii) The report shall be accompanied by a notice corresponding substantially with Form 33B of Annexure 1.

(iii) If the sale is cancelled, the sheriff shall inform the judgment debtor of the cancellation.

(b) Any loss sustained by reason of the purchaser's default may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from the purchaser under judgment of a magistrate given on a written report by the sheriff, after notice in writing has been given to the purchaser that the report will be laid before a magistrate for the aforesaid purpose.

(c) If the purchaser is already in possession of the immovable property, the said sheriff may, on notice to affected persons apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

(12) Subject to the provisions of rule 43A and subrule (5) hereof–

(a) the sale shall be conducted upon the conditions stipulated under subrule (8); and

(b) the immovable property shall be sold to the highest bidder.

(13)(a) All moneys in respect of the purchase price of the immovable property sold in execution shall be paid to the sheriff and the sheriff shall retain such moneys in his or her trust account until transfer has been given to the purchaser.

(b) The sheriff conducting the sale shall give transfer to the purchaser against payment of the purchase money and upon performance of the conditions of sale and may for that purpose do anything necessary to effect registration of transfer, and anything so done by him or her shall be as valid and effectual as if he or she were the owner of the property.

(c) No amount of the purchase money shall be paid out until the provisions of subrule (14) have been complied with.

(14)(a) After conclusion of the sale, but before preparation by the sheriff of a plan of distribution, the execution creditor or his or her attorney shall provide the sheriff with a certificate of all money paid by the judgment debtor to the execution creditor or his or her attorney after the issue of the warrant of execution.

(b) (i) Within 10 days after the date of registration of the transfer, the sheriff shall have prepared a plan of distribution of the proceeds in order of preference, and must forward a copy of such plan to the registrar or clerk of the court and to all other sheriffs appointed in that district.

(ii) Immediately thereafter the said sheriff shall give notice to all parties who have lodged warrants and to the execution debtor that the plan of distribution will lie for inspection at his or her office and the office of the registrar or clerk of the court for 15 days from a date mentioned, and unless such parties signify in writing their agreement to the plan, such plan will so lie for inspection.

(c) After deduction from the proceeds of the costs and charges of execution, the following shall be the order of preference:

(i) Claims of preferent creditors ranking in priority in their legal order of preference; and thereafter

(ii) Claims of other creditors whose warrants have been lodged with the sheriff in the order of preference appearing from sections 96 and 98A to 103 (inclusive) of the Insolvency Act, 1936 (Act No. 24 of 1936).

(d) Any interested person objecting to the plan must—

(i) before the expiry of the period referred to in paragraph (b)(ii), give notice in writing to the sheriff and all other interested persons of the particulars of the objection; and

(ii) within 10 days after the expiry of the period referred to in paragraph (b)(ii), bring such objection before a magistrate for review upon 10 days notice to the sheriff and the said persons.

(e) The magistrate on review shall hear and determine the matter in dispute and may amend or confirm the plan of distribution or may make such order including an order as to costs as he or she deems appropriate.

(f) If—

(i) no objection is lodged to such plan; or

(ii) the interested parties signify their concurrence therein; or

(iii) the plan is confirmed or amended on review,

the sheriff shall, on production of a certificate from the conveyancer that transfer has been given to the purchaser, pay out in accordance with the plan of distribution.

(15) Neither a sheriff nor any person on behalf of the sheriff shall at any sale in execution purchase any immovable property offered for sale either for himself or herself or for any other person."

Substitution of rule 43A of the Rules

4. The following rule is hereby substituted for rule 43A of the Rules:

"43A Execution against residential immovable property

(1) This rule applies whenever an execution creditor seeks to execute against the residential immovable property of a judgment debtor.

(2)(a) A court considering an application under this rule must—

(i) establish whether the immovable property which the execution creditor intends to execute against is the primary residence of the judgment debtor; and

(ii) consider alternative means by the judgment debtor of satisfying the judgment debt, other than execution against the judgment debtor's primary residence.

(b) A court shall not authorise execution against immovable property which is the primary residence of a judgment debtor unless the court, having considered all relevant factors, considers that execution against such property is warranted.

(c) The registrar or clerk of the court shall not issue a warrant of execution against the residential immovable property of any judgment debtor unless a court has ordered execution against such property.

(3) Every notice of application to declare residential immovable property executable shall be—

(a) substantially in accordance with Form 1B of Annexure 1;

(b) on notice to the judgment debtor and to any other party who may be affected by the sale in execution, including the entities referred to in rule 43(5)(a): Provided that the court may order service on any other party it considers necessary;

(c) supported by affidavit which shall set out the reasons for the application and the grounds on which it is based; and

(d) served by the sheriff on the judgment debtor personally: Provided that the court may order service in any other manner.

(4)(a) The applicant shall in the notice of application—

(i) state the date on which the application is to be heard;

(ii) inform every respondent cited therein that if the respondent intends to oppose the application or make submissions to the court, the respondent must do so on affidavit within 10 days of service of the application and appear in court on the date on which the application is to be heard;

(iii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which the applicant will accept service of all documents in these proceedings; and

(iv) state the applicant's postal, facsimile or electronic mail address where available.

(b) The application shall not be set down for hearing on a date less than five days after expiry of the period referred to in paragraph (a)(ii).

(5) Every application shall be supported by the following documents, where applicable, evidencing:

(a) the market value of the immovable property;

(b) the local authority valuation of the immovable property;

(c) the amounts owing on mortgage bonds registered over the immovable property;

(d) the amount owing to the local authority as rates and other dues;

(e) the amounts owing to a body corporate as levies; and

(f) any other factor which may be necessary to enable the court to give effect to subrule (8):

Provided that the court may call for any other document which it considers necessary.

(6)(a) A respondent, upon service of an application referred to in subrule (3), may—

(i) oppose the application; or

(ii) oppose the application and make submissions which are relevant to the making of an appropriate order by the court; or

(iii) without opposing the application, make submissions which are relevant to the making of an appropriate order by the court.

(b) A respondent referred to in paragraph (a)(i) and (ii) shall—

(i) admit or deny the allegations made by the applicant in the applicant's founding affidavit; and

(ii) set out the reasons for opposing the application and the grounds on which the application is opposed.

(c) Every opposition or submission referred to in paragraphs (a) and (b) shall be set out in an affidavit.

(d) A respondent opposing an application or making submissions shall, within 10 days of service of the application—

(i) deliver the affidavit referred to in paragraph (c);

(ii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which documents may be served upon such respondent; and

(iii) state the respondent's postal, facsimile or electronic mail address where available.

(7) The registrar or clerk of the court shall place the matter on the roll for hearing by the court on the date stated in the Notice of Application.

(8) A court considering an application under this rule may—

(a) of its own accord or on the application of any affected party, order the inclusion in the conditions of sale, of any condition which it may consider appropriate;

(b) order the furnishing by—

(i) a municipality of rates due to it by the judgment debtor; or

(ii) a body corporate of levies due to it by the judgment debtor;

(c) on good cause shown, condone—

(i) failure to provide any document referred to in subrule (5); or

(ii) delivery of an affidavit outside the period prescribed in subrule (6)(d);

(d) order execution against the primary residence of a judgment debtor if there is no other satisfactory means of satisfying the judgment debt;

(e) set a reserve price;

(f) postpone the application on such terms as it may consider appropriate;

(g) refuse the application if it has no merit;

(h) make an appropriate order as to costs, including a punitive order against a party who delays the finalisation of an application under this rule; or

(i) make any other appropriate order.

(9)(a) In an application under this rule, or upon submissions made by a respondent, the court must consider whether a reserve price is to be set.

(b) In deciding whether to set a reserve price and the amount at which the reserve is to be set, the court shall take into account—

(i) the market value of the immovable property;

- (ii) the amount owing as rates or levies;
 - (iii) the amounts owing on registered mortgage bonds;
 - (iv) any equity which may be realised between the reserve price and the market value of the property;
 - (v) reduction of the judgment debtor's indebtedness on the judgment debt and as contemplated in subrule (5)(a) to (e), whether or not equity may be found in the immovable property, as referred to in subparagraph (iv);
 - (vi) whether the immovable property is occupied, the persons occupying the property and the circumstances of such occupation;
 - (vii) the likelihood of the reserve price not being realised and the likelihood of the immovable property not being sold;
 - (viii) any prejudice which any party may suffer if the reserve price is not achieved; and
 - (ix) any other factor which in the opinion of the court is necessary for the protection of the interests of the execution creditor and the judgment debtor.
- (c) If the reserve price is not achieved at a sale in execution, the court must, on a reconsideration of the factors in paragraph (b) of this subrule and its powers under this rule, order how execution is to proceed.
- (d) Where the reserve price is not achieved at a sale in execution, the sheriff must submit a report to the court, within 5 days of the date of the auction, which report shall contain—
- (i) the date, time and place at which the auction sale was conducted;
 - (ii) the names, identity numbers and contact details of the persons who participated in the auction;
 - (iii) the highest bid or offer made; and
 - (iv) any other relevant factor which may assist the court in performing its function in paragraph (c).
- (e) The court may, after considering the factors in paragraph (d) and any other relevant factor, order that the property be sold to the person who made the highest offer or bid."

Insertion of rule 43B in the Rules

5. The following rule is hereby inserted in the Rules after rule 43A:

“43B Enforcement of foreign civil judgment

- (1) Whenever a certified copy of a judgment referred to in section 3(1) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act No. 32 of 1988), is filed with the registrar or clerk of the court in the Republic, such registrar or clerk of the court shall register that judgment by numbering it with a consecutive number for the year during which it is filed and by noting the particulars in respect of the judgment referred to in paragraphs (a), (b) and (c) of the said section on the case cover.
- (2) A judgment creditor shall, together with the certified copy of a judgment referred to in subrule (1) —
- (a) file an affidavit made by himself or herself or by somebody else who can confirm the following facts stating—
- (i) the amount of interest due, the appropriate rate of interest and how the amount of interest has been calculated; and
- (ii) whether any amount has been paid by the judgment debtor since judgment, and, if so, whether such amount has been deducted from the capital amount of the judgment debt or from the interest or costs, as the case may be; and
- (b) if any amount payable under the judgment is expressed in a currency other than the currency of the Republic, file a certificate issued by a banking institution registered in terms of section 4 of the Banks Act, 1965 (Act No. 23 of 1965), stating the rate of exchange prevailing at the date of the judgment.
- (3) A notice issued in terms of section 3(2) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act No. 32 of 1988), shall contain—
- (a) the consecutive number referred to in subrule (1);
- (b) the date on which the judgment was registered;
- (c) the balance of the amount payable under the judgment;
- (d) the taxed costs awarded by the court of the designated country;
- (e) the interest, if any, which by the law or by order of the court of the designated country concerned is due on the amount payable under the judgment up to the time of registration of the judgment;

- (f) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining a certified copy of the judgment;
- (g) the names of the parties concerned; and
- (h) the name of the court where the judgment was given.”

Amendment of the Numerical List to Annexure 1 of the Rules

6. The Numerical List to Annexure 1 of the Rules is hereby amended by the substitution therefor of the Numerical List to the Annexure contained in Annexure A to this Schedule.

Amendment of Annexure 1 to the Rules

7. Annexure 1 to the Rules is hereby amended by—
- (a) the substitution for Forms Nos.33 and 34 of Forms Nos. 33 and 34, respectively, contained in Annexure B to this Schedule; and
 - (b) the addition of Forms Nos. 1B, 33A and 33B contained in Annexure B to this Schedule.

Commencement

8. These rules come into operation on **22 December 2017**.

ANNEXURE A**“ANNEXURE 1****FORMS****NUMERICAL LIST****Form No.**

1. Notice of Motion (Short Form)
- 1A. Notice of Motion (Long Form)
- 1B. Notice of application to declare immovable property executable in terms of rule 43A
2. Simple Summons
- 2A. Summons: Provisional Sentence
- 2B. Combined Summons
- 2C. Combined Summons: (Divorce Actions)
3. Summons (in which is included an automatic rent interdict)
4. Edictal citation/substituted service: short form of process
5. Request for default judgment
- 5A. Request for default judgment where the defendant has admitted liability and undertaken to pay the debt in instalments or otherwise – Section 57 of the Act
- 5B. Request for default judgment where the defendant has consented to judgment – Section 58 of the Act
6. Notice of withdrawal of action/application
7. Notice of application for summary judgment
8. Affidavit in support of application for summary judgment
9. Affidavit under section 32 of the Act
10. Security under section 32 of the Act
11. Order under section 32 of the Act
12. Consent to sale of goods attached under section 32 of the Act
13. Discovery – form of affidavit
14. Notice in terms of rule 23(5)
15. Discovery – notice to produce
- 15A. Discovery – notice to inspect documents
- 15B. Discovery – notice to produce documents in pleadings, etc
16. Order for interdict obtained *ex parte*
17.
18. Order for attachment of property to found or confirm jurisdiction
19. Direction to attend pre-trial conference
20. Order – pre-trial conference
21. Application for trial with assessors
22. Summons to assessor
23. Commissions *de bene esse*
24. Subpoena
25. Warrant for payment of fine or arrest of witness in default
26. Warrant for the arrest of a witness in default
27. Security on attachment or interdict *ex parte*

28. Security when execution is stayed pending appeal
29. Security when execution is allowed pending appeal
30. Warrant of ejectment
31. Warrant for delivery of goods
32. Warrant for execution against property
33. Notice of attachment in execution
- 33A. Conditions of sale in execution of immovable property
- 33B. Notice to cancel sale of immovable property in terms of rule 43(11)(a)
34. Notice **[to preferent creditor]** in terms of rule 43(5)(a) [section 66(2)(a) of the Act]
35. Interpleader summons [section 69(1) of the Act]
36. Interpleader summons [section 69(2) of the Act]
37. Security under rule 38
38. Emoluments attachment order
39. Garnishee order
40. Notice to appear in court in terms of section 65A(1) of the Act
- 40A. Warrant of arrest in terms of section 65A(6) of the Act
- 40B. Notice to appear in court in terms of section 65A(8)(b) of the Act
41. Notice of set-down of postponed proceedings under section 65E(3) of the Act
42. Notice in terms of rule 58(2)(a)
43. Notice to Third Party
44. Application for an administration order under section 74(1) of the Act
45. Statement of affairs of debtor in an application for an administration order in terms of section 65I(2) or 74A of the Act
46. Certificate of service of foreign process
47. Notice to debtor that an additional creditor has lodged a claim against him or her for a debt owing before the making of the administration order
48. Notice to debtor that a creditor has lodged a claim for a debt accruing after granting of the administration order
49. Notice to add an additional creditor to the list of creditors of a person under administration
50. Notice to creditor that his or her name has been added to the list of creditors of a person under administration
51. Administration order
52. Distribution account in terms of section 74J(5) of the Act
- 52A. Rescission of administration order
53. Notice of abandonment of specified claim, exception or defence
54. Agreement not to appeal
55. Request to inspect record
56. Criminal record book
57. Notice in terms of section 309B(2)(d) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)".

ANNEXURE B**“No. 1B – Notice of application to declare immovable property executable in terms of rule 43A*****For use in the District Court**

In the Magistrate’s Court for the District of.....held
at.....Case No. of 20.....

In the matter between:

..... Applicant

and

..... Respondent

To the above-mentioned respondent:

TAKE NOTICE that (hereinafter called the applicant) intends to make application to this Court on at or as soon thereafter as the application may be heard for an order (1) (2) (3) (set forth the form of order prayed) and that the annexed affidavit of, together with annexures thereto, will be used in support thereof.

PLEASE TAKE NOTICE that the applicant has appointed the address below at which the applicant will accept service of all documents in this application.

TAKE NOTICE FURTHER that if you intend to oppose this application you must, within 10 court days of service of this application—

- (a) in an affidavit admit or deny the allegations made in the applicant’s founding affidavit;
- (b) set out in such affidavit the reasons for your opposition and the grounds on which your opposition is based;
- (c) serve a copy of the affidavit on the applicant or his or her attorney; and
- (d) file the original of the affidavit with the Clerk of the Court.

TAKE NOTICE FURTHER that if you wish to make submissions which are relevant to the making of an appropriate order such as the determination of a reserve price; you must, within 10 court days of service of this application—

- (a) set out in an affidavit the submissions and grounds therefor;
- (b) serve a copy of the affidavit on the applicant or his or her attorney; and
- (c) file the original of the affidavit with the Clerk of the Court.

TAKE NOTICE FURTHER that—

- (a) together with service and filing of the affidavit, you must give your physical address, postal address and where available, facsimile and electronic mail address;
- (b) in your affidavit you must indicate the preferred address for service upon you of all documents in the application, and service thereof at the address so given shall be valid and effectual, except where personal service is required by an order or practice of the court; and
- (c) a physical address given by you must, in places where there are three or more attorneys or firms of attorneys practicing independently of one another, be within 15 kilometres of the courthouse.

AND TAKE NOTICE FURTHER that you must appear before the above Honourable Court on

AND TAKE FURTHER NOTICE that your failure to do any of the things mentioned in this notice of application may result in the court granting the orders as prayed for above.

DATED atthis.....day of.....20.....

.....

Applicant/Applicant's attorney

Physical address (within 15 kilometres of the courthouse):

.....

.....

Postal address:

Electronic mail address:

Facsimile:

To: The Clerk of the above Court

And to:

.....

Respondent

Address:

Postal address:

Electronic mail address:

Facsimile:

No. 1B – Notice of application to declare immovable property executable in terms of rule 43A

***For use in the Regional Court**

In the Regional Court for the Regional Division of.....

held at.....Case No. of 20.....

In the matter between:

..... Applicant

and

..... Respondent

To the above-mentioned respondent:

TAKE NOTICE that (hereinafter called the applicant) intends to make application to this Court on at or as soon thereafter as the application may be heard for an order (1) (2) (3) (here set forth the form of order prayed) and that the annexed affidavit of, together with annexures thereto, will be used in support thereof.

PLEASE TAKE NOTICE that the applicant has appointed the address below at which the applicant will accept service of all documents in this application.

TAKE NOTICE FURTHER that if you intend to oppose this application you must, within 10 court days of service of this application—

- (a) in an affidavit admit or deny the allegations made in the applicant's founding affidavit;
- (b) set out in such affidavit the reasons for your opposition and the grounds on which your opposition is based;
- (c) serve a copy of the affidavit on the applicant or his or her attorney; and
- (d) file the original of the affidavit with the registrar.

TAKE NOTICE FURTHER that if you wish to make submissions which are relevant to the making of an appropriate order such as the determination of a reserve price; you must, within 10 court days of service of this application—

- (a) set out in an affidavit the submissions and grounds therefor;
- (b) serve a copy of the affidavit on the applicant or his or her attorney; and
- (c) file the original of the affidavit with the registrar.

TAKE NOTICE FURTHER that—

- (a) together with service and filing of the affidavit, you must give your physical address, postal address and where available, facsimile and electronic mail address;
- (b) in your affidavit you must indicate the preferred address for service upon you of all documents in the application, and service thereof at the address so given shall be valid and effectual, except where personal service is required by an order or practice of the court; and
- (c) a physical address given by you must, in places where there are three or more attorneys or firms of attorneys practicing independently of one another, be within 15 kilometres of the courthouse.

AND TAKE NOTICE FURTHER that you must appear before the above Honourable Court on

AND TAKE FURTHER NOTICE that your failure to do any of the things mentioned in this notice of application may result in the court granting the orders as prayed for above.

DATED atthis.....day of.....20.....

.....

Applicant/Applicant's attorney

Physical address (within 15 kilometres of the courthouse):

.....

.....

Postal address:

Electronic mail address:

Facsimile:

To: The Registrar of the above Court

And to:

.....

Respondent

Address:

.....

Postal address:

Electronic mail address:

Facsimile:

No. 33 — Notice of attachment in execution

***For use in the District Court**

In the Magistrate's Court for the District of

held at Case No. of 20.....

In the matter between

..... Execution Creditor

and

..... **[Execution]** Judgment Debtor

To:

[Execution] Judgment Debtor

Take notice that I have this day laid under judicial attachment the property **[comprised in the above]** in the attached inventory in pursuance of a warrant directed to me **[under the hand of]** by the clerk of the court for the district of, whereby I am required to cause to be raised of your property in this district or region the sum of R..... and R costs recovered against you by the judgment of the said court in this action **[and]** together with my charges in respect of the said warrant.

Your attention is drawn to the provisions of rule 43(8)(a)(iii) of the rules of the above Honourable Court which reads:

“(iii) Not less than 25 days prior to the date of sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.”

The conditions of sale upon which the attached property is to be sold by public auction will be prepared by the execution creditor.

Dated at this day of, 20.....

.....

Sheriff.

No. 33 — Notice of attachment in execution

***For use in the Regional Court**

In the Regional Court for the Regional Division of

held at Case No. of 20.....

In the matter between

..... Execution Creditor

and

..... **[Execution]** Judgment Debtor

To:

[Execution] Judgment Debtor

Take notice that I have this day laid under judicial attachment the property **[comprised in the above]** in the attached inventory in pursuance of a warrant directed to me **[under the hand of]** by the registrar for the regional division of, whereby I am required to cause to be raised of your property in this district or region the sum of R..... and R costs recovered against you by the judgment of the said court in this action **[and]** together with my charges in respect of the said warrant.

Your attention is drawn to the provisions of rule 43(8)(a)(iii) of the rules of the above Honourable Court which reads:

“(iii) Not less than 25 days prior to the date of sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.”

The conditions of sale upon which the attached property is to be sold by public auction will be prepared by the execution creditor.

Dated at this day of, 20.....

.....

Sheriff.

No. 33A – Conditions of sale in execution of immovable property

***For use in the District Court**

In re:

..... Execution Creditor

and

..... Judgment Debtor

The immovable property (hereinafter referred to as the “property”) which will be put up for auction on the day of 20....., consists of:

.....

The sale shall be conducted on the following conditions:

1. The sale shall be conducted in accordance with the provisions of rule 43 of the Magistrates’ Courts Rules and all other applicable law.

2. The property shall be sold by the sheriff of orXYZ Auctioneers of at to the highest bidder without reserve/subject to a reserve price of.....

3. The sale shall be for rands, and no bid for less than one thousand rands shall be accepted.

4. If any dispute arises about any bid, the property may again be put up for auction.

5(a) If the sheriff/auctioneer makes any mistake in selling, such mistake shall not be binding on any of the parties, but may be rectified.

(b) If the sheriff/auctioneer suspects that a bidder is unable to pay either the deposit referred to in condition 7 or the balance of the purchase price, the sheriff/auctioneer may refuse to accept the bid of such bidder, or accept it provisionally until the bidder satisfies the sheriff/auctioneer that such bidder is able to pay the deposit and the balance of the purchase price.

(c) On the refusal of a bid under circumstances referred to in paragraph (b), the property may immediately be put up for auction again.

6(a) The purchaser shall, as soon as possible after the sale and immediately on being requested by the sheriff/auctioneer, sign these conditions.

(b) If the purchaser purchases in a representative capacity, the purchaser shall disclose the name of the principal or person on whose behalf the property is being purchased.

7(a) The purchaser shall pay to the sheriff a deposit of 10 per cent of the purchase price in cash or by bank guaranteed cheque on the day of the sale.

(b) The balance shall be paid against transfer and shall be secured by a guarantee issued by a financial institution approved by the execution creditor or his or her attorney, and shall be furnished to the sheriff within days after the date of sale.

8(a) If the purchaser fails to carry out any obligation due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on the report of the sheriff after due notice to the purchaser, and the property may again be put up for sale.

(b) In the event of the circumstances in paragraph (a) occurring, the purchaser shall be responsible for any loss sustained by reason of such default, which loss may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from the purchaser under judgment of a magistrate pronounced on a written report by the sheriff, after such purchaser has been given notice in writing that such report will be laid before the magistrate for such purpose.

(c) If the purchaser is already in possession of the property, the sheriff may, on notice to affected parties, apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

9(a) The purchaser shall immediately on demand pay the sheriff's commission/auctioneer's fees and expenses calculated as follows:

.....:

(b) The purchaser shall be liable for and pay, within 10 days of being requested to do so by the appointed conveyancer, the following:

(i) All amounts due to the municipality servicing the property, in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties that may be due to a municipality; and where applicable

(ii) All levies due to a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) or amounts due to a home owners or other association which renders services to the property.

(iii) The costs of transfer, including conveyance fees, transfer duty and any other amount necessary for the passing of transfer to the purchaser.

10(a) The property may be taken possession of after signature of the conditions of sale, payment of the deposit and upon the balance of the purchase price being secured in terms of condition 7(b).

(b) Should the purchaser receive possession of the property, the purchaser shall be liable for occupational rental at the rate of R.....per month from.....to date of transfer.

(c) Upon the purchaser taking possession, the property shall be at the risk and profit of the purchaser.

(d) The execution creditor and the sheriff/auctioneer give no warranty that the purchaser shall be able to obtain personal and/or vacant occupation of the property or that the property is not occupied.

11(a) The purchaser shall be entitled to obtain transfer forthwith upon payment of the whole purchase price and compliance with condition 9, alternatively, transfer shall be passed only after the purchaser has complied with the provisions of conditions 7 and 9 hereof.

(b) If the transfer is delayed by the purchaser, the purchaser shall be liable for interest at the rate ofper cent per annum on the purchase price.

12(a) The sheriff may demand that any improvements to the property sold shall be immediately insured by the purchaser for their full value, proof of insurance given to the sheriff and such insurance policy kept in force until transfer is registered.

(b) Should the purchaser fail to comply with the obligations in paragraph (a), the sheriff may effect the necessary insurance, the cost of which insurance shall be for the purchaser's account.

13(a) The property is sold as represented by the title deeds and diagram or sectional plan, subject to all servitudes and conditions of establishment, whichever applies to the property;

(b) The sheriff/auctioneer shall not be liable for any deficiency that may be found to exist in the property.

14. The execution creditor shall appoint the conveyancer to effect transfer of the property to the purchaser: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.

Signed at this day of
20.....

I certify hereby that today the in my presence the hereinbefore-
mentioned property was sold for to
.....
.....

.....
Sheriff/Auctioneer

I, the undersigned, residing at in the district of
..... do hereby bind myself as the purchaser of the hereinbefore-mentioned property to
pay the purchase price and to perform all and singular the conditions mentioned above.

.....
Purchaser

No. 33A – Conditions of sale in execution of immovable property

***For use in the Regional Court**

In re:

..... Execution Creditor

and

..... Judgment Debtor

The immovable property (hereinafter referred to as the “property”) which will be put up for
auction on the day of 20....., consists of:
.....

The sale shall be conducted on the following conditions:

1. The sale shall be conducted in accordance with the provisions of rule 43 of the Magistrates’
Courts Rules and all other applicable law.

2. The property shall be sold by the sheriff of orXYZ Auctioneers of at to the highest bidder without reserve/subject to a reserve price of.....

3. The sale shall be for rands, and no bid for less than one thousand rands shall be accepted.

4. If any dispute arises about any bid, the property may again be put up for auction.

5(a) If the sheriff/auctioneer makes any mistake in selling, such mistake shall not be binding on any of the parties, but may be rectified.

(b) If the sheriff/auctioneer suspects that a bidder is unable to pay either the deposit referred to in condition 7 or the balance of the purchase price, the sheriff/auctioneer may refuse to accept the bid of such bidder, or accept it provisionally until the bidder satisfies the sheriff/auctioneer that such bidder is able to pay the deposit and the balance of the purchase price.

(c) On the refusal of a bid under circumstances referred to in paragraph (b), the property may immediately be put up for auction again.

6(a) The purchaser shall, as soon as possible after the sale and immediately on being requested by the sheriff/auctioneer, sign these conditions.

(b) If the purchaser purchases in a representative capacity, the purchaser shall disclose the name of the principal or person on whose behalf the property is being purchased.

7(a) The purchaser shall pay to the sheriff a deposit of 10 per cent of the purchase price in cash or by bank guaranteed cheque on the day of the sale.

(b) The balance shall be paid against transfer and shall be secured by a guarantee issued by a financial institution approved by the execution creditor or his or her attorney, and shall be furnished to the sheriff within days after the date of sale.

8(a) If the purchaser fails to carry out any obligation due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on the report of the sheriff after due notice to the purchaser, and the property may again be put up for sale.

(b) In the event of the circumstances in paragraph (a) occurring, the purchaser shall be responsible for any loss sustained by reason of such default, which loss may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be

recovered from the purchaser under judgment of a magistrate pronounced on a written report by the sheriff, after such purchaser has been given notice in writing that such report will be laid before the magistrate for such purpose.

(c) If the purchaser is already in possession of the property, the sheriff may, on notice to affected parties, apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

9(a) The purchaser shall immediately on demand pay the sheriff's commission/auctioneer's fees and expenses calculated as follows:

.....:

(b) The purchaser shall be liable for and pay, within 10 days of being requested to do so by the appointed conveyancer, the following:

(i) All amounts due to the municipality servicing the property, in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties that may be due to a municipality; and where applicable

(ii) All levies due to a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) or amounts due to a home owners or other association which renders services to the property.

(iii) The costs of transfer, including conveyance fees, transfer duty and any other amount necessary for the passing of transfer to the purchaser.

10(a) The property may be taken possession of after signature of the conditions of sale, payment of the deposit and upon the balance of the purchase price being secured in terms of condition 7(b).

(b) Should the purchaser receive possession of the property, the purchaser shall be liable for occupational rental at the rate of R.....per month from.....to date of transfer.

(c) Upon the purchaser taking possession, the property shall be at the risk and profit of the purchaser.

(d) The execution creditor and the sheriff/auctioneer give no warranty that the purchaser shall be able to obtain personal and/or vacant occupation of the property or that the property is not occupied.

11(a) The purchaser shall be entitled to obtain transfer forthwith upon payment of the whole purchase price and compliance with condition 9, alternatively, transfer shall be passed only after the purchaser has complied with the provisions of conditions 7 and 9 hereof.

(b) If the transfer is delayed by the purchaser, the purchaser shall be liable for interest at the rate ofper cent per annum on the purchase price.

12(a) The sheriff may demand that any improvements to the property sold shall be immediately insured by the purchaser for their full value, proof of insurance given to the sheriff and such insurance policy kept in force until transfer is registered; and

(b) Should the purchaser fail to comply with the obligations in paragraph (a) the sheriff may effect the necessary insurance, the cost of which insurance shall be for the purchaser's account.

13(a) The property is sold as represented by the title deeds and diagram or sectional plan, subject to all servitudes and conditions of establishment, whichever applies to the property;

(b) The sheriff/auctioneer shall not be liable for any deficiency that may be found to exist in the property.

14. The execution creditor shall appoint the conveyancer to effect transfer of the property to the purchaser: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.

Signed at this day of
20.....

I certify hereby that today the in my presence the hereinbefore-
mentioned property was sold for to
.....
.....

.....
Sheriff/Auctioneer

I, the undersigned, residing at in the district of do hereby bind myself as the purchaser of the hereinbefore-mentioned property to pay the purchase price and to perform all and singular the conditions mentioned above.

.....
Purchaser

No. 33B – Notice to cancel sale of immovable property in terms of rule 43(11)(a)

***For use in the District Court**

In the Magistrate's Court for the District of
held at Case No. of 20

In the matter between:

The Sheriff of Applicant
and

..... Purchaser

In re:

..... Execution Creditor
and

..... Judgment Debtor

KINDLY TAKE NOTICE that the sheriff of intends to request a magistrate in chambers, on a date to be allocated by the clerk of the court, to cancel the sale of the immovable property described as, sold by public auction on 20..... and to authorise the said property being put up for sale again.

TAKE NOTICE FURTHER that the report of the said sheriff, upon which the request to the magistrate will be made to cancel the sale, is attached hereto.

DATED at..... this day of 20.....

.....
Sheriff of the Court
(Area)
(Address)

To: The Clerk of the Court

.....
And to:

.....
Purchaser
(Address)

No. 33B – Notice to cancel sale of immovable property in terms of rule 43(11)(a)

***For use in the Regional Court**

In the Regional Court for the Regional Division of
held at Case No. of 20

In the matter between:

The Sheriff of Applicant

and

..... Purchaser

In re:

..... Execution Creditor

and

..... Judgment Debtor

KINDLY TAKE NOTICE that the sheriff of intends to request a magistrate in chambers, on a date to be allocated by the registrar, to cancel the sale of the immovable property described as, sold by public auction on 20..... and to authorise the said property being put up for sale again.

TAKE NOTICE FURTHER that the report of the said sheriff, upon which the request to the magistrate will be made to cancel the sale, is attached hereto.

DATED at..... this day of 20.....

.....
Sheriff of the Court
 (Area)
 (Address)

To: The Registrar of the Court

.....
And to:

.....
Purchaser
 (Address)

No. 34 — Notice [to preferent creditor] in terms of rule 43(5)(a)

***For use in the District Court**

[Section 66(2)(a) of Act 32 of 1944]

In the Magistrate's Court for the District of held at Case No. of 20.....

In the matter between

..... **[Judgment]** Execution Creditor

and

..... Judgment Debtor

To:.....

(Preferent Creditor/Local authority/Body Corporate)

Whereas the undermentioned immovable property was laid under judicial attachment by the Sheriff on the day of, 20 you are hereby notified that it will be sold in execution at (place) on the day of....., 20..... at(time)

Short description of property and its situation:

.....
.....

You are hereby called upon to stipulate within 10 days of(insert date) a reasonable reserve price or to agree in writing to a sale without reserve.

Dated at this day of, 20.....

.....
Execution creditor/Attorney for execution creditor

Address:

No. 34 — Notice [to preferent creditor] in terms of rule 43(5)(a)

***For use in the Regional Court**

[Section 66(2)(a) of Act 32 of 1944]

In the Regional Court for the Regional Division of
held at Case No. of 20.....

In the matter between

..... **[Judgment]** Execution Creditor
and

..... Judgment Debtor

To:.....

(Preferent Creditor/Local authority/Body Corporate)

Whereas the undermentioned immovable property was laid under judicial attachment by the Sheriff on the day of, 20 you are hereby notified that it will be sold in execution at (place) on the day of....., 20..... at(time)

Short description of property and its situation:

.....
.....

You are hereby called upon to stipulate within 10 days of(insert date) a reasonable reserve price or to agree in writing to a sale without reserve.

Dated at this day of, 20.....

.....

Execution creditor/Attorney for execution creditor

Address: ”.

ISIHLOKOMISO SIKARHULUMENTE**ISEBE LOBULUNGISA NOKUPHUHLISWA KOMGAQO-SISEKO**

esinguNombolo R..... 2017

I-RULES BOARD FOR COURTS OF LAW ACT 107 KA-1985**KWENZIWA UTSHINTSHO KWIMIGAQO ELAWULA UKUQHUTYWA KWAMATYALA
KWIINKUNDLA ZEEMANTYI ZASEMZANTSI-AFRIKA**

Ngokugunyazwa sisiqendu 6 se*Rules Board for Courts of Law Act 107 ka-1985*, ngemvume yoMphathiswa Wobulungisa Nokuphuhlisa KoMgaqo-siseko, iBhodi Yemigaqo Yeenkundla Zomthetho iqulunqe imigaqo ekwiSihlomelo.

ISIHLOMELO**INKCAZELO NGOKUBANZI:**

Amagama akwizibiyeli ezisisikweri ezingqindilili [] abonisa okukhutshiweyo kwimigaqo ekhoyo

Amagama akrwelwe umgca ngaphantsi abonisa okufakelweyo kwimigaqo ekhoyo

Ukuchazwa kwamagama

1. Kwesi Sihlomelo “iMigaqo” yiMigaqo Elawula Ukuqhutywa Kwamatyala KwiiNkundla ZeeMantyi ZaseMzantsi-Afrika esipapashwe phantsi kweSihlokomiso SikaRhulumente esinguNombolo R. 740 sika-Agasti 23, 2010, esathi sona senziwa utshintsho siSihlokomiso SikaRhulumente esinguNombolo R. 1222 sikaDisemba 24, 2010, nesinguR. 611 sikaJulayi 29, 2011, nesinguR. 1085 sikaDisemba 2011, nesinguR. 685 sika-Agasti 31, 2012, nesinguR. 115 sikaFebruwari 15, 2013, nesinguR. 263 sikaEpreli 12, 2013, nesinguR. 760 sikaOktobha 11, 2013, nesinguR. 183 sikaMatshi 18, 2014, nesinguR. 507 sikaJuni 27, 2014, nesinguR. 5 sikaJanuwari 5, 2015, nesinguR. 32 sikaJanuwari 23, 2015, nesinguR. 33 sikaJanuwari 23, 2015, nesinguR. 318 sikaEpreli 17, 2015, nesinguR. 545 sikaJuni 30, 2015, nesinguR. 2 sikaFebruwari 19, 2016, nesinguR. 1055 sikaSeptemba 29, 2017.

Kwenziwa utshintsho KULUHLU LOKUQULETHWEYO NAKULUHLU LWAMANANI EMIGAQO EMITSHA NAMANANI AHAMBISANA NAYO EMIGAQO YANGAPHAMBILI

2. Kwenziwa utshintsho KULUHLU LOKUQULETHWEYO NAKULUHLU LWAMANANI AHAMBISANA NOKUQULETHWEYO EMIGAQO YANGAPHAMBILI ngokuthi endaweni yalo kufakwe ULUHLU OLULANDELAYO LOKUQULETHWEYO NAMANANI AHAMBISANA NALO:

“Inani loMgaqo

Umxholo

Inani loMgaqo langaphambili

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Kufakwa uMgaqo 43 endaweni yowangaphambili

3. Endaweni yoMgaqo 43 wangaphambili kufakwa lo mgaqo ulandelayo:

"43 Ukuthinjwa kwempahla engenakuthwaleka

(1)(a) Ngokulawulwa koko kutshiwo nguMgaqo 43A, akuyi kukhutshwa sigunyazisi sokuthimba impahla engenakuthwaleka yomntu otyala omnye ngokwesigqibo senkundla, ngaphandle kokuba—

(i) kubuyiswe ingxelo malunga nomyalelo wokuthimba impahla engenakuthwaleka yomntu otyala omnye ngokwesigqibo senkundla ekubonakala kuloo ngxelo ukuba loo mntu akanampahla yaneleyo efunwa sisigunyazisi eso; okanye

(ii) loo mpahla engumzi okanye umhlaba ivakaliswe yinkundla iyimpahla enokuthinjwa.

(b) Isigunyazisi sokuthimba impahla engumzi okanye umhlaba masibe—

(i) nenkcazelo ephelileyo yobunjani baso, sixele nesithili semantyi nedilesi yesitrato apho ukhoyo umzi lowo ukuze kukwazeke ukuya kuyo nokuthi yaziwe ngunothimba; kananjalo

(ii) masibe nengcombolo eyaneleyo ukuze unothimba akwazi ukuphumeza umgaqwana (3).

(2) Ukuthinjwa kwempahla engumzi makwenziwe nguye nawuphi na unothimba wesithili ekukho kuso impahla leyo, ngesigunyazisi sokuthimba esifana kanobom neFomu 32 kwiSongezo 1.

(3)(a) Isaziso sokuthinjwa esifana kanobom neFomu 33 kwiSongezo 1 masisiwe ngunothimba kumnini womzi nakumbhalisi wokuthengiswa kwemizi nemihlaba okanye elinye igosa eliphathiswe ukubhaliswa kwaloo mzi, kuze kuthi ukuba umzi lowo ugcinwe ngumntu ongenquye umniniwo, isigunyazisi sokuthimba sinikwe nalowo ongumgcini wawo.

(b) Nasiphi na isaziso ekuthethwe ngaso kwisigendu (a)—

(i) masitsalel' ingqalelo kokutshiwo ngumgaqwana (8)(a)(iii); kwaye

(ii) sisiwe emntwini ngokoMgaqo 9, kodwa ke ukusiwa kwaso kumbhalisi wokuthengiswa kwemizi okanye elinye igosa eliphathiswe ukubhaliswa kwemizi kunokwenziwa ngunothimba esebenzisa iposi erejistiweyo ehlawulelwe iindleko zeposi ezaneleyo yaza yabhekiswa kwigosa ekumele ukuba ibhekiswe kulo.

(4)(a) Xa unothimba ethimba unokuthi angene kwizakhiwo ukuze aqinisekise uphuculo olwenziweyo kwisakhiwo eso, nobume bophuculo olwenziweyo, kodwa ke xa unothimba engakwazi ukungena kumzi lowo emva kokuba ezamile izihlandlo eziliqela unokuthi asebenzise umntu oshishina ngezitshixo ukuze avule.

(b) Emva kokuba yalathiwe impahla yokuthinjwa, ukuthengiswa kwayo makwenzeke kwisithili ekuso impahla leyo, kwaye makwenziwe ngunothimba wesithili owaba ngowokuqala ukwalatha impahla yokuthinjwa, kodwa ke unothimba wokugala, elawulwa koko kutshiwo sisigendu (d) somgaqwana (8) unokuthi ngesizathu esivakalayo agunyaze ukuba ukuthengiswa kwenziwe kwenye indawo, kusenziwa ngomnye unothimba.

(c) Esakufumana imiyalelo ebhaliweyo evela kulowo utyalwayo yokuba aqhubeke athengise, unothimba makaqinisekise kwaye abhale phantsi imiqathango ehambisana naloo mpahla ethinjiweyo, kubekho namagama needilesi zabantu ebhaliswe ngabo imiqathango aze ke azise lowo utyalwayo.

(5) Ngokulawulwa nguMgaqo 43A kunye nawo nawuphi na umyalelo okhutshwe yinkundla, akukho mzi oya kuthengiswa ngaphandle kokuba—

(a) lowo otyalwayo wenze ukuba isaziso sokuthengiswa kwayo esifana kanobom neFomu 34 kwiSongezo 1 sisiwe—

(i) ngenkqu kwabo batyalwayo abafanele bazuze kugala;

(ii) kumasipala, ukuba umzi lowo kulindeleke ukuba uhlawulelwe iirates;

(iii) nakwigumrhu labaphathi beeflethi, ukuba umzi okanye iflethi ngumzi okanye iflethi enokuhlalwa ngabantu ngabantu;

exelela aba bantu bakhankanywe ngentla ukuba baxeke zingekapheli iintsuku ezili-10 ukususela kumhla oxeliweyo, baxeke ixabiso elikumlinganiselo ofanelekileyo emakuvunyelwane ngawo ngokubhala ukuba uthengiswe ngelo xabiso, kwaye anike unothimba ubungqina bokuba abo bantu bavumile, okanye

(b) ngokulawulwa koko kutshiwo sisigendu 66(2)(b) salo Mthetho, unothimba wanelisekile kwinto yokuba akunakwenzeka ukwazisa umntu otyalwayo, ngokwalo Mthetho, esaziswa ngokuthengiswa okucetywayo, okanye ukuba lowo otyalwayo woyisakele okanye wakutyeshela ukunika ixabiso ekuvunyelwene ngalo ngokubhala njengoko kuxelwe kwisigendu (a) lingekapheli ixesha elixelwe kweso saziso.

(6) Unothimba unokuthi, ngesaziso esinikwe nawuphi na umntu, afune ukuba loo mntu anike unothimba ngoko nangoko, onke amaxwebhu akuye loo mntu amalunga nelungelo lomntu otyalayo kwimpahla exeliweyo.

(7)(a) Unothimba othengisayo makamisele usuku nendawo yokuthengisa impahla ethinjiweyo, olo suku lungabi nganeno kwiintsuku ezingama-45 ukususela ekunikweni isaziso sokuthinjwa, ngaphandle kokuba unothimba ufumene imvume ekhethekileyo kwimantyi, kwaye ngoko nangoko makazise bonke abanye oonothimba abamiselweyo kweso sithili, ebazisa ngosuku olo nendawo.

(b)(i) Lowo ekuthinjelwa yena makathi, emva kokubonisana nonothimba othengisayo, abhale isaziso sentengiso esigulethe inkcazelo emfutshane yomzi, nezinto eziphuculiweyo kuwo, isithili semantyi nedilesi yesitrato, nexesha nendawo yokuthengisa, axele nokuthi imiqathango yomzi lowo inokuthi ihlolwe kwiofisi kanothimba othengisayo.

(ii) Lowo kuthengiselwa yena makanike unothimba iikopi ezininzi kangangoko kunokwenzeka zezaziso zentengiso ezinokuthi zifunwe ngunothimba.

(c) Lowo kuthengiselwa yena—

(i) makapapashe isaziso kube kanye kwiphephandaba elithengiswa mihla le okanye elithengiswa veki zonke kwisithili ekuso impahla engumzi ethinjiweyo, asipapashe naku *Shicilelo-Mithetho (Gazette)* kusasele ixesha elingekho ngaphantsi kweentsuku ezintlanu, kodwa elingekho ngaphezulu kweentsuku ezili-15 xa kubalwa kususela kumhla wentengiso; kwaye

(ii) anike unothimba othengisayo, emnika ngesandla, okanye ngefeksi okanye nge-imeyile, emnika ikopi eyanelisayo yesaziso ngasinye kwizaziso ezipapashwe kwiphephandaba naku *Shicilelo-Mithetho*.

(d) Kusasele iintsuku ezingekho ngaphantsi kwe-10 ngaphambi komhla wentengiso unothimba othengisayo makathumeke ikopi yesaziso sentengiso ekuthethwe ngaso kwisiqendu (b), esithumela kumntu ngamnye ekuthengiselwa yena oye wabangela ukuba loo mpahla engumzi ithinjwe, isaziso sisiya kwibhanki ebolekisa ngemali edilesi yayo yaziwayo, aze ngaxesha-nye abanike ikopi yesaziso sentengiso bonke abanye oonothimba abamiselwe kweso sithili.

(e) Kusasele iintsuku ezingekho ngaphantsi kwe-10 ngaphambi komhla wentengiso, unothimba othengisayo makanamathisele—

(i) ikopi yesaziso kwibhodi yezaziso kwinkundla yemantyi yesithili ekukho kuso impahla engumzi, okanye ukuba loo mzi ukwisithili ekwakhutshwa kuyo isigunyazisi, sixhonywe kwibhodi yezaziso yaloo nkundla; kananjalo

(ii) unamathisele ikopi enye kwindawo okanye kufutshane kangangoko nendawo loo ntengiso eza kwenziwa kuyo.

(8)(a)(i) Kusasele iintsuku ezingekho ngaphantsi kwama-35 ngaphambi komhla wentengiso, lowo kuthengiselwa yena makaqulunge imiqathango yentengiso, efana kanobom neFomu 33A yeSongozo 1, eya kuthi impahla leyo ethinjiweyo ithengiswe ngaloo miqathango, kwaye loo miqathango makayinike unothimba othengisayo, ngenjongo yokuba ayihlole.

(ii) Ukongezelela kwimiqathango, imiqathango yentengiso mayiquke imiqathango eyalelwe yinkundla.

(iii) Kusasele iintsuku ezingekho ngaphantsi kwama-25 nawuphi na umntu ochaphazelekayo unokuthi anike unothimba eminye imiqathango ebhaliweyo yentengiso, okanye imiqathango etshintshiweyo.

(iv) Kusasele iintsuku ezingekho ngaphantsi kwama-20 ngaphambi komhla wentengiso, unothimba makayihlole imiqathango yentengiso.

(v) Ukuthengiswa kwempahla ethinjiweyo nemiqathango yentengiso makuvisisane noko kutshiwo ngumthetho omalunga nentengiso yasesidlangalaleni, ngokukodwa i *Consumer Protection Act* ka-2008 kunye neMimiselo eyathi yaqulunqwa phantsi kwalo Mthetho.

(b)(i) Lowo ekuthengiselwa yena makathi emva koko anike unothimba iikopi ezintathu zemiqathango yentengiso, enye ikopi ihlolwe ngabantu abachaphazelekayo kwiofisi kanothimba, ihlale apho iintsuku ezili-15 ngaphambi komhla wentengiso.

(ii) Unothimba othengisayo makathi ngoko nangoko anike bonke abanye oonothimba abamiselweyo kweso sithili ikopi yemiqathango yentengiso.

(c) Kusaele iintsuku ezingekho ngaphantsi kwe-15 ngaphambi komhla wentengiso, unothimba makanike umntu ofunyaniswe yinkundla etyala omnye, amnike ikopi enye yemiqathango yentengiso.

(d) Kusasele iintsuku ezingekho ngaphantsi kwe-10 ngaphambi komhla wentengiso, nawuphi na umntu ochaphazelekayo unokuthi, ngokulawulwa nguMgqo 43 nangumyalelo wenkundla, kwaye enika isaziso kusasele iiyure ezingama-24 kubo bonke abantu

abachaphazelekayo, enze isicelo kwimantyi yesithili ekuza kuthengiswa kummandla wayo impahla engumzi ukuze kuhlengahlengiswe imiqathango yentengiso kwaye inokuthi imantyi ikhuphe umyalelo, kuquka nomyalelo ofanelekileyo weendleko.

(9) Lowo kuthengiselwa yena makafune igqwetha lonaniselwano ngemizi ukuze lenze umsebenzi wokudluliselwa kwaloo mzi komnye ummntu, kodwa ke, unothimba unelungelo lokuqesha igqwetha elitsha lonaniselwano ngemizi ukuba igqwetha eliqeshwe ngulowo kuthengiselwa yena aliqalisi ngexesha okanye ngendlela eyanelisayo ukudlulisela umzi lowo.

(10)(a) Impahla engumzi ethinjiweyo mayithengiswe kwintengiso yasesidlangalaleni ngunothimba okanye ngumthengisi ongengokarhulumente omiselwe ngokwesiqendu (b).

(b) Umntu ekuthengiselwa yena okanye umntu ochaphazelekayo ekuthengisweni ngendlela efanelekileyo kwempahla ethengiswayo unokuthi, ngesaziso esinikwe unothimba zingekapheli iintsuku ezili-15 emva kokuthinjwa, kodwa ngokulawulwa koko kutshiwo apha, afune ukuba loo mpahla ithengiswe ngumthengisi ngendlela eqhelekileyo, kwaye unokuthi kwakweso saziso akhethe umthengisi oza kusetyenziswa.

(c)(i) Xa isaziso esingokwesiqendu (b) sinikwa umntu ongenguye lowo ekuthengiselwa yena, eso saziso masiphelekwe yimali ehlawulwa tanci esisixa esaneleyo ukuba igubungele iindleko zentengiso evenziwa ngumthengisi ngendlela eqhelekileyo, kuze kuthi xa ingekho loo mali engumhlawulwa-tanci sibe eso saziso siphuthile.

(ii) Isaziso esingokwesiqendu (b) masiphelelwe ukuba iinkonzo zomthengisi azifumaneki.

(iii) Ukuba emva kokulihlawula ibango lalowo kuthengiselwa yena nazo zonke izigunyazisi zokuthengisa ezifakwe ngunothimba ngomhla okanye ngaphambi komhla owandulela owentengiso nazo zonke iindleko, ukuba kuthi kubekho imali esalayo, imali engumhlawulwa-tanci mayibuyiselwe kulowo iphume kuye, kodwa ke, ukuba akukho mali isalayo, imali engumhlawulwa-tanci mayithi, kangangoko kuyimfuneko isetyenziswe ekuhlawuleni iimali zomthengisi neendleko zakhe.

(c) Ukuba kunikwa izaziso ezibini okanye ngaphezulu ngokwesiqendu (b), kubhetele ukuba kube zezimbini.

(11)(a)(i) Ukuba umthengi uyoyisakala ukuphumeza iimbopheleleko ekufuneka ziphunyezwe ngumthengi ngokwemiqathango yentengiso, intengiso inokuthi ichithwe ngumantyi xa efumana ingxelo kanothimba othengisayo, emva kokuba azisiwe ngumthengi, kwaye inokuthi impahla ethinjiweyo ithengiswe kwakhona.

(ii) Ingxelo leyo mayiphelekwe sisaziso esifana kanobom neFomu 33B kwiSongezo 1.

(iii) Ukuba intengiso iyarhoxiswa, unothimba makazise lowo ofunyaniswe etyala omnye, emazisa ngokurhoxiswa kwayo.

(b) Nayiphi na ilahleko ethe yabakho ngenxa yokusilela komthengi inokuthi, kusakwenziwa isicelo ngumntu otyalwayo okhalazayo ogama lakhe livelayo kwi-akhawunti yeentengiso zikanothimba, inokuthi loo lahleko ifunwe kumthengi ngokwesiqigibo semantyi esinikwe kwingxelo ebhaliweyo kanothimba, emva kokuba kunikwe isaziso esibhaliweyo sanikwa umthengi sokuba ingxelo iza kuthiwa thaca phambi kwemantyi ngaloo njongo.

(c) Ukuba sele ukuye kakade umzi, unothimba unokuthi, akuba ebazisile abantu abachaphazelekayo, enze isicelo kwimantyi sokufumana umyalelo okhuphela ngaphandle umthengi kwindlu yakhe okanye nawuphi na umntu othi unelungelo lokuhlala kuloo ndlu.

(12) Ngokulawulwa koko kutshiwo nguMqago 43A nangumgaqwana (5) wawo—

(a) intengiso mayiqhutywe ngemiqathango exelwe kumgaqwana (8); kwaye

(b) impahla leyo engumzi mayithengiselwe umntu onokuhlawula elona xabiso liphezulu.

(13)(a) Zonke iimali ezizezexabiso lokuthenga umzi othengiswe kuthinjwa mazinikwe unothimba aze yena azigcine ezo mali kwi-akhawunti yakhe de ube umzi lowo udluliselwe kumthengi.

(b) Unothimba othengisayo makawudlulisele umzi kumthengi esakuhlawula ixabiso lokuthenga, kananjalo esakuyifeza imiqathango yentengiso, kwaye unokuthi enze nayiphi na

into eyimfuneko ukudlulisela umzi kumthengi, kwaye nayiphi na into eyenziweyo nguye iya kuba semthethweni ngokungathi ungumnini womzi lowo.

(c) Akukho mali yexabiso lokuthenga enokuthi ikhutshwe de kube konke okutshiwo ngumgaqwana (4) kwenziwe.

(14)(a) Yakuba iqukunjelwe intengiso, kodwa ngaphambi kokuba unothimba enze isicwangciso solwabiwo, lowo kuthengiselwa yena okanye igqwetha lakhe makanike unothimba isiqinisekiso sayo yonke imali ehlawulwe ngulowo utyala omnye ngokwesigqibo senkundla, ayinike lowo otyalwayo ngokwesigqibo senkundla okanye ayinike igqwetha lakhe emva kokuba kukhutshwe isigunyazisi sokuthimba.

(b)(i) Zingekapheli iintsuku ezili-10 ukususela kumhla wokubhaliswa kokudluliselwa komzi egameni lomnye ngokusemthethweni, unothimba uya kube sele enze isicwangciso solwabiwo ize impahla ethengisiweyo yabelwe abatyalwayo ngendlela amabalandlelane ngayo, kwaye makathumele ikopi yeso sicwangciso kumabhalane wenkundla nakubo bonke abanye oonothimba abamiselwe kweso sithili.

(ii) Kamsinya emva koko unothimba makanike bonke abantu abafake izigunyazisi, anike nalowo ufunyaniswe etyala omnye ngokwesigqibo senkundla, emnika isicwangciso solwabiwo esiya kuthi sihlolwe kwiofisi yakhe nakwiofisi kamabhalane wenkundla iintsuku ezili-15 ukususela kumhla okhankanyiweyo, kwaye ngaphandle kokuba abo bantu bathi babhale phantsi into yokuba bayasivuma isicwangciso eso, siya kuhlala apho ukuze sihlolwe.

(c) Emva kokuba kwimali efumanekileyo kukhutshwe iindleko zokuthimba, izinto mazilandlelane ngolu hlobo lulandelayo:

(i) amabango abantu abatyalwayo ekufuneka kuzuze bona kuqala ngokomyalelo womthetho; kuze kulandele

(ii) amanye amabango abantu abatyalwayo abazigunyazisi zabo zokuthimba ziye zanikwa unothimba ngolandlelwano oluvela kwisiqendu 96 nesiqendu 98A ukuya kwese-103 se *Insolvency Act* 24 ka-1936.

(d) Nawuphi na umntu ochaphazelekayo osichasayo isicwangciso makathi—

(i) lingekapheli ithuba lexesha ekuthethwe ngalo kwisiqendu (b)(ii), anike unothimba nabo bonke abantu abachaphazelekayo isaziso esibhaliweyo, ebanika iinkcukacha zokuchasa kwakhe; kananjalo

(ii) zingekapheli iintsuku ezili-10 emva kokuba liphelile ithuba lexesha ekuthethwe ngalo kwisiqendu (b)(ii), azise ukuchasa kwakhe phambi kwemantyi ukuze kugwalaselwe enike unothimba nabantu abaxeliweyo isaziso seentsuku ezili-10.

(e) Xa imantyi iugwalasela umcimbi iya kwenza isigqibo kwimbambano leyo kwaye inokuthi yenze utshintsho okanye ivumelane naso isicwangciso solwabiwo okanye ikhuphe umyalelo oquka umyalelo wokuhlawulwa kweendleko ngokokubona kwayo.

(f) Ukuba—

(i) akubangakho kuchaswa kweso sicwangciso; okanye

(ii) abantu abachaphazelekayo babonisa ukuba bayavumelana naso; okanye

(iii) isicwangciso eso kuyavunyelwana naso okanye senziwa utshintsho.

unothimba makathi esakuvelisa isiqinisekiso esivela kwigqwetha lonaniselwano ngemizi esithi umzi udluliselwe kumthengi, ahlawule ngokwesicwangciso solwabiwo.

(15) Unothimba okanye nawuphi na umntu osebenza egameni likanothimba akavumelekanga ukuba xa kuthengiswa impahla ethinjiweyo engumzi ayithenge yena ngokwakhe, eyithengela yena okanye omnye umntu.”

Kufakwa uMgaqo 43A omtsha**4. Kufakwa umgaqo olandelayo endaweni yoMgaqo 43A wangaphambili:****“43A Ukuthinjwa kwempahla engumzi wokuhlala**

(1) Lo mgqo uyasebenza nanini na lowo kuthinjelwa yena efuna ukuba kuthinjwe impahla engumzi wokuhlala yalowo otyalayo.

(2)(a) Inkundla eqwalasela isicelo ngokwalo mgqo—

(i) mayizame ukuqonda ukuba impahla engumzi lowo otyalwayo afuna ukuba ithengiswe ngumzi ongowona ubalulekileyo kusini na walowo utyalayo; kwaye

(ii) mayicinge ngezinye iindlela anokuthi ngazo lowo utyalayo ahlawule imali ayityalayo kunokuba kuthinjwe umzi ongowona ubalulekileyo ahlala kuwo.

(b) Inkundla ayiyi kugunyaza ukuba kuthinjwe umzi ongowona ubalulekileyo walowo utyalayo ngaphandle kokuba inkundla, emva kokuqwalasela zonke izibakala, ibona ukuba ukuthinjwa kwaloo mzi kuyathetheleleka.

(c) Umabhalane wenkundla akayi kukhupha isigunyazisi sokuthimba sokuba kuthinjwe umzi wokuhlala womntu otyalayo ngaphandle kokuba yinkundla eyalele ukuthinjwa kwawo.

(3) Isaziso ngasinye sesicelo sokuba umzi ubhengezwe njengonokuthinjwa—

(a) masifane kanobom neFomu 1B yeSongezo 1;

(b) masinikwe lowo otyalayo kunye nawuphi na omnye umntu ochatshazelwe kukuthengiswa komzi, kuquka nabantu ekuthethwe ngabo kuMgaqo 43A(a), kodwa ke inokuthi iyalele ukuba kwaziswe nawuphi na omnye umntu ebona kuyimfuneko ukuba aziswe;

(c) masiphelekwe yinkcazelo ebhaliweyo yafungelwa eya kuthi ichaze izizathu zesicelo nezibakala esisekelwe kuzo; kwaye

(d) masinikwe lowo otyalayo esinikwa ngunothimba buqu, kodwa ke, inkundla inokuyalela ukuba asinikwe nangayiphi na enye indlela.

(4)(a) Umenzi-sicelo makathi kwisaziso eso sokwenza isicelo—

(i) axele umhla esiya kuphulaphulwa ngawo isicelo;

(ii) azise ummangalelwa ngamnye okhankanyiweyo apho kuso, emazisa ukuba ukuba ummangalelwa lowo unenjongo yokusichasa isicelo okanye unenjongo yokuzithethelela enkundleni, makenze njalo ngenkcazelo ebhaliweyo yafungelwa zingekapheli iintsuku ezili-10 esinikiwe isaziso sesicelo aze avele enkundleni ngomhla esiya kuphulaphulwa ngawo;

(iii) axele idilesi yesitrato ekuya kuthi ukuba kukho iiofisi zamagqwetha ezintathu nangaphezulu kuloo mmandla, idilesi ayikhethileyo ibe nganeno kweekhilomitha ezili-15 ukusuka enkundleni, ekuyidilesi aya kunikwa kuyo onke amaxwebhu amalunga nesi sicelo; kananjalo

(iv) axele idilesi yeposi yomenzi-sicelo nefeksi okanye i-imeyile, ukuba unazo.

(b) Xa isicelo simiselwa umhla esiya kuphulaphulwa ngawo makube ngumhla ongekho ngaphantsi kweentsuku ezintlanu emva kokuba liphelile ixesha ekuthethwe ngalo kwisiqendu

(a)(ii).

(5) Isicelo ngasinye masiphelekwe ngamaxwebhu alandelayo, kwiimeko afuneka kuzo, ebonisa:

(a) ixabiso lomzi;

(b) ixabiso elithelekelelwa ngumasipala ngaloo mzi;

- (c) iimali ezityalwa ibhanki ngaloo mzi;
- (d) iimali ezityalwa umasipala ezinjengeerates nezinye iimali;
- (e) iimali ezityalwa iqumrhu labaphathi beeflethi xa kuyiflethi; kunye
- (f) nayo nayiphi na enye into enokuba yimfuneko ukuze inkundla iphumeze okufunwa ngumgaqwana (8).

kodwa ke inkundla inokufuna naluphi na olunye uxwebhu ebona kuyimfuneko ukulufuna.

(6)(a) Ummangalelwa unokuthi, esakunikwa isaziso sesicelo ekuthethwe ngaso kumgaqwana (3).—

- (i) asichase isicelo; okanye
- (ii) asichase isicelo kwaye azithethelele ngendlela eya kwenza ukuba inkundla ikhuphe umyalelo ofanelekileyo; okanye
- (iii) ngaphandle kokusichasa isicelo, abeke izibakala ezinokwenza ukuba inkundla ikhuphe umyalelo ofanelekileyo.

(b) Ummangalelwa ekuthethwe ngaye kwisiqendu (a)(i) no-(ii)—

- (i) makazivume okanye azikhanyele izityholo ezenziwe ngumenzi-sicelo kwinkcazelo yakhe ebhaliweyo yafungelwa; aze
- (ii) axele izizathu zokusichasa isicelo nezibakala asichasa ngazo.

(c) Ngongoma nganye achasa ngayo okanye sibakala ngasinye asibekayo ekuthethwe ngaso kwisiqendu (a) no-(b) mazichazwe kwinkcazelo ebhaliweyo yafungelwa.

(d) Ummangalelwa ochasa isicelo okanye obeka izibakala makathi zingekapheli iintsuku ezili-10 ewanikiwe amaxwebhu—

- (i) athumele inkcazelo ebhaliweyo yafungelwa ekuthethwe ngayo kwisiqendu (c);
- (ii) akhethe idilesi yesitrato eya kuthi, ukuba kukho iiofisi zamagqwetha ezintathu nangaphezulu ezisebenza zizimele qeqe enye kwenye, ibe kwisithuba seekhilomitha ezili-15 ukusuka enkundleni apho amaxwebhu enokusiwa khona anikwe ummangalelwa lowo;
- (iii) axele idilesi yakhe yeposi, ifeksi, okanye i-imeyile, ukuba unazo.

(7) Umabhalane wenkundla makasifake isicelo eso kuludwe lwamatyala angaphulaphulwa yinkundla ngomhla oxelwe kwiSaziso Sesicelo.

(8) Inkundla eqwalasela isicelo phantsi kwalo mgago inokuthi—

- (a) yona ngokunokwayo okanye kusakwenziwa isicelo ngomnye wabachaphazelekayo, iyalele ukuba kuqukwe kwimigathango yentengiso umqathango ewubona ufanelekile;
- (b) iyalele ukuba—
 - (i) umasipala axele iirates azityalwa ngulowo otyalayo; okanye
 - (ii) iqumrhu labaphathi beeflethi lixele iimali elizityalwa ngulowo otyalayo;
- (c) xa kukho izizathu ezivakalayo inokuthi ikubethe ngoyaba—
 - (i) ukusilela ukuza noxwebhu ekuthethwe ngalo kumgaqwana (5); okanye
 - (ii) ukuthunyewa seliphelile ixesha kwenkcazelo ebhaliweyo yafungelwa exelwe kumgaqwana (6)(d);
- (d) iyalele ukuba kuthinjwe umzi ongowona ubalulekileyo walowo utyalayo ukuba ayikho enye indlela eyanelisayo yokuhlalula ityala;
- (e) iqingqe ixabiso elilelona liphantsi;
- (f) isibekela omnye umhla isicelo ngemigathango enokuyibona ifanelekile;
- (g) isikhabe isicelo ukuba asibhadlanga;

(h) ikhuphe umyalelo ofanelekileyo malunga neendleko, kuquka nomyalelo osisohlwayo kumntu obambezele ukuqosheliswa kwesicelo phantsi kwalo mgago; okanye

(i) ikhuphe nawuphi na omnye umyalelo ofanelekileyo.

(9)(a) Kwisicelo esenziwa phantsi kwalo mgago, okanye xa ummangalelwa ebeka izibakala, inkundla mayiqwalasele ukuba lingaqingqwa kusini na ixabiso elilelona liphantsi.

(b) Xa isenza isigqibo sokuba iliqingqe kusini na ixabiso elilelona liphantsi nokuthi malibe yimalini, inkundla mayicingele—

- (i) ixabiso lomzi lowo;
- (ii) imali etyalwayo eziirates okanye ezinye iimali;
- (iii) iimali ezityalwayo kwimali-mboleko yokuthenga umzi;
- (iv) ixabiso elixolisayo elinokufikelelwa phakathi kwexabiso elilelona liphantsi nexabiso lomzi;
- (v) ukuncitshiswa kwetyala elityalwa ngumntu otyalayo ngokwesigqibo senkundla nanjengoko kuxelwe kumgaqwana (5)(a) ukuya ku-(e), ukubona ukuba bunokwenziwa kusini na ubulungisa malunga nomzi njengoko kuxelwe kwisiqendwana (iv);
- (vi) into yokuba umzi lowo uyahlaliwa kusini na, nabantu abahlalayo kuwo, neemeko zokuhlala kwabo;
- (vii) ukuthi inokwenzeka kusini na into yokuba ixabiso elilelona liphantsi lingabi nakufikelelwa nokuthi kunokwenzeka kusini na ukuba umzi lowo ungathengiseki;
- (viii) ukuchaneka komnye wababambeneyo ukuba ixabiso elilelona liphantsi alifikelelwa; kunye
- (ix) nayo nayiphi na enye into inkundla enokuyibona iyimfuneko ukuze angachaneki lowo kuthinjelwa yena nalowo uthinjelwayo.

(c) Ukuba alifikelelwa ixabiso elilelona liphantsi kwintengiso yokuthinjwa, inkundla mayithi, ngokuqwalasela ngokutsha izinto ezikwisiqendu (b) phantsi kwalo mgagwana negunya enalo phantsi kwalo mgago, iyalele indlela ekuza kuqhutywa ngayo ekuthengiseni.

(d) Xa ixabiso elilelona liphantsi lingafikelelwa kwintengiso yokuthimba, unothimba makangenise ingxelo enkundleni, zingekapheli iintsuku ezintlanu kuthengisiwe, ngxelo eya kuthi—

- (i) ibe nomhla, nexesha, nendawo eyayiqhutywa kuyo intengiso;
- (ii) ibe namaqama, neenombolo zezazisi, neenombolo zoqhaqamshelwano zabantu ababeninxaxheba kwintengiso;
- (iii) ibe nelona xabiso liphezulu umntu othengayo awaba nalo; kunye
- (iv) nayiphi na enye into efanelekileyo enokunceda inkundla ekwenzeni umsebenzi wayo ngokwesiqendu (c).

(e) Inkundla inokuthi iyalele ukuba umzi uthengiselwe umntu oye wazimisela ukuhlawula elona xabiso liphezulu, ikwenza oko emva kokuqwalasela izinto ezikwisiqendu (d) nazo naziphi na ezinye ezifanelekileyo.”

Kufakelwa uMgaqo 43B kwiMigaqo

5. Kufakelwa umgaqo olandelayo emva koMgaqo 43A:

“43B Ukunyanzeliswa kwesigqibo senkundla yelinye ilizwe kwityala lembambano

(1) Nanini na xa ikopi esethifayiweyo yesigqibo senkundla ekuthethwe ngaso kwisigendu 3(1) se-*Enforcement of Foreign Civil Judgments Act* 32 ka-1988 singeniswa kumabhalane wenkundla apha kwiRiphabliki, umabhalane wenkundla makasibhalise eso sigqibo senkundla ngokusinika inombolo nonyaka esithe sangeniswa ngawo ngokubhala iinkcukacha ngesigqibo senkundla ekuthethwe ngaso kwisigendu (a), (b) no-(c) weso sigendu, ekubhala oko kumphandle woqweqwe lwefayile.

(2) Lowo otyalwayo ngokwesigqibo senkundla makathi, ephethe ikopi esethifayiweyo yesigqibo senkundla ekuthethwe ngaso kumgaqwana (1)—

(a) angenise inkcazelo ebhaliweyo yafungelwa eyenziwe nguye okanye ngomnye umntu onokuthi aqinisekise izibakala ezilandelayo—

(i) ubungakanani benzala efunekayo, umlinganiselo ofanelekileyo wenzala nokuthi ibalwe njani loo nzala;

(ii) nokuthi ikho kusini na imali ethe yahlawulwa ngulowo otyala omnye ngokwesigqibo senkundla ukususela oko kwathi kwakhutshwa isigqibo senkundla, nokuthi, ukuba kunjalo, loo mali iye yaxhuzulwa na kwimali eyintloko yesigqibo senkundla okanye yaxhuzulwa kwinzala okanye kwiindleko; nokuthi

(b) ukuba imali emayihlawulwe ngokwesigqibo senkundla iyimali yelinye ilizwe, angenise isiqinisekiso esikhutshwe yibhanki ebhaliswe ngokwesigendu 4 se*Banks Act* 23 ka-1965 esixela amandla emali xa ithelekiswa nevelinye ilizwe ngomhla wokukhutshwa kwesigqibo senkundla.

(3) Isaziso esikhutshwe ngokwesigendu 3(2) se-*Enforcement of Foreign Civil Judgments Act* 32 ka-1988 masibe—

(a) nenombolo elandela enye ekuthethwe ngayo kumgaqwana (1);

(b) nomhla esabhaliswa ngawo isigqibo senkundla;

(c) nemali eseleyo emayihlawulwe ngokwesigqibo senkundla;

(d) neendleko ezihluziweyo ezivunye yinkundla yelinye ilizwe;

(e) nenzala, ukuba ikho, ethi ngokomthetho okanye ngokomyalelo wenkundla yelinye ilizwe ibe iyafuneka phezu kwemali emayihlawulwe ngokwesigqibo senkundla kude kube lixesha lokubhaliswa kwesigqibo senkundla;

(f) neendleko ezingaxhomanga zokubhaliswa kwesigqibo senkundla, kuquka iindleko zokufumana ikopi esethifayiweyo yesigqibo senkundla;

(g) namagama abantu ababambeneyo;

(h) negama lenkundla ekwakhutshwa kuyo isigqibo.”

Kwenziwa utshintsho kuLuhlu Lwamanani lweSongezo 1 seMigaqo

6. Kwenziwa utshintsho kuLuhlu Lwamanani lweSongezo 1 seMigaqo ngokuthi kufakelwe uLuhlu Lwamanani lweSongezo A kwiSihlomelo.

Kwenziwa utshintsho kwiSongezo 1 seMigaqo

7. Kwenziwa utshintsho kwiSongezo 1 seMigaqo ngokuthi—
- (a) iFomu engu-33 nengu-34 indawo yayo ithatyathwe yiFomu entsha engu-33 nengu-34 omtsha kwiSongezo B sesi Sihlomelo;
 - (b) kongezwe iFomu engu-1B, nengu-33A no-33B ezikwiSongezo B sesi Sihlomelo.

Ukuqalisa kwayo ukusebenza

8. Le migaqo iqalisa ukusebenza ngomhla **22 Disemba 2017**.

ISONGEZO A**“ISONGEZO 1****IIFOMU****ULUDWE LWAMANANI****Inombolo yeFomu**

1. Isaziso Sesicelo (iFomu emfutshane)
- 1A. Isaziso Sesicelo (iFomu ende)
- 1B. Isaziso sokwenza isicelo sokuba ivakaliswe inokuthinjwa impahla enjengomzi ngokoMgaqo 43A
2. Isamani emfutshane
- 2A. Isamani: xa icacile imali efunwayo
- 2B. Isamani ende
- 2C. Isamani ende: (kumatyala oqhawulo-mtshato)
3. Isamani (ekukhulwa kuyo isithintelo sengqesho esizenzekelayo)
4. Ukuhambisa amaxwebhu omthetho kwelinye ilizwe/ukuwahambisa ngendlela engaqhelekanga: indlela emfutshane
5. Isicelo sokukhutshwa kwesigqibo senkundla engekho ummangalelwa
- 5A. Isicelo sokukhutshwa kwesigqibo senkundla engekho ummangalelwa xa ummangalelwa ekuvumile ukuba netyala kwakhe waza wathembisa ukulihlawula ityala ngezavunge okanye ngenye indlela — isiqendu 57 salo Mthetho
- 5B. Isicelo sokukhutshwa kwesigqibo senkundla engekho ummangalelwa xa ummangalelwa evumile ukuba sikhutshwe — isiqendu 58 salo Mthetho
6. Isaziso sokurhoxisa isimangalo/isicelo
7. Isaziso sokwenz' isicelo sesigqibo esikhawulezileyo
8. Inkcazelo ebhaliweyo yafungelwa exhasa isicelo sesigqibo esikhawulezileyo
9. Inkcazelo ebhaliweyo yafungelwa ngokwesiqendu 32 salo Mthetho
10. Isibambiso ngokwesiqendu 32 salo Mthetho
11. Umyalelo ngokwesiqendu 32 salo Mthetho
12. Ukuvuma ukuthengiswa kwempahla ethinjwe ngokwesiqendu 32 salo Mthetho
13. Ukudandalazisa amaxwebhu oza kuwasebenzisa — ifomu yenkcazelo ebhaliweyo yafungelwa
14. Isaziso ngokoMgaqo 23(5)
15. Ukudandalazisa amaxwebhu oza kuwasebenzisa — isaziso sokuwaveza
- 15A. Ukudandalazisa amaxwebhu oza kuwasebenzisa — isaziso sokuba kuhlolwe amaxwebhu
- 15B. Ukudandalazisa amaxwebhu oza kuwasebenzisa — isaziso sokuveza amaxwebhu ahambisana neempendulo, njl.
16. Umyalelo osisithinteli ofunyenwe ngowenza isicelo eyedwa
17.
18. Umyalelo wokuthinjwa kwempahla ngenjongo yokwenza inkundla ibe negunya
19. Ukuxelelwa ukuba makuyiwe kwintlanganisano yangaphambi kwetyala

20. Umyalelo — intlanganiso yangaphambi kokuxoxwa kwetyala
21. Isicelo sokuba imantyi ibe nabancedisi xa lixoxwa
22. Isamani eya kumncedisi wemantyi
23. Iikomishoni zokuthatha ubungqina obubhaliweyo kumntu ongeziyo enkundleni
24. Uxwebhu olubizela ingqina enkundleni
25. Isigunyazisi sokuhlawula ifayini okanye sokubanjwa kwengqina elingezanga enkundleni
26. Isigunyazisi sokubanjwa kwengqina elingezanga enkundleni
27. Isibambiso xa kuthinjwa okanye isithintelo xa umenzi-sicelo eyedwa
28. Isibambiso xa ukuthimba kunqunyanyisiwe logama kubheniwe
29. Isibambiso xa ukuthimba kuvunyelwe logama kubheniwe
30. Isigunyazisi sokukhupha umntu endlwini
31. Isigunyazisi sokuthunyelwa kwempahla
32. Isigunyazisi sokuthimba
33. Isaziso sokuthimba
- 33A. Imiqathango yokuthengiswa kwempahla ethinjiweyo enjengomzi
- 33B. Isaziso sokurhoxiswa kokuthengiswa kwempahla enjengomzi ngokoMgaqo 43(11)A
34. Isaziso **[esiya kotyalwayo omakahlawulwe kuqala]** ngokoMgaqo 43(5)(a) [isiqendu 66(2)(a) salo Mthetho]
35. Isamani yomnqakathi [isiqendu 69(1) salo Mthetho]
36. Isamani yomnqakathi [isiqendu 69(2) salo Mthetho]
37. Isibambiso phantsi koMgaqo 38
38. Umyalelo wokuthinjwa kweemali ezifunyanwayo
39. Umyalelo wokuxhuzul' imali emvuzweni
40. Isaziso sokuvela enkundleni ngokwesiqendu 65A(1) salo Mthetho
- 40A. Isigunyazisi sokubamba ngokwesiqendu 65A(6) salo Mthetho
- 40B. Isaziso sokuvela enkundleni ngokwesiqendu 65A(8)(b) salo Mthetho
41. Isaziso somhla wetyala ophoselwe kolunye usuku ngokwesiqendu 65E(3) salo Mthetho
42. Isaziso ngokoMgaqo 58(2)(a)
43. Isaziso esiya komnye umntu ongabandakanyekanga etyaleni
44. Isicelo sokuphathwa kwemicimbi yomntu ngabanye abantu ngokwesiqendu 74(1) salo Mthetho
45. Inkcazelo ngemeko yomntu otyalayo kwisicelo somyalelo wokuphathwa kwemicimbi yomntu ngabanye abantu ngokwesiqendu 65I(2) okanye 74A salo Mthetho
46. Isiqinisekiso sokunikwa amaxwebhu elinye ilizwe
47. Isaziso esiya kotyalayo sokuba kukho omnye otyalwayo ofake ibango letyala elibekho ngaphambi kokuba kukhutshwe umyalelo wokuphathwa kwemicimbi ngabanye abantu
48. Isaziso esiya kotyalwayo esithi otyalwayo ufake ibango ngetyala elibekho emva kokukhutshwa komyalelo wokuphathwa kwemicimbi yomntu ngabanye abantu
49. Isaziso sokongezwa komnye otyalwayo kuluhlu lwabantu abatyalwayo betyalwa ngumntu omicimbi yakhe iphathiswe abanye
50. Isaziso esiya kotyalwayo sokuba igama lakhe longezwe kuluhlu lwabatyalwa ngumntu omicimbi yakhe iphathiswe abanye
51. Umyalelo wokuphathwa kwemicimbi yomntu ngabanye abantu

- 52. Iakhawunti yolwabiwo ngokwesiqendu 74J(5) salo Mthetho
- 52A. Ukucinywa komyalelo wokuphathwa kwemicimbi yomntu ngabanye abantu
- 53. Isaziso sokuliyeka ibango okanye sokuyeka ukuzithethelela
- 54. Ukuvuma ukungabheni
- 55. Isicelo sokuhlola ingxelo ebhaliweyo
- 56. Umqulu wamatyala olwaphulo-mthetho
- 57. Isaziso ngokwesiqendu 309B(2)(d) se*Criminal Procedure Act* 51 ka-1977".

ISONGEZO B**“1B — Isaziso sesicelo sokuvakaliswa kwempahla enjengomzi inokuthinjwa ngokoMgaqo 43A*****Yeyokusetyenziswa kwiNkundla Yesithili**

KwiNkundla YeMantyi Yesithili sase.....ehleli e.....

iNombolo Yetyala.....ka-20..

Kwityala eliphakathi kuka-

.....Umenzi-sicelo

no-

.....Ummangalelwa

Kubhekiswa kummangalelwa oxelwe ngentla:

UYAZISWA ukuba u-.....(obizwe apha ngokuthi ngumenzi-sicelo) uzimisele ukwenza isicelo kule Nkundla ngomhla ixesha:..... okanye kamsinya emva koko, efuna umyalelo othi (1) (2) (3).....(xela umyalelo owufunayo) kananjalo inkcazelo ebhaliweyo yafungelwa ka-....., kunye namaxwebhu aqhotyoshelwe kuyo aya kusetyenziswa ukuxhasa esi sicelo.

UYAZISWA ukuba umenzi-sicelo ukhethe idilesi engezantsi ukuba kube lapho aya kuwafumana khona amaxwebhu amalunga nesi sicelo.

UYAZISWA ukuthi ukuba uzimisele ukusichasa esi sicelo kufuneka uthi zingekapheli iintsuku ezili-10 usinikwe isaziso sesi sicelo—

- (a) ubhale inkcazelo efungelweyo apho uvuma okanye ukhanyele izityholo ezikwinkcazelo ebhaliweyo yafungelwa yomenzi-sicelo;
- (b) uxele kuloo nkcazelo yakho ebhaliweyo yafungelwa izizathu zokusichasa kwakho nezibakala ogamele ngazo ekusichaseni kwakho;
- (c) unike umenzi-sicelo okanye igqwetha lakhe ikopi yenkcazelo yakho ebhaliweyo yafungelwa; uze
- (d) iorijinali yayo uvinike umabhalane wenkundla.

UYAZISWA KANANJALO ukuthi ukuba ungwenela ukubeka izibakala ezinokwenza ukuba kukhutshwe umyalelo ofanelekileyo njengokuqingqwa kwexabiso elilelona liphantsi, kufuneka uthi zingekapheli iintsuku ezili-10 zokusebenza kwenkundla wazisiwe ngesi sicelo—

- (a) uxele kwinkcazelo yakho ebhaliweyo yafungelwa izibakala zakho zokufuna kube njalo;
- (b) ikopi yenkcazelo yakho ebhaliweyo yafungelwa uyinike umenzi-sicelo okanye igqwetha lakhe;
- (c) iorijinali uyinike umabhalane wenkundla.

UYAZISWA KANANJALO ukuba—

- (a) ekusinikeni kwakho inkcazelo yakho ebhaliweyo yafungelwa, kufuneka usinike idilesi yakho yesitrato, nedilesi yeposi xa unayo, nefeksi ne-imeyile;
- (b) kwinkcazelo yakho ebhaliweyo yafungelwa kufuneka ubonise idilesi okhetha ukuba uwaziselwe kuyo onke amaxwebhu amayela nesi sicelo, ekuya kuthi xa uwanikwe kuloo dilesi uthathwe ngokuthi uwafumene, ngaphandle kokuba inkundla ifuna ukuba anikwe wena esandleni; kananjalo
- (c) idilesi yesitrato osinike yona kufuneka, ukuba kukho iiofisi zamagqwetha ezintathu nangaphezulu ezisebenza geqe enye kwenye, ibe kwisithuba seekhilomitha ezili-15 ukusuka enkundleni.

UYAZISWA KANANJALO ukuba kufuneka uvele phambi kwale Nkundla Ebekekileyo engentla ngomhla

UYAZISWA KANANJALO ukuba ukungenzi kwakho nayiphi na kwezi zinto zixelwe kwesi saziso kungabangela ukuba isuke inkundla ikhuphe le miyalelo ecelwa ngumenzi-sicelo.

IBHALWE NGALO MHLA20.....

Umenzi-sicelo/igqwetha lomenzi-sicelo

Idilesi yesitrato (enganeno kweekhilomitha ezili-15 ukusuka enkundleni):

.....

Idilesi yeposi:.....

Idilesi ye-imeyile:.....

Ifeksi:.....

Iya kuMabhalane Wenkundla

Naku:-

.....

Ummangalelwa

Idilesi:.....

Idilesi yeposi:.....

Idilesi ye-imeyile:.....

Ifeksi:.....

1B — Isaziso sesicelo sokuvakalisa impahla enjengomzi inokuthinjwa ngokoMgaqo 43A

***Yeyokusetyenziswa kwiNkundla Yengila**

KwiNkundla YeNqila YeCandelo LeNqila lase.....

Ihleli e..... iNombolo yetyala.....20.....

Kwityala eliphakathi kuka:-

.....Umenzi-sicelo

no-

.....Ummangalelwa

Kubhekiswa kummangalelwa ongentla:

UYAZISWA ukuba u.....(obizwe apha ngokuthi ngumenzi-sicelo) uzimisele

ukwenza isicelo kule Nkundla ngomhla.....ixesha.....okanye

kamsinya emva koko, efuna umyalelo othi

(1).....(2).....(3).....(bhala apha

umyalelo owufunayo) kwaye inkcazelo ebhaliweyo yafungelwa ka..... kunye

nokuqhotyeshelweyo kuyo kuya kusetyenziswa ukuxhasa esi sicelo.

UYAZISWA ukuba umenzi-sicelo ukhethe idilesi engezantsi ukuba kube lapho aya kuwafumana khona amaxwebhu amalunga nesi sicelo.

UYAZISWA KANANJALO ukuthi kuba uzimisele ukusichasa esi sicelo, kufuneka uthi zingekapheli iintsuku ezili-10 usinikiwe—

- (a) kwinkcazelo yakho ebhaliweyo yafungelwa uvume okanye ukhanyele izityholo ezikwinkcazelo ebhaliweyo yafungelwa yomenzi-sicelo;
- (b) kuloo nkcazelo yakho ebhaliweyo yafungelwa uxele izizathu zokusichasa kwakho isicelo nezibakala ogamele ngazo;
- (c) ikopi yenkcazelo yakho ebhaliweyo yafungelwa uyinike umenzi-sicelo okanye igqwetha lakhe; uze
- (d) iorijinali yayo uyinike umabhalane wenkundla.

UYAZISWA KANANJALO ukuthi ukuba unqwenela ukubeka izibakala ezinokwenza ukuba inkundla ikhuphe umyalelo ofanelekileyo onjengokuqingqwa kwexabiso elilelona liphantsi, kufuneka uthi, zingekapheli iintsuku ezili-10 zokusebenza kwenkundla usifumene esi sicelo—

- (a) uxele kwinkcazelo ebhaliweyo yafungelwa izibakala nezizathu zakho zokwenza njalo;
- (b) ikopi yenkcazelo yakho ebhaliweyo yafungelwa uyinike umenzi-sicelo okanye igqwetha lakhe; uze
- (c) iorijinali uyinike umabhalane wenkundla.

UYAZISWA KANANJALO ukuba—

- (a) ngexesha elinye xa unika umenzi-sicelo nomabhalane wenkundla inkcazelo yakho ebhaliweyo yafungelwa, kufuneka ubanike nedilesi yakho yesitrato, nedilesi yeposi, nefeksi ne-imeyile, xa unazo;
- (b) kwinkcazelo yakho ebhaliweyo yafungelwa kufuneka ubonise ukuba ukhethe ukuba uwaziselwe kweyiphi idilesi onke amaxwebhu amalunga nesi sicelo, ekuya kuthi xa uwaziselwe kuloo dilesi uthathwe njengowafumeneyo, ngaphandle kokuba umyalelo wenkundla ufuna ukuba uwanikwe buqu esandleni; kananjalo

(c) idilesi yesitrato osinike yona kufuneka, ukuba kukho iiofisi zamagqwetha ezintathu nangaphezulu ezisebenza zizimele geqe enye kwenye, ibe nganeno kweekhilomitha ezili-15 ukusuka enkundleni.

UYAZISWA KANANJALO ukuba kufuneka uvele phambi kwale Nkundla Ebekekileyo ngalo mhla:.....

UYAZISWA KANANJALO ukuba ukungenzi kwakho enye yezi zinto ezikhankanywe kwesi saziso sesicelo kungabangela ukuba inkundla imnike umenzi-sicelo imiyalelo ayicelileyo ngentla.

SIBHALWE ngalo mhla: kwinyanga ka:.....20.....

.....
Umenzi-sicelo/igqwetha lakhe

Idilesi yesitrato (enganeno kweekhilomitha ezili-15 ukusuka enkundleni):

.....

.....

Idilesi yeposi:.....

Idilesi ye-imeyile:.....

Ifeksi:.....

Iya kuMabhalane weNkundla

Naku:-

.....
Ummangalelwa

Idilesi:.....

.....

Idilesi yeposi:.....

I-imeyile:.....

Ifeksi:

33 — Isaziso sokuthinjwa***Yeyokusetyenziswa kwiNkundla Yesithili**

KwiNkundla YeMantyi Yesithili sase.....

Ihleli e.....Inombolo yetyala20.....

Kwityala eliphakathi kuka-

.....Otyalwayo

no-

.....Otyalayo

Iya ku-.....

Otyalayo

Uyaziswa ukuba namhlanje ndithimbe impahla **[equka izinto ezingentla]** ekuludwe olughotyoshelwe apha ngenxa yesigunyazisi esithunyelwe kum **[ngesandla sika-]** ngumabhalane wenkundla wesithili sase....., ekufuneka ukuba

kule mpahla ekwesi sithili okanye ekule nqila ndenze kufumaneke imali e-R.....

kunye nemali e-R..... eziindleko emazihlawulwe nguwe ngokwesigqibo senkundla exeliweyo kweli tyala kunye neemali ekufuneka ndihlawulwe zona ekuphumezeni isigunyazisi esixeliweyo.

Ucelwa ukuba ufunde okutshiwo nguMgaqo 43(8)(a)(iii) kwimigaqo yale Nkundla Ebekekileyo engentla, mqaqo lowo othi:

“(iii) Kusasele iintsuku ezingekho ngaphantsi kwama-25 ngaphambi komhla wentengiso, nawuphi na umntu ochaphazelekayo unokunika unothimba eminye imiqathango yentengiso okanye imiqathango etshintshiweyo.”

Imiqathango yentengiso eya kuthengiswa ngayo impahla ethinjiweyo kwintengiso yasesidlangalaleni iya kuqulunqwa ngulowo otyalwayo.

Ibhalwe ngalo mhla:.....kwinyanga20.....

.....
Unothimba

33 — Isaziso sokuthinjwa***Yeyokusetyenziswa kwiNkundla Yenqila**

KwiNkundla YeNqila YeCandelo LeNqila lase.....

Ihleli e.....Inombolo yetyala20.....

Kwityala eliphakathi kuka-

.....Otyalwayo

no-

.....Otyalayo

Iya ku.....

Otyalayo

Uyaziswa ukuba namhlanje ndithimbe impahla **[equka izinto ezingentla]** ekuludwe oluqhotyoshelwe apha ngenxa yesigunyazisi esithunyelwe kum **[ngesandla sika-]** ngumabhalane wenkundla kwinqila yase....., ekufuneka ukuba kule mpahla ekwesi sithili okanye ekule nqila ndenze kufumaneke imali e-R.....

kunye nemali e-R..... eziindleko emazihlawulwe nguwe ngokwesigqibo senkundla exeliweyo kweli tyala kunye neemali ekufuneka ndihlawulwe zona ekuphumezeni isigunyazisi esixeliweyo.

Ucelwa ukuba ufunde okutshiwo nguMgaqo 43(8)(a)(iii) kwimigaqo yale Nkundla Ebekekileyo engentla, mgaqo lowo othi:

“(iii) Kusasele iintsuku ezingekho ngaphantsi kwama-25 ngaphambi komhla wentengiso, nawuphi na umntu ochaphazelekayo unokunika unothimba eminye imiqathango yentengiso okanye imiqathango etshintshiweyo.”

Imiqathango yentengiso eya kuthengiswa ngayo impahla ethinjiweyo kwintengiso yasesidlangalaleni iya kuqulunqwa ngulowo otyalwayo.

Ibhalwe ngalo mhla:.....kwinyanga20.....

.....
Unothimba

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33A — Imigathango yentengiso xa kuthinjwe impahla enjengomzi***Yeyokusetyenziswa kwiNkundla Yesithili**

Kwityala lika-

.....Otyalwayo

no-

.....Otyalayo

Impahla engenakufuduswa enjengomzi (eza kubizwa apha ngokuthi “ngumzi”) eza kuthengiswa esidlangalaleni ngomhlakwinyanga.....20..... izezi zinto zilandelayo:

Intengiso iza kuqhutywa ngale migathango ilandelayo:

1. Intengiso iza kuqhutywa ngokoMgaqo 43 weMigaqo Yeenkundla Zeemantyi nangokweminye imithetho esebenza kule meko.

2. Umzi lo uza kuthengiswa ngunothimba wase.....okanye ngabathengisi base.....kwindawo ese.....beyithengisela umntu oya kuthi azimisele ukuhlawula elona xabiso liphezulu, lingabikho ixabiso ekungenakwehlelwa ngaphantsi kwalo/kubekho ixabiso ekungenakwehlelwa ngaphantsi kwalo elileli:.....

3. Ixabiso liza kuhlawulwa ngemali eziirandi, kwaye aliya kwamkelwa ixabiso elehlela ngaphantsi kwewaka leerandi.

4. Ukuba kuthi kubekho isikhalazo ngexabiso elinikiweyo, umzi lo unokuthi uthengiswe esidlangalaleni kwakhona.

5(a) Ukuba unothimba okanye umthengisi uthe wenza impazamo ekuthengiseni, loo mpazamo ayiyi kubankqamangela ababandakanyekileyo, kodwa inokuthi ilungiswe.

(b) Ukuba unothimba okanye umthengisi urhanela ukuba ovakalise umnqweno wokuthenga uyoyisakala ukuza nemali engumhlawulwa-tanci ekuthethwe ngayo kumgathango 7 okanye uyoyisakala ukugqibezela imali eseleyo, unothimba okanye umthengisi unokuthi ale ukwamkela isithembiso saloo mntu sokuthenga, okanye unokuthi asamkele okwexeshana de loo mntu onqwenela ukuthenga amenze aneliseke unothimba okanye umthengisi kwinto yokuba unako ukuyihlawula imali engumhlawulwa-tanci okanye unako ukugqibezela imali eseleyo.

(c) Xa saliwe isithembiso sokuthenga kwiimeko ezixelwe kwisiqendu (b), umzi usengaphinda uthengiswe esidlangalaleni kwakhona.

6(a) Ngoko nangoko emva kwentengiso, kwaye ngoko nangoko esakucelwa ngunothimba, umthengi makawatyikitye la maxwebhu.

(b) Ukuba umthengi uthenga emele omnye umntu, makadandalazise igama lomntu ammeleyo okanye athenga egameni lakhe.

7(a) Umthengi makahlawule unothimba imali engumhlawulwa-tanci eli-10 ekhulwini yexabiso lilonke lokuthenga, ehlawula ngemali eyimali okanye ngetsheke eqinisekiswa yibhanki ngomhla wentengiso.

(b) Imali eseleyo mayihlawulwe xa umzi sele udluliselwa egameni lakhe kwaye isibambiso kuza kuiba sisiginisekiso esivela kwibhanki akholwa yiyo lowo utyalwayo okanye liqqwetha lakhe, ize inikwe unothimba zingekapheli iintsuku ezi..... emva komhla wentengiso.

(8)(a) Ukuba umthengi uyoyisakala ukufeza nayiphi na into emele ifezwe nguye kule miqathango yentengiso, intengiso ingatshitshiswa ngokukhawulezileyo yimantyi ngenxa yengxelo kanothimba, azisiwe umthengi, kwaye umzi lowo unokuthi uthengiswe kwakhona.

(b) Xa zithe zenzeka iimeko ezikwisiqendu (a), ngumthengi oza kuthwal' ityala lokulahlekelwa okuthe kwadaleka ngenxa yokoyisakala kwakhe, lahleko leyo enokuthi, xa omnye wabatyalwayo olahlekelweyo ogama lakhe livelayo kuluhlu lolwabiwo, ifunwe kumthengi ngesigqibo semantyi esivakaliswe kwingxelo ebhaliweyo kanothimba, emva kokuba loo mthengi enikwe isilumkiso esibhaliweyo esithi loo ngxelo iza kuthiwa thaca phambi kwemantyi ngaloo njongo.

(c) Ukuba umthengi sele engenile kuwo umzi, unothimba unokuthi, emva kokuba eqale wazisa abo bachaphazelekayo, enze isicelo kwimantyi somyalelo wokukhupha umthengi okanye nawuphi na umntu othi ungene kuwo umzi ngegunya lomthengi, nokuba ke uhleli njani na kuloo mzi.

(9)(a) Umthengi uya kuthi ngoko nangoko ahlawule ikomishini kanothimba xa eyifuna okanye ahlawule iimali zomthengisi kunye neendleko ezibalwe ngolu hlobo:

.....:

(b) Umthengi kuza kufuneka ahlawule iimali ezilandelayo zingekapheli iintsuku ezili-10 eceliwe ukuba enze njalo liqqwetha lonaniselwano ngemizi:

(i) Zonke iimali ezifanele ziye kumasipala onika iinkonzo kulo mzi ngokwe *Local Government: Municipal Systems Act* 32 ka-2000, iirates zomzi kunye nezinye iirhafu ezifunwa ngumasipala;

(ii) Zonke iimali ezifanele ziye kwiqumrhu labaphathi beeflethi ngokwe *Sectional Titles Act* 95 ka-1986 okanye iimali ezifanele ziye kubanini-mzi okanye komnye umbutho owenzela loo mzi iinkonzo ezithile.

(iii) lindleko zokudluliselwa komzi komnye umntu kunye nezinye iimali ezifunekayo ukuze umzi ube kwigama lomthengi.

10(a) Umzi unokuthathwa emva kokuba kutyikitywe imiqathango yokuthengiswa kwawo, kwahlawulwa imali engumhlawulwa-tanci nasemva kokuba kuhlalulwe imali eseleyo ngokomqathango 7(b).

(b) Xa umthengi engena kuwo umzi, kuya kufuneka ahlawule irenti yokuhlala kuwo ungekabhaliswa ngaye eyi-R..... ngenyanga ukususela kumhla ukuza kutsho kumhla obhaliswa ngaye ngawo.

(c) Akungena umthengi kuwo umzi, konke okwenzekayo kuwo kuza kufuna umthengi.
(d) Lowo otyalwayo kunye nonothimba okanye umthengisi abaniki siqinisekiso sokuba umthengi
uza kuthi xa engena awufumane umzi ungenamntu.

11(a) Umthengi uza kuba nelungelo lokuba umzi uguqulelwe egameni lakhe ngoko nangoko
esakulihlawula lonke ixabiso lomzi, ekwenzile nokufunwa ngumqathango 9, kungenjalo umzi uza
kuguqulelwa egameni lakhe akuba ekwenzile okutshiwo ngumqathango 7 nowe-9.

(b) Ukuba ukudluliselwa komzi egameni lomthengi kubanjezelwa ngumthengi, umthengi kuza
kufuneka ehlawule inzala engumlinganiselo we..... ekhulwini ngonyaka yexabiso
lomzi.

12(a) Unothimba usengafuna ukuba izinto eziphuculiweyo ezenziwe kuwo umzi mazikhuselwe
nge-inshorensi ngoko nangoko ngumthengi egubungela ixabiso lazo elipheleleyo, buze
ubungqina bokuba ukwenzile oko bunikwe unothimba, ize loo inshorensi ihlale ikho de umzi
ubhaliswe ngegama lomthengi.

(b) Xa umthengi engakwenzi okufunwa kwisiqendu (a), unothimba unokuyithatha ngokwakhe i-
inshorensi, ize ihlawulelwe ngumthengi.

13(a) Umzi uthengisiwe njengoko kuboniswa yitayitile nomzobo, phantsi kwemiqathango
esenokuba ikho.

(b) Unothimba/umthengisi kwintengiso yasesidlangalaleni akayi kuba natyala ngento enokuthi
kufumaneke ukuba ayikho kuwo umzi.

14. Lowo otyalwayo ekuthinjelwa yena makafune igqwetha lonaniselwano ngemizi ukuze
liwubhalise umzi ngomthengi, kodwa ke unothimba unelungelo lokufuna igqwetha elitsha
lonaniselwano ngemizi ukuba igqwetha elifunwe ngulowo otyalwayo lithe lalibazisa okanye
alenza ngendlela eyanelisayo.

Kutyikitywe e..... ngalo mhla:..... kwinyanga ka.....
20.....

Ndiyaqinisekisa ukuba ngale mini yanamhlanje ndikho, umzi
oxelwe ngentla uye wathengiswa ngemali e..... uthengiselwa
U.....

Unothimba/Umthengisi esidlangalaleni

Mna, otyikitye ngezantsi,....., ohlala e.....kwisithili
sase.....ndiyazinkqamangela njengomthengi womzi oxelwe ngentla
ukuba ndihlawule ixabiso lawo ndize ndifezekise yonke imiqathango ekhankanywe ngentla.

.....
Umthengi

33A — Imiqathango yentengiso yokuthinjwa komzi***Yeyokusetyenziswa kwiNkundla Yenqila**

Kwityala lika:

.....Otyalwayo

no-

.....Otyalayo

Impahla engenakufuduswa enjengomzi (eza kubizwa apha ngokuthi “ngumzi”) eza kuthengiswa esidlangalaleni ngomhlakwinyanga.....20..... izezi zinto zilandelayo:

Intengiso iza kuqhutywa ngale miqathango ilandelayo:

1. Intengiso iza kuqhutywa ngokoMgaqo 43 weMigaqo YeeNkundla ZeeMantyi nayo yonke eminye imithetho esebenza kule meko.

2. Umzi lo uza kuthengiswa ngunothimba wase.....okanye ngaBathengisi abangu.....e.....uthengiselwa umntu ozimisele ukuwuthenga ngelona xabiso liphakamileyo, kungabikho xabiso emakungehlelwa ngaphantsi kwalo/kubekho ixabiso emakungehlelwa ngaphantsi kwalo eliyi-.....

3. Uza kuthengiswa ngeerandi, kwaye akayi kwamkelwa umntu ofuna ukuwuthenga ngemali engaphantsi kwewaka leerandi.

4. Ukuba kuthi kubekho imbambano ngemali azimisele ukuhlawula yona umntu, unokuphinda uthengiswe kwakhona umzi.

5(a) Ukuba unothimba/umthengisi wasesidlangalaleni uthi enze impazamo ekuthengiseni, loo mpazamo ayiyi kubankqamangela ababandakanyekileyo, koko inokuthi ilungiswe.

(b) Ukuba unothimba/umthengisi wasesidlangalaleni urhanela ukuba umntu ofuna ukuthenga uyoyisakala ukuhlawula imali engumhlawulwa-tanci ekuthethwe ngayo kumqathango 7 okanye imali eseleyo, unothimba/umthengisi wasesidlangalaleni usenokwala ukukwamkela ukuthenga kwaloo mntu, okanye akwamkele phantsi kwemiqathango de lowo ofuna ukuthenga amenze aneliseke unothimba/umthengisi wasesidlangalaleni kwinto yokuba angayihlawula imali engumhlawulwa-tanci okanye eseleyo.

(c) Xa kusaliwa ukuthenga komntu othengayo kwiimeko ezixelwe kwisiqendu (b), umzi unokuthi uthengiswe kwakhona.

6(a) Umthengi makayityikitye ngoko nangoko le miqathango emva kokuthenga, ngoko nangoko esakucelwa ngunothimba/ngumthengisi wasesidlangalaleni.

(b) Ukuba othengayo uthenga egameni lomnye, makalixele iqama lomntu athengela yena.

7(a) Umthengi makahlawule unothimba imali engumhlawulwa-tanci eli-10 ekhulwini yexabiso lomzi eyihlawula ngemali eyimali okanye ngetsheke eqinisekiswa yibhanki ngomhla wentengiso.
(b) Eseleyo mayihlawulwe xa udluliselwa egameni lomnye kwaye isibambiso masiphume kwibhanki evunywe ngulowo utyalwayo okanye ligqwetha lakhe, kwaye iza kunikwa unothimba zingekapheli iintsuku ezi..... ukususela kumhla wentengiso.

8(a) Ukuba othengayo uyoyisakala ukufeza umqathango ekufuneka ufezwe ngumthengi kwimiqathango yentengiso, intengiso ingapheliswa yimantyi ngokukhawuleza ngengxelo kanothimba emva kokuba unothimba lowo azise umthengi, uze ke umzi lowo ube nokuthengiswa kwakhona.

(b) Xa zenzekile iimeko ezixelwe kwisiqendu (a), iza kuthwalwa ngumthengi ilahleko ebangelwe kukwenzeka kwazo, lahleko leyo enokuthi xa enokwenza isicelo otyalwayo okhalazayo ogama lakhe livelayo kwi-akhawunti yolwabiwo kanothimba, iindleko zayo zibuyiswe kumthengi ngesigqibo semantyi esivakaliswe ngokwengxelo ebhaliweyo kanothimba, emva kokuba loo mthengi enikwe isaziso esibhaliweyo sokuba loo ngxelo iza kuthiwa thaca phambi kwemantyi ngaloo njongo.

(c) Ukuba umthengi sele engenile kuwo umzi, unothimba unokuthi, emva kokuba egale wazisa abo bachaphazelekayo, enze isicelo kwimantyi somyalelo wokukhupha umthengi okanye nawuphi na umntu othi ungene kuwo umzi ngegunya lomthengi, nokuba ke uhleli njani na kuloo mzi.

9(a) Ngoko nangoko isakufunwa imali yoko, umthengi makahlawule iimali zikanothimba/zomthengisi wasesidlangalaleni neendleko ezibalwe ngale ndlela:

.....;

(b) Umthengi makahlawule okulandelayo zingekapheli iintsuku ezili-10 eceliwe ukuba enze njalo ecelwa ligqwetha lonaniselwano ngemnizi:

(i) zonke iimali ezifanele ziye kumasipala owenza iinkonzo kuloo mzi, ngokwe *Local Government: Municipal Systems Act* 32 ka-2000, iirates zomzi nezinye iimali zikamasipala;

(ii) zonke iimali ezifanele ziye kwiqumrhu labaphathi beeflethi ngokwe *Sectional Titles Act* 95 ka-1986 okanye iimali ezifanele ziye kubanini-mzi okanye omnye umbutho owenzela umzi iinkonzo.

(iii) iindleko zokudluliselwa komzi komnye umntu kunye nezinye iimali ezifunekayo ukuze umzi ube kwiqama lomthengi.

10(a) Umzi unokuthathwa emva kokuba kutyikitywe imiqathango yokuthengiswa kwawo, kwahlawulwa imali engumhlawulwa-tanci nasemva kokuba kuhlawulwe imali eseleyo ngokomqathango 7(b).

(b) Xa umthengi engena kuwo umzi, kuya kufuneka ahlawule irenti yokuhlala kuwo ungekabhaliswa ngawe eyi-R..... ngenyanga ukususela kumhla ukuza kutsho kumhla obhaliswa ngaye ngawo.

(c) Akungena umthengi kuwo umzi, konke okwenzekayo kuwo kuza kufuna umthengi.

(d) Lowo otyalwayo kunye nonothimba okanye umthengisi abaniki siqinisekiso sokuba umthengi uza kuthi xa engena awufumane umzi ungenamntu.

11(a) Umthengi uza kuba nelungelo lokuba umzi uguqulelwe egameni lakhe ngoko nangoko esakulihlawula lonke ixabiso lomzi, ekwenzile nokufunwa ngumqathango 9, kungenjalo umzi uza kuguqulelwa egameni lakhe akuba ekwenzile okutshiwo ngumqathango 7 nowe-9.

(b) Ukuba ukudluliselwa komzi egameni lomthengi kubanjelwa ngumthengi, umthengi kuza kufuneka ehlawule inzala engumlinganiselo we..... ekhulwini ngonyaka yexabiso lomzi.

12(a) Unothimba usengafuna ukuba izinto eziphuculiweyo ezenziwe kuwo umzi mazikhuselwe nge-inshorensi ngoko nangoko ngumthengi egubungela ixabiso lazo elipheleleyo, buze ubungqina bokuba ukwenzile oko bunikwe unothimba, ize loo inshorensi ihlale ikho de umzi ubhaliswe ngegama lomthengi.

(b) Xa umthengi engakwenzi okufunwa kwisiqendu (a), unothimba unokuyithatha ngokwakhe i-inshorensi, ize ihlawulelwe ngumthengi.

13(a) Umzi uthengisiwe njengoko kuboniswa yitayitile nomzobo, phantsi kwemiqathango esenokuba ikho.

(b) Unothimba/umthengisi kwintengiso yasesidlangalaleni akayi kuba natyala ngento enokuthi kufumaneke ukuba ayikho kuwo umzi.

14. Lowo otyalwayo ekuthinjelwa yena makafune igqwetha lonaniselwano ngemizi ukuze liwubhalise umzi ngomthengi, kodwa ke unothimba unelungelo lokufuna igqwetha elitsha lonaniselwano ngemizi ukuba igqwetha elifunwe ngulowo otyalwayo lithe lalibazisa okanye alenza ngendlela eyanelisayo.

Kutyikitywe e..... ngalo mhla:..... kwinyanga ka.....
20.....

Ndiyaqinisekisa ukuba ngale mini yanamhlanje ndikho, umzi
oxelwe ngentla uye wathengiswa ngemali e..... uthengiselwa
U.....

Unothimba/Umthengisi esidlangalaleni

Mna, otyikitye ngezantsi....., ohlala e.....kwisithili
sase.....ndiyazinkgamangela njengomthengi womzi oxelwe ngentla
ukuba ndihlawule ixabiso lawo ndize ndifezekise yonke imiqathango ekhankanywe ngentla.

Umthengi

33B — Isaziso sokurhoxisa ukuthengiswa komzi ngokomgaqo 43(11)(a)

***Yeyokusetyenziswa kwiNkundla Yesithili**

KwiNkundla YeMantyi Yesithili Sase.....

ehleli e.....iNombolo Yetyala20.....

Phakathi kuka:

Nothimba wase.....Umenzi-sicelo

no-

.....Umthengi

Malunga netyala lika-:

.....Otyalwayo

no-

.....Otyalayo

UYAZISWA ukuba unothimba wase.....uzimisele ukucela imantyi iseofisini yayo, ngomhla oza kuxelwa ngumabhalane wenkundla, ukuba irhoxise ukuthengiswa komzi ochazwe ngokuthi othengiswe kwintengiso yasesidlangalaleni ngomhla20..... nokuba igunyaze ukuba loo mzi uthengiswe ngokutsha.

UYAZISWA KWAKHONA ukuba iqhotyoshelwe apha ingxelo kanothimba esiza kusekelwa kuyo isicelo esiya kwimantyi sokuba irhoxise ukuthengiswa kwawo.

SENZIWE e..... ngalo mhla.....kwinyanga ka.....20.....

.....
Unothimba weNkundla
(Ummandla)
(Idilesi)

Iya kuMabhalane weNkundla

.....
Naku-

.....
Umthengi
(Idilesi)

33B — Isaziso sokurhoxiswa kokuthengiswa komzi ngokoMgago 43(11)(a)***Yeyokusetyenziswa kwiNkundla yeNqila**

KwiNkundla YeNqila YeCandelo LeNqila lase.....

ehleli e.....iNombolo Yetyala.....20....

Phakathi kuka:

Nothimba wase.....Umenzi-sicelo

no-

.....Umthengi

Malunga netyala lika-:

.....Otyalwayo

no-

.....Otyalayo

UYAZISWA ukuba unothimba wase.....uzimisele ukucela imantyi iseofisini yayo, ngomhla oza kuxelwa ngumabhalane wenkundla, ukuba irhoxise ukuthengiswe komzi ochazwe ngokuthi othengiswa kwintengiso yasesidlangalaleni ngomhla20..... nokuba igunyaze ukuba loo mzi uthengiswe ngokutsha.

UYAZISWA KWAKHONA ukuba iqhotyoshelwe apha ingxelo kanothimba esiza kusekelwa kuyo isicelo esiya kwimantyi sokuba irhoxise ukuthengiswa kwawo.

SENZIWE e..... ngalo mhla.....kwinyanga ka.....20.....

.....
Unothimba weNkundla

(Ummandla)

(Idilesi)

Iya kuMabhalane weNkundla

.....
Naku-

.....
Umthengi
(Idilesi)

34 — Isaziso [esiya kotyalwayo omakahlawulwe kuqala] ngokoMgago 43(5)(a)

***Yeyokusetyenziswa kwiNkundla Yesithili**

[Isiqendu 66(2)(a) soMthetho 32 ka-1944]

KwiNkundla YeMantyi Yesithili Sase.....

ehleli.....iNombolo Yetyala.....20.....

Kwityala eliphakathi kuka-

.....Otyalwayo

no-

.....Otyalayo

Iya ku.....

(Otyalwayo omakahlawulwe kuqala/kuMasipala/kwiQumrhu Labaphathi Beeflethi)

Njengoko umzi oxelwe ngezantsi wathi waba phantsi kokuthinjwa ngunothimba ngomhla
kwinyanga ka.....20..... uyaziswa ukuba uza kuthengiswa
 kwintengiso yokuthinjwa e.....(indawo) ngomhla.....kwinyanga
 ka.....20.....ngexesha.....(bhala ixesha)

Inkcazelo emfutshane yomzi nendawo okuyo:

.....

.....

Uyalelwa ukuba uxele zingekapheli iintsuku ezili-10 ukususela(bhala umhla)
ixabiso ekungenakwehlelwa ngezantsi kwalo okanye uvume ukuthengiswa kwawo
kungabekwanga xabiso ekungenakwehlelwa ngezantsi kwalo.

Yenziwe ngalo mhlakwinyanga ka.....20.....

.....
Umntu otyalwayo/lqgwetha lomntu otyalwayo

Idilesi:.....

34 — Isaziso [esiya kotyalwayo omakahlwulwe kuqala] ngokoMgaqo 43(5)(a)

***Yeyokusetyenziswa kwiNkundla YeNqila**

[Isiqendu 66(2)(a) soMthetho 32 ka-1944]

KwiNkundla YeNqila YeCandelo LeNqila lase.....

ehleli e.....Inombolo Yetyala.....20.....

Kwityala eliphakathi kuka-

.....Otyalwayo

no-

.....Otyalayo

Iya ku-.....

(Otyalwayo omakahlawulwe kuqala/kuMasipala/kwiQumrhu Labaphathi Beeflethi)

Njengoko umzi oxelwe ngezantsi wathi waba phantsi kokuthinjwa ngunothimba ngomhla
kwinyanga ka.....20..... uyaziswa ukuba uza kuthengiswa
 kwintengiso yokuthinjwa e.....(indawo) ngomhla.....kwinyanga
 ka.....20.....ngexesha.....(bhala ixesha)

Inkcazelo emfutshane yomzi nendawo okuyo:

.....

.....

Uyalelwa ukuba uxele zingekapheli iintsuku ezili-10 ukususela(bhala umhla)
ixabiso ekungenakwehlelwa ngezantsi kwalo okanye uvume ukuthengiswa kwawo
kungabekwanga xabiso ekungenakwehlelwa ngezantsi kwalo.

Yenziwe ngalo mhlakwinyanga ka.....20.....

.....
Umntu otyalwayo/lqgwetha lomntu otyalwayo

Idilesi:.....”

DEPARTMENT OF LABOUR

NO. R. 1273

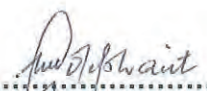
17 NOVEMBER 2017

PUBLICATION OF THE LABOUR RELATIONS AMENDMENT BILL, 2017

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, intend introducing the Labour Relations Amendment Bill, 2017, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 276(b) & (c) of the Rules of the National Assembly.

The Bill seeks to amend the Labour Relations Act, 1995 (Act No. 66 of 1995) so as to provide criteria for the Minister before the Minister is compelled to extend the collective agreement as contemplated in the Act; to provide for the renewal and extension of funding agreements; to provide for picketing by collective agreement or by determination by the Commission in terms of picketing regulations; to provide for the classification of a ratified or determined minimum service; to extend the meaning of ballot to include any voting by members that is recorded in secret; to provide for the independence of the registrar and the deputy registrar; to provide for the appointment of an arbitration panel; to provide for the advisory arbitration panel; to provide for an advisory arbitration award and for matters relating to arbitration award; to provide for transitional provisions; and to provide for matters connected therewith.

A copy of the Bill can be found on the website of the Department of Labour at <http://www.labour.gov.za/legislation/bills/proposed-amendment-bills>


.....
M N OLIPHANT, MP
MINISTER OF LABOUR
DATE: 02/11/2017

REPUBLIC OF SOUTH AFRICA

LABOUR RELATIONS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette 41257 of 17 November 2017)
(The English text is the official text of the Bill)*

(MINISTER OF LABOUR)

[B -2017]

GENERAL EXPLANATORY NOTE:

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

BILL

To amend the Labour Relations Act, 1995, so as to provide criteria for the Minister before the Minister is compelled to extend the collective agreement as contemplated in the Act; to provide for the renewal and extension of funding agreements; to provide for picketing by collective agreement or by determination by the Commission in terms of picketing regulations; to provide for the classification of a ratified or determined minimum service; to extend the meaning of ballot to include any voting by members that is recorded in secret; to provide for the independence of the registrar and the deputy registrar; to provide for the appointment of an arbitration panel; to provide for the advisory arbitration panel; to provide for an advisory arbitration award and for matters relating to arbitration award; to provide for transitional provisions; and to provide for matters connected therewith.

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

Amendment of section 32 of Act 66 of 1995, as amended by section 7 of Act 42 of 1996, section 2 of Act 127 of 1998, section 5 of Act 12 of 2002 and section 4 of Act 6 of 2014

1. (1) Section 32 of the Labour Relations Act, 1995 (hereinafter referred to as the principal Act) is hereby amended—

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

"(2) **[Within 60 days of receiving the request]**

Subject to subsection (2A), the Minister must extend the collective agreement, as requested, by publishing a notice in the Government Gazette, within 60 days of receiving the request, declaring that, from a specified date and for a specified period, the collective agreement will be binding on the non- parties specified in the notice."

(b) by the insertion after subsection (2) of the following subsection:

"(2A) If the Registrar determines that the parties to the bargaining council are sufficiently representative within the registered scope of the bargaining council for the purposes of subsection (5)(a), the Minister must publish the notice contemplated in subsection (2) within 90 days of the request."

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

"(b) the registrar, in terms of section 49(4A)(a), has determined that the majority of all employees who, upon extension of the collective agreement, will fall within the scope of the agreement, are members of the trade unions that are party to the bargaining council; or

(c) the registrar, in terms of section 49(4A)(a), has determined that the members of the employers' organisations that are parties to the bargaining council will, upon extension of the collective

agreement, be found to employ the majority of all the employees who fall within the scope of the collective agreement;"

(d) by the insertion after subsection (3A) of the following subsection:

"(3B) The Minister may make regulations on the procedures and criteria that a bargaining council must take into consideration when developing the criteria for the purposes of section 32(3)(dA), (e) and (f)."

(e) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

"(a) the registrar has, in terms of section 49(4A)(b), determined that the parties to the bargaining council are sufficiently representative within the registered scope of the bargaining council;"

(f) by the substitution for subsection (5A) of the following subsection:

"(5A) When determining whether the parties to the bargaining council are sufficiently representative for the purposes of subsection (5)(a), the [Minister] registrar may take into account the composition of the workforce in the sector, including the extent to which there are employees assigned to work by temporary employment services, employees employed on fixed term contracts, part-time employees or employees in other categories of non-standard employment."; and

(g) by the substitution in subsection (6)(a) for the words preceding subparagraph (i) of the following words:

"After a notice has been published in terms of subsection (2) or (2A),

the Minister, at the request of the bargaining council, may publish a further notice in the *Government Gazette*—"; and

(h) by the deletion in subsection (6) of paragraph (b).

Insertion of section 32A in Act 66 of 1995

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

"Renewal and extension of funding agreements

32A. (1) For the purposes of this section—

(a) a "funding agreement" means a collective agreement concluded in a bargaining council, including a provision in such an agreement to fund—

(i) the operational and administrative activities of the bargaining council itself;

(ii) a dispute resolution fund referred to in section 28(1)(e);

(iii) a training and education scheme contemplated in section 28(1)(f); or

(iv) a pension, provident, medical aid, sick pay, holiday and unemployment scheme any other similar scheme for the benefit of one or more parties to the bargaining council or its members as contemplated in section 28(1)(g);

(b) the renewal of an agreement means that it is—

(i) binding on the parties to the agreement; and

(ii) deemed to be an extension of the agreement to non-parties in terms of section 32(2).

(2) Subject to subsection (3), and where the Minister is satisfied that the failure to renew the funding agreement may undermine collective bargaining at sectoral level, the Minister may renew a funding agreement for up to 12 months at the request of any of the parties to a bargaining council if—

(a) the funding agreement has expired; or

(b) the parties have failed to conclude a collective agreement to renew or replace the funding agreement before 90 days of its expiry.

(3) The Minister must, before making a decision under subsection (2)—

(a) publish a notice in the Government Gazette calling for comment on the request within a period stipulated in the notice; and

(b) consider the comments received.

(4) Any review of the Minister's decision under subsection (2) must be determined by the Labour Court and any such decision remains in force until—

(a) set aside by the Labour Court; or

(b) if the decision is taken on appeal, set aside by the Labour Appeal Court or the Constitutional Court, as the case may be."

Amendment of section 49 of Act 66 of 1995, as amended by section 11 of Act 12 of 2002 and section 5 of Act 6 of 2014

3. Section 49 of the principal Act is hereby amended—

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

"(4) A determination of the representativeness of a bargaining council in terms of this section is sufficient proof of the representativeness of the council for the [year] two years following the determination for any purpose in terms of this Act, including a decision by the Minister in terms of sections 32(3)(b), 32(3)(c) and 32(5)."; and

(b) by the insertion after subsection (4) of the following subsection:

"(4A) A determination made by the registrar in terms of—

(a) section 32(3)(c) is sufficient proof that the members of the employer organisations that are party to the bargaining council, upon extension of the collective agreement, employ the majority of the employees who fall within the scope of that agreement; and

(b) section 32(5)(a) is sufficient proof that the parties to the collective agreement are sufficiently representative within the registered scope of the bargaining council."

Amendment of section 69 of Act 66 of 1995, as amended by section 20 of Act 42 of 1996 and section 9 of Act 6 of 2014

4. (1) Section 69 of the principal Act is hereby amended—
- (a) by the substitution for subsections (4), (5) and (6) of the following subsections respectively:

"(4) **[If requested to do so by the registered trade union or the employer]** Unless there is a collective agreement binding on the trade union that regulates picketing, the [Commission] commissioner conciliating the dispute must attempt to secure an agreement between the parties to the dispute on rules that should apply to any picket in relation to that strike or lock-out before the expiry of the period contemplated in section 64(1)(a).

(5) If there is no collective agreement or no agreement is reached in terms of subsection (4), the [Commission] commissioner conciliating the dispute must [establish] determine picketing rules in accordance with any default picketing rules prescribed by the Commission under section 208 or published in any code of good practice, and in doing so must take account of—

- (a) the particular circumstances of the workplace or other premises where it is intended that the right to picket is to be exercised;
[and]
- (b) any relevant code of good practice; and
- (c) any representations made by the parties to the dispute attending the conciliation meeting.

(6) The rules **[established]** determined by the **[Commission]** commissioner conciliating the dispute may provide for picketing by employees—

- (a) in a place contemplated in **[section 69 (2)(a)]** subsection (2)(a) which is owned or controlled by a person other than the employer, if that person has had an opportunity to make representations to the **[Commission]** commissioner conciliating the dispute before the rules are **[established]** determined; or
- (b) on their employer's premises if the **[Commission]** commissioner conciliating the dispute is satisfied that the employer's permission has been unreasonably withheld.";

(b) by the insertion after subsection (6) of the following subsections:

"(6A) The commissioner conciliating the dispute must determine the picketing rules contemplated in subsection (5) at the same time as issuing any certificate contemplated in section 64(1)(a), unless the trade union fails to provide the prescribed information.

(6B) The Commission may determine picketing rules under subsections (5) and (6) on a direct application from a registered trade union and on an urgent basis if—

- (a) it has referred a dispute about a unilateral change to terms and conditions of employment in accordance with section 64(4) and the employer has not complied with section 64(5); or
- (b) the employer has given notice of an intention to commence or has commenced an unprotected lockout.

(6C) No picket in support of a protected strike or in

opposition to a lockout may take place unless picketing rules—

(a) are agreed to in—

(i) a collective agreement binding on the trade union;

(ii) an agreement contemplated in subsection (4); or

(b) have been determined in terms of subsections (7) or (8).";

(c) by the substitution in subsection (8) for paragraphs (c) and (d) of the following paragraphs respectively:

"(c) an alleged material breach of a collective agreement or an
agreement **[concluded]** contemplated in [terms of] subsection
(4); or

(d) an alleged material breach of a picketing rule **[established]**
determined in terms of subsection (5).";

(d) by the substitution for subsection (12) of the following subsection:

"(12) If a party has referred a dispute in terms of
subsection (8) or (11), the Labour Court may, in addition to any relief
contemplated in section 68(1), grant relief, including urgent interim
relief, which is just and equitable in the circumstances and which may
include an order—

(a) **[an order]** directing any party, including a person contemplated
in subsection (6)(a), to comply with a picketing agreement or
rule; **[or]**

(b) **[an order]** varying the terms of a picketing agreement or rule; or

(c) suspending a picket at one or more of the locations designated
in the collective agreement , agreed rules contemplated in
subsection (4) or rules determined by the Commission."; and

(e) by the addition of the following subsection:

"(15) For the purposes of this section, 'commissioner conciliating the dispute' includes a person appointed by a bargaining council to conciliate the dispute."

Amendment of section 70F of Act 66 of 1995, as amended by section 11 of Act 6 of 2014

5. Section 70F of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 72 of Act 66 of 1995, as amended by section 13 of Act 6 of 2014

6. Section 72 of the principal Act is hereby amended—

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

"(5) Despite subsections (3) and (4), section 74 applies to a designated essential service in respect of which the essential services committee has ratified a minimum services agreement or has made a determination of minimum services if the majority of employees employed in the essential services voted in a ballot in favour of this."; and

(b) by the addition of the following subsection:

"(9) For the purposes of this section, a "ratified minimum service" or "determined minimum service" means the

minimum number of employees in a designated essential service who may not strike in order to ensure that the life, personal safety or health of the whole or part of the population is not endangered."

Amendment of section 75 of Act 66 of 1995, as amended by section 22 of Act 42 of 1996

7. Section 75 of the principal Act is hereby amended by the addition of the following subsection:

"(8) A panel appointed by the essential services committee may in the prescribed manner vary or cancel the designation of the whole or part of a maintenance service on its own accord or on application by the employer or a registered trade union with members affected by the designation of a maintenance service by following the provisions."

Amendment of section 95 of Act 66 of 1995, as amended by section 18 of Act 12 of 2002

8. Section 95 of the principal Act is hereby amended by the addition of the following subsection:

"(9) For the purpose of subsection (5), 'ballot' includes any system of voting by members that is recorded and in secret."

Amendment of section 99 of Act 66 of 1995

9. Section 99 of the principal Act is hereby amended by the substitution for paragraphs (b) and (c) of the following paragraphs respectively—

- "(b) the attendance register, minutes or any other prescribed record of its meetings, in an original or reproduced form, for a period of three years from the end of the financial year to which they relate; and
- (c) the ballot papers or any documentary or electronic record of the ballot for a period of three years from the date of every ballot."

Amendment of section 100 of Act 66 of 1995

10. Section 100 of the principal Act is hereby amended by the deletion of the word "and" at the end of paragraph (d), the insertion of the word "and" at the end of paragraph (e), and the addition of the following paragraph:

- "(f) the records referred to in section 99."

Amendment of section 108 of Act 66 of 1995

11. Section 108 of the principal Act is hereby amended by the addition of the following subsections:

"(4) The registrar and the deputy registrars are independent and, subject only to the Constitution and the law, they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.

(5) No person or organ of state may interfere with the functioning of the registrar."

Amendment of section 116 of Act 66 of 1995

12. Section 116 of the principal Act is hereby amended by the addition of the following subsections:

"(4) The governing body may appoint any of its members to act as chairperson whenever—

(a) the chairperson is absent from the Republic or from duty, or for any reason is temporarily unable to perform the functions of the chairperson; or

(b) the office of the chairperson is vacant.

(5) An acting chairperson is competent to exercise and perform any of the powers of the chairperson."

Amendment of section 127 of Act 66 of 1995, as amended by section 33 of Act 42 of 1996 and section 23 of Act 12 of 2002

13. Section 127 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"Any council or private agency may apply to the governing body in the prescribed form for accreditation and for accreditation of its dispute resolution panel to perform any of the following functions—".

Amendment of section 128 of Act 66 of 1995

14. Section 128 of the principal Act is hereby amended by the substitution

for subsection (3) of the following subsection:

"(3)(a)(i) An accredited council may confer on any person who is accredited by the governing body and appointed by **[it]** the council to resolve a dispute, the powers of a commissioner in terms of section 142, read with the changes required by the context.

(ii) For this purpose, any reference in that section to the director must be read as a reference to the secretary of the bargaining council.

(b) An accredited private agency may confer on any person who is accredited by the governing body and appointed by **[it]** the agency to resolve a dispute, the powers of a commissioner in terms of section 142(i) (a) to (e), (2) and (7) to (9), read with the changes required by the context."

Amendment of section 135 of Act 66 of 1995, as amended by section 36 of Act 42 of 1996, section 8 of Act 127 of 1998 and section 26 of Act 12 of 2002

15. Section 135 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsections respectively:

"(2A) If an extension of the 30-day period referred to in subsection (2) is necessary to ensure a meaningful conciliation process, the commissioner or a party may apply to the director in accordance with any rules made in terms of section 115(2A) for an extension of the period, which may not exceed 5 days.

(2B) The director may only extend the period referred to in

subsection (2A) if the director is satisfied that—

- (a) an extension is necessary to ensure a meaningful conciliation process;
- (b) the refusal to agree to the extension is unreasonable; and
- (c) there are reasonable prospects of reaching agreement.

(2C) Subsections (2A) and (2B) do not apply to where the State is the employer."

Insertion of sections 150A, 150B, 150C and 150D in Act 66 of 1995

16. The following sections are hereby inserted in the principal Act after section 150:

"Advisory arbitration panel in public interest

150A. (1) The director may appoint an advisory arbitration panel (referred to in sections 150A to 150D as the "panel") in the public interest to make an advisory arbitration award (referred to in sections 150 A to 150 D as the "award") in order to facilitate a dispute—

- (a) on the director's own accord or on application of one of the parties to the dispute;
- (b) after consultation in the prescribed manner with the parties to the dispute; and
- (c) in the prescribed manner setting out the panel's terms of reference as provided for in section 150C(1).

(2) The panel contemplated in subsection (1) must facilitate a resolution of the dispute at any time after a commissioner has issued a

certificate of unresolved dispute under section 135(5)(a) or a notice of the commencement of the strike or lockout contemplated in section 64(1)(b), (c) and (d), whichever is the earlier.

(3) Subject to subsection (3), the panel may only facilitate a resolution of the dispute—

(a) if directed to do so by the Minister;

(b) on application by a party to the dispute;

(c) if ordered to do so by the Labour Court in terms of subsection (4); or

(d) by agreement of the parties.

(4) The director may only appoint the panel in terms of subsection (3)(a) and (b) if the director has reasonable grounds to believe that any one or more of the following circumstances exists:

(a) The strike or lockout is no longer functional to collective bargaining in that it has continued for a protracted period of time and no resolution of the dispute appears to be imminent;

(b) there is an imminent threat that constitutional rights may be or are being violated by persons participating in or supporting the strike or lockout through the threat or use of violence or the threat of or damage to property; or

(c) the strike or lockout causes or has the imminent potential to cause or exacerbate an acute national or local crisis affecting the conditions for the normal social and economic functioning of the community or society.

(5) The Labour Court may only make an order requiring the director to appoint the panel in terms of subsection (2)(c)—

- (a) on application made by a person or association of persons that will be materially affected by any one or more of the circumstances contemplated in subsection (4)(b) and (c); and
- (b) if the Court considers that there are reasonable grounds that any one or more of the circumstances contemplated in subsection (4)(b) and (c) exist.
- (6) No person may apply to any court of law to stay or review the establishment or proceedings of an advisory arbitration panel until the panel has issued its award.

Composition of advisory arbitration panel

- 150B. (1) The panel contemplated in section 150A (1) must consist of—
- (a) a senior commissioner as the chairperson of the panel; and
- (b) subject to subsection (2)—
- (i) an assessor appointed by the employer party to the dispute;
- (ii) an assessor appointed by the trade union party to the dispute.
- (2) If the employer or trade union party to the dispute fail or refuses to appoint an assessor within the prescribed time period, the director must appoint an assessor from the relevant list of assessors determined in terms of subsection (3).
- (3) NEDLAC must, in the prescribed manner, provide the director with two lists of assessors—
- (a) the employer list of assessors must be determined by organised

business as that term is defined in section 1 of the National Economic Development and Labour Advisory Act, 1994 (Act No. 34 of 1994); and
(b) the trade union list of assessors must be determined by organised labour as that term is defined in section 1 of that Act.

(4) If the employer or trade union party to the dispute fails or refuses to participate in the proceedings of the panel established in terms of section 150A, the director must appoint a person with the requisite expertise to represent the interests of that party in the proceedings.

(5) The chairperson of the panel, after consultation with the assessors appointed in terms of this section, may—

(a) conduct the arbitration in a manner that the chairperson considers appropriate in order to make an advisory award fairly and quickly but must deal with the substantial merits of the dispute with minimum of legal formalities;

(b) exercise the powers of a commissioner under section 142;

(c) order the disclosure of all relevant information—

(i) subject to section 16(5), (10), (11), (12) and (13); and

(ii) only if that information is necessary in order to make the factual finding and recommendations contemplated in section 150C(1)(a) and (b).

(6) The panel must conduct its proceedings and issue an award within seven days of the arbitration hearing or any reasonable period extended by the director as the case may be, taking into account the urgency of a resolution of the dispute arising from the circumstances contemplated in section 150A(2)(a) to (c).

(7) The appointment of the panel does not interrupt or suspend the right to strike or the recourse to lockout in accordance with Chapter IV.

Advisory Arbitration Award

150C. (1) An award must be in the prescribed form and include—

- (a) a report on factual findings;
- (b) recommendations for the resolution of the dispute;
- (c) motivation for why the recommendations ought to be accepted by the parties; and
- (d) the seven-day period within which the parties to the dispute must either indicate acceptance or rejection of the award.

(2) If the chairperson is not able to secure consensus of both assessors in respect of the award contemplated in subsection (1), the chairperson must issue the award on behalf of the panel.

(3) The chairperson must serve the advisory arbitration award on the parties to the dispute to allow them to consider the award and consult and take such measures as may be necessary to ensure that the award is not made publicly available before the Minister has published the award in terms of subsection (6).

(4) A party to the dispute may apply to the chairperson in the prescribed form for an extension of the time period in subsection (1)(d) for no more than five days.

(5) (a) The parties to the dispute may indicate their

acceptance or rejection of the award within the period contemplated in subsection (1)(d).

(b) If a party to the dispute fails to indicate either its acceptance or rejection of the award within the period contemplated in subsection (1)(d), the party is deemed to have accepted the award.

(c) If a party rejects the award, it must motivate its rejection in the prescribed manner.

(6) An employers' organisation or trade union party to a dispute must, in accordance with its constitution, consult with its members before rejecting an award in terms of subsection (5)(a).

(7) The Minister must, within four days of the award being issued, publish the award in the prescribed manner for public dissemination.

(8) Nothing in this section may be construed to prevent any party to the dispute to request the panel to reconvene in order to seek an explanation of the award or to mediate a settlement of the dispute based on the award or a variation of the award.

Effect of an advisory arbitration award

150D. (1) An award is only binding on a party and its members to the dispute if—

(a) one or more of the—

(i) trade unions party to the dispute has accepted or deemed to have accepted the award in terms of section 150C(5)(b) or subsection (2); and

- (ii) employer organisations party to the dispute has accepted or deemed to have accepted the award in terms of section 150C(5)(b); or
- (b) it is bound in terms of subsection (3) or (5)(b).
- (2) Subject to subsection (3), the binding nature of an advisory award is determined in accordance with section 23 as if the award is a collective agreement for the purposes of that section.
- (3) If the parties to the dispute are parties to a bargaining council—
- (a) the binding nature of an award is determined in accordance with section 31 as if the award is a collective agreement for the purposes of that section;
- (b) the bargaining council may, subject to paragraph (c), apply to the Minister to have the award extended in accordance with section 32 as if the award is a collective agreement for the purposes of that section, to persons who—
- (i) are not members of the parties to the council; or
- (ii) have rejected the award in terms of section 150C(4)(c);
- (c) the Minister may extend the advisory arbitration award in accordance with section 32 as if the award is a collective agreement for the purposes of that section if the parties have been deemed to have accepted the award in terms of section 150C(5)(b)."

Amendment of section 208A of Act 66 of 1995

17. Section 208A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister, in writing, may delegate to the Director-General or any other officer of the Department of Labour any power, function or duty conferred or imposed upon the Minister in terms of this Act, except the powers, functions and duties contemplated in section 32 (but excluding **[subsection]** subsections (5)(c) and (6)) and sections 44, 207 and 208."

Transitional Provisions

18. (1) The registrar must, within 180 days of the commencement of this Act, in respect of registered trade unions and employers' organisations that do not provide for a recorded and secret ballot in their constitutions—

- (a) consult with the national office bearers of those unions or employers' organisations on the most appropriate means to amend the constitution to comply with section 95; and
- (b) issue a directive to those unions and employers' organisations as to the period within which the amendment to their constitution is to be effected, in compliance with the procedures set out in the amended constitution.

(2) Until a registered trade union or employers' organisation complies with the directive made in terms of subsection (1)(b) and the requirements of section 95(5)(p) and (q) of the Act, the trade union or employer organisation, before engaging in a strike or lockout, must conduct a secret ballot of members.

Short title and commencement

19. This Act is called the Labour Relations Amendment Act, 2017, and comes into effect on the date published by the President in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE LABOUR RELATIONS AMENDMENT BILL, 2017

1. OBJECTS OF THE BILL

1.1 The Labour Relations Amendment Bill, 2017 ("Bill") seeks to amend provisions in the Labour Relations Act, 1995 (Act No.66 of 1995) ("the Act"), which includes amendments to—

- (a) section 32 of the Act, to provide for the process and criteria for the extension of bargaining council agreements to non-parties by the Minister of Labour ("the Minister");
- (b) insert section 32A into the Act in order to provide for the renewal and extension of funding agreements of bargaining councils;
- (c) section 49 of the Act, to provide for the extension to the determination of the representativeness of a bargaining council contemplated to two years;
- (d) section 69 of the Act, to provide for picketing to occur through a collective agreement or by determination in terms of picketing rules that may be prescribed;
- (e) section 70F(2) of the Act, to provide for the deletion of the rules by the Commission;
- (f) section 72 of the Act, by providing for the classification of a ratified or determined minimum service;
- (g) section 75 of the Act, to provide for a panel that may vary or cancel a designation of a maintenance service on its own accord or on application by the employer or registered trade union;
- (h) section 95 of the Act, to provide for a ballot for a strike or lock-out to include a secret vote;
- (i) section 108 of the Act, in order to provide for the independence of the Registrar of Labour Relations ("Registrar");

- (j) section 116 of the Act, to make provision for the appointment of an alternate chairperson when the chairperson of the governing body of the Commission for Conciliation Mediation and Arbitration ("Commission") is absent;
- (k) section 135 of the Act, to provide for a further extension of the conciliation process by the Director of the Commission ("Director") to no longer than five days; and
- (l) to insert sections 150A to 150D into the Act which provides for the appointment of an advisory arbitration panel in the public interest and an advisory arbitration award by that panel and matters connected therewith.

1.2 The aforesaid proposed amendments also concerns matters to be prescribed in the Act, which empowers the Minister or where appropriate, the Commission, to make such regulations in terms of section 208 of the Act. The matters that may be prescribed includes—

- (a) in clause 4 of the Bill, default picketing rules and the information that must be provided by a trade union before a conciliator issue a certificate and determine picketing rules;
- (b) in clause 7 of the Bill, the manner in which a panel may vary or cancel a maintenance service;
- (c) in clause 9 of the Bill, the records of the meetings that must be provided by every registered trade union and employers' organisation;
- (d) in clause 13 of the Bill, the application form of a council or private agency that must be submitted to the governing body for the accreditation of its dispute resolution panel; and
- (e) in clause 16 of the Bill, indicating—
 - (i) the manner of consultation between the advisory arbitration panel and the parties to the dispute;
 - (ii) the panel's terms of reference;

- (iii) the time period for when a registered trade union or employers' organisation must appoint an assessor for the panel and the manner in which the National Economic Development and Labour Council ("NEDLAC") must provide the Director with two lists respectively for the registered trade union and employers' organisation of assessors to choose from;
- (iv) the form on which an advisory arbitration award must be made;
- (v) the form on which a party to the dispute may apply for the extension of the seven day period within which the parties to the dispute must either indicate acceptance or rejection of the award;
- (vi) the manner in which a party to the dispute may reject an advisory arbitration award; and
- (vii) the manner in which the Minister must publish the advisory arbitration award.

2. DISCUSSION OF THE BILL

Clause 1: Amendment of section 32 of the Act

2.1 Section 32: Extension of collective agreement concluded in bargaining council

2.1.1 The following four changes are made to section 32 of the Act:

- (a) The first is the extension of the period within which the Minister must extend a collective agreement if the parties to the agreement are only sufficiently representative. This is to allow for sufficient time for the Minister to consider any comments received in respect of the Minister's notice published in terms of section 32(5)(c) stating that an application for extension has been received.
- (b) The second is the changes to the representativeness requirements for the extension of collective agreements under section 32(2). That section required both the trade union party to the agreement to represent the majority of employees and that the members of the employer organisations party to the agreement to employ the

majority of employees within the scope of the agreement. The amendment now only requires one or the other. In order to promote collective bargaining at sectoral level and in accordance with the jurisprudence of the International Labour Organisation ("ILO"), the operating principle underlying the extension of agreements is whether agreement applies to the majority of employees in the sector or scope of the agreement. In other words, the principle is now one of coverage rather than strict representativeness.

- (c) The third is the manner in which representativeness is determined. The original intention of the Act was that the representativeness of bargaining councils and their constituent parties would be determined annually by the Registrar and not each and every time a bargaining council referred a collective agreement to the Minister for extension. The amendments to both section 32(2)(c), (5)(a) and 49 seek to give effect to that intention.
- (d) The fourth is to give the Minister the power to make regulations on the procedures and criteria that bargaining councils must take into consideration for purposes of complying with the requirements for exemptions from collective agreements.

Clause 2: Insertion of section 32A into the Act

2.2 Section 32A: Renewal and extension of funding agreements

2.2.1 The mischief which this amendment seeks to address is that the funding of bargaining councils and their pension, medical aid and other funds are effected through collective agreements. The failure to secure agreement to extend or renew those collective agreements threatens the continued existence of those bargaining councils and funds.

2.2.2 The amendment gives the Minister the power to renew and extend a funding agreement for up to 12 months at the request of any of the parties to the bargaining council if the agreement has expired or the parties to the agreement have failed conclude an

agreement to renew or replace the funding agreement 90 days before its expiry. The Minister has to be satisfied though that the failure to renew the funding may undermine collective bargaining at sectoral level.

2.2.3 Provision is also made for a publication and comment procedure before the Minister may make such a decision and effect of a judicial review of such a decision.

Clause 3: Amendment of section 49 of the Act

2.3 Section 49: Representativeness of council

The amendment extends the determination of the representativeness of a bargaining council contemplated in section 49 to two years. Furthermore other amendments are made in order to align the provisions of section 49 of the Act with the amendment in the Bill to section 32 of the Act.

Clause 4: Amendment of section 69 of the Act

2.4 Section 69: Picketing

2.4.1 The thrust of the amendments to section 69 of the Act is to prohibit a picket unless there are picketing rules in place - rules that the trade union is permitted to participate in making. The purpose underlying this limitation of the constitutional right to picket is to require trade unions to take responsibility for pickets to ensure that the constitutional rights of others, such as the constitutional rights to freedom and security of person, freedom of association, fair labour practices and property, are not infringed. The levels of picket line violence that has come to characterise strikes in the last few years requires more stringent regulation to ensure the orderly conduct of pickets in strikes.

Accordingly, the amendments to the section require a commissioner conciliating a dispute or the person appointed by a bargaining council to conciliate a dispute that may lead to a strike or a lockout to determine picketing rules if there is no existing collective agreement regulating picketing or the commissioner has failed to secure an agreement on picketing before the expiry of the conciliation period contemplated in section 64. The commissioner is required to determine the rules at the same time as issuing a certificate of an unresolved dispute in terms of section 64(1)(a) of the Act.

2.4.2 The commissioner, in determining the rules, must do so in accordance with the default picketing rules prescribed or published in a Code of Good Practice and after taking any representations made by the parties to the dispute attending the conciliation meeting. Annexure B of The Code of Good Practice: Collective Bargaining, Industrial Action and Picketing provide default picketing rules.

2.4.3 Specific provisions are made for a direct application to the Commission on an urgent basis in certain circumstances such as the unilateral alteration of terms and conditions of employment and an unprotected lockout.

Clause 5: Amendment of section 70F of the Act

2.5 Section 70F: Regulations for essential services committee

In view of the regulations by the Minister contemplated in section 70F(1), section 70F(2) of the Act which provides for rules by the Commission, is deleted.

Clauses 6 and 7: Amendment of sections 72 and 75 of the Act respectively**2.6 Sections 72 and 75: Minimum services and maintenance services**

2.6.1 The amendments to section 72 of the Act provide for the ratification of minimum service agreements by a panel appointed by the essential services committee and a definition of minimum services. The definition clarifies that a minimum service agreement is one in which employees in an essential service are allowed to strike provided that a minimum service maintains a level of production or service at which the life, personal safety or health or the whole or part of the population are not endangered.

2.6.2 Provision is made to permit the panel appointed by the essential services committee to vary or rescind a designation or part of a service as a maintenance service.

Clauses 8 to 10: Amendment of sections 95, 99 and 100 of the Act respectively**2.7 Sections 95, 99 and 100: *Ad* matters concerning a secret ballot**

2.7.1 Section 95(5)(p) of the Act requires trade unions and employer organisations that seek registration to have a provision in their constitutions requiring a ballot of members before embarking on a strike or lockout as the case may be.

2.7.2 Section 95(9) of the Act has been inserted to clarify that a ballot means any system of voting by members that is recorded and secret. The clarification is to provide for new technologies of balloting while at the same time ensuring good governance and secrecy.

2.7.3 Section 99 of the Act, which deals with the records that registered trade unions and employer organisations must keep and which includes ballot papers, is amended to include the attendance register and other prescribed record, and other forms of documentary or electronic records of a ballot. Section 100 of the Act is amended accordingly.

Clause 11: Amendment of section 108 of the Act**2.8 Section 108: Appointment of registrar of labour relations**

2.8.1 Section 108 of the Act is amended in order to clarify that the registrar and deputy registrars are independent and subject to the Constitution and the law must be impartial and exercise their powers and perform their functions without fear, favour or prejudice.

2.8.2 The amendments also include a prohibition on any person or organ of state from interfering with the functioning of the registrar.

Clauses 12 to 14: Amendment of sections 116, 127 and 128 of the Act respectively**2.9 Sections 116, 127 and 128: *Ad* matters concerning the Commission for Conciliation, Mediation and Arbitration**

2.9.1 Several amendments are made to various sections dealing with the Commission.

The first is to section 116 of the Act which seeks to give the governing body of the Commission the power to appoint an acting chairperson if the chairperson is absent or the office is vacant.

2.9.2 The amendment to section 127 of the Act seeks to provide that a council or private agency may apply for the accreditation of its dispute resolution panel.

2.9.3 The amendment to section 128 of the Act requires that an accredited bargaining council or private agency may only appoint a person to resolve a dispute if that person is accredited by the governing body of the Commission. This has been introduced to ensure that the persons appointed have the requisite qualifications and experience.

Clause 15: Amendment of section 135 of the Act**2.10 Section 135: Resolution of disputes through conciliation**

2.10.1 The amendments to section 135 of the Act seek to provide for the extension of the 30-day conciliation period in order to ensure a meaningful conciliation process. The commissioner conciliating the dispute or a party to the conciliation may apply to the director of the Commission for an extension provided that the period does not exceed 5 days.

2.10.2 The Director may only extend the period if satisfied that the extension is necessary to ensure a meaningful conciliation process, a party's refusal to agree to the extension is unreasonable and there are reasonable prospects of reaching agreement. No extension is however permitted where the State is the employer.

Clause 16: Insertion of sections 150A, 150B, 150C and 150D into the Act**2.11 Sections 150A, 150B, 150C and 150D: *Ad* matters concerning the advisory arbitration panel**

2.11.1 In order to endeavour to resolve strikes or lockout that are intractable, violent or may cause a local or national crisis, the amendments seek to provide for the establishment of an advisory arbitration panel to on an expedited basis investigate the cause and circumstances of the strike or lockout and make an advisory award in order assist the parties in dispute to resolve the dispute.

2.11.2 The Director may only establish an advisory arbitration panel if directed to do so by the Minister or the Labour Court, on application by a party to the dispute or by agreement between the parties and only if one of three circumstances are present namely—

- (a) The strike or lockout is no longer functional to collective bargaining, it has continued for a protracted period and no resolution appears imminent; or

- (b) There is an imminent threat that constitutional rights may be or are being violated by those participating or supporting a strike or lockout through the threat or use of violence or damage to property; or
- (c) The strike or lockout is causing or may cause an acute national or local crisis affecting the conditions for the normal social and economic functioning of the community or society.

2.11.3 All three circumstances are recognised by the ILO as grounds for intervention by the State. The intervention, in accordance with ILO jurisprudence, advisory in nature and only binding if agreed or deemed to be agreed to by the parties to the dispute. The appointment of the advisory arbitration panel does not interrupt or suspend the right to strike or the recourse to lockout.

2.11.4 The Labour Court may only make an order directing the Director to establish an advisory arbitration panel if it is satisfied that the latter two of the three circumstances exist and the application is made by a person or association of person that are or will be materially affected by those circumstances.

2.11.5 The advisory arbitration panel consists of a senior commissioner to chair the panel and an assessor appointed by the employer and trade union parties to the dispute. If the parties do not appoint an assessor within the time to be prescribed by regulation, the Director must appoint an assessor from the lists of employer or trade union assessors determined by organised business and organised labour as constituted in NEDLAC. Provision is also made that if a party to the dispute fails or refuses to participate in the arbitration proceedings, the Director must appoint a person with requisite expertise to represent that party in the proceedings.

2.11.6 The advisory arbitration is to be conducted in a manner that the chairperson considers appropriate in order to make an advisory award fairly and quickly with minimum legal formalities. The chairperson is given all the powers of a commissioner under the Act and the power to order disclosure of information in accordance with section 16 of the Act.

2.11.7 The arbitration panel must conduct its proceedings and issue an advisory award within 7 days of the hearing although provision is made for the Director to extend that period taking into account the urgency of the resolution of the dispute.

2.11.8 The advisory award must report on the factual findings and make motivated recommendations why its recommendations ought to be accepted. If the chairperson is not able to secure consensus of both assessors, the chairperson issues the advisory award on behalf of the panel.

2.11.9 The advisory award must be served on the parties to the dispute. The Minister must publish the award in the prescribed manner for public dissemination within 4 days of its issue.

2.11.10 The parties to the dispute are required to indicate their acceptance or rejection of the dispute of the advisory award within 7 days of the award or, if extended, a maximum of 13 days.

2.11.11 If they fail to do so, the party is deemed to have accepted the award. Before a party to the dispute rejects an award, it must consult with its members in accordance with its constitution and, if it does, it must motivate its rejection in the prescribed manner.

2.11.12 An advisory award is only binding if the party to the dispute has accepted or is deemed to have accepted the award. An advisory award can be extended to employees who

are not members of the trade union parties to the dispute in accordance with section 23 of the Act. In the case of bargaining council agreements, the binding nature of an advisory award is determined in accordance with sections 31 and 32 of the Act as if the award was for all intents and purposes a collective agreement.

Clause 17: Amendment of section 208A of the Act

2.12 Section 208A: Delegations

This is a technical amendment in order to align the provisions of section 208A of the Act with the proposed to section 32 of the Act.

Clause 18: Transitional provisions

2.13 Trade union and employer organisation constitutions were registered in the past without strike ballot requirements which is in contravention of section 95(5)(p) of the Act read with section 95(9). The Bill seeks to provide for transitional provisions in order to provide for the Registrar to consult with national office bearers of those unions and employers organisations on the most appropriate means to amend the constitution to comply with section 95(5)(p) of the Act and issue a directive as to the period within which the amendment to the constitution is to be effected in accordance with the amendment procedures set out in their respective constitutions.

2.14 Until a registered trade union or employers' organisation complies with the directive and the requirements of section 95(5)(p) read with section 95(9) of the Act, the trade union or employers' organisation must conduct a secret ballot of members before engaging in a strike or lockout as the case may be.

3. DEPARTMENT/BODIES CONSULTED

The Departments of Economic Development, Small Business Development, Trade and Industry and the National Treasury were consulted on a regular basis during the process of engagement in the National Economic Development and Labour Advisory Council on the Labour Relations Amendment Bill. In addition, the South African Policy Service and the National Prosecuting Authority have also been consulted in relation to the amendments, including the Accord on Collective Bargaining and Industrial Action and the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing which were developed alongside of the amendments.

Organised business, organised labour and the organised community sector were consulted during the engagement in the National Economic Development and Labour Advisory Council.

4. FINANCIAL IMPLICATIONS

The financial implications of the amendments to the Labour Relations Act lie in the cost of publishing the bill, the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing and the regulations to the Act. Costs will also be incurred by national government in conducting public information sessions for stakeholders that is estimated to amount to R450,000.00.

Further costs associated with implementing the amendments will be incurred by the CCMA in relation to the establishment of Advisory Arbitration Panels, conducting secret ballot's, stakeholder workshops on the Code of Good Practice, commissioner training and material development. The total estimated cost associated with the Labour Relations Act amendments are R27.6 million.

5. IMPLICATIONS FOR PROVINCES

The Labour Relations Act and its implementation is a national competence and there is therefore no direct implication for Provincial government other than the amendments

affecting provincial government as an employer that is expected to comply with the legal amendments to the Act.

6. IMPLICATIONS FOR MUNICIPALITIES

The Labour Relations Act and its implementation is a national competence and there is therefore no direct implication for Municipalities other than the amendments affecting them as an employer that is expected to comply with the legal amendments to the Act. The amendments to sections 72 and 75 of the Act dealing with minimum service agreements will be of direct relevance to municipalities as they do operate a number of services that have been determined to be essential.

7. PARLIAMENTARY PROCEDURE

7.1. We have considered all the provisions in the Bill in light of Schedule 4 and 5 to the Constitution and found that the Bill does not deal with any of those matters. In our scrutiny of the provisions of the Bill we observed that the Bill is concerned with the subject matter of labour relations which are not listed in Schedule 4 to the Constitution. Since the Bill does not in a substantial measure pertain to matters listed in Schedule 4 and 5 to the Constitution, we are of the opinion that the Bill must be dealt with in accordance with the procedure set out in section 75 of the Constitution.

7.2. It could be argued that labour relations, in particular the provisions which relate to picketing may affect trade and public policing. What is important to note in this instance is that the picketing envisaged by the Bill occur from the perspective of organised labour and in view of the parties involved in organised labour, the effect which picketing may have on trade and policing is negligible. Consequently the provisions in the Bill do not have a substantial effect on matters listed in Schedule 4 to the Constitution. In light of the aforesaid

we are of the view that the Bill must follow the procedure contemplated in section 75 of the Constitution.

7.3 The Department of Labour and the state law advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it does not fall within a functional area listed in Schedule 4 to the Constitution.

7.4 The state law advisers is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.



planning, monitoring & evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

LABOUR RELATIONS ACT AMENDMENTS, 2017

DEPARTMENT OF LABOUR

The Final Impact Assessment: Department of Labour. Amendments to the Labour Relations Act, Code of Good Practice on Collective Bargaining, Industrial Action and Picketing and Picketing Regulations.

The Final Impact Assessment provides a detailed assessment of legislative amendments, including picketing regulations, to the Labour Relations Act (no 95 of 1995) and a Code of Good Practice on Collective Bargaining, Industrial Action and Picketing (the Code). The amendments, Code, as well as an Accord on Collective Bargaining and Industrial Action are key outcomes of a two-year engagement process between government, organised business and organised labour in the National Economic Development and Labour Advisory Council (NEDLAC) to address the challenges of labour market stability and wage inequality as posed by the President in his State of the Nation Address in June 2014.

1. The problem Statement/ Theory of Change

- 1.1.** Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

a) Summary of the proposal (Summary Background of the proposed policy/bill/regulations/ other):

Background

Industrial action had been at a record high in South Africa for almost a decade although there have been important fluctuations over time. The average number of strikes over the five-year period 2012 and 2016 is 106.6 per annum or 8.8 strikes per month. Specifically, there were 99 strikes in 2012, increasing to 114 in 2013 with a slight decrease to 88 and 110 in 2014 and 2015 respectively (Department of Labour, 2014). In 2016 industrial action reached the unprecedented high of 122. While these strikes are caused by a variety of factors across industries, the majority are due to wage disputes.

In 2012 a total of 3.3 million working days were lost due to strikes. This number decreased to 1.8 million in 2013 but rose sharply to more than 10 million work days lost in 2014. Subsequent years have seen a decline of work days lost due to strikes,

but the trend has been uneven with increases and declines in work days lost due to strikes over time. Between 2008 and 2012, the average number of working days lost amounted to 440 days. According to Brand, this is 14 times the average in all EU countries for the period 2005 to 2009.¹

The impact of industrial action and specifically strikes is severe in any economy as it affects production due to loss of working time, strikes affect earnings of workers and hence also consumption in areas surrounding the locality of a strike. The impact of major and protracted strikes on South Africa's economy are considered to contribute to the country's slow economic growth. "The strikes are estimated to have subtracted about 2 percentage points from growth in the first quarter" (OECD, 2015). The impact of industrial action will vary by strike incident, but strikes of long duration inevitably have a higher cost to employers, employees and communities. The 2014 strike on the platinum belt in the North West province lasted for more than 5 months and was reported to have resulted in 440 000 ounces of lost production of platinum. "The three companies, Impala Platinum, Amplats and Lonmin suffered a total revenue loss of about R24.1 billion during the strike and a further loss of R10.6 billion in wages."²

Another example is that of the strike at Ceres Fruit Growers in 2015 that went on for longer than 4 weeks. In this case, approximately R7million was lost in wages and the strike cost growers in the region of R10million.³

Protracted strikes clearly have a higher impact on employers and employees and it would appear that these have become more significant in recent years. In the five years from 2010 to 2014 there were an average of 12.6 strikes per annum that lasted in excess of 30 days. The total number is 63 strikes that can be considered of long duration. Strikes of long duration are also very often associated with violence, intimidation and damage to property. This was the case in the strikes on the platinum belt and in the Ceres Fruit Growers case.

¹ J Brand, *Statistics show SA leads on strikes*. Business Day, 8 November 2013.

² History Online, 2014.

³ L Mketane, *Strike ends after Ceres Fruit signs deal with FAWU*. Farmers Weekly, 14 October 2015.

Violence associated with strike action was placed in the spotlight by the Marikana tragedy on 16 August 2012 at the Lonmin Platinum mine when police shot and killed 34 striking miners and wounded 70 others. This followed the brutal murder of two policemen and two security officers by strikers. As Alan Rycroft suggests, “while the extent of the tragedy makes it unique, what is not unique is the resort to violence in strike situations in South Africa. In fact, violence has become normative.”⁴

Rycroft cites the SA Institute of Race Relations in reporting that a total of 181 people have been killed in strike violence in the period 2000 to 2013. During the same period, at least 313 persons were injured and more than 3 058 were arrested for public violence. In addition to the economic cost of strikes, violence during strikes has placed a high human cost on workers, families and communities.

The particular burdens of protracted strikes and strike violence are what triggered the Labour Relations Indaba on 4th November 2014. The Indaba adopted the Ekurhuleni Declaration that captured the agreement by government, organised business and organised labour to work together to, inter alia, consider options to address violence and prolonged strikes in the context of Constitutional rights and to find ways of strengthening and promoting collective bargaining in South Africa. A Technical Task Team was established and met at the National Economic Development and Labour Advisory Council (NEDLAC) during 2015 and 2016.

The amendments to the Labour Relations Act and the Code are two key outcomes of this process. An Accord on Collective Bargaining and Industrial Action was also agreed which seeks to obtain commitment and undertakings from employer organisation, trade unions and agencies to expedite processes, build capacity and assign resources to resolve issues and disputes. The NEDLAC process resulted in an agreement being signed in February 2017 by the social partners.

The process of engagement between the NEDLAC constituencies explored a number of options, but reached agreement on the LRA amendments and the Code which will

⁴ Prof A Rycroft, *What can be done about strike-related violence?* Faculty of Law, University of Cape Town. Not dated.

be summarised below. Alternative options are therefore not explored in this socio-economic impact assessment.

Summary of proposal

The **amendments to the LRA** deal with the following areas:

i. Extension and renewal of bargaining council agreements (clause 32)

Amendments to this clause change the representativeness requirements for the extension of collective agreements under section 32 and the manner in which representativeness is to be determined. An amendment also gives the Minister the power to renew and extend a funding agreement for up to 12 months at the request of any of the parties to the bargaining council. These provisions are aimed at strengthening collective bargaining.

ii. Picketing (clause 69)

The amendments to section 69 aim to prohibit a picket unless there are picketing rules in place. A Commissioner conciliating a dispute is also required to determine picketing rules if there is no existing collective agreement regulating picketing or there is no agreement between the parties on picketing rules.

In determining the picketing rules, the commissioner must do so in accordance with the default picketing rules contained in the Code and after taking account of representations made by the parties to a dispute.

iii. Minimum and maintenance services (clause 72 and 75)

Amendments to section 72 provide for the ratification of minimum service agreements by a panel appointed by the Essential Services Committee (ESC) and a definition of minimum services.

Provision is made to permit the panel appointed by the ESC to vary or rescind a designation or part of a service as a maintenance service.

iv. Secret ballot (clauses 95 and 99)

The existing LRA (section 95 (5)(p)) requires trade unions and employer organisations that seek registration to have a provision in their constitutions requiring a ballot of members before embarking on a strike or lockout as the case may be.

To clarify that a ballot means any system of voting that is recorded and secret, a definition of a ballot is inserted in section 95.

Section 99 which deals with records that must be kept, including ballot papers, is amended to allow for other forms of documentary or electronic record of a ballot.

v. Registrar of Labour Relations (clause 108)

Section 108 of the LRA is amended to clarify that the Registrar and Deputy Registrar are independent and subject to the Constitution and the LRA and must be impartial and exercise their powers and perform their functions without fear, favour or prejudice.

vi. Commission for Conciliation, Mediation and Arbitration (CCMA) (clauses 116 and 128)

Several amendments are made to various sections of the Act dealing with the CCMA. The one that has socio-economic consequences is the amendment that clarifies that an accredited bargaining council or private agency may only appoint a person to resolve a dispute if that person is accredited by the Governing Body of the CCMA. This amendment will require bargaining council panelists to meet the requirements of accreditation by the CCMA.

vii. Resolution of disputes through conciliation (clause 135)

The amendments to section 135 are to provide for the extension of the 30-day conciliation period in order to ensure a meaningful conciliation process. The commissioner conciliating the dispute or a party to the conciliation may apply to the director of the Commission for an extension provided that the period does not exceed 5 days.

viii. Advisory arbitration panel in the public interest (clauses 150A to 150E)

To endeavour to resolve strikes or lockout that are intractable, violent or may cause a local or national crisis, amendments provide for the establishment of an advisory arbitration panel to on an expedited basis investigate the cause and circumstances of the strike or lockout and make an advisory award in order assist the parties in dispute to resolve the dispute. The parties to the dispute are required to indicate their acceptance or rejection of the advisory award within 7 days of the award or, if extended, within a maximum of 13 days. If they fail to do so the party is deemed to

have accepted the award. Before a party to the dispute rejects an award it must consult with its members in accordance with its constitution and must motivate its rejection of the award if it does so.

The Code of Good Practice on Collective Bargaining, Industrial Action and Picketing

The Code is intended to provide practical guidance on collective bargaining, the resolution of disputes of mutual interest and the resort to industrial action. It is intended to be a guide to those who engage or want to engage in collective bargaining or who seek to resolve disputes of mutual interest by mediation, conciliation, arbitration or as a means of last resort, industrial action.

Picketing Regulations

The Picketing Regulations give effect to the amendment to section 69 of the Act by setting out the process whereby parties to a dispute may not engage in a picket unless there is a collective agreement regulating picketing or an agreement is reached in the conciliation proceedings or picketing rules are determined by a Commissioner of the CCMA. The Regulations also make provision for the distribution of picketing rules.

b) Problem/s and root causes that the proposal is trying to address

Identified Problem	Root causes
Industrial actions becoming violent and continuing unabated for a long time (protracted strikes)	Misalignment between law on strikes and action taken by parties during industrial action.
Collective bargaining agreements that are: • at risk of not being extended due to insufficient representativeness of parties to the collective agreement of a bargaining council • at risk of not being renewed • posing potential threats for bargaining council funds to collapse.	Declining membership of trade unions and employer organisations. Challenges to the Minister of Labour's power to extend collective agreements to non-parties Failure to secure agreement between parties to extend or renew funding agreements in bargaining councils

1.2. Describe the intended outcomes of the proposal

At a strategic level, the overall intended outcome of the proposal is to strengthen collective bargaining⁵ and to ensure greater stability in labour relations. This is to be achieved through training of negotiators in accordance with the Code and the use of the new amendments to the LRA to facilitate the extension of collective agreements, including funding agreements and to utilise the section 150 provision for advisory arbitration. The reinvigoration of strike balloting is also intended to contribute to peaceful industrial action.

1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required.

Groups that will benefit	How will they benefit?
Workers	The proposed amendments are intended to provide a stronger environment for collective bargaining and wage negotiations and to ensure that due processes are followed when strikes take place.
Trade Unions	Trade unions will benefit from more flexible ways in which strike ballots may be conducted, the use of advisory arbitration to facilitate settlement of mutual interest disputes and greater stability around collective agreements in bargaining councils.

⁵ Declining representivity of employer and trade union organisations is one of the important factors that weaken collective bargaining. While there are other factors impacting on collective bargaining, government is aware of the long term risk that declining representivity poses to collective bargaining, especially at sectoral level.

Groups that will benefit	How will they benefit?
Employers and employers' associations	Employers and employer associations will benefit from more flexible ways in which ballots prior to a lockout may be conducted, the use of advisory arbitration to facilitate settlement of mutual interest disputes and greater stability around collective agreements in bargaining councils. The provision for default picketing rules are also intended to facilitate orderly behaviour during pickets.
Bargaining councils	Their funds will be guaranteed existence as the extensions of funding agreements is made easier by the amendments.
The nation/ citizens	Greater labour market stability and reduced violence during strikes will be in the public interest and will benefit local communities affected by industrial action.
Government and institutions within the public sector.	Government is the biggest employer in the country and will benefit from the proposals in public sector labour relations. In addition, less effort and resources will be channelled towards strikes, for example - police - are expected to be at work to monitor strikes and when these are at high numbers it translate to police spending more time on monitoring industrial action.

Groups that will bear the cost or lose	How will they incur the costs or lose?
Employers and their association	Employers will bear the cost of loss of working time when balloting takes place and time off for union representatives for training on the Code. The exact quantum will vary by workplace, union membership in the workplace and number of union representatives to be trained.
Trade unions	Trade unions will bear operational costs of conducting ballots and training members in terms of the Code. The quantum will vary by trade union, depending on its size, how it

Groups that will bear the cost or lose	How will they incur the costs or lose?
	chooses to conduct a ballot and whether it has a tradition of balloting or not.
Employees	Employees will bear costs in instances where time off work for balloting and training is not paid for by the employer and/or the trade union.
CCMA	The CCMA will be developing training material and conducting training for employers and trade unions on the Code. The CCMA is also likely to be called on oversee balloting in workplaces and to provide an independent verification of the results of a ballot.
Government	Government may contribute to the development of tools for balloting purposes and will carry the cost of public consultations and communication on the LRA Amendments and the Code.

1.4. Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
CCMA	CCMA approach to assisting parties in resolving strikes or lockouts that are intractable, violent or may cause a local or national crisis.	Director of CCMA able to establish an advisory arbitration panel if directed to do so.
Department of Labour	Approach to determination of representativeness of parties to a collective agreement concluded in a bargaining council. Change in approach to processing renewal and extension of funding agreements.	Amendment to section 32 of the LRA and reliable information on coverage of collective agreements. Amendment to section 32 of the LRA and revision of forms containing information relevant to request by

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
		bargaining council.
SAPS	Public order policing to be allocated sufficient capacity to monitor strikes, lockouts, pickets and protest action and to refrain from acting in a manner that escalates conflict.	Adherence to Code of Good Practice and training of police in public order policing.

Groups outside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Bargaining councils	Failure to reach agreement on extension of funding agreements. Lack of programs and services to trade unions and employers as contemplated in the Accord on Collective Bargaining and Industrial Action and the Code.	Minister of Labour given the power to extend funding agreements at the request of one party to a bargaining council. Bargaining Councils to become signatories to the Accord in terms of which they undertake to provide services to parties.
Employers and Employer associations	Failure to secure agreement to extend or renew collective agreements that relate to funding of bargaining councils and their pension, medical aid and other funds.	Any of the parties to the bargaining council may request the Minister to extend a funding agreement for up to 12 months.
Employees	Violent behaviour during strikes, intimidation of other workers, damage to property during marches and industrial action.	To ensure that registered trade unions make provision for secret ballots in their constitutions and that they abide by their constitutions. Establishment of an advisory arbitration panel on an expedited basis to investigate the cause and circumstances of the strike or lockout and make an advisory award in order assist the parties to resolve the dispute.
Trade Unions	Not conducting secret ballots prior to embarking on strike action. Lack of effective marshalling of members participating in pickets and industrial action.	Ability of the CCMA to determine picketing rules in the absence of any rules or agreement thereto. Establishment of an advisory arbitration panel to expedite the resolution of the

		dispute.
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1.5. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

Consultation took place during 2015-2016 under the auspices of NEDLAC and via a Committee of Principals chaired by the Deputy President. Government was represented in the Committee of Principals by the Ministers of Labour, Finance, Economic Development, Trade and Industry and Small Business. The NEDLAC consultations were facilitated by a Senior Commissioner of the CCMA who provided regular reports to the Committee of Principals on the work of the task team. These reports recorded areas of agreement and disagreement between the constituencies represented in the task team. The process culminated in the adoption of a Declaration on Wage Inequality and Labour Market Stability which documents the agreement reached. All parties to the NEDLAC engagements have agreed to the outcomes, that is, the amendments to the LRA, the Accord and the Code of Good Practice.

In addition to the NEDLAC process, the Department of Labour consulted with the SAPS and the NPA on the Accord on Collective Bargaining and Industrial Action and the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing. The CCMA has also been briefed on the outcomes of the NEDLAC process.

Table on consultations:

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
1. Government Departments and Agencies (See above)	Economic growth, investment, improved productivity and faster job creation require a stable labour market in which the rights and responsibilities of all stakeholders are respected and promoted. Right to strike a constitutional right and a legitimate exercise of power. Prolonged and violent strike action has potential to cause serious harm, to employers, employees and those outside the workplace. Collective bargaining should be promoted as an instrument through which to mediate needs and interests of employers and employees.	Support	All amendments incorporated in final outcomes.	Yes. Sections 69, 95-99, 150A-E.

Affected Stakeholders	What do they see as main benefits, costs and risks?	Do they support or oppose the proposal?	What amendments do they propose?	Have these amendments been incorporated in your proposal?
2. Business- Business Unity South Africa, Black Business Council.	As above. Other businesses not represented in the NEDLAC process will be consulted when legislation is published for public comment.	Support.	All amendments incorporated in final outcomes.	Yes. Sections 108
3. Organised Labour- COSATU, NACTU, FEDUSA.	As above. Independent trade unions will be consulted when legislation is published for public comment.	Support.	All amendments incorporated in final outcomes.	Yes.
4. Civil Society- Community constituency as represented at NEDLAC.	As above.	Support.	All amendments incorporated in final outcomes	Yes.

1.6. Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

Labour relations disputes will be dealt with in accordance with the Labour Relations Act as amended. Disputes relating to the Accord on Collective Bargaining and Industrial Action will be dealt with through engagement and negotiation between the affected parties.

2. Impact Assessment

2.1. Describe the costs and benefits of implementing the proposal to the groups identified in point 1.5 above, using the following chart. Add more rows if required

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
Trade Unions	Disseminating picketing rules to workers. Conducting secret ballots prior to strike action. Support for training of union representatives.	• Training and awareness campaigns among trade union members. • Disseminating picketing rules to workers. • Conducting secret ballots prior to strike action. • Support for training of union representatives.	Continuation of funding agreements due to extension ensures social protection for trade union members. Strike action that enjoys majority support and is peaceful will benefit union members.	Specific costing will depend on size of unions and their capacity to implement the Accord, Code and LRA amendments.
Employers' association	Conducting secret ballots prior to lockouts. Disseminating picketing rules to	• Conducting secret ballots prior to lockouts. • Disseminating picketing rules to employers • Support for training of	Continuation of funding agreements due to extension ensures social protection for employees. Strike action that enjoys	

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	employers. Support for training of employer representatives.	employer representatives • Training and awareness campaigns among employer members.	majority support and is peaceful will benefit employers by minimising the risk of damage to property.	
Government	Publication costs of LRA amendments and Code. Cost of public and stakeholder consultation and advocacy process (R450 000.00). Cost of communication plan (budget of R5m).	• Awareness campaigns. • Publication costs of LRA amendments and Code. • Cost of public and stakeholder consultation and advocacy process (R450 000.00). • Monitoring and implementation of LRA amendments (especially transitional provisions), Accord and Code. • Cost of communication plan (budget of R5m).	Improved labour market stability.	
CCMA	Establishing Advisory Arbitration panels. Conducting secret ballot's and verifying results. Stakeholder workshops on Code. Commissioner	• Awareness campaigns. Conducting secret ballot's and verifying results • Stakeholder workshops on Code. • Commissioner training. • Material development.	Improved labour market stability and possible reduction in case load.	

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	training. Material development. Costs of above activities estimated at R27.6million.			

2.2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

No envisaged change in staffing in government departments, however there is a likely increase in the workload of the CCMA associated with implementation of the legal amendments and the Code of Good Practice over the next two years of the medium term expenditure framework. Costs associated with the increased functions relate to support for balloting and picketing rules, advisory arbitration processes, support for negotiations and facilitation, advocacy and capacity building. Initial cost estimates are being developed and will be refined during the period in which the legislative amendments are finalised and published for comment. A costing exercise will be completed by the time of the next budget cycle.

2.3. Describe how the proposal minimises implementation and compliance costs:

The proposal does carry cost implications for CCMA Commissioners who may be required to verify strike ballot results. These costs could be reduced by the involvement of private agencies in verification of strike ballots and the costs being

borne by the parties to a dispute. Similarly, bargaining councils have the ability to cover costs through the levy income obtained from parties within their sectors.

Government stakeholders consulted include the Department of Higher Education and Training which will be asked to ensure that Sector Education and Training Authorities support the training aspect of the implementation process. Some costs of training will however be borne by trade unions and employers' associations.

3. Managing Risk

3.1. Describe the main risks to the achievement of the desired ends of the policy/bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
Non-adherence to the Declaration on Wage Inequality and Labour Market Stability	Pressure to be exerted on parties through the Committee of Principals
Lack of adherence to constitutional provisions relating to strike balloting	Publication of notices of intention to cancel the registration of trade unions
Legal challenges to extension of collective agreements in terms of amendments to LRA.	Effective advocacy of legal amendments and adherence to due administrative process in extension of collective agreements to non-parties
Higher than expected costs of implementation of legal amendments and Code of Good Practice.	Effective monitoring of implementation, revised costing estimates and consideration of fee for service as provided for in section 123 of LRA.

3.2. Describe the mechanisms included in your proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

Mechanisms:

The proposal will be monitored through CCMA operational reporting as well as through the activities of the office of the Registrar of Labour Relations who monitors compliance by trade union and employer organisations with the LRA.

The LRA make provision for employers to report to the Department of Labour any strike taking place in their firms, using form 9.2 of the LRA. All these mechanisms will generate information that will be monitored and modifications made to the implementation process, if necessary.

4. Summary

4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	N/A
2. Security (Safety, Financial, Food, Energy and etc.)	The proposed amendments are intended to contribute to enhanced labour market stability and reduced conflict during strikes. This will further contribute safety of humans and assets
3. Economic Growth	Enhanced labour market stability will be supportive of greater economic growth and investment.
4. Economic Inclusion (Job Creation and Equality)	N/A
5. Environmental Sustainability	N/A

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Employees and trade unions	Employers
Employers and their associations	
Government	Government

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more bullets if required.

- a) Training of shop-stewards/worker representatives to communicate the intentions of the amendments and the Code.
- b) Awareness campaigns.
- c) Implementation of the transitional provisions to the LRA amendments to work with trade unions to make provision for secret ballots in the constitutions and to abide by their constitutions.

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/bill/regulations/other:

N/A

For the purpose of building SEIAS body of knowledge please complete the following:

Name of Official/s	Tendani Ramulongo & Ian Macun
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DEPARTMENT OF LABOUR

NO. R. 1274

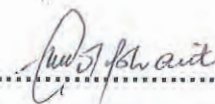
17 NOVEMBER 2017

**PUBLICATION OF THE BASIC CONDITIONS OF EMPLOYMENT AMENDMENT
BILL, 2017**

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, intend introducing the Basic Conditions of Employment Amendment Bill, 2017, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 276(b) & (c) of the Rules of the National Assembly.

The Bill seeks to amend the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) so as to substitute and insert certain definitions; to provide for daily wage payments applicable to certain employees; to repeal the provisions dealing with sectoral determinations and Employment Conditions Commission; to extend the jurisdiction of the Commission for Conciliation, Mediation and Arbitration; to extend the provisions for monitoring and enforcement by the labour inspector to include enforcement of the provisions of the National Minimum Wage Act, 2017, the Unemployment Insurance Act and the Unemployment Insurance Contributions Act; to provide for claims for underpayment; to provide for transitional arrangements to regulate sectoral determinations currently in force and to strengthen collective bargaining in respect of the sectors regulated by those sectoral determinations; and to provide for matters connected therewith.

A copy of the Bill can be found on the website of the Department of Labour at <http://www.labour.gov.za/legislation/bills/proposed-amendment-bills>


.....**M N OLIPHANT, MP****MINISTER OF LABOUR****DATE:** 02/11/2017
.....

REPUBLIC OF SOUTH AFRICA

**BASIC CONDITIONS OF
EMPLOYMENT
AMENDMENT BILL**

*(As introduced in the National Assembly (proposed section 75); explanatory summary
of Bill published in Government Gazette 41257 of 17 November 2017)
(The English text is the official text of the Bill)*

(MINISTER OF LABOUR)

[B—2017]

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GENERAL EXPLANATORY NOTE:

| | Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Basic Conditions of Employment Act, 1997, so as to substitute and insert certain definitions; to provide for daily wage payments applicable to certain employees; to repeal the provisions dealing with sectoral determinations and the Employment Conditions Commission; to extend the jurisdiction of the Commission for Conciliation, Mediation and Arbitration; to extend the provisions for monitoring and enforcement by the labour inspector; to include enforcement of the provisions of the National Minimum Wage Act, 2017, the Unemployment Insurance Act, 2001 and the Unemployment Insurance Contributions Act, 2002; to provide for claims for underpayment; to provide for transitional arrangements; to regulate sectoral determinations currently in force; to strengthen collective bargaining in respect of the sectors regulated by those sectoral determinations; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 75 of 1997, as amended by section 1 of Act 11 of 2002, section 25 of Act 52 of 2003, section 53 of Act 11 of 2013 and section 1 of Act 20 of 2013

5

1. Section 1 of the Basic Conditions of Employment Act, 1997 (hereinafter referred to as the “principal Act”), is hereby amended—

(a) by the substitution for the definition of “basic conditions of employment” of the following definition:

“‘**basic conditions of employment**’ means a provision of this Act or sectoral determination that stipulates a minimum term or condition of employment, and includes the national minimum wage;”;

10

(b) by the substitution for the definition of “employment law” of the following definition:

“‘**employment law**’ includes this Act, any other Act the administration of which has been assigned to the Minister, and any of the following Acts:

15

(a) the Unemployment Insurance Act, [1966 (Act No. 30 of 1966)] 2001 (Act No. 63 of 2001);

- (b) the [Skills Development Act, 1998 (Act No. 97 of 1998)]
Employment Services Act, 2014 (Act No. 14 of 2014);
- (c) the Employment Equity Act, 1998 (Act No. 55 of 1998);
- (d) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
- (e) the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); or
- (f) the National Minimum Wage Act, 2017;”;
- (c) by the insertion after the definition of “month” of the following definition:
“**‘national minimum wage’** means the national minimum wage envisaged in section 4 of the National Minimum Wage Act, 2017;”;
- (d) by the insertion after the definition of “trade union representative” of the following definitions:
“**‘Unemployment Insurance Act’** means the Unemployment Insurance Act, 2001 (Act No. 63 of 2001);
“**‘Unemployment Insurance Contributions Act’** means the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);”;

Amendment of section 3 of Act 75 of 1997

2. Section 3 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) This Act, except section 41, does not apply to persons employed on vessels at sea in respect of which the Merchant Shipping Act, 1951 (Act No. 57 of 1951), applies, except to the extent provided for in [a sectoral determination] the National Minimum Wage Act, 2017, read with section 62A.”.

Insertion of section 9A in Act 75 of 1997

3. The following section is hereby inserted in the principal Act after section 9:

“Daily wage payment

9A. (1) An employee who works for less than four hours on any day must be paid for four hours work on that day.

(2) This section applies to employees who earn less than the earnings threshold set by the Minister in terms of section 6(3).”.

Repeal of Chapters 8 and 9 of Act 75 of 1997

4. Chapters 8 and 9 of the principal Act are hereby repealed.

Insertion of section 62A in Act 75 of 1997

5. The following section is hereby inserted in the principal Act before section 63 under Part A of Chapter 10:

“Definitions

62A. For the purpose of Chapter 10, an employee includes a worker as defined in section 1 of the National Minimum Wage Act, 2017.”.

Amendment of section 64 of Act 75 of 1997

6. Section 64 of the principal Act is hereby amended by the deletion in subsection (1) of the word “and” at the end of paragraph (d) and the insertion in that subsection of the following paragraphs after paragraph (d):

- “(dA) referring disputes to the CCMA concerning failure to comply with this Act, the National Minimum Wage Act, 2017, the Unemployment Insurance Act and the Unemployment Insurance Contributions Act;
- (dB) appearing on behalf of the Director-General in any proceedings in the CCMA or Labour Court concerning a failure to comply with the legislation referred to in paragraph (dA); and”.

Amendment of section 65 of Act 75 of 1997, as amended by section 17 of Act 37 of 2008

7. Section 65 of the principal Act is hereby amended—
- (a) by the deletion of paragraph (b) of subsection (1); and
 - (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 5
- “(c) any place at which any person provides or purports to provide any employment services as defined in terms of the **[Skills Development Act, 1998 (Act No. 97 of 1998)]** Employment Services Act, 2014 (Act No. 4 of 2014).”. 10

Amendment of section 68 of Act 75 of 1997, as amended by section 13 of Act 11 of 2002 and section 9 of Act 20 of 2013

8. Section 68 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 15
- “(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act, the National Minimum Wage Act, 2017, the Unemployment Insurance Act or the Unemployment Insurance Contributions Act may endeavour to secure a written undertaking by the employer to comply with the provision.”;
- (b) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 20
- “(a) may seek to obtain agreement between the employer and employee as to any amount owed to the employee in terms of this Act or the National Minimum Wage Act, 2017.”; and
- (c) by the substitution for subsection (3) of the following subsection: 25
- “(3) If an employer fails to comply with a written undertaking given by the employer in terms of this section, the Director-General may apply to the **[Labour Court for an order in terms of section 73 directing the employer to comply with the undertaking]** CCMA to make the undertaking an arbitration award.”. 30

Amendment of section 69 of Act 75 of 1997, as amended by section 14 of Act 11 of 2002 and section 10 of Act 20 of 2013

9. Section 69 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 35
- “(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with a provision of this Act, the National Minimum Wage Act, 2017, the Unemployment Insurance Act or the Unemployment Insurance Contributions Act may issue a compliance order.”;
- (b) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs, respectively: 40
- “(b) **[any]** the provision of this Act and any other Act referred to in subsection (1) that the employer has not complied with, and details of the conduct constituting non-compliance;
- (c) any amount that the employer is required to pay to an employee, or in the case of a failure to pay the national minimum wage, the amount that the employer is required to pay to an employee in terms of section 76A.”; 45
- (c) by the deletion of subsection (2A);
 - (d) by the substitution for subsection (5) of the following subsection: 50
- “(5) An employer must comply with the compliance order within the time period stated in the order, unless the employer refers a dispute concerning the compliance order to the CCMA within that period.”; and
- (e) by the addition of the following subsection: 55
- “(6) A dispute referred to the CCMA by the employer in terms of subsection (5) must be dealt with in terms of section 73.”.

Substitution of section 70 of Act 75 of 1997, as amended by section 15 of Act 11 of 2002 and section 11 of Act 20 of 2013

10. The following section is hereby substituted for section 70 of the principal Act:

“Limitations

70. A labour inspector may not issue a compliance order in respect of any amount payable to an employee as a result of a failure to comply with a provision of this Act or the National Minimum Wage Act, 2017, if—
- [(a) the employee is covered by a collective agreement that provides for resolution by arbitration of disputes concerning amounts owing in terms of this Act;]**
 - (b) the employee [is employed in a category of employees mentioned in section 6(1)(a) or in respect of which a notice has been issued] earns in excess of the threshold prescribed by the Minister in terms of section 6(3); or**
 - (c) any proceedings have been instituted for the recovery of that amount in the CCMA or a court, unless those proceedings have been withdrawn; or**
 - (d) that amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to a labour inspector by or on behalf of the employee or, if no complaint was made, the date on which a labour inspector first endeavoured to secure a written undertaking by the employer in terms of section 68 or issued a compliance order in terms of section 69].”**

Substitution of section 73 of Act 75 of 1997, as amended by section 16 of Act 11 of 2002, and substituted by section 13 of Act 20 of 2013

11. The following section is hereby substituted for section 73 of the principal Act:

“Order may be made [order of Labour Court] an arbitration award

73. (1) The Director-General may apply to the [Labour Court on the date specified in the compliance order in terms of section 69 (2A) (b) or, with further notice to the employer, on a subsequent date] CCMA for a compliance order to be made an [order of the Labour Court] arbitration award if the employer has not complied with the order.
- (2) After considering any representations made to it, the [Labour Court] CCMA may issue an [order] arbitration award in terms of subsection (1) requiring—
- (a) the employer to comply with the provisions of [this Act] an employment law;**
 - (b) subject to section [70(d)] 76A, the payment of any amount owing to an employee; [or]**
 - (c) the payment of a fine calculated in terms of Schedule 2 to this Act; or**
 - (d) the payment of the amount that the employer is required to pay in terms of the Unemployment Insurance Contributions Act, including interest and penalties calculated in terms of section 12 and 13 of that Act.”**

Insertion of section 73A in Act 75 of 1997

12. The following section is hereby inserted in the principal Act after section 73:

“Claims for failure to pay any amount

- 73A. (1) Despite section 77, any person may refer a dispute to the CCMA concerning the failure to pay any amount owing to that person in terms of this Act, the National Minimum Wage Act, 2017, a contract of employment, a sectoral determination or a collective agreement.

(2) Subsection (1) does not apply to employees earning in excess of the threshold prescribed by the Minister in terms of section 6(3).

(3) An employee, other than the person referred to in subsection (1), may institute a claim concerning the failure to pay any amount contemplated in subsection (1) in either the Labour Court, the High Court or, subject to their jurisdiction, the Magistrates' Court or the small claims court.” 5

Amendment of section 74 of Act 75 of 1997, as amended by section 17 of Act 11 of 2002 and section 14 of Act 20 of 2013

13. Section 74 of the principal Act is hereby amended by the substitution for subsections (1), (2) and (3) of the following subsections, respectively: 10

“(1) A dispute concerning a contravention of this Act or the National Minimum Wage Act, 2017, may be instituted jointly with proceedings instituted by an employee under Part C of this Chapter.

(2) If an employee institutes proceedings for unfair dismissal, the Labour Court or the arbitrator hearing the matter may also determine any claim for an amount that is owing to that employee in terms of this Act **[if the claim has not prescribed]** or the National Minimum Wage Act, 2017. 15

(3) A dispute concerning any amount that is owing to an employee as a result of a contravention of this Act or the National Minimum Wage Act, 2017, may be initiated jointly with a dispute instituted by that employee over the entitlement to severance pay in terms of section 41(6).” 20

Substitution of section 75 of Act 75 of 1997, as substituted by section 18 of Act 11 of 2002

14. The following section is hereby substituted for section 75 of the principal Act:

“Payment of interest 25

75. An employer must pay interest on any amount due and payable in terms of this Act or the National Minimum Wage Act, 2017, at the rate of interest prescribed in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), to any person to whom a payment should have been made.” 30

Substitution of section 76 of Act 75 of 1997

15. The following section is hereby substituted for section 76 of the principal Act:

“Proof of compliance

76. [(1)] In any proceedings concerning a contravention of this Act, the National Minimum Wage Act, 2017, or any sectoral determination, it is for an employer— 35

- (a) to prove that a record maintained by or for that employer is valid and accurate; or
- (b) who has failed to keep any record required by this Act or the National Minimum Wage Act, 2017, that is relevant to those proceedings, to prove compliance with any provision of this Act.” 40

Insertion of section 76A in Act 75 of 1997

16. The following section is hereby inserted in the principal Act after section 76:

“Fine for not complying with national minimum wage

76A. Subject to section 76, a fine that may be imposed on an employer who paid an employee less than the national minimum wage, is an amount that is the greater of— 45

- (a) twice the value of the underpayment; or
- (b) twice the employee's monthly wage.”

Amendment of section 77A of Act 75 of 1997, as inserted by section 19 of Act 11 of 2002

17. Section 77A of the principal Act is hereby amended by the deletion of paragraphs (a) and (c).

Amendment of section 78 of Act 75 of 1997

5

18. The following section is hereby substituted for section 78 of the principal Act:

“Rights of Employees

78. (1) Every employee has the right to—

- (a) make a complaint to a trade union representative, a trade union official or a labour inspector concerning any alleged failure or refusal by an employer to comply with this Act or the National Minimum Wage Act, 2017; 10
- (b) discuss his or her conditions of employment with his or her fellow employees, his or her employer or any other person;
- (c) refuse to comply with an instruction that is contrary to this Act, the National Minimum Wage Act, 2017, or any sectoral determination; 15
- (d) refuse to agree to any term or condition of employment that is contrary to this Act, the National Minimum Wage Act, 2017, or any sectoral determination;
- (e) inspect any record kept in terms of this Act or the National Minimum Wage Act, 2017, that relates to the employment of that employee; 20
- (f) participate in proceedings in terms of this Act;
- (g) request a trade union representative or a labour inspector to inspect any record kept in terms of this Act and that relates to the employment of that employee. 25

(2) Every trade union representative has the right, at the request of an employee, to inspect any record kept in terms of this Act or the National Minimum Wage Act, 2017, that relates to the employment of that employee.”.

Substitution of section 80 of Act 75 of 1997

30

19. The following section is hereby substituted for section 80 of the principal Act:

“Procedure for disputes

80. (1) If there is a dispute about the interpretation or application of this Part, any party to the dispute may refer the dispute in writing to [—

- (a) a council, if the parties to the dispute fall within the registered scope of that council; or 35
- (b) the CCMA, if no council has jurisdiction].

(2) The party who refers a dispute must satisfy [the council or] the CCMA that a copy of the referral has been served on all the other parties to the dispute. 40

(3) The [council or the] CCMA must attempt to resolve a dispute through conciliation.

(4) If a dispute remains unresolved, any party to the dispute may refer it to the [Labour Court for adjudication] CCMA for arbitration.

(5) In respect of a dispute in terms of this Part, the relevant provisions of Part C of Chapter VII of the Labour Relations Act, 1995, apply with the changes required by the context. 45

(6) For the purposes of this section, a party to a dispute includes a labour inspector.

Transitional provisions

50

20. (1) Despite the repeal of Chapter 8 of the principal Act, any sectoral determination in effect at the commencement of the National Minimum Wage Act, 2017, remains in

force except to the extent that it prescribes a wage that is less than the national minimum wage set by the National Minimum Wage Act, 2017.

(2) Sections 56, 57 and 58 of the principal Act remain in force in respect of the sectoral determination contemplated in subsection (1) for as long as the sectoral determination has not been cancelled or suspended by the Minister as contemplated in section 56. 5

(3) If any sectoral determination already prescribes wages that are higher than the national minimum wage, the wages in that sectoral determination and the remuneration and associated benefits based on those wages must be increased proportionally to any adjustment of the national minimum wage in terms of the National Minimum Wage Act, 2017, for a period of three years from the commencement of the National Minimum Wage Act, 2017. 10

(4) Notwithstanding the provisions of any sectoral determination, an employer must pay a learner an allowance as prescribed in Schedule 2 of the National Minimum Wage Act, 2017, as is adjusted from time to time, from the date that the National Minimum Wage Act, 2017, comes into force. 15

(5) For the purpose of subsection (4)—

- (a) **‘learner’** means a learner as defined in Schedule 2 of the National Minimum Wage Act, 2017; and
- (b) **‘allowance’** means an allowance as defined in Schedule 2 of the National Minimum Wage Act, 2017.”. 20

Short title and commencement

21. This Act is called the Basic Conditions of Employment Amendment Act, 2017, and takes effect on a date immediately after the National Minimum Wage Act, 2017, has taken effect. 25

MEMORANDUM ON THE OBJECTS OF THE BASIC CONDITIONS OF EMPLOYMENT AMENDMENT BILL, 2017

1. BACKGROUND

- 1.1 The Basic Conditions of Employment Amendment Bill, 2017 (“the Bill”), introduces amendments to the Basic Conditions of Employment Act, 1997 (BCEA), consequent to the proposed National Minimum Wage Act, 2017.
- 1.2 The primary amendments introduced by the Bill seek to—
 - (a) repeal the provisions dealing with the making of Sectoral Determinations and the powers and functions of the Employment Conditions Commission;
 - (b) extend the provisions for monitoring and enforcement by the labour inspectorate to apply to the national minimum wage and unemployment insurance; and
 - (c) extend the jurisdiction of the Commission for Conciliation, Mediation and Arbitration (CCMA) to include enforcement procedures and claims for underpayment in terms of the BCEA, the national minimum wage, unemployment insurance legislation and claims arising from contracts or collective agreements.

2. CLAUSE BY CLAUSE ANALYSIS

Clause 1

- 2.1 Clause 1 of the Bill amends section 1 of the BCEA—
 - (a) by substituting the definition of “employment law” so as to include the Unemployment Insurance Act, 2001 (Act No. 63 of 2001), the Employment Services Act, 2014 (Act No. 14 of 2014), and the proposed National Minimum Wage Act, 2017; and
 - (b) by inserting the definition of “national minimum wage”, “Unemployment Insurance Act” and “Unemployment Insurance Contributions Act”.

Clause 2

- 2.2 Clause 2 of the Bill amends section 3 of the BCEA by the substitution for subsection (3), which refers to a sectoral determination, with a new subsection (3) that makes reference to the proposed National Minimum Wage Act, 2017.

Clause 3

- 2.3 Clause 3 inserts section 9A that deals with daily wage payment. Section 9A requires that an employee who works for less than four hours on any day is entitled to be paid for four hours’ work. This only applies to employees earning less than the threshold set by the Minister of Labour in terms of section 6(3) of the BCEA. The provisions to this effect are currently found in several sectoral determinations.

Clause 4

- 2.4 Clause 4 of the Bill repeals Chapters 8 and 9 of the BCEA. Chapter 8 deals with the making of sectoral determinations and Chapter 9 deals with the powers and functions of the Employment Conditions Commission.

Clause 5

- 2.5 Clause 5 of the Bill inserts section 62A that deals with definitions. It states that for the purpose of Chapter 10 of the BCEA, an employee includes a worker as defined in section 1 of the proposed National Minimum Wage Act, 2017.

Clause 6

- 2.6 Clause 6 of the Bill amends section 64 of the BCEA which deals with the functions of labour inspectors. The amendment seeks to insert new paragraphs (dA) and (dB) in subsection (1). The effect of paragraphs (dA) and (dB) is that the functions of a labour inspector will now include the referral of disputes to the CCMA, concerning non-compliance with the BCEA, the proposed National Minimum Wage Act, 2017, the Unemployment Insurance Act, 2001, and the Unemployment Insurance Contributions Act, 2002. The labour inspector will also be able to appear on behalf of the Director-General in any proceedings in the CCMA or Labour Court concerning a failure to comply with the legislation referred to in paragraph (dA).

Clause 7

- 2.7 Clause 7 of the Bill amends section 65 of the BCEA which deals with powers of entry. The amendment substitutes a reference to Skills Development Act, 1998 (Act No. 97 of 1998), in subsection (1)(c) with the Employment Services Act, 2014.

Clause 8

- 2.8 Clause 8 of the Bill amends section 68 of the BCEA so as to permit labour inspectors to obtain a written undertaking from an employer to comply with the proposed National Minimum Wage Act, 2017, the Unemployment Insurance Act, 2001, and the Unemployment Insurance Contributions Act, 2002, where the employer has not complied with the provisions of these Acts. Furthermore, the amendments authorise the Director-General to apply to the CCMA to make the undertaking made by the employer an arbitration award, where such an employer fails to comply with the undertaking.

Clause 9

- 2.9 Clause 9 of the Bill amends section 69 of the BCEA so as to—
- (a) extend the powers of a labour inspector to issue compliance orders to cover breaches of the proposed National Minimum Wage Act, 2017, the Unemployment Insurance Act, 2001, and the Unemployment Insurance Contributions Act, 2002; and
 - (b) permit employers who dispute the terms of a compliance order served on them to refer the matter to the CCMA for determination through arbitration. It should be noted that amendments have been proposed to the Labour Relations Act, 1995 (Act No. 66 of 1995), to regulate these proceedings.

Clause 10

- 2.10 Clause 10 of the Bill amends section 70 of the BCEA which imposes limitations on the labour inspector's powers. The effect of the amendment is that it limits a labour inspector's powers to issue a compliance order against an employer in respect of any amount payable to an employee due to a failure to comply with a provision of the BCEA or the proposed National Minimum Wage Act, 2017, if—
- (a) the employee earns more than the threshold prescribed by the Minister; or
 - (b) any proceedings have been instituted for the recovery of that amount in the CCMA or a Court.

Clause 11

- 2.11 Clause 11 of the Bill amends section 73 of the BCEA to authorise the Director-General of the Department of Labour to refer a compliance order that has not been complied with to the CCMA so as to be made an arbitration award.

Clause 12

2.12 Clause 12 of the Bill inserts section 73A which deals with claims for failure to pay any amount. The proposed new section 73A provides that employees earning below the threshold prescribed by the Minister of Labour in terms of section 6(3) of the BCEA may refer disputes to the CCMA concerning a failure to pay wages or any amount owing to them in terms of the BCEA, the proposed National Minimum Wage Act, 2017, collective agreement, contract or sectoral determination. It is envisaged that this will provide a cheaper and more expeditious method of resolving these disputes and will avoid these claims being split into proceedings before different forums. This right does not prevent employees from instituting a claim in the civil court. Employees earning above the BCEA earnings threshold retain their right to bring claims in the Labour Court or a civil court with jurisdiction (the High Court, the Magistrates Court or the Small Claims Court, depending on the amount of the claim).

Clause 13

2.13 Clause 13 of the Bill amends section 74 of the BCEA to permit a claim for payment of the national minimum wage to be instituted jointly with proceedings in terms of Part C of Chapter 10 of the BCEA.

Clause 14

2.14 Clause 14 of the Bill amends section 75 of the BCEA so as to provide that an employer who fails to pay the national minimum wage must pay interest on any late payment calculated at the rate prescribed in the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

Clause 15

2.15 Clause 15 of the Bill amends section 76 of the BCEA to extend the provisions concerning proof of compliance currently applicable to the BCEA, to the proposed National Minimum Wage Act, 2017. In terms of this section employers are required to prove the accuracy of wage records and to prove compliance if they have failed to keep the requisite records.

Clause 16

2.16 Clause 16 of the Bill inserts section 76A to provide for a fine for non-compliance with the national minimum wage. An employer who fails to pay the national minimum wage will be required to pay the employee an amount that is twice the value of the underpayment or twice the employee's monthly wage, whichever is the greater.

Clause 17

2.17 Clause 17 of the Bill amends section 77A of the BCEA so as to remove the powers of the Labour Court to make a compliance order issued by a labour inspector an order of Court. This function will now be performed by the CCMA which will have the power to make an arbitration award in order to enforce a compliance order.

Clause 18

2.18 Clause 18 of the Bill amends section 78 of the BCEA which deals with rights of employees. The amendment seeks to substitute the current section 78 with a similar section that makes reference to the proposed National Minimum Wage Act, 2017.

Clause 19

2.19 Clause 19 of the Bill amends section 80 of the BCEA to provide that disputes concerning the protection of employees against discrimination for enforcing their rights should be referred to the CCMA for both conciliation and arbitration. Currently, bargaining councils conciliate these disputes within their sectors.

Clause 20

2.20 Clause 20 of the Bill provides for the transitional provisions to regulate the operation of sectoral determinations once the proposed National Minimum Wage Act, 2017, comes into force. The effect of the transitional provisions is that—

- (a) sectoral determinations remain in force, except to the extent that they prescribe wages below the level of the national minimum wage;
- (b) the Minister of Labour may withdraw or amend sectoral determinations;
- (c) an employer must pay a learner an allowance as prescribed in Schedule 2 to the proposed National Minimum Wage Act, 2017, from the date the proposed National Minimum Wage Act, 2017, comes into force.

Clause 21

2.21 This clause provides for the short title and the commencement. The commencement Act is aligned with the commencement of the National Minimum Wage Act, 2017.

3. PARTIES CONSULTED

All affected stakeholders were consulted individually.

4. FINANCIAL IMPLICATIONS FOR STATE

There will be no cost implications to the State in relation to the implementation of the Act. The proposed amendments are purely of an administrative or technical nature.

5. PARLIAMENTARY PROCEDURE

5.1 The State Law Advisers and the Department are of the opinion that the Bill should be dealt with in terms of the procedure established by section 75 of the Constitution, since it does not contain provisions to which the procedure set out in section 76 of the Constitution applies. In *Tongoane and Others v Minister of Agriculture and Land Affairs and Others*¹, the Constitutional Court (“the CC”) definitively dealt with the question of tagging. The CC determined the proper test for tagging of the Communal Land Rights Act, 2004² (“the CLARA”), by analysing the provisions of the CLARA and found that CLARA, in substantial measure, affects indigenous law, customary law and traditional leadership which are areas of concurrent national and provincial legislative competence, and are functional areas listed in Schedule 4 to the Constitution. The CC held in paragraph 58 of the judgment that:

“... What matters for the purpose of tagging is not the substance or the true purpose and effect of the Bill, rather, what matters is whether the provisions of the Bill ‘in substantial measure fall within a functional area listed in schedule 4’. This statement refers to the test to be adopted when tagging Bills. This test for classification or tagging is different from that used by this court to characterise a Bill in order to determine legislative competence. This involves the determination of the subject matter or the substance of the legislation, its essence, or

¹2010 (8) BCLR 741 (CC).

²[Act No. 11 of 2004].

true purpose and effect, that is, what the [legislation] is about.”.
(Footnote omitted)

- 5.2 The CC held that the test for tagging must be informed by its purpose. Tagging is neither concerned with determining the sphere of government that has the competence to legislate on a matter, nor is the process concerned with preventing interference in the legislative competence of another sphere of government. The process is concerned with the question of how a Bill must be considered by the provinces and in the National Council of Provinces, and how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. The more it affects the interest, concerns and capacities of the provinces, the more say the provinces should have on its content.³ The CC further held as follows:

“[64] The purpose of tagging is therefore to determine the nature and extent of the input of provinces on the contents of legislation affecting them. Indeed, all the legislation mentioned in section 76(3) is legislation that substantially affects the interests of provinces.

[69] The tagging of Bills before Parliament must be informed by the need to ensure that the provinces fully and effectively exercise their appropriate role in the process of considering national legislation that substantially affects them. Paying less attention to the provisions of a Bill once its substance, or purpose and effect, has been identified undermines the role that provinces should play in the enactment of national legislation affecting them. The subject-matter of a Bill may lie in one area, yet its provisions may have a substantial impact on the interests of provinces. And different provisions of the legislation may be so closely intertwined that blind adherence to the subject-matter of the legislation without regard to the impact of its provisions on functional areas in Schedule 4 may frustrate the very purpose of classification.

[71] ...; the ‘substantial measure’ test permits a consideration of the provisions of the Bill and their impact on matters that substantially affect the provinces. This test ensures that legislation that affects the provinces will be enacted in accordance with a procedure that allows the provinces to fully and effectively play their role in the law-making process. This test must therefore be endorsed.

[72] To summarise: any Bill whose provisions substantially affect the interests of the provinces must be enacted in accordance with the procedure stipulated in section 76. Whether a Bill is a section 76 Bill is determined in two ways. First, by the explicit list of legislative matters in section 76(3)(a)-(f), and second by whether the provisions of a Bill in substantial measure fall within a concurrent provincial legislative competence.”.

- 5.3 To determine whether the provisions of the Bill in substantial measure fall within a functional area listed in Schedule 4, the Bill ought to be considered against the provisions of the Constitution relating to the tagging of Bills as well as against the functional areas listed in Schedule 4 and Schedule 5 to the Constitution. It is apparent from the provisions of the Bill that the Bill seeks, amongst others, to repeal the provisions dealing with the making of Sectoral Determinations and the powers and functions of the Employment Conditions Commission, extend the provisions for monitoring and enforcement by the

³ See fn 1 above at para [60].

labour inspectorate to apply to the National minimum wage and unemployment insurance and extend the jurisdiction of the Commission for Conciliation, Mediation and Arbitration (CCMA) to include enforcement procedures and claims for underpayment in terms of the BCEA, the National minimum wage, unemployment insurance legislation and claims arising from contracts or collective agreements. The aforesaid are matters that are not listed in either Schedule 4 or 5 to the Constitution. The Bill is thus an ordinary Bill not affecting provinces and should be tagged as a section 75 Bill.

- 5.4 The State Law Advisers are also of the opinion that it is not necessary to refer the Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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planning, monitoring & evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

BASIC CONDITIONS OF EMPLOYMENT BILL, 2017

DEPARTMENT OF LABOUR

The Final Impact Assessment: Department of Labour - Basic Conditions of Employment Bill.

The Final Impact Assessment provides a detailed assessment of the Basic Conditions of Employment Bill 2017 that introduces amendments to the Basic Conditions of Employment Act 1997 (BCEA). These amendments follow the introduction of the new Minimum Wage Bill. The BCEA makes provision for the regulation of minimum wages in sectors through the mechanism of sectoral determinations. With the introduction of a national minimum wage, the status of sectoral determinations and other aspects of the BCEA are changed. The primary amendments in the BCE Bill therefore aim to do the following:

- i. Repeal the provisions dealing with the making of Sectoral Determinations and the powers and functions of the Employment Conditions Commission;
- ii. Extend the provisions for monitoring and enforcement by the labour inspectorate to apply to the minimum wage and unemployment insurance;
- iii. Extend the jurisdiction of the Commission for Conciliation Mediation and Arbitration (CCMA) to include enforcement procedures and claims for underpayment in terms of the BCEA, the minimum wage, unemployment insurance legislation, and claims arising from contracts or collective agreements.

The BCEA Bill follows a two year engagement process between government, organised business and organised labour in the National Economic Development and Labour Advisory Council (NEDLAC) to address the challenges of labour market stability and wage inequality as posed by the President in his State of the Nation Address in June 2014. In February 2017 an agreement on the introduction of a national minimum wage was concluded and amendments to the BCEA were drafted simultaneously with the drafting of a National Minimum Wage Bill. Both bills were tabled in NEDLAC for further engagement in May 2017 and the work of the task team established to deal with the bills was concluded in August 2017.

1. The problem Statement/ Theory of Change

1.1. Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

a) Summary of the proposal (Summary Background of the proposed policy/bill/regulations/ other):

Background

The introduction of a national minimum wage requires change to the existing legislative landscape for the regulation of basic conditions of employment in South Africa. The Basic Conditions of Employment Act of 1997 has established and enforced basic conditions of employment and provided for the variation of basic conditions of employment. The model in the BCEA is for a sectoral determination to establish basic conditions of employment, including minimum wages, for employees in a sector and area. The process of arriving at a sectoral determination involves the staff of the Employment Standards Directorate in the Department of Labour conducting an investigation and preparing a report for consideration by the Employment Conditions Commission (ECC). The ECC, a tripartite body consisting of employer and trade union representatives as well as independent experts, advises the Minister who will make the final determination. Enforcement and legal proceedings are dealt with by labour inspectors in terms of the powers and procedures provided for in the BCEA.

In contemplating a national minimum wage, the policy and legislative approach has been to provide for a national minimum wage that forms the minimum floor for wages. The national minimum wage cannot be varied by contract, collective agreement or law. It is therefore envisaged that the national minimum wage will replace the minimum wages that have been set through sectoral determinations for particular sectors. The National Minimum Wage Bill also establishes the National Minimum Wage Commission which is intended to review the national minimum wage and to make recommendations for adjustment to the Minister of Labour. In

line with these provisions, the relevant chapters of the BCEA that deal with sectoral determinations and the Employment Conditions Commission are repealed.

The BCEA will continue to regulate basic conditions of employment and will provide for enforcement measures, including for non-compliance with the National Minimum Wage Bill. It is therefore envisaged that the National Minimum Wage Act and the BCEA will be closely related or complementary pieces of legislation.

The amendments to the BCEA are primarily aimed at the following:

- i. To repeal the provisions dealing with the making of Sectoral Determinations and the powers and functions of the Employment Conditions Commission;
- ii. To extend the provisions for monitoring and enforcement by the labour inspectorate to apply to the minimum wage and unemployment insurance;
- iii. To extend the jurisdiction of the CCMA to include enforcement procedures and claims for underpayment in terms of the BCEA, the minimum wage, unemployment insurance legislation, and claims arising from contracts or collective agreements;
- iv. To create transitional provisions to regulate sectoral determinations currently in force.

Summary of proposal

The proposed **amendments to the Basic Conditions of Employment Act** deal with the following areas:

- i. **Guaranteed Minimum hours of work**

A new section provides that an employee who works for less than four hours on any day is entitled to be paid for four hours' work. There are currently provisions for minimum hours of work in some sectoral determinations and in collective agreements. The guaranteed minimum hours will apply in the case where the worker is employed, but on any particular day where there are circumstances beyond the control of the employee that prevent work being performed. It is envisaged that the minimum hours of work will apply to workers earning below a

threshold of R40 per hour, although this will be introduced in the Regulations to the BCEA.

ii. Sectoral Determinations and Employment Conditions Commission

These chapters are deleted from the BCEA as they are being replaced by the national minimum wage, the National Minimum Wage Commission and transitional provisions that will set a certain period for the continued operation of sectoral determinations.

iii. Monitoring, Enforcement and Legal Proceedings

The provisions for monitoring and enforcement of the Act by labour inspectors and the mechanisms for legal proceedings arising from non-compliance are extended to apply to the national minimum wage and unemployment insurance.

The jurisdiction of the Commission for Conciliation Mediation and Arbitration (CCMA) is extended to include enforcement procedures and claims for underpayment in terms of the BCEA, the minimum wage and unemployment insurance legislation.

In terms of the changes, inspectors will be able to secure an undertaking from employers who have not complied with the national minimum wage. If an employer fails to comply with the written undertaking, the inspector may apply to the CCMA to have the undertaking made an arbitration award.

Inspectors may also issue compliance orders in relation to non-compliance with the national minimum wage and provisions of the Unemployment Insurance Act and Unemployment Insurance Contributions Act.

A new provision is made in the BCEA to enable employees earning below the threshold prescribed by the Minister of Labour to refer disputes about failure to pay wages or any underpayment to the CCMA for arbitration. The provision makes this referral by employees possible in relation to the BCEA, the minimum wage, a

collective agreement, a contract or a sectoral determination. The intention of this provision is to provide a cheaper and more expeditious method of resolving disputes over payment and underpayment and to avoid claims being split into proceedings before different forums. Employees earning above the earnings threshold will retain the right to bring claims in the Labour Court or a civil court with jurisdiction.

The CCMA is empowered to issue an arbitration award to enforce compliance orders thus removing the power of the Labour Court to make a compliance order by an inspector an order of court.

New penalties for not complying with the national minimum wage are introduced. These require that an employer who fails to pay any worker at least the minimum wage must pay an amount that is the greater of –

- Twice the value of the underpayment; or
- Twice the employee's monthly wage.

iv. Transitional provisions

The transitional provisions provide for the sectoral determinations to remain in force, except to the extent that they prescribe wages that are below the minimum wage.

The wages in sectoral determinations, as well as remuneration and benefits associated with those wages, will be increased in proportion to the adjustment of the national minimum wage for a period of three years.

The Sectoral Determination 5: Learnership remains in force and the learner allowances will be adjusted by the National Minimum Wage Commission as part of the annual review process.

The Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities also remains in force.

b) Problem/s and root causes that the proposal is trying to address

Identified Problem	Root causes
Compliance with the national minimum wage.	Lack of knowledge, lack of willingness, inability to pay prescribed minimum wage, poor enforcement.
Accessible and efficient enforcement measures.	Increased number of workers covered by the national minimum wage and limited enforcement capacity.

1.2. Describe the intended outcomes of the proposal

At a strategic level, the overall intended outcome of the proposal is to ensure an optimal level of compliance with the national minimum wage and to ensure that workers can enforce claims for non-payment or underpayment in the most effective manner possible.

1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required.

Groups that will benefit	How will they benefit?
Workers	The proposed amendments are intended to provide measures that will enhance compliance with the payment of the minimum wage by employers. The amendments also introduce enforcement measures that will be easier for workers to pursue.

Groups that will bear the cost or lose	How will they incur the costs or lose?
CCMA	Costs associated with increased case load arising from disputes arising from the new national minimum wage.
Government (DOL inspectorate)	Costs associated with monitoring and enforcing the implementation of the national minimum wage

1.4. Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
DOL inspectorate	Inspections and investigations in relation to sectoral determinations	Training
CCMA	Case management excluding minimum wage	Training

Groups outside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Employers and Employer associations	Payment of wages below legislated minimum wage.	National Minimum Wage Bill and amendments to Basic Conditions of Employment Act that deal with enforcement.

1.5. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

Consultation took place during 2015-2016 under the auspices of NEDLAC and via a Committee of Principals chaired by the Deputy President. Government was represented

in the Committee of Principals by the Ministers of Labour, Finance, Economic Development, Trade and Industry and Small Business. The NEDLAC consultations were facilitated by a Senior Commissioner of the CCMA who provided regular reports to the Committee of Principals on the work of the task team. These reports recorded areas of agreement and disagreement between the constituencies represented in the task team. In April 2016, the Task Team on Wage Inequality deadlocked over the proposed level at which that national minimum wage should be set. The Committee of Principals agreed to the establishment of an Advisory Panel which was tasked with interrogating the research that had been carried out and to recommend a meaningful level or range for the first national minimum wage. The Advisory Panel was established by the Deputy President and submitted its report in August 2016. The process culminated in the adoption of a Declaration on Wage Inequality and Labour Market Stability (attached as **Annexure A**) and an Agreement on the Introduction of a National Minimum Wage in February 2017. Since the February agreement, the Department of Labour submitted a draft National Minimum Wage Bill and amendments to the Basic Conditions of Employment Act to NEDLAC for consideration. A task team was established and has deliberated on all aspects of the BCEA Amendments.

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated in your proposal?</u>
1. Department of Labour and CCMA	Improved compliance with minimum wage and simpler enforcement mechanisms. Costs are primarily associated with training and	Support.	N/A	N/A

	increased case load for the CCMA.			
2. Business- Business Unity South Africa, Black Business Council.	Benefits are associated with a simpler minimum wage system. Costs are associated with penalties for non-compliance. Risks relate to the pursuit of legal cases by workers and possible increases to wages in Sectoral Determinations over the next three years.	Support	Definition of employee to be retained. Jurisdiction of Labour Court to be retained for issuing of court orders. Ability of Inspectors to issue compliance orders for wage claims going back 3 years.	No
3. Organised Labour- COSATU, NACTU, FEDUSA.	Improved enforcement provisions in BCEA in relation to national minimum wage. No costs or risks.	Support	Criminalization of non-compliance with national minimum wage. Retention of Sectoral Determinations.	No SD's retained for 3 year period.
4. Civil Society- Community constituency as represented at NEDLAC.	Improved enforcement provisions in BCEA in relation to minimum wage. No costs or risks.	Support	Criminalization of non-compliance with national minimum wage.	No

- 1.6.** Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

Disputes are likely to arise in relation to underpayment of wages and/or non-payment of wages owing to workers. The amendments make it simpler and easier for workers to lodge complaints relating to wage disputes and for inspectors and the CCMA to deal with these disputes.

The process for dispute resolution is made much simpler through the amendments.

2. Impact Assessment

- 2.1.** Describe the costs and benefits of implementing the proposal to the groups identified in point 1.5 above, using the following chart. Add more rows if required

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
Government	Training costs for the inspectorate and publicity campaigns are estimated at R650 000.00.	Inspectorate will be required to enforce compliance.	Improved compliance with minimum wages.	Should improved compliance be achieved over time, improved household income and expenditure can be expected.
CCMA	Estimated at R20.8m for training activity, advocacy and increase in case load.	Estimated at R20.8m for training activity, advocacy and increase in case load.	Costs will be associated with training, advocacy and case load increase. Benefits will derive from enhanced capacity to deal with new areas of dispute resolution and support.	Cost estimates for the CCMA have been used to request additional funding for the entity.

- 2.2.** Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

There is no envisaged change in staffing in government. An increase in the workload of the CCMA is anticipated associated with implementation of the amendments to the BCEA in the next two years. Although it is not anticipated that this will result in additional personnel as opposed to utilising the cohort of full-time and part-time commissioners, a request for additional funding in the amount of R20.8 million has been submitted for consideration in the MTEC process.

- 2.3.** Describe how the proposal minimises implementation and compliance costs:

The proposal includes measures for enforcement and dispute resolution that are more streamlined by, for example, making provision for the CCMA to arbitrate on pay disputes rather than using the Labour Court.

The move to a national minimum wage and replacing minimum wage regulation on a sector basis also simplifies enforcement for the inspectorate and compliance by employers.

3. Managing Risk

- 3.1.** Describe the main risks to the achievement of the desired ends of the policy/bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
Non-adherence to the Declaration on Wage Inequality and Labour Market Stability	Pressure to be exerted on parties through the Committee of Principals

3.2. Describe the mechanisms included in your proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

Mechanisms:

The proposal will be monitored through CCMA operational reporting as well as through the activities of the Department of Labour inspectorate. This monitoring and reporting does not need to be included in the proposal as it is part of the operations of both the CCMA and the Department.

It is estimated that major problems in implementation will be detected very quickly as it concerns wages and remuneration. The time taken to remedy it will depend on the dispute resolution and enforcement processes.

4. Summary

4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	Improved standard of living.
2. Security (Safety, Financial, Food, Energy and etc.)	Enhanced food security for those workers that benefit from the national minimum wage.
3. Economic Growth	N/A
4. Economic Inclusion (Job Creation and	Greater equality in earnings for lower income workers

Equality)	expected through the enforcement of the minimum wage.
5. Environmental Sustainability	N/A

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Employees and workers	Employers
Government	Government

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more bullets if required.

A well-publicised and well-coordinated implementation of the national minimum wage in 2018 should mitigate risks by creating advance awareness, giving certainty and managing expectations. Such steps should also serve to maximise the benefit of the national minimum wage by ensuring maximum compliance by employers.

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/bill/regulations/other:

For the purpose of building SEIAS body of knowledge please complete the following:

Name of Official/s	Ian Macun
Designation	Director: Collective Bargaining
Unit	Labour Relations
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DEPARTMENT OF LABOUR

NO. R. 1275

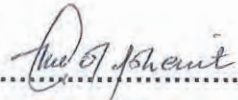
17 NOVEMBER 2017

PUBLICATION OF THE NATIONAL MINIMUM WAGE BILL, 2017

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, intend introducing the National Minimum Wage Bill, 2017, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 276(b) & (c) of the Rules of the National Assembly.

The Bill seeks to provide for a national minimum wage; to establish the National Minimum Wage Commission; to provide for the composition and functions of the National Minimum Wage Commission; to provide for the review and annual adjustment of the national minimum wage; to provide for exemption from paying the national minimum wage; to provide for transitional provisions in respect of farm workers and domestic workers; and to provide for matters connected therein.

A copy of the Bill can be found on the website of the Department of Labour at <http://www.labour.gov.za/legislation/bills/proposed-amendment-bills>


.....
M N OLIPHANT, MP
MINISTER OF LABOUR
DATE: 02/11/2017

REPUBLIC OF SOUTH AFRICA

NATIONAL MINIMUM WAGE BILL

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette 41257 of 17 November 2017)
(The English text is the official text of the Bill)*

(MINISTER OF LABOUR)

[B---2017]

BILL

To provide for a national minimum wage; to establish the National Minimum Wage Commission; to provide for the composition and functions of the National Minimum Wage Commission; to provide for the review and annual adjustment of the national minimum wage; to provide for exemption from paying the national minimum wage; to provide for transitional provisions in respect of farm workers and domestic workers; and to provide for matters connected therein.

PREAMBLE

RECOGNISING that the Republic of South Africa is one of the most unequal societies in the world and that there are huge disparities in income in the national labour market;

NOTING the need to eradicate poverty and inequality;

ACKNOWLEDGING the need to promote fair and effective competition in the labour market and labour market stability;

NOTING the constitutional obligation on the State and employers to promote and fulfil the right to fair labour practices;

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

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION

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CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION

Definitions

1. In this Act, unless the context indicates otherwise—

"Basic Conditions of Employment Act" means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

"Cabinet" means the cabinet referred to in section 91 of the Constitution of the Republic of South Africa ;

"Commission" means the National Minimum Wage Commission established in terms of section 8;

"employer" means any person who is obliged to pay a worker for the work that that worker performs for that person;

"Labour Relations Act" means the Labour Relations Act, 1996 (Act No. 66 of 1995);

"Minister" means the Minister responsible of labour;

"national minimum wage" means the national minimum wage determined in Schedule 1 and adjusted annually in terms of section 6;

"NEDLAC" means the National Economic Development and Labour Council established in terms of section 2 of the National Economic Development and Labour Council Act, 1994 (Act No. 35 of 1994);

"ordinary hours of work" means the hours of work permitted in terms of section 9 of the Basic Conditions of Employment Act or in terms of any agreement in terms of section 11 or 12 of the Basic Conditions of Employment Act;

"organised business" means organised business as defined in the National Economic Development and Labour Council Act, 1994 (Act No. 35 of 1994);

"organised community" means those non-governmental organisations identified by the Minister without Portfolio in the Office of the President, which represent community interests relating to reconstruction and development in terms of section 3(5) of the National Economic Development and Labour Council Act;

"organised labour" means organised labour as it is defined in the National Economic Development and Labour Council Act;

"prescribed" means prescribed by regulation under this Act;

"this Act" includes the regulations made under this Act;

"wage" means the amount of money paid or payable to a worker in respect of ordinary hours of work or, if they are shorter, the hours a worker ordinarily works in a day or a week;

"worker" means an employee as defined in section 1 of the Basic Conditions of Employment Act.

Purpose of Act

2. The purpose of this Act is to advance economic development and social justice by—

- (a) improving the wages of lowest paid workers;
- (b) protecting workers from unreasonably low wages;
- (c) preserving the value of the national minimum wage;
- (d) promoting collective bargaining and supporting economic policy; and
- (e) supporting economic policy.

Application of Act

3. This Act applies to all workers and their employers except members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service.

CHAPTER 2

NATIONAL MINIMUM WAGE

National minimum wage

4. (1) The national minimum wage is the amount stated in Schedule 1 as adjusted annually in terms of section 6.

(2) Every worker is entitled to payment of a wage in an amount no less than the national minimum wage.

(3) Every employer must pay wages to its workers that are no less than the national minimum wage.

(4) The payment of a national minimum wage cannot be waived and the national minimum wage takes precedence over any contrary provision in any contract, collective agreement or law, except a law amending this Act.

(5) The national minimum wage must constitute a term of the worker's contract except to the extent that the contract, collective agreement or law provides a wage that is more favourable to the worker.

(6) It is an unfair labour practice for an employer to unilaterally alter wages, hours of work or other conditions of employment in connection with the implementation of the national minimum wage and sections 191, 193, 194(4) and 195 of the Labour Relations Act apply, unless the context indicates otherwise.

(7) Sections 32 and 33 of the Basic Conditions of Employment Act apply to the payment of the national minimum wage to workers.

Calculation of wage

5. (1) Despite any contract or law to the contrary, the calculation of a wage for the purposes of this Act is the amount payable in money for ordinary hours of work excluding—

- (a) any payment made to enable a worker to work including any transport, equipment, tool, food or accommodation allowance;
- (b) any payment in kind including board or accommodation;
- (c) gratuities including bonuses, tips or gifts; and
- (d) any other prescribed category of payment.

(2) A worker is entitled to receive the national minimum wage for the number of hours that the worker works on any day.

(3) If the worker is paid on a basis other than the number of hours worked, the worker may not be paid less than the minimum wage for the ordinary hours of work.

Annual review

6. (1) The Commission must review the national minimum wage annually and make recommendations to the Minister on any adjustment of the national minimum wage, which minimum wage must commence on 1 May of the next year.

(2) The review report to the Minister must reflect any alternative views in respect of any recommendations made in terms of subsection (1).

(3) The Commission must forward the report on its review and its recommendations for the next year to the Minister by 31 October of each year.

(4) If the Minister does not agree with, or requires clarity in respect of, the report and recommendations, the Minister may, in the prescribed manner, refer the report and recommendations back to the Commission to clarify or alter their recommendation.

(5) By 31 January of each year, the Minister must submit the report and recommendations of the Commission to the Cabinet for approval.

(6) If the Cabinet approves the adjustment to the national minimum wage, the Minister must—

- (a) table the amended Schedules 1 and 2 in the National Assembly; and
- (b) publish the amended Schedules in the *Gazette* within 7 days of tabling in terms of paragraph (a).

(7) If the National Assembly does not pass a resolution to the contrary within 14 days of tabling, the amended Schedules take effect on 1 May of that year.

Conduct of annual review

7. For the purposes of conducting an annual review and recommending adjustments, the Commission must—

(a) promote—

- (i) the medium term targets referred to in section 11(d);
- (ii) the alleviation of poverty; and
- (iii) the reduction of wage differentials and inequality; and

(b) consider—

- (i) inflation, the cost of living and the need to retain the value of the minimum wage;
- (ii) wage levels and collective bargaining outcomes;
- (iii) gross domestic product;
- (iv) productivity;
- (v) ability of employers to carry on their businesses successfully;
- (vi) the operation of small, medium or micro-enterprises and new enterprises;
- (vii) the likely impact of the recommended adjustment on employment or the creation of employment; and
- (viii) any other relevant factor.

CHAPTER 3

NATIONAL MINIMUM WAGE COMMISSION

Establishment of Commission

8. The National Minimum Wage Commission is hereby established.

Composition of Commission

9. (1) The Commission comprises of the following members:
- (a) An independent chairperson appointed by the Minister;
 - (b) three members nominated by organised business;
 - (c) three members nominated by organised community;
 - (d) three members nominated by organised labour; and
 - (e) three independent experts appointed by the Minister.
- (2) The members of the Commission must be citizens or permanent residents of the Republic.

Appointment and termination of appointment of members of Commission

10. (1) The Minister appoints—
- (a) the chairperson and the three independent experts after consultation with NEDLAC; and

(b) the members nominated by organised business, organised community and organised labour.

(2) The term of office for the members of the Commission is for a maximum period of five years but members may be re-appointed.

(3) The members of the Commission are appointed on a part-time basis and on terms and conditions prescribed by the Minister in consultation with the Minister of Finance.

(4) Termination of appointment may be effected in the following manner:

- (a) The member's death;
- (b) the resignation of a member giving three months' notice to the Minister;
- (c) Subject to due process of law, the removal of a member from office by the Minister for the following reasons:
 - (i) Serious misconduct;
 - (ii) permanent incapacity;
 - (iii) failure to attend three successive meetings without a reasonable explanation; or
 - (iv) engaging in any activity that undermines the integrity of the Commission.

Functions of Commission

11. The functions of the Commission are to—

- (a) review the national minimum wage and recommend adjustments;

- (b) investigate and report annually to the Minister on the impact of the national minimum wage on the economy, collective bargaining and the reduction in income differentials;
- (c) investigate income differentials and recommend benchmarks for proportionate income differentials;
- (d) set medium term targets for the national minimum wage within three years; and
- (e) advise the Minister on measures to reduce income differentials or any other matter on which the Minister requests the Commission's advice.

Conduct of meetings of Commission

12. The Commission must determine its own rules on the conduct of meetings, provided that those rules—

- (a) require the Chairperson to act impartially; and
- (b) provide that the chairperson has no vote or casting vote.

Secretariat of Commission

13. Subject to the laws governing the public service, the Minister must provide the Commission with a secretariat to perform the following functions:

- (a) The administration of the Commission;
- (b) the conduct and procurement of research for the Commission; and
- (c) the monitoring and evaluation of the impact of the national minimum wage on the economy and the reduction of income differentials.

Funds of Commission

14. The funds of the Commission consist of money appropriated by Parliament and which are subject to audit by the Auditor-General in terms of section 188 of the Constitution.

CHAPTER 4

GENERAL

Exemptions

15. (1) An employer or an employers' organisation registered in terms of section 96 of the Labour Relations Act, or any other law, acting on behalf of its members, may, in the prescribed form and manner, apply for an exemption from paying the national minimum wage.

(2) An exemption granted in terms of this section—

- (a) must specify the period for which it is granted, which may not be longer than one year;
- (b) must specify the wage that the employer is required to pay workers; and
- (c) may contain any other relevant condition.

(3) The Minister may delegate or assign powers or duties arising out of the application of this section, excluding the power to make regulations, in accordance with the provisions of section 85 of the Basic Conditions of Employment Act.

Regulations

16. (1) The Minister may, after consulting NEDLAC and where appropriate after consulting the Commission, make regulations relating to—
- (a) the form and manner in which exemptions must be made in terms of section 15(1), which include—
- (i) the procedure for applying for an exemption;
 - (ii) the information to be submitted with an exemption application;
 - (iii) the obligations on employers to consult with employees or trade unions concerning an exemption application;
 - (iv) the criteria that must be applied when evaluating exemption applications;
 - (v) the period within which an application must be made; and
 - (vi) the period within which a decision on an exemption application must be made; and
- (b) any other matter that must or may be prescribed in terms of this Act or which the Minister considers necessary or expedient to be prescribed in order to achieve the primary objects of this Act.

(2) The Minister must publish the draft of any regulations that the Minister proposes to publish in terms of this Act in the *Gazette* and allow interested parties at least 30 days to comment in writing on the draft regulations.

(3) If the Minister alters the draft regulations based on the comments received from interested parties, it shall not be necessary to publish those alterations before making the final regulations.

Short title and commencement

17. (1) This Act is called the National Minimum Wage Act, 2017.
- (2) Subject to subsections (3) and (4), the Act comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.
- (3) Schedule 1 comes into effect on 1 May 2018.
- (4) Section 4(6) takes retrospective effect from 1 May 2017.

SCHEDULE 1
NATIONAL MINIMUM WAGE
(Section 6(6))

1. Subject to item 2, the national minimum wage is R20 for each ordinary hour worked.

2. Despite item 1—

- (a) farm workers are entitled to a minimum wage of R18 per hour from 1 May 2018;
- (b) domestic workers are entitled to a minimum wage of R15 per hour from 1 May 2018;
- (c) workers employed on an expanded public works programme are entitled to a minimum wage of R11 per hour from 1 May 2018;
- (d) workers who have concluded learnership agreements contemplated in section 17 of the Skills Development Act, 1998 (Act No. 97 of 1998), are entitled to the allowances contained in Schedule 2.

3. For the purposes of item 2—

"farm worker" means a worker who is employed mainly or wholly in connection with farming or forestry activities, and includes a domestic worker employed in a home on a farm or forestry environment and a security guard on a farm or other agricultural premises, excluding a security guard employed in the private security industry in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

"domestic worker" means a worker who performs domestic work in a private household and who receives, or is entitled to receive, a wage and includes—

- (a) a gardener;
- (b) a person employed by a household as a driver of a motor vehicle;
- (c) a person who takes care of children, the aged, the sick, the frail or the disabled; and
- (d) domestic workers employed or supplied by employment services; and

"expanded public works programme" means a programme to provide public or community services through a labour intensive programme determined by the Minister in terms of section 50 of the Basic Conditions of Employment Act and funded from public resources.

SCHEDULE 2
LEARNERSHIP ALLOWANCES
(Section 6(6))

1. For the purposes of this Schedule—

"allowance" means the amount of money paid or payable to a learner in terms of regulation 3 of the Sectoral Determination 5: Learnership made under the Basic Conditions of Employment Act, published in Government Notice 519 of 15 June 2001 as amended by Government Notice R.234 of 15 March 2011;

"credit" means a credit earned as defined in the Regulations made under the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), Government Notice R.452, published in Government Gazette 18787 of 28 March 1998;

"learner"—

(a) means a learner who has concluded a learnership agreement in terms of section 17 of Skills Development Act, 1998 (Act 97 of 1998); and

(b) includes an apprentice;

"NQF level" means a level on the national qualifications framework contemplated in the National Qualifications Framework Act, 2008 (Act no. 67 of 2008)

2. The learnership allowances are as follows:

NQF level	Credits already earned by learner	Minimum allowance per week
Levels 1 to 2	0-120	R 301.01
	121-240	R 601.99
Level 3	0-120	R 301.01
	121-240	R566.93
	241-360	R 928.11
Level 4	0-120	R 301.01
	121-240	R 602.05
	241-360	R 928.11

	361-480	R 1354.51
Levels 5 to 8	0-120	R 301.01
	121-240	R 652.15
	241-360	R 975.75
	361-480	R 1374.61
	481-600	R 1755.84

MEMORANDUM ON THE OBJECTS OF THE NATIONAL MINIMUM WAGE BILL, 2017

1. BACKGROUND

1.1 Section 7(2) of the Constitution of the Republic of South Africa, 1996 ("the Constitution") imposes an obligation on the State to respect, protect, promote and fulfil the rights in the Bill of Rights, which include the right to fair labour practices. In this respect, the proposed National Minimum Wage Bill, 2017 ("the Bill"), seeks to provide for a national minimum wage and establish the National Minimum Wage Commission ("the Commission"), which will mainly implement the provisions relating to the national minimum wage.

1.2 The South African labour market is characterised by high levels of inequality, unemployment and poverty. One of the measures to reduce these levels is a national minimum wage.

1.3 Such a measure respects and promotes the right to dignity and fair labour practices.

1.4 To this end, the business, labour, community and government representatives at the National Economic, Development and Labour Council ("NEDLAC") commissioned a task force to investigate and make recommendations on a national minimum wage and a legislative mechanism for the annual adjustment of the national minimum wage.

1.5 On the basis of the report from this task force, NEDLAC engaged in an extensive process of consultation resulting in agreement in respect of the national minimum wage and the mechanism for annual adjustment. The resulting agreement constituted the basis for the drafting of this Bill, in order to enact the envisaged National Minimum Wage Act, 2017 ("the Act").

2. OBJECT OF BILL

The main object of the Bill is to provide for a national minimum wage in order to advance economic development and social justice by improving the wages of lowest paid workers, protecting workers from unreasonably low wages and promoting collective bargaining and supporting economic policy.

3. CLAUSE-BY- CLAUSE ANALYSIS

3.1 Clause 1

Clause 1 of the Bill provides for the definitions which will assist in the interpretation of the Bill.

3.2 Clause 2

Clause 2 of the Bill provides for the purpose of the Act which is to advance economic development and social justice by improving the wages of lowest paid workers, protecting workers from unreasonably low wages, promoting collective bargaining and supporting economic policy.

3.3 **Clause 3**

Clause 3 outlines the application of the Act, which applies to all workers and their employers except members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service.

3.4 **Clause 4**

3.4.1 Clause 4 of the Bill specifies the national minimum wage that was agreed to at NEDLAC, and set out in Schedule 1 to the Bill. In terms of Schedule 1 to the Bill the national minimum wage is R20 for each ordinary hour worked, and is due to come into force on 1 May 2018. The reason for placing it in a Schedule is that it is to be adjusted on an annual basis.

3.4.2 In terms of clause 4 every worker is entitled to at least the national minimum wage. An employer may not pay wages that are below the national minimum wage and the national minimum wage cannot be varied by contract, collective agreement or law, except a law amending the Act.

3.4.3 The national minimum wage constitutes a term of the worker's contract except to the extent that the contract provides for a more favourable wage.

3.4.4 In terms of the Bill it is an unfair labour practice for an employer to unilaterally alter hours of work or other conditions of employment in implementing the national minimum wage.

3.5 **Clause 5**

Clause 5 of the Bill provides for the calculation of the national minimum wage. The national minimum wage is the amount payable for the ordinary hours of work. This means that a worker is entitled to receive the minimum wage for the number of hours that the worker works in a day. This does not include the payment of allowances such as transport, tool, food or accommodation allowances, payments in kind (board or lodging), tips, bonuses and gifts. Provision is also made for the exclusion of other forms of payment by regulation.

3.6 **Clause 6**

3.6.1 Clause 6 of the Bill provides for the annual review and adjustment of the national minimum wage by the Commission, which must annually review the existing national minimum wage, and make recommendations to the Minister. The Commission must prepare a report with recommendations for the Minister by 31 October of each year, and if the Minister does not agree with the recommendations of the Commission the Minister may refer it back to the Commission to reconsider.

3.6.2 By 31 March of each year, the Minister must determine the adjustment and publish the amended Schedule in the *Government Gazette*.

3.7 **Clause 7**

In terms of clause 7 of the Bill the Commission must conduct an annual review of the national minimum wage by promoting medium term targets, alleviation of poverty, the reduction of wage inequality, and in this regard take into account factors such as

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inflation, cost of living and the need to retain the value of the national minimum wage.

3.8 Clauses 8, 9 and 10

3.8.1 Clauses 8, 9 and 10 of the Bill provide for the establishment, the composition and appointment of members of the Commission. According to clause 9, the Commission consists of—

- an independent chairperson appointed by the Minister;
- three members nominated by organised business;
- three members nominated by organised community;
- three members nominated by organised labour; and
- four independent experts appointed by the Minister.

3.8.2 In terms of clause 10, the members of the Commission are appointed by the Minister from members nominated by organised business, organised labour and the organised community, in other words through nomination by these three constituencies as they are constituted in NEDLAC. The Minister also appoints the chairperson and four independent experts after consultation with NEDLAC.

3.9 Clause 11

Clause 11 of the Bill provides for the functions of the Commission, which are to review the national minimum wage and to make recommendations annually for its adjustment. The Commission has ancillary functions such as investigating the impact

of the national minimum wage on the economy, collective bargaining and income differentials. (Read with the amendments to the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), the Commission will take over many of the functions of the repealed Employment Standards Commission).

3.10 **Clause 12**

Clause 12 of the Bill provides that the Commission must determine its own rules in respect of the conduct of its meeting.

3.11 **Clause 13**

Clause 13 of the Bill provides for a secretariat of the Commission, which will support the Commission with the responsibility of administering the Commission, procurement of research and also monitor the impact and evaluation of the national minimum wage on the economy and income differentials.

3.12 **Clause 14**

Clause 14 of the Bill provides for the funds of the Commission which must consist of money appropriated by Parliament and such money is subject to audit by the Auditor-General in terms of section 188 of the Constitution.

3.13 **Clause 15**

Clause 15 of the Bill empowers the Minister, on application by any relevant employer, to grant exemptions from the national minimum wage, and provides that the applications must be made in the prescribed form and manner.

3.14 **Clause 16**

3.14.1 Clause 16 of the Bill empowers the Minister to make regulations on the form and manner in which exemptions must be in terms of clause 15, including—

- the procedure for applying for an exemption;
- the information to be submitted with an exemption application;
- the obligations on employers to consult with employees or trade unions concerning an exemption application;
- the criteria that must be applied when evaluating exemption applications;
- the period within which an application must be made; and
- the period within which a decision on an exemption must be made.

3.14.2 Clause 16 of the Bill also gives the Minister the power to make regulations on any matter required or necessary to be prescribed. It sets out a standard publication and comment procedure in respect of interested parties.

3.15 **Clause 17**

Clause 17 provides for the short title and commencement of the various provisions of the Bill.

3.16 Schedules 1 and 2

3.16.1 Schedule 1 to the Bill provides that the national minimum wage will be R20 for each ordinary hour worked. Schedule 1 also provides for temporary exceptions to the national minimum wage for the first year, which is 1 May 2018, as follows:

- the minimum wage for farm workers will be R18 per hour;
- the minimum wage for domestic workers will be R15 per hour; and
- the minimum wage for workers in expanded public works programme will be R11 per hour.

3.16.2 Schedule 2 specifies the learnership allowances in respect of workers who conclude learnership agreements in terms of the Skills Development Act, 1998 (Act No.97 of 1998).

4. DEPARTMENTS/BODIES/PERSONS CONSULTED

The Departments of Economic Development, Small Business Development, Trade and Industry and the National Treasury were consulted on a regular basis during the process of engagement in the National Economic Development and Labour Advisory Council on the National Minimum Wage Bill. .

Organised business, organised labour and the organised community sector were consulted during the engagement in the National Economic Development and Labour Advisory Council.

5. FINANCIAL IMPLICATIONS

The National Minimum Wage Bill will require the Department of Labour to establish a Secretariat to support the work of the National Minimum Wage Commission.

Provision has been made within the Medium Term Expenditure Framework for this cost.

6. PARLIAMENTARY PROCEDURE

6.1 The Constitution prescribes procedure for the classification of Bills, therefore a Bill must be correctly classified so that it does not become inconsistent with the Constitution.

6.2 The Office of the Chief State Law Adviser considered the Bill against the provisions of the Constitution relating to the tagging of Bills and against the functional areas listed in Schedule 4 (functional areas of concurrent national and provincial legislative competence) and Schedule 5 (functional areas of exclusive provincial legislative competence) to the Constitution.

6.3 The established test for classification of a Bill is that any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4 to the Constitution must be classified in terms of that Schedule. The process is concerned with the question of how the Bill should be considered by the provinces and in the National Council of Provinces. Furthermore, how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. The more the Bill

affects the interests, concerns and capacities of the provinces, the more say the provinces should have on the contents of the Bill.

6.4 The issue to be determined is whether the proposed amendments to the Act, as contained in the Bill, in substantial measure, fall within a functional area listed in Schedule 4 to the Constitution.

6.5 The Bill seeks to provide for a national minimum wage, to establish the Commission (and its composition and functions) in order to advance economic development and social justice by improving the wages of lowest paid workers, protecting workers from unreasonably low wages, promoting collective bargaining and supporting economic policy. The functions of the Commission, amongst others, are to review the national minimum wage and to make recommendations annually for its adjustment. The Commission may also investigate the impact of the national minimum wage on the economy, collective bargaining and income differentials.

6.6 The Bill provides for the annual review and adjustment of the national minimum wage by the Commission and the final determination thereof by the Minister. The Commission has to take a number of factors into consideration in conducting its review of the national minimum wage and its recommended adjustment. These factors include the increase in inflation, the cost of living, wage levels, wage differentials, productivity, the ability of businesses to carry on successfully, the impact on small businesses and employment.

6.7 The Bill empowers the Minister, on application by any relevant employer, to grant exemptions from the national minimum wage, the exercise of which is to be regulated by regulations.

6.8 The Bill gives the Minister the power to make regulations regarding the procedure for exemption, the obligation on employer to consult with employees or their trade unions and the criteria for evaluating exemptions. The Minister may also make regulations and any matter required or necessary to be prescribed. It sets out a standard publication and comment procedure in respect of interested parties.

6.9 Schedule 1 of the Bill provides for the national minimum wage of R20 for each ordinary hour worked and also provides for temporary exceptions to the national minimum wage for the first year, from 1 May 2018 i.e the national minimum wage for farm workers will be R18 per hour, the national minimum wage for domestic workers will be R16 per hour and R11 per hour for workers in expanded public works programmes.

6.10 The provisions of the Bill as reflected above have been carefully examined to establish whether, in substantial measure, they fall within any of the functional areas listed in Schedule 4 to the Constitution.

6.11 In the view of the Office of the Chief State Law Adviser, the subject matter of the provisions of the Bill do not fall within any of the functional areas listed in Schedule 4 to the Constitution and it does not affect provinces whereby the procedure set out in section 76 of the Constitution would be applicable.

6.12 The Office of the Chief State Law Adviser is therefore of the opinion that since this Bill does not deal with any of the matters listed in Schedule 4 of the Constitution, it must be dealt with in accordance with the procedure set out in section 75 of the Constitution.

6.13 The Office of the Chief State Law Adviser is also of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.



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REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS) FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

NATIONAL MINIMUM WAGE BILL, 2017

DEPARTMENT OF LABOUR

The Final Impact Assessment: Department of Labour. National Minimum Wage Bill.

The Final Impact Assessment provides a detailed assessment of the new Minimum Wage Bill. The Bill arises from a two year engagement process between government, organised business and organised labour in the National Economic Development and Labour Advisory Council (NEDLAC) to address the challenges of labour market stability and wage inequality as posed by the President in his State of the Nation Address in June 2014.

1. The problem Statement/ Theory of Change

1.1. Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

a) Summary of the proposal (Summary Background of the proposed policy/bill/ regulations/ other):

Background

The South African labour market demonstrates a strong link between low wage levels, high unemployment, a large number of people living in poverty and the high level of inequality that characterises the country. Of a population of 55.9 million people, 29.7 million live below the poverty line, or 51 per cent of South African's live on less than R1036.07 per month in 2016.¹ A key reason for widespread poverty is lack of access to employment. Only 36 per cent of the poorest households have access to employment opportunities and those that do have jobs in many cases earn low wages that provide insufficient household income to support dependants. Over half of South Africa's workforce earn below R3700 per month.²

In addition to widespread poverty and low wages, South Africa is known to be "among the top three most unequal countries in the world. The World Bank estimates our Gini coefficient to be between 0.66 to 0.70, where the richest 10 per

¹ National Minimum Wage Panel Report. A National Minimum Wage for South Africa. Recommendations on Policy and Implementation. 2017, page 7. The NMW Panel Report uses the Upper Bound Poverty Line.

² Ibid.

cent of the population accounts for 58 per cent of the country's income, while the poorest 10 per cent accounts for 0.5 per cent of income.”³

These features of low levels of income, high unemployment and poverty and high levels of inequality are found in an economy experiencing very low growth, with a growth forecast for 2017 of less than 1 per cent. While income from wages is the main source of ensuring a sustainable livelihood for workers it is also a key factor in competitiveness and sustainability of enterprises in the private sector the sustainability of enterprises in the public sector and for raising state revenue.

Against this background, government, organised business, labour and the community constituencies of the National Economic Development and Labour Advisory Council (NEDLAC) resolved to engage on the modalities of introducing a national minimum wage in South Africa and to explore ways of reducing pay differentials while maximising job creation efforts. This resolution was captured in the Ekurhuleni Declaration of 4th November 2014. A Technical Task was established and met at NEDLAC during 2015 and 2016. In June 2016, the Deputy President, with the support of a Committee of Principals at NEDLAC, decided to establish an Advisory Panel to, inter alia, recommend a meaningful level for the first national minimum wage. The Advisory Panel tabled its report in November 2016 and in February 2017, an agreement was reached on the introduction of a national minimum wage of R20 per hour to be implemented not later than 1 May 2018.

The agreement between the social partners provided the basis for the drafting of the National Minimum Wage Bill, 2017 which is summarised below.

³ Ibid.

Summary of proposal

The **National Minimum wage Bill** deals with the following areas:

i. The National Minimum Wage from 1 May 2018

The agreed national minimum wage is R20 per hour that is to come into effect on or before 1 May 2018. The farming and domestic sectors are given a period of time to reach the level of the national minimum wage with the following minima applying from 1 May 2018:

- The minimum for farm workers will be 90 per cent of R20 per hour (R18 per hour);
- The minimum for domestic workers will be 75 per cent of R20 per hour (R15 per hour).

ii. Nature of a national minimum wage

The national minimum wage forms the minimum floor for wages. This will mean that:

- Every workers is entitled to at least the minimum wage;
- Every employer may not pay wages that are below the minimum wage;
- The national minimum wage cannot be varied by contract, collective agreement or law;
- The national minimum wage constitutes a term of an employee's contract except to the extent that the contract provides for a more favourable wage;
- It is an unfair labour practice for an employer to unilaterally alter hours of work or other conditions of employment in implementing the national minimum wage.

iii. Calculation of the national minimum wage

The national minimum wage is the amount payable for the ordinary hours of work. This means that an employee is entitled to receive the minimum wage for the number of hours that the worker works in a day.

The Bill makes provision for a guaranteed minimum number of hours, namely four hours which must be paid even if an employee should work less than four hours.

The minimum wage does not include the payment of allowances (such as transport, tool, food or accommodation allowances).

iv. Annual review of the national minimum wage

The national minimum wage must be reviewed annually by the National Minimum Wage Commission.

The Commission must review the existing national minimum wage, taking into account a number of factors that are identified in the Act, such as; employment, inflation, wage levels and collective bargaining outcomes, etc.

v. National Minimum Wage Commission

The Bill provides for the establishment, functions and composition of the Commission which will take over many of the functions of the repealed Employment Conditions Commission.

The primary function of the Commission is to review the national minimum wage and to make recommendations annually for its adjustment. It has additional functions such as investigating the impact of the national minimum wage on the economy, collective bargaining and income differentials.

The Commission is appointed by the Minister of Labour from members nominated by organized business, labour and the community constituencies at NEDLAC. The Minister appoints an independent chairperson and four independent experts after consultation with NEDLAC.

vi. General Provisions

The National Minimum Wage Bill provides for the Minister of Labour to grant exemptions from the national minimum wage. The exemptions process is to be dealt with by way of regulations.

b) Problem/s and root causes that the proposal is trying to address

Identified Problem	Root causes
Low levels of income.	Historical legacy of low pay for less skilled work in South Africa.
Exclusion of vulnerable workers from minimum wage regulation.	Sector based approach to minimum wage regulation not covering all employees and collective bargaining arrangements also not comprehensive in their coverage.
Fragmented and complex system of minimum wage regulation through Sectoral Determinations.	Sector based system of minimum wage regulation, some with a number of minimum wages for different categories of employee.
Low levels of compliance with minimum wages.	Lack of knowledge, lack of willingness and, in certain cases, an inability to pay prescribed minimum wages.

1.2. Describe the intended outcomes of the proposal

At a strategic level, the overall intended outcome of the proposal is to reduce poverty and improve income from employment. With the envisaged simpler national minimum wage it is also intended that compliance will be improved.

In addition, it is intended that collective bargaining will be strengthened, particularly in sectors where there are vulnerable workers, for example, in private security.

1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required.

Groups that will benefit	How will they benefit?
Workers	The proposed national minimum wage is intended to have a positive effect on the earnings of all those who earn below R20 per hour. The estimated group of employee beneficiaries is in the region of 5 million employees.

Trade Unions	The positive effect of the national minimum wage for employees will be to the benefit of trade unions in that it is consistent with the aims of trade unions to improve the earnings of vulnerable workers.
Employers and employers' associations	Employers and employer associations will benefit from the likely increase in demand brought about through the national minimum wage.

Groups that will bear the cost or lose	How will they incur the costs or lose?
Employers and their associations	Those employers who pay below the proposed national minimum wage of R20 per hour will face an increase in their payroll cost. Some small employers may also carry a cost of increasing wages.
Employees	Loss of employment. The impact of a NMW are difficult to predict and will most likely vary by sector and by firm (see NMW Panel Report, pages 66-68). Research on the impact of minimum wages in sectoral determinations in South Africa has found that adjustments have not had significantly negative disemployment effects, with the exception of agriculture.

- 1.4.** Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Department of Labour	Minimum wage regulation by the Employment Conditions Commission	Establishment of National Minimum Wage Commission

Groups outside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Employers and Employer associations	Payment of wages below legislated minimum wage.	National Minimum Wage Bill and amendments to Basic Conditions of Employment Act that deal with enforcement.

- 1.5.** Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

Consultation took place during 2015-2016 under the auspices of NEDLAC and via a Committee of Principals chaired by the Deputy President. Government was represented in the Committee of Principals by the Ministers of Labour, Finance, Economic Development, Trade and Industry and Small Business. The NEDLAC consultations were facilitated by a Senior Commissioner of the CCMA who provided regular reports to the Committee of Principals on the work of the task team. These reports recorded areas of agreement and disagreement between the constituencies represented in the task team. In April 2016, the Task Team on Wage Inequality deadlocked over the proposed level at which that national minimum wage should be set. The Committee of Principals agreed to the establishment of an Advisory Panel which was tasked with interrogating the

research that had been carried out and to recommend a meaningful level or range for the first national minimum wage. The Advisory Panel was established by the Deputy President and submitted its report in August 2016. The process culminated in the adoption of a Declaration on Wage Inequality and Labour Market Stability and an Agreement on the Introduction of a National Minimum Wage in February 2017. Since the February agreement, the Department of Labour submitted a draft National Minimum Wage Bill and amendments to the Basic Conditions of Employment Act to NEDLAC for consideration. A task team was established and has deliberated all aspects of the NMW Bill.

A meeting of the Committee of Principals that took place on 12 September 2017 arrived at a final agreement on the National Minimum Wage Bill. The following summarises the agreement reached on final areas that were in dispute prior to the Committee of Principals meeting.

Table on consultations:

Affected Stakeholders	What do they see as main <u>benefits, costs and risks</u> ?	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
1. Government Departments and Agencies (Name them)	The main benefit will be a positive impact on poverty and inequality. Secondary benefits could be improved compliance arising from a simpler wage regulation system. Costs will relate to implementation and are detailed below. The main risk is that of non-compliance.	Support.	As per final NMW Bill. DPW have indicated support for setting the EPWP's as a percentage of the NMW.	Final Bill makes provision for R11 per hour as the pay in the EPWP's.

2. Business- Business Unity South Africa, Black Business Council.	Improving the wages of lowest paid workers the main benefit. Costs will accrue to employers paying below the NMW.	Support.	Minimum hours should remain at 4 hours. Threshold for application of minimum hours should be set at R40 per hour. Definition of employee should be retained.	Minimum hours will remain at 4 hours and will be reviewed in three years. Threshold to be set in range of R40 to R60. Worker used in place of employee.
3. Organised Labour- COSATU, NACTU, FEDUSA.	Improving wages, reducing income inequality and increasing standard of living.	Support. Comfortable with 5 hours as minimum hours of work. Want annual adjustment to NMW and medium-term target. Want EPWP covered by NMW via a tier if necessary.	5 hours as guaranteed minimum hours. Annual adjustment to NMW and establishment of medium-term target. EPWP to be covered by NMW that could be via a tiered arrangement.	Minimum hours set at 4 hours. Provision in bill for annual adjustment to retain value of the minimum wage. Reviews of the minimum wage will include the setting to medium-term targets. EPWP covered by national minimum wage at 55% tier and Minister of Public Works to consider an increase to R12 per hour for the EPWP's.
4. Civil Society- Community constituency as represented at NEDLAC.	Improving wages, reducing income inequality and increasing standard of living.	Support.	Same as Labour.	As above.

1.6. Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

The NMW Bill makes provision for an exemption process, but disputes over implementation are to be dealt with by the CCMA in terms of amendments to the BCEA.

2. Impact Assessment

2.1. Describe the costs and benefits of implementing the proposal to the groups identified in point 1.5 above, using the following chart. Add more rows if required

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
Trade Unions	N/A	N/A	Benefits will accrue to union members who stand to increase their earnings.	
Employers and Employers' association	Employers paying below the minimum of R20 per hour will have an increase in payroll costs once the NMW is implemented.	The actual cost will be determined by the current level of earnings and the number of employees eligible for increases.	Some firms will face an increase in payroll costs. Benefits could accrue from productivity gains associated with increased earnings and growth in household expenditure. Estimates of labour productivity increases under different NMW scenarios project a positive impact of between 0.7 and 3.8 percent and growth in household expenditure is projected to be between 0.3 and 2.1 percentage points. ⁴	Additional costs could result from retrenchments that are as a result of the implementation of the NMW.

⁴ A Adelzadeh & C Alvillar, The impact of the national minimum wage on the South African economy. ADRS & National Minimum Wage Research Initiative, University of Witwatersrand, Working Paper Series no.2, page 46 and 37. 2016.

			Potential job losses by sector and under different elasticity and minimum wage assumptions and have been estimated at between 204 977 to 897 068. ⁵	
Government	R11.1m in 2018/19 for establishment of NMW Commission.	Inspectorate will be trained on NMW and will be required to enforce compliance.	Recurring costs will be associated with the establishment of a NMW Commission but process of regulating minimum wage should give rise to benefits associated with improved compliance. Estimates of the impact of a NMW on GDP vary from positive growth of 0.1 percent (minimal scenario) to a negative impact of -2.1 percent. ⁶	
CCMA	Estimated at R20.8m for training activity, advocacy and increase in case load.	Estimated at R20.8m for training activity, advocacy and increase in case load.	Costs will be associated with training, advocacy and case load increase. Benefits will derive from enhanced capacity to deal with new areas of dispute resolution and support.	Cost estimates for the CCMA have been used to request additional funding for the entity.

2.2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

Seven new posts are envisaged to staff the Secretariat of the NMW Commission. Additional posts are likely to be transferred from the existing Employment Standards Directorate in the Department of Labour. The budget allocated in the Medium Term Expenditure Framework (MTEF) process is R10.3 million for the 2017/18 financial year and 11.1 million for the 2018/19 financial year.

⁵ Development Policy Research Unit & Centre for Social Development in Africa, Investigating the feasibility of a national minimum wage for South Africa. University of Cape Town & University of Johannesburg, 2016, page 77.

⁶ Positive GDP impact is taken from Adelzadeh & Alvillar, *ibid.* and the negative impact from C.Macleod, Measuring the impact of a national minimum wage. National Treasury, 2015.

The CCMA has submitted a request for additional funding in the amount of R20.8million for implementation activities associated with the NMW and BCEA. This proposal does not include additional personnel for the entity, but would result in additional usage of the existing cohort of full-time and part-time commissioners.

2.3. Describe how the proposal minimises implementation and compliance costs:

The introduction of a National Minimum Wage Commission (NMWC) is proposed as a relatively small unit to be established as part of the budget of the Department of Labour. The NMWC is envisaged as being independent in its operations and in having control of its budget, but it is envisaged that it will operate from within the Department thus minimising costs of equipment, offices and related costs.

The cost of compliance will rest with employers whose employees are currently earning below R20 per hour. The real cost of adjusting employee payroll after the implementation of the NMW is very difficult to estimate in advance with any accuracy.

3. Managing Risk

3.1. Describe the main risks to the achievement of the desired ends of the policy/bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
Non-compliance with national minimum wage.	Training and publicity campaigns.
Job losses associated with increases in hourly pay.	Effective exemption process that is accessible and quick. The exemption process is to be dealt with by regulation but it is envisaged that it will be based on an IT enabled exemption system

	supported by staff in the NMW Commission. A 30 day turnaround is anticipated to be a target for all exemptions.
Low levels of enforcement and compliance	Transitional provisions could also make provision for a phase-in period for vulnerable sectors if agreed by the social partners.
Dissatisfaction and protest action by workers in the public works programmes	Training of the inspectorate and publicity campaigns combined with more effective dispute resolution measures contained in the BCEA amendments. Engagement around the comprehensive social security programme at NEDLAC and consideration of a higher minimum wage for public works programmes by government.

3.2. Describe the mechanisms included in your proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

The National Minimum Wage Bill makes provision for a Secretariat whose functions include monitoring and evaluation of the impact of the national minimum wage on the economy. The NMW Commission is expected to meet on a regular basis to, inter alia, receive reports on the effects and the impact of a national minimum wage and to review it on an annual basis taking account of a number of factors and indicators. The Bill indicates that the Commission must consider the following:

- i. Inflation, the cost of living and the need to retain the value of the minimum wage;
- ii. Wage levels and collective bargaining outcomes;
- iii. The alleviation of poverty;
- iv. Wage differential and inequality;
- v. Gross domestic product;

- vi. Productivity;
- vii. Ability of employers to carry on their businesses successfully;
- viii. The operation of small, medium or micro-enterprises and new enterprises;
- ix. The likely impact of the recommended adjustment on employment or the creation of employment.

4. Summary

4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	Improved standard of living .
2. Security (Safety, Financial, Food, Energy and etc.)	Enhanced food security for those workers that benefit from the national minimum wage.
3. Economic Growth	Both positive and negative impact on GDP indicated by separate modelling exercises. The real impact will have to be determined after implementation.
4. Economic Inclusion (Job Creation and Equality)	Greater equality in earnings for lower income workers expected through the raising of the minimum wage.
5. Environmental Sustainability	N/A

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Workers	Employers
Employers and their associations	
Government	Government

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of

financing) as well as amendments to the draft itself, if appropriate. Add more bullets if required.

A well-publicised and well-coordinated implementation of the national minimum wage in 2018 should mitigate risks by creating advance awareness, giving certainty and managing expectations. Such steps should also serve to maximise the benefit of the national minimum wage by ensuring maximum compliance by employers.

An effective, information technology enabled, exemption system is being planned which should also assist in mitigating risks for those who face significant increases in payroll cost and associated pressure on their business.

Training of inspectors and CCMA commissioners will also be important to ensure that enforcement and dispute resolution is optimised after implementation of the national minimum wage.

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/bill/regulations/other:

Strategies used for implementation of a national minimum wage in other countries could inform the South African experience if these could be made available in the next few months.

For the purpose of building SEIAS body of knowledge please complete the following:

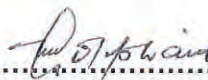
Name of Official/s	Ian Macun
Designation	Director: Collective Bargaining
Unit	Labour Relations
Contact Details	012-3094634; 0829082861
Email address	ian.macun@labour.gov.za

NO. R. 1276

17 NOVEMBER 2017

UMNYANGO WEZABASEBENZI**UMTHETHOSIVIVINYWA OCHIBIYELA UMTHETHO WOBUDLELWANO
KWEZABASEBENZI, 2017****UMTHETHOSIVIVINYWA OCHIBIYELA UMTHETHO WOKUQASHA
NGOKULINGANA, 2017****UMTHETHOSIVIVINYWA WE NATIONAL MINIMUM WAGE, 2017**

1. Mina, NELISIWE MILDRED OLIPHANT, Ungqongqoshe wezabaseSebenzi lapha ngazisa ngezichibiyelo ezihlongozwayo eMthethweni Wobudlelwano KwezemiSebenzi, 1995, uMthetho Wezimiso Eziyisisekelo Emsebenzini, 1997, uMthetho we National Minimum Wage, 2017, ukuze abantu bonke babe nolwazi futhi babeke imiqondo yabo.
2. Ngazisa futhi nge Socio-Economic Impact Assessments (SEIAS) mayelana nemithethozivivinywa ukuze wonke umuntu abe nolwazi ngayo.
3. Ukulethwa kwezikhalo:
 - a. Bonke labo abathintekayo bamenywa ukuba balethe amazwi okubeka imiqondo abhaliwe ngalemithethosivivinywa ehlongozwayo.
 - b. Lawo mazwi okubeka imiqondo kufanele athunyelwe ngeposi kuMnumzane Thembinkosi Mkalipi, Umnyango WezabaSebenzi, Isikhwama Seposi X 117, Pretoria, noma bathumele ngefekisi ku (012) 309-4156 noma bathumele nge imeyili ku Thembinkosi.Mkalipi@labour.gov.za noma ku ian.macun@labour.gov.za
 - c. Amazwi okubeka imiqondo kufanele afike eMnyangweni WezabaSebenzi ungakadluli umhlaka **30 kuLwezi 2017.**


.....
M N OLIPHANT, MP
UNGQONGQOSHE WEZABASEBENZI
DATE: 02/11/2017

DEPARTMENT OF LABOUR

NO. R. 1277

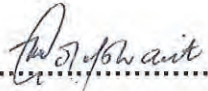
17 NOVEMBER 2017

LABOUR RELATIONS AMENDMENT BILL, 2017

BASIC CONDITIONS OF EMPLOYMENT AMENDMENT BILL, 2017

NATIONAL MINIMUM WAGE BILL, 2017

1. I, NELISIWE MILDRED OLIPHANT, Minister of Labour, hereby publish proposed amendments to the Labour Relations Act, 1995, the Basic Conditions of Employment Act, 1997 and hereby also publish the proposed National Minimum Wage Bill, 2017, for general information and comment.
2. I am also publishing the Socio-Economic Impact Assessments (SEIAS) for the three Bills for information purposes
3. Submission of representations:
 - a. All interested parties are invited to submit written comments on the draft bills.
 - b. Such comments should be addressed to: Mr. Thembinkosi Mkalipi, Department of Labour, Private Bag X 117, Pretoria, 0001, or faxed to (012) 309-4156 or e-mailed to Thembinkosi.Mkalipi@labour.gov.za or ian.macun@labour.gov.za.
 - c. Comments should reach the Department of Labour not later than **30 November 2017.**


.....
M N OLIPHANT, MP
MINISTER OF LABOR
DATE: 02/11/2017

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1278

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/2A/159)

In terms of section 48 of the Customs and Excise Act, 1964, Part 2A of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the deletion of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
106.20.05	3824.71.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.07	3824.71.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.09	3824.72.05	Containing acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (excluding those containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	500c/kg
106.20.11	3824.72.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.13	3824.72.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.15	3824.73.05	Containing acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (excluding those containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	500c/kg
106.20.17	3824.73.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.19	3824.73.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.21	3824.74.05	Containing acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (excluding those containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	500c/kg
106.20.23	3824.74.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.25	3824.74.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.27	3824.77.05	Containing acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (excluding those containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	500c/kg
106.20.29	3824.77.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.31	3824.77.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.33	3824.79.05	Containing acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (excluding those containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	500c/kg
106.20.35	3824.79.20	Containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.37	3824.79.30	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg

By the insertion of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
106.20.04	3824.71.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.05	3824.71.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.06	3824.71.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.07	3824.71.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg
106.20.08	3824.71.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.09	3824.71.17	Containing chlorodifluoromethane, Iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.10	3824.71.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.11	3824.71.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg
106.20.12	3824.71.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.13	3824.71.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.14	3824.71.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.15	3824.71.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.16	3824.71.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.17	3824.72.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.18	3824.72.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.19	3824.72.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.20	3824.72.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg
106.20.21	3824.72.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.22	3824.72.17	Containing chlorodifluoromethane, Iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.23	3824.72.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.24	3824.72.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg
106.20.25	3824.72.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.26	3824.72.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.27	3824.72.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.28	3824.72.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.29	3824.72.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.30	3824.73.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.31	3824.73.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.32	3824.73.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.33	3824.73.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg

By the insertion of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
106.20.34	3824.73.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.35	3824.73.17	Containing chlorodifluoromethane, iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.36	3824.73.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.37	3824.73.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg
106.20.38	3824.73.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.39	3824.73.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.40	3824.73.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.42	3824.73.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.43	3824.73.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.44	3824.74.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.45	3824.74.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.46	3824.74.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.47	3824.74.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg
106.20.48	3824.74.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.49	3824.74.17	Containing chlorodifluoromethane, iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.50	3824.74.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.51	3824.74.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg
106.20.52	3824.74.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.53	3824.74.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.54	3824.74.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.55	3824.74.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.56	3824.74.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.57	3824.77.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.58	3824.77.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.59	3824.77.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.60	3824.77.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg
106.20.61	3824.77.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.62	3824.77.17	Containing chlorodifluoromethane, iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.63	3824.77.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.64	3824.77.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg

By the insertion of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
106.20.65	3824.77.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.66	3824.77.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.67	3824.77.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.69	3824.77.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.70	3824.77.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg
106.20.71	3824.79.07	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	500c/kg
106.20.72	3824.79.09	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	500c/kg
106.20.73	3824.79.11	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	500c/kg
106.20.74	3824.79.13	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	500c/kg
106.20.75	3824.79.15	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	500c/kg
106.20.76	3824.79.17	Containing chlorodifluoromethane, iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	500c/kg
106.20.77	3824.79.19	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	500c/kg
106.20.78	3824.79.21	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	500c/kg
106.20.79	3824.79.23	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	500c/kg
106.20.80	3824.79.25	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	500c/kg
106.20.81	3824.79.27	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	500c/kg
106.20.83	3824.79.32	Containing 1,1,1-trifluoroethane, pentafluoroethane and 1,1,1,2-tetrafluoroethane (R-404A)	500c/kg
106.20.84	3824.79.34	Containing difluoromethane, pentafluoroethane and 1,1,1,2-tetrafluoroethane (R-407A), (R-407B), (R-407C), (R-407D), or (R-407E)	500c/kg
106.20.85	3824.79.38	Containing 1,1,2-tetrafluoroethane, difluoromethane and pentafluoroethane (R-407F) (LT)	500c/kg
106.20.86	3824.79.40	Containing difluoromethane and pentafluoroethane (R-410A)	500c/kg
106.20.87	3824.79.42	Containing difluoromethane, 1,1,1,2-tetrafluoroethane and isobutene (R-422D)	500c/kg
106.20.88	3824.79.44	Containing pentafluoroethane and 1,1,1-trifluoroethane (R-507)	500c/kg
106.20.89	3824.79.46	Containing trifluoromethane and perfluoroethane (R-508A) or (R-508B)	500c/kg
106.20.91	3824.79.80	Other, containing dichlorodifluoromethane or trichlorofluoromethane	500c/kg
106.20.92	3824.79.85	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	500c/kg

By the substitution of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
104.17	22.06	Other fermented beverages (for example, cider, perry, mead, sake); mixtures of fermented beverages and mixtures of fermented beverages and mixtures of fermented beverages, not elsewhere specified or included:	

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1278

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/2A/159)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 2A van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangeleë.


MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die skraping van die volgende:

Tariefitem	Tariefsubpos	Artikel Beskrywing	Skaal van Aksynsreg
106.20.05	3824.71.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.07	3824.71.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg
106.20.09	3824.72.05	Wat askiese koolwaterstowwe bevat, slegs met fluoor en chloor geperhalogeneer (uitgesonderd dié wat chlooridfluormetaan, dichlooridfluormetaan of trichloorfluormetaan bevat)	500c/kg
106.20.11	3824.72.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.13	3824.72.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg
106.20.15	3824.73.05	Wat askiese koolwaterstowwe bevat, slegs met fluoor en chloor geperhalogeneer (uitgesonderd dié wat chlooridfluormetaan, dichlooridfluormetaan of trichloorfluormetaan bevat)	500c/kg
106.20.17	3824.73.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.19	3824.73.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg
106.20.21	3824.74.05	Wat askiese koolwaterstowwe bevat, slegs met fluoor en chloor geperhalogeneer (uitgesonderd dié wat chlooridfluormetaan, dichlooridfluormetaan of trichloorfluormetaan bevat)	500c/kg
106.20.23	3824.74.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.25	3824.74.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg
106.20.27	3824.77.05	Wat askiese koolwaterstowwe bevat, slegs met fluoor en chloor geperhalogeneer (uitgesonderd dié wat chlooridfluormetaan, dichlooridfluormetaan of trichloorfluormetaan bevat)	500c/kg
106.20.29	3824.77.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.31	3824.77.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg
106.20.33	3824.79.05	Wat askiese koolwaterstowwe bevat, slegs met fluoor en chloor geperhalogeneer (uitgesonderd dié wat chlooridfluormetaan, dichlooridfluormetaan of trichloorfluormetaan bevat)	500c/kg
106.20.35	3824.79.20	Wat dichlooridfluormetaan of trichloorfluormetaan bevat	500c/kg
106.20.37	3824.79.30	Ander, wat geperhalogeneerde derivate bevat van askiese waterstowwe wat twee of meer verskillende halogene bevat	500c/kg

Deur die invoeging van die volgende:

Tariefitem	Tariefsubpos	Artikel Beskrywing	Skaal van Aksynsreg
106.20.04	3824.71.07	Wat pentafluoretaan, propaan en chloordifluoremetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.05	3824.71.09	Wat propaan, chloordifluoremetaan en oktafluoremetaan (R-403A) of (R-403B) bevat	500c/kg
106.20.06	3824.71.11	Wat dichloordifluoremetaan en 1,1-difluoremetaan (R-500) bevat	500c/kg
106.20.07	3824.71.13	Wat chloordifluoremetaan en chloorpentafluoremetaan (R-502) bevat	500c/kg
106.20.08	3824.71.15	Wat chloordifluoremetaan, 1,1-difluoremetaan en chloortetrafluorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.09	3824.71.17	Wat chloordifluoremetaan, iso-butaan en 1-chloor-1,1-difluoremetaan (R-406A) bevat	500c/kg
106.20.10	3824.71.19	Wat chloordifluoremetaan, 1,1,1-trifluoremetaan en pentafluoremetaan (R-408A) bevat	500c/kg
106.20.11	3824.71.21	Wat chloordifluoremetaan, chloortetrafluorethane en 1-chloor-1,1-difluoremetaan (R-409A) of (R-409B) bevat	500c/kg
106.20.12	3824.71.23	Wat chloordifluoremetaan en 1,1-difluoremetaan (R-415B) bevat	500c/kg
106.20.13	3824.71.25	Wat propaan, chloordifluoremetaan en 1,1-difluoremetaan (R-418A) bevat	500c/kg
106.20.14	3824.71.27	Wat chloordifluoremetaan en 1-chloor 1,1-difluoremetaan (R-22/R-142B) bevat	500c/kg
106.20.15	3824.71.80	Ander, wat dichloordifluoremetaan of trichloordifluoremetaan bevat	500c/kg
106.20.16	3824.71.85	Ander, wat dichloordifluoremetaan of trichloordifluoremetaan bevat	500c/kg
106.20.17	3824.72.07	Wat pentafluoremetaan, propaan en chloordifluoremetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.18	3824.72.09	Wat propaan, chloordifluoremetaan en oktafluoremetaan (R-403A) of (R-403B) bevat	500c/kg
106.20.19	3824.72.11	Wat dichloordifluoremetaan en 1,1-difluoremetaan (R-500) bevat	500c/kg
106.20.20	3824.72.13	Wat chloordifluoremetaan en chloorpentafluoremetaan (R-502) bevat	500c/kg
106.20.21	3824.72.15	Wat chloordifluoremetaan, 1,1-difluoremetaan en chloortetrafluorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.22	3824.72.17	Wat chloordifluoremetaan, iso-butaan en 1-chloor-1,1-difluoremetaan (R-406A) bevat	500c/kg
106.20.23	3824.72.19	Wat chloordifluoremetaan, 1,1,1-trifluoremetaan en pentafluoremetaan (R-408A) bevat	500c/kg
106.20.24	3824.72.21	Wat chloordifluoremetaan, chloortetrafluorethane en 1-chloor-1,1-difluoremetaan (R-409A) of (R-409B) bevat	500c/kg
106.20.25	3824.72.23	Wat chloordifluoremetaan en 1,1-difluoremetaan (R-415B) bevat	500c/kg
106.20.26	3824.72.25	Wat propaan, chloordifluoremetaan en 1,1-difluoremetaan (R-418A) bevat	500c/kg
106.20.27	3824.72.27	Wat chloordifluoremetaan en 1-chloor 1,1-difluoremetaan (R-22/R-142B) bevat	500c/kg
106.20.28	3824.72.80	Ander, wat dichloordifluoremetaan of trichloordifluoremetaan bevat	500c/kg
106.20.29	3824.72.85	Ander, wat geperhalogeneerde derivat van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	500c/kg
106.20.30	3824.73.07	Wat pentafluoremetaan, propaan en chloordifluoremetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.31	3824.73.09	Wat propaan, chloordifluoremetaan en oktafluoremetaan (R-403A) of (R-403B) bevat	500c/kg
106.20.32	3824.73.11	Wat dichloordifluoremetaan en 1,1-difluoremetaan (R-500) bevat	500c/kg
106.20.33	3824.73.13	Wat chloordifluoremetaan en chloorpentafluoremetaan (R-502) bevat	500c/kg

Deur die invoeging van die volgende:

Tariefitem	Tariefsubpos	Artikel Beskrywing	Skaal van Aksynsreg
106.20.34	3824.73.15	Wat chloordifluormetaan, 1,1-difluoretaan en chloortetrafluorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.35	3824.73.17	Wat chloordifluormetaan, Iso-butaan en 1- chloor-1,1- difluoretaan (R-406A) bevat	500c/kg
106.20.36	3824.73.19	Wat chloordifluormetaan, 1,1,1- trifluoretaan en pentafluoretaan (R-408A) bevat	500c/kg
106.20.37	3824.73.21	Wat chloordifluormetaan, chloortetrafluorethane en 1- chloor-1,1- difluoretaan (R-409A) of (R-409B) bevat	500c/kg
106.20.38	3824.73.23	Wat chloordifluormetaan en 1,1- difluoretaan (R-415B) bevat	500c/kg
106.20.39	3824.73.25	Wat propaan, chloordifluormetaan en 1,1- difluoretaan (R-418A) bevat	500c/kg
106.20.40	3824.73.27	Wat chloordifluormetaan en 1- chloor 1,1- difluoretaan (R-22/R-142B) bevat	500c/kg
106.20.42	3824.73.80	Ander, wat dichloordifluormetaan of trichloordifluormetaan bevat	500c/kg
106.20.43	3824.73.85	Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	500c/kg
106.20.44	3824.74.07	Wat pentafluoretaan, propaan en chloordifluormetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.45	3824.74.09	Wat propaan, chloordifluormetaan en oktafluorpropaan (R-403A) of (R-403B) bevat	500c/kg
106.20.46	3824.74.11	Wat dichloordifluormetaan en 1,1-difluoretaan (R-500) bevat	500c/kg
106.20.47	3824.74.13	Wat chloordifluormetaan en chloorpentafluoretaan (R-502) bevat	500c/kg
106.20.48	3824.74.15	Wat chloordifluormetaan, 1,1-difluoretaan en chloortetrafluorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.49	3824.74.17	Wat chloordifluormetaan, Iso-butaan en 1- chloor-1,1- difluoretaan (R-406A) bevat	500c/kg
106.20.50	3824.74.19	Wat chloordifluormetaan, 1,1,1- trifluoretaan en pentafluoretaan (R-408A) bevat	500c/kg
106.20.51	3824.74.21	Wat chloordifluormetaan, chloortetrafluorethane en 1- chloor-1,1- difluoretaan (R-409A) of (R-409B) bevat	500c/kg
106.20.52	3824.74.23	Wat chloordifluormetaan en 1,1- difluoretaan (R-415B) bevat	500c/kg
106.20.53	3824.74.25	Wat propaan, chloordifluormetaan en 1,1- difluoretaan (R-418A) bevat	500c/kg
106.20.54	3824.74.27	Wat chloordifluormetaan en 1- chloor 1,1- difluoretaan (R-22/R-142B) bevat	500c/kg
106.20.55	3824.74.80	Ander, wat dichloordifluormetaan of trichloordifluormetaan bevat	500c/kg
106.20.56	3824.74.85	Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	500c/kg
106.20.57	3824.77.07	Wat pentafluoretaan, propaan en chloordifluormetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.58	3824.77.09	Wat propaan, chloordifluormetaan en oktafluorpropaan (R-403A) of (R-403B) bevat	500c/kg
106.20.59	3824.77.11	Wat dichloordifluormetaan en 1,1-difluoretaan (R-500) bevat	500c/kg
106.20.60	3824.77.13	Wat chloordifluormetaan en chloorpentafluoretaan (R-502) bevat	500c/kg
106.20.61	3824.77.15	Wat chloordifluormetaan, 1,1-difluoretaan en chloortetrafluorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.62	3824.77.17	Wat chloordifluormetaan, Iso-butaan en 1- chloor-1,1- difluoretaan (R-406A) bevat	500c/kg
106.20.63	3824.77.19	Wat chloordifluormetaan, 1,1,1- trifluoretaan en pentafluoretaan (R-408A) bevat	500c/kg
106.20.64	3824.77.21	Wat chloordifluormetaan, chloortetrafluorethane en 1- chloor-1,1- difluoretaan (R-409A) of (R-409B) bevat	500c/kg

Deur die invoeging van die volgende:

Tariefitem	Tariefsubpos	Artikel Beskrywing	Skaal van Aksynsreg
106.20.65	3824.77.23	Wat chloordifluoormetaan en 1,1-difluooretaan (R-415B) bevat	500c/kg
106.20.66	3824.77.25	Wat propaan, chloordifluoormetaan en 1,1-difluooretaan (R-418A) bevat	500c/kg
106.20.67	3824.77.27	Wat chloordifluoormetaan en 1-chloor 1,1-difluooretaan (R-22/R-142B) bevat	500c/kg
106.20.69	3824.77.80	Ander, wat dichloordifluoormetaan of trichloordifluoormetaan bevat	500c/kg
106.20.70	3824.77.85	Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	500c/kg
106.20.71	3824.79.07	Wat pentafluooretaan, propaan en chloordifluoormetaan (R-402A) of (R-402B) bevat	500c/kg
106.20.72	3824.79.09	Wat propaan, chloordifluoormetaan en oktafluorpropaan (R-403A) of (R-403B) bevat	500c/kg
106.20.73	3824.79.11	Wat dichloordifluoormetaan en 1,1-difluooretaan (R-500) bevat	500c/kg
106.20.74	3824.79.13	Wat chloordifluoormetaan en chloorpentafluooretaan (R-502) bevat	500c/kg
106.20.75	3824.79.15	Wat chloordifluoormetaan, 1,1-difluooretaan en chloortetrafluoorethane (R-401A) of (R-401B) bevat	500c/kg
106.20.76	3824.79.17	Wat chloordifluoormetaan, iso-butaan en 1-chloor-1,1-difluooretaan (R-406A) bevat	500c/kg
106.20.77	3824.79.19	Wat chloordifluoormetaan, 1,1,1-trifluooretaan en pentafluooretaan (R-408A) bevat	500c/kg
106.20.78	3824.79.21	Wat chloordifluoormetaan, chloortetrafluoorethane en 1-chloor-1,1-difluooretaan (R-409A) of (R-409B) bevat	500c/kg
106.20.79	3824.79.23	Wat chloordifluoormetaan en 1,1-difluooretaan (R-415B) bevat	500c/kg
106.20.80	3824.79.25	Wat propaan, chloordifluoormetaan en 1,1-difluooretaan (R-418A) bevat	500c/kg
106.20.81	3824.79.27	Wat chloordifluoormetaan en 1-chloor 1,1-difluooretaan (R-22/R-142B) bevat	500c/kg
106.20.83	3824.79.32	Wat 1,1,1-trifluooretaan, pentafluooretaan en 1,1,2-tetrafluooretaan (R-404A) bevat	500c/kg
106.20.84	3824.79.34	Wat difluoormetaan, pentafluooretaan en 1,1,2-tetrafluooretaan (R-407A), (R-407B), (R-407C), of (R-407E) bevat	500c/kg
106.20.85	3824.79.38	Wat 1,1,1,2-trifluooretaan, difluoormetaan en pentafluooretaan (R-407F) (LT)	500c/kg
106.20.86	3824.79.40	Wat difluoormetaan en pentafluooretaan (R-410A) bevat	500c/kg
106.20.87	3824.79.42	Wat difluoormetaan, 1,1,1,2-trifluooretaan en iso-butaan (R-422D) bevat	500c/kg
106.20.88	3824.79.44	Wat pentafluooretaan en 1,1,1-trifluooretaan (R-507) bevat	500c/kg
106.20.89	3824.79.46	Wat trifluoormetaan en perfluooretaan (R-508A) of (R-508B) bevat	500c/kg
106.20.91	3824.79.80	Ander, wat dichloordifluoormetaan of trichloordifluoormetaan bevat	500c/kg
106.20.92	3824.79.85	Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	500c/kg

Deur die vervanging van die volgende:

Tariefitem	Tariefsubpos	Artikel Beskrywing	Skaal van Aksynsreg
104.17	22.06	Ander gegiste drank (byvoorbeeld, appelsider, peersider, mee, saké); mengsels van gegiste drank en mengsels van gegiste drank en nie-alkoholiese drank, nie elders vermeld of ingesluit nie:	

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1279

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/3E/4)

In terms of section 48 of the Customs and Excise Act, 1964, Part 3E of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN-GIGABA
MINISTER OF FINANCE

SCHEDULE

By the deletion of the following:

Environmental Levy Item	Tariff Subheading	Article Description	Rate of Environmental Levy
153.03.87	8703.90.31	Electric vehicles with a mass not exceeding 800 kg	R2.30/kg net
153.03.88	8703.90.33	Other electric vehicles	R2.30/kg net
153.08.21	8708.70.10	Identifiable for use solely or principally with tractors (excluding road tractors)	R2.30/kg net
153.08.29	8708.70.90	Other	R2.30/kg net

By the insertion of the following:

Environmental Levy Item	Tariff Subheading	Article Description	Rate of Environmental Levy
153.08	8708.70.1	Identifiable for use solely or principally with tractors (excluding road tractors):	
153.08.21	8708.70.11	Road wheels fitted with tyres	R2.30/kg net
153.13	8714.10	Of motorcycles (including mopeds):	
153.13.10	8714.10.10	Rims fitted with tyres	R2.30/kg net
153.13	8714.92	Wheel rims and spokes:	
153.13.15	8714.92.10	Rims fitted with tyres	R2.30/kg net

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1279

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/3E/4)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 3E van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.


 MKN GIGABA
 MINISTER VAN FINANSIES

BYLAE

Deur die skraping van die volgende:

Omgewings- heffingitem	Tariefsubpos	Artikel Beskrywing	Skaal van Omgewingsheffing
153.03.87	8703.90.31	Elektriese voertuie met 'n massa van hoogstens 800 kg	R2.30/kg net
153.03.88	8703.90.33	Ander elektriese voertuie	R2.30/kg net
153.08.21	8708.70.10	Uitkenbaar as vir gebruik slegs of hoofsaaklik met trekkers (uitgesonderd padtrekkers)	R2.30/kg net
153.08.29	8708.70.90	Ander	R2.30/kg net

Deur die invoeging van die volgende:

Omgewings- heffingitem	Tariefsubpos	Artikel Beskrywing	Skaal van Omgewingsheffing
153.08	8708.70.1	Uitkenbaar as vir gebruik slegs of hoofsaaklik met trekkers (uitgesonderd padtrekkers):	
153.08.21	8708.70.11	Padwiele met buitebande gemoniteer	R2.30/kg net
153.13	8714.10	Van motorfiets (met inbegrip van kragtrapfiets):	
153.13.10	8714.10.10	Wielvelings met buitebande gemoniteer	R2.30/kg net
153.13	8714.92	Wielvelings en -speke:	
153.13.15	8714.92.10	Wielvelings met buitebande gemoniteer	R2.30/kg net

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1280

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 6 (NO. 6/1C/65)

In terms of section 75 of the Customs and Excise Act, 1964, Part 1C of Schedule No. 6 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the deletion of the following:

Rebate Item	Tariff Item	Rebate Code	CD	Description	Extent of Rebate	Extent of Refund
620.22	104.15.07	06.01	79	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.		Full duty
620.22	104.15.08	07.01	75	Other		Full duty
620.22	104.15.09	08.01	71	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.		Full duty
620.22	104.15.10	09.01	78	Other		Full duty

By the insertion of the following:

Rebate Item	Tariff Item	Rebate Code	CD	Description	Extent of Rebate	Extent of Refund
620.22	104.15.13	06.01	71	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.		Full duty
620.22	104.15.15	07.01	78	Other		Full duty
620.22	104.15.17	08.01	76	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.		Full duty
620.22	104.15.19	09.01	74	Other		Full duty
620.22	104.15.21	10.01	70	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.		Full duty
620.22	104.15.23	11.01	79	Other		Full duty
620.22	104.15.25	12.01	77	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.		Full duty
620.22	104.15.27	13.01	75	Other		Full duty

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1280

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 6 (NO. 6/1C/65)

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Deel 1C van Bylae No. 6 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangeleë.


MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die skraping van die volgende:

Kortingtem	Tariefitem	Kortingkode	TS	Beskrywing	Mate van Korting	Mate van Terugbetaling
620.22	104.15.07	06.01	79	Met 'n alkoholsterkte van minstens 4.5 persent volgens volume maar hoogstens 16.5 persent volgens vol.		Volle reg
620.22	104.15.08	07.01	75	Ander		Volle reg
620.22	104.15.09	08.01	71	Met 'n alkoholsterkte van minstens 15 persent volume maar hoogstens 22 persent vol.		Volle reg
620.22	104.15.10	09.01	78	Ander		Volle reg

Deur die invoeging van die volgende:

Kortingtem	Tariefitem	Kortingkode	TS	Beskrywing	Mate van Korting	Mate van Terugbetaling
620.22	104.15.13	06.01	71	Met 'n alkoholsterkte van minstens 4.5 persent volgens volume maar hoogstens 16.5 persent volgens vol.		Volle reg
620.22	104.15.15	07.01	78	Ander		Volle reg
620.22	104.15.17	08.01	76	Met 'n alkoholsterkte van minstens 15 persent volgens volume maar hoogstens 22 persent volgens vol.		Volle reg
620.22	104.15.19	09.01	74	Ander		Volle reg
620.22	104.15.21	10.01	70	Met 'n alkoholsterkte van minstens 4.5 persent volgens volume maar hoogstens 16.5 persent volgens vol.		Volle reg
620.22	104.15.23	11.01	79	Ander		Volle reg
620.22	104.15.25	12.01	77	Met 'n alkoholsterkte van minstens 15 persent volgens volume maar hoogstens 22 persent volgens vol.		Volle reg
620.22	104.15.27	13.01	75	Ander		Volle reg

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1281

17 NOVEMBER 2017

**CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 4 (NO. 4/1/375)**

In terms of section 75 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 4 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the substitution of the following:

Rebate Item	Tariff Heading	Rebate Code	CD	Description	Extent of Rebate
412.11	GOODS IMPORTED FOR THE RELIEF OF DISTRESS OF PERSONS IN CASES OF FAMINE OR NATIONAL DISASTER; UNDER ANY TECHNICAL ASSISTANCE AGREEMENT OR IN TERMS OF AN OBLIGATION UNDER ANY MULTILATERAL INTERNATIONAL AGREEMENT				

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1281

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 4 (NO. 4/1/375)

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 4 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangeboden.



MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die vervanging van die volgende:

Kortingitem	Tariefpos	Kortingkode	TS	Beskrywing	Mate van Korting
412.11	GOEDERE INGEVOER VIR DIE VERLICHTING VAN MENSlike NOOD IN GEVALLE VAN HONGERSNOOD OF ANDER NASIONALE RAMPE; INGEVOLGE ENIGE TEGNIESE HULP-OOREENKOMS OF INGEVOLGE 'N VERPLIGTING OOREENKOMSTIG ENIGE MULTILATERALE INTERNASIONALE OOREENKOMS WAARBY DIE REPUBLIEK 'N PARTY IS				

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1282

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1588)

In terms of section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
7604.21.15	7	Of a maximum outside cross-sectional dimension not exceeding 370 mm	kg	15%	free	free	free	15%
7604.29.15	8	Bars and rods, of a maximum cross-sectional dimension exceeding 7,5 mm but not exceeding 160 mm	kg	15%	free	free	free	7,5%
7604.29.65	4	Profiles, of a maximum cross-sectional dimension not exceeding 370 mm	kg	15%	free	free	free	15%

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1282

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/1/1588)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.


MKH GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die vervanging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
7604.21.15	7	--- Met 'n maksimum buitedwarsdeursnee-afmeting van hoogstens 370 mm	kg	15%	vry	vry	vry	15%
7604.29.15	8	--- Stawe en ander stange, met 'n maksimum dwarsdeursnee-afmeting van meer as 7,5 mm maar hoogstens 160 mm	kg	15%	vry	vry	vry	7,5%
7604.29.65	4	--- Profiele, met 'n maksimum dwarsdeursnee-afmeting van hoogstens 370 mm	kg	15%	vry	vry	vry	15%

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1283

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1589)

In terms of section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the insertion of new Additional Note(s) 2 after Additional Note(s) 1 in Chapter 94 of Section XX to Part 1 of Schedule No. 1 with the following:

2.	For the purposes of heading 94.06-
(a)	Prefabricated buildings of different materials are to be classified as if consisting wholly of the material which predominates by weight over any other single material.
(b)	When no one material predominates by weight, the prefabricated buildings are to be classified as if consisting wholly of the material that occurs last in numerical order amongst those which equally merit consideration in Part 1 of Schedule No. 1.
(c)	The provisions of Section Note 7 to Section XV <i>mutatis mutandis</i> applies to the prefabricated buildings of heading 94.06.

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty			
				General	EU	EFTA	MERCOSUR
9406.90.10	1	-- Of iron or steel	kg	20%	free	free	free
9406.90.90	3	-- Other	kg	free	free	free	free

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty			
				General	EU	EFTA	MERCOSUR
9406.90	-	Other:					

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1283

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/1/1589)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangeleë.


MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die invoeging van nuwe Addisionale Opmerking(s) 2 na Addisionale Opmerking(s) 1 in Hoofstuk 94 van Afdeling XX by Deel 1 van Bylae No. 1 met die volgende:

2.	Vir die doeleindes van pos 94.06-
(a)	Voorafvervaardigde geboue van gemengde stowwe word geklassifiseer asof dit in die geheel bestaan uit die stof wat volgens massa oorheers oor enige ander enkel stof.
(b)	Indien geen enkele een stof volgens massa oorheers nie, word die voorafvervaardigde geboue geklassifiseer asof dit in die geheel bestaan uit die stof wat laaste in numeriese volgorde voorkom tussen dié wat gelyke oorweging in Bylae No. 1 Deel 1 het.
(c)	Die voorsienings van Afdeling Opmerking 7 by Afdeling XV is <i>mutatis mutandis</i> van toepassing op die vooraf vervaardigde geboue van pos 94.06.

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg			
				Algemeen	EU	EFTA	MERCOSUR
9406.90.10	1	-- Van yster of staal	kg	20%	vry	vry	vry
9406.90.90	3	-- Ander	kg	vry	vry	vry	vry

Deur die vervanging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg			
				Algemeen	EU	EFTA	MERCOSUR
9406.90	-	- Ander:					

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1284

17 NOVEMBER 2017

**CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 4 (NO. 4/2/377)**

In terms of section 75 of the Customs and Excise Act, 1964, Part 2 of Schedule No. 4 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the insertion of the following:

Rebate Item	Tariff Heading	Rebate Code	CD	Description	Extent of Rebate
460.15	9406.90.10	01.08	87	Greenhouses of iron or non-alloy steel, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, provided the steel and other materials are not available in the SACU market	Full duty

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1284

17 NOVEMBER 2017

**DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 4 (NO. 4/2/377)**

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Deel 2 van Bylae No. 4 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.


MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die invoeging van die volgende:

Kortingitem	Tarifpos	Kortingkode	TS	Beskrywing	Mate van Korting
460.15	9406.90.10	01.08	87	Kweekhuise van yster of nie-legeringstaal, in dié hoeveelhede en op dié tye en onderhawig aan sodanige voorwaardes wat die Internasionale Handelsadministrasiekommissie by bepaalde permit mag toelaat, met dien verstande dat die yster en ander materiale nie in die SADU mark beskikbaar is nie	Volle reg

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1285

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1590)

In terms of section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the deletion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2811.19.10	7	Hydrogen cyanide	kg	free	free	free	free	free
2811.19.90	5	Other	kg	free	free	free	free	free
2922.19.20	2	Ethylidethanolamine	kg	free	free	free	free	free
2922.19.30	4	Methyldiethanolamine	kg	free	free	free	free	free
3824.71.20	2	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	10%	free	free	free	10%
3824.71.30	3	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	free	free	free	free	free
3824.72.20	9	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.72.30	6	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.73.20	5	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.73.30	2	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.74.20	1	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	10%	free	free	free	10%
3824.74.30	9	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	free	free	free	free	free
3824.77.20	0	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.77.30	8	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.79.20	3	Containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.79.30	0	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3901.10.10	7	Virgin	kg	free	free	free	free	free

By the deletion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3901.10.90	5	Other	kg	free	free	free	free	free
3901.20.10	1	Virgin	kg	free	free	free	free	free
3901.20.90	7	Other	kg	free	free	free	free	free
3902.10.9	--	Other:						
3902.10.91	7	Virgin	kg	free	free	free	free	free
3902.10.99	2	Other	kg	free	free	free	free	free
3903.19.10	1	Virgin	kg	free	free	free	free	free
3903.19.90	3	Other	kg	free	free	free	free	free
3903.30.10	3	Virgin	kg	free	free	free	free	free
3903.30.90	1	Other	kg	free	free	free	free	free
3904.21.10	9	Virgin	kg	10%	free	free	free	10%
3904.21.90	7	Other	kg	10%	free	free	free	10%
3904.22.10	5	Virgin	kg	10%	free	free	free	10%
3904.22.90	3	Other	kg	10%	free	free	free	10%
8708.70.10	7	Identifiable for use solely or principally with tractors (excluding road tractors)	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2903.19.13	8	Short-chained chlorinated paraffin	kg	free	free	free	free	free
2903.29.10	8	Hexachlorobutadiene	kg	free	free	free	free	free
2903.29.90	6	Other	kg	free	free	free	free	free
2903.39.30	7	Pentafluoroethane (R-125)	kg	free	free	free	free	free
2903.39.40	4	1,1-Difluoroethane (R-152a)	kg	free	free	free	free	free
2903.39.50	1	1,1,1-trifluoroethane (R-143a)	kg	free	free	free	free	free
2903.39.55	2	1,1,1,3,3-Pentafluoropropane (R-245fa)	kg	free	free	free	free	free
2903.39.60	9	2,3,3,3-Tetrafluoropropene (R-1234yf)	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2903.39.65	2	1,1,1,2-Tetrafluoroethane (R134a)	kg	free	free	free	free	free
2903.39.67	6	Trifluoromethane (R-23)	kg	free	free	free	free	free
2903.39.70	6	Difluoromethane (R-32)	kg	free	free	free	free	free
2906.29.10	9	2,2,2-Trichloro-1,1-bis(4-chlorophenyl) ethanol (Dicofol)	kg	free	free	free	free	free
2906.29.90	7	Other	kg	free	free	free	free	free
2909.30.05	0	Decabromodiphenyl ether	kg	free	free	free	free	free
3824.71.07	5	Containing pentafluoromethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	free	free	free	free	free
3824.71.09	1	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	kg	free	free	free	free	free
3824.71.11	3	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	10%	free	free	free	10%
3824.71.13	3	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	10%	10%	10%	10%	10%
3824.71.15	6	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	10%	10%	10%	10%	10%
3824.71.17	2	Containing chlorodifluoromethane, iso-butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	free	free	free	free	free
3824.71.19	9	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	kg	free	free	free	free	free
3824.71.21	0	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	free	free	free	free	free
3824.71.23	7	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	free	free	free	free	free
3824.71.25	3	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	free	free	free	free	free
3824.71.27	2	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	free	free	free	free	free
3824.71.80	6	Other, containing dichlorodifluoromethane or trichlorofluoromethane	kg	10%	free	free	free	10%
3824.71.85	7	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	free	free	free	free	free
3824.72.07	1	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	10%	free	free	free	10%
3824.72.09	8	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	kg	10%	free	free	free	10%
3824.72.11	3	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3824.72.13	6	--- Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	10%	free	free	free	10%
3824.72.15	2	--- Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	10%	free	free	free	10%
3824.72.17	9	--- Containing chlorodifluoromethane, iso-butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	10%	free	free	free	10%
3824.72.19	5	--- Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	kg	10%	free	free	free	10%
3824.72.21	7	--- Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	10%	free	free	free	10%
3824.72.23	3	--- Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	10%	free	free	free	10%
3824.72.25	2	--- Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	10%	free	free	free	10%
3824.72.27	6	--- Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	10%	free	free	free	10%
3824.72.80	2	--- Other, containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.72.85	3	--- Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.73.07	8	--- Containing Pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	10%	free	free	free	10%
3824.73.09	4	--- Containing propane, chlorodifluoromethane and octfluoropropane (R-403A) or (R-403B)	kg	10%	free	free	free	10%
3824.73.11	6	--- Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	free	free	free	free	free
3824.73.13	2	--- Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	10%	free	free	free	10%
3824.73.15	9	--- Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	10%	free	free	free	10%
3824.73.17	5	--- Containing chlorodifluoromethane, iso-butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	10%	free	free	free	10%
3824.73.19	1	--- Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	kg	10%	free	free	free	10%
3824.73.21	3	--- Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	10%	free	free	free	10%
3824.73.23	2	--- Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	10%	free	free	free	10%
3824.73.25	6	--- Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	10%	free	free	free	10%

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3824.73.27	2	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	10%	free	free	free	10%
3824.73.80	9	Other, containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.73.85	0	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.74.07	4	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	free	free	free	free	free
3824.74.09	0	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	kg	free	free	free	free	free
3824.74.11	2	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	10%	free	free	free	10%
3824.74.13	9	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	free	free	free	free	free
3824.74.15	5	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	free	free	free	free	free
3824.74.17	1	Containing chlorodifluoromethane, iso-Butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	free	free	free	free	free
3824.74.19	8	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408 A)	kg	free	free	free	free	free
3824.74.21	2	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	free	free	free	free	free
3824.74.23	6	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	free	free	free	free	free
3824.74.25	2	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	free	free	free	free	free
3824.74.27	9	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	free	free	free	free	free
3824.74.80	5	Other, containing dichlorodifluoromethane or trichlorofluoromethane	kg	10%	free	free	free	10%
3824.74.85	6	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	free	free	free	free	free
3824.77.07	3	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	10%	free	free	free	10%
3824.77.09	0	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	kg	10%	free	free	free	10%
3824.77.11	1	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	free	free	free	free	free
3824.77.13	8	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	10%	free	free	free	10%

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3824.77.15	4	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	10%	free	free	free	10%
3824.77.17	0	Containing chlorodifluoromethane, iso-butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	10%	free	free	free	free
3824.77.19	7	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	kg	10%	free	free	free	10%
3824.77.21	9	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	10%	free	free	free	10%
3824.77.23	5	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	10%	free	free	free	10%
3824.77.25	1	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	10%	free	free	free	10%
3824.77.27	8	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	10%	free	free	free	10%
3824.77.80	4	Other, containing dichlorodifluoromethane or trichlorodifluoromethane	kg	free	free	free	free	free
3824.77.85	5	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3824.79.07	6	Containing pentafluoroethane, propane and chlorodifluoromethane (R-402A) or (R-402B)	kg	10%	free	free	free	10%
3824.79.09	2	Containing propane, chlorodifluoromethane and octafluoropropane (R-403A) or (R-403B)	kg	10%	free	free	free	10%
3824.79.11	4	Containing dichlorodifluoromethane and 1,1-difluoroethane (R-500)	kg	free	free	free	free	free
3824.79.13	0	Containing chlorodifluoromethane and chloropentafluoroethane (R-502)	kg	10%	free	free	free	10%
3824.79.15	7	Containing chlorodifluoromethane, 1,1-difluoroethane and chlorotetrafluoroethanes (R-401A) or (R-401B)	kg	10%	free	free	free	10%
3824.79.17	3	Containing chlorodifluoromethane, iso-butane and 1-chloro-1,1-difluoroethane (R-406A)	kg	10%	free	free	free	10%
3824.79.19	9	Containing chlorodifluoromethane, 1,1,1-trifluoroethane and pentafluoroethane (R-408A)	kg	10%	free	free	free	10%
3824.79.21	1	Containing chlorodifluoromethane, chlorotetrafluoroethanes and 1-chloro-1,1-difluoroethane (R-409A) or (R-409B)	kg	10%	free	free	free	10%
3824.79.23	8	Containing chlorodifluoromethane and 1,1-difluoroethane (R-415B)	kg	10%	free	free	free	10%
3824.79.25	4	Containing propane, chlorodifluoromethane and 1,1-difluoroethane (R-418A)	kg	10%	free	free	free	10%
3824.79.27	0	Containing chlorodifluoromethane and 1-chloro-1,1-difluoroethane (R-22/R-142B)	kg	10%	free	free	free	10%

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3824.79.32	7	Containing 1,1,1-trifluoroethane, pentafluoroethane and 1,1,1,2-tetrafluoroethane (R-404A)	kg	10%	free	free	free	10%
3824.79.34	3	Containing difluoromethane, pentafluoroethane and 1,1,1,2-tetrafluoroethane (R-407A), (R-407B), (R-407C), (R-407D) or (R-407E)	kg	10%	free	free	free	10%
3824.79.38	6	Containing 1,1,1,2-tetrafluoroethane, difluoromethane and pentafluoroethane (R-407F) (LT)	kg	10%	free	free	free	10%
3824.79.40	8	Containing difluoromethane and pentafluoroethane (R-410A)	kg	10%	free	free	free	10%
3824.79.42	4	Containing difluoromethane, 1,1,1,2-tetrafluoroethane and iso-butane (R-422D)	kg	10%	free	free	free	10%
3824.79.44	0	Containing pentafluoroethane and 1,1,1-trifluoroethane (R-507)	kg	10%	free	free	free	10%
3824.79.46	7	Containing trifluoromethane and perfluoroethane (R-508A) or (R-508B)	kg	10%	free	free	free	10%
3824.79.80	7	Other, containing dichlorodifluoromethane or trichlorofluoromethane	kg	free	free	free	free	free
3824.79.85	8	Other, containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	kg	10%	free	free	free	10%
3902.10.90	9	Other	kg	free	free	free	free	free
3920.20.99	5	Other	kg	10%	free	free	free	10%
7318.15.36	2	Screw studding of stainless steel (excluding those identifiable for aircraft)	kg	30%	free	free	free	30%
7318.15.42	7	Screw studding (excluding those of stainless steel and those identifiable for aircraft)	kg	30%	free	free	free	30%
8708.70.1	--	Identifiable for use solely or principally with tractors (excluding road tractors):						
8708.70.11	5	Road wheels fitted with tyres	kg	free	free	free	free	free
8708.70.19	0	Other	kg	free	free	free	free	free
8714.10.10	8	Rims fitted with tyres	kg	free	free	free	free	free
8714.10.90	6	Other	kg	free	free	free	free	free
8714.92.10	7	Rims fitted with tyres	kg	free	free	free	free	free
8714.92.90	5	Other	kg	free	free	free	free	free

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2811.19	7	-- Other	kg	free	free	free	free	free
2903.29		-- Other:						
2903.71	2	-- Chlorodifluoromethane (R-22)	kg	free	free	free	free	free
2903.72	9	-- Dichlorotrifluoroethanes (R-123)	kg	free	free	free	free	free
2903.73	5	-- Dichlorodifluoroethanes (R-141b)	kg	free	free	free	free	free
2903.74	1	-- Chlorodifluoroethanes (R-142)	kg	free	free	free	free	free
2903.79.10	0	-- Chlorotetrafluoroethanes (R-124)	kg	free	free	free	free	free
2906.29		-- Other:						
7318.15.35	4	-- Other screws and bolts (including bolt ends and screw studs, of stainless steel (excluding those that are fully threaded with hexagon heads)	kg	30%	free	free	free	30%
7318.15.41	9	-- Bolt ends and screw studs (excluding those of stainless steel and those identifiable for aircraft)	kg	30%	free	free	free	30%
8714.10		- Of motorcycles (including mopeds):						
8714.92		-- Wheel rims and spokes:						
9506.99.20	8	-- Artificial turf in the form of sports fields playing surfaces including marking lines, presented unassembled	m²	10%	free	free	free	free

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1285

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/1/1590)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.


MKH GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die skapping van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2811.19.10	7	Waterstof sianied	kg	vry	vry	vry	vry	vry
2811.19.90	5	Ander	kg	vry	vry	vry	vry	vry
2922.19.20	2	Etioldietanolamien	kg	vry	vry	vry	vry	vry
2922.19.30	4	Metieldietanolamien	kg	vry	vry	vry	vry	vry
3824.71.20	2	Wat dichloorfluorometaan of trichloorfluorometaan bevat	kg	10%	vry	vry	vry	10%
3824.71.30	3	Ander, wat geperhalogeneerde derivate van askiese waterstofwwe bevat wat twee of meer verskillende halogene bevat	kg	vry	vry	vry	vry	vry
3824.72.20	9	Wat dichloorfluorometaan of trichloorfluorometaan bevat	kg	vry	vry	vry	vry	vry
3824.72.30	6	Ander, wat geperhalogeneerde derivate van askiese waterstofwwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%
3824.73.20	5	Wat dichloorfluorometaan of trichloorfluorometaan bevat	kg	vry	vry	vry	vry	vry
3824.73.30	2	Ander, wat geperhalogeneerde afdeling van askiese waterstofwwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%
3824.74.20	1	Wat dichloorfluorometaan of trichloorfluorometaan bevat	kg	10%	vry	vry	vry	10%
3824.74.30	9	Ander, wat geperhalogeneerde derivate van askiese waterstofwwe bevat wat twee of meer verskillende halogene bevat	kg	vry	vry	vry	vry	vry
3824.77.20	0	Wat dichloorfluorometaan of trichloorfluorometaan bevat	kg	vry	vry	vry	vry	vry
3824.77.30	8	Ander, wat geperhalogeneerde derivate van askiese waterstofwwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%

Deur die skapping van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3824.79.20	3	---	kg	vry	vry	vry	vry	vry
3824.79.30	0	---	kg	10%	vry	vry	vry	10%
3901.10.10	7	--	kg	vry	vry	vry	vry	vry
3901.10.90	5	--	kg	vry	vry	vry	vry	vry
3901.20.10	1	--	kg	vry	vry	vry	vry	vry
3901.20.90	7	--	kg	vry	vry	vry	vry	vry
3902.10.9		--						
3902.10.91	7	---	kg	vry	vry	vry	vry	vry
3902.10.99	2	---	kg	vry	vry	vry	vry	vry
3903.19.10	1	---	kg	vry	vry	vry	vry	vry
3903.19.90	3	---	kg	vry	vry	vry	vry	vry
3903.30.10	3	--	kg	vry	vry	vry	vry	vry
3903.30.90	1	--	kg	vry	vry	vry	vry	vry
3904.21.10	9	---	kg	10%	vry	vry	vry	10%
3904.21.90	7	---	kg	10%	vry	vry	vry	10%
3904.22.10	5	---	kg	10%	vry	vry	vry	10%
3904.22.90	3	---	kg	10%	vry	vry	vry	10%
8708.70.10	7	--	kg	vry	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2903.19.13	8	---	kg	vry	vry	vry	vry	vry
2903.29.10	8	---	kg	vry	vry	vry	vry	vry
2903.29.90	6	---	kg	vry	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2903.39.30	7	---	kg	vry	vry	vry	vry	vry
2903.39.40	4	---	kg	vry	vry	vry	vry	vry
2903.39.50	1	---	kg	vry	vry	vry	vry	vry
2903.39.55	2	---	kg	vry	vry	vry	vry	vry
2903.39.60	9	---	kg	vry	vry	vry	vry	vry
2903.39.65	2	---	kg	vry	vry	vry	vry	vry
2903.39.67	6	---	kg	vry	vry	vry	vry	vry
2903.39.70	6	---	kg	vry	vry	vry	vry	vry
2906.29.10	9	---	kg	vry	vry	vry	vry	vry
2906.29.90	7	---	kg	vry	vry	vry	vry	vry
2909.30.05	0	---	kg	vry	vry	vry	vry	vry
3824.71.07	5	---	kg	vry	vry	vry	vry	vry
3824.71.09	1	---	kg	vry	vry	vry	vry	vry
3824.71.11	3	---	kg	10%	vry	vry	vry	10%
3824.71.13	3	---	kg	10%	10%	10%	10%	10%
3824.71.15	6	---	kg	10%	10%	10%	10%	10%
3824.71.17	2	---	kg	vry	vry	vry	vry	vry
3824.71.19	9	---	kg	vry	vry	vry	vry	vry
3824.71.21	0	---	kg	vry	vry	vry	vry	vry
3824.71.23	7	---	kg	vry	vry	vry	vry	vry
3824.71.25	3	---	kg	vry	vry	vry	vry	vry
3824.71.27	2	---	kg	vry	vry	vry	vry	vry
3824.71.80	6	---	kg	10%	vry	vry	vry	10%

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3824.71.85	7	--- Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	kg	vry	vry	vry	vry	vry
3824.72.07	1	--- Wat pentafluoroetaan, propaan en chloordifluoroetaan (R-402A) of (R-402B) bevat	kg	10%	vry	vry	vry	10%
3824.72.09	8	--- Wat propaan, chloordifluoroetaan en oktafluoroopropan (R-403A) of (R-403B) bevat	kg	10%	vry	vry	vry	10%
3824.72.11	3	--- Wat dichloordifluoroetaan en 1,1-difluoroetaan (R-500) bevat	kg	vry	vry	vry	vry	vry
3824.72.13	6	--- Wat chloordifluoroetaan en chloorpentafluoroetaan (R-502) bevat	kg	10%	vry	vry	vry	10%
3824.72.15	2	--- Wat chloordifluoroetaan, 1,1-difluoroetaan en chloortetrafluoroetaan (R-401A) of (R-401B) bevat	kg	10%	vry	vry	vry	10%
3824.72.17	9	--- Wat chloordifluoroetaan, iso-butaan en 1-chloor-1,1-difluoroetaan (R-406A) bevat	kg	10%	vry	vry	vry	10%
3824.72.19	5	--- Wat chloordifluoroetaan, 1,1,1-trifluoroetaan en pentafluoroetaan (R-408A) bevat	kg	10%	vry	vry	vry	10%
3824.72.21	7	--- Wat chloordifluoroetaan, chloortetrafluoroetaan en 1-chloor-1,1-difluoroetaan (R-409A) of (R-409B) bevat	kg	10%	vry	vry	vry	10%
3824.72.23	3	--- Wat chloordifluoroetaan en 1,1-difluoroetaan (R-415B) bevat	kg	10%	vry	vry	vry	10%
3824.72.25	2	--- Wat propaan, chloordifluoroetaan en 1,1-difluoroetaan (R-418A) bevat	kg	10%	vry	vry	vry	10%
3824.72.27	6	--- Wat chloordifluoroetaan en 1-chloor-1,1-difluoroetaan (R-22/R-142B) bevat	kg	10%	vry	vry	vry	10%
3824.72.80	2	--- Ander, wat dichloordifluoroetaan of trichloordifluoroetaan bevat	kg	vry	vry	vry	vry	vry
3824.72.85	3	--- Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%
3824.73.07	8	--- Wat pentafluoroetaan, propaan en chloordifluoroetaan (R-402A) of (R-402B) bevat	kg	10%	vry	vry	vry	10%
3824.73.09	4	--- Wat propaan, chloordifluoroetaan en oktafluoroopropan (R-403A) of (R-403B) bevat	kg	10%	vry	vry	vry	10%
3824.73.11	6	--- Wat dichloordifluoroetaan en 1,1-difluoroetaan (R-500) bevat	kg	vry	vry	vry	vry	vry
3824.73.13	2	--- Wat chloordifluoroetaan en chloorpentafluoroetaan (R-502) bevat	kg	10%	vry	vry	vry	10%
3824.73.15	9	--- Wat chloordifluoroetaan, 1,1-difluoroetaan en chloortetrafluoroetaan (R-401A) of (R-401B) bevat	kg	10%	vry	vry	vry	10%
3824.73.17	5	--- Wat chloordifluoroetaan, iso-butaan en 1-chloor-1,1-difluoroetaan (R-406A) bevat	kg	10%	vry	vry	vry	10%
3824.73.19	1	--- Wat chloordifluoroetaan, 1,1,1-trifluoroetaan en pentafluoroetaan (R-408A) bevat	kg	10%	vry	vry	vry	10%

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3824.73.21	3	--- Wat chloordifluormetaan, chloortetrafluorene en 1-chloor-1,1-difluoretaan (R-409A) of (R-409B) bevat	kg	10%	vry	vry	vry	10%
3824.73.23	2	--- Wat chloordifluormetaan en 1,1-difluoretaan (R-415B) bevat	kg	10%	vry	vry	vry	10%
3824.73.25	6	--- Wat propaan, chloordifluormetaan en 1,1-difluoretaan (R-418A) bevat	kg	10%	vry	vry	vry	10%
3824.73.27	2	--- Wat chloordifluormetaan en 1-chloor-1,1-difluoretaan (R-22/R-142B) bevat	kg	10%	vry	vry	vry	10%
3824.73.80	9	--- Ander, wat dichloordifluormetaan of trichloordifluormetaan bevat	kg	vry	vry	vry	vry	vry
3824.73.85	0	--- Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%
3824.74.07	4	--- Wat pentafluoretaan, propaan en chloordifluormetaan (R-402A) of (R-402B) bevat	kg	vry	vry	vry	vry	vry
3824.74.09	0	--- Wat propaan, chloordifluormetaan en oktafluoropropaan (R-403A) of (R-403B) bevat	kg	vry	vry	vry	vry	vry
3824.74.11	2	--- Wat dichloordifluormetaan en 1,1-difluoretaan (R-500) bevat	kg	10%	vry	vry	vry	10%
3824.74.13	9	--- Wat chloordifluormetaan en chloorpentafluoretaan (R-502) bevat	kg	vry	vry	vry	vry	vry
3824.74.15	5	--- Wat chloordifluormetaan, 1,1-difluoretaan en chloortetrafluorene (R-401A) of (R-401B) bevat	kg	vry	vry	vry	vry	vry
3824.74.17	1	--- Wat chloordifluormetaan, iso-butaan en 1-chloor-1,1-difluoretaan (R-406A) bevat	kg	vry	vry	vry	vry	vry
3824.74.19	8	--- Wat chloordifluormetaan, 1,1,1-trifluoretaan en pentafluoretaan (R-408A) bevat	kg	vry	vry	vry	vry	vry
3824.74.21	2	--- Wat chloordifluormetaan, chloortetrafluorene en 1-chloor-1,1-difluoretaan (R-409A) of (R-409B) bevat	kg	vry	vry	vry	vry	vry
3824.74.23	6	--- Wat chloordifluormetaan en 1,1-difluoretaan (R-415B) bevat	kg	vry	vry	vry	vry	vry
3824.74.25	2	--- Wat propaan, chloordifluormetaan en 1,1-difluoretaan (R-418A) bevat	kg	vry	vry	vry	vry	vry
3824.74.27	9	--- Wat chloordifluormetaan en 1-chloor-1,1-difluoretaan (R-22/R-142B) bevat	kg	vry	vry	vry	vry	vry
3824.74.80	5	--- Ander, wat dichloordifluormetaan of trichloordifluormetaan bevat	kg	10%	vry	vry	vry	10%
3824.74.85	6	--- Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	kg	vry	vry	vry	vry	vry
3824.77.07	3	--- Wat pentafluoretaan, propaan en chloordifluormetaan (R-402A) of (R-402B) bevat	kg	10%	vry	vry	vry	10%
3824.77.09	0	--- Wat propaan, chloordifluormetaan en oktafluoropropaan (R-403A) of (R-403B) bevat	kg	10%	vry	vry	vry	10%

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3824.77.11	1	---	kg	vry	vry	vry	vry	vry
3824.77.13	8	---	kg	10%	vry	vry	vry	10%
3824.77.15	4	---	kg	10%	vry	vry	vry	10%
3824.77.17	0	---	kg	10%	vry	vry	vry	vry
3824.77.19	7	---	kg	10%	vry	vry	vry	10%
3824.77.21	9	---	kg	10%	vry	vry	vry	10%
3824.77.23	5	---	kg	10%	vry	vry	vry	10%
3824.77.25	1	---	kg	10%	vry	vry	vry	10%
3824.77.27	8	---	kg	10%	vry	vry	vry	10%
3824.77.80	4	---	kg	vry	vry	vry	vry	vry
3824.77.85	5	---	kg	10%	vry	vry	vry	10%
3824.79.07	6	---	kg	10%	vry	vry	vry	10%
3824.79.09	2	---	kg	10%	vry	vry	vry	10%
3824.79.11	4	---	kg	vry	vry	vry	vry	vry
3824.79.13	0	---	kg	10%	vry	vry	vry	10%
3824.79.15	7	---	kg	10%	vry	vry	vry	10%
3824.79.17	3	---	kg	10%	vry	vry	vry	10%
3824.79.19	9	---	kg	10%	vry	vry	vry	10%
3824.79.21	1	---	kg	10%	vry	vry	vry	10%
3824.79.23	8	---	kg	10%	vry	vry	vry	10%
3824.79.25	4	---	kg	10%	vry	vry	vry	10%

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3824.79.27	0	Wat chloordifluoormetaan en 1-chloor-1,1-difluooretaan (R-22/R-142B) bevat	kg	10%	vry	vry	vry	10%
3824.79.32	7	Wat 1,1,1-trifluooretaan, pentafluooretaan en 1,1,1,2-tetrafluooretaan (R-404A) bevat	kg	10%	vry	vry	vry	10%
3824.79.34	3	Wat difluooretaan, pentafluooretaan en 1,1,1,2-tetrafluooretaan (R-407A), (R-407B), (R-407C), (R-407D) of (R-407E) bevat	kg	10%	vry	vry	vry	10%
3824.79.38	6	Wat 1,1,1,2-tetrafluooretaan, difluooretaan en pentafluooretaan (R-407F) (LT) bevat	kg	10%	vry	vry	vry	10%
3824.79.40	8	Wat difluooretaan en pentafluooretaan (R-410A) bevat	kg	10%	vry	vry	vry	10%
3824.79.42	4	Wat difluooretaan, 1,1,1,2-tetrafluooretaan en iso-butaan (R-422D) bevat	kg	10%	vry	vry	vry	10%
3824.79.44	0	Wat pentafluooretaan en 1,1,1-trifluooretaan (R-507) bevat	kg	10%	vry	vry	vry	10%
3824.79.46	7	Wat trifluooretaan en perfluooretaan (R-508A) of (R-508B) bevat	kg	10%	vry	vry	vry	10%
3824.79.80	7	Ander, wat dichloordifluooretaan of trichloordifluooretaan bevat	kg	vry	vry	vry	vry	vry
3824.79.85	8	Ander, wat geperhalogeneerde derivate van asikliese waterstowwe bevat wat twee of meer verskillende halogene bevat	kg	10%	vry	vry	vry	10%
3902.10.90	9	Ander	kg	vry	vry	vry	vry	vry
3920.20.99	5	Ander	kg	10%	vry	vry	vry	10%
7318.15.36	2	Tapskroewe, van vlekvrystaal (uitgesonderd dié uitkenbaar as vir gebruik met vliegtuie)	kg	30%	vry	vry	vry	30%
7318.15.42	7	Tapskroewe (uitgesonderd dié van vlekvrystaal en dié uitkenbaar as vir gebruik met vliegtuie)	kg	30%	vry	vry	vry	30%
8708.70.1	--	Uitkenbaar as vir gebruik slegs of hoofsaaklik met trekkers (uitgesonderd padtrekkers):						
8708.70.11	5	Padwiele met buitebande gemonteer	kg	vry	vry	vry	vry	vry
8708.70.19	0	Ander	kg	vry	vry	vry	vry	vry
8714.10.10	8	Wielvellingen met buitebande gemonteer	kg	vry	vry	vry	vry	vry
8714.10.90	6	Ander	kg	vry	vry	vry	vry	vry
8714.92.10	7	Wielvellingen met buitebande gemonteer	kg	vry	vry	vry	vry	vry
8714.92.90	5	Ander	kg	vry	vry	vry	vry	vry

Deur die vervanging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2811.19	7	-- Ander	kg	vry	vry	vry	vry	vry
2903.29	--	Ander:						
2903.71	2	-- Chloordifluormetaan (R-22)	kg	vry	vry	vry	vry	vry
2903.72	9	-- Dichloortrifluooretane (R-123)	kg	vry	vry	vry	vry	vry
2903.73	5	-- Dichloordifluooretane (R-141b)	kg	vry	vry	vry	vry	vry
2903.74	1	-- Dichloordifluooretane (R-142)	kg	vry	vry	vry	vry	vry
2903.79.10	0	--- Chloortetrafluooretane (R-124)	kg	vry	vry	vry	vry	vry
2906.29	--	Ander:						
7318.15.35	4	--- Ander skroewe en bout- (met inbegrip van bout-ente en skroefpenne, van vlekrye staal (uitgesonderd dié met volledige skroefdraad met seskantige koppe)	kg	30%	vry	vry	vry	30%
7318.15.41	9	--- Bout-ente en skroefpenne (uitgesonderd dié van vlekrye staal en dié uitkenbaar as vir gebruik met vliegstuile)	kg	30%	vry	vry	vry	30%
8714.10	-	Van motorfiets (met inbegrip van kragtrapfiets):						
8714.92	--	Wielvelings en -speke:						
9506.99.20	8	--- Kunsgras in die vorm van sportveld speeloppervlaktes met merklyne ingesluit, maar ongemonteerd aangebied	m²	10%	vry	vry	vry	vry

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1286

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1591)

In terms of section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the insertion of Additional Note(s) in Chapter 76 to Part 1 of Schedule No. 1 with the following:

ADDITIONAL NOTES:

1. The following definitions apply to the goods mentioned in tariff subheadings 7602.00.10, 7602.00.20, 7602.00.30 and 7602.00.40-

(a) TAIN/TABOR - Clean mixed old alloy sheet aluminium:

(i) Shall consist of clean old alloy aluminium sheet of two or more alloys, free of foil, venetian blinds, castings, hair wire, screen wire, food or beverage containers, radiator shells, airplane sheet, bottle caps, plastic, dirt, and other non-metallic items.

(ii) Oil and grease not to total more than 1%.

(iii) Up to 10% Tale permitted.

(b) TALK - Aluminium copper radiators:

(i) Shall consist of clean aluminium and copper radiators, and/or aluminium fins on copper tubing, free of brass tubing, iron and other foreign contamination.

(c) TENSE - Mixed aluminium castings:

(i) Shall consist of all clean aluminium castings which may contain auto and airplane castings but no ingots, and to be free of iron, brass, dirt and other non-metallic items.

(ii) Oil and grease not to total more than 2%.

(d) TRUMP - Aluminium auto castings:

(i) Shall consist of all clean automobile aluminium castings of sufficient size to be readily identified and to be free form iron, dirt, brass, bushings, and non-metallic items.

(ii) Oil and grease not to total more than 2%.

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
7602.00.10	3	- Tain/Tabor	kg	free	free	free	free	free
7602.00.20	0	- Talk	kg	free	free	free	free	free
7602.00.30	8	- Tense	kg	free	free	free	free	free
7602.00.40	5	- Trump	kg	free	free	free	free	free

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
7602.00		Aluminium waste and scrap:						

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1286

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/1/1591)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangeboden.


MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die invoeging van Addisionele Opmerking(s) in Hoofstuk 76 by Deel 1 van Bylae No. 1 met die volgende:

ADDISIONELE OPMERKINGS:

1. Die volgende omskrywings is van toepassing op die goedere genoem in tariefsubposte 7602.00.10, 7602.00.20, 7602.00.30 en 7602.00.40 -
 - (a) **TAINT/TABOR** Skoon gemengde of legering van aluminium fynplaat:
 - (i) Sal bestaan uit skoon gemengde of legering van aluminium fynplaat van twee of meer legerings, vry wees van foelle, hortjieblindes, gietstukke, haardraad, skemdraad, voedsel of drankhouers, verkoelerdoppe, vliegtuigplaat, botteldoppe, plastiek, vulgoed en ander nie-metaalagtige items nie.
 - (ii) Olie en ghries met 'n totaal van nie meer as 1% nie.
 - (iii) Tot en met 10% Tale toegelaat.
 - (b) **TALK- Aluminium koper verkoelers:**
 - (i) Sal bestaan uit skoon aluminium en koper verkoelers, en/of aluminium vinne op koperbuise, vry wees van geelkoperbuise, yster en ander vreemde besmetting.
 - (c) **TENSE** Gemengde aluminiumgieblokke:
 - (i) Sal bestaan uit alle aluminiumgieblokke wat motorvoertuig of vliegtuigietstukke mag bevat, maar geen gietblokke, en vry te wees van yster, geelkoper, vulgoed en ander nie-metaalagtige items nie.
 - (ii) Olie en ghries met 'n totaal van nie meer as 2% nie.
 - (d) **TRUMP - Aluminium motorvoertuigietstukke**
 - (i) Sal bestaan uit motorvoertuigietstukke van voldoende grootte om geredelik uitkenbaar en vry te wees van yster, vulgoed, geelkoper, busse, en ander nie-metaalagtige items nie.
 - (ii) Olie en ghries met 'n totaal van nie meer as 2% nie.

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg			
				Algemeen	EU	EFTA	MERCOSUR
7602.00.10	3	-	kg	vry	vry	vry	vry
7602.00.20	0	Taint/Tabor	kg	vry	vry	vry	vry
7602.00.30	8	Talk	kg	vry	vry	vry	vry
7602.00.40	5	Tense	kg	vry	vry	vry	vry
		Trump	kg	vry	vry	vry	vry

Deur die vervanging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
7602.00		Aluminiumoorskiet en -afval:	Algemeen	EU	EFTA	SAOG	MERCOSUR	

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1287

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1592)

In terms of section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.


MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By insertion of Additional Note(s) in Chapter 29 to Part 1 of Schedule No. 1 with the following:

ADDITIONAL NOTE:

1. For the purposes of heading 29.41, when imported:
 - (a) Medicaments for veterinarian use shall comply with section 16 of the Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act No. 36 of 1947.

By insertion of Additional Note(s) in Chapter 30 to Part 1 of Schedule No. 1 with the following:

ADDITIONAL NOTE:

1. For the purposes of headings 3003.10; 3003.20 and 3004.20:
 - (a) Medicaments for veterinarian use shall comply with section 16 of the Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act No. 36 of 1947

By the deletion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3004.10.10	1	-- In aerosol containers	kg	free	free	free	free	free
3004.10.90	3	-- Other	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2941.10.1	--	Broad spectrum penicillins:						
2941.10.11	8	-- For human use	kg	free	free	free	free	free
2941.10.12	6	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.10.2	--	Narrow spectrum penicillins:						
2941.10.21	5	-- For human use	kg	free	free	free	free	free
2941.10.22	3	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.20.10	4	-- For human use	kg	free	free	free	free	free
2941.20.20	1	-- For veterinary use, as defined in additional Note 1	kg	free	free	free	free	free
2941.30.10	9	-- For human use	kg	free	free	free	free	free
2941.30.20	6	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.40.10	3	-- For human use	kg	free	free	free	free	free
2941.40.20	0	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.50.10	8	-- For human use	kg	free	free	free	free	free
2941.50.20	5	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.1	--	Other Macrolides:						
2941.90.11	4	-- For human use	kg	free	free	free	free	free
2941.90.12	2	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.2	--	Cephalosporins:						
2941.90.21	1	-- For human use	kg	free	free	free	free	free
2941.90.22	2	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.3	--	Trimethoprim:						
2941.90.31	9	-- For human use	kg	free	free	free	free	free
2941.90.32	7	-- For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2941.90.4	- -	Fluoroquinolones:						
2941.90.41	6	For human use	kg	free	free	free	free	free
2941.90.42	4	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.5	- -	Aminoglycosides:						
2941.90.51	3	For human use	kg	free	free	free	free	free
2941.90.52	1	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.6	- -	Other betalactams:						
2941.90.61	0	For human use	kg	free	free	free	free	free
2941.90.62	9	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.7	- -	Other antibacterials:						
2941.90.71	8	For human use	kg	free	free	free	free	free
2941.90.72	6	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
2941.90.8	- -	Sulphonamides:						
2941.90.81	5	For human use	kg	free	free	free	free	free
2941.90.82	3	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.10.1	- -	Broad spectrum penicillins:						
3003.10.11	6	For human use	kg	free	free	free	free	free
3003.10.12	4	For veterinary use, as defined in additional Note 1	kg	free	free	free	free	free
3003.10.2	- -	Narrow spectrum penicillins:						
3003.10.21	3	For human use	kg	free	free	free	free	free
3003.10.22	1	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.10.30	2	Other	kg	free	free	free	free	free
3003.20.1	- -	Tetracyclines:						
3003.20.11	0	For human use	kg	free	free	free	free	free
3003.20.12	9	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.2	- -	Chloramphenicol:						
3003.20.21	8	For human use	kg	free	free	free	free	free
3003.20.22	6	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.3	- -	Cephalosporins:						
3003.20.31	5	For human use	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3003.20.32	3	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.4		Trimethoprim:						
3003.20.41	2	For human use	kg	free	free	free	free	free
3003.20.42	0	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.5		Macrolides:						
3003.20.51	4	For human use	kg	free	free	free	free	free
3003.20.52	8	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.6		Fluoroquinolones:						
3003.20.61	7	For human use	kg	free	free	free	free	free
3003.20.62	5	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.7		Aminoglycosides:						
3003.20.71	4	For human use	kg	free	free	free	free	free
3003.20.72	2	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.8		Other betalactams:						
3003.20.81	1	For human use	kg	free	free	free	free	free
3003.20.82	3	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3003.20.9		Other antibacterials:						
3003.20.91	9	For human use	kg	free	free	free	free	free
3003.20.92	7	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.10.1		In aerosol containers:						
3004.10.11	5	Broad spectrum penicillin	kg	free	free	free	free	free
3004.10.12	8	Narrow spectrum penicillin	kg	free	free	free	free	free
3004.10.2		Other broad spectrum penicillins:						
3004.10.21	7	For human use	kg	free	free	free	free	free
3004.10.22	5	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.10.3		Other narrow spectrum penicillins:						
3004.10.31	4	For human use	kg	free	free	free	free	free
3004.10.32	2	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.10.9		Other:						
3004.10.91	8	For human use	kg	free	free	free	free	free

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
3004.10.92	6	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.2		Tetracyclines:						
3004.20.21	1	For human use	kg	free	free	free	free	free
3004.20.22	4	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.3		Chloramphenicol:						
3004.20.31	9	For human use	kg	free	free	free	free	free
3004.20.32	7	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.4		Cephalosporins:						
3004.20.41	6	For human use	kg	free	free	free	free	free
3004.20.42	4	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.5		Trimethoprim:						
3004.20.51	3	For human use	kg	free	free	free	free	free
3004.20.52	1	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.6		Macrolides:						
3004.20.61	0	For human use	kg	free	free	free	free	free
3004.20.62	9	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.7		Fluoroquinolones:						
3004.20.71	8	For human use	kg	free	free	free	free	free
3004.20.72	6	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.8		Aminoglycosides:						
3004.20.81	5	For human use	kg	free	free	free	free	free
3004.20.82	3	For veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.9		Other:						
3004.20.91	2	Other betalactams for human use	kg	free	free	free	free	free
3004.20.92	0	Other betalactams for veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.93	9	Other antibacterials for human use	kg	free	free	free	free	free
3004.20.94	7	Other antibacterials for veterinary use, as defined in Additional Note 1	kg	free	free	free	free	free
3004.20.99	8	Other	kg	free	free	free	free	free

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty				
				General	EU	EFTA	SADC	MERCOSUR
2941.10		- Penicillins and their derivatives with a penicillanic acid structure; salts thereof:						
2941.20		- Streptomycins and their derivatives; salts thereof:						
2941.30		- Tetracyclines and their derivatives; salts thereof:						
2941.40		- Chloramphenicol and its derivatives; salts thereof:						
2941.50		- Erythromycin and its derivatives; salts thereof:						
2941.90		- Other:						
3003.10		- Containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives:						
3003.20		- Other, containing antibiotics:						

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1287

17 NOVEMBER 2017

**DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 1 (NO. 1/1/1592)**

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by bogecende Wet hieme gewysig in die mate in die Bylae hierby aangeleoon.



MINISTER VAN FINANSIES

BYLAE

Deur die invoeging van die volgende Opmerking(s) in Subhoofstuk XIII van Hoofstuk 29 van Afdeling VI tot Deel 1 van Bylae No. 1:

ADDISIONELE OPMERKING:

1. Vir die doeleindes van pos 29.41, wanneer ingevoer:

- (a) Medisyne vir veeartsenykundige gebruik sal voldoen aan artikel 16 van die Kunsmis, Plaasvoere, Landbougeneesmiddels en Lewende Hare Geneesmiddelwet No. 36 van 1947.

ADDISIONELE OPMERKING:

1. Vir die doeleindes van poste 3003.10, 3003.20 en 3004.20:

- (a) Medisyne vir veeartsenykundige gebruik sal voldoen aan artikel 16 van die Kunsmis, Plaasvoere, Landbougeneesmiddels en Lewende Hare Geneesmiddelwet No. 36 van 1947.

Deur die skraping van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg			
				Algemeen	EU	EFTA	MERCOSUR
3004.10.10	1	-- In aerosolhouers	kg	vry	vry	vry	vry
3004.10.90	3	-- Ander	kg	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg			
				Algemeen	EU	EFTA	MERCOSUR
2941.10.1		-- Breëspektrum penisilline:					
2941.10.11	8	-- Vir menslike gebruik	kg	vry	vry	vry	vry
2941.10.12	6	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry
2941.10.2		-- Smalspektrum penisilline:					
2941.10.21	5	-- Vir menslike gebruik	kg	vry	vry	vry	vry
2941.10.22	3	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry
2941.20.10	4	-- Vir menslike gebruik	kg	vry	vry	vry	vry
2941.20.20	1	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry
2941.30.10	9	-- Vir menslike gebruik	kg	vry	vry	vry	vry
2941.30.20	6	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry
2941.40.10	3	-- Vir menslike gebruik	kg	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2941.40.20	0	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.50.10	8	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.50.20	5	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.1		Ander Makroliede:						
2941.90.11	4	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.12	2	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.2		Sefalosporiene:						
2941.90.21	1	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.22	2	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.3		Trimetopriem:						
2941.90.31	9	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.32	7	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.4		Fluorkinolien:						
2941.90.41	6	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.42	4	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.5		Aminoglikosiede:						
2941.90.51	3	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.52	1	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.6		Ander betalaktame:						
2941.90.61	0	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.62	9	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
2941.90.7		Ander antibakteriese:						
2941.90.71	8	-- Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.72	6	-- Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2941.90.8		-- Sulfoanamiede:						
2941.90.81	5	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
2941.90.82	3	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.10.1		-- Breëspektrum penisilline:						
3003.10.11	6	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.10.12	4	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.10.2		-- Smalspektrum penisilline:						
3003.10.21	3	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.10.22	1	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.10.30	2	Ander	kg	vry	vry	vry	vry	vry
3003.20.1		-- Tetrasielene:						
3003.20.11	0	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.12	9	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.2		-- Chlooramfenikol:						
3003.20.21	8	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.22	6	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.3		-- Sefalosporiene:						
3003.20.31	5	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.32	3	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.4		-- Trimetopriem:						
3003.20.41	2	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.42	0	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.5		-- Makroliede:						
3003.20.51	4	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.52	8	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3003.20.6	--	Fluorkinalone:						
3003.20.61	7	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.62	5	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.7	--	Aminoglikosiede:						
3003.20.71	4	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.72	2	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.8	--	Ander Betalaktame:						
3003.20.81	1	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.82	3	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3003.20.9	--	Ander antibakteriese:						
3003.20.91	9	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3003.20.92	7	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3004.10.1	--	In aërosolhouers:						
3004.10.11	5	Breëspektrum penisilline	kg	vry	vry	vry	vry	vry
3004.10.12	8	Smalspektrum penisilline	kg	vry	vry	vry	vry	vry
3004.10.2	--	Ander breëspektrum penisilline:						
3004.10.21	7	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3004.10.22	5	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3004.10.3	--	Ander smalspektrum penisilline:						
3004.10.31	4	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3004.10.32	2	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3004.10.9	--	Ander:						
3004.10.91	8	Vir menslike gebruik	kg	vry	vry	vry	vry	vry
3004.10.92	6	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	kg	vry	vry	vry	vry	vry
3004.20.2	--	Tetrasiklene:						
3004.20.21	1	Vir menslike gebruik	kg	vry	vry	vry	vry	vry

Deur die invoeging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
3004.20.22	4	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.3		--	Chlooramfenikol:					
3004.20.31	9	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.32	7	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.4		--	Sefalosporiene:					
3004.20.41	6	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.42	4	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.5		--	Trimetopriem:					
3004.20.51	3	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.52	1	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.6		--	Makroliede:					
3004.20.61	0	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.62	9	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.7		--	Fluorkinolone:					
3004.20.71	8	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.72	6	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.8		--	Aminoglikosiede:					
3004.20.81	5	---	Vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.82	3	---	Vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.9		--	Ander:					
3004.20.91	2	---	Ander betalaktame vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.92	0	---	Ander betalaktame vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.93	9	---	Ander antibakteriese vir menslike gebruik	vry	vry	vry	vry	vry
3004.20.94	7	---	Ander antibakteriese vir veeartsenykundige gebruik, soos in Addisionele Opmerking 1 omskryf	vry	vry	vry	vry	vry
3004.20.99	8	---	Ander	vry	vry	vry	vry	vry

Deur die vervanging van die volgende:

Pos / Subpos	TS	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg				
				Algemeen	EU	EFTA	SAOG	MERCOSUR
2941.10		- Penisilliene en derivate daarvan met 'n penisillaniese suurstruktuur; soute daarvan:						
2941.20		- Streptomisiene en derivate daarvan; soute daarvan:						
2941.30		- Tetrasikliene en derivate daarvan; soute daarvan:						
2941.40		- Chlooramfenikol en derivate daarvan; soute daarvan:						
2941.50		- Eritromisien en derivate daarvan; soute daarvan:						
2941.90		- Ander:						
3003.10		- Wat penisilliene of derivate daarvan, met 'n penisillaniese suurstruktuur, of streptomisiene of derivate daarvan, bevat:						
3003.20		- Ander wat antibiotika bevat:						

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1288

17 NOVEMBER 2017

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 3 (NO. 3/1/725)

In terms of section 75 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 3 to the said Act is hereby amended to the extent set out in the Schedule hereto.



MKN GIGABA
MINISTER OF FINANCE

SCHEDULE

By the deletion of the following:

Rebate Item	Tariff Heading	Rebate Code	CD	Description	Extent of Rebate
308.02	4421.90	01.06	61	Wood frames	Full duty

By the insertion of the following:

Rebate Item	Tariff Heading	Rebate Code	CD	Description	Extent of Rebate
308.02	4421.99	01.06	63	Woof frames	Full duty

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1288

17 NOVEMBER 2017

DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 3 (NO. 3/1725)

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 3 by bogenoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.



MKN GIGABA
MINISTER VAN FINANSIES

BYLAE

Deur die skraping van die volgende:

Kortingitem	Tariefpos	Kortingkode	TS	Beskrywing	Mate van Korting
308.02	4421.90	01.06	61	Rame van hout	Volle reg

Deur die invoeging van die volgende:

Kortingitem	Tariefpos	Kortingkode	TS	Beskrywing	Mate van Korting
308.02	4421.99	01.06	63	Rame van hout	Volle reg

WARNING!!!

To all suppliers and potential suppliers of goods to the Government Printing Works

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

Government Printing Works condemns such illegal activities and encourages service providers to confirm the legitimacy of purchase orders with GPW SCM, prior to processing and delivery of goods.

To confirm the legitimacy of purchase orders, please contact:

Renny Chetty (012) 748-6375 (Renny.Chetty@gpw.gov.za),

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