



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 638

31 August  
Augustus 2018

No. 41870

**PART 1 OF 2**

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

ISSN 1682-5843



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

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- **24 August**, Friday for the issue of Friday **31 August 2018**
- **31 August**, Friday for the issue of Friday **07 September 2018**
- **07 September**, Friday for the issue of Friday **14 September 2018**
- **14 September**, Friday for the issue of Friday **21 September 2018**
- **20 September**, Thursday for the issue of Friday **28 September 2018**
- **28 September**, Friday for the issue of Friday **05 October 2018**
- **05 October**, Friday for the issue of Friday **12 October 2018**
- **12 October**, Friday for the issue of Friday **19 October 2018**
- **19 October**, Friday for the issue of Friday **26 October 2018**
- **26 October**, Friday for the issue of Friday **02 November 2018**
- **02 November**, Friday for the issue of Friday **09 November 2018**
- **09 November**, Friday for the issue of Friday **16 November 2018**
- **16 November**, Friday for the issue of Friday **23 November 2018**
- **23 November**, Friday for the issue of Friday **30 November 2018**
- **30 November**, Friday for the issue of Friday **07 December 2018**
- **07 December**, Friday for the issue of Friday **14 December 2018**
- **13 December**, Thursday for the issue of Friday **21 December 2018**
- **19 December**, Wednesday for the issue of Friday **28 December 2018**

# LIST OF TARIFF RATES

## FOR PUBLICATION OF NOTICES

**COMMENCEMENT: 1 APRIL 2018**

### NATIONAL AND PROVINCIAL

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

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

### EXTRA-ORDINARY

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

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

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

### CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website [www.gpwonline.co.za](http://www.gpwonline.co.za)

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

**All notices received after the closing time will be rejected.**

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

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

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

### EXTRAORDINARY GAZETTES

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

### NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za).
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
  - 8.1. Each of the following documents must be attached to the email as a separate attachment:
    - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
      - 8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
      - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
    - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
    - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
    - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
    - 8.1.5. Any additional notice information if applicable.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

### QUOTATIONS

13. Quotations are valid until the next tariff change.
  - 13.1. **Take note:** **GPW**'s annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
  - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
  - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
  - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
  - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
    - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
  - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
  - 19.1. This means that **the quotation number can only be used once to make a payment.**

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

**CANCELLATIONS**

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

**AMENDMENTS TO NOTICES**

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

**REJECTIONS**

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

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

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

**GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY**

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

**LIABILITY OF ADVERTISER**

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

**CUSTOMER INQUIRIES**

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

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

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

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

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### PAYMENT OF COST

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

### PROOF OF PUBLICATION

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

## GOVERNMENT PRINTING WORKS CONTACT INFORMATION

**Physical Address:**
**Government Printing Works**

149 Bosman Street

Pretoria

**Postal Address:**

Private Bag X85

Pretoria

0001

**GPW Banking Details:**
**Bank:** ABSA Bosman Street

**Account No.:** 405 7114 016

**Branch Code:** 632-005

**For Gazette and Notice submissions:** Gazette Submissions:

**For queries and quotations, contact:** Gazette Contact Centre:

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

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

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

**Fax:** 012-323-9574

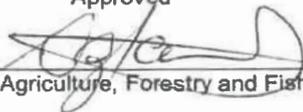
## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 898

31 AUGUST 2018

CONSERVATION OF AGRICULTURAL RESOURCES ACT, 1983  
(ACT No. 43 OF 1983)GENERAL NOTICE ON NEW LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA  
2017.

Approved

Minister of Agriculture, Forestry and Fisheries
03-05-2018
Date

CHECKED AND CERTIFIED

16/02/2018
LEGAL SERVICES

**GOVERNMENT GAZETTE NOTICE OF 2017**

**GENERAL NOTICE**

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

**CONSERVATION OF AGRICULTURAL RESOURCES ACT, 1983 (ACT No. 43 of  
1983)**

**LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA**

**NOTICE TO PUBLIC**

I, Senzeni Zokwana, Minister for Agriculture, Forestry and Fisheries, hereby publish a notice to all interested and affected institutions, organizations and individuals on the long-term grazing capacity map for South Africa developed in line with the provisions of Regulation 10 of the Conservation of Agricultural Resources Act, 1983 (Act no. 43 of 1983) (CARA).



.....

**SENZENI ZOKWANA**

**MINISTER FOR AGRICULTURE, FORESTRY AND FISHERIES**

**CONSERVATION OF AGRICULTURAL RESOURCES ACT, ACT 43 OF 1983****NEW LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA 2017****NOTICE TO PUBLIC****PURPOSE**

1. The purpose of this notice is to inform the public and all interested and affected parties of the updated long-term grazing capacity map for implementation and use in rangeland management with the intention to enhance protection of the natural agricultural resources and improved management of veld for sustainable livestock production.

**DEFINITIONS**

2. In this notice, any word or expression to which a meaning has been assigned in the Act shall have the same meaning so assigned, and unless the context otherwise indicates –

“**The Act**” means the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983)

“**CARA**” refers to the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983)

“**Grazing capacity**” in relation to veld, means the production capacity over the long term of that veld to meet the feed requirements of animals in such a manner that the natural vegetation thereon does not deteriorate or is not destroyed;

“**Long-term**” means the determination of the production capacity of a well-managed veld over a period of longer than 10 years

**GAZETTE INCLUDES:**

3. An updated long-term grazing capacity map for South Africa developed under Regulation 10 of the Conservation of Agricultural Resources Act, Act no 43 of 1983 (CARA).

**SUBJECT:** GAZETTE NOTICE OF THE LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA 2017, FOR IMPLEMENTATION AS GUIDED BY REGULATION 10 OF THE CONSERVATION OF AGRICULTURAL RESOURCES ACT (ACT43 OF 1983).

**CLASSIFICATION:** CONFIDENTIAL

### **3.1 The new long term grazing capacity map for South Africa 2017**

3.1.1 The new long-term grazing capacity map will replace the current map to adhere to the department's responsibility as described in Regulation 10.1 of the Conservation of Agricultural Resources Act, Act 43 of 1983.

3.1.2 The Map together with the data is available in the Departmental website on [www.daff.gov.za](http://www.daff.gov.za). Attached is the long-term map updated together with maps for all Provinces for illustrative purposes. Alternatively the following link may be used:

<https://www.dropbox.com/sh/rtkmb2qr9y1u94v/AAB2cMCHXy7e77qHvhiEzQola?dl=0>

3.1.3 The new long-term grazing capacity map is hereby gazetted for implementation and use with effect from the date published in the Government Gazette.

### **REPEAL OF OLD GRAZING CAPACITY MAP**

4. Grazing capacity map published in the Government Gazette Notice in 1993 is hereby repealed.

### **NEW TITLE AND COMMENCEMENT**

5. This notice is called the Long-term Grazing Capacity Map for South Africa and takes effect on a date determined by the Minister by notice in the gazette.

SUBJECT: GAZETTE NOTICE OF THE LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA 2017, FOR IMPLEMENTATION AS GUIDED BY REGULATION 10 OF THE CONSERVATION OF AGRICULTURAL RESOURCES ACT (ACT43 OF 1983).

CLASSIFICATION: CONFIDENTIAL

For more information please contact the Executive Officer for Conservation of Agricultural Resources Act, Act No. 43 of 1983 (CARA), using the details below:

The Director: Land Use and Soil Management, Attention Ms RL Bosoga.

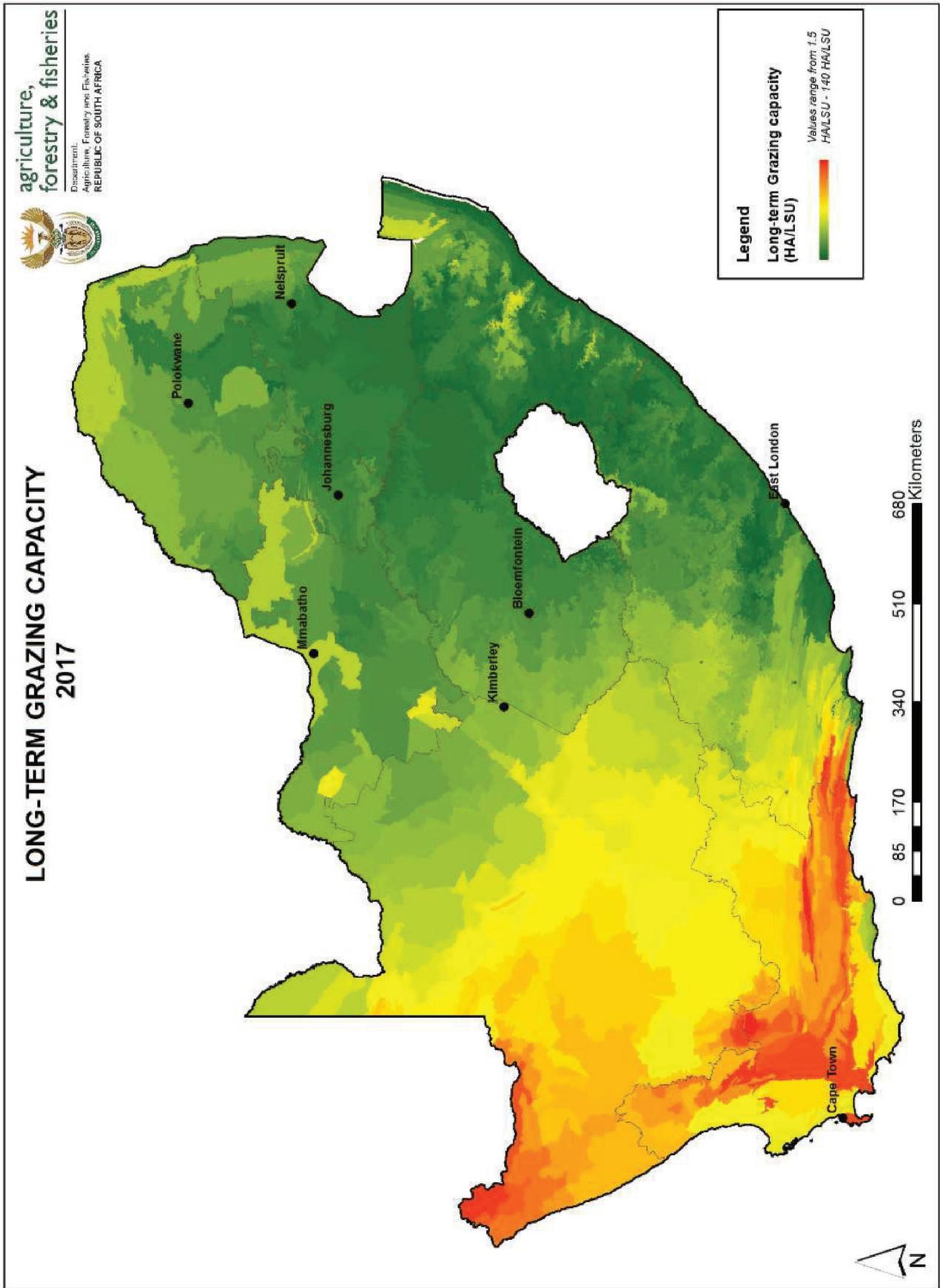
Post to: Private Bag X 120, Pretoria, 0001; or

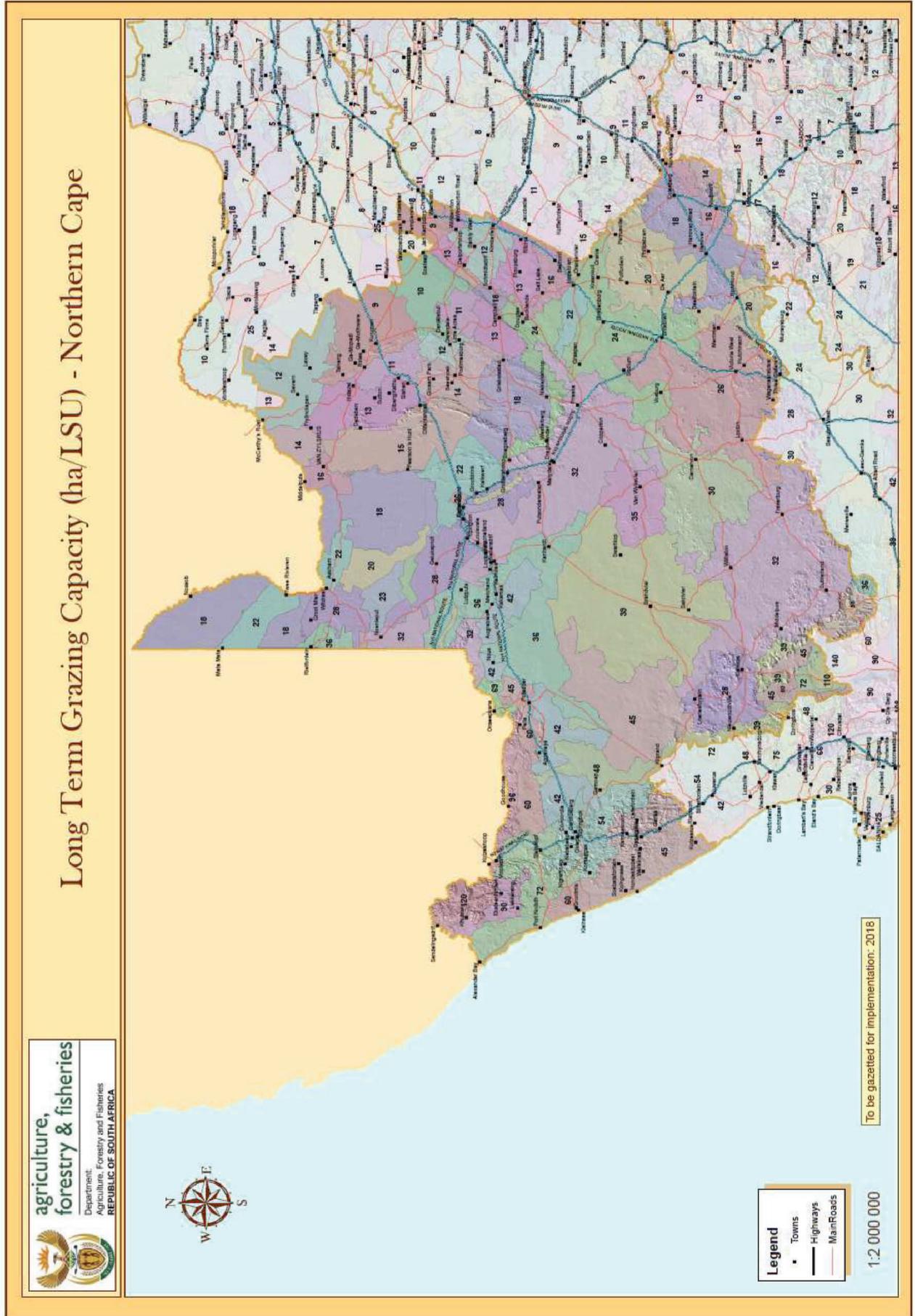
Deliver To: 244 Delpen Building, Corner Annie Botha and Union Street, Riviera, Pretoria; or

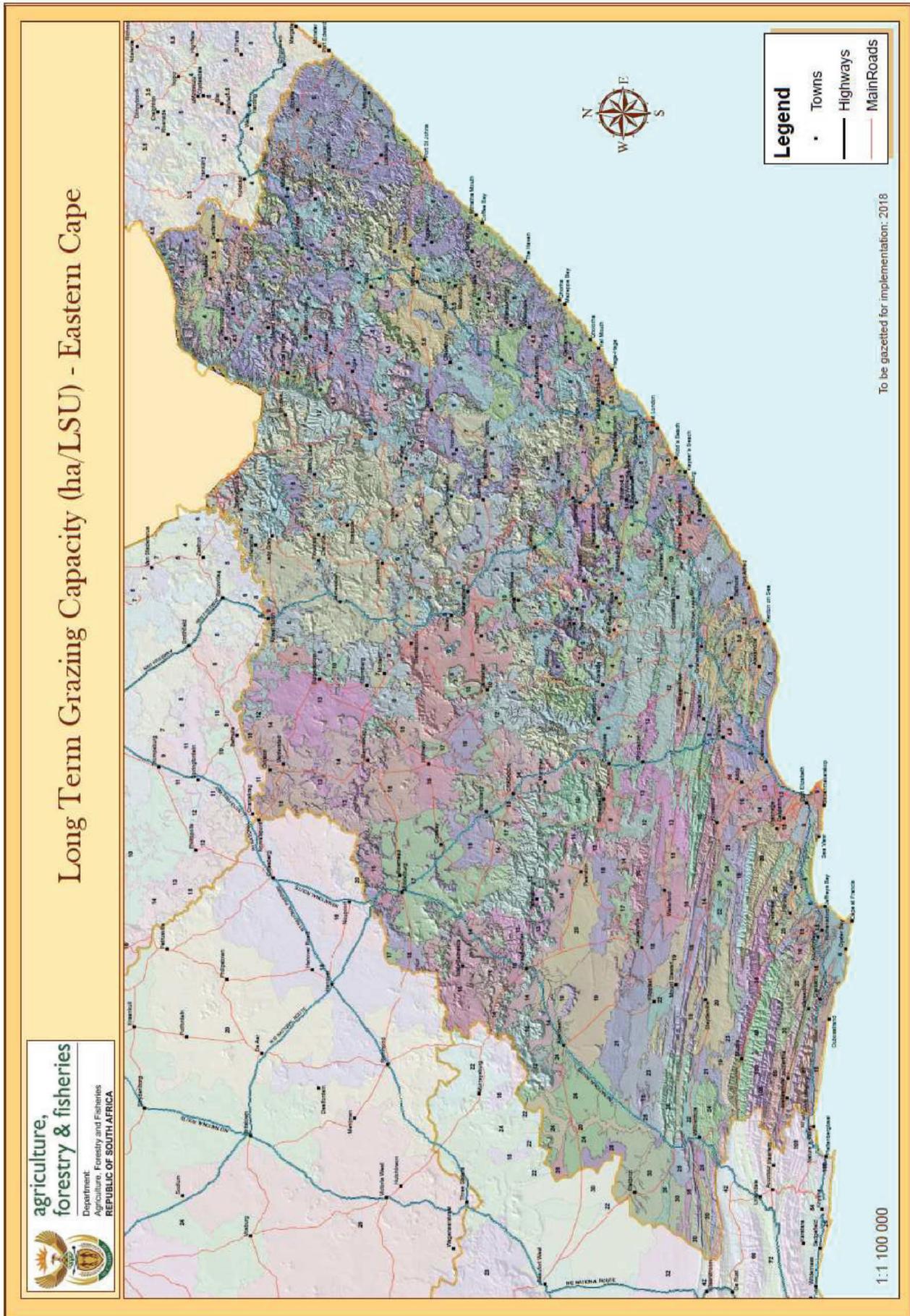
Enquiries may be emailed to: [MpumeN@daff.gov.za](mailto:MpumeN@daff.gov.za) alternatively call (012) 319 7567 or to [AnnelizaC@daff.gov.za](mailto:AnnelizaC@daff.gov.za) alternatively call (012) 319 7508

SUBJECT: GAZETTE NOTICE OF THE LONG-TERM GRAZING CAPACITY MAP FOR SOUTH AFRICA 2017, FOR IMPLEMENTATION AS GUIDED BY REGULATION 10 OF THE CONSERVATION OF AGRICULTURAL RESOURCES ACT (ACT43 OF 1983).

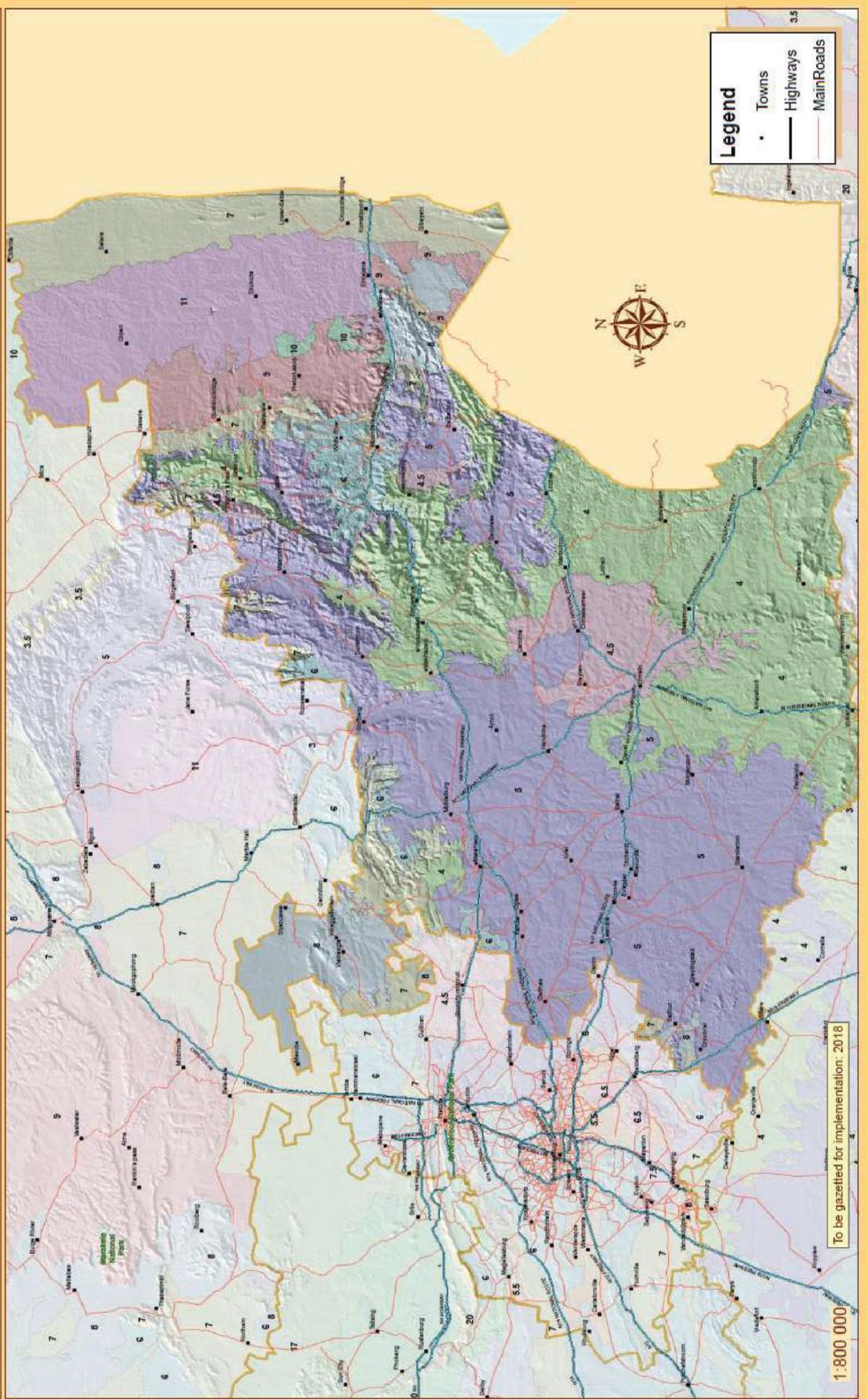
CLASSIFICATION: CONFIDENTIAL







# Long Term Grazing Capacity (ha/LSU) - Mpumalanga

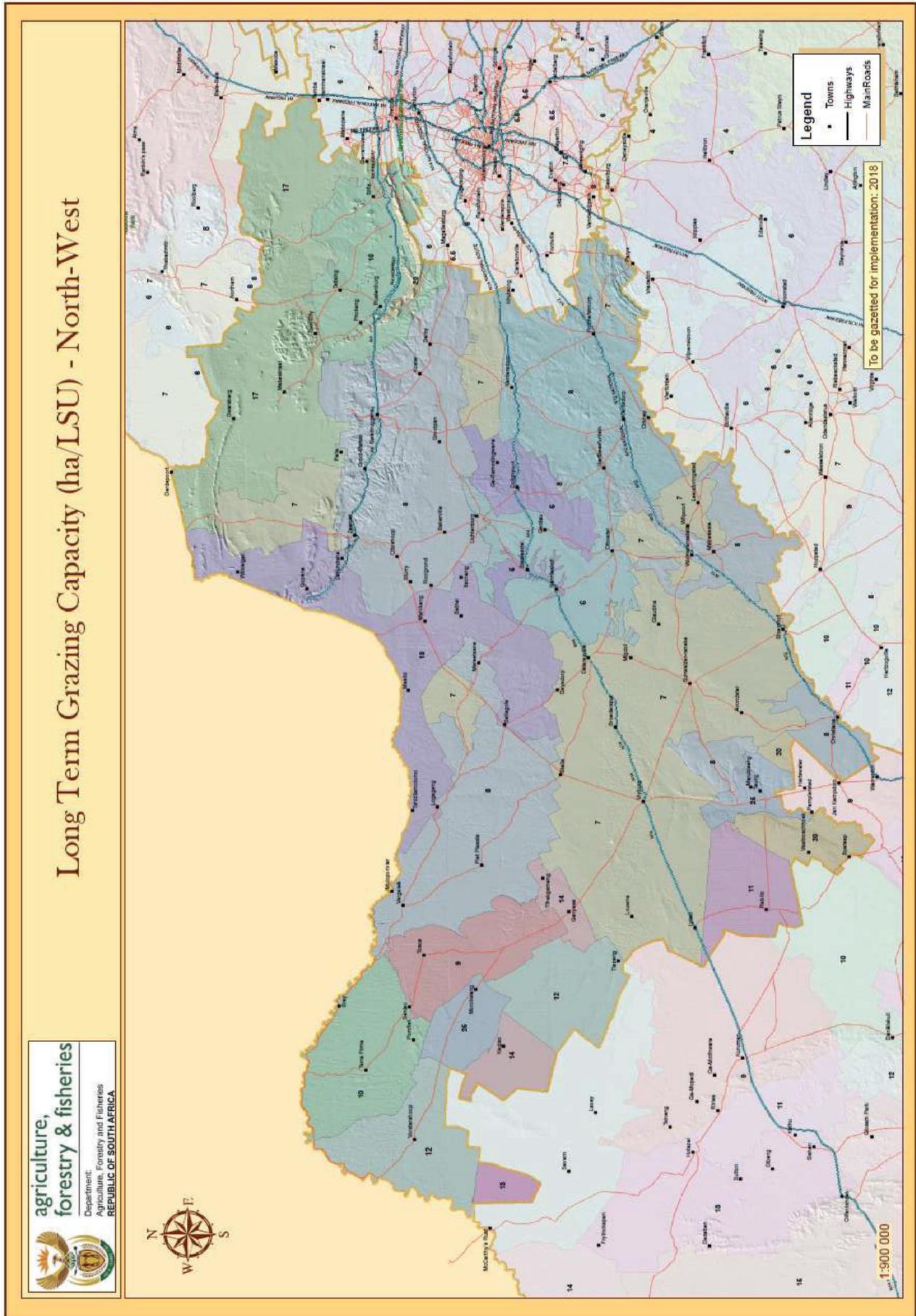


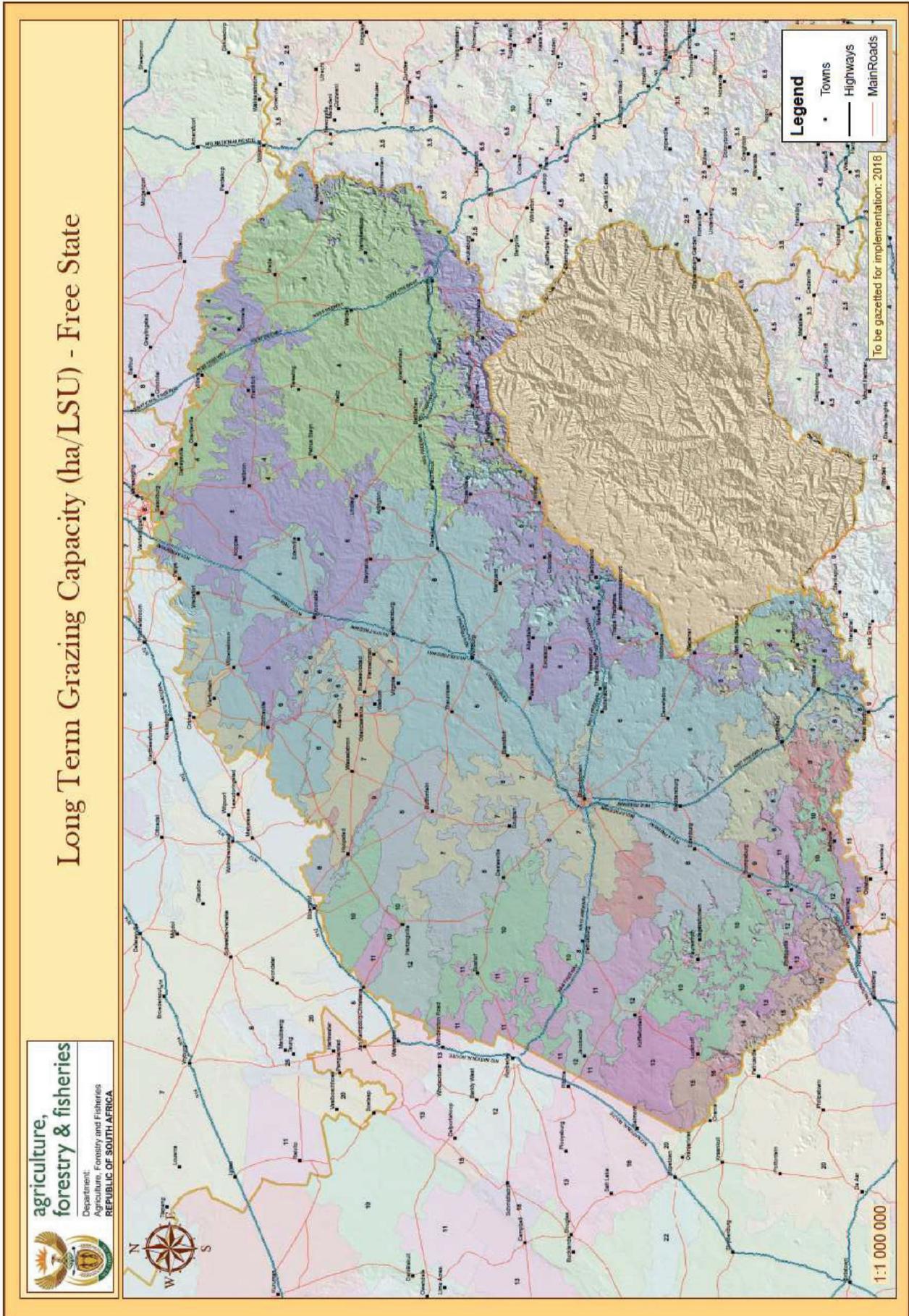
**Legend**

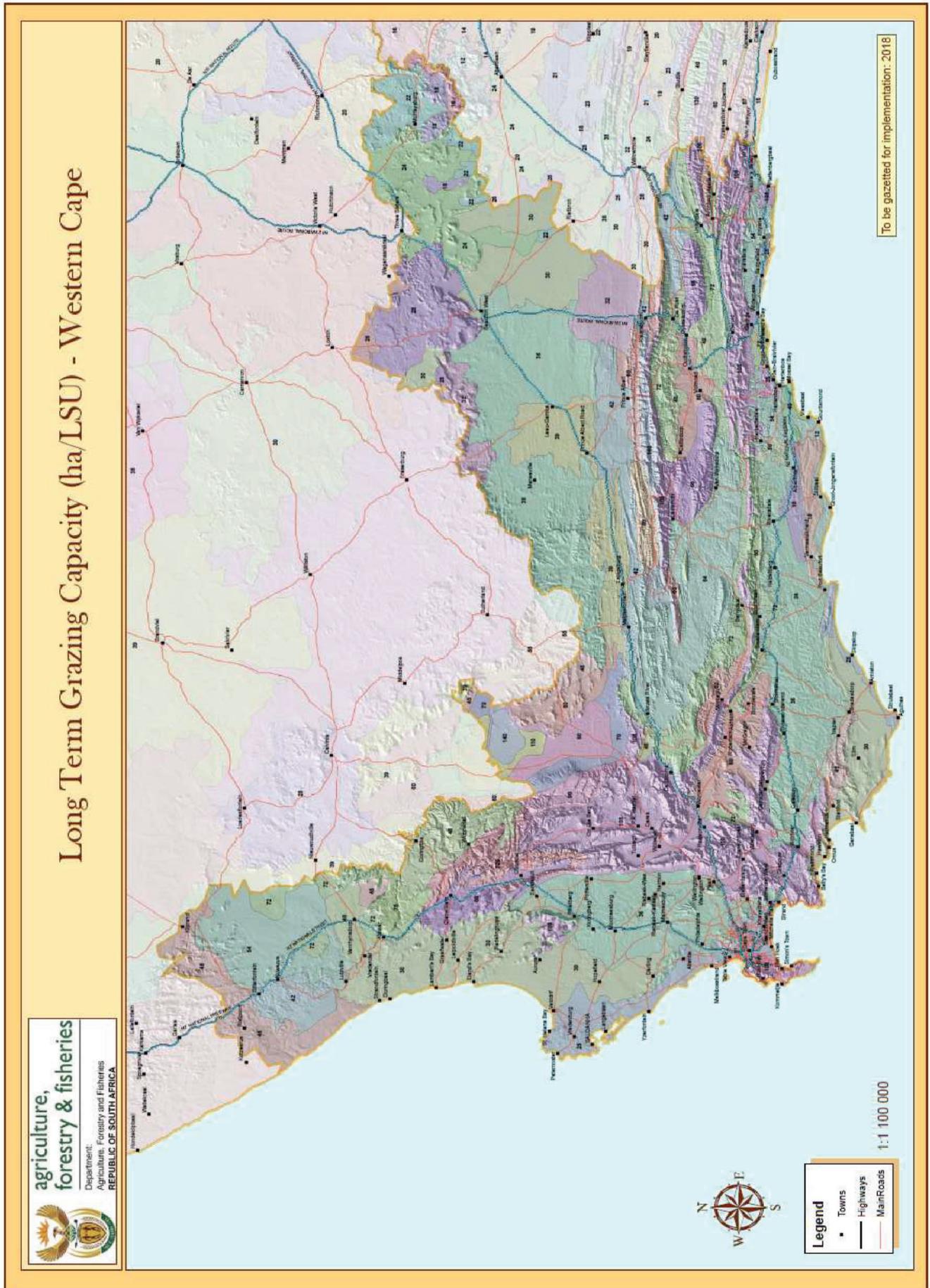
- Towns
- Highways
- Main Roads

To be gazetted for implementation: 2018

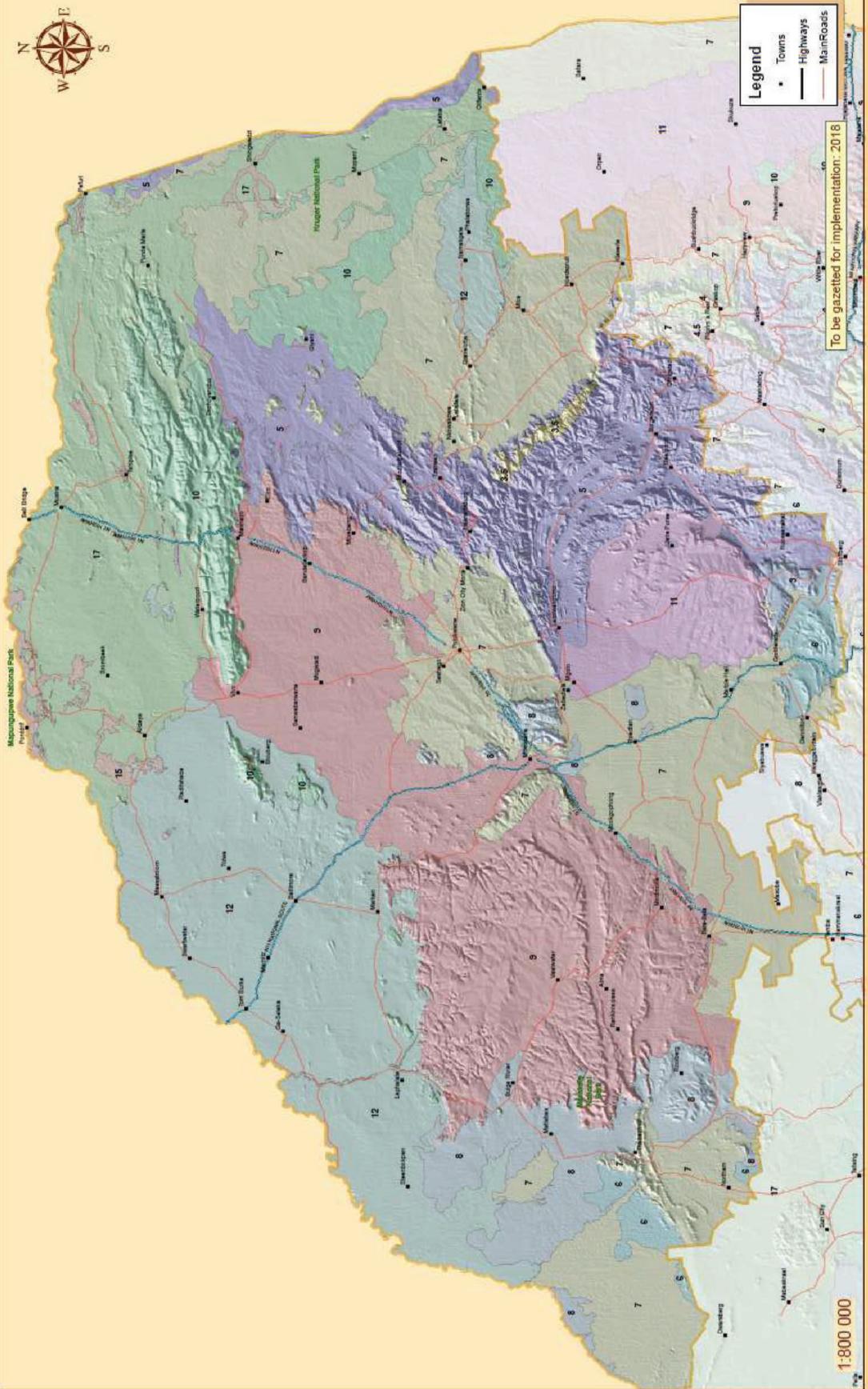
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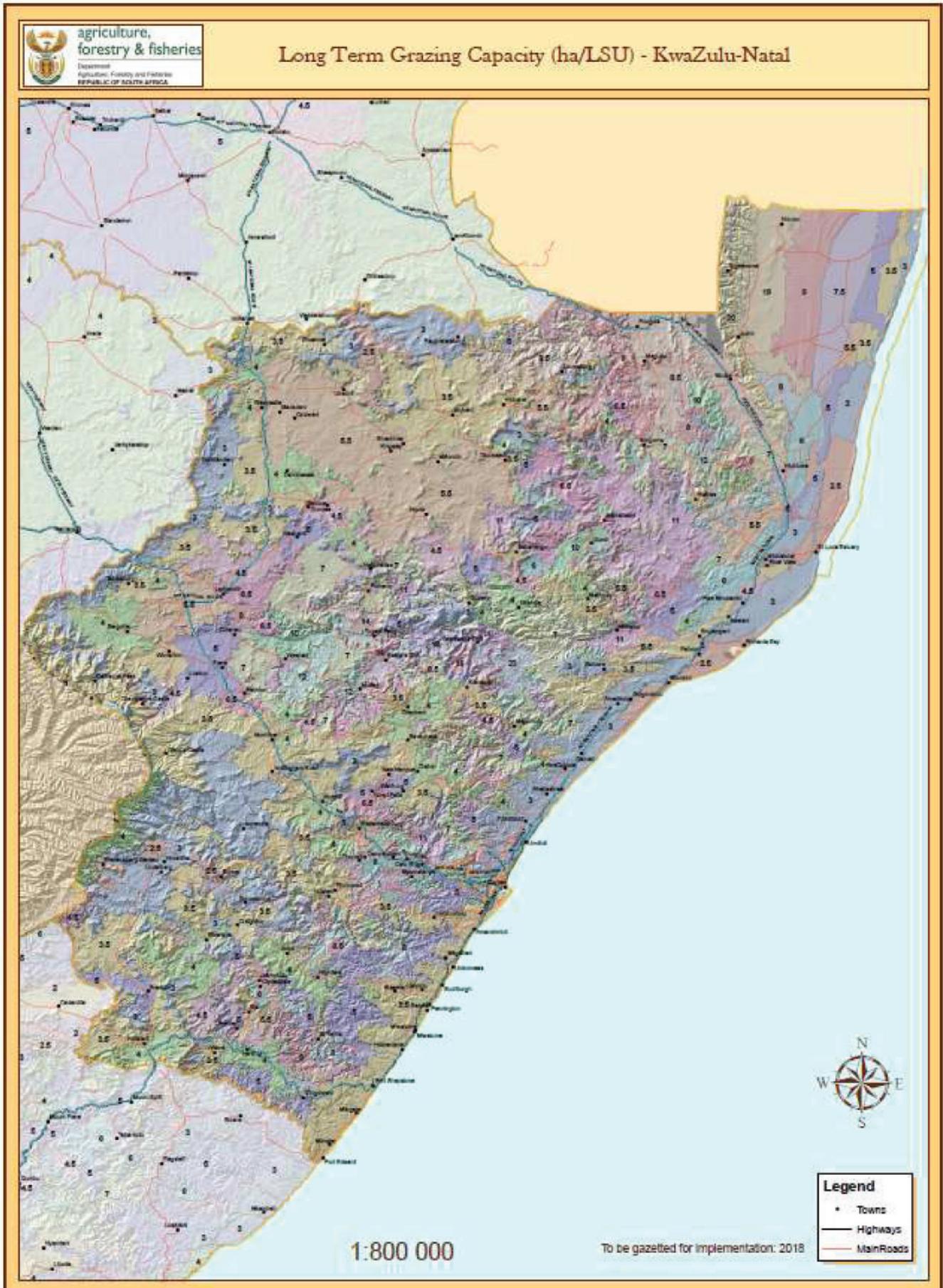


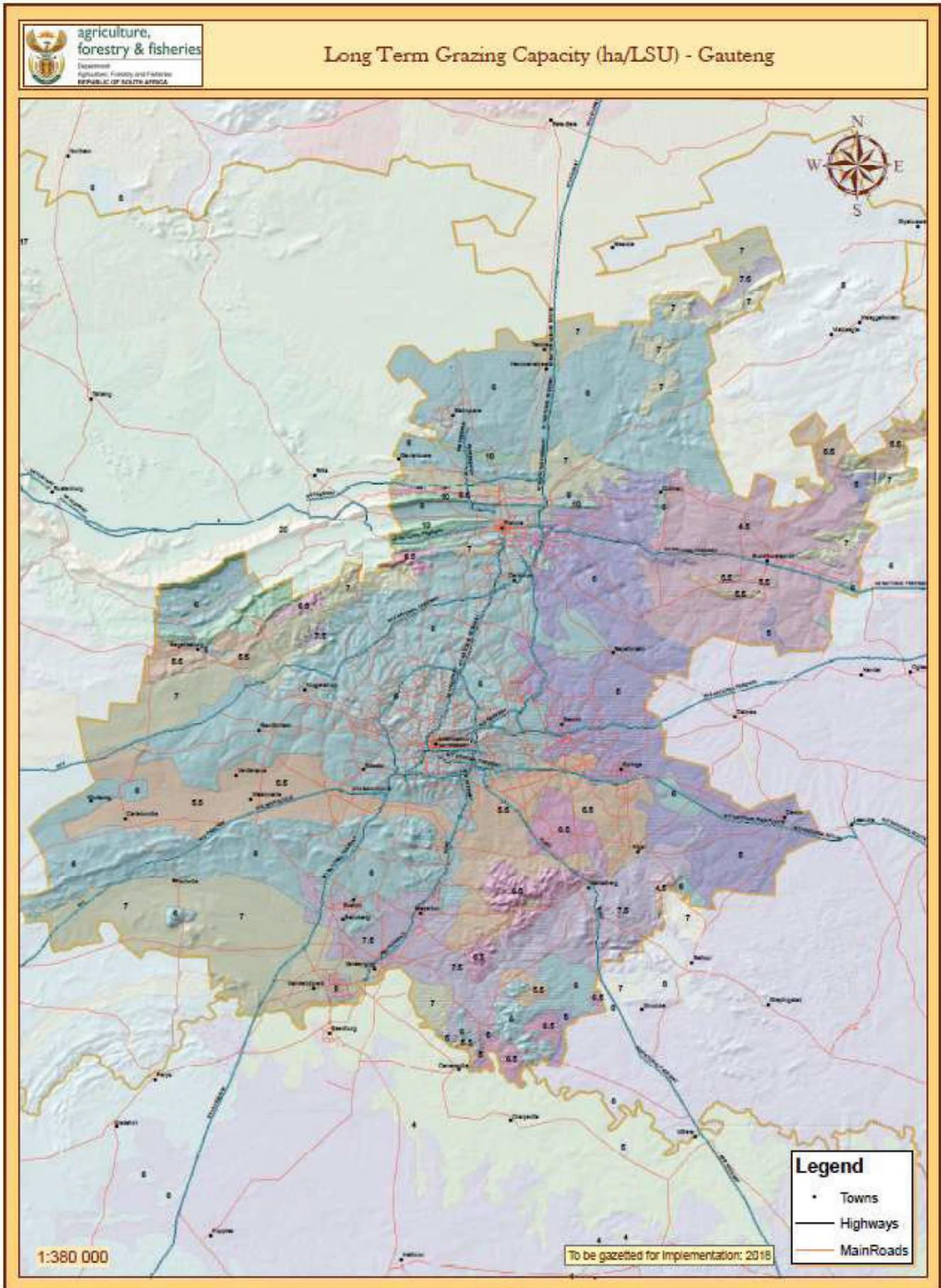




# Long Term Grazing Capacity (ha/LSU) - Limpopo province







## DEPARTMENT OF BASIC EDUCATION

NO. 899

31 AUGUST 2018

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

## CALL FOR SUBMISSIONS FROM STAKEHOLDER BODIES AND MEMBERS OF THE PUBLIC TO AMEND SECTION FOUR AND SECTION THREE FOR SOME SUBJECTS IN THE CURRICULUM AND ASSESSMENT POLICY STATEMENT (CAPS) FOR GRADES, R-12

1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in terms of *section 6A of South African Schools Act* In terms of *section 6A of the South African Schools Act, 1996 (Act No. 84 of 1996)* which forms the basis for the Minister of Basic Education to determine minimum outcomes and standards, as well as the processes and procedures for the assessment of learner achievement.
2. The minimum outcomes and standards referred to in **Paragraph 1** above, is *Section 4 of the Curriculum and Assessment Policy Statement for Grades R-12* and therefore need not be responded separately.

## AVAILABILITY OF THE POLICY DOCUMENT

3. The **Schedule** referred in paragraph 1 is available on the following Departmental website: [www.education.gov.za](http://www.education.gov.za). Under: **Resources, Policies, Curriculum and Assessment**, and is arranged per Phase and Subject.

  
MRS AM MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION  
DATE:

## DEPARTMENT OF BASIC EDUCATION

NO. 900

31 AUGUST 2018

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

**CALL FOR SUBMISSIONS FROM STAKEHOLDER BODIES AND MEMBERS OF THE PUBLIC TO AMEND SECTION FOUR AND SECTION THREE FOR SOME SUBJECTS IN THE CURRICULUM AND ASSESSMENT POLICY STATEMENT (CAPS) FOR GRADES, R-12**

1. I, Angelina Matsie Motshekga, Minister of Basic Education, hereby, in terms of *section 3(4)(i) of the National Education Policy Act, 1996 (Act No. 27 of 1996)*, and after consultation with the Council of Education Ministers publishes a call for comments to amend Section four (4) of the Curriculum and Assessment Policy Statement for Grades R-12 and Section 3 of certain subjects as set out in the **Schedule**.

**AVAILABILITY OF THE POLICY DOCUMENT**

2. The **Schedule** referred in paragraph 1 is available on the following Departmental website: [www.education.gov.za](http://www.education.gov.za). Under: **Resources, Policies, Curriculum and Assessment**, and is arranged per Phase and Subject.

**SUBMISSION**

3. It will greatly assist the department if all submissions could be made under the specific heading as in the CAPS. The schedule is arranged per phase and per subject.

**ADDRESS FOR SUBMISSIONS**

4. All submissions must be sent as per instruction below:
  - i. **GET:** Mr Peter Van Wyk; Tel No: 012 357 4122; email: [Vwyk.P@dbe.gov.za](mailto:Vwyk.P@dbe.gov.za)
  - ii. **MST Subjects:** Dr AE Nkosi, Tel. No: 012 357 4176; email: [Nkosi.a@dbe.gov.za](mailto:Nkosi.a@dbe.gov.za)
  - iii. **FET (Non-MST subjects):** Ms Florence Modipa, Tel. No: 012 357 4101 Email: [Modipa.F@dbe.gov.za](mailto:Modipa.F@dbe.gov.za)

OR:

Hand-deliver for the attention of the above at:

Department of Basic Education, 222 Struben Street, Pretoria, 0001

OR:

Post for the attention of the above: Department of Basic Education, Private Bag X895,  
Pretoria, 0001

#### CLOSING DATE

5. The due date for submission of comments is set as 21 days after the publication of this notice.

  
MRS AM MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION

DATE:

## ECONOMIC DEVELOPMENT DEPARTMENT

NO. 901

31 AUGUST 2018

## INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

ITAC hereby invites importers to submit rebate permit applications in respect of rebate provisions listed below.

The guidelines, rules and conditions pertaining to the rebate provisions must be read and understood before completing the application forms, which are available on ITAC website at [www.itac.org.za](http://www.itac.org.za).

Completed original applications for rebate permits may be forwarded to:

The Senior Manager: Tariff Investigations II  
International Trade Administration Commission of South Africa  
Private Bag X 753  
Pretoria, 0001

Or hand delivered to:

1<sup>st</sup> Floor, Block E  
DTI Campus  
77 Meintjies Street  
Sunnyside  
Pretoria  
0002

**Note: Permits in relation to the rebate provisions must be applied for and submitted before the goods concerned are shipped.**

For enquires contact: Mr Mashudu Lukhwareni, email [mlukhwareni@itac.org.za](mailto:mlukhwareni@itac.org.za), telephone 012 394 3661 or Ms Pateka Busika, email [pbusika@itac.org.za](mailto:pbusika@itac.org.za), telephone 012 394 3595.

1. Rebate item **460.15/7228.70/01.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of structural steel in the form of I sections, of other alloy steel, not further worked than hot-rolled, hot-drawn or extruded of a height of 530 mm or more, in such quantities and, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

2. Rebate item **460.15/7228.70/02.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of structural steel in the form of H sections, of other alloy steel, not further worked than hot-rolled, hot-drawn or extruded of a height and width of 300 mm x 300 mm, in such quantities and, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

3. Rebate item **460.15/73.18/01.04** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the :

*“Importation of screws, bolts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of stainless steel, classifiable in tariff heading 73.18, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

4. Rebate item **460.07/4011.10/01.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of new pneumatic tyres, of a kind used on motor cars for organised motor sport, under such conditions as the International Trade Administration Commission of South Africa (ITAC), after consultation with Motorsport South Africa (MSA), may allow by specific permit.”*

5. Rebate item **316.01/76.04/01.04** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of hollow profiles of aluminium, of a cross-sectional dimension not exceeding 370 mm, for the manufacture of condensers and evaporators for the motor vehicle air conditioning equipment.”*

6. Rebate items **460.15/7208.5/01.05; 460.15/7208.5/02.05; 460.15/7208.5/03.05; 460.15/7225.40/01.06; 460.15/7225.40/02.06; and 460.15/7225.40/03.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) make provision for rebate of the full safeguard duty on:

*“Flat-rolled products of iron or non-alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of 3 mm or more but not exceeding 8 mm,(excluding those with a Brinell hardness of 425 HBW*

or more) with a yield strength of 700 MPa or more, classifiable in tariff heading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;

*Flat-rolled products of iron or non-alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of less than 3 mm or more than 8 mm, (excluding those with a Brinell hardness of 425 HBW or more) with a yield strength of 700 MPa or more, classifiable in tariff heading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of iron or non-alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of 2 mm or more but not exceeding 10 mm with a Brinell hardness of 425 HBW or more, classifiable in tariff heading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of 3 mm or more but not exceeding 8 mm, (excluding those with a Brinell hardness of 425 HBW or more) with a yield strength of 700 MPa or more, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of less than 3 mm or more than 8 mm, (excluding those with a Brinell hardness of 425 HBW or more) with a yield strength of 700 MPa or more, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit; and*

*Flat-rolled products of other alloy steel, of a width exceeding 600 mm or more but not exceeding 1800 mm, not in coils, not further worked than hot-rolled and of a thickness of 2 mm or more but not exceeding 10 mm with a Brinell hardness of 425 HBW or more, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

7. Rebate item **317.06/00.00/03.00** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of automotive components for use in the manufacture of original components as defined in Chapter 98 of Schedule No.1 for supply to a specified motor vehicle manufacturer registered under rebate item 317.03 imported by component manufacturers.”*

8. Rebate item **460.17/87.03/02.04** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on:

*“Motor vehicles principally designed for the transport of physically disabled persons, including station wagons (excluding racing cars), adapted or to be adapted to be used for the transport of physically disabled persons at such times and under such conditions as the International Trade Administration Commission after consulting with the National Council with Physical Disabilities in South Africa, may allow by specific permit.”*

9. Rebate item **460.17/87.00/04.02** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on:

*“Motor vehicles principally designed for the transport of physically disabled persons, including station wagons (excluding racing cars), adapted or to be adapted to be used for the transport of physically disabled persons at such times and under such conditions as the International Trade Administration Commission of South Africa (ITAC) after consulting with the National Council with Physical Disabilities in South Africa, may allow by specific permit.”*

10. Rebate items **460.15/7208.5/04.05, 460.15/7208.5/05.05, 460.15/7208.5/06.05, 460.15/7208.5/07.05, 460.15/7225.40/04.06, 460.15/7225.40/05.06, 460.15/7225.40/06.06, 460.15/7225.40/07.06, 460.15/7225.40/08.06 and 460.15/7225.40/09.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full ordinary customs and safeguard duties on the:

*“Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled, of a thickness of 2 mm or more but not exceeding 160 mm, with a yield strength of 550 MPa or more but not exceeding 960 MPa and having an impact strength of 27 Joules or more but no exceeding 69 Joules at -20°C or less but not less than -60°C, classifiable in tariff subheading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled, of a thickness of 2 mm or more but not exceeding 160 mm, with a yield strength of 550 MPa or more but not exceeding 960 MPa and having an impact strength of 27 Joules or more but not exceeding 69 Joules at -20°C or less but not less than -60°C, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled, of a thickness of 2 mm or more but not exceeding 160 mm, with a Brinell hardness of 400 HBW or more but not exceeding 700 HBW and having an impact strength of 15 Joules or more but not exceeding 95 Joules at -40°C, classifiable in tariff subheading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled, of a thickness of 2 mm or more but not exceeding 160 mm, with a Brinell hardness of 400 HBW or more but not exceeding 700 HBW and having an impact strength of 15 Joules or more but not exceeding 95 Joules at -40°C, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled and of a thickness of 40 mm or more but not exceeding 160 mm, with a Brinell hardness of 350 HBW and having an impact strength of 95 Joules at -40°C, classifiable in tariff subheading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled and of a thickness of 40 mm or more but not exceeding 160 mm, with a Brinell hardness of 350 HBW and having an impact strength of 95 Joules at -40°C, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled and of a thickness of 5 mm or more but not exceeding 50 mm, with a Brinell hardness of 350 HBW and having an impact strength of 60 Joules at -40°C ,*

*classifiable in tariff subheading 7208.5, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not in coils, not further worked than hot-rolled and of a thickness of 5 mm or more but not exceeding 50 mm, with a Brinell hardness of 350 HBW and having an impact strength of 60 Joules at -40°C, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit;*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not further worked than hot-rolled, not in coils, with a thickness of 2 mm or more but not exceeding 100 mm, with a nickel content of 1.8 per cent by mass or more but not exceeding 3 per cent, a molybdenum content of 0.7 per cent by mass or more but not exceeding 0.8 per cent and a chrome content of 1.0 per cent by mass or more but not exceeding 2.0 per cent, with a Brinell hardness of 260 HBW or more but not exceeding 640 HBW, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit; and*

*Flat-rolled products of other alloy steel, of a width of 600 mm or more, not further worked than hot-rolled, not in coils, with a thickness of 2 mm or more but not exceeding 20 mm, with a copper content of 0.25 per cent by mass or more but not exceeding 0.40 per cent and a chromium content of 1.0 per cent by mass or more but not exceeding 2.0 per cent, with a yield strength of 550 MPa or more but not exceeding 960 MPa, classifiable in tariff subheading 7225.40, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

11. Rebate item **460.15/7312/01.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) makes provision for rebate of the full duty on the:

*“Importation of stranded wire, ropes and cables of iron or steel, not electrically insulated, classifiable in tariff heading 7312.10 in such quantities, at such times and subject to such conditions as the International Trade Administration Commission South Africa (ITAC) may allow by specific permit; and*

*Plaited bands, slings and the like, of iron or steel, not electrically insulated, classifiable in tariff heading 7312.90 in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

12. Rebate item **460.15/7225.99/01.06** of Schedule No. 4, Part 2 of the Customs and Excise Act No. 91 of 1964 (Customs and Excise Act) make provision for rebate of the full ordinary customs and safeguard duties on:

*“Flat-rolled products of other alloy steel, of a width of 600mm or more, other, classifiable in tariff subheading 7225.99, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.”*

#### DEPARTMENT OF HOME AFFAIRS

NO. 902

31 AUGUST 2018

#### ALTERATION OF SURNAMENES IN TERMS OF SECTION 26 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)

The Director-General has authorized the following persons to assume the surnames printed in *italics*:

Notice is hereby given of Government Gazette No.**41100** which, was published in Government Gazette Notice No.**975** dated **08 September 2017** is hereby rectified to read as follows:

1. Johannes Kagiso Manyako - 840113 5644 088 - 15005 Morokwaneng Section, MOODERKUIL, 0352 - *Mokgawe*

Notice is hereby given of Government Gazette No.**41534** which, was published in Government Gazette Notice No.**383** dated **29 March 2017** is hereby rectified to read as follows:

1. Thulani Brilliant Mangwanyane - 890202 5344 085 - 1866 B / 17 Ncombo Street, Zola 2, SOWETO, 1868 - *Radebe*

Notice is hereby given of Government Gazette No.**40827** which, was published in Government Gazette Notice No.**443** dated **19 May 2017** is hereby rectified to read as follows:

1. Evile Bianca Nobhosisi - 880927 1629 087 - 148 Tokwana Street, BLACKHEATH, 7101 - *Kweni*

Notice is hereby given of Government Gazette No.**41685** which, was published in Government Gazette Notice No.**567** dated **08 June 2018** is hereby rectified to read as follows:

1. Mbuso Mandla Mabele - 941120 5832 082 - Wembezi Township, ESTCOURT, 3310 - *Cindi*
2. Hlalanathi Gxoyi - 890411 6011 086 - 335 Wihelmina Street, Wierdapark, CENTURION, 0157 - *Boki*
3. Ambros Neo Masemola - 841027 5420 084 - No 8 B, PRETORIA, 0001 - *Msiza*
4. Kholekile Ndabambi - 980107 5194 086 - Cizela Area, DUTYWA, 5000 - *Nake*

Notice is hereby given of Government Gazette No.**41827** which, was published in Government Gazette Notice No.**806** dated **10 August 2018** is hereby rectified to read as follows:

1. Motlalepula Patricia Mothudi - 901018 0732 083 – and a minor child – Ofilwe Warona Mothudi – 130306 0374 086 - Wingate Village, KURUMAN, 8460 - *Diphahe*

## DEPARTMENT OF HOME AFFAIRS

NO. 903

31 AUGUST 2018

**ALTERATION OF SURNAMES IN TERMS OF SECTION 26 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)**

The Director-General has authorized the following persons to assume the surnames printed in *italics*:

1. Thembinkosi Senior Teke - 730606 6230 081 - Manzi Village 630730, MATATILELE, 4730 - *Mantshongo*
2. Silindile Charmaine Mntungwa - 840120 0330 084 - 4349 Molver Road, CATO CREST, 4091 - *Msomi*
3. Xolisile Ntshaba - 8306190259 088 - Madulaleni Area, ESCOURT, 3310 - *Ndlovu*
4. Frank Lesedi Mashabela - 830313 5512 085 - Mohlaletse Village, SEKHUKHUNE, 1124 - *Tabudi*
5. Hendrick Laka - 891109 5770 087 - Stand No 2027, MARAPYANE, 0417 - *Boale*
6. Daniel Tshegofatso Zenzile - 871218 5526 086 - House No 80317, Lekwadi Section, LEDIG, 0338 - *Makinita*
7. Keabetswe Jacqueline Sebakwane - 780106 0981 085 - 889 Moraladi Street, Ikageng Township, POTCHEFSTROOM, 2531 - *Masetle*
8. Mmereki Sabata Malachi Ntsoele - 860511 5596 080 - 401 Block Bb, SOSHANGUVE, 0152 - *Ntloko*
9. Sibusiso Madide - 810720 5836 088 - 501 Buhle Park, Phase 4, Nitrogen Road, GERMISTON, 1401 - *Mthembu*
10. Lebogang Magamana - 851121 5592 088 - 10121 Tshilode Street, Unit 4, The Wilds, PRETORIOUS, 0669 - *Ramodi*
11. Palesa Mokoena - 981004 0135 082 - 727 Metsimaholo, ORANJEVILLE, 1995 - *Khumalo*
12. Kamohelo Makama - 980604 5223 089 - 1427 Maduna Street, TSAKANE, 1550 - *Mtyali*
13. Sonwabo Leroy Campbell - 960812 5370 081 - 11 Gadi Street, KIMBERLEY, 8345 - *Binase*
14. Tiisetso Sedibe - 990926 0191 088 - 787a Naledi Lesiba Street, SOWETO, 1868 - *Kgang*
15. Godirilwe Thato Maphutha - 950612 0696 080 - 17 Chiloane Street, ATTERIDGEVILLE, 0008 - *Makwela*
16. Gerald Kagiso Sekgobela - 971215 6020 084 - 205 Stead Avenue, QUEENSWOOD, 0460 - *Maditsi*
17. Forman Josefate Sebatane - 910616 5998 085 - House No 5924, Tubatse Township, PRAKTISEER, 1150 - *Malapane*
18. Elias Xaba - 740614 6023 082 - 1389 Sofasonke Street, ORLANDO EAST, 1804 - *Motitswe*
19. Thabani Hlatshwayo - 860820 5599 089 - 75 Kerk Street, GLENCOE, 2930 - *Mbatha*
20. Phepishi Daniel Laka - 780626 5802 085 - Stand No 2027, MARAPYANE, 0417 - *Boale*
21. Girly Cathrine Makhubela - 760807 0675 080 - 864 Haniville, NAMAKGALE, 1391 - *Moagi*
22. Emile Kotzé - 830726 5271 081 - 15 Arthur's Road, SEA POINT, 8001 - *Carstens*
23. Nhluvuko Aldwin Mathevula - 920924 5611 080 - 104 Akasia Court, Crn Beale And Knight Street, Turffontein, JOHANNESBURG, 2190 - *Mongwe*
24. Gaotingwe Enock Baitshoki - 791107 5477 084 - 11225 Kgomola Section, BODIBE, 2741 - *Moiloa*
25. Johanna Mpho Makhete - 920524 0709 085 - 3117 Lerato Street, WESTONARIA, 1779 - *Mokonyane*
26. Monwabisi Patson Tshaka - 750115 6257 081 - Mnkangala Location, UMZIMKHULU, 4700 - *Madikane*
27. Ndivhuwo Solly Monyoli - 760213 5789 085 - Stand No 9, TSHIFUDI, 0979 - *Munyai*
28. Nkosikhona Blessing Nkosi - 010318 5553 080 - Stand No E281, Glenmore, DUNDONALD, 2336 - *Nkambule*
29. Zoleka Andiswa Anita Nkala - 991115 0542 081 - No 501 Soweto Road, MOLWENI, 3600 - *Hlongwane*
30. Tokollo Rakgalakana - 000308 5846 081 - 37 Nestadt, Rynfield, BENONI, 1501 - *Mahlangu*

31. Nomonde Lydia Khambula - 000115 0098 083 - 3 Cindi Street, SAULSVILLE, 0125 - *Ragophala*
32. Johannes Thabo Shiro - 750419 5636 083 - 8792 Lekhaqasi Street, VOSLOORUS, 1475 - *Tsotetsi*
33. Godfrey Eric Ngutjane - 821202 5849 087 - 3198 Section K, MAMELODI WEST, 0122 - *Chabalala*
34. Gladness Nomsa Mpofo - 860504 0230 086 - 166-14th Avenue, ALEXANDRA, 2090 - *Ngema*
35. Colleen Thalani Ngwenya - 830506 5629 086 - 4122 Mpinga Street, DAVEYTON, 1520 - *Kondile*
36. Jeffrey Makgatle Baloi - 761226 5353 081 - Seelane Village, BURGERSFORT, 1150 - *Hlongwa*
37. Moraka Isaac Mphawana - 790121 5585 086 - Towerfontein Area, RADITSHABA, 0718 - *Mongau*
38. Vincent Vusi Chauke - 830518 5701 088 - 2050 African Wanderus, Extension 3, NELLMAPIUS, 0122 - *Mashika*
39. Lucky Sipiwe Kunene - 840308 5738 084 - 741 Loyd Street, CHARLESTOWN, 2473 - *Ndhlovu*
40. Mandla Keyeli Buthelezi - 871108 5273 088 - House No 2065, China 02, AMERSFOORT, 2190 - *Nkosi*
41. Thamsanqa Shingane Mthembu - 870829 5443 089 - 1426 Ohlange Area, Dube Village, INANDA, 4310 - *Sibiya*
42. Precious Sibongile Nyembe - 821104 0652 088 - 305 Zone 7, PIMVILLE, 1809 - *Khanyile*
43. Adam Louki Coetzer - 971202 5219 081 - 506 Wale Street, CAPE TOWN, 8001 - *Chancellor-Maddison*
44. Thandanani Dlamini - 990426 5057 087 - Mabhalonim Area, ESTCOURT, 3310 - *Majola*
45. Kabelo Ernest Mateta - 950916 5739 088 - P O Box 5069, MOKGWATHI, 0861 - *Mohale*
46. Lawrence Mapeke Sebesho - 870930 5645 085 - Stand No 762, Newstand, MOTETEMA, 0423 - *Bapela*
47. Teffo Tshaka - 920716 5598 089 - No 7410 Ken Gambo Street, EDENPARK, 1458 - *Motloung*
48. Nontobeko Mleko - 921030 0796 089 - P O Box 431, NONGOMA, 3950 - *Mkane*
49. Thato Eben Mahlaba - 920503 5461 082 - 627 Hospital View, TEMBISA, 1632 - *Phala*
50. Lefentswe Millicent Baloyi - 960604 0746 088 - 563 Arcadia Mansions, Standza Bopape, ARCADIA, 0083 - *Tsoeleng*
51. Thuto Hlompho Moloi - 930521 5103 080 - 8210 Ottawa Avenue, Extension 10, LENASIA, 1820 - *Mohulatsi*
52. Camden Xavier Mulder - 931103 5056 086 - 204 Xanadu Boulevard, HARTEBESPOORT, 0216 - *Campbell-Young*
53. Amos Sindane - 530907 5325 084 - Stand No 925, KWAGGAFONTEIN A, 0458 - *Ndhlovu*
54. David Lucas Mahlangu - 820104 5401 086 - No 9531 Extension 6, MHLUZI, 1053 - *Jiyane*
55. Edward Muthuhadini Ramaro - 430604 5224 083 - Stand No 19, Tshiriluluni, VUWANI, 0920 - *Bakali*
56. Madire Gladys Sibanyoni - 610425 0543 083 - Stand No 278, Sephaku, MPUDULLE, 1057 - *Madihlaba*
57. Ndodana Wesley Justin Silombo - 991229 5561 085 - P O Box 620, MALELANE, 1320 - *Mnisi*
58. Linda Medupe - 900319 5386 086 - 459 Mafohla Street, KANANA, 2619 - *Dakada*
59. Siphamandla Abiatha Dlodlo - 971003 5269 088 - 4194 Kingsburgh West, AMANZIMTOTI, 4126 - *Mdletshe*
60. Freddy Seun Mwale - 801024 5157 087 - 1287 Rethabiseng, Proper Section, BRONKHORSTSPRUIT, 1021 - *Mthimunye*
61. Nketlo Samuel Kwanaite - 810718 5811 085 - 1353 Vusmusi Section, TEMBISA, 1632 - *Mokoka*
62. Fusi Johannes Ramahloko - 830406 5569 087 - 36508 Freedom Square, BLOEMFONTEIN, 9323 - *Mahlajoe*
63. Johannes Tebogo Molebalo - 751004 5273 084 - Vuka Section, LETHABONG, 4410 - *Raspaz*
64. Thabang Fortune Ndimande - 930110 5304 086 - Stand No 67, MARBLE HALL, 0510 - *Kekana*

65. Zakhele Ishmael Qalani - 860403 5308 080 - 746 Khumalo Street, THOKOZA, 1426 - *Khanyile*
66. Given Solomon Sesana - 900606 5724 088 - 26558 Anton Lebende Street, Extension 8, MAMELODI EAST, 0122 - *Mbiza*
67. Selogilwe Mosala - 911213 0610 086 - 1338 Zone 2, THABANCHU, 9780 - *Sehume*
68. Brian Ndawo - 840618 5849 081 - 92 Amaoti Area, INANDA, 4080 - *Xulu*
69. Lungelo Hlombe - 980224 5997 085 - 9052 Ballito Road, DURBAN, 3652 - *Ndlovu*
70. Thobeka Fortunate Tshotlhang - 750821 0675 083 - No 682 Ghana Loop, Tsutsumani Village, ALEXANDRA, 2090 - *Chiya*
71. Emmanuel Rapudutswane - 850721 5234 085 - 7848 Winnie Mandela, Zone 1, TEMBISA, 1632 - *Khumalo*
72. Tshepo Rasila - 820726 5321 086 - 4724 Mount Shasta Street, Extension 04, LENASIA SOUTH, 1829 - *Mhlongo*
73. Mfanufikile Wiseman Khomo - 740613 5440 081 - Kwacele Area, SCOTTBUGH, 4180 - *Cele*
74. Melusi Zakhele Nyanda - 811204 5782 088 - 60 Sanjerez, Seaward Estate, BALLITO, 4180 - *Tshabalala*
75. Khavala Thabang Tholo - 791123 5604 080 - 781 Nkomo Street, WATTVILLE, 1516 - *Phiri*
76. Matshediso Kgaile - 880528 5816 082 - 3575 Unit 1, Seloshesha, THABANCHU, 9373 - *Ngwenya*
77. Lihle Dlamini - 970904 0317 080 - 296 Radebe Section, KATLEHONG, 1431 - *Kubheka*
78. Shanwuphula Edward Mnguni - 910101 5284 083 - 134-16th Avenue, ALEXANDRA, 2090 - *Zwane*
79. Sibusiso Mashinini - 941013 5180 083 - Weasle Close Street, Extension 1, LENASIA, 1829 - *Sibeko*
80. Sinenkosi Patie Cele - 920328 0115 081 - 304 Pasadena Flat, Crn Percy & Grafton Street, Yeoville, JOHANNESBURG, 2198 - *Dube*
81. Loyiso Funda - 810623 5675 086 - 5224 Extension 9, Mbalentle, MPUMALANGA, 4735 - *Canca*
82. Nonkululeko Fortunate Ntombenhle Tembe - 981029 0226 086 - No 856 Nxele Crescent, SAVANNAH PARK, 3600 - *Dlangisa*
83. Kalvin Mpho Mpele - 960826 5107 087 - 10382 Mkwaketsi Street, BENONI, 1520 - *Mkhabela*
84. Raisibe Winnie Selepe - 881016 0682 088 - Stand No 174, Shushumela, MOTETEMA, 0475 - *Mabuza*
85. Kgothatso Maphalla - 940829 0652 086 - P O Box 2286, MOROKE, 1154 - *Mafologela*
86. Mpho Mathews Mametse - 921019 5755 083 - 3399 Manakanyane, MARAPYANE, 0431 - *Sibidi*
87. Sphesihle Mandla Mhlongo - 840203 5958 081 - C792 Matigulu Road, KWAMASHU, 4360 - *Ntuli*
88. Sydwell Joseph Legoshe - 831010 5775 089 - 706 Mokwang Street, Motswedimosa, RITCHIE, 8701 - *Louw*
89. Sicelo Dumisani Dlamini - 821118 5395 089 - 654 Nkanyezi Road, NEW GERMANY, 3610 - *Nxele*
90. Oscar Mthobisi Sindane - 880322 5664 084 - P O Box 377, HIGHFLATS, 3306 - *Khoza*
91. Lawrence Dingaan Biyase - 730323 6144 086 - F121 Kwadabeka, CLERMONT, 3610 - *Shabane*
92. Kedibone Maria Modikwa - 840805 0442 083 - 2115 Block C, Eersterus, HAMMANSKRAAL, 0400 - *Moloantoa*
93. Tumisang Adolf Ngonyama - 950304 5399 080 - 212 Matjeke Section, Tshamahanzi, MOKOPANE, 5600 - *Khoza*
94. Arthur-Junior Sibusiso Lesego Ngidi - 931020 5077 088 - 95 Rethaan Crescent, Liefde En Vrede, JOHANNESBURG, 2058 - *Mafokate*
95. Mpho Sydney Lenaba - 771027 5688 080 - 62 Sizwe Mdlalose Drive, NAZARETH, 3610 - *Zamisa*
96. Hanyani Samuel Mathebula - 531112 5207 080 - 22069 Extension 3, MAMELODI EAST, 0122 - *Matshika*
97. Mzwakhe Selby Ngcobo - 740905 6037 084 - C41 Ngoqokazi, INANDA, 4310 - *Dlamini*
98. Zakhele Sandile Simelane - 970619 5337 087 - 2860 Clermont Road, CLERMONT, 3610 - *Ndlovu*

99. Musa Lebone Dube - 910303 5452 088 - 2890 Muller Street, Extension 19, NATURENA, 2095 - *Tshabalala*
100. Gaboutlwele Modikwa - 930424 0508 082 - 2115 Block C, Eersterus, HAMMANSKRAAL, 0400 - *Moloantoa*
101. Albert Johan Hubach-Beukes - 681116 5096 086 - 17 Nicola Street, NORTHERN PAARL, 7646 - *Beukes*
102. Prince Muhle Ngwenya - 851228 5407 082 - 170 Hilltop Loft, New Road&Harrygalou, CARLSWALD, 1685 - *Juala*
103. Portia Qcinane Mbatha - 890704 0578 088 - House No 20465, LEDIG, 0318 - *Zwane*
104. Titi Dinah Ngobeni - 580520 0483 086 - 11112 Ivory Park, MIDRAND, 1685 - *Mvula*
105. Noma-India Mavis Mandleni - 600410 0623 087 - Ntsimbini Area, PORT ST JOHNS, 5120 - *Malilla*
106. Tebogo Joel Mamabolo - 920922 5826 088 - Stand No 63, DRIEKOPPIES, 1331 - *Masuku*
107. Letlhogonolo Mafahle - 980402 5842 085 - 1275 Green Side, Oukasie, BRITS, 0025 - *Mahapatona*
108. Sibonelo Charles Meyi - 930309 5068 085 - 567 Blose Avenue, Nazareth, PINETOWN, 3610 - *Mkhwambi*
109. Nkosinathi Elliot Gambushe - 940513 5646 083 - Mistake Farm, SCOTTBURGH, 4180 - *Ngcobo*
110. Thabang Samuel Moabelo - 940823 5902 083 - 11408 Lenong Street, Extension 11, Ivory Park, MIDRAND, 1685 - *Maenetja*
111. Juliet Lerato Sinnah Thekiso - 940209 0208 082 - 8017-4 Alaska Street, Phase 3, Beverly Hills, EVATON, 1984 - *Ditan*
112. Hlologelo Esme Sebotsane - 900914 0367 089 - 63 Leander Road, 458 Growthorne, FAERIE GLEN, 0081 - *Ramoroko*
113. Lorraine Dimakatso Themba - 891003 1067 087 - 18655 Extension 93, SOSHANGUVE, 0152 - *Nthoke*
114. Mmantoni Elizabeth Legodi - 640602 0272 087 - 82 Thiteng Section, TEMBISA, 1632 - *Letsoalo*
115. Themba Godfrey Mtolo - 810725 5492 089 - 767 Mofokeng Section, KATLEHONG, 1432 - *Ngxola*
116. Given Maluleke - 820611 5339 082 - Stand No 43, Valdezia Village, ELIM, 0935 - *Ngobeni*
117. Handsome Tokologo Kekana - 880825 5510 081 - 35 Andorra Crescent, TULIBA PARK, 2198 - *Ngubane*
118. Matabe Isaac Phasha - 751119 5318 083 - 2930 Extension 4, Refilwe, CULLINAN, 1000 - *Moleele*
119. Nkosana Makhoba - 930722 5265 081 - 2523a Tshawe Street, ZOLA SOUTH, 1868 - *Mazibuko*
120. Siphosethu Badu - 900825 0352 089 - 351ancame Street, Joza, GRAHAMSTOWN, 6139 - *Ngogo*
121. Siyabonga Erick Mncwabe - 960817 5670 083 - Bhuyeni Area, MUIZEN, 3251 - *Magubane*
122. Sbusiso Hopewell Khanyile - 970801 5432 080 - B1095 Umlazi Township, UMLAZI, 4066 - *Harris*
123. Obakeng Esau Mashabane - 950217 5223 086 - 4116 Pico Street, Ikageng Location, POTCHEFSTROOM, 2531 - *Matthole*
124. Patience Phuti Mashiane - 910921 0674 081 - 54 Ebony Park, MIDRAND, 1685 - *Mokale*
125. Isaac Tsietsi Motjene - 880130 5348 081 - E5919 Cubs Street, LETHABONG, 0300 - *Molefe*
126. Kelebogile Khumalo - 860831 0582 087 - House No 75, Olien Op 4, RUSTENBURG, 0298 - *Moagi*
127. Thokozani Vincent Sithole - 881215 5611 080 - Stand No 422, Kirkfontein, DENNILTON, 1026 - *Zwane*
128. Tshepo Vincent Yako - 940308 5426 085 - 11909 Winkie Direko Street, Bloemanda, BLOEMFONTEIN, 9323 - *Motumi*
129. Musa Mzomusha Ndlangamandla - 920204 5760 082 - 26 Goebe Hill Syde, WAKKERSTROOM, 2480 - *Nkosi*
130. Siyamtanda Mboniswa - 961206 5814 082 - Mkwinti Area, TSOMO, 5400 - *Mlokothi*
131. Tanya Myburgh - 950315 0031 080 - 9 Mimosa Street, Protea Heights, BRACKENFELL, 7560 - *Rodrigues*
132. Ponyane Emmanuel Lefago - 800110 5490 080 - Stand No 388, Zone B, Bapeding, TAFELKOP, 0474 - *Makeke*

133. Simon Veli Ngwenya - 890225 5455 080 - 227 Extension 2, Diepsloot, MIDRAND, 2184 - *Gumbo*
134. Vincent Ramodupe Mohlammeane - 840204 5961 083 - Stand No 10, Thabakhubedu, DENNILTON, 1030 - *Makete*
135. William Sengalela Seloma - 770910 5584 089 - Stand No 1980, Mamphogo, MOGANYAKA, 0459 - *Makola*
136. Jacob Lehlogonolo Letwala - 810826 5360 084 - 173 Mothing Section, TEMBISA, 1632 - *Mpe*
137. Ntomfuthi Poppie Venter - 790712 0357 081 - 458 Block LI, SOSHANGUVE, 0152 - *Mthethwa*
138. Buhle Lungelo Mgabhi - 831005 5800 085 - 6 Kei Street, CARLETONVILLE, 2499 - *Sithole*
139. Ishmael Mashene Malatji - 840227 5834 083 - 96 Coledon, Street, MORTEM PARK, 1619 - *Dibakwana*
140. Nomfundo Hope Mashego - 881230 0410 081 - 8 Long Street, KEMPTON PARK, 1619 - *Mlotshwa*
141. Lufuno Sylvester Tshamutoma - 870329 5363 080 - P O Box 1106, MAKONDE, 0984 - *Nengome*
142. Bonwayinkosi Qaphela Tembe - 810825 5395 082 - P O Box 795, KWANGWANASE, 3973 - *Khumalo*
143. Thamsanqa Mabaso - 870114 5813 080 - E1041 Tshwene's Farm, WINTERVELDT, 0198 - *Malema*
144. Kenneth Tshepo Mabaso - 800913 5433 087 - E1041 Tshwene's Farm, WINTERVELDT, 0198 - *Malema*
145. Simon Pule Huna - 010505 5403 080 - 24872 Ramaele Street, Thabong, WELKOM, 9463 - *Khomamatoli*
146. Malan Abram Thabe - 870208 6078 089 - 13j.D Kestell Street, Cw4, VANDERBIJLPARK, 1911 - *Johnson*
147. Tapologo Daniel Mazibuko - 890118 5796 084 - 3 Karee Street, ZEERUST, 2865 - *Molefe*
148. Brian Sabelo Matshiyane - 860208 5778 087 - 329 Shomayeni Street, Zondi One, SOWETO, 1868 - *Nkosi-Matshiyane*
149. Boitumelo Mojanko - 870827 5998 086 - 497 Block Kk, SOSHANGUVE, 0152 - *Mnisi*
150. Simphiwe Ndlovu - 960920 0750 080 - P O Box 344, EMPANGENI, 3880 - *Ngcobo*
151. Marshall Adriaan Sedeman - 840816 5137 081 - 27 Arthur Abrahams, Louwville, VREDENBURG, 7380 - *Jacobs*
152. Thulani Ernest Mokala - 971112 5026 081 - 1085 Unit C, MANKWENG, 0727 - *Tauyatswala*
153. Liada Foster Ndou - 890124 5883 088 - 2265 Weillers Farm, KEISHA PARK, 1829 - *Muthaphuli*
154. Mdumiseni Nkosinathi Ndebele - 990917 5527 087 - P O Box 752, GREYTOWN, 3250 - *Goge*
155. Ntokozo Prudence Mazeka - 970222 0688 081 - 28887 Nkazimulo Road, TSHELIMNYAMA, 3610 - *Zikode*
156. Ntshimane Zacheus Molefe - 920114 5230 087 - 699 Lebodi Street, BELA-BELA, 0480 - *Masanya*
157. Dylan David Burtram Jacobs - 971020 5151 082 - 1401 Aqua Park, KIRKWOOD, 6120 - *Jafta*
158. Siyamdumisa Fikiso - 961111 5751 088 - Mputi Area, DUTYA, 5000 - *Menziwe*
159. Adolph Maketu Mathabatha - 750618 5377 081 - 15 Sam Leon Road, Gen Kemp Heuwel, THABA TSHWANE, 0143 - *Mamabolo*
160. Stanley Groom - 810701 5936 086 - Stand No 1883, KWAGGAFONTEIN C, 0458 - *Mavuso*
161. Bongani Molefe - 890827 5812 085 - 4222 Mkekhune Street, Extension 2, VOSLOORUS, 1475 - *Macamba*
162. Oupa Ronald Ledimo - 891004 5610 088 - 1463 Klarinet, Extension 3, WITBANK, 1035 - *Masete*
163. Kesolofetse Angelina Bakumedi - 480921 0535 084 - Sedumedi Section, MADIBOGO-PAN, 2799 - *Baitsomedi*
164. Thabo Kleinbooi Selemela - 881025 5315 081 - 2186 Leseding Section, BELA-BELA, 0480 - *Mogale*
165. Zolile Ludaka - 841024 5991 081 - Qwesa Area, QUMBU, 5080 - *Libala*
166. Sandile Sokhela - 950513 5829 082 - Emalomini Area, TUGELA FERRY, 3010 - *Mvelase*

167. Fuzile Sitono - 991029 5660 089 - Qutubeni Area, NGCOBO, 5050 - *Ncokazi*
168. Chuma Bonke Ngxongo - 810620 5516 088 - 05 Bayside Road, 131 Leisure Bay Estate, WATERKLOOF, 0181 - *Rodgers*
169. Marema George Kganakga - 770904 5201 083 - Stand No 620, GA-MAPONTO, 0700 - *Motsoki*
170. Linda Prince Ngcongco - 980613 5426 089 - 17612 Zilweleni Road, MARIANNHILL, 3610 - *Mlaba*
171. Koketso Orbet Mashilo - 900502 5383 084 - 1686 Morolong Section, KGABALATSANE, 0200 - *Moropa*
172. Ditedu Jan Mamosadi - 950222 5735 089 - 197 Lebea Street, Mosiliki Section, KATLEHONG, 1431 - *Mdlalose*
173. Caswell Rikhotso - 890625 5712 085 - Private Bag X340, ELIM HOSPITAL, 0935 - *Mashaba*
174. Marubing Motlhose - 780317 5304 088 - 22 Elwood Complex, SUNNINGHILL, 2157 - *Jivhuho*
175. Thomas Bongani Hlophe - 571103 5854 089 - H34 Jwayini Grove, NTUZUMA, 4360 - *Zondi*
176. Makwena Wilson Legodi - 650605 5366 082 - Stand No 166, Semenya Village, MOLETJIE, 0700 - *Semenya*
177. Welfare Xolani Ngcobo - 830523 5674 087 - Mayekeni Area, NDWEDWE, 4342 - *Ncube*
178. Ndumiso Norman Cele - 920510 5141 085 - C1001 Amanzimtoti Road, KWAMASHU, 4359 - *Mhlongo*
179. Matebele Andream Mota - 850113 6142 089 - 34 Xaba Street, Batho Location, BLOEMFONTEIN, 9307 - *Molefi*
180. Samkele Bridgett Sibisi - 890422 0306 083 - L211 Sinkwe Road, KWAMASHU, 4360 - *Mabasa*
181. Mogopudi Sharon Mokwatlo - 931022 0270 080 - 09 Mosu Street, Florapark, POLOKWANE, 0699 - *Maditsi*
182. Christopher Jele Ngwane - 920402 6044 080 - P O Box 1019, SIDLAMAFU, 1332 - *Moraba*
183. Vuyo Nelson - 790825 6081 081 - 1600 J.B. Mafora, BLOEMFONTEIN, 9323 - *Mosothoane*
184. Xolani Cosmos Dlamini - 801028 5529 088 - 14 Father Follis Road, Umkhamba Park, ESTCOURT, 3310 - *Zwane*
185. Tshepo Craing Mashao - 860708 5710 089 - 3560 Colewa Street, Extension 3, MAHUBE VALLEY, 0122 - *Moloto*
186. Mary-Jane Medea - 000416 0551 083 - 18857 Thesele Street, Galeshewe, KIMBERLEY, 8345 - *Sebelego*
187. Thabo Moses Dikgale - 850321 5656 088 - Stand No 241, Ga-Mabotja, MOLETJIE, 0709 - *Phele*
188. Monde Thulane Mahuma - 970628 5203 082 - 2490 Hillcrest Avenue, Extension 1, SIMUNYE, 1779 - *Xeza*
189. Annah Tebogo Mkhize - 930103 0343 084 - Slocha Section, CHANENG, 0310 - *Keoagile*
190. Chesley Cave - 770914 5190 087 - 33 Volga Avenue, EERSTERUST, 0022 - *Watkins*
191. Mbongeni S'busiso Ndwandwe - 860117 5404 083 - Isithebe Area, MANDENI, 4490 - *Mahlobo*
192. Siyabonga Sifiso Ndwandwe - 870714 5435 089 - Isithebe Area, MANDENI, 4490 - *Mahlobo*
193. Dumisane Edward Nduli - 960714 5685 080 - Stand No 135, Legolaneng, TSHILWANENG, 0491 - *Msiza*
194. Relekilwe Moloko - 960316 0641 082 - Stand No 207, MOGANYAKE, 0459 - *Dhliwayo*
195. Lubabalo Siyabulela Sethi - 910531 5304 087 - 495 Moilwa Street, MUNSIVILLE, 1739 - *Morupisi*
196. Nolwazi Ndlovu - 951122 0424 086 - No 1276 Imbizane, Senaone, SOWETO, 1818 - *Mntambo*
197. Sifundo Sithembiso Biyela - 961213 5596 081 - Habeni Location, ESHOWE, 3815 - *Xulu*
198. Daniel Shaun Beuke - 960701 5037 081 - 17 Davidson Lane, MEERENSEE, 3901 - *Ely*
199. Nkosiphile Mjaja - 950403 5433 087 - J1381 Phithi Road, KWAMASHU, 4360 - *Luthuli*
200. Simamkele Bheki Ngcongolo - 960225 5563 086 - 404389 Emachobeni Area, INANDA, 4310 - *Sibiya*

201. Thabiso Khethokuhle Zondi - 000715 5586 089 - Ward 05, GAMALAKHE, 4249 - *Cele*
202. Thabo Marungwana - 860213 5602 089 - Lekubu Village, Dithakong Section, LEHURUTSHE, 2581 - *Tsele*
203. Siphon Christopher Ramohlale - 990213 5034 088 - 3254 Nobengula Street, KIMBERLEY, 8301 - *Vubela*
204. Daniel Makata Mpati - 990609 5993 084 - P O Box 120, BOCHUM, 0790 - *Kgafe*
205. Yoliswa Nomnga - 990707 0259 087 - 35 Rif Road, Unit 1, Ellington Gardens, DURBAN, 4001 - *Nkosi*
206. Erika Bezuidenhout - 990305 0370 085 - 95 Church Street, PRINCE ALBERT, 6930 - *Landman*
207. Maggy Sefora Sefawanyane - 830124 0417 083 - 2462 Selosecha Section, LEDIG, 0338 - *Ngwenya*
208. Mpho Joyce Soko - 881230 0625 084 - House No 924, Matikiring, Legologile, THABAZIMBI, 0380 - *Molelekwa*
209. Mandla Dlamini - 820826 5515 081 - 34450 Block 11, DOORNKOP, 1724 - *Miya*
210. Mampholodi Maggie Segokodi - 811228 0746 087 - A10084 Mohlala Section, MAMONE, 1063 - *Mohlala*
211. Mlungisi Khanyile - 840508 5666 082 - 451 Nala Road, CHESTERVILLE, 4001 - *Radebe*
212. Mpho Makgalemele - 860519 5655 087 - Extension 02, ORANGE FARM, 1805 - *Shabangu*
213. Mxolisi David Ntombela - 771101 6015 088 - Ruthland Farm Area, Nyanyadu, DANHAUSER, 3080 - *Mthanti*
214. Sekwale Rowen Malepe - 000614 5181 084 - Mamone Area, SEKWATI, 1063 - *Thobejane*
215. Yonela Raymond Mlonyeni - 900319 5780 080 - 37427 Nkanye Street, Harare, KHAYELITSHA, 7784 - *Yamaphi*
216. Nosipo Faith Tsembeyi - 900721 0444 085 - Ngxakaxa Area, DUTYWA, 5000 - *Dlanga*
217. Selina Jacqueline Setsego - 920125 0322 083 - 52 Ramapulane Street, ATTERIDGEVILLE, 0008 - *Mabala*
218. Thumudi Lefa Jeffrey Matlwa - 770820 5666 085 - Stand No 10045, Ga-Matlala, MANAMELA, 0746 - *Mosomane*
219. Een Ubisi - 880719 0710 087 - Chabelagaza Trust, ACORNHOEK, 1360 - *Sentso*
220. Luyanda Mlonzi - 920709 5726 081 - 8203a Zone 6, DIEPKLOOF, 1864 - *Ndlovu*
221. Vishnu Pillay - 820428 5525 085 - 54 Everfield Grove, Earlsfield, NEWLANDS WEST, 4037 - *Naidoo*
222. Oarabile Brian Tsetse - 951104 5090 088 - 3993 Unit 1 Extension, Seloseshu, THABANCHU, 9780 - *Moshounyane*
223. Majeje Lacton Maluleke - 900219 5714 081 - P O Box 1213, GIYANI, 0826 - *Ngobeni*
224. Mahlako Happiness Rapolai - 961221 0456 086 - Stand No 76, Serithing, GARAKGWADI, 1068 - *Kgaphola*
225. Majeje Lacton Maluleke - 900219 5714 081 - P O Box 1213, GIYANI, 0826 - *Ngobeni*
226. Clifford Shongwe - 950131 5982 080 - 19 Cameron Street, Windmill Park, BOKSBURG, 1459 - *Marsh*
227. Mzamo Pennuel Mahoa - 910419 5495 081 - 2227 Hlalele Street, RATANDA, 1441 - *Khanyile*
228. Xola Dube - 931225 5227 084 - 2890 Muller Street, Extension 19, NATURENA, 2095 - *Tshabalala*
229. Nonkululeko Sylvia Mazibuko - 900911 0886 084 - 12978 Extension 7b, ORANGE FARM, 1841 - *Khoza*
230. Minqwenemihle Qoyi - 960824 5743 084 - 32325 Makhulu Crescent, KHAYELITSHA, 7784 - *Hams*
231. Kaylen Dhaniram - 970502 5048 088 - 240 Hibiscus Crescent, Extension 2, LENASIA SOUTH, 1829 - *Naidoo*
232. Solly Themba Mamabolo - 920409 5089 081 - 43 Tulpelaan, Bergsig, HEIDELBERG, 1441 - *Tsimong*
233. Sakkie Sello Chauke - 760326 5714 083 - Plot 63, BRONKHORSTSPRUIT, 1020 - *Bapela*
234. Bonani Tyombo - 951231 0287 086 - Ny 69-66, GUGULETHU, 7750 - *Mekana*

235. Bongane Richard Ngobeni - 871115 5344 082 - 611 Mthembu Street, Wattville, Tambo, BENONI, 1501 - *Mathebula*
236. Mlungisi Xesi - 670324 5919 082 - 13 Mtunja Street, New Brighton, PORT ELIZABETH, 6200 - *Ngwendu*
237. Avin Hariparsad - 870619 5301 084 - 10 York Street, GREYTOWN, 3250 - *Orie*
238. Phumlani Mchunu - 980807 5464 088 - 310956 Ekwazini Village, NDWEDWE, 4342 - *Mkhize*
239. Hlengiwe Mafunda - 940815 0437 081 - G1296 Nongoma Road, KWAMASHU, 4023 - *Dlomo*
240. Nokulunga Mendy Dubazana - 910503 0870 081 - 2553 Greenfield Avenue, Avoca Hills, QUARY HEIGHTS, 4051 - *Zungu*
241. Neliswa Mandy Silangwe - 900914 1011 082 - 64 Flower Road, CLAIRWOOD, 4052 - *Mzizi*
242. Kamohelo Edward Mathulise - 900827 5427 080 - 812 Mashaeng Location, FOURIESBURG, 9725 - *Nyakane*
243. Lerato Elizabeth Njengele - 951007 0220 081 - 3715 Extension 22, TSAKANE, 1550 - *Rapetswa*
244. Kwanele Njengele - 910529 5417 081 - 3715 Extension 22, TSAKANE, 1550 - *Rapetswa*
245. Mandisa Xaba - 981017 0085 081 - Appelsbosch Area, OZWATHINI, 3242 - *Nxumalo*
246. Keamogetswe Jeffrey Masopoga - 960628 5561 085 - 756 Pinnutsport Section, MAMELODI EAST, 0122 - *Matlala*
247. Tebogo James Kgopodithate - 770509 5639 081 - 624c Lotlhakeng Section, Batlharos Village, KURUMAN, 8476 - *Hantise*
248. Thabo Sello Gumede - 851030 5336 083 - 374/43 Karino Estate, NELSPRUIT, 1100 - *Molefe*
249. Marlon Owen Featherston - 821008 5106 083 - 2 Tristan Place, Maple Drive, Northworld, RANDBURG, 2188 - *Samuels*
250. Tshepiso Nkele Mashaba - 951014 0471 086 - 5375 Block F4, New Eersterus, HAMMANSKRAAL, 0208 - *Deane*
251. Amohelang Mashaba - 920429 0697 084 - 5375 Block F4, New Eersterus, HAMMANSKRAAL, 0208 - *Deane*
252. Boy Jacob Nkosi - 800430 5414 082 - 188 Extension 1, EKANGALA, 1021 - *Mahlangu*
253. Gcinumuzi Chyponicus Baba - 890219 5222 087 - 1289 Mfelang Street, BOIPATONG, 1901 - *Baba-Macatshwa*
254. Sibusiso Absolom Daniel Mnguni - 881128 5236 081 - 134-16 Avenue, ALEXANDRA, 2090 - *Zwane*
255. Kabelo Mbowane - 840423 5583 081 - 984 Extension 1, Moleleki Section, KATLEHONG, 1431 - *Mashinini*
256. Nontuthuzelo Agnes Gcawu - 960717 0394 087 - Quqwala Location, KING WILLIAMS TOWN, 5600 - *Moyake*
257. Tshegofatso Tinyiko Serobe - 990208 5255 089 - 20 Fairwood Avenue, THE ORCHARD, 0182 - *Rink*
258. Tshiamo Mangwejane - 980814 5753 080 - 182 Selokong Section, Wonderkop, RUSTENBURG, 0284 - *Motshegare*
259. Zinhle Nkosi - 991214 0407 088 - 118 Blue Heights, 31 Westville Road, DURBAN, 3629 - *Mdletye*
260. Thato Keith Sungula - 000108 5463 089 - 4050 Hlalanikahle, EMALAHLENI, 1039 - *Kujwane*
261. Kelebogile Mydas Mohukubu - 910708 0573 086 - House No 1663, Motlhabeng Section, KANANA, 0322 - *Tobane*
262. Humbulani Simenu Khoza - 000513 0177 081 - 4 Stopford Road, IRENE, 0157 - *Ncube*
263. Lesedi Angel Mathelela - 010918 0530 080 - Stand No 23, Mogaung, TSHILWANENG, 0491 - *Msiza*
264. Tshepo Phetole Malematja - 910629 6022 086 - 22 Gill Street, Observatory, JOHANNESBURG, 2198 - *Malatsi*
265. Sfiso Baloyi - 000505 5525 082 - 95 Block SS, Extension 1, SOSHANGUVE, 0152 - *Masina*
266. Komane Phineas Ramotshela - 921108 5454 084 - 165 Midriever Estate, Extension 69, Orange Riever, KEMPTON PARK, 1619 - *Tlobatla*
267. Xolani Mthimunye - 970617 5110 082 - Stand No 1229, Sephaku Village, MPUDULLE, 1051 - *Mtau*
268. Joseph Mabaso - 921011 5477 081 - 18304 Extension 11, POTCHEFSTROOM, 2531 - *Pietersen*

269. Zimbali Kubheka - 980921 1081 083 - 2846 Dunbar Road, Catomanor, MAYVILLE, 4091 - *Mbhele*
270. Nkosinathi Luzuko Arthur Fana - 810424 5808 086 - 53-931 Kuyasa, KHAYELITSHA, 7784 - *Sangcozi*
271. Tshepang Getrude Modise - 990818 5678 088 - B6059 Gamokgopa Section, MOROKWENG, 8614 - *Ditira*
272. Tlhamogale Gladwin Rapolai - 990729 5530 080 - Stand No 263, Serithing, GARAKGWAZI, 1068 - *Monama*
273. Zukile Rick Mbuthuma - 871229 5796 082 - House No 894, MARIKANA WEST, 0284 - *Hamnca*
274. Lindani Dladla - 950826 5729 080 - Eshane Area, GREYTOWN, 3250 - *Gwala*
275. Letsepe Emmanuel Malapela - 870412 5356 088 - 34582 Barcelona, DAVEYTON, 1519 - *Mohlamonyane*
276. Taswell Nicholas Charles - 840510 5217 080 - 5 Greenfield Circle, OTTERY, 7800 - *Connolly*
277. Kgomotso Matjie - 940819 0446 084 - House No 83, Zone E, NAMAKGALÉ, 1397 - *Mashego*
278. Conny Matjao Selala - 970606 0958 082 - 14156 Phase 1, Walter Sisulu, ZAMDELA, 1949 - *Makua*
279. Siyabonga Penwell Nkosikhona Ndwandwa - 900809 5051 086 - 40A Mattison Drive, Northdale, PIETERMARITZBURG, 5201 - *Magubane*
280. Joseph Mokgosi - 781109 5547 082 - 1043 Phase 1, FREEDOM PARK, 0308 - *Lekhowe*
281. Letumile Moretsele - 810910 0637 082 - 19128 Redshaw Drive, Zone 4, DIEPKLOOF, 1862 - *Maleka*
282. Pogiso William Sebake - 950622 5224 085 - 149 Paradise Fish Street, Kaalfontein, TEMBISA, 1632 - *Makuwa*
283. Thato Ashwin Monnanyane - 980706 5790 080 - BB1103 Robega Section, Chaneng, RUSTENBURG, 0310 - *Sampson*
284. Zoë Van Der Heever - 000317 0652 089 - 21 Mopanie Street, PLATTEKLOOF, 7500 - *Wilson*
285. Thando Nongqele - 990722 6280 086 - 7826 Xorile Street, ORLANDO WEST, 1818 - *Ndila*
286. Jabulile Mndebele - 980623 0628 084 - 7296 Dingaana Street, ORANGE FARM, 1841 - *Nhlapo*
287. Ismail Essop - 721202 5003 082 - 5 North Street, Ocean View, KWADUKUZA, 4450 - *Jamal*
288. Keabetswe Clinton Mohlammeane - 960819 5372 082 - Stand No 10, Thabakhubedu, DENNILTON, 1030 - *Makete*
289. Zanele Cynthia Molefe - 960329 0254 087 - 8090 Kingston Street, Phase 4, BEVERLYHILLS, 1984 - *Ndlovu*
290. Phineas Matome Sedutla - 891015 5838 081 - 0016 Phutha View, KLIPGAT, 0202 - *Makhubela*
291. Siphon Reginald Mabaso - 810102 5817 089 - 389 Masakhane Street, Ngema Section, KATLEHONG, 1431 - *Dhlamini*
292. Faith Ngwenya - 700411 0515 082 - 8580 Noko Street, TSAKANE, 1550 - *Nchabeleng*
293. Kabelo Lincoln Malebye - 801014 5296 084 - 56 Dawe Street, Villaimore, Flat 11, RUSTENBURG, 0300 - *Nkosi*
294. Kwena Dominic Komape - 890516 5801 087 - 617 Silverton, Pretoria Street, PRETORIA, 0184 - *Kgaabi*
295. Mlamuli Mfundo Mchunu - 980624 5776 084 - Townview, MOOI RIVER, 3200 - *Majozi*
296. Lihlithemba Zama Vezi - 991103 0281 082 - 42 Msizi Avenue, Extension 1, Chesterville, 4091 - *Msomi*
297. Vuyisile Luthuli - 990324 0037 081 - C94 Bhambayi, Inanda, 4310 - *Nqjwa*
298. Curtis Thato Ramoba - 910213 5411 085 - 1494 Stapleford Avenue, Dainfern, 2055 - *Ramela*
299. Faral Mpimo Makhubela - 980327 5730 081 - Stand No 2035, Hlomela, Giyani, 0920 - *Ntlemo*
300. Siphon Jason Mokwena - 910726 5423 081 - 185 Dindela, BARBERTON, 1300 - *Gondwe*
301. Phakanani John Nkuna - 450212 5121 088 - P O Box 1267, ELIM, 0960 - *Mafanela*
302. Mandlakayise Solomon Phiri - 801008 5725 084 - Stand No 1100, Sun City, KWAMHLANGA, 1027 - *Xaba*

303. Nonkululeko Precious Kunene – 940418 0283 082 - Greenpoint, BERGVILLE, 3350 - *Ngubane*
304. Nontuthuko Precious Mzizi - 900419 0681 083 - Springvale Location, HIGHFLATS, 3306 - *Mthembu*
305. Bongisipho Hlobisile Nokulunga Ndlela - 921017 0331 082 - 10 Perel Avenue, Sunnyside, NEWCASTLE, 2940 - *Mfusi*
306. Mathemba Bangani - 970725 5965 080 - 28 Nevada Road, MOTE VIDEO, 7490 - *Tshabalala*
307. Sabelo Delton Ntombela - 800314 5883 084 - Block 20, 275 Brazaville, SAULSVILLE, 0125 - *Buthelezi*
308. Itumeleng Gerald Mhlanga - 820810 5912 084 - 1902 Mpane Street, ORLANDO EAST, 1804 - *Monyamane*
309. Katlego Lebang - 000303 5119 084 - P O Box 447, BOCHUM, 0730 - *Kwata*
310. Lerato Edwin Radebe - 751209 5601 081 - 14453 Phase 21, Walter Sisulu, ZAMDELA, 1949 - *Mabaso*
311. Huzaifah Jeeva Ahmed - 971128 5240 084 - 24 Jassat Street, Manzil Park, KLERKSDORP, 2570 - *Jeeva*
312. Jacob Boitumelo Mokgothu - 840314 5618 086 - 52081 House no, Seweding, MMABATHO, 2735 - *Mpyane*
313. Thabo Solomon Mabasa - 900613 5375 085 - 20897 Buffer Zone, MAMELODI EAST, 0122 - *Maleka*
314. Mamello Ingrid Mokoena - 950810 0026 080 - 116 Carbon Road, Steelpark, VEREENIGING, 1930 - *Mohaladi*
315. Rhulani Zikalala - 970605 5616 083 - 5338 Freedom Park, DEVLAND, 1811 - *Mashele*
316. Sandile Thwala - 941230 5306 084 - 21 B Naledi, Camp 2, KWA XUMA, 1868 - *Mbhele*
317. Ipeleng Pride Sithole - 970808 5510 088 - 1436 AA Section 2, Suurman, HAMMANSKRAAL, 0400 - *Dikutle*
318. Taidly Khomanani Ngobeni - 930124 5401 081 - 219 Tali's Place, Albertina Sisulu Street, JOHANNESBURG, 2001 - *Mabundza*
319. Tshefofatso Trinity Dithebe - 970517 0387 083 - 7581 Jacob Reitz Street, Airfield, POSTMASBURG, 8420 - *Rooibaatjie*
320. Tlotlo Innocent Moeti - 911215 5469 087 - 22464 Senter, Galeshewe, KIMBERLEY, 8345 - *Morwe*
321. Leholobe Walter Matsepe - 751202 5753 085 - Stand no 1441, Tafelkop, BOLEU, 0474 - *Tagane*
322. Mamokete Innocentia Makhubo - 890630 0320 082 - 7386 Extension 4, ORANGE FARM, 1805 - *Sentsho*
323. Tumelo Shotledi Sehata - 980531 5487 085 - Malibongwe Ridge, RANDBURG, 2125 - *Selowa*
324. Tembani Theodore Zozi - 830809 5363 080 - 3 Torrence Road, BISLEY, 3201 - *Hlongwane*
325. Maria Matloduwa Tshepiso Raphela - 890313 0649 087 - P O Box 448, LESHOANE, 0724 - *Mamabolo*
326. Thandookohle Timothy Sithole - 951226 5208 087 - Kwaguqa Area, TUGELA FERRY, 3010 - *Mkhize*
327. Dingaane Hlakola Maimela - 931215 5713 084 - 134 Maseveme, BURGERSFORT, 1150 - *Tau*
328. Zusake Tonise - 961202 5949 085 - Mackysneck Area, LADY FRERE, 5410 - *Bhuntse*
329. Pontsho Celesting Jambane - 970724 0213 083 - 4572 Luthuli Street, DAVEYTON, 1520 - *Mokone*
330. Letlotlo Molefe - 980528 5492 081 - 1535 Thutiwa Street, TLHABANG, 0300 - *Mogotsi*
331. Nkanyiso Lwazi Simelane - 971008 5466 089 - 309 Musa Road, KWA MASHU, 4360 - *Gcabashe*
332. Sinikiwe Shabalala - 960910 0801 082 - P O Box 5062, NONGOMA, 3950 - *Mnguni*
333. Thuthukani Cashin Mpenge - 971020 5829 083 - GG Location, Ward 22, MURCHISON, 4240 - *Sibiya*
334. Zilungile Khundla - 981231 0635 080 - Ngcongcongca Area, OZWATINI, 4450 - *Ngcobo*
335. Sthembiso Kwanda Ndlovu - 960513 5669 080 - Nkande Area, NQUTU, 3100 - *Molefe*
336. Thobinceba Nonze - 970830 5618 083 - 20 Velco Avenue, Linton Grange, PORT ELIZABETH, 6001 - *Ngqawana*

337. Teddy Mpho Kumalo - 970704 5720 084 - 15747 Extension 2, ORANGE FARM, 1805 - *Nhlapo*
338. Raesetsa Nthabiseng Kgaphola - 960601 1013 088 - Stand no 470, MARBLE HALL, 0450 - *Moshidi*
339. Setlogane Percy Mohlala - 990822 5552 087 - Stand no 334, GROBLERSDAL, 0470 - *Hlakudi*
340. Lunga Tenza - 920613 5160 087 - 474 Nebraska Street, FAERIE GLEN, 1425 - *Mukosa*
341. Shadrack Lucky Motsapi - 790205 5705 081 - 7459 Sisulu Section, PARYS, 9585 - *Koza*
342. Ntebeng Dinah Seabi - 801216 1279 085 - P O Box 90, Dipompang Village, LEPHALALE, 0555 - *Mafora*
343. Jomo Mthunzi Mfeketho - 850726 5660 080 - Mawushini Area, PORT ST JOHNS, 5126 - *Sikosana*
344. Sivenathi Mtyapi - 880101 0576 083 - 34 Umlelu Street, Extension 3, MFULENI, 7100 - *Moni*
345. Aseza Mancu - 990328 0553 088 - Xopozo Area, FLAGSTAFF, 4810 - *Mlaka*
346. Mandla Sindane - 880315 5614 083 - 2253 Zenzele, KWAMHLANGA, 1022 - *Mtsweni*
347. Mandla Raymond Khanye - 860513 5374 088 - 594 RDP House, Azalea, STANDERTON, 2430 - *Mollo*
348. Nkululeko Hopewell Zuma - 861101 5729 086 - Sibongile Location, DUNDEE, 3000 - *Buthelezi*
349. Reneilwe Florah Masekela - 940201 1238 085 - Stand no 666, Sekonye, BOTLOKWA, 0812 - *Ramalatsa*
350. Phumzile Getrude Mthembu - 710814 0575 089 - Stand no 2143, PIETERMARITZBURG, 3201 - *Lembethe*
351. David Bafana Mbongwe - 910102 5545 085 - 60 Pietuys Street, RANDFONTEIN, 1760 - *Tsotetsi*
352. Lwandle Warren Ndlovu - 940102 5263 089 - F 1533 Msibi Road, KWA MASHU, 4360 - *Mseleku*
353. Precious Sphindile Ngobese - 901106 0783 089 - D 2495 Phaphama Road, Lindelani Township, DURBAN, 4023 - *Nyaba*
354. Siyabulela Lucky Kwinana - 860410 5708 086 - 35 Mpetshwa Street, Joe Slovo, MOSSELBAY, 6500 - *Hamza*
355. Henry George Hawkins Van Schalkwyk - 910124 5778 086 - 492 Rooibos Street, CENTURION, 0140 - *Bryson*
356. Dimakatso Lettah Moepi - 910823 0999 080 - 373 Plaas Street, CLAREMONT, 0082 - *Kofang*
357. Smangalisio Febian Shirinda - 950218 5511 082 - 15732 Msinga Square, MAMELODI EAST, 0122 - *Masinga*
358. Noxolo Zama Nduli - 980803 0893 082 - P O Box 8910, ULUNDI, 3838 - *Gumede*
359. Phinda Phakathi - 851025 6178 088 - 8353 Twala Street, ORLANDO, 1700 - *Mthethwa*
360. David Besabakhe Mahlaneu - 700403 5572 085 - Stand no 1545, WELTEVREDE, 0472 - *Matshiana*
361. Gcobani Mbetshe - 710128 5815 089 - C 382 Nkaneng, RUSTENBURG, 0300 - *Mbeje*
362. Refilwe Yvonne Matshidiso - 900629 0808 086 - 56 Mogopela B, TAUNG, 8584 - *Moreohentse*
363. Lebohang Lawrence Dhlamini - 940613 5375 087 - 1863 Mzizi Street, Bohlokons Location, BETHLEHEM, 9700 - *Mokoena*
364. Marie-Louise Van Der Merwe - 940306 0050 082 - 8 Carbrook Avenue, Claremont, CAPE TOWN, 7708 - *Nolte*
365. Khathutshelo Norman Mphothi - 800929 5626 082 - 958 Extension 1, Mogale City, RIETVALLEI, 1700 - *Singo*
366. Sindile Ntlanyana - 710102 6761 089 - Ntsundwana Area, LIBODE, 5162 - *Ndethe*
367. Nhlanhla Enoch Mhlambe - 830409 5280 085 - 378 Koba Street, Bohlokons Location, BETHLEHEM, 9400 - *Zulu*
368. Boitumelo Mirriam Gumede - 830215 0530 089 - 71312 Rakgolo Section, Bodibe, ITSOSSENG, 2744 - *Mokoto*
369. Xolani Ngeno - 950627 5614 086 - 85276 Zone 6, SOWETO, 1862 - *Ndlovu*
370. Mduduzi Nelson Vilakazi - 740717 5521 087 - NO 4828, OSIZWENI, 2952 - *Mwelase*

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371. Zamokuhle Sakhile Sithole - 971124 5904 084 - Ophathe Area, MUDEN, 3201 - *Mvelase*
372. Mzamo Siphesihle Godwill Sithole - 981008 5420 084 - 373 Extension 1, Intabazwe, HARRISMITH, 9880 - *Moloi*
373. Reabetswe Sethabizile Tshabalala - 961223 0425 087 - 7928 Hospital View, BETHLEHEM, 9701 - *Mokoena*
374. Kutlwano Mosikidi - 971008 5783 087 - 6117 Chris Hani Drive, BOKSBURG, 1460 - *Lebeloane*
375. Godfrey Puleng Maimela - 951006 5666 082 - 134 Maseven Village, BURGERSFORT, 1150 - *Tau*
376. Charles Mabelane - 950223 5845 084 - Kutull Village, JANE FURSE, 1085 - *Motene*
377. Zamani Khanyi - 790319 5653 082 - 11713 Limehill, WASBANK, 2920 - *Cebekhulu*
378. Selina Thembeka Moffan - 980711 0236 089 - 38 Johnson Street, WESTONARIA, 1779 - *Mika*
379. Thabiso Nkgodi - 910731 5488 084 - 11083 Majemantsho Village, MAHIKENG, 2700 - *Zwane*
380. Nthabiseng Debora Kali - 920103 0832 088 - 2535 Homble Street, Extension 9, VLAKFONTEIN, 1821 - *Singo*

## DEPARTMENT OF HOME AFFAIRS

NO. 904

31 AUGUST 2018

**ALTERATION OF FORENAMES IN TERMS OF SECTION 24 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)**

The Director-General has authorized the following persons to assume the forename printed in *italics*:

Notice is hereby given of Government Gazette No. **41399** which, was published in Government Notice No. **38** dated **26 January 2018**, is hereby rectified to read as follow

1. Mtutuzeli Nakumba - 850619 5834 088 - 9 Omsambeet Street, DELFT, 7100 - *Lucky*

Notice is hereby given of Government Gazette No. **41685** which, was published in Government Notice No. **566** dated **08 June 2018**, is hereby rectified to read as follow

1. Thiffhelimbilu Gleamour Rambau - 960317 0646 089 - Ha-Masakona, ELIM, 0941 - *Velelambeu Gleamour*
2. Kebogile Aliena Tsiane - 560701 0821 087 - 6970 E Mokwena Location, THABA NCHU, 9780 - *Kebugile Alina*
3. Kgolagano Bridgette Tsonope - 970203 0717 088 - 37 Stelitzice Avenue, Country View, MIDRAND, 0100 - *Kgolagano*
4. Assation Monareng - 910113 0605 089 - P O Box 1535, HAZYVIEW, 1242 - *Ascension Tereso*

Notice is hereby given of Government Gazette No. **41632** which, was published in Government Gazette Notice No. **494** dated **18 May 2018** is hereby rectified to read as follows

1. Nzuza Mabefu Nomandla - 930210 5680 087 - Esiphahleni Location, MBAZWANA, 3924 - *Nzuzo Lamar*

Notice is hereby given of Government Gazette No. **41650** which, was published in Government Notice No. **521** dated **25 May 2018**, is hereby rectified to read as follow

1. Marthinus Jacobus Willemse - 850824 5076 082 - 13 Romeo Single, Toekomsrus, OUDTSHOORN, 6625 - *Mohammad Jakob*

Notice is hereby given of Government Gazette No. **41827** which, was published in Government Notice No. **805** dated **10 August 2018**, is hereby rectified to read as follow

1. Krisjan Molakeng - 950203 5660 089 - 9337 Sommersports, ZAMDELA, 1949 - *Seun Krisjan*
2. Sifiso Sihle Bhidla - 000511 5427 089 - Malangeni Area, UMZINTO, 4200 - *Sfiso Benson Aubrey*
3. Tsoana Keoikantse Kgwakgwa - 990921 5466 080 - 46 A Byron Street, RUSTENBURG, 0300 - *Tsoana Keoikantse*
4. Boiki Emmanuel Theko - 751222 5551 081 - Private Bag X9394, POLOKWANE, 0700 - *Boiki Emmanuel Norman*

## INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 905

31 AUGUST 2018



Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

**DRAFT AMENDMENT TO THE NATIONAL AND PROVINCIAL PARTY ELECTIONS  
BROADCASTS AND POLITICAL ADVERTISEMENTS REGULATIONS, 2014**

**INVITATION FOR WRITTEN REPRESENTATIONS**

The Independent Communications Authority of South Africa ("ICASA" or the "Authority") hereby in terms of section 4(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (the "ECA") invites interested persons to submit their written representations regarding the draft amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014 (the "Draft Regulations").

A copy of the Draft Regulations will be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at No. 164 Katherine Street, Pinmill Farm, (Ground Floor at Block D), Sandton between 09h00 and 16h00, Monday to Friday.

Written representations must be submitted to the Authority by no later than 30 working days from the date of publication of this notice in the government gazette by post, hand delivery or electronically and marked specifically for the attention of: Mamedupe Kgatshe. Delivery address: Block A, Pinmill Farm, 164 Katherine Street, Sandton. Where possible, written representations should also be e-mailed to: [mkgatshe@icasa.org.za](mailto:mkgatshe@icasa.org.za) and [tmagano@icasa.org.za](mailto:tmagano@icasa.org.za). All telephone enquiries should be directed to 011 566-3259 between 10h00 and 16h00, from Monday to Friday.

Written representations received by the Authority pursuant to this notice, will be made available for inspection by interested persons at the Authority's library and such copies will be obtainable upon payment of the prescribed fee.

At the request of any person who submits written representations pursuant to this notice, the Authority may determine that such representations or any portion thereof is to be treated as confidential in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portions thereof.

The Authority intends to conduct provincial workshops on the Draft Regulations. The date and schedule for the workshops will be announced in due course.



.....  
**MR RUBBEN MOHLALOGA**  
**CHAIRPERSON**

**DATE:** 2/08/2018

## **ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005) REGULATIONS**

The Independent Communications Authority of South Africa has, in terms of section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) read with sections 4(1), 4(4) (a) and (b) and sections 56, 57, 58 and 59 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), made the regulations in the Schedule.

### **SCHEDULE**

#### **1. Definitions**

In these regulations "the Regulations" means the regulations published by Government Notice No. 101 of 2014.

#### **2. Amendment of regulation 4 of the Regulations**

Regulation 4 of the Regulations is hereby amended by the substitution for the subregulations 14 and 15 of the following subregulations:

"(14) A broadcasting service licensee that broadcasts PEB must:

- (a) make available, every day, throughout the election broadcast period, ten (10) time-slots of fifty (50) seconds each for the broadcast of PEB, excluding the top and tail disclaimer;
- (b) do so in accordance with the sequence and timing that will be determined by the Authority upon allocation of airtime slots after the publication of these regulations;
- (c) ensure that all PEB broadcasts are clearly identified; and

(d) ensure that all PEB broadcasts are announced in a similar manner.

(15) A PEB must not exceed fifty (50) seconds in duration.”

### **3. Amendment of Annexure C of the Regulations**

The following annexure is hereby substituted for Annexure C of the Regulations:

#### **ANNEXURE C**

##### **Technical standards and quality**

(1) Audio and video recordings will be clearly labelled, outlining the name of the political party and nominated representative.

(2) The technical standards are as follows;

##### **Television**

Material needs to be delivered;

- in 16:9 HD format.
- by File Transfer Protocol.
- in a hard drive or USB.

##### **Radio**

Material needs to be delivered in;

- Format: MP2.
- Sample rate: 48 KHz.
- Bit rate: 16 bit.
- Stereo - Left and Right channels.

#### **4. Short Title and Commencement**

These regulations are called the National and Provincial Party Elections Broadcasts and Political Advertisements Amendment Regulations, 2018 and will come into force upon publication in the Government Gazette.



**Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

**DRAFT AMENDMENT TO THE NATIONAL AND PROVINCIAL PARTY  
ELECTIONS BROADCASTS AND POLITICAL ADVERTISEMENTS  
REGULATIONS, 2014**

**EXPLANATORY MEMORANDUM**

**AUGUST 2018**

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## 1. INTRODUCTION

The Independent Communications Authority of South Africa (“the Authority” or “ICASA”) has initiated a process to review and amend the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014<sup>1</sup> (“the Regulations”), in light of the upcoming 2019 national and provincial elections.

When reviewing regulations, the Authority is guided by the Constitution of the Republic of South Africa, 1996, the Broadcasting Act, 1999 (Act No. 4 of 1999), the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), and the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“ECA”). In particular, the Authority is empowered by sections 56, 57, 58 and 59 of the ECA to regulate Party Election Broadcasts (PEBs), Political Advertisements (PAs) and the equitable treatment of political parties by Broadcasting Service Licensees (BSLs) during an election period.

## 2. BACKGROUND

As South Africa is preparing for the 2019 general elections, the Authority decided to review the Regulations with an intention to assess their relevance to the current political landscape.

Post the 2014 election period, the Authority compiled a report on the coverage of the elections (“the 2014 Elections Report”).<sup>2</sup> The report provided an overview of the performance of BSLs who expressed an interest to broadcast PAs and PEBs, and whether they complied with the ECA and the Regulations.

Taking into account the changes in our political landscape, the 2014 Elections Report, and lessons learnt from the 2016 Municipal elections the Authority intends to amend the 2014 Elections Regulations.

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<sup>1</sup> Party Elections Broadcast, Political Advertisements, the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters, 17 February 2014. Government Gazette No.37350, Volume 584

<sup>2</sup> ICASA Report on the coverage of 2014 National and Provincial elections, accessible on [www.icasa.org.za](http://www.icasa.org.za)

The South African Broadcasting Corporation indicated that there were political parties contesting the elections that did not utilise any of their allocated PEB slots. The failure of political parties to utilise their allocated PEB slots impacts negatively on the BSL, especially television, as they schedule their programming ahead of time and when the political party do not submit a PEB they have to find a replacement within a short space of time.

### **3. PEB AIRTIME ALLOCATION**

The Authority's main concern in allocating PEB airtime to political parties is the amount of slots available for PEB allocation. The amount of time available for PEB allocation is dependent on the number of registered political parties contesting the elections and the number of days for the election broadcast period.

To address this concern, the Authority proposes to reduce the PEB length from 1 minute to 50 seconds. The consequence of the reduction in the PEB length is that the BSLs will have to increase the number of slots available from eight (8) to ten (10) slots per day and this will afford political parties more PEB slots allocation.

### **4. TECHNICAL STANDARDS**

The Authority has reassessed the technical standards to align them with the changing technical environment. The Authority proposes that the political parties submit the pre-recorded PEB and PA material in the following broadcast quality:

#### **Television**

Material needs to be delivered;

- in 16:9 HD format.
- by File Transfer Protocol.
- in a hard drive or USB.

#### **Radio**

Material needs to be delivered in;

- Format: MP2.
- Sample rate: 48 KHz.
- Bit rate: 16 bit.

- Stereo - Left and Right channels.

## **5. CONCLUSION**

These regulations will provide a framework that BSL will operate within when covering the elections. Therefore, the most important aspect for these regulations during elections is finding the right balance between the respect for editorial independence and the need for rules to guarantee that media coverage is balanced.

## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 906

31 AUGUST 2018

**AMENDMENT OF GAZETTE 1431 OF 2005 DATED 2<sup>ND</sup> DECEMBER 2005 AS CONTAINED IN GOVERNMENT GAZETTE NUMBER 28258 IN RESPECT OF ERF 102 SITUATED IN MHLONTLO LOCAL MUNICIPALITY, EASTERN CAPE PROVINCE.**

Notice is hereby given in terms of Section 11 A (4) of the Restitution of Land Rights Act, No, 22 of 1994 as amended, due to a an error in the gazette notice 1431 of 2005 dated the 2 December 2005 as Contained in the Gazette Number 18402.

The above mentioned gazette notice is hereby amended to include the correct property extent under claim.

**Reference No. : KRO: 6/2/2/D/1007/0/0/8**

**Claimant : Balasi community**

**Property Description : Erf 102 Mhlontlo Local Municipality, Eastern Cape.**

**Extent of Land : 5539 Hectares**

**Current Title Deed : N/A**

**Date Submitted : 15 December 1998**

**Current Owner : Mhlontlo Local Municipality**

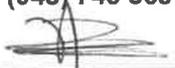
**Current Land Use : Residence**

Has been submitted to the Regional Land Claims Commissioner for the Eastern Cape and that the Commission on Restitution of Land Rights will further investigate the claims in terms of the provisions of the Act, as amended in due course.

Any party who has an interest in the abovementioned land claim is hereby invited to submit, within 14 days from the date of the publication of this Notice, any comments / information to :

**The Regional Land Claims Commissioner  
Eastern Cape Province  
P .O. Box 1375  
East London  
5201**

**Tel: (043) 700 6000  
Fax: (043) 743 3687**

  
**Mr. Lebjane Maphutha  
Regional Land Claims Commissioner  
(Eastern Cape)**

**Date: 2018/07/25**

## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 907

31 AUGUST 2018

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

Notice is hereby given in terms of section 11(1) of the Restitution of Land Rights Act, Act No. 22 of 1994 as amended, that a claim for restitution of land rights has been lodged on the following farms Sterkrivier 97 LT, Kresternfontein 67 LT, Mhlahlandlela, Mashwana and Mavhuza situated in Greater Giyani Local Municipality, Mopani District, Limpopo.

Mbhazima Daniel Siweya lodged the claim on behalf of Ndengeza community on the 24<sup>th</sup> of October 1998. The land survey was done to determine the extent of the land that they are claiming.

The details of the property are as follows: (under claim)

PROPERTY	CURRENT OWNER	TITLE DEED	EXTENT (HECTARES)	BONDS AND RESTRICTIVE CONDITIONS	HOLDER
Sterkrivier 97 LT	Government of Gazankulu	T1822/1942	840.3968 HA	No Details	RSA
Kresternfontein 67 LT	Government of Gazankulu	T5938/1985	175.2517 HA	No Details	RSA
Mhlahlandlela	Government of Gazankulu	No Details	359.4368 HA	No Details	No Details
Mavhuza	Government of Gazankulu	No Details	165.4516 HA	No Details	No Details
Mashwana	Government of Gazankulu	No Details	298.1647 HA	No Details	No Details

**Take further notice** that the Regional Land Claims Commission of Limpopo is investigating this claim. Any party that has an interest in the above-mentioned property is hereby invited to submit in writing within **90** days of publication of this notice, any comment, and/ or objection to this claim to the Regional Land Claims Commissioner at the addresses set out below under reference number **KRP 1868**.

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

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

Submission may also be delivered to:  
First Floor, 96 Kagiso House  
Corner Rissik & Schoeman Streets  
POLOKWANE  
0700



MAPHUTHA LH  
REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2017/11/20

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 908

31 AUGUST 2018



# Province of KwaZulu-Natal Department of Social Development

**MANUAL** compiled in terms of Section 14(1) of the Promotion of Access to Information, 2000 (Act 2 of 2000)

01 April 2018 – 31 March 2019

Language: English

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## 1. INTRODUCTION

The Promotion of Access to Information Act, 2000 (Act No.2 of 2000), referred to in this manual as the Information Act, originates from section 32 of the Constitution of the Republic of South Africa Act, 1996 (Act No.108 of 1996), referred to as the Constitution in this manual which states:

- 1.1. Everyone has the right of access to:
  - 1.1.1. Information held by the state and;
  - 1.1.2. Any information that is held by another person and that is required for the exercise or protection of any rights
- 1.2. National Legislation must be enacted to give effect to this right and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

On 02 February 2000 the National Legislature enacted the Promotion of Access to Information Act (Act 2 of 2000) to comply with section 32 of the Constitution to ensure that the right to access to information is protected. With the exceptions of sections 10, 14, 16 and 51 the Information Act came into effect on the 09 March 2001. Sections 10, 14, 16 and 51 came into effect on the 15th February 2000.

The goal of the Information act is to promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights fully

The Information Act is available to anyone who wishes to request information from a public and private body. The person making the request for information is known as the requester.

Every Public or Private body is required to compile a manual in at least three official languages, a manual that explain how to use Information Act. This manual has therefore been designed (in terms of Section 14 of the Act) to assist a requester who wishes to obtain information from the KwaZulu-Natal Department of Social Development, which is a public body. This manual is available in English, Afrikaans, IsiZulu, IsiXhosa and Brail.

This manual does not contain information about how to make a request to other government departments and/or private bodies. If a requester wishes to make a request to any other government department or private body other than the KWAZULU-NATAL DEPARTMENT OF SOCIAL DEVELOPMENT, the requester should obtain a copy of the manual from the relevant government or private body.

## 2. PURPOSE OF THE MANUAL

- 1) To give effect to the provisions of Section 14 of the Act
- 2) To provide simplified and user friendly guidelines for the public to request information held by the Department of Social Development.

## 3. DEFINITIONS

“Act”	Refers to the Promotion of Access to Information (Act 2 of 2000)
“Access Fee”	Means a fee prescribed for the purposes of section 22(6) or 54(6), as the case may be;
“Information Officer (IO)”	In relation to, a public body- <ol style="list-style-type: none"> <li>a) In the case of a national department, provincial administration or organisational component-             <ol style="list-style-type: none"> <li>a. Mentioned in Column 1 of Schedule 1 or 3 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), means the officer who is the incumbent of the post bearing the designation mentioned in Column 2 of the said Schedule 1 or 3 opposite the name of the relevant national department, provincial administration or organisational component or the person who is acting a such; or</li> <li>b. Not so mentioned, means the Director-General, head, executive director or equivalent officer, respectively, of that national department. Provincial administration or organisational component, respectively.</li> </ol> </li> </ol>
“Deputy Information Officer (DIO)”	Person or persons duly designed and delegated to perform functions of the Information Officer in terms of sections 17.
“Requester”	In relation to <ol style="list-style-type: none"> <li>i) Any person (other than a public body), or an official thereof making a request for access to a record of that public body hold</li> </ol>
“Personal Requester”	Means a requester seeking access to a record containing personal information about the requester.

#### 4. DESCRIPTION OF THE DEPARTMENT [Section 14(1)(a)]

##### 4.1. VISION

Our vision is that of “A Caring and Self-reliant Society”

##### 4.2. MISSION

To transform our society by building conscious and capable citizens through the provision of integrated social development services.

##### 4.3. CORE VALUES

- **Human dignity**

Is a fundamental human right must be protected in terms of the Constitution of South Africa and facilitates freedom, justice and peace.

- **Respect**

Is showing regard for the one another and the people we serve and is a fundamental value for the realization of development goals.

- **Integrity**

Is ensuring that we are consistent with our values, principles, actions, and measures and thus generate trustworthiness amongst ourselves and with our stakeholders.

- **Fairness**

Expresses our commitment to providing services to all South Africans without prejudice based on race, gender, religion or creed.

- **Equality**

We seek to ensure equal access to services, participation of citizens in the decisions that affect their lives and the pursuit of equality imperatives where imbalances exist.

#### 4.4. PRINCIPLES

Our Service Delivery Improvement Plan entails all the principles of Batho Pele:

- **Consultation**

People should be consulted about the level and quality of services they receive, and wherever possible, be given a choice.

- **Service standards**

People should be told what level and quality of services they will receive.

- **Access**

All citizens should have equal access to the services to which they are entitled.

- **Courtesy**

All people should be treated with courtesy and consideration.

- **Information**

People should be given full, accurate information about the services they receive.

- **Openness and transparency**

About how the department is run, how much it costs, and who is in charge.

- **Redress**

If a promised standard of service is not delivered, people should be offered an apology, an explanation and a speedy remedy. When complaints are made, people should receive a sympathetic, positive response.

- **Value for money**

Public services should be provided economically and efficiently

**4.5. PROGRAMMES****4.6. Programme 1**

- Office of the MEC
- Corporate Management Services
- District Management

**4.7. Programme 2**

- HIV and AIDS
- Social Relief
- Special Needs

**4.8. Programme 3**

- Children
- Families

**4.9. Programme 4**

- Restorative Services
- Victim Empowerment

**4.10. Programme 5**

- Sustainable Livelihood
- NPO Capacity Building
- Research and Advocacy

**5. CONTACT DETAILS [Section 14(1)(b);17(1)]**

	<b>Information Officer</b>	<b>Deputy Information Officer</b>
<b>Surname &amp; Initials</b>	Ms. N.G. Khanyile	N.W Hlabisa
<b>Position</b>	Accounting Officer	Advocate
<b>Physical Address</b>	208 Hoosen Haffeggee Pietermaritzburg, 3201	205 Pietermaritz Street, Pietermaritzburg,3202
<b>Postal Address</b>	Private Bag X9144 Pietermaritzburg, 3201	Private Bag X9144 Pietermaritzburg, 3201
<b>Telephone Number</b>	033- 264 5406	033-348 5505/08
<b>Fax Number</b>	033- 264 5435	033-341 7913
<b>E-mail Address</b>	<a href="mailto:hodpa@kznsocdev.gov.za">hodpa@kznsocdev.gov.za</a>	<a href="mailto:Ntuthuko.hlabisa@kznsocdev.gov.za">Ntuthuko.hlabisa@kznsocdev.gov.za</a>

**6. SUBJECT DESCRIPTION ON WHICH THE DEPARTMENT HOLDS RECORDS [Section 14 (1)(d)]**

A general filing system, paper-based and electronic case files with regards to the elderly is held by the Department. There is a register for files opened, namely:

1. Legislation	5. Supplies and Services	9. Social Security (Discontinued)
2. Administration	6. Transport	10. Social Services
3. Finance	7. Meetings of Boards, Councils, Committees and other bodies	11. Social Development
4. Accommodation	8. Information, Publicity and Heraldry	

**9. LIST OF RECORDS AUTOMATICALLY AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS IN TERMS OF THIS ACT [Section 14 (1); 15(1)(a)]**

CATEGORIES	MANNER OF ACCESS TO RECORD
<b>1. FOR INSPECTION IN TERMS OF SECTION 15(1)(a)(i) and (b)</b>	
1.1. Budget Speech; 1.2. Departmental Strategic Plan; 1.3. Annual Performance Plan; 1.4. Annual Strategic Plan; 1.5. Citizen's Charter and Service Delivery Charter; 1.6. Employment Equity Report; 1.7. Approved Organizational Structure; 1.8. Anti-Fraud Anti-Corruption Strategy; 1.9. MEC's Speeches; 1.10. Circulars of Advertised posts; 1.11. Register, database or list of service offices, facilities or State or public entities of the Department; 1.12. Social research findings, reports, reviews and papers; and 1.13. Magazines, newspapers and newsletters.	The records may be inspected at the Office of the Deputy Information Officers as follows –  <b>Adv. N.W Hlabisa</b> <b>Email:</b> <a href="mailto:ntuthuko.hlabisa@kznsocdev.gov.za">ntuthuko.hlabisa@kznsocdev.gov.za</a> <b>Tel:</b> (033)-348 -5505/85 <b>Fax:</b> (033) -348 7913
<b>2. FOR PURCHASING IN TERMS OF SECTION 15(1)(a)(II) and (b)</b>	
2.1. Bid Documents	Bid documents may be purchased at the Department of Social Development, Province of KwaZulu-Natal 208 Hossen Haffejee Street PIETERMARITZBURG 3201 At the Supply Chain Management Directorate.

<b>3. FOR COPYING IN TERMS OF SECTION 15(1)(a)(ii) and (b)</b>	
3.1. Budget Speech; 3.2. Departmental Strategic Plan; 3.3. Annual Performance Plan 3.4. Annual Strategic Plan; 3.5. Service Delivery Improvement Plan; 3.6. Citizens' Charter and Service Delivery Charter; 3.7. Employment Equity Report; 3.8. Approved Organisational Structure; 3.9. Anti- Fraud Anti-Corruption Strategy; 3.10. MEC's speeches; 3.11. Circulars of advertised posts; 3.12. Register, database or list of service offices, facilities or State or public entities of the Department; 3.13. Social research findings, reports, reviews and papers; and 3.14. Magazines, newspapers and newsletters.	The records may be accessed for copying at the Office of the Deputy Information Officers as follows –  <b>Adv. N.W Hlabisa</b> <b>Email:</b> <a href="mailto:ntuthuko.hlabisa@kznsocdev.gov.za">ntuthuko.hlabisa@kznsocdev.gov.za</a> <b>Tel:</b> (033)-348 -5505/85 <b>Fax:</b> (033) -348 7913

<b>4. FREE OF CHARGE IN TERMS OF SECTION 15(a)(iii) and (b)</b>	
4.1. Budget Speech; 4.2. Departmental Strategic Plan; 4.3. Annual Performance Plan 4.4. Annual Strategic Plan; 4.5. Service Delivery Improvement Plan; 4.6. Citizens' Charter and Service Delivery Charter; 4.7. Approved Organisational Structure; 4.8. Anti- Fraud Anti-Corruption Strategy; 4.9. MEC's speeches; 4.10. Circulars of advertised posts; 4.11. Register, database or list of service offices, facilities or State or public entities of the Department; 4.12. Magazines, newspapers and newsletters.	The records may be accessed for copying at the Office of the Deputy Information Officers as follows –  <b>Adv. N.W Hlabisa</b> <b>Email:</b> <a href="mailto:ntuthuko.hlabisa@kznsocdev.gov.za">ntuthuko.hlabisa@kznsocdev.gov.za</a> <b>Tel:</b> (033)-348 -5505/85 <b>Fax:</b> (033) -348 7913

## 10. GUIDE TO BE DEVELOPED BY THE HUMAN RIGHTS COMMISSION

The South African Human Rights Commission, established in terms of section 181 (b) of the Constitution, is responsible for developing a guide in each of the country's official languages, with information on how to use the Information Act. This guide must be published within 18 months of the Information Act coming into effect, which is 15 August 2003. If a person wishes to obtain further information, he or she could contact –

The Human Rights Commission

136 Victoria Embarkment

Durban, 4001

Telephone: (031) 304 7323/4/5

Fax: (031) 304 7323/4/5

e-mail address: [msibi@sahrc.org.za](mailto:msibi@sahrc.org.za)

## 11. ACCESS TO INFORMATION

### 8.1 Request for Access to a record [Section 11;18]

If a requester wishes to make a request for access to a record of the KwaZulu-Natal Department of Social Development, he or she must direct a written request to the Information Officer or Deputy Information Officer whose contact information is listed in section 4 of this manual.

The requester who wish is to make a request must complete Form A, which is included in this manual as annexure A. The requester must provide enough information in Form A as to enable the Information Officer or Deputy Information Officer to identify –

- the records requested, including a description of the record, a reference number (if any) and any further particulars on the record;
- the requester, including all contact information; and
- the reason for of access required by the requester, that is if the –
- record is in written or printed form, whether the requester wishes to make a copy of the record or inspect the record;
- record is a visual image, which may be photographs, slides, video recordings, computer-generated images or sketches, whether the requester wishes to view the images, copy the image or obtain a transcription of the images;
- Request for a record is recorded words or information which can be produced by sound, whether the requester wishes to listen to soundtrack or obtain a written or printed transcription of the sound track; or

- record is held on a computer or in electronic or machine-readable form, whether the requested wishes to obtain a printed copy of the record, printed copy of the information derived from the record or copy in the computer-readable form (stiffy, flash or compact disk).
- A requester must also state the language in which he or she wishes to obtain the record. If the record is not available in the language preferred by the requester, access may be granted in the languages in which the record is available.
- A requester who is illiterate or otherwise unable to make a request for access to a record because of a disability may make an oral request. The information officer or deputy information officer must assist the requester with putting a request in writing in the required form and giving a copy of the written request to the requester.
- The information officer or a deputy information officer must assist a person who requires reasonable assistance with making a request for a record. Assistance must be provided free of charge.

#### **11.2. Transfer of a request for access to record [Section 20]**

The information officer or deputy information officer may transfer a request where

- a record not under the control of the KwaZulu-Natal Department of Social Development;
- the subject matter of record is more closely connected with the functions of another public body; or
- the record contains commercial information in which another public body has a greater interest.

A transfer of a request must be made within 14 days of the request being received and the information officer or deputy information officer must notify the requester of the transfer, reasons for the transfer and the period within which the request must be addressed.

#### **11.3. Fees Payable [Section 22]**

The initial fee payable by a requester, other than a personal requester, for a record is R35,00. A personal requester, who is person seeking information about himself or herself, does not have to pay the initial fee. All requesters except those who are exempted in terms of section 22(8)(a) of the Information Act, must pay the required fees to obtain the record. Fees are listed in Annexure C of this manual.

#### **11.4. Procedures where records cannot be found [Section 23]**

- a) In the event a record is in the department or believed to be held by the department and such record cannot be found and the Information Officer/Deputy Information Officer has taken reasonable steps to locate the record. The Information Officer/Deputy Information Officer must through an affirmation/affidavit, notify the requester that it is not possible to give access to that record.
- b) The notification referred to in (a) must include information on:
  - i. Steps taken to locate the record; and

- ii. Details of communication with all persons who were assisting to find the record

#### **11.5. Deferral of access to a record [Section 24]**

Access may be deferred where:

- a record is not yet available;
- a records still has to be translated for publication purposes.

#### **11.6. Time frame and notice to a record [Section 25]**

The information officer or deputy information officer must decide within 30 days whether to grant the request and then send a notice to the requester. Where access is to be granted the notice must state –

- that the access fee, if any, be paid upon being granted access;
- the form in which access will be given; and
- that the requester may lodge an internal appeal with the Department or an application with a court against the access fees to be paid or the form in which access is to be granted.

#### **8.7 Extension of period to decide on request [Section 26]**

The information officer or the deputy information officer may extend the period of 30 days in which to decide on the request if –

- the request is for a large number of records and compliance would unreasonably interfere with the activities of the KwaZulu-Natal Department of Social Development;
- the request requires a search or collection of records in an office not situated in the same town or city as the information officer or deputy information officer and the information officer or deputy information cannot reasonably be expected to complete the request within the initial 30 days;
- consultations among sections of the KwaZulu-Natal Department of Social Development or with another public body are necessary or desirable and the information officer or deputy information officer cannot reasonably be expected to complete the consultations within the initial 30 days; or
- he requester consents in writing to the extension.

#### **11.8. Deemed to have refused [Section 27]**

In the event the deputy Information officer fails to respond to the requester within the stipulated 30 days period, the requester must regard his/her request was denied;

The requester shall in this case follow the prescribed internal appeal procedures and/or approach the relevant courts.

#### **11.9. Denial of access to a record**

If access to the record is not to be granted, the notice by the information officer or deputy information officer must –

- give adequate reasons for refusal;
- exclude, from the reasons, any reference to the content of the record; and

- state that the requester may lodge an internal appeal with the Department or application with court against the refusal of the request and the procedure to lodge an internal appeal or court application.

**11.10. Mandatory refusal of request for access to record [Section 34(1); 36(1); 37(1)(a); 38(1)(a); 39(1)(a); 40; 43(1)]**

The information officer or deputy information officer must refuse access to a record where a request for access to information would involve disclosure of–

- Personal information about a third party;
- Trade secrets of a third party;
- Financial, commercial, scientific or technical information, other than trade secrets, if disclosure of the information is likely to cause harm to the commercial or financial interests of the third party;
- Information which is computer program owned by a private body;
- Information supplied in confidence by a third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations or prejudice the third party in commercial competition;
- Information which could be a breach of duty of a confidence owed to the third party;
- Information which could reasonably be expected to endanger the life or physical safety of an individual;
- A record if access to the record is prohibited in terms of the Criminal Procedure Act, 1997 (Act No. 51 of 1997);
- Information which is privileged from production in legal proceedings unless the affected person has waived the privilege, which means the affected person must consent in writing to release the information; or information about research being carried out or likely to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, person carrying out the research or subject matter of the research to serious disadvantage.

11.11. Discretionary refusal of request for access to record [Section 34(2); 36(2); 37(1)(b); 37(2); 38(1)(b); 39(1)(b); 41(1); 41(2); 42; 43(2); 44(1); 44(2); 45]

The information officer or deputy information officer may refuse access to a record where a request for access to information would involve disclosure of –

- Information supplied in confidence by a third party, the disclosure of which could reasonably be expected to prejudice the supply of similar information or information from the same source and it is in the public interest that information or information from the same source should continue to be supplied.
- Information, the disclosure of which would be likely to impair –
  - The security of a building, structure or system, which may be a computer system, means of transport or any other property; or
  - Methods, systems, plan or procedures for the protection of an individual in a witness protection scheme, the safety of the public or security of property.
- A record containing the methods, techniques or guidelines for the prevention, detection, curtailment or investigation of a contravention or possible contravention of law or prosecution of an alleged offender;
- A record on the prosecution of an alleged offender where disclosure of the record could reasonably be expected to impede the prosecution or result in a miscarriage of justice;
- A record, the disclosure of which could reasonably be expected to –
  - Prejudice the investigation of a contravention of law;
  - Reveal or enable a person to identify a confidential source of information related to the enforcement or administration of the law;
  - Result in the intimidation or coercing of a witness or a person who may be called as a witness in criminal or other proceedings to enforce the law;
  - Be of a contravention of the law; or
  - Prejudice or impair the fairness or the impartiality of adjudication.
- Information, the disclosure of which could cause prejudice to the defence, security or international relations of the Republic of South Africa;
- Information, the disclosure of which is likely to materially jeopardize the economic or financial interest of the Republic of South Africa or the ability of the government to manage the economy of the Republic of South Africa effectively;
- Information, which –
  - Contains trade secrets of the State or public body;
  - Contains financial, commercial scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the State or a public body;
  - Could put a public body at a disadvantage in contractual or other relations or prejudice a public body in commercial competition; or

- Is a computer program, defined in the Copyright Act, 1978 (Act No. 98 of 1978), owned by the State or a public body.
- Information about a research being carried out or likely to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose a public body, person carrying out the research or subject matter of the research to serious disadvantage;
- Information about a record of a public body which contains an opinion; advice report or recommendation obtained or prepared or an account of a consultant, discussion, deliberation or minutes of a meeting on the formulation of a policy or taking a decision in the exercise of a power or performance of a duty conferred bylaw if disclosure could reasonably be expected to defeat the deliberative process or success of the policy.

**11.12. Other ground for refusal of request for Access to a record [Section 46]**

The information officer or deputy information officer may refuse a request for access to a record if the request is manifestly frivolous or vexatious or the work involved in processing the request would substantially unreasonably divert the resources of the KwaZulu-Natal Department of Social Development.

**12. DESCRIPTION OF SERVICES TO THE PUBLIC AND CONTACT POINTS (Section 14 (1) (f))**

<p><b>Programme 2</b></p> <p>HIV and AIDS</p> <ul style="list-style-type: none"> <li>• Prevention of HIV and AIDS</li> <li>• Care and Support to people living with HIV/AIDS</li> </ul> <p>Special Needs</p> <ul style="list-style-type: none"> <li>• Older Persons</li> <li>• People with Disabilities</li> </ul>	<p><b>Programme 3</b></p> <p>Children</p> <ul style="list-style-type: none"> <li>• Child Protection</li> <li>• Early Childhood Development</li> <li>• Alternate Care</li> </ul> <p>Social Relief</p>
<p><b>Programme 4</b></p> <p>Restorative Services</p> <ul style="list-style-type: none"> <li>• Prevention and Rehabilitation of Substance</li> <li>• Crime Prevention</li> <li>• Victim Empowerment Services</li> </ul>	<p><b>Programme 5</b></p> <p>Sustainable Livelihood</p> <ul style="list-style-type: none"> <li>• NPO Registration and Capacity Building</li> <li>• Youth Development</li> <li>• Research and Demographic Trends</li> </ul>

<b>ULUNDI CLUSTER</b> The General Manager <b>Telephone:</b> (035) 874 8501/2 <b>Fax:</b> (035) 874 8601 <b>e-mail:</b> lennox.nkosi@kznsocdev.gov.za	<b>DURBAN CLUSTER</b> The General Manager <b>Telephone:</b> (031) 336 8704 <b>Fax:</b> (031) 332 1529 <b>e-mail:</b> ayanda.mbatha@kznsocdev.gov.za
<b>PIETERMARITZBURG CLUSTER</b> The General Manager Telephone: (033) 395 9701 Fax: (033) 353 0385 <b>e-mail:</b> phindile.sithole@kznsocdev.gov.za	<b>MIDLANDS CLUSTER</b> The General Manager Telephone: (036) 634 6612 Fax: (036) 634 1696 <b>e-mail:</b> maphili.mhlongo@kznsocdev.gov.za

### 13. DESCRIPTION OF ARRANGEMENTS AND PROVISIONS FOR A PERSON TO MAKE REPRESENTATIONS AND PARTICIPATE IN THE FORMULATION OF POLICY AND EXERCISE OF POWERS OR PERFORMANCE OF DUTIES

The KwaZulu-Natal Department of Social Development has established regional and provincial welfare liaison committees as well as community dialogue formations where the members of the public will participate in the formulation of policy and the exercise of departmental functions and performance of duties.

### 14. REMEDIES [Section 14(1)(h),74;75;76;77]

If the information officer or deputy information officer fails to give a decision on a request for access within 30 days, the information officer or deputy information officer is deemed to have refused the request.

A requester may lodge an internal appeal –

- Against a refusal of request or a decision of the information officer or a deputy information officer who has refused a request for access; or
- With respect to the prescribed request fee, extension of period to deal with a request or the form of access.

A third party may also lodge an internal appeal against a decision to grant a request for access.

An internal appeal must be lodged in the prescribed form within 60 days in terms of section 75(1)(a)(i) of the Information Act. See Annexure B.

A requester who has lodged an internal appeal and who is not satisfied with the result, may make an application for approximate relief to a court, in terms of section 78 of the Information Act, within 30 days of the decision on the internal appeal. A requester may not make an application to a court unless the requester has lodged an internal appeal.

## 15. OTHER INFORMATION

It is important to note that the Information Act deals with information held by public or private bodies. This must be distinguished from the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) which requires that a government department must, on request, give reasons for its actions.

## 16. FORMS

## FORM A

## REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000) (Reg. 2)

FOR DEPARTMENTAL USE	
	Reference No. _____
Request received by _____	
(name and surname, rank) on the _____	(date)
at _____	(place)
Request Fee (if any) R _____	
Deposit (if any) R _____	
Access Fee R _____	
_____ Signature of Information Officer/Deputy Information Officer	

## A. Particulars of Public Body

The Information Officer/Deputy Information Officer

\_\_\_\_\_

\_\_\_\_\_

## B. Particulars of person requesting access to this record

- |     |  |
|-----|--|
| (a) | <i>The particulars of the person who request access to the record must be recorded below</i> |
| (b) | <i>Furnish an address and/or fax number to which information must be sent</i>                |
| (c) | <i>Proof of the capacity in which the request is made, if applicable, must be attached</i>   |

Full names and surname: \_\_\_\_\_

Identity Number: \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Tel. Number

Fax Number

E-mail address

Capacity in which request is made, when made on behalf of another

\_\_\_\_\_

**C. Particulars of person on whose behalf request is made**

*This section must be completed only if a request for information is made on behalf of another person*

Full names and surname: \_\_\_\_\_

Identity Number: \_\_\_\_\_

**D. Particulars of record**

*(a) Provide full particulars of the record to which access is requested to enable the record to be located*  
*(b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios*

1. Description of record or relevant part of the record

\_\_\_\_\_  
\_\_\_\_\_

2. Reference number (if available)

\_\_\_\_\_

3. Any further particulars of record

\_\_\_\_\_  
\_\_\_\_\_

4. Purpose of the request for the record

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. Fees**

(a)	<i>A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid</i>
(b)	<i>You will be notified of the amount required to be paid as the request fee.</i>
(c)	<i>The fee payable for access to a record depends on the form in which access is required and reasonable time required to search for and prepare a record</i>
(d)	<i>If you qualify for exemption of the payment of any fee, please state the reason thereof</i>

Reason for exemption from payment of fees

\_\_\_\_\_

\_\_\_\_\_

**F. Forms of access to a record**

*If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 here under, state your disability and indicate in which form the record is required.*

Disability	Form in which record is required
_____	_____
_____	_____
_____	_____

Mark the appropriate box with an "X"	
Notes:	
(a)	<i>Your indication as to the required form of access depends on the form in which the record is available</i>
(b)	<i>Access in the form requested may be refused in certain circumstances. In such a case you will be informed if the access will be granted in another form</i>
(c)	<i>The fee payable for access to the record, if any, will be determined partly by the form in which access is requested</i>

**i. If the record is in written or printed form**

Copy of record		Inspection of record	
----------------	--	----------------------	--

**ii. If the record consists of visual image (This includes photographs, slides, video recordings, computer-generated images, sketches, etc.**

View the images	
Copy the images	
Transcription of the images	

iii. If the record consists of recorded words or information which can be reproduced as sound

Listen to the soundtracks (audio cassette)		Transcription of soundtracks (written or printed document)	
--	--	--	--

iv. If record is held on a computer or in an electronic or machine readable form

Printed copy of record	
Printed copy of information derived from the record	
Copy in computer readable form (stiff or compact disk)	

If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? (A postage fee is payable)	Yes	No
--	-----	----

If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? (A postage fee is payable)	Yes	No
--	-----	----

Note:  
That if the record is not available in the language you prefer, access will be granted in the language in which the record is available

In which language would you prefer the record? \_\_\_\_\_

**G. Notice of decision regarding request for access**

You will be notified in writing whether your request has been approved/denied.  
If you wish to be informed of the decision in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

\_\_\_\_\_  
Signature of requester/person acting on behalf of the requester

## FORM B

## NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act 2000 (*Act No. 2 of 2000*))

[Regulation 8]

STATE YOUR REFERENCE NUMBER:
---------------------------------

## A. Particulars of public body

The Information Officer/Deputy Information Officer:

## B. Particulars of requester/third party who lodges the internal appeal

(a)	The <i>particulars of the person who lodge the internal appeal must be given below</i>
(b)	<i>Proof of the capacity in which appeal is lodged, if applicable, must be attached.</i>
(c)	<i>If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.</i>

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

\_\_\_\_\_

Fax number: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Capacity in which an internal appeal on behalf of another person is lodged:

\_\_\_\_\_

\_\_\_\_\_

## C. Particulars of requester

This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.
---

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

## D. The decision against which the internal appeal is lodged

Mark the decision against which the internal appeal is lodged with an X in the appropriate box:
<input type="checkbox"/> Refusal of request for <i>access</i>
<input type="checkbox"/> <i>Decision regarding fees prescribed in terms of section 22 of the Act</i>

<input type="checkbox"/>	Refusal of request for <i>access</i>
<input type="checkbox"/>	<i>Decision regarding fees prescribed in terms of section 22 of the Act</i>

	Decision regarding the extension of the period within which the request must be dealt
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by
	Decision to grant request for access

**E. Grounds for appeal**

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:

\_\_\_\_\_

\_\_\_\_\_

State any other information that may be relevant in considering the appeal:

\_\_\_\_\_

\_\_\_\_\_

**F. Notice of decision on appeal**

You will be notified in writing of the decision on your internal appeal. *If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.*

State the manner:

\_\_\_\_\_

Particulars of manner:

\_\_\_\_\_

\_\_\_\_\_

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF APPELLANT

FOR DEPARTMENTAL USE:  
  
OFFICIAL RECORD OF INTERNAL APPEAL

Appeal received on

..... (date) by  
(state rank, name and surname of information officer/deputy information officer).

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on (date) to the relevant authority.

**OUTCOME OF APPEAL:**

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER CONFIRMED/NEW  
DECISION SUBSTITUTED

NEW DECISION:

---

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---

\_\_\_\_\_ DATE

RELEVANT AUTHORITY

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER FROM THE  
RELEVANT AUTHORITY ON (date): \_\_\_\_\_

## 17. FEES PAYABLE FOR ACCESS TO INFORMATION

1	Copy of this Manual	Free
2	Request fee, except for a personal requester requesting information about himself/herself	R35.00
3	Fee for reproduction	
	• Each printed copy in electronic or A4 page or part thereof held on a computer or machine readable form.	R0.60
	• Copy in a computer readable form on stiffy disk.	R5.00
	• Copy in a computer readable form on a compact disk.	R40.00
	• Transcription of visual image for an A4 page or part thereof.	R22.00
	• Transcription of visual image for a copy of visual image.	R60.00
	• Transcription of visual image for an audio record for an	
	• A4 page or part thereof.	R12.00
	• Copy of an audio record.	R17.00
4	• Access fee	
	• Each photocopy of an A4 or part thereof.	R0.60
	• Each printed copy in electronic or A4 page or part thereof held on a computer or machine readable form.	R0.40
	• Copy in a computer readable form on a compact disk.	R5.00
	• Transcription of visual image for an A4 page or part thereof.	R40.00
	• Transcription of visual image for a copy of visual image.	R22.00
	• Transcription of visual image for an audio record for an	
	• A4 page or part thereof	R12.00
	• Copy of an audio record	R17.00
5	Fees for research and pressure until six hours are exceeded in terms of paragraph 5	R15.00 per hour/part thereof
6	A deposit is not required until six hours are exceeded in terms of paragraph 5.	
7	One third of the access fee, listed in paragraph 4, is payable by the requester as a deposit.	
8	Postage is payable by the requester when a copy of the record must be posted to the requester.	

**18. REVIEW**

This manual shall be review by the 31<sup>st</sup> May 2019.

**19. APPROVAL**

This MANUAL is approved with effect from \_\_\_\_\_ day \_\_\_\_\_ in the year \_\_\_\_\_ by:

Initials and Surname: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 909

31 AUGUST 2018

**CO-OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER**

1. NTEMBISWENI YOUTH CO-OP LTD
2. UNDOQO CO-OP LTD
3. HIGHER' N HIGHER CO-OP LTD
4. MQANDULI FINANCIAL SERVICES CO-OP LTD
5. SDUMUKA MULTI-PURPOSE CO-OP LTD
6. INKUBEKO YAMAMPONDO CO-OP LTD
7. HLUMELO AGRICULTURAL CO-OP LTD
8. BHALASI MAZIJIKE CO-OP LTD
9. FUNIWE CO-OP LTD
10. EDEN MELKPRODUSENTE CO-OP LTD
11. MVULAMEHLO CO-OP LTD
12. SIKHOMBINDELA CO-OP LTD
13. DESIGNERS EXPOSE CO-OP LTD
14. DUME-ZIZWENI COFFIN AND CASSET BUILDERS CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives have been removed from the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005.

**REGISTRAR OF CO-OPERATIVES**

Office of the Registrar of Co-operatives  
Dti Campus  
77 Meintjies Street  
**Pretoria**  
0001

Private Bag X237  
**Pretoria**  
0002

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 910

31 AUGUST 2018

**CO-OPERATIVES TO BE STRUCK FROM THE REGISTER**

1. KATANANG BEAD WORK CO-OP LTD
2. SIBATSHU MULTI-PURPOSE CO-OP LTD
3. TSHOLOMNQA TRACTORS CO-OP LTD
4. SISIBA CO-OP LTD
5. MMA O MPHILE MMAMOTSE CO-OP LTD
6. ATHALIA EVENT PLANNERS CO-OP LTD
7. GOLANG LE TIE CO-OP LTD
8. IKAKARAMBA CO-OP LTD
9. OSINDISWE CO-OP LTD
10. SIHLANGENE PRIMARY WARD 60 CO-OP LTD
11. RANZANANI BUY-BACK CO-OP LTD
12. SIPHILISA ISIZWE CO-OP LTD
13. SENZO'KWETHU CO-OP LTD
14. PHUMALANGA CO-OP LTD
15. ASMILE LOGISTICS CO-OP LTD
16. ZAMANI CONSTRUCTION CO-OP LTD
17. MPOLWENI CO-OP LTD
18. BANKIES PEOPLE'S CO-OP LTD
19. REAKGONA FARMING CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives will, after the expiration of sixty days from the date of this notice, be struck off the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005, and the co-operatives will be dissolved unless proof is furnished to the effect that the co-operatives are carrying on business or are in operation.

Any objections to this procedure, which interested persons may wish to raise, must together with the reasons therefore, be lodged with this office before the expiration of the period of sixty days.

**REGISTRAR OF CO-OPERATIVES**

Office of the Registrar of Co-operatives  
Dti Campus  
77 Meintjies Street  
Pretoria  
0002

Private Bag X237  
Pretoria  
0001

## DEPARTMENT OF WATER AND SANITATION

NO. 911

31 AUGUST 2018

By virtue of the powers vested in me under section 63 read with section 72 of the National Water Act, No. 36, 1998. I, **Deborah Mochotlhi**, in my capacity as Director-General (Acting) of the Department of Water and Sanitation, on reasonable grounds,

- a) Believe that water shortages no longer exists in the following dams/systems;
1. Mgeni System including the Mooi River and Little Mooi River to the Mearns Weir
  2. Kilpfontein Dam and White-Mfolozi River System to the Ulundi Weir
  3. Hluhluwe Dam and river system
- b) Therefore in my capacity as the Director-General (Acting) of the Department of Water and Sanitation, I hereby under delegated authority give notice to lift the restrictions on the taking of water from the dams/river systems and corresponding catchments listed in (a) above, in Government Notice No. 41132.
- c) Hereby withdraw the restrictions on the dams/systems and corresponding catchments listed in (a) above while still emphasizing that South Africa remains a water scarce country and all efforts to use water efficiently need to continue.

This notice overrides any other previous authorisation on water restrictions issued by the Department relating to the above-mentioned dams / systems and corresponding catchments. The notice applies from the date of issue of the Gazette Notice.



**ACTING DIRECTOR-GENERAL**

DATE: 16/07/2018

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

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DEPARTMENT OF ECONOMIC DEVELOPMENT  
NOTICE 504 OF 2018



***competition*commission**  
***south africa***

**AMENDED TERMS OF REFERENCE FOR THE DATA  
SERVICES MARKET INQUIRY**

**August 2018**

## 1. BACKGROUND

The Competition Commission (“the Commission”) initiated a market inquiry into Data Services in South Africa in terms of Chapter 4A of the Competition Act, No. 89 of 1998 (as amended) (“the Act”) because it has reason to believe that there are features of the sector that prevent, distort or restrict competition, and/or to achieve the purposes of the Act.

The Commission gave notice in the Government Gazette on 18 August 2017<sup>1</sup> announcing the establishment of the Data Services Market Inquiry (“the Inquiry”) in terms of Section 43B(2) of the Act. In terms of the notice, the Inquiry was expected to be completed by 31 August 2018.

## 2. AMENDMENT OF THE TERMS OF REFERENCE

In terms of section 43B(5) of the Act, the Commission may, by way of an amendment to the Terms of Reference, amend the scope of the Inquiry, or the time within which the Inquiry is expected to be completed, by further notice in the Gazette.

Having regard to the comments, submissions and information gathered by the Inquiry to date, the scope of the Inquiry remains unchanged. However, the Commission has decided to amend the completion date to allow for further analysis of evidence gathered by the Inquiry, further consultations with key stakeholders, public hearings, and to finalise a report of its investigation. In terms of the amendment, the Inquiry will be completed by 31 March 2019.

Further details regarding key activities during the final phase of the Inquiry will be communicated by the Commission.

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<sup>1</sup> Gazette No. 41054

**DEPARTMENT OF ECONOMIC DEVELOPMENT  
NOTICE 505 OF 2018**

Date: 16 August 2018

**COMPETITION COMMISSION**

**NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT NO. 89 OF 1998 (AS AMENDED) - THE COMPETITION COMMISSION OF SOUTH AFRICA - NOTICE OF GRANTED CONDITIONAL EXEMPTION**

1. On 8 August 2017 the National Health Network (“**NHN**”) filed an exemption application (“**Application**”) with the Competition Commission (“**Commission**”) in terms of section 10(3)(b)(ii) of the Competition Act No. 89 of 1998, as amended (“**Act**”) for the extension of its current exemption from certain provisions of Chapter 2 of the Act. The conduct for which the extension of the exemption was sought relates to collective bargaining between the shareholders of the NHN and individual medical schemes and administrations, as well as agreements that result from the collective bargaining.
2. Exemption for the abovementioned conduct has been granted by the Commission on three previous occasions with the most recent application expiring on 31 December 2017 (“**Current Conditional Exemption**”).
3. In addition to the extension of its Current Conditional Exemption, the NHN sought a further exemption to engage on behalf of its members in global fee negotiations with medical schemes, administrators, the state and healthcare providers (professional associations) and to undertake collective or centralised procurement.<sup>1</sup>
4. Notice is hereby given in terms of Section 10(7) of the Act, that the Commission has extended NHN’s Current Conditional Exemption for a period of 3 (three) months starting from 1 August 2018 up to and including 31 October 2018. The conditions are similar to the conditions given

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<sup>1</sup> Competition Commission case number 2017AUG0020.

by the Commission in granting NHN the exemption under Government Notice 867 of 10 October 2014 and published in Government Gazette Notice No. 38059.

5. The Commission is in the process of finalising its investigation in relation to the aforementioned Application. As such, it was not in a position to make a finding in terms of section 10(2) of the Act before the expiry of the extension of the Current Conditional Exemption on 31 July 2018.
6. The NHN or any other person with substantial financial or other interest affected by this decision may appeal it to the Competition Tribunal in the prescribed manner in terms of Section 10(8) of the Act.
7. Further queries should be directed to:

**Mr Derrick Bowles**

Competition Commission of SA  
Enforcement and Exemptions Division,  
Private Bag X23,  
Lynnwood Ridge, 0040  
**Tel:** 012 762 6917  
**Email:** [DerrickB2@compcom.co.za](mailto:DerrickB2@compcom.co.za)

8. Kindly make use of the following case number when sending correspondences in relation to this notice: Case No: **2017AUG0020**.

DEPARTMENT OF LABOUR  
NOTICE 506 OF 2018

LABOUR RELATIONS ACT, 1995

**SOUTH AFRICAN ROAD PASSENGER BARGAINING COUNCIL:  
EXTENSION TO NON-PARTIES OF THE MAIN COLLECTIVE AGREEMENT**

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the collective agreement which appears in the Schedule hereto, with the exclusion of clauses 1.1.1, 1.2, 30, 37.1, Annexure E, Annexure F thereof, which was concluded in the **South African Road Passenger Bargaining Council** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from the second Monday after publication of the notice and for the period ending 31 March 2020.

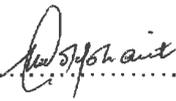
.....  


**MINISTER OF LABOUR**

DATE: 15/08/2018 .....

**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995****SOUTH AFRICAN ROAD PASSENGER BARGAINING COUNCIL:  
UKWELULELWA KWESIVUMELWANO PHAKATHI KWABAQASHI  
NABASEBENZI ESIYINGQIKITHI SELULELWA KULABO ABANGEYONA  
INGXENYE YESIVUMELWANO**

Mina, **MILDRED NELISIWE OLIPHANT**, uNgqongqoshe Wezabasebenzi ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi ka-1995, ngazisa ukuthi isiVumelwano phakathi kwabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, kukhiswa imishwana 1.1.1, 1.2, 30, 37.1, Annexure E, Annexure F esenziwa kwi**SOUTH AFRICAN ROAD PASSENGER BARGAINING COUNCIL**, ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi ka 1995, esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube isikhathi esiphela mhlaka 31 kuNdasa 2020.

  
.....**UNGQONGQOSHE WEZABASEBENZI**USUKU: 15/08/2018  
.....

## SCHEDULE

### THE SOUTH AFRICAN ROAD PASSENGER BARGAINING COUNCIL (SARPBAC)

### MAIN COLLECTIVE AGREEMENT

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

#### SOUTH AFRICAN BUS EMPLOYER'S ASSOCIATION

And

#### COMMUTER BUS EMPLOYER'S ORGANISATION

(hereinafter referred to as the "Employers" or the "Employers' Association"), of the one part, and the

#### SOUTH AFRICAN TRANSPORT AND ALLIED WORKERS UNION

#### NATIONAL UNION OF METAL WORKERS OF SOUTH AFRICA

#### TRANSPORT AND ALLIED WORKERS UNION OF SOUTH AFRICA

#### TRANSPORT AND OMNIBUS WORKERS UNION

And

#### TIRISANO TRANSPORT AND SERVICES WORKERS UNION

(hereinafter referred to as the "employees" or the "trade unions"), of the other part,

being the parties to the South African Road Passenger Bargaining Council (SARPBAC)

(hereinafter referred to as the "Bargaining Council")

*S.A. Bus  
S.M.  
All.  
o.  
R.M.  
167*

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S.W.  
F.M.  
S.  
GT  
AMJ

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## 1. SCOPE OF APPLICATION AND PERIOD OF AGREEMENT

### 1.1. SCOPE OF APPLICATION

The terms of this agreement shall be observed in the Road Passenger Transport Trade:

- 1.1.1 by all Employers who are members of the Employers' Association and by all Eligible Employees who are members of the trade unions.
- 1.1.2 by all Employers and Eligible Employees within the Road Passenger Transport Trade in the Republic of South Africa,

S.P. All  
S.M. e. G. L.M.

1.1.3 The agreement shall also apply and be binding upon all Parties and/or Individuals to whom the operation of the collective agreement is extended in terms of Section 32 of the Labour Relations Act (LRA) of 1995.

1.1.4 Clauses 1.1.1., 1.2, 36.1, 42, Annexure "E" and "F" of this Agreement shall not apply to Employers and Employees who are not members of the Employers' Association and trade unions respectively unless the agreement is extended to non-parties by the Minister of Labour.

## 1.2. TERM OF THE AGREEMENT

This Agreement shall come into operation for the parties to this Agreement on 1 April 2018 and for non-parties on such date as may be decided upon by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995 and shall remain in force until 31 March 2020 or until replaced by a subsequent agreement and shall be applicable to all Eligible Employees.

## 2. DEFINITIONS

Unless the context otherwise indicates, any expressions which are used in this Agreement and which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act and for the purposes of this Agreement an Employee shall be deemed to be in the job title in which he is wholly or mainly engaged; further, unless inconsistent with the context:

**"Bargaining Council"** means the South African Road Passenger Bargaining Council (SARPBAC);

**"Basic Wage"** means the amount of money payable to an Employee in respect of his/her ordinary hours of work;

**"Bus"** means a power-driven vehicle intended to carry more than 16 persons, including the driver of the vehicle;

**"Day"** means the period of 24 hours from midnight to midnight. Provided that in the case of a member of the operating staff it shall mean a period of 24 consecutive hours calculated from the time the Employee commences work;

**"Daily wage"** means an Employee's hourly rate multiplied by the Employee's ordinary hours of work in a day;

S.M. S. S. All  
G.F. Rood

**“Eligible Employee”** means an individual, other than an individual who is part of an Employer’s Management, Supervisory or Management Support Staff, who works in the Road Passenger Transport Trade and who is in the permanent employment of an Employer.

**“Employee”** for the purpose of this agreement means “Eligible Employee”

**“Employer”** means an individual, company or organisation that employs or provides work for any person or employs an eligible employee in the Road Passenger Transport Trade;

**“Hourly Rate”** means an Employee’s hourly rate of pay;

**“Job Title”** means the position occupied by an Employee within an Employer’s organisation;

**“Management Staff”** mean those individuals who are responsible for the management of the business or a division, department, depot, section or workshop within such a business. Business owners, directors and/or persons holding positions of assistant manager, or any more senior position within an Employer’s staff structure, fall within the definition of this category of staff;

**“Management Support Staff”** means those individuals’ providing support services within a business. Individuals involved in the auditing, accounting, personnel administration, payroll, recruitment, welfare, public relations, secretarial and/or information technology functions as well as those with insurance claim processing, disciplinary activities or security services (other than individuals working as security guards) fall within the definition of this category of staff;

**“Minimum Hourly Rate”** means the minimum basic hourly rate of pay applicable to a specific job as reflected in “Annexure A”;

**“Monthly wage”** means an Employee’s Weekly Wage multiplied by 52 and divided by 12;

**“Operating Staff”** means a bus driver, bus driver-conductor, checker/regulator, conductor, dispatcher/transport officer, inspector, point controller, clip card seller, ticket office Employee, senior inspector, senior dispatcher/transport officer, senior checker/regulator;

**“Ordinary Hours of Work”** means the hours of work prescribed in clause 6 or if by agreement between Employer and his Employee the latter works a lesser number of hours, such shorter hours, and includes:

- (a) all periods during which an Employee is obliged to remain at his post in readiness to commence or proceed with his work; and

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- (b) all time spent by a bus driver or bus driver-conductor on work connected with the bus or the passengers and all time spent by a driver of a motor vehicle on work connected with the vehicle or its load,

but does not include any meal interval, sleep-over period or any time for which a subsistence allowance is payable to an Employee ,if during such period, the Employee does no work other than remaining in charge of the vehicle;

“**Overtime**” means that portion of any period worked by an Employee during any week or on any day which is longer than his weekly or daily ordinary hours of work, as the case may be, but does not include any period during which an Employee works for his Employer on a paid holiday, on his weekly day off as referred to in Clause 6.5 of this Agreement, or on a Sunday;

“**Paid Holiday**” means New Year’s Day, Human Rights Day, Good Friday, Family Day, Freedom Day, Workers’ Day, Youth Day, National Women’s Day, Heritage Day, Day of Reconciliation, Christmas Day, Day of Goodwill and any other day declared to be a paid public holiday in terms of the Public Holidays Act No. 36 of 1994;

“**Registration**” means Registration by companies or employers falling within the Road Passenger Transport Trade as defined in this agreement of the particulars (name, employee number and identity number) of all eligible employees with SARPBAC as required by the Department of Labour..

“**Retrenchment Fund**” shall mean a fund established in terms of the Pension Funds Act no 24 of 1956;

“**Road Passenger Transport Trade**” or “trade” means the trade in which employers (other than employers exclusively conveying schoolchildren between their places of residence and the schools they attend) and their employees are associated for the purpose of conveying for reward on any public road any person by means of a power-driven vehicle (other than a vehicle in possession and under the control of Transnet or a local authority) intended to carry more than 16 persons simultaneously including the driver of the vehicle and includes all operations incidental or consequential thereto.

“**Short-time**” means a temporary reduction in the number of ordinary hours of work owing to slackness in trade, inability to operate normal services, a breakdown of plant, machinery, a bus or buses or a breakdown or threatened breakdown of buildings;

“**Spread-over**” means the period in any day from the time an Employee commences work until he ceases work for that day;

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“**Subsidised Contract**” means a contract between an Employer and government in terms of which the Employer receives a subsidy in return for rendering prescribed services and is liable for the payment of penalties for non-performance.

“**Supervisory Staff**” means those individuals’ exercising supervisory control and who are responsible for the activities and/or work performance of Employees falling within the ambit of such control. Individuals occupying a position such as assistant manager or higher in the administration function, charge hand or higher in the engineering function, chief inspector or higher in the traffic function, chief operator or higher in the traffic control function or assistant chief ticket office clerk or higher in the revenue receiving function fall within the definition of this category of staff;

“**Terminally Ill Employee**” means a permanent employee who has been diagnosed by a company appointed and/or approved certified specialist physician as suffering from a terminal disease;

“**Week**” in relation to an Employee, means the period of seven days within which the working week of the Employee ordinarily falls.

“**Weekly wage**” means an Employee’s hourly rate multiplied by the ordinary hours worked in a week.

### 3. ACROSS THE BOARD INCREASE

An across-the-board increase on the hourly rate of all Employees, for the term of the Agreement, will apply as follows:

- 3.1. The base rate of pay for the purpose of this clause will be the hourly rate payable to Employees immediately preceding the commencement date (14 May 2018) of the across the board increase for parties and for non-parties from the date as determined by the Minister
- 3.2. An across-the-board increase of 9% on the base rate of pay will become due from the commencement date of the across the board increase until 31 March 2019 for parties and for non-parties from the date as determined by the Minister
- 3.3. Employees will receive back pay of 9% on the base rate of pay (excluding benefits and allowances) for the period 1 April to 17 April 2018 for parties.
- 3.4. An across-the-board increase of 8% on the base rate of pay as at 31 March 2019 will become due from 1 April 2019 until 31 March 2020.

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## MINIMUM BASIC WAGE

4.1. The minimum hourly wage for Employees will not be less than R33.96 per hour from implementation of the Agreement to 31 March 2019 for parties and non-parties from the date as determined by the Minister until 31 March 2019 and:

4.2. The minimum hourly wage for Employees will not be less than R36.68 per hour for the period 1 April 2019 to 31 March 2020.

## 5. JOB TITLES, GRADES, MINIMUM HOURLY RATES

5.1. The provisions of this Agreement shall apply to the job titles set out in Annexure A, which specifies:

5.1.1. The definition applicable to each job title.

5.1.2. The various occupations within the trade which are encompassed within the job title.

5.1.3. The perommones grade range applicable to such job title.

5.1.4. The minimum hourly rate applicable to such job title.

5.2. Where an Employer's entry level hourly rate in respect of new Employees is greater than the minimum hourly rate specified in Annexure A, the Employer shall be entitled to maintain such entry level hourly rate without increase.

## 6. ORDINARY HOURS OF WORK AND OVERTIME

6.1. **Ordinary hours of work** – Ordinary hours of work shall not exceed 45 hours in any week.

6.2. **Averaging of hours** – Notwithstanding the provisions of this Agreement, an Employer may conclude a collective agreement which permits the Employer to average the ordinary hours of work and overtime of Employees over a period of up to 4 months, provided:

6.2.1. That the Employer may not require or permit an Employee who is bound by the collective agreement to work more than:

a) An average of 45 ordinary hours of work in a week over the agreed period.

b) An average of 5 hours overtime in a week over the agreed period.

6.2.2. That the collective agreement lapses after 12 months.

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- 6.2.3. That the proviso referred to in sub-paragraph 6.2.2 above only applies to the first two collective agreements concluded in terms of this clause.
- 6.3. **Meal interval** – An Employer shall not require or permit an Employee to work continuously for more than five hours, without a meal interval, of not less than 30 minutes, during which interval, such Employee shall not be required or permitted to perform any work and such interval shall not form part of the ordinary hours of work or overtime.
- 6.4. **Rest intervals** – An Employer shall grant to his Employee, other than a member of the operating staff, a rest interval of not less than 10 minutes as nearly practicable in the middle of each first work period and second work period of the day, and during such interval the Employee shall not be required or permitted to perform any work and such interval shall be deemed to be part of the ordinary hours of work of the Employee.
- 6.5. **Weekly day off** – An Employer shall grant to every Employee at least one full day off during every seven consecutive days.
- 6.6. **Spread-over** – In the case of a member of the operating staff the ordinary hours of work, including the meal interval where applicable, and all overtime, shall on any day be completed within a spread-over of 14 hours.
- 6.7. **Overtime** - Employees working overtime will be compensated at a rate of 1.5 times their normal hourly rate on an ordinary day and double their normal hourly rate on a working day off.
- 6.8. **Sunday** – Employees working on a Sunday which is not their weekly day off will be compensated at a rate of 1.5 times their normal rate for each hour worked on the Sunday.
- 6.9. **Limitation of overtime:**
- 6.9.1. An Employer shall not require or permit an Employee to work overtime, otherwise than in terms of a collective agreement or an agreement concluded with the Employee.
- 6.9.2. The maximum permitted overtime may not exceed 15 hours per week.
- 6.10. **Set-off** – Where in any one week an Employee absents himself/herself from work during any or all of the ordinary hours of a shift or shifts, without authority, any overtime worked by the Employee shall be paid at the Employee's ordinary rate of pay for a period equivalent to the period of such absence.

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- 6.11. **Rest period** – An Employer shall grant the Employee, other than a member of the operating staff, a daily rest period of a least 12 consecutive hours between the Employee ending and recommencing work.
- 6.12. **Short-time** – An Employer shall be entitled to implement short-time upon notice to Employees in which event the provisions of clause 36.4.4 will apply.

## 7. SCHEDULING OF WORK

- 7.1. Employers have the right to schedule Employees for all ordinary hours of work in any day and/or week at ordinary rates of pay.
- 7.2. Schedules may make provision for waiting/standby periods, to the extent decided by the Employer, which periods may, amongst other duties, include driving, special hires, attendance at training courses or meetings.
- 7.3. Employers may amend schedules provided that 7 days' notice is given prior to the implementation of such new schedules.

## 8. TRAINING

Where training is provided outside of the Employee's normal working hours, Employees required to attend such training will not be remunerated for the first 24 hours of such training in any given calendar year.

## 9. SUBSISTENCE & TRAVEL ALLOWANCE

- 9.1. An Employee, who is away from his Employer's establishment on special hire/charter duties or on instructions from his Employer and is, as a consequence thereof and at the instruction of the Employer, required to sleep out, will be paid an allowance of R611.49 from the implementation date (14 May 2018) of the Agreement for parties and for non-parties from the date as determined by the Minister until 31 March 2019 and R660.41 for the period 1 April 2019 to 31 March 2020 for each night that the employee is required to sleep out to cover the costs of meals and accommodation.
- 9.2. An Employee, who is away from his Employer's establishment, for more than 7 hours 20 minutes, on special hire/charter duties or on the instruction of the Employer but is not required/instructed by the Employer to sleep out, will be paid a meal allowance of R8.99 per hour from the implementation date (14 May 2018) of the Agreement for parties and for non-parties from the date as determined by the Minister until 31 March 2019 and R9.71 for the period 1 April 2019 to 31 March 2020 for each completed hour of such special hire/charter or absence.

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9.3. The above allowances will not be paid where, in terms of the Employer procedures, the Employer or a third party provides accommodation and/or food, pays for such expenses directly or where accommodation and/or food are made available at no cost to the Employee.

#### 10. NIGHT-SHIFT ALLOWANCE

10.1 A night-shift allowance of R8.99 per hour will be payable to Employees for work performed between 20:00 and 03:00 (including meal breaks) from the implementation date (14 May 2018) of the Agreement until 31 March 2019

10.2 A night-shift allowance of R9.71 per hour will be payable to employees for the work performed between 20:00 and 03:00 for the period 1 April 2019 to 31 March 2020

#### 11. TOOL ALLOWANCE

An allowance of R43.60 per week will apply from implementation date (14 May 2018) of the Agreement until 31 March 2019 and R47.10 for the period 1 April 2019 to 31 March 2020 to Employees who, as a requirement of the Employer, are in possession of the applicable tool kit complying with the Employer's specifications.

#### 12. CROSS BORDER EXPENSES AND ALLOWANCES

When an employee is required by the employer to cross the South African National border into a foreign country, the employer will:

12.1 Reimburse the employee for the required expenses of obtaining a passport, visa, medical certificate and medication.

12.2 Pay the employee who is away from the Employer's establishment on special hire/charter duties or on the instruction of the employer and is as a consequence thereof and at the instruction of the employer required to sleep out outside of South Africa, an allowance of R695.42 for each night that the employee is required to sleep out from the implementation date (14 May 2018) of the Agreement until 31 March 2019 and R751.05 for the period 1 April 2019 until 31 March 2020.

12.3 Pay an employee, who is away from his Employer's establishment, for more than 7 hours and 20 minutes on special hire/charter duties or on the instruction of the employer but is not required/instructed by the employer to sleep out outside the border of South Africa, a meal allowance of R10.55 per hour from implementation date (14 May 2018) of the

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Agreement until 31 March 2019 and R11.39 for the period 1 April 2019 until 31 March 2020 for each completed hour of such special hire/charter or absence.

12.4 The above allowance will not be paid where in terms of the Employer's procedures, the employer or a third party provides accommodation or food or pays for the food directly and where food and accommodation are available at no cost to the employee.

12.5 Where this clause applies, then clause 9 does not apply.

**13. DUAL DRIVER ALLOWANCE**

Employers engaged in scheduled intercity services, where two Coach Drivers are required on the vehicle as a result of the distance to be travelled, shall pay an allowance of R400-00 per month to each Coach Driver who had engaged in such services for the pay period concerned.

**14. CELL PHONE ALLOWANCE**

Where employees are required by the employer to use his personal cell phone, the full actual expense will be reimbursed

**15. PART TIME ADULT BASIC EDUCATION AND TRAINING INSTRUCTORS**

All Employees who, on a part time basis, perform the work of Adult Basic Education and Training (ABET) instructors will receive an allowance R12.00 for each hour of ABET instruction.

**16. PROFESSIONAL DRIVING PERMIT/LICENSE**

16.1 Employees who are required by the Employer to have a Professional Driving Permit will receive a 100% refund in respect of the cost of the successful renewal of the Professional Driving Permit and the cost of the card that is replaced at the same time as the Professional Driving Permit renewal. Where a medical examination is required for the renewal of the Professional Driver Permit, such medical examination shall, for those individuals employed after 31 March 2004, be performed by a medical doctor of the Employer's choice

16.2 Individuals employed before 1 April 2004 may use a medical doctor of the Employee's choice for the medical examination referred to above, in which event the Employee will be responsible for the cost thereof.

16.3 Should an Employee contest the medical finding of the company appointed doctor, such Employee will have the right to undergo, at the Employee's cost, a further medical examination by a doctor of the Employee's choice.

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16.4 Should the medical opinion of the doctor appointed by the Employee differ from that of the doctor appointed by the company, the Employee shall be entitled to seek a third medical examination. If the Employee does not exercise such right within 14 days, the medical finding of the company appointed doctor will stand. For the purpose of conducting the third medical examination, the parties will establish an agreed panel of doctors. In the event that such third medical examination is sought, the medical opinion obtained from a panel doctor for this purpose will be final and binding.

16.5 Should the panel doctor's opinion confirm the company appointed doctor's opinion, the cost of the third medical examination will be for the account of the Employee.

Should the panel doctor's opinion confirm the Employee appointed doctor's opinion, the cost of the third medical examination will be for the account of the Employer.

16.6 All Employees who are required by their Employer to be in possession of a valid driver's license of the appropriate code and/or professional driving permit (PrDP) are required to obtain from the relevant authorities documented proof of the validity of such licenses and/or PrDP, if requested to do by the Employer and to present such documents to the Employer.

## 17. LEGAL ASSISTANCE

17.1 When an Employee, acting in the course and scope of his employment, is involved in a motor vehicle accident in a company vehicle, and is subsequently charged with commission of a criminal offence arising out of the accident, the Employer will provide legal assistance by granting an interest free loan up to a maximum of R 10 000.00.

17.2 The Employer will appoint a lawyer in such cases. Such loans will be repaid in instalments by the Employee immediately. If eventually found not guilty, the Employer will refund the amount already deducted from the Employee's pay.

17.3 The provision of legal assistance is extended to a security guard with a company-issued firearm who is charged with commission of a criminal offence arising from the use of the firearm whilst on duty.

## 18. ANNUAL LEAVE

18.1 Annual leave cycle means the period of 12 months employed with the same Employer, immediately following:

18.1.1 an Employee's commencement of employment; or

18.1.2 the completion of that Employee's prior leave cycle.

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18.2 An Employer must grant an Employee at least 21 consecutive days of annual leave, on full remuneration, in respect of each annual leave cycle. This means:

18.2.1 15 working days for Employees working a 5 day week.

18.2.2 18 working days for Employees working a 6 day week.

18.3 An Employer may reduce an Employee's entitlement to annual leave by the number of days of occasional leave on full remuneration granted to the Employee at the Employee's request in that leave cycle.

## 19 SICK LEAVE

19.1 Sick leave cycle means the period of 36 months' employment with the same Employer immediately following:

19.1.1 an Employee's commencement of employment; or

19.1.2 the completion of the Employee's prior sick leave cycle.

19.2 During every sick leave cycle, an Employee is entitled to an amount of paid sick leave equal to the number of days the Employee would normally work during a period of six weeks.

19.3 Despite sub-clause 17.2, during the first six months of employment, an Employee is entitled to one day's paid sick leave for every 26 days worked.

19.4 During an Employee's first sick leave cycle, an Employer may reduce the Employee's entitlement to sick leave in terms of sub-clause 17.2 by the number of days' sick leave taken in terms of sub-clause 17.3.

19.5 An Employer must pay an Employee for a day's sick leave:

19.5.1 the basic wage the Employee would ordinarily have received for the ordinary hours of work on that day; and

19.5.2 on the Employee's usual payday.

19.6 An agreement may reduce the pay to which an Employee is entitled in respect of any day's absence in terms of this clause if:

19.6.1 the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and

19.6.2 the Employee's entitlement to pay:

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- a) for any day's sick leave is at least 75 percent of the basic wage payable to the Employee for the ordinary hours the Employee would have worked on that day; and
- b) for sick leave over the sick leave cycle is at least equivalent to the Employee's entitlement in terms of sub-clause 17.2.

## 20 INFORMING EMPLOYER OF ABSENCE AND PROOF OF INCAPACITY

- 20.1 Where an Employee is unable to attend work as a result of ill health, the Employee shall be obliged to inform the Employer of this fact within 24 hours of taking ill.
- 20.2 The Employee shall submit a sick certificate, signed by a medical practitioner who is registered with a professional council established by an Act of Parliament to his Employer, stating the nature of the illness and the duration of Employee's absence.
- 20.3 This sick certificate shall be submitted within 48 hours of the Employee going absent due to illness.

## 21 LEAVE FOR TERMINALLY ILL EMPLOYEES

A terminally ill Employee who requires treatment designed to counter the effects of the defined condition will be provided with terminally ill leave subject to the following conditions:

- 21.1 The leave will be made available solely for the purpose of hospitalisation or treatment that will require more than 2 days of absence as prescribed by a company appointed and/or approved certified specialist physician.
- 21.2 The Employee will be allowed a maximum of 18 working days leave in any one year at normal basic rates of pay.
- 21.3 The Employee must, prior to any leave being granted in terms of this clause, first have exhausted all his/her sick leave.
- 21.4 An Employee will be required to provide the Employer with prior notice of every treatment session as well as written proof, from the institution providing the prescribed treatment, of having undergone such treatment.
- 21.5 Where companies provide sick leave in excess of the combined benefits that would accrue from clause 17 of this agreement and this clause, Employees working for such companies will not be entitled to the terminally ill benefit as provided for herein.
- 21.6 Leave provided in terms of this clause is not cumulative.

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21.7 It is agreed that no further demands will be made until the negotiations of the agreement for 2018/2019 in relation to the number of days leave to be provided in terms of this clause when negotiating substantive conditions of employment.

## 22 MATERNITY LEAVE

Female Employees will be entitled to 16 weeks paid maternity leave at a rate of 35% from the implementation date (14 May 2018) of the Agreement for parties and for non-parties from the date as determined by the Minister until 31 March 2019 and 37% for the period 1 April 2019 to 31 March 2020 of the Employee's basic wage, commencing 1 month prior to the expected date of confinement. Such Employee is also, at the time of her confinement and at her option, entitled to a further period of 10 weeks unpaid leave.

## 23 FAMILY RESPONSIBILITY LEAVE

Employees will be entitled to a maximum of 8 days paid family responsibility leave per annum, for which documentary proof may be required by an Employer. Family responsibility leave may be applied for in respect of the following:

23.1 A maximum of 5 days compassionate leave may be granted in respect of the death of a spouse, life partner, parent, parent in law, grandparents, grandchildren, direct or adopted child or direct sibling.

23.2 A maximum of 3 days leave may be granted to an employee whose child is born or sick; or to a spouse for the care of a mother who is ill relating to the confinement within a period of a year.

## 24 STUDY LEAVE

Employees shall be entitled to paid study leave as follows:

24.1 2 days prior to and 1 day on the day of the examination per approved course, subject to a maximum of 15 days per annum for approved courses. (Further consideration for an increase of this benefit will only be considered again in 2018)

24.2 Approved course (as referred to in Annexure "D") for purposes of this clause, means a course approved in line with the existing company policy or a course included in the SARPAC list of "Accredited Courses"

24.3 Study leave benefits are only applicable to examinations in courses undertaken at registered institutions of higher learning within South Africa.

24.4 Eligibility for the above benefit shall be subject to:-

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24.4.1 Applications for Study Leave in terms of clause 24, setting out the details of the course(s) of study and the educational institution must be received by the Employer not later than January in the year which the course(s) of study are to be undertaken.

24.4.2 Applications will be considered by the Employer in accordance with the Employer's operational requirements (the ability of the employer to efficiently and effectively operate its business)

24.4.3 Employees whose applications are approved must, at least one month prior to embarking on any study leave in terms of clause 24, provide the employer with documentary proof of the employee's eligibility to write the exam.

24.5 Should a dispute arise out of the application of clause 24, the matter must be dealt with in terms of the companies' grievance procedure.

## 25 RETIREMENT FUND

25.1 Membership of a retirement fund is compulsory in respect of all Employees.

25.2 The Employer's contribution to such fund shall not be less than 10% of the Employee's basic wage.

25.3 The Employees contribution to such fund shall not be less than 7.5% of the Employee's basic wage

## 26 BONUS

26.1 Employees who are in the service of their Employer on the first day of December in any calendar year, shall be paid a bonus equivalent to one month's basic wages, provided that such bonus will be calculated pro rata to an Employee's service where the Employee is engaged for a period of less than 12 months immediately preceding the first day of December.

26.2 Employees who leave the service of the Employer prior to the 1st of December in any one year, will be paid a pro rate portion of the bonus referred to above provided that the termination of their service is as a result of any one of the following:

26.2.1 the Employee being declared medically unfit to continue employment; or

26.2.2 the Employee attaining normal retirement age; or

26.2.3 the employment relationship being terminated for operational reasons; or

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26.2.4 the death of the Employee.

26.3 Any Employer seeking exemption from the provisions of this clause as a consequence of financial reasons shall be obliged to follow the exemption procedure detailed in Annexure C.

## 27 CONTRACT PENALTIES

Where an Employee is found to be directly responsible for a penalty being imposed on the Employer because of the non-compliance with the terms and conditions of a subsidised contract, the Employee will be required to reimburse the Employer to the extent of the penalty incurred, up to a maximum of R200.00 per incident. Such reimbursement shall be deducted from the basic wage of the Employee.

## 28 RETRENCHMENT/SEVERANCE PACKAGE

28.1 Where an Employee is eligible for severance pay following dismissal for operational requirements, this shall be calculated on a basis of two weeks' severance pay for each completed year of service. (this issue is not to be raised again as a demand by organized labour unless future legislative changes necessitates alignment)

28.2 Provided that the provisions of this Agreement shall not supersede the provisions of any other common law agreement which may be binding upon employers and/or employees in relation to the payment of a severance pay following upon dismissal for operational requirements.

## 29 FARE INCREASES

Employees will not obstruct, act against or undermine fare increases in any manner. Only Employees who, as part of their normal duties, are required to promote fare increases will be required by the Employer to do so. Employees will not be disciplined for refusing to promote fare increases where this is not part of their normal duties.

## 30 TRADE UNION NATIONAL RETIREMENT FUNDS

It is agreed that labour's demand that Employees be allowed to move to national union retirement funds, be referred in its entirety to company level. Plant level meetings with labour representatives and other relevant parties and stakeholders will be held for this purpose.

## 31 STATUS QUO

All substantive terms and conditions of employment and benefits that were applicable at an employer as at the effective date of this agreement and are not regulated by the agreement,

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shall remain in force and effect. Further any existing substantive terms and condition of employment and benefits that were applicable as at the effective date of this agreement at a level higher/better than regulated in the agreement, such higher/better terms and conditions of employment and benefits shall continue to apply.

Therefore no employer shall reduce such substantive conditions of employment and benefits to the level of what is contained in the Main Agreement.

## 32 PROHIBITION OF EMPLOYMENT

An Employer shall not:

- 32.1 employ any person under the age of 15 years.
- 32.2 require or permit any female Employee to work during the period commencing 1 month prior to the expected date of her confinement and ending 2 months after the date of her confinement, unless a medical practitioner who is registered with a professional council established by an Act of Parliament certifies that the Employee is fit to resume work earlier.

## 33 NOTICE OF TERMINATION OF CONTRACT

Other than where individual contracts of employment provide for a longer notice period, the Employer or the Employee, other than a casual Employee, who desires to terminate the contract of employment, shall give:

- 33.1 during the first four weeks of employment, not less than one workday's notice of termination of contract;
- 33.2 after the first four weeks of employment, not less than one week's notice of termination of contract.

## 34 CERTIFICATE OF SERVICE

On termination of employment an Employee is entitled to a certificate of service stating:

- 34.1 the Employee's full name;
- 34.2 the name and address of the Employer;
- 34.3 a description of the Bargaining Council by which the Employer's business is covered;
- 34.4 the date of the commencement and the date of termination of employment

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- 34.5 the title of the job or a brief description of the work for which the Employee was employed at the date of termination;
- 34.6 the Employee's remuneration at date of termination; and
- 34.7 if the Employee so requests, the reason for termination of employment.

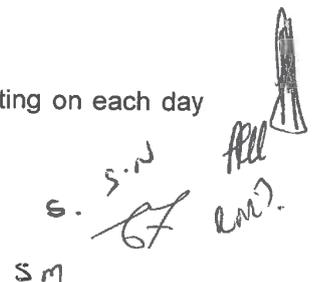
### 35 KEEPING OF RECORDS

- 35.1 Every Employer must keep a record containing at least the following information:
- 35.1.1 the Employee's name and occupation;
- 35.1.2 the time worked by each Employee;
- 35.1.3 the remuneration paid to each Employee;
- 35.1.4 the date of birth of any Employee under 18 years of age; and
- 35.1.5 any other prescribed information.
- 35.2 A record in terms of sub-clause 35.1 must be kept by the Employer for a period of three years from the date of the last entry in the record.
- 35.3 No person may make a false entry in a record maintained in terms of sub clause 35.1 above.
- 35.4 An Employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.

### 36 PAYMENT OF REMUNERATION

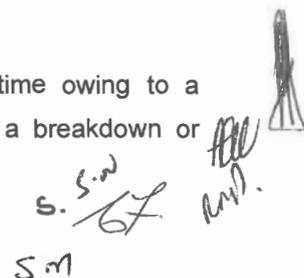
- 36.1 Any amount due to an Employee shall, in accordance with company policy, be paid weekly, fortnightly or monthly in cash, by cheque or by direct deposit into an account designated by the Employee.
- 36.2 Any remuneration paid in cash or by cheque must be given to each Employee:
- 36.2.1 at the workplace or at a place agreed to by the Employee;
- 36.2.2 on the designated pay day; and
- 36.2.3 in a sealed envelope.
- 36.3 An Employer must give an Employee the following information in writing on each day that an Employee is paid:

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- 36.3.1 the Employer's name;
- 36.3.2 the Employee's name and occupation;
- 36.3.3 the period for which the payment is made;
- 36.3.4 the Employee's gross remuneration;
- 36.3.5 the amount and description of any deduction made from the remuneration;
- 36.3.6 details of overtime and other earnings; and
- 36.3.7 the actual Nett pay.
- 36.4 Save as provided for in terms of this Agreement, no Employer shall levy any fines against the Employee nor may he make any deductions from the Employee's remuneration other than:
- 36.4.1 with the written consent of the Employee;
- 36.4.2 whenever an Employee is absent from work, other than at the direction of his Employer, a deduction proportionate to the period of his absence and calculated on the basis of the basic wage of the Employee in respect of his ordinary hours of work at the time of such absence, subject to any set-off which may be applicable in terms of clause 6.8 above;
- 36.4.3 a deduction of any amount which an Employer by law or order of any competent court or by collective agreement is required or permitted to make;
- 36.4.4 whenever the ordinary hours of work are reduced because of short-time as defined, a deduction not exceeding the amount of the Employee's hourly basic wage in respect of each hour of such reduction. Provided that:
- such deduction shall not exceed one third of the Employee's weekly/monthly wage, as the case may be, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - no deduction shall be made in the case of short-time arising out of slackness of trade or inability to operate normal services unless the Employer has given his Employee notice on the previous workday of his intention to reduce the ordinary hours of work;
  - no deduction shall be made in the case of short-time owing to a breakdown of plant, machinery, a bus or buses or a breakdown or

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threatened breakdown of buildings, in respect of the first hour not worked, unless the Employer has given his Employee notice on the previous day that no work will be available;

36.4.5 with written consent of an Employee, a deduction of any amount which an Employer has paid or has undertaken to pay to:

- a) a registered financial institution, local authority or the State in respect of a payment on a loan granted to such Employee to acquire a dwelling;
- b) any organisation or entity in respect of the rent of a dwelling occupied by such Employee;

36.4.6 with the written consent of an Employee, a deduction towards the repayment of any amount loaned or advanced to the Employee by the Employer. Provided that any such deduction shall not exceed one third of the total remuneration due to the Employee on the pay-day concerned and provided further that no such deduction shall be made in respect of any period during which the Employee's basic wage is reduced in terms of paragraph 36.4.4.

36.4.7 with the written consent of an Employee, a deduction towards the repayment of any amount loaned or advanced to the Employee by a third party whom the Employer has approved for the purposes of advancing loans.

### 37 DESIGNATED AGENTS

37.1 One or more persons shall be appointed by the Council as agent(s) to assist in enforcing the terms of this Agreement.

37.2 The Council may, in terms of Section 33 of the Act, request the Minister of Labour to appoint any person as a designated agent of the Council.

37.3 A designated agent shall have the powers conferred on a commissioner by Section 142 of the Act, except the powers conferred by Section 142(1) (c) and (d).

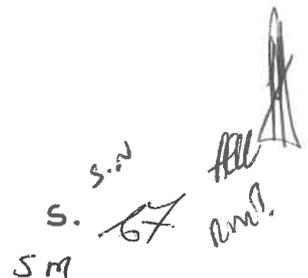
### 38 APPLICATIONS FOR EXEMPTION AND APPEALS AGAINST DECISIONS OF THE EXEMPTION PANEL

The procedures to be adopted in applying for exemption, and appealing against a decision of the exemption panel, are set out in Annexure C to this Agreement.

### 39 DISPUTE PROCEDURE

Dispute procedures are detailed in Annexure B to this Agreement.

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- 40.1 Employees for whom minimum basic wages are prescribed an amount of R4.62 per week or R20.00 per month of an Employee's normal basic wage shall be deducted by an Employer from the basic wage of every Employee.
- 40.2 Other employees in the bargaining unit for which minimum basic wages are not prescribed, but who qualify for the across the board increases as per clause 3.2, an amount of R4. 62 per week or R20.00 per month of an Employee's normal basic wage shall be deducted from the basic wage of every Employee, in his or its employ who works one or more days a week.
- 40.3 To the amounts deducted in terms of clause 40.1 and 40.2, the Employer shall add a like amount and pay the total by no later than the 7<sup>th</sup> of each month over to the council together with the schedules at Ground Floor, Stonefountain House, 95 Klipfontein Road, Rondebosch, 7700, or into the council's bank account: SARPAC, First National Bank, Account no. 62289781752, Branch Bode 202409.

**41. ADMINISTRATION OF AGREEMENT**

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

**42. APPLICATION OF AGREEMENT**

No Employer which is bound by the terms of any Collective Agreement concluded by Sarpbac shall be compelled by industrial action, litigation or otherwise to negotiate on matters contained in such Collective Agreement at any other level during the currency of such agreement.

**43. REGISTRATION**

All Employers operating in the Road Passenger Trade who employs eligible employees in terms of this Agreement are compelled to register with the South African Road Passenger Bargaining Council

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**ANNEXURE A****JOB TITLES, GRADES, MINIMUM HOURLY RATES**

Job Title	Purpose Statement	Occupations Included	Range of Grades	Minimum Rate Per Hour with the coming into operation of the Agreement until 31 March 2019	Minimum Rate Per Hour for the period 1 April 2019 to 31 March 2020
Artisan	Qualified artisan who holds the relevant trade papers. Artisan could include Diesel Mechanic, Auto Electrician, Body Builder, Painter, Welder and Spray Painter. Typical work would include the service, repair, maintenance, upgrade of vehicles/components, inspections. Conducts road tests, recovers breakdowns, and identifies / diagnoses faults/defects. Artisans may supervise and assist in training unqualified staff.	Artisan, Artisan Auto Electrician, Artisan Body Builder, Auto Electrician, Body Builder, Mechanic, Diesel Mechanic, Painter, Spray Painter, Trimmer, Welder.	P13-P10	R 68.19	R 73.65
Bus Driver	Drives a bus to transport passengers on scheduled services over established routes. Controls lighting, heating and ventilation for the passengers. Observes prescribed speeds, traffic, travelling conditions and signals to ensure the safe arrival of passengers. Ensures passengers arrive at destinations on time. Holds the appropriate licence and a PrDP. This category is restricted to commercial contracts which are not subsidized by government.	Bus Driver	P15-P14	R 39.98	R 43.18
Cabin Attendant	Provides assistance to passengers on a Luxury Coach. Tasks include serving of refreshments and ensuring passengers experience a comfortable journey.	Cabin Attendant	P14	R 60.18	R 64.99
Canteen Attendant	Maintains the cleanliness of the canteen and assists in the preparation and	Canteen Assistant Meals, Canteen Assistant Tea,	P18-P17	R 33.96	R 36.68

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	servicing of food and beverages. Keeps the canteen clean and tidy.	Canteen Attendant			
Cashier	Receives cash from drivers and/or ticket sellers and banks all cash received.	Cashier, Cashier - Ex DC.	P14-P12	R 46.11	R 49.80
Cleaner	Cleans and maintains office / yard / workshop / buses / vehicle parts / bellows, utilising the appropriate cleaning agents and cleaning tools.	Bellow Cleaner, Bus Cleaner, Bus Washer, Office Cleaner, Steam Cleaner, Steam Jenny Cleaner, Workshop Cleaner, Yard Cleaner.	P19-P18	R 33.96	R 36.68
Clerk	Performs administrative / clerical / stores / technical duties. Tasks may include filing, recording of data, copying, typing, handling petty cash, ordering of stationery/groceries, reporting, receiving and issuing of stock/parts or stock-taking. Additional duties may include attending to client queries/complaints, supervising and/or coordinating the workload of subordinates and/or operating on a senior administrative level.	Clerk, Assistant Contract Clerk, Receiving and Recon Clerk, Tyre Clerk, Taco Clerk, Operations Clerk, Planning Clerk, Terminal Clerk, Private Hire Clerk, Reservations Clerk, Scheduling Clerk, Technical Clerk, Waybill Clerk, Contract Clerk, Revenue Office Assistant, Special Hire Clerk, Stores Clerk, Engineering Clerk, Senior Clerk, Senior Store Clerk, Systems Clerk. Data Capturer.	P15 - P11	R 42.12	R 45.49
Cook	Prepares and serves meals to staff members. Compiles a weekly menu and assists in canteen administration. Supervises Canteen Attendants.	Chef	P15	R 48.12	R 51.97
Despatcher	Books and despatches drivers on allocated routes to ensure buses depart on schedule and executes administrative-related functions. Duties may include signing on/off shifts for Bus Drivers, reporting of	Depot Despatcher, Despatcher, Sub Depot Despatcher.	P13 - P12	R 52.13	R 56.30

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# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 638

31 August  
Augustus 2018

No. 41870

**PART 2 OF 2**

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

ISSN 1682-5843



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

	any incidents and analysing the AM and PM operation.				
Driver / Conductor	Drives a bus or luxury coach to transport passengers on the scheduled services over established routes. May issue tickets and collect fares. Controls lighting, heating and ventilation for the passengers. Observes prescribed speeds, traffic, travelling conditions and signals to ensure safe arrival of passengers. Ensures that passengers arrive at destinations on time. Holds the appropriate licence and a PrDP. Includes all BRT operations.	Driver / Conductor, Duty Bus Driver, Luxury Coach Driver, Coach Driver, OMO.	P14-P12	R 52.13	R 56.30
Driver Instructor	Provides training to drivers and conducts evaluations on drivers.	Driver Instructor, Driver Training Instructor.	P12 - P11	R 60.18	R 64.99
ETM Technician	Services, repairs and maintains Electronic Ticket Machines.	ETM Repairer, ETM Technician, Wayfarer Mechanic, Setright Mechanic, Senior Setright Mechanic.	P14 - P10	R 44.13	R 47.66
Forklift Driver	Operates a forklift to move equipment within the premises.	Forklift Driver	P18	R 44.13	R 47.66
Fuel Attendant	Refuels buses /company vehicles.	Fuel Attendant, Diesel/Fuel Attendant.	P17-P16	R 33.96	R 36.68
Gardener	Maintains gardens, lawns, shrubs and trees. Loads and unloads goods and materials. May provide assistance in the washing of company cars and cleaning of windows.	Gardener, Garden Labourer, General Worker.	P18	R 33.96	R 36.68
Handyman	Performs general building maintenance and repair work for plumbing, electrical, building and paving activities.	Handyman, Handyman Building Maintenance, Handyman Electrical	P16-P11	R 46.11	R 49.80

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Help Desk Administrator	Handles passenger complaints, issues refund-vouchers to passengers, issues trip vouchers, assists passengers with dead tags, records customer complaints, visits head office and provides feedback.	Help Desk Administrator	P14	R 58.36	R 63.03
Hospitality Representative	Meets and greets clients at airports and ensures that the correct vehicles are boarded.	Hospitality Representative	P13	R 41.97	R 45.33
Inspector	Executes and carries out inspection duties to investigate irregularities and ensure compliance to company policy - performs physical vehicle checks, evaluates driver compliance, monitors scheduled trips and audits the issuing of tickets and the collection of revenue.	Inspector	P13 - P11	R 52.30	R 56.48
Maintenance Assistant	Assists a qualified Artisan and has sufficient relevant experience to perform the work required.	Semi-skilled Body Builder, Semi-skilled Electrician, Semi-skilled Mechanic, Semi-skilled Shift Mechanic; Junior Body Builder, Junior Electrician, Junior Glazier, Junior Mechanic, Junior Body Builder, Junior Spray Painter, Operative B.	P14-P13	R 48.12	R 51.97
Maintenance Technician	Unqualified Artisan who is able to perform all technical duties not performed by an Artisan (auto electrician/body builder/diesel mechanic), but does not have the qualification (i.e. trade certificate).	B Artisan ( Auto Electrician, Body Builder, Diesel Mechanic), Workshop Operative, Honorary Artisan, Auto Elec Operative, Body Shop Operative, Operative A.	P13-P12	R 52.30	R 56.48

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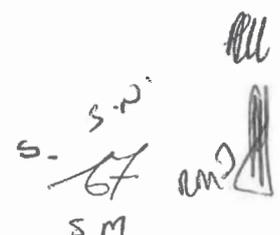
	conductors. Carries out a census.				
Senior Regulator	Supervises operational duties of Regulators, maintains an effective passenger information system and monitors passengers at platforms.	Senior Regulator, Senior Point Controller.	P12-P13	R 52.30	R 56.48
Shunter Driver	Moves buses on company premises and between sections for maintenance activities. Road test buses as and when required by Artisans and workshop supervisors. Parks buses in stipulated areas. Drives buses through bus wash machines. Drives vehicles onto and off pits. Requires the applicable license.	Shunter Driver, Shunter Driver-Maintenance.	P16-P15	R 36.12	R 39.01
Stores Driver	Performs driving duties for stores e.g. collection of parts and other store items. Requires the applicable license.	Stores Driver	P15	R 34.07	R 36.80
Storeman	Establishes and maintains minimum and maximum stock levels, controls and checks the delivery of stock, issuing of parts and spares, keeps stock cards up to date, receives and books out spares, performs stock take, conducts spot checks on stocks, etc.	Storeman, Storeman Buyer, Storeman / Counterhand.	P15 - P12	R 44.13	47.66
Stores Assistant	Assists the Storeman with the issuing and receiving of parts in the store, physically moves stock (packing, unpacking) and drives a forklift to load and unload spares from delivery vehicles. Requires the applicable licence.	Stores Assistant	P16-P14	R 42.30	R 45.68
Tea Person	Make tea and coffee and wash dishes	Tea Person	P18	R 33.96	R 36.68

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Technical Driver	Performs driving duties for the Technical Department inclusive of shunting vehicles from the wash bay to check pits and to the workshop, fuelling of vehicles, taking vehicles for COF and towing busses in for repairs. Requires the applicable licence.	Technical Driver	P15	R 34.07	R 36.80
Terrain Controller	Supervises the dispensing of diesel, oil and water. Supervises, shunting, parking and despatching of buses. Supervises the cleaning and washing of the exterior and interior of buses. Supervises the cleaning of the yard, offices, buildings, equipment and premises.	Terrain Controller, Yard Supervisor.	P13 - P12	R 67.48	R 72.88
Ticket Admin Clerk	Performs cashier and ticket selling duties, inclusive of selling trips and tags to passengers and the maintenance of stock. Handles cash, cashes up drivers' modules, drivers' tickets and standby waybills, pays in at a Cashier, cashes up daily sales. Is responsible for the banking of money, assisting customers with complaints, checking that ETM's are working and reporting defaults, requesting stock, stationery and float, and rotating between depots.	Ticket Admin Clerk, Ticket Office Clerk, Admin Clerks (Tickets).	P14-P13	R 46.11	R 49.80
Ticket Seller	Sells tickets to passengers from a mobile vehicle or at a point identified by the company. May require the applicable license.	Ticket Seller, Pre Seller, Season Ticket Seller.	P14-P12	R 46.11	R 49.80
Transport Officer	Signs Bus Drivers/ Driver Conductors On & Off. Reports any incidents that have a negative effect on the smooth running of the operation in the occurrence book. Analyses the AM and PM Operation.	Transport Officer	P11	R 52.30	R 56.48
Typist	Types documents and performs clerical duties for a department, e.g. Operations.	Typist, Typist Clerk.	P15-P13	R 46.11	R 49.80

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Tyre Attendant	Removes and replaces tyres on vehicles. Checks tyres for defects, damage and pressures. Removes and inspects rims for damage and replaces rims.	Tyre Attendant, Tyre Operator.	P17-P14	R 33.96	R 36.68
Tyre Controller	Supervises tyre attendants and ensures optimal work output.	Tyre Supervisor	P13	R 67.48	R 72.88
Workshop Assistant	Assists a qualified artisan in the trade (Body Builder, Auto Electrician, Vehicle Checker, Greaser, Diesel Mechanic and Spray Painter) through supplying the correct tools, cleaning of components, and assisting with the service, repair, maintenance and upgrade of vehicles/components. Performs general housekeeping in keeping the work area safe and clean. Not an apprentice. Reports into an Artisan.	Trade Worker P15 & P16. Trade Assistant: Auto Electrician, Trade Assistant Diesel Mechanic, Handyman Assistant, Mechanical Shop Assistant, Assistant Electrician, Assistant Glazier, Workshop Assistant, Workshop Operator Assistant, Builder Assistant, Assistant Mechanic, Assistant Spray Painter, Auto Electrical Assistant, Grade C and D Operatives, Electrical Shop Assistant, Body Shop Assistant, Artisan Assistant, Greaser, General Worker, Labourer, Tyre Shop Assistant, Upholstery Assistant, Vehicle Checker.	P19-P15	R 33.96	R 36.68


  
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**ANNEXURE "B"**  
**DISPUTE RESOLUTION**

**1. DISPUTE**

A dispute is any disagreement relating to matters of interest or right between:-

- 1.1 two or more Parties to this Constitution or
- 1.2 an individual Employer(s) and any Eligible Employee(s) or
- 1.3 SARPBAC by way of its Agents or any other person so appointed by SARPBAC and an Employer and/or Employee and/or Employers' Organisation(s) and/or Trade Union(s) for failure to comply with the provisions of this Constitution and/or one or more of the SARPBAC's Agreements or:

in connection with the interpretation and/or application of SARPBAC's Constitution and/or Collective Agreements, organizational rights, disputes about unfair dismissals or unfair labour practices and all other disputes required, in law, to be resolved by SARPBAC.

**2. DISPUTE RESOLUTION AGENCY**

SARPBAC may appoint a dispute resolution agency or agencies to assist with the management of the dispute resolution function of SARPBAC and reference in this appendix to SARPBAC shall, where such agency or agencies have been appointed, be read as reference to such appointed agency or agencies.

**3. DISPUTE RESOLUTION PANELS**

- 3.1 SARPBAC shall establish and maintain regional panels of Commissioners, who are accredited conciliators and/or arbitrators, to carry out the conciliation and/or arbitration functions of SARPBAC.
- 3.2 The panels shall have a sufficient number of properly qualified Commissioners to handle disputes without undue delay and in an effective and efficient manner.
- 3.3 The appointed dispute agency or agencies shall provide names of possible Commissioners from which SARPBAC will select the various regional panels.
- 3.4 SARPBAC may, at any stage and after a thorough investigation as to the reasons submitted for the removal of a Commissioner by any Party, decide to remove an individual from a panel.

**4. REFERRAL OF DISPUTES**

- 4.1 Parties to SARPBAC, as also Parties who fall within the registered scope SARPBAC, may refer a dispute to SARPBAC should the dispute not be resolved at plant level and a Party to the dispute wish to take the matter further.
- 4.2 Disputes shall only be referred to SARPBAC after Parties to the dispute have complied

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with and exhausted all plant level dispute resolution procedures and failed to resolve the dispute.

- 4.3. A Party may refer a dispute to SARPBAC if:-
- 4.3.1 there is no plant level Collective Agreement or if the plant level Collective Agreement does not provide dispute procedures
  - 4.3.2 the procedure provided for in the plant level Agreement is inoperative
  - 4.3.3 a Party to the dispute has frustrated the resolution of the dispute in terms of the plant level procedures
- 4.4. A Party wishing to refer a dispute to SARPBAC for conciliation, Conciliation/Arbitration and/or arbitration must do so in writing, by completing SARPBAC's referral form setting out the details of the dispute and lodging the referral form, duly signed, together with all other required documentation with SARPBAC within the allowed time frame.
- 4.5. The referring Party must, when lodging a dispute with SARPBAC, attach documented proof that a copy of the referral form has been served on all other Parties to the dispute.
- 4.6. SARPBAC shall, on receipt of a referral and having satisfied itself as to the compliance of the referral with agreed procedures and time frames, appoint a Commissioner from the panel to conciliate, conciliate/arbitrate or arbitrate the dispute, as the case may be, and arrange the venue, date and time for the matter to be heard.
- 4.7. Disputes, including dismissal disputes, must be lodged with SARPBAC within thirty (30) days of the date on which the Act giving rise to the dispute occurred or, if at a later date, within thirty (30) days of all the plant level, internal dispute resolution procedures have been complied with and exhausted.
- 4.8. Unfair labour practice disputes must be lodged with SARPBAC within ninety (90) days of the date that the alleged unfair labour practice occurred.
- 4.9. SARPBAC shall refuse to accept a late referral unless, and until, an application for Condonation has been lodged with SARPBAC in terms of Clause 6 of this appendix.

## 5. TIME PERIODS

For the purpose of calculating any period of time in terms of these dispute resolution procedures:-

- 5.1 a day means any day of the week including Saturdays, Sundays and Public Holidays but excludes the period from the 16<sup>th</sup> December of any year to the 7<sup>th</sup> January of the following year, both days inclusive.
- 5.2 the first day is excluded and the last day is included, subject to Clause 5.1 above.

## 6. CONDONATION FOR LATE REFERRAL

- 6.1 Late referral applies to any document, including a referral or an application document, lodged with SARPBAC outside of the time period prescribed in the Act or this appendix.
- 6.2 A Party lodging a late referral and/or document must apply for Condonation at the same time as lodging such late referral and/or document.

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- 6.3 An application for Condonation must set out the grounds for seeking Condonation and must include details of the following:-
- 6.3.1 the degree of lateness
  - 6.3.2 the reasons for the lateness and degree of fault
  - 6.3.3 the referring Party's prospects of succeeding with the dispute and obtaining the relief sought against the other Party or Parties
  - 6.3.4 any prejudice to the other Parties and
  - 6.3.5 all other relevant factors.
- 6.4. SARPBAC shall not accept any late referral without a Condonation application being attached to such late referral together with documented proof that all other Parties to the dispute have been notified about the late referral and application for Condonation.
- 6.5. Once a Condonation application has been submitted the responding Party or Parties must, should they wish to oppose such application, lodge written objections thereto within fifteen (15) days of receipt of the notice of such Condonation application.
- 6.6. A Commissioner will be appointed and will consider the late application and any objections lodged against the said application within fifteen (15) days after the date allowed, in terms of Clause 6.5 above, for submission of objections to such late referral and Condonation application.

## 7. SERVING OF DOCUMENTS ON PARTIES

The Party referring a dispute to SARPBAC must serve copies of such referral on each and every other Party to the dispute by:-

- 7.1. handing a copy of the referral documents to the person(s) that is Party to the dispute or
- 7.2. handing a copy of the referral document to the person(s) authorised in writing to accept service on behalf of each of the Parties to the dispute or
- 7.3. faxing a copy of the referral document to all other Parties to the dispute or
- 7.4. sending a copy of the referral document by registered post to each of the other Parties to the dispute or
- 7.5. sending a copy of the referral document by courier to each of the other Parties to the dispute or
- 7.6. sending a copy of the referral document by e-mail to each of the other Parties to the dispute.

## 8. LODGING DOCUMENTS WITH SARPBAC

- 8.1 The Party declaring the dispute must lodge the required dispute referral document and all supporting documentation with SARPBAC by:-

handing the documents to an Official of SARPBAC or

faxing the documents to SARPBAC or

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sending the documents by registered post to SARPBAC or

sending the documents by Courier to SARPBAC or

sending a copy of the documents by e-mail to SARPBAC.

8.2 Documents will only be considered lodged with SARPBAC on the date on which SARPBAC actually receives such referral documents.

8.3 It is the sole responsibility of the referring Party to ensure the timely delivery of the documents to SARPBAC and to verify receipt of the documents by SARPBAC.

## 9. REPRESENTATION AT DISPUTE PROCEEDINGS

9.1. A Party to a dispute must appear in person at the dispute proceedings before SARPBAC but may, in addition, be represented by:-

9.1.1. a Legal Practitioner or labour law consultant subject to agreement between the Parties or

9.1.2. a member, Official or office bearer of a registered Trade Union, that the Party was a member of at the time the dispute arose or

9.1.3. an Official or office bearer of a registered employer's association that the Party was a member of at the time the dispute arose or

9.1.4. a director, employee, trustee or partner of the Employer Party or

9.1.5. if proceedings are brought, or opposed, by more than one Party by another party to the dispute.

9.2. Despite clause 9.1.1 above, if the dispute is about the fairness of a dismissal and a Party has alleged that the reason for the dismissal relates to the employee's conduct or incapacity, the Parties are not entitled to be represented by a Legal Practitioner in the proceedings unless:-

9.2.1. the Commissioner and the other Parties consent to such an arrangement;

9.2.2. the Commissioner concludes that it is unreasonable to expect the Party to deal with the dispute without legal representation, after considering the nature of the questions of law raised by the dispute, complexity of the dispute, public interest and/or the comparative ability of the opposing Parties or their representatives to deal with the dispute.

## 10. JOINING OF PARTIES TO PROCEEDINGS

10.1. SARPBAC or a Commissioner may join any number of persons as Parties in proceedings, if the right to relief depends on substantially the same question of law or fact.

10.2. A Commissioner may make an order joining any person as a Party in the proceedings if the Party to be joined has a substantial interest in the subject matter of the proceedings.

10.3. A Commissioner may make an order in terms of Clause 10(2) above

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- 10.3.1 on the Commissioner's own accord or
  - 10.3.2 on application by a Party or
  - 10.3.3 if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a Party.
- 10.4. An application to join any person as a Party to proceedings must be accompanied by copies of all documents previously delivered unless the person concerned or that person's representative is already in possession of the documents.
- 10.5. Subject to any order made in terms of Clause 10.2 above, a joiner in terms of this clause does not affect any steps already taken in the proceedings.

#### 11. CORRECTING THE CITATION OF A PARTY

If a Party to any dispute proceedings has been incorrectly or defectively cited, SARPBAC may, on application by the Parties and on notice to the Parties concerned, correct the error or defect.

#### 12. CONSOLIDATION OF DISPUTES

- 12.1. SARPBAC or Commissioner, of their own accord or on application, may consolidate more than one dispute so that the disputes may be dealt with at the same dispute proceedings.
- 12.2. Disputes will be consolidated if they are of a similar nature and/or originating from the same incident.

#### 13. DISCLOSURE OF DOCUMENTS

Any Party may request a Commissioner at a dispute hearing to make an order requiring any other Party to the dispute to disclose all relevant documents.

#### 14. FAILURE TO ATTEND PROCEEDINGS

- 14.1. The Parties to a dispute must attend the conciliation, Conciliation/Arbitration or arbitration in person, irrespective of whether or not they are represented by third parties.
- 14.2. If a Party to a dispute fails to attend the dispute proceedings before SARPBAC, and that party.
  - 14.2.1. has referred the dispute to SARPBAC, a Commissioner may dismiss the matter by issuing a written ruling or
  - 14.2.2. has not referred the matter to SARPBAC, the Commissioner may:-
    - 14.2.2.1. continue with the proceedings in the absence of that Party or
    - 14.2.2.2. adjourn the proceedings to a later date not more than sixty (60) days from such adjourned proceedings

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- 14.3. A Commissioner must be satisfied that all Parties have been properly notified of the date, time and venue of the proceedings, before making any decision in terms of Clause 14(2).
- 14.4. If a Party or Parties fail to appear at the time scheduled for commencement of the arbitration hearing the Commissioner will postpone the proceedings for thirty (30) minutes. If a Party or Parties, after expiry of thirty (30) minutes, still fail to appear, the Commissioner will make a decision in terms of Clause 14(2).
- 14.5. If a matter is dismissed, SARPBAC must send a copy of the ruling to the parties.
- 14.6. The Commissioner may award costs in accordance with the provisions of Section 138(10) of the LRA, and shall be obliged to award costs against the Party whose non-attendance results in the matter being postponed, in the absence of such party providing compelling reasons for non-attendance

## 15. UNREPRESENTED APPLICANTS WITHOUT CONTACT DETAILS

- 15.1 An unrepresented applicant who intends to refer a dispute to SARPBAC and who does not have a postal address or fax number must hand deliver the referral form to SARPBAC.
- 15.2 If a referral form as contemplated in clause 15.1 above is received SARPBAC must provide the applicant with a case number and written instructions to contact SARPBAC by telephone or in person, within seven days of the date of referral, in order for SARPBAC to notify the applicant of the details of the hearing.
- 15.3 The administrator who notifies the applicant of the hearing in terms of clause 15(2) above must record on the case file and on the case management system that the applicant has been notified of the details of the hearing.
- 15.4 The record made in terms of clause 15.3 above will constitute proof that the applicant was notified of the hearing.

## 16. RECORDINGS OF DISPUTE PROCEEDINGS

- 16.1 The Commissioner must keep a record of:-
  - 16.1.1 evidence given in an arbitration hearing
  - 16.1.2 sworn testimony given in any proceedings before the Commissioner; and
  - 16.1.3 any arbitration award or ruling made by the Commissioner.
- 16.2 The record may be kept by legible hand-written notes or by means of an electronic recording
- 16.3 A Party may request a copy of the transcript of a record or a portion of a record kept in terms of Clause 16(1) above, on payment of the costs of the transcription
- 16.4 After the person who makes the transcript of the record has certified that it is correct, the record must be returned to SARPBAC
- 16.5 The transcript of a record certified as correct in terms of Clause 16(3) above is presumed to be correct, unless the Labour Court decides otherwise.

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**ISSUING OF A SUBPOENA**

- 17.1 Any Party, who requires SARPBAC or a Commissioner to subpoena a person in terms of section 142(1) of the Act, must file a completed subpoena form, requesting a subpoena together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary
- 17.2 An application in terms of Clause 17(1) above must be lodged with SARPBAC at least ten (10) days before the arbitration hearing, or as directed by the Commissioner hearing the arbitration
- 17.3 SARPBAC or a Commissioner may refuse to issue a subpoena if:-
- 17.3.1. the Party does not establish why the evidence of the person is necessary or
  - 17.3.2. the Party subpoenaed does not have a reasonable period in which to comply with the subpoena
  - 17.3.3. SARPBAC or a Commissioner is not satisfied that the Party has made arrangements to pay the reasonable travel costs of the person subpoenaed
- 17.4. A subpoena must be served on the witness that is subpoenaed:-
- 17.4.1 by the person who has requested the subpoena or by the Sheriff at least seven (7) days before the scheduled date of the arbitration and
  - 17.4.2 if so directed by SARPBAC, accompanied by payment of the prescribed witness fees for one day in accordance with the tariff of allowances published by notice in the Gazette in terms of section 142(7) of the Act and the witnesses' reasonable travel costs
  - 17.4.3. Clauses 17.3.3 and 17.4.2 above do not apply if SARPBAC in terms of section 142(7)(c) of the Act has waived the requirement for the Party to pay witness fees.

**18. CONCILIATION OF DISPUTES OF INTEREST**

This section applies to Disputes of Interest referred to SARPBAC. SARPBAC's jurisdiction in Disputes of Interest is limited to conciliation. In regard to conciliation of such disputes the following shall apply:

- 18.1 Notice by SARPBAC of a conciliation meeting
- 18.1.1 After receiving a referral in terms of Clause 4, SARPBAC must give the Parties at least twenty-one (21) days' notice in writing of a conciliation hearing, unless the Parties agree to a shorter period of notice.
  - 18.1.2 SARPBAC will give notice by fax, registered post or email, depending on the information provided by the Parties.
- 18.2 Failure to attend conciliation by a Party
- 18.2.1 The Parties to a dispute must attend the conciliation.

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- 18.2.2. If a Party to a dispute fails to attend conciliation, the Commissioner may deal with it in terms of Clause 14.
- 18.3 If conciliation fails to resolve a Dispute of Interest that has been referred to SARPBAC in terms of Clause 4 of this appendix and a certificate has been issued by the Commissioner stating that the dispute has not been resolved then:-
- 18.3.1. after of a cooling-off period of thirty (30) days from the date of such certificate, or any extension of this period agreed to between the parties to the dispute.
- 18.3.2. every employee, involved in the dispute who has the right to strike in terms of Section 64 of the Act, may embark on such strike action subject to at least forty-eight (48) hours' written notice of the commencement of such strike action being given to the Employer that is party to the dispute or, where more than one Employer is party to the same dispute, to SARPBAC and to the Employers' Organisation to which such Employers are members.
- 18.3.3. every Employer, involved in the dispute who has the right to lock-out in terms of Section 64 of the Act, may commence with such lock-out action subject to at least forty-eight (48) hours' written notice of the commencement of such lock-out action being given to the Trade Union (s) that is party to the dispute or, if there is no such Trade Union, to the Employees concerned unless the issue in dispute relates to a Collective Agreement to be concluded in SARPBAC in which case notice must also be given to SARPBAC.
- 18.3.4 if the issue in dispute concerns a refusal to bargain, as contemplated in Section 64(2) of the Act, an advisory award must have been made in terms of Section 135(3)(c) of the Act before the notice as provided for in Clauses 18.3.2 and/or 18.3.3 above may be given

## 19. CONCILIATION/ARBITRATION OF DISPUTES OF RIGHT

All unresolved Disputes of Right, including disputes about the fairness of a dismissal or a dispute about an unfair labour practice, may be referred to SARPBAC. In regard to such referrals, the following shall apply:

- 19.1 All unresolved Disputes of Right that are referred to SARPBAC in terms of Clause 4 of this appendix will be scheduled for Conciliation/Arbitration subject to Clause 19.2 below
- 19.2 Where a Party objects to the Conciliation/Arbitration process, the matter will proceed directly to arbitration on the day that it is scheduled for the Conciliation/Arbitration proceedings
- 19.3 SARPBAC must give the Parties at least twenty-one (21) days' notice in writing that a matter has been scheduled for Conciliation/Arbitration, unless the Parties agree to a shorter period of notice.
- 19.4 The provisions of the Act and the provisions set out in this appendix that are applicable to conciliation and arbitration respectively apply, with the changes required by the context, to Conciliation/Arbitration Proceedings.
- 19.5 If the arbitration does not commence on the dates specified in terms of the notice in Clause 19(3) above, SARPBAC must, subject to clause 14 above, reschedule the matter.

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**PRE-ARBITRATION CONFERENCE**

- 20.1 The Parties to an arbitration shall hold a pre-arbitration conference dealing with the relevant matters prior to the Conciliation/Arbitration or arbitration proceedings taking place.
- 20.2 The Parties should endeavour to hold a pre-arbitration conference at least seven (7) day's before the scheduled date for the commencement of the conciliation/arbitration or arbitration proceedings.

**21. POSTPONEMENT OF PROCEEDINGS**

- 21.1 Any Party may apply for a postponement of conciliation, Conciliation/Arbitration or arbitration proceedings by serving an application for postponement on the other Parties to the dispute and lodging a copy with SARPBAC at least seven (7) days before the scheduled date of such proceedings.
- 21.2 SARPBAC must postpone proceedings without the Parties appearing if
- 21.2.1 all the Parties to the dispute agree in writing to the postponement and the written agreement for the postponement is received by SARPBAC at least seven (7) day's prior to the scheduled date of the such proceedings; or
- 21.2.2 there are compelling reasons to postpone.
- 21.3 Upon postponement of any proceedings, the Commissioner must reschedule such proceedings to a later date not more than sixty (60) days from such postponement.
- 21.4 Any Party who seeks or causes a postponement in circumstances other than those provided for in clauses 21.1 or 21.2 above shall bear the costs of the postponement regardless of the cause.

**22. ARBITRATION OF DISPUTES**

- 22.1 SARPBAC must give the Parties at least twenty-one (21) days notice in writing of an arbitration hearing, unless the Parties agree to a shorter period of notice.
- 22.2 The Commissioner shall conduct the arbitration proceedings as stipulated in Section 138 of the Act.
- 22.3 In arbitrating disputes referred to SARPBAC, a Commissioner will have the powers provided for in Section 142 of the Act read with the charges required by the context.
- 22.4 An Commissioner conducting an arbitration may make an appropriate award, including, but not limited to, an award:-
- 22.4.1 ordering any person to pay any amount owing in terms of a Collective Agreement.
- 22.4.2 confirming, varying or setting aside a compliance order issued by SARPBAC.
- 22.4.3 any award as contemplated in section 138(9) of the Act.
- 22.5 The Commissioner may make an order for the payment of costs against a Party or Parties if requested to do so and if the Commissioner deems the actions of the Party or Parties, against whom such costs award has been requested, to have unduly delayed or

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**PEACE OBLIGATION**

The parties to this Constitution, and those bound in law to this Constitution, undertake not to strike, lockout or engage in any other form of industrial action that is in conflict with the dispute resolution procedures set out in this annexure and will, should such action take place, do everything within their power to normalize the situation and ensure continuation of services throughout the processing of the dispute.

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## ANNEXURE "C"

## EXEMPTION PROCEDURE

1. Employers to whom the terms of a Collective Agreement are applicable may apply to SARPBAC for exemption from any term(s) of the Collective Agreement, provided that exemption applications shall comply with the following requirements:
  - 1.1. The application for exemption must be forwarded, in writing, to the General Secretary within thirty (30) days of:
    - (a) the conclusion of the Collective Agreement in respect of those Employers bound by the Collective Agreement in accordance with the provisions of Section 23(1)(c) of the LRA; or
    - (b) the date specified in accordance with the provisions of Section 32(2) of the LRA in respect of all other Employers ;

as the case may be.
  - 1.2. The application must specify the clause(s) from which exemption is being sought.
  - 1.3. The application must clearly indicate the nature and extent of the relief being sought.
  - 1.4. The application must be fully motivated.
  - 1.5. The application must be accompanied by relevant supporting documentation and financial information.
  - 1.6. Applications that affect employees' conditions of service shall not be considered unless the employer submits proof that it has notified the affected employees and/or their representative Trade Union(s) of the fact that an application for exemption is being made and informing such employees and/or their representative Trade Union(s) that they are entitled to make written submissions, within fourteen (14) days of receipt of the notification, to the exemption panel through the General Secretary.
  - 1.7. The application shall, if the nature of the relief sought dictates, be accompanied by a plan reflecting the strategies to be adopted to rectify the situation giving rise to the application and indicating a time frame for the plan.
  - 1.8. Indicate the period for which exemption is required.
2. Implementation of the clause(s) from which exemption is being sought will be suspended by the specific employer pending the outcome of the exemption application.
3. On receipt of an application for exemption, the General Secretary must provide written acknowledgement of the receipt of the exemption application to the applicant employer and inform all the Parties to SARPBAC of such application as well as the nature of the relief being sought.
4. The Parties to the exemption procedure shall be the applicant Employer and the representative Trade Union(s) representing eligible employees within the applicant Employer's organisation to

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whom the Collective Agreement is applicable, or in the absence of a representative Trade Union, such eligible employees.

5. Any application for exemption will be heard by an independent panel or a panellist appointed for this purpose by SARPBAC
6. The above panel, (which may consist of up to three persons,) or appointed panellist shall be known as the exemption authority.
7. The exemption authority appointed to consider exemptions shall be independent and have experience deemed by SARPBAC to be relevant, which may include, but not be limited to, experience of financial matters, the Road Passenger Transport Industry, labour relations and/or labour law.
8. The application shall be considered by the exemption authority as soon as practically possible but not later than 30 days after receipt of an application for an exemption.
9. The exemption authority shall consider the exemption application together with any submissions received from interested Parties, including third parties.
10. The exemption authority may, if it deems it expedient, request the Parties to the specific exemption application to attend the meeting at which the application is to be considered.
11. The exemption authority shall have the right to call any other party, such as an interested third party that it feels might be able to assist it in arriving at a decision.
12. The exemption authority must consider the exemption application, grant or reject the application and inform all interested Parties of its decision within a time period of no more than thirty (30) days from the date of receipt of the application by the General Secretary.
13. In considering an application, the exemption authority shall take into consideration all relevant factors which may include, but shall not be limited to, the following criteria:
  - 13.1 The applicant's past record (if applicable) of compliance with the provisions of Council's Collective Agreements and/or exemption certificates.
  - 13.2 Any special circumstances that exist or any precedent that might be set.
  - 13.3 The interests of the industry in relation to unfair competition, centralized collective bargaining as well as the economic stability of the industry.
  - 13.4 The interests of employees as regards exploitation, job preservation, sound conditions of employment, possible financial benefits, health and safety as well as the infringement of basic rights.
  - 13.5 The interests of the employer as regards its financial stability, the impact on productivity, its future relationship with employees and recognized Trade Union(s), operational requirements and the viability of the employer's business.

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If the application is granted, the exemption authority shall, within the time period stipulated in Clause 12 above, provide each of the Parties defined in Clause 4 above and the General Secretary, with written advice of its decision, the nature and extent of relief granted and any special conditions that might be applicable to such relief.

16. If the application is refused, the exemption authority shall, within the time period stipulated in Clause 12 above, submit a written report to each of the Parties as defined in Clause 4 above and the General Secretary, setting out its reasons for not granting the application in whole or part.
17. The General Secretary shall within seven (7) days of receipt of the advice referred to in Clause 14 above, or the report mentioned in Clause 15 above, inform all Parties to SARPAC of the outcome of the specific exemption application.
17. SARPAC shall, within fifteen (15) days of receiving the advice referred to in Clause 14 above, issue an exemption certificate, signed by the Chairperson, Vice-Chairperson and General Secretary, containing the following particulars:
- (a) The full name of the Employer
  - (b) The trade name of the Employer
  - (c) The provisions of the Collective Agreement from which exemption has been granted
  - (d) The period for which the exemption shall operate
  - (e) The condition(s) of the exemption granted
  - (f) The date of issue of the exemption certificate
19. Conditions, to which reference is made in Clause 17(e) above, may include a condition requiring the employer to provide written reports at stated intervals to the General Secretary on the progress being made with the plan, referred to in Clause 1.7 above.
19. SARPAC shall:
- 19.1 Retain a copy of all exemption certificates issued and number each certificate consecutively.
  - 19.2 Forward a copy of the certificate to the Parties as defined in Clause 4 above.
  - 19.3 Forward a copy of the certificate to each of the Parties to SARPAC.
20. An Employer to whom an exemption certificate has been issued shall at all times have the certificate available for inspection at his establishment.
21. All arrangements to be made by the exemption authority that have cost implications for which SARPAC may be held responsible shall only be made with the prior written approval of SARPAC.
22. Pending the outcome of an exemption application, and any appeal in terms of Clause 23 below, the Employer shall be exempt from implementing the clause(s) which are the subject of the exemption application or appeal until such time as a decision has been made by the exemption authority or the exemption appeal authority, as the case may be.

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**APPEALS AGAINST DECISIONS OF THE EXEMPTION AUTHORITY**

- 23.1 An appeal shall be in writing and must be lodged with the General Secretary of the Council within a period of not more than fifteen (15) days after receipt by the applicant employer of the decision of the exemption authority against which the appeal is being lodged.
- 23.2 SARPAC shall establish an independent body as envisaged in terms of Section 32(3)(e) of the Act, to hear and decide, as soon as possible, any appeal brought against a decision to refuse an application for exemption from the provisions of a Collective Agreement or the withdrawal of such an exemption by SARPAC.
- 23.3 The above independent body, appointed by the council, shall be known as the exemption appeal authority.
- 23.4 The provisions of Clauses 6 to 21 above, shall apply mutatis mutandis to the composition of the appeal authority, the conduct of the appeal and the issuing of any exemption certificate consequent upon the appeal.
- 23.5 The decision of the exemption appeal authority shall be final.
- 23.6 The General Secretary shall provide a copy of the exemption appeal authority's decision to each of the Parties to SARPAC.

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**ANNEXURE "D"****APPROVED STUDY COURSES**

1. Graduate, Certificate or Diploma Courses in:
  - a. Human Resources Management
  - b. Labour Relations Management
  - c. Financial Management
  - d. IT Management
  - e. Risk Management
  - f. Occupational Health and Safety Management
  - g. Procurement Management
  - h. Technical Management
  - i. Clerical / Administration
  - j. Public Relations Management
  
2. Apprenticeship or Learnership Courses
  - a. Mechanical
  - b. Auto Electrical
  - c. Body Building

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**ANNEXURE "E"****TASK TEAM**

The following issues are referred to a Task Team under the auspices of the CCMA which will be given clear terms of reference and time frames:

1. Nightshift Hours
2. Dual Driver
3. Insourcing

Should any of the parties be dissatisfied with the outcome of any of the task team items they are entitled to follow the route as prescribed in law. Where agreement is reached in the task team, these agreements shall be implemented.

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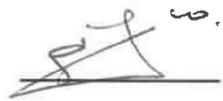
**ANNEXURE "F"**

**INDUSTRY HEALTHCARE**

A Specialist to be sourced to do a presentation on the National Health Insurance Scheme to the Council.

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We the undersigned, as the official representatives of our respective organisations, do hereby, on behalf of the organisations, its members and all Employees, agree to the terms of this agreement and bind our organisations, members and all Employees thereto.

SIGNED BY	ON BEHALF OF	SIGNED AT	DATE
	South African Bus Employers Association	- JHB	<u>21 May 2018</u>
	Commuter Bus Employers Organisation	- JHB	<u>21 May 2018</u>
	South African Transport & Allied Workers Union	- JHB	<u>21 May 2018</u>
	National Union of Metalworkers of South Africa	- JHB	<u>21 May 2018</u>
	Transport and Allied Workers Union of South Africa	JHB	<u>21 May 2018</u>
	Transport & Omnibus Workers Union	- JHB	<u>21 May 2018</u>
	Tirisano Transport and Services Workers Union	- JHB	<u>21 May 2018</u>

**DEPARTMENT OF LABOUR****NOTICE 507 OF 2018****LABOUR RELATIONS ACT, 1995 (ACT NO 66 OF 1995), as amended****COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION  
TARIFF OF FEES**

The Governing Body of the Commission for Conciliation, Mediation and Arbitration hereby repeals the Tariff of Fees published in terms of the Labour Relations Act 66 of 1995 as amended under the Government Notice No. 41100 of 08 September 2017.

No. R.

**LABOUR RELATIONS ACT, 1995 (ACT NO 66 OF 1995), as amended****COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION  
TARIFF OF FEES**

Under section 123 (3) of the Labour Relations Act 66 of 1995, as amended, the Commission for Conciliation, Mediation and Arbitration hereby publish the tariff of fees as established by the Governing Body in the Annexure effective from the **1<sup>st</sup> of August 2018**.

**Annexure**

The Commission may charge a fee in accordance with the tariff shown in Column 3 of Table 1 for a purpose listed in Column 2 of that Table. All fees exclude VAT.

**TABLE 1 – TARIFF OF FEES**

<b>1 SECTION</b>	<b>2 SERVICE</b>	<b>3 TARRIF OF FEES</b>
115 (3)	Providing advice or training to employers, registered trade unions, registered employers' organisations, federations of trade unions, federations of employers' organisations' or councils relating to the primary objects of the Labour Relations Act and conducting facilitations.	R 2 895.00 – R 6 568.00
	Administration fee for the coordination and/or preparation of training to be delivered in terms of section 115(3)	8% of the total costs of the training required.
123(1)(b)	Conducting, overseeing or scrutinizing any election of ballot of a registered trade union or registered employers' organisation.	R 2 895.00 – R 6 568.00
140(2)	If a commissioner appointed to resolve a dismissal dispute through arbitration finds that the dismissal is unfair only because the employer did not follow a fair procedure.	R 2 895.00 – R 6 568.00
147(1)	Resolving a dispute about the interpretation or application of a collective agreement if –	R 3 472.37 – R 6 568.00

	(i) the collective agreement does not provide a procedure for resolving that dispute through conciliation and arbitration; (ii) the procedure provided in the collective agreement is not operative; or (iii) a party to a collective agreement has frustrated that resolution of the dispute.	
147(2)	Resolving a dispute between parties to a council of the council's dispute resolution procedure are not operative.	R 2 895.00 – R 6 568.00
147(3)	Resolving a dispute between parties who fall within the registered scope of a council if the council's dispute resolution procedures are not operative.	R 2 895.00 – R 6 568.00
147(5)	Resolving a dispute between parties to a collective agreement that provides for the resolution of that dispute by an accredited agency if the accredited agency's dispute resolution procedures are not operative.	R 2 895.00 – R 6 568.00
188A	Resolving a dispute by inquiry by arbitrator.	R 2 895.00 – R 6 568.00

## DEPARTMENT OF LABOUR

## NOTICE 508 OF 2018

PLEASE FIND SET OUT BELOW A LIST OF BARGAINING COUNCILS THAT HAVE BEEN ACCREDITED BY THE CCMA IN TERMS OF THE PROVISIONS OF THE LABOUR RELATIONS ACT 66 OF 1995 (AS AMENDED) FOR CONCILIATION AND/ OR ARBITRATION AND/ OR INQUIRY BY ARBITRATOR, WITH THE TERMS OF ACCREDITATION ATTACHED FOR THE PERIOD 01 AUGUST 2018 TO THE 31 JULY 2019.

**BARGAINING COUNCILS ACCREDITED TO CONDUCT CONCILIATION AND ARBITRATION,  
SUBJECT TO CONDITIONS WHERE APPLICABLE  
(RENEWAL OF ACCREDITATION)**

Name of Council	Accredited Functions
<b><u>PRIVATE SECTOR BARGAINING COUNCILS</u></b>	
<b>Building Bargaining Council for the Grain Industry</b>	Accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 August 2018</b> until <b>31 July 2019</b> on condition that all sections 198 and 198A to 198C-matters are allocated to only those part-time CCMA Commissioners and Bargaining Council Panellists who have been successfully trained by the CCMA on section 198 and its insertions.

**TERMS OF ACCREDITATION FOR CONCILIATION, ARBITRATION AND INQUIRY BY ARBITRATOR**

**1. SCOPE OF ACCREDITATION:**

Herewith categories of disputes for which Councils are eligible to apply for accreditation.

**COUNCILS ARE ACCREDITED TO PERFORM THE FOLLOWING DISPUTE RESOLUTIONS FUNCTIONS:**

Unfair dismissal disputes	- Section 191
Unfair Labour practice	- Section 191
Mutual Interest disputes	- Section 64
Interpretation of Collective Agreement disputes	- Section 24 (1)
Essential Services disputes	- Section 74
Pre-dismissal arbitrations	- Section 188A
Temporary Employment Service	- Section 198, 198A, 198B, 198C and 198D
Disputes about Interpretation and Application of Chapter 2	- Section 9

COUNCILS MAY NOT SEEK ACCREDITATION FOR THE FOLLOWING DISPUTE RESOLUTION FUNCTIONS REGARDING DISPUTES OVER THE FOLLOWING (see FOOTNOTE 11 of SECTION 51):

Organisational rights (sections 16, 21 and 22);

Collective Agreements where the agreement does not provide for a dispute resolution procedure or the procedure is inoperative or any party frustrates the resolution of disputes (section 24(2) to (5));

Agency shops and closed shops (section 24(6) and (7) and section 26(11);

Determinations made by the Minister in respect of proposals made by a Statutory Council (section 45);

The interpretation and application of Collective Agreements of a Council whose registration has been cancelled (section 61(5) to (8));

Demarcation of sectors and areas of Councils (section 62);

The Interpretation or application of Part C (Bargaining Councils), Part D (Bargaining Councils in the Public Service), Part E (Statutory Councils) and Part F (General Provisions concerning Councils) (Section 63);

Picketing (section 69(8) to 10);

Proposals which are the subject of joint-decision making in a workplace forum (section 86);

Disclosure of information to workplace forums (section 89);

Interpretation or Application of the provisions of Chapter 5 of the LRA which deals with workplace forums (section 94);

Enforcement of the Collective Agreements by Bargaining Councils (section 33A) and;

Enforcement of arbitration awards in terms of section 143. Only the Director of the CCMA, unless the power has been delegated to a CCMA Senior Commissioner may certify awards as if it were an order of the Labour Court;

Facilitating mass retrenchment disputes section 189(A).

## **2. POWERS OF ACCREDITATION:**

Only those persons who are accredited by the CCMA, or are part-time Commissioners appointed by the Governing Body of the Commission in the terms of section 117 (2) of the Labour Relations Act, may perform the accreditation functions of the council for the Council.

The following provisions of the LRA, as amended apply to Councils accredited for conciliation and arbitration:

- (a) For the purpose of this paragraph any reference in Part C of Chapter VII of the LRA to:  
 "Commission" must be read as a reference to the Council;  
 "Commissioner" must be read as a reference to a conciliator or arbitrator appointed by the Council.  
 "Director" must be read as a reference to the Secretary of the Council.
- (b) The provisions of the sections contained in Part C of Chapter VII (section 127(6)) of the LRA shall apply to the Council in the performance of its accredited functions subject to the Council's Constitution and/or Collective Agreements. For the purpose of this sub-paragraph the following applies:
- (i) The provisions of section 133 to 136;
  - (ii) The provisions of section 138 to 142, S142A, S143, S144 and S145;
  - (iii) The provisions of section 146 unless the Collective Agreement of the Council provides that the Arbitration Act, Act 42 of 1965 applies to any arbitration conducted under its accredited function and which Collective Agreement is binding on the parties to the disputes; and

- (iv) The provisions of section 148.

### **3. EXTENSION OF ACCREDITATION:**

Despite the expiry of the period of accreditation as stated in the Certificate of Accreditation, the Council may continue to perform its accredited functions in respect of any dispute referred to it during the period of accreditation, but not yet resolved by the time the period expires, until the dispute is resolved either through conciliation or arbitration.

### **4. TRANSGRESSION OF TERMS OF ACCREDITATION:**

If the accredited Council fails to comply with the terms of accreditation, the Governing Body of the CCMA may revoke accreditation. In terms of section 130 of the LRA, as amended the Governing Body of the CCMA may withdraw accreditation after having given reasonable notice of withdrawal.

### **5. AMENDMENT OF ACCREDITATION:**

An Accredited Council may apply to the Governing Body of the CCMA in terms of section 129 of the LRA to amend its accreditation.

**NON-GOVERNMENTAL ORGANIZATION  
NOTICE 509 OF 2018**

**NON-GOVERNMENTAL ORGANIZATION**

**IMPUMELELO AGRIBUSINESS SOLUTIONS (PTY) Ltd.**

AGRICULTURAL PRODUCT STANDARDS ACT NO. 119 OF 1990

**INSPECTION FEES**

Impumelelo Agribusiness Solutions (Pty) Ltd, is designated in terms of section 2(3)(a) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), to apply sections 3(1) and 4A of the said Act, with respect to various regulated processed products as listed below. The following inspection fees in respect of specified categories of product are hereby determined.

**LOCAL MANUFACTURING**

<b>Products</b>	<b>Inspection Fees</b>
Fruit juices and drinks	R1 672 per product inspection (4 x per annum)
Frozen fruit	R1 672 per product inspection (1 x per annum)
Frozen vegetables	R1 672 per product inspection (1 x per season)
Jam	R1 672 per product inspection (1 x per season)
Jelly	R1 672 per product inspection (1 x per season)
Marmalade	R1 672 per product inspection (1 x per season)
Honey	R1 672 per product inspection (1 x per season)
Rooibos	R1 672 per product inspection (1 x per season)
Table olives	R1 672 per product inspection (1 x per season)
Fat spreads	R1 672 per product inspection (4 x per annum)
Mayonnaise	R1 672 per product inspection (4 x per annum)
Salad dressings	R1 672 per product inspection (4 x per annum)
Vinegar	R1 672 per product inspection (4 x per annum)
Canned pasta	R1 672 per product inspection (4 x per annum)
Canned mushrooms	R1 672 per product inspection (4 x per annum)
Canned fruit	R1 672 per product inspection (1 x per season)
Canned vegetables	R1 672 per product inspection (4 x per annum)

**IMPORTED REGULATED PRODUCTS**

<b>Containers</b>	<b>Inspection Fees</b>
Container carrying homogenous products	R1 495 per container
Container carrying mixed products – 2 products to be inspected	R1 794 per container
Container carrying mixed products – 3 products to be inspected	R1 944 per container
Container carrying mixed products – 4 products to be inspected	R2 093 per container
Container carrying mixed products – 5 products to be inspected	R2 243 per container
Container carrying mixed products – 6 products to be inspected	R2 392 per container

**Note:**

All fees are VAT exclusive

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 510 OF 2018**

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

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

Area : Athlone  
 Property : Erf 36764  
 The claimants : Previous Originally Dispossessed Individual  
 Date submitted : March 23<sup>RD</sup> 1997  
 Current Owner : Erf 36764: No data found for this query.

No.	Ref No.	Surname & Initial	Property Description	Area	Extent	Capacity	Dispossessed Person
1.	P266	Roos CJ	Erf 36764	Athlone	1983m <sup>2</sup>	Ownership	Titus Jakobus Pick

The Regional Land Claims Commission will investigate these claims in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments / information to:

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

Tel: 021\*409-0300  
 Fax: 021\*424-5146

Mr. L. Maphutha  
 Regional Land Claims Commissioner

APPROVED.....

DATE.....20/6/2018

CHECKED.....

DATE.....29/03/2018

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM  
NOTICE 511 OF 2018**

**AMENDMENT OF GENERAL NOTICE IN TERMS OF SECTION 11(4) OF THE RESTITUTION OF LAND RIGHTS ACT 1994, (ACT No. 22 OF 1994) AS AMENDED**

Notice is hereby given in terms of Section 11(4) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended of the amendment of Government Gazette Notice NO: 1385 of 2009 in respect of the claim lodged by NN September. Particulars of amendment are as follows:

Reference Number	:	KRK6/2/3/A/6.0/528/83 (O130)
Dispossessed person (s)	:	Mrs. Rabia Dhansay
Claimant	:	Mrs. Gadija Osman
Property Description	:	Remainder of Erf 79366 and Erf 80062 Cape Town at Diep River
Extent	:	406m <sup>2</sup> and 436m <sup>2</sup>
Capacity	:	Ownership
Deed of Acquisition	:	T6305/1941 & T27180/1969
Deed of Transfer	:	T32745/1973 and T27180/1969
Current Owners	:	Mrs. Gadija Osman (Rem. Erf 79366 Diep River) Municipality of Cape Town (Erf 80062 Diep River)
Date Submitted	:	30 December 1998

The Regional Land Claims Commission investigated this claim in terms of provisions of the Act. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments / information to:

The Regional Land Claims Commission: Western Cape  
Private Bag X 9163  
Cape Town  
8000

Tel: (021) 409 0300  
Fax: (021) 424-5146

Mr. L. H. Maphutha  
Regional Land Claims Commissioner

APPROVED  .....

DATE 2016/03/31 .....

CHECKED  .....

DATE 24/03/2016 .....

**SOUTH AFRICAN RESERVE BANK  
NOTICE 512 OF 2018  
EXCHANGE CONTROL REGULATIONS  
CANCELLATION OF AUTHORISATION OF AN AUTHORISED DEALER IN  
FOREIGN EXCHANGE**

**Cancellation of Authorised Dealer in Foreign Exchange**

The Financial Surveillance Department of the South African Reserve Bank hereby gives notice, for general information, that Canara Bank has been deleted as an Authorised Dealer in foreign exchange for the purpose of the Exchange Control Regulations, published under Government Notice No. R.1111 of 1 December 1961, as amended.



**S E Mazibuko**

**Head of Department: Financial Surveillance**

**SOUTH AFRICAN RESERVE BANK**  
**NOTICE 513 OF 2018**  
**Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under Section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**AHN Import and Export Close Corporation**  
**(Registration number 2007/096069/23)**

of:

79 Gemsbok Avenue  
Lenasia  
1827

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Exchange Control Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Exchange Control Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, *inter alia*, the Governor or the Deputy Governor of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as the Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the amount of R2 856 000.62 being capital standing to the credit of AHN Import and Export Close Corporation, in account number 4000516655, held with Mercantile Bank Limited, together with any interest thereon and/or other accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by deposit thereof to the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 16 day of August 2018.



**K Naidoo**  
**Deputy Governor**  
**South African Reserve Bank**

**SOUTH AFRICAN RESERVE BANK****NOTICE 514 OF 2018****Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Regulation 22B of the Regulations ("the Exchange Control Regulations") made under Section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

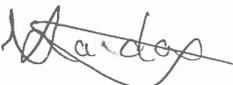
**Xinming Mountain Textile (Pty) Limited**  
**(Registration number 1998/016062/07)**

of:

PO Box 1388  
Pinetown  
3600

**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E of the Exchange Control Regulations delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, *inter alia*, the Governor or the Deputy Governor of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as the Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 the amount of R329 794,68 being capital standing to the credit of Xinming Mountain Textile (Pty) Limited, in account number 74445892918, held with FirstRand Bank Limited, together with any interest thereon and/or other accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by deposit thereof to the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Regulation 22B of the Exchange Control Regulations, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 16 day of August 2018.



**K Naidoo**  
**Deputy Governor**  
**South African Reserve Bank**

**SOUTH AFRICAN RESERVE BANK****NOTICE 515 OF 2018****Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

**Sun Candle Products (Pty) Limited**  
(Registration number 1997/16884/07)

(hereinafter referred to as the Respondent)

of:

11 Morgan Road  
Pinetown  
Durban  
3610

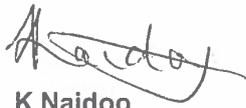
**Be pleased to take notice that:**

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
  - 2.1 The capital amounts together with any interest thereon and/or any accrual thereto standing credit of the respondent in the following bank account numbers, held in various Authorised Dealers:

Authorised Dealer	Account number	Amount
ABSA Bank Limited	406 7086 811	R1 443 958,73
ABSA Bank Limited	930 9316 002	R1 970 944,21
FirstRand Bank Limited	92196441754	R678 085,02
FirstRand Bank Limited	92196441754	USD180 000,00
The Standard Bank of South Africa Limited	506 6282 1 000	R521 829,51
Nedbank Limited	135 6019 080	R2 228,88
Nedbank Limited	37648043661000001	R42 603,34
Nedbank Limited	37648043661000002	R4 800,16
Nedbank Limited	1557000034 (Suspense account)	R1 039 036,60

3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.

6. Signed at Pretoria on this 17 day of August 2018.



**K Naidoo**  
Deputy Governor  
South African Reserve Bank

**STATISTICS SOUTH AFRICA**  
**NOTICE 516 OF 2018**

THE HEAD: STATISTICS SOUTH AFRICA notifies for general information that the Consumer Price Index is as follows:

Consumer Price Index, Rate (Base Dec 2017=100)

**2018:**

Rate: **July 2018 – 5,0**

## DEPARTMENT OF TRADE AND INDUSTRY

## NOTICE 517 OF 2018

STANDARDS ACT, 2008  
STANDARDS MATTERS

In terms of the Standards Act, 2008 (Act No. 8 of 2008), the Board of the South African Bureau of Standards has acted in regard to standards in the manner set out in the Schedules to this notice.

**SECTION A: DRAFTS FOR COMMENTS**

The following draft standards are hereby issued for public comments in compliance with the norm for the development of the South Africa National standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title, scope and purport	Closing Date

**SCHEDULE A.1: AMENDMENT OF EXISTING STANDARDS**

The following draft amendments are hereby issued for public comments in compliance with the norm for the development of the South African National Standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title	Scope of amendment	Closing Date
SANS 96 Ed 1.1	<i>Batch sampling and acceptance criteria for explosion-protected apparatus (EPA).</i>	Amended to update the foreword, the definitions, the clause on sampling procedures and the subclause on compliance requirements the reference to the test laboratory (ATL).	2018-10-16

**SCHEDULE A.2: WITHDRAWAL OF THE SOUTH AFRICAN NATIONAL STANDARDS**

In terms of section 24(1)(C) of the Standards Act, the following published standards are issued for comments with regard to the intention by the South African Bureau of Standards to withdraw them.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date
SANS 10399 Ed 1	<i>Quality management systems - Requirements for bus operators.</i>	The Standard is obsolete with no replacement.	2018-10-31
SANS 14969 Ed 1	<i>Medical devices - Quality management systems - Guidance on the application of ISO 13485:2003.</i>	The Standard is obsolete with no replacement.	2018-10-31
SANS 11537 Ed 1	<i>Non-destructive testing - Thermal neutron radiographic testing - General principles and basic rules.</i>	The Standard is obsolete with no replacement.	2018-10-31

**SCHEDULE A.3: WITHDRAWAL OF INFORMATIVE AND NORMATIVE DOCUMENTS**

In terms of section 24(5) of the Standards Act, the following documents are being considered for withdrawal.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date

**SECTION B: ISSUING OF THE SOUTH AFRICAN NATIONAL STANDARDS****SCHEDULE B.1: NEW STANDARDS**

The following standards have been issued in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport

Standard No. and year	Title, scope and purport
SANS 1135:2018 Ed 1	<i>Wireless communication site engineering.</i> Covers requirements and responsibility that the site owners and radio spectrum users have in order to ensure that wireless sites are used to their optimum.

**SCHEDULE B.2: AMENDED STANDARDS**

The following standards have been amended in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport
SANS 164-5:2018 Ed 1.2	<i>Plug and socket-outlet systems for household and similar purposes for use in South Africa Part 5: Two-pole (Class II), 2,5 A 250 V a.c. non-rewireable plug. Consolidated edition incorporating amendment No. 1.</i> Amended to change the title of the standard, and to update the list of parts in the foreword.
SANS 1507-2:2018 Ed 1.3	<i>Electric cables with extruded solid dielectric insulation for fixed installations (300/500 V to 1 900/3 300 V) Part 2: Wiring cables. Consolidated edition incorporating amendment No. 3.</i> Amended to update referenced standards and the table on core identification (table 1).

**SCHEDULE B.3: WITHDRAWN STANDARDS**

In terms of section 24(1)(C) of the Standards Act, the following standards have been withdrawn.

Standard No. and year	Title

**SCHEDULE B.4: ESTABLISHMENT OF TECHNICAL COMMITTEES**

In terms of section 4(2) (1) the South African Bureau of Standards has established the following technical committees:

Technical Committee No.:	Title	Scope

**SCHEDULE B.4: DISBANDMENT OF TECHNICAL COMMITTEES**

In terms of section 4(2) (1) the South African Bureau of Standards has disbanded the following technical committees:

Technical Committee No.:	Title	Scope

If your organization is interested in participating in these committees, please send an e-mail to [Dsscomments@sabs.co.za](mailto:Dsscomments@sabs.co.za) for more information.

**SCHEDULE 5: ADDRESSES OF THE SOUTH AFRICAN BUREAU OF STANDARDS OFFICES**

The addresses of offices of the South African Bureau of Standards where copies of the standards mentioned in this notice can be obtained, are as follows:

1. Gauteng Head Office, 1 Dr Lategan Road, Groenkloof, Private Bag X191, Pretoria 0001.
2. Western Cape Regional Office, SABS, Liesbeek Park Way, Rosebank, PO Box 615, Rondebosch 7701.
3. Eastern Cape Regional Office, SABS, 30 Kipling Road, cor. Diaz and Kipling Roads, Port Elizabeth, PO Box 3013, North End 6056.
4. KwaZulu-Natal Regional Office, SABS, 15 Garth Road, Waterfall Park, Durban, PO Box 30087, Mayville 4058.

DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 518 OF 2018



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

**INTELLECTUAL PROPERTY POLICY OF**  
**THE REPUBLIC OF SOUTH AFRICA**  
**PHASE I**

**Division:** International Trade and Economic Development



# Intellectual Property Policy of The Republic of South Africa Phase I 2018

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## 1. List of Abbreviations

- ABS Access and Benefit Sharing
- ACIP Australia's Advisory Council on IP
- AMR Antimicrobial resistance
- ARIPO African Regional Intellectual Property Organization
- AU African Union
- BRICS Brazil, Russia, India, China, South Africa
- CBD Convention on Biological Diversity
- CIDP Committee on Development and Intellectual Property
- CIPC Companies and Intellectual Property Commission
- CEDAW Convention on the Elimination of all Forms of Discrimination against Women and Girls
- CEWG Consultative Expert Working Group on Research and Development: Financing and Coordination
- CRC Convention on the Rights of the Child
- CRPD Convention on the Rights of Persons with Disability
- G20 Group of 20
- GI Geographical Indication
- ICESCR International Covenant on Economic, Social and Cultural Rights
- IMCIP Inter-Ministerial Committee on Intellectual Property
- IP Intellectual Property
- IPAP Industrial Policy Action Plan
- IPR Intellectual Property Rights
- LDC Least Developed Countries
- LMMC Like-Minded Mega-Diverse Countries
- NDP National Development Plan
- NGP New Growth Path Framework
- NEDLAC National Economic Development and Labour Council
- NIPF National Industrial Policy Framework
- OAPI Organisation Africaine de la Propriété Intellectuelle
- PAIPO Pan African Intellectual Property Organization
- PCT Patent Cooperation Treaty
- R&D Research and development
- SDG Sustainable Development Goals
- SADC Southern African Development Community
- SAHPRA South African Health Products Regulatory Agency
- SMMEs Small, medium and micro-enterprises
- SSE Substantive Search and Examination
- **the dti** The Department of Trade and Industry
- TRIPS The Agreement on Trade-Related Aspects of Intellectual Property Rights
- UNCTAD United Nations Conference on Trade and Development
- UNDP United Nations Development Programme
- UNHLP United Nations Secretary General's High Level Panel on Access to Medicines
- UPOV International Convention for the Protection of New Varieties of Plants
- WHO World Health Organization
- WIPO World Intellectual Property Organization
- WTO World Trade Organization

## 2. Introduction

The National Development Plan (NDP) of South Africa calls for a greater emphasis on innovation, improved productivity, an intensive pursuit of a knowledge economy and the better exploitation of comparative and competitive advantages. Intellectual Property (IP) is an important policy instrument in promoting innovation, technology transfer, research and development (R&D), creative expression, consumer protection, industrial development and more broadly, economic growth.

South Africa's economic development strategy aims to accelerate growth along a path that generates sustainable and decent jobs in order to reduce poverty and the extreme inequalities that characterise our society and economy. The National Industrial Policy Framework (NIPF), implemented through the Industrial Policy Action Plan (IPAP), is a central component of our economic development strategy. The NIPF and IPAP seek to encourage and upgrade value-added, labour-absorbing industrial production, and diversify the economy, by moving away from the current over-reliance on commodities and non-tradable services. Knowledge, innovation and technology are increasingly becoming the drivers of progress, growth and wealth.

Therefore, South Africa needs to transition towards a knowledge economy, and away from an over-reliance on natural resources. A specific framework of conditions is necessary to enable South Africa to make this transition, and an IP Policy is one of the core elements required to achieve this objective.

The South African Constitution already protects intellectual property rights (IPR) from arbitrary deprivation and in recent decades, South Africa has made significant strides in the just protection, administration, management, and deployment of IP.

Statutes relating to IP in South Africa include, but are not limited to:

- Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008
- National Environmental Management: Biodiversity Act 10 of 2004
- Patents Act 57 of 1978
- Merchandise Marks Act 17 of 1941
- Copyright Act 98 of 1978
- Designs Act 195 of 1993
- Plant Breeders' Rights Act 15 of 1976
- Trade Marks Act 194 of 1993

Despite attention paid to IP law-making in the country, there is a need for a comprehensive IP Policy that will promote a holistic, balanced and coordinated approach to IP that is mindful of the many obligations mandated under the South African Constitution.

The goals of this comprehensive IP Policy are:

- To consider the development dynamics of South Africa and improve how IP supports small institutions and vulnerable individuals in society, including in the domain of public health
- To nurture and promote a culture of innovation, by enabling creators and inventors to reach their full potential and contribute towards improving the competitiveness of our industries
- To promote South African arts and culture
- To solidify South Africa's various international obligations, such as the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (Nagoya Protocol on ABS), in the service of our genetic resources and traditional knowledge associated with genetic resources

The strategy employed in this comprehensive IP Policy includes:

- Advancing a balanced and coordinated approach to IP that regulates IPRs in line with the South African Constitution
- Introducing key policy reforms that account for the development dynamics of South Africa
- Promoting innovation and a knowledge economy
- Leveraging competitive and comparative advantages to advance the transformation of the South African economy

The overarching objective is to ensure that this comprehensive IP Policy becomes a just, balanced, and integral part of the broader development strategy for South Africa by assisting in transforming the South African economy, and thereby leveraging human resources for the broader economic benefit, increasing local manufacturing, and generating more employment.

The comprehensive IP Policy will be implemented in a phased approach. The current document constitutes the first phase in what will be a comprehensive policy to be developed and updated over the medium term. Phase I covers IP and public health, coordination in international forums, and the implementation of commitments undertaken in international agreements. Phase I priorities have been identified on the basis of South Africa's development objectives, supplemented by research, analysis, and experience, as well as assessments of existing capacity to implement the measures outlined herein.

The comprehensive IP Policy proposes key reforms that are aimed at advancing South Africa's socio-economic development objectives as outlined in key policy documents of the national government, such as the National Development Plan (NDP), the New Growth Path Framework (NGP), National Drug Plan, NIPF and the various iterations of IPAP.

The key reforms include:

- The introduction of substantive search and examination (SSE) for patents, which is a key step towards ensuring that the patent regime fulfils its purpose of stimulating genuine innovation. This will benefit patent holders by granting them rigorously assessed rights, and benefit the public at large by ensuring that market exclusivity is only granted when appropriate. Importantly, SSE will not only apply in the health sphere; it will eventually have much broader application. However, with due regard to capacity constraints and resources, the IMCIP – in consultation with diverse stakeholders – will determine the initial fields in which full SSE will occur. These fields will be progressively expanded, as the capacity of the state increases.
- The leveraging of flexibilities contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to ensure that South Africa protects IPRs while simultaneously promoting public health, local manufacture, research and development, innovation, food security, environmental considerations, transfer of technology and broad socio-economic development.
- The promotion of regional cooperation and integration in IP.
- A commitment to all relevant international obligations South Africa is party to.
- The promotion of economic empowerment through, among other means, the implementation of the “utility model” to support the registration of patents by resident small, medium and micro-enterprises (SMMEs), historically disadvantaged individuals, and companies who are operating in the informal sector. This entails enacting exclusivity similar to a patent right, granted by a state, to an inventor or the inventor’s assignee, for a fixed period of time. However, the terms and conditions for granting a utility model are slightly different from those for ordinary patent, including a shorter term of protection and less stringent patentability requirements. The term “utility model” is sometimes addressed differently in other countries, with the terms “petty patents”, “short-term patents” or “innovation patents”.
- A coordinated approach to creating awareness about IP among South Africans, so as to protect nationally-owned IP that is related to indigenous resources, traditional innovation and traditional knowledge.
- The creation of a system for protection for traditional knowledge which will guard against misappropriation and exploitation, as well as promote further research and development into products and services based on traditional knowledge.
- The promotion of international best-practices in IP that align with South Africa’s development objectives.

The IP Policy is ordered as follows:

- Section 3 contains the problem statement that sets out the need for the IP policy and the key issues it will address.
- Section 4 consists of the purpose of the IP Policy within the context of South Africa's broader development objectives.
- Section 5 contains the strategy which outlines a phased-approach towards the development of a comprehensive IP Policy.
- Section 6 highlights the role of the Inter-Ministerial Committee on IP (IMCIP), whose purpose is to harness the collective resources available within government as a whole, to the benefit of the people of South Africa.
- Section 7 articulates in detail what is entailed under Phase I of the IP Policy.
- Section 8 summarises and outlines the "in-built" agenda, that is, IP issues which will be explored in detail and implemented in the medium term.
- Finally, Section 9 concludes by setting the IMCIP the task of implementing the IP Policy.

### 3. Problem Statement

Broadly, while South Africa has made significant progress in the deployment of IP within the country, and has ensured that it has a legislative framework that protects IP, the country yet lacks a comprehensive IP Policy that will promote a holistic, balanced and coordinated approach to IP. What is required is a comprehensive IP Policy that will promote and contribute to South Africa's socio-economic development betterment, by promoting local manufacture, preserving and leveraging the country's resources and heritage, encouraging innovation, and empowering domestic industries and individuals who seek to take advantage of the IP system.

Specifically, the intersection of IP and public health has long been an issue of contention within South Africa, and one without resolution to date. Recognition of the problem began as early as 1997, with amendments to the Medicines Act, and the subsequent case, *PMA v the President of the Republic of South Africa*. Thus, it has been twenty years since the problem was identified. As both a constitutionally guaranteed right, as well as a key development goal, the issue of access to health care services – and the role of IP in delivering public health – has been at the forefront of human rights debates in the country.

A substantial part of the problem with optimising the role of IP in public health is that South Africa does not conduct SSE prior to the grant of patents. Our patent laws and implementing regulations are such that the Registrar of Patents, housed within the Companies and Intellectual Property Commission (CIPC), only conducts examination in relation to the formalities of the application. Hence, South Africa employs a so called “depository system” in terms of which the subject of a patent application is *only* examined against the substantive criteria of novelty, inventive step, and industrial applicability *if* the patent is challenged in litigation, such as in relation to infringement or revocation.

A recent comparative study conducted by scholars from Columbia and Harvard Universities reveals that South Africa grants a far higher percentage of patents from all applications filed in the country than virtually any other comparable country.<sup>1</sup> On average, 93% of patents applied for in South Africa were granted, as compared to 61% in the United States of America, 53% in Mexico, 51% in the European Union (51%), and only 29% in Japan. World Intellectual Property Organisation (WIPO) statistics demonstrate that within comparable developing countries, the figures from India and Brazil show even lower rates of granting: in 2015, India approved 19% of all patent applications, while Brazil approved a mere 14%.<sup>2</sup>

Historically, the depository system for patents was instituted in South Africa due to resource constraints. A depository system places the cost of substantive examination on parties that are directly interested in the patent, thereby allowing the state to direct scarce technical skills toward infrastructure and other key developmental areas. Despite this benefit, there

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<sup>1</sup> Sampat and Shadlen, The Effects of Restrictions on Secondary Pharmaceutical Patents: Brazil and India in Comparative Perspective [http://economics.harvard.edu/files/economics/files/sampat-bhavan\\_effects\\_of\\_restrictions\\_on\\_secondary\\_pharma\\_patents\\_brazil\\_and\\_india\\_3-4-16.pdf](http://economics.harvard.edu/files/economics/files/sampat-bhavan_effects_of_restrictions_on_secondary_pharma_patents_brazil_and_india_3-4-16.pdf)

<sup>2</sup> [http://www.wipo.int/ipstats/en/statistics/country\\_profile/](http://www.wipo.int/ipstats/en/statistics/country_profile/)

are substantial drawbacks for both producers and users of IP. For producers, the lack of examination reduces the security of their patents, since the grant of a patent does not guarantee that the subject of the patent meets patentability criteria in the country, or that it does not contain subject matter excluded by law. Indeed, scholars from a leading South African university conducted a study which found that a significant number of patents granted in South Africa would not pass muster under an examining system.<sup>3</sup>

Users of IP are prejudiced on the other hand because subject matter that should be in the public domain can be unfairly monopolised by exclusive rights. Moreover, the underlying policy rationale of patents is to serve as an incentive to stimulate innovation. Granting an exclusive right in the absence of genuine innovation is anathema to the proverbial bargain that the patent holder is supposed to strike with society, namely, disclosure in return for monopoly protection, resulting in society being short-changed, and overall negative consequences for both access and innovation.

In addition, South Africa's approach to international IP cooperation is currently not optimally coordinated, whether between government departments or even, in some cases, within a single government department. It is not always clear that international positions are taken with a clear understanding of obligations in our Constitution. It is also not clear that we are currently taking full advantage of the opportunities presented by globalisation, as manifested in various international treaties, to uplift vulnerable sections of South African society, and contribute to development on the African continent.

A coordinated South African approach to IP informed by South Africa's development imperatives is sorely missing, and urgently necessary. The IMCIP, a consultative forum and drafting team aimed at achieving a holistic approach to the IP Policy formulation process, is a first step in achieving this coordination, but not an end in itself. What is required is for government officials across departments and functions to be able to take on harmonised negotiating positions at multilateral forums, in order that we may be able to take advantage of every developmental opportunity that serves to boost South African social and economic advancement.

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<sup>3</sup> Pouris and Anastassios Pouris, 'Patents and economic development in South Africa: Managing intellectual property rights'. South African Journal of Science. 2011, 107(11/12) Art. #355, available at: <http://dx.doi.org/10.4102/sajs.v107i11/12.355>

#### 4. Purpose

The National Development Plan (NDP) calls for greater emphasis on innovation, improved productivity, the intensive pursuit of a knowledge economy and better exploitation of comparative and competitive advantages.

Though there is broad agreement at a political level that IP is an important policy instrument in promoting innovation, technology transfer, research and development (R&D), creative expression, consumer protection, industrial development and more broadly, economic growth, the precise contours of IP regulation are contested. Economic literature reveals an inconclusive link between increased IP protection and economic development. For example, in a report on the international patent system, the WIPO secretariat noted that:

“Inconclusive empirical evidence on the role of the patent system to encourage research and development (R&D) and technology transfer makes it difficult to draw any clear-cut conclusion about the effectiveness of the patent system for economic development”.<sup>4</sup>

Leading economists that have applied their minds to the issue have similar views.

In a study published by the National Bureau of Economic Research in the US, Harvard Professor, Josh Lerner surveys data from 72 countries over 150 years and opines that “to date, there is no robust empirical evidence that stronger patent rights indeed stimulate growth”.

Nobel Laureate in Economics Professor Joseph Stiglitz recently wrote:

“The developing country needs to ask, what IPR (or more broadly, innovation system) best advances its own standard of living. Stronger IPR may constitute a barrier to the ability of its firms catching up to the frontier, even if it enhances innovation within the country. Because developing countries are engaged in catching up, the optimal IPR regime for them will in general differ from that for a more advanced economy”.<sup>5</sup>

These are but a sample of numerous studies by leading economists that draw similar conclusions.

A comprehensive IP Policy that examines the issue in the context of the South African reality, and optimises its regulation is necessary. Verily, no singular approach can be deemed universally appropriate for heterogeneous territories with varying and dynamic

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<sup>4</sup> SCP/12/3 Rev. Standing committee on the law of patents, Twelfth session, Geneva, June 23 to 27, 2008. Report on the International Patent System. Available at:

[http://www.wipo.int/edocs/mdocs/scp/en/scp\\_12/scp\\_12\\_3\\_rev.pdf](http://www.wipo.int/edocs/mdocs/scp/en/scp_12/scp_12_3_rev.pdf)

<sup>5</sup> Stiglitz et al, Innovation, Intellectual Property and Development, A Better Set of Approaches for the 21<sup>st</sup> Century, available at: <http://ip-unit.org/wp-content/uploads/2017/07/IP-for-21st-Century-EN.pdf>

levels of development and socio-economic circumstances. Each country must deploy its own intellectual resources to ascertain and effect the appropriate policy, and hence, the importance of this exercise.

South Africa requires a coordinated and balanced approach to IP that provides effective protection of IPR and responds to South Africa's unique innovation and development dynamics. South Africa's IP Policy must first and foremost engender the ethos of the South African Constitution. It must also reflect the country's industrial policy and broader socio-economic development objectives. Hence, the IP Policy must be informed *inter alia* by the Constitution, NDP, NIPF and the various iterations of IPAP. It should also be aligned to the country's objectives of promoting local manufacturing, competitiveness and transformation of industry in South Africa. This must be done within a broader context where the state is bound to respect and implement various international commitments; those pertaining to human rights are of fundamental importance. The policy will also strengthen South Africa's commitments to its international obligations such as the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access and Benefit Sharing (ABS) as far as IP relating to genetic resources and traditional knowledge associated with genetic resources.

Beyond compliance with international obligations, South Africa must play its part in shaping the global order at various forums where IP is discussed such as WIPO, the World Trade Organisation (WTO), the World Health Organisation (WHO), the Group of Twenty (G20), political formations such as the Brazil, Russia, India, China & South Africa forum (BRICS) and in African regional organisations. This requires a coordinated South African approach to IP that is informed by South Africa's development imperatives. International cooperation must aim to make IP a tool to achieve sustainable development within the country.

The South African Constitution provides a balanced approach to property rights in general by affording protection against arbitrary deprivation of property, while also taking into account the public interest. In this regard, public interest includes the nation's commitment to bring about reforms that promote equitable access to services and products involving IP, such as in the sphere of health.

It should be recalled that IP is an instrument of industrial policy that is tailored by state organs to accomplish development objectives. IP is typically characterized by limitation, such as regarding its duration. The characterization of IP as property should be understood within this context. As nations adjust their industrial policy, including in relation to social policy, so too do they adjust the rights and obligations of IP holders<sup>6</sup>. In line with the South African Constitution, a balanced approach will be taken in the development of the IP Policy.

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<sup>6</sup> In the United States (US) for instance, judicial decisions regarding the scope of IP subject matter can and do eliminate broad categories of previously patented inventions, invalidating previously granted patents., See, e.g., the decision of the US Supreme Court in *Association for Molecular Pathology v. Myriad Genetics*, 133 S Ct 2107 (2013), in which the Court determined that human genes (and their DNA sequences) as found in nature are not patentable subject matter.

The IP Policy seeks to advance the following objectives:

- Engender the ethos of the Constitution
- Align the country's IP regime to its NDP and broad industrial policy
- Develop a co-ordinated inter-Ministerial approach to IP
- Strike a balance between the owners and users of IP
- Stimulate genuine innovation
- Facilitate the development of key industries while striking a balance with the public interest
- Foster investment and technology diffusion
- Adopt a coordinated approach to IP in sub-regional, regional and international forums
- Promote public health
- Comply with international obligations, in particular those pertaining to human rights.

## 5. Strategy

The IP Policy is a necessary and eagerly awaited document, in view of the important issues and interests that it will affect. There is a need to urgently address key areas, such as IP and public health, in relation to which significant analysis and consultation have been conducted. Yet, urgency cannot be a reason to sacrifice the requisite depth of analysis required to address highly technical, important, and contentious issues.

As a means of enabling government to pursue urgent action in some areas, conduct further in-depth study and consultation in others, and to respond to a fast-evolving discipline, formulation of the IP Policy will be conducted using a dynamic, phased approach. The issues have been categorized into immediate, medium term, and monitoring & evaluation.

The immediate issues have been analysed and tangible reforms suggested in consultation with inter-Ministerial partners and external stakeholders.

The medium-term issues form part of the in-built agenda. These are key areas that require further in-depth study. Such study will be done with due regard to international best practices from a broad range of sources including *inter alia* industrialised nations and countries with similar developmental and socio-economic considerations, as well as multilateral organizations, such as, but not limited to, the World Health Organization (WHO), WIPO, the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Development Programme (UNDP). Ultimately, however, national considerations and priorities will be paramount.

The monitoring and evaluation of existing initiatives will be undertaken with a view to alignment with the broader IP Policy, where necessary.

Based primarily on institutional capacity within government, as well as public interest considerations, two main themes are addressed substantively in the immediate term. These are the intersection between IP and public health, which covers, among others, medicines, vaccines and diagnostics, as well as South Africa's approach to international IP cooperation.

## 6. IMCIP

Given the cross-cutting nature of IP, ensuring inter-departmental coordination is key. While **the dti** may lead on IP, only a collaborative effort can harness the collective resources available within government as a whole, to the benefit of the people of South Africa. For this reason, Cabinet approved the establishment of the Inter-Ministerial Committee on Intellectual Property (IMCIP). The Report of the United Nations Secretary General's High Level Panel on Access to Medicines (UNHLP) states that governments should strengthen national level policy and institutional coherence between trade and intellectual property, and promote the right to health and public health objectives by establishing national inter-ministerial bodies to coordinate laws, policies, and practices that may impact on health technology innovation and access<sup>7</sup>. The establishment of the IMCIP is therefore aligned to this recommendation.

The IMCIP is currently comprised of government officials responsible for implementing programs that either affect, or are affected, by IP. The IMCIP is constituted by the Ministries of Trade and Industry, Health, Economic Development, International Relations and Cooperation, Science and Technology, Communications, Telecommunications and Postal Services, Higher Education and Training, Agriculture Forestry and Fisheries, Arts and Culture, Energy and Environmental Affairs.

The IMCIP serves as a consultative forum and drafting team aimed at achieving a coordinated approach to the IP Policy formulation process. This function will continue into the future, with membership being adjusted accordingly as we pursue the broader in-built agenda. In addition, the IMCIP will ensure implementation of the IP Policy in government programs.

Another key function that the IMCIP will serve is to ensure a consistent and coherent government approach at multilateral IP forums. Such an approach must be consistent with the principles of the IP Policy, as well as the country's broader developmental objectives and its human rights framework. To this end, the IMCIP will work closely with government officials representing South Africa at multilateral forums to ensure harmonised negotiating positions. This is congruent with the United Nation's (UN's) 2030 Agenda for Sustainable Development, and, in particular, Sustainable Development Goal (SDG) 17 which seeks to revitalise a global partnership for sustainable development, *inter alia*, by enhancing policy coherence for sustainable development.<sup>8</sup>

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<sup>7</sup> UNHLP at page 36

<sup>8</sup> United Nations General Assembly (2015) Transforming our world: The 2030 Agenda for Sustainable Development, A/70/L.1. Available at:  
[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

## 7. Phase I

Phase I will cover the following issues:

### **IP and public health**

Sub-issues include:

- Local manufacture and export in line with industrial policy
- Patent–substantive search and examination
- Patent opposition
- Patentability criteria
- Disclosure requirements
- Parallel importation
- Exceptions
- Voluntary licensing
- Compulsory licences
- IP & competition law
- Rule of law & legal certainty

### **International IP cooperation**

Sub-issues include:

- Multilateral arrangements
- Regional and bilateral arrangements.

### **7.1 IP and public health**

The South African government has a long history of engaging with issues at the intersection of IP and public health. Indeed, the 1999 case, *PMA v the President of the Republic of South Africa* – when a consortium of multinational pharmaceutical companies sought to block amendments to the Medicines Act in 1997 that would expand access to medicines – was a key factor leading to global dialogue around the potentially negative impact of IPRs on public health,<sup>9</sup> culminating in the Doha Declaration on TRIPS and Public Health.<sup>10</sup>

South Africa has been a key driver of the now global recognition that the duty owed by states to safeguard public health is not inconsistent with their concomitant responsibility to honour international treaty obligations. Tellingly, paragraph 4 of the Doha Declaration on TRIPS and Public Health states as follows:

*“We agree that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all.”*

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<sup>9</sup> Case 4183/98.

<sup>10</sup> WT/MIN(01)/DEC/2, 20 November 2001.

Having said this, the South African government has to date not made full use of the flexibilities available within international trade rules through the pursuit of appropriate national policy and legislation. This is despite a constitutional imperative to increase access to medicines as a component of the state's obligation to take reasonable measures toward the realization of the right to healthcare services. Indeed, this constitutional imperative is reflected in government policies such as the NDP and the National Drug Policy for South Africa.

Consultations with a leading medical funder in South Africa have revealed that at least 20 pharmaceutical products on the market in South Africa are commercially available at between a 9%-35% cheaper price in jurisdictions where biosimilars are available. These products are still under patent in South Africa, despite their expiry in other jurisdictions due to sub-optimal features of the South African patent system. Further examples of the failures of the current system are documented in studies from civil society, such as the 2016 paper entitled "Patent barriers to medicine access in South Africa: A case for reform".<sup>11</sup>

Government engagements with patient groups over the last two decades have highlighted the dire circumstances that ensue from lack of affordability. The state is obliged to work toward sustainable redress.

In addition to these domestic obligations, the state's duty to progressively realise the right to health is captured in international instruments which South Africa has ratified such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), Convention on the Elimination of all Forms of Discrimination against Women and Girls (CEDAW), the Convention on the Rights of Persons with Disability (CRPD), and regional treaties such as the African Charter on Human and Peoples' Rights.

It is therefore fitting that the IP Policy should support these domestic and international instruments pertaining to the right to health.

What follows is a discussion of key areas identified by **the dti** as domains where a more equitable balance could be struck between private and public interest. The purpose of highlighting these issues is to garner the views of governmental partners on how best to achieve an appropriate balance. The aim is to ensure that South Africa protects IPRs and at the same time achieves its objectives of promoting national development imperatives, which include, among others, boosting local manufacturing, promoting innovation and ensuring equitable access to medicines. This will require the development of an appropriate framework for granting patents. A number of interventions, as outlined below, will be explored.

### **7.1.1 Local manufacture and export in line with industrial policy**

*Increasing the local production of pharmaceuticals to meet domestic needs, as well as creating export opportunities within the continent and beyond, is an overarching goal of the IP Policy, and in line with the National Development Plan (NDP), as well as the National Industrial Policy Framework (NIPF), implemented through the Industrial Policy Action Plan (IPAP). Substantive policy recommendations that follow in this document, are, each one of them, designed to boost local production and export, though it is recommended that additional policy measures be implemented in order that domestic industry is encouraged to take full advantage of the opportunities offered in the IP Policy.*

The pharmaceutical industry is one of the priority sectors identified by IPAP. The contribution of this industry to South Africa's GDP has declined from 1.6% to 1.1% over the past six years. Having said this, the sector provides direct employment to approximately 10,000 people, and the downstream segment provides approximately 25,000 jobs.

The local pharmaceutical market (a two-tier pharmaceutical market, divided into the public and private market) is the largest in Sub-Saharan Africa, and worth a total estimated R40 billion annually. In spite of this, the South African pharmaceuticals sector is still relatively small by international standards, constituting a mere 0.4% and 1% of the global market by value and volume respectively. There is tremendous potential for this sector to grow and contribute value-added jobs to the South African economy. Growth of the domestic pharmaceutical industry will contribute to the sustainability of supply and allow the country to fulfil key health objectives as outlined in the National Drug Policy, in particular, to ensure the availability and accessibility of essential drugs.

It is estimated that 65% of the domestic demand for pharmaceuticals, by value, is met by imports, and that medical products are the fifth largest contributor to South Africa's trade deficit. While imports are an important source of medicines, increasing domestic capacity by promoting localization will ensure our security of supply, given, *inter alia*, that the country's unique disease burden necessitates drugs formulated using specific active pharmaceutical ingredients (APIs) of which global supply is limited. Moreover, a vibrant pharmaceutical production sector is important to developing and maintaining the science and technology community in South Africa, as the availability of employment opportunities is critical to whether a student or researcher channels his or her efforts toward a particular scientific area.

In addition, recent experience in many countries demonstrates that reliance on a limited number of medicines suppliers, including for generic products, may result in substantial price increases because of a lack of competition. One important mechanism for promoting reasonable pricing is to ensure a diversity of supply sources, including through local production.

The WHO recognises that formulating a national IP system that is conducive will go a long way in stimulating the local production of pharmaceuticals. (It also acknowledges that other factors play a part, such as whether local producers have the required technical know-how to manufacture a particular product without the need for technology transfer, the availability of a trained workforce, existing infrastructure, local market conditions and disease burden). Therefore, formulating an appropriate IP Policy and implementing the corresponding legal framework can contribute to significantly strengthening the local industry.

Policy instruments outlined below will be used to promote local manufacture as a means of securing sustainability of supply and reducing the trade deficit, while not unduly restricting access to essential goods in the process.

### 7.1.2 Substantive Search and Examination

*The examination of patent applications within the sovereign territory of South Africa is a key component of an evolved IP ecosystem. This examination, or “substantive search and examination” is of great benefit to holders and users of IP, in that it provides a robust framework for the awarding and management of IP. Capacity constraints in South Africa, however, require a phased, strategic approach in line with national developmental goals. This approach is explicitly encouraged by WIPO and other multilateral bodies engaged in regulating global IP norms.*

It is a matter of much debate that South Africa does not conduct SSE prior to the grant of patents. Section 34 of the Patents Act 57 of 1978 (Patents Act) read together with Regulations 40 and 41 of the Patent Regulations, 1978 (Patent Regulations) have the effect that the CIPC only conducts examination in relation to the formalities of the application. Hence, South Africa employs a so-called depository system.

The major benefit of the depository system is that it places the cost of substantive examination on parties that are directly interested in the patent, usually, in the event that the grant of a patent is challenged at the level of the Commissioner of Patents. This allows the state to allocate scarce technical skills toward infrastructure development and other key developmental areas. Despite this benefit, there are major drawbacks for both the producers and users of IP resulting from the depository system which have been canvassed in numerous studies. The introduction of SSE will result in greater legal certainty for patent owners and ensure that the public interest is served by ensuring that the patent system truly promotes innovation. It is crucial to work toward the adoption of SSE. The underlying policy rationale of patents is to serve as an incentive to stimulate innovation, and SSE is a key tool to ensure this objective is met. In principle, therefore, patent applications should always be subjected to substantive examination. In practice, however, countries may not yet have the human and/or financial resources to put into place and properly implement a full system of substantive examination.

In a 2014 *Policy Guide on Alternatives in Patent Search and Examination*,<sup>12</sup> WIPO states that one of the ways to address capacity constraints is by “limiting substantive examination to certain strategic fields of technology for the country concerned.” It continues to state that: “Applications relating to other fields of technology may be subject to formality examination only or to outsourcing either within or outside the country.”

Fundamentally, adopting a SSE approach which takes into consideration a nation’s capacity constraints and legitimate public interest by prioritising certain sectors would not conflict with the TRIPS Agreement. Any interpretation of Article 27.1 of the TRIPS Agreement must be conducted in accordance with the Vienna Convention on the Law of the Treaties. Article 27.1 of TRIPS only refers to discrimination in respect of three hypotheses (the place of invention, the field of technology and whether products are imported or locally produced) and only in relation to the availability and 'patent rights enjoyable'. Therefore, that provision could not be the basis for a successful complaint where the examination of

<sup>12</sup> At page 8. The policy guide is available online at [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_guide\\_patentsearch.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_guide_patentsearch.pdf)

patents (a hypothesis not covered in Article 27.1) is deployed only in certain strategic areas, since patents in other areas would still be upheld, and the scope and content of patent rights would not be affected. Moreover, it has previously been determined in the WTO dispute settlement process that Article 27.1 of the TRIPS Agreement permits differentiation among fields of technology for legitimate reasons, which would naturally include assessing patent applications for different subject matter areas in a manner appropriate to those areas<sup>13</sup>. In addition, phasing-in SSE in a manner that recognizes the importance of assuring adequate technical capacity among patent examiners and efficient organization of the SSE process is without doubt a legitimate basis for differentiating among patent subject matter areas, particularly for developing countries.

Having said this, concerns expressed by some stakeholders that patent applications in only one field of technology (namely pharmaceuticals) will be subject to full substantive examination are misplaced. The intention is to identify a range of strategic sectors for full SSE, including and beyond the health sphere, based on capacity within government, as well as development and public interest considerations. As government's capacity expands, the fields which are subjected to full substantive patent examination will be expanded concomitantly and with on-going consultation. Determination of the fields that will initially be subject to full substantive examination will be done in consultation with a broad range of stakeholders including, among others, the IMCIP, industry and civil society. The SSE Guidelines, to be developed in due course, pursuant to extensive consultations, will detail the precise modalities.

It is important to note that the CIPC has gone to great lengths to capacitate a very able cohort of patent examiners. The examiners are all experts in their respective technical fields, with a significant number holding PhDs. In addition, the examiners have received theoretical and practical training from South African institutions, WIPO, and some of the world's most efficient patent offices. Furthermore, CIPC has been working closely with the European Patent Office (EPO) pursuant to a memorandum of understanding between the two offices.

SSE is by no means unprecedented in Africa, with the Egyptian and Ethiopian offices carrying out SSE at the national level and the African Regional Intellectual Property Office (ARIPO) doing so in accordance with the Harare Protocol. In light of the significant training and international cooperation being brought to bear by CIPC and its partners, it stands to reason that South Africa is at the very least, no less well placed than its continental forebears to evolve from a depository system.

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<sup>13</sup> see Canada – Patent Protection for Pharmaceutical Products, WT/DS 114/R, para. 7.94. See discussion of the US research exemption specifically directed to pharmaceutical patents, *infra* note 43, for example of an exemption limited to a field of technology for legitimate reasons.

### 7.1.3 Patent Opposition

*Patent oppositions afford an opportunity for public intervention in the patent application process, and it is recommended that participation in the process be made open in order to maximally benefit the state and South African industry and society. It is recommended that, eventually, opposition proceedings are enacted in the law both prior to and after the grant of a patent. In the interim, owing to capacity constraints, it is recommended that patent law recognises a third-party submission system or "observation" to stand in for the pre-grant opposition process and for existing provisions in administrative law to be used in lieu of post-grant oppositions.*

By their nature, opposition proceedings can achieve a range of policy aims in respect of substantive patent examinations, including:

- Harnessing all available information and expertise relevant to the application for or grant of a patent;
- Encouraging domestic inventors to increase technological expertise by providing an incentive to pay attention to patent applications;
- Providing some degree of certainty regarding the validity of a patent; and
- Limiting the need to engage in time-consuming and expensive patent revocation proceedings.

Most importantly, such proceedings seek to ensure that only those inventions that meet domestic statutory requirements for patentability are granted patent protection. It goes without saying that the enactment of such procedures would necessarily entail the inclusion of safeguards to curtail abuse.

In general, there are three types of opposition proceedings:

- First, a process that permits third-parties to submit information that is relevant to the consideration of an application for a patent, which is sometimes referred to as a third-party observation mechanism;
- Second, a pre-grant procedure in terms of which a third-party may actively oppose the grant of a patent at some point between the submission of the application and the making of a decision on whether a patent should be granted; and
- Third, a post-grant procedure in terms of which a third-party may appeal against or review the grant of a patent, ordinarily within a specified period as determined in domestic law.

From the perspective of the state, the choice of recognising any particular opposition proceeding has implications for human and financial resources. Thus:

- The third-party observation mechanism is the least resource-intensive, as it does not trigger any specific procedure involving the third-party once the relevant information has been submitted.
- Pre-grant opposition proceedings are potentially more resource-intensive as they require the state to put in place an administrative procedure that makes provision for the active participation of applicants and third-parties. That said, by harnessing available information and expertise relevant to the application for or grant of a patent, the state's resources may effectively be supplemented.

- Post-grant opposition procedures may be even more resource-intensive, as they require the state to put a separate structure in place to consider the relevant appeal or review. That said, such proceedings could seek to make use of review mechanisms already recognised in law, even if only on an interim basis pending the development of internal capacity and expertise.

The IP Policy aims to make provision for:

- A third-party observation mechanism in terms of which all self-identified parties are entitled to make written submissions opposing the grant of any particular patent; and
- A post-grant opposition mechanism that would require the development and promulgation of regulations, and makes provision – for as long as the contemplated system of post-grant opposition is not yet in force – for all such oppositions to proceed by way of administrative review in accordance with the provisions of the Promotion of Administrative Justice Act 3 of 2000 (“PAJA”).<sup>14</sup>
- In addition, legislative provision should be made to allow for the introduction of pre-grant opposition proceedings once the Minister of Trade and Industry is satisfied that there is sufficient capacity within the substantive examination system to make appropriate use of such proceedings.

In light of the interactions that government has had with some stakeholders, it bears mentioning that there is nothing novel or controversial about the inclusion of opposition procedures in a modern IP system. This is evident from analysing numerous jurisdictions. For instance, the European Patent Convention makes express provision for a post-grant opposition procedure in Articles 99 to 101. In the case of the US, because of the costs, risks, and time associated with seeking to invalidate a patent, US patent law – like its EU counterpart – now makes provision for low cost post-grant review proceedings.<sup>15</sup> The USPTO explains:

*“Post grant review process begins with a third party filing a petition on or prior to the date that is 9 months after the grant of the patent or issuance of a reissue patent. The patent owner may file a preliminary response to the petition. A post grant review may be instituted upon a showing that, it is more likely than not that at least one claim challenged is unpatentable. If the proceeding is instituted and not dismissed, a final determination by the Board will be issued within 1 year (extendable for good cause by 6 months).”<sup>16</sup>*

As indicated above, the introduction of opposition procedures will entail the inclusion of appropriate safeguards and shall be subject to a robust assessment of available capacity. Neither the rejection of patents nor delayed enjoyment of IPRs are viewed as desirable by the South African government. Rather, the promotion of a system that harnesses all available information to ensure a high level of efficiency and patent

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<sup>14</sup> Under PAJA, a review of administrative action must ordinarily be brought within a reasonable period, and no later than 180 days after the decision in question was made (or brought to the attention of the person instituting the review).

<sup>15</sup> 35 U.S.C § 321

<sup>16</sup> <https://www.uspto.gov/patents-application-process/appealing-patent-decisions/trials/post-grant-review>

quality is sought. The implementation of SSE and opposition procedures will be guided by, and pursue, these ends.

#### 7.1.4 Patentability Criteria

*In line with emerging international best practice, patentability criteria will be developed in order to promote genuine innovation through the patent system in South Africa. Such criteria will be implemented in the process of examination of patent applications and will aim to strike the optimal level of IP protection, promote innovation, and balance the rights of IP holders and users alike. It is recommended that patentability criteria form a part of the Patents Act, as well as any subsequent regulations and guidelines for the examination of applications.*

Patent law in South Africa is based on the theory that the “limited statutory monopoly afforded to a patentee is seen as a means of encouraging inventors to put their inventions into practice, because by this means they obtain the financial rewards their inventive gifts warrant.”<sup>17</sup> It clearly recognises that “by encouraging inventors to put their inventions to use, the benefit to the public (an essential quid pro quo of the theory) is served.”<sup>18</sup> Central to this understanding of the purpose served by patent law is that the grant of market exclusivity, for a defined period, is required to create incentives for innovation.

Article 27.1 of the TRIPS Agreement affords WTO members much flexibility when setting patentability criteria. While it requires that patents be granted for inventions that are new, involve an inventive step, and are capable of industrial application, it does not detail what is meant by these requirements. Instead, the footnote to the provision merely states that “the terms ‘inventive step’ and ‘capable of industrial application’ may be deemed by a Member to be synonymous with the terms ‘non-obvious and ‘useful’ respectively.”

Article 27.1 is not to be read in isolation, but rather together with provisions such as Article 1.1, which stipulates that WTO members are free to determine the most appropriate method of implementing the TRIPS Agreement. As well as, Article 7, which amongst others, recognises that IP protection “should contribute ... to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare”; and Article 8.1, which entitles WTO members to enact patent and other IP laws that protect public health and nutrition.

Read together with these provisions, Article 27.1 gives a country such as South Africa the flexibility to interpret and implement the patentability requirements in a manner consistent with its constitutional obligations, developmental goals, and public policy priorities. Amongst other things, this would include the adoption of patentability criteria that address the country’s public health and environmental concerns, as well as industrial policy objectives.

<sup>17</sup> *Syntheta (Pty) Ltd (formerly Delta G Scientific (Pty) Ltd) v Janssen Pharmaceutica NV and Another* 1999 (1) SA 85 (SCA) at 88H – J

<sup>18</sup> *Ibid*

In light of the inherent flexibility afforded to World Trade Organization (WTO) members in implementing patentability criteria, differing approaches can be discerned. Various countries have and continue to periodically review and adapt the application of patentability criteria to achieve appropriate levels of patent quality and advance their policy objectives. One interesting example is Australia, which, in 2012 adopted legislation which upwardly adjusted standards for patentability. A recent report of Australia's Productivity Commission reveals that the 2012 reforms did not adequately "raise the bar" and hence the same jurisdiction is currently considering further changes to the inventiveness test in its patent law.<sup>19</sup> The report, read together with an earlier draft of the same publication, suggest that the changes are informed by the desire to ensure that patents are awarded to inventions that are "socially valuable" and "additional".

While international best practices from a broad range of sources should be considered in developing appropriate legislative language for South Africa, particular attention should be paid to contexts that are relevant to this country. Put simply, international comparisons will only be helpful to the extent that they are able to assist in implementing patentability criteria in a manner consistent with the state's constitutional obligations, developmental goals, and public policy priorities.

As identified by the WHO, appropriate application of patentability criteria plays an important role in the growth of a domestic pharmaceutical industry. Without such criteria, patent law alone may not be descriptive enough to assist examiners in identifying and recognizing genuine innovation.

#### **7.1.5 Disclosure Requirements**

*In order to gain a full and fair understanding of a patent application, applicants are required to adequately disclose the nature of the invention therein. In order to assist in the process of examination of such applications, in addition to the existing disclosure requirements in the Patents Act, it is recommended that applicants be asked to provide information regarding the status of similar and related applications filed in other international jurisdictions.*

In terms of Article 29(1) of TRIPS, members shall require that an applicant for a patent disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art. When an invention is not effectively disclosed within the meaning of Article 29(1) of TRIPS or when the application relates to unspecific or speculative embodiments of the invention, the grant of a patent may not only harm innovation and unduly affect competition, it will also constitute a violation of international law. Section 32(3)(b) of the Patents Act complies with this obligation and should be retained.

Article 29(2) of TRIPS provides that members may require a patent applicant to provide information concerning the applicant's corresponding foreign applications and grants. South Africa's patent legislation does not oblige applicants to furnish such information. As we move toward SSE, requiring the provision of pertinent information about corresponding patent applications and grants is recommended.

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<sup>19</sup> Intellectual Property Arrangements Productivity Commission Final Report April 2016 (Hereinafter, Australia-Final Report), Page 216.

### 7.1.6 Parallel Importation

*South Africa's unique developmental needs, particularly in public health, require the exploration of every legal opportunity to support the viability and expansion of the public health system, including, in the case of patented products such as medicines, the ability to purchase said medicines from any external territory that is necessary. The implementation of parallel importation will be undertaken in a controlled manner pursuant to consultations with respective stakeholders.*

Parallel imports are products legitimately placed on the market in one country, and brought in to another without the consent of the patent holder. It is important to point out that by definition they are not counterfeit products. The World Trade Organization explains:<sup>20</sup>

*“Parallel or grey-market imports are not imports of counterfeit products or illegal copies. These are products marketed by the patent owner (or trademark- or copyright-owner, etc) or with the patent owner's permission in one country and imported into another country without the approval of the patent owner.*

*For example, suppose company A has a drug patented in the Republic of Belladonna and the Kingdom of Calamine, which it sells at a lower price in Calamine. If a second company buys the drug in Calamine and imports it into Belladonna at a price that is lower than company A's price, that would be a parallel or grey import.”*

Article 6 read together with footnote 6 to the TRIPS Agreement gives members the autonomy to determine their own regimes for the exhaustion of IPRs and in South Africa, parallel importation of medicines is already expressly permitted. Here it is pertinent to note that the US Supreme Court expressly adopted international exhaustion of patents, thereby authorizing parallel imports of products under U.S. patent.<sup>21</sup>

15C of the Medicines and Related Substances Act 101 of 1965 (“the Medicines Act”) provides:

*“The Minister [of Health] may prescribe conditions for the supply of more affordable medicines in certain circumstances so as to protect the health of the public, and in particular may –*

- (a) *notwithstanding anything to the contrary contained in the Patents Act, 1978 (Act 57 of 1978), determine that the rights with regard to any medicine under a patent granted in the Republic shall not extend to acts in respect of such medicine which has been put onto the market by the owner of the medicine, or with his or her consent;*
- (b) *prescribe the conditions on which any medicine which is identical in composition, meets the same quality standard and is intended to have the same proprietary name as that of another medicine already registered in the Republic, but which is imported by a person other than the person who is the holder of the registration certificate of the medicine already registered and which originates from any site of manufacture of the original manufacturer as approved by the*

<sup>20</sup> See [https://www.wto.org/english/tratop\\_e/trips\\_e/factsheet\\_pharm02\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/factsheet_pharm02_e.htm)

<sup>21</sup> *Impression Products, Inc. v. Lexmark International, Inc.*, 581 U.S. 1523 (2017).

- Authority in the prescribed manner, may be imported;*  
 (c) *prescribe the registration procedure for, as well as the use of, the medicine referred to in paragraph (b)."*

Thus subject to the conditions and procedures as prescribed by the Minister, the Medicines Act authorises "a person other than ... the holder of the registration certificate of the medicine already registered [in South Africa]"<sup>22</sup> to import the identical medicine, provided it "originates from any site of manufacture of the original manufacturer as approved by the [South African Health Products Regulatory] Authority".<sup>23</sup>

Having said this, a narrow interpretation of section 45(2) of the Patents Act in its current form could potentially give rise to challenges should parallel importation be pursued. Hence, there is a need to clarify in the Patents Act that parallel importation of medicines in the manner prescribed in the Medicines Act does not constitute an infringement of the former legislation.

Should parallel importation be required in sectors other than health, the Ministries responsible for the specific sectors could sanction sector-specific parallel importation in a controlled manner through legislative provisions similar to Section 15C of the Medicines Act after conducting the necessary consultations with relevant stakeholders. This approach strikes a balance between access, on the one hand, and the interests of nascent industries on the other.

Some stakeholders have expressed concern that parallel importation has the potential to lead to counterfeits being introduced to the South African market. Yet perusing the regulatory framework established in terms of section 15C of the Medicines Act, which is set out in regulation 5 of the General Regulations made in terms of section 35 of the Medicines Act,<sup>24</sup> makes it plain that this is not a legitimate concern. Indeed, the South African medicines regulatory system has robust and expressly designed procedures to prevent counterfeits from entering the market through parallel importation.

Amongst other requirements, regulation 5(1) states that the medicine in question must be "imported from a person licensed by a regulatory authority recognised by the [South African Health Products Regulatory] Authority",<sup>25</sup> and that the importer must be "in

<sup>22</sup> Only a locally-based natural or juristic person may register a medicine in South Africa.

<sup>23</sup> In noting these provisions, the IP Policy identifies a potential problem with the use of section 15C(b):

*"In South Africa, parallel importation of medicines is governed by the 1997 amendments to the Medicines and Related Substances Act 101 of 1965 (Medicines Act), which legislation is administered by the National Department of Health (DOH). The relevant provision applies notwithstanding any rights conferred in terms of the Patents Act. Having said this, a narrow interpretation of section 45(2) of the Patents Act in its current form could potentially give rise to challenges should parallel importation be pursued."*

With this in mind, the IP Policy continues:

*"There is a need to clarify that parallel importation of medicines in the manner prescribed in the Medicines Act does not constitute an infringement of the Patents Act. Beyond health, this would allow Ministries responsible for specific sectors to sanction sector-specific parallel importation in a controlled manner pursuant to consultations with their respective stakeholders: in effect, striking a balance between access, on the one hand, and the interests of nascent industries on the other."*

<sup>24</sup> Government Notice 859, Government Gazette No. 41064, 25 August 2017

<sup>25</sup> Regulation 5(1)(b). The South African Health Products Regulatory Authority is South Africa's medicine and medical device regulator.

*possession of a permit issued by the Authority*".<sup>26</sup> To obtain such a permit, the importer must satisfy a number of requirements, such as –

- providing documentary proof that the medicine in question *"is registered in its country of export by a regulatory authority recognised by the Authority"*;<sup>27</sup> and
- submitting *"a certified copy of a licence in respect of premises in terms of ... section 19 of Customs and Excise Act, 1964 (Act 91 of 1964); and section 22 of the Pharmacy Act [53 of 1974]"*.<sup>28</sup>

Collectively, these (and other) provisions of regulation 5 put in place a tight framework that does not facilitate the market entry of counterfeits.

- Not only must the medicine in question be registered in the country from which it is to be exported, but the medicines regulatory authority in that country must be recognised by its counterpart in South Africa.
- In addition, the person exporting the medicine must be licensed by that country's medicines regulatory authority to do so.
- Moreover, the importer must be licensed to operate both a customs and excise warehouse, as well as a pharmacy.

Thus, the law permitting parallel imports is designed with robust safeguards to prevent the entry of counterfeit medicines into South Africa.

### 7.1.7 Exceptions

*An environment of scientific inquiry and growth can be fostered by allowing researchers in all sectors of the economy to explore and experiment with products protected by patents. With particular patented products, such as medicines, it is furthermore essential to facilitate research, development and testing of IP products in the commercial and industrial sectors prior to the expiry of the patent term, in order that said products might reach the market as soon after the expiration date of the patented period as possible, in order to provide maximum benefit to society.*

The TRIPS Agreement explicitly states that the objective of promoting and enforcing IPRs is to contribute to the promotion of technological innovation and to the transfer and dissemination of technology. This is to be done to the mutual advantage of producers and users of technological knowledge alike, and in a manner conducive to social and economic welfare, thus achieving a balance of rights and obligations. As a means of striking a balance between the rights of owners and users of IPRs, Article 30 of the TRIPS Agreement allows members to provide limited exceptions to patent rights. Indeed, exceptions placed on patent rights are an important means of achieving the appropriate set of policies that best foster R&D and technology diffusion.

<sup>26</sup> Regulation 5(1)(c)

<sup>27</sup> Regulation 5(2)(e)(ii)

<sup>28</sup> Regulation 5(2)(d). Section 19 of the Customs and Excise Act deals with the licensing of customs and excise warehouses; section 22 of the Pharmacy Act deals with the licensing of pharmacies.

### **7.1.7.1 Bolar**

South Africa incorporated the early working/ “Bolar” exception in a 2002 amendment to the Patents Act. The provision is an important tool to assist generic producers to research, create, and test a patented product before the end of term of the patent, thereby allowing the entry into the market as soon as possible once the patentee’s exclusive rights lapse. Consultations with stakeholders have confirmed the importance of this measure in accelerating the entry of generic competition. This will likely be enhanced with the full operationalization of the South African Health Products Regulatory Agency (SAHPRA).

### **7.1.7.2 Research and experimental use**

The patent system aims to promote scientific and technological progress by granting exclusive rights for genuinely new inventions. But the enforcement of these exclusive rights against researchers can sometimes interfere with further progress in the field of the invention. A WTO Panel observed that “a key public policy purpose underlying patent laws is to facilitate the dissemination and advancement of technical knowledge, and that allowing the patent owner to prevent experimental use during the term of the patent would frustrate part of the purpose of the requirement that the nature of the invention be disclosed to the public.”<sup>29</sup>

While the WHO has recommended that member states should consider, where appropriate, use of a “research exception” to address public health needs in developing countries consistent with TRIPS, the benefits of incorporating such exceptions extend beyond the public health sphere. Numerous jurisdictions have sought to preserve the scope of researchers to advance the state of knowledge through the use of exceptions for research and experimental activities.

Emerging economies seeking to grow their technological base such as India and Brazil employ such measures. African states and regional norm-setting institutions do the same. In Switzerland, the 2008 amendments to Swiss patent law have also made provision for this.

Provision is made in the Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008 (IPR Act) that any recipient of public funds may use IP (fully owned or co-owned with a third party) which is the subject of a commercial transaction for research, development and educational purposes.

The IP Policy outlines an intention to develop a carefully crafted set of exceptions for research and experimental activities with broader application than publicly funded research. This will be done in compliance with TRIPS and in consultation with a diverse range of stakeholders.

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<sup>29</sup> Canada – Patent Protection for Pharmaceutical Products, WT/DS 114/R, para. 7.94

### 7.1.8 Voluntary Licences

*Voluntary efforts by IP-holders to create fair and beneficial licences in the country are encouraged to the fullest extent, building on South Africa's history of having taken advantage of many such national and international opportunities.*

A voluntary licence is where a patent holder offers on his or her own accord a licence to a third party to produce, market and distribute the patented product.<sup>30</sup> In the South African public health context, the third-party has tended to be a domestic generic producer, or the Medicines Patent Pool (MPP), which acts as a public health intermediary to ensure generic producers voluntary licences with access-friendly terms and conditions.

Voluntary licensing has contributed to generic competition, lower prices and accessibility, particularly where antiretroviral drugs (ARVs) used in the treatment of HIV/AIDS are concerned. Industry practice on voluntary licences varies widely in geographical scope, number of licensees, freedom to manufacture active pharmaceutical ingredients (APIs), and other important terms and conditions. This is why increased transparency with respect to the terms and conditions in voluntary licences, such as terms exemplified by MPP licences, should be encouraged, thereby enabling voluntary licences that promote access and innovation, come with effective transfer of technology, and do so in full consistency with existing TRIPS allowances.

It is worth noting that when IP has been created using public funds, the IPR Act prescribes certain preferences for IP transactions. These preferences include non-exclusive licences, and further, that licences are granted to SMMEs and Broad Based Black Economic Empowerment (BBBEE) entities. The IP Policy aims to promote voluntary licences, on fair terms, as a means to effectively transfer technologies and promote access, especially in the area of health.

### 7.1.9 Compulsory Licences

*South Africa's unique challenges, including especially vulnerable populations and urgent development concerns, will require the scope of compulsory licences to be strengthened and clarified in a manner that is fair and compliant in relation to both international obligations and national law. Following due process, guidelines will be introduced, including legal process for government use, and a renewed effort to facilitate the process of exporting IP goods, such as medicines, to the African continent.*

Notwithstanding the important role of voluntary licences, they have not always provided the requisite level of access in disease areas other than HIV/AIDS and, to a lesser extent, Hepatitis C (HCV). Therefore, while voluntary arrangements have been, and will continue to be, the first port of call, South Africa requires a broader set of policy options to

<sup>30</sup> WHO (2007), 'Voluntary licensing practices in the pharmaceutical sector: An acceptable solution to improving access to affordable medicines'? Available at: <http://apps.who.int/medicinedocs/documents/s19793en/s19793en.pdf>

address instances where voluntary mechanisms prove insufficient or inadequate. In order to promote the sustainability of supply, it is important to ensure that a workable compulsory licensing system is in place to achieve affordability of essential goods, and restrain anti-competitive practices, as the need arises. One such instrument recognized by international law is compulsory licensing.

The TRIPS Agreement sets specific conditions for the use of compulsory licences. Even so, the Doha Declaration confirmed explicitly that “each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.” Almost fifteen years later, the UNHLP reiterated the importance of compulsory licensing and the sovereign right of states to make use of it, including ensuring the expedient use of compulsory licences or government use provisions.

Applications for compulsory licences in South Africa are currently subject to a judicial process before the Commissioner of Patents. The grant of a compulsory licence is therefore subject to the timeframes and expenses that apply to litigation. Furthermore, this process can be exacerbated, and access further delayed, in the event that the decision of the Commissioner to grant a licence is appealed. The present Policy therefore envisages a system of compulsory licences that may be granted in accordance with the TRIPS Agreement to meet the country’s development objectives, in a manner that is both more effective and efficient than the status quo currently allows.

#### **7.1.9.1 Government use**

Insofar as public non-commercial use of patented subject matter is concerned, which is sometimes referred to as “government use” (though the scope of government use may extend beyond public, non-commercial use), Article 31(b) of the TRIPS Agreement explicitly states that such use is not subject to the requirement of prior negotiations with an IP holder. Precedent for implementation of this policy tool can be found *inter alia* in the US where the law “permits the government to ‘use’ patents at any time without permission of the patent holder, as long as reasonable compensation is provided.” As Brennan *et al* explain in their recent publication in the Yale Journal of Law & Technology:

*“[28 U.S.C. § 1498] is rooted in the government’s sovereign immunity and is regularly used today, for example, in the service of national defense. Where medicines are concerned, it has been invoked only once in recent years. During the anthrax scare in 2001, the government threatened to use § 1498 to buy a generic antibiotic and then quickly cut a deal with the manufacturer for greatly reduced prices. Although this provision has been largely forgotten, in the 1960s and early 1970s, federal agencies relied on the statute to procure generic medicines, and understood it as a critical tool to curb drug prices.”<sup>31</sup>*

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<sup>31</sup> H Brennan et al, “A Prescription for Excessive Drug Pricing: Leveraging Government Patent Use for Health”, (2016) 18 Yale J.L & Tech. 260 at 279-280. The empowering provision is 28 U.S.C. § 1498

In South Africa, Section 4 of the Patents Act, which entitles “a Minister of State [to] use an invention for public purposes”, requires prior negotiations relating to the conditions of government use (and not the issuing or the licence per se). If agreement is not reached, an application must be made by or on behalf of such Minister, to the Commissioner of Patents, for the determination of the conditions. Not only does this impose a prior negotiation requirement (which is not required by the TRIPS Agreement), but it imposes adversarial litigation proceedings in the event a patentee does not agree to the conditions attached to the licence in question (also not required by the TRIPS agreement). Therefore, keeping in mind that TRIPS does not impose prior negotiation requirements, any proposal for government use in South Africa must also be in line with procedural fairness requirements in South African law.

#### **7.1.9.2 Compulsory licences for export**

South Africa played an important role in raising the profile of the IP and public health debate at the WTO, and was one of the WTO members that ratified the Paragraph 6 system, thereby enabling an amendment of the TRIPS Agreement to facilitate access to medicines in countries that lack pharmaceutical manufacturing capacity. The said mechanism has, however, been the subject of various criticisms. The South African government is cognizant of the stated limitations and will engage stakeholders to find ways of ensuring that implementation is as simplified as possible, and will continue to engage constructively within the WTO structures to find ways of streamlining the Paragraph 6 mechanism.

#### **7.1.10 IP and Competition Law**

*Competition law and policy have, in the recent past, been applied to cases involving IP and the public interest. Building on this recent history, a joint effort is recommended, along with the Competition Commission, to clarify the remit and scope of the intersection between competition law and IP.*

The theoretical underpinning for providing IP protection to medicines is that the development of new medicines involves high costs and risks, and as such, IP protection is considered a legal method by which innovators may recoup these investments. Without adequate IP protection, the theory posits, these investments simply would not be made. Apropos this theory, currently, a global debate is underway, most prominently at the WHO, around incentive models in the context of medicines.

Competition policy in South Africa, as reflected in the preamble to the Competition Act 89 of 1998 (Competition Act) seeks to address, amongst other things, inadequate restraints against anticompetitive trade practices and unjust restrictions on full and free participation in the economy by all South Africans. It thus aims to open up the economy to greater ownership by a larger number of South Africans in order to attain an efficient, competitive, economic environment, one that balances the interests of workers, owners and consumers, and focuses on the development of all South Africans. This is accomplished by preventing cartels aimed at price-fixing, limiting output or otherwise restricting competition, by preventing firms from gaining market power in unjustified

ways, including through anticompetitive mergers, thus raising barriers to market entry by new firms. Competition policy is also concerned with preventing firms with market power from abusing their dominant positions, including by charging excessive prices to the detriment of consumers. The role of competition authorities is therefore to ensure markets function efficiently and to the benefit of both consumers and producers.

Competition regulation has a role in ensuring that patents are not used as platforms for illegitimately extending market power. In addressing the interface between IP and competition, the TRIPS Agreement gives members the scope to use competition policy as an instrument to facilitate access to medicines. Article 8 on its own, and in particular, read through the interpretive lens of the Doha Declaration on TRIPS and Public Health, recognizes the right of WTO members to take measures aimed at restraining anti-competitive practices.

Both competition law and patent law together can be used to implement competition-related TRIPS flexibilities and advance consumer welfare. Chapter 2 of the Competition Act, which covers practices such as horizontal restrictions, vertical restrictions, and abuse of dominance, and various licensing provisions in the Patents Act are pertinent in this regard.<sup>32</sup>

Under provisions of the Competition Act, a party can apply for an exemption from the application of parts of the provisions of the Competition Act, subject to relevant criteria. More specifically, in limited circumstances, section 10(4) of the Competition Act exempts agreements or practices which may relate to the exercise of specific IPRs such as patents, copyright and trademarks. Examples of agreements which may fall within the scope of exemption provisions under the Competition Act include delayed entry agreements, no challenge clauses, market division and allocation, tying, rebates and discounts, exclusive licensing, refusal to licence or supply, price fixing, information sharing and standard setting.

Competition authorities regulate market conduct and intervene in the exercise of IPRs where market distortions are created to the detriment of consumer welfare. The intervention of competition authorities is done on a case-by-case basis, informed by jurisprudence and principles developed over time, comparative analysis, and interaction with other regulators, to ensure that interventions lead to long-term competitive benefits. The application and enforcement of competition law ought to be done in a manner that fosters the protection and enforcement of competition on the merits, while recognizing IPRs and their potential to contribute to technological innovation, the knowledge economy, as well as the transfer and dissemination of technology to society which can advance social and economic welfare. Although South African jurisprudence in relation to the interplay between competition law and IPRs is still in its infancy, there is scope to develop fields of work and guiding principles.

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<sup>32</sup> Sections 56-57 and 90 of the Patents Act

### 7.1.11 Rule of Law, Legal Certainty & Security of Investments

*The rule of law in South Africa is sacrosanct. Constitutional guarantees ensure that any exercise of public power must be rational, and adopted following a rational process. Thus, reforms to South Africa's patent system, as contemplated in this Policy, can only be implemented in a lawful, transparent, fair, and open process. Furthermore, the proposed changes increase legal certainty with respect to patents and other forms of intellectual property in South Africa, in comparison to the status quo. Finally, the patent system as envisaged is designed to increase and diversify investment in the country.*

The rule of law has always been, and shall always remain sacrosanct in democratic South Africa.

Section 1(c) of South Africa's Constitution states that the rule of law is one of the values upon which the country has been founded as "*one, sovereign, democratic state*". As an incident of the rule of law, the doctrine of legality makes it clear that the exercise of public power is always subject to certain constraints, regardless of the exact nature of that power. As Justice Goldstone noted almost 20 years ago in the landmark *Fedsure* judgment:<sup>33</sup>

*"It seems central to the conception of our constitutional order that the Legislature and Executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law."*

Relying on *Fedsure*, this concept was explained more recently by Justice Navsa in *South African National Roads Agency Ltd v Cape Town City*:<sup>34</sup>

*"[I]t is now accepted as elementary that the exercise of public power is subject to constitutional control and is clearly constrained by the principle of legality. A repository of power may not exercise any power or perform any function beyond that conferred upon it by law and must not misconstrue the nature and ambit of the power."*

The rule of law requires that any exercise of public power must, in addition, be rational. As Justice Chaskalson explained in the *Pharmaceutical Manufacturers Association* case:<sup>35</sup>

*"It is a requirement of the rule of law that the exercise of public power by the Executive and other functionaries should not be arbitrary. Decisions must be rationally related to the purpose for which the power was given, otherwise they are in effect arbitrary and inconsistent with this requirement. It follows that in order to pass constitutional scrutiny the exercise of public power by the Executive and other*

<sup>33</sup> *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* 1999 (1) SA 374 (CC) at para 58

<sup>34</sup> 2017 (1) SA 468 (SCA) at para 75, writing on behalf of a unanimous bench.

<sup>35</sup> *Pharmaceutical Manufacturers Association of SA and Another: In re Ex parte President of the Republic of South Africa and Others* 2000 (2) SA 674 (CC) at para 85 (footnote omitted). At the time, Justice Chaskalson was President of the Constitutional Court. Following a constitutional amendment, he later became Chief Justice.

*functionaries must, at least, comply with this requirement. If it does not, it falls short of the standards demanded by our Constitution for such action.”*

More recently, the requirement of rationality has been extended to cover process in addition to substance. In *Democratic Alliance v President of the Republic of South Africa and Others*,<sup>36</sup> for example, then Acting Deputy Chief Justice Yacoob held that “*both the process by which the decision is made and the decision itself must be rational.*”<sup>37</sup>

As already indicated, these safeguards apply to every exercise of public power. Further safeguards apply where a decision also constitutes administrative action, as defined in section 1 of PAJA.

Subject to certain exclusions, administrative action means:

- “any decision taken, or any failure to take a decision, by –*
- (a) an organ of state, when –*
    - (i) exercising a power in terms of the Constitution or a provincial constitution; or*
    - (ii) exercising a public power or performing a public function in terms of any legislation; or*
  - (b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision, which adversely affects the rights of any person and which has a direct, external legal effect”.*

Amongst others, the additional safeguards introduced by PAJA include requirements of procedural fairness and reasonableness. While it is not necessary to consider the nature and extent of these grounds of review here, it is important to note that these additional safeguards make it easier to have administrative decisions reviewed and set aside.<sup>38</sup>

So what does this all mean for this Policy, as well as any amendments to the Patents Act 57 of 1978 (“the Patents Act”) that may be made following its adoption and promulgation? There are at least two significant implications:

- (i) First, this Policy must be lawful and substantively rational, and adopted following a procedurally rational process.<sup>39</sup> Given the clear need for this Policy, as well as its purpose and goals, the relatively low threshold set by the principle of legality has been met. Moreover, **the dti** has repeatedly gone to great lengths to solicit, and consider, the views of all key stakeholders, and has involved leading global institutions and thought leaders in the formulation of the policy. The consultation process was thus both rational and fair.

<sup>36</sup> 2013 (1) SA 248 (CC) at para 34

<sup>37</sup> See also *Albutt v Centre for the Study of Violence and Reconciliation, and Others* 2010 (3) SA 293 (CC) at para 51

<sup>38</sup> While a rational process may not necessarily be procedurally fair, the converse doesn't hold true. Similarly, while a rational decision may not necessarily be reasonable, a reasonable decision will always be rational.

<sup>39</sup> The adoption of this Policy is unlikely to constitute administrative action.

- (ii) Second, any decision taken in terms legislative amendments (to give effect to this Policy) must satisfy the requirements of lawful administrative action, as set out in PAJA, as well as the principle of legality. The following examples are instructive:
- Given that PAJA defines administrative action to include a failure to take a decision, an applicant for a patent would be acting well within his or her rights when challenging any failure to complete the contemplated substantive examination process timeously. In such circumstances, a court may direct that the process be completed within a specified time.
  - In the event a patent application is denied on the basis that the invention is not novel, does not involve an inventive step, or otherwise fails to satisfy any other patentability criterion, an applicant for a patent could take that decision on review. In so doing, the applicant could submit that irrelevant considerations were taken into account in reaching that decision, or that relevant considerations (such as the grant of the patent in comparable jurisdictions) were not taken into account.
  - Should a compulsory licence be granted without the relevant statutory requirements being met, a patentee could apply for the decision to grant the licence to be reviewed and set aside on the basis that the decision-maker did not have the legal authority to grant the licence.

In each case, the High Court would have to consider the relevant facts in light of the provisions of PAJA, and our well-developed jurisprudence on administrative law. Should any party be unhappy with the decision of the High Court, leave to appeal to another court – be it the full bench of the High Court, the Supreme Court of Appeal, or the Constitutional Court – could be sought.<sup>40</sup>

When considered collectively, the legal mechanisms available to interested parties to ensure that the rule of law is respected make it plain that the much-needed reforms to South Africa's patent system, as contemplated in this Policy, can only be implemented in a lawful, transparent, fair, and open process. Should parties feel aggrieved by any aspect of this process, or its outcome (including the manner in which the new rules are implemented), they would have at their disposal various options to resolve their disputes.<sup>41</sup>

Finally, the IP Policy is designed to stimulate investment in the South African economy. As stated at the outset, this Policy is congruent with the NIPF and IPAP, both of which form central components of our economic development strategy, as encapsulated under the NDP. This Policy is designed to increase and invite investment in the country in two

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<sup>40</sup> While there is a right to seek leave to appeal, there is no right to an appeal per se.

<sup>41</sup> This is guaranteed by section 34 of the Constitution, which reads as follows:

*"Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum."*

important ways:

- (i) First, this Policy increases legal certainty in respect of IP, particularly with respect to patents. A significant consequence of the depository system, as currently employed, is that the lack of substantive patent examination results in deferring the validity and strength of patents granted in the country to courts, usually through time-consuming and expensive litigation. This Policy aims to rectify this situation by providing all patent applicants much greater assurance on the merits of their applications, right at the outset of the process of obtaining a patent in South Africa.
- (ii) Second, by taking into account the socio-economic challenges facing the country, this Policy is designed to create an equitable system of IP management which will be attractive to a substantially greater number, and variety, of IP industries:
  - With respect to the pharmaceutical industry, for example, this Policy is designed to invite investment from a range of manufacturing countries across the world. Not only are the countries of North America and Europe in its sights, but so too are emerging economies such as Brazil, Israel and India, across the categories of originator and generic manufacturers.
  - Furthermore, and with respect to the same industry, this Policy is also designed to stimulate internal investment through the expansion and growth of existing pharmaceutical manufacturers within the country, who form an important section of the national economy.

Furthermore, all of this should be read within the context of the numerous incentives that the South African government has made available to investors such as, among others, the allowance in terms of Section 12I of the Income Tax Act; the Critical Infrastructure Programme (CIP); the Support Programme for Industrial Innovation (SPII); the Strategic Partnership Programme (SPP); and a suite of benefits associated with investing in a Special Economic Zone (SEZ) such as preferential corporate tax, building allowance, and employment tax incentive.

## 7.2 International IP Cooperation

*In the international arena, multiple overlapping opportunities will be evaluated, including updating compliance with existing signed treaties and conventions, identifying treaty opportunities to help South African society – such as small businesses with the Madrid Protocol, and visually impaired citizens with the Marrakesh Protocol – as well as protecting traditional knowledge, and fostering continental and international cooperation in IP.*

Joseph Stiglitz, the Nobel Prize winner in economics, notes that “IP has become one of the major issues of our global society. Globalization is one of the most important issues of the day, and IP is one of the most important aspects of globalization, especially as the world moves toward a knowledge economy. How we regulate and manage the production of

knowledge and the right of access to knowledge is at the centre of how well this new economy, the knowledge economy, works and of who benefits.”<sup>42</sup>

South Africa must necessarily play a leading role in this global discourse. In doing so, we must be guided by the objectives of the IP Policy.

### **7.2.1 Multilateral Arrangements**

South Africa is party to the following multilateral treaties on IP:

- Berne Convention for the Protection of Literary and Artistic Works (Berne Convention), since October 1928;
- Paris Convention for the Protection of Industrial Property (Paris Convention), since December 1947;
- WIPO Convention, since March 1975;
- TRIPS Agreement, since January 1995;
- Budapest Treaty (Deposit of Micro-organisms), since December 1997;
- Patent Cooperation Treaty (PCT), since March 1999.
- Protocol Amending TRIPS, since February 2016.

The following multilateral agreements are also pertinent:

- International Convention for the Protection of New Varieties of Plants (UPOV Convention), since November 1977;
- Convention on Biological Diversity (CBD), since November 1995 as well as the CBD's Cartagena Protocol on Biosafety and the Nagoya Protocol on Access and Benefit Sharing (ABS).

#### **7.2.1.1 World Trade Organization**

South Africa has been party to the WTO and therefore the TRIPS Agreement since inception. TRIPS has become a fundamental aspect of the international IP regime and South Africa has played an important role in safeguarding, clarifying and expanding the flexibilities available to members. South Africa is an active, influential participant in the TRIPS Council, where we have consistently adopted progressive positions in pursuit of the Doha development agenda. As a developing country and having adopted the 2030 Agenda for Sustainable Development, in particular, SDG17, it is incumbent on South Africa to continue playing this role.

#### **7.2.1.2 World Intellectual Property Organization**

South Africa is a respected member of WIPO and plays an active role in the African Group along with partners in the African continent. South Africa was also one of the countries that supported and pushed for the adoption of the WIPO Development Agenda in 2007, which seeks to re-orient the thrust of WIPO's work to take into consideration the concerns and aspirations of developing countries.

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<sup>42</sup> Stiglitz (2008) at page 1695.

While South Africa follows all WIPO committees, it pays special attention to the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC); the Standing Committee on Copyright and Related Rights (SCCR); the Standing Committee on the Law of Patents (SCP); the Committee on Development and Intellectual Property (CDIP); the Advisory Committee on Enforcement (ACE) and the Programme and Budget Committee (PBC).

Several WIPO-administered treaties to which South Africa is not party have been the subject of discussion for some years. These include:

- Locarno Agreement Establishing an International Classification for Industrial Designs (1968);
- Strasbourg Agreement Concerning the International Patent Classification (1971);
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1973);
- Nice Agreement Concerning the International Classification of Goods and Services for Marks (1979);
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989);
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (2013).

Through the IMCIP, South Africa will explore legal instruments and international treaties that are critical to advance the objectives of the IP Policy. This will include the Madrid Protocol, which is a system whereby business owners in any signatory country can file for a trademark in their local office, which, after consultation with WIPO, can translate into global trademark protection across all 100+ signatory countries.

This will also include the Marrakesh Treaty which entered into force on 30 September 2016. The Treaty helps to implement the CRPD; thereby serving as an important instrument toward realizing the fundamental right of one of the most marginalized populations to access knowledge. This is crucial as realization of the said fundamental right contributes to poverty reduction and inclusive development.

Specifically, the goal of the Marrakesh Treaty is to end the 'book famine' – the fact that only about 7% of published books are made available globally in accessible formats, such as Braille, audio and large print, and DAISY digital formats. In the developing world, the figure is less than 1% and in South Africa, the figure is said to be 0.5%. Copyright law barriers are contributory factors that the Marrakesh Treaty seeks to address. In doing so it supports implementation of the Sustainable Development Goals (SDGs) 1, 4, 8, 10, 11 and 16 which provide specific recognition for disability and promote the social, economic and political inclusion of all.

South Africa has ratified the Convention on the Rights of Persons with Disability (CRPD) and contributed positively to the conclusion of the Marrakesh Agreement individually and within the auspices of the African Group. It is imperative that South

Africa translates these international efforts to domestic action by ratifying and implementing the Marrakesh Agreement. This will make accessible formats available to South African visually impaired persons and contribute to the universal adoption of a historic and laudable legal instrument.

The aim will be to safeguard policy space and refrain from assuming obligations that would not be in the national interest. On the other hand, it must be understood that international treaties are, by their very nature, aimed at addressing important global challenges that cannot be solved through domestic instruments alone, due to the international nature of the problem. It is therefore possible that certain treaties can assist countries in advancing their own national interests. In this regard, the IMCIP will analyse WIPO treaties to which South Africa is not currently party in order to determine whether they present opportunities that could benefit the country, including as they relate to both vulnerable populations and economically productive sections of society.

#### **7.2.1.3 Convention on Biological Diversity (CBD)**

South Africa is considered to be the third most diverse country on the planet, boasting a significant biological diversity, housing 10% of the world's plants, 7% of the world's reptiles, birds and mammals, 15% of known coastal marine species, and one entire floral kingdom within its borders. To preserve this diversity, the Department of Environmental Affairs (DEA) promulgated and administers the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA or Biodiversity Act) and the Bioprospecting, Access and Benefit Sharing (BABS) Amendment Regulations of 2015.

The objectives of the Act include, among other measures, conservation of South Africa's biodiversity within the framework of the National Environmental Management Act, 1998; the protection of species and ecosystems that warrant National protection; the sustainable use of indigenous biological resources; and the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources.

The Act also seeks to give effect to the ratified international agreements relating to biodiversity which are binding on the Republic, such as the CBD and its two protocols, i.e., the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access and Benefit Sharing as well as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Biodiversity Act regulates bioprospecting involving indigenous biological resources and the export from the Republic of indigenous biological resources for the purpose of bioprospecting or any other kind of research. The Act also provides for a fair and equitable sharing by stakeholders in benefits arising from bioprospecting involving indigenous biological resources.

The Nagoya Protocol on ABS provides a legal framework for the effective implementation of one of the three objectives of the CBD, namely, the fair and

equitable sharing of benefits arising out of the utilization of genetic resources and traditional knowledge associated with genetic resources.<sup>43</sup>

Furthermore, the Nagoya Protocol on ABS represents an important tool for greater legal certainty and transparency for both providers and users of genetic resources, and for strengthening the ability of indigenous and local communities to benefit from the use of their traditional knowledge, innovations, and practices associated with genetic resources. The Nagoya Protocol on ABS came into force on 12 October 2014 and South Africa has been a contracting party since its entry into force.

South Africa is a respected party to the CBD and its protocols, and plays an active role in the African Group, and also in the Like-Minded Mega-Diverse Countries (LMMC). South Africa was one of the countries that supported and pushed for the adoption of the Nagoya Protocol on ABS in 2010, and consequently became one of the first 10 countries to deposit instruments of ratification as a sign of its commitment to the objectives of this protocol.

South Africa pays special attention to the following committees under the CBD and its protocols: the Ad-hoc Working Group on Article 8(j) and related provisions; the Subsidiary Body on Scientific, Technical and Technological Advice; the Subsidiary Body on the Implementation; the Compliance Committee on the Nagoya Protocol on ABS; the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources; and the discussion on the need and modalities of Global Multilateral Benefit Sharing Mechanism under the Nagoya Protocol on ABS.

South Africa will therefore continue to implement the CBD and its protocols and will continue to engage positively in the Conference of the Parties (COP) as well as the Conference of the Parties serving as Meeting of the Parties (COP-MOP).

#### **7.2.1.4 World Health Organization (WHO)**

Aside from the above-mentioned treaties, South Africa is party to several other international arrangements that are implicated by IP such as those at the WHO. The objective of the WHO is the attainment by all peoples of the highest possible level of health. To give effect to this mandate, WHO plays a strategic and central role in the relationship between public health, innovation, and IP.

WHO has been engaged in efforts to address identified weaknesses in the global R&D system, which is currently reliant on market-based incentives such as patents. The current R&D regime has stimulated significant innovations and will continue to do so, but it has not been able to address issues such as lack of affordability, limited research where market returns are small or uncertain (including the 'neglected diseases' that predominantly affect the world's poorest), inefficient overlap of

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43 See <https://www.cbd.int/abs/about/>

research efforts, and overuse of medicines such as antibiotics.<sup>44</sup> De-linkage of the market price from R&D costs, the use of open knowledge innovation, and the use of licensing conditions to favour access, are all regarded as core principles formulated by the Consultative Expert Working Group on Research and Development: Financing and Coordination (CEWG).<sup>45</sup> Antimicrobial resistance (AMR) is considered a global public health threat. Lack of new tuberculosis (TB) medicines is also a public health imperative. A number of strategies to address AMR have recently been reported, including rapid diagnostic tests, and R&D for new antibiotics and anti-TB medicines.

South Africa will continue to participate in R&D initiatives and multilateral IP forums in a coordinated fashion ensuring that the positions adopted are consistent. Formulating governmental positions under the auspices of the IMCIP will ensure a coordinated approach.

#### **7.2.1.5 Political Formations such as BRICS**

Science, technology and innovation play a central role in promoting an inclusive macroeconomic environment characterized by inclusive growth and sustainability. BRICS should harness bilateral synergies to accelerate sustainable development of the five member countries.

The central modalities of this cooperation should be sharing and exchanging information on science, technology and innovation policies and strategies; leveraging contacts and programmes aimed at enhancing collaborative innovation projects among BRICS countries; and the formulation of joint long-term problem-focused cooperation programmes. Their cooperation should be based on the principles of voluntary participation, equality, mutual benefit, reciprocity and subject to the availability of resources for collaboration by each country, keeping in mind the variable geometry of the research and development systems of the BRICS member countries.

BRICS scientific, technological and innovative cooperation will be carried out as per the provisions of the agreed “MoU on Cooperation in Science, Technology and Innovation” and the overarching vision for implementation of this MoU by BRICS Science Technology and Innovation ministerial meetings. Similarly, the IPR Cooperation Mechanism (IPRCM) has relevance in this context.

South Africa will aim to leverage BRICS cooperation to advance its objectives.

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<sup>44</sup> Moon “WHO: Past, Present and Future WHO’s Role in The Global Health System: What Can Be Learned from Global R&D Debates”? *Public Health*. 2014 Feb; 128(2): 167-72. doi: 10.1016/j.puhe.2013.08.014. Epub 2014 Jan 3.

<sup>45</sup> WHO Secretariat, Progress Report on World Health Assembly resolution 66.22 (A/RDMCF/2) April 2016

## 7.2.2 Regional and Bilateral Arrangements

In terms of regional and bilateral arrangements, a distinct trend has emerged, in terms of which standards of IP protection that go beyond what is required by TRIPS are being promoted around the world. South Africa and other developing countries have worked extremely hard at the multilateral level to ensure that the flexibilities within the TRIPS Agreement were unequivocally recognized as legitimate policy tools, particularly as they pertain to public health. It is crucial that we do not erode the gains made multilaterally by assuming TRIPS “plus” IP obligations in bilateral and regional engagements.

With specific reference to geographical indications (GIs), South Africa has concluded a bilateral GI Protocol with the EU that goes beyond wines and spirits.<sup>46</sup> This, however, does not change South Africa’s position at the WTO in respect of the limited and non-binding nature of the establishment of an international wines and spirits GI Register for information purposes only.

Keeping in mind South Africa’s official position in international forums in relation to GIs, and subject to extensive consultation with a broad range of stakeholders, South Africa may consider a *sui generis* registration system for GIs in respect of all kinds of products. Such consideration, however, must be congruent with existing legislation.<sup>47</sup>

In recent years, African Union (AU) members have become increasingly interested in IP policy.<sup>48</sup> Adopting a pro-development and balanced approach to IP is crucial in a region exclusively comprised of developing and least developed countries (LDCs).<sup>49</sup> South Africa’s engagement on IP issues at various regional forums must contribute to this approach.

Regional IP institutions exist in the form of the African Regional Intellectual Property Organization (ARIPO) and *Organisation Africaine de la Propriété Intellectuelle* (OAPI). Concurrently, the AU is working toward the establishment of a Pan African Intellectual Property Organization (PAIPO). The key challenge for the African continent as we pursue these initiatives is to improve coordination of the different initiatives to promote efficient use of resources and ensure a robust discussion of potentially divergent approaches to IP pursued by the different continental forums. ARIPO and OAPI have recognized the need to align their approaches and have begun working toward integrating their functions into the broader AU vision on IP, and it is essential that we join the dialogue with an evidence-based South African perspective.

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<sup>46</sup> Protocol 3 to the Economic Partnership Agreement (EPA) between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part

<sup>47</sup> Trade Marks Act no. 194 of 1993; Agricultural Products Standards Act no. 119 of 1990 (APS); Liquor Products Act 60 of 1989 (LPA); and Merchandise Marks Act 17 of 1941 (MMA).

<sup>48</sup> 29 AU member states have either concluded or are in the process of formulating their IP policies.

<sup>49</sup> Of AU’s 54 member states, 34 are classified as LDCs and 20 as developing countries.

South Africa will work with regional partners to facilitate increased coordination to ensure that regional IP arrangements contribute to a development-focused model of regional economic integration in Africa.

## 8. In-Built Agenda

### 8.1 Medium Term

*The agenda envisaged in the IP Policy consists of short term (current) and medium term (immediate future) issues. In the medium term, after a consultative process, policy will be drafted covering several remaining core concerns around IP, ranging from developmental and poverty alleviation needs within South Africa, to safeguard the country's cultural, agricultural and biological heritage aimed at among others promoting the development of green technologies.*

This section raises substantive thematic areas that will be addressed in the next phase of what is a dynamic and continuous policy development exercise. It also sets out recent developments in terms of international best practice in IP policy formulation, and suggests ways in which South Africa will seek to implement these learnings.

One of the key aspects of the WIPO Development Agenda was for WIPO to place a greater emphasis on demand-side developmental concerns of developing members in its provision of technical assistance. This is aptly captured in Recommendation 10 which mandates WIPO:

*“To assist member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with intellectual property”.*

To implement this recommendation, WIPO undertook several initiatives such as the formation of the Committee on Development and Intellectual Property (CIDP) and the establishment of a project named: “Improvement of National, Sub Regional and Regional IP Institutional and User Capacity (Development Agenda Project DA\_10\_05)”. The project resulted in the development and publication of a comprehensive methodology toolkit for the formulation of National IP Strategies (hereinafter WIPO toolkit).<sup>50</sup>

In developing an approach to Phase II, South Africa will leverage the assistance of intergovernmental organizations of which the country is a member, such as WIPO, UNDP and UNCTAD, who have significant expertise on development-centred approaches to IP. South Africa will also continue to play a meaningful role in the CIDP.

Collaboration with inter-governmental organizations and examples from other countries provide important insights. Ultimately, however, South Africa will design and continuously update its IP Policy in line with constitutional imperatives, national objectives and social concerns.

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<sup>50</sup> Available at: [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_958\\_1.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_958_1.pdf)

The following substantive issues constitute areas for the IMCIP to develop in collaboration with development partners. The thematic areas discussed are indicative and not exhaustive. During Phase II, the discussion will be refined and elaborated in accordance with intra-governmental and stakeholder consultations.

- **IPRs and the informal sector:** The very nature of the informal sector raises the key question: is IP of any relevance? While innovation is not necessarily the preserve of the formal economy, the type of innovation typically seen in the informal sector may not lend itself to formal IP protection. Thus before policy on this issue can be developed, it is important to understand the constraints to IP protection in the informal economy, including the tangible costs and benefits of intellectual property protection in particular in relation to generation of employment. Work in this regard is on-going, under the leadership of WIPO. In Phase II, this policy will explore the best means of using the IP system to empower this sector of the economy by using intangible assets as a veritable tool for the upliftment of economically marginalized communities. Areas to be explored include among others utility models and industrial designs.
- **Branding of South African goods and services (collective marks, certification marks and GIs):** The Trade Marks Act already makes provision for the registration of both collective and certification marks, and for the application of the provisions of the Trade Marks Act to such marks “in so far as they can be applied”. In addition, the LPA provides protection for wine and spirit GIs while the MMA protects broader agricultural GIs as an interim measure pending migration of the protection to the Agricultural Products Standards Act. In Phase II, this policy needs to consider whether the relevant legislation provides sufficient and appropriate brand protection to South African goods and services.
- **Safeguarding South African emblems and National icons:** At the international level, emblems (and other official signs and hallmarks) are protected by Article 6*ter* of the Paris Convention. In order to obtain protection, a party to the Convention must notify all other parties – via WIPO – that it desires protection in respect of identified emblems. Article 6*ter* does not require legislative action to protect a country’s emblems domestically; however, legislation must be enacted to protect other countries’ emblems. In Phase II, this policy will consider whether legislation is needed to protect South African emblems within the country, and if so, the form it ought to take. Unlike emblems, national icons are not ordinarily the subject of statutory protections. That said, countries have considered whether – and if so to what extent – they should be protected. For example, Australia’s Advisory Council on IP (ACIP) was requested “to examine the mechanisms available for the protection of what may be regarded as national icons.” Having considered the ACIP’s recommendations, the federal government decided against legislating “a specifically designed system for protecting national icons”. In Phase II, the issue will be considered, mindful of the constitutional concerns that arise.
- **Commercialization of IP:** The commercialization of IP is the process in terms of which IP-protected products or services are brought to market. Commercialization may be done by the rights holder alone, in partnership with another party, or by another party acting in terms of a licence or an assignment of rights. Innovators of varying scale have expressed frustration in their efforts to commercialize their

products or services. With due regard to policy interventions such as the dti's National Technology Commercialization Strategy, the Department of Science & Technology's (DST's) Innovation White Paper and the Department of Telecommunications and Postal Service's (DTPS) National Integrated Information Communication Technology (ICT) Policy White Paper, Phase II of this policy will explore means of enhancing the role IP can play in bringing goods and services to market.

- **Enforcement:** Here, the state's role is primarily to provide the legal and institutional framework within which rights in IPRs may be enforced. However, to the extent that South Africa is obliged by its international commitments, it may have to play a more active role in the enforcement of certain rights. In providing the requisite legal and institutional framework, the state must take reasonable measures aimed at ensuring that constitutionally protected rights are not infringed. Phase II will analyse the state's current execution of this mandate and propose modifications where necessary.
- **IP and localisation and beneficiation:** With the understanding that IP can be both an opportunity as well as a challenge to South African industry and society, Phase II of this policy will make use of existing scholarly evidence on the current production of IP within South Africa. In doing so, and within the parameters of our international obligations, the state can create a differentiated system of empowerment and beneficiation for local industry groupings and individuals who seek to take advantage of the IP system in myriad ways, thereby contributing to the empowerment of South African persons.
- **IP awareness & capacity building:** In promoting a better understanding of the IP system, it is necessary to first thoroughly study and understand both the opportunities and challenges presented by domestic and international IP policy. To this effect, empowering diverse stakeholders – from different sections of industry, health, civil society, agriculture, arts and other related areas – to gauge the system, and to offer views on ways in which they can use or remake the IP system to best provide for people in South Africa, is essential. Phase II of the policy will seek to scale up the work and coverage of the CIPC so that the state is better able to communicate with stakeholders, particularly the most disadvantaged about the opportunities available through the state's IP architecture to promote domestic social and economic development.
- **IPRs and the environment / climate change / green technologies:** The development, deployment and generation of green technologies are key steps in delivering the state's obligations in respect of the environment and climate change. To this effect, adopting comprehensive TRIPS flexibilities will be essential, not only towards the transfer and diffusion of new green technologies, but also to facilitate an environment within which domestic research and generation of such technologies will be possible. Phase II of the policy will therefore consider whether any TRIPS flexibilities can and ought to be implemented in domestic IP law, and if so, will seek to promote the use of such flexibilities in delivering domestic green technology.
- **IP in agriculture; IP and biotechnology, genetic resources, and genomic sovereignty:** The question of how to best apply IP within areas related to agriculture

is an evolving discussion that has parallels in other developing countries with comparable natural heritage, for example, in Asia and Latin America. As such, those tasked with making domestic policy on IP and agriculture will necessarily have to consider international obligations, including applicable conditions within the Paris Convention and the TRIPS Agreement. With due regard to instruments such as the DST Bio-economy Strategy, Phase II of the policy will consider, amongst others, the following four issues:

- How to reconcile provisions mandated by TRIPS and the CBD, especially as it pertains to “access and benefit-sharing” clauses that seek to give control of a region’s natural heritage to residents of that region;
- Supporting efforts at developing indigenous and international biotechnology, without endangering access to agricultural products and/or limiting plant variety diversity;
- Ensuring farmers’ rights, as well as implementing constitutional obligations to protect genomic sovereignty within the state; and
- Considering other potential protections to boost domestic agricultural production.

## 8.2 Monitoring & Evaluation

*Monitoring and evaluation is an essential part of the IP Policy, and will commence with key existing concerns around the deployment of IP in the country, starting with the protection of traditional knowledge and copyright concerns that relate to access to knowledge.*

Several legislative initiatives have commenced or been concluded prior to the formulation of the IP Policy. Indigenous knowledge and copyright-related issues are most pertinent. It is proposed therefore that these constitute the issues that will be subject to monitoring and evaluation.

The following themes are covered in the existing initiatives:

- Copyright and related issues, including:
  - IP & creative industries, access to knowledge – libraries and archives/ disabled persons/ copyright exceptions and limitations/ digital technologies,
  - IPRs in the digital age; and
- Traditional knowledge (TK)/ indigenous knowledge.

The IP Policy aims to strengthen inter-agency cooperation through the IMCIP, monitoring and evaluation will be employed to progressively promote alignment between all the policy instruments and address any issues of concern in what is a dynamic and on-going policy development exercise.

## **9. Conclusion**

The comprehensive IP Policy will be developed through a coordinated process through the IMCIP, informed by South Africa's development imperatives. The IMCIP will continue to be the consultative forum that will oversee the development of the IP Policy, and will promote a balanced and coordinated approach to the IP Policy formulation process. In addition, the IMCIP will determine legislative and regulatory implications with the aim of facilitating the implementation of the IP Policy. Stakeholder engagements will be enhanced to ensure that the IP Policy advances South Africa's national interests and responds to the socio-economic development dynamics of the country.

## BOARD NOTICES • RAADSKENNISGEWINGS

### BOARD NOTICE 98 OF 2018



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#### NOTICE OF REQUEST FOR PUBLIC COMMENT ON

#### THE AMENDMENT TO THE DISCIPLINARY RULES MADE UNDER THE AUDITING PROFESSION ACT, 26 OF 2005

#### *In terms of Section 10(2)(a) of the Auditing Profession Act, 26 of 2005*

In compliance with section 10(2)(a) of the Auditing Profession Act, 26 of 2005, the Independent Regulatory Board for Auditors hereby publishes the amended Disciplinary Rules for public comment. Following the recommendations of the World Bank Report on Observance of Standards and Codes to strengthen our investigations function, the legal department was split into two separate departments – Legal and Investigations. These amendments to the Disciplinary Rules are required as a result of a separation of the two departments and an alignment to current practice and process flow.

The format of the amendments is as follows: insertions are in [brackets] and deletions are in ~~strikethrough~~.

Interested and Affected Parties are hereby invited to submit written representations of the amended rules within 30 days of publication of this notice. The aforesaid representations must be emailed to [board@irba.co.za](mailto:board@irba.co.za)

#### DISCIPLINARY RULES AMENDED ON 25 JULY 2018

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**~~REPEAL OF THE DISCIPLINARY RULES MADE UNDER THE PUBLIC ACCOUNTANTS' AND AUDITORS' [AUDITING PROFESSION] ACT, 80 OF 1991 [26 OF 2005] AND ADOPTION [ADOPTED] OF NEW DISCIPLINARY RULES ON 7 JUNE 2007, [AS AMENDED ON 25 JULY 2018]~~**

~~Having published its intention to do so for comment in the *Government Gazette* on 26 April 2007, the Board now resolves under section 10(1) of the Auditing Profession Act, 26 of 2005 (~~the Act~~) read with section 4(1)(a)(i), (ii) and (iii) of the Act to (i) the repeal of the Disciplinary Regulations referred to in section 59(8)(b) of the Act and (ii) the prescription by the Board of the following Disciplinary Rules:~~

**1. DEFINITIONS**

[1.1 In these Rules, unless the context indicates otherwise –]

- 1.1.1 **"the Act"** means the Auditing Profession Act, 26 of 2005 and any expression used in these Rules which is defined in the Act bears, unless the context indicates the contrary, the meaning assigned to it in the Act;
- 1.1.2 **"the Board"** means the Independent Regulatory Board for Auditors established by section 3;
- 1.1.3 **"the CEO"** means the person appointed by the Board as Chief Executive Officer under section 9(a) or any person acting in that capacity;
- 1.1.4 **"the chairperson of the Disciplinary Committee"** means the retired judge or senior advocate who is appointed by the Board as such and includes a deputy chairperson of the Disciplinary Committee acting as chairperson at a meeting of the Disciplinary Committee where the chairperson is absent or for any reason unable to perform his or her functions;<sup>1</sup>
- 1.1.5 **"the Code"** means the *Code of Professional Conduct* prescribed by the Board under section 4(1)(c); and includes the *Code of Professional Conduct* referred to in section 59(8)(c), until it has been repealed by the Board;
- [1.1.6 **"the Director: Investigations"** means the person designated as such, who is an employee of the Board, or any person acting in that capacity, or any employee of the Board, notwithstanding his or her designation, who is appointed or charged by the Board to perform the functions performed by the Director: Investigations as at the amendment of these rules;]
- ~~1.1.6~~[1.1.7] **"the Director: Legal"** means the person designated as such, who is an employee of the Board, or any person acting in that capacity, or any employee of the Board, notwithstanding his or her designation, who is appointed or charged by the Board to perform the functions performed by the Director: Legal as at the promulgation of these rules;
- ~~1.1.7~~[1.1.8] **"the Disciplinary Advisory Committee"** means a sub-committee of the Board established by the Board on 20 June 2006 under section 20(1);

<sup>1</sup> Section 24(2)(a) read with the resolutions by the Board on 20 June 2006

- ~~1.1.8~~[1.1.9] **"the Disciplinary Committee"** means the committee established by the Board under section 20(2)(f);
- ~~1.1.9~~[1.1.10] **"firm"**, in the context of these Rules, means a partnership, company or sole proprietor referred to in section 38;<sup>2</sup>
- ~~1.1.10~~[1.1.11] **"the Investigating Committee"** means the committee established by the Board under section 20(2)(e);
- ~~1.1.11~~[1.1.12] **"pro forma complainant"** means the person appointed under section 50(2)(a) to present the charge to the Disciplinary Committee;
- ~~1.1.12~~[1.1.13] **"registered auditor"**, in the context of these Rules, means an individual or firm registered as an auditor with the Board or who was so registered at the time that the alleged improper conduct took place, whether that registered auditor is or was in public practice or not, and includes the duly authorised representative of the registered auditor if the registered auditor concerned is a firm;
- ~~1.1.13~~[1.1.14] **"the respondent"** means a registered auditor whose conduct is the subject of any proceedings (of whatsoever nature, including a complaint or a decision whether or not to refer such conduct to investigation) under these Rules as well as the legal representative of such a registered auditor, if any;
- ~~1.1.14~~[1.1.15] **"these Rules"** means the *Disciplinary Rules* prescribed under section 10(1) and includes these definitions; and
- 1.2 any reference to any section in these Rules is a reference to the corresponding section of the Act;
- 1.3 these Rules shall, wherever possible, be construed in conformity with the Act; and
- 1.4 the headings to and any footnotes in these Rules shall be taken into account in the interpretation of these Rules.

## 2. COMMENCEMENT OF AN INQUIRY INTO ALLEGED IMPROPER CONDUCT

- 2.1 If an allegation of improper conduct against a registered auditor comes to the attention of the Director: ~~Legal~~ [Investigations]<sup>3</sup> or the CEO, he or she must refer it to the Investigating Committee if –
- 2.1.1 the allegations are in the public domain and he or she on reasonable grounds (including a report from a foreign regulator) suspects that a respondent has committed an act which may render such respondent guilty of improper conduct; or
- 2.1.2 the allegations are referred to him or her by the Inspection Committee established under section 20(2)(d); or
- 2.1.3 a court or appropriate regulator sends (or directs to be sent) a record or report under section 48(2); or
- 2.1.4 a member of the public lodges a complaint with him or her and he or she:

<sup>2</sup> Section 1 v. "firm"

<sup>3</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

- 2.1.4.1 establishes that the person or firm complained about is a registered auditor;
- 2.1.4.2 establishes that the complaint falls within the jurisdiction of the Board; and
- 2.1.4.3 is of the opinion that the complaint of improper conduct appears to be justified.<sup>4</sup>
- 2.2 Members of the public who wish to lodge a complaint of improper conduct against a registered auditor shall do so on affidavit, unless the Director: ~~Legal~~ [Investigations]<sup>5</sup> or the CEO decides otherwise. A complaint shall set out clearly and concisely the specific acts or failures to act giving rise to the complaint of improper conduct.
- 2.3 In order to establish whether the grounds for referral to the Investigating Committee referred to in 2.1.1 or 2.1.4 are present, the Director: ~~Legal~~ [Investigations]<sup>6</sup> or the CEO may, in his or her discretion:
- 2.3.1 notify the respondent in writing of the nature of the complaint and call upon that respondent to furnish a written explanation in answer to the complaint within 30 days of such notice; and
- 2.3.2 request a complainant to provide further particulars on any aspect of the complaint [; and]
- [2.3.3 correspond with any other party, in respect of the matter, he or she considers appropriate.]

### 3. INVESTIGATION OF A COMPLAINT OR ALLEGATIONS OF IMPROPER CONDUCT

- 3.1 When a complaint or allegation of improper conduct against a respondent is referred to the Investigating Committee, the Investigating Committee must investigate such complaint or allegation<sup>7</sup> and may:
- 3.1.1 take any steps which are not prohibited by law to gather information with regard to the complaint or allegation;<sup>8</sup>
- 3.1.2 request a complainant to provide further particulars on any aspect of the complaint;
- ~~3.1.3 request the respondent to appear before the Investigating Committee<sup>9</sup> in order to assist it to formulate its recommendations to the Board<sup>10</sup> by notice specifying the time and place of the meeting of the Investigating Committee, provided that the notice shall inform the respondent:~~
- ~~3.1.3.1 that the respondent has the right to be assisted or represented by another person;<sup>11</sup>~~
- ~~3.1.3.2 that any statement made by the respondent to the Investigating Committee may be used in evidence<sup>12</sup> and that the proceedings of the Investigating Committee will be recorded; and~~

<sup>4</sup> Section 48(1) and (2)

<sup>5</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>6</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>7</sup> Section 48(3)

<sup>8</sup> Section 48(3)(b)

~~<sup>9</sup> Section 48(4)~~

~~<sup>10</sup> Section 48(7)~~

~~<sup>11</sup> Section 48(4)(a)~~

~~<sup>12</sup> Section 48(4)(b)~~

- ~~3.1.3.3~~ that section 51(4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing, if appropriate, and that a failure to appear before the Investigating Committee may increase the costs likely to be incurred by the Investigating Committee and the Disciplinary Committee;
- 3.1.4[3] require, by notice in writing, the registered auditor to whom the complaint or allegation of improper conduct relates or any other person to produce to the Investigating Committee at a time and place stipulated in the notice any information including, but not limited to, any working papers, statements, correspondence, books or other documents, which is in the possession or under the control of that registered auditor or other person and which relates to the subject matter of the charge(s), including specifically, but without limitation, any working papers of the registered auditor;<sup>13</sup>
- 3.1.5[4] request the CEO to institute legal action<sup>14</sup> against any person who fails to produce to the Investigating Committee the information referred to in ~~3.1.4~~[3.1.3] at the time and place stipulated in the notice; and
- 3.1.6[5] inspect and, if the Investigating Committee considers it appropriate, retain any information obtained pursuant to ~~3.1.4~~[3.1.3] and ~~3.1.5~~[3.1.4] and make copies of and take extracts from such information.<sup>15</sup>
- ~~3.2~~ Notwithstanding the provisions in ~~3.1.3.1~~ and ~~3.1.3.2~~, the Investigating Committee and the respondent may agree to declare any appearance or part of an appearance of the respondent before the Committee to be "without prejudice". In such a case:
- ~~3.2.1~~ The evidence presented or the discussions at such appearance or part of the appearance will not be recorded;
- ~~3.2.2~~ the discussions between the Investigating Committee and the respondent will not be used in evidence against the respondent; and
- ~~3.2.3~~ the respondent and the Investigating Committee may agree that the respondent would not be assisted or represented by any other person.
- 3.3[2] The Investigating Committee shall not be obliged to disclose the source of a complaint.
- 3.4[3] If, in the course of its investigations, the respondent admits to the Investigating Committee that the respondent is guilty of improper conduct and the Investigating Committee and the respondent agree on a [the recommended] punishment to be imposed for such improper conduct, or if it appears to the Investigating Committee [to] be appropriate, the Investigating Committee may recommend to the Board that a specific sanction is imposed on, and the payment of a specific amount in costs is required from, the respondent and that the name of, charge(s) against and finding in respect of the respondent is published by the Board or not.

<sup>13</sup> Section 48(5)(a)(i)

<sup>14</sup> Section 9(n) read with the Board's resolutions on 20 June 2006

<sup>15</sup> Section 48(5)(a)(ii) and (iii)

[3.4 If in the course of its investigations, the Investigating Committee determines that a matter should be referred directly to a disciplinary hearing, it may make such recommendation.]<sup>16</sup>

#### **Recommendation to Disciplinary Advisory Committee**

3.5 After investigating the allegations of improper conduct against the respondent, the Investigating Committee:

3.5.1 shall report and recommend to the Disciplinary Advisory Committee whether or not the respondent should be charged with improper conduct.<sup>17</sup> If the Investigating Committee recommends to the Disciplinary Advisory Committee that the respondent should not be charged with improper conduct, it should state its finding whether:

3.5.1.1 the respondent is not guilty of improper conduct; or

3.5.1.2 there is a reasonable explanation for the respondent's conduct; or

3.5.1.3 the conduct of which the respondent may be guilty is of negligible nature or consequence; or

3.5.1.4 there are no reasonable prospects of success to succeed with a charge of improper conduct against the respondent; or

3.5.1.5 in all the circumstances it is not appropriate to charge the respondent with improper conduct;~~and~~  
[or]-

3.5.2 may make a recommendation under ~~3.4~~[3.3] to the Disciplinary Advisory Committee; [or]

[3.5.3 may make a recommendation under 3.4 to the Disciplinary Advisory Committee.]

#### **4. DECISION WHETHER TO CHARGE A REGISTERED AUDITOR WITH IMPROPER CONDUCT**

4.1 When the Disciplinary Advisory Committee receives a recommendation under 3.5 from the Investigating Committee, it shall consider this and:

4.1.1 if the Investigating Committee recommended that the respondent should be charged, shall formally charge the respondent;<sup>18</sup>

4.1.2 if the Investigating Committee recommended that the respondent should not be charged, the Disciplinary Advisory Committee may:

4.1.2.1 refer the recommendation to be considered by the Board; or

4.1.2.2 decline to prefer any charge(s) against the respondent.

4.2 Should the Disciplinary Advisory Committee refer the matter to the Board, the Board may:

<sup>16</sup> Section 50

<sup>17</sup> Section 48(7) read with the Board's resolutions on 20 June 2006

<sup>18</sup> Section 49(1) read with the Board's resolutions on 20 June 2006

- 4.2.1 formally charge the respondent with such charge(s) as it may formulate in its discretion;<sup>19</sup> or
- 4.2.2 decline to prefer any charge(s) against the respondent.
- 4.3 If the Disciplinary Advisory Committee or the Board, as the case may be, decides not to charge a respondent whose conduct was the subject of an investigation with improper conduct, the Director: ~~Legal~~[Investigations]<sup>20</sup> or the CEO must notify the respondent, and ~~may~~[must] notify the complainant, in writing of this decision.
- 4.4 If a respondent is formally charged with any charge(s) of improper conduct, the Disciplinary Advisory Committee shall cause a notification (if applicable) and a charge sheet to be furnished to the respondent by hand (whether by service by sheriff or on the respondent's legal representatives or otherwise) or by registered mail to the respondent's address or last known address.<sup>21</sup>

#### [5] THE CHARGE SHEET

- ~~4.9~~[5.1] A charge sheet may contain more than one charge of improper conduct, whether formulated cumulatively or in the alternative.
- ~~4.10~~[5.2] The charge sheet shall:
- ~~4.10.1~~[5.2.1] set out the nature of the charge(s);<sup>22</sup>
- ~~4.10.2~~[5.2.2] set out the relevant facts upon which the charge(s) are based with sufficient particularity as to allow the respondent to plead;
- ~~4.10.3~~[5.2.3] inform the respondent that the respondent may, in writing, admit or deny the charge(s);<sup>23</sup>
- ~~4.10.4~~[5.2.4] inform the respondent that the respondent may, together with the admission or denial referred to in ~~4.10.3~~[5.2.3], submit a written explanation regarding the charge(s);<sup>24</sup>
- ~~4.10.5~~[5.2.5] inform the respondent of the date by which the respondent must admit or deny the charge(s), which date must give the respondent a reasonable time (but not exceeding 60 days) to respond;<sup>25</sup>
- ~~4.10.6~~[5.2.6] inform the respondent that:
- ~~4.10.6.1~~[5.2.6.1] should the respondent not admit or deny the charge(s) by the date referred to in ~~4.10.5~~[5.2.5] the respondent would be considered to have denied those charge(s) and that those charge(s) would be referred to a disciplinary hearing under Rule ~~6~~[10]; or

<sup>19</sup> Section 49(1) read with section 19(4) and the Board's resolutions on 20 June 2006

<sup>20</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>21</sup> Section 49(2)

<sup>22</sup> Section 49(3)(a)

<sup>23</sup> Section 49(3)(b)

<sup>24</sup> Section 49(3)(c)

<sup>25</sup> Section 49(3)(d)

~~4.10.6.2~~[5.2.6.2] should the respondent deny the charge(s), but fail to submit a written explanation, together with the denial, the charge(s) would be referred to a disciplinary hearing under Rule ~~6~~[10] without such an explanation;

~~4.10.7~~[5.2.7] inform the respondent that section 51(4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing and that a failure to submit a plea under ~~4.10.3~~[5.2.3] or a written explanation under ~~4.10.4~~[5.2.4] may increase the costs likely to be incurred by the [Investigating Committee and the] Disciplinary Committee.

## 6. THE PLEA AND CONSEQUENCES OF AN ADMISSION OR DENIAL OF GUILT

~~4~~[6.1] A respondent that is formally charged must in writing plead to all of the charges before or on the date referred to in ~~4.10.5~~[5.2.5].

~~5.2~~[6.2] Should the respondent not plead to the charge(s) before or on the date referred to in ~~4.10.5~~[5.2.5], the respondent will be considered to have denied the charge(s) and such charge(s) will be referred to a hearing on the merits under Rule ~~6~~[10].

~~5.3~~[6.3] If a respondent pleads guilty to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, the respondent must notify the Director: ~~Legal~~ [Investigations]<sup>26</sup> or the CEO. In such a case, the respondent is considered to be guilty of that charge(s)<sup>27</sup> and:

~~5.3.1~~[6.3.1] if the ~~Investigating Committee has recommended~~ [Disciplinary Advisory Committee has determined] that a specific sanction is imposed on, the payment of a specific amount in costs is required from, and a specific arrangement regarding publication is made with respect to, a respondent, the Director: ~~Legal~~[Investigations]<sup>28</sup> or the CEO will automatically impose that sanction on the respondent, order the respondent to pay that amount in costs and implement that arrangement with regard to publication<sup>29</sup>;

~~5.3.2~~ if the ~~Investigating Committee did not recommend that a specific sanction is imposed on, and the payment of a specific amount in costs is required from, a respondent, the matter will be referred to the Disciplinary Committee to act under Rule 7 at the hearing determined under 4.6.~~

~~5.4~~[6.4] If a respondent pleads guilty to one or more, but not all, of the charges in the charge sheet (should there have been more), the respondent must notify the Director: ~~Legal~~ [Investigations]<sup>30</sup> or the CEO, clearly indicating in respect of which charge(s) the respondent admits and denies guilt.

~~5.5~~[6.5] If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made no recommendation under ~~3.4~~[3.3], that charge(s) to which such respondent has denied guilt will

<sup>26</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>27</sup> Section 49(4)

<sup>28</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>29</sup> See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

<sup>30</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

be referred to the Disciplinary Committee for a hearing on the merits under Rule 6[10], unless the charge sheet is amended by the Disciplinary Advisory Committee under 4-11[9.1] to remove the charge(s) to which the respondent denied guilt. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7[11].

5-6[6.6] If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made a recommendation under 3-4[3.3]:

5-6-1[6.6.1] the Disciplinary Advisory Committee may exercise its powers under 4-11[9.1], in which case 4-12[9.2] and 4-13[9.3] will apply *mutatis mutandis*. Should there be no charges in the charge sheet, as amended, to which the respondent pleads not guilty, the charges to which the respondent pleaded guilty are referred to the CEO or the Director: Legal[Investigations]<sup>31</sup> to act in terms of 5-3-1[6.3.1];

5-6-2[6.6.2] if the Disciplinary Advisory Committee does not exercise its powers under 4-11[9.1], or if – despite its exercise of its powers under 4-11[9.1] there are charges in the charge sheet as amended to which the respondent pleads not guilty, 4-5 to 4-8[Rule 7 & 8] will apply *mutatis mutandis* and all charge(s) in the charge sheet will be referred to the Disciplinary Committee. That charge(s) to which the respondent denied guilt will be referred for a hearing on the merits under Rule 6[10]. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7[11].

## 7. THE NOTIFICATION

4-5[7.1] When a respondent is formally charged with any charge(s) of improper conduct, such respondent shall receive a notice of the time and place at which a hearing of the charges under Rule 6[10] and Rule 7[11] (if applicable) will be conducted, unless the Investigating Committee made a recommendation under 3-4[3.3].

4-6[7.2] Subject to 6-3-11[10.3.11], 6-3-12[10.3.12] and 6-4[10.4], a hearing under Rule 6[10] and / or Rule 7[11] is conducted at such time and place as is determined by the Director: Legal or the CEO.

4-7[7.3] The notice shall state:

4-7-1[7.3.1] that, at the hearing under Rule 6[10] and Rule 7[11] (if applicable), the respondent:

4-7-1-1[7.3.1.1] may be assisted or represented by another person in conducting a defence;

4-7-1-2[7.3.1.2] has the right to be heard;

4-7-1-3[7.3.1.3] may call witnesses;

4-7-1-4[7.3.1.4] may cross-examine any person called as a witness by the *pro forma* complainant;

4-7-1-5[7.3.1.5] may have access to documents produced in evidence; and

<sup>31</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

- ~~4.7.1.6~~[7.3.1.6] may admit at any time before the conclusion of the disciplinary hearing under Rule ~~6~~[10] that the respondent is guilty of the charge(s) referred to the Disciplinary Committee despite the fact that the respondent denied such charge(s) or failed to admit or deny such charge(s); and
- ~~4.7.1.7~~[7.3.1.7] will be regarded as guilty of the charge(s) to which the respondent admitted guilt under ~~4.7.1.6~~[7.3.1.6];
- ~~4.7.2~~[7.4] that the respondent must inform the Director: Legal or the CEO at least one (1) month before the date for the hearing under Rule ~~6~~[10] and Rule ~~7~~[11] (if applicable) is determined under ~~4.6~~[7.2], or on good cause shown, such shorter period as the Director: Legal or CEO may determine, of the names, ~~physical addresses and postal addresses~~ [and all known contact details] of any witness(es) that the respondent wishes to give evidence at the hearing under Rule ~~6~~[10] and Rule ~~7~~[11] (if applicable).<sup>32</sup>

## 8. SUBPOENAS

- ~~4.8~~[8.1] The Director: Legal or the CEO must cause subpoenas in the prescribed form to be served on the witness(es), if any, nominated by the respondent and may cause such subpoenas to be served on such witness(es), if any, whom the *pro forma* complainant and the Disciplinary Committee wish to call.

## 9. AMENDMENT OF CHARGE SHEET PRIOR TO HEARING

- ~~4.11~~[9.1] The Disciplinary Advisory Committee may at any time after a charge sheet or amended charge sheet was furnished to a respondent under 4.4 and before the commencement of a hearing under Rule ~~6~~[10] further amend such charge sheet or amended charge sheet.<sup>33</sup> Amendments may include, but are not limited to, the addition or deletion of charges.
- ~~4.12~~[9.2] The amendment shall be effected by furnishing an amended charge sheet which meets the requirements set out in ~~4.10~~[5.2] to the respondent under 4.4.
- ~~4.13~~[9.3] The provisions of Rule ~~5~~[6] apply *mutatis mutandis* to a respondent after receipt of an amended charge sheet even if the respondent has pleaded to the original charge sheet.

## [10.] THE HEARING ON THE MERITS

### ~~6.1~~[10.1] General matters

- [10.1.1] The standard of proof that the Disciplinary Committee must apply for deciding the outcome of a hearing must be on a balance of probabilities.
- 10.1.2 Subject to 10.1.1 the Disciplinary Committee may from time to time adopt a procedure that the Committee deems fit provided the procedure is in accordance with the rules of natural justice and is not prohibited by this Act.]
- ~~6.1.1~~[10.1.3] The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules ~~or from the strict rules of evidence~~ which is not prohibited by

<sup>32</sup> The IRBA will issue the subpoenas but cannot guarantee service of the subpoena or the attendance of the witness. All costs incurred in relation to the subpoena and the witness are for the account of the respondent.

<sup>33</sup> ~~The powers of the Disciplinary Committee to amend a charge sheet is dealt with in 6.3.8~~

the Act. Unless any departure from these Rules or from the strict rules of evidence is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.

- ~~6.1.2~~[10.1.4] If a respondent who is formally charged with any charge(s) of improper conduct under 4.1.1 or 4.2.1, does not in writing admit or deny the charge(s) before or on the date referred to in ~~4.10.5~~[5.2.5] or should that respondent deny the charge (if there is only one or) or one or more of the charges (if there are more than one), the ~~Director: Legal or the CEO~~[Disciplinary Advisory Committee] shall refer the charge(s) which were denied or to which the respondent did not plead, together with the plea and written explanation (if any) to the Disciplinary Committee for a hearing under this Rule, subject to ~~5.5~~[6.5] and ~~5.6~~[6.6].
- ~~6.1.3~~[10.1.5] Pursuant to a referral under ~~6.1.2~~[10.1.4], the Director: Legal or the CEO shall appoint any person ("the *pro forma* complainant"), in his or her discretion, to present the charge(s) to the Disciplinary Committee at the hearing under this Rule and under Rule 7[11] (if any). The *pro forma* complainant may be assisted by one or more persons with legal or auditing experience.

#### **~~6.2~~[10.2] Documents to be adduced in evidence**

- ~~6.2.1~~[10.2.1] The Director: Legal or the CEO shall cause bundles of documents to be adduced in evidence in the hearing under this Rule and under Rule 7[11] (if any) to be distributed to such members of the Disciplinary Committee who indicated that they would attend the hearing under this Rule, to the respondent and to the *pro forma complainant*.
- ~~6.2.2~~[10.2.2] The bundles shall comprise:
- ~~6.2.2.1~~[10.2.2.1] the notice and charge sheet(s) sent to the respondent under 4.4;
  - ~~6.2.2.2~~[10.2.2.2] any plea(s) and written explanation(s) furnished by the respondent;
  - ~~6.2.2.3~~[10.2.2.3] any documents which the *pro forma* complainant and the respondent ~~may agree are admissible in~~ [will use as] evidence;
  - ~~6.2.2.4~~[10.2.2.4] at the discretion of the *pro forma* complainant, a certified copy of the record of the trial and conviction of the respondent if the respondent is charged with improper conduct which amounts to the offence of which the respondent was convicted, unless the conviction has been set aside by a superior court.
- ~~6.2.3~~[10.2.3] Nothing in ~~6.2~~[10.2] shall prevent any evidence not included in any bundle referred to in those sub-rules from being adduced at the hearing under this Rule or Rule 7[11].

#### **~~6.3~~[10.3] The conduct of the hearing**

- ~~6.3.1~~[10.3.1] Should the respondent not be present at the place and time for the hearing determined under ~~4.6~~[7.2] and still not be present within thirty (30) minutes from the time set for the start of the hearing, the

hearing under this Rule and Rule 7[11] (if any) may proceed in the respondent's absence if the Disciplinary Committee is satisfied that the notice under 4.4[7.1] was served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.

- ~~6.3.2~~[10.3.2] This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.
- ~~6.3.3~~[10.3.3] If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing if the registered auditor has authorised such person in writing to do so.
- ~~6.3.4~~[10.3.4] Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless the chairperson of the Disciplinary Committee determines otherwise.<sup>34</sup>
- ~~6.3.5~~[10.3.5] Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.
- ~~6.3.6~~[10.3.6] The order of procedure at a hearing under this Rule shall be as follows:
- ~~6.3.6.1~~[10.3.6.1] The chairperson of the Disciplinary Committee shall read the notice and charge sheet referred to in 4.4 to the respondent, unless the respondent agrees to dispense with the reading of such notice and charge sheet.
- ~~6.3.6.2~~[10.3.6.2] The chairperson of the Disciplinary Committee shall ask the respondent to confirm which of the charges set out in the charge sheet (or in the charge sheet as amended) the respondent admits or denies, provided that the Disciplinary Committee shall not ask such confirmation with respect to any charge(s) that the respondent may have admitted under ~~5.3~~[6.6.2].
- ~~6.3.6.2~~[10.3.6.3] The respondent will be considered to be guilty as charged to any charge(s) to which such respondent admits guilt under ~~6.3.6.2~~[10.3.6.2] and such charge(s) will be heard by the Disciplinary Committee under Rule 7[11].
- ~~6.3.6.3~~[10.3.6.4] Should the respondent not admit or deny the charge(s) when asked to do under ~~6.3.6.2~~[10.3.6.2] or should it appear to the Chairperson that the respondent may admit the facts but may not admit the charge(s) or should the respondent not be present at the hearing under this Rule, the respondent will be considered to have denied the charge(s).
- ~~6.3.6.5~~[10.3.6.5] The *pro forma* complainant shall state his or her case with regard to the charge(s) denied under ~~6.3.6.2~~[10.3.6.2] and ~~6.3.6.4~~[10.3.6.4] and produce evidence in support of it.
- ~~6.3.6.6~~[10.3.6.6] The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant.

<sup>34</sup> Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

- ~~6.3.6.7~~[10.3.6.7] The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.
- ~~6.3.6.8~~[10.3.6.8] At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to the charge(s) denied under ~~6.3.6.2~~[10.3.6.2] and ~~6.3.6.4~~[10.3.6.4] and produce evidence in support of it.
- ~~6.3.6.9~~[10.3.6.9] The *pro forma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- ~~6.3.6.10~~[10.3.6.10] The respondent may re-examine any witnesses cross-examined by the *pro forma* complainant.
- ~~6.3.6.11~~[10.3.6.11] At the conclusion of the case presented by the respondent,
- (i) the *pro forma* complainant may address the Disciplinary Committee on the case generally;
  - (ii) the respondent may reply to the *pro forma* complainant; and
  - (iii) the *pro forma* complainant may reply to any new matter raised by the respondent.
- ~~6.3.7~~[10.3.7] The Disciplinary Committee shall not hear any further evidence from the *pro forma* complainant or from the respondent after the conclusion of their case unless the interests of justice so dictates, in which case ~~6.3.6.5~~[10.3.6.5] to ~~6.3.6.11~~[10.3.6.11] shall apply *mutatis mutandis*.
- ~~6.3.8~~[10.3.8] The Disciplinary Committee may at any time after the *pro forma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule amend the charge sheet in accordance with section 50(3) after which it may regulate its proceedings as it deems fit in the interests of justice.<sup>35</sup>
- ~~6.3.9~~[10.3.9] The respondent may at any time after the *pro forma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule admit guilt to any charge(s) which has not previously been admitted, upon which such respondent will be considered to be guilty of such charge(s). Such charge(s) will be heard by the Disciplinary Committee under Rule 7[11]. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) to which guilt has not been admitted as it deems fit in the interests of justice.
- ~~6.3.10~~[10.3.10] The *pro forma* complainant may, with the leave of the Disciplinary Committee, at any time after he or she started to state his or her case and prior to the conclusion of the hearing withdraw any charge(s) against the respondent. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) as it deems fit in the interests of justice.
- ~~6.3.11~~[10.3.11] If the Disciplinary Committee is not seized of any further charge(s) as a result of an admission under ~~6.3.9~~[10.3.9] or a withdrawal under ~~6.3.10~~[10.3.10], and if the respondent is guilty of any charge(s) under section 49(4)<sup>36</sup> or section 50(8)(b)(ii)<sup>37</sup>, the Disciplinary Committee shall proceed to hear such

<sup>35</sup> See also 4.11

<sup>36</sup> This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

<sup>37</sup> This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

charge(s) of which the respondent is guilty under Rule 7[11], or, in exceptional circumstances, shall determine anew a place and time (not more than 30 days from the date of the announcement) at which the Disciplinary Committee will hear such charge(s) under Rule 7[11].

~~6.3.12~~[10.3.12] The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.

~~6.3.13~~[10.3.13] The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not been called by the *pro forma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.

~~6.3.14~~[10.3.14] Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *pro forma* complainant and to the legal representative of the respondent registered auditor (if any).

~~6.3.15~~[10.3.15] The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

#### **6.4[10.4] Conclusion of hearing under this Rule**

[10.4.1] At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the guilt or innocence of the respondent on the charge(s) with which the Disciplinary Committee is still seized at the conclusion of the hearing under this Rule. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days<sup>38</sup> after the conclusion of the hearing under this Rule.

### **11. HEARING ON SENTENCING<sup>39</sup>**

#### **7.4[11.1] Application of this rule**

~~7.1.1~~[11.1.1] This rule does not apply when a respondent admitted guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, and the Director:

<sup>38</sup> See section 51(1)

<sup>39</sup> It is envisaged that a hearing on the merits and on sentencing would normally take place at the same time. In exceptional circumstances, however, the Disciplinary Committee may determine otherwise: see ~~6.3.11~~[10.3.11], ~~6.3.12~~[10.3.12] and ~~6.4~~[10.4]

~~Legal~~[Investigations]<sup>40</sup> or the CEO automatically imposed a sanction on the respondent under ~~5.3.1~~[6.3.1]<sup>41</sup>.

~~7.1.2~~[11.1.2] Subject to ~~7.1.1~~[11.1.1], this rule applies when a respondent is found guilty of any charge(s) under section 49(4)<sup>42</sup>, 50(8)(b)(ii)<sup>43</sup> or 51(1)(a)<sup>44</sup> regardless of whether a hearing under Rule ~~6~~[10] took place.

~~7.2~~[11.2] **Hearing under this Rule when a hearing under Rule ~~6~~[10] took place**

[11.2.1] If a respondent is found guilty of a charge(s) under section 49(4)<sup>45</sup>, 50(8)(b)(ii)<sup>46</sup> or 51(1)(a)<sup>47</sup> and a hearing under Rule ~~6~~[10] took place, the Disciplinary Committee will hold a hearing under this Rule:

~~7.2.1~~[11.2.1.1] at the time and place appointed by the chairperson of the Disciplinary Committee under ~~6.3.11~~[10.3.11] or ~~6.4~~[10.4];

~~7.2.2~~[11.2.1.2] as a continuation of the hearing under Rule ~~6~~[10]; and

~~7.2.3~~[11.2.1.3] with only such members of the Disciplinary Committee as took part in the hearing under Rule ~~6~~[10] taking part in the hearing under this Rule.

~~7.3~~[11.3] **Hearing under this Rule when a hearing under Rule ~~6~~[10] did not take place<sup>48</sup>**

[11.3.1] The provisions of this sub-Rule ~~7.3~~[11.3] apply only if a respondent is guilty of a charge(s) and a hearing under Rule ~~6~~[10] did not take place. In such a case;

~~7.3.1~~[11.3.1.1] the Director: Legal or the CEO may appoint a *pro forma* complainant, in his or her discretion, to present any aggravating or mitigating circumstances to the Disciplinary Committee at the hearing under this Rule. The *pro forma* complainant may be assisted by one or more persons with legal or auditing experience;

~~7.3.2~~[11.3.1.2] the Disciplinary Committee conducts the hearing under this Rule at such time and place as is determined by the Director: Legal or the CEO under ~~4.6~~[7.2].

~~7.4~~[11.4] **General power relating to hearing under Rule ~~7~~[11]**

[11.4.1] The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules ~~or from the strict rules of evidence~~ which is not prohibited by the Act. Unless

<sup>40</sup> See the Board's Resolution on 20 June 2006 as amended on 17 February 2016

<sup>41</sup> See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

<sup>42</sup> This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

<sup>43</sup> This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

<sup>44</sup> This is the case when the Disciplinary Committee finds a registered auditor guilty after a hearing on the merits of the matter.

<sup>45</sup> See fn 42 above.

<sup>46</sup> See fn 43 above.

<sup>47</sup> See fn 44 above.

<sup>48</sup> This is the case when a registered auditor admits guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet and the Investigating Committee did not recommend that a specific sanction is imposed.

any departure from these Rules ~~or from the strict rules of evidence~~ is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.

**7.5[11.5] The conduct of the hearing**

- ~~7.5.1~~[11.5.1] Should the respondent not be present at the place and time for the hearing determined under ~~6.3.11~~[10.3.11], ~~6.4~~[10.4] or ~~7.3.2~~[11.3.1.2] and still not be present within thirty (30) minutes from the time set for the start of the hearing, the hearing under this Rule may proceed in the respondent's absence, provided that if the place and time for the hearing was determined under ~~7.3.2~~[11.3.1.2], the hearing under this Rule may only proceed in the respondent's absence if the Disciplinary Committee is satisfied that the notice under ~~4.4~~[7.1] was served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.
- ~~7.5.2~~[11.5.2] This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.
- ~~7.5.3~~[11.5.3] If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing, if the registered auditor has authorised such person in writing to do so.
- ~~7.5.4~~[11.5.4] Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless good cause, in the opinion of the chairperson of the Disciplinary Committee, is shown.<sup>49</sup>
- ~~7.5.5~~[11.5.5] Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.
- ~~7.5.6~~[11.5.6] The order of procedure at a hearing under this Rule shall be as follows:
- ~~7.5.6.1~~[11.5.6.1] The chairperson of the Disciplinary Committee shall read the charge(s) of which the respondent is guilty, unless the respondent agrees to dispense with the reading of the charge(s).
- ~~7.5.6.2~~[11.5.6.2] The *pro forma* complainant shall state his or her case with regard to mitigating or aggravating circumstances in respect of the charge(s) of which the respondent is guilty and produce evidence in support of it (if any).
- ~~7.5.6.3~~[11.5.6.3] The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant.
- ~~7.5.6.4~~[11.5.6.4] The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.

<sup>49</sup> Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

- ~~7.5.6.5~~[11.5.6.5] At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to mitigating or aggravating circumstances in respect of the charge(s) of which the respondent is guilty and produce evidence in support of it (if any).
- ~~7.5.6.6~~[11.5.6.6] The *pro forma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- ~~7.5.6.7~~[11.5.6.7] The respondent may re-examine any witnesses cross-examined by the *pro forma* complainant.
- ~~7.5.6.8~~[11.5.6.8] At the conclusion of the case presented by the respondent,
- (i) the *pro forma* complainant may address the Disciplinary Committee with respect to mitigating or aggravating circumstances;
  - (ii) the respondent may reply to the *pro forma* complainant; and
  - (iii) the *pro forma* complainant may reply to any new matter raised by the respondent.
- ~~7.5.7~~[11.5.7] The Disciplinary Committee shall not hear any further evidence from the *pro forma* complainant or from the respondent after the conclusion of their case on mitigating or aggravating circumstances unless the interests of justice so dictate, in which case ~~7.5.6.2~~[11.5.6.2] to ~~7.5.6.8~~[11.5.6.8] shall apply *mutatis mutandis*.
- ~~7.5.8~~[11.5.8] The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.
- ~~7.5.9~~[11.5.9] The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not been called by the *pro forma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.
- ~~7.5.10~~[11.5.10] Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *pro forma* complainant and to the representative of the respondent registered auditor (if any).
- ~~7.5.11~~[11.5.11] The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

~~7.6~~[11.6] **Conclusion of hearing under this Rule**

[11.6.1] At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the sentence of the respondent. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days after the conclusion of the hearing under Rule 6[10] (if any) or more than 30 days after the conclusion of the hearing under this Rule, whichever is the earlier.<sup>50</sup>

#### **10. 12 COMPETENT SENTENCES, PUBLICATION, COSTS AND NOTICE TO THE BOARD**

~~8.1~~[12.1] If a respondent is found guilty of a charge of improper conduct, one or more of the following sentences may be imposed under ~~5.3.1~~[6.3.1] or ~~7.6~~[11.6] with respect to each charge of which the respondent is found guilty<sup>51</sup>:

~~8.1.1~~[12.1.1] a caution or reprimand; and

~~8.1.2~~[12.1.2] a fine which shall not exceed either ~~R100 000~~[R200 000]<sup>52</sup> or such higher amount as may be applicable from time to time under section 51(3)(a)(ii); and

~~8.1.3~~[12.1.3] a suspension of the right to practice as a registered auditor for a specific period; and

~~8.1.4~~[12.1.4] the cancellation of the registration of the respondent with the Board and the removal of the name of the respondent from the register referred to in section 6.

~~8.2~~[12.2] A sentence under ~~8.1~~[12.1] may be suspended for a specific period and / or made subject to any lawful conditions set in the sentence.

~~8.3~~[12.3] If a respondent is found guilty of a charge of improper conduct, an order made under ~~5.3.1~~[6.3.1] or ~~7.6~~[11.6] may include:

~~8.3.1~~[12.3.1] that the name of the respondent; and / or

~~8.3.2~~[12.3.2] the name of the respondent's firm (if applicable); and / or

~~8.3.3~~[12.3.3] the charge against and finding in respect of the respondent; and / or

~~8.3.4~~[12.3.4] any other information that is considered appropriate is published by the Board or not, as the case may be.<sup>53</sup>

~~8.4~~[12.4] A respondent:

~~8.4.1~~[12.4.1] upon whom a sanction was imposed under ~~5.3.1~~[6.3.1]; or;

<sup>50</sup> See section 51(1)

<sup>51</sup> See section 51(3)(a)

<sup>52</sup> As per the notice published in the Government Gazette on 30 January 2013. Applying the ratio works out to be R40 000 per one year of imprisonment. The five year period as indicated in section 51(3)(ii) of the APA would be R200 000. The R100 000 fine per charge is still applicable to matters prior to 30 January 2013.

<sup>53</sup> Section 51(5)

~~8.4.2~~[12.4.2] whose conduct was the subject of a hearing under Rule 6[10], may be ordered to pay such reasonable costs as have been incurred by the Investigating Committee and the Disciplinary Committee in connection with the investigation and hearing in question, or such part thereof as may be considered just.

## BOARD NOTICE 99 OF 2018

## THE SOUTH AFRICAN PHARMACY COUNCIL

## RULES RELATING TO GOOD PHARMACY PRACTICE

The South African Pharmacy Council intends to publish amendments and additional minimum standards to be added to Annexure A of the *Rules relating to good pharmacy practice* which was published on the 17 December 2004 Government Gazette No: 27112 in Board Notice 129 of 2004, in terms of section 35A(b)(ii) of the Pharmacy Act 53 of 1974.

Interested parties are invited to submit, within **60 days** of publication of this notice, substantiated comments on or representation regarding the amendments to the existing minimum standards and/or the additional minimum standards. Comments must be addressed to the Registrar, the South African Pharmacy Council, Private Bag 40040, Arcadia, or fax (012)326-1496 or email [BN@sapc.za.org](mailto:BN@sapc.za.org).

**SCHEDULE****Rules relating to what constitutes good pharmacy practice**

1. In these rules "the Act" shall mean the Pharmacy Act, 53 of 1974, as amended, and any expression to which a meaning has been assigned in the Act shall bear such meaning.
2. The following minimum standard as published herewith shall constitute an additional standard to be added to Annexure A of the *Rules relating to good pharmacy practice* in accordance with section 35A(b)(ii) of the Act –
  - (a) Minimum Standards for Unit Dose Dispensing



**TA MASANGO**  
**REGISTRAR**

## MINIMUM STANDARDS FOR UNIT DOSE DISPENSING

### 1. Definitions

**Unit dose dispensing (UDD)** is a process where individual doses of medicines are packed into a container (UDC), ready for administration to patients, involving a manual or an automated system.

**Unit dose container (UDC)** – are containers used for packing of medicines according to administration times for a specific patient and/or a caregiver to administer.

### 2. Preamble

The use of original packs of medicines, supported by appropriate pharmaceutical care, is recommended as the preferred intervention for the supply of medicines in the absence of a specific need for a unit dose container (UDC). There is evidence to indicate that UDCs may be of value for some patients who have been assessed as having practical problems in managing their medicines and/or maintaining independent healthy living. Each patient's needs must be assessed on an individual basis and any intervention must be tailored to the patient's specific requirements.

The removal of a medicine from the manufacturer's original packaging and packed into a UDC can affect its stability. Pharmacists and pharmacy support personnel must recognise that any re-packaging of medication from the manufacturer's original packaging may involve risks and must take responsibility for the decisions made.

### 3. Purpose

The purpose of this standard is to provide guidelines to pharmacists and pharmacy support personnel when medicines are dispensed as individual unit doses for a particular patient, to facilitate administration with the aim of improving adherence to therapy. Medicines are dispensed and packed in unit dose containers according to administration times for use by the patient and/or caregiver.

Minimum standards specifically relating to Unit Dose Dispensing are intended to guide pharmacists and pharmacy support personnel on the legal requirements to be taken into consideration in ensuring that the stability of medicines is not compromised for each medicine when packed together in a container as individual unit doses.

### 4. General considerations

- (a) All relevant legislative requirements for dispensing must be met when UDD is applied.
- (b) UDD may only be performed in community and institutional pharmacies.

- (c) In the absence of stability data, medicines packed into an UDC may only be packaged in a quantity not exceeding 30 consecutive days from the date of packing. The expiry date of the medicine must be taken into consideration.
- (d) Only dispense the quantity that is intended to be used by a patient alternatively for not more than 30 consecutive days from the day of dispensing, provided that the date of dispensing and the statement "Use within 30 days" are clearly indicated on the label.
- (e) Medicines which are considered unstable or unsuitable when packed together should not be packed into a UDC.

## **5. Specific Considerations**

### **5.1 The clinical needs and supportive care of the patient**

- (a) In the case of a child under the age of 12, the guardian must give their consent, prior to the supply of medicines using the UDC.
- (b) In the case where a person is subjected to curatorship, in terms of the Mental Health Care Act 17 of 2002, the curator must give their consent. Such a curator will be expected to give consent, prior to the supply of medicines using the UDC.
- (c) The patient must give informed consent prior to the supply of medicines using UDC.
- (d) The patient, or his or her agent or caregiver must be able to manage the medication and ensure adherence to the treatment regimen.

### **5.2 The type of medicines used**

- (a) The following should be considered when determining the suitability of medicines for dispensing in UDC:
  - (i) the stability of the medicine;
  - (ii) cross-contamination;
  - (iii) potential for chemical and physical interactions between medicines and/or the container; and
  - (iv) the length of time that the medicines will be packed together.

- (b) The pharmacist remains responsible for any decisions to pack medicines in the UDC. The following is a general guideline of solid dosage forms which should NOT be packed into a UDC - the list is not comprehensive:
- (i) Soluble, effervescent and or dispersible tablets;
  - (ii) Chewable, sub-lingual and buccal tablets;
  - (iii) Soft gel and oil filled capsules;
  - (iv) Moisture sensitive and hygroscopic preparations;
  - (v) Medicines whose dose may vary frequently depending on test results, e.g. unstable INR with warfarin;
  - (vi) Medicines that may be harmful when handled e.g. cytotoxics
  - (vii) Medicines which are stored in the fridge/ thermolabile medicines and medicines with special storage requirements;
  - (viii) Medicines intended for "as required" use; and
  - (ix) Medicines that have special administration instructions and must be identified individually in order to do this safely e.g. alendronate.

### 5.3 The packing of UDC

- (a) The packing of UDC must be undertaken by pharmacists and pharmacy support personnel (PSP), operating under the direct supervision of a pharmacist;
- (b) There must be a system to check and control the quality of packing of medicines into a UDC;
- (c) The premises and layout of the facility in which packaging occurs must adhere to and be conducted in accordance with GPP;
- (i) If an automated or semi-automated system is used, the equipment must be operated according to a relevant SOP(s); and
  - (ii) The packaging material must be water-proof, airtight, and tamper-evident.

### 5.4 Labelling

- (a) The label for each unit dose container must:
- (i) be clear, legible and indelible;
  - (ii) include a statement 'keep out of reach of children'
  - (iii) comply with Regulation 10(6) of the General Regulations published in terms of the Medicines Act; and
  - (iv) include any cautionary and advisory instructions.

- (b) Each medicine must be clearly identifiable;
- (c) The instructions for use of the container must be simple and unambiguous;
- (d) In cases where it is not possible to include all information on the label, additional information must be provided in a separate information pamphlet.

## 5.5 Record keeping

- (a) A record of each UDC prepared for the patient must include:
  - (i) the name, dosage form, strength and dose of each medicine **packed into each section or compartment of the unit dose container;**
  - (ii) the name of the person/s who dispensed the prescription and packed the unit dose container;
  - (iii) the date of dispensing;
  - (iv) the date of packing the UDC; and
  - (v) the reference number linking the medicines packed into the UDC to a particular patient.

## 5.6 Disposal of unused medicines

Patients must be advised that medicines that have been packed into an UDC and that have not been used within 30 days should be returned to the pharmacy for destruction in accordance with legislation.

## 5.7 Standard operating procedures

the following, must be included in an SOP, but may not be limited to:

- (a) assessment of patient selection;
- (b) assessment of suitable medicine selection;
- (c) describing the use of the packing instrument, including cleaning, maintenance and error records;
- (d) packaging of medicines including quality assurance procedures;
- (e) managing returned and unused medicines;
- (f) uncollected, spoilt and damaged medicine;
- (g) recall of medicine(s) packed into UDCs;
- (h) handling of complaints related to UDCs;
- (i) refilling of bulk containers on completion of filling of UDCs; and
- (j) recording of changes to medicines, doses and frequency of dosing.

**6. Knowledge**

Pharmacists and/or pharmacy support personnel must ensure that they have adequate knowledge of UDD as well as the ability to demonstrate the use of the UDC to any person as the need arises

# **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:

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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Contact Centre Tel: 012-748 6200. eMail: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)  
Publications: Tel: (012) 748 6053, 748 6061, 748 6065