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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

### DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

#### NOTICE 382 OF 2021

#### AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT NO. 119 OF 1990)

#### LEAF SERVICES

Notice is hereby given that Leaf Services (Pty) Ltd ("the Assignee"), designated as an Assignee in terms of Section 2(3)(a) of the Agricultural Product Standards Act, 1990 (Act 119 of 1990) as amended ("the Act") under Notice no 345 of 2016 for the application of sections 3(1) (a) and (b), 3A(1), 4A(1)(a), 7 and 8 of the Act with regard to grains and grain products destined for sale in the local market, will commence inspections of Affected Parties in line with its mandate from 12 July 2021.

#### 1 Affected Parties

Affected Parties are all food business operators (FBO's) in the grain industry who:

- (a) Store, convey, grade, and sell raw grains reflected in the table below in the Republic of South Africa under any regulation made in terms of the Act; and/or
- (b) Produce, pack, process and sell regulated grain products reflected in the table below in the Republic of South Africa under any regulation made in terms the Act; and/or
- (c) Import grains or grain products regulated in terms of the Act into the Republic of South Africa.

#### 2 Inspection fees

2.1 An inspection fee is hereby imposed in terms of Section 3(1A) of the Act on all grain and grain products listed in paragraph 2.3 –

- (a) grain sold by or on behalf of the producer thereof;
- (b) grain products processed or converted or caused to be processed or converted, if the grain product is sold by the processor or convertor thereof ; and
- (c) grain in respect of which a silo receipt or any negotiable instrument has been issued if the fee in respect of such grain has not already been paid in terms of sub-paragraph (a).

2.2 The inspection fees shall be valid from 12 July 2021 and will be levied at the rates provided in paragraph 2.3 below until further notice published in the Government Gazette.

2.3 The following inspection fees will be imposed in respect of the grains and grain products listed below:

Grain and grain products	Rate per ton (Rand)	Rate per loaf (cents)
Canola	1,80	
Dry beans	1,80	
Ground nuts	1,80	
Maize	1,80	
Malting barley	1,80	
Rice	1,80	
Sorghum	1,80	
Wheat	1,80	
Soya beans	1,80	
Sunflower seeds	1,80	

Other regulated grain	1,80	
Maize products	4,00	
Wheat products (excl bread)	4,00	
Bread (Loaf)		2,00

- 2.4 All inspection fees exclude Value Added Tax (VAT), which is to be levied and paid according to the relevant legislation from time to time.
- 2.5 The inspection fees payable in terms of paragraph 2.1 read with paragraph 2.3 shall with effect from 12 July 2021 be payable at the first point of sale, as follows –
- Fees payable on the sale of grains (raw products) by or on behalf of a producer, shall be paid by the buyer of the grain.
  - Fees payable on the sale of grain products, other than bread, shall be paid by the processor or converter of the grain product.
  - Fees payable on the sale of bread shall be paid by the baker selling such bread.
  - Fees payable as contemplated in paragraph 2.1(c), shall be paid by the person issuing such silo receipt or other negotiable instrument.
  - Fees payable on imported regulated products shall be paid by the importer of such products.
- 2.6 The amount of the fees payable in terms of paragraphs 2.5(a) and 2.5(b) may be recovered from the producer.
- 2.7 The amount of the fees payable in terms of paragraph 2.5(c) may be recovered from the person to whom such silo receipt or other negotiable instrument is issued.
- 2.8 Inspection fees shall be determined, invoiced, and paid by the persons contemplated in paragraph 2.5, in the following manner:

#### 2.8.1 Registration

- The Leaf Services Customer Web Portal will be utilised for declaration of sales volumes, which is required for calculation of the inspection fees payable by an Affected Party.
- Affected Parties must request access to the Leaf Services web portal by completing an account profile registration on the Leaf Services website at <https://leafservices.co.za/APSA>. Information required during the account profile registration process will include the name and surname of a primary contact person in the Affected Parties' organisation, including the primary contact persons' telephone number and email address.

The Affected party must provide all, and any information requested on the Leaf Services Customer Web Portal, to enable Leaf Services to execute their mandate and issue invoices in respect of inspection fees payable in terms of this Notice.

- Once an access request as outlined in sub-paragraph (a) has been approved by Leaf Services, information regarding the web location and login details necessary to access the Leaf Services Customer Web Portal will be communicated by email to the email address of the primary contact person specified during the account profile registration.

### 2.8.2 Return of sales and imported volumes

Affected Parties shall on a monthly basis declare the volumes of regulated products sold in and/or imported into the Republic of South Africa by completing the Return of Sales and Imports form provided online by the Assignee on the above-mentioned Customer Web Portal. The Return of Sales and Imports must be completed before or on the 7<sup>th</sup> (seventh) day of each month ("the Reporting Month") in respect of sales during the preceding month ("the Accountable Month").

The issue of a silo receipt or other negotiable instrument contemplated in paragraph 2.1(c) will for purposes of this paragraph 2.8 be deemed as a sale of the products recorded thereon.

**Note:** *During March 2021 Leaf Services requested the Competition Commission to determine whether the charging of the fees for its services as assignee mandated under the Act could be in contravention of the Competition Act. The reply from the Competition Commission states that in exercising a statutory function in terms of the APS Act to ensure that the expected standard of quality, safety and health of grain industry products is maintained, which includes collecting sales volumes and charging a fixed fee per product by Leaf Services, will not amount to contravention of the Competition Act if Leaf Services does not share the information with market participants.*

### 2.8.3 Invoicing

The Assignee shall, upon completion of the return in terms of paragraph 2.8.2 by an Affected Party but not later than the 15<sup>th</sup> (fifteenth) day of the Reporting Month, issue and deliver to the Affected Party at its nominated address an invoice reflecting:

- (a) the volume of sales and/or imports declared by the Affected Party in respect of the preceding month
- (b) the fee per unit payable in terms of this notice
- (c) the total amount of the fee payable to the Assignee in respect of the Preceding Month.

Should an Affected Party during any month fail or neglect to declare its sales or imported volumes in respect of the Accountable Month, the fees payable by that Affected Party to the Assignee in respect of the Accountable Month will be calculated based on the average of the last three monthly sales or import volumes declared by the Affected Party: Provided that if the Affected Party has not yet completed returns of sale or import volumes for at least three months, the fees payable to the Assignee in respect of the Accountable Month will be calculated and invoiced on an estimated sales or imports volume.

### 2.8.4 Payment

The invoiced amount of the fees due to the Assignee as per paragraph 2.8.3(c) shall be payable by not later than the 25<sup>th</sup> (twenty-fifth) day of the Reporting Month in the following manner:

- (a) By direct deposit or electronic transfer of funds into the bank account of Leaf Services (Pty) Ltd indicated on the invoice issued in terms of paragraph 2.8.3.
- (b) By delivery of a cheque to Leaf Services (Pty) Ltd at:  
Agri-Hub Building, Block C, 477 Witherite Street, The Willows, Pretoria
- (c) By mail addressed to Leaf Services (Pty) Ltd at:  
Postnet Suite #0051, Private Bag X1, Die Wilgers, 0041

Provided that it is the Affected Party's responsibility to ensure that payment is received by Leaf Services (Pty) Ltd before or on the due date.

### **3 Sanction**

Failure by the Affected Party responsible to pay the inspection fee levied in terms hereof may result in legal steps to enforce the provisions and may render the affected person liable in terms of Section 11 of the Act.

### **4 Inspections**

Inspections will be carried out according to the methodology developed in consultation with role-players in the industry and agreed with the Executive Officer designated in terms of Section 2(1) of the Act, which is available from Leaf Services at [www.leafservices.co.za/report](http://www.leafservices.co.za/report) or at the address provided below, or from the Executive Officer at [mbulahenim@dalrrd.gov.za](mailto:mbulahenim@dalrrd.gov.za).

### **5 Appeal, reasons, review, and assistance**

Attention is drawn to the following:

#### **5.1 Agricultural Products Standards Act, 1990 (the Act)**

In terms of Section 10(1) of the Act, any person whose interests are affected by any decision or direction of the Executive Officer or an Assignee under the Act, may appeal against such decision or direction to the Director-General in the manner prescribed in Section 10(2) and subject to the provisions of Sections 10(3) to 10(9) of the Act.

#### **5.2 Promotion of Administrative Justice Act, 2000 (PAJA)**

5.2.1 In terms of Section 5 of (PAJA), any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, subject to the further provisions of that section, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned furnish written reasons for the action.

5.2.2 A request in terms of Section 5 of PAJA for reasons for an administrative action which materially and adversely affected a person's rights must in terms of Regulation 27(1) of the Regulations on Fair Administrative Procedures issued in terms of PAJA (Notice R1022 of 31 July 2002) as amended ("the Regulations"), be -

- (a) in writing;
- (b) addressed to the administrator concerned; and



- (c) sent to the administrator by post, fax or electronic mail or delivered to the administrator by hand.

5.2.3 The request for reasons must in terms of Regulation 27(3) indicate -

- (a)
  - (i) the administrative action which affected the rights of the person making the request; and
  - (ii) which rights of that person were materially and adversely affected by the administrative action; and
- (b) state -
  - (i) the full name and postal and, if available, electronic mail address of that person; and
  - (ii) any telephone and fax numbers where that person may be contacted.

5.2.4 In terms of section 6 of PAJA, any person may, subject to the further provisions of that section and Section 7 of PAJA, institute proceedings in a court or a tribunal for the judicial review of an administrative action.

5.2.5 In terms of Regulation 27(2) of the Regulations, if an administrator receives an oral request for reasons from a person who cannot write or otherwise needs assistance, the administrator or a person designated by the administrator must give reasonable assistance to that person to submit such request in writing.

## **6 Privacy statement**

Leaf Services (Pty) Ltd is committed to protecting the Affected Parties' privacy and ensuring their Personal Information is used appropriately, transparently, securely and in accordance with applicable laws. Its privacy policy is made available at <https://leafservices.co.za/Privacy>, and is available from the company at the addresses provided below.

## **7 Enquiries**

Any enquiries relating to this notice can be addressed to the Assignee at the contact particulars provided below.

Mr D.M. Botes, Chief Executive Officer, Leaf Services (Pty) Ltd, Agri-hub Building, Block C, 477 Witherite St, Die Wilgers, Pretoria.

Tel: 087 537 1600

Email: [daniel.botes@leafservices.co.za](mailto:daniel.botes@leafservices.co.za)

**DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****NOTICE 383 OF 2021**

Notice No. JMC 697

Date 26 May 2021

Jozini Local Municipality, hereby, in terms of section 6 of the Local Government: Municipal Property Rates Act, 2004, has by way of JMC 697 adopted the Municipality's Property Rates By-law set out hereunder.

**JOZINI MUNICIPALITY**  
**MUNICIPAL PROPERTY RATES BY-LAW**

**PREAMBLE**

WHEREAS section 229(1) of the Constitution requires a municipality to impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality.

AND WHEREAS section 13 of the Municipal Systems Act read with section 162 of the Constitution require a municipality to promulgate municipal by-laws by publishing them in the gazette of the relevant province.

AND WHEREAS section 6 of the Local Government Municipal Property Rates Act of 2004 as amended, requires a municipality to adopt by-laws to give effect to the implementation of its property rates policy; the by-laws may differentiate between different categories of properties and different categories of owners of properties liable for the payment of rates.

NOW THEREFORE BE IT ENACTED by the Council of the Jozini Municipality as follows:

**1. DEFINITIONS**

In this By-law any word or expression to which a meaning has been assigned in the Local Government Municipal Property Rates Act, 2004 (Act No 6 of 2004) shall bear the same meaning unless the context indicates otherwise-

**'Municipality'** means the Jozini municipality;

**'Municipal Property Rates Act'** means the Local Government Municipal Property Rates Act, 2004 (No 6 of 2004);

**‘Rates Policy’** means the Jozini Municipality’s property rates policy adopted by the Council in terms of section 3(1) of the Local Government: Municipal Property Rates Act, 2004.

## **2. OBJECTS**

The object of this By-law is to give effect to the implementation of the municipality’s Rates Policy as contemplated in section 6 of the Municipal Property Rates Act.

## **3. THE RATES POLICY**

The municipality prepared and adopted a Rate Policy as contemplated in terms of the provisions of section 3(1) of Municipality Property Rates Act. The Rates Policy outlines the Municipality’s rating practices; therefore, it is not necessary for this By-law to restate and repeat same.

The Rates Policy is hereby incorporated by reference in this By-law. All amendments to the Rates Policy as the Council may approve from time to time, shall be deemed to be likewise incorporated

The Municipality does not levy rates other than in terms of its Rates Policy and the annually promulgated resolution levying rates which reflects the cent amount in the Rand rate for each category of rateable property.

The Rates Policy is available at the municipality’s head office, satellite offices, libraries and on website.

## **4. CATERGORIES OF RATEABLE PROPERTIES**

The Rates Policy provides for categories of rateable properties determined in terms of section 8 of the Act

## **5. CATERGORIES OF PROPERTIES AND CATERGORIES OF OWNERS OF PROPERTIES**

The Rates Policy provides for categories of properties and categories of owners of properties for the purposes of granting relief measures (exemptions, reductions and rebates) in terms of section 15 of the Act.

## **6. ENFORCEMENT OF THE RATES POLICY**

The Municipality’s Rates Policy is enforced through the municipality’s Credit Control and Debt Collection Policy and any further enforcement mechanisms stipulated in the Act and the Municipality’s Rates Policy.

## **7. SHORT TITLE AND COMMENCEMENT DATE**

This By-law is called the Jozini Municipality’s Property Rates By-law, and takes effect on the date on which it is published in the Provincial Gazette.

Notice No. JMC 697

Date 26 May 2021

**MUNICIPAL NOTICE NO: JMC 697 OF 2021****JOZINI MUNICIPALITY****RESOLUTION LEVYING PROPERTY RATES FOR THE FINANCIAL YEAR 1 JULY 2021  
TO 30 JUNE 2022**

Notice is hereby given in terms of **Section 14(1) and (2)** of Local Government: Municipal Property Rates Act (No 6 of 2004), that at its meeting of 26 May 2021, the Council resolved by way of council resolution number 697 To levy the rates on property reflected in the schedule below with effect from 1 July 2021

<b>Category of property</b>	<b>Rate ratio</b>	<b>Cent amount in the Rand rate determined for the relevant property category</b>
Agriculture (Bona fide farmers)	0.25:1	0.00223
Business or Commercial	1.5:1	0.01339
Residential	1:1	0.00891
Public Service Purpose	1.2:1	0.01071
Commercial Tourism Properties	1.42:1	0.01268
Rural Communal Land	0.25:1	0.00223
Municipal property	0	0.00

**EXEMPTIONS, REDUCTIONS AND REBATES**

**Residential Properties:** For all residential properties, the municipality will not levy a rate on the first R 100 000 of the property's market value. The R 100 000 is inclusive of the R 15 000 statutory impermissible rate as per section 17(1)(h) of the Municipal Property Rates Act.

**Rebates in respect of a category of owners of property are as follows:**

Indigent owners

Child headed households

Owners who are dependent on Pension or Social Grants for their livelihood

Full details of the Council resolution and rebates, reduction and exemptions specific to each category of owners of properties or owners of a specific category of properties as determined through criteria in the municipality's rates policy are available for inspection on the municipality's offices, website: [www.jozini.gov.za](http://www.jozini.gov.za) and public libraries within the municipality's jurisdiction.

MR JA MNGOMEZULU  
MUNICIPAL MANAGER  
JOZINI LOCAL MUNICIPALITY  
CIRCLE STREET BOTTOM TOWN  
PRIVATE BAG X 028  
JOZINI 3969  
035 572 1292

## DEPARTMENT OF EMPLOYMENT AND LABOUR

## NOTICE 384 OF 2021

PLEASE FIND SET OUT BELOW A LIST OF PRIVATE AGENCY 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 MAY 2021 TO THE 30 JUNE 2024.

**PRIVATE AGENCY ACCREDITED TO CONDUCT CONCILIATION AND ARBITRATION, SUBJECT  
TO CONDITIONS WHERE APPLICABLE  
(NEWLY ACCREDITED AGENCY)**

Name of Agency	Accredited Functions
<b><u>PRIVATE AGENCIES</u></b>	
<b>The Fairness Institute (Pty) Ltd</b>	Accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from <b>01 May 2021</b> until <b>30 June 2024</b> on condition that all CCMA efficiencies are adhered to and subject to the terms set out in the accompanying attachment.

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

### 1. SCOPE OF ACCREDITATION:

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

#### **PRIVATE AGENCIES ARE ACCREDITED TO PERFORM THE FOLLOWING DISPUTE RESOLUTIONS FUNCTIONS:**

Unfair dismissal disputes	- Section 191
Unfair Labour practice	- Section 191
Interpretation of Collective Agreement disputes	- Section 24 (1)
Inquiry by Arbitrator	- Section 188A
Regulation of non-standard work	- Section 198, 198A, 198B, 198C and 198D

PRIVATE AGENCIES 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 Agency for the Private Agency.

The following provisions of the LRA, as amended apply to Private Agency 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 Private Agency;
  - "Commissioner" must be read as a reference to a conciliator or arbitrator appointed by the Private Agency.
  - "Director" must be read as a reference to the CEO of the Private Agency
- (b) The provisions of the sections contained in Part C of Chapter VII (section 127(6)) of the LRA shall apply to the Private Agency in the performance of its accredited functions:
  - (i) The provisions of section 133 to 136;
  - (ii) The provisions of section 138 to 142, S143, S144 and S145;
  - (iii) The provisions of section 146
  - (iv) The provision of 148

**3. EXTENSION OF ACCREDITATION:**

Despite the expiry of the period of accreditation as stated in the Certificate of Accreditation, the Private Agency 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 Private Agency 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 Private Agencies may apply to the Governing Body of the CCMA in terms of section 129 of the LRA to amend its accreditation.



**DEPARTMENT OF EMPLOYMENT AND LABOUR****NOTICE 385 OF 2021**

PLEASE FIND SET OUT BELOW A LIST OF BARGAINING AND STATUTORY 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 JUNE 2021 TO 31 MAY 2024

**BARGAINING AND STATUTORY COUNCILS ACCREDITED TO CONDUCT CONCILIATION AND ARBITRATION, SUBJECT TO CONDITIONS WHERE APPLICABLE**

**(RENEWAL OF ACCREDITATION AS WELL AS THE SUBSIDY AMOUNT PAYABLE PER CLOSED CASE REMAINS R711.84 AS FROM 01 APRIL 2021 (FOR 2020/2021 FINANCIAL YEAR ONLY)**

Name of Council	Accredited Functions
<b><u>PRIVATE SECTOR BARGAINING COUNCILS</u></b>	
National Bargaining Council of the Leather Industry of South Africa	Accredited for conciliations only from <b>01 July 2021</b> until <b>30 June 2022</b> subject to the terms set out in the accompanying attachment.
South African Road Passenger Bargaining Council	Accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from <b>01 June 2021</b> until <b>31 May 2024</b> subject to the terms set out in the accompanying attachment.
<b><u>STATUTORY COUNCILS</u></b>	
Statutory Council for the Squid and Related Fisheries of South Africa	Accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from <b>01 June 2021</b> until <b>31 May 2024</b> subject to the terms set out in the accompanying attachment.

**(RENEWAL OF SUBSIDY)**

The Governing Body of the CCMA resolved to grant renewal of subsidy to the following Bargaining Councils:

1. National Bargaining Council of the Leather Industry of South Africa
2. South African Road Passenger Bargaining Council
3. Statutory Council for the Squid and Related Fisheries of South Africa

**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.

## DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

## NOTICE 386 OF 2021

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 African 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
ARP 22000 Ed 1	<i>Food safety management systems – A practical guide.</i> Provides generic guidance to assist all organizations regardless of size and complexity (including small and medium-sized) that recognize the potential benefits of implementing a FSMS in accordance with ISO 22000:2018.	2021-08-02
SANS 13408-4 Ed 1	<i>Aseptic processing of health care products – Part 4: Clean-in-place technologies.</i> Specifies the general requirements for clean-in-place processes applied to product contact surfaces of equipment used in the manufacture of sterile health care products by aseptic processing and offers guidance on qualification, validation, operation and control.	2021-08-02
SANS 602 Ed 3	<i>Reference materials – Selected terms and definitions.</i> Recommends terms and definitions that should be used in connection with reference materials, with a particular emphasis on terms that are used in reference material product information sheets, certificates and corresponding certification reports.	2021-08-10
SANS 22367 Ed 1	<i>Medical laboratories – Application of risk management to medical laboratories.</i> Specifies a process for a medical laboratory to identify and manage the risks to patients, laboratory workers and service providers that are associated with medical laboratory examinations.	2021-08-02
SANS 17000 Ed 2	<i>Conformity assessment – Vocabulary and general principles.</i> Specifies general terms and definitions relating to conformity assessment, including the accreditation of conformity assessment bodies, and to the use of conformity assessment to facilitate trade.	2021-08-02
SANS 1661 Ed 4	<i>Cord extension sets.</i> Specifies the safety requirements for cord extension sets with a rated current not exceeding 16 A and a rated single-phase voltage not exceeding 250 V a.c. intended for household and similar general-purpose equipment.	2021-08-02
SANS 1195 Ed 2	<i>Busbars.</i> Covers requirements for construction, resistivity, tensile strength and elongation at break for busbars of copper, aluminium or an alloy of aluminium, in the form of bars, rods, tubes, channels and angles, and intended for use as electrical conductors.	2021-08-02
SANS 60947-4-3 Ed 3	<i>Low-voltage switchgear and controlgear – Part 4-3: Contactors and motor-starters – Semiconductor controllers and semiconductor contactors for non-motor loads.</i> Applies to semiconductor controllers and semiconductor contactors for nonmotor load intended to be connected to circuits, the rated voltage of which does not exceed 1 000 V AC..	2021-08-02
SANS 1019 Ed 3	<i>Standard voltages, currents and insulation levels for electricity supply.</i> Covers standard voltages and currents for use in a.c. transmission, distribution and reticulation systems (and in equipment for use in such systems) having a nominal frequency of 50 Hz and a nominal voltage exceeding 100 V, based on the standard values given in IEC 60038 and IEC 60059.	2021-08-02
SANS 1874 Ed 4	<i>Switchgear – Metal-enclosed ring main units for rated a.c. voltages above 1 kV and up to and including 36 Kv.</i> Specifies the characteristics of new, factory-assembled metal-enclosed ring main units that are rated for use on a three-phase cable system for rated a.c. voltages above 1 kV and up to and including 36 kV, and are designed for indoor or outdoor operation at a rated frequency of 50 Hz.	2021-08-02

SANS 8894 Ed 1	<i>Dead-grid safety lock</i> . Specifies the requirements for the dead-grid safety lock (DGSL) rated at a voltage of 230 V single phase and 400 V three phase systems.	2021-08-02
SANS 60947-4-2 Ed 4	<i>Low-voltage switchgear and controlgear – Part 4-2: Contactors and motor-starters – Semiconductor motor controllers, starters and soft-starters</i> . Applies to semiconductor motor controllers, starters and soft-starters which can include a series mechanical switching device, intended to be connected to circuits the rated voltage of which does not exceed 1 000 V AC.	2021-08-02
SANS 45003 Ed 1	<i>Occupational health and safety management – Psychological health and safety at work – Guidelines for managing psychosocial risks</i> . Provides guidance with respect to managing psychosocial risk within an occupational health and safety (OH&S) management system based on ISO 45001 <i>Occupational health and safety management systems — Requirements with guidance for use</i> .	2021-08-02
SANS 15190 Ed 2	<i>Medical laboratories – Requirements for safety</i> . Specifies requirements for safe practices in the medical laboratory.	2021-08-02
SANS 35001 Ed 1	<i>Biorisk management for laboratories for laboratories and other related organizations</i> . Defines a process to identify, assess, control, and monitor the risks associated with hazardous biological materials.	2021-08-02
SANS 20148 Ed 1	<i>Uniform provisions concerning the approval of light-signalling devices (lamps) for power-driven vehicles and their trailers</i> . Applies to the following lamps: Rear-registration plate illuminating lamps, direction indicator lamps, position lamps, stop lamps, end-outline marker lamps, reversing lamps, manoeuvring lamps, rear fog lamps, parking lamps, daytime running lamps and side marker lamps.	2021-08-02
SANS 1634 Ed 1	<i>Barrier protection systems for preservative treated wooden poles</i> . Covers the minimum performance requirements for barrier protection systems used to augment the performance and service lives of preservative treated wooden poles, posts and piling intended for ground contact service conditions by either partially or wholly covering the butt end portion below the intended ground line.	2021-08-02
SANS 50054-12 Ed 2	<i>Fire detection and fire alarm systems – Part 12: Smoke detectors – Line detectors using an optical light beam</i> . Specifies requirements, test methods and performance criteria for line detectors using an optical beam that detect smoke by utilizing the attenuation and/or changes in attenuation of an optical beam, for use in fire detection and fire alarm systems installed in buildings.	2021-08-10
SANS 500 Ed 2	<i>Inspection, examination and testing of manually operated chain blocks and chain lever hoists currently in use</i> . Specifies the requirements for the inspection, examination and testing of manually operated chain blocks and chain lever hoists in use.	2021-08-03
SANS 61158-3-3 Ed 1	<i>Industrial communication networks – Fieldbus specifications – Part 3-3: Data-link layer service definition – Type 3 elements</i> . Provides common elements for basic time-critical messaging communications between devices in an automation environment.	2021-08-13
SANS 61158-3-4 Ed 1	<i>Industrial communication networks – Fieldbus specifications – Part 3-4: Data-link layer service definition – Type 4 elements</i> . Provides common elements for basic time-critical messaging communications between devices in an automation environment.	2021-08-13
SANS 60079-25 Ed 3	<i>Explosive atmospheres – Part 25: Intrinsically safe electrical systems</i> . Contains specific requirements for the construction and assessment of intrinsically safe systems, type of protection "i", intended for use, as a whole or in part, in locations in which the use of Group I, II or III apparatus is required.	2021-08-13

## 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 789 Ed 1.1	<i>Knitted jerseys and cardigans</i>	Amended to update referenced standards, and to delete the notes to purchasers.	2021-08-02
SANS 439 Ed 1.1	<i>Vests – Short sleeved, long sleeved and athletic type</i>	Amended to update referenced standards, and to delete the annex on notes to purchasers.	2021-08-02
SANS 1118-9 Ed 1.4	<i>School clothing – Part 9 Knee-high and ankle socks</i>	Amended to update referenced standards, the subclause on apparatus and to delete the annex on notes to purchasers.	2021-08-02
SANS 1118-11 Ed 1.5	<i>School clothing – Part 11: Briefs</i>	Amended to update the sub-clause on size, to delete the appendix on notes to purchasers, and to update referenced standards.	2021-08-02
SANS 63 Ed 5.6	<i>Blankets</i>	Amended to delete the annex on notes to purchasers.	2021-08-03
SANS 1851 Ed 1.3	<i>Lubricating grease</i>	Amended to update referenced standards.	2021-03-03
SANS 60269-6 Ed 1.1	<i>Low-voltage fuses – Part 6: Supplementary requirements for fuse-links for the protection of solar photovoltaic energy systems</i>	Corrected to insert a note on verification of conventional non-fusing and fusing current.	2021-08-02
SANS 888 Ed 3.2	<i>Interlining</i>	Amended to update referenced standards, and to delete the annex on notes to purchasers.	2021-08-03
SANS 182-3 Ed 1.6	<i>Conductors for overhead electrical transmission lines – Part 3: Aluminium conductors, steel reinforced</i>	Amended to delete the appendix on notes to purchasers.	2021-08-13
SANS 1515-4-1 Ed 1.1	<i>Gas measuring equipment primarily for use in mines Part 4-1: Battery-operated portable, oxygen-deficient/oxygen-enriched measuring instruments and warning devices</i>	Amended to update the sub-clause on flameproof sensor enclosure, the sub-clause on sensor enclosure marking - flameproof sensor enclosure, the annex on assessment of compliance with this part of SANS 1515, and referenced standards.	2021-08-17

## 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

## 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
SANS 21102:2021 Ed 1	<i>Adventure tourism – Leaders – Personnel competence.</i> Establishes the requirements and recommendations of competencies and the related expected results of competencies for adventure tourism activity leaders common to any adventure tourism activity, which can affect the quality and safety of the services provided.
SANS 952-1:2021 Ed 3	<i>Polymer film for damp-proofing and waterproofing in buildings – Part 1: Monofilament and co-extruded products.</i> Covers the requirements for five types of monofilament polyolefin film and four types of co-extruded polyolefin film, for use as a damp-proofing material in walls, under concrete and under roofing tiles, and for the waterproofing of basements.
SANS 10105-1:2021 Ed 4	<i>The use and control of fire-fighting equipment – Part 1: Portable and wheeled (mobile) fire extinguishers.</i> Gives the requirements for the selection, installation, inspection and use of portable and mobile fire extinguishers.
SANS 10105-2:2021 Ed 4	<i>The use and control of fire-fighting equipment – Part 2: Fire hose reels and above-ground hydrants.</i> Covers the requirements for the installation and inspection and use of fire hose reels and hydrants.
SANS 174:2021 Ed 2	<i>Paints and varnishes – Examination and preparation of samples for testing.</i> Specifies both the procedure for preliminary examination of a single sample, as received for testing, and the procedure for preparing a test sample by blending and reduction of a series of samples representative of a consignment or bulk of paint, varnish or related product.
SANS 3657:2021 Ed 2	<i>Animal and vegetable fats and oils – Determination of saponification value.</i> Specifies a method for the determination of the saponification value of animal and vegetable fats and oils.
SANS 53624:2021 Ed 2	<i>Chemical disinfectants and antiseptics – Quantitative suspension test for the evaluation of fungicidal activity of chemical disinfectants for instruments used in the medical area – Test method and requirements (phase 2, step 1).</i> Specifies a test method and the minimum requirements for fungicidal or yeasticidal activity of chemical disinfectant and antiseptic products that form a homogeneous, physically stable preparation when diluted with hard water, or - in the case of ready-to-use products - with water.
SANS 53727:2021 Ed 2	<i>Chemical disinfectants and antiseptics – Quantitative suspension test for the evaluation of bactericidal activity in the medical area – Test method and requirements (phase 2, step 1).</i> Specifies a test method and the minimum requirements for bactericidal activity of chemical disinfectant and antiseptic products that form a homogeneous, physically stable preparation when diluted with hard water, or - in the case of ready-to-use products - with water.
SANS 54885:2021 Ed 2	<i>Chemical disinfectants and antiseptics – Application of European Standards for chemical disinfectants and antiseptics.</i> Specifies the European standards to which products have to conform in order to support the claims for microbicidal activity which are referred to in this standard, and specifies terms and definitions which are used in European standards.
SANS 14064-1 Ed 2	<i>Greenhouse gases –Part 1: Specification with guidance at the organization level for quantification and reporting of greenhouse gas emissions and removals.</i> Specifies principles and requirements at the organization level for the quantification and reporting of greenhouse gas (GHG) emissions and removals.

**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 60270:2021 Ed 1.1	<i>High-voltage test techniques – Partial discharge measurements. Consolidated edition incorporating amendment No.1.</i> Corrected to delete the sign X for the determination of Z(f) in table 3 – Test required for measuring systems.
SANS 695:2021 Ed 2.1	<i>Plastic carrier bags and flat bags. Consolidated edition incorporating amendment No.1.</i> Amended to update the requirements for carrier bags and flat bags.
SANS 939:2021 Ed 1.5	<i>Polished twines. Consolidated edition incorporating amendment No.5.</i> Amended to update normative references, to delete the annex on notes to purchasers, and to update referenced standards.

**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 B4: DISBAND OF TECHNICAL COMMITTEES**

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 B5: ADDRESS OF THE SOUTH AFRICAN BUREAU OF STANDARDS HEAD OFFICE**

Copies of the standards mentioned in this notice can be obtained from the Head Office of the South African Bureau of Standards at 1 Dr Lategan Road, Groenkloof, Private Bag X191, Pretoria 0001.



## DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

## NOTICE 387 OF 2021

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF  
SOUTH AFRICA**

In accordance with the provisions in the Anti-Dumping Regulations (ADR) of the International Trade Administration Commission of South Africa (the Commission), any definitive anti-dumping duty shall be terminated on a date not later than five years from the date of imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

The Commission hereby notifies all interested parties that, unless a duly substantiated request is made by or on behalf of the Southern African Customs Union (SACU) industry, indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury, the following anti-dumping duties will expire during 2022:

PRODUCT	COUNTRY	RATE OF ANTI-DUMPING DUTY	DATE OF IMPOSITION OF THE DUTY	DATE OF EXPIRY OF DUTY	DATE OF SUBMISSION
Chicken meat portions	USA	6.61%	06/10/2017	05/10/2022	05/04/2022
Unframed glass mirrors	Indonesia	940 c/kg	24/11/2017	23/11/2022	23/05/2022

***PROCEDURAL FRAMEWORK***

The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act and the ADR, with due regard to the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement).

The ITA Act and the ADR are available from the Commission's website

([www.itac.org.za](http://www.itac.org.za)) or from the Trade Remedies section, on request.

Manufacturers of the subject products listed above in the SACU, who wish to submit a request for the duty to be reviewed prior to the expiry thereof, are requested to do so within the time limit set out below. In the instances where no replies are received from the SACU manufacturers within these time limits, the Commission will recommend the termination of the duties on the date of expiry.

SACU manufacturers, who do submit a request within the time limit set out above, are requested to submit duly substantiated information indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and material injury to the Commission, on the dates as specified below:

	PRODUCT	COUNTRY	DATE OF EXPIRY OF DUTY	DATE OF SUBMISSION
1	Chicken meat portions	USA	23/11/2022	23/05/2022
2	Unframed glass mirrors	Indonesia	06/10/2022	05/04/2022

The Commission will consider the information submitted in order to determine whether *prima facie* evidence exist to justify the initiation of a review. Should the Commission decide to initiate a review, notice will be given in the *Government Gazette* and other parties, being exporters and importers of the subject products, will be requested to comment and provide information.

### **CONFIDENTIAL INFORMATION**

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- Where confidential information has been omitted and the nature of such

information;

- Reasons for such confidentiality;
- A summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

These rules applies to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of information should identify whether such information is *confidential by nature* or is *otherwise confidential* and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality.

In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

Section 2.3 of the ADR provides as follows:

*“The following list indicates “information that is by nature confidential” as per section 33(1)(a) of the Main Act, read with section 36 of the Promotion of Access to Information Act (Act 2 of 2000):*

- (a) management accounts;*
- (b) financial accounts of a private company;*
- (c) actual and individual sales prices;*
- (d) actual costs, including cost of production and importation cost;*
- (e) actual sales volumes;*
- (f) individual sales prices;*
- (g) information, the release of which could have serious consequences for the person that provided such information; and*
- (h) information that would be of significant competitive advantage to a competitor;*

*Provided that a party submitting such information indicates it to be confidential.”*

## **ADDRESS**

The requests by manufacturers in the SACU of the subject products, and the duly substantiated information indicating what the effect of the expiry of the duties will be, must be submitted in writing to the following address or on the emails below:

### **Physical address**

The Senior Manager: Trade Remedies I  
International Trade Administration  
Commission  
**Block E – Uuzaji Building**  
The DTI Campus  
77 Meintjies Street  
SUNNYSIDE  
PRETORIA  
SOUTH AFRICA

### **Postal address**

The Senior Manager: Trade Remedies I  
Private Bag X753  
Pretoria  
0001  
SOUTH AFRICA

Due to Covid-19 pandemic, these responses can be e-mailed to the following addresses: [cvanvuuren@itac.org.za](mailto:cvanvuuren@itac.org.za) and [STakacs@itac.org.za](mailto:STakacs@itac.org.za).

**PROCEDURES AND TIME LIMITS**

Manufacturers in the SACU of the subject products listed above, who wish to submit a request for the duty to be reviewed prior to the expiry thereof, are requested to do so not later than close of business on **26 July 2021**.

SACU manufacturers who do submit a request before **26 July 2021**, should submit duly substantiated information, indicating that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and material injury, to the Commission.

It should be noted that the investigation process is complex and the Commission is subject to strict time limits within which to complete the investigation. Late submissions will therefore not be accepted, except with the prior written consent of the Commission. The Commission will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original period. Merely citing insufficient time is not an acceptable reason for extension.

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. The Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted will subsequently be available for verification. It is planned to do the verification of the information submitted by the exporters within three to five weeks subsequent to submission of the information. This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with the prior written consent of the Commission, which should be requested at the time of the submission. It should be noted that unavailability of, or inconvenience to consultants will not be considered to be good cause.

Parties should also ensure when they engage consultants that they will be available at the requisite times, to ensure compliance with the above time frames.

Parties should also ensure that all the information requested in the applicable questionnaire is provided in the specified detail and format. The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement. The Commission may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format. A failure to submit an adequate non-confidential version of the response that complies with the rules set out above under the heading *Confidential Information* will be regarded as an incomplete submission.

Parties, who experience difficulty in furnishing the information required, or submitting in the format required, are therefore urged to make written applications to the Commission at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Commission's requirements. The Commission will give due consideration to such a request on good cause shown.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submission only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing shall provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

If the required information and arguments are not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

**Enquiries may be directed to the Senior Manager: Trade Remedies I, Ms Carina Janse van Vuuren, at [cvanvuuren@itac.org.za](mailto:cvanvuuren@itac.org.za).**

**DEPARTMENT OF TRANSPORT****NOTICE 388 OF 2021****MERCHANT SHIPPING ACT, 1951 (ACT NO. 57 OF 1951)****MARITIME OCCUPATIONAL HEALTH AND SAFETY AMENDMENT  
REGULATIONS, 2021**

The Minister of Transport in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), hereby publishes for comments the draft Maritime Occupational Health and Safety Amendment Regulation set out in the Schedule hereunder.

Interested persons are invited to submit comments on these draft Maritime Occupational Health and Safety Amendment Regulation to the Director-General, Department of Transport for the attention of Ms. G Semanya or Ms. Moloko Machaka within 30 days after publication of this notice:

The Department of Transport  
Private Bag X193  
PRETORIA  
0001

E-mail: [Semenyag@dot.gov.za](mailto:Semenyag@dot.gov.za) or [machakam@dot.gov.za](mailto:machakam@dot.gov.za) Tel: 012 309 3499 or  
012 309 3676

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## SCHEDULE

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### **MERCHANT SHIPPING ACT, 1951 (ACT NO. 57 OF 1951)**

### **MARITIME OCCUPATIONAL HEALTH AND SAFETY AMENDMENT REGULATIONS, 2021**

#### **GENERAL EXPLANATORY NOTE:**

[        ] Words in bold typed in square brackets indicate omissions/deletions from existing regulations.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing regulations.

### **Draft Maritime Occupational Health and Safety Amendment Regulations, 2021**

#### **Definition**

1. In this Schedule “the Regulations” means the Maritime Occupational Health and Safety Regulations, 1994 published in Government Gazette No. 16068 by Government Notice No. R. 1904 dated 11 November 1994, as amended.

#### **Amendment of Chapter I of the Regulations**

2. Chapter I of the Regulations is hereby amended by the substitution for the table of contents (Arrangement of regulations) of the following table:



**“Chapter I      General**

- 1 Definitions
- 2 General application
- 3 Duties of **[employers]** an employer and an employee
- 4 Health and Safety equipment and facilities to be provided by [employers] an employer
- 5 First-aid kit and first-aider
- 6 Reporting of accidents or serious injuries on board vessels”.

**Amendment of regulation 1 of the Regulations**

3. Regulation 1 of the Regulations is hereby amended—

- (a) by the insertion after the definition of “access equipment” of the following definitions:

““Authority” means the South African Maritime Safety Authority established by section 2 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998).”; and

““confined space” means a space which has any of the following characteristics:

- (a) has limited openings for entry and exit;
- (b) has unfavourable natural ventilation;
- (c) is not designed for continuous worker occupancy; and
- (d) where it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that space; and includes, but is not limited to, cargo spaces, double bottoms, fuel tanks, ballast tanks, pump-rooms, compressor rooms, cofferdams, void spaces, duct keels, inter-barrier spaces, engine crankcases and sewage tanks;”;

- (b) by the insertion after the definition of “contravene” of the following definition:

““employer” for the purposes of this Chapter means the owner, master or person who employs and remunerates or undertakes to remunerate any stevedores, ship repair and maintenance worker or incidental person;”; and

- (c) by the substitution for the definition of “tanker” of the following definition:

“**“tanker”** means a cargo ship constructed or adapted for the carriage in bulk of oil, chemicals or gas; and”.

### **Substitution of regulation 2 of the Regulations**

4. The following Regulation is hereby substituted for Regulation 2 of the Regulations:

“These regulations apply on board **[vessels]**a vessel and to the performance of all work on **[vessels]**a vessel, whether or not the **[vessels are]** vessel is afloat.”.

### **Amendment of regulation 3 of the Regulations**

5. Regulation 3 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 3 of the following heading:

**“3 Duties of [employers and employees]an employer and an employee”**; and

- (b) by the substitution for regulation 3 of the following regulation:

“(1) **[Every]**An employer shall—

- (a) have a copy of these regulations readily available for perusal by his employees;
- (b) ensure that **[all his employees are]**each employee is so far as is practicable familiar with these regulations where applicable;
- (c) in so far as is practicable, ensure that employees observe the applicable provisions of these regulations **[applicable to employees are observed by them]**;
- (d) in the interest of health and safety, ensure that discipline is enforced on board a vessel;
- (e) ensure that on board a vessel work is performed or machinery is used under the general supervision of a person who is fully aware of the hazards connected therewith and who is conversant with the health and safety measures to be taken or observed to obviate such hazards;

- (f) ensure that health and safety measures contained in the applicable Code and the SANS Standards prescribed by the South African Bureau of Standards are complied with;
  - (g) ensure that **[every]**each employee is **[aware of the hazards connected with any work to be performed, or machinery to be used by him and that he is conversant with the safety measures to be taken or observed to obviate such hazards]**—
    - (i) aware of the hazards connected with any work to be performed, or machinery to be used; and
    - (ii) conversant with the health and safety measures to be taken or observed to obviate hazards referred to in subparagraph (i);
  - (h) ensure that machinery and equipment which is brought on board a vessel and which does not form part of that vessel's machinery or equipment complies with the provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
  - (i) ensure **[than]** that an employee who operates machinery or equipment on board a vessel is competent to do so~~[.]~~; and
  - (j) as far as is reasonably practicable establish that:
    - (i) the hazards to the health or safety of persons attached to any work which is performed, any cargo, equipment and any plant or machinery which is used in on board the vessel; and
    - (ii) the precautionary measures to be taken with respect to such work, cargo, equipment, plant or machinery in order to protect the health and safety of persons and provide the necessary means to apply such precautionary measures.
- (2) **[No]** An employer shall not, other than in writing and subject to the conditions stipulated by **[him]**the applicable Code, allow the raising, lowering, transporting or supporting of a person by means of a lifting appliance, except in an emergency.
- (3) **[Every]**An employee shall—
- (a) take reasonable care for **[his]** own health and safety and that of any other **[persons]**person who may be affected by **[his]**the employee's acts or omissions;

- (b) as regards any duty or requirement imposed on **[his]the employee's**, employer or any other person by the Act or regulations, co-operate with **[such] the** employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given **[to him]**, and obey the rules and procedures laid down by **[his]the** employer or by anyone **[authorized]authorised** thereto by his employer, in the interest of health and safety;
- (d) if any situation which is unsafe comes to **[his]the employee's** attention, as soon as practicable report such situation to **[his]the** employer or to the health and safety representative for **[his]the** workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) if **[he]the employee** is involved in any incident which may affect **[his]the employee's health and safety**, or which has caused an injury to **[himself]the employee**, report such incident to **[his]the** employer or to anyone **[authorized]authorised** thereto by the employer, or to **[his]the health and safety** representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case **[he]the employee** shall report the incident as soon as practicable thereafter; and
- (f) not intentionally or recklessly interfere with or misuse anything which is provided in the interest of health and safety."

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

6. Regulation 4 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 4 of the following heading:

**"4        Health and Safety equipment and facilities to be provided by [employers]an employer"; and**

- (b) by the substitution for regulation 4 of the following regulation:

**"[Taking into account the nature of the hazard that may be encountered, every employer shall, in order to render his employees safe, provide on a vessel adequate safety equipment and facilities, including—**

- (1) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls or any similar equipment that will prevent bodily injury;
  - (2) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, ear muffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
  - (3) belts, harnesses, nets, fall arresters, life lines, safety hooks, or any similar equipment that will provide protection in cases of falls; and
  - (4) mats, barriers, safety signs or any similar facility that will effectively prevent slipping or entry to unsafe areas.]
- (1) An employer must, taking into account the nature of the hazard that may be encountered, and in order to render the employees safe, provide on a vessel adequate health and safety equipment, personal protective equipment and facilities, including—
- (a) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls, safety footwear, reflective safety jackets or any similar equipment that will prevent bodily injury;
  - (b) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, earmuffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
  - (c) belts, harnesses, nets, fall arresters, lifelines, safety hooks, or any similar equipment that will provide protection in cases of falls;
  - (d) mats, barriers, safety signs or any similar facility that will effectively prevent slipping and falling, multi-gas detectors for use before entry into confined spaces and other spaces with unsafe and harmful atmosphere; and
  - (e) other equipment and facilities as determined by the hazard identification process.
- (2) An employer must immediately replace personal protective equipment that has become worn or defective.”.

### **Substitution of regulation 5 of the Regulations**

7. The following Regulation is hereby substituted for Regulation 5 of the Regulations:

“(1) **[Every]**Where more than five employees work on board a vessel an employer shall ensure that **[-]** there is readily available at that workplace a person holding a certificate of competency in first aid and thereafter one first aider must be appointed and available for every group of up to 50 employees.

(2) The certificate of competency referred to in subregulation (1) shall-

- (a) in the case of a vessel crew be in compliance with the Merchant Shipping (Safe Manning, Training and Certification) Regulations, 2013; and
- (b) for stevedores, ship repair and maintenance workers and incidental persons be **[a certificate of competency]** issued with a certificate of competency by an organization or person accredited by the relevant Sector Education and Training Authority and approved by the Chief Inspector of the Department of Employment and Labour for that purpose.

**[(1) where more than five employees work on board a vessel where the vessel's medicine and medical appliances are not readily accessible, a portable first-aid kit is made available at or near the workplace where the employees are engaged and there is readily available at that workplace a person qualified in practical first aid; and**

**(2) the minimum contents of the portable first-aid kit is as follows:**

Contents	Quantity
Wound cleanser (Cetrimide 1% solution)	1 x 200 ml
Pain relief tablets (e.g. paracetamol-codeine combination)	25
Antiseptic burn/wood cream (e.g. Proviiodine)	25g
Paraffin gauze dressings 400mm x 100 mm	1 tin
Paraffin gauze dressings 100 mm x 100 mm	1 tin
Eyedrops (Naphazoline)	10 ml
Crepe bandage 75 mm x 6 mm	1
Roller bandages 75 mm x 6 mm	2

<b>Triangular bandages</b>	<b>2 large</b>
<b>Cotton wool</b>	<b>1 x 50 g</b>
<b>Wound dressings 150 mm x 100 mm</b>	<b>2</b>
<b>Wound dressings 200 mm x 150 mm</b>	<b>1</b>
<b>Elastic adhesive wound dressing 25 mm x 1 m</b>	<b>1 roll</b>
<b>Self-adhesive wound dressings, assorted</b>	<b>50</b>
<b>Gauze 90 mm x 5 mm</b>	<b>1</b>
<b>Eyeshield</b>	<b>1</b>
<b>Tweezers</b>	<b>1 pair</b>
<b>Scissors, stainless steel, 100 mm blunt/sharp</b>	<b>1 pair</b>
<b>Assorted safety pins, brass, large</b>	<b>1 packet</b>
<b>Splints, in net for neck, arms and leg</b>	<b>1 set</b>
<b>Surgical gloves</b>	<b>2 pairs</b>

]

(3) Where more than five employees work on board a vessel an employer must ensure that a portable first-aid kit is made available at or near the workplace unless there is an agreement between the vessel Master and the employer over the use of the vessel's medicine and medical appliances.

(4) The portable first-aid kit referred to in subregulation (3) shall contain a minimum of the following contents:

<b><u>Item</u></b>	<b><u>Contents</u></b>	<b><u>Quantity</u></b>
<u>1</u>	<u>Wound cleaner / antiseptic</u>	<u>(100ml)</u>
<u>2</u>	<u>Swabs for cleaning wounds</u>	<u>1 packet</u>
<u>3</u>	<u>Cotton wool for padding</u>	<u>(100g)</u>
<u>4</u>	<u>Sterile gauze</u>	<u>10</u>
<u>5</u>	<u>Forceps (for splinters)</u>	<u>1 pair</u>
<u>6</u>	<u>Scissors (minimum size 100mm)</u>	<u>1 pair</u>
<u>7</u>	<u>Safety pins</u>	<u>1 set</u>
<u>8</u>	<u>Triangular bandages</u>	<u>4</u>
<u>9</u>	<u>Roller bandages (75mm x 5m)</u>	<u>4</u>
<u>10</u>	<u>Roller bandages (100mm x 5m)</u>	<u>4</u>
<u>11</u>	<u>Roll of elastic adhesive (25mm x 3m)</u>	<u>1</u>
<u>12</u>	<u>Non-allergenic adhesive strip (25mm x 3m)</u>	<u>1</u>
<u>13</u>	<u>Adhesive dressing strips (minimum quantity 10 assorted sizes)</u>	<u>1 packet</u>
<u>14</u>	<u>First aid dressings (75mm x 100mm)</u>	<u>4</u>
<u>15</u>	<u>First aid dressings (150mm x 200mm)</u>	<u>4</u>
<u>16</u>	<u>Straight splints</u>	<u>2</u>
<u>17</u>	<u>Large and Medium size disposable latex gloves</u>	<u>2 pairs of each size</u>

<u>18</u>	<u>CPR mouth pieces or similar devices</u>	<u>2</u>
<u>19</u>	<u>An adequate supply of absorbent material [for the absorption of blood and other body fluids spilled]</u>	
<u>20</u>	<u>Disinfectant [to disinfect the area after cleaning up blood and other body fluids spilled]</u>	
<u>21</u>	<u>Large and medium size disposable rubber household gloves</u>	<u>2 Pairs of each size</u>
<u>22</u>	<u>A suitable sized impervious bag [for the safe disposal of blood and other body fluid contaminated biohazard materials]</u>	

”

### Substitution of regulation 6 of the Regulations

8. The following Regulation is hereby substituted for Regulation 6 of the Regulations:

“**[Any]**An employer or an employee must report any accident or serious injury, contemplated in section 259 of the Act, **[shall be reported]** on the prescribed casualty report, obtainable from the proper officer concerned.”.

### Amendment of Chapter II of the Regulations

9. Chapter II of the Regulations is amended—
- (a) by the substitution for the table of contents (Arrangement of regulations) of the following table:

<b>“Chapter II</b>	<b><u>Health and</u> Safety provisions for staff on board ship, appliances and equipment</b>
7	Definitions
8	Application
9	Duties of an employer
10	Appointment, termination of appointment, and functions of <u>a health and safety [officers]</u> <u>officer</u>
11	Appointment, termination of appointment, and functions of <u>a health and safety [committees]</u> <u>committee</u>
12	Election, termination of office, and functions of <u>a health and safety [representatives]</u> <u>representative</u>



- 13 Requirements and duties of **[employers]**an employer regarding health and safety officers, health and safety committees and health and safety representatives to enable them to perform their functions
- 14 Access equipment
- 15 Use of access equipment
- 16 Hatch coverings
- 17 Lifting plants
- 18 Safeguarding of machinery
- 19 Electrical equipment
- 20 Safety measures when working under hazardous conditions
- 21 Safe access of persons on board
- 22 Transit areas
- 23 Lighting
- 24 Safety signs
- 25 Guardrails and Guarding of Openings
- 26 Fixed ladders
- 27 Enclosed or confined spaces”; and

(b) by the substitution for the heading of Chapter II of the following heading:

**“Chapter II     Health and Safety provisions for staff on board ship, appliances and equipment”.**

### **Amendment of regulation 7 of the Regulations**

10. Regulation 7 of the Regulations is hereby amended—

(a) by the insertion after the definition of “Code” of the following definition:

**““competent person” means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to a competent authority, as prescribed in the Code;”;**

(b) by the substitution for the definition of “employer” of the following definition:

**““employer” for the purposes of this Chapter means master or owner of a vessel;”;** and

- (c) by the substitution for the definition of “new vessel” of the following definition:

“**“new vessel”** means a vessel built on or after 1 January 1994 and includes a vessel whose construction and assembly commenced on or after 1 January 1994; and”.

### **Substitution of regulation 8 of the Regulations**

11. The following Regulation is hereby substituted for Regulation 8 of the Regulations:

“This Chapter shall not apply to—

- [(1)](a)** fishing vessels, except for regulations 17, 21 and 27(1), (2), (3)(b) and (c), and (4), read with the applicable Code;
- [(2)](b)** vessels used solely for sport and recreation;
- [(3)](c)** offshore installations while they are on or within 500 [metres]meters of their working stations; and
- [(4)](d)** a vessel in which there is, for the time being, no workplace.”.

### **Substitution of regulation 9 of the Regulations**

12. The following Regulation is hereby substituted for Regulation 9 of the Regulations:

“**[Every]**An employer of a crew **[shall]** in addition to the general duties prescribed in Chapter I **[comply with the following:]** shall—

- [(1)](a)** **[Ensure]**ensure that no safety equipment or other facility on a vessel **[be]**is removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
- [(2)](b)** train all **[his]** employees or cause **[them]**employees to be trained in the proper use and maintenance of health and safety equipment or other facilities on board a vessel; and
- [(3)](c)** ensure that all health and safety hazards or potential health and safety hazards that **[caused]** may cause a safety officer to instruct that work **[to]** be stopped on a vessel, are removed before such work is resumed.”.

### **Amendment of regulation 10 of the Regulations**

13. Regulation 10 of the Regulations is hereby amended—

(a) by the substitution for the heading of regulation 10 of the following heading:

**“10 Appointment, termination of appointment, and functions of a health and safety [officers]officer”**; and

(b) by the substitution for regulation 10 of the following regulation:

“(1) An employer shall in writing appoint an officer other than the master of a vessel as the health and safety officer for that vessel.

(2) The appointment of a health and safety officer shall terminate on —

(a) **[on]** the date that health and safety officer ceases to be employed on board that vessel; or

(b) **[on]** the date that the employer terminates **[his]**the appointment.

(3) **[The]**A health and safety officer shall—

(a) ensure that the crew of the vessel comply with the provisions of the Code;

(b) ensure that the crew comply with any occupational health and safety policy determined by the employer concerned;

(c) ensure that the crew maintain a high standard of occupational health and safety;

(d) investigate the cause of an accident contemplated in section 259(1)(c) of the Act, all hazards or potential hazards to health and safety, including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints by the crew of the vessel concerning occupational health and safety;

(e) make recommendations to the health and safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—

(i) the requirements of the Act and these regulations that affect the crew;

(ii) any relevant Marine Notice; and

(iii) any provision of the Code;

(f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety of the crew, at least once during

this term of appointment or more frequently if there have been substantial changes in the conditions of work: provided that the interval between successive inspections shall not exceed three months;

- (g) keep a record book **[in]** which **[he]** shall **[enter]** contain the full details—
  - (i) of any accident or hazardous occurrence **[(including the date, the names of persons involved and the nature of any injury)]**, including the name of any person involved or the nature of any injury; and
  - (ii) of any investigation, complaint or inspection referred to in this regulation;
- (h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Authority or the health and safety committee concerned, as the case may be;
- (i) immediately stop or cause to be stopped the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury, and inform the master thereof forthwith; and
- (j) carry out any other investigation relating to occupational health and safety which an employer or a health and safety committee may deem necessary, if so requested to in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation.”.

### **Amendment of regulation 11 of the Regulations**

14. Regulation 11 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 11 of the following heading:

**“11 Appointment, termination of appointment, and functions of a health and safety [committees]committee”; and**

- (b) by the substitution for regulation 11 of the following regulation

**“(1) An employer shall in writing establish a health and safety committee on board a vessel, designating the master to be chairperson and appointing**

the health and safety officer and every health and safety representative as members.

- (2) An employer may in writing dissolve a health and safety committee.
- (3) A health and safety committee shall—
  - (a) upon receipt of any recommendation referred to in regulation 10(3)(e), submit to the employer such recommendation together with their own recommendations; and
  - (b) inquire into any occupational health and safety matter that affects a vessel and her crew and take the steps it may deem necessary to remove any hazard or potential hazard.”.

### **Amendment of regulation 12 of the Regulations**

15. Regulation 12 of the Regulations is hereby amended –

- (a) by the substitution for the heading of regulation 12 of the following heading:

**“12 Election, termination of office, and functions of a health and safety [representatives]representative”;** and

- (b) by the substitution for regulation 12 of the following regulation:

“(1) The crew may, if they so choose, elect—

- (a) in a ship carrying fewer than 16 crew members, one health and safety representative; or
  - (b) in a ship carrying more than 15 crew members, one health and safety representative, to be elected by the officers, and one health and safety representative to be elected by the ratings, or in a ship carrying more than 30 ratings, one health and safety representative, to be elected by the ratings in each of the deck, engine and catering departments; and general purpose ratings shall for this purpose be included in the deck apartment.
- (2) If a group of employees chooses to elect a health and safety representative, the manner in which the election is to be conducted shall be as follows:
- (a) **[At]at** a meeting convened for the purpose of this election and presided over by the chairman of the health and safety committee or

- his nominee, a group of employees shall from within their group nominate a candidate[.];
- (b) **[Each]**each nominated candidate shall, in writing, confirm to the chairman of the health and safety committee his acceptance of such nomination[.];
  - (c) **[The]**the election of a health and safety representative shall be decided by ballot[.];
  - (d) **[Each]**each member of the group of employees holding an election shall have only one vote[.];
  - (e) **[The]**the candidate obtaining the majority of votes shall be the health and safety representative for the specific group of employees for a period not exceeding six months[.]; and
  - (f) **[In]**in the event of an equality of votes, the chairman of the health and safety committee shall have the decisive vote.
- (3) The office of the health and safety representative shall terminate—
- (a) on the date that the health and safety representative ceases to be employed on board that vessel;
  - (b) on the date of **[his]**the health and safety representative's resignation from office; or
  - (c) after **[he]**the health and safety representative has completed **[his]**the term of appointment.
- (4) **[When he makes]** A health and safety representative must submit any representations and **[submits]** requests in writing to the employer or health and safety officer or health and safety committee on behalf of the crew **[he represents, the safety representative shall make such representations and submissions in writing]**being represented.".

### **Amendment of regulation 13 of the Regulations**

16. Regulation 13 of the Regulations is hereby amended by—

- (a) the substitution for the heading of regulation 13 of the following heading:

**"13 Requirements and duties of [employers]an employer regarding health and safety officers, health and safety committees and health and safety representatives to enable them to perform their functions"; and**

(b) the substitution for regulation 13 of the following regulation:

“~~Every~~An employer of a crew shall—

- ~~[(1)]~~(a) inform the health and safety officer and health and safety committee concerned of any hazardous cargo on board a vessel and the hazards which may arise therefrom, and of any other hazards on board the vessel that are known to ~~[him]~~the employer and that may endanger the vessel or her crew;
- ~~[(2)]~~(b) allow a health and safety officer ~~[and]~~or health and safety representative such reasonable absence from ship's duties without loss of pay as may be necessary ~~[to enable them]~~ to perform their duties or functions as health and safety officer or health and safety representative, as the case may be;
- ~~[(3)]~~(c) at any reasonable time, receive representations about occupational health and safety from the health and safety officer, the health and safety representatives or the health and safety committee, including recommendations by a health and safety representative that certain work should be suspended, and discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable;
- ~~[(4)]~~(d) provide the health and safety officer, and health and safety committee concerned on request with any information relating to accidents and potential hazards to health and safety on board a vessel;
- ~~[(5)]~~(e) provide the health and safety officer concerned on request with any information or plans necessary to enable ~~[him]~~the health and safety officer to undertake an inspection referred to in regulation 10(3)(d);
- ~~[(6)]~~(f) set the election date of a health and safety representative to be within three working days of being requested to do so by any two persons entitled to vote in such an election and give publicity to any such election;
- ~~[(7)]~~(g) subject to the provision of section 355A(5) of the Act, provide the health and safety officer and health and safety committee access to any necessary information, document and similar material, including any applicable legislation and Marine Notices;
- ~~[(8)]~~(h) provide the health and safety officer and health and safety committee with the necessary accommodation, office equipment and similar materials;

- [(9)](i)** permit the health and safety officer and health and safety committee to inspect the whole or part of the vessel for the purpose of occupational health and safety; and
- [(10)](i)** display in a conspicuous place on board a notice containing the names of the health and safety officer and health and safety representative on board the vessel.”.

### **Amendment of regulation 14 of the Regulations**

17. Regulation 14 of the Regulations is hereby amended —

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) **[The]**An employer shall provide—”; and

(b) by the substitution in subregulation (1) for paragraph (c) of the following paragraph:

“(c) on board a vessel of 120 **[metres]**meters or more in length, in addition to the gangway, an accommodation ladder **[(including a rope or portable ladder)]**, including a rope or portable ladder which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code.”.

### **Substitution of regulation 15 of the Regulations**

18. The following Regulation is hereby substituted for Regulation 15 of the Regulations:

**“[The]**An employer shall ensure that, except in an emergency, access equipment referred to in regulation 14 is always used between a secured vessel and any quay, pontoon or similar structure or another vessel alongside to which that vessel is secured, and that—

**[(1)](a)** the access equipment is placed in position promptly after the vessel has been so secured and remains in position while the vessel is so secured;

**[(2)](b)** the access equipment which is used—

(i) is properly constructed, of adequate strength, properly



- rigged, secured, deployed, and safe to use; and
- (ii) is so adjusted from time to time as to maintain safety of access;
- [(3)](c) the access equipment and immediate approaches thereto are adequately illuminated;
- [(4)](d) when access is necessary between a vessel and the shore and that vessel is not secured alongside, access equipment is provided to ensure safe access;
- [(5)](e) a portable ladder is used as access equipment only where no other safe means of access is practicable;
- [(6)](f) a rope ladder is used as access equipment only between a vessel with high freeboard and a vessel with low freeboard or between a vessel and a boat where no other safe means of access is practicable;
- [(7)](g) a life-buoy with a self-activating light and a separate safety line attached to a quoit or a similar device is provided ready for use at the point of access to a vessel; and
- [(8)](h) an adequate number of safety nets are rigged to safeguard the full length of a gangway or accommodation ladder in use.”.

### **Amendment of regulation 16 of the Regulations**

19. Regulation 16 of the Regulations is hereby amended —

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) ~~[The]~~An employer shall ensure—”;

(b) by the substitution in subregulation (1) paragraph (b) for subparagraph (ii) of the following subparagraph:

“(ii) is clearly marked, showing the correct replacement position, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced; and”; and

(c) by the substitution for subregulation (2) of the following subregulation:

“(2) Except in the event of an emergency, **[no]**a person shall not operate a hatch covering which is power-operated or a vessel's ramp or a retractable car-deck unless authorised to do so by the officer of the watch.”.

### **Amendment of regulation 17 of the Regulations**

20. Regulation 17 of the Regulations is hereby amended –

(a) by the substitution for regulation 17 of the following regulation:

“(1) **[Every]**An employer shall ensure that any vessel's lifting plant is—”;

(b) by the substitution in regulation 17 subregulation (1) for paragraph (c) of the following paragraph:

“(c) operated only by a competent person properly trained in the operation thereof and duly authorised by the officer of the watch to do so;”;

(c) by the substitution in regulation 17 subregulation (1) for paragraphs (e) and (f) of the following paragraphs:

“(e) examined by a competent person after any **[of the tests]**test referred to in paragraph (d) **[have]**has been carried out, but at least once every 12 months, and that no lifting plant is used unless so examined and declared safe in writing;

(f) supplied with a test certificate stating that the lifting plant was tested by a competent person after any **[of the tests]**test prescribed in paragraph (d);”;

(d) by the substitution in regulation 17 subregulation (1) for paragraphs (h) and (i) of the following paragraphs:

“(h) where practicable, fitted with—

(i) a limiting device which automatically arrests any driving effort when the load reaches its highest or lowest safe position;

- (ii) a brake or other device suitable to holding a load and preventing the uncontrolled downward movement thereof when the raising effort of the lifting plant is interrupted; and
  - (iii) a hook or load-attaching device so designed or proportioned that the accidental disconnection of a load under working conditions is prevented; and
- (i) fitted with—
  - (i) a device indicating the operating radius of the lifting plant at all times while it is in operation; and
  - (ii) a diagram or indicator indicating to the operator the safe working load of the lifting plant corresponding to its operating radius, if it has a safe working load which varies according to its operating radius.”; and
- (e) by the addition after subregulation (1) of the following subregulations:
  - “(2) An employer must obtain from the vessel’s crew, prior to commencement of each crane operation, documentary proof of—
    - (a) the register of on-board lifting appliances and items of loose gear;
    - (b) crane wire certificates; and
    - (c) maintenance schedule for crane wires.
  - (3) The vessel’s crew must-
    - (a) at all times monitor cargo operations; and
    - (b) ensure that routine inspection and maintenance of wire-ropes is conducted as per the manufacturer’s requirements for inspection.”.

### **Substitution of regulation 18 of the Regulations**

21. The following Regulation is hereby substituted for Regulation 18 of the Regulations:

“~~[Every]~~An employer shall—”.

- ~~[(1)]~~(a) specifically cause every exposed and hazardous part of machinery on board a vessel which is within the normal reach of a person to be effectively safeguarded by means of insulation, fencing, screening or guarding so that it does not constitute a further hazard or potential hazard;

- [(2)](b) ensure that the quality of material used for such insulation, fencing, screening or guarding is suitable for the purpose for which it is being utilised;
- [(3)](c) ensure that all insulation, fencing, screening or guarding is properly maintained and kept in position while the guarded part is in operation; and
- [(4)](d) supply suitable apparatus to stop immediately any machine on board a vessel in an emergency.”.

### Substitution of regulation 19 of the Regulations

22. The following Regulation is hereby substituted for Regulation 19 of the Regulations:

“**[Every]**An employer shall ensure that all the electrical equipment and installations on a vessel are operated and maintained in such a manner that any hazard or potential hazard is removed.”.

### Amendment of regulation 20 of the Regulations

23. The following Regulation is hereby substituted for Regulation 20 of the Regulations:

“**[Every]**An employer shall take all reasonable precautionary measures in order to ensure that **[employees]**an employee who **[have]**has to work on or near machinery which is in motion, under pressure, at high temperature or electrically alive **[(including the operation of such machinery for the purposes of the examination, adjustment, repair, lubrication or testing thereof)]**,including the operation of such machinery for the purpose] of the examination, adjustment, repair, lubrication or testing thereof, are not injured, and shall in particular ensure that—

- [(1)](a) the exposure of employees to dangerous parts of such machinery is limited to the minimum;
- [(2)](b) the said exposure is authorised by the officer of the watch or other competent person;
- [(3)](c) such machinery is examined only by a competent person;

- [(4)](d)** any employee who is required to be close to such machinery has, so far as is practicable, a working area which is of adequate size, properly illuminated, and clear of obstructions and loose material; and
- [(5)](e)** a notice specifying the hazards relating to such machinery is affixed in a legible form in a conspicuous place on, or in the vicinity of, that machinery or that the area around such machinery is demarcated with hazard tape.”.

#### **Substitution of regulation 21 of the Regulations**

24. The following Regulation is hereby substituted for Regulation 21 of the Regulations:

“**[Every]**An employer shall ensure that a safe means of access is provided and maintained to any place on a vessel to which a person may be required to go.”.

#### **Substitution of regulation 22 of the Regulations**

25. The following Regulation is hereby substituted for Regulation 22 of the Regulations:

“**[Every]**An employer shall ensure that all deck surfaces used for transit and all passageways, walkways and stairs on a vessel are properly maintained and, in so far as it is practicable, are kept free from all materials for substances likely to cause a person to slip or fall.”.

#### **Substitution of regulation 23 of the Regulations**

26. The following Regulation is hereby substituted for Regulation 23 of the Regulations:

“**[Every]**An employer shall ensure that those areas of a vessel being used for the loading or unloading of cargo or for any other work or transit are adequately and appropriately illuminated.”.

#### **Substitution of regulation 24 of the Regulations**

27. The following Regulation is hereby substituted for Regulation 24 of the Regulations:

**“[Every]An** employer shall ensure that all permanent health and safety signs used on board a vessel for the purpose of giving health and safety information or instruction comply with the standards prescribed by the International Maritime Organisation, the South African Bureau of Standards or the International Standards Organisation.”.

#### **Amendment of regulation 25 of the Regulations**

28. Regulation 25 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 25 of the following heading:

**“25        Guardrails and Guarding of Openings”;** and

- (b) by the substitution for regulation 25 of the following regulation:

**“[(1) Every employer shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails of fencing will interfere with the proper performance of work.**

**(2) Where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of hazard tape displayed at a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening]**

**(1) An employer must ensure that—**

**(a) any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails of fencing will interfere with the proper performance of work;**

**(b) where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of a hazard tape displayed at**

- a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening;
- (c) hatchways open for handling cargo or stores, through which persons may fall or on which they may trip, should be closed as soon as work stops, except during short interruptions or where they cannot be closed without prejudice to safety or mechanical efficiency because of the heel or trim of the ship: Provided in such a case, an employer must ensure the opening is guarded by means of a fencing of adequate design and construction to prevent such occurrence;
  - (d) guard rails or fencing should not have sharp edges and should be properly maintained;
  - (e) where necessary, locking devices and suitable stops or toe-boards should be provided;
  - (f) each course of rails should be kept substantially horizontal and taut throughout their length;
  - (g) guard rails or fencing should consist of an upper rail at a height of 1 meter and an intermediate rail at a height of 0.5 meters which may consist of taut wire or taut chain;
  - (h) work is not conducted on walkways that are not properly fenced;
  - (i) for a ship undergoing repair and maintenance work, positive guarding or barricading is utilised for openings made in railings, decks, or tank tops; and
  - (j) walkways are safely and securely fenced by the ship's crew and that foremen or supervisors ensure that fencing has been erected and complies with the specifications prescribed in paragraphs (a) to (i)."

### **Amendment of regulation 26 of the Regulations**

29. Regulation 26 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 26 of the following heading:

**"26 Fixed ladders";**

- (b) by the substitution for regulation 26 of the following regulation:

**"(1) [Every]An employer shall ensure that every ladder used on a vessel—**

- (a) **[all ladders used on a vessel are]**is constructed of **[good construction and]** sound material, adequate strength and is suitable for the purpose for which **[they are]**it is used;
- (b) **[Such ladders are]**is properly maintained and free from defects; and
- (c) **[all the ladders on a new vessel comply]** complies with the requirements prescribed in the relevant sections of the Code.”.

### **Amendment of regulation 27 of the Regulations**

30. Regulation 27 of the Regulations is hereby amended —

- (a) by the substitution for subregulation (1) of the following subregulation:

“(1) **[Every]**An employer shall ensure that all entrances to unattended, enclosed or confined spaces on a vessel are kept either closed or otherwise secured against entry, except when work is to be done therein.”;

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

“(2) **[Every]**An employer shall ensure that the provisions of the applicable Code pertaining to the hazards for safe entry to and work in an enclosed or confined space on board a vessel are complied with.”;

- (c) by the substitution for subregulation (3) of the following subregulation:

“(3) **[Every]**An employer of crew on board—

- (a) any tanker or gas carrier of 500 gross registered tons or more; **[and]**
- (b) any other vessel of 1 000 gross registered tons or more[,]; and
- (c) or any other vessel with confined spaces on board,

shall ensure that drills simulating the rescue of a crew member from an enclosed or confined space are held at intervals not exceeding two months, and that such drills are recorded in the official log book.”; and

- (d) by the substitution for subregulation (4) of the following subregulation:

“**[(4) (a) Where entry into an enclosed or confined space may be necessary, every employer shall ensure that an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel.**



**(b) Every employer shall ensure that such meter any such other testing device is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturers' requirements.]**

**(4) An employer shall ensure that—**

- (a) where entry into an enclosed or confined space may be necessary, an oxygen meter, a multi-gas detector and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel;**
- (b) the confined space is certified by a competent person on board using a multi-gas detector as safe for human entry; and**
- (c) the oxygen meter, multi-gas detector or any such other testing device referred to in paragraph (a) is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturer's requirements.**

### **Amendment of Chapter III of the Regulations**

31. Chapter III of the Regulations is amended —

- (a) by the substitution for the table of contents (Arrangement of regulations) of the following table:

**“Chapter III     Stevedores, [shore]ship repair and maintenance contractors and incidental person on board vessels in the course and scope of their duty**

- 28    Definitions
- 29    Application
- 30    Duties of **[owners, masters and employers]**an employer
- 31    Appointment, termination of appointment, and functions of a health and safety officer
- 31A Appointment, termination of appointment, and functions of a health and safety appointee
- 31B Appointment, termination of appointment, and functions of a health and safety committee
- 31C Incidental persons

31D Certification of stevedores, ship repair and maintenance contractor and incidental person as fit for duty by an Occupational Medicine Practitioner

31E Certification of an employee as fit for duty by an Occupational Medicine Practitioner

31F Portable Ladders

31G Safety measures when working with steel pipes and on container tops

32 Record books

32A Stevedore Health and Safety Induction Training"; and

- (b) the substitution for the heading of Chapter III of the following heading:

**"Chapter III Stevedores, [shore]ship repair and maintenance contractors and incidental person on board vessels in the course and scope of their duty".**

#### **Amendment of regulation 28 of the Regulations**

32. Regulation 28 of the Regulations is hereby amended —

- (a) by the substitution for the definition of "Code" of the following definition:

**"["Code" means the South African Ports Cargo Handling Code of Practice published by the National Ports Authority of South Africa, a division of Transnet Limited, as may be amended from time to time;]**

**"Code" means the Code of Safe Working Practice for Ships Working Cargo in South African Ports;**";

- (b) by the insertion after the definition of "Code" of the following definition:

**"competent person" means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to a competent Authority, as prescribed in the Codes;**

- (c) by the substitution for the definition of "employee" of the following definition:

“**employee**” means any person other than a crew member who is employed by or working for any employer and receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person who in any manner assists in the carrying on or the conducting of the business of an employer in so far as this person is performing stevedoring, or **[shore]ship repair and maintenance** contracting or any other work whatsoever in the course and scope of **[his]** employment on board a vessel;”;

- (d) by the substitution for the definition of “employer” of the following definition:

“**employer**” means any person other than an employer of the master or crew who employs any person and remunerates that person or expressly or tacitly undertakes to remunerate **[him] any person**, or who permits any person in any manner to assist him in performing stevedoring or **[shore contracting] ship repair and maintenance** or any other work on board a vessel;”;

- (e) by the substitution for the definition of “incidental persons” of the following definitions:

“**incidental [persons]person**” means any person other than the master and crew, and **[stevedores]stevedore** and **[shore contractors] ship repair and maintenance contractor** on board a vessel in the course and scope of their duty;”;

- (f) by the insertion after the definition of “incidental persons” of the following definitions:

“**Occupational Medicine Practitioner**” for the purposes of this Chapter means a registered medical practitioner who meets the prescribed requirements of and has registered the applicable additional qualification with the Medical and Dental Professions Board of the Health Professions Council of South Africa;”;

“**safety officer**” means a person who holds an NQF level 5 training qualification in Health and Safety management accredited by a relevant Education and Training Authority or an equivalent NQF level 6 qualification from a recognised higher education institution and is appointed as such in terms of regulation 31(1);”;

- (g) by the substitution for the definition of “shore contractor” of the following definition:

“**[shore]ship repair and maintenance contractor**” means a person temporarily employed on board a vessel to effect general or specific repairs, alterations, renovations, improvements, painting, maintenance of vessel or machinery, tank or hatch cleaning and related tasks;”;

- (h) by the insertion after the definition of “ship repair and maintenance contractor” of the following definitions:

“**shipyard competent person**” means a person with a minimum NQF level 5 certificate in Safety management which includes hazard identification modules and has:

- (a) completed a training in proper care and use of a multi-gas detector provided by the manufacturer;
- (b) [has] a minimum of two years working in the ship repair and maintenance industry or oil and gas industry; and;
- (c) [has] basic knowledge of vessel structure;”; and

“**Ship repair Code**” means the Code of Safe Working Practice for Ships undergoing repair and maintenance in South Africa;” and

- (i) by the addition after the definition of “stevedore” of the following definition:

“**stevedore**” means a person employed in the loading or unloading of a vessel or activities related thereto[.]; and

“**workplace**” means an area on board a vessel where work is performed.”.

### **Amendment of regulation 30 of the Regulations**

33. Regulation 30 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 30 of the following heading:

**“30 Duties of [owners, masters and employers]an employer”;**

- (b) by the substitution for subregulation (1) of the following subregulation:

- “(1) **[Every]**An employer **[of stevedores, shore contractors or incidental persons]** shall—
- (a) in addition to the general duties prescribed by regulation 3, complies with the requirements of regulations 4, 5, 17(b) and (c), 20, 21, 25 and **[27(2)]**27(1), (2) and (4);
  - (b) ensure that **[each accessible part of the vessel is]** the workplace, including transit and access facilities are inspected in respect of occupational health and safety affecting employees at **[least once a day during the period the employees are employed]** the commencement of each shift and maintain a record of such inspection;
  - (c) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**accident that may result in an injury and inform the employer, owner or master forthwith thereof~~[.]~~;
  - (d) ensure that at the commencement of each shift, a health and safety information session is conducted with employees to inform employees of hazards, risks and mitigating measures associated with the task to be performed during the shift and maintain a record of such information sessions; and
  - (e) ensure that for any work taking place in confined spaces, each confined space is certified gas-free, safe for human entry or safe for hot work by a competent person whilst the vessel is in port within South Africa and maintained as such by a shipyard competent person where applicable.”;
- (c) by the substitution for subregulation (2) of the following subregulation:
- “(2) **[Every]**An employer **[of stevedores, shore contractors or incidental persons]** shall ensure that all deck surfaces, all passageways, walkways and stairs on a vessel used for transit by employees are kept, as far as it is practicable, free from all materials or substances likely to cause a person to slip or fall.”; and
- (d) by the substitution for subregulation (4) of the following subregulation:
- “(4) **[Every]**An employer **[of a stevedore]** shall ensure **[compliance with the provisions of the Code]**—

- (a) compliance with the provisions of the Code;
- (b) that each employee—
  - (i) holds a valid medical certificate of fitness;
  - (ii) holds documentary evidence of having successfully completed a health and safety induction training in accordance with Annex 1 of the Code and Appendix 1 of the Ship Repair Code; and
  - (iii) has the appropriate personal protective equipment.”.

### **Amendment of regulation 31 of the Regulations**

34. Regulation 31 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 31 of the following heading:

**“31 Appointment, termination of appointment, and functions of a health and safety officer”;**

- (b) by the substitution for subregulation (1) of the following subregulation:

**“(1) ~~[The]~~An employer ~~[of a stevedore or shore contractor]~~ shall in writing appoint an employee as a health and safety officer for a group of ~~[his]~~employees.”;**

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

**“(2) The appointment of the health and safety officer shall cease on the date—**

- (a) the employee ceases to be employed by the employer; or**
- (b) ~~[that]~~the employer terminates the appointment.”;**

- (d) by the substitution for subregulation (3) of the following subregulation:

**“(3) ~~[The]~~ A health and safety officer shall whilst the employees are working on a vessel—”;**

- (e) by the substitution in subregulation (3) for paragraph (a) of the following paragraph:

- “(a) ensure that the employees comply with the provisions of the regulations and the related provisions of the applicable Codes”;
- (f) by the substitution in subregulation (3) for paragraph (b) of the following paragraph:
- “(b) ensure that any occupational health and safety policy determined by the employer concerned is complied with by the employees”;
- (g) by the substitution in subregulation (3) for paragraph (c) of the following paragraph:
- “(c) ensure that the employees maintain a high standard of occupational health and safety”;
- (h) by the substitution in subregulation (3) for paragraph (d) of the following paragraph:
- “(d) investigate the cause of an accident **[mentioned]**referred to in section 259(1)(c) of the Act, all hazards or potential hazards to health and safety, including fatigue, affecting or which may affect the employees in the execution of their work and all complaints about occupational health and safety by the employees onboard the vessel”;
- (i) by the substitution in subregulation (3) for paragraph (e) of the following paragraph:
- “(e) make recommendations to the employer **[regarding]**or the health and safety committee concerned about any investigation or inspection or the prevention of **[an]**any accident, or the removal of **[a]**any hazard, or potential hazard, and about any deficiency in occupational health and safety regarding **[the requirements of the Act and these regulations]**—
- (i) the requirements of the Act and these regulations that affect the employees; and
- (ii) the related provisions of the Code”;
- (j) by the substitution in subregulation (3) for paragraph (f) of the following paragraph:

- “(f) monitor the effectiveness of the applicable health and safety measures, conduct inspections contemplated regulation 30(1)(b) and the investigation referred to in paragraph (j) and immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury and inform the employer, owner or master forthwith thereof;”;
- (k) by the substitution in subregulation (3) for paragraph (h) of the following paragraph:
- “(h) carry out any other investigation relating to occupational health and safety which an employer or a health and safety committee may deem necessary if requested thereto in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation;”;
- (l) by the substitution in subregulation (3) for paragraph (i) of the following paragraph:
- “(i) for the purposes of regulation 32, submit to the employer a brief report of **[the]**each investigation, complaint or inspection contemplated in this regulation **[to the employer for the purposes of record keeping]; and**”;
- (m) by the addition in subregulation (3) after paragraph (i) of the following paragraph:
- “(j) ensure that the workplace is inspected periodically in respect of unsafe acts and unsafe conditions during the time the employees are employed on board a vessel and evidence retained as prescribed in regulation 32.”.

### Insertion of regulations 31A to 31E of the Regulations

35. The following regulations are hereby inserted in Chapter III of the Regulations after regulation 31:



**“31A Appointment, termination of appointment, and functions of a health and safety appointee**

- (1) An employer shall in writing appoint in respect of any work on board a vessel at least one employee as a health and safety appointee for every shift worked on the vessel.
- (2) The appointment of the health and safety appointee shall terminate on the date—
- (a) the person ceases to be employed by the employer; or
  - (b) the employer terminates the appointment.
- (3) A health and safety appointee shall ensure that—
- (a) before each shift—
    - (i) every part of the vessel including access facilities, transit areas where cargo is to be worked is inspected in respect of occupational health and safety affecting employees;
    - (ii) employees are made aware of any hazards associated with the work being undertaken;
    - (iii) employees use the appropriate personal protective equipment; and
    - (iv) documentary evidence of compliance with subparagraphs (i) and (ii) are kept on the vessel;
  - (b) any unsafe equipment or workplace is reported to the health and safety officer and that appropriate corrective action is taken;
  - (c) workplaces are well-lit and well-ventilated;
  - (d) any person not involved in work is kept clear of areas where cargo handling and ship repair and maintenance is taking place;
  - (e) safety equipment is used only for its intended purpose and is not misused or interfered with;
  - (f) ensure that the inspection contemplated in regulation 30(1)(b) is conducted; and
  - (f) report any other unsafe acts or unsafe conditions to the Health and Safety Officer.

**31B Appointment, termination of appointment, and functions of a health and safety committee**

- (1) An employer shall in writing establish a health and safety committee consisting of a chairperson appointed by the employer, a health and safety officer and every health and safety appointee.
- (2) The chairperson may co-opt as a member of the health and safety committee any other person whose knowledge or experience can contribute to the business of the committee.
- (3) An employer may in writing dissolve, or reconstitute, the health and safety committee at any time.
- (4) The health and safety committee shall meet at least once every three months: provided that the Authority may by notice in writing direct that a meeting be held at any place and time determined by the Authority and specified in the notice.
- (5) Subject to any directions by an employer, the health and safety committee shall determine its own procedures.
- (6) The health and safety committee shall—
  - (a) consider every recommendation of the health and safety officer made in terms of regulation 31(3)(e) and any recommendation of a health and safety appointee;
  - (b) submit such recommendations referred to in paragraph (a) to the employer together with its own recommendations;
  - (c) inquire into any occupational health and safety matter that affects the employer or its employees and take the steps it may deem necessary to remove any hazard or potential hazard; and
  - (d) monitor the employer's procedures and arrangements for ensuring that—
    - (i) an accident involving an employee is reported in terms of the Act and investigated by the health and safety officer and that appropriate corrective action is taken;
    - (ii) every workplace is safe so far as reasonably practicable; and
    - (iii) any equipment used by employees to work meets the applicable statutory requirements.

- (7) An employer shall keep proper minutes of every meeting of the health and safety committee for a period of at least three years and shall make the minutes available to the Authority upon demand.

**31C Incidental persons**

- (1) An employer of an incidental person shall upon employment of a new employee ensure that—
- (a) the employee attends internal health and safety induction training covering hazards associated with access to the vessel as well as hazards and risks associated with working on board the vessel;
  - (b) the employee uses the appropriate personal protective equipment;  
and
  - (c) any incidental person reports to the health and safety appointee referred to in regulation 31(1) before proceeding to work on any working area where cargo operations or ship repair and maintenance work is taking place.

**31D Certification of a stevedore, ship repair and maintenance contractor or incidental person as fit for duty by an Occupational Medicine Practitioner**

- (1) A stevedore, ship repair and maintenance contractor or incidental person shall be examined and certified fit for duty only by a certified Occupational Medicine Practitioner, in accordance with the Medical Surveillance Protocols prescribed in Table 1 of Annex 5 of the Code, with due regard to the portability of the position.
- (2) An Occupational Medicine Practitioner shall consider the multitasking and exposure to additional hazards related to the position and conduct an assessment of whether stevedore, ship repair and maintenance contractor or incidental person is fit for duty in accordance with the criteria prescribed in Table 2 of Annex 5 of the Code.
- (3) An Occupational Medicine Practitioner shall, when conducting an assessment of whether a bulk cargo stevedore, ship repair and maintenance contractor or incidental person is fit for duty, comply with the guidelines prescribed in Table 3 of Annex 5 of the Code: provided where the bulk cargo is not listed in Table 3, the Material Safety Data Sheet

(MSDS) or the International Maritime Solid Bulk Cargoes Code (IMSBC Code) shall be consulted for guidance.

**31E Certification of an employee as fit for duty by an Occupational Medicine Practitioner**

- (1) An employee shall be examined and certified fit for duty only by a certified Occupational Medicine Practitioner, in accordance with the Medical Surveillance Protocols prescribed in Table 1 of Annex 4 of the Code, with due regard to the portability of the position.
- (2) An Occupational Medicine Practitioner shall consider the multitasking and exposure to additional hazards related to the position and conduct an assessment of whether an employee is fit for duty in accordance with the criteria prescribed in Table 2 of Annex 4 of the Code.

**31F Portable Ladders**

- (1) An employer shall ensure that every ladder used on a vessel—
  - (a) is constructed of sound material of adequate strength and is suitable for the purpose for which it is used;
  - (b) is properly maintained and free from defects;
  - (c) complies with the requirements prescribed in the relevant sections of the Code;
  - (d) is fitted with non-skid devices at the bottom ends and hooks or similar devices at the upper ends of the stiles which shall ensure the stability of the ladder during normal use; and
  - (e) is so lashed, held or secured whilst being used as to ensure the stability of the ladder under all conditions and at all times.
- (2) An employer shall not use a ladder, or permit it to be used, if it —
  - (a) (i) has rungs fastened to the stiles only by means of nails, screws, spikes or in like manner;
  - (ii) has rungs which have not been properly let into the stiles: provided that in the case of welded ladder or ladders of which the rungs are bolted or riveted to the stiles, the rungs need not be let into the sides; or
  - (iii) has damaged stiles, or damaged or missing rungs.

- (3) An employer may not permit the use of a ladder longer than 9 metres which is required to be leaned against an object for support.
- (4) In the case of a wooden ladder, an employer shall ensure that—
- (a) each ladder is constructed of straight grained wood, free from defects, and with the grain running in the length of the stiles and rungs; and
  - (b) each ladder is not painted or covered in any manner, unless it has been established that there are no cracks or other inherent weaknesses: provided that the ladder may be treated with oil or covered with clear varnish or wood preservative.
- (5) When work is done from a ladder, an employer shall—
- (a) take special precautionary measures to prevent articles from falling off; and
  - (b) provide suitable sheaths or receptacles in which hand tools shall be kept when not being used.
- (6) An employer shall ensure that a fixed ladder which exceeds 5 metres in length and is attached to a vertical structure with an inclination to the horizontal level of 75 degrees or more—
- (a) has its rungs at least 150 millimetres away from the structure to which the ladder is attached; and
  - (b) is provided with a cage which—
    - (i) extends from a point not exceeding 2,5 metres from the lower level to a height of at least 900 millimetres above the top level served by the ladder; and
    - (iii) shall afford firm support along its whole length for the back of the person climbing the ladder, and for which purpose no part of the cage shall be more than 700 millimetres away from the level of the rungs: provided that the provisions of paragraph (b) shall not apply if platforms, which are spaced not more than 8 metres apart and suitable for persons to rest on, are provided.
- (7) An employer shall ensure that employees—
- (a) have both hands free for climbing up and down;
  - (b) face the ladder when climbing up and down;
  - (c) do not wear footwear that is slippery; and

- (d) use a belt or other suitable means to carry any object they may need whilst using a ladder.

**31G Safety measures when working with steel pipes and on container tops**

- (1) An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work **[with,]** near or with the discharge of steel pipes **[are]** follow precautions prescribed in the Code.
- (2) An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work on top of containers are not injured and comply with the safety measures prescribed in the Code.”.

**Amendment of regulation 32 of the Regulations**

36. Regulation 32 of the Regulations is hereby amended —

- (a) by the substitution for subregulation (1) of the following subregulation:

- “(1) **[Every]**An employer **[of a stevedore or shore contractor]** shall maintain a record book**[, in which he shall enter]**containing the full details of—
- (a) any accident or dangerous occurrence **[mentioned]**referred to in section 259(1)(c) of the Act **[(including the date of, names of persons concerned and the nature, if any, of any injuries suffered)]** including the date of, names of persons concerned and the nature, if any, of any injuries suffered; and
- (b) any investigation, complaint or inspection in terms of regulation 31 and evidence of compliance with regulation 31A.”; and

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

- “(2) **[The]**An employer shall keep the records specified in subregulation (1) for a period of **[not less than]**at least three years, and shall make these records available to the Authority upon demand.”.

## Amendment of Chapter IV of the Regulations

37. Chapter IV of the Regulations is amended by the substitution for the table of contents (Arrangement of regulations) of the following table:

### “Chapter IV Fishing Vessels

- 33 Definitions
- 34 Application
- 35 Duties of employer
- 36 Appointment, termination of appointment, and functions of a health and safety [officers]officer
- 37 Appointment, termination of appointment, and functions of a health and safety [appointees]appointee
- 38 Appointment, termination of appointment, and functions of a health and safety [committees]committee
- 39 Record books
- 39A Compliance audit
- 39B Access equipment”.

## Amendment of regulation 35 of the Regulations

38. Regulation 35 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

- “(2) **[Every employer of a crew shall in]**In addition to the general duties prescribed in Chapter I **[comply with the following:]**an employer of a crew shall—
- (a) **[Ensure]**ensure that **[no]**health and safety equipment or other facility on a vessel **[be]**is not removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
  - (b) train all **[his]** employees or **[ ]****[them]**the employees to be trained in the proper use and maintenance of health and safety equipment or other facilities on board a vessel;
  - (c) ensure that all hazards or potential hazards to health and safety that may cause~~[ ]~~ a health and safety officer or health and safety appointee to stop work on a vessel, are removed before resumption of such work;

- (d) ensure compliance with regulations 17, 21 and **[27(1)]27(1), (2), (3)(b) and (c), and (4), read with the applicable Code.**”.

### **Amendment of regulation 36 of the Regulations**

39. Regulation 36 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 36 of the following heading:

**“36 Appointment, termination of appointment, and functions of a health and safety [officers] officer”;**

- (b) by the substitution for subregulation (1) of the following subregulation:

“(1) (a) For the **[purpose]purposes** of a fishing vessel in service, **[the]an** employer of the crew of **[the]a** vessel shall in writing appoint a suitably qualified crew member as **[the]a health and safety officer** for the vessel.

- (b) A person is not suitably qualified for the purposes of paragraph (a) unless **[he or she]that such person** holds documentary evidence of having successfully completed health and safety officer training approved by the Authority: provided that this provision does not require a person to hold such documentary evidence during the period expiring 12 months after the commencement of Part 1 of the Merchant Shipping (Miscellaneous Amendments) Regulations, 2004.”;

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

“(2) The appointment of a health and safety officer shall terminate—

- (a) on **[a]the** date that **[he]the health and safety officer** ceases to be employed on board the fishing vessel; or
- (b) on the date that **[his]the** employer, in writing, terminates **[his]the health and safety officer's** appointment.”; and

- (d) by the substitution for subregulation (3) of the following subregulation:

“(3) A health and safety officer shall, whilst a fishing vessel is in service—

- (a) ensure that the crew **[comply]complies** with the provisions of the Code;



- (b) ensure that the crew **[comply]**complies with any occupational health and safety policy determined by the employer concerned;
- (c) ensure that the crew **[maintain]**maintains a high standard of occupational health and safety;
- (d) investigate **[the cause of an accident contemplated in section 259(1)(c) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints concerning occupational safety]**—
  - (i) the cause of an accident contemplated in section 259(1)(c) of the Act;
  - (ii) all hazards or potential hazards to health and safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work; and
  - (iii) all complaints concerning occupational health and safety;
- (dA) ensure that the members of the vessel's health and safety committee are made aware of—
  - (i) the relevant requirements of these regulations and **[of]**the Act;
  - (ii) any relevant Marine Notice; and
  - (iii) the provisions of the Code~~[.]~~;
- (e) make recommendations to the health and safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—
  - (i) the requirements of the Act and these regulations that affect the crew;
  - (ii) any relevant Marine Notice; and
  - (iii) any provisions of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety affecting the crew, at least once during a voyage;
- (g) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury, and inform the master thereof forthwith;

- (h) carry out any other investigation or inspection relating to occupational health and safety which an employer or health and safety committee may deem necessary, if so requested in writing by the employer or health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation or inspection; and
- (i) submit to the employer for the purposes of the record book a brief report of the investigation or inspection referred to in this regulation.”.

### **Amendment of regulation 37 of the Regulations**

40. Regulation 37 of the Regulations is hereby amended —

- (e) by the substitution for the heading of regulation 37 of the following heading:

**“37      Appointment, termination of appointment, and functions of a health and safety [appointees]appointee”;**

- (f) by the substitution for subregulation (1) of the following subregulation:

“(1) ~~[The]~~An owner of a fishing vessel shall in writing appoint an employee as a health and safety appointee for that fishing vessel whilst it is not in service.”;

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

“(2) The appointment of the health and safety appointee shall terminate—  
(a) on the date that the employee ceases to be employed by the owner;  
or  
(b) on the date that the employer terminates ~~[his]~~the employee's appointment.”; and

- (h) by the substitution for subregulation (3) of the following subregulation:

“(3) The health and safety appointee shall whilst a vessel is not in service—  
(a) ensure that ~~[the]~~employees comply with the provisions of the Code;  
(b) ensure that ~~[the]~~employees comply with any occupational health and safety policy determined by the employer concerned;  
(c) ensure that ~~[the]~~employees maintain a high standard of occupational health and safety;

- (d) investigate **[the cause of an accident contemplated in section 259(1)(c) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the employees in the execution of their work, and all complaints by the employees of the vessel concerning occupational safety]**—
  - (i) the cause of an accident contemplated in section 259(1)(c) of the Act;
  - (ii) all hazards or potential hazards to health and safety including fatigue, that affect or may affect the employees in the execution of their work; and
  - (iii) all complaints concerning occupational health and safety;
- (e) make recommendations to the health and safety committee concerned, about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—
  - (i) the requirements of the Act and these regulations that affect **[the]**employees;
  - (ii) any relevant Marine Notice; and
  - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety of **[the]**employees, at least once during the vessel's not-in-service period and should such period extend beyond one month, at least once a month;
- (g) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]**may cause an accident or **[serious]**injury and inform the owner thereof forthwith;
- (h) carry out any other investigation relating to occupational health and safety which an employer or health and safety committee may deem necessary, if so requested in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation; and
- (i) submit to the employer for the purposes of the record book a brief report of the investigation or inspection referred to in this regulation.”.

### **Amendment of regulation 38 of the Regulations**

41. Regulation 38 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 38 of the following heading:

**“38 Appointment, termination of appointment, and functions of a health and safety [committees]committee”; and**

- (b) by the substitution for regulation 38 of the following regulation:

- “(1) **[The]**An owner of every fishing vessel shall in writing establish a health and safety committee for the vessel, which committee is to consist of such number of members as the owner may determine from time to time taking into account the other provisions of this regulation.
- (2) The **[ ]**chairperson, in the person of the owner or the owner’s representative, shall co-opt the vessel’s health and safety officer and not less than one crew member from each of the deck, engine, factory **[(if applicable) and]**or catering departments on board, and may co-opt such other crew members or employees as are necessary to conduct the business of the committee.
- (3) The **[chairman]**chairperson may also co-opt any other person who by the virtue of **[his]**such person’s special knowledge can contribute to the business of the health and safety committee.
- (4) An owner may, **[in his discretion,]**in writing, dissolve a health and safety committee.
- (5) A health and safety committee **[is to]** shall meet as often as may be necessary for the effective and efficient performance of its functions: provided that the Authority may by notice in writing direct that a meeting be held at any place and time determined by it and specified in the notice.
- (6) The procedure at meetings of a health and safety committee shall be determined by the committee.
- (7) The committee shall consider all recommendations of the health and safety officer or health and safety appointee.
- (8) After consideration of such recommendations a health and safety committee may recommend any appropriate action in respect of any

incident on board a vessel and the recommendation shall be made available to the Authority upon demand.

- (9) **[The]An** owner shall keep the minutes of every meeting of a health and safety committee for a period of at least three years and shall make the minutes available to the Authority upon demand.”.

#### **Amendment of regulation 39 of the Regulations**

42. Regulation 39 of the Regulations is hereby amended —

- (i) by the substitution for subregulation (1) of the following subregulation:

“(1) **[Every]An** employer shall maintain a record book, **[in which he shall enter]** containing the full details of—

- (a) any accident or dangerous occurrence referred to in section 259(1)(c) of the Act **[(including the date, names of persons concerned and the nature, if any, of any injuries suffered)]** including the date, names of persons concerned and the nature, if any, of any injuries suffered; and
- (b) any investigation, complaint or inspection referred to in **[terms of]** regulations 36 and 37.”; and

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

“(2) **[The]An** employer shall keep the records specified in subregulation (1) for a period of at least three years, and shall make these records available to the health and safety committee, and to the Authority upon demand.”.

#### **Amendment of regulation 39A of the Regulations**

43. Regulation 39A of the Regulations is hereby amended —

- (a) by the substitution for subregulation (1) of the following subregulation:

“(1) **[The]An** owner shall, at intervals not exceeding three months, audit the arrangements for ensuring compliance with these regulations in respect of its vessels to ensure that they are implemented effectively—.”;

(b) by the substitution in subregulation (1) for paragraphs (a) and (b) of the following paragraphs:

- “(a) a health and safety officer or health and safety appointee, as the case may be, has been duly appointed in respect of each of the owner's vessels and is functioning effectively;
- (b) a health and safety committee has been duly appointed in respect of each of the owner's vessels and is functioning effectively;”; and

(c) by the substitution for subregulation (3) of the following subregulation:

“(3) ~~【The】~~An owner shall maintain a written record of each audit for a period of at least three years and shall make the record available to the Authority upon demand.”.

#### **Substitution of regulation 39B of the Regulations**

44. The following Regulation is hereby substituted for Regulation 39B of the Regulations:

~~“【The】~~An employer shall provide—”.

#### **Amendment of regulation 40 of the Regulations**

45. Regulation 40 of the Regulations is hereby amended by the substitution for subregulations (1) to (5) of the following subregulations:

“(1) ~~【Every】~~An employer commits an offence when an employer contravenes regulation 3(1) or (2), 4, 5, 9, 10(1), 11(1), 13, 14, 15, 16(1), 17, 18, 19, 20, 21, 22, 23, 24, 25(1), 26, 27, 30(1), (2) or (4), 31(1), 31A(1), 31B(1) or (7), 32, 35(2), 36(1), 39 or 39B.

(2) ~~【Every】~~An employee who contravenes regulation 3(3)(f) commits an offence.

- (3) **[Every]**A person who contravenes regulation 16(2) commits an offence.
- (4) **[Every]**An owner commits an offence when an owner contravenes regulation 35(1), 37(1), 38(1), 38(9) or 39A(1) or (3).
- (5) **[Every]**A master who contravenes regulation 35(1)(b) commits an offence.”.

#### **Short title and commencement**

- 46. “These regulations are called the Maritime Occupational Health and Safety Amendment Regulations, 2021 and are published for public comments.

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 555

25 June 2021

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

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

REF NO.	CLAIMANT	PROPERTY	LOT NUMBER	DISTRICT	CURRENT LAND OWNER	INTERESTED PARTIES
H 0093	Betshe Phillipine Matlala	Lot No. 147 Eastwood	Lot No. 147 Eastwood	Tshwane Metropolitan Municipality	Tshwane Metropolitan Municipality	Department of Rural Development and Land Reform Tshwane Metropolitan Municipality

has/have been submitted to the office of the Regional Land Claim Commission. The Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of Rule 5 of the Rules Regarding Procedure of Commission Established in terms of section 16 of Restitution of Land Rights Act as amended. Any interested party on the claim is hereby invited to submit, representations in terms of section 11A of the Restitution of Land Rights Act No. 22 of 1994 as amended within 90 (ninety) working days from the publication date of this notice, any comments/information may be send to:



MR. L.H. MAPHUTHA  
The Regional Land Claims Commissioner  
Gauteng Province  
Private Bag X 03  
**ARCADIA**  
0007  
TEL: (012) 310-6500/6620  
FAX: (012) 323-2961



**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT 22 OF 1994) AS AMENDED**

Notice is hereby given in terms of section 11(1) (c) of the Restitution of Land Rights Act, 1994 as amended) that a claim has been lodged for restitution of land rights on:

REF NO	CLAIMANT	OLD PROPERTY DESCRIPTION	CURRENT PROPERTY DESCRIPTION & EXTENT	CURRENT LANDOWNERS	BONDS / NO BONDS	DEED OF TRANSFER	INTERESTED PARTIES
<b>Z0225 (KRP1109)</b>	Ms. Joyce Suzen Tabane	The third (3 <sup>rd</sup> ) share of the remaining extent of portion 2 of the farm Jakkalsdans 243 JR	Portion 4 of the farm Jakkalsdans 243 JR  308.7507 Hectares	National Government of the Republic of South Africa	None	T35736/1993 T58216/1989 T80555/2016	Land Claimant, the current landowners, and the Sedibeng District Municipality

Take further notice that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of Rule 5 of the Rules Regarding Procedure of Commission Established in terms of section 16 of Restitution of Land Rights Act as amended. Any interested party on the claim is hereby invited to submit representations in terms of section 11A of the Restitution of Land Rights Act 22 of 1994 as amended within 90 (ninety) working days from the publication date of this notice, any comments/information may be send to:

Chief Directorate: Land Restitution Support Gauteng Province  
Private Bag X03  
**ARCADIA**  
0007  
Tel: (012) 310-6500  
Fax: (012) 324-5812

**MR. L.H MAPHUTHA**  
**REGIONAL LAND CLAIMS COMMISSIONER**  
**DATE:**

NO. 556

25 June 2021

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

## DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 557

25 June 2021

## 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) (c) of the Restitution of Land Rights Act, 1994 as amended) that a claim has been lodged for restitution of land rights on:

REF NO.	CLAIMANT	PROPERTY & EXTENT	DISTRICT	CURRENT LAND OWNER	DEED OF TRANSFER	BONDS	INTERESTED PARTIES
VV 116	Reverend de Jager on behalf of Ebenezer Church	Erf 180 Paarlshoop Ext 3 IQ	City of Johannesburg Metropolitan Municipality	Siyaam Prop PTY LTD	T49931/2008	None	Ebenezer Church
		Erf 112 Malvern IR	City of Johannesburg Metropolitan Municipality	Michael & Keitumetse Kelsy Gwanda	T66354/2006	None	Current landowners
		Erf 1596 Jeppestown IR	City of Johannesburg Metropolitan Municipality	Elsje Sophia Kotze	T25684/2009	None	City of Johannesburg Metropolitan Municipality
		Erf 404 Reiger Park Ext 1 IR	City of Ekurhuleni Metropolitan Municipality	Sheila Sandra Nike	T43247/1994	None	Ekurhuleni Metropolitan Municipality
		Erf 405 Reiger Park Ext 1 IR	City of Ekurhuleni Metropolitan Municipality	Regan Vincent and Gail Dunn	T51866/1996	Firststrand Bank Ltd B42497/2006 B44292/2002 Transnet Ltd B54340/1996	Kenneth Kaunda District Municipality
		Portion 1 (RE) of farm Modderfontein 76 IR	City of Ekurhuleni Metropolitan Municipality	New Modder Township PTY LTD	T31646/1959	None	

		Portion 206 of Klippoorfje 110 IR	City of Ekurhuleni Metropolitan Municipality	Republic of South Africa	T28040/1978	None	
		Portion 175 (a portion of portion 161) of the farm Driefontein 87 IR	City of Ekurhuleni Metropolitan Municipality	Property not registered at Deeds office			
		Erf 1079 Germiston South IR	City of Ekurhuleni Metropolitan Municipality	Property not registered at Deeds office			
		Portion 23 of the farm Modderfontein 76 IR	City of Ekurhuleni Metropolitan Municipality	National Government of Republic of South Africa	T60999/2010		
		Erf 2954 Potchefstroom Ext 18 IQ	Kenneth Kaunda District Municipality	Evangelies-Gereformeerde Kerk Van Suid-Afrika	T16542/1988	Nedcor Bank B22550/1994 Nedperm B81750/1989	
		Portion 5 of Erf 2655 Benoni IR	City of Ekurhuleni Metropolitan Municipality	Surtees Prop Benoni Pty Ltd	T31756/2013	South African Home Loans Guarantee Trust B23192/2013	
		Portion 20 (RE) of the farm Paardekraal 226 IQ	City of Johannesburg Metropolitan Municipality	Municipality Roodepoort	T43322/1982		

have been submitted to the Regional Land Claim Commission and that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of the Act in due course. Any person who has an interest in the above- mentioned land is hereby invited to submit, within 90 (ninety) days from the publication of this notice, any comments/ information.

Should no information and/ or representations from the affected party/ parties be forthcoming within the stipulated period, the affected party/parties shall be *ipso facto* barred from further doing so and the Commission shall continue with the subsequent processes towards completion of the investigations.

The Commission is guided by the principle of the primacy of restoration unless public interest considerations suggest otherwise, in addition to the factors militating for and against restoration set out in section 33 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994). The Commission is required to avoid major social disruptions whilst settling land claims, and therefore restoration of the already developed residential, recreational, commercial, and other properties used in the public interest therefore successful claims over such areas are settled by provision of alternative state-owned land or financial compensation.

Any comments and information should be submitted to:

Chief Directorate: Land Restitution Support Gauteng Province  
Private Bag X03  
**ARCADIA**  
0007.  
Tel: (012) 310-6500  
Fax: (012) 324-5812

Or hand delivered to NO.09 BAILEY LANE, ARCADIA, PRETORIA 0007

  
**L H MAPHUTHA**  
**REGIONAL LAND CLAIMS COMMISSIONER**  
**COMMISSION ON RESTITUTION OF LAND RIGHTS, SA**

DATE:

2021/05/06

NO. 558

## DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

25 June 2021

**GENERAL NOTICE IN TERMS OF RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT 22 OF 1994) AS AMENDED**

Notice is hereby given in terms of Section 11[1] of the Restitution of the Land Rights Act 1994 (Act 22 of 1994) as amended, that a Land claim for Restitution of Land Rights has been lodged by **Mr. Phoziyaka Kleinbooi Maphosa ID. NO 1802195150089** on behalf of the **Maphosa family** on the property mentioned hereunder situated in **KUNGWINI LOCAL MUNICIPALITY**, under **Gauteng Province** as follows: **Z0078**

**CURRENT PARTICULARS OF THE PROPERTY**  
**ROOIPOORT 440 JR**

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
Portion 1 of the farm Rooipoort 440 JR	National Government of the Republic of South Africa	T1988/2009	466.4573	None	None	N/A

The Regional Land Claims Commissioner, Gauteng Province will investigate all the claims in terms of the provisions of the Act, any party interested in the above mentioned property is hereby invited to submit within **30 (thirty days)** from the date of publication of this notice to submit any comments, or further information to:

Commissioner for Restitution of Land Rights  
Private Bag X7201  
Witbank  
1035

or Shop No. E 8  
Saveways Crescent Centre  
Cnr OR Tambo and Mandela Street  
Witbank  
1035  
TEL NO: 013 – 655 1000  
FAX NO: 013 – 690 3438

CHECKED BY: MISS P RALEKOA  
PROJECT OFFICER  
DATE:

  
MR. L.H. MAPHUTHA  
REGIONAL LAND CLAIMS COMMISSIONER  
MPUMALANGA PROVINCE

DATE: 2019/11/28

## DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 559

25 June 2021

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998  
(ACT NO. 107 OF 1998)****CONSULTATION ON INTENTION TO PUBLISH THE NATIONAL GUIDELINE FOR CONSIDERATION OF  
CLIMATE CHANGE IMPLICATIONS IN APPLICATIONS FOR ENVIRONMENTAL AUTHORISATIONS,  
ATMOSPHERIC EMISSION LICENSES AND WASTE MANAGEMENT LICENSES**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby consult on my intention to publish, under section 24J of the National Environmental Management Act, 1998 (Act No. 107 of 1998), the national guideline for consideration of climate change implications in applications for environmental authorisations, atmospheric emission licenses and waste management licenses, set out in the Schedule hereto.

Members of the public are invited to submit written comments or inputs, within 30 days after publication of this Notice in the Government Gazette, to the following address:

By post to:       The Director-General  
                    Department of Forestry, Fisheries and the Environment  
                    Attention: Mr Simon Moganetsi  
                    Private Bag X447  
                    PRETORIA  
                    0001

By hand at:       Environment House  
                    473 Steve Biko Road  
                    Arcadia  
                    0083

By email:         [Smoganetsi@environment.gov.za](mailto:Smoganetsi@environment.gov.za)

Please note that anyone entering the Department's building will be subjected to COVID-19 procedures.

Due to the COVID-19 pandemic, delivering comments by hand at the Department is being discouraged.

Any enquiries in connection with the draft Notice can be directed to Mr Simon Moganetsi at Tel: 012 399 9309.

Comments or inputs received after the closing date may not be considered.



**BARBARA DALLAS CREECY  
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**



## forestry, fisheries & the environment

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

# INTEGRATED ENVIRONMENTAL MANAGEMENT

## NATIONAL GUIDELINE FOR CONSIDERATION OF CLIMATE CHANGE IMPLICATIONS IN APPLICATIONS FOR ENVIRONMENTAL AUTHORISATIONS, ATMOSPHERIC EMISSION LICENSES AND WASTE MANAGEMENT LICENSES

JANUARY 2021  
(VERSION 1)

ISSUED BY  
Department of Forestry, Fisheries and the Environment  
Private Bag X447  
Pretoria  
0001 South Africa

This document is available on the Departmental website: <http://www.environment.gov.za>

PLEASE NOTE: This document is intended as an information source and cannot take the place of legal advice in a specific situation governed by legislation.

### ENQUIRIES AND COMMENTS

All enquiries and comments should be addressed to:  
The Director: IEM Systems and Tools Coordination  
Department of Forestry, Fisheries and the Environment  
Private Bag X447  
Pretoria  
0001 South Africa  
[smoganetsi@environment.gov.za](mailto:smoganetsi@environment.gov.za)



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**ABBREVIATIONS**

<b>AEL</b>	Atmospheric Emissions License
<b>BA</b>	Basic Assessment
<b>EA</b>	Environmental Authorisation
<b>EAP</b>	Environmental Assessment Practitioner
<b>EIA</b>	Environmental Impact Assessment
<b>EIA Regulations</b>	Environmental Impact Assessment Regulations, 2014, as amended
<b>EMPr</b>	Environmental Management Programme
<b>GHG</b>	Greenhouse Gas
<b>NEMA</b>	National Environmental Management Act, 1998 (Act No. 107 of 1998)
<b>NEMAQA</b>	National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)
<b>NEMWA</b>	National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)
<b>S&amp;EIR</b>	Scoping and Environmental Impact Reporting process
<b>SEMA</b>	Specific Environmental Management Act
<b>WML</b>	Waste Management License

**DEFINITIONS**

<b>Adaptation</b>	The process of adjustment to actual or expected climate and its effects. In human systems, adaptation seeks to moderate or avoid harm or exploit beneficial opportunities. In some natural systems, human intervention may facilitate adjustment to expected climate and its effects;
<b>Applicant</b>	A person who has submitted an application for an Environmental Authorisation, Waste Management License, or Atmospheric Emission License to the competent authority and has paid the prescribed fee;
<b>Assessment</b>	The process of collecting, organising, analysing, interpreting and communicating information that is relevant to decision-making;
<b>Atmospheric emission license</b>	An atmospheric emission license contemplated in Chapter 5 of the NEMAQA; The total sets of greenhouse gas emissions caused by an organisation, event, product or person;
<b>Carbon footprint</b>	Any reservoir, natural or otherwise, that absorbs more carbon than it releases, and thereby lowers the concentration of CO <sub>2</sub> from the atmosphere;
<b>Carbon sink</b>	The change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods;
<b>Competent authority</b>	In respect of a listed activity or specified activity, means the organ of state charged by NEMA with evaluating the environmental impact of that activity and, where appropriate, with granting or refusing an environmental authorisation in respect of that activity;
<b>Development</b>	Any activity that requires an authorization or license in terms of NEMA, NEMWA or NEMAQA;
<b>Direct emissions</b>	Emissions from sources that are owned or controlled by the reporting entity;

<b>Environmental assessment practitioner</b>	The individual responsible for the planning, management, coordination or review of environmental impact assessments, strategic environmental assessments, environmental management programmes or any other appropriate environmental instruments introduced through regulations;
<b>Environmental authorisation</b>	An authorisation by a competent authority of a listed activity or specified activity in terms of the NEMA, and includes a similar authorisation or licence contemplated in a SEMA;
<b>Environmental impact assessment</b>	A systematic process of identifying, assessing and reporting environmental impacts associated with an activity and includes BA and S&EIR processes;
<b>Environmental management programme</b>	A programme contemplated in regulations 19, 23 and Appendix 4 of the EIA Regulations;
<b>Greenhouse Gas (GHG)</b>	Gaseous constituents of the global atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation at specific wavelengths within the spectrum of terrestrial radiation emitted by the Earth's surface, the atmosphere itself and by clouds;
<b>GHG Emissions</b>	Releases of GHG, from either natural sources or from anthropogenic activities, such as the burning of fossil fuels, deforestation, land use changes, livestock production, fertilisation, waste management, industrial processes, or transportation;

<b>Indirect emissions</b>	These are emissions that are a consequence of the activities of the reporting entity, but occur at sources owned or controlled by another entity;
<b>Licensing authority</b>	Authority referred to in NEMWA section 43 and NEMAQA section 36 responsible for implementing the licensing system;
<b>Listed activity</b>	An activity identified in terms of section 24(2)(a) and (b) of NEMA requiring an environmental authorisation; listed in terms of section 21 of the NEMAQA requiring an atmospheric emissions license; or listed in terms of section 19 of the NEMWA requiring a waste management license;
<b>Mitigation (of climate change)</b>	A human intervention to reduce the sources or enhance the sinks of Greenhouse gases. Note that this encompasses carbon dioxide removal options;
<b>Mitigation (of impacts and risks)</b>	To anticipate and prevent negative impacts and risks, then to minimise them, rehabilitate or repair impacts to the extent feasible;
<b>Resilience</b>	The ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self organisation and the capacity to adapt to stress and change;
<b>Screening</b>	Determines what precisely needs to be assessed after it has been determined that an EA, WML or AEL is required, with specific focus on climate change aspects;
<b>Specialist</b>	A person generally recognised within the scientific community as having the capability of undertaking, in conformance with generally recognised scientific principles, specialist studies or preparing specialist reports, including due diligence studies and socio-economic studies;
<b>Specified activity</b>	An activity as specified within a listed geographical area in terms of section 24(2)(b) and (c) of NEMA; and
<b>Waste management license</b>	License issued in terms of section 49(1) of NEMWA.

## 1. INTRODUCTION

The competent and licensing authorities recognize the importance of integrating climate change and its implications into the earliest stages of development planning. The consistent consideration of climate change in environmental impact assessments (EIA) will increase attention to, and awareness of, greenhouse gas (GHG) emissions, stimulate consideration of less emission intensive ways to realize developments and help proponents to assess:

- i. how a proposed development will likely exacerbate climate change;
- ii. the impact of a development on features (natural and built) that are crucial for climate change adaptation and resilience; and
- iii. the sustainability of a development in the context of climate change projection.

Recent case law suggests that climate change is a relevant consideration in EA, WML, and AEL application processes, both from a climate change mitigation and climate change adaptation perspective<sup>1</sup>. A climate change assessment done as part of an EIA involves an assessment of:

- i. whether, and to what extent, proposed development will result in the release of GHG emissions;
- ii. the impact of proposed development on ecological or built infrastructure that are important for climate change adaptation and resilience;
- iii. the projected impact of climate change on proposed development; and
- iv. whether, and to what extent, the impacts identified in (i) - (iii) can be mitigated.

While some effort has already been made to incorporate climate change considerations in EIAs, this Guideline puts forward a consistent approach in providing interested and affected parties (e.g. the proponents, EAPs and specialists) with the minimum requirements to consider when undertaking a climate change assessment, which forms part of an application for environmental authorisation (EA), an atmospheric emission license (AEL) and/or a waste management license (WML). The guideline will further assist authorities with determining the minimum information required to enable an informed decision on applications for EA, AEL and WML.

## 2. LEGAL CONTEXT

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<sup>1</sup> *Earthlife Africa Johannesburg v Minister of Environmental Affairs and others* [2017] 2 All SA 519 (GP), para 78- 79, *The Trustees of the Groundwork Trust v Acting Director-General: Department of Water and Sanitation and Others* (2020) WT02/18/MP, para 20.

The relevant laws and policies for the purposes of this guideline are the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (NEMAQA), the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (NEMWA) and the National Climate Change Response White Paper<sup>2</sup>. These laws must be read in the context of section 24 of the Constitution of the Republic of South Africa, 1996 (the Constitution) which gives everyone the right:

- to an environment that is not harmful to their health or wellbeing; and
- to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
  - prevent pollution and ecological degradation;
  - promote conservation; and
  - secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This guideline has also taken into consideration relevant international legal mechanisms that are binding on South Africa, most notably the United Nations Framework Convention on Climate Change and the agreements made under that Framework Convention. These include the Paris Agreement under which countries agreed to “holding the increase in the global average temperature to well below 2°C above pre-industrial levels, and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels”. Article 4 of the Paris Agreement sets out Nationally Determined Contributions (NDCs) that the countries that are parties to the agreement must develop to present their part of the global effort to “reach global peaking of greenhouse gas emissions as soon as possible... on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.”. Moreover, South Africa is in process of developing legislation specifically pertaining climate change.

NEMA and SEMAs provide for an integrated environmental management system in terms of which an environmental authorisation is required for listed or specified activities. The listed or specified activities are contained in Listing Notices 1 – 3 of the Environmental Impact Assessment Regulations, 2014, as amended (EIA Regulations), published in terms of NEMA. Furthermore, Notices under NEMAQA and NEMWA contain activities requiring AELs and WMLs respectively. The process to be followed for EA applications is prescribed in the EIA Regulations. In terms of the EIA Regulations and the Listing Notices,

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<sup>2</sup> Department of Environmental Affairs. National Climate Change Response Plan White Paper, 2011

basic assessments (BAs) must be conducted as part of an EA application to conduct the activities identified in Listing Notices 1 and 3 and scoping and environmental impact report (S&EIR) must be conducted as part of EA applications to conduct activities identified in Listing Notice 2. Importantly, for the purposes of this guideline, the EIA Regulations make provision for the submission of specialist reports under certain circumstances. NEMA also requires the submission of an environmental management programme (EMPr) for approval by a competent authority.

NEMWA makes provision for the listing of waste management activities that have, or are likely to have, a detrimental effect on the environment. Such a list has been published by the Minister.<sup>3</sup> The activities identified as Category A and B activities may not be conducted without a WML, unless waste streams or portions of waste streams have been excluded from the definition of a waste stream in terms of the Waste Exclusion Regulations, 2018, published under Government Notice No. 715 in *Government Gazette* No. 41777 of 18 July 2018. Applications for a WML to conduct a Category A activity requires submission of a BA report as contemplated in the EIA Regulations, and applications for a WML for an activity identified as a Category B activity requires the submission of a scoping and EIA report as contemplated in the EIA Regulations.

NEMAQA makes provision for the listing of activities that result in atmospheric emissions, which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage. Such a list has been published by the Minister<sup>4</sup>. An AEL is required before the activities identified in that list can be conducted. Unlike with an EA or WML application, an application for an AEL does not follow the process in the EIA Regulations. The licencing process requirements contained in the NEMAQA do however interface with the process in the EIA Regulations and air quality impact assessment reports generally form part of the EA process. In terms of section 39 of NEMAQA, the licencing authority must take into account the pollution being or likely to be caused by the carrying out of the activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality. It is therefore necessary for the EA decision, including the air quality impact assessment report, to have been completed prior to the decision on the AEL application being made by the licencing authority. NEMAQA requires that the AEL decision must be consistent with any

<sup>3</sup> Government Notice 921 in *Government Gazette* 37083 of 29 November 2013, as amended.

<sup>4</sup> The most recent list was published Government Notice 893 in *Government Gazette* 37054 dated 22 November 2013.



environmental impact assessment done and the decision taken on an application for an environmental authorisation. The AEL licencing authority must furthermore make their decision within 60 days of the date on which the EA decision was made.

As indicated above, the relevant legislation must be read in the context of section 24 of the Constitution and relevant international legal instruments and agreements as well as the general requirement for organs of state to consider all relevant factors in decision-making processes in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). The requirement for climate change considerations to be taken into account is therefore important in decision making for EAs, AELs and WMLs.

Section 24J of NEMA authorises the Minister responsible for environmental affairs, or a Member of the Executive Council (MEC) responsible for environmental affairs in a province with the concurrence of the Minister, to publish guidelines regarding listed or specified activities or the implementation, administration and institutional arrangements of Regulations made in terms of section 24(5) of NEMA (including the EIA Regulations). This guideline seeks to give guidance on the implementation of the EIA Regulations where climate change considerations are relevant.

### 3. PURPOSE AND APPLICABILITY

The purpose of this guideline is to give guidance on the consideration of climate change impacts in the EIA processes linked to EA, WML and AEL applications.

i. Who is the target audience for this guideline?

The guideline is directed at authorities, EAPs, specialists, proponents and other stakeholders involved in EIA processes.

ii. What type of EIA processes and developments is this guideline applicable to?

This guideline has been developed to support the inclusion of climate change considerations into EIA processes, regardless of whether such considerations are applicable during the early development planning phase to inform planning and design decisions (i.e. during pre-application planning) or as part of prescribed EIA processes to obtain statutory approvals for a proposed development.

Where specialist climate change input may be required, the guideline promotes early, focused and appropriate involvement of specialists in EIA processes in order to encourage proactive consideration of potentially significant impacts, so that negative impacts may be avoided or

effectively managed and for benefits to be enhanced through due consideration of alternatives and changes to the development proposal. The guideline is applicable to a range of types and scales of development, across all components of the environment i.e. different biophysical, social, economic and governance contexts.

iii. What will this guideline not do?

In order to retain its relevance in the context of a changing legislative context, the guideline promotes the principles of EIA best practice without being tied to specific legislated requirements. The guideline therefore does not clarify the specific administrative, procedural or reporting requirements and timeframes for applications to obtain statutory approval. The guideline should, therefore, be read in conjunction with the applicable legislation, regulations and procedural guidelines to ensure that mandatory requirements are met.

This guideline does not replace the value of practical experience gained through coordinating, being responsible for and/or reviewing specialist inputs. The guideline must not be viewed as prescriptive and inflexible. It is intended to provide best practice guidance to improve the quality of specialist input related to climate change. The guideline should therefore not be used indiscriminately without due consideration of the particular context and circumstances within which an EIA is undertaken, as this has an influence on both the approach and the methods available and used by EAPs and specialists.

The guideline does not address climate change issues related to existing developments where the required statutory approvals have already been obtained.

#### **4. DEVELOPMENT AND CLIMATE CHANGE**

4.1 In order to assist all stakeholders (e.g. applicants, proponents, EAPs, specialists, competent authorities and the public), this guideline gives -

(a) Some examples of –

- (i) when a proposed development will likely have climate change implications;
- (ii) measures that can be taken to mitigate the likely climate change impact of a development;

- (iii) how to assess whether a development will exacerbate climate change (typically by the emission of GHGs);
- (iv) how to assess the impact of a development on features (built or natural) that are crucial for adapting to climate change, or climate change resilience;
- (v) how to assess the likely impact of climate change on the development in the future; and
- (vi) how to assist stakeholders such as EAPs, applicants, proponents and, where applicable, specialists regarding the minimum information to be included in EIA reports (including specialist reports), to enable an informed opinion or recommendation as to whether the proposed development should be authorised; assist authorities regarding the minimum information required to enable informed decisions on applications for EA, AEL, and WML; and provide guidance on how to consider adaption and mitigation measures when applying for EA, WML and AEL; and

(b) Minimum information guidance –

- (i) as to when a specialist climate change report would be required;
- (ii) on the type of information that must be included in a BA, scoping or EIA report when a climate change assessment is not required;
- (iii) on the type of information that must be included in a climate change specialist report when it is required; and
- (iv) on the type of information that must be included in an EMPr.

4.2 It is reiterated that this guideline does not provide comprehensive, technical guidance on climate change assessments, but rather emphasises the importance of climate change for EIA processes and to give some minimum information guidance on how climate change must be considered.

4.3 A proponent, applicant or EAP should consider whether a proposed development will likely have climate change implications or if climate change will have implications for a specific development. If one or more of the following criteria apply to a proposed development, climate change will be a relevant consideration for EIA processes:

- a) The development will likely result in the release (or absorption) of GHGs and therefore exacerbate (mitigate) climate change;
- b) The development will likely impact (adversely or positively) on ecological infrastructure (e.g. biodiversity corridors or wetlands) or built infrastructure (e.g. dams and storm water systems) that is important for climate change adaptation or resilience; and/or
- c) The development will likely be impacted (positively or negatively) by the future climate change implications.

**PLEASE TAKE NOTE:** the lists of examples given in this guideline are not intended to be exhaustive.

4.4 Examples of developments that will result in the release of GHGs include –

- The construction of electricity generation facilities that utilise fossil fuels<sup>5</sup>;
- Industrial developments that contribute to atmospheric emissions;
- The extraction and production of fossil fuels<sup>6</sup>;
- The development and related operation of feedlots<sup>7</sup>;
- The clearing of vegetation, especially where the vegetation is important for carbon capture and where the cleared vegetation is going to be replaced by built infrastructure such as roads, airports and urban development;
- Waste disposal facilities; and
- Treatment of waste through burn technologies such as incinerators.

4.5 Examples of developments that will likely result in impacts on ecological or built infrastructure that is important for climate change adaptation or resilience include:

- Those that will impact on water resources, such as rivers, streams, aquifers, wetlands, as well as water resource systems such as strategic water source areas (both surface and groundwater) and aquifer recharge areas, given the projections that South Africa will likely become drier as a result of climate change;
- Those that will impact on coastal systems and wetlands that will mitigate severe weather events such as storms and floods that will likely become more severe and frequent owing to climate change;

<sup>5</sup> See activities 2 in Listing Notices 1 and 2.

<sup>6</sup> See activities 17, 18 and 20 in Listing Notice 2.

<sup>7</sup> See activity 4 in Listing Notice 1.

- Those that will impact on water infrastructure, such as dams and storm water systems, given the likely drying climate and the future severe weather events; and
- Waste disposal facilities.

4.6 Example of developments that will likely be impacted by climate change include:

- Those in areas that will likely become prone to increased frequency and intensity of fires, rainfall, flooding or be affected by sea-level rise in future as a result of climate change.

## **5. GENERIC PRINCIPLES FOR INVOLVING CLIMATE CHANGE SPECIALISTS IN EIA PROCESSES**

The following generic principles apply to the involvement of specialists in EIA processes and underpin this guideline:

- Eliminate unnecessary specialist involvement through proactive development planning and design to avoid or sufficiently reduce negative impacts that may otherwise require specialist assessment;
- Maximise use of existing relevant information prior to involving a specialist;
- Where appropriate and necessary, involve specialists early in the EIA process to increase efficiency and effectiveness of their involvement;
- Maintain continuity of specialist involvement throughout the EIA process (specialist involvement should add value to development planning and design);
- Support flexible, focused and appropriate involvement of specialists to provide adequate, relevant information to make informed decisions (i.e. the correct level of information should be supplied at the right time in the EIA process);
- Allow for greater involvement of specialists in the identification of key issues, over and above those identified through stakeholder engagement processes;
- Allow for efficient and effective interaction between specialists and the EAP, the development proponent, the authorities, other specialists on the EIA/development team and other stakeholders to improve the quality of the EIA process and outcomes; and
- Ensure that findings are informed by local and indigenous knowledge and experience.

## 6. THE ROLE OF THE EAP

The EAP appointed to conduct the EIA process takes the primary responsibility for the screening of issues and concerns, inclusive of climate change implications. It must be acknowledged that climate change is not a concern in every EIA process, and it is the responsibility of the EAP to identify the need for specialist climate change inputs into the EIA process. Note that the specialist inputs can be requested at any stage of the EIA process, and can range from providing brief inputs when consulted, to a specialist assessment. The following steps will assist in determining the need for specialist inputs:

### Step 1: Gather and evaluate adequacy of available information

At the start of the EIA process, the EAP must gather all the relevant information on the development, the affected receiving environment, and the strategic context (i.e. policies, plans and frameworks) within which the proposed development will be situated. This information is needed to identify issues that may have a positive or negative impact on the biophysical, social or economic environment. Note that at this stage, information should be sufficient to identify climate change issues (Step 2 below), rather than to assess the significance of potential climate change impacts.

Additional information about the development, the environment and the legal, policy and planning context may be required, but if insufficient information is available and an aspect of the proposed development or the context triggers concerns about significant negative climate change impacts, the EAP should involve an appropriate specialist(s) to provide the outstanding information.

### Step 2: Identify potential issues and concerns

The EAP must ensure that the EIA process only focus on climate change issues where it is relevant (avoiding the generation of excessive amounts of irrelevant information). Consistent with the principles of sustainable development, the screening process must consider intra- and inter-generational sustainability concerns (i.e. identifies issues of potential concern to future generations as well as the current generation). Furthermore, and of importance in terms of climate change, potential local, regional, national and international issues should be identified.

As already highlighted, the EAP appointed to conduct the EIA process takes the primary responsibility for the scoping of issues and concerns, inclusive of climate change implications. This determination will also be influenced by the inputs of other stakeholders, especially the determination from the

competent/licensing authorities. Issues and concerns can be identified through a combination of the following approaches:

- EAP's knowledge and experience from similar developments;
- Specialist knowledge and experience;
- Consultation with relevant organs of state;
- Consultation with key infrastructure and service providers;
- Consultation with other stakeholders;
- Proponent's knowledge and experience in constructing, operating and closure of similar developments;
- A review of relevant literature (e.g. EIAs conducted for similar developments) and best practice guidelines;
- Legislation, policies and strategic frameworks and plans;
- Site visits; and
- Scoping checklists.

It is important to note that climate change aspects may be substantive (i.e. related to the nature of the development or the sensitivity of the receiving environment, and its possible impacts) and necessitate an environmental impact assessment which may be based on both objective knowledge and subjective opinions or values. Whilst the EAP must respond to all issues that are raised during the scoping process, not all issues require specialist input. The relevance of climate change issues to decision-making and the amount of available information, will determine whether (or not) finality can be reached on the issue without further assessment (i.e. an issue being scoped out). The rationale used for determining which issues are scoped out without further specialist input and which issues are assessed in more detail (potentially by specialists) is described in subsequent Steps 3-5.

*Step 3: Determine if the issue falls within the scope of the EIA process*

After climate change has been identified as an issue, the EAP must determine the impact significance<sup>8</sup> and whether it falls within the scope of the EIA process as not all issues identified would require climate change assessment. For example, if the issue is of a strategic nature that can only be addressed by a strategic policy or planning process. Where issues fall outside the scope of the EIA these should be

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<sup>8</sup> DEAT (2002) Impact Significance, Integrated Environmental Management, Information Series 5, Department of Environmental Affairs and Tourism (DEAT), Pretoria.



recorded and explained in the EIA process. It must be noted, however, that where an issue falls outside the scope of the EIA process a pre-application meeting may be arranged to consider whether the issues falling outside are relevant for consideration by authority. The EAP may be requested by the authority to include a discussion on the issue and implications in the BA and/or S&EIR. If appropriate, this could be informed by specialist inputs.

Not all activities that require EA, WML or AEL will require climate change assessments. However, it must be kept in mind that some climate change impacts are cumulative in nature – even small amounts of GHG emissions may still contribute to global climate change. All EIA reports should preferably still include potential risks from climate change that could affect the development in the short, medium or long term.

In the event where no climate change assessment is undertaken, the EIA reports should include the following:

- A reasoned opinion (from an adaptation perspective) whether the proposed activity, activities or portions thereof should be authorised including any avoidance, management and adaptation measures that will be included in the EMPr;
- A Life Cycle Assessment (LCA) of whether or not the development will result in GHG emissions;
- An assessment of whether or not a proposed development would impact adversely on the ecological or built infrastructure that is important for climate change adaptation or resilience, or a carbon sink;
- An assessment of whether or not a specific development will likely be impacted by the effects of climate change, such as more severe and frequent floods, droughts and storm events;
- A statement on how the Impact Mitigation Hierarchy was followed in respect of the development's climate change impacts, for example was the climate change impact avoidable, and if not, can it be minimised and remedied;
- A statement on how the risk averse and cautionary approach was applied in respect of a proposed development's likely climate change impacts and the likely impacts of climate change on the development;
- Proposed recommendations in terms of conditions to be included in the EA, AEL and/or WML; and
- Any other information that may be requested by the competent authority and licensing authority.

Step 4: Determine whether the issue can be resolved through changing the development proposal



Consistent with the application of the Impact Mitigation Hierarchy, this step determines if the climate change issues can be resolved through amending the development proposal or components thereof (e.g. design, layout, location or technology). This may require specialist involvement to propose and investigate the possible impacts of practical changes to the development proposal, considering the nature of the receiving environment. The consideration of alternatives should be well motivated.

If changes to the development proposal can be made which effectively avoid or minimize negative impacts or enhance positive impacts, and which do not raise other key issues, closure can be reached on the issue without further assessment or specialist involvement (i.e. the issue can be scoped out). This must be clearly documented and communicated in the EIA process.

In instances where an issue cannot be resolved through changing the development proposal, the EIA process moves to step 5.

*Step 5: Assess potential impacts associated with the proposed development, including recommendations for management actions and monitoring programmes*

The remaining unresolved climate change issues (after following steps 1-4) that could not be addressed through changes to the development proposal, need to be evaluated by the EAP to determine if enough information exists to assess the associated impacts without specialist involvement. If the EIA practitioner is able to draw on existing information and experience to confidently assess the impact without specialist input, or is able to conclude that the potential impact is of such low significance that no further impact assessment is required, then the issue can be closed off without specialist involvement.

However, climate change issues that cannot be resolved through the screening process based on the available information must be taken forward through BA and/or S&EIR processes and must be addressed through the involvement of climate change specialists. The EAP, in conjunction with the specialists, should draft the TOR for the required input. At this stage the specialist's role is to assess the potential impacts of the proposed development (including feasible alternatives within the development proposal) and provide recommendations for management actions and monitoring programmes.

Further to the above, it must be noted that whilst the EAP as part of the EIA process will determine the need for involvement of a climate change specialist, the competent authority or licensing authority may be approached through a pre-application meeting to determine whether or not a proposed development would have significant climate change impacts and therefore require a climate change specialist input

into the EIA process. This must be communicated to the EAP.

## 7. THE ROLE AND TIMING OF SPECIALIST STUDY WITHIN THE EIA PROCESS

Once the need for climate change specialist inputs have been identified by the EAP, specialists can be involved for different purposes during various stages of the EIA process, regardless of whether the process is initiated before or upon submission of an application for statutory approval. Specialists can therefore provide input during pre-application planning or following the submission of an application for statutory approval of the proposed development (i.e. during screening, BA and/or scoping and/or impact assessment). Differences in the nature and outcome of specialist involvement at different stages of the development cycle and EIA process are summarized in Table 1.

*Table 1: Role and timing of specialist input within the EIA process*

Scope of specialist involvement	Pre-application planning/screening	Screening and scoping	Impact assessment
Need for specialist involvement	The need for specialist involvement is to be determined by the EAP based on the level of information available on the nature and scale of the development proposal, the nature of the receiving environment, the policy and strategic environmental planning context and need and desirability <sup>9</sup> considerations.		
Timing of specialist involvement	Prior to submission of application for environmental authorisation – part of the planning team.	In accordance with the provisions of the applicable NEMA and SEMA.	
Nature of involvement	Proactive and advisory in nature and often focused on avoidance of impacts. Intensity of involvement determines whether or not ToRs are required.	Proactive, reflective and advisory. Intensity of involvement determines whether or not ToRs are required. This mostly constitutes specialist opinions and	Investigative, analytical and advisory. ToRs required. This constitutes detailed specialist studies.

<sup>9</sup> The Guideline on Need and desirability (DEFF, 2017).

Scope of specialist involvement	Pre-application planning/screening	Screening and scoping	Impact assessment
		inputs without detailed assessments.	
Type of decision which specialist involvement informs	Informs proponent's development planning and design (including alternatives) and if the development should proceed into the formal regulatory process (fatal flaw analysis).	<p><b>Screening</b> - to determine whether or not a proposal should be subject to EIA and, if so, at what level of detail.</p> <p><b>Scoping</b> – to identify the issues and impacts that are likely to be important and to establish terms of reference for EIA.</p>	<p>Informs the EAPs assessment of impacts, mitigation measures and if the development proposal should be recommended for decision making. Informs the competent authority's review of the application for environmental authorisation, the adequacy of the EIA mitigation measures.</p> <p>Where application is being considered, the specialist information informs the conditions attached to the decision and the management measures of the EMPr.</p>

Although current EIA practice often only involves specialists during the impact assessment phase of the process, this guideline encourages earlier, focused and appropriate involvement of specialists in order to improve the efficiency and effectiveness of their input.

Importantly, the involvement of specialists should not be seen as an obstacle in the approval process, but that specialist input, especially at the early concept stage of the development, can play an important role in helping to identify potential “fatal flaws” and formulate practical design alternatives that enhance development benefits, as well as minimise negative impacts, and possibly even costs, of the development.

Depending on the nature of the development, the stage of development planning and the EIA process, the environmental context and the amount of available information, specialist involvement will vary in intensity (i.e. level of detail) and may include any or all of the following approaches:

- Provision of a specialist opinion or comment - professional judgement;
- Research and literature review – a synthesis of current available information;
- Baseline survey, from a rapid scan to a more comprehensive survey (including site visit/s);
- Consultation and interviews;
- Mapping and simulation modelling;
- Scenario planning;
- Specific approaches such as:
  - Climate change risk and vulnerability assessments;
  - Carbon footprint analysis;
  - Greenhouse gas emissions inventories; and
  - Carbon footprint calculations;
- Cause-effect-impact pathways, to identify and focus on significant issues; and
- Assessment of impacts and their significance.

The ToR for specialist involvement should, therefore, be appropriate to the purpose and intensity/scale of involvement and should be discussed and agreed between the EIA practitioner and the specialist (and the authority where relevant).

In deciding on the approach and method to be employed, the following should be considered:

- The type, scale and duration of the development;

- The environmental context within which the development is proposed (i.e. sensitivity of the receiving environment, the type and significance of resource affected, covering socio-ecological and socio-economic aspects);
- The type of climate change issues to be addressed;
- The adequacy of information available;
- The potential significance of impacts;
- The level of certainty and confidence required;
- The time and budget available; and
- Legal requirements and policy directions

The selected approach and method should be clearly motivated and communicated by the specialist.

## 8. ROLES AND RESPONSIBILITIES

The roles and responsibilities of the various stakeholders in the EIA process, in particular the EAP, the climate change specialist, the applicant/proponent and competent /licensing (decision making) authorities, as it pertains to climate change issues, are described as follows:

The EAP must *inter alia* –

- Determine the need for and purpose of specialist involvement in the EIA process;
- Where appropriate, ensure that the specialist becomes involved as early as possible in the EIA process, including the pre-application phase. (This includes determining the appropriate level of specialist input required – i.e. to determine if a specialist comment will be adequate, or if a detailed specialist assessment will be required);
- Ensure specialist involvement is appropriately budgeted and planned for;
- Draft TOR for specialist;
- Ensure specialist TOR are appropriate to the nature of the development and the environmental context; and
- Incorporate specialist information into the EIA process in an objective manner that effectively communicate it to all stakeholders;

The climate change specialist must *inter alia* –

- Understand the nature of inputs required and the phase of the EIA process (especially as the pre-application phase may not include a TOR);
- Clarify the TOR with the EAP and ensure its appropriateness considering the nature of the development and the environmental context;
- Select the approach and method to address impacts and clearly motivate and communicate it to the EAP; and
- Provide information objectively and clearly communicate it to the EAP for inclusion in the EIA process.

The development applicant/proponent must *inter alia*:

- Allocate adequate time and budget to the involvement of specialists in all phases of the EIA processes, especially during the pre-application (development planning) phase (under the guidance of the EAP);
- Provide for a contingency budget in the event that additional specialist involvement may be required during the course of the statutory EIA process (i.e. scoping and impact assessment phases), recognizing that it is impossible to accurately determine the scope of specialist involvement during the initial EIA budgeting process;
- Recognise that changes to the development proposal during the course of the pre-application (development planning) phase as well as during statutory EIA process may have time and budgetary implications for the EAP and the specialist;
- Respect the requirement for EAP and specialists to provide accurate and objective information to the competent/ licensing authority (decision-making authority) and timeously provide relevant and accurate development information necessary to identify and assess impacts; and
- Contribute constructively, consistent with the steps of the Impact Mitigation Hierarchy, to the identification of issues, appropriate alternatives, impacts and mitigation measures associated with the proposed development.

## 9. EXTENT AND CONTENT OF CLIMATE CHANGE ASSESSMENTS

### 9.1 Information required to provide specialist input

The existence of adequate information is a prerequisite for effective and efficient specialist

involvement. This requires the upfront identification of the information needed by the climate change specialist. Specialists should provide a list of information requirements to the EAP as early as possible in the EIA process in order to comply with the regulatory timeframes. However, the primary responsibilities for sourcing the required information lies with the EAP and the specialist. The following information is generally required:

- Relevant development information (including relevant alternatives where applicable);
- Information describing the receiving environment;
- Legal, policy and planning context;
- Issues raised during the screening process;
- Information generated by other specialists; and
- Contextual factors, external to the EIA that may influence issues and concerns (where relevant).

It must be noted that the lack of adequate information on the receiving environment or the legal, policy and planning context at the start of the EIA process, may require upfront specialist involvement to fill this information gap.

## 9.2 When must a climate change assessment be undertaken?

When the climate change impacts of a proposed development are significant, following the steps 1 to 5 as described in paragraph 6, a specialist climate change assessment will generally be required. Whilst the EAP, as part of the EIA process, will determine the need for involvement of a climate change specialist, the competent authority or licensing authority can, however, differ from the EAP and request that a specialist assessment is required. The significance of climate change impact will depend on a multitude of factors, including the location of the proposed development, the type, and scale of the development, the nature and sensitivity of the receiving environment, and development duration.

In summary, a climate change assessment will be required in the following instances:

- a) The EAP, in following the steps 1 to 5 as set out in paragraph 6, determines the need for such a specialist assessment as part of the EIA, WML and AEL process;
- b) the proposed development involves conducting an activity set out in GHG regulated thresholds<sup>10</sup>; and

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<sup>10</sup> National Greenhouse Gas Emission Reporting Regulations, 2016 as amended.

- c) where such assessment is specifically required by the competent authority.

### 9.3 Content of a climate change assessment

As with all specialist reports, a climate change assessment report must comply with the requirements of EIA Regulations (Appendix 6).

Examples of the type of information that should be included in a climate change assessment include –

#### 9.3.1 Declaration

- A declaration by the specialist that he or she is independent in a form as may be specified by the competent authority.

#### 9.3.2 Scope and purpose of the report

- An indication of the scope of, and the purpose for which, the report was prepared (this includes, where applicable distinguishing between pre-construction, construction, operational and decommissioning impacts). Reports must be limited to the scope of the listed or specified activity applied for.

#### 9.3.3 Description of the development activities

- Description of the development and associated activities
- The duration, date and season of the site investigation and the relevance of the season to the outcome of the assessment.
- Summary of potential development impacts

#### 9.3.4 Methodology

- A description of the methodology adopted in preparing the report or carrying out the specialized process inclusive of equipment and modelling used.

Typical approaches to providing climate change inputs, including:

- Desk top study – a synthesis of current available information;
- Professional judgment or opinion;
- Site visits;
- Cause-effect-impact pathways, to identify and focus on significant issues;
- Identification development specific methodologies such as:
  - Baseline survey, from a rapid scan to a more comprehensive survey;
  - Climate change risk and vulnerability assessments;
  - Carbon footprint analysis;
  - Greenhouse gas emissions inventories;



- Carbon footprint calculations;
- Detailed studies and/or surveys, laboratory processing, analysis, and/or mapping;
- Modelling; and
- Scenario planning.

#### 9.3.5 Impacts or Findings

- A description of climate change (temperature and rain-precipitation) scenarios applicable to the specific geographical area and climate risks associated with it;
- A description of existing impacts on the site, cumulative impacts of the proposed development and levels of acceptable change (this could also superimpose climate scenarios and risks looking into future and determine whether the identified impact worsen or not, and implications for that);
- A description of the potential impact on the surrounding environment, and implications for the proposed development;
- A description of the potential impact on the proposed development, and implication for the surrounding environment and the climate resilience of the proposed development;
- What GHG are likely to be emitted as result of the proposed activity?
- An estimation of the GHG emissions, direct and indirect (including upstream GHG emissions), that will be released into the atmosphere annually throughout the impact related to the activity;
- An analysis of how the development's estimated GHG emissions will impact on South Africa's GHG emission trajectory and its ability to maintain its nationally determined contributions under the Paris Agreement;
- The likelihood of the proposed development becoming a stranded asset in future owing to variable economic factors of renewable energy, likely stricter GHG emission limits, lower water supplies and other factors;
- An estimation of the climate change impact, measured in GHG emission equivalent, of destroying or damaging a carbon sink should the proposed development have a likely adverse impact on a carbon sink;
- An assessment of how important the ecological or built infrastructure is for climate change resilience and adaptation in a specific context should the development have a likely adverse impact on such ecological or built infrastructure;

- Mitigation outcomes and mitigation actions, including any monitoring requirements to be included in the EMPr;
- Whether, and how, the climate change impacts of a proposed development can be mitigated, having due regard to the precautionary principle and the Impact Mitigation Hierarchy, which determines that environmental impacts must be avoided, and where they cannot altogether be avoided, must be minimised and remedied;
- Details of the expected carbon footprint of the development including, but not limited to:
  - a) Identification of avoidance, management and mitigation measures (i.e. consideration of the Impact Mitigation Hierarchy for managing development related GHG emissions);
  - b) Identification of the contribution the development could have towards climate change;
  - c) Consideration of the impacts that climate change could have on the development proposal; and
  - d) The inclusion of adaptation measures.

## **10. THE APPLICATION OF THE IMPACT MITIGATION MEASURES**

The following considerations can guide the specialist to improve the effectiveness of mitigation measures:

- For each positive impact, determine whether it can be further enhanced, and for identified negative impacts, state whether mitigation measures are avoidance measures, replacement measures, reduction measures, rectification measures or compensatory measures (Table 2 below for a summary of the different types of mitigation);
- For each identified impact, provide mitigation objectives that would result in a measurable reduction.
- For each impact, recommend practically attainable mitigation actions that can measurably affect the significance rating;
- Where relevant, mitigation actions should consider enhancement options, soft engineering solutions or using the construction and operation methods or processes to reduce environmental effects;
- New innovative techniques should be investigated and should form part of the considerations for the custom-design of mitigation measures to particular problems;
- Mitigation measures should, where possible, be based on successful case studies or measures applied successfully in other developments;

- Provide a precise description for each recommended mitigation action;
- The mitigation actions should be affordable, feasible, achievable and measurable with defined criteria for success;
- Mitigation measures for addressing identified impacts should not result in, or create additional impacts of their own;
- If no mitigation is considered feasible, this must be stated and reasons provided;
- The significance rating of the development with and without mitigation measures should be provided;
- The proposed mitigation actions that will be implemented should be provided;
- A specified implementation date, time and sequence for mitigation measures should be provided; and
- A clear assessment of the likely success of the proposed mitigation measures should be provided.

Table 2 below summarizes the different approaches to prescribing and designing mitigation measures<sup>11</sup>.

*Table 2: Different categories for prescribing and designing mitigation measures*

<b>1. Avoidance:</b>	Mitigation by not carrying out the proposed action or the unacceptable parts of the proposed action. For example, if the only area available for a regional airport happens to be an area of extensive wetlands that would be filled in by construction of the airport, avoidance of the action would be the only reasonable way to protect those wetlands.
<b>2. Minimization:</b>	Mitigation by scaling down the magnitude of a project, reorienting the layout of the project or employing technology that reduces the factors generating the undesirable environmental impact.
<b>3. Rectification:</b>	Mitigation through the restoration of environments affected by the action. For example, areas cleared for the installation of pipelines or power lines can be rehabilitated and then replanted with native vegetation.

<sup>11</sup> Council on Environmental Quality Regulations, 40 CFR 1508.20, cited in the US EPA Resource Manual for Environmental Impact Assessment Review, 1998

<b>4. Reduction:</b>	Mitigation by taking maintenance steps during the course of the action. For example, storm water management systems can be designed to trap sediments from developed areas.
<b>5. Compensation:</b>	Mitigation through the creation, enhancement or acquisition of environments similar to those affected by an action. This step should only be considered after all steps above have been completed. As a last resort, donation of land or money for a regional programme of habitat creation or enhancement should be considered.

## 11. ADDRESSING DIRECT, INDIRECT AND CUMULATIVE IMPACTS

The specialist must consider potentially significant direct, indirect and cumulative climate change impacts of a proposed development. This requires the following:

- Conceptualisation of possible cause-effect pathways resulting from the proposed development;
- An understanding of strategic context within which the proposed development is located, the current and future plans/frameworks, developments and activities in the area;
- An awareness of other threats or trends that could affect the socio-economic and socio-ecological systems within which the development is proposed;
- An understanding of the likely resilience and status of affected systems;
- An understanding of broader strategic sustainability goals or targets for the area that would be affected by the proposed development.

If there are potentially significant cumulative effects<sup>12</sup> that cannot be addressed in the EIA, the specialist should bring this under the attention of the EAP to be included in the EIA to inform authority decision making. The specialist (in consultation with the EAP) should also make recommendations on how to address these impacts.

## 12. CLIMATE CHANGE ADAPTATION

Climate change adaptation refers to the required response to climate change that specifically seeks to

<sup>12</sup> DEAT (2004) Cumulative Effects Assessment, Integrated Environmental Management, Information Series 7, Department of Environmental Affairs and Tourism (DEAT), Pretoria.

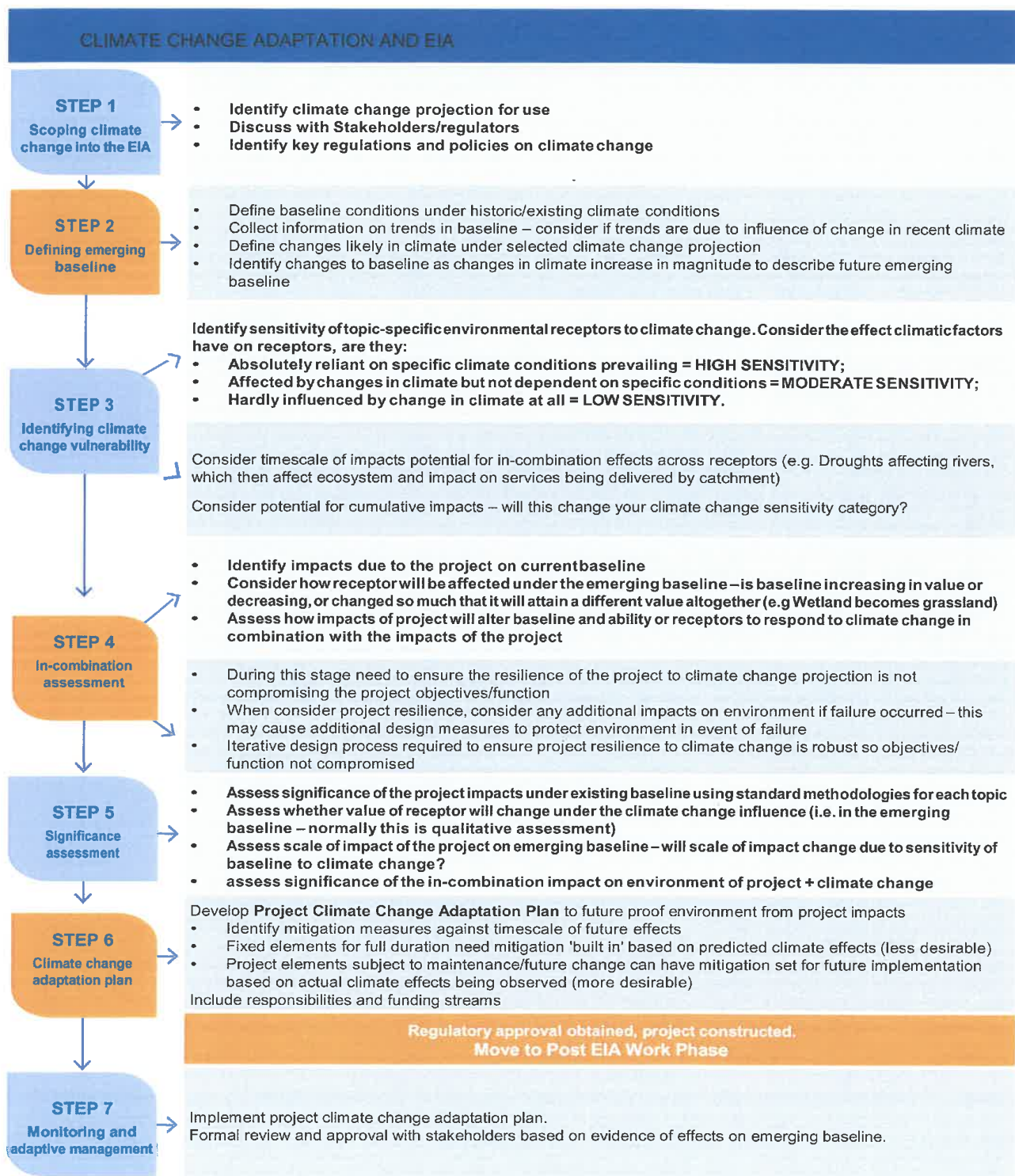
reduce the vulnerability of socio-economic and biological systems to possible negative impact of climate change on the proposed development, and the surrounding environment. The proposed development could have detrimental impacts and exacerbate problems on the surrounding environment and other closely related infrastructure, and could also be impacted negatively as result of the risks associated with climate change, and the surrounding environment. Climate change adaptation becomes fundamental to ensure that the proposed development is not vulnerable to climate risks, and also to ensure that adaptation measures are implemented to prevent or minimise negative impacts associated with climate change as result of the development.

The following issues must be addressed by climate change studies in the context for environmental impact assessment, namely:

- Climate change scenarios that are anticipated;
- Climate change risks associated with climate change;
- Likely impact of the climate change risks on the developments;
- Likely impact of climate change on the surrounding environment, and implications for the development; and
- Explanation of how the existing impacts identified during the EIA process is likely to be exacerbated or minimised as result of climate change and what measures are likely to be implemented to accommodate and manage (adaptation) the anticipated worst scenario where applicable.

Figure 1 below shows the steps to be followed, with an indication of the climate change-specific actions that are likely to be required at each stage of the process. Emphasis has been placed on scoping the assessment, as this is the process whereby broad principles need to be translated into tangible plans for addressing climate adaptation issues through the EIA process.

Figure 1: Step by step approach to considering climate change adaptation in Environmental Impact Assessment





### 13. EMPr REQUIREMENTS: IMPACT MANAGEMENT OUTCOMES AND IMPACT MANAGEMENT ACTIONS

Where an EMPr is prepared for a development that will likely have climate change impacts, impact management outcomes and impact management actions regarding the mitigation measures for the climate change impacts must be recorded in an EMPr. As terms suggest, impact management outcomes are certain management targets that are set in an EMPr and impact management actions are the actions required to meet those targets.

The impact management outcomes in the climate change context could include, for example, enhancing a carbon sink or ecological infrastructure that is important for climate change adaptation or resilience. Specific impact management actions could include, for example, using low carbon technology during the construction and operational phases of a development, designing the development in such a way as to enhance a carbon sink or important ecological infrastructure or constructing artificial levees to protect the development from a storm surge or a flood. Any adaptation measures and/or mitigation measures proposed, must be included in the EMPr and comply with Appendix 4 of EIA Regulations.

#### 13.1 Adaptation and mitigation measures

- Mitigation outcomes and mitigation actions, including any monitoring requirements to be included in the EMPr.
- Whether, and how, the impacts of the climate change of a proposed development can be mitigated, having due regard to the precautionary principle and the Impact Mitigation Hierarchy, which determines that environmental impacts must be avoided, and where they cannot altogether be avoided, must be minimized and mitigated.
- Identification of adaptation measures for the impact identified in the impact section (both impact on the proposed development and of the proposed development on the surrounding environment).

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**PART 2 OF 2**

NATIONAL GUIDELINE FOR CONSIDERATION OF CLIMATE CHANGE IMPLICATIONS IN APPLICATIONS FOR  
ENVIRONMENTAL AUTHORISATIONS, ATMOSPHERIC EMISSION  
LICENSES AND WASTE MANAGEMENT LICENSES

JANUARY 2021  
(VERSION 1)



FORESTRY, FISHERIES AND THE ENVIRONMENT  
REPUBLIC OF SOUTH AFRICA

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## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. 560

25 June 2021



**INFORMATION  
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(SOUTH AFRICA)**  
Ensuring protection of your personal information  
and effective access to information

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**AMENDMENT OF NOTICE****INFORMATION REGULATOR****PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013)**

The Information Regulator hereby amends the commencement date of section 58(2) of the Protection of Personal Information Act, 2013 (No.4 of 2013), as contained in the Government Notice No.44383 published in Government Gazette No. 297 of 1 April 2021.

The Information Regulator has, in terms of section 114(3) of the Protection of Personal Information Act, 2013 (No.4 of 2013), determined the **1 February 2022** as the date on which section 58(2) of the Protection of Personal Information Act, 2013 (No.4 of 2013) shall become applicable to processing referred to in section 57 of the said Act.

Signed at JOHANNESBURG on this the 11 day of JUNE 2021

Adv. F.P. Tlakula

Chairperson

By order of the Chairperson of the Information Regulator