

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Regulation Gazette

No. 11268

Regulasiekoerant

Vol. 670

1

April
April

2021

No. 44384

Contents

No.		Gazette No.	Page No.
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Mineral Resources and Energy, Department of / Mineraalbronne en Energie, Departement van			
R. 302	Petroleum Products Act, 1977: Published for public comments: Draft Liquefied Petroleum Gas Rollout Strategy ...	44384	13
Employment and Labour, Department of / Indiensneming en Arbeid, Departement van			
R. 303	Labour Relations Act, 1995: Cancellation of registrations of Employers' Organisations.....	44384	40
South African Revenue Service / Suid-Afrikaanse Inkomstediens			
R. 304	Customs and Excise Act, 1964: Imposition of Provisional Payment (PP/156).....	44384	41
R. 304	Doeane- en Aksynswet, 1964: Opheffing van Voorlopige Betaling (VB/156).....	44384	42
R. 305	Customs and Excise Act, 1964: Amendment of rules.....	44384	43
PROCLAMATION NOTICES • PROKLAMASIE KENNISGEWINGS			
Justice and Constitutional Development, Department of / Justisie en Staatskundige Ontwikkeling, Departement van			
R. 7	Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing special investigating unit: Gauteng Enterprise Propeller	44384	50
R. 7	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande spesiale ondersoekteenheid: Gauteng Enterprise Propeller	44384	53
R. 8	Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing special investigating unit: Unemployment Insurance Fund	44384	56
R. 8	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande spesiale ondersoekteenheid: Werkloosheidsversekeringsfonds Enterprise Propeller.....	44384	59
R. 9	Special Investigating Units and Specials Tribunals Act (74/1996): Referral of matters to existing special investigating unit: eThekweni Metropolitan Municipality	44384	62
R. 9	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande spesiale ondersoekteenheid: eThekweni Metropolitaanse Munisipaliteit	44384	66

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. R. 302

1 April 2021

PETROLEUM PRODUCTS ACT, 1977**PUBLISHED FOR PUBLIC COMMENTS: DRAFT LIQUEFIED PETROLEUM GAS ROLLOUT STRATEGY**

I, Samson Gwede Mantashe, the Minister of Mineral Resources and Energy intend to develop the Liquefied Petroleum Gas Rollout Strategy and has approved the publication of the draft Liquefied Petroleum Gas Rollout Strategy for public comments.

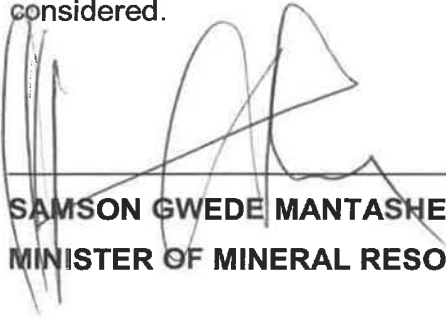
All interested persons and organisations are hereby invited to submit written comments on the proposed Liquefied Petroleum Gas Rollout Strategy for the attention of Makhosini Mngomezulu, by –

(a) Post to: Department of Mineral Resources and Energy
Private Bag X96
Pretoria
0001

(b) Hand delivery to: Matimba House
192 Visagie Street
Corner Paul Kruger & Visagie Street
Pretoria
0001, or

(c) email to: Petroleum.Policy@dmre.gov.za

Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments. Comments on the draft Liquefied Petroleum Gas Rollout Strategy must be submitted no later than sixty (60) days from the date of publication of this Notice. Comments received after the closing date may not be considered.



SAMSON GWEDE MANTASHE
MINISTER OF MINERAL RESOURCES AND ENERGY



mineral resources & energy

**Department:
Mineral Resources and Energy
REPUBLIC OF SOUTH AFRICA**

DRAFT SOUTH AFRICAN LIQUEFIED PETROLEUM GAS (LPG) ROLLOUT STRATEGY

Table of Contents

1. EXECUTIVE SUMMARY	1
2. STRUCTURAL FEATURES OF THE LPG MARKET	2
3. LPG INFRASTRUCTURE	3
4. LPG PRICING FRAMEWORK	3
4.1 LPG Pricing	3
5. LPG CYLINDER MANAGEMENT	4
5.1 LPG Cylinder Deposits	4
6. COMPLIANCE MONITORING AND ENFORCEMENT	4
7. NEGATIVE PERCEPTION ABOUT LPG	5
8. CONCLUSION	5
9. THE LPG ROLLOUT STRATEGY	6
9.1 Background	6
9.2 Objectives of the LPG Rollout Strategy	7
10. OVERVIEW OF THE LIQUEFIED PETROLEUM GAS MARKET	8
11. LPG PRODUCTION	9
12. LPG IMPORTS	11
13. LPG EXPORTS	12
14. LPG PRICING FRAMEWORK	12
14.1 LPG Pricing	12
15. LPG REGULATORY FRAMEWORK	14
16. LPG CYLINDER MANAGEMENT	15
17. LPG SUPPLY VALUE CHAIN	16
18. PILOT PROJECT BASED LPG SUPPLY VALUE CHAIN	17
18.1 Wholesalers and Bulk Distributors	18
18.2 Retailers and Dealers	18
19. LPG IMPORT INFRASTRUCTURE	18
20. THE ROLE OF PETROSA	21
21. LOCAL LPG CYLINDER PRODUCTION	21
22. PUBLIC AWARENESS	22
23. CONCLUSION	23

1. EXECUTIVE SUMMARY

Government, through the Department of Mineral Resources and Energy (DMRE), is responsible for ensuring energy security. This entails ensuring that diverse energy resources, in sustainable quantities and at affordable prices, are available to the South African economy in support of economic growth and poverty alleviation, taking into account environment management requirements and interactions among economic sectors. Power shortfalls in recent years have also emphasised the need for South Africa (SA) to diversify its energy mix and, in so doing reduce heavy dependence on electricity especially for cooking and space heating. The LPG industry in South Africa can provide a quick and effective solution to household's thermal requirements. However, for this industry to provide such a solution there needs to be changes in the current LPG industry structure and/ or value chain to introduce elements of effective value-add throughout production, importation, distribution, wholesaling and retailing.

The LPG Rollout Strategy therefore provides a framework for the expansion of the use of Liquefied Petroleum Gas (LPG) in South Africa (SA) with special emphasis on the household sector. It also seeks to ensure optimal contribution of LPG in addressing the country's electricity and other energy supply challenges. The Department of Mineral Resources and Energy has identified a number of challenges in the development of the LPG market in the country; some of which are currently being addressed. These challenges include amongst others the following:

- Structural features of the market
- LPG infrastructure
- LPG pricing framework
- Cylinder management
- Negative perception about LPG
- Compliance, Monitoring and Enforcement

2. STRUCTURAL FEATURES OF THE LPG MARKET

Generally, the biggest challenge in the oil and gas industry of which LPG is part, is the lack of meaningful transformation. The LPG sector is characterized by the dominance of the market by a few wholesalers which have historical supply relationships with the local refineries. This has the effect of creating barriers to entry by small players especially black ones in the industry. These wholesalers collectively account for more than 95 percent of the wholesale market. Therefore, entry to the LPG supply chain becomes impossible and costly for new entrants resulting in lack of competition and higher prices.

Long-term contracts for LPG supplies to bulk customers especially at shopping malls tend to create barriers in terms of competition. Customers are contractually tied down to LPG suppliers for both LPG supplies and equipment. Furthermore, contracts are either silent or vague when it comes to passing of ownership at the end of the contract. This in a sense makes switching to another supplier difficult and costly. The Competition Commission Report published in March 2017, recommended a separation of the LPG supply agreement from the LPG equipment agreement. The parties to any supply agreement must have separate agreements pertaining to the use of LPG equipment. The LPG equipment agreement must reflect the cost and usage of the installed LPG equipment, while the LPG supply agreement should reflect the cost of supply of LPG. The Competition Commission is therefore well placed to enforce the compliance on the proposed contractual arrangements.

Furthermore, to address the issue of transformation within the LPG sector, the Department is in the process of reviewing the Petroleum and Liquid Fuels Sector Charter. In this regard, the Petroleum and Liquid Fuels Sector Charter Council will be established. The latter will serve as a compliance, monitoring and enforcement mechanism for the implementation of B-BBEE aligned Sector Codes. In considering license applications, the Controller of petroleum products shall promote and advance black people as defined in the B-BBEE Act. The Department will therefore use this instrument to effect transformation. It will further collaborate with the Competition Commission with regard to exposing any uncompetitive behaviour in the industry.

3. LPG INFRASTRUCTURE

There has been limited LPG infrastructure; ranging from import facilities to storage facilities resulting in inadequate supply of LPG. Infrastructure and logistical issues have an immense impact on the wholesaling and retailing of LPG in the country. South Africa has no storage facility capable to fully load a Very Large Gas Carrier (VLGC), and as a consequence, only small cargo vessels are accommodated at the South African ports resulting in less-economic domestic delivery of LPG. Due to inadequate local production of LPG, the shortfall has been met by imports. However, the imports of LPG have also been limited by the lack of adequate importation and storage infrastructure. Prior to 2015, the methodology used for reviewing tariffs was done every 3 to 5 years, thus not attractive to investors. This created regulatory uncertainty regarding return on investments. This therefore means that the construction of import infrastructure, as well as corresponding secondary storage, and distribution infrastructure which is accessible to third parties and /or new entrants is critical in enabling the desired imports of LPG.

In 2015 the Department amended Regulations regarding the reviewing of tariffs to allow for the review period of the remaining term of the license to facilitate infrastructure investments. Subsequent to the said amendment, new investments in import facilities in the Western Cape were realized. Furthermore, in October 2018, construction of a 22 600 metric tonnes LPG import and storage facility in Richards Bay got under way. This facility will remove the largest obstacle to unrestricted supply of LPG to the region and will usher in a new era of cost-effective, reliable, safer and cleaner energy for Southern Africa.

4. LPG PRICING FRAMEWORK

4.1 LPG Pricing

The Department regulates LPG at the refinery gate through the Maximum Refinery Gate Price (MRGP) and also at retail level through the Maximum Retail Price (MRP). The Department has since changed the pricing framework to reflect the actual cost of imported LPG using the Saudi Contract Price. The main problem with the old pricing methodology was that, it used Petrol 93 as a proxy for the calculation of MRGP of LPG. Due to the fluctuation of monthly crude oil prices from which LPG is derived,

sometimes importers of LPG were not fully recovering their importation costs. The Department intends regulating the prices of LPG along the entire value chain.

5. LPG CYLINDER MANAGEMENT

5.1 LPG Cylinder Deposits

Cylinders are a necessary tool to market and compete effectively in this sector. Consequently, wholesalers have invested in the cylinder market to ensure that their stock of cylinders is sufficient to meet market demand. Therefore wholesalers' investments in cylinders need to be somehow protected. The latter however need to be affordable in order to expand the usage of LPG. It is the Department's view that cylinder deposit must be excluded from the working rules for setting the monthly Maximum Retail Price (MRP) for LPG. Customers must pay for the actual cost of the cylinder and own the cylinder. Ownership of a cylinder (s) by the customer will assist in curbing the practice of cross-border stealing of cylinders thus assisting the distribution of LPG to residential households.

6. COMPLIANCE MONITORING AND ENFORCEMENT

The Competition Commission highlighted the lack of monitoring of both the maximum refinery gate price and the wholesale price. It was further found that there are no remedial sanctions that may be imposed by the Energy Inspectors in the event that non-compliance with the regulated prices is found. Regarding the wholesale price, the Department is considering price regulation for the entire LPG value chain. Currently, LPG is regulated at the refinery gate as well as at the retail level excluding the wholesale price. For law enforcement to be successful, it is important for offenders to be brought before a court of law where consistent non-compliance with notices is experienced. However, criminal action shall only be possible if Energy Inspectors are properly categorized by the Minister of Justice and Correctional Services in terms of section 334 of the Criminal Procedure Act, 51 of 1977. To strengthen compliance monitoring and enforcement, the Department has capacitated Energy Inspectors to be categorized as Peace Officers as Section 3 (4) (a) of the Petroleum Products Act, 1977 provides for such categorization and appointment. The categorization of inspectors as Peace Officers will help a great deal in compliance monitoring and enforcement as inspectors will be vested with powers to serve summons issued in terms of section 54

of the Criminal Procedure Act, 1977. It is envisaged that non-compliance will be significantly reduced.

7. NEGATIVE PERCEPTION ABOUT LPG

All energy carriers are of themselves, to varying degrees, inherently dangerous and require adherence to stringent safety, health and environmental specifications and standards with respect to equipment, handling and use. The explosive nature of LPG accidents - the so-called "bomb effect" - feeds into people's negative perception of LPG as being an unsafe fuel compared to other sources of energy.

The Department in collaboration with other stakeholders will embark on targeted safety and awareness campaigns to assist the public in making the right choices to switch from using biomass, coal, electricity and illuminating paraffin to using LPG for household thermal needs. In this regard, the benefits of safe utilisation of LPG juxtaposed to those of other (traditional) energy carriers must be well communicated to the target audience. This would include the reduction of indoor pollution, caused by the use of traditional energy carriers like biomass and coal as well as illuminating paraffin, and the concomitant savings on the health costs thereof. These benefits would not be achievable without the requisite infrastructure and appliances which include cylinders, stoves and heaters that comply with applicable specifications and standards. The campaign will highlight the economic and financial benefits of switching from other energy carriers to LPG.

8. CONCLUSION

For successful implementation of the LPG Rollout Strategy, the Department will focus mainly on four key challenges, namely; restrictive features in the LPG market, provision of adequate and open access LPG importation infrastructure to accommodate imports, conducting safety awareness campaigns to deal with negative perceptions on the use of LPG and cylinder management. Collaboration with and co-operation of other key stakeholders such as the Competition Commission and the Department of Labour are also crucial for the successful implementation of the Strategy.

9. THE LPG ROLLOUT STRATEGY

9.1 Background

South African energy supply is characterized by unequal access to modern energy carriers such as electricity and LPG. Low income households lack access to affordable, safe and cleaner energy resources for cooking and space heating. There are socio-economic impediments to the introduction of LPG in some communities. These include the existence of a culture of non-payment for services rendered (e.g. illegal connections to electricity and outright refusal to pay for services rendered) and negative perceptions regarding the safety and effectiveness of LPG as compared to other energy carriers.

The continuing electricity power shortfalls and electricity price increases highlight the need to diversify the country's energy mix and to alleviate the load on the electricity grid. In as far as LPG is concerned; local production by all South African refineries is inadequate to meet the demand of the local market. The shortfall has to be met by imports.

The LPG Rollout Strategy seeks to provide a framework for the expansion of the use of LPG in SA with special emphasis on the household sector. It identifies strategic options that Government can adopt in making LPG an energy carrier of choice for thermal applications, as well as the orderly development of the LPG market in South Africa. It seeks to ensure optimal contribution of LPG in addressing the country's electricity (and other energy) supply challenges.

The LPG Rollout Strategy is informed by the realisation that SA's socio-economic development over the past decades has also resulted in constrained supply of energy in the country. As the number of people with access to electricity increased, the demand for electrical energy started to increase and this led to power shortfalls that emphasised the need for SA to diversify its energy mix and in so doing, reduce heavy dependence on electrical energy, especially for cooking and space heating. It is within this context that LPG has been identified as the most appropriate, efficient and effective fuel for household thermal needs and thus also contributing in addressing the shortfall mentioned above.

In addressing the energy supply needs, it is imperative that the redressing of past as well as present inequalities besetting the country receives special attention. What therefore has engendered this Strategy, among others issues, are energy supply gaps in the market characterized by unequal access to modern energy such as electricity and LPG by South African households. As such, household consumers, particularly disadvantaged, rural and economically marginalised communities do not have adequate access to affordable, safe and cleaner energy sources for cooking and space heating. Other challenges identified by the Strategy include lack of adequate LPG supply infrastructure facilities, the practice of cylinder hoarding, the high cost of LPG, vertical integration of the supply chain that creates entry barriers to new entrants, and the negative perception of LPG with respect to safety.

9.2 Objectives of the LPG Rollout Strategy

The LPG Rollout Strategy has the following key objectives:

- (a) To promote national access to safer, cleaner, more efficient, environmentally friendlier and affordable thermal fuel for households;
- (b) To encourage households to switch from the use of biomass, coal, electricity and illuminating paraffin to LPG for thermal purposes;
- (c) To contribute to energy efficiency and demand side management (EEDSM) by minimising the use of electricity for cooking and space heating;
- (d) To enhance the level and quality of energy services currently available to households throughout South Africa; and
- (e) To contribute to the green economy programme of Government which is aimed among others at reducing greenhouse gas emissions.

The successful implementation of the LPG Rollout Strategy, as an intervention, rests on four main pillars, namely:

- (a) investment in the LPG infrastructure throughout the value chain by the private sector as well as through public-private partnerships;
- (b) collaboration of the Department with the private sector, Non-Government Organisations (NGOs), State Owned Companies (SOCs), Organs of State and other Government departments;

- (c) appropriate policy or regulatory framework as well as pricing regime, with due regard to affordability; and
- (d) improved security of supply; particularly during seasons of high demand.

Where it is deemed necessary and appropriate, the State should play a strategic and significant role, through the relevant State-Owned Companies in the implementation of this strategy.

10. OVERVIEW OF THE LIQUEFIED PETROLEUM GAS MARKET

Energy consumption in SA is divided between industry, commerce (which account for about 60% of the total consumption), households (which consume 24% of energy), and transport (which consume 16%). The value of total energy consumption is more than R30bn each year, with LPG only accounting for about 0.5% (R1.5bn) of that amount¹. There has been a steady increase in LPG sales and demand since the early 1990s with an average annual growth rate of between 8% and 12%. Currently this demand growth stands at between 3% and 4% per annum¹.

Various structures exist in the LPG market. LPG is marketed and distributed in South Africa mainly by four large companies (brands indicated in brackets): Afrox (Pty) Ltd (Handigas), Oryx energies (Oryx), Easigas (Pty) Ltd (Easigas), and Total (Totalgaz) and about 150 small distributors. The four large distributors collectively have a market share of 95% to 97% while the small distributors take up the rest. Fifty percent of sales are for bulk sales and the other fifty percent is for packaged (cylinders) LPG. The first category of role players are the producers/refiners of LPG, with the most prominent players dominating the market being SAPREF (Shell SA, BP SA), Engen Petroleum Ltd, Sasol Synfuels (Pty) Ltd, Petroleum Oil and Gas Corporation of South Africa (PetroSA) and Astron Energy (Pty) Ltd. Currently, production does not meet market demand for LPG which therefore requires the balance of LPG required to be imported.

The second category of role players is the traders and large wholesalers with the main players being Afrox, Easigas, Oryx, and Totalgaz. LPG import and storage

¹ [Http://www.wlpga.org/about-lpg/production-distribution/](http://www.wlpga.org/about-lpg/production-distribution/). Accessed on 24 October 2012.

infrastructure owned by Avedia Energy, Sunrise Energy in Saldanha, Western Cape and Bidvest in Richrdsbay, KwaZulu-Natal play an important role in solving the problem of LPG shortages in the country, particularly in winter months. The third category in the value chain belongs to resellers or distributors and are responsible for selling LPG to bulk users. The fourth category is made up of retailers responsible for selling LPG in cylinders to the end-users or consumers (industrial, commercial and domestic).

In terms of the regulation of LPG market, the DMRE is responsible for the regulation of LPG from production/refining, wholesaling and retailing level. This includes licencing and setting of prices for LPG throughout the value chain. The Energy Regulator's (NERSA) role is to regulate the LPG infrastructure (pipelines, loading and storage facility) in terms of the Petroleum Pipelines Act, 2003, Act No. 60 of 2003.

11. LPG PRODUCTION

In an oil refinery, liquefied petroleum gas is produced at different stages. Approximately 60% of LPG is recovered during the extraction of natural gas and oil from the earth, and the remaining 40% is produced during the refining of crude oil². The propane/butane ratio of refinery grade LPG is a function of the type of crude oil processed and the type of refining processing units that the refinery operates. In general, refinery grade LPG is approximately evenly split between propane and butane. There is a correlation between refinery reforming capacity utilisation and the butane ratio, as the utilisation increases for the production of petrol, the butane ratio increases. Domestic production of LPG still remains relatively low since LPG is not the core product for local production. Local production is unable to meet domestic demand in South Africa, especially in winter months when the demand is high. Generally, there is often a shortfall in the supply of LPG resulting in imports. **Figure 1** below shows the production versus consumption picture for a ten year period. From the figure below it is evident that a substantial increase in demand shall necessitate an increase in supply, which may only be met by imports.

² <https://www.wlpga.org/about-lpg/production-distribution/>

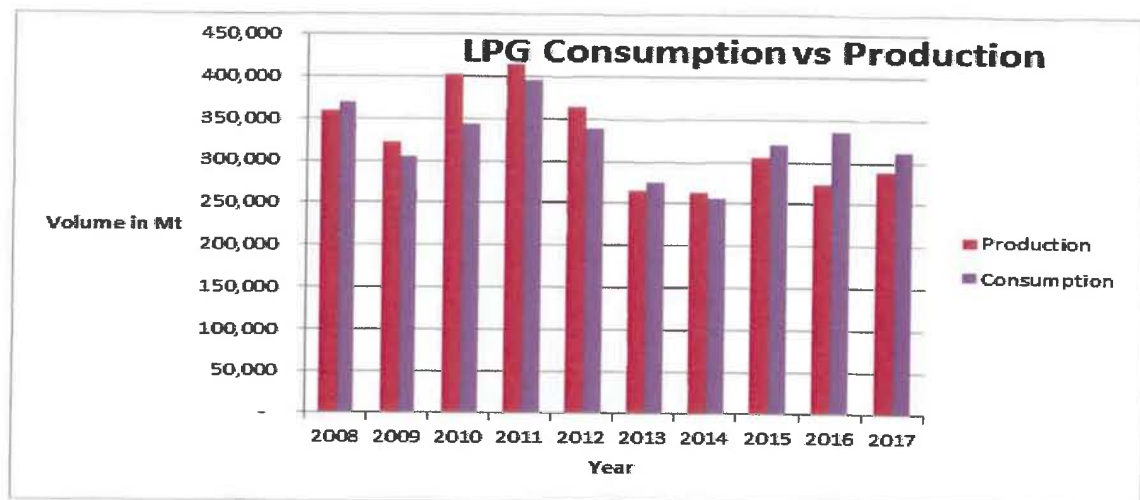


Figure 1: LPG production and consumptions in SA (Source: DoE Statistics Report)

LPG is manufactured by all the local refineries, being an aggregate of roughly 300,000 metric tonnes per annum.

The typical net volume of LPG produced from the South African refineries is amongst others, determined by:

- a) The diesel/petrol demand volumes;
- b) A consistent LPG market off-take; and
- c) Refinery crude and product pricing economics, margins and slates (selection of crude diet and product types).

Typically, crude refineries' LPG production output varies between 1% and 4% of crude oil processed³. Therefore, SA's LPG production level is restricted to that of LPG being a co-product of the refining process. From the supply-demand figures above, it is clear that SA's LPG demand remains suppressed due to the constrained domestic production, lack of adequate (import) infrastructure, and other factors related thereto.

³ <https://www.wlpga.org/about-lpg/production-distribution/>

12. LPG IMPORTS

As local production falls short of meeting the local demand there is therefore a need for alternative incremental supply through imports from elsewhere in the world. LPG imports would seem feasible based on global supply demand projections and upon having the necessary infrastructure to handle such imports. The economics for large scale imports (from the Middle East or from West Africa) will need to be tested as it will need to include investments in costly storage and pipeline infrastructure, the shipping cost and of course incurring international market supply costs.

The cost and availability of ships and the capacity of SA's port facilities to receive imports will need to be considered in detail. Assuming that the consumption of LPG doubles, the country will need to import 300,000 tonnes which amounts to five ships of 5,000 tons capacity per month. The use of such small cargo parcels that importers can accommodate due to inadequate import infrastructure is responsible for high importation costs. There is however some import facility being developed in Richards Bay, KwaZulu-Natal by Bidvest. This facility comprises four tanks each with a capacity of 5650 tonnes, 60m long and 16 m in diameter providing a combined storage capacity of 22 600 tonnes. This new development will certainly be a game changer in the importation of LPG as VLGC will be accommodated.

Intra-trade in the region can be beneficial in particular in the LPG space. As an example, SA has signed a Memorandum of Understanding (MOU) with Algeria, which is one of the world's top ten LPG producers. Instead of sourcing LPG from the Middle East, South Africa may need to consider sourcing it from Algeria. Although this is a recommended solution, it would be wise to secure maximum volumes from local production prior to embarking on potentially more expensive LPG imports coupled with the current challenges with import facilities. LPG imports have increased over the years which in turn indicates that the future demand of South Africa will be met via imports. To this end, the Department has since amended regulations pertaining to Petroleum Infrastructure to facilitate infrastructure investments. Subsequent to these regulation amendments, new investments in import facilities have been realised such as Sunrise Energy and Avedia Energy in Saldanha, Western Cape.

13. LPG EXPORTS

In addition to supplying LPG to domestic customers, wholesalers also export LPG procured from domestic refineries. Most of these wholesalers export LPG into the Southern African Development Community ("SADC") region, to countries like Zimbabwe, Namibia, Botswana, Zambia, Mozambique, Lesotho and Eswatini. However wholesalers wishing to export to these countries are faced with several regulatory hurdles as indicated in the Competition Commission Report. The Report listed hurdles such as the availability of LPG in South Africa, access to appropriate long-distance logistics, and export permits required by the International Trade Administration Commission ("ITAC") and the Department all of which impede the ability of wholesalers to penetrate external markets. In addition to naming these structural barriers to exporting, wholesalers also referred to loss of investment due to theft of cylinders as a factor that restrains exports.

14. LPG PRICING FRAMEWORK

14.1 LPG Pricing

As a point of departure in this regard, it is important to highlight the fact that no amount of incentives to refiners including higher margins would persuade them to produce adequate supplies of LPG. The following are the reasons:

- LPG is not the core product of local refineries and that is why they sold their interests to wholesalers.
- These refineries are constrained even in producing their core products such as petrol and diesel. Therefore LPG has to be imported to meet local demand.

The Department regulates LPG at the refinery gate through the Maximum Refinery Gate Price (MRGP) and also at retail level through the Maximum Retail Price (MRP). The Department intends regulating the price of LPG along the entire value chain. The Department has since changed the pricing framework to reflect the actual cost of imported LPG using Saudi Contract Price. The main problem with the old pricing methodology was that it used Petrol 93 as a proxy for the calculation of MRGP of LPG. This stems from the historical practice when LPG was a mere by-product of the refining process and was in abundance. Some of the LPG is used as an input in the production

of petrol. Due to fluctuations of monthly crude oil prices from which LPG is derived, sometimes, importers of LPG were not fully recovering their importation costs. The graph below demonstrates this fact.

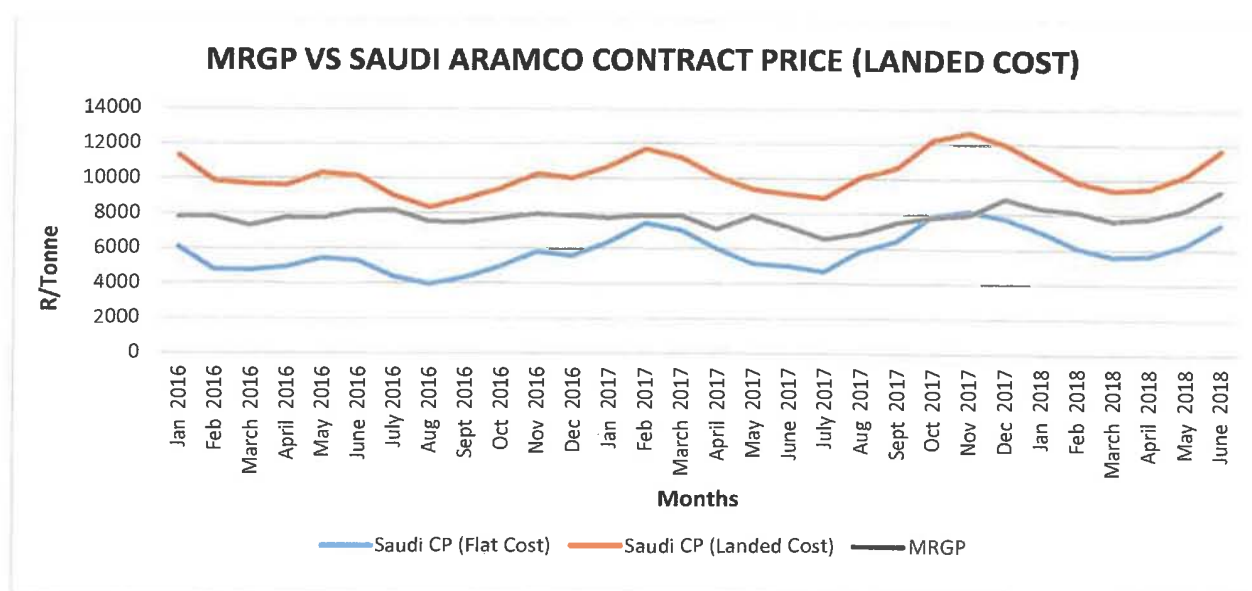


Figure 2: MRGP VS Saudi Aramco Contract Price (Landed)

The graph above shows the value trend in terms of LPG price movements for the period January 2016 to June 2018. The Department has acknowledged that using Petrol 93 as a proxy for the calculation of the MRGP of LPG is inappropriate. To this end, the Department has since changed the pricing framework of LPG to reflect the actual cost of imported LPG using Saudi Contract Price. The Department acknowledges that price alone will not make LPG accessible to all South African citizens. This has to be preceded by the removal of all obstacles prevailing throughout the whole supply value chain that restrict entry to the market. This has also been highlighted by the findings of the LPG Market Enquiry published in March 2017.

The findings emphasized on structural features in the LPG market that created barriers to entry in the market. Furthermore, the Competition Commission recommends regulation of the whole LPG supply value chain. It is therefore imperative that the Department embarks on completing the pricing of the whole value chain, specifically the wholesale price of LPG to ensure that retailers have certainty in terms of possible

retail margins. The Department is however of the view that, once the playing field has been levelled in the LPG market, de-regulation should follow.

15. LPG REGULATORY FRAMEWORK

The market is with respect to safety and health, regulated mainly through the Department of Labour. The Department of Employment and Labour and the liquefied petroleum gas association of South Africa (LPGSA) encourage LPG companies to comply with safety regulations. Standards covering cylinders, valves, appliances and/or equipment are often referenced to acceptable international standards. Relevant South African National Standards (SANS) cover the installation of LPG appliances and equipment. Cylinder and storage tanks are covered by the Pressure Equipment Regulations. All cylinders and valves must be tested against the relevant SANS standards. This is verified through the LPGSA which issues a verification permit for all cylinders found to be complying with the set standards. Other equipment such as appliances, hoses and/or regulators undergo the same process of verification. LPGSA trains LPG installers and register them through an independent body appointed by the Department of Employment and Labour.

The Competition Commission in its LPG market inquiry Report found that overlapping jurisdictions of the National Energy Regulator (NERSA) and Transnet National Ports Authority (TNPA) cause significant bottlenecks regarding approvals for the construction of import and storage facilities at the ports. In this regard, a Memorandum of Understanding has been signed between TNPA and NERSA regarding coordination of licensing activities. The Department has to monitor the efficiency of such a Memorandum of Understanding.

The Department is mandated to regulate the buying and selling of petroleum products. This mandate also includes the pricing of petroleum products, as stipulated in the Petroleum Products Act, 1977 (Act No. 120 of 1977 as amended) LPG is included within the ambit of the Petroleum Products Act, as petroleum products are defined as *“any petroleum fuel and any lubricant used and unused, and includes any other substance which may be used, for a purpose for which petroleum fuel or any lubricant may be used”*. As both a policymaker and economic regulator for the liquid fuels sector,

the DMRE is responsible for the drafting, reviewing, implementation, monitoring and enforcement of policies and legislation in pursuance of energy security.

The price of LPG is partially controlled mainly through the regulation of the maximum ex-refinery price, which entails the Maximum Refinery Gate Price (MRGP) and the Maximum Retail Price (MRP) of LPG supplied to residential customers.

16. LPG CYLINDER MANAGEMENT

Almost all LPG equipment (cylinders, valves, storage tanks, regulators, etc.) are not manufactured locally. There has been some interest recently in a cylinder manufacturing plant. LPG cylinders are owned by LPG companies. This ownership is retained by LPG companies through a rental arrangement with the dealers who pass the cost to the end-consumer in the form of a cylinder deposit. The cylinder business is predominantly branded with each LPG marketing company having its own distinctive colours for cylinders of different sizes. Retailers who decide to become branded, can choose to be tied to one brand or can be independent and buy and sell different cylinder brands.

The independent wholesaler is, however, obliged to create an identity different from the major brands. Some LPG filling plants are owned or managed by LPG distributors. Bulk tanks are owned by LPG companies who have a contractual agreement with their customers such as restaurants in the shopping malls. LPG equipment particularly for domestic use is also available from non-LPG outlets such as hardware stores. Some road tankers are owned by the major wholesalers; however the majority is owned and operated by transport companies. Distribution of LPG by road is usually outsourced by LPG companies. It is the Department's view that cylinder deposit must be excluded from the working rules for setting the monthly Maximum Retail Price (MRP) for LPG. Customers must pay for the actual cost of the cylinder and own the cylinder. Ownership of a cylinder (s) by the customer will assist in curbing the practice of cross-border stealing of cylinders thus assisting the distribution of LPG to residential households

The inability of LPG wholesalers to control cylinders contributes to the high cost of operating the business. Cylinder hoarding is a common practice and amounts to

uncompetitive behaviour and could result in supply disruptions. The cylinder exchange practice is a potential barrier to new entrants as it is governed through bilateral agreements. The cylinder owner has the responsibility for maintaining cylinders in order to ensure that they are safe to use. This is done to avoid hazardous impacts which may even lead to fires and ultimately death. Cylinders need to go through routine checks and revalidations. Since the cylinder plays a very important role as an asset in the LPG business, it needs to be protected for commercial reasons. In addition, cylinders are expected to withstand all the challenges of the distribution chain in order to keep the contents secure and safe. It is therefore important that all parties should cooperate to actively discourage cylinder hoarding and illegal filling. These practices are anti-competitive and are detrimental to the expansion of the LPG market.

The importance of safety in the use of LPG cannot be overemphasized. Addressing the issue of safety requires that the DMRE and the Department of Employment and Labour work collaboratively to ensure that the LPG industry complies with the relevant regulations. It is important that the consumer and all the people involved in the LPG supply chain must be aware of their responsibilities to keep the industry safe and sustainable.

17. LPG SUPPLY VALUE CHAIN

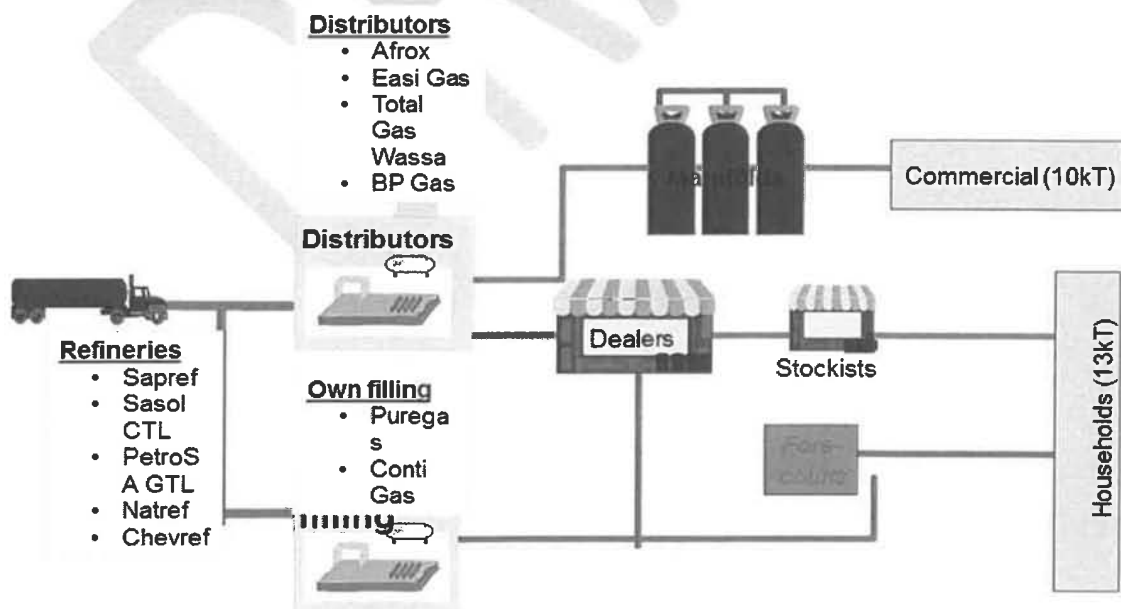


Figure 3: Typical LPG supply value chain in South Africa

In the supply chain shown in **Figure 3** above, the product leaves the refinery gate (equivalent to a port facility in case of imports) in a road tanker to a bulk-breaking facility or a cylinder-filling depot. The filled LPG cylinders are loaded on a flatbed truck and delivered to wholesalers who in turn deliver to retailers (stockists and forecourts). It is only after this point that the product is delivered to the end-consumer. It is important to note that all these points of supply (intermediaries) attract additional costs resulting in high LPG prices. Hence the Department advocates for the streamlining of the value chain in favour of LPG being transported in bulk from the refinery gate to a cylinder filling depot and then directly to end-users (only via some retailing outlet in exceptional circumstances) as shown in **Figure 4** below.

18. PILOT PROJECT BASED LPG SUPPLY VALUE CHAIN

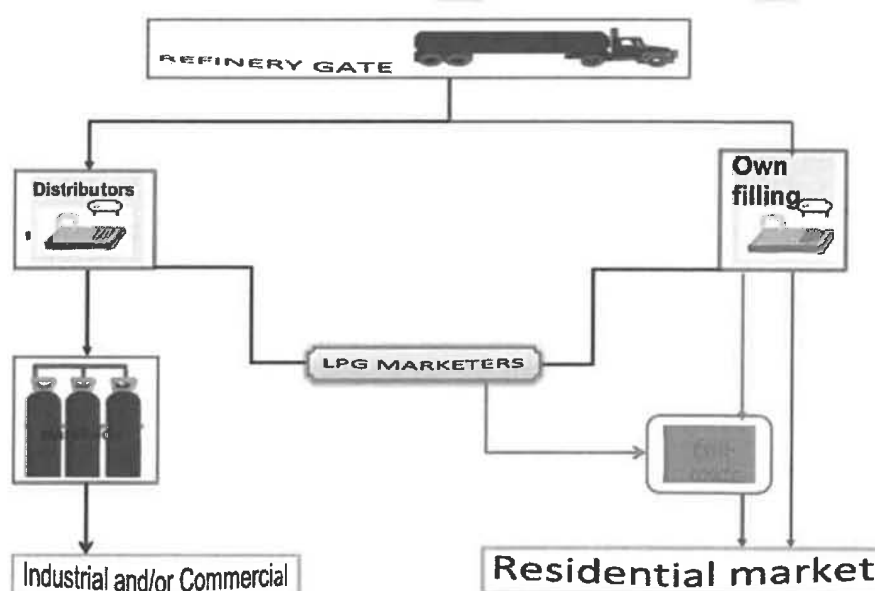


Figure 4: LPG supply value chain model based on the pilot projects in Atteridgeville and Tweefontein (DoE, 2008).

The Department piloted this model in Atteridgeville and Tweefontein and noted the potential reduction of the retail price of LPG supplied to households. It is partly based on insights gained in the piloting of the model that the then Minister of Energy commenced the regulation of the maximum retail price of LPG supplied to households in 2010.

18.1 Wholesalers and Bulk Distributors

The major four independent wholesalers and bulk distributors include Afrox, Easigas, Totalgaz and Oryx. These wholesalers buy LPG from refineries and on-sell in bulk to distributors using big road tankers as well as to their end-user clients, which include industrial, commercial and residential customers.

18.2 Retailers and Dealers

The retail end of the LPG market comprises approximately 452 fuel retail service stations (forecourts) and about 4,000 small traders or stockists who sell in informal (spaza) shops as well as trading stores. It is characterised by the following:

- LPG is rarely a stand-alone business and is usually a small portion of an entity's turnover;
- A retailer is contracted and branded to a particular producer or wholesaler who owns storage and filling equipment;
- A retailer is usually supplied LPG by a distributor in the latter's branded cylinders;
- The retailing of LPG is generally a cash business; and
- LPG may also be retailed at a premium by re-filling end-user owned small cylinders (usually under 7kg).

19. LPG IMPORT INFRASTRUCTURE

Petroleum import infrastructure includes ports, wharves/berths, discharge facilities, pipelines, storage tanks at terminals and other remote locations, as well as facilities for loading petroleum products onto road and rail transport. Terminals are those storage facilities where refined petroleum products are received from either refineries or import facilities. Fuel is distributed from terminals by truck or rail to retailers or bulk users. All terminals have loading gantries and storage facilities and can be supplied by pipeline, ship and in some cases by road transport.

Import terminals, however, are only supplied by pipeline from refineries or ports. The ports of Richards Bay, Durban, Port Elizabeth and Saldanha Bay have LPG loading/off-loading facilities.

There are seven import/export LPG terminals in SA:

- 1) Richards Bay LPG Terminal belonging to Island View Storage (IVS) and leased to Afrox for a period of about 6 years;
- 2) Sapref LPG Terminal at Durban, belonging to Shell and BP jointly and integrated into the refinery;
- 3) Enref LPG Terminal at Durban, belonging to Engen – this is unused as an import/export terminal to date due to some unresolved issues but the storage at the refinery is in use for LPG storage;
- 4) Easigas LPG Terminal, Port Elizabeth, Eastern Cape;
- 5) Easigas Tank Farm LPG spheres, Port Elizabeth, Eastern Cape;
- 6) Sunrise Energy LPG Terminal, Saldanha Bay, Western Cape; and
- 7) Avedia Energy LPG Terminal, Saldanha Bay, Western Cape.

Noting the constrained domestic production of LPG, growth in LPG demand can only be adequately met by increased imports. Currently, SA is unable to source large volumes of LPG from LPG producing countries due to its limited import facilities as well as the associated storage and distribution infrastructure. The relatively small market size has not warranted larger-scale infrastructural investments for importation or optimisation of local distribution of bulk LPG. It would take at least sixteen (16) days for the cargo from Saudi Arabia to reach South Africa while the cargo size would be small and therefore uneconomical for importers. South Africa could opt for Mauritius, with a minimum seven (7) day journey for LPG delivery. Instead of sourcing LPG from the Middle East or Mauritius, SA should consider sourcing it from Algeria, or other West African countries such as Nigeria, and/or Angola in pursuit of the continental development agenda. In this regard, SA should pursue such imports as part of its bilateral relations and cooperation with involved countries as well as the promotion of intra-African trade.

Table 1: SA loading facilities

Licensee	Storage capacity (m ³)	Location
Shell SA (Pty) Ltd	4000	Port Elizabeth
Bid tanks (Pty) Ltd	6000	Richards Bay
BP & Shell (SAPREF)	1800	Durban

Source: NERSA, 2012

Table 1 above gives a picture of South Africa's loading facilities, storage capacity and respective locations for those loading facilities. Afrox and Easigas used to be the only two importers of significant volumes of LPG into SA. The two wholesalers lease import storage facilities and have import licences. Afrox leases the import facility in Richards Bay from Bidvest tanks [formerly IVS Richards Bay (Pty) Ltd]. Easigas imports via the Port Elizabeth terminal. During the market inquiry, by the Competition Commission, the Department has learnt that, Totalgaz, Camel Fuels and Oryx also use the Richards Bay port terminal through Bidvest tanks to import LPG. It is noteworthy that wholesalers are not operating from their own storage and/or loading facilities but rather are granted access to facilities owned by terminal operators. The existing storage and/or operating facilities are not able to receive Very Large Gas Carrier (VLGC), resulting in higher landed costs of LPG. However the new development in Richards Bay will assist in accommodating VLGC thus helping in reducing importation costs and in turn the domestic price of LPG.

New entrants have highlighted the lack of import facilities as one of the key constraints to growing the LPG market and the promotion of competition. The practice in line with global practices, is that anchor tenants sign long-term contracts (10-20 years) with the storage facility operator. The operator will then develop the facility and charge a monthly rental for capacity ('take or pay agreements'). This type of arrangement serves as a key constraint in growing the LPG market and in the promotion of competition. It has been widely accepted that the only way to unlock local LPG consumption is to substantially increase imports of LPG through newly constructed import terminals with sufficient storage facilities. This will significantly reduce freight costs and would in turn

drive down LPG costs. Furthermore, a large increase in imports of LPG into the domestic market would enhance competitive pricing for local customers.

20. THE ROLE OF PETROSA

The National Oil Company's involvement in developing gas infrastructure is paramount to the attainment of government's objective of making LPG affordable and accessible to all South Africans. It is also envisaged that PetroSA will take the opportunity to establish distribution depots and channels across all provinces in line with the envisioned strategy to enhance the role of Historically Disadvantaged South Africans in the retail of LPG.

21. LOCAL LPG CYLINDER PRODUCTION

The expansion of the LPG market will in the medium to long term necessitate the investment in local cylinder manufacturing plant (s) and this can also have an added benefit of creating sustainable jobs for South Africans. The limiting factor for local production of LPG cylinders is the price of steel. SA is using the import parity pricing system which makes steel very expensive. There are projects already under development to manufacture LPG cylinders locally. One such project is the IDC-backed project developed by MM Engineering Services (PTY) Ltd for the manufacture of LPG gas cylinders in the Coega IDZ. The capacity of the plant is estimated at 1.5 million cylinders per annum (3 kg, 5 kg, 7 kg and 9 kg cylinders). The facility will market and sell its products in South Africa and export to Africa and the rest of the world. The DMRE, in conjunction with other Government departments, and the DTIC in particular, should work towards maximising local content and economic benefit from LPG-related business activities.

The steel LPG cylinder has not changed much since it was introduced in Hong Kong in the 1960's. Recently through innovation LPG cylinders have included the use of plastics and composite materials to improve the visual proposition whilst reducing weight and providing better protection against corrosion. Support from Government towards LPG might encourage composite cylinder manufacturing locally with needed job opportunities. Composite cylinders tend to be more expensive than steel cylinders;

however they are better in the sense that it becomes easy for the consumer to know how much product remains in the cylinder which is currently an inherent challenge with the steel cylinder.

22. PUBLIC AWARENESS

The perception of the consumer that LPG is not safe is sometimes difficult to change. It is important that not only the consumer, but all the people involved in the supply and distribution of LPG are aware of their roles and responsibilities to keep the LPG sector safe. The DMRE in collaboration with other stakeholders should embark on targeted safety and awareness campaigns to assist the public in making the right choices to switch from using biomass, coal, electricity and illuminating paraffin to using LPG for household thermal needs. In this regard, the benefits of safe utilisation of LPG juxtaposed to those of other (traditional) energy carriers should be well communicated to the target audience. This would include the reduction of indoor pollution, caused by the use of traditional energy carriers like biomass and coal as well as illuminating paraffin, and the concomitant savings on the health cost thereof. These benefits would not be achievable without the requisite infrastructure and appliances, which include cylinders, stoves and heaters that comply with applicable specifications and standards.

The campaign will highlight the economic and financial benefits of switching from other energy carriers to LPG. The Department can, during the regional petroleum campaigns in different provinces also promote LPG use and dispel misconceptions about LPG safety. Programmes involving all types of media can be used to make people aware of the use of LPG as clean and healthy cooking fuel and for its safe use. These include continuous TV advertisements on all channels, including regional channels and community radio stations. The advertisement must highlight the benefits and safe way of using LPG. Door to door campaigns may also be conducted in rural areas to demonstrate the safe use of LPG. Households in the rural areas must be motivated to regularly use LPG as they switch from conventional fuels.

23. CONCLUSION

The successful implementation of the LPG Rollout Strategy hinges on dealing with mainly four key challenges, namely; removal of restrictive features in the LPG market, provision of adequate and open access LPG importation infrastructure to accommodate imports, conducting safety awareness campaigns to deal with negative perceptions on the use of LPG and improved cylinder management. Collaboration with and co-operation of other key stakeholders such as the Competition Commission and the Department of Employment and Labour are also crucial for the successful implementation of the Strategy.

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 303

1 April 2021

LABOUR RELATIONS ACT, 1995

CANCELLATION OF REGISTRATIONS OF EMPLOYERS' ORGANISATIONS

I, **Lehlohonolo Daniel Molefe**, Registrar of Labour Relations, hereby, as required by Section 109(2) of the Act, give notice that I have in terms of Section 106(2A) cancelled the registrations of the following employers' organisations:

- **South African of Water Utilities (SAAWU) (LR 2/6/3/836)**
- **South African Employers' Guild (LR 2/6/3/306)**
- **Employers' Organisation for Retailers and Allied Trades (LR 2/6/3/878)**
- **South African Post Tensioning Association (SAPTA) (LR 2/6/3/251)**

The said cancellations are with effect from 18/03/2021

Any person who is aggrieved by the decision regarding the cancellation of the registrations of the employers' organisations may lodge an appeal with the Labour Court against the decision in terms of Section 111 of the Act.

REGISTRAR OF LABOUR RELATIONS



CUSTOMS AND EXCISE ACT, 1964.
IMPOSITION OF PROVISIONAL PAYMENT (PP/156)

In terms of section 57A of the Customs and Excise Act, 1964, a provisional payment in relation to anti-dumping duty is imposed **up to and including 16 September 2021**, to the extent and on the goods set out in the Schedule hereto.


HEAD: LEGISLATIVE POLICY TAX, CUSTOMS AND EXCISE

SCHEDULE

Subheading	Description	Provisional payment	Imported from or originating in
1902.11	Containing eggs	43,27%	Egypt
1902.11	Containing eggs, produced by Dobeles Dzirnāvnieks	4%	Latvia
1902.11	Containing eggs, (excluding that produced by Dobeles Dzirnāvnieks)	4%	Latvia
1902.11	Containing eggs, produced by Amber Pasta	12%	Lithuania
1902.11	Containing eggs, (excluding that produced by Amber Pasta)	12%	Lithuania
1902.11	Containing eggs	367,25%	Turkey
1902.19	Other	43,27%	Egypt
1902.19	Other, produced by Dobeles Dzirnāvnieks	4%	Latvia
1902.19	Other, (excluding that produced by Dobeles Dzirnāvnieks)	4%	Latvia
1902.19	Other, produced by Amber Pasta	12%	Lithuania
1902.19	Other, (excluding that produced by Amber Pasta)	12%	Lithuania
1902.19	Other	367,25%	Turkey

NO. R. 304

SOUTH AFRICAN REVENUE SERVICE

1 April 2021

STAATSKOERANT, 1 APRIL 2021

No. 44384 41

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 304

1 April 2021

DOEANE- EN AKSYNSWET, 1964.
OPLEGGING VAN VOORLOPIGE BETALING (VB/156)

Kragtens artikel 57A van die Doeane- en Aksynswet, 1964, word 'n voorlopige betaling met betrekking tot teen-stortingreg tot en met 16 September 2021 opgelê, in die mate en op die goedere in die Bylae hierby aangetoon.



HOOF: WETGEWENDE BELEID BELASTING, DOEANE- EN AKSYNS

BYLAE

Subpos	Beskrywing	Voorlopige betaling	Ingevoer vanaf of afkomstig van
1902.11	Wat eiers bevat	43,27%	Egipte
1902.11	Wat eiers bevat, geproduseer deur Dobeles Dzirnawnieks	4%	Letland
1902.11	Wat eiers bevat, (uitgesonderd dié geproduseer deur Dobeles Dzirnawnieks)	4%	Letland
1902.11	Wat eiers bevat, geproduseer deur Amber Pasta	12%	Litaue
1902.11	Wat eiers bevat, (uitgesonderd dié geproduseer deur Amber Pasta)	12%	Litaue
1902.11	Wat eiers bevat	367,25%	Turkye
1902.19	Ander	43,27%	Egipte
1902.19	Ander, geproduseer deur Dobeles Dzirnawnieks	4%	Letland
1902.19	Ander, (uitgesonderd dié geproduseer deur Dobeles Dzirnawnieks)	4%	Letland
1902.19	Ander, geproduseer deur Amber Pasta	12%	Litaue
1902.19	Ander, (uitgesonderd dié geproduseer deur Amber Pasta)	12%	Litaue
1902.19	Ander	367,25%	Turkye

SOUTH AFRICAN REVENUE SERVICE

NO. R. 305

1 April 2021

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES

Under sections 58A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

**EDWARD CHRISTIAN KIESWETTER****COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE****SCHEDULE****Insertion of rules for section 58A**

The following rules are hereby inserted under Chapter VII of the Rules to the Customs and Excise Act, 1964 (Act No. 91 of 1964):

“RULES FOR SECTION 58A OF THE ACT**58A.01 Definitions**

For purposes of the rules under section 58A, unless the context otherwise indicates –

“**allowable quantity**” or “**AQ**”, in relation to excisable goods referred to in rule 58A.02, means the quantity of such goods that may be entered for home consumption during a controlled period as –

- (a) calculated in accordance with rule 58A.04 in the case of a manufacturer or an importer of such goods other than a new entrant; or
- (b) approved in terms of rule 58A.05 in the case of a new entrant;

“Budget Day” means the day in February of any year on which the Minister of Finance delivers the National Budget Speech in Parliament;

“current year” means the year in which the allowable quantity must be determined and the controlled period starts in anticipation of the increase in the rate of excise duty on Budget Day of the following year;

“customs and excise relationship” means a business relationship as defined in rule 60.01(1)(a);

“day” means a calendar day;

“new entrant”, in relation to excisable goods referred to in rule 58A.02, means a manufacturer or an importer of such goods who starts entering such goods for home consumption 30 days or less before the start of a controlled period; and

“year” means a calendar year.

58A.02 Excisable goods to which section 58A applies

Section 58A and the rules thereunder apply to locally manufactured and imported cigarettes of tariff subheadings 2402.20 and 2402.90.2.

58A.03 Controlled period during which anti-forestalling measures apply

A controlled period contemplated in section 58A(1) comprises a period starting on 1 December of any year and ending at the time when the rate of excise duty is increased on Budget Day of the following year.

58A.04 Formula to be used by persons other than new entrants for calculation of allowable quantities of excisable goods to be entered for home consumption during a controlled period

A manufacturer or an importer of excisable goods referred to in rule 58A.02 other than a new entrant must use the following formula to calculate the allowable quantity (AQ) in respect of such goods:

$$AQ = \{(TQ \div Y) + 2\% (TQ \div Y)\} \times CP$$

Where –

- (a) TQ is the total quantity of such goods which that manufacturer or importer entered for home consumption during the period represented by Y;
- (b) Y is the number of days from 1 December of the previous year to 30 November of the current year during which that manufacturer or importer entered such goods for home consumption, which is –
 - (i) 365 days in the case of manufacturers or importers that started entering such goods for home consumption on or before 1 December of the previous year; or
 - (ii) the number of days from the first entry after 1 December of the previous year until 30 November of the current year in the case of manufacturers or importers that started entering such goods for home consumption after 1 December of the previous year;
- (c) 2% is an allowance for additional growth in the market; and
- (d) CP is 90 days.

58A.05 Approval of allowable quantities of excisable goods to be entered for home consumption by new entrants during a controlled period

- (a) Any new entrant must apply to the Commissioner for approval of the allowable quantity of excisable goods that may be entered by that new entrant for home consumption during the relevant controlled period.
- (b) An application contemplated in paragraph (a) must before the start of the relevant controlled period be submitted –

- (i) electronically through eFiling if this mode of submission is available for such application; or
 - (ii) in paper format to the Excise Office serving the area where the applicant's operations are carried out.
- (c) An application referred to in paragraph (b) must reflect –
 - (i) the applicant's name and customs and excise client number;
 - (ii) if the application is submitted by a clearing agent or registered agent on behalf of the applicant, the name and customs and excise client number of the clearing agent or registered agent;
 - (iii) the date on which the applicant started entering or intends to start entering the relevant excisable goods for home consumption;
 - (iv) the product range of such goods, including brand names and sizes;
 - (v) the total quantity of such goods, regardless of brands or sizes, that the applicant intends to enter for home consumption during the controlled period;
 - (vi) the geographical area where such goods are, or are expected to be, consumed;
 - (vii) details of orders in respect of such goods, which may be provided in a separate supporting document; and
 - (viii) details of any customs and excise relationship of the applicant with a person contemplated in rule 58A.04 or rule 58A.05(a).
- (d) An application referred to in paragraph (b) must be supported by the following documents:
 - (i) A document motivating the quantity of excisable goods referred to in paragraph (c)(v);
 - (ii) if the applicant is a natural person, a certified copy of that person's identification document;
 - (iii) if the applicant is a juristic entity, a certified copy of the document authorising the person who submitted the application to act on behalf of the entity;

- (iv) a certified copy of the identification document of an authorised person referred to in subparagraph (iii);
 - (v) if the application is submitted by a clearing agent or a registered agent, a certified copy of the document authorising such person to act as the representative of the applicant;
 - (vi) documents substantiating any material facts mentioned in the application; and
 - (vii) any other documents that may be required by the Commissioner for purposes of considering the application.
- (e) The applicant is entitled to be notified of the outcome of the application referred to in paragraph (b) within 21 working days and, if the application is refused, reasons for the decision.

58A.06 Applications for approval of quantities to be entered for home consumption in excess of allowable quantities

- (a) A person that seeks approval as contemplated in section 58A(3) to enter a quantity of excisable goods for home consumption in excess of the allowable quantity must submit an application –
- (i) electronically through eFiling if this mode of submission is available for such application; or
 - (ii) in paper format to the Excise Office serving the area where the applicant's operations are carried out.
- (b) An application referred to in paragraph (a) must reflect –
- (i) the applicant's name and customs and excise client number;
 - (ii) if the application is submitted by a clearing agent or registered agent on behalf of the applicant, the name and customs and excise client number of the clearing agent or registered agent;
 - (iii) the kind or description of excisable goods to which the application relates;
 - (iv) the relevant controlled period;
 - (v) the current allowable quantity as well as the excess quantity applied for; and

- (vi) the reasons why the excess quantity is applied for, which may be motivated in a separate supporting document.
- (c) An application referred to in paragraph (a) must be supported by the following documents:
 - (i) If the applicant is a natural person, a certified copy of that person's identification document;
 - (ii) if the applicant is a juristic entity, a certified copy of the document authorising the person who submitted the application to act on behalf of the entity;
 - (iii) a certified copy of the identification document of an authorised person referred to in subparagraph (ii);
 - (iv) if the application is submitted by a clearing agent or a registered agent, a certified copy of the document authorising such person to act as the representative of the applicant;
 - (v) documents substantiating any material facts mentioned in the application; and
 - (vi) any other documents that may be required by the Commissioner for purposes of considering the application.
- (d) The factors to be taken into consideration when deciding an application referred to in paragraph (a) include –
 - (i) stock outages;
 - (ii) shipment delays;
 - (iii) product returns or recalls;
 - (iv) introduction of new products;
 - (v) above average market growth;
 - (vi) industrial or labour action;
 - (vii) acquisitions or mergers;
 - (viii) events of *force majeure*;
 - (ix) national state of disaster; and
 - (x) other relevant unforeseen and unavoidable events.

- (e) The applicant is entitled to be notified of the outcome of the application referred to in paragraph (a) within 21 working days and, if the application is refused, reasons for the decision.

58A.07 Keeping of records

- (a) A person contemplated in rule 58A.04 must keep record of –
 - (i) any information used for purposes of calculating the allowable quantity, as well as calculations done in respect of such allowable quantity;
 - (ii) any information used for purposes of obtaining an increase of the allowable quantity, if applicable; and
 - (iii) the quantity of excisable goods entered for home consumption during a specific controlled period.
- (b) A person contemplated in rule 58A.05(a) must keep record of –
 - (i) any information used for purposes of obtaining approval of the allowable quantity;
 - (ii) any information used for purposes of obtaining an increase of the allowable quantity, if applicable; and
 - (iii) the quantity of excisable goods entered for home consumption during a specific controlled period.

58A.08 Anti-forestalling penalties

The sum to be deposited in circumstances contemplated in terms of section 91(1)(a) in respect of a contravention of or failure to comply with –

- (a) section 58A(3) is R15 000 or double the excise duty payable on the goods cleared in excess of the allowable quantity, whichever is the greatest; and
- (b) rule 58A.07(a) or (b) is R8 000.”.

PROCLAMATION NOTICES • PROKLAMASIE KENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**NO. R. 7****1 April 2021****PROCLAMATION****by the****PRESIDENT of the REPUBLIC of SOUTH AFRICA****SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996:
REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as “the Act”), have been made in respect of the affairs of Gauteng Enterprise Propeller an entity of the Gauteng Provincial Government (hereinafter referred to as “the Agency);

AND WHEREAS the Agency or the State may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, by means of the accompanying Proclamation in English and Afrikaans, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Agency, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

- (a) serious maladministration in connection with the affairs of the Agency;
- (b) improper or unlawful conduct by officials or employees of the Agency;

- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Agency; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 January 2017 and the date of publication of the Proclamation or which took place prior to 1 January 2017 or after the date of publication of the Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of the Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by the Agency or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this 10th day of March Two thousand and twenty one.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for goods, works or services by or on behalf of the Agency and payments made in respect thereof in a manner that was -

- (a) not fair, competitive, transparent, equitable or cost-effective; or
- (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Agency,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Agency or State or losses suffered in relation to—

- (aa) Tender number GEP02/MRK – Township Entrepreneur Awards during 2017; and
- (bb) Project management services for the Pitching Booster Initiative in Sedibeng during 2018.

2. Any unlawful or improper conduct by—

- (a) officials or employees of the Agency;
- (b) suppliers or service providers of the Agency; or
- (c) any other person or entity,

in relation to the allegations set out in paragraph 1 of this Schedule.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 7

1 April 2021



PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996:
VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE
ONDERSOEKEENHEID

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van Gauteng Enterprise Propeller, 'n instansie van die Gautengse Provinsiale Regering (hierna verwys as "die Agentskap");

EN AANGESIEN die Agentskap of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld ten opsigte van die Agentskap, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Agentskap;

- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Agentskap;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Agentskap; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2017 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2017 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Agentskap of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 10de dag van Maart Twee duisend-en-een-en-twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet

RO Lamola
Minister van die Kabinet

BYLAE

1. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Agentskap en betalings ten opsigte daarvan gemaak op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of die betrokke Provinsiale Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Agentskap van toepassing is,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is, of verliese wat gelyk is, deur die Agentskap of Staat met betrekking tot:

- (aa) Tender nommer: GEP02/MRK - Township Entrepreneur Toekennings gedurende 2017; en
- (bb) Projekbestuursdienste vir die Pitching Booster-inisiatief in Sedibeng gedurende 2018.

2. Enige onwettige of onbehoorlike gedrag deur—

- (a) beamptes of werknemers van die Agentskap;
- (b) verskaffers of diensverskaffers van die Agentskap; of
- (c) enige ander persoon of entiteit,

met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 8

1 April 2021



PROCLAMATION
by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996:
REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as "the Act"), have been made in respect of the affairs of the Unemployment Insurance Fund established in terms of section 4 of the Unemployment Insurance Act, 2001 (Act No. 63 of 2001) (hereinafter referred to as "the UIF");

AND WHEREAS the UIF or the State may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the UIF, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

- (a) serious maladministration in connection with the affairs of the UIF;
- (b) improper or unlawful conduct by officials or employees of the UIF;
- (c) unlawful appropriation or expenditure of public money or property;

- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the UIF; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 March 2020 and the date of publication of this Proclamation or which took place prior to 1 March 2020 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by the UIF or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this 9th day of February Two thousand and twenty one.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

SCHEDULE

1. Maladministration in the affairs of the UIF in relation to the payment of Covid-19 Temporary Employee/Employer Relief Scheme benefits to persons who—

- (a) were not entitled to receive such payments; or
- (b) submitted false, irregular, invalid or defective applications to the UIF, including the causes of such maladministration.

2. Any unlawful or improper conduct by—

- (a) officials or employees of the UIF; or
- (b) any other person or entity,

in relation to the allegations set out in paragraph 1 of this Schedule, including the causes of such unlawful or improper conduct and any losses, damage or actual or potential prejudice suffered by the UIF or the State.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 8

1 April 2021



PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID AFRIKA

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996:
VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE
ONDERSOEKEENHEID**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die Werkloosheidsversekeringsfonds ingestel ingevolge artikel 4 van die Werkloosheidsversekeringswet, 2001 (Wet No. 63 van 2001) (hierna na verwys as "die WVF");

EN AANGESIEN die WVF of die Staat verliese gelyk het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld ten opsigte van die WVF, vir ondersoek na die Spesiale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Spesiale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die WVF;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die

WVF;

- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die WVF; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Maart 2020 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Maart 2020 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die WVF of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 9de dag van Februarie Tweeduisend-en-een-en-twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet

RO Lamola
Minister van die Kabinet

BYLAE

1. Wanadministrasie van die aangeleenthede van die WVF met betrekking tot die betaling van Covid-19 Tydelike Werknemer/Werkgewer Verligtingskema voordele aan persone wat—

- (a) nie geregtig was om sodanige betalings te ontvang nie; of
- (b) vals, onreëlmatige, ongeldige of gebrekkige aansoeke aan die WVF voorgelê het, insluitend die oorsake van sodanige wanadministrasie.

2. Enige onwettige of onbehoorlike optrede deur—

- (a) amptenare of werknemers van die WVF; of
- (b) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae, insluitend die oorsake van sodanige onwettige of onbehoorlike gedrag en enige verliese, skade of werklike of potensiële nadeel wat deur die WVF of die Staat gely is.

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 9

1 April 2021

PROCLAMATION
by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as “the Act”), have been made in respect of the affairs of the eThekweni Metropolitan Municipality situated in the Kwazulu-Natal Province (hereinafter referred to as “the Municipality”);

AND WHEREAS the Municipality or the State may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Municipality, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

- (a) serious maladministration in connection with the affairs of the Municipality;

2

- (b) improper or unlawful conduct by officials or employees of the Municipality;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Municipality; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 12 October 2012 and the date of publication of this Proclamation or which took place prior to 12 October 2012 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by the Municipality or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this 10th day of March Two thousand and twenty one.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

SCHEDULE

1. Maladministration in the affairs of the Municipality in respect of the—
 - (a) alienation by, or on behalf of the Municipality, of immovable property of the Municipality or the State, for the provision of housing through the Municipality's Human Settlements Infill Housing Programme, which alienation was contrary to manuals, policies, procedures, prescripts, instructions or practices of, or applicable to, the Municipality; and
 - (b) transfer or sale of vacant properties by developers appointed by the Municipality for purposes of the Municipality's Human Settlements Infill Housing Programme—
 - (i) in breach of the developers' contractual obligations; and
 - (ii) contrary to the objectives of the Municipality's Human Settlements Infill Housing Programme.
2. Payments made in respect of the allegations set out in paragraph 1 of this Schedule in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective;
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Municipality; or
 - (c) conducted by or facilitated through the improper or unlawful conduct of—
 - (i) employees or officials of the Municipality; or
 - (ii) the developers in question; or
 - (iii) any other person or entity,to corruptly or unduly benefit themselves or any other person or entity; or
 - (d) fraudulent,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality or the State.

4

3. Any unlawful or improper conduct by—

- (a) officials or employees of the Municipality;
- (b) the developers in question; or
- (c) any other person or entity,

in relation to the allegations set out in paragraphs 1 and 2 of this Schedule.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 9

1 April 2021

PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996
(WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA
BESTAANDE SPESIALE ONDERSOEKEENHEID

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die eThekweni Metropolitaanse Munisipaliteit, geleë in die KwaZulu-Natal Provinsie (hierna na verwys as "die Munisipaliteit");

EN AANGESIEN die Munisipaliteit of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld ten opsigte van die Munisipaliteit, vir ondersoek na die Spesiale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Spesiale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteit;

- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 12 Oktober 2012 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 12 Oktober 2012 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Munisipaliteit of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 10de dag van Maart Twee duisend-en-een-en-twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet

RO Lamola
Minister van die Kabinet

BYLAE

1. Wanadministrasie in die sake van die Munisipaliteit ten opsigte van die—
 - (a) vervreemding deur, of namens die Munisipaliteit, van onroerende eiendom van die Munisipaliteit of die Staat, vir die voorsiening van behuising deur die Munisipaliteit se “Human Settlements Infill Housing Programme”, welke vervreemding strydig was met handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Munisipaliteit van toepassing is; en
 - (b) oordrag of verkoop van vakante eiendomme deur ontwikkelaars wat deur die Munisipaliteit aangestel is vir doeleindes van die Munisipaliteit se “Human Settlements Infill Housing Programme”—
 - (i) strydig met die ontwikkelaars se kontraktuele verpligtinge teenoor die Munisipaliteit; en
 - (ii) strydig met die doelstellings van die Munisipaliteit se “Human Settlements Infill Housing Programme”.
2. Betalings wat ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae gemaak is op ‘n wyse wat—
 - (a) nie billik, mededingend, deursigtig, billik of koste-effektief was nie;
 - (b) strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of die plaaslike Provinsiale Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Munisipaliteit van toepassings is; of
 - (c) gedoen of gefasiliteer was deur die onbehoorlike of onwettige optrede van—
 - (i) beamptes of werknemers van die Munisipaliteit;
 - (ii) die betrokke ontwikkelaars; of
 - (iii) enige ander persoon of entiteit,om hulself of enige ander persoon of entiteit op ‘n korrupte of onbehoorlike wyse te bevoordeel; of
 - (d) bedrieglik was,en enige onregmatigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Munisipaliteit of die Staat aangegaan is.

4

3. Enige onwettige of onbehoorlike gedrag deur—

(a) beamptes of werknemers van die Munisipaliteit;

(b) die betrokke ontwikkelaars; of

(c) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragrawe 1 en 2 van hierdie Bylae.