

Government Gazette Staatskoerant

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GOVERNEMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 573

2 July 2021

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT
LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

Notice is hereby given, in terms of Section 17 (2) (c) of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996) ("the LTA"), that an Application for acquisition of land was lodged with the Director General of the Department of Land Affairs by the Applicants, and in respect of the Property set out in the Schedule.

Any party who may have an interest in the above-mentioned Application is hereby invited to make written representations to the Director General, within 30 days from the publication of this Notice. The representations must be forwarded to:

The Director General
c/o Deputy Director: Tenure Systems Implementation
Department of Agriculture, Land Reform and Rural Development
Private Bag X5020, Piet Retief, 2380; 91 Church Street
Tel: 017 826 4363; Fax: 017 826 4878
File Reference: 19/3/1/862

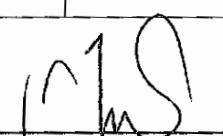
SCHEDULE

Applicants:

No.	Name and Surname	Identity Number
1	Ngwenya Gertrude Dishophi	431012 0324 081
2	Manana Khema	280125 5117 086
3	Ndlangamandla Ntshela Jaconia	750829 0372 080
4	Nkosi Buzetsheni Phineas	700326 5550 084
5	Ngwenya Dumisani Andreas	690102 5523 088
6	Ngwenya Samson Mshoniseni	521114 5475 081
7	Sibiya Befika Alfred	531214 5391 086
8	Ndlangamandla Mphikwa Mcingeni	550331 5447 084
9	Mamba Ndiani Thandiwe	410418 5338 080
10	Lukhele Mkhonto	4808112 5349 086

Property:

No.	Property Description	Locality (District)	Current Title Deed No	Current Owner	Bonds and Restrictive Conditions (Interdicts)
1	Portion 13 of the farm Witklip No 207 HT	Mkhondo Local Municipality	T3382/2020	HE Eiendomme Pty Ltd	N/A


For DIRECTOR-GENERAL: DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
SIGNED BY: Schitso Thoka
DEPUTY DIRECTOR: TENURE SYSTEMS IMPLEMENTATION / LABOUR TENANTS
DULY AUTHORISED

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 574

2 July 2021

LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

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The Director General
c/o Deputy Director: Tenure Systems Implementation
Department of Agriculture, Land Reform & Rural Development
23 Taute Street
Private bag X9081, Ermelo 2350

File Reference: MPU/SH/22/224

SCHEDULE

Applicants:

No.	Name and Surname	Identity Number
1.	Mubi Johannes Duba	5808215464083

Property:

No.	Property Description	Locality (District)	Current Title Deed No	Current Owner	Bonds and Restrictive Conditions (Interdicts)
278 IT	Portion 10 (Remaining extent) of the farm Grassridge	Msukaligwa	T12970/2009	GUMBI JACOB MFANISENI	N/A


MR. S THOKA
DEPUTY DIRECTOR: TENURE SYSTEMS IMPLEMENTATION
DATE: 01/06/2021

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 575

2 July 2021

LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

Notice is hereby given, in terms of Section 17 (2) (c) of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996) ("the LTA"), that an Application for acquisition of land was lodged with the Director General of the Department of Land Affairs by the Applicants, and in respect of the Property set out in the Schedule.

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The Director General
c/o Deputy Director: Tenure Systems Implementation
Department of Agriculture, Land Reform & Rural Development
23 Taute Street
Private bag X9081, Ermelo 2350

File Reference: ET6/5/PR

SCHEDULE

Applicants:

No.	Name and Surname	Identity Number
1.	Mbheki Samson Gumbi	6712215282082
2.	Luck Samson Sibande	5212105458083
3.	Ben Jim Nkambule	5106105700082
4.	Nkosi Jacob Mangweni	5305125765089

Property:

No.	Property Description	Locality (District)	Current Title Deed No	Current Owner	Bonds and Restrictive Conditions (Interdicts)
273 IS	Portion 10 & 11 of the farm Driehoek	T15169/2007	T8015/1998	COCKCROFT VINCENT ALLAN	N/A


MR. S THOKA
DEPUTY DIRECTOR: TENURE SYSTEMS IMPLEMENTATION
DATE: 01/06/2021

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 576

2 July 2021

LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)

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c/o Deputy Director: Tenure Systems Implementation
Department of Agriculture, Land Reform & Rural Development
23 Taute Street
Private bag X9081, Ermelo 2350

File Reference: MPU/SH/22/224

SCHEDULE

Applicants:

No.	Name and Surname	Identity Number
1.	Hezekile Absalom Masina	4201055217087

Property:

No.	Property Description	Locality (District)	Current Title Deed No	Current Owner	Bonds and Restrictive Conditions (Interdicts)
73 IT	Portion 04 (Remaining extent) of the farm Spionekop	Msukaligwa	T8992/2017	BRAAM STEENKAMP TRUST	N/A


MR. STHOKA
DEPUTY DIRECTOR: TENURE SYSTEMS IMPLEMENTATION
DATE: 01/06/2021

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 577

2 July 2021

**DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT
LAND REFORM (LABOUR TENANTS) ACT, 1996 (ACT NO. 3 OF 1996)**

Notice is hereby given, in terms of Section 17 (2) (c) of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996) ("the LTA"), that an Application for acquisition of land was lodged with the Director General of the Department of Land Affairs by the Applicants, and in respect of the Property set out in the Schedule.

Any party who may have an interest in the above-mentioned Application is hereby invited to make written representations to the Director General, within 30 days from the publication of this Notice. The representations must be forwarded to:

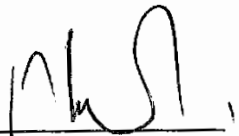
The Director General
c/o Deputy Director: Tenure Systems Implementation
Department of Agriculture, Land Reform and Rural Development
Private Bag X5020, Piet Retief, 2380; 91 Church Street
Tel: 017 826 4363; Fax: 017 826 4878
File Reference: ET6/5/SH L

SCHEDULE**Applicants:**

No.	Name and Surname	Identity Number
1	Shandu Samuel Nkosimayivuma	6902215271082
2	Lukhele Thembani Lesliah	5506090322083
3	Mkhonza Thomas John	5908245821086
4	Dhlamini Velephi Annie	2004110154085
5	Hlatshwayo Bangizwe Moses	7212105488088
6	Shoyisa Babana	5011355242082
7	Hlatshwayo Velaphi Petros	7105015488083
8	Nkosi Mkhombo Nolandela	4604115223088
9	Mkhonza Kruger Vusumuzi	6302245792084
10	Hlatshwayo Madoda Libios	6202025348083
11	Ngwenya Buzeleni Mirriam	5910110697088

Property:

No.	Property Description	Locality (District)	Current Title Deed No	Current Owner	Bonds and Restrictive Conditions (Interdicts)
1	Portion 4 of the farm Lodewykslust No 181 HT	Mkhondo Local Municipality	T159594/2005	Delft Forestry Pty Ltd	FirstRand Bank Ltd - B426/2012


For **DIRECTOR-GENERAL: DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**
SIGNED BY: S. Thoka
DEPUTY DIRECTOR: TENURE SYSTEMS IMPLEMENTATION
DULY AUTHORISED

DEPARTMENT OF BASIC EDUCATION**NO. 578****2 July 2021****GENERAL AND FURTHER EDUCATION AND TRAINING QUALITY ASSURANCE
ACT, 2001 (ACT NO.58 OF 2001)****INVITATION FOR THE NOMINATION OF A PERSON TO SERVE AS A MEMBER ON
THE FIFTH UMALUSI COUNCIL FOR QUALITY ASSURANCE IN GENERAL AND
FURTHER EDUCATION AND TRAINING FOR THE REMAINING PERIOD UNTIL 07
JUNE 2022**

1. I, Angelina Matsie Motshekga, Minister of Basic Education, under section 6(4) of the General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001), invite persons, role players or organisations active or involved in General and Further Education and Training to nominate persons to fill a vacancy in the Fifth Umalusi Council caused by the resignation of a Council member, namely Ms MM Phutsisi.
2. The Fifth Umalusi Council was appointed for the period 8 June 2018 until 7 June 2022. The new appointed member will serve for the remaining period of office of the Fifth Council until 7 June 2022.
3. The post of member of the Council is not a full-time appointment.
4. In terms of Section 6(3)(a) and (b) of the said Act membership must:
 - 4.1 be broadly representative of the General and Further Education and Training sectors and related interests;
 - 4.2 have thorough knowledge and understanding of General and Further and Education and Training;
 - 4.3 appreciate the role of the General and Further and Education and Training system in reconstruction and development;

- 4.4 have known and attested commitment to the interests of General and Further and Education and Training;
 - 4.5 have knowledge and understanding of accreditation, assessment and certification of General and Further and Education and Training programmes.
 - 4.6 have experience in statistics; and
 - 4.7 have experience in the financial field.
5. The following additional requirements will be to the advantage of the nominee:
- 5.1 sufficiently informed about the issues in the following institutions;
 - (a) Schools;
 - (b) Adult Education and Training Centres; and
 - (c) Vocational Education Institutions; and
 - 5.2 have expertise and deep insight into matters of a transforming qualification and curriculum framework, examinations, evaluation and accreditation.
6. Nomination should be accompanied by Curriculum Vitae of the nominee, and a letter of consent to serve as a member of the Council.
7. Interested persons are hereby invited to submit nominations within 21 days from the date publication of this Notice. Nominations marked "Appointments to the Fifth Umalusi Council" must be forwarded to:
- Dr R Poliah for the attention of Matsie Agnes Mohale
Chief Education Specialist: Curriculum Policy
Department of Basic Education
222 Struben Street
PRETORIA, 0001

Or

Post to: The Director General,
The Department of Basic Education
Private Bag X895,
Pretoria, 0001

Or

By email to: poliah.r@dbe.gov.za

For Attention: Ms MA Mohale

Or

Fax to: +27 (0)12 328 9828



MRS ANGIE MOTSHEKGA, MP

MINISTER

DATE: [26/05/2021](#)

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

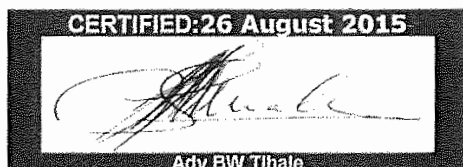
NO. 579

2 July 2021

**NORTH WEST
SPATIAL PLANNING AND LAND USE
MANAGEMENT BILL,
2015**

*(As introduced in the Provincial Legislature)
(The English text is the official text of the Bill)*

LOCAL GOVERNMENT AND HUMAN SETTLEMENTS)



PRINCIPAL STATE LAW ADVISOR**BILL**

To provide for land development and land use management in the province; to set out the responsibilities of the responsible Member of the Executive Council, municipalities and traditional authorities with regard to spatial planning and land use management; to provide for provincial planning; to establish a uniform system for municipal spatial planning and land use management; to provide for land use schemes; to provide for the establishment and functioning of tribunals and application procedures; to provide for the provision of engineering services and payment of development contributions; to provide for the control and enforcement of land use and development measures; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, 1996 has resulted in the creation of new structures and systems of national, provincial and municipal government in which existing planning and development legislation is no longer appropriate;

AND WHEREAS the Constitution has provided that regional planning and development, urban and rural development and housing are functional areas of concurrent national and provincial legislative competence;

AND WHEREAS Parliament has promulgated national legislation that provides a framework for spatial planning and land use management in the Republic within which the Province will promulgate its planning legislation;

AND WHEREAS procedures and structures need to be developed to facilitate and promote cooperative governance and intergovernmental relations in respect of spatial development planning and land use management systems between the three spheres of government as contemplated in the Constitution;

AND WHEREAS provincial planning is within the functional areas of exclusive provincial legislative competence, and municipal planning is the executive function of the local sphere of government;

AND WHEREAS various old order laws are still utilised in the Province promoting a fragmented approach to planning and new legislation is required to create an integrated, uniform and comprehensive approach to planning, development and the use of land within

the Province;

BE IT THEREFORE ENACTED by the Legislature of the Province of North West as follows:-

Arrangement of sections

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2. Application of Spatial Planning and Land Use Management Act

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4. Provincial development principles
5. Provincial norms and standards
6. Application of development principles

CHAPTER 3
RESPONSIBILITIES OF DEPARTMENT, MUNICIPALITIES AND TRADITIONAL COUNCILS

7. Responsibilities of Department
8. Duties, powers and functions of municipality
9. Responsibilities of traditional council

CHAPTER 4
COOPERATIVE GOVERNANCE, PROVINCIAL SUPPORT AND MONITORING

10. Multi-sphere authorisation
11. Integrated procedures and decisions
12. Provincial support and monitoring

CHAPTER 5
PROVINCIAL PLANNING

13. Provincial plans
14. Provincial planning and development
15. Provincial spatial development framework
16. Spatial development framework for geographical region

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17. Municipal planning
18. Municipal spatial development framework

- 19. Incorporation of environmental requirements into municipal spatial development framework
- 20. Incorporation of agricultural land
- 21. Alignment with integrated transport plans
- 22. Consideration of infrastructure requirements

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- 24. Applicability of Chapter 5 of Spatial Planning and Land Use Management Act
- 25. Spatial planning categories and regulations

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- 28. Categories of applications
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- 31. Land development applicant
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- 33. Comments by objectors and functionaries
- 34. Right of Applicant to respond to comments
- 35. Consideration of applications
- 36. Conditions of approval
- 37. Notification of approval decision
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- 39. Change of ownership
- 40. Joint application
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- 73. Development contributions
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- 86. Delegation
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SCHEDULE

CHAPTER 1
INTRODUCTION**Definitions**

1. In this Act, unless the context indicates otherwise –

“applicant” means a person who makes a land development application contemplated in Chapter 8 of this Act;

“application” means a Category 1 or Category 2 application contemplated in Chapter 8 of this Act;

“body” means any organisation or entity, whether a juristic person or not and includes a community association;

“communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the North West Traditional Leadership and Governance Act and which was at any time vested in –

(a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or

(b) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

“community association” means a duly constituted association representing the interests of a clearly defined group of persons;

“competent authority” means, in relation to land use, as defined, the authority that considers a land development application or an appeal in terms of this Act;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Department” means the department in the Provincial Government of North West responsible for spatial planning and land use management;

“engineering service” means a system for the provision of water, sewerage, electricity, municipal roads, storm water drainage, gas and solid waste collection and removal required for the purpose of land development as referred to in Chapter 11;

“erf” means any piece of land registered as an erf, lot, plot or stand in a deeds registry;

“Executive Council” means the Executive Council of the North West Provincial Government established under section 132 of the Constitution;

“existing scheme” means a town planning scheme in terms of planning and land use legislation existing at the time of commencement of this Act;

“external engineering service” means an engineering service situated outside the boundaries of a land area and which is necessary to serve the use and development of the land area;

“feature” or **“spatial feature”** means natural and man-made geographic features represented by points/symbols, lines, and areas on a map, either paper or electronic or both as an object in a geographic or spatial database with a distinct set of characteristics.

“General Plan” means a general plan approved by the Surveyor General in terms of the Land Survey Act, (Act No. 8 of 1997);

“geographical region” in relation to a spatial development framework, means a circumscribed geographical area characterised by distinctive economic, social or natural features which may be entirely located in the municipal area of one local municipality or may be located in the municipal areas of two or more local municipalities;

“inclusionary housing” means the provision of affordable housing within middle and high income residential developments to achieve an equitable socio-economic

balance;

"integrated development plan" means a plan adopted in terms of Chapter 5 of the Municipal Systems Act;

"internal engineering service" means an engineering service within the boundaries of a land area and which is necessary for the use and development of the land area and which is to be owned and operated by the Municipality or service provider;

"land area" means the total area of erven, and/or farm portions which are the subject of an application in terms of this Act;

"land development" means the erection of buildings or structures on land, or the change of use of land, including the removal or amendment of any restrictive condition, township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme;

"land development application" means an application to carry out land development but does not include a land use application;

"land use" means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, including any conditions related to such land use purposes;

"land use application" means an application for purposes of land use but does not include a land development application;

"land use scheme" means the documents referred to in Chapter 7 for the regulation of land use and includes, where the context so requires, an existing scheme;

"map" means the printout used for illustration purposes which should include all the relevant descriptors to ensure that the map can be interpreted for the intended purpose it was designed and must include the date of data used, scale, geographic grid, source name and date published and all other regulations as published;

“Minister” means the Minister of the national department responsible for spatial planning and land use management or any other Minister to whom the administration of the Spatial Planning and Land Use Management Act or components thereof may be assigned from time to time;

“Municipal Appeal Tribunal” means the independent spatial planning and land use management appeal tribunal established in terms of Chapter 10 of this Act;

“municipal area” means the area of jurisdiction of a municipality in terms of the Local Government Demarcation Act, 1998 (Act No. 27 of 1998);

“municipal council” means a municipal council referred to in section 157 of the Constitution;

“Municipal Planning Tribunal” means the Municipal Planning Tribunal established in terms of this Act;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“municipality” means the municipality as envisaged in section 155(1) of the Constitution and for the purposes of this Act includes the Municipal Planning Tribunal, a municipal department, the municipal council, municipal official, the municipal manager and any other body or functionary, agent or service provider to whom powers or functions have been lawfully delegated or assigned by a municipality, where the context so requires;

“North West Traditional Leadership and Governance Act” means the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005);

“open space” in relation to a land area means land set aside or to be set aside as open space for recreational use, irrespective of the ownership of such land;

“organ of state” means an organ of state as defined in section 239 of the Constitution and includes any government owned enterprise;

“owner” means the person registered in a deeds registry as the owner of land or who is the beneficial owner in law;

“party to the proceedings” means a person who submitted a valid objection to or commented on an application and, where a hearing was held, who appeared either in person or by means of a representative before the competent authority to advance such comments or objections;

“person” means any natural or juristic person or body including an organ of state, where the context so requires;

“plan” means the product of a spatial representation with a specific purpose and includes a paper print as well as an electronic copy in the format described in terms of a prescribed datum, data format and metadata associated to it.

“Planning Profession Act” means the Planning Profession Act, 2002 (Act No. 36 of 2002);

“prescribed” means prescribed by regulations enacted in terms of this Act or by notice in the *Provincial Gazette*;

“Provincial Gazette” means the *Provincial Gazette* of the North West Province;

“public place” means any street, road, thoroughfare, sanitary passage, square or open space shown on a General Plan of a township or settlement, filed in any Deeds Registry or Surveyor-General's office, and all land (other than erven shown on the General Plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right.

“publish” means the publication of a notice in terms of this Act in the *Provincial Gazette* by the relevant authority;

“Registrar of Deeds” means the Registrar of Deeds in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"regulations" mean the regulations enacted in terms of this Act;

"registered planner" means a person registered as a "professional planner" in terms of section 1 of the Planning Profession Act;

"responsible Member" means the member of the Executive Council of the Province of North West responsible for spatial planning and land use management or such other member of the Executive Council of the Province of North West to whom the Premier has specifically assigned the administration of this Act in terms of section 132(2) of the Constitution;

"restrictive condition" means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned;

"rezoning" means an amendment to the land use scheme contemplated in Chapters 7 and 8;

"Spatial Planning and Land Use Management Act" means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

"settlement" means a group of pieces of land or of subdivisions of a piece of land which are used or intended for use mainly for residential, farming or horticultural purposes, and includes a combination of such groups which is suitable for inclusion in one property register;

"servitude" means a right registered against a title deed of land or created by statute;

"spatial development framework" means a spatial development framework referred to in Chapters 5 and 6 of this Act, as the context requires;

"Surveyor General" means the Surveyor General as defined in the Land Survey Act, 1997 (Act No. 8 of 1997);

"temporary use" means land use rights granted on a temporary basis in terms of an approved land use scheme which may be contrary to the applicable zoning and general clauses of the land use scheme but which the municipality has approved for

a specific period;

“this Act” means this Act and the regulations made in terms hereof;

“title deed” means any deed registered in a Deeds Registry recording the ownership of land or a real right in land;

“township” means an area of land divided into erven, and may include public places and roads and which is indicated as such on a general plan;

“traditional council” means a traditional council that has been established and recognised for a traditional community in accordance with the provisions of section 6 of the North West Traditional Leadership and Governance Act; and

“urban edge” means a demarcated line delineating the outer limits of urban development in the municipal area to prevent urban sprawl or to protect natural resource boundaries, for a period of time determined by the municipality.

Application of Spatial Planning and Land Use Management Act,

2. The Spatial Planning and Land Use Management Act is applicable in the Province and this Act must be read together with the provisions of that Act.

CHAPTER 2
DEVELOPMENT PRINCIPLES AND NORMS AND STANDARDS

National legislation

3. All land development and land use management in the Province must be carried out in accordance with the development principles and the norms and standards contained in this Act and the Spatial Planning and Land Use Management Act.

Provincial development principles

4.(1) Subject to section 7 of the Spatial Planning and Land Use Management Act, the responsible Member may from time to time, after consultation with each of the municipalities situated within the Province, by notice in the *Provincial Gazette*, publish provincial development principles to be applied in the Province.

(2) In addition to the development principles contemplated in subsection (1), the responsible Member may publish guidelines relating to the realisation of the national and provincial development principles, by notice in the Provincial Gazette.

Provincial norms and standards

5. The responsible Member may from time to time, after consultation with each of the municipalities situated within the Province, prescribe provincial norms and standards to be applied in the Province.

Application of development principles

6. The provincial development principles referred to in section 5 apply to all organs of state responsible for the implementation of legislation regulating the use and development of land and guide those matters referred to in section 6 of the Spatial Planning and Land Use Management Act.

CHAPTER 3 RESPONSIBILITIES OF DEPARTMENT, MUNICIPALITIES AND TRADITIONAL COUNCILS

Duties, powers and functions of responsible Member

7. The responsible Member is responsible for –

- (a) the performance of any duties allocated to him or her in terms of this Act;
- (b) monitoring the capacity of municipalities to perform their spatial planning and land use management functions as provided for in the Spatial Planning and Land Use Management Act, this Act and any applicable by-laws;
- (c) monitoring the capacity of the municipalities in achieving its developmental goals as it relates to spatial planning and land use;
- (d) monitoring the impact of municipal land use planning on existing or proposed development on land use on the Province as a whole;
- (e) monitoring the impact of municipal spatial planning and land use management on the environment, mining and other industries and tourism;
- (f) supporting municipalities to perform their spatial planning and land use management functions; and

(g) promoting and supporting the coordination, integration and alignment of municipal spatial development frameworks and policies and strategies relating to spatial planning and development with the national and provincial frameworks, plans, policies and strategies relating to spatial planning and development.

Duties, powers and functions of municipality

8. The duties, powers and functions of a municipality in respect of municipal planning in its area of jurisdiction are to –

- (a) develop, adopt, amend and review a spatial development framework as part of the integrated development plan of the municipality within the framework provided by the Spatial Planning and Land Use Management Act and this Act;
- (b) develop, adopt, amend and review a land use scheme for the entire area of jurisdiction of the municipality;
- (c) receive, consider and decide on applications by way of its Municipal Planning Tribunal and authorised official;
- (d) facilitate public participation in its consideration of applications and spatial planning;
- (e) hear an appeal in terms of this Act;
- (f) determine the criteria for investigating a contravention of the land use scheme and by-laws of the municipality to ensure the effective enforcement of its land use scheme; and
- (g) facilitate the participation of a traditional council in spatial planning and land use management.

Duties, powers and functions of traditional council

9.(1)A traditional council –

- (a) is responsible for providing an input in all policies, by-laws, spatial development frameworks and other policy instruments relating to land use and spatial planning applicable to the communal land under the management of that traditional council; and
- (b) must facilitate and ensure the involvement of its traditional community in the development or amendment of the integrated development plan of the municipality in whose municipal area the communal land is located.

(2) If a traditional council does not conclude a service level agreement with the municipality in whose municipal area that traditional council is located as contemplated in North West Traditional Leadership and Governance Act, that traditional council is responsible for providing proof of the allocation of land in terms of the customary law applicable to the communal land concerned to the applicant of a land development application submitted in accordance with the provisions of this Act.

(3) If a traditional council concludes a service level agreement with the municipality in whose municipal area that the relevant communal land is located, that traditional council must undertake spatial planning and land use management in its traditional community area in accordance with and exercise and perform all the powers, duties and functions assigned to it in terms of that service level agreement which may be assigned or delegated in terms of this Act and the Spatial Planning and Land Use Management Act.

CHAPTER 4 COOPERATIVE GOVERNANCE, PROVINCIAL SUPPORT AND MONITORING

Multi-sphere authorisation

10.(1) No holder of –

- (a) a right granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
- (b) an environmental authorisation approved in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998); or
- (c) any other right, consent or authorisation which permits a land use activity and a change in land use,

may commence or continue with the land use activity that is permitted by such right, consent or authorisation if the land use of the land to which that right, consent or authorisation relates does not permit that land use activity.

(2) If the land use of the land to which the right, consent or authorisation referred to in subsection (1) does not permit that land use activity, the holder of that right, consent or authorisation must apply to the municipality for an amendment of the land use.

(3) When deciding on an application for an amendment of the land use, the municipality must be guided by the principles of this Act, the relevant spatial development framework and land use scheme and not be influenced by the existence of the right, consent or authorisation referred to in subsection (1).

(4) An approval granted in terms of the Subdivision of Agricultural Land Act, 1970 (Act No.70 of 1970) to subdivide, consolidate or consolidate and subdivide agricultural land located outside the urban edge but within the area of jurisdiction of the land use scheme, must accompany an application.

Integrated procedures and decisions

11.(1) A municipality that has consulted with an organ of state responsible for administering legislation relating to any aspect of an activity that also requires approval in terms of this Act in order to coordinate the respective requirements of such legislation and to avoid duplication and concluded an agreement to that effect as contemplated in section 29(2) of the Spatial Planning and Land Use Management Act, must, within 30 days of its conclusion –

- (a) notify the responsible Member of that agreement;
- (b) amend its by-laws accordingly.

(2) The amendment of the by-laws of the municipality as contemplated in subsection (1)(b) must make provision for the agreed procedure that must be followed when applying for and issuing a separate or integrated authorisation.

(3) The responsible Member must monitor compliance with the agreement and the applicable legislation.

Provincial support and monitoring

12.(1) In order to give effect to the statutory obligations contemplated in section 154(1) of the Constitution, section 10 of the Spatial Planning and Land Use Management Act and Chapter 10 of the Municipal Systems Act, the responsible Member must, in conjunction with each of the municipalities, determine, in the prescribed manner, whether that municipality has the necessary professional and support personnel, existing institutional structures, assets and infrastructure to –

- (a) develop a municipal spatial development framework;
- (b) develop a land use scheme for the entire area of jurisdiction of the municipality;
- (c) screen and process a land development application;
- (d) manage a public participation process;

- (e) hear an appeal;
- (f) investigate a contravention of the land use scheme and by-laws of the municipality;
- (g) make by-laws relating to spatial planning and land use management;
- (h) establish an environmental database;
- (i) develop policy on the protection of valuable or high potential agricultural land; and
- (j) perform any other activity that the responsible Member may deem necessary, or appropriate, or relevant to the performance by a municipality of its duties relating to spatial planning and land use management, as required in terms of this Act.

(2) If, after the determination contemplated in subsection (1), it is apparent to the responsible Member and the municipality that the municipality concerned does not have the capacity to comply with certain or all of the obligations contemplated in subsection (1) the responsible Member must, amongst others and within available resources –

- (a) assist that municipality with the preparation of a municipal spatial development framework;
- (b) assist that municipality with the preparation of a land use scheme;
- (c) second, provide, train or mentor a person defined in the definition of "registered persons" in section 1 of the Planning Profession Act and required in terms of section 20 of this Act;
- (d) second, provide, train or mentor administrative staff to assist in the administration of a land development application and assist in the prescribed manner to hear and decide a land development application;
- (e) second, provide, train or mentor administrative staff to assist in the management of a public participation process;
- (f) second, provide, train or mentor staff to administer the appeal process and assist the municipality in establishing the appeal procedures and in the hearing of an appeal;
- (g) second, provide, train or mentor staff to investigate contraventions of the land use scheme and by-laws of the municipality;
- (h) assist in drafting municipal planning by-laws for that municipality or draft model by-laws for adoption by that municipality; and
- (i) institute any other remedial measure to assist that municipality in fulfilling any of its statutory obligations required in terms of the Spatial Planning and Land Use Management Act and this Act.

(3) In order to comply with the requirements of subsection (2), the responsible Member may request the district municipality in whose area of jurisdiction the municipality concerned is located, to provide the requisite assistance.

(4) The responsible Member must establish a prescribed electronic provincial land development information system which contains an electronic lodgement capability and all available spatial planning and land use management data of the Province and each municipality and organ of state in the Province must have on-line access to the information contained in that system.

(5) Every municipality in the Province must, annually, in the prescribed manner, prepare and submit to the responsible Member a spatial planning and land use management report for purposes of monitoring the ability of that municipality to give effect to its statutory obligations in terms of the Spatial Planning and Land Use Management Act and this Act.

(6) The responsible Member may, in addition to the mechanisms identified in this section, develop prescribed mechanisms to support, monitor and strengthen the capacity of municipalities to adopt and implement an effective system of land use management in accordance with this Act.

(7) If the remedial measures taken by the responsible Member are unsuccessful, the responsible Member may take appropriate steps and initiate the remedial measures contemplated in section 139 of the Constitution.

(8) Notwithstanding the provisions of subsection (1), a municipality may request planning support and assistance from the Minister or the Minister responsible for local government, responsible Member or, if applicable, the district municipality in which area of jurisdiction that municipality is located.

CHAPTER 5 PROVINCIAL PLANNING

Provincial plans

13.(1) The responsible Member must develop and adopt provincial plans for the development and management of provincial land use in the Province.

- (2) The purpose of provincial plans is to coordinate, integrate and align –
- (a) provincial land use and development strategies with policies of national government;
 - (b) all plans and development strategies of provincial departments; and
 - (c) provincial and municipal plans and development strategies which relate to land use and its development.

Provincial planning and development

14.(1) In order to facilitate provincial planning and development and to give effect to the requirements of this Chapter the responsible Member must, for approval and adoption by the Executive Council ensure –

- (a) the development of –
 - (i) a provincial spatial development framework; and
 - (ii) a spatial development framework for a geographic region, if required;
- (b) the preparation of provincial development policy and guidelines for planning and development in terms of this Act;
- (c) the coordination of all plans, strategies and policies of provincial departments relating to development and land use;
- (d) the review from time to time and where necessary the amendment of the plans referred to in paragraph (a) and the policies and guidelines referred to in paragraph (b);
- (e) promoting the coordination and alignment of provincial plans with municipal planning including, but not limited to, municipal integrated development plans and municipal spatial development frameworks.

(2) The responsible Member must –

- (a) consult with any bodies, including organs of state, to ensure the coordination of activities related to the development and planning of land use in the province;
- (b) where necessary, coordinate provincial plans, municipal planning and environmental management matters relating to development and land use applications;
- (c) promote the capacity of those involved in planning and development in the province;
- (d) monitor and review all legislation relating to development and land use in the province for consideration by the Executive Council.

Provincial spatial development framework

15.(1) The responsible Member must develop a provincial spatial development framework as contemplated in Chapter 4 of the Spatial Planning and Land Use Management Act for approval and adoption by the Executive Council and the provisions of that Chapter apply, with the necessary amendments, to this Act.

(2) The provincial spatial development framework must, in addition to the content required by section 16 of the Spatial Planning and Land Use Management Act, contain a set of integrated and co-ordinated policies, objectives and strategies informed by –

- (a) the principles set out in this Act;
- (b) any national initiatives, policies and directives which may occur from time to time;
- (c) the identified and where appropriate, measurable, social and economic development needs and challenges of the Province;
- (d) the need to ensure that ecological sensitive systems, biodiversity are protected and enhanced;
- (e) guiding and identifying the budgetary requirements and capacity of all spheres of government relevant to the expenditure of the Province;
- (f) the current and future socio-economic benefits, opportunities and constraints offered by the private sector;
- (g) clearly defined and motivated spatial planning categories of development based on a bioregional approach to sustainable development;
- (h) a clear informed and aligned delineation of the current identified sectors present in the Province, their growth potential, their spatial distribution of activities and their spatial relationship to markets and transportation infrastructure;
- (i) the impact of the identified sectors on the distribution and scale of existing and future settlements;
- (j) the need for engineering services and recreational facilities;
- (k) the fiscal and budgetary capacity of all organs of state relevant to provincial expenditure;
- (l) identifying possible partnerships with the private sector; and
- (m) possible funding mechanisms to secure any funding required.

(3) The responsible Member may by notice in the *Provincial Gazette* prescribe any additional requirements regarding content for the preparation or the public participation process of the provincial spatial development framework.

(4) The responsible Member must keep, update and make accessible to the public its updated provincial spatial development framework and any amendment to the provincial spatial development framework approved by the Executive Council prior to the five year review.

(5) If the Provincial Government is required to approve, in terms of other legislation, a plan, policy or framework affecting land use planning, the responsible Member may integrate that plan or framework into the provincial spatial development framework if –

- (a) all applicable legislation has been complied with; and
- (b) the spatial development framework specifies the relevant legislation in terms of which it is approved and the relevant authorities that approved it.

Spatial development framework for geographical region

16.(1) The responsible Member may, if he or she considers it necessary and after consultation with each of the municipalities that will be situated in a particular geographical region, by notice in the *Provincial Gazette* declare any area situated in the Province to be a geographical region for the purpose of this section.

(2) If the responsible Member has declared a geographical region he or she must, after the prescribed consultation and public participation process, develop and submit a spatial development framework for that particular geographical region for approval and adoption by the Executive Council.

(3) The objective of a spatial development framework for a geographical region is to, in that particular region –

- (a) provide for a spatial land use vision that balances economic, social and environmental considerations;
- (b) promote rational and predictable land use planning; and
- (c) facilitate the alignment of provincial and municipal planning.

(4) A spatial development framework for a geographic region must be consistent with the development principles set out in Chapter 2 of this Act and to national and provincial spatial development frameworks, and provincial plans and must at least provide for–

- (a) a spatial vision for that particular geographical region;
- (b) an assessment of –
 - (i) existing levels of development in the region; and

- (ii) challenges in land use planning in the region;
- (c) a description of provincial priorities, objectives, strategies and principles for the region, dealing in particular with –
 - (i) the region's contribution to the achievement of provincial development principles for land use planning;
 - (ii) biodiversity and ecological priorities for land use in the region and the sustainability and efficiency of the use of resources;
 - (iii) the identification of specific agricultural, tourism and heritage resources; and
 - (iv) economic development, transport and housing.

(5) The responsible Member may, in the prescribed manner, amend the spatial development framework for a particular geographical region if he or she deems it necessary and must review it at least once every five years from the date of its last publication.

CHAPTER 6 MUNICIPAL PLANNING

Municipal planning

17.(1) Municipal planning, for the purposes of this Act, consists of –

- (a) a municipal spatial development framework contemplated in the Spatial Planning and Land Use Management Act, and this Act, and approved and incorporated into the integrated development plan of a municipality under the Municipal Systems Act;
- (b) a land use scheme contemplated in the Spatial Planning and Land Use Management Act and Chapter 7 of this Act; and
- (c) the control and regulation of the use of land within the area of jurisdiction of the municipality contemplated in the Spatial Planning and Land Use Management Act and Chapter 8 of this Act, in as much as it does not encroach on the constitutional planning mandate of the national and provincial government.

(2) A municipality must, in order to efficiently and effectively exercise its powers and duties in terms of this Act ensure that it has appropriate institutional capacity to do so which includes the appointment of a person defined in the definition of "registered persons" in section 1 of the Planning Profession Act.

Municipal spatial development framework

18.(1) A municipal spatial development framework must be prepared and adopted in accordance with the provisions of the Municipal Systems Act and must be aligned with the national and provincial spatial development frameworks.

(2) In addition to the requirements of the Municipal Systems Act, a municipal spatial development framework must, with reference to section 26(e) of that Act, comply with and include the matters and information referred to in Chapter 4 of the Spatial Planning and Land Use Management Act and any other matters and information contained in this Act or which may be prescribed in terms of this Act, to ensure the effective and efficient planning, development and management of land use by the municipality.

(3) In the preparation of a municipal spatial development framework and in order to coordinate provincial plans with the municipal spatial development framework the municipality must consult with the Department, adjoining municipalities, traditional authorities, other organs of state effected by the municipal spatial development framework and the public in the manner contemplated in the Spatial Planning and Land Use Management Act, and prescribed in terms of this Act.

Incorporation of environmental requirements into municipal strategic development framework

19.(1) A municipality must develop an environmental database which documents –

- (a) the environmental factors that impact on the management of environmental resources; and
- (b) where development is prohibited in terms of environmental laws.

(2) The environmental database referred to in subsection (1) must be used by the municipality to identify the environmental requirements that must be incorporated into the land use scheme.

(3) In developing the database referred to in sub-regulation (1), the municipality must take into account, if applicable in its area of jurisdiction, the prescribed matters.

Incorporation of agricultural land

20.(1) A municipality must develop a policy on the protection of valuable or high potential agricultural land in its area of jurisdiction and must, after such surveys, data collection and analysis as may be necessary, identify areas that have agricultural potential.

(2) The areas that have agricultural potential must be incorporated into the municipal strategic framework by using, amongst others, the guidelines contained in the policy on the protection of valuable or high potential agricultural land use.

Alignment with integrated transport plans

21.(1) Transport planning must be so carried out so as to cover both public and private transport and all the modes of land transport relevant in the area concerned, and must focus on the most effective and economic way of moving from one point to another in the system.

(2) The municipal strategic development framework must reflect the integrated transport plan developed by the municipality in terms of the National Land Transport Act, 5 of 2009.

Consideration of infrastructure requirements

22.(1) The land use scheme must take account of the infrastructure that is available or can be made available within the financial resources of the municipality to support the development implied by the zoning.

(2) The municipality must endeavour to align its infrastructure planning with any strategic integrated project designated for implementation or implemented in terms of the Infrastructure Development Act, 2014.

CHAPTER 7 LAND USE SCHEME

Adoption of land use scheme

23.(1) Every municipality must, –

- (a) within five years from the commencement of this Act, adopt a single land use scheme for the entire area of its jurisdiction providing for at least the matters referred to in sections 24 and 25 of the Spatial Planning and Land Use Management Act; or
- (b) if a single zoning scheme for the entire area of its jurisdiction exists immediately before the commencement of this Act, review that single zoning scheme within 3

years of the commencement of this Act and, after the public participation process contemplated in this section, adopt it as the land use scheme for that municipality.

(2) The preparation and adoption of a land use scheme must be as prescribed and in accordance with any guidelines issued by the responsible Member.

(3) After a land use scheme has been prepared, which must be known as a draft land use scheme, and before its adoption, the municipality must give notice thereof as prescribed.

(4) Any person or body may submit representations in respect of a draft land use scheme, as prescribed.

(5) Simultaneously with the notice referred to in subsection (3), the Municipality must submit the draft land use scheme to the responsible Member for comment.

(6) The municipality must consider all representations submitted in terms of subsection (4) and any comments of the responsible Member in terms of subsection (5), and may amend its draft land use scheme accordingly.

(7) Upon finalisation of the steps referred to in subsections (3) to (6) the municipality must adopt its land use scheme, with or without any amendments.

(8) After the land use scheme has been adopted, it must be known as an approved land use scheme and must be published in the prescribed manner.

(9) If a district municipality prepares a land use scheme for the constituent local municipalities in its area of jurisdiction in accordance with an agreement contemplated in section 24(4) of the Spatial Planning and Land Use Management Act, and the provisions of subsections (2) to (8) apply with the necessary amendments.

Applicability of Chapter 5 of Spatial Planning and Land Use Management Act

24. A land use scheme must comply with the provisions of Chapter 5 of the Spatial Planning and Land Use Management Act, relating to the purpose, content, legal effect, review, monitoring, amendment, record to be kept and enforcement of a land use scheme.

Spatial planning categories and regulations

25. In addition to the requirements contemplated in Chapter 5 of the Spatial Planning and Land Use Management Act, the responsible Member may prescribe primary spatial planning categories for inclusion in a land use scheme and model regulations for adoption by the Executive Council.

CHAPTER 8 LAND DEVELOPMENT MANAGEMENT AND LAND USE

Institutional decision making

26.(1) A municipality must, subject to section 35 of the Spatial Planning and Land Use Management Act, establish a Municipal Planning Tribunal to determine applications within its municipal area.

(2) A Municipal Planning Tribunal consists of –

- (a) officials in the full-time service of the municipality;
- (b) persons appointed by the Municipal Council who are not municipal officials in the employ of the municipality and who have knowledge and experience of spatial planning, land use management and land development and the law related thereto.

(3) Subject to subsection (2), the provisions of the Spatial Planning and Land Use Management Act pertaining to a Municipal Planning Tribunal apply and the responsible Member may prescribe additional matters to regulate a Municipal Planning Tribunal.

(4) Notwithstanding the requirement in subsection (1), a municipality may delegate authority to consider certain applications on behalf of the municipality to an official in the employ of the municipality.

(5) Where a municipal official is authorised in terms of subsection (3) to consider and determine a land development application, the provisions relating to the Municipal Planning Tribunal apply, with the necessary amendments, to such an official or action of that official.

(6) A district municipality may, in the prescribed manner, provide support to a local municipality within the area of the district municipality with regards to the establishment of a Municipal Planning Tribunal with the agreement or at the request of its constituent local municipalities.

Development and change of land use

27.(1) After the commencement of this Act, all applications, categorised on the basis as set out in section 31 of this Act, must be compiled, submitted, administered, processed, considered and decided upon in terms of this Act.

(2) The municipality must maintain a register of all applications as contemplated in section 86.

(3) In its consideration of an application for the development and use of land contemplated in this Chapter and appeals noted in terms of Chapter 10 of this Act the Municipal Planning Tribunal or official, as the case may be, must have due regard to and be guided and informed by –

- (a) the development principles and norms set out in Chapter 2;
- (b) the constitutional transformation imperatives and the related duties of the State;
- (c) the public interest;
- (d) the facts and circumstances relevant to the application;
- (e) the respective rights and obligations of those affected;
- (f) the status of and impact on current and proposed engineering services, social infrastructure and open space requirements;
- (g) applicable spatial development frameworks and applicable municipal integrated development plans adopted in terms of the Municipal Systems Act;
- (h) all comments and objections submitted in response to the application; and
- (i) any other matters prescribed.

(4) The Municipal Planning Tribunal or official may not consider and decide on an application without due process having been followed and without having the prescribed information and documentation before it, alternatively, without having condoned the failure by the applicant to furnish such information and documentation upon good cause having been shown.

Categories of applications

28.(1) If a municipality does not categorise applications as contemplated in section 35(3) of the Spatial Planning and Land Use Management Act, it may adopt the categorisation provided for in this section.

(2) Applications are divided into –

- (a) Category 1 Applications;

(b) Category 2 Applications.

(3) Category 1 Applications are –

- (a) the establishment of a township or the extension of the boundaries of a township;
- (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
- (c) subject to subsection (3), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (d) the amendment or cancellation in whole or in part of a general plan of a township;
- (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
- (f) permanent closure of any public place;
- (g) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
- (h) any consent or approval provided for in any law referred to in subsection(6);
- (i) land development on communal land that will have a high impact on the traditional community concerned.

(4) Category 2 Applications are –

- (a) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
- (b) the consolidation of any land;
- (c) the simultaneous subdivision, under circumstances contemplated in subparagraph (a) and consolidation of land;
- (d) the consent of the municipality for any land use purpose or departure or variance in terms of a land use scheme or existing scheme which does not constitute a land development application;
- (e) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation;
- (f) a temporary use application; and
- (g) any other application prescribed.

(5) A consent or approval referred to in subsection (3)(h) only applies in respect of a condition imposed in terms of –

- (a) The Agricultural Holdings (Transvaal) Registration Act, 1919 (Act No. 22 of 1919);
- (b) the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of

1940).

Land development application procedure

29. The responsible Member must prescribe the requirements and procedures relevant to the payment of registration fees, form and content, submission, registration, notification, circulation and consideration of the different categories of applications, contemplated in section 31.

Combination of applications

30.(1) A single application may include more than one type of application referred to in section 31 and may constitute a combination of the different categories of applications.

(2) Should any type of application fall within the types of applications listed in Category 1, that application is deemed to be a Category 1 Land Development Application.

Applicant

31. An application may be submitted by –

- (a) the owner, including the state, but excluding a municipality, of the land concerned;
- (b) a person acting as the duly authorised agent on behalf of the owner of the land;
- (c) a person to whom the land concerned has been made available for development by such person in writing including an organ of state, or such a person's duly authorised agent;
- (d) a person applying for authorisation to use land for mining purposes where such a person is the holder of a valid mining right, permit or licence as contemplated in the Mineral Petroleum Resources Development Act, 2002(Act No. 28 of 2002) provided that such person has the written consent of the owner of the land;
- (e) an organ of state that enjoys a statutory right to occupy and use land on a temporary or permanent basis;
- (f) a service provider responsible for the provision of infrastructure, utilities or other related services;

Development and use of land by municipality

32.(1) A municipality may, subject to the provisions of this section, develop and use land owned by it.

(2) Where the proposed development and use of land requires the approval of any matters contemplated in section 31, the municipality must give notice of such proposal as prescribed.

(3) The municipality must circulate a copy of the proposed development and land use to every organ of state, service provider and any other person as prescribed.

(4) Any person or body to which a copy of the proposed development or use of land has been circulated in terms of subsection (3) may, as prescribed, submit any comments to the municipality.

(5) Any person to whom notice has been given in terms of subsection (2) may submit representations in the manner prescribed.

(6) After the periods prescribed in terms of subsections (4) or (5) the municipality must consider the proposed development and land use after implementation of such procedures as may be necessary in order to comply with the requirements of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(7) The municipality may approve the proposed development and land use without amendments and subject to any conditions.

(8) Where the municipality has approved any development or land use in terms of this section the municipal manager must, as prescribed, notify every interested party.

(9) Any interested person whose rights are adversely affected by the approval of an application may appeal against that approval as contemplated in Chapter 10 of this Act.

(10) After approval of any application in terms of this section and if no appeal has been lodged the municipality must publish any applicable notice of the approval provided for in this Chapter.

Comments by objectors and functionaries

33.(1) Any person who has a reasonable interest in an application may object thereto or comment thereon as prescribed.

(2) If any municipal department, other organ of state, or service provider fails to submit its comments within the time period prescribed, it is deemed that it has no objection or comment and the application may be submitted to the Municipal Planning Tribunal or official.

Right of Applicant to respond to comments

34. An applicant has the right to reply to any comments or objections received as prescribed.

Consideration of applications

35.(1) If a municipality does not allocate certain categories of applications to be considered by the Municipal Planning Tribunal and the official authorised in terms of section 35(3) of the Spatial Planning and Land Use Management Act, it may adopt the allocation provided for in this section.

(2) The following categories of applications defined in section 31 of this Act must be considered and determined –

(a) by the Municipal Planning Tribunal –

- (i) all category 1 applications that are contrary to the land use scheme and the local spatial development framework, if applicable;
- (ii) all opposed category 2 applications; and

(b) by the Land Development Officer –

- (i) all category 1 applications that are not contrary to the land use scheme and the local spatial development framework, if applicable and that are not opposed;
- (ii) all category 2 applications that are not opposed;

(3) For purpose of this Act, all decisions taken and conditions determined by the Municipal Planning Tribunal are deemed to have been issued by the municipality.

(4) For the purposes of subsection (2), an opposed application means an application on which negative comments or objections were received after the public participation process.

Conditions of approval

36.(1) A municipality may grant conditional approval, and may direct that an approval only

becomes effective, upon compliance by the land development applicant with one or more specified conditions.

(2) Where a municipality requires a development contribution from an applicant for the provision and installation of external engineering services, provision of refuse sites, open space, parks, parking or inclusionary housing it must be issued as a condition contemplated in this section and the amount and calculation of such amount is as contemplated in Chapter 11.

(3) In order to promote uniformity throughout the Province, the responsible Member may publish guidelines pertaining to the form and content of conditions to be issued by the applicable municipality.

Notification of approval decision

37.(1) After the approval or refusal of an application by the municipality, it must inform the applicant thereof in writing, as prescribed and if the land development application is refused, furnish the applicant the reasons for the refusal.

(2) After the approval or refusal of an opposed land development application, by the municipality, it must inform all parties who objected to the application, as prescribed and if the land development application is refused, furnish all parties the reasons for the refusal.

Appeals

38. A person whose rights are affected by a decision taken by a Municipal Planning Tribunal or official, may appeal against that decision as contemplated in Chapter 10 of this Act.

Change of ownership

39.(1) If, at any time prior to the approval of a land development application, the ownership of land changes, the new owner –

- (a) must notify the Municipality in writing within 90 days from the date of registration of transfer if he or she wishes to proceed with the applicable land development application, and
- (b) if applicable, submit a power of attorney and resolution in favour of any agent appointed by the new owner.

(2) Subject to compliance with subsection (1), the new owner must assume all the rights and responsibilities of the applicant which exist at the date of transfer.

(3) Where the new owner fails to comply with subsection (1), the application lapses.

Joint application

40. Two or more owners of land may make a single land development application provided that the land area in the application forms a single area of erven in the same township or farm portions which are contiguous or which in the case of erven in a single township or farm portions are only separated by a road.

Withdrawal of land development application

41. An applicant may at any time before the approval of a land development application, withdraw the application and must notify the municipality and any interested party accordingly.

Abandonment of land development application

42.(1) An applicant may at any time after the approval of a Category 1 land development application but before the publication of the approval or implementation of any component of a Category 2 application, abandon the approval of the application and must inform the municipality accordingly in writing.

(2) Where the approval of a land development application is abandoned the municipality must make such amendments to any record or register as may be necessary.

Amendment of land development application

43.(1) An applicant may amend a land development application at any time prior to its approval.

(2) If any proposed amendment of an application, in the opinion of the municipality, would constitute a material change to the proposed land use or development which may affect any person, the municipality must direct the applicant to give notice of the amendment.

(3) Any delay caused by the amendment of the land development application must be excluded from the time periods prescribed.

(4) If the amendment of a land development application requires notification in terms of subsection (2) any applicable time period must be calculated from the date of notification of the application for amendment.

(5) An applicant may at any time, prior to the determination of the application, inform the municipality, that he or she is prepared to accept a partial approval of the land development application and such proposed partial approval must not constitute an amendment of the application as contemplated in subsection (1) above.

Amendment of approval of land development application

44.(1) An applicant may, at any time before or after a notice of approval of a land development application is published, request the municipality, to amend any approved plan, conditions of approval or conditions of establishment, but such amendment may not include any increase in the land area, density or intensity of the approved development or detrimentally affect any party to the application or alter any condition reached by negotiation with another party.

(2) If the amendment to a plan, conditions of establishment or conditions of approval, in the opinion of the municipality, will have a material effect on any person or body, the municipality must direct the applicant to give notice of the amendment to such person or body or abandon the existing approval and submit a new application.

(3) Any person or body to whom notice has been given in terms of subsection (2) may oppose the amendment as prescribed.

(4) The municipality may approve or refuse any amendment and must notify the applicant and all other interested parties thereof, as prescribed.

(5) For purposes of this section, the amendment of the approval of a land development application in the event of the establishment of a township, will include the division of the township into two or more townships or phases of development.

Lapsing of approvals

45.(1) An approval of a land development application lapses –

- (a) in the event of the establishment of a township, the extension of the boundaries of a township, the cancellation or partial cancellation or the amendment of a General Plan, failure by an applicant to comply with the provisions of section 46(4) or (5) of this Act; or
- (b) in the event of any approval other than an approval listed in subsection (1)(a), failure by an applicant to take further steps necessary for the implementation of such approval within a period of 24 months after the date upon which the applicant was notified of such approval.

(2) A municipality may in response to a written request received from an applicant received before the final day of the period prescribed and upon good cause having been shown by such applicant, extend the period as prescribed by a further period of no more than one year subject to such conditions and procedures to be followed by the applicant as the municipality may determine.

(3) Where the approval of a land development application lapses the municipality must inform the applicant and make such amendments to any record or register as may be necessary.

(4) Where an approval of a township or extension of the boundaries of a township has lapsed as contemplated in subsection (1)(a), the municipality must inform the applicant, Surveyor General and the Registrar of Deeds accordingly and the Surveyor General must cancel the general plan or part thereof as the case may be.

(5) If an approval has lapsed and the applicant has not requested an extension or the municipality has not granted an extension, and if the applicant wants to continue with the land development, the applicant has to apply for such approval as if he or she has not applied before.

Condonation

46.(1) An executive council may of its own accord or on request of a Municipal Planning Tribunal or an official employed and designated by the municipality or on application as prescribed grant condonation of any failure to comply with any technical requirement,

procedure or time limit prescribed in the regulations.

(2) Condonation in terms of subsection (1) must not be granted if it would unreasonably prejudice any party.

Establishment of township, extension of boundaries of township and amendment of General Plan

47.(1)A township must be established or the boundaries of a township must be extended on any farm portion where the land concerned is to be used, developed or subdivided for any purpose other than agricultural, open space or nature conservation purposes as defined in the applicable land use scheme.

(2) The subdivision of an erf shown on a General Plan is deemed not to be the establishment of a township.

(3) An application for the amendment or the partial or total cancellation of a General Plan of a township –

(a) may only be made by or on behalf of a person or persons who is or are the owner or owners of all the erven affected by such amendment or cancellation;

(b) must, if such cancellation or amendment will lead to the closure of any public place, be accompanied by proof that the provisions of the applicable provisions of this Chapter have been complied with or that steps to effect such closure, have been initiated.

(c) may only be approved if it is desirable to do so in the interest of the development of a township, or in the public interest, where approval may be granted either unconditionally or subject to conditions.

(4) If the approval of a Category 1 land development application includes the establishment of a township, the extension of the boundaries of a township, the cancellation or partial cancellation or the amendment of General Plan, the General Plan, diagrams and any other plans and documents required by the Surveyor General must be submitted to the Surveyor General for approval or amendment within 24 months of the date of publication of the notice of approval of the relevant application.

(5) After the approval of a General Plan and/or diagrams of a township or the extension of the boundaries of a township by the Surveyor General, the Applicant must, within 12 months

of the date of such approval, lodge such plan and/or diagrams together with any other documents required with the Registrar of Deeds.

(6) Where any general plan, diagram or document submitted to the Surveyor General or Registrar of Deeds contains any errors or omissions, such errors or omissions must be rectified by the applicant.

(7) Before the General Plan and/or diagrams of a township are lodged with the Registrar of Deeds in terms of subsection (5) the applicant may apply to the municipality for a township to be divided into two or more phases and on approval thereof all applicable provisions must apply, with the necessary changes, to the divided townships as if each was separately created.

(8) Where a township is approved on two or more contiguous farm portions, or necessitates the subdivision and/or of a farm portion, the consolidation and/or subdivision of such farm portions must be deemed to be approved in the approval of the township.

(9) The first registration of any erf in a township or an erf in the extension of the boundaries of a township or any subdivided portion of land in a Deeds registry must not take place –

(a) before a certificate has been issued by the municipality to the Registrar of Deeds to the effect that –

(i) the relevant development contributions contemplated in section 39(2) have been paid by the applicant; and

(ii) the services and amenities which have to be provided in connection with the township are available; and

(iii) any prescribed conditions to be met prior to the transfer of land have been complied with; and

(b) prior to or simultaneously with the transfer of any land required for parks, parking, open space or inclusionary housing.

(10) Any land transferred to the municipality in terms of subsection (9)(b) may not be sold or alienated by the Municipality, except to another sphere of government, within a period of 10 years of such transfer except with the written consent of the responsible Member.

(11) Ownership of roads in an approved township which are to be municipal roads must vest in the Municipality from the date of the first registration in the Deeds Registry of any erf in the township.

(12) On the approval of a Category 1 application and compliance with all prescribed conditions and if no appeal has been lodged, the municipality must publish a notice of the approval as prescribed.

(13) The land development information system contemplated in section 14(4) and the register contemplated in section 30(2) must be updated as prescribed.

(14) The approval of a Category 1 application comes into effect on the date of the publication of the notice in subsection (12).

(15) After publication of a notice of the removal, amendment or suspension of a restrictive condition, servitude or reservation the Registrar of Deeds must record such removal, amendment or suspension in accordance with the Deeds Registries Act, 47 of 1937.

(16) The Registrar of Deeds must notify the municipality of any registration referred to in subsection (15).

Assessment and recommendation by registered planner

48. A municipality must consider a written assessment of and recommendation by a registered planner before deciding on –

- (a) a rezoning;
- (b) a subdivision of more than 20 new cadastral units;
- (c) a removal of a restriction or condition or obligations, if a change of land use is involved.

CHAPTER 9

SPATIAL PLANNING AND LAND USE MANAGEMENT ON COMMUNAL LAND

Application of Chapter

49.(1) This Chapter applies to every municipality in the Province whose area of jurisdiction includes communal land.

(2) Chapters 6 and 7 apply to communal land, subject to the provisions of this Chapter.

Land use scheme

50.(1) A land use scheme that incorporates communal land must –

- (a) be consistent with and reflect the custom and usage of the traditional community occupying such land in regard to the use and development of the land;
- (b) not require the subdivision of the land which may be identified by means other than surveyed diagrams or general plans approved in terms of the Land Survey Act, 1997 (Act No 8 of 1997) and may reflect the custom and practice of the members of the traditional community concerned.

(2) A land use scheme that incorporates communal land may be adopted and applied incrementally, consistent with the provision of municipal services to the members of the traditional community concerned.

Land development on communal land

51.(1) No land development on communal land may be considered and approved by a municipality unless such land development is –

- (a) first sanctioned by the traditional council with jurisdiction in the area where the communal land on which the land development is to be undertaken in accordance with customary law; or
- (b) in accordance with a precinct plan or local spatial development framework of the municipality for the communal land in question, if applicable.

(2) A notice required to be given in terms of Chapter 8 must be given in such manner that ensures that all members of the traditional community resident in the area in which the land development is to be undertaken may reasonably have notice thereof.

(3) Any comment or objection that any member of the traditional community wishes to make in regard to any land development application may be made in an official language chosen by the person making such comment or objection.

(4) The failure to afford a person referred to in subsection (3) the opportunity to comment or object in an official language of his or her choice constitutes a ground for setting aside any decision taken by the municipality on the relevant land development application concerned.

Application by member of traditional community

52. Any application by a member of a traditional community on communal land may be made in an official language chosen by the applicant.

Appeal emanating on communal land

53.(1) A municipality must notify a member of a traditional community who has engaged in any land development application, whether as applicant or as objector, of the right of appeal contained in Chapter 9.

(2) If a person referred to in subsection (1) intends to appeal against a decision of the municipality on any application that such person was engaged upon, then the municipality must, at its expense, designate an independent person to assist any person referred to in subsection (1) to prepare, submit and promote any appeal such persons seeks to make.

(3) If by reason of illiteracy or lack of technical knowledge a person referred to in subsection (1) is unable to comply strictly with the requirements applicable to the appeals process, then the appeals tribunal hearing such appeal must condone any non-compliance with such requirements consistent with fair and equitable practices, taking into account the support provided in terms of subsection (2).

(4) If any other persons engaged in any appeal referred to in this section conducts any part of the appeal proceedings in a language which the person referred to in subsection (1) is not familiar with then the municipality must, at its expense, translate such proceedings into a language that the applicant understands and is familiar **with**.

CHAPTER 10
APPEALS

Part A
Internal Appeals

Appeal authority

54.(1) An appeal against a decision of a Municipal Planning Tribunal or an official referred to in section 26(4) may be heard by the appeal authority which may be any of the following:

- (a) The executive authority of the municipality;
- (b) a body or institution outside of the municipality authorised by the municipality to assume the obligations of an appeal authority;
- (c) a body or institution outside of the municipality authorised or appointed by the municipality to assume the obligations of an appeal authority, in accordance with the provisions of an agreement to establish a joint Municipal Planning Tribunal,

- (d) the Municipal Appeal Tribunal established in terms of section 56;
- (e) an official or an internal appeal committee acting with delegated authority of the executive authority.

(2) A municipality may designate a different appeal authority to hear an appeal on a decision taken by an official contemplated in section 26(4) and a decision taken by the Municipal Planning Tribunal.

Part B Lodging of Appeals

Lodging of appeal

55.(1) A person whose rights are affected by a decision taken by a Municipal Planning Tribunal or an official contemplated in section 26(4) may, within the period and in the manner prescribed, appeal against that decision by lodging the appeal with the appeal authority designated by the municipality.

(2) A person whose rights are affected by a decision of the municipality in terms of this Act may, within the period and in the manner prescribed, appeal against that decision by lodging and appeal to the appeal authority.

(3) If a municipal court is established in terms of applicable legislation for the purpose, amongst others, of enforcing municipal by-laws pertaining to illegal land use, any appeal against a decision of the official, Municipal Planning Tribunal or the municipality referred to in this section must be lodged to the municipal court in the manner required in terms of the applicable legislation.

Part C Municipal Appeal Tribunal

Establishment of Municipal Appeal Tribunal

56.(1) The councils of two or more municipalities, may, in writing, agree to establish a Municipal Appeal Tribunal to assume the obligations of an appeal authority in terms of this Act in respect of all the municipalities concerned.

(2) The members of the Municipal Appeal Tribunal must be appointed jointly by all the district and local municipalities in the province.

(3) On the coming into operation of this Act, every district and local municipality must,

subject to section 59, each prepare a list of the names of not less than two and not more than five persons to be considered for appointment as members of the Municipal Appeal Tribunal and must submit such list to the responsible Member.

(4) Of the persons nominated by each municipality not more than one half may be in the fulltime employment of a municipality or the province.

(5) The responsible Member must prepare a schedule of the names of all the persons referred to in subsection (3) and may include the names of such other persons as he or she considers appropriate or necessary and must submit such schedule to the municipalities for consideration.

(6) The responsible Member must publish a notice of the schedule of names referred to in subsection (5) for comment by the general public within 28 days of the date of publication of the notice.

(7) The responsible Member must submit any comments received from the general public to the municipalities for consideration.

(8) The municipalities must, subject to section 59(1) and (2), jointly and in consultation, select thirty names of the persons referred to in subsection (5) and must submit a list of the names of such persons to the responsible Member.

(9) Should agreement not be reached as contemplated in subsection (8), the responsible Member must convene a meeting of one representative of each municipality at which the representatives must vote in respect of each person whose name appears on the schedule referred to in subsection (5).

(10) The names of persons to be appointed as members of the Municipal Appeal Tribunal must be decided by a majority of votes in respect of each person by the municipal representatives present at the meeting.

(11) On the determination of the names of persons in terms of subsection (8) or (10) the responsible Member must, on behalf of the municipalities, publish the names of the persons concerned and on the date of such publication those persons must be the members appointed to the Municipal Appeal Tribunal.

(12) The appointment of a member to the Municipal Appeal Tribunal must be for a period of five years.

(13) In terms of sections 41(h) and 154 of the Constitution, the responsible Member must, after consultation with the municipalities, determine –

- (a) the location of the office where the Municipal Appeal Tribunal must be situated;
- (b) provisions for the performance of all functions necessary to the operation of the Municipal Appeal Tribunal; and
- (c) the terms and conditions of appointment of members of the Municipal Appeal Tribunal.

(14) The responsible Member must –

- (a) make arrangements for the appointment and remuneration of officials to perform the administrative functions of the Municipal Appeal Tribunal; and
- (b) appoint a secretary to the Municipal Appeal Tribunal.

(15) After the period of five years referred to in subsection (12) has expired the further appointment of members of the Municipal Appeal Tribunal must be in accordance with the provisions of this section.

(16) A member whose term of office has expired may be re-appointed as a member of the Municipal Appeal Tribunal.

(17) Notice of the agreement entered into in terms of subsection (1) must be published in the *Provincial Gazette* and a local newspaper circulated in the municipal area of each of the participating municipalities.

Composition of Municipal Appeal Tribunal

57.(1) The members of the Municipal Appeal Tribunal must be persons appointed by reason of their qualifications in and knowledge and experience of planning and development or the law related thereto.

(2) Not more than one half of the members of the Municipal Appeal Tribunal may be persons who are in full-time employment of a municipality.

(3) In consultation with the municipalities, the responsible Member must designate –

- (a) a member of the Municipal Appeal Tribunal as chairperson; and

(b) a member as deputy chairperson to act as chairperson when the chairperson is absent or unable to perform his or her functions.

(4) The chairperson must designate at least three but not more than four members of the Municipal Appeal Tribunal to hear, consider and decide a matter which comes before it and must designate one of such members as the presiding officer.

(5) The members designated in terms of subsection (4) must include at least –

- (a) one member who is a registered planner;
- (b) one member who has knowledge and experience of the law relating to planning and development; and
- (c) where the appeal concerns engineering services, one member who is a registered professional engineer.

(6) The members designated in terms of subsection (4) must include at least one member who is in the full-time employment of a municipality and one member who is not so employed.

Functions of Municipal Appeal Tribunal

58.(1) The Municipal Appeal Tribunal must consider and decide all appeals referred to it in terms of this Act.

(2) The Municipal Appeal Tribunal must keep a record of all its proceedings.

(3) The Municipal Appeal Tribunal must provide the reasons for any decision or determination made by it.

Powers of Municipal Appeal Tribunal

59.(1) The Municipal Appeal Tribunal may –

- (a) make any decision which could have been made by a municipality and may uphold or dismiss an appeal and impose any conditions with regard to the subject of an appeal;
- (b) make any appropriate determination regarding all matters necessary or

- incidental to the performance of its functions in terms of this Act;
- (c) conduct any necessary investigation;
- (d) give directions relevant to its functions to any person in the service of the provincial administration, a provincial public entity, provincial government business enterprise or a municipality relevant to matters referred to in this Act;
- (e) decide any question concerning its own jurisdiction;
- (f) subpoena any person to appear before it and to produce any document or information reasonably required and clearly identified in the subpoena concerned;
- (g) decide any matters referred to it on the grounds of failure by a municipality to decide an application within the prescribed period;
- (h) decide appeals relating to engineering services and development contributions; and
- (i) make an order as to costs.

(2) In the case of an appeal against the failure or refusal of a municipality to register an application, the Municipal Appeal Tribunal may either direct the municipality to register the application or may dismiss the appeal.

(3) A decision of the Municipal Appeal Tribunal is final.

Disqualification from membership of Municipal Appeal Tribunal

60.(1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Tribunal, if that person –

- (a) is not a citizen of the Republic, and resident in the province;
- (b) is a member of parliament, a provincial legislature, a house of leaders or a municipal council in terms of the constitution.
- (c) is an un-rehabilitated insolvent;
- (d) is of unsound mind, as declared by a court;
- (e) has at any time been convicted of an offence involving dishonesty;
- (f) has at any time been removed from an office of trust on account of misconduct; or
- (g) has previously been removed from the tribunal for a breach of any provision of this Act.

(2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

Conflicts of interest

61.(1)A member of the Municipal Appeal Tribunal –

- (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;
- (b) may not attend, participate or vote in any proceedings of a tribunal in relation to any matter in respect of which the member has a conflict of interest.

(2) For the purposes of this section, a member has a conflict of interest if –

- (a) the member, or a family member, partner or business associate of the member is the applicant in terms of this Act, or if the member has a pecuniary or material interest in the matter before the tribunal; or
- (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.
- (c) the member is in the full-time employment of a provincial department, municipality, organ of state or service provider which is a party to the appeal.

Termination of membership of Municipal Appeal Tribunal

62.(1) A person's membership of the Municipal Appeal Tribunal may be terminated by a decision of the majority of municipalities in the province if there are good reasons for doing so after giving such member an opportunity to be heard.

(2) The reasons for removal referred to in subsection (1) may include, but are not limited to –

- (a) misconduct, incapacity or incompetence; and
- (b) failure to comply with any provisions of this Act.

(3) If a member's appointment is terminated or a member resigns, the responsible Member must publish the name of a person selected by the municipalities to fill the vacancy for the unexpired portion of the vacating member's term of office.

(4) The functions of the Municipal Appeal Tribunal must not be affected if any member resigns or his or her appointment is terminated.

Part D
Appeal Procedure

Types of appeals

63.(1) An appeal may be lodged with the Municipal Appeal Tribunal as provided for in this Act –

- (a) by an applicant who is aggrieved by –
 - (i) the refusal of any application in terms of this Act or a land use scheme or existing scheme by the municipality;
 - (ii) any conditions of approval of an application imposed by a municipality in the approval of an application;
 - (iii) any requirements or standards laid down by the municipality for the provision or installation of internal engineering services in the approval of an application;
 - (iv) any condition or requirement relating to the provision of engineering services or services contributions;
 - (v) any other decision by a municipality provided for in this Act or in a land use scheme or existing scheme;
 - (vi) the failure of a municipality to determine an application within the time periods prescribed;
- (b) by an interested party who is aggrieved by the adoption by the municipality of –
 - (i) a municipal spatial development framework in terms of section 18;
 - (ii) a land use scheme in terms of section 26 or its amendment in terms of section 31(2);
 - (iii) a land development application of which such interested party was given notice; or
- (c) by a person whose rights have been affected by any other decision of the municipality made in terms of this Act.

(2) An interested party may not appeal if he or she or his or her representative has not attended and participated in any meeting of which he or she was given notice to hear the matter which is the subject of the appeal.

Procedure for appeals

64. An appeal must be submitted to the secretary in the manner and within the time period prescribed.

Notice of appeal

65.(1) An applicant who has lodged an appeal must simultaneously give notice of the appeal, as prescribed –

- (a) to the municipality; and
- (b) to every interested party.

(2) An interested party who has lodged an appeal must simultaneously give notice of the appeal, as prescribed –

- (a) to the municipality; and
- (b) except in the case of an appeal in terms of sections 21 or 35, to the applicant.

(3) Any person or body to whom a notice of appeal has been given in terms of subsections (1) or (2) may oppose the appeal as prescribed.

(4) An applicant who has lodged an appeal which is only in respect of the provision of essential services or development contributions must simultaneously give notice to the municipality.

Hearing of appeal

66. After an appeal has been lodged, the secretary of the Municipal Appeal Tribunal –

- (a) must refer the appeal to the Municipal Appeal Tribunal and must determine a date and time for the hearing of the appeal; and
- (b) notify the appellant and every other party who has opposed the appeal of the date and time of the hearing of the appeal as prescribed.

Determination of appeal

67.(1) An appeal must be heard by the Municipal Appeal Tribunal within a period of 90 days of the date on which the appeal was lodged with the secretary.

(2) After the appeal has been determined, the secretary must inform the appellant, the municipality and all parties to the appeal accordingly.

Procedure after appeal

68. Where in the determination of an appeal, a land development application is approved, the municipality must comply with the provisions of sections 35 and 36.

Notification of approval on appeal

69. Where a land use scheme or its amendment or any application which has been approved by the Municipal Appeal Tribunal, the municipal manager must forthwith publish any notice of the approval required in terms of Chapter 8.

Reasons

70.(1) Any party to an appeal may as prescribed request the reasons for the decision of the Municipal Appeal Tribunal.

(2) The secretary must provide such reasons as prescribed.

Form of appeal

71. The form of an appeal must not be limited except as may be prescribed and may be in respect of only a part of a decision by the municipality.

CHAPTER 11
ENGINEERING SERVICES AND DEVELOPMENT CONTRIBUTIONS

Provision of engineering services

72.(1) The approval of a land development application must be subject to conditions for the provision of engineering services for the development or land use concerned, as prescribed.

(2) The applicant must be responsible for the provision and installation of internal engineering services as prescribed.

(3) The municipality must be responsible for the provision and installation of external engineering services as prescribed.

(4) Where the municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of such service.

(5) The applicant must install the internal engineering services in accordance with any guidelines issued by the responsible Member from time to time and as set out in the conditions of approval of the application.

(6) The municipality or service provider must, subject to the payment of any relevant development contributions, install the external engineering services in accordance with any guidelines issued by the responsible Member from time to time.

(7) The applicant may as prescribed, with the prior agreement of the municipality or service provider, install any external engineering service in lieu of the payment of the applicable development contributions.

(8) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) pertaining to procurement and the appointment of contractors on behalf of the municipality does not apply.

Development contributions

73.(1) The applicant must pay development contributions to the municipality or service provider, as the case may be, in respect of the provision and installation of external engineering services, inclusionary housing and for such other purposes as may be prescribed.

(2) The external engineering services for which development contributions are payable by the applicant must be determined by the municipality according to guidelines as prescribed and the amounts payable must be calculated in accordance with guidelines issued by the responsible Member from time to time.

(3) The applicant must pay a development contribution to the municipality in respect of the provision of land for the purpose of refuse sites as prescribed.

(4) The amounts payable by an applicant in respect refuse sites must be calculated in accordance with any guidelines issued by the responsible Member from time to time.

Land for parks, open space, refuse sites, schools, parking and inclusionary housing

74.(1) The responsible Member must issue guidelines pertaining to the provision of land by an applicant for parks, open spaces, refuse sites, schools, parking and inclusionary housing, including the payment of a development contribution in lieu thereof.

(2) Notwithstanding anything to the contrary contained in this Act and where it is physically impossible to provide parking, open space or inclusionary housing, in the case of redevelopment of land within a built-up area, the municipality may determine payment of a development contribution *in lieu* thereof.

(3) The land provided as parks, parking or open space which is intended as public open space must, as prescribed, be transferred to the municipality.

General matters relating to provision of services

75.(1) Any development contributions payable as a result of an approved land development application must be paid prior to –

- (a) the use and development of the land; and
- (b) the approval of any building plans.

(2) The amounts of any development contribution must be determined by the municipality from time to time in accordance with any guidelines issued by the responsible Member.

(3) Any amounts of money paid as development contribution must only be used for the purpose for which such contribution was paid as prescribed.

(4) The municipality must annually prepare a report on the amounts of development contributions paid to the municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure, including the location of where it was spent, and must submit such report and statement to the responsible Member.

(5) Notwithstanding any provision to the contrary in this Chapter, where a development contribution or contribution for parking or open space is paid to the municipality, such funds must, in terms of the provisions of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) be kept separate and only applied by the municipality towards the

improvement and expansion of the services infrastructure or the provision of open space or parking, as the case may be, to the benefit and in the best interests of the general area where the land area is situated or in the interest of a community that occupy or use such land area.

CHAPTER 12 ENFORCEMENT

Enforcement

76.(1) A municipality is responsible and may promulgate by-laws for spatial planning and land use management within its municipal area.

(2) Subject to section 14(2)(a) of the Municipal Systems Act, the responsible Member may publish model by-laws for spatial planning and land use management within the municipal area of the municipality.

Offences and penalties

77.(1) Any person who contravenes a provision of section 58(1) of the Spatial Planning and Land Use Management Act is guilty of an offence as determined in that Act and the punishment on conviction of that offence is as contemplated in section 58(2) and (3) of that Act.

(2) Any person who –

- (a) contravenes any provision of this Act;
- (b) wilfully furnishes a municipality, Municipal Planning Tribunal or the Municipal Appeal Tribunal with false information;
- (c) fails to produce any document or information in his or her possession when lawfully required to do so;
- (d) fails to attend any hearing after being issued with a subpoena; or
- (e) wilfully disrupts the proceedings of a competent authority, or the Municipal Appeal Tribunal or in relation to such proceedings does anything which, if done in relation to a court of law, would constitute contempt of court,

commits an offence

(3) A person convicted of an offence in subsection (1) is liable on conviction to be sentenced

to a term of imprisonment for a period not exceeding one year or to a fine calculated according to the ratio for such imprisonment in terms of the Adjustment of Fines Act, 1992 (Act No. 101 of 1992) or both such fine and imprisonment.

Misconduct by official acting in official capacity

78.(1) An official is guilty of misconduct –

- (a) when authorising the development, subdivision or consolidation of land contrary to a provision of a scheme;
- (b) when authorising the subdivision or consolidation of land without prior approval in terms of this Act;
- (c) when authorising the development of land without prior approval in terms of this Act;
- (d) when authorising the phasing or cancellation of an approved layout plan without prior approval in terms of this Act;
- (e) when authorising the development, subdivision or consolidation of land contrary to a restriction or obligation;
- (f) when authorising the development, subdivision or consolidation of land contrary to a condition imposed in terms of this Act, including a condition of approval for –
 - (i) the amendment to the municipality's scheme;
 - (ii) the subdivision or consolidation of land;
 - (iii) the development of land;
 - (iv) the phasing or cancellation of an approved layout plan; or
 - (v) the alteration, suspension or deletion of a restriction in relation to land; or
 - (vi) upon certifying that the conditions of approval have been complied with for the sale, development or transfer of land when the conditions have not been complied with.

(2) An official who is guilty of misconduct under this section may be disciplined in accordance with the relevant disciplinary code and procedures and may also be criminally prosecuted and sentenced to a fine or imprisonment or both such fine and imprisonment.

Offence and misconduct by registered planner advising municipality

79.(1) A registered planner who issues a certificate that a proposal complies in all respects with this Act, whilst aware that a proposal to –

- (a) adopt, replace or amend a scheme;

- (b) subdivide or consolidate land;
- (c) develop land situated outside the area of a scheme;
- (d) divide or cancel a layout plan; or
- (e) alter, suspend or delete a restriction relating to land,

is defective, is guilty of an offence, and an act of misconduct contemplated in section 18(4)(c) of the Planning Profession Act.

(2) A registered planner who is guilty of an offence as contemplated in subsection (1) may be sentenced to a fine or imprisonment for a period not longer than two years, or to both a fine and a period of imprisonment.

(3) A registered planner who is guilty of misconduct as contemplated in subsection (1) may be cautioned, reprimanded, or fined, or the person's registration as a registered planner may be suspended or cancelled as contemplated in section 23(3)(a) of the Planning Profession Act.

CHAPTER 13 TRANSITIONAL ARRANGEMENTS

Existing spatial development framework

80. If the Department or a municipality has, prior to the commencement of this Act, approved and adopted a spatial development framework that complies substantially with the requirements of this Act and the Spatial Planning and Land Use Management Act, the first review of that spatial development framework must be done within three years from the date of commencement of this Act.

Existing town planning scheme and scheme regulations

81.(1) An application for the amendment of an existing scheme made prior to the coming into effect of a land use scheme but which is approved after the land use scheme comes into effect must be deemed to be an amendment of the land use scheme to the extent that may be necessary and the land use scheme must be amended accordingly.

(2) Where the provisions of an approved land use scheme is in conflict with and are more onerous or restrictive than in an existing scheme, the less restrictive provisions of the existing scheme must apply for a period of five years from the date of adoption of the land use scheme.

(3) Any land that was lawfully used prior to the approval of the land use scheme may be continued to be used as such for a period of five years from the date of adoption of the land use scheme.

(4) Any land use that was unlawfully commenced with prior to, or with the commencement of this Act, may not be deemed to be the lawful land use when such land is included in a land use scheme.

(5) The provisions of subsection (1) must not apply to any amendment of a land use scheme approved after the date of adoption of the land use scheme.

(6) Notwithstanding the provisions of subsection (3), the use of any building for which building plans had been approved on or prior to the date adoption of the land use scheme, may continue to be used as if the land use scheme had not come into effect.

(7) Notwithstanding the provisions of subsection (4), any building plans submitted before but not yet approved on the date of adoption of the land use scheme must be approved in terms of the applicable existing scheme or legislation replaced by a land use scheme.

(8) If a building is altered or extended after the date on which a land use scheme comes into effect, the provisions of the land use scheme must only apply to such alterations and extensions.

(9) The provisions of subsections (6), (7) and (8) must not apply if a building is demolished after a land use scheme has come into effect.

Compensation

82.(1) An owner of land, who has suffered any loss or damage due to –

- (a) being unable to develop that land;
 - (b) alterations to the land; and
 - (c) the removal or demolition of any improvements on such land,
- as a result of the coming into effect of the provisions of a land use scheme, may claim compensation from a municipality –
- (i) within three years after adoption of that provision; and

(ii) to the extent to which the owner has not already received compensation in that regard.

(2) A municipality may amend the provision of a scheme referred to in subsection (1), which prevents an owner of land from developing such land, within six months after the owner has lodged a claim for compensation, in order to avoid being liable for payment of compensation.

(3) When a municipality has compensated an owner of land under this section it must take transfer of the land concerned.

(4) Compensation is not payable in terms of this section in respect of any improvements erected by the owner of land in contravention of this Act or a municipality's scheme.

Pending application and other transitional arrangements

83.(1) Any application submitted or any other pending matter in terms of any law repealed by this Act not disposed of prior to the commencement of this Act must be dealt with and finalised as if this Act had not come into operation.

(2) A reference to the Townships Board in any law not repealed by this Act must be a reference to the Municipal Planning Tribunal for the purposes of that other law.

(3) Where necessary, any notice, certificate or other document or any consent or approval issued, or anything lawfully done in terms of any law repealed by this Act must be deemed to comply with the provisions of this Act.

(4) After commencement of this Act but before the adoption of a land use scheme by a municipality, any application for an amendment of land use of land lawfully used for a purpose listed in Schedule 2 of the Spatial Planning and Land Use Management Act, must be submitted and decided as prescribed.

CHAPTER 14 GENERAL PROVISIONS

Records

84.(1) A municipality must keep and maintain a record, in the prescribed format of all applications submitted to and registered by it.

(2) A municipality must keep and maintain a record of all decisions, and reasons there for, in respect of all applications listed in subsection (1) in the prescribed manner.

(3) The record referred to in subsection (1) must be made available to members of the public during normal office hours at the municipality's central office.

Exemptions

85.(1) The responsible Member may, in the public interest, for a public purpose or on request from a municipality, by notice in the Provincial Gazette –

- (a) exempt from one or more of the provisions of this Act a piece of land specified in the notice; or
- (b) an area specified in the notice; or
- (c) substitute alternative provisions to apply in such a case; and
- (d) withdraw an exemption granted in terms of paragraph (a).

(2) The exemption or withdrawal contemplated in subsection (1) may be made subject to such conditions, inclusive of directives relevant to the performance of any function by any organ of state or competent authority within a specified time limit, as the responsible Member, after consultation with the said organ of state or competent authority, deems appropriate.

Delegation

86.(1) Any power except the power to make regulations conferred in this Act upon a responsible Member or a municipality may, in general or in cases of a particular nature, be delegated by the person or body entrusted with that power to an official in the employ of the State but any such delegation must be in writing and must specify the limitations of such a delegation.

(2) A delegation under subsection (1) does not prevent the responsible Member or the municipality from exercising the power or performing the duty concerned.

Fees

87. Application fees payable in respect of any application submitted to the municipality in terms of this Act or appeals noted must be as prescribed and must be paid by an applicant before registration of the application concerned.

Provision of information

88. Any person must be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this Act from the competent authority, as the case may be, provided that –

- (a) the copy of the document or information must be provided within seven days of the date of such copy of the document or information being requested in writing;
- (b) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy.

Hearings

89. Any hearing of an application by a Municipal Planning Tribunal must be open to the public.

Correction of errors

90.(1) Where an error or omission has occurred in an approval referred to in this Act in any conditions of approval or conditions of establishment, in any land use scheme or amendment scheme, or in any notice published in the *Provincial Gazette*, such error or omission may be corrected.

(2) A correction of an error or omission referred to in subsection (1) is limited to –

- (a) technical or administrative matters which do not materially affect the subject of the correction; or
- (b) typographical or grammatical matters.

(3) If a notice published in the *Provincial Gazette* is corrected, a notice of such correction must be published in the *Provincial Gazette*.

Regulations

91.(1) The responsible Member may, after public consultation, make regulations consistent with this Act prescribing –

- (a) any matter to be prescribed in terms of this Act;
- (b) provincial norms and standards, policies and directives pertaining to spatial development planning, land use management and land development;
- (c) the implementation measures required to give effect to the development principles contemplated in Chapter 2 of this Act;
- (d) corrective measures or procedures to be taken should a municipality fail to adopt and implement a land use scheme as provided for in this Act;
- (e) procedures concerning the lodging of applications and the consideration and decision of such applications, including the –
 - (i) submission by applicants and objectors of additional information, explanations and environmental impact assessments;
 - (ii) conduct of investigations; andtimeframes within which a land use application must be considered and disposed of by a municipality, and the guidelines for the determination of what amounts to an undue delay for the purposes of this Act.
- (f) procedures concerning the lodging of any appeals and the consideration and decision of such appeals in connection with this Act;
- (g) procedures concerning the lodging of applications;
- (h) fees payable in connection with applications and appeals;
- (i) a code of conduct for members of municipal planning bodies;
- (j) the process for public participation in the preparation, adoption or amendment of a land use scheme or the performance of any other function in terms of this Act;
- (k) the operating procedure of a Municipal Planning Tribunal and official;
- (l) any matter provided for in Schedule 1 of the Spatial Planning and Land Use Management Act; and
- (m) any other matter that is necessary or expedient for the effective carrying out or furtherance of the objects of this Act.

(2) Different regulations may be made for different categories of –

- (a) municipal decision making bodies;
- (b) land use schemes;
- (c) development applications; or
- (d) appeals.

(3) Until the responsible Member makes regulations in terms of this section, the regulations in force under any law repealed by section 95 must, despite the repeal and to the extent that such regulations can be applied and are not inconsistent with the provisions of this Act, continue to apply.

(4) If a traditional council has, before the commencement of this Act, concluded, or after commencement of this Act, concludes, a service level agreement with the municipality in whose municipal area the communal land concerned is located, that traditional council must exercise and perform all the powers, duties and functions assigned to it in terms of that service level agreement with regard to spatial planning and land use management in its area of jurisdiction.

Guidelines

92.(1) The responsible Member may from time to time issue and amend guidelines not inconsistent with this Act in respect of the following matters –

- (a) the formulation, application and administration of land use schemes;
- (b) engineering services and development contributions;
- (c) provision of land for parks, open space, parking, inclusionary housing or similar land uses and payment of contributions in lieu thereof;
- (d) the formulation and application of any provincial plan, municipal spatial development framework or municipal policy relating to the use and development of land;
- (e) any other matters deemed necessary for the uniform, efficient and effective administration of the provisions of this Act.

(2) Guidelines issued in terms of subsection (1) must be used by a competent authority to inform and indicate the manner in which the provisions of this Act and the Regulations should be applied in the administration of the provisions of this Act or a land use scheme.

(3) Guidelines issued in terms of subsection (1) must be referred to and used by a competent authority with discretion in any particular case and must not be interpreted as being prescriptive.

Repeal of Laws

93. The laws set out in the schedule to this Act are hereby repealed as specified and to the extent as set out in the schedule.

Short title and commencement

94.(1) This Act is called the North West Spatial Planning and Land Use Management Act.

(2) The Act comes into operation –

- (a) on the date determined by the responsible Member by publication of a notice thereof in the *Provincial Gazette*;
- (b) on different dates in respect of different provisions of the Act determined by the responsible Member by publication of a notice thereof in the *Provincial Gazette*; or
- (c) on different dates in respect of different municipalities in the Province determined by the responsible Member by publication of a notice thereof in the *Provincial Gazette*.

SCHEDULE
LEGISLATION REPEALED

Number and Year	Short title	Extent of repeal
17 of 1939	Local Government Ordinance	Sections 66, 67 and 68 as assigned to the North West Province
84 of 1967	Removal of Restrictions Act	To the extent that it has been assigned to the North West Province
88 of 1967	Physical Planning Act	To the extent that it has been assigned to the North West Province
18 of 1969	Public Resorts Ordinance (Transvaal)	To the extent that it has been assigned to the North West Province
20 of 1971	Public Resorts Ordinance (Cape)	To the extent that it has been assigned to the North West Province
20 of 1974	Municipal Ordinance	To the extent that it relates to the closure of a public place or a public street
39 of 1979	Bophuthatswana Land Control Act	The whole
4 of 1984	Black Communities Development Act	To the extent that it has been assigned to the North West Province
15 of 1985	Land Use Planning Ordinance (Cape)	To the extent that it has been assigned to the North West Province
15 of 1986	Town-Planning and Townships Ordinance (Transvaal)	To the extent that it has been assigned to the North West Province
20 of 1986	Division of Land Ordinance (Transvaal)	To the extent that it has been assigned to the North West Province
33 of 1934	Cape Ordinance	To the extent that it has been assigned to the North West Province

MEMORANDUM ON THE OBJECTS OF THE NORTH WEST SPATIAL PLANNING BILL, 2016

The Constitution of the Republic of South Africa, 1996 has resulted in the creation of new structures and systems of national, provincial and municipal government in which existing planning and development legislation is no longer appropriate;

The Constitution has provided that regional planning and development, urban and rural development and housing are functional areas of concurrent national and provincial legislative competence;

Parliament has promulgated national legislation that provides a framework for spatial planning and land use management in the Republic within which the Province will promulgate its planning legislation;

Procedures and structures need to be developed to facilitate and promote cooperative governance and intergovernmental relations in respect of spatial development planning and land use management systems between the three spheres of government as contemplated in the Constitution;

Provincial planning is within the functional areas of exclusive provincial legislative competence, and municipal planning is the executive function of the local sphere of government;

Various old order laws are still utilised in the Province promoting a fragmented approach to planning and new legislation is required to create an integrated, uniform and comprehensive approach to planning, development and the use of land within the Province;

This Bill provides for land development and land use management in the province and sets out the responsibilities of the responsible Member of the Executive Council, municipalities and traditional authorities with regard to spatial planning and land use management. It further provides for provincial planning and establishes a uniform system for municipal spatial planning and land use management, land use schemes; the establishment and functioning of tribunals, application procedures, the provision of engineering services and payment of development contributions and the control and enforcement of land use and development measures.

2. CLAUSE BY CLAUSE EXPLANATION

In summary, the Bill provides as follows –

Clause 1:

Clause 1 provides for definitions.

Clause 2:

Clause 2 provides for the Spatial Planning and Land Use Management Act, applicable in the Province.

Clause 3:

Clause 3 provides for all land development and land use management in the Province to be carried out in accordance with the development principles and the norms and standards contained in this Bill and the Spatial Planning and Land Use Management Act.

Clause 4:

Clause 4 empowers the responsible Member to, subject section 7 of the Spatial Planning and Land Use Management Act and after consultation with each of the municipalities situated within the Province, by notice in the *Provincial Gazette*, publishes provincial development principles to be applied in the Province.

Subsection (2) thereof, empowers the responsible Member to further publish guidelines relating to the realisation of the national and provincial development principles, by notice in the *Provincial Gazette*.

Clause 5:

Clause 5 accords the responsible Member to, from time to time and after consultation with each of the municipalities situated within the Province, prescribe provincial norms and standards to be applied in the Province.

Clause 6:

Clause 6 provides for the mandatory application of the provincial development principles referred to in section 5, to all organs of state responsible for the implementation of legislation regulating the use and development of land and guide

those matters referred to in section 6 of the Spatial Planning and Land Use Management Act.

Clause 7:

Clause 7 provides for the **responsibilities of the** responsible Member, which are inter alia, the performance of any duties allocated to him or her in terms of this Act, monitoring the capacity of municipalities to perform their spatial planning and land use management functions as provided for in the Spatial Planning and Land Use Management Act, this Act and any applicable by-laws, monitoring the capacity of the municipalities in achieving its developmental goals as it relates to spatial planning and land use, monitoring the impact of municipal land use planning on existing or proposed development on land use on the Province as a whole etc.

Clause 8:

Clause 8 provides for the duties, powers and functions of a municipality in respect of municipal planning which are inter alia, develop, adopt, amend and review a spatial development framework as part of the integrated development plan of the municipality within the framework provided by the Spatial Planning and Land Use Management Act and this Bill, develop, adopt, amend and review a land use scheme for the entire area of jurisdiction of the municipality, receive, consider and decide on applications by way of its Municipal Planning Tribunal and authorised official etc.

Clause 9:

Clause 9 provides for traditional council responsibilities which are inter alia the responsibility to provide input in all policies, by-laws, spatial development frameworks and other policy instruments relating to land use and spatial planning applicable to the communal land under the management of that traditional council and to facilitate and ensure the involvement of their traditional communities in the development or amendment of the integrated development plans of the municipalities in their respective municipal areas.

Clause 10:

Clause 10 prohibits a holder of –

- (a) a right granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

(b) an environmental authorisation approved in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998); or

(c) any other right, consent or authorisation which permits a land use activity and a change in land use,

from commencing or continuing with a land use activity that is permitted by such right, consent or authorisation if the land use of the land to which that right, consent or authorisation relates, does not permit that land use activity.

Clause 11:

Clause 11 provides for integrated procedures and decisions.

Clause 12:

Clause 12 provides that, in order to give effect to the statutory obligations contemplated in section 154(1) of the Constitution, section 10 of the Spatial Planning and Land Use Management Act and Chapter 10 of the Municipal Systems Act, the responsible Member must, in conjunction with each of the municipalities, determine, in the prescribed manner, whether that municipality has the necessary professional and support personnel, existing institutional structures, assets and infrastructure.

Clause 13:

Clause 13 directs the responsible Member to develop and adopt provincial plans for the development and management of provincial land use in the Province.

Clause 14:

Clause 14 provides for provincial planning and development.

Clause 15:

Clause 15 places an obligation on the responsible Member to develop a provincial spatial development framework as contemplated in Chapter 4 of the Spatial Planning and Land Use Management Act for approval and adoption by the Executive Council.

Clause 16:

Clause 16 provides for a spatial development framework for geographical region.

Clause 17:

Clause 17 provides for municipal planning.

Clause 18:

Clause 18 directs that a municipal spatial development framework must be prepared and adopted in accordance with the provisions of the Municipal Systems Act and must be aligned with the national and provincial spatial development frameworks.

Clause 19:

Clause 19 provides for the incorporation of environmental requirements into municipal strategic development.

Clause 20:

Clause 20 directs that a municipality must develop a policy on the protection of valuable or high potential agricultural land in its area of jurisdiction and must, after such surveys, data collection and analysis as may be necessary; identify areas that have agricultural potential.

Clause 21:

Clause 21 directs that a transport planning must be so carried out so as to cover both public and private transport and all the modes of land transport relevant in the area concerned, and must focus on the most effective and economic way of moving from one point to another in the system.

Clause 22:

Clause 22 directs that a land use scheme must take account of the infrastructure that is available or can be made available within the financial resources of the municipality to support the development implied by the zoning. It further directs a municipality to endeavour to align its infrastructure planning with any strategic integrated project designated for implementation or implemented in terms of the Infrastructure Development Act, 2014.

Clause 23:

Clause 23 provides for the adoption of land use scheme.

Clause 24:

Clause 24 directs that a land use scheme must comply with the provisions of Chapter 5 of the Spatial Planning and Land Use Management Act, relating to the purpose, content, legal effect, review, monitoring, amendment, record to be kept and enforcement of a land use scheme.

Clause 25:

Clause 25 provides for spatial planning categories and regulations.

Clause 26:

Clause 26 directs that a municipality must subject to section 35 of the Spatial Planning and Land Use Management Act, establish a Municipal Planning Tribunal to determine applications within its municipal area.

Clause 27:

Clause 27 provides for the development and change of land use.

Clause 28:

Clause 28 provides for **categories of applications** contemplated in section 35(3) of the Spatial Planning and Land Use Management Act,

Clause 29:

Clause 29 directs that the responsible Member to prescribe the requirements and procedures relevant to the payment of registration fees, form and content, submission, registration, notification, circulation and consideration of the different categories of applications, contemplated in section 31.

Clause 30:

Clause 30 provides that a single application may include more than one type of application referred to in section 31 and may constitute a combination of the different categories of applications.

Clause 31:

Clause 31 directs that an application in terms of this Act may be submitted by –

- (a) the owner, including the state, but excluding a municipality, of the land concerned;
- (b) a person acting as the duly authorised agent on behalf of the owner of the land;
- (c) a person to whom the land concerned has been made available for development by such person in writing including an organ of state, or such a person's duly authorised agent;

- (d) a person applying for authorisation to use land for mining purposes where such a person is the holder of a valid mining right, permit or licence as contemplated in the Mineral Petroleum Resources Development Act, 2002(Act No. 28 of 2002) provided that such person has the written consent of the owner of the land;
- (e) an organ of state that enjoys a statutory right to occupy and use land on a temporary or permanent basis;
- (f) a service provider responsible for the provision of infrastructure, utilities or other related services;

Clause 32:

Clause 32 empowers a municipality to **develop and use of land**.

Clause 33:

Clause 33 empowers any person who has a reasonable interest in an application to object thereto or comment thereon as prescribed. It further provides that if any municipal department, other organ of state, or service provider fails to submit its comments within the time period prescribed, it is deemed that it has no objection or comment and the application may be submitted to the Municipal Planning Tribunal or official.

Clause 34:

Clause 34 accords an applicant a right to reply to any comments or objections received as prescribed.

Clause 35:

Clause 35 provides for consideration of applications.

Clause 36:

Clause 36 empowers a municipality to grant conditional approval, and to further direct that an approval only becomes effective, upon compliance by the land development applicant with one or more specified conditions set.

Clause 37:

Clause 37 directs that after the approval or refusal of an application by the municipality, such municipality must inform the applicant thereof in writing, as prescribed and if the land development application is refused, furnish the applicant

with the reasons for the refusal.

Clause 38:

Clause 38 empowers a person whose rights are affected by a decision taken by a Municipal Planning Tribunal or official, to appeal against that decision as contemplated in Chapter 10 of this Act.

Clause 39:

Clause 39 provides that if, at any time prior to the approval of a land development application, the ownership of land changes, the new owner –

- (a) must notify the Municipality in writing within 90 days from the date of registration of transfer if he or she wishes to proceed with the applicable land development application, and
- (b) if applicable, submit a power of attorney and resolution in favour of any agent appointed by the new owner.

Clause 40:

Clause 40 provides that a Two or more owners of land may make a single land development application provided that the land area in the application forms a single area of erven in the same township or farm portions which are contiguous or which in the case of erven in a single township or farm portions are only separated by a road.

Clause 41:

Clause 41 provides that an applicant may at any time before the approval of a land development application, withdraw the application and must notify the municipality and any interested party accordingly.

Clause 42:

Clause 42 empowers an applicant to, at any time after the approval of a Category 1 land development application but before the publication of the approval or implementation of any component of a Category 2 application, abandon the approval of the application and to inform the municipality accordingly in writing.

Clause 43:

Clause 43 provides for an amendment of a land development application.

Clause 44:

Clause 44 provides for an amendment of an approval of a land development application

Clause 45:

Clause 45 provides for lapsing of approvals.

Clause 46:

Clause 46 empowers an executive council to, on its own accord or on request of a Municipal Planning Tribunal or an official employed and designated by the municipality or on application as prescribed, grant condonation of any failure to comply with any technical requirement, procedure or time limit prescribed in the regulations.

Clause 47:

Clause 47 provides for the establishment of township, extension of boundaries of township and amendment of General Plan.

Clause 48:

Clause 48 directs a municipality to consider a written assessment of and recommendation by a registered planner before deciding on –

- (a) a rezoning;
- (b) a subdivision of more than 20 new cadastral units;
- (c) a removal of a restriction or condition or obligations, if a change of land use is involved.

Clause 49:

Clause 49 directs that Chapter 9 of the Act applies to every municipality in the Province whose area of jurisdiction includes communal land. It further directs that Chapters 6 and 7 apply to communal land, subject to the provisions of Chapter 9.

Clause 50:

Clause 50 provides that a land use scheme that incorporates communal land must –

(a) be consistent with and reflect the custom and usage of the traditional community occupying such land in regard to the use and development of the land;

(b) not require the subdivision of the land which may be identified by means other than surveyed diagrams or general plans approved in terms of the Land Survey Act, 1997 (Act No 8 of 1997) and may reflect the custom and practice of the members of the traditional community concerned.

Clause 51:

Clause 51 provides for land development on communal land.

Clause 52:

Clause 52 provides that any application by a member of a traditional community on communal land may be made in an official language chosen by the applicant.

Clause 53:

Clause 53 provides for appeals emanating on communal land.

Clause 54:

Clause 54 provides for grounds of appeal against a decision of a Municipal Planning Tribunal or an official.

Clause 55:

Clause 55 provides a category of persons who may appeal against a decision taken by a Municipal Planning Tribunal or an official contemplated in section 26(4) and further directs such persons to, within the period and in the manner prescribed, appeal against that decision by lodging the appeal with the appeal authority designated by the municipality.

Clause 56:

Clause 56 provides for the establishment of a Municipal Appeal Tribunal.

Clause 57:

Clause 57 provides for the composition of a Municipal Appeal Tribunal.

Clause 58:

Clause 58 provides for the functions of Municipal Appeal Tribunal.

Clause 59:

Clause 59 provides for the powers of a Municipal Appeal Tribunal.

Clause 60:

Clause 60 provides for the disqualification from membership of Municipal Appeal Tribunal.

Clause 61:

Clause 61 directs a member of the Municipal Appeal Tribunal –

- (a) to make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;
- (b) not to attend, participate or vote in any proceedings of a tribunal in relation to any matter in respect of which the member has a conflict of interest.

Clause 62:

Clause 62 provides for the termination of membership of Municipal Appeal Tribunal.

Clause 63:

Clause 63 provides for the Types of appeals.

Clause 64:

Clause 64 directs that an appeal must be submitted to the secretary of the Municipal Appeal Tribunal in a manner and within the time period prescribed.

Clause 65:

Clause 65 provides for the **Notice of appeal**.

Clause 66:

Clause 66 provides that after an appeal has been lodged, the secretary of the Municipal Appeal Tribunal –

- (a) must refer the appeal to the Municipal Appeal Tribunal and must determine a date and time for the hearing of the appeal; and
- (b) notify the appellant and every other party who has opposed the appeal of the date and time of the hearing of the appeal as prescribed.

Clause 67:

Clause 67 provides that an appeal must be heard by the Municipal Appeal Tribunal within a period of 90 days of the date on which the appeal was lodged with the secretary. It further directs that after the appeal has been determined, the secretary must inform the appellant, the municipality and all parties to the appeal accordingly.

Clause 68:

Clause 68 provides that where in the determination of an appeal, a land development application is approved, the municipality must comply with the provisions of sections 35 and 36.

Clause 69:

Clause 69 provides that where a land use scheme or its amendment or any application which has been approved by the Municipal Appeal Tribunal, the municipal manager must forthwith publish any notice of the approval required in terms of Chapter 8.

Clause 70:

Clause 70 empowers any party to an appeal to as prescribed, request the reasons for the decision of the Municipal Appeal Tribunal. It further directs the secretary to provide such reasons as prescribed.

Clause 71:

Clause 71 directs that the form of an appeal must not be limited except as may be prescribed and may be in respect of only a part of a decision by the municipality.

Clause 72:

Clause 72 provides for matters relating to the provision of engineering services.

Clause 73:

Clause 73 provides for matters relating to development contributions

Clause 74:

Clause 74 provides for matters relating to land for parks, open space, refuse sites, schools, parking and inclusionary housing

Clause 75:

Clause 75 provides for general matters relating to provision of services.

Clause 76:

Clause 76 empowers a municipality to promulgate by-laws for spatial planning and land use management within its municipal area. It further accords the responsible Member the responsibility to, subject to section 14(2)(a) of the Municipal Systems Act, publish model by-laws for spatial planning and land use management within the municipal area of the municipality.

Clause 77:

Clause 77 provides for offences and penalties.

Clause 78:

Clause 78 provides for matters relating to misconduct by an official acting in an official capacity.

Clause 79:

Clause 79 provides for matters relating to offences and misconduct by a registered planner advising municipality.

Clause 80:

Clause 80 safeguards existing spatial development framework

Clause 81:

Clause 81 safeguards existing town planning scheme and scheme regulations.

Clause 82:

Clause 82 provides for compensation for an owner of land, who has suffered any loss or damage due to –

- (a) being unable to develop that land;
 - (b) alterations to the land; and
 - (c) the removal or demolition of any improvements on such land,
- as a result of the coming into effect of the provisions of a land use scheme, may claim compensation from a municipality –

- (i) within three years after adoption of that provision; and
- (ii) to the extent to which the owner has not already received compensation in that regard.

Clause 83:

Clause 83 safeguards pending applications and other transitional arrangements.

Clause 84:

Clause 84 provides for the protection, maintenance and keeping of records by a municipality.

Clause 85:

Clause 85 provides for exemptions.

Clause 86:

Clause 86 provides for delegations.

Clause 87:

Clause 87 provides for fees for applications.

Clause 88:

Clause 88 provides for Provision of information.

Clause 89:

Clause 89 directs that any hearing of an application by a Municipal Planning Tribunal must be open to the public.

Clause 90:

Clause 90 directs that where an error or omission has occurred in an approval referred to in this Act in any conditions of approval or conditions of establishment, in any land use scheme or amendment scheme, or in any notice published in the *Provincial Gazette*, such error or omission may be corrected.

Clause 91:

Clause 91 provides for regulations.

Clause 92:

Clause 92 provides for guidelines.

Clause 93:

Clause 93 provides for repeal of laws.

Clause 94:

Clause 94 provides for short title and commencement.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No organisational and personnel implications are foreseen.

4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

4.1 No financial implications foreseen.

5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

5.1 The Bill has been drafted in consultation with the key staff members in the Department.

5.2 All municipalities in the Province have been consulted.

6. CONTACT PERSON:

Name	:	Ms Marike van Heerden
Position	:	Chief Town and Regional Planner
Tel	:	(018) 388 4052
Cellular	:	<u>082 805 6872</u>

DEPARTMENT OF ECONOMIC DEVELOPMENT**NO. 580****2 July 2021****MEMORANDUM OF AGREEMENT
("MOA")**

Entered into between

**THE COMPETITION COMMISSION OF SOUTH AFRICA
("the Commission")**

a juristic person established in terms of section 19 of the Competition Act No. 89 of 1998 as amended, ("the Competition Act"), herein duly represented by Mr. Tembinkosi Bonakele, in his capacity as the Commissioner of the Competition Commission of South Africa

And

**THE NATIONAL CONSUMER COMMISSION
("the NCC")**

a juristic person established in terms of the provisions of section 85 of the Consumer Protection Act No. 68 of 2008 ("the Consumer Act"), herein duly represented by Ms Thezi Mabuza in her capacity as the Acting Commissioner of the National Consumer Commission.


King Tembinkosi Bonakele
30/03/2021 14:06:48 (UTC+02:00)
Signed by King Tembinkosi
Bonakele, _____
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1. PREAMBLE

WHEREAS, the Commission is mandated to, inter alia, investigate and evaluate restrictive practices, abuse of dominant position, exemptions and mergers, as well as conducting market inquiries;

AND WHEREAS, the Commission, in terms of the provisions of section 21(1)(h) read with sections 3(1A)(b) and 82(1) and (2) of the Competition Act No. 89 of 1998 as amended ("the Competition Act"), has to negotiate agreements with any regulatory authority according to which concurrent jurisdiction is exercised over competition matters within the relevant industry or sector, and to ensure the consistent application of the principles of the Competition Act;

WHEREAS the NCC is established in terms section 85 of the Consumer Protection Act No. 68 of 2008 ("the Consumer Act"), to promote fairness, openness and good business practice between the suppliers of goods or services and consumers of such goods and services;

WHEREAS the NCC is charged with the responsibility to enforce and carry out functions that aim to promote a fair, accessible and sustainable marketplace for consumer products and services, and for that purpose establish national norms and standards relating to consumer protection, provide for improved standards of consumer information, prohibit certain unfair marketing and business practices, promote responsible consumer behaviour and promote a consistent legislation and enforcement framework relating to consumer transactions.

AND WHEREAS, the NCC may in terms of the provisions of section 97(1)(b) of the Consumer Act liaise with and negotiate agreements with any regulatory authority on matters of common interest and the co-ordination and harmonization of the exercise of jurisdiction over consumer matters to ensure the consistent application of the principles of the Consumer Act.

AND WHEREAS, it is recorded that this Agreement shall, on an ongoing basis, be reviewed to accommodate developments incidental to matters that require


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co-operation between the two statutory bodies in the electronic communications, broadcasting and postal industries. The review shall consider prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.

THEREFORE, the Commission and the NCC agree as follows:

2. INTERPRETATION

In the interpretation of any terminology used in this Agreement, any word or expression to which a meaning is assigned in the Competition Act and the Consumer Act, has the meaning assigned to it unless otherwise specified.

3. OBJECT OF THE AGREEMENT

3.1. This Agreement is entered into to establish the manner in which the Commission and the NCC will interact with each other to enable them to, inter alia:

- 3.1.1. effectively coordinate the exercise of jurisdictional powers when taking decisions;
- 3.1.2. apply a consistent interpretation and application of the principles of competition and consumer law when exercising their powers and their respective functions in terms of their enabling legislation;
- 3.1.3. promote co-operation between the Commission and NCC ("Parties") in general, including in respect of setting of standards or conditions that affect matters of common interest, **any joint investigations, market inquiries** and/or research studies that the Parties may agree to undertake; and
- 3.1.4. timeously provide each other with necessary information in respect of the investigation of anticompetitive practices, regulation of mergers and acquisitions, protection of consumer rights, promotion of informed consumer decision making as well as research developments or studies.


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- 3.2. The Commission and the NCC may inform each other of any previous decision/judgement that either of them has previously taken in respect of the anticompetitive practice or conduct involving the same respondent, in so far as it pertains to competition matters.

4. PRINCIPLES OF COOPERATION

- 4.1. In order to achieve the purposes of this Agreement, the Parties have adopted and will comply with the principles of co-operation set out below:
- 4.1.1. the Parties will cooperate with each other in mutual trust and good faith;
 - 4.1.2. the Parties will assist and support each other in respect of agreed upon services and commitments between them in terms of this Agreement;
 - 4.1.3. the Parties will inform each other of, and consult each other on matters of common interest; and
 - 4.1.4. the Parties will avail to each other the necessary support for the successful performance of the tasks and programmes envisaged in this Agreement.

5. LEGISLATIVE FRAMEWORK

- 5.1. Before the exercise and performance of any powers and duties, the NCC must consider whether or not, in terms of any agreement concluded between the NCC and the Commission, it would be appropriate to refer an inquiry to the Commission; and
- 5.2. The terms and conditions of any agreement concluded between the NCC and the Commission, must bear in mind that the Commission has primary authority to detect and investigate past or current commissions of alleged prohibited practices within any industry or sector and to review mergers within any industry or sector in terms of the Competition Act;


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- 5.3. The NCC may ask for and receive from the Commission, assistance or advice on relevant proceedings of the Commission including competition related inquiries and, similarly, the Commission may ask for and receive from the NCC, assistance or advice on relevant proceedings of the NCC.
- 5.4. This Agreement shall in no way affect the independence and exercise of statutory powers by the two regulatory bodies in terms of enabling legislation.

6. COOPERATION BETWEEN THE PARTIES

The areas of cooperation between the parties shall include the following:

- 6.1. Collaboration and cooperation on matters encountered by either Party that affects the mandate and functions of the other;
- 6.2. Strategic collaboration on measures to promote and enhance consumer welfare;
- 6.3. Collaboration on advocacy and outreach initiatives to facilitate better access to the public and become more visibly involved in education and promotional campaigns, particularly in rural areas;
- 6.4. Collaboration on certain investigations which includes litigation support, sharing of skills and conducting of market inquiries in order to enhance each other's investigational capacity;
- 6.5. Any other areas of interest as may be identified from time to time.

7. GUIDELINES FOR INTERACTION BETWEEN THE COMMISSION AND THE NCC UNDER THIS AGREEMENT

- 7.1. The NCC may request and receive advice from the Commission, in respect of regulatory aspects in as far as it relates to consumer matters as set out in clauses 8 and 9 below;
- 7.2. The Commission may request and receive advice from the NCC, in respect of proceedings which require consideration of regulatory aspects falling under the competency of the NCC as set out in clauses 8 and 9 below; devise


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Page 6 of 16

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- 7.3. All requests for advice or information by either regulatory authority will be submitted in writing.
- 7.4. The regulatory authority seeking advice or information must indicate a deadline before or upon which such advice or information should be given by the other regulatory authority.
- 7.5. When the Commission and the NCC consult each other under this Agreement, they shall do so at no cost to each other and with an acknowledgement of their respective areas of expertise.
- 7.6. Should either regulatory authority consider a matter before it, in the form of a timeline, such regulatory authority would share with the other, its expected process, and the other regulatory authority would cooperate to the best of its ability, towards achieving the targets set out in the project timelines.

8. APPLICATION FOR APPROVAL IN RESPECT OF MERGER TRANSACTIONS

- 8.1. Where a merger transaction ("transaction") requires the approval of the Commission, which transaction has a negative impact on consumers, the Commission shall prior to arriving at a decision, consult the NCC so as to ensure the consistent application of consumer protection principles to the transaction in question.
- 8.2. Where the NCC recommends industry codes in line with the provisions of section 82 of the Consumer Act, the NCC shall, prior to it making a recommendation to the Minister of Trade, Industry and Competition, consult the Commission as to ensure the consistent application of competition principles in respect to the industry codes in question.
- 8.3. In either of the circumstances set out in 8.1 and 8.2 above, or in any other circumstances as may be agreed upon amongst the Parties in future, the


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Commission and the NCC may participate in each other's proceedings and may advise or receive advice from each other.

- 8.4. In either of the circumstances contemplated in 8.1, 8.2 and 8.3 above, the Commission and the NCC shall act as expeditiously as circumstances permit and shall each encourage the other party to achieve a timely response.
- 8.5. The Commission and the NCC shall make independent determinations on the basis of the criteria and mandates of their respective legislative and regulatory frameworks. In arriving at these determinations, the Commission and the NCC may consult each other in as far as competition matters are concerned.
- 8.6. When consulting each other, the Commission and the NCC must have regard to the principle that:
- 8.6.1. the Commission is to exercise primary authority in the review of mergers in any industry, as required to give effect to the Competition Act; and
- 8.6.2. the NCC is to exercise primary authority in matters related to the promotion and advancement of social and economic welfare of consumers as required to give effect to its applicable statutes.


9. COMPLAINTS

- 9.1. Where a complaint is lodged regarding a practice or conduct in respect of which either the Commission and the NCC have jurisdiction and the other Party has an interest, the following process will be followed to the extent possible:
- 9.1.1. The complaint may be lodged with the regulator that has jurisdiction;
- 9.1.2. If upon receiving a complaint, the Recipient Regulator is of a view that it does not have jurisdiction over the matter, the recipient regulator may advise the complainant(s) accordingly and recommend that the complainant refer the complaint to the relevant regulator.


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- 9.1.3. The Commission and NCC may consult with each other in respect of the complaint;
- 9.1.4. If the NCC is the recipient regulator that has jurisdiction, it may in its discretion liaise and consult with the Commission;
- 9.1.5. If the Commission is the recipient regulator that has jurisdiction, it may in its discretion liaise and consult with the NCC;
- 9.1.6. The Commission and the NCC may, upon request from each other, participate in each other's proceedings in an advisory capacity;
- 9.1.7. In consulting each other in respect of the complaint, the parties must have regard to the principle that –
- 9.1.7.1. The Commission is to exercise primary authority to detect and investigate alleged prohibited practices to give effect to the Competition Act; and
- 9.1.7.2. The NCC has primary authority to exercise powers and perform functions assigned to it in terms of the Consumer Act in order to give effect to its relevant legislation.
- 9.1.8. The recipient regulator may, in its discretion, advise the complainant(s) as soon as reasonably possible of the outcome of the consultation between the Commission and NCC;
- 9.1.9. The recipient regulator may give the complainant(s) further directions regarding the investigation of the complaint in question;
- 9.1.10. In the event that the matter is dealt with by the Commission, representatives from the NCC may, at the request of the Commission, participate in the matter through, inter alia, attending meetings when required, providing inputs during the case investigation and making representations at the Competition Tribunal hearing, if necessary.
- 9.1.11. In the event that the matter is dealt with by the NCC, representatives from the Commission may, at the request of the NCC, participate in the matter through, inter alia, attending meetings, providing inputs during the case investigation and making representations at the National Consumer Tribunal if necessary.


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- 9.2. The decision by any of the Parties to consult the other regulator shall be discretionary and voluntary, and either Party shall be entitled, with or without consultation, to make its independent decision in respect of the complaint in terms of its enabling legislation;
- 9.3. Nothing in the consultation procedures contemplated herein, shall detract from the jurisdiction of the Commission or the jurisdiction of the NCC to receive and deal with complaints in terms of their enabling statutes as they deem fit, or preclude the public from lodging complaints with both the Commission and the NCC.
- 9.4. When the Commission and the NCC consult each other, as contemplated in this Agreement, they shall do so at no cost to each other and shall act as expeditiously as possible.

10. ESTABLISHMENT OF THE JOINT WORKING COMMITTEE

- 10.1. A Joint Working Committee ("the Committee") constituted by representatives of the Commission and the NCC, as nominated by the respective regulators, shall be established pursuant to this Agreement and shall function on an on-going basis.
- 10.2. The functions of the Committee shall be:
- 10.2.1. To manage and facilitate co-operation and consultation in respect of matters dealt with by each regulator in terms of this Agreement;
 - 10.2.2. To propose, when necessary, any amendment of or supplementation to this Agreement;
 - 10.2.3. To advise management of both the Commission and the NCC on issues affecting competition and consumer protection in South Africa, as the case may be, and make recommendations on how to deal with same. Such advice shall be on, but not limited to the following:


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- 10.2.3.1. Types of conduct or transactions affected by both or either the Competition Act and the Consumer Act;
 - 10.2.3.2. Policy considerations and the development of standards, where necessary, in relation to matters of common interest to the two Parties;
 - 10.2.3.3. International approach to issues of interest or overlap between a Competition Authority and the Consumer Protection Authority, as the case may be;
 - 10.2.3.4. Amendments to the relevant or applicable statutes that may be necessary from time to time; and
 - 10.2.3.5. Any other related matter.
- 10.3. The Committee shall meet regularly, but no less than once every six months, to ensure both regulatory authorities are aware of developments in areas of common interest.

11. INSTITUTIONAL CONTACT PERSONS

For purposes of this Agreement:

- 11.1. The Manager of the Advocacy Division will be the main contact person at the Commission.
- 11.2. The Senior Manager of Stakeholder Relations and Advocacy will be the main contact person at the NCC.
- 11.3. Should the regulatory authorities have to exchange information, as a result of discussions at the Committee, the processes set out in this Agreement shall be followed.


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12. EXCHANGE OF INFORMATION

- 12.1. Subject to paragraph 13 below, the Commission and the NCC may exchange information as may be necessary to give effect to this Agreement.

13. CONFIDENTIALITY

- 13.1. Any information shared by the Commission and the NCC pursuant to this Agreement must be used only for lawful purposes in matters of concurrent jurisdiction.
- 13.2. Any request made by either of the parties for confidential information in possession of the other shall be dealt with in accordance with the procedures set out in the parties' respective enabling legislation or policies or procedures.
- 13.3. The parties shall ensure that confidential information accordingly disclosed to them remains confidential and is not placed in the public domain through any negligent or wilful conduct on its behalf.
- 13.4. To the extent permitted by law, the Commission and the NCC shall hold confidential information received from each other pursuant to this Agreement and shall not otherwise disclose such information except when required to do so by the law or an order of a Court or a Tribunal.
- 13.5. The Commission and the NCC shall, prior to disclosing such confidential information or a part thereof when required to do so by the law or an order of a Court or a Tribunal, notify each other of the law or an order of a Court or Tribunal requiring such disclosure.
- 13.6. The sharing of confidential information, in accordance with this Agreement, relies on the assurances given in 13.1, 13.2 and 13.3 above and shall not constitute a waiver of any legally recognizable grounds for refusing disclosure of information.


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- 13.7. Where confidential information is disclosed either by the Commission or the NCC in contravention of this Agreement, such disclosing party shall be solely liable in law for such disclosure.
- 13.8. Any of the parties may in its discretion decline a request for confidential information made in terms of this Agreement.

14. GENERAL PROVISIONS

- 14.1. The provision of, or request for information under this Agreement may be denied:
- 14.1.1. where compliance would require the Commission or the NCC to act in a manner that would violate the applicable law;
 - 14.1.2. under circumstances where there is an imminent risk to national security; or
- 14.2. When compliance with a request or provision of information would interfere with an ongoing investigation in circumstances where prejudice to the investigation is likely to outweigh the adverse effects of denying the information.
- 14.3. No provision of this Agreement shall give rise to a right on the part of any person, entity or organ of state other than the Commission and the NCC, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this Agreement.
- 14.4. The provisions set forth under clauses 12 and 13 must prevail with respect to any information provided or actions taken under this Agreement prior to its termination.



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15. NON-VARIATION

- 15.1. This Agreement constitutes the whole of the agreement between the parties relating to the subject matter hereof.
- 15.2. No amendment or consensual cancellation of this Agreement or any term of this Agreement, including this clause shall be binding unless recorded in a written document signed by duly authorised representatives of both regulators.

16. TERMINATION OF PREVIOUS AGREEMENTS

- 16.1. This Agreement terminates existing agreements entered into between the Commission and the NCC.
- 16.2. Any pending transactions, projects, requests being processed in terms of any existing Memorandum of Agreement shall be brought to completion in terms of this Agreement and shall be considered in effect.

17. EFFECTIVE DATE OF THE AGREEMENT

This Agreement comes into force after:

- 17.1. it has been signed by persons authorised to act on behalf of both the regulators; and
- 17.2. it has been published in the Government Gazette.

18. DURATION OF THE AGREEMENT

- 18.1. This Agreement must remain in force until it is amended or repealed by both regulators acting jointly.



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19. REVIEW OF THE AGREEMENT

19.1. This Agreement shall, on an ongoing basis, be reviewed to accommodate developments incidental to matters that require co-operation between the two statutory bodies in the electronic communications, broadcasting and postal industries. The review shall take into account prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.

20. DISPUTE RESOLUTION

20.1. Should any dispute or difference arise between the regulators with regard to interpretation and/or implementation of any one or more of the provisions of this Agreement, such dispute or difference must be resolved in a manner other than through judicial proceedings.

21. DOMICILIUM CITANDI ET EXECUTANDI

21.1. The regulators choose the following addresses as their respective domicilium citandi et executandi for purposes of this Agreement:

THE COMPETITION COMMISSION

The DTI Campus Mulayo (Block C), 77 Meintjies Street, Sunnyside, Pretoria

CONTACT PERSON: Manager: Advocacy Division

THE NATIONAL CONSUMER COMMISSION

South African Bureau of Standards Campus, Block C, 1 Dr Lategan Road, Groenkloof, Pretoria

CONTACT PERSON: Ms Keitheng Mothemela: Senior Manager: Stakeholder Relations and Advocacy


King Tembinkosi Bonakele
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SIGNATURE

Signed at _____ on this ____ day of _____ by
Mr. Tembinkosi Bonakele, Commissioner of the Competition Commission South Africa.



King Tembinkosi Bonakele
30/03/2021 14:20:26 (UTC+02:00)
Signed by King Tembinkosi
Bonakele,

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COMPETITION COMMISSION

WITNESS 1

WITNESS 2

Signed at Groenkloof on this 24th day of November 2020 by Ms
Thezi Mabuza in her capacity as the Acting Commissioner of National Consumer Commission.



NATIONAL CONSUMER COMMISSION


WITNESS 1


WITNESS 2

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 581

2 July 2021

MEMORANDUM OF UNDERSTANDING

("MOU")

Entered into between

THE COMPETITION COMMISSION OF SOUTH AFRICA

("Commission")

a juristic person established in terms of section 19 of the Competition Act No. 89 of 1998 as amended, ("Competition Act"), herein duly represented by **Mr. Tembinkosi Bonakele**, in his capacity as the **Commissioner** of the Commission.

And

SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION

(Hereinafter referred to as "SACAP")

A statutory body established in terms of the Architectural Profession Act 2000, Act 44 of 2000 ("Architectural Profession Act") herein duly represented by **Mr. Ntsindiso Charles Nduku** in his capacity as **President** of SACAP.



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PREAMBLE

WHEREAS the Commission and SACAP acknowledge that there are a number of competition issues arising in the architectural sector, most of which are related to the Identification of Work Policy ("IDOW") and the publication of Professional Guideline Fees. The Commission has been approached by complainants on these matters.

WHEREAS section 20 of the Council for the Built Environment Act, 43 of 2000 ("CBE Act") impels the Council for the Built Environment to identify the scope of work for each category of registered persons.

AND WHEREAS section 26(2) of the Architectural Profession Act, 44 of 2000 ("Architectural Profession Act") impels SACAP to consult and submit recommendations to the Council for the Built Environment on the scope of work for every category of registered persons in the architectural profession.

WHEREAS in terms of section 20(1)(2) of the CBE Act, the Council for the Built Environment must, after receipt of the recommendations from SACAP and before liaising with the Competition Commission in terms of section 4(q); determine policy with regard to the identification of work for the different categories of registered persons; consult with any person, body or industry that may be affected by the identification of work. The Council for the Built Environment must, after consultation with the Competition Commission, and in consultation with the Council, identify the scope of work for every category of registered persons.

WHEREAS the objectives of the IDOW are to:

- (i) comply with the section 26 (1), (2) of the Architectural Profession Act read with Section 20 (1), (2) of the CBE Act.
- (ii) protect the public by identifying the type of architectural work that each registration category in the architectural profession can undertake;
- (iii) protect the environment;
- (iv) provide a policy for the identification of work between categories of registration in the architectural profession;
- (v) provide for an effective and efficient mechanism for addressing and recognizing overlaps and duplication between work identified by different built environment professions;



- (vi) ensure that where work is to be carried out by different categories of professional registration, there are clear and transparent ways of determining the category of professional to carry out the work;
- (vii) facilitate the most economically, socially and technically efficient use of the built environment professions and their categories of registration with a view to attaining maximum benefit for the public; and
- (viii) ensure that the identification of work is inclusive and promotes adequate competition to benefit both the consumers and registered persons;
- (ix) ensure a unified alignment for determination of professional competence.

WHEREAS the purpose of the IDOW is to guide SACAP in their Identification of Work, incorporating existing standards and legislation while guarding against imposing unnecessary regulation and uncompetitive practices. The IDOW also serves to harmonise the overlaps between work identified by SACAP and work identified for the various categories of registered architects within SACAP.

WHEREAS the purpose of the IDOW is to set out the qualifications and skills requirements for the performance of architectural work and to detail the kind of architectural work that can be undertaken under each of its registration categories. The IDOW identifies mechanisms that can be used by professionals who continue to do work which has not been identified for their category, as well as the mechanism which can be used to move up to higher categories. Such mechanisms include:

- (i) Recognition of Prior Learning which recognises prior learning and provides an opportunity for registered professionals who do not have formal qualification but have informal qualification to perform architectural work.
- (ii) The Special Consent mechanism which grants permission to registered professionals who have made an application to do a type of project that is not identified for their category of registration.
- (iii) The Special Limited Dispensation which enables registered persons in lower categories to continue to perform work outside of their category of registration for a period of one year from the date the of the publication of the IDOW.



- (iv) The Transitional Provision which enables registered professionals to continue to practice work outside of their category of registration until the effective date of the publication of the Identification of work policy.

WHEREAS the Commission has considered the revised IDOW and acknowledges the proposed reforms to be put in place by SACAP to address the competition and transformation concerns that emanated from previous versions of the IDOW in order to ensure that it is inclusive and promotes competition. Such proposed reforms include:

- (i) The reconsideration of the fees required for the application of each of the mechanisms listed above. This entails the development of a framework to deal with different fee scales that are reasonable for the different categories of registration.
- (ii) The diversification of the Panel of Assessors to include more academics, retired professionals, and independent persons who are not affiliated to any Council, for purposes of maintaining independence of the Panel of Assessors.
- (iii) Regular substantive review of the IDOW that involves extensive consultation with all persons and industries affected by the IDOW.
- (iv) Inclusion of unregistered persons in the sector through advocacy initiatives aimed at policy and legislative amendments.

AND WHEREAS SACAP is obliged to consult with the Council of Higher Education and South African Qualifications Authority in connection with the educational standards, as well as with the Council for the Built Environment on matters such as the Code of Conduct and Identification of Work.

WHEREAS the purpose of the Professional Guideline Fee is to provide clients, in particular Government entities, with guidance on the fees relating to the various types of projects.

WHEREAS the Commission has considered the proposed Professional Guideline Fee *vis-a-vis* to the previous Professional Guideline Fee. The Commission is satisfied that the proposed Professional Guideline Fee is an improvement from a competition perspective on its predecessor in that it will now:

- (i) be determined by a third-party not affiliated with SACAP; and
- (ii) use actual fees charged by registered professionals plus the costs of providing architectural services to determine the fee.

AND WHEREAS, the Commission will monitor the impact of the Professional Guideline Fee on the market against concerns that may be detrimental to competition in the market.

THEREFORE, the Commission and SACAP are entering into this Memorandum of Understanding ("MOU") within this context.

WHEREAS it is recorded that this Agreement shall, on an ongoing basis, be reviewed to accommodate developments incidental to matters that require co-operation between the Commission and SACAP in the built environment. The review shall take into account prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.

WHEREAS the intention of the parties entering into this Agreement is to work together to promote competition within the architectural profession, nothing in this Agreement shall preclude the Commission from investigating complaints lodged against SACAP on matters falling within its jurisdiction.

NOW THEREFORE, the Commission and SACAP agree as follows:

1. INTERPRETATION

- 1.1. In the interpretation of any terminology used in this Agreement, any word or expression to which a meaning is assigned in the Competition Act 89 of 1998, as amended ("Competition Act") and the Architectural Profession Act, has the meaning assigned to it unless otherwise specified.

2. PURPOSE OF THE MOU

- 2.1. Effectively coordinate exercise of the Commission's and SACAP's jurisdiction and powers when taking decisions on competition matters within the architectural profession.
- 2.2. Timeously provide each other with necessary information in respect of the investigation of anti-competitive practices, regulation of mergers and acquisitions, as well as research developments or studies within the built environment.
- 2.3. Advocate for professional councils to advocate for compliance with competition law principles including on regulatory policies such as the identification of work and guidelines professional fees.



3. LEGISLATIVE FRAMEWORK

- 3.1. The Commission has jurisdiction to investigate and evaluate alleged prohibited practices within any industry or sector, to grant or refuse exemption applications, to review mergers within any industry or sector and to conducting market inquiries in terms of section 21(1) of the Competition Act. Accordingly, SACAP agrees that the Commission shall exercise its jurisdiction as provided for in the Competition Act, to investigate and evaluate alleged prohibited practices, to grant or refuse exemption applications, and to review mergers within the built environment.
- 3.2. the Commission, in terms of the provisions of section 21(1) (h) read with section 82 (2) of the Competition Act has to negotiate agreements with any regulatory authority which, in terms of any public regulation, has jurisdiction in respect of conduct regulated in terms of the Competition Act. In respect of a particular matter within the regulatory authority's jurisdiction, the regulatory authority may exercise its jurisdiction by way of an agreement.
- 3.3. SACAP is a statutory body established in terms of the Architectural Profession Act to regulate the architectural profession.
- 3.4. Section 18 of the Architectural Profession Act provides for the registration of Professional Architects, Senior Architectural Technologists, Architectural Technologists, Architectural Draughtspersons and Candidates in each of the categories of registration.
- 3.5. SACAP's core mandate is to regulate the architectural profession by setting up standards for registration, education and training, professional skills, conduct, performance and ethics; keep a register of candidates and professionals who meet the standards; approve programmes at higher institutions of learning which persons must complete to register; and take action when professionals on the register do not meet the standards; make recommendation with regard to the type of work identified for each category of registered person and determine guideline professional fees and publish those fees in the Government Gazette.

4. COOPERATION BETWEEN THE PARTIES

- 4.1. This MoU shall in no way affect the independence and exercise of statutory powers by the two regulatory authorities in terms of their enabling legislation.



- 4.2. The Parties agree to support each other in identifying and investigating the conduct within the built environment which may contravene the Competition Act in relation to the following:

4.2.1. Identification of Work Policy (IDOW)

- 4.2.1.1. The parties agree to consult with each other annually on any proposed changes to the IDOW to ensure that its provisions are pro-competitive and that nothing in the policy contravenes any section or objectives of the Competition Act.
- 4.2.1.2. The parties agree to cooperate to ensure that the design and application of the IDOW:
- i) does not exclude unregistered persons or non-members of SACAP from participating in the market;
 - ii) that it facilitates access to architectural work to all registered and unregistered persons; and
 - iii) that it promotes transformation of the architectural profession.
- 4.2.1.3. The parties agree to work together to ensure the following:
- i) That there is extensive consultation between SACAP and all parties that are interested and / or affected by the IDOW prior to its publication; and
 - ii) That the policy obtains a broad buy-in from parties that are interested and / or affected by the IDOW prior to publication.
- 4.2.1.4. The parties agree to annually co-review the effectiveness of pro-competitive policy measures and interventions including the Recognition of Prior Learning, Special Consent, Special Limited Dispensation and Transitional Provisions.
- 4.2.1.5. The parties agree to regularly co-review the composition of the Panel of Assessors, whose duties are to assess applications of architectural professionals and make recommendations, in order to ensure that the Panel is balanced.
- 4.2.1.6. The parties agree to consult each other in developing mechanisms and policies required to safeguard the independence and objectivity of the

assessment processes which entail reviewing applications of architectural professionals against criteria and standards, making a recommendation to SACAP to either accept or reject the application.

4.2.2. Setting of Fee Guidelines

4.2.2.1. The parties agree to consult with each other on the process for the setting of the fee guidelines to:

- iv) ensure that such process does not contravene any section or objectives of the Competition Act; and
- v) ensure the mitigation of any competition concerns that may arise from the process.

4.2.2.2. The parties agree to undertake periodic monitoring of the developments in the industry.

4.2.2.3. The parties agree to periodically co-review the Fee Guideline Policy in order to assess:

- i) the effects the fee guideline on the state of competition, transformation, and inclusion in the market.
- ii) The effects of the fee guideline on Government procurement practices

4.2.2.4. The parties agree that the Commission may also provide guidance for fee setting to SACAP in order to mitigate and address any competition and transformation concerns that may arise from the Professional Guideline Fee.

4.2.3. Merger Decisions

4.2.3.1. Where a merger transaction ("transaction") requires the approval of the Commission, and such a transaction has a negative impact on competition in the market, the Commission may, prior to arriving at a decision, consult SACAP to minimise any adverse effects that may possibly arise from the transaction.

4.2.3.2. When consulting each other in respect of merger transactions, the Commission and SACAP must have regard to the principles that the

Commission shall exercise jurisdiction as set out in Chapter 3 of the Competition Act, in the review of mergers in any industry, as required, to give effect to the Competition Act.

4.2.4. Complaints

4.2.4.1. Where a complaint is lodged regarding a practice or conduct in respect of which either the Commission and SACAP have jurisdiction, and one or either of the authorities has an interest in the complaint, the following process will be followed to the extent possible:

- i) The complaint may be lodged with the regulator that has jurisdiction ("Recipient Regulator");
- ii) If upon receiving a complaint, the Recipient Regulator is of the view that it does not have jurisdiction over the matter, the Recipient Regulator may advise the complainant(s) accordingly and recommend that the complainant refer the complaint to the relevant regulator;
- iii) The Commission and SACAP may consult with each other in respect of the complaint;
- iv) If SACAP is the recipient regulator that has jurisdiction, it may in its discretion, liaise and consult with the Commission;
- v) If the Commission is the recipient regulator that has jurisdiction, it may in its discretion, liaise and consult with SACAP;
- vi) The Commission and SACAP may, upon request from each other, participate in each other's proceedings in an advisory capacity;
- vii) In consulting each other in respect of the complaint, the parties must have regard to the principle that the Commission is to exercise primary authority to investigate and evaluate alleged prohibited practices to give effect to the Competition Act. Accordingly, SACAP has primary authority to exercise powers and perform functions assigned to it in terms of the Architectural Profession Act in order to give effect to its relevant objectives and provisions contained therein;



- viii) The Recipient Regulator may, in its discretion, advise the complainant(s) as soon as reasonably possible of the outcome of the consultation between the Commission and SACAP;
- ix) In the event that a complaint is dealt with by the Commission, representatives from SACAP may, at the request of the Commission, participate in the matter through, *inter alia*, attending meetings when required, providing inputs during the case investigation and making representations at the Competition Tribunal hearing, if necessary;
- x) In the event that a complaint is dealt with by SACAP, representatives from the Commission may, at the request of SACAP, participate in the matter through, *inter alia*, attending meetings, providing inputs during the case investigation and making representations at SACAP's proceedings if necessary;
- xi) The decision by any of the Parties to consult the other regulator shall be discretionary and voluntary, and either Party shall be entitled, with or without consultation, to make its independent decision in respect of the complaint in terms of its enabling legislation;
- xii) Nothing in the consultation procedures contemplated herein, shall detract from the jurisdiction of the Commission or the jurisdiction of SACAP to receive and deal with complaints in terms of their enabling statutes as they deem fit, or preclude the public from lodging complaints with both the Commission and SACAP; and
- xiii) When the Commission and SACAP consult each other, as contemplated in this Agreement, they shall do so at no cost to each other and shall act as expeditiously as possible.

4.2.5. Other: Advocacy Projects Related to the Architectural Sector

- 4.2.5.1. The parties agree to co-operate and collaborate on efforts to advance policy and legislative reforms that promote transformation and inclusion in the sector.
- 4.2.5.2. Such reforms shall include but are not limited to issues pertaining to qualifications from varied tertiary institutions, the treatment of unregistered

persons and any other policy advocacy aimed at achieving transformation and inclusion in the sector.

4.2.5.3. The parties agree that other areas of cooperation between the Commission and SACAP shall include the following:

- i) Collaboration and cooperation on matters encountered by either regulatory authority that affects the mandate and functions of the other.
- ii) Strategic collaboration on measures to promote competition in the built environment.
- iii) Any other areas of interest as may be identified from time to time.

5. GUIDELINES FOR INTERACTION BETWEEN THE COMMISSION AND SACAP UNDER THIS MOU

- 5.1. SACAP may request and receive advice from the Commission, in respect of aspects falling under the competency of the Commission in matters relating to the architectural sector or proceedings as set out in clauses 7 and 8 below.
- 5.2. The Commission may request and receive advice from SACAP, in respect of proceedings which require consideration of regulatory aspects falling under the competency of SACAP as set out in clauses 7 and 8 below.
- 5.3. All requests for advice or information by either regulatory authority will be submitted in writing.
- 5.4. The regulatory authority seeking advice or information must indicate a deadline before or upon which such advice or information should be given by the other regulatory authority.
- 5.5. When the Commission and SACAP consult each other under this Agreement, they shall do so at no cost to each other and with an acknowledgement of their respective areas of expertise.
- 5.6. Should either regulatory authority consider a matter before it, in terms of a timeline, such regulatory authority may share with the other, its expected process, and the other regulatory authority may cooperate to the best of its ability, towards achieving the targets set out in the project timelines.



CONTINUES ON PAGE 130 OF BOOK 2

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REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

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2

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Julie

2021

No. 44799

PART 2 OF 3

6. ESTABLISHMENT OF THE JOINT WORKING COMMITTEE

- 6.1. A Joint Working Committee ("JWC") constituted by representatives of the Commission and SACAP, as nominated by the respective regulators, shall be established pursuant to this Agreement and shall function on an on-going basis.
- 6.2. The functions of the JWC shall be:
- 6.1.1. to manage and facilitate co-operation and consultation in respect of matters dealt with by each regulator in terms of this Agreement;
 - 6.1.2. to propose, when necessary, any amendment of or supplementation to this Agreement;
 - 6.1.3. to advise management of the Commission and SACAP on issues affecting competition in the architectural sector, as the case may be, and make recommendations on how to deal with same. Such advice shall be on, but not limited to, the following:
 - 6.1.3.1. International approach to issues of overlap concerning jurisdiction between Commission and SACAP, as the case may be;
 - 6.1.3.2. Amendments to the relevant or applicable statutes that may be necessary from time to time; and
 - 6.1.3.3. Any other related matter.
- 6.2. The JWC shall meet regularly, but no less than twice a year, to ensure both regulatory authorities are aware of developments in areas of common interest.
- 6.3. The JWC will develop annual programmes of action with milestones.

7. INSTITUTIONAL CONTACT PERSONS

- 7.1. For purposes of this Agreement:
- 7.1.1. The Manager of the Advocacy Division will be the main contact person at the Commission.
 - 7.1.2. The Registrar will be the main contact person at SACAP.
 - 7.1.3. Should the regulatory authorities have to exchange information, as a result of discussions at the JWC, the processes set out in this Agreement shall be followed.



8. DURATION OF THE AGREEMENT

- 8.1. This Agreement must remain in force for a period of 5 years from the date of signature, until it is amended or repealed by both regulators, acting jointly.

9. TERMINATION OF PREVIOUS AGREEMENTS

- 9.1. This Agreement terminates any existing agreements entered into between the Commission and SACAP.

10. EFFECTIVE DATE OF THE AGREEMENT

- 10.1. This Agreement shall come into effect on the date on which it is last signed by the persons authorized to act on behalf of either of the Parties.
- 10.2. This Agreement shall be governed and construed in accordance with the laws of the Republic of South Africa.

11. REVIEW AND AMENDMENT OF THE AGREEMENT

- 11.1. The parties may when necessary, amend or update this Agreement shall, to accommodate developments incidental to matters that require co-operation between the two statutory bodies in the architectural sector. The review shall take into account prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.

12. DISPUTE RESOLUTION

- 12.1. Should any dispute or difference arise between the regulators with regard to interpretation and/or implementation of any one or more of the provisions of this Agreement, such dispute or difference may be resolved in any manner other than through judicial proceedings.

13. LEGAL EFFECT

- 13.1. This Agreement is not intended to be a legally enforceable document and intends to describe the nature and co-operative intentions of the Parties involved, and to suggest

guidelines for co-operation. Nothing therefore shall diminish the full autonomy of either Party nor may constrain either Party from discharging its statutory functions.

14. DOMICILIUM CITANDI ET EXECUTANDI

14.1. The regulators choose the following addresses as their respective *domicilium citandi et executandi* for purposes of this Agreement:

The Competition Commission:

Block C, DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, 0002

Contact Person: Mrs Khanyisa Qobo, Manager: Advocacy Division

The South African Council for the Architectural Profession:

51 Wessel Rd, Edenburg, Sandton, 2128

Contact Person: Toto Fiduli, Registrar: The South African Council for the Architectural Profession

Signatures

Signed at PRETORIA on this 04 day of JUNE 2021 by

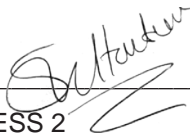
Mr. **Tembinkosi Bonakele**, Commissioner of the Competition Commission South Africa.



COMPETITION COMMISSION



WITNESS 1



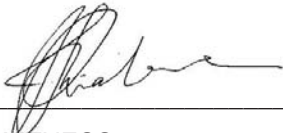
WITNESS 2

Signed at _____ on this ____ day of _____ by

Mr Ntsindiso Charles Nduku in his capacity as President of the South African Council for the Architectural Profession.



SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION



WITNESS 1



WITNESS 2

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 582

2 July 2021

MEMORANDUM OF AGREEMENT

("MOA")

Entered into between

THE COMPETITION COMMISSION OF SOUTH AFRICA

("the Commission")

a juristic person established in terms of section 19 of the Competition Act No. 89 of 1998 as amended, ("the Competition Act"), herein duly represented by **Mr. Tembinkosi Bonakele**, in his capacity as the **Commissioner** of the Competition Commission of South Africa

And

NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

(Hereinafter referred to as "NERSA")

A juristic person established in terms of section 3 of the National Energy Regulator Act, No. 40 of 2004, ("the Energy Act") herein duly represented by **Advocate Nomalanga Sithole** in her capacity as **Acting Chief Executive Office** of NERSA.



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PREAMBLE

WHEREAS, the Commission is mandated by the Competition Act No 89 of 1998 as amended ("the Competition Act") to, *inter alia*, investigate and evaluate restrictive practices, abuse of dominant position, exemptions and mergers, as well as conducting market inquiries;

AND WHEREAS, the Commission, in terms of the provisions of section 21(1) (h) read with section 82 (2) of the Competition Act has to negotiate agreements with any regulatory authority which, in terms of any public regulation, has jurisdiction in respect of conduct regulated in terms of the Competition Act. In respect of a particular matter within the regulatory authority's jurisdiction, the regulatory authority may exercise its jurisdiction by way of an agreement;

WHEREAS NERSA is established in terms of section 3 of the National Energy Regulator Act No 40 of 2004 (the "NERSA Act") to regulate the electricity, piped-gas, and petroleum pipeline industries in terms of the Electricity Regulation Act No 4 of 2006 ("Electricity Act"), the Gas Act No 48 of 2001 ("Gas Act"), and the Petroleum Pipelines Act No 60 of 2003 ("Petroleum Pipelines Act") respectively;

WHEREAS the key functions of NERSA are to regulate the electricity, piped-gas, and petroleum pipeline industries; issue licenses, set and approve tariffs and charges, mediate disputes, gather information pertaining to electricity, gas and petroleum pipelines and promote the optimal use of gas resources;

AND WHEREAS in terms of the objectives as set out in the Electricity Act; the Gas Act and the Petroleum Pipelines Act, respectively, NERSA is obliged to promote the development of competitive markets in the electricity; gas and gas services as well as in the petroleum pipelines industries.

AND WHEREAS, NERSA, in terms of section 4(e) of the Petroleum Pipelines Act and the Gas Act may consult with government department and other bodies and institutions regarding any matter contemplated in its legislation;



AND WHEREAS, it is recorded that this Memorandum of Agreement (The Agreement) shall, on an ongoing basis, be reviewed to accommodate developments incidental to matters that require co-operation between the Commission and NERSA in the electricity, piped-gas, and petroleum pipeline industries. The review shall take into account prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.

NOW THEREFORE, the Commission and NERSA agree as follows:

1. INTERPRETATION

In the interpretation of any terminology used in this Agreement, any word or expression to which a meaning is assigned in the Competition Act, NERSA Act, Electricity Act, the Gas Act and the Petroleum Pipelines Act, has the meaning assigned to it unless otherwise specified.

2. PURPOSE OF THE AGREEMENT

2.1. This Agreement is entered into to establish the manner in which the Commission and NERSA will interact with each other to enable both regulatory authorities to, *inter alia*:

- 2.1.1. effectively coordinate the exercise of the Commission's jurisdiction and powers when taking decisions on competition matters within the energy sector;
- 2.1.2. apply a consistent interpretation and application of the principles of competition when exercising their powers and their respective functions in terms of their enabling legislation;
- 2.1.3. consult each other regarding the definition of markets for electricity, piped-gas and petroleum pipelines and determining whether there is effective competition in these markets, and undertaking enquiries



regarding dominance or significant market power in such markets;
and

- 2.1.4. timeously provide each other with necessary information in respect of the investigation of anti-competitive practices, regulation of mergers and acquisitions, as well as research developments or studies within the energy market.

- 2.2. The Commission and NERSA may inform each other of any previous decision or judgement that either of them has previously taken in respect of the anti-competitive practice or conduct involving the same party/parties, in so far as it pertains to competition matters.

3. PRINCIPLES OF COOPERATION

- 3.1. In order to achieve the purposes of this Agreement, the Commission and NERSA have agreed to:

- 3.1.1. cooperate with each other in mutual trust and good faith;
- 3.1.2. assist and support each other in respect of agreed upon services and commitments between them in terms of this Agreement;
- 3.1.3. inform each other of, and consult each other on matters of common interest; and
- 3.1.4. provide to each other the necessary support for the successful performance of the tasks and programmes envisaged in this Agreement.



4. LEGISLATIVE FRAMEWORK

- 4.1. the Commission has jurisdiction to investigate and evaluate alleged prohibited practices within any industry or sector, to grant or refuse exemption applications, and to review mergers within any industry or sector in terms of section 21(1) of the Competition Act. Accordingly, NERSA agrees that the Commission shall exercise its jurisdiction as provided for in Competition Act, to investigate and evaluate alleged prohibited practices, to grant or refuse exemption applications, and to review mergers within the energy sector.
- 4.2. NERSA is established in terms of section 3 of the Energy Act to regulate the electricity, piped-gas, and petroleum pipeline industries and to carry out the objectives of the Electricity Act, the Gas Act, and the Petroleum Pipelines Act respectively;
- 4.3. This Agreement shall in no way affect the independence and exercise of statutory powers by the two regulatory authorities in terms of their enabling legislation.

5. COOPERATION BETWEEN THE PARTIES

- 5.1. The areas of cooperation between the Commission and NERSA shall include the following:
- 5.1.1. Collaboration, cooperation and deference on matters encountered by either regulatory authority that affects the mandate and functions of the other.
 - 5.1.2. Strategic collaboration on measures to promote competition in the electricity, piped-gas and petroleum pipelines industries.
 - 5.1.3. Collaboration on advocacy and outreach initiatives to facilitate better access to the public and become more visibly involved in education and promotional campaigns, particularly in rural areas.



5.1.4. Any other areas of interest as may be identified from time to time.

6. GUIDELINES FOR INTERACTION BETWEEN THE COMMISSION AND NERSA UNDER THIS AGREEMENT

- 6.1. NERSA may request and receive advice from the Commission, in respect of aspects falling under the competency of the Commission in matters relating to the electricity, piped-gas and petroleum pipelines industries or proceedings as set out in clauses 7 and 8 below.
- 6.2. The Commission may request and receive advice from NERSA, in respect of proceedings which require consideration of regulatory aspects falling under the competency of NERSA as set out in clauses 7 and 8 below.
- 6.3. All requests for advice or information by either regulatory authority will be submitted in writing.
- 6.4. The regulatory authority seeking advice or information must indicate a deadline before or upon which such advice or information should be given by the other regulatory authority.
- 6.5. When the Commission and NERSA consult each other under this Agreement, they shall do so at no cost to each other and with an acknowledgement of their respective areas of expertise.
- 6.6. Should either regulatory authority consider a matter before it, in terms of a timeline, such regulatory authority would share with the other, its expected process, and the other regulatory authority would cooperate to the best of its ability, towards achieving the targets set out in the project timelines.



7. APPLICATION FOR APPROVAL IN RESPECT OF MERGER TRANSACTIONS

- 7.1. Where a merger transaction ("transaction") requires the approval of both the Commission and licence from NERSA, such as one involving the issuance or revocation of a licence or control, the Commission and NERSA shall consider the transaction in accordance with their enabling legislation.¹ The merging parties shall submit applications containing the required information to both the Commission (in accordance with the Competition Act) and to NERSA (in accordance with the Energy Act) for their respective consideration.
- 7.2. Where a transaction requires the approval of the Commission, such as one involving the issuance or revocation of a licence or control, the Commission may prior to arriving at a decision, consult NERSA so as to ensure the consistent application of principles to the transaction in question.
- 7.3. The Commission and NERSA shall make independent determinations on the basis of the criteria and mandates of their respective legislative and regulatory frameworks. In arriving at these determinations, the Commission and NERSA may consult each other in as far as competition matters are concerned.
- 7.4. When consulting each other in terms of sub-clause 7.2 above, the Commission and NERSA must have regard to the principles that:
- 7.4.1. the Commission shall exercise jurisdiction as set out in Chapter 3 of the Competition Act, in the review of mergers in any industry, as required, to give effect to the Competition Act.
 - 7.4.2. NERSA shall exercise its authority as provided for by the Electricity, Gas and Petroleum Pipelines Acts, respectively, in order to regulate

¹ The Commission is responsible to authorize, with or without conditions, prohibit or refer mergers of which it receives notice in terms of Chapter 3 of the Competition Act.



and establish conditions within the electricity, piped-gas and petroleum pipelines industries.

8. COMPLAINTS

8.1. Where a complaint is lodged regarding a practice or conduct in respect of which either the Commission and NERSA have jurisdiction and the other one or either of the authorities has an interest in the complaint, the following process will be followed to the extent possible:

- 8.1.1. The complaint may be lodged with the regulator that has jurisdiction ("recipient regulator");
- 8.1.2. If upon receiving a complaint, the recipient regulator is of a view that it does not have jurisdiction over the matter, the recipient regulator may advise the complainant(s) accordingly and recommend that the complainant refer the complaint to the relevant regulator.
- 8.1.3. The Commission and NERSA may consult with each other in respect of the complaint;
- 8.1.4. If NERSA is the recipient regulator that has jurisdiction, it may in its discretion liaise and consult with the Commission;
- 8.1.5. If the Commission is the recipient regulator that has jurisdiction, it may in its discretion liaise and consult with NERSA;
- 8.1.6. The Commission and NERSA may, upon request from each other, participate in each other's proceedings in an advisory capacity;
- 8.1.7. In consulting each other in respect of the complaint, the parties must have regard to the principle that –



- 8.1.7.1. The Commission is to exercise primary authority to investigate and evaluate alleged prohibited practices to give effect to the Competition Act; and
- 8.1.7.2. NERSA has primary authority to exercise powers and perform functions assigned to it in terms of the Energy Act, the Electricity Act, the Gas Act and the Petroleum Pipelines Act in order to give effect to its relevant objectives and provisions contained therein.
- 8.1.8. The recipient regulator may, in its discretion, advise the complainant(s) as soon as reasonably possible of the outcome of the consultation between the Commission and NERSA;
- 8.1.9. The recipient regulator may give the complainant(s) further directions regarding the investigation of the complaint in question;
- 8.1.10. In the event that the matter is dealt with by the Commission, representatives from NERSA may, at the request of the Commission, participate in the matter through, inter alia, attending meetings when required, providing inputs during the case investigation and making representations at the Competition Tribunal hearing, if necessary.
- 8.1.11. In the event that the matter is dealt with by NERSA, representatives from the Commission may, at the request of NERSA, participate in the matter through, inter alia, attending meetings, providing inputs during the case investigation and making representations at NERSA's proceedings if necessary.
- 8.1.12. The decision by any of the Parties to consult the other regulator shall be discretionary and voluntary, and either Party shall be entitled, with or without consultation, to make its independent



decision in respect of the complaint in terms of its enabling legislation;

8.1.13. Nothing in the consultation procedures contemplated herein, shall detract from the jurisdiction of the Commission or the jurisdiction of NERSA to receive and deal with complaints in terms of their enabling statutes as they deem fit, or preclude the public from lodging complaints with both the Commission and NERSA.

8.1.14. When the Commission and NERSA consult each other, as contemplated in this Agreement, they shall do so at no cost to each other and shall act as expeditiously as possible.

9. ESTABLISHMENT OF THE JOINT WORKING JWC

9.1. A Joint Working JWC ("the JWC") constituted by representatives of the Commission and NERSA, as nominated by the respective regulators, shall be established pursuant to this Agreement and shall function on an on-going basis.

9.2. The functions of the JWC shall be:

9.2.1. to manage and facilitate co-operation and consultation in respect of matters dealt with by each regulator in terms of this Agreement;

9.2.2. to propose, when necessary, any amendment of or supplementation to this Agreement;

9.2.3. to advise management of the Commission and NERSA on issues affecting competition in the energy sector, as the case may be, and make recommendations on how to deal with same. Such advice shall be on, but not limited to, the following:

9.2.3.1. Types of conduct or transactions affected by both the Competition Act and the NERSA Act, the Electricity Act, the Gas



Act and the Petroleum Pipelines Act in respect of which concurrent jurisdiction is to be exercised by the two regulators;

9.2.3.2. International approach to issues of overlap concerning jurisdiction between Commission and NERSA, as the case may be;

9.2.3.3. Amendments to the relevant or applicable statutes that may be necessary from time to time; and

9.2.3.4. Any other related matter.

9.3. The JWC shall meet regularly, but no less than twice a year, to ensure both regulatory authorities are aware of developments in areas of common interest.

10. INSTITUTIONAL CONTACT PERSONS

10.1. For purposes of this Agreement:

10.2. The Manager of the Advocacy Division will be the main contact person at the Commission.

10.3. The Head of Communications and Stakeholder Management will be the main contact person at NERSA.

10.4. Should the regulatory authorities have to exchange information, as a result of discussions at the JWC, the processes set out in this Agreement shall be followed.

11. EXCHANGE OF INFORMATION

11.1. Subject to clause 12 below, the Commission and NERSA may exchange information as may be necessary to give effect to this Agreement.



12. CONFIDENTIALITY

- 12.1. Any information shared by either Party pursuant to this Agreement must be used only for lawful purposes in matters of concurrent jurisdiction.
- 12.2. Any request made by either of the parties for confidential information in possession of the other shall be dealt with in accordance with the procedures set out in the parties' respective enabling legislation, policies or procedures.
- 12.3. The parties shall ensure that confidential information accordingly disclosed to them remains confidential and is not placed in the public domain through any negligent or wilful conduct on its behalf.
- 12.4. To the extent permitted by law, the Parties shall hold confidential information received from each other pursuant to this Agreement and shall not otherwise disclose such information except when required to do so by the law or an order of a Court or a Tribunal.
- 12.5. The Commission and NERSA shall, prior to disclosing such confidential information or a part thereof when required to do so by the law or an order of a Court or a Tribunal, notify each other of the law or an order of a Court or Tribunal requiring such disclosure.
- 12.6. The sharing of confidential information, in accordance with this Agreement, relies on the assurances given in 12.1; 12.2 and 12.3 above and shall not constitute a waiver of any legally recognizable grounds for refusing disclosure of information.
- 12.7. Where confidential information is disclosed either by the Commission or NERSA in contravention of this Agreement, such disclosing party shall be solely liable in law for such disclosure.



12.8. Any of the parties may in its discretion decline a request for access to confidential information made in terms of this Agreement.

13. DATA PROTECTION

13.1. The Parties acknowledge their respective obligations to comply with the substantive provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (hereinafter referred to as the 'POPI Act').

13.2. Where any Party receives any personal information as defined in the POPI Act such Party shall ensure that it fully complies with the provisions of POPI and only deal or process such personal information to fulfil its obligations in terms of this Agreement.

13.3. The personal information received by a Party shall not be processed or disclosed for any other purpose without the consent of the disclosing Party.

13.4. Each Party therefore understands and agrees, notwithstanding any contrary provision in any other agreement between the Parties, that each Party retains its full rights to pursue legal or equitable remedies in the event of any breach or threatened breach of the provisions of POPI when dealing with and/or processing personal information of the disclosing Party, and may prevent the other Party, any of its agents or subcontractors, or any third party who has received records or information from that Party from violating this Agreement by any legal means available.

13.5. Each Party further understands that the violation of the provisions dealing with POPI may subject that Party to applicable legal penalties, including those provided under the POPI Act.

13.6. Within thirty (30) days after the termination of this Agreement, for whatever reason, the receiving Party of either Party's personal information shall return same or at the discretion of the disclosing Party of such personal information,



destroy such personal information, and shall not retain copies, samples or excerpts thereof.

13.7. In cases where the disclosing Party has elected for the personal information to be destroyed, as provided for in clause 13.6 above, the receiving Party shall, within ten (10) days of receiving the instruction to destroy the personal information, send an affidavit confirming the destruction of such personal information.

14. GENERAL PROVISIONS

14.1. The provision of, or request for information under this Agreement may be denied:

- 14.1.1 where compliance would require the Commission or NERSA to act in a manner that would violate the applicable law;
- 14.1.2 under circumstances where there is an imminent risk to national security; or
- 14.1.3 when compliance with a request or provision of information would interfere with an ongoing investigation in circumstances where prejudice to the investigation is likely to outweigh the adverse effects of denying the information.

14.2. No provision of this Agreement shall give rise to a right on the part of any person, entity or organ of state other than the Commission and NERSA, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this Agreement.

14.3. The provisions set forth under clauses 12 and 13 must prevail with respect to any information provided or actions taken under this Agreement prior to its termination.

Handwritten signature and initials in blue ink, located in the bottom right corner of the page.

15. TERMINATION OF PREVIOUS AGREEMENTS

15.1. This Agreement terminates existing agreements entered into between the Commission and NERSA (previously the National Electricity Regulator), published in Government Gazette General Notice 3067 of 2002.

15.2. Any pending transactions, projects, requests being processed in terms of the Memorandum of Agreement published in Government Notice 3067 of 2002 under Government Gazette 24108 shall be brought to completion in terms of this Agreement and shall be considered in effect.

16. EFFECTIVE DATE OF THE AGREEMENT

16.1. This Agreement shall come into effect on the date on which it is last signed by the persons authorized to act on behalf of either of the Parties.

16.2. This Agreement shall be governed and construed in accordance with the laws of the Republic of South Africa.

17. DURATION OF THE AGREEMENT

17.1. This Agreement must remain in force until it is amended or repealed by both regulators acting jointly.

18. REVIEW OF THE AGREEMENT

18.1. This Agreement shall, on an ongoing basis and when necessary, be reviewed to accommodate developments incidental to matters that require co-operation between the two statutory bodies in the electronic communications, broadcasting and postal industries. The review shall take into account prevailing legal precedents, legislative amendments, promulgation of regulations, and policy reviews, as the case may be.



19. DISPUTE RESOLUTION

19.1. Should any dispute or difference arise between the regulators with regard to interpretation and/or implementation of any one or more of the provisions of this Agreement, such dispute or difference must be resolved in any manner other than through judicial proceedings.

20. LEGAL EFFECT

20.1. This Agreement is not intended to be a legally enforceable document and intends to describe the nature and co-operative intentions of the Parties involved, and to suggest guidelines for co-operation. Nothing therefore shall diminish the full autonomy of either Party nor may constrain either Party from discharging its statutory functions.

21. DOMICILIUM CITANDI ET EXECUTANDI

21.1. The regulators choose the following addresses as their respective domicilium citandi et executandi for purposes of this Agreement:

The Competition Commission:

Block C, DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, 0002

Contact Person: Mrs Khanyisa Qobo, Manager: Advocacy Division

The National Energy Regulator Of South Africa:

Kulawula House, 526 Madiba Street, Arcadia, Pretoria, 0007

Contact Person: Head of Department: Communications & Stakeholder Management



Signatures

Signed at PRETORIA on this 14TH day of JANUARY 2021 by

Mr. **Tembinkosi Bonakele**, Commissioner of the Competition Commission South Africa.



COMPETITION COMMISSION




WITNESS 1

WITNESS 2

Signed at Pretoria on this 5th day of May 2021 by

Advocate Nomalanga Sithole in her capacity as Acting Chief Executive Officer of the National Energy Regulator of South Africa



NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

WITNESS 1

WITNESS 2



DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 583

2 July 2021

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT: AIR QUALITY ACT, 2004
(ACT NO. 39 OF 2004)****CONSULTATION ON THE DRAFT SOUTH AFRICAN ATMOSPHERIC EMISSION LICENCE AND
INVENTORY PORTAL (SAAELIP) DATA MANAGEMENT POLICY, 2021**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby for the purposes of the undertaking made in paragraph 5.2.4.3 of the National Framework for Air Quality Management, 2017, published under Notice No. 1144 in *Gazette* No. 41996 on 26 October 2018, read with sections 56 and 57 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), consult on the draft South African Atmospheric Emission Licence and Inventory Portal (SAAELIP) Data Management Policy (Draft Policy), as set out in the Schedule hereto.

Members of the public are invited to submit, within 30 days from the date of publication of this Notice in the *Gazette*, written representations or objections on the Draft Policy to the following addresses:

By post to: The Director-General: Department of Environment, Forestry and Fisheries

Attention: Mr Mapitso Nkoko

Private Bag X447

Pretoria

0001

By hand at: 473 Steve Biko Road, Environment House, Arcadia, Pretoria

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.

By e-mail: MNkoko@environment.gov.za

Any inquiries in connection with the notice can be directed to Dr Vincent Gololo at 012 399 9203 or Mr Mapitso Nkoko at 012 399 9214

A copy of the Draft Policy is also available on SAAQIS (saaqis.environment.gov.za)

Comments received after the closing date may not be considered.



BARBARA DALLAS CREECY

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE



**environment, forestry
& fisheries**

Department: Environment, Forestry
and Fisheries
REPUBLIC OF SOUTH AFRICA

DRAFT SOUTH AFRICAN ATMOSPHERIC EMISSION LICENSE AND INVENTORY PORTAL
DATA MANAGEMENT POLICY, 2021

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SAAELIP DATA POLICY STATEMENT

The Department of Environment, Forestry and Fisheries (DEFF) has developed a South African Atmospheric Emission Licence and Inventory Portal (SAAELIP) to support reporting of air emissions nationwide through National Atmospheric Emission Inventory System (NAEIS) and the processing and management of Provisional /Atmospheric emission licenses through the System for National Atmospheric Emission Licensing (SNAEL). SAAELIP provides a platform for online reporting of air pollutants and GHGs towards the compilation of a national emissions inventory. SAAELIP provides an online platform for AEL holders to submit annual emissions inventory reports in the form necessary for the compilation of the national emission inventory profile. The SAAELIP also provides for an online lodging of an AEL application and the managements. The system also provides an emission inventory reporting platform for non-listed activities, including all sector categories from the Intergovernmental Panel for Climate Change (IPCC) such as Energy; Industrial Processes and Product Use (IPPU); Agriculture, Forestry and Other Land Use (AFOU) and Waste. Emissions are estimated inside NAEIS or outside the system depending on the emission sources types.

Section 5.2.4.3 of the National Framework for Air Quality Management (2017) states that the South African Atmospheric Emission Licence and Inventory Portal Data Management Policy will be developed to specify the protocols for data management and levels of accessibility for all users including stakeholders/general public. The Policy and manuals of the system will also give guidance with regard to the specific location of the NAEIS and SNAEL according to legal mandates, objectives of SAAELIP and the desired integrity of the system.

1.1 Purpose of this Policy

The purpose of this SAAELIP Data Management Policy, (hereinafter the Policy), is to give effect to Section 5.2.4.3 of the National Framework for Air Quality Management (2017) that states that the South African Atmospheric Emission Licence and Inventory Portal Data Management Policy will be developed to specify the protocols for data management and levels of accessibility for all users including stakeholders/general public.

1.2 Objectives of Policy

The objectives of the Policy are to:

- (a) Provide guidance on the collection, use and dissemination of data in the NAEIS and SNAEL.
- (b) Provide guidance on the dissemination of data held in SAAELIP for Public Good purposes.
- (c) Provide guidance on the dissemination/accessibility of data from SAAELIP to/by stakeholders/general public.
- (d) Ensure that dissemination of data in SAAELIP is done lawfully in a manner that protects data holders.
- (e) Ensure the protection and security of collected data and the SAAELIP infrastructure for future generations.
- (f) Give guidance with regard to the specific location of the NAEIS and SNAEL according to legal mandates, objectives of SAAELIP and the desired integrity of the system.
- (g) Uphold the constitutional right of South Africans to information held by the state.

1.3 Policy Scope

This SAAELIP Data Management Policy has been developed in line with section 5.2.4.3 of the National Framework for Air Quality Management (2017) to support the compilation of the national emission inventory profile through reporting on NAEIS and the processing and management of Provisional /Atmospheric emission licenses through the System for National Atmospheric Emission Licensing (SNAEL) by specifying protocols for data management and levels of accessibility for all users.

LEGISLATIVE CONTEXT OF THE POLICY

1.1 The Constitution of the Republic of South Africa, 1996

Section 32 of the Constitution states that all South Africans have the right of access to any information held by the state, and any information that is held by another person and that is required for the exercise or protection of any rights. Section 32 further states that national legislation must be enacted to give effect to this right.

1.2 Promotion to Access of Information Act, 2000 (Act No. 2 of 2000)

The Promotion of Access of Information, 2000 (Act No. 2 of 2000), was enacted to give effect to the section 32 of the Constitution. The objects of the Act are:

- (a) to give effect to the constitutional right of access to any information held by the State or held by another person and that is required for the exercise or protection of any rights subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution; and
- (b) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible.

1.3 Protection of Personal Information Act, 2013 (Act No. 4 of 2013)

The Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (POPI), gives effect to the constitutional right to privacy provided in section 14 of the Constitution –

- (i) by safeguarding a person's personal information when processed by public and private bodies;
- (ii) in a manner which balances the right to privacy with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution, particularly the right to access to information; and
- (iii) subject to justifiable limitations, including, but not limited to effective, efficient and good governance and the free flow of personal information, particularly trans-border transfers.

1.4 The National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA)

Chapter 1 of NEMA deals with the national environmental management principles and in terms of section 2(4) (k) it is provided that decisions by government must be taken in an open and transparent manner and access to information must be provided in accordance with the law.

1.5 National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (AQA)

Section 8(c) of AQA provides that the National Framework must establish national standards for the collection and management of data necessary to assess, among other things access to information by the public.

1.6 2017 National Framework for Air Quality Management in South Africa, Section 5.2.4.3

Section 5.2.4.3 states that a SAAELIP Data Management Policy will be developed to specify the protocols for data management and levels of accessibility for all users including stakeholders/general public. Emission inventory information from all sources as well as a summary of AELs will be available on the SAAELIP.

1.7 References to Other Policies

Government Information Communication and Technology Policy of the Department of Environment, Forestry and Fisheries

The Department of Environment, Forestry and Fisheries Information Technology Security policy (April 2019) provide standardised procedure and processes for the effective implementation of Information Technology (IT) security requirements in order to protect and manage information and IT assets against internal and external threats while adhering to the information security principles of confidentiality, integrity and availability.

SAAELIP ORGANISATIONAL CONTEXT AND APPLICATION

3.1 SAAELIP System Management and Organisational Context

The SAAELIP is structured in accordance with information management governance functions of AQA as detailed in the National Framework. In this regard, the management of information and information in the AEL reported by facilities is a function of the Atmospheric Emission Licencing Authority within the respective jurisdictions.

3.2 SAAELIP Data Access according to the roles

In order to fulfil the purpose of the SAAELIP, the various users will have access to data or information as shown in the Table 1.

Table 1: SAAELIP users' data or information access

National	Province	District/Metro and Local Municipalities	Facility/data provider	Public
Users can view all facility information in SAAELIP, nationally. However, users can ONLY MANAGE those facilities whose AEL has been issued by National. Users' roles are detailed in Appendix 2	Users can view all facility information in their provinces. However, users can ONLY MANAGE those facilities whose AEL has been issued by the Province. Users' roles are detailed in Appendix 2.	Users can view all facility information in their District/Metro. However, users can ONLY MANAGE those facilities whose AEL has been issued by the District/Metro. Users' roles are detailed in Appendix 2.	Users can view all information about their Facility in SAAELIP . However, management of information is based on the users' roles as detailed in Appendix 2.	Facility Name, Location based on the SAAELIP Geographic Information System (Province, District Municipality) and total emissions of all pollutants as last reported. Data provided at a facility level with information on MES permitted and non confidential information.

SAAELIP DATA MANAGEMENT

4.1 Data Collection and Reporting

Data for the NAEIS and SNAEL will be in the format required by the SAAELIP system and the data in the NAEIS will be reported in accordance with the NAEIS Reporting Regulations.

4.2 Data Use

Government shall use data in the SAAELIP for:

- (a) Compilation of emissions inventories at national, provincial, municipality, ward, town or suburb level. Any assessment required for planning and strategy development required in terms of the AQA;
- (b) Matters relating to implementation of AQA and the NEMA (including its subordinate legislation);
- (c) Any other matter to allow government to execute its functions; and
- (d) Monitor compliance with AEL conditions.

4.3 Data Dissemination

The DEFF will publish by the end of December each year, an electronic annual emissions report based on the verified, quality assured information submitted to the NAEIS in the preceding year. The emissions report will include details of total emissions of each criteria pollutant per sector (categories of listed activities). The annual emissions report shall be approved by the Director General responsible for environmental affairs before being published. SAAELIP through SNAEL provides access to members of the public to view data provided at facility level with information on MES permitted and on the non-confidential information.

The provision of such information should be in line with the requirements of legislation as stipulated in APPENDIX 1 of this policy.

4.4 Data Request

Members of the public may also request current or historical data sets that are more detailed than what is published in the SAAELIP and its annual report. These data sets may include among other things:

- (a) Industry level emissions for all pollutants per emission unit;
- (b) Stack parameters;
- (c) Geographic location and coordination associated with each facility;
- (d) Abatement technology used by a facility to reduce emissions; without the details of the facility; and
- (e) Efficiency of the abatement technology used.

The above mentioned data sets may only be issued on condition that consent has been given by data providers.

That notwithstanding the authorities may issue the following data to data requesters without seeking consent from data providers:

- (a) Total emissions of a specific pollutant for specific facility(ies)

The licensing authorities are the custodians of information provided to the SAAELIP by the facilities within their respective jurisdictions and are therefore responsible for dealing with data requests from the public.

In all instances, data in the SAAELIP shall be shared in the form and manner that is not in contravention with the following (also see Appendix 1 for details on the sections):

- (a) Section 36 of Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)
- (b) Section 73 of the Promotion of Access to Information Act, 2013 (Act No 4 of 2013)
- (c) Section 17 of the Statistics Act, 1999 (Act No. 6 of 1999)
- (d) Regulation 11 of the NAEIS Reporting Regulations, 2015 (GN R283 in GG 38633 of 2015)

In addition, data requests should follow the protocols, policies and procedures for managing data requests published by various spheres of government.

The following paragraphs outline some of the minimum conditions associated with various data requests.

4.4.1 Provision of Data for Research and Academic use

- (a) Data to bona fide scientific researchers shall be provided with a quotation based on the relevant authority's pricing/tariff policy.
- (b) Any provision of data or products for use for research purposes shall be subject to written explanation of the research project for which the data is to be utilised as well as a motivation
- (c) The authority (ies) reserves the right to require, prior to issuing of data, a commitment to provide a copy of the final research document for which research data was supplied by the authority (ies)
- (d) All requests for data for research that is to be undertaken as part of a commercially funded project or for which commercial gain will be forthcoming shall be treated as a commercial data request

4.4.2 Provision of Data to Other Government Departments

- (a) Data to Governmental Departments shall be provided either free of charge or with a quotation based on the relevant authority's pricing/tariff policy
- (b) Requests for data from consultants or third parties commissioned to perform tasks for Government Departments shall be treated as commercial requests

4.4.3 Provision of Data for Commercial Services

- (a) Individual requests for data will be provided with a quote based on the relevant authority's pricing/tariff policy.
- (b) Any provision of data or products for use for commercial purposes shall be subject to a written explanation of the project for which the data is to be utilised as well as a motivation
- (c) The Authority (ies) reserves the right to require, prior to issuing of data, a commitment to provide a copy of the final research document for which research data was supplied by the authority (ies)
- (a) Special conditions shall be applied to any data requested for commercial purposes as the relevant authority (ies) deem fit
- (b) Payment for data gives the user the right to use the data, but it does not transfer ownership of the data to the Client. As such, the user is not entitled to transfer this data to any third party without the written consent of the relevant authority (ies)

4.4.4 Re-sale of Data

- (a) Re-sale of any data provided through the SAAELIP is prohibited

4.5 Data Request Templates

- (a) All data requests as well as data provided must be recorded in a central database
- (b) The DEFF shall develop both electronic and manual templates / data request forms that members can complete to request data from different spheres of government

4.6 Limitations

The following data may not be provided to the data requester:

- (a) Personal information of data subjects that is not already in the public domain
- (b) Data with intellectual property rights or proprietary information
- (c) Details of process for which the company may deem sensitive
- (d) Information such as material throughput, facility processes, efficiency of control technologies and facilities under investigation information will not be made available to the public

4.7 Liability

Government cannot be held liable for the use of such data by third party or for accuracy or inaccuracy of information provided through the SAAELIP. It is the responsibility of the responsible party or third party to ensure that the personal information and any other information obtained from the system is complete, accurate not misleading and updated where necessary.

4.8 Sanctioning of SAAELIP Data Management Policy

Any amendments hereto must be approved by Minister. In the event that there is a need to deviate from any of the provisions of this Policy, a formal deposition document shall be prepared stating the nature and the reasons for the proposed departure from the policy and this shall be submitted to the Deputy Director General responsible for Air Quality Management for approval.

4.9 Ownership, Custody and Intellectual Property Rights

- (a) Intellectual property rights belong to government and the data providers
- (b) DEFF will ensure SAAELIP security and infrastructure integrity
- (c) Government cannot be held liable for the use of such data by third party

4.10 Adherence and Use

This policy forms part of the practices of all SAAELIP users and as such shall be referred to when similar policies are developed. Non-compliance with the provisions of the policy may result in the necessary legal or disciplinary action being instituted against the party in question.

4.11 Referencing

Information retrieved from the SAAELIP shall be referenced as "DEFF, [year in which data was accessed], National Atmospheric Emissions Inventory System"

APPENDIX 1: LEGISLATIVE EXTRACTS

1. NATIONAL ATMOSPHERIC EMISSION (NAEIS) REPORTING REGULATIONS

Regulation 11 and 12 of NAEIS Reporting Regulations state that:

11. It is an offence for any person to disclose confidential information if that information was acquired while exercising or performing any power or duty in terms of these Regulations, except—
 - (a) If the information is disclosed in compliance with the provisions of any law;
 - (b) if the person is ordered to disclose the information by a court of law; or
 - (c) if the information is disclosed to enable a person to perform a function in terms of these Regulations.
12. (1) The relevant authority may place NAEIS data and information in the public domain if-
 - (a) it does not promote unfair competition;
 - (b) it does not contravene section 36 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); and
 - (c) it does not contravene section 17 of the Statistics Act, 1999 (Act No. 6 of 1999).

2. PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000) (PAIA)

Chapter 4 of PAIA deals with the grounds for refusal of access to records.

- 34 Mandatory protection of privacy of third party who is natural person
- (1) Subject to subsection (2), the information officer of a public body must refuse a request for access to a record of the body if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual.
- (2) A record may not be refused in terms of subsection (1) insofar as it consists of information-
 - (a) about an individual who has consented in terms of section 48 or otherwise in writing to its disclosure to the requester concerned;
 - (b) that was given to the public body by the individual to whom it relates and the individual was informed by or on behalf of the public body, before it is given, that the information belongs to a class of information that would or might be made available to the public;
 - (c) already publicly available;
 - (d) about an individual's physical or mental health, or well-being, who is under the care of the requester and who is-
 - (i) under the age of 18 years; or
 - (ii) incapable of understanding the nature of the request, and if giving access would be in the individual's best interests;
 - (e) about an individual who is deceased and the requester is-
 - (i) the individual's next of kin; or
 - (ii) making the request with the written consent of the individual's next of kin; or
 - (f) about an individual who is or was an official of a public body and which relates to the position or functions of the individual, including, but not limited to-

- (i) the fact that the individual is or was an official of that public body;
 - (ii) the title, work address, work phone number and other similar particulars of the individual;
 - (iii) the classification, salary scale, remuneration and responsibilities of the position held or services performed by the individual; and
 - (iv) the name of the individual on a record prepared by the individual in the course of employment.
- 36. Mandatory protection of commercial information of third party
 - (1) Subject to subsection (2), the information officer of a public body must refuse a request for access to a record of the body if the record contains—
 - (a) trade secrets of a third party;
 - (b) financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
 - (c) information supplied in confidence by a third party the disclosure of which could reasonably be expected
 - (i) to put that third party at a disadvantage in contractual or other negotiations; or
 - (ii) to prejudice that third party in commercial competition.
 - (2) A record may “not be refused in terms of subsection (1) insofar as it consists of information
 - (a) already publicly available;
 - (b) about a third party who has consented in terms of section 48 or otherwise in writing to its disclosure to the requester concerned; or
 - (c) about the results of any product or environmental testing or other investigation supplied by, earned out by or on behalf of a third party and its disclosure would reveal a serious public safety or environmental risk.
 - (3) For the purposes of subsection (2)(c), the results of any product or environmental testing or other investigation do not include the results of preliminary testing or other investigation conducted for the purpose of developing methods of testing or other investigation.
- 37. Mandatory protection of certain confidential information, and protection of certain other confidential information, of third party
 - (1) Subject to subsection (2), the information officer of a public body -
 - (a) must refuse a request for access to a record of the body if the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement; or
 - (b) may refuse a request for access to a record of the body if the record consists of information that was supplied in confidence by a third party -
 - (i) the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source; and
 - (ii) if it is in the public interest that similar information, or information from the same source, should continue to be supplied.

- (2) A record may not be refused in terms of subsection (1) insofar as it consists of information -
- (a) already publicly available; or
 - (b) about the third party concerned that has consented in terms of section 48 or otherwise in writing to its disclosure to the requester concerned.

46. Mandatory disclosure in public interest

Despite any other provision of this Chapter, the information officer of a public body must grant a request for access to a record of the body contemplated in section 34(1), 36(1), 37(1)(a) or (b), 38(a) or (b), 39(1)(a) or (b), 40, 41(1)(a) or (b), 42(1) or (3), 43(1) or (2), 44(1) or (2) or 45, if -

- (a) the disclosure of the record would reveal evidence of -
 - (i) a substantial contravention of, or failure to comply with, the law; or
 - (ii) an imminent and serious public safety or environmental risk; and
- (b) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question

65 Mandatory protection of certain confidential information of third party

The head of a private body must refuse a request for access to a record of the body if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

70 Mandatory disclosure in public interest

Despite any other provision of this Chapter, the head of a private body must grant a request for access to a record of the body contemplated in section 63 (1), 64 (1), 65, 66 (a) or (b), 67, 68 (1) or 69 (1) or (2) if-

- (a) the disclosure of the record would reveal evidence of-
 - (i) a substantial contravention of, or failure to comply with, the law; or
 - (ii) imminent and serious public safety or environmental risk; and
- (b) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question.

3. STATISTICS ACT, 1999 (ACT NO. 6 OF 1999)

17. Confidentiality and disclosure

- (1) Despite any other law, no return or other information collected by Statistics South Africa for the purpose of official or other statistics that relates to -
 - (a) an individual;
 - (b) a household;
 - (c) an organ of state;
 - (d) a business; or
 - (e) any other organisation, may, subject to subsections (2) and (3), be disclosed to any person.
- (2) The return or other information contemplated in subsection (1) may, subject to the directions of the Statistician-General, be disclosed—
 - (a) to the Statistician-General and officers concerned of Statistics South Africa who have taken the oath of confidentiality referred to in subsection (7)(a);

- (b) to the person from whom such return or other information was collected or his or her representative;
 - (c) with the prior written consent of the person from whom such return or other information was collected or his or her representative;
 - (d) where the information is already available to the public from the organ of state, business or other organisation concerned; 10
 - (e) in the form of lists of the names and addresses of individual organs of state and other organisations and their classifications by function, type of legal entity and range of numbers of members and employees, or other indicator of size;
 - (f) in the form of lists of the names and addresses of individual businesses and their classifications by industry or activity, type of legal entity, and range of numbers of employees or other indicator of size;
 - (g) in the form of lists of the kinds of products produced, manufactured, stored, bought or sold or services rendered, by businesses, organs of state or other organisations or classes thereof.
- (3) The Statistician-General may, for statistical purposes, disclose to another organ of state information or data gathered in the course of a joint collection undertaken with that organ in terms of section 14(11), on condition that—
- (a) the name, address or any other means by which the respondents may be identified is deleted;
 - (b) any person who is involved in the collection of, or who may use, that information or data, must first take an oath of confidentiality similar to the one provided for in subsection (7)(a) irrespective of whether he or she has taken an oath of confidentiality in terms of any other law; and
 - (c) the Statistician-General is satisfied that the confidentiality of that information or data will not be impaired.
- (4) Despite any other law—
- (a) an entry made by the competent person concerned in terms of this Act in any document; or
 - (b) a return or its contents, is not admissible as evidence in legal proceedings, except for purposes of criminal proceedings in terms of this Act.
- (5) Information collected by any person, organ of state, business or other organisation for his, her or its own purposes and communicated to Statistics South Africa is subject to the same confidentiality requirements as information collected directly by Statistics South Africa, irrespective of any other confidentiality requirements to which it may have been subject when it was collected.
- (6) The results of the compilation and analysis of the statistical information collected in terms of this Act may not be published or disseminated in a manner which is likely to enable the identification of a specific individual, business or other organisation, unless that person, business or organisation has consented to the publication or dissemination in that manner.
- (7) The Statistician-General and every officer of Statistics South Africa must—

- (a) before assuming duty, take an oath of confidentiality prohibiting disclosure of any information coming to his or her knowledge by reason of such duty before its release is authorised by the Statistician-General;
 - (b) preserve, and promote the preservation of, confidentiality in respect of all information that may come to his or her knowledge by reason of such employment
- 4. THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)
- 31. Access to environmental information and protection of whistle blowers
- (4) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5).
- (5) Subsection (4) applies only if the person concerned -
 - (a) disclosed the information concerned to -
 - (i) a committee of Parliament or of a provincial legislature;
 - (ii) an organ of state responsible for protecting any aspect of the environment or emergency services;
 - (iii) the Public Protector;
 - (iv) the Human Rights Commission;
 - (v) any attorney-general or his or her successor;
 - (vi) more than one of the bodies or persons referred to in subparagraphs (i) to (v);
 - (b) disclosed the information concerned to one or more news media and on clear and convincing grounds believed at the time of the disclosure -
 - (i) that the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or
 - (ii) giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for nondisclosure;
 - (c) disclosed the information concerned substantially in accordance with any applicable external or internal procedure, other than the procedure contemplated in paragraph (a) or (b), for reporting or otherwise remedying the matter concerned; or
 - (d) disclosed information which, before the time of the disclosure of the information, had become available to the public, whether in the Republic or elsewhere.
- (6) Subsection (4) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.

- (7) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (4).
- (8) No person may threaten to take any action contemplated by subsection (4) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (4).

5. PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO 4 OF 2013)

Definitions

1. In this Act, unless the context indicates otherwise—

“data subject” means the person to whom personal information relates;

“person” means a natural person or a juristic person;

“personal information” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

“processing” means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information;

“public record” means a record that is accessible in the public domain and which is in the possession of or under the control of a public body, whether or not it was created by that public body;

“record” means any recorded information—

- (a) regardless of form or medium, including any of the following:

- (i) Writing on any material;
- (ii) information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored;
- (iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- (iv) book, map, plan, graph or drawing;
- (v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;
- (b) in the possession or under the control of a responsible party;
- (c) whether or not it was created by a responsible party; and
- (d) regardless of when it came into existence.

“responsible party” means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;

2. The purpose of this Act is to—

- (a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at—
 - (i) balancing the right to privacy against other rights, particularly the right of access to information; and
 - (ii) protecting important interests, including the free flow of information within the Republic and across international borders;
- (b) regulate the manner in which personal information may be processed, by establishing conditions, in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information;
- (c) provide persons with rights and remedies to protect their personal information from processing that is not in accordance with this Act; and
- (d) establish voluntary and compulsory measures, including the establishment of an Information Regulator, to ensure respect for and to promote, enforce and fulfil the rights protected by this Act.

CHAPTER 2 APPLICATION PROVISIONS

Application and interpretation of Act

- 1. (1) This Act applies to the processing of personal information—
 - (a) entered in a record by or for a responsible party by making use of automated or non-automated means: Provided that when the recorded personal information is processed by non-automated means, it forms part of a filing system or is intended to form part thereof; and
 - (b) where the responsible party is—
 - (i) domiciled in the Republic; or
 - (ii) not domiciled in the Republic, but makes use of automated or non-automated means in the Republic, unless those means are used only to forward personal information through the Republic.

- (2) (a) This Act applies, subject to paragraph (b), to the exclusion of any provision of any other legislation that regulates the processing of personal information and that is materially inconsistent with an object, or a specific provision, of this Act.
- (b) If any other legislation provides for conditions for the lawful processing of personal information that are more extensive than those set out in Chapter 3, the extensive conditions prevail.
- (4) "Automated means", for the purposes of this section, any equipment capable of operating automatically in response to instructions given for the purpose of processing information.

Lawful processing of personal information

- 4. (1) The conditions for the lawful processing of personal information by or for a responsible party are the following:
 - (a) "Accountability", as referred to in section 8;
 - (b) "Processing limitation", as referred to in sections 9 to 12;
 - (c) "Purpose specification", as referred to in sections 13 and 14;
 - (d) "Further processing limitation", as referred to in section 15;
 - (e) "Information quality", as referred to in section 16;
 - (f) "Openness", as referred to in sections 17 and 18;
 - (g) "Security safeguards", as referred to in sections 19 to 22; and
 - (h) "Data subject participation", as referred to in sections 23 to 25.
- (2) The conditions, as referred to in subsection (1), are not applicable to the processing of personal information to the extent that such processing is—
 - (a) excluded, in terms of section 6 or 7, from the operation of this Act; or
 - (b) exempted in terms of section 37 or 38, from one or more of the conditions concerned in relation to such processing.

Rights of data subjects

- 5. A data subject has the right to have his, her or its personal information processed in accordance with the conditions for the lawful processing of personal information as referred to in Chapter 3, including the right—
 - (a) to be notified that—
 - (i) personal information about him, her or it is being collected as provided for in terms of section 18; or
 - (ii) his, her or its personal information has been accessed or acquired by an unauthorized person as provided for in terms of section 22;
 - (b) to establish whether a responsible party holds personal information of that data subject and to request access to his, her or its personal information as provided for in terms of section 23;
 - (c) to request, where necessary, the correction, destruction or deletion of his, her or its personal information as provided for in terms of section 24;
 - (d) to object, on reasonable grounds relating to his, her or its particular situation to the processing of his, her or its personal information as provided for in terms of section 11(3)(a);
 - (e) to object to the processing of his, her or its personal information—
 - (i) at any time for purposes of direct marketing in terms of section 11(3)(b); or

- (ii) in terms of section 69(3)(c);
- (f) not to have his, her or its personal information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69(1);
- (g) not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its personal information intended to provide a profile of such person as provided for in terms of section 71;
- (h) to submit a complaint to the Regulator regarding the alleged interference with the protection of the personal information of any data subject or to submit a complaint to the Regulator in respect of a determination of an adjudicator as provided for in terms of section 74; and
- (i) to institute civil proceedings regarding the alleged interference with the protection of his, her or its personal information as provided for in section 99.

CHAPTER 3

CONDITIONS FOR LAWFUL PROCESSING OF PERSONAL INFORMATION

Condition 5

Information quality

Quality of information

16. (1) A responsible party must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

Condition 6

Openness

Notification to data subject when collecting personal information

18. (1) If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—

- (a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
- (b) the name and address of the responsible party;
- (c) the purpose for which the information is being collected;
- (d) whether or not the supply of the information by that data subject is voluntary or mandatory;
- (e) the consequences of failure to provide the information;
- (f) any particular law authorizing or requiring the collection of the information;
- (g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organization and the level of protection afforded to the information by that third country or international organization;
- (h) any further information such as the—
 - (i) recipient or category of recipients of the information;
 - (ii) nature or category of the information;
 - (iii) existence of the right of access to and the right to rectify the information collected;
- (iv) existence of the right to object to the processing of personal information as referred to in section 11(3); and
- (iv) right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the

information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

CHAPTER 10 ENFORCEMENT

Interference with protection of personal information of data subject

73. For the purposes of this Chapter, interference with the protection of the personal information of a data subject consists, in relation to that data subject, of—

- (a) any breach of the conditions for the lawful processing of personal information as referred to in Chapter 3;
- (b) non-compliance with section 22, 54, 69, 70, 71 or 72; or
- (c) a breach of the provisions of a code of conduct issued in terms of section 60.

APPENDIX 2: ROLES AND RESPONSIBILITIES

The two tables below list all the possible actors and roles within SAAELIP. The table below lists actors and their roles from the authority side.

Actors and Roles (Authority)	
Actors	Task Description
National AQO	<ul style="list-style-type: none"> - Create Authority Staff users - Generate Nation-Wide Master List - Add/Delete Sources - Assign Audits to National Auditor - Perform audits on the National Level
National Staff	<ul style="list-style-type: none"> - Generate Nation-Wide Master List - Add/Delete Sources - Upload and Submit air emissions data on the National Level
National Auditor	<ul style="list-style-type: none"> - Perform audits on the National Level
National Viewer	<ul style="list-style-type: none"> - View-Only access rights to SAAELIP
Province AQO	<ul style="list-style-type: none"> - Add/Delete industrial and non-industrial sources within its jurisdiction - Perform Audits and set status for Audits on the reports within its jurisdiction - Assign Audits to Province Auditor
Province Staff	<ul style="list-style-type: none"> - Add/Delete industrial and non-industrial sources within its jurisdiction
Province Auditor	<ul style="list-style-type: none"> - Perform Audits and set status for Audits on the reports within its jurisdiction
District Municipality AQO	<ul style="list-style-type: none"> - Create Authority Staff users - Generate District-Wide Master List - Add/Delete Sources - Assign Audits to National Auditor - Perform audits on the District Level - Add/Delete industrial sources within its jurisdiction - Create Facility users that lies within the jurisdiction - Issue final approval for industrial Source(s) within its jurisdiction (after preliminary approval of Metropolitan Municipality Staff) - Publish sources to SAAELIP Facility and issue email notifications to the approved sources - Assign Audits to District Municipality Auditor - Perform Audits and set status for Audits pertaining to reports in their district municipality
District Municipality Staff	<ul style="list-style-type: none"> - Add/Delete industrial sources within its jurisdiction - Issue preliminary approval for industrial Source(s) within its jurisdiction

Actors and Roles (Authority)	
Actors	Task Description
District Municipality Auditor	<ul style="list-style-type: none"> - Perform Audits and set status for Audits pertaining to reports in their district municipality
Metropolitan Municipality AQO	<ul style="list-style-type: none"> - Create Facility users that lies within the jurisdiction of the Metropolitan Municipality - Add/delete industrial point sources within its jurisdiction - Issue final approval of Industrial Source(s) within the metropolitan municipality (after preliminary approval of Metropolitan Municipality Staff) - Publish Source(s) to SAAELIP Facilities and issue email notifications to the approved sources - Assign Audits to Metropolitan Municipality Auditor - Perform Audits and set status for Audits
Metropolitan Municipality Staff	<ul style="list-style-type: none"> - Add/Delete industrial sources within the metropolitan municipality - Issue preliminary approval of Industrial sources within the metropolitan municipality
Metropolitan Municipality Auditor	<ul style="list-style-type: none"> - Perform Audits and set status for Audits

DEPARTMENT OF HEALTH

NO. 584

2 July 2021

HEALTH PROFESSIONS ACT, 1974 (ACT NO.56 OF 1974)

**REGULATIONS RELATING TO THE NAMES THAT MAY NOT BE USED IN RELATION
TO THE PROFESSION OF PHYSIOTHERAPY**

The Minister of Health intends, in terms of section 61(1) read with section 40 (c) of the Health Professions Act, 1974 (Act No. 56 of 1974), and after consultation with the Health Professions Council of South Africa, to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director-General of Health, Private Bag X828, Pretoria, 0001 (for attention of the Director: Public Entities Governance, mihloti.mushwana@health.gov.za), within three months of the date of publication of this Notice.



MS MT KUBAYI-NGUBANE, MP

ACTING MINISTER OF HEALTH

DATE: 14 | 06 | 2021

SCHEDULE**Definitions**

1. In these regulations any expression to which a meaning has been assigned in the Act shall bear such meaning, unless the context indicates otherwise –
“the Act” means the Health Professions Act, 1974 (Act No. 56 of 1974).

Names that may not be used

2. No person who is not registered as a physiotherapist in terms of the Act may use the following appellations or derivatives –
- (a) Physical therapy; or
 - (b) Physical therapist.

Repeal

3. The Regulations published under Government Notice No. R. 2704 in *Government Gazette* No. 7953 of 11 December 1981 are hereby repealed.

Short title

4. These Regulations are called Regulations Relating to the Names that May Not Be used in Relation to the Profession of Physiotherapy, 2021.

NATIONAL TREASURY

NO. 585

2 July 2021

**PUBLIC FINANCE MANAGEMENT ACT, 1999
(ACT NO 1 OF 1999)
EXEMPTIONS**

I, TT MBOWENI, MINISTER OF FINANCE, acting in terms of Section 92 of the Public Finance Management Act, 1999 (Act No 1 of 1999), hereby exempt the institution specified in the first column below from the provisions of that Act specified in the second column to the extent and duration specified in the third and fourth columns of the Schedule.

SCHEDULE

INSTITUTION EXEMPTED	SECTION OF ACT	EXTENT OF EXEMPTION	DURATION OF EXEMPTION
Land and Agricultural Development Bank of South Africa	Sections 52	Exemption from Section 52 of the Public Finance Management Act, 1999 (Act No 1 of 1999)	Until the Land Bank debt default position is cured.



**TT MBOWENI, MP
MINISTER OF FINANCE
Date: 27 May 2021**

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 586

2 July 2021



**DEPARTMENT OF SOCIAL DEVELOPMENT REPUBLIC OF SOUTH
AFRICA**

REVISED WHITE PAPER ON FAMILIES IN SOUTH AFRICA

2021 (31 MARCH)

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GLOSSARY OF TERMS

Caregiving: The word caregiving is used to refer to several aspects of caring for family members. This process includes 'caring about' which refers to paying attention to feelings of affection and concern about another, 'caring for' which refers to taking responsibility for the wellbeing of another, and 'caregiving' which refers to the competent engagement in physical care work such as feeding or washing. Caregiving in this document refers to all three of these aspects of care.

Cash transfers A form of social protection in which the state transfers cash in the form of a grant to an eligible individual or household. In South Africa cash transfers are means-tested and therefore only available to beneficiaries who qualify. Cash transfers can be conditional or non-conditional.

Child-headed household: A household without an adult caregiver, which is headed by the eldest or most responsible child who assumes parental responsibility.

Civil Society organisations (CSOs): Non-State, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market. CSOs represent a wide range of interests and ties. They can include community-based organisations (CBOs) as well as non-governmental organisations (NGOs) and faith-based organisations (FBOs) (Shift & Mazars, 2015)

Cohabitation: A union in which two or more consenting adults stay together without any contractual agreements, with or without children.

Extended family: A multigenerational family that may or may not share the same household.

Family policy: Any direct and indirect policy that influences the well-being of families.

Family preservation services: Services to families that focus on family resilience in order to strengthen families, so as to keep families together if feasible and desirable.

Family Resilience: The ability of families to withstand and recover or bounce back from disruptive life challenges" (Walsh, 2003).

Family strengthening: The deliberate process of giving families access to the necessary opportunities, relationships, networks, and support to become functional and self-reliant. The strengthening of families is driven by certain core areas, namely: family economic success, family support systems, and thriving and nurturing communities.

Family support: The term 'family support' refers to the provision of timely and continuous psychosocial support, guidance and social protection services to mothers, fathers and other caregivers by service providers through health, early childhood and social protection programmes, along with professionals and workers from other sectors. (UNICEF, no date).

Family violence: Family violence refers to an act perpetrated by a member of a family that may result in injury to members of other members of a family, or someone with whom they have an intimate relationship (Ryan & Roman, 2016). It may include acts of physical, emotional and/or verbal aggression, control, coercion or intimidation to incite fear or intent to commit violent acts and may take on various forms, such as domestic violence, child abuse, and elder abuse (Blagg, 2000; Tolan & Gorman-Smith, 2006).

Family: A societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil, customary or religious), civil union or cohabitation, and goes beyond a particular physical residence.

Faith-based organisation (FBO): A form of CSO whose values and mission are underpinned by faith or religious beliefs.

Green Paper: A consultation document setting out government's policy position. As a discussion document, it affords government an opportunity to test its ideas on important matters among the public and to benefit from inputs and comments from the ensuing public discussion on national strategic planning (South African Government Information, 2009).

Homelessness: This concept is a complex term that extends beyond not having a place to stay. Homelessness may be defined by the patterns of time that individuals or families spend being without, or outside of, conventional shelters or housing and may be temporary, episodic (over a short period), or chronic

(permanent). In addition to these aspects, it includes no/limited access to socio-economic opportunities, health services and education, among others (Rule-Groenewald, Timol, Khalema & Desmond, 2015; Mlauzi, 2018).

Healthy family: A family characterized by good interpersonal relations and a state of physical, mental, and social well-being among all members.

Intergenerational solidarity: Reciprocal care, support and exchange of material and non-material resources between family members, most often between younger and older generations.

Nuclear family: A family group consisting of parents with their biological or adoptive children.

Skip-generation households: A family type where grandparents raise their grandchildren without the grandchildren's parents present in the household.

Social capital: Resources embedded within a person's social network that influence decisions and outcomes by shaping a personal identity while delineating opportunities and obstacles within a person's social world (Belcher et al., 2011).

Social cohesion: A process of building shared values and communities of interpretation, reducing disparities in wealth and income, and generally enabling people to have a sense that they are engaged in a common enterprise, facing shared challenges, and that they are members of the same community.

Social fatherhood: "A social father is a person that takes on the responsibility and role of being a father to a child, but who is not the biological or adoptive male parent of the child. The status of fatherhood is therefore a social status rather than a biological or adoptive or legal one, and may be actively sought by and/or ascribed to the person by their family or community. One person could be a biological father to one child and a social father to another" (Van den Berg & Makusha, 2018, pg 11).

Social insurance: A form of social protection that is contributory in nature. Social benefits accrue to individuals through the contributions they make to either private or public funds e.g. the Unemployment Insurance Fund.

Social protection: Policies and programmes that protect people against risk and vulnerability, mitigate the impact of shocks, and support people with chronic incapacities to secure basic livelihoods (Adato & Hoddinott, 2008).

Structural unemployment: This term refers to unemployment originating from a mismatch between the jobs available and the skill levels of the unemployed. It occurs due to underlying features of the economy which makes it difficult for some people to find jobs. It is different to cyclical unemployment which is caused by features of the business cycle. Structural unemployment is more difficult to correct and can drive high unemployment levels over a long period of time (Amadeo, 2020).

Vulnerable families: This term refers to families that are in need of particular support and services (Bauer & Wiezorek, 2016).

White Paper: A document used as a means of presenting government policy preferences prior to the introduction of legislation. Its publication serves to test the climate of public opinion regarding a policy issue and enables the government to gauge its probable impact (Chapin & Deneau, 1978).⁵

Work-family balance: This term refers to the realisation of role-related expectations that are negotiated and shared between a person and her/his partners/colleagues in the family and work domains (Carlson & Grzywacz, 2008).

Work-family conflict: A form of inter-role conflict in which the roles and related pressures from work and family domains are mutually incompatible (Greenhaus & Beutell, 1985).

SECTION 1: INTRODUCTION

1.1. Background

1.1.1. Families in society

Along with the economy, polity and education, the family is universally viewed as one of the essential sectors without which no society can function (Ziehl, 2003). As the setting for demographic reproduction, primary socialisation, and the source of emotional, material, and instrumental support for its members (Belsey, 2005), families influence the way society is structured, organised, and is able to function. During a family's life course, individuals within the family transition between different life stages. Each stage presents new challenges and new opportunities for growth and development. It is essentially through families that each generation is replaced by the next; that children are born, socialised and cared for until they attain their independence; and that each generation fulfils its care responsibilities to minors, older persons, the sick, and those who have severe disabilities (Waite, 2000). However, for a range of reasons, many families are less equipped and face significant stressors as they seek to respond to the needs of family members. Such circumstances may include (but are not limited to) poverty and a lack of economic opportunities, poor infrastructure and service delivery, substance abuse, crime, and violence (Roman et al., 2016). In addition, pandemics, and other social and environmental shocks, such as HIV and AIDS and Covid-19, profoundly affect the well-being of South African families through shifts in the burden of care, health challenges, and loss. Families are best placed to fulfil their role in society when they function in an enabling and supportive environment.

The responsibility to care for individuals is not limited to families. After families, the state is the most recognised caretaker of individuals and hence it is assigned to support families in their caregiving tasks. If families are unable, unfit, or absent, the state has to take an even more active role in caring for individuals (Hochfeld, 2007; Van der Berg & Makusha, 2018). However, in practice, neither the state nor families is solely responsible for care of individual members as local communities and civil society organisations (CSOs) as well as markets (or the private sector through payment of caretakers) are involved in caretaking of individuals. Caretaking thus consists of the interconnections between these crucial four sectors, dubbed the care diamond (Razavi, 2014). The importance of the different sectors varies between countries as determined by their specific circumstances (Ochiai, 2009; Rabe, 2017). The state is uniquely placed to give shape to the interconnections between these sectors through family policies.

Stable and supportive families are associated with several positive outcomes for individual members and wider society. These include higher levels of self-esteem; lower levels of antisocial behaviour such as crime, violence, and substance abuse; higher levels of work productivity; lower levels of stress; and more self-efficacy to deal with socio-economic hardships (Amoateng et. al., 2004). To this end, stable families demonstrate high levels of social capital and resilience, and contribute to smooth functioning of society and, hence, to social cohesion (Ziehl, 2003). As the Centre for Social Justice in the United Kingdom succinctly summarises this point:

Stable, healthy families are at the heart of strong societies. It is within the family environment that an individual's physical, emotional and psychological development occurs. It is from our family that we learn unconditional love, we understand right from wrong, and we gain empathy, respect and self-regulation. These qualities enable us to engage positively at school, at work and in society in general. The absence of a stable, nurturing family environment has a profoundly damaging impact on the individual, often leading to behaviour which is profoundly damaging to society (Centre for Social Justice, 2010).

The family therefore has an integral role to play in the promotion of positive societal outcomes. For example,

a significant body of research evidence has shown that through family health promotion – defined as the process undertaken by the family to sustain or enhance the emotional, social, and physical well-being of the family group and its members (Ford-Gilboe, 2000) – family support is effective in promoting adherence to medical regimes, uptake of positive lifestyle changes, and providing comfort and support for sick family members (National Institute of Health, 1992; Ford-Gilboe, 2000).

With regard to education “we could begin by saying that the family is indispensable for education. We could also say the family is the most important source of education” (Hardon, 1998:1). In essence, when parents and other familial caregivers are involved in children’s education in meaningful ways, there is a positive influence on academic performance. Students whose families are actively involved are more likely to achieve higher grades, to have better school attendance, to be better motivated, and are less likely to be cited for disciplinary action (Ferhmann et al., 1987; Desforges & Abouchaar, 2003). In a different vein, parents, caregivers, and other adult family members generally exert considerable influence as teachers and role models for children through skill building, limit setting or discipline, and as models of healthy and competent behaviour (Perrino et al., 2000).

Overall, the family, through its instrumental and affective roles, has the potential to enhance the socio-economic well-being of individuals and society at large. Instrumental roles are concerned with the provision of physical resources such as food, clothing and shelter, while affective roles promote emotional support and encouragement of family members (Peterson, 2009). The table below shows how these roles fulfil important functions for their members and for society, such as family formation and membership; economic support; nurturance and socialisation; and protection of vulnerable members.

Table 1: Family functions and benefits

Family function	Ways each function benefits	
	Individual family members	Society
Membership & family formation	Provides a sense of belonging Provides personal and social identity Provides meaning and direction in life	Controls reproductive function Assures continuation of the species
Economic support	Provides for basic needs of food, shelter, and clothing and other resources to enhance human Development	Contributes to healthy development of members who contribute to society (and who need fewer public resources)
Nurturance, support and socialisation	Provides for the physical, psychological, social and spiritual development of children and adults Instils social values and norms	Prepares and socialises children for productive adult roles. Supports adults in being productive members of society Controls antisocial behaviour and protects society from harm
Protection of vulnerable members	Provides care and support for young, ill, disabled or otherwise vulnerable members	Minimizes public responsibility for care of vulnerable, dependent individuals

Source: Adapted from Patterson, JM. (2002).

The table above places an emphasis on the functions that the family plays in society and for its members. However, there is also a strong link and interplay between the family and other institutions in society, best understood from an ecological systems perspective (Bronfennbrenner, 1979). This perspective acknowledges the complex system of multiple relationships and interactions that impact on the development of the individual and/or family. These systems include the microsystem, the mesosystem, the exosystem,

the macrosystem and the chronosystem (Bronfennbrenner, 1979). Families exist within and are influenced by the neighbourhood, the community, its social networks, as well as the broader economic, historical, political, geographical, cultural, and social context of society, including social and gender inequalities and related power dynamics. Each of these systems can be enabling or constraining for family life as is demonstrated in the figure below.

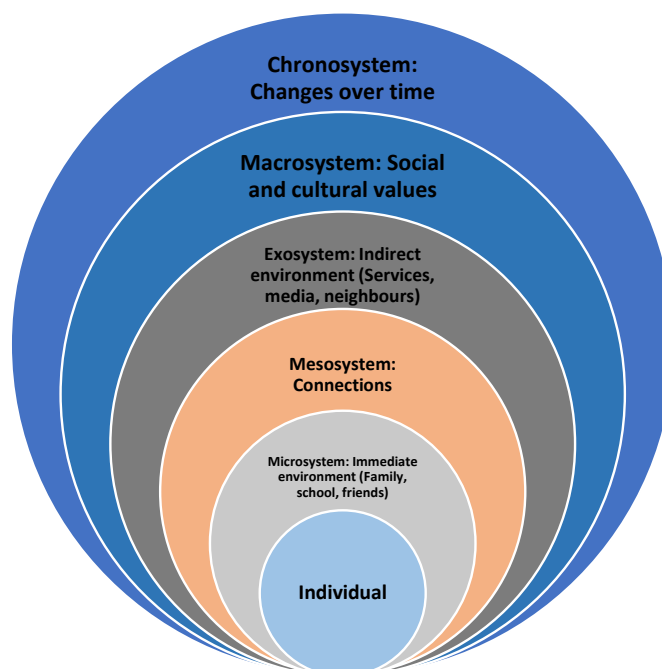


Figure 1: Ecological Systems Framework (adapted from Bronfennbrenner, 1979)

For example, the structure of a country's economy will not only influence the extent to which members of a family are able to enter and participate in the labour market, but it will also determine, to a large extent, whether family members are able to derive livelihoods from decent work opportunities, earn a living wage, and have benefits which enable them to have acceptable standards of living and provide for family members. The way a society is structured will also have a bearing on the ability of family members to access quality health care, and education and training opportunities. The social and political context will shape what services and benefits families can draw on to ensure they are able to fulfil their roles and responsibilities. The social context will shape expectations in relation to roles as well as how families are able to manage caregiving responsibilities alongside those of economic provision. At the local level, the nature of communities and neighbourhoods will determine the risks and freedoms that families face. Well-functioning, socially cohesive communities provide a context of relative safety and security and trust that families can rely on in fulfilling their responsibilities. On the other hand, where communities are characterised by crime and violence, families face significant additional stressors. Families also operate in relation to school, religious, organisational, and work settings, each of which will shape family life. Workplaces can enable or constrain family life depending on their family and leave benefits and policies. Religious organisations can profoundly shape views on roles and responsibilities, particularly gendered relationships; and can play an enabling or constraining role in the promotion of family life and addressing family challenges such as domestic violence or substance abuse. As we see in the section below (section 1.1.2) family life is also shaped by environmental changes that occur over time, including historical events like colonialism and apartheid as well as major events, like a global pandemic.

The family must therefore be understood as part of a wider system; and family policy must speak to how to support and strengthen families through mechanisms that operate across these different systems. The state is uniquely placed to give shape to the interconnections between these sectors through family policy. A family policy can and should:

- Highlight the crucial role that families play as critical building blocks of societies,
- Create a system of monitoring the well-being of families,
- Provide a framework for the provision of services that benefit families in ways that are comprehensive and synergistic,
- Create the conditions for families to better carry out the many functions they perform for their members and for society, and
- Ensure that families are able to overcome and manage stressful conditions (Bogenschneider & Corbett, 2010)

1.1.2. The historical context of families and family policy in South Africa

It is noteworthy that family structures and functions as well as intra-family roles and relationships are in a constant state of flux (Belsey, 2005). This flux is due to two basic factors: (1) long-term historical shifts in technology, modalities of production, population migration, the population structure and urbanization; and (2) the short- and medium-term consequences of natural and man-made disasters and conflicts, and of economic and social disruption and opportunities (Belsey, 2005:16). In this regard, South Africa's entrenched circular labour migration intensified the phenomenon of family structures and roles being in flux. These disruptions meant that biological parents, especially fathers, were not living with dependent children in the same household on a daily basis. This entrenched migration can be attributed to a history of forced labour migration. But it endures due to urban economic and educational opportunities, urban residential limitations, and cultural and familial ties to rural homesteads (Knijn & Patel, 2018; Rabe, 2017c). However, it is not only breadwinners who are moving between households. The movement of children between households and caregivers has long been recognised as characteristic of South African families (Hall & Richter, 2018). In addition, many young people move from rural to urban areas seeking employment, but instead of upward social mobility, they get stuck in urban peripheries without familial support (Hall et al., 2015), and often with children and new families of their own that are then at risk.

In contemporary South Africa, many families continue to face a range of challenges. While access to basic services has improved considerably since 1994, the majority of families in South Africa are confronted with the dual challenges of unemployment and poverty, making economic provision in the household that much more difficult. While poverty does not necessarily mean that a family will be vulnerable and at-risk, it does make economic provision for family members stressful. Many communities continue to be spaces of crime, violence and substance abuse, and gender-based violence continues at untenable levels. Over time HIV and AIDS, and more recently the Covid-19 pandemic, have placed families under significant strain with loss of caregivers and economic providers. Most families must thus function under incredibly difficult circumstances. Yet families in South Africa are characterised by significant resilience. Despite these challenges, the majority of families function well and provide the care and support required by all family members. Nowhere has this resilience been clearer than in the past year where families have had to handle the health and loss consequences of Covid-19, keep family life going under strict public health lockdown measures, and fulfil their responsibilities for care and economic provision whilst facing increased poverty, hunger, and unemployment.

In this historical and contemporary context, family policy is crucial to enhance and support families to meet the abovementioned functions and responsibilities. The core functions of the family can, at any given stage,

be facilitated or enhanced through a family policy which, broadly construed, encompasses any direct and indirect policy that influences the well-being of families (Randolph & Hassan, 1996). Direct policies offer particular kinds of support to families or specific family members, whereas indirect policies are generally more important determinants of families' overall access to resources, including goods, services, and community supports (Randolph & Hassan, 1996).

Using the above definition as the basis, the development of family policy in South Africa can be traced back to the institutional segregation of population categories that prevailed during the apartheid era (Amoateng & Richter, 2007). The system essentially gave rise to a dualistic family policy whereby a strong differentiation was made between White families and those of Africans, Coloureds, and Indians (Harvey, 1994). Overall, Whites were treated as superior to other racial categories, and given the government of the day's view that "the interests of the black group lay in the reserves, that the Indian group was an exogenous group and that the Coloureds should fend for themselves", the Western core family was adopted as the model of family life in the country (Harvey, 1994:29). In addition, grant provision for families was racialised. Older people were able to access a pension from 1928, but Black South Africans were excluded. A decade later a disability grant was introduced, which again excluded Black South Africans. Later Child Support Grants were made available. These included Black South Africans but on a differentiated basis with white families able to claim higher amounts than black families (Samson et al., 2005). Family interventions ran along colonial welfare models with the state intervening where children needed to be removed from families and placed in children's homes (now Child and Youth Care Centres) run by the state or civil society (Patel, 2015). These interventions were largely for white families with little to no consideration of the needs of black families.

Following the establishment of a new democratic dispensation in 1994, the post-apartheid government instituted various policy and legislative reforms aimed at, among other things, the realignment of the country's institutions, in order to transform the South African society. In the early 2000s the grant system was significantly expanded with Child Support Grants, Disability Grants, and Old Age Grants being made widely available at the same rates for all qualifying people. Importantly the design of the Child Support Grant ensured that the primary caregiver, regardless of biological relation or gender, was able to access this support. This design accurately responded to the nature of families in the South African context and implicitly promoted the role of men in children's lives. However, families were not explicitly addressed in any of the early policies post 1994. Instead, it was addressed indirectly. Policies tended to concentrate on households and overlooked intra-family dynamics. In consequence, most socio-economic benefits indirectly filter down to the family. For example, the five major social assistance policies in the country focus only on specific individuals, namely: older persons (Older Person's Grant), people with disabilities (the Disability Grant), and children (the Child Support Grant, the Foster Care Grant, and the Care Dependency Grant). It is noteworthy, however that the needs of such individuals may not necessarily be congruent with those of the family unit. Past and present poverty analyses and strategies of intervention have also primarily concentrated on households, as opposed to families, thereby causing policies to overlook intra-family dynamics in the country.

The White Paper for Social Welfare (1997) was the first welfare policy paper to promote a model of welfare provision that drew on the strengths, resilience, and models that were already operating in many communities. While it was not a family policy per se, it did provide a policy approach to how families could be viewed and supported. The Paper reaffirmed the country's commitment to securing basic welfare and human rights, and focused on the family and its life course: children, youth and the aged. It outlines strategies to promote family life, as well as to strengthen families; and guides, through its developmental paradigm, the implementation of pro-family policies and services in the country. It sought to strengthen kinship and community support for vulnerable groups, including vulnerable families; to promote the strengthening of families and communities; and to propose keeping families together rather than removing children wherever possible. The White Paper has since been updated but the principles remain.

It is against the above background that the absence of an explicit policy framework on the family in South

Africa was identified by policymakers, academics, civil society, and concerned citizens as a critical shortcoming that needed to be urgently addressed (Department of Social Development, 2012). In particular, the detrimental effects of the policies of colonisation and apartheid on families (for example, land dispossessions, and the migrant labour and homeland systems) are considered to have a connection with the multiplicity of social ills that continue to confront contemporary South Africa. As a result, in 2001 a draft *National Policy Framework for Families* was developed by the Department of Social Development. Its 'final draft version', was issued in 2005 with goals that included the protection and support of families through effective and efficient service delivery; the creation of an enabling environment geared towards the self-reliance of families; and the promotion of inter-sectoral collaboration amongst stakeholders in the provision of services. In the pursuit to finalise this 'final draft version' the South Africa Cabinet, in September 2011, approved the Green Paper on Families which has the stated aim to "promote family life and strengthen families in South Africa". The Green paper was released for public comment in October 2011. The first White Paper on Families emanated from the Green Paper. Since then, various activist and academic criticisms and concerns were launched against the moralistic undertones and narrow expressions of family life in South Africa in sections of the first White Paper on Families and a review of the implementation of the White paper on families was conducted (Patel, Hochfeld & Englert, 2018).



Figure 2: Summary of historical development of the White Paper on Families

This Revised White Paper for families draws on the strengths of foregoing policy documents, aims to address these criticisms and concerns, makes revisions based on reviews of the previous iterations, updates the policy paper to account for the contemporary situation of families in South Africa, and integrates feedback from state and civil society stakeholders that engaged in consultations during the revising of the White Paper.

1.1.3. The nature of families and family functions in South Africa

South Africa celebrates a diversity of family forms. People's ideas of the family differ based on who they identify to be their family. Family therefore goes beyond ties of blood, marriage, kinship, and legal arrangements, but originates from other social connections and identity ties. While marriage rates in South Africa are amongst the lowest globally, many people choose to cohabit and engage in long-term committed relationships. South Africa has legalised same-sex marriage and celebrates families formed on the basis of same-sex marriages and long-term relationships. Nuclear families are amongst the least common family

forms in South Africa. Many families are headed by single parents – both men and women, although we do have high rates of female-headed households. Polygamous marriages are also recognised in South Africa and form the basis of many families. Many families include multiple generations and extended kinship networks. Skip-generation households in which children are cared for by grandparents are also prevalent in South Africa. Of concern is child-headed households, the prevalence of which grew during the peak of the HIV and AIDS pandemic. Against this backdrop, Mokomane, Roberts, Struwig and Gordon (2019:3-4) describe South African families as involving “heterogeneous living and caretaking arrangements, as well as complex evolving marital patterns and gender roles”.

The family has several primary functions and will have to fulfil some or all of these functions for family members over a family life course. The first is to provide financially for family members’ needs. Second is child-rearing and socialisation of the next generation. Third is caregiving – providing emotional, mental, spiritual and physical care for all family members and particularly for children, older people, those who are ill and those with severe disabilities (Ooms, 1990). Fourth is instilling values, whatever these may be, in the lives of its members. All of the abovementioned family types have the potential to fulfil these functions. All also have the potential to be under stress and face difficulties fulfilling their responsibilities.

Troubled families—in which conflict, neglect, or abuse occur continually or regularly—have the ability to foster and legitimize oppression of certain family members, especially women and children. In cases where there are irreconcilable differences between family members, or where the presence of specific family members may be detrimental to the functioning of the family (such as an abusive partner or parent), families should be supported to dissolve in an amicable way to ensure future limited or even supervised contact between family members if desired, for example, contact between parents and minor children. However, in cases where the family members are at risk, contact between family members should be prevented through court order and state protection.

The above approach to understanding the nature of families in South Africa informs a policy approach that prioritises the creation of the conditions for families to better carry out the functions they perform for their members and for society in and ensuring that families are able to overcome and manage stressful conditions.

1.2. The White Paper Revision Process

Since 2013 the WPF has undergone multiple reviews both by the government and by independent academics. The revisions to the White Paper were made based on an analysis of these reviews as well as a stakeholders consultation process. To the extent that services to families are rendered by different government departments and non-governmental organisations and, hence are multi-sectoral in nature, the White Paper on Families was revised through a consultative process which involved provincial and national stakeholder workshops attended by a range of participants including representatives from the national, provincial and district Departments of Social Development; representatives from other government departments; and civil society representatives. The consultations needed to take place during 2020 and early 2021 – times at which the Covid-19 pandemic had disrupted family and community life. The public health measures that were put in place during the State of Emergency that lasted from late March 2020 through to the time of revising the White Paper made it impossible to engage in in-person consultations. As a result, the consultative workshops were run virtually. This mode meant that some stakeholders who did not have access to data or the devices required could not participate in the workshops. The workshop team offered opportunities to receive written inputs and engaged some stakeholders in telephonic discussions to widen the range of inputs. It is anticipated that this revision will be subject to ongoing consultations in the next financial year.

1.3. Vision and mission

The vision and mission of the White Paper on Families are as follows:

Vision: To promote Safe, supportive, nurturing, and resilient families as a core unit of society.

Mission: To foster a policy approach and collaborative efforts to promote family well-being, and strengthen and support families so that they are empowered to provide physical, emotional, psychological, financial, spiritual, and intellectual support and care for their members.

Objectives

The Revised White Paper on Families views the family as a key development imperative and seeks to mainstream family issues into government-wide, policy-making initiatives to foster positive family well-being and overall socio-economic development in the country. The specific objectives are to:

- Ensure that families have access to the basic resources, assets, and services they require to promote family well-being.
- Empower families to access socio-economic opportunities, resources and services and to leverage social networks and resources to improve their well-being.
- Promote strong and equitable intra-family relationships within safe, supportive and nurturing communities.
- Support families in need or characterised by severe conflict or neglect of vulnerable family members, to regain their dignity and dissolve in an amicable way.

1.4. Guiding Principles

The White Paper is informed by the following principles:

Human rights

Human rights are first learnt in functional families. Through socialisation, the foundation is laid for children to be tolerant of views other than their own and become active and responsible citizens in the future. Non-discrimination, mutual obligation and respect for diversity will guide Government and other stakeholders in the manner in which they interact with families.

Family diversity

There are different types of families in South Africa which are products of various cultures and social contexts. Therefore, the need exists to recognise the diverse nature of South Africa's families in all initiatives that address their plight. This principle will guide Government and all stakeholders in their engagement with families.

Family resilience

Families have inherent capacities and strengths that sustain them in times of prosperity, as well as adversity. It is important to recognise these qualities, so that any intervention at family level will enhance these attributes.

Gender Equity

Recognition is given to the fact that women face the largest burden of care in households due to patriarchal norms and traditions. This burden of care has significant implications for their ability to pursue educational and economic opportunities. Government and other actors should promote interventions that ensure gender equitable care arrangements, including promoting the role of fathers and other men in family care; and ensuring that families have access to care support, such as ECD facilities that can enable them to manage their care responsibilities.

Community participation

The family remains an integral part of South African society and its continued existence is dependent on

vibrant and well-functioning communities. To this end, government and other actors will foster an approach of collaboration with multiple stakeholders including the active participation of the community in actions that safeguard and support the family by for example, promoting access to resources and assets to promote family well-being, and providing services that promote and strengthen the family.

Strengthening marriages and other partnerships

Stable marital unions and partnerships have been found to contribute to the stability of families and ultimately society's well-being, when they are functioning well (Thomas, Liu & Umberson, 2017). Where partnerships are flourishing, efforts will be made to promote them and where they are under threat there will be a focus on strengthening them or assisting in dissolving such unions in an amicable way.

Strengthening responsible parenting and caregiving

Family stability hinges on responsible parenting and caregiving. Parents or caregivers will be encouraged and supported to play their expected roles in the upbringing of their children. Where there is a case of parental breakdown or its absence, alternative arrangements will be sought within wider family, community networks and child and youth care centres.

Strategic partnerships

The delivery of services by Government and other role-players, such as NGOs and the private sector will be defined by mutual partnerships with the family. The family will play an active role in matters that concern it.

SECTION 2: SETTING THE CONTEXT

2.1. Defining the family

Despite being widely viewed as one of the foundational social institutions in all societies, the concept of the family is difficult to define (Waite, 2000; Belsey, 2005). As the United Nations (1990) pointed out, “the concept may differ in some respects from State to State, and even from region to region within a State and ... it is therefore not possible to give the concept a standard definition”. This difficulty is indeed evident from the different disciplinary definitions of the family. Sociologically for example, the family is often defined as a group of interacting persons who recognise a relationship with each other, based on a common parentage, marriage and/or adoption. Demographers and economists, on the other hand, often use the “residential family” definition: “a group of two people or more (one of whom is the householder) related by birth, marriage, or adoption and residing together” (Belsey, 2005). Others such as Levine (1990) have asserted that “family members are individuals who by birth, adoption, marriage, or declared commitment share deep, personal connections and are mutually entitled to receive and obligated to provide support of various kinds to the extent possible, especially in times of need”. All in all, however, behavioural and social sciences acknowledge that “families never fit nicely into any single model” (Bruce et al., 1995). However, as Amoateng and Richter (2007) point out, “there appears to be broad consensus that families are societal groups that are related by blood (kinship), marriage, adoption, or affiliation with close emotional attachments to each other that endure over time and go beyond a particular physical residence”. It is noteworthy, however that family members do not necessarily have ‘close emotional attachments’ to each other. Therefore, the family will, for the purpose of this Revised White Paper, be defined as:

a societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil, customary or religious), civil union or cohabitation, and go beyond a particular physical residence.

2.1.1. Family versus household

In many studies and analyses related to the family a household is typically used as the unit of analysis. It is important however to note that household and family are not necessarily synonymous (Belsey, 2005). According to the United Nations (1989), a household comprises of either: (i) a single person who makes provision for their food and other essentials for living or (ii) a group of at least two people living together who make common provision for foods and other essentials. “This means that a household can contain a family, but that household members do not necessarily have to be a family...The household performs the functions of providing a place of dwelling and of sharing resources, these functions can be performed among people who are related by blood and people without any such relationship” (Department of Social Development, 2008).

2.2. Situational analysis of families in South Africa

To contextualise the rest of this Revised WPF, this section draws data from several statistical studies including the Demographic and Health Survey, the Community Survey, the General Household Survey, the National Income Dynamics Study (NIDS) and the NIDS Coronavirus Rapid Mobile Survey (NIDS-CRAM) to report on the situation of families in South Africa.

The following section maps out trends in the structure of South African families. Note should be made here of the reference, in some instances, to ‘households’ as opposed to ‘families’. This terminology is in line with internationally accepted concepts and, as stated above, the common use of household as the unit of analysis in many studies. The intellectual contestations of what constitutes a family or a household has not been embarked upon in this section, but rather pragmatic definitions of families and households have been adopted. Families in this section have been analysed based on available data which confine mapping of relationships within households. Further, the data used do not always allow us to understand whether a

household includes people in same-sex marriages or relationships. This data omission should not be taken to mean that same-sex relationships are not celebrated or recognised.

2.2.1. The nature of families in South Africa

There is no doubt that the data estimates shown below have been influenced by the variations in the quality of data from various sources used; nevertheless, we hope such variations will result in minor margins of error in the estimates. Most of what has been analysed in South African literature relates to the structure of households and very little about families per se. While most of the analyses in this section map out the current structure of South African households, further analysis has been made related to families. It is noted that the ultimate interest of family studies and family policy formulations is not to influence its structure, but to promote family well-being. That said, a cursory perusal of existing literature does confirm that family well-being can at times be influenced by its structure, and understanding the nature of families can assist in informing programming. Family life in South Africa is characterised by continuity and change. Two features of families have been noted to be resilient, which are the continued predominance of family households and intergenerational arrangements.

Continued predominance of family households

The recently released 2018 Household Survey found that approximately only about one-quarter (23,4%) of households consisted of a single person which is comparable to the 2014 estimate of 22,4%. The overwhelming majority of households in South Africa are classified as composed of families, with only 2,4% classified as complex (composed entirely of non-family members). North West had the highest incidence of single person households (28,3%) while households that contained more than six members were more common in provinces with large rural areas such as is the case in KwaZulu-Natal (18,9%) and Mpumalanga (18,3%). Single households in North West are linked to migrant labour in the province that sustain the burgeoning mining industry.

Table 2: Generational types of South African families

Type of Family	WC	EC	NC	FS	KZN	NW	GP	MP	LP	RSA
Unclear	2,5	4,3	3,5	2,2	3,8	3,0	3,5	4,2	2,4	3,4
Skip Generation	1,8	8,5	5,7	6,6	5,4	4,7	2,3	4,8	6,8	4,5
Triple Generation	10,6	18,4	17,7	15,2	18,4	15,0	10,6	17,5	19,0	14,7
Double Generation	48,1	34,5	41,0	42,4	35,2	36,9	42,3	40,0	39,3	40,1
Single Generation	18,1	12,3	12,0	11,9	13,1	12,0	16,4	12,0	9,4	13,9
Single Person	19,0	22,1	20,1	21,6	24,2	28,3	25,1	21,6	23,1	23,4

Table 2 above, shows that double generation households are the most common in South Africa (40,1%), although they are not the majority. About 13,9% of households are single generation (partners or siblings living together). Approximately 14,7% of households contain three generations, while 4,5% were skip generational. Eastern Cape has the highest number of skip-generational households (8,5%). Triple

generation households were most common in provinces with large rural communities namely Limpopo (19.0%), KwaZulu-Natal and Eastern Cape (18.4%). The estimated percentages of adoptive and blended families in 2001 and 2011 are small and indicated no big differences in the 10 years documented above.

The decline in nuclear families

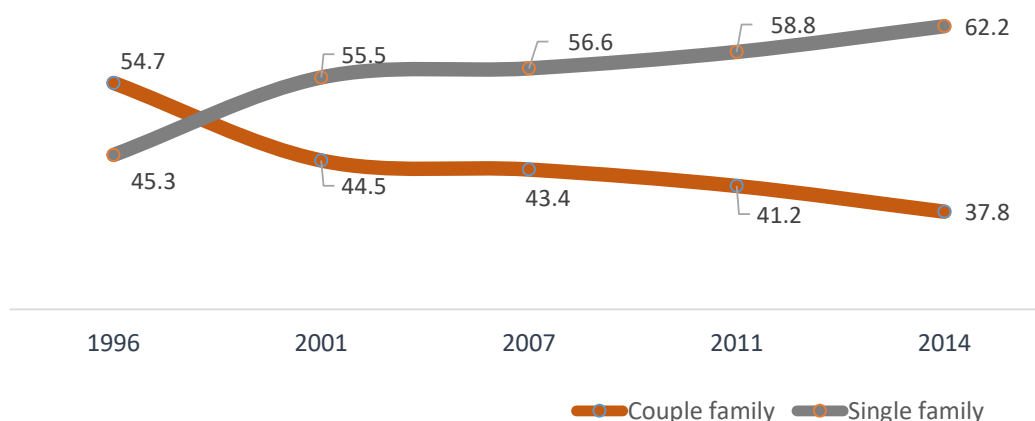
Currently, an estimated 39,9% of households were classified as nuclear (couples, or one or more parent(s) with children) while 34,2% of households were classified broadly as extended households (a nuclear core combined with other family members such as parents or siblings). Nuclear households are most common in metropolitan areas, most notably in the Western Cape (51,3%) and Gauteng (45,7%). Extended households are mostly found in Eastern Cape (43,7%), Limpopo (42,0%) and KwaZulu-Natal (39,6%). The nuclear family has been declining in South Africa over time. Holborn and Eddy (2011:3), for example, showed that “the proportion of households that were made up of nuclear families decreased between 1996 and 2001, from 46% to 40%”. The rate reported above of 39.9% seems to suggest that the number of nuclear families have been holding constant since 2001. However, as will be shown below, we have seen a decline in other factors usually associated with the traditional notion of the nuclear family and a growth in other family formations. The most noteworthy trend is that the biggest rise is that of single people who reside in extended families.

Decline in Registered Marriages in South Africa

Registered marriages have been declining over a period of ten years 2008-2017, except for a slight increase of 0.6% between 2016 and 2017. Thus, the lowest number of marriages were reported in 2017 (135 458) from a high in 2008 (186 522). In 2017, 2 588 customary marriages were registered at the Department of Home Affairs, indicating a decrease of 34,9% from 3 978 customary marriages registered in 2016. The highest number of registered customary marriages was recorded in 2008 (16 003) whilst the lowest number was recorded in 2017 (2 588). The observed crude customary marriage rate was 0,05 per 1 000 estimated resident population in 2017. This trend is in line with the noticed declining trend in the couple headed families during this period. The data used to understand these trends are drawn from the Marriages and Divorces data that Statistics SA releases periodically. Statistics South Africa draws these data from marriage records, which in South Africa, under the Civil Union Act, do not identify the sex of the spouses. This lack of information does not allow us therefore to understand how many are same-sex unions, nor whether the trends reported above are the same for different-sex and same-sex couples. The same pertains to divorce rates, which are discussed below.

Increase in Divorce Rates

The 2017 divorce data reported in this statistical release are based on 25 390 completed divorce forms that Stats SA received and processed by the end of December 2018. The number (25 390) indicates an increase of 64 (0,3%) divorces from the 25 326 cases processed in 2016. The total number of divorces fluctuated over the period 2008 to 2011 followed by a consistent increase from 2012 to 2017, with the highest number observed in 2009 (30 763) and the lowest in 2011 (20 980). In 2017, about 155 divorces were granted for same-sex couples of which 115 were female couples and 40 were male couples. The observed crude divorce rate was 0,4 divorces per 1 000 estimated resident population in 2017.

The decline in couple-household headship**Figure 3: The distribution of couple and single households, 1996-2018**

A sustained decline in couple headed households has been experienced for some time in South Africa. By the year 1996, couple headed families were already low compared to the rest of the world, at 54.7%, and single headed families constituted 47.3%. During the short period of 18 years a “crossover” happened, with couple headed families dipping lower than single headed families.

Decline in household size and an increase in the number of households

The data from the 2018 Household Survey confirm most of the familiar trend in South African households, namely, that of an accelerated growth in the number of households, outstripping population growth; as documented during 2002–2019 period (2,4% per annum compared to 1,3% per annum). Similarly, the number of households were estimated at 15.6 million in 2014, a large overall increase of 44% from the estimated number of households in 2002. The number of households increased from 11.2 million 2002 to 17.2 in 2019.

The growth of the number of households is sustained by natural population growth, the decline in the sizes of households and international, national, and circular migration where a number of persons maintain dual households located in both rural and urban areas. It should be noted that the urban-rural disaggregation of households in South Africa is not symmetric, as is shown in the 2018 Household Survey data which reveal that urban households are smaller in size and more likely to be headed by younger males in contrast to rural households which are generally bigger and more likely to be headed by older women.

The decline in household sizes as a factor in the increase of the number of households is confirmed by the data from the 2018 Household Survey, which show that households with four people or less per household are more prevalent in urban areas (64%) than rural areas (53,5%). In addition, households that comprised six persons or more were much more commonplace in rural areas (20,6% compared to 11,3% for urban areas). Larger households were more common in provinces with large rural populations like KwaZulu-Natal (18,9%) and Limpopo (18,0%). Although the mean household size was estimated at 3,31 persons per

household for the country, the estimate ranges from 3,11 in urban areas to 3,73 in rural areas.

One of the results of disaggregation of households is the lag in service delivery, as households are the access point of public services. For instance, about 81.9% of households resided in formal dwellings in South Africa, and 12.7% lived in informal dwellings. This situation is the case despite the increase in housing subsidy from 5.6% in 2002 to 13.7% in 2019. This finding could be attributable to high population mobility and the reported increase of households.

Predominance of female headed households

The survey shows that 41.8% of households in South Africa were headed by females in 2018. Single household headship is linked with marriage patterns. At lower ages there are more males who are single (53,2% compared to 47% of females) as women get married or cohabit earlier than males. At a later stage, females are more likely to be single as they are likely to be widowed (husbands in this age group were far more likely to never been married, to be widowed (12,8% compared to 3,1%) or divorced or separated (3,7% compared to 2,3%) and the fact that remarriage among females is less common. As a result of these factors, being in marriage or in a cohabitation were far more common amongst males (71,3%) than females (35,4%) in the age groups 60-74 years. By contrast, 82.5% of women in the age group 75 years and older remained single compared to 34.9% of males in this age group.

Changes in the living arrangement of children

The number of orphans declined after a rapid increase experienced at the height of AIDS related deaths between the years 2002 and 2009. At that time, the total number of orphans rose to be over a million, after which there was a notable decline. By 2017, the number of orphans had fallen to below 2002 levels. As has been found in previous periods, there is a higher prevalence of paternal orphans than maternal orphans, due to higher male mortality and higher age at which males become parents. The 2018 household survey data show that 14,4% of South African children were broadly classified as orphans. Of the 14,4% orphans, 3,1% of children lost their mothers, 9% of children had lost their fathers, and 2,4% of children lost both parents. The percentage of orphaned children was highest in KwaZulu-Natal and Eastern Cape (both 18,7%), Free State (16,0%) and Mpumalanga (15,5%), and lowest in Western Cape (8,3%).

Table 3: Children living with their biological parents, by province, 2015.

	EC	FS	GT	KZN	LP	MP	NW	NC	WC	SA
Both parents	21.6%	33.6%	51.0%	22.2%	26.9%	31.7%	33.5%	34.0%	54.6%	34.4%
Mother only	42.3%	42.3%	33.9%	47.1%	46.3%	43.5%	43.4%	43.2%	32.1%	41.4%
Father only	2.8%	2.5%	3.4%	4.5%	2.0%	3.2%	3.3%	2.9%	3.1%	3.3%
Neither parent	33.3%	21.6%	10.7%	26.1%	24.7%	21.5%	19.9%	19.9%	10.2%	20.9%

Source: StatsSA (2018).

As shown in Table 3 above, about one-fifth (20.9%) of all children did not live with their parents in 2018. By comparison, one-third (34.4%) lived with both parents. Most children, however, lived with their mothers only (41.4%) while a far smaller percentage (3.3%) of children lived only with their fathers. This situation has not changed much from what was recorded in 2007, when children who stayed with both parents were recorded to be 39,3%, mothers only 39,3%; fathers only were 2,8 and neither parents were 23,0.

Not living with either parent was most common in Eastern Cape (33.3%), KwaZulu-Natal (26.1%) and Limpopo (24.7%) and least common in Western Cape (10.2%) and Gauteng (10.7%). As noted by Hall and Sambu (2017) children in the poorest 20 per cent of households are least likely to live with both parents as only 16 per cent have both parents living with them, compared with 76 per cent of children in the wealthiest 20 per cent of households. The data also show that more African children live without both parents.

South Africa family structure as an outlier in the world

Figure 4 shows the prevalence of marriage among women in reproductive ages in countries in different parts of the world. The figure shows that South Africa is an outlier in having low levels of marriage, which is higher only to Namibia, a country which is historically part of the South African political economy.

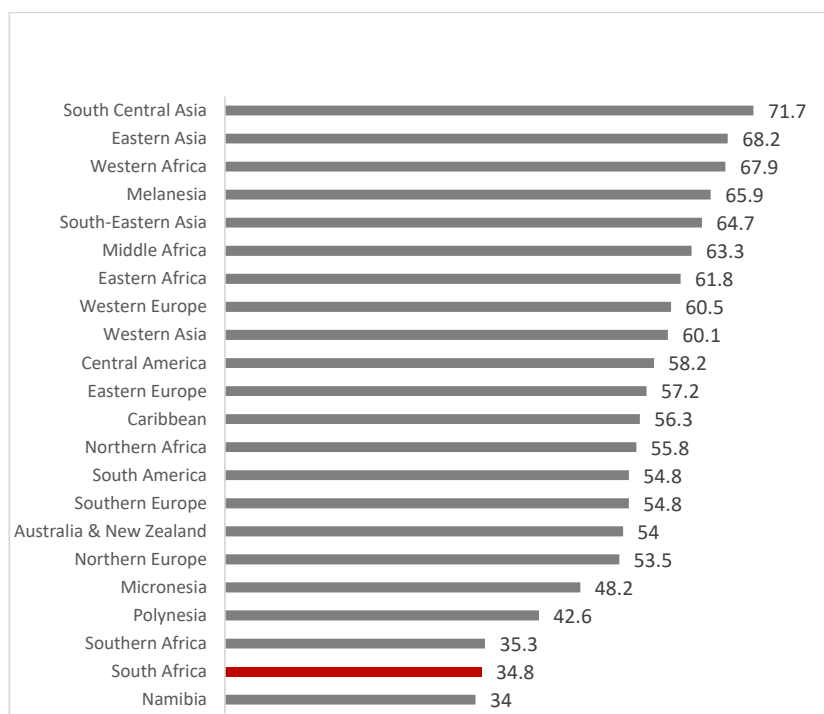


Figure 4: Prevalence of marriage (%) among women in reproductive ages in world region, (2008-10)

Demographic correlates to family patterns experienced in South Africa

Fertility Decline

South Africa is currently experiencing a Total Fertility Rate of 2.4; which is a considerable decline from 6 which was experienced in the 1950s. The current projections suggest a modest decline that will take a considerable time. The decline in fertility over time is one of the drivers of smaller households in South Africa.

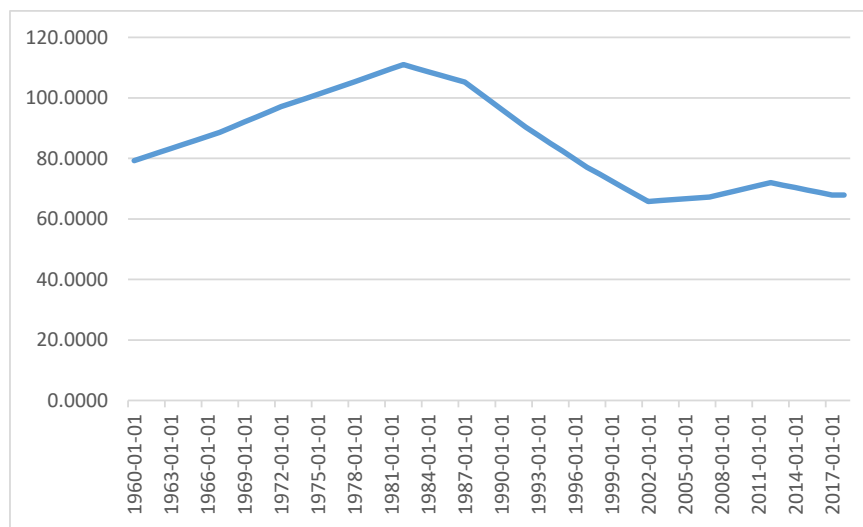


Figure 5: Teenage Fertility Rate 1960-2017

However, as is shown in Figure 3, South Africa has historically experienced a relatively high rate of teenage childbearing. After a sustained increase from the 1960s to the early 1980s, there was a considerable decline until the end of the last millennium, followed by another stall. Teenage childbearing has an impact on family formations in South Africa. Teenage pregnancy also has major social and health implications for the young mothers and their children, including dropping out of school, curtailed personal development and increased vulnerability to exploitative sexual relationships, higher rates of maternal mortality and greater risks of clandestine abortion (Dickson, 2003). High levels of teenage pregnancy further reflect a pattern of sexual activity that puts teenagers at risk of HIV and other sexually transmitted infections (Swartz, 2003; Cooper et al., 2004). Furthermore, gang activity, coercion, substance abuse, and other social pressures are some of contributory factors. The situation of pregnant teenagers or teenage mothers is exacerbated by lack of support from partners, as the men responsible for the pregnancies often refuse any responsibility in terms of emotional, financial and practical support during pregnancy and childrearing, a factor that contributes to the number of absentee fathers discussed earlier (Swartz, 2003).

Mortality Trends

South Africa experienced a mortality increase from 1997 to 2006, as a result of the HIV pandemic. After the introduction of antiretroviral drugs, mortality rates started to decline in 2007, although they have not declined to levels below that experienced in 1997. As a result of high adult mortality South Africa has experienced high numbers of orphans, particularly between 2002 and 2009, and shifts in the care arrangements for children including foster and social parenting.

Population Mobility

South Africa has high circular migration, which dates back to colonial and apartheid times as discussed above. While the nature of population movements over time has changed, movements remain selective by age, gender, class and ableism. Thus, there is a consistent difference in the character of families in urban and rural areas.

2.2.2. Current socio-economic conditions affecting South African families

This sub-section focuses, in no particular order of priority, on some of the most crucial issues affecting families in South Africa. These issues include poverty and inequality, unemployment, housing, health concerns, including HIV and AIDS and the Covid-19 pandemic, the gendered nature of care, absentee

fathers, crime, substance abuse, gender-based violence and teenage pregnancy.

Poverty and inequality

Poverty and inequality continue to place enormous stress upon families as they seek to fulfil their various roles in society. Poverty makes it difficult for families to ensure that the basic needs of its members are met and there is increasing evidence of how poverty and hunger affect the mental health of caregivers, placing them under significant strain (Van der Berg, Patel & Bridgman, 2021). Poverty still reflects apartheid settlement patterns and virtually all poor households are found in the former Bantustan regions, informal settlements, and townships. Inequality in income distribution is also large and persistent (Van der berg, 2010) largely because of the reproduction of disparities in ownership, income, resources, skills and other determinants of people's capacity to take advantage of opportunities.

Poverty rates in South Africa remain unacceptably high for a middle-income country. Although poverty levels improved between 2005 and 2011, they have since then stagnated and worsened. Statistics South Africa reported an improvement between 2006 and 2011 when poverty levels (measured by the lower-bound poverty line) reduced from 66.6 percent to 53.2 percent of the South African population. However, by 2015 the poverty rate had started to increase again up to 55.5% (Zizzamia et al., 2019; StatsSA, 2017). This increase in poverty rates also affects the depth of poverty which improved between 2006 and 2015 but worsened again post 2015. Although major gains have been made in improving multi-dimensional poverty, primarily through access to basic services such as water, electricity, and sanitation; income poverty remains a major challenge. This challenge is demonstrated in the high levels of hunger in the country. Progress on reducing hunger levels since 2011 has been almost stagnant and in 2016, the number of people vulnerable to hunger was measured at 13.4% of the population (StatsSA, 2017). Latest figures emerging from the NIDS-CRAM study indicate that 20% of households experienced hunger in the last quarter of 2020 (Van der Berg, Patel & Bridgman, 2021).

Despite the National Development Plan setting a goal of reducing inequality by 2030 from a Gini coefficient of 0.69 to 0.6 (NDP, date), South Africa still holds the unenviable position of being one of the most unequal countries in the world (Alvaredo et al., 2018). Estimates of the Gini coefficient for income inequality range between 0.65 (StatsSA, 2019) and 0.68 (StatsSA, 2017) in 2015. To a large degree, access to grants has improved income inequality. However, wage and wealth inequality remain significant challenges. Wealth inequality sits at 0.93 in 2015, and is an important source of intergenerational inequality (Mbewe & Woolard, 2016; World Bank, 2018). Wage inequality also remains high and is increasing. The number of workers with highly skilled jobs is low, while a large proportion of the working population is employed in very low paid jobs. For instance, top end jobs earn nearly five times the average wage for low-skill jobs yet represent less than 20 percent of the total working population. Wage inequality increased significantly between 1995 and 2014. The wage Gini coefficient rose from 0.58 to 0.69 between 1995 and 2014.

Gender and race inequality continue to shape South Africa's landscape. According to Statistics South Africa (2019) black Africans are most likely to earn the lowest wages, that is to be employed in the lowest paying jobs. Female workers earn approximately 30% less, on average, than male workers. Reasons for this discrepancy are that males are more likely to be employed and when they are employed tend to be employed in better-paying jobs (ibid.). Although no reasons are given for this finding in the abovementioned report, the burden of care that women face in families is a major reason why women are less likely to be employed and, when they are employed, to be employed in jobs that are part-time or allow flexibility to care for children and other family members. The gender-and-care wage gap is a clear barrier to women's economic empowerment and contributes to the income vulnerability of female-headed households.

Among the major causes of poverty and inequality in the country is a lack of, or low earned income. Essentially, unemployment remains a structural feature of the South African economy and employment creation has not transpired at the anticipated rate. The nature of the labour market is that where there is

growth in jobs, these are typically in fields requiring higher skills levels (Bhorat, 2014; 2016;). Failures in the basic education system and limited access to further education opportunities ensure that many people remain at the lower end of the skills spectrum, struggling to find work (Spaull, 2015). Latest unemployment figures show that unemployment has deepened further to 42.6% in the final quarter of 2020 (StatsSA, 2021). Although these figures are affected by Covid-19 and the related economic effects, structural unemployment has been a longstanding issue in the country, affecting millions of families.

This situation continues to place a huge dependency burden on families. The care burden, carried predominantly by women, has significant effects on women's ability to engage in paid work on a full-time basis. Globally and in South Africa, it was women who bore the brunt of job losses during the Covid-19 pandemic, not only because they are often in more vulnerable jobs, but also because many had to exit the labour market to care for ill family members and children who were home when schools closed (Spaul et al., 2021). This finding is a clear indication of the ways in which care burdens impact on women's economic empowerment, and the need to ensure that appropriate care and livelihood support is available to families.

Unemployment and poverty also affect different groups of people differently. People with disabilities are less likely to be in the labour market and more likely to face lower wages when they are in the labour market (Graham, 2020). Geography also plays a role with those in urban areas more likely to be employed than those in rural areas (although those in informal settlements in urban areas are amongst the most vulnerable to poverty) (Spaull et al., 2021).

Feminisation of poverty

Women endure a disproportionate burden of the outcomes of past policies, as far as poverty is concerned. Whereas men were working in various industries during the apartheid era, many women remained in the rural areas to look after family members. Historically, women received income primarily in the form of remittances from their spouses. Cultural practices, such as patriarchy, also reinforced the exclusion of women from many economic activities and they continue to shape normative expectations of who carries the responsibility for care in the household.

The gender division of labour continues to influence how families function. Women typically assume more household responsibilities, spend a larger portion of their time on unpaid care work than men, and form a greater proportion of those who are not economically active. Indeed, data from the 2000 Time Use Survey showed that each day South African women spent less time than men on learning, social and cultural activities, and using mass media, but spent more than double the time men spent on household maintenance and care of persons (Budlender et al., 2001). This situation is further exacerbated by the inadequate provision of childcare facilities and other forms of care support, causing the amount of time women spend on wage work to be reduced. Consequently, their vulnerability to poverty increases. There is, therefore, a gender dimension to poverty within families, as women continue to be marginalised in relation to men in terms of socio-economic opportunities, such as employment as is demonstrated by the figures reported above.

Child poverty

Child poverty is another particularly worrisome trend in South Africa linked to the poverty and unemployment trends described above. In 2018, 59% of children lived in households that were classified as poor (using the upper-bound poverty line) (Hall, 2020). Although this figure has declined from 78% in 2003 (largely due to the expansion of Child Support Grants), it is still unacceptably high and is indicative of the stress that families face as they seek to provide for and care for their children. Racial disparities persist in relation to child poverty. Almost two-thirds (65%) of African children live in poor households as compared to only 3% of White children (ibid).

A key factor in protecting children from the worst effects of poverty is social grants. The largest – the Child

Support Grant – reached 12,784,000 children as of March 2020. The Care Dependency Grant and the Foster Care Grant are other important social grants that provide a minimal level of support to families to meet the needs of children.

Food insecurity and child malnutrition

Despite the reach of social grants and evidence demonstrating that they are used to meet the basic needs of children (DSD, SASSA and UNICEF 2012), food insecurity and hunger are daily challenges for many South African families. Prior to Covid-19 and the related economic effects, food insecurity affected 20% of households (Statistics South Africa 2019). Child hunger is also an ongoing challenge. In 2018 just over 10% of children lived in households with reported child hunger (Sambu, 2019). The Covid-19 pandemic has deepened child hunger. Latest figures demonstrate that child hunger almost doubled in the early phases of the lockdown response strategy, and that although there was some recovery by August of 2020, the figures had again returned to the early lockdown levels by October of 2020 (Van den Berg et al., 2021). Related to food insecurity is the fact that many South African children are malnourished. 27% of South Africa's children are stunted – an indicator of chronic malnutrition (Sanders et al., 2019). This factor has long-term effects for children's health and cognitive development. The strain of feeding family members is a major stressor for families in South Africa.

Gendered relations of care

Due to the historical social and economic trends and demographic patterns described above, as well as deep-seated patriarchal norms that cut across population and cultural groups, women continue to be primarily responsible for care in the family. As is noted by Mkhwanazi et al. (2020):

The assumption that the biological mother will be – and should be – the primary caregiver of her infants and young children is embedded in understandings of gender that are common across different populations in South Africa. The willingness, capability and capacity of mothers to provide care to infants and small children is generally taken for granted, with an assumption that new mothers will also be supported by older and experienced kin or by the woman's partner.

This burden of care is exacerbated in situations where biological fathers are absent, which has been a worrying phenomenon in South Africa for some time. It should be noted that in 2018, 11% of children (roughly 2 million children) did not have a living father (Hall, 2019).

Table 4: Children with absent parents (Mkhwanazi et al., 2020)

Age	Total number of children	Mother absent		Father absent		Both parents absent	
		%	Number	%	Number	%	Number
0 – 5 years	6,978,000	15	1,070,000	61	4,223,000	13	909,000
6 – 11 years	6,815,000	26	1,781,000	62	4,275,000	23	1,548,000
12 – 17 years	5,786,000	32	1,869,000	64	3,724,000	28	1,631,000
Total	19,579,000	24	4,721,000	62	12,223,000	21	4,089,000

Source: Statistics South Africa (2018) *General Household Survey 2017*. Pretoria: Stats SA. Analysis by Katharine Hall, Children's Institute, UCT.
Note: Absent parents may be dead, unknown or living elsewhere.

Reasons for fathers being absent include high rates of unemployment and financial constraints, which feed into dominant perceptions of fathers' roles being primarily to provide financially for families (Mavungu et al., 2015), and which may in turn lead to fathers feeling that they are failing to take responsibility for their children. Fathers also report being barred from seeing children when they cannot provide financially or where cultural practices of paying damages have not been undertaken (Mavungu et al., 2015; Mkhwanazi et al., 2020).

Gendered expectations of care may also limit men's involvement in the day-to-day care of their children, even when they are involved (Khan, 2019). These trends are a cause for concern given the significant body of evidence showing the positive effect of the presence and active involvement of a father on a child's life chances; academic performance; and social, emotional and cognitive functioning (Engle et al., 2006; Richter, 2006; Kang & Weber, 2009). Having noted this trend, it is also important to acknowledge that where biological fathers are unable to or do not play a role in their children's lives, many adult male members of families are involved in parenting and the term social fatherhood is repeatedly highlighted. This term refers to an adult, other than the biological father, who takes up the responsibility of fathering through caretaking and socialisation of children (Hosegood & Madhavan, 2010; Hunter, 2006; Mkhize, 2004; Rabe, 2007; Van den Berg & Makusha, 2018).

The gendered nature of care has several implications for families. First, it draws attention to the barriers that women face in economic engagement in the absence of appropriate care support. Second, it highlights the crucial role of networks of support (of men and women) within and beyond the family in supporting caregivers; and third, it points to the need to encourage the involvement of fathers in family life.

Patriarchal norms and values can in some instances also lead to toxic masculinity – expectations about men's behaviour that can have detrimental consequences. These consequences include high rates of violence, father absence, substance use and abuse, and sexual coercion and rape.

Housing

The housing subsidy scheme implemented since 1994 has changed the South African housing landscape. Although significant progress has been made in ensuring that people have access to adequate housing, backlogs remain. This situation means that nationally in 2018, 9% of children lived in households that did not have access to adequate housing (defined as informal or backyard shelters). The Western Cape and Gauteng have the highest proportion of children living in inadequate housing (Hall, 2020a), most likely due to high rates of migration into these provinces.

Homelessness

The population of homeless people in South Africa is estimated to be between 100 000 and 200 000 (Rule-Groenewald et al, 2015). These figures include people living on the streets permanently, those living in shelters, and those living on the streets temporarily (such as waste pickers who "sleep rough" during the week before returning home over the weekend). These figures are simply estimates since no reliable statistics are available. The reason for this situation is because the nature of homelessness is such that the population is difficult to access and to sample.

There are also limited data on the demographic profile of homeless people (age, race, gender) although anecdotally we know that it is predominantly men who are homeless.

Homelessness arises from a complex interplay of causes. Some are structural including lack of adequate and affordable housing (as discussed above), and high rates of migration, unemployment, and poverty. Personal factors also play a role. Many homeless people report experiences with abuse and domestic violence, family problems, eviction, economic difficulties at home, and a search for independence or a better life (Cross & Seager, 2010).

Health and access to Healthcare

Access to healthcare is a key tenet of family well-being. South Africa has free maternity care, high rates of antenatal care coverage, and high rates of delivery by skilled birth attendants (Day et al., 2011). Children under six years of age are entitled to free primary healthcare at public clinics. This entitlement does not necessarily translate into actual access. Distances to healthcare facilities and a pressurised public healthcare system make accessing health services difficult for many. In 2018, 20% of children were living in households that were deemed to be far from a healthcare facility (Hall, 2020b).

Reproductive Health

Although South Africa has historically struggled to reduce maternal mortality, in recent years there have been improvements (Moodley, Fawcus & Pattison, 2018). Between 2009 and 2016, institutional maternal death ratios decreased from 189 per 100 000 live births to 134 per 100 000 (ibid.). HIV and AIDS have historically been among the major drivers of maternal mortality. However, widespread rollout of antiretrovirals has been a major contributor to the reduction in maternal mortality according to this study.

Nevertheless, there are still measures that need to be improved. As a Human Rights Watch (2011) report notes, “the tragedy of maternal deaths in South Africa is that many women who eventually die have had contact with the health systems—through attending antenatal care and delivery in health facilities—meaning that some of the deaths could have been prevented”. This apparent paradox in South African reproductive health is also evident from data showing that while 65 percent of women in South Africa were using a modern form of contraception in 2003, over 60 percent of the most recent pregnancies were unplanned (Osman et al., 2011). Day et al. (2011) attribute these contradictions to shortcomings in accountability and oversight mechanisms used by authorities to monitor and improve healthcare performance.

To the extent that women are not only child-bearers, but that they are also the primary caregivers of children, the sick, the aged and people with disabilities, their access to health, reproductive health, and family planning services should be a national priority. Essentially, to contribute to the functionality of families in the country, women need to be able to access reproductive health services and to have a choice to have (or not to have) children, and to adequately space their births so as to give the children greater and sufficient access to resources such as childcare and education.

HIV and AIDS

According to the Joint United Nations Programme on HIV/AIDS, South Africa is one of the most seriously HIV-affected countries in the world, with 2020 estimates indicating that 19 percent of the adult population aged 15-49 years was living with HIV. Widespread antiretroviral treatment (71% of adults with HIV are on ARVs according to UNAIDS, 2020) and prevention of mother-to-child transmission prophylactics have ensured that mortality due to HIV has been reduced from the levels seen in the period 2002 – 2009. Nevertheless, the health burden of HIV and AIDS remains. As part of the national response, and consistent with the practice in other parts of Africa, there has been a shift in the model of care of people living with HIV and AIDS from hospital care to home-based care (Akintola, 2004). While this practice has partly helped to reduce pressure on public hospitals that do not have adequate staff and space to care for HIV and AIDS patients, it is done with the assumption that there is adequate community and family support to meet the patients' needs. However, the reality is that with about 91 percent of HIV and AIDS caregivers in South Africa being women (Southern Africa Partnership Programme, 2005), home-based care has significantly increased the burden of care for many women.

Covid-19

Throughout this section reference has been made to the socio-economic effects of Covid-19, but there are also health effects. Much of the care of Covid-19 patients has had to occur within the home due to strain on the healthcare system. This situation has placed additional burdens of care on women. Furthermore, to date Covid-19 has resulted in the deaths of around 50 000 people. There are significant household economic shocks that go alongside the emotional experience of losing family members. Finally, there is increasing evidence that many people will suffer from “long Covid” – long-term health effects of having been infected with Covid. This factor is likely to have impacts on the ability of people to seek and maintain work, and potentially will add further care burdens to the family.

Mental health

Mental health has also been placed in the spotlight during the Covid-19 pandemic. The isolation and

economic effects of lockdown measures, alongside the experience of grief and loss have all made mental health far more of a topic for discussion. But mental health concerns were widespread well before Covid-19. A 2014 study estimated that 1 in 3 people in South Africa would experience mental health concerns in their lifetime (Jack et al., 2014) and that 10-20% of children and adolescents in developing countries are affected by mental health conditions (Kielling et al., 2011). Poverty and conditions of adversity are associated with higher rates of mental ill health (Hunt et al., 2019). This finding is borne out by evidence that households experiencing food insecurity during the Covid-19 pandemic are also more likely to have caregivers who experience depression (Van den Berg, Patel & Bridgeman, 2021). Stigma and lack of access to support services mean that mental health conditions often go undiagnosed and untreated.

Crime and violence

Crime is an ever-increasing problem in South Africa, affecting millions of families negatively on a daily basis. The effects of crime and violence on families are both direct and indirect. Families of victims of crime are directly affected when they suffer the trauma of loss of life or injury, and relatedly experience household economic shocks. Families of the perpetrators of crime are also adversely affected as they contend with legal fees, social stigma, and the trauma of having a family member incarcerated or losing income from a contributing member (Department of Social Development, 2010). The Victims of Crime Survey (Statistics South Africa, 2019) reports that 7.5% of households experienced crime in the year 2017-2018, with burglaries being the main crime experienced by households. The indirect effect of crime and violence is that individuals and families do not feel safe in their communities and residences. The Victims of Crime Survey (Statistics South Africa, 2019) reports that there was a reduction in the number of people indicating that they felt safe during the day (from 87% in 2013/4 to 79% in 2017/8) and the night (from 35% to 32% in the same period). Safe spaces for children to play and for families to feel secure are crucial for family well-being. While there are various theories on the causes of youth crime, the consensus is that it is primarily the outcome of multiple adverse social, economic and family conditions (van Niekerk & Mathews, 2019).

Gender-based violence

Gender-based violence (GBV) has been a major challenge in South Africa, highlighted at regular intervals every year by the media. Gender Links (2012) reports that 77% of women in Limpopo, 51% in Gauteng, 45% in the Western Cape and 36% in KwaZulu-Natal had experienced some form of GBV (Gender Links, 2012). Sexual violence is the most common form of GBV and has been consistently high over time. Alarming, 61% of children under the age of 15 experienced sexual assault (this figure includes the numbers of children who witness sexual assault); and 29% between the ages of 0 and 10 endured sexual assault (Department of Social Development & Department of Women, Children and People with Disabilities, 2012).

Family violence

Family violence is a term that encompasses various forms of violence that families may endure including Intimate Partner Violence (IPV, also one form of GBV). Reports indicate that rates of GBV and IPV went up during the Covid-19 related lockdown, as estimated by the increase in the number of calls to helplines. IPV has significant effects for families. Women that experienced sexual or physical abuse in their relationship were more likely to be diagnosed with a sexually transmitted infection, test positive for HIV, suffer from depression, or consider suicide. Children exposed to IPV also experience long-term consequences for their mental health and well-being. Family violence also includes child abuse and neglect. Despite been regarded as having an exemplary child rights environment, South Africa has some of the highest reported cases of child abuse, neglect and maltreatment which takes many forms, including physical and mental abuse, sexual abuse, exploitative work, trafficking etc (Richter & Dawes, 2008). While it is difficult to establish the size of 'the problem' of child abuse in South Africa, partly because of complexities and variation in definition, community understanding and reporting levels, one gauge of the problem is the number of crimes against children reported to the police, and summarised in the annual reports of the National Department of Police

Services (Richter & Dawes, 2008).

Latest figures demonstrate that a third of children have experienced physical or sexual violence below the age of 18 years. A further 12% and 16% of children are reported to have experienced neglect and emotional abuse respectively (Artz et al., 2016). For just under half of victims (46%) the abuse is perpetrated by a person related to them (Jamieson et al., 2017).

Another form of family violence is elder abuse and neglect and the neglect and abuse of other vulnerable family members. There are very limited statistics on the extent and nature of this form of family violence. Viewing the challenge as only a form of GBV or as only child abuse misses out on the ways in which the family as a whole is affected by violence.

Substance abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs (World Health Organisation, 2011). These substances can lead to dependence syndrome, defined as a cluster of behavioural, cognitive, and physiological phenomena that develop after repeated use and that typically include a strong desire to take the substance, difficulties in controlling its use, and persisting in its use despite harmful consequences (World Health Organisation, 2011). South Africa has very high rates of substance use and abuse, particularly regarding alcohol. A South African country study reports that 53% of adults are risky or heavy drinkers (Trangenstein et al., 2018). According to the WHO (2011), South African rates of drinking are much higher than for other African countries. Substance abuse is driven by a range of factors including biological, psychological and social factors and cannot be addressed purely through treatment-based interventions. Prevention interventions are also crucial.

Substance abuse by family members places major stress on families, places constraints on financial resources, and can lead to a breakdown in family relationships as family members may experience feelings of abandonment, anxiety, fear, anger, concern, embarrassment, or guilt (Department of Health and Human Services, 2005; Department of Social Development, 2010).

2.2.3. Conclusion

The above discussion has painted a picture of the shifting patterns of family life in South Africa, with smaller households and higher numbers of households being a growing trend. It also demonstrates the significant challenges that families face as they seek to care for their members, and which constrain family well-being. However, describing these challenges also highlights the incredible resilience of most South African families, that manage to provide care and support to their members despite such difficult circumstances. The next section describes the policy and legal framework within which the Revised WPF will operate.

SECTION 3: RESPONSE STRATEGY FOR FAMILIES

3.1. Approach

The overarching strategic approach to achieving the vision, mission and objectives outlined in Section 1 above is to ensure that policy across the board promotes the importance of the family as a core unit of society and fosters family well-being. Social and economic policies should be aimed at strengthening and promoting family well-being. Policies, strategies, and social and economic programmes across government departments need to be aligned with the diversity of families in South Africa and actively promote their well-being and their ability to fulfil their roles and responsibilities in society.

Drawing on several approaches to family well-being, we consider the following as cornerstone features of the Revised White Paper for families:

- In line with the Constitution of South Africa, a rights-based approach fosters the promotion of social justice, a minimum standard of living, equitable access and equal opportunity to services and benefits, and a commitment to meeting the needs of all South Africans, with a special emphasis on the needs of the most disadvantaged in society. These fundamentals are essential for the achievement of family well-being and involve all government and civil society stakeholders.
- Families can only thrive through a combination of economic empowerment and social service provision. All sectors of society therefore have a responsibility for promoting family wellbeing.
- Families face various changes and transitions over the family life course. Policy and programming needs to take account of these changes and facilitate support for families at various different phases.
- Families are resilient despite significant challenges. Policy and programming efforts need to build on the strengths of families and address challenges to ensure that families are empowered to use their capabilities to address adversity.

3.2. Strategic priorities

As described in section 1 families operate at and are influenced by several different levels: the 'micro' level, the 'meso' level, and the 'macro level' (Saunders, 1999). Saunders explains:

- The micro level refers to stability at the individual person level and here families provide emotional gratification for adults and fulfill the crucial role in the socialisation of children.
- At the meso level stability is attained at the level of the family unit itself. To continue with their various functions, families develop strategies to live together, to share domestic tasks, to resolve conflict, and to adjust successfully to changes over time such as the births of children, departure of children to form their own independent households, and the growing dependency of aging patterns. The life course approach reminds us that this process is not linear, that families are dynamic and that dependency patterns shift during the life-course. Care within families is not one-directional.
- The macro level entails stability in the relation between the family and other social institutions. Here, in addition to adjusting to internal changes and developments, families also adapt to changes in their environments particularly to the *economic sub-system* (whether they supply labour for the production processes and in turn consume what the economy produces), the *political sub-system* (where they supply responsible and active citizens and in turn consume various government services) and the *community sub-system* where they contribute to the vibrancy of community and in turn make use of the services and relationships provided by the community (Saunders, 1999).

Against this background strategies to promote family well-being and strengthen families should be designed to align the best interests of, leverage the strengths, and address challenges within each of three groups:

the individual, the family and the community (Olson, 1999).

Furthermore, family policy must take an approach that is promotive and preventive, whilst still acknowledging that there is a need for treatment-focused and statutory interventions. Increased focus on promotive and preventive interventions will, over time, reduce the case load for treatment and statutory interventions. A plan needs to be developed for families and individual family members to exit the grants system while having other support mechanisms in place.

With the above in mind the following strategic priorities form the basis of the Revised WPF:

- Strategic Priority 1: Promote Family Well-being

The first strategic priority focuses on the promotive work that needs to be done to ensure family well-being. The work of this strategic priority places emphasis on the basic resources and assets that families need to be able to access in order to function well and fulfil their roles and responsibilities in society. Crucially, this strategic priority emphasises the importance of economic empowerment of families. It therefore focuses primarily on the macro-level.

- Strategic Priority 2: Family Relationship Strengthening

The second strategic priority focuses on the prevention and strengthening work that needs to be done to preserve and nourish the large block of families whose quality of life is helping to prevent and reduce problems associated with family disintegration, and to strengthen families through efforts to prevent the breakdown of family life by promoting positive attitudes and values about the importance of strong families and communities that support families.

While no standard definition exists, *family strengthening* is often used to refer to the deliberate process of giving families and their members the necessary opportunities, relationship skills, networks of support and protection, especially during times of adversity and change (Moore et al., 2002).

- Strategic Priority 3: Treatment and Support for Vulnerable Families

Although investments in strategic priorities 1 and 2 should reduce the need for interventions under strategic priority 3, there will always be families and times in all families that are characterised by negative and ongoing cycles of conflict and dysfunction. Where this situation is the case, treatment and support are required. Under this strategic priority, prevention, early intervention, treatment, and statutory interventions are required. Here the focus is on the individual and meso-level.

- *Prevention*: the empowerment, awareness, and support programmes aimed at preventing the need for families and their members to receive intensive services from professionals;
- *Early detection and intervention*—Services delivered at this level make use of mechanisms to detect at-risk families and intervene with developmental and therapeutic programmes to ensure that the negative consequences of dysfunction are limited and that families are supported to manage the challenges that they are facing in ways that promote the well-being of all family members.
- *Treatment*—Services at this level are intended to provide treatment to family members that require this intervention such as those dealing with substance abuse and mental health disorders that affect their ability to engage positively in relationships.
- *Statutory intervention*—The statutory process is about a particular level of intervention and a period during which families are waiting for the outcome of a legal/court procedure as well as services and support required following court proceedings.
- *Reunification and aftercare*—Aftercare services refer to family preservation services delivered to the family of origin to: (1) address the risk factors that necessitate the removal of the family member/s,

and (2) to assist the family in the transitional period after the removal for the family to stabilize and enter a reunification process after a period of separation. Services delivered at this level are aimed at integration and support services to enhance self-reliance and promote well-functioning families. The goal is to preserve and reunify families where this is desirable and to provide services at the prevention and early intervention level to promote better family functioning.

3.2.1. Strategic Priority 1: Promote Family Well-being

The first strategic priority addresses the family at the macro and meso level and focuses on the factors that families require to be functioning well. It advocates for a holistic approach to promoting family well-being and acknowledges that this holistic approach is required to ensure that families have access to all the necessary resources and assets to fulfil their roles and responsibilities optimally. This approach includes promoting access to basic services, food security and opportunities for economic inclusion and empowerment.

Recommended strategies and envisaged actions

- Acknowledge the multiplicity of what families require to function well.
- Ensure that families have access to:
 - *Safe and secure housing:* Work with the Department of Human Settlements to ensure that planning for housing is family-centred and promotes families' access to adequate, safe, and secure housing.
 - *Basic services:* Ensure that local municipalities are delivering on their mandate to provide free basic water, electricity, sanitation and refuse removal to promote families living in healthy environments.
 - *Food security:* Protect all families' right to have access to sufficient food to meet family members' basic needs, through:
 - Income support (see below),
 - Ensuring that they have access to services such as the National School Nutrition Programme (for school-aged children).
 - Promoting the work of CSOs and philanthropic organisations providing food parcels and feeding schemes as crucial partners in ensuring that vulnerable families have access to food.
 - Promoting a collaborative approach between the private sector and government to ensure that a basic basket of goods is affordable for all families.
 - *Functioning and accessible health services:* Work with the Department of Health to ensure that all families can claim their right to decent basic healthcare including mental healthcare. Ensure that families with particularly vulnerable family members (e.g., those with chronic illness, children and people with disabilities) understand what services are available to them and how to access them.
 - *Equitable, accessible education (including early childhood development) and opportunities to develop skills:* Work with the Department of Basic Education to ensure that all families can send their children to safe, secure schools and ECD facilities where children will be nurtured and educated. Work with the Department of Higher Education and Training as well as private sector and CSO organisations to promote adult family members' opportunities to access further education and other forms of skills training through state, civil society and private sector colleges and programmes.
 - *Safe, secure and sustainable environment:* Work with the South African Police Services to ensure

that families are able to live in areas where they feel safe and secure. Work with the Department of Public Works and Infrastructure, and local government authorities to ensure that they plan and develop spaces that are conducive to the safety and security of families (including provision of adequate lighting, and provision of green spaces for safe play and leisure in all communities). Work with the Department of Environment, Forestry and Fisheries, the Department of Mineral Resources and Energy, and the Department of Public Works and Infrastructure as well as local government authorities to ensure that families live in spaces that do not compromise their health (spaces that are environmentally sustainable, and where industry does not pollute living areas).

- *Necessary legal documentation:* Collaborate with the Department of Home Affairs to ensure that all families have access to the official documents they require to access services.
- *Basic income support through social grants and social insurance:* Protect the rights of families to access basic income support through the grant system and social insurance mechanisms. Work with CSOs to empower families with knowledge about their right to basic income support via these mechanisms at different stages of the family life course.
- *Social welfare services:* Expand families' knowledge of and access to social welfare services that can meet their needs at different points in the family life course.
- *Psychological and spiritual support:* Encourage such support through various NGOs and faith-based organisations.
- Promote access to economic opportunities for families by:
 - Working with the Department of Public Works and Infrastructure and local government to ensure equitable access to public employment opportunities.
 - Ensuring that family members are aware of and able to access employment support opportunities through the Department of Employment and Labour and local CSOs (and in the case of young people through the National Youth Development Agency and the Presidential Youth Employment Intervention).
 - Ensuring that families are aware of and able to access entrepreneurship and cooperative support through the services of the Department of Small Business Development as well as provincial government strategies.
 - Empowering families to develop sustainable livelihood strategies.
- Ensure families can balance caregiving and economic empowerment:
 - Provide economic and non-economic measures, such as personal income tax relief, care subsidies, and affordable and accessible child, community care and afterschool school care services as well as psychological support to mitigate families' burden of caring for their children, older persons, and people with disabilities.
 - Put in place mechanisms and policies, including parental leave, for both male and female caregivers, to facilitate the balancing of work and family responsibilities and to promote equitable care responsibilities between caregivers.
- Empower families with the knowledge about what their rights are, what services and resources are available to them to enable them to fulfil their roles and responsibilities and enhance their skills to access and advocate for access to such services and resources.
- Promote a culture of dignified treatment towards families when they seek and access services.

- Ensure that policies and legislation do not discriminate unfairly against families on the basis of amongst others, their age, gender, sexual orientation, race, ethnic or social origin, marital status, disability, beliefs, culture, language, physical and mental conditions, family composition, and financial conditions.
- Acknowledge the burden of care placed on women and promote sustained gender equality in families by focusing on the whole family unit, encouraging both men and women's economic self-sufficiency and involvement in care:
 - Acknowledge and encourage the role that both women and men play in the care and well-being of children and other family members.
 - Work towards policies that promote gender equity in caregiving including extending paternity leave.
 - Challenge laws, policies and cultural practices that restrict the involvement of men in caregiving; and which assume women's role in caregiving.
 - Promote the ability of both men and women to engage in economic activity by ensuring that families have access to safe and reliable care support mechanisms and networks of support.
 - Encourage the sharing of domestic, caregiving, and other family duties by all members regardless of gender.

3.2.2. Strategic Priority 2: Family Relationship Strengthening

When families have access to the resources and services required to promote family well-being (as articulated in Strategic Priority 1) they are under less stress and are better able to function well. However, family relationship strengthening can enhance well-being and promote optimal functioning, ensure families are better able to manage conflict, support caregivers in their parenting roles, and prevent negative cycles in the family. For this reason, family relationship strengthening, which focuses on the meso and micro-level, emerges as the second strategic priority.

CSOs, national and local government all have a crucial role to play in working with families to promote family relationship strengthening. Collaborative approaches to programming and service delivery should be encouraged, especially where there are evidence-based family strengthening programmes that can be adopted by government and rolled out by CSOs.

Recommended strategies and envisaged actions

Collaborate with civil society and local government authorities to ensure that families, of all forms, can access programmes and services that are appropriate to them and support them at various phases in the family life course:

- Family transitions
 - Offer and widen access to preparation programmes for family transition events such as marriage or long-term committed partnerships, parenting, and caring for elderly family members.
 - Make family planning health and counselling services available and accessible for both women and men.
- Child caregiving
 - Offer and widen access to parenting support and advice programmes and services that support caregivers to adapt to the changing needs of children over their life course.
 - Discourage the use of corporal punishment and empower caregivers to use alternative disciplining methods that reaffirm children's inherent positive values.
 - Ensure access to antenatal maternal and caregiver care and support (including mental health

- support) to promote positive adaptation to caregiving for all new caregivers, paying particular attention to vulnerable groups such as teenage parents, caregivers with mental health conditions, and those from particularly economically distressed households.
 - Acknowledge and encourage the role that both women and men play in the care and well-being of children and other family members and promote men's role alongside the roles that women traditionally play in child caregiving.
 - Enhance families' and caregivers' ability and capability to protect children from exposure to, and participation in activities that may be detrimental to their physical, emotional, psychological, intellectual, and sexual well-being by providing information and services that can support them in this role.
- General family life
 - Offer and widen access to family strengthening programmes that include the whole family and that promote strong intra-family and intergenerational relations specifically between younger and older family members, between siblings and generally between members of the extended families, if applicable.
 - Offer and widen access to family strengthening programmes that empower families to enhance their social networks of support (key transactional processes that enable families to buffer against challenges include accessing relational and support networks), understand their rights, and collaboratively advocate for and access services they need for their emotional, spiritual and psychological well-being such as programmes offered by civil society organisations.
 - Widen access to relationship support at key points in couples' relationships to support couples to better manage conflict.
 - Support families to dissolve relationships where an amicable dissolution of a relationship is preferable to ongoing conflict or abuse.
- Caregiving for vulnerable children and adults
 - Ensure that families caring for particularly vulnerable children, such as children with disabilities, are aware of and able to access support services available to them.
 - Empower families that are caring for vulnerable adults such as the elderly and frail, and those with disabilities and chronic illnesses, with knowledge about what to expect and information about available support services.
- Family life under stressful situations

Although most families face stress due to the abovementioned socio-economic conditions, there are times of acute stress such as trauma, loss and states of disaster when families may need additional support to promote their resilience and functioning.

- Enhance families' resilience during times of acute stress by expanding access to trauma counselling and other forms of appropriate mental health support for all family members through social work and community psychology services, as well as programmes offered by civil society, including religious organisations.

Undertake regular research studies and situational analyses to acquire an information base for understanding the factors that place families at risk, to assess the direct and indirect effects of policies and programmes on family life and well-being and to identify opportunities for mitigation.

3.2.3. Strategic Priority 3: Treatment and Support for Vulnerable Families

Investments in strategic priorities 1 and 2 should, over time, promote family well-being and strong family relationships, thus reducing the need for treatment and support due to family dysfunction and breakdown. However, even with investments in strategic priorities 1 and 2, there will still always be a need for specific interventions that support families to manage particularly negative situations such as substance abuse, physical, sexual, financial, or emotional abuse, neglect, and violence. For this reason, prevention, early

intervention, treatment, and statutory intervention and support are required for particularly vulnerable families. Ensuring that families have access to such services will ensure that families can rebuild their capabilities with greater resilience over time.

Recommended strategies and envisaged actions

- Prevention
 - Strengthen awareness and education on domestic violence, its prevention, how families can seek help, and how communities can support families to do so.
 - Strengthen awareness and education on various forms of abuse, its prevention, how families can seek help, and how communities can support families to do so.
 - Strengthen awareness and education on substance abuse, its prevention, how families can seek help, and how communities can support families to do so.
 - Support interventions that challenge community norms and systems that intentionally or unintentionally discourage help-seeking by family members (e.g., community norms of “turning a blind eye” to domestic violence)
- Early detection and intervention
 - Empower healthcare providers, early childhood practitioners, teachers, religious leaders, and other service providers with knowledge about how to identify and respond to at-risk families.
 - Empower families with interventions about programmes and services that are available to them should they need to seek help (e.g., AlAnon; shelters for those escaping domestic violence).
 - Support families to dissolve where this approach is the best route to protect the well-being of family members, ensuring that they are not stigmatised in the process.
 - Sensitize community members to the special requirements of vulnerable families, without compromising their right to privacy and confidentiality.
 - Initiate communities of care made up of key stakeholders from the community, to holistically support the family.
 - Prioritise preventive initiatives in local areas where families at risk have been identified.
 - Make therapeutic services easily accessible and affordable for families and their members, paying particular attention to challenging the stigmas associated with help-seeking.
- Treatment
 - Ensure that where treatment is an option, individuals have access to treatment services.
 - Shift treatment approaches from an individual focus to an individual-within-family focus, acknowledging that individuals’ behaviour affects families and that individuals will return to families and family patterns that may affect their recovery.
 - Facilitate family access to support to work through trauma related to individual family members’ actions, and to understand how to respond to family members who are undergoing treatment.
 - Ensure that, where necessary, family members have access to appropriate services, including shelters, Child and Youth Care centres, and other family support programmes to manage particularly difficult times of transition or conflict.
- Statutory Intervention and Family Preservation
 - Where necessary, ensure that statutory interventions are enacted and that civil society and the state entities responsible are capacitated to deliver on such interventions.
 - Encourage family-centred extended kin fostering as the most appropriate and cost-effective

placement for children.

- Strengthen and expand existing adoption and foster care mechanisms and support measures to ensure rapid family placement of all children in need thereof.
- Provide support services to all families affected by the removal of a family member.
- Provide psycho-social support to all victims of family violence and those who have been exposed to violence, for court preparation and follow-through.
- Reunification and After Care
 - Where appropriate, implement appropriate protocols for reintegration and reunification of family members who have been separated for extended periods of time for various reasons.
 - Provide capacity building and empowerment of families through implementation of evidence-based programmes, to deal with and handle challenging child and youth behaviour.
 - Increase reunified children's access to formal education. Where this strategy is not feasible or desirable, encourage vocational and/or life skills training.
 - Specialised transitional support services for youth exiting care. This approach could include psycho-social support programmes, as well access to education and/or employment opportunities and entrepreneurship for young people as well the provision of social welfare support services (Van Breda & Dickens, 2016)
 - Develop and implement educational, therapeutic and rehabilitation interventions for perpetrators of domestic violence and abuse. There is also the need to make more shelters available for woman and children who have been abused and require alternative, safe housing. Shelters provide opportunities for survivors to escape the cycle of abuse while efforts are made to address the underlying problems (Brodie, 2020: 208).

SECTION 4: COORDINATION, IMPLEMENTATION AND MONITORING STRUCTURES

The achievement of the vision, mission, and objectives of this Revised WPF relies on effective implementation of the actions under each strategic priority. Three documents should be developed using the revised WPF:

- A fully costed Implementation Plan
- A Monitoring and Evaluation Framework
- A Communications Strategy

All three of these action documents are crucial to see the objectives captured in this document realised. In this section we outline the coordination mechanisms, implementation approach, budget considerations, and a monitoring and evaluation approach. These sections should be read as providing guidance towards the development of the abovementioned documents.

4.1. Coordination

The Department of Social Development has the mandate to promote and ensure that policy and programming across the board acknowledges the importance of the family as a core unit of society and works to foster family well-being, family strengthening and support for vulnerable families. However, achieving the objectives of this revised WPF involves the work of national, provincial, and local government departments; civil society organisations including those providing welfare and other services, those developing advocacy programmes, trade unions, and religious organisations; the private sector; academia; as well as communities and families themselves.

Given that so many factors play a role in promoting family well-being and strengthening, and providing support to vulnerable families, the implementation of the Revised White Paper on Families requires coordination and intersectoral collaboration. Evidence clearly demonstrates that partnerships between government and civil society are achieving more success than government departments on their own (Patel, Hochfeld & Englert, 2018) and that programme delivery is most effective when local service partners are drawn into the planning and implementation (Fixsen et al., 2013). Clearly therefore, coordination and integration are crucial to achieve the objectives.

4.1.1. Roles of stakeholders

Each stakeholder has a role to play in delivering to ensure that the objectives are met. The role of DSD is therefore to promote collaboration, advocate for families at all levels of government and across departments, engage meaningfully with civil society, the private sector and academia; and track progress towards the objectives. They have the primary responsibility to ensure that stakeholders are aware of the Revised WPF, engage stakeholders in collaborative mechanisms to achieve the WPF objectives, and monitor progress towards the achievement of the objectives to guide strategic programmes.

Various national government departments have a role to play as they develop and revise policies and deliver programmes and services. The main government departments to be engaged in this regard are listed in Appendix 1.

Provincial government departments of social development have a role to play in ensuring that the objectives of the Revised WPF are integrated into provincial plans and strategies, and to facilitate coordination between relevant provincial departments, civil society organisations, and private sector bodies.

Local government departments have a role to play in ensuring that the objectives of the Revised WPF and the provincial strategies and plans are integrated into local service delivery, and to facilitate coordination

between relevant local departments, civil society organisations and private sector bodies.

Civil society, including non-governmental organisations, community- and faith-based organisations, and trade unions, is an important intermediary in the light of government public policy and an important avenue for articulating the vision of the White Paper by, among other things, promotion of, and advocating for, the general well-being of families; facilitation of referrals of families and/or their members to the relevant services, where necessary; and by facilitating family reintegration where necessary. Furthermore, civil society organisations that specialise in gender, human rights and general family issues can be utilised to train other service providers in these issues. Such organisations are often the first available port of call for families that are struggling. Civil society therefore has a vital role to play in providing support and advocating for families. Civil society organisations include those that are delivering welfare and other services to families, those developing behavioural and attitudinal change programmes, those involved in advocacy work, and those empowering families and communities with skills, knowledge, and awareness of their rights.

Religious organisations are also part of civil society and play a crucial role for many families. Religious and faith-based organisations should be encouraged to work closely with government and other civil society organisations to advocate for family well-being and family strengthening. Religious organisations are often an important resource for families in distress and should provide appropriate support and referral for vulnerable families. Trade unions have significant potential to shape employer thinking about work-family balance. They have been crucial partners in promoting for extended paternity leave and can continue to play a role in advocating for better work policies to promote healthy family life.

The private sector as employer has a role to play in the promotion of family well-being and the strengthening of families in South Africa by the manner in which employers can develop programmes that create a healthy balance between work and the family. It is well-documented that employees' failure to adequately balance work and family responsibilities affects workplace productivity and profitability due to problems such as high turnover, increased absenteeism, tardiness; and decreased job satisfaction, productivity, and work quality (International Labour Organisation, 2004). The private sector therefore needs to strive to achieve a better work-life balance for its employees by ensuring that the work environment is family-friendly through benefits that impact on the quality of life of family members; affording employees their full family-related entitlements and benefits such as maternity and paternity leave and family responsibility leave. In this regard they also have an important role to play in ensuring that policies promote gender equity in care and work. Regarding family strengthening, the private sector, through Corporate Social Investment projects, play an important role in supporting the efforts of organisations involved in different initiatives aimed at raising the quality of life of all families, and supporting the most vulnerable families.

Traditional leaders have a role to play in the implementation of the White Paper as they not only remain the custodians of traditional value systems, but they also preside over land, marriages, and families in rural areas. Traditional leaders are therefore key role players to engage in ensuring that gender equity, economic empowerment, and support to vulnerable families can be achieved.

Academics have a role to play in supporting the work of all role players through delivering rigorous and sound research on the challenges facing families, how families build their resilience and well-being, as well as collecting, analysing, and reporting data that can aid role players in understanding whether progress is being made towards the objectives of this revised WPF. Many academics also collaborate with government and civil society to develop and test family strengthening programmes that, based on evidence, could be scaled up through partnerships.

Drawing on the expertise and offerings of all role players is crucial for the achievement of the objectives outlined in Section 1 above. Collaborative mechanisms at various levels are necessary to foster engagement.

4.1.2. Coordination mechanism

Achievement of the objectives will be dependent on a sound intersectoral and interdepartmental mechanism, an active political administration and technical expertise. The former would facilitate the translation of the White Paper's objectives into actual programmes (existing and required), delivered to different families by different stakeholders. The successful development of an intersectoral coordination structure and system will determine the extent to which the whole policy is implemented and monitored effectively and efficiently. This goal can be addressed through formalised institutional arrangements that facilitate coordination, collaboration, and synergy in implementation, which are covered in this revised WPF, but should not exclude informal collaborative engagements.

This section presents the formalised mechanism that will be used to facilitate the intersectoral work required for successful implementation of the Revised WPF at national, provincial, and local levels.

The model of a Family Service Forum (FSF) at different levels of administration should be implemented to ensure effective coordination. FSFs will be established at national, provincial, district and local levels to ensure effective coordination and communication between all relevant stakeholders. Their main function will be to:

- Ensure awareness of the Revised WPF,
- Monitor progress towards the objectives of the revised WPF, and
- Provide strategic direction based on evidence to ensure that backlogs and bottlenecks in achieving the objectives are dealt with.

This section outlines, for each level, **who** should participate in the FSF (stakeholders), **what** the functions of the FSF are (functions), and the formalised mechanisms by which the FSF should work.

National Family Service Forum (NFSF)

Stakeholders

The NFSF will be led by the Department of Social Development, with the Office of the Presidency as an equal partner. Representation and active participation of the below-mentioned government departments will be mandatory as they have been identified as pivotal in the successful implementation of the Revised White Paper for Families:

- Department of Social Development (DSD) (The lead and coordinating department)
- South African Police Services
- South African Social Security Agency
- Statistics South Africa
- Department of Human Settlements
- Department of Public Works and Infrastructure
- Department of Health
- Department of Basic Education
- Department of Women, Youth and People with Disabilities
- Department of Home Affairs
- Department of Rural Development
- Department of Cooperative Governance and Traditional Affairs

Other departments will be invited to participate where the strategic plans of the NFSF warrant their engagement and collaboration.

In addition to the above government departments the following institutions and organisations should be invited to participate:

- Relevant academic and research institutions focused on family life
- Established national level civil society, faith-based, and religious organisations
- Trade unions
- Traditional leaders (where appropriate)
- National level private sector coordinating bodies

The Chairpersons of the provincial family service forums should be represented in the National Family Service Forums.

Functions

The core functions of the National Family Forum will be to:

- Promote awareness of the Revised WPF.
- Establish a system of monitoring progress towards family well-being.
- Regularly monitor and provide reports on progress towards the objectives of the revised WPF.
- Develop strategic plans to address backlogs in the achievement of the objectives of the WPF.
- Facilitate coordination, collaboration, and synergy in the implementation of these strategic plans with relevant government departments, civil society, private sector, and academia.
- Develop, where needed, and review existing and proposed national-level policies that impact on the well-being of the family.
- Ensure the availability of the required financial and human resources to oversee and implement strategic plans that will lead to the achievement of the objectives of the revised WPF.
- Empower government departments, civil society organisations, and the private sector with information about how to achieve the objectives of the WPF (including disseminating relevant research, and promoting the use of evidence-based programmes).
- Facilitate the establishment of and provision of information to provincial and local FSFs or other relevant interdepartmental structures and/or mechanisms at a provincial and municipal level to ensure the implementation and monitoring of the White Paper on Families based on provincial and local needs.
- Support, monitor and evaluate the implementation of the White Paper.

Formal mechanisms

- Government department members of the National Family Service Forum will be nominated by the relevant Director General to represent their departments, while the civil society, academic, and private sector representatives will be nominated by their board of directors.
- The Department of Social Development will chair the meetings and provide the secretariat services.
- The DSD will gather and share data as outlined and request relevant information from relevant

departments, as well as provincial, district, and local FSFs as required.

- The DSD will collate annual reports of the provincial, district, and local FSFs to monitor overall progress towards the objectives and implementation of the strategic priorities.
- The FSFs will collaboratively develop three-year strategic plans based on the evidence (data and annual progress reports) and nominate members to take the actions forward and report quarterly.

Provincial Family Service Forum (PFSF)

Stakeholders

The PFSF will be led by the Provincial Department of Social Development, with the Office of the Premier as an equal partner. Representation and active participation of the following provincial departments will be mandatory as they have been identified as pivotal in the successful implementation of the Revised White Paper for Families. Provincial departments will include those responsible for:

- Health
- Basic Education
- Human Settlements
- Public Works/ Infrastructure
- Community Safety

Other departments will be invited to participate where the strategic plans of the NFSF warrant their engagement and collaboration.

In addition to the above provincial departments the following institutions and organisations should be invited to participate:

- Relevant academic and research institutions focused on family life
- Established provincial level civil society, faith-based, and religious organisations
- Provincial trade union branches
- Traditional leaders (where relevant)
- Provincial level private sector coordinating bodies

The Chairpersons of the District FSFs should be represented in the Provincial Family Service Forums.

Functions

- Promote awareness of the Revised WPF to provincial stakeholders.
- Facilitate coordination, collaboration, and synergy in the implementation of these strategic plans with relevant departments, civil society, private sector, and academia.
- Ensure the availability of the required financial and human resources to oversee and implement strategic plans that will lead to the achievement of the objectives of the revised WPF.
- Establish linkages and integration of the White Paper into the Provincial Growth and Development Plan.
- Develop, where necessary, and review all the existing provincial policies that impact on the well-being of the family, in line with the White Paper.
- Work with National DSD to empower departments, civil society organisations, and the private sector with information about how to achieve the objectives of the WPF (including disseminating relevant

research and promoting the use of evidence-based programmes).

- Coordinate services to families in provinces.
- Hold inter-sectoral meetings to identify and address breakdown in communication and share best practices.
- Consolidate a provincial resource directory for services.

Formal mechanisms

- Members of the Provincial Family Service Forum must be nominated by their Head of Department in provinces to serve on the Provincial Forum, while Civil Society Organisations and Research institutions will be nominated by their board of directors.
- The Provincial Department of Social Development will chair the meetings and provide the secretariat services to the forum.
- The PFSFs will collaboratively develop annual strategic plans based on the evidence (data and annual progress reports) and nominate members to take the actions forward and report quarterly.
- The PFSF may request relevant information from relevant provincial and local departments and the local FSFs as required.
- The Provincial DSDs will be required to submit three-year strategic plans that align with the national strategic plans, as well as monitoring reports against those plans to the national DSD/ NFSF

District and Local Family Service Forum (DFSF/ LFSF)

The new District Development Model (DDM) which was announced by President Ramaphosa in the SONA 2019, is a governance strategy aimed at improving coordination and collaboration at district level in order to *"have line of sight of exactly where the challenges & blockages are in this district, to resolve them and to ensure there is proper implementation"* (President Ramaphosa at District Development Model proceedings in Waterberg, Limpopo, 25 November 2019). This approach holds potential for the District FSFs since they can rely on an established mechanism of coordination to promote the work required to achieve the objectives of the Revised WPF.

Stakeholders

- Each district and local municipality must establish a DFSF/ LFSF to coordinate services to families and implement the White Paper on Families
- Each DFSF/LFSF should be made up of relevant municipal offices responsible for services to families, health, education, human settlements, local service delivery, and safety; as well as district/local level relevant CSOs, CBOs, FBOs, religious organisations and district/local-level private sector coordinating bodies.
- In addition to these core members, other departments, and non-government organisations, as well as interested parties from academia at a municipal level may be invited to participate.

Functions

- Respond to the NFSF and PFSF annual plans by developing an integrated local plan of action.
- Develop databases and referral networks of relevant services providers and organisations offering family services.
- Ensure that resources are dedicated to the implementation activities of the White Paper.
- Facilitate collaboration and referral procedures to ensure effective referral of families to appropriate

service providers.

- Based on input from the NFSF and PFSF, provide training to upgrade and train family service providers, and staff/ volunteers.
- Disseminate information about support services available for families affected in communities.
- Promote networking with all community service providers and establish public or private partnerships that can support the achievement of annual strategic plans.
- Develop, where needed, and review all the existing bylaws that impact on the well-being and development of families, in line with the White Paper.
- Guide and direct the process of ensuring that services are delivered to families and communities.
- Support, monitor and evaluate the implementation of the White Paper at a municipal level.

4.2. Implementation approach

The approach to implementation of the strategic priorities will be for the DSD, in collaboration with the NFSF, to consider the actions and implementation approach for each Strategic Priority and to develop a costed, strategic implementation strategy every three years, aligned with the Medium-Term Expenditure Framework, to ensure that the recommendations and ethos of the Revised WPF can be operationalised and fully costed. The implementation strategy should be informed by available evidence to form a baseline for each strategic priority and then monitored against that baseline over the three-year period.

4.2.1. Strategic Priority 1: Promote Family Well-being

The approach to achieving family well-being is to monitor how service delivery across government departments is leading to families' access to the resources and assets they need to achieve well-being; and develop strategic plans based on these data. To achieve this objective the DSD and NFSF should:

- Use publicly available and regularly reported datasets (e.g. General Household Survey (GHS), Victims of Crime Survey (VCS), and Quarterly Labour Force Survey (QLFS)) to develop a set of indicators that provide a snapshot of family well-being. As many of the resources and assets described under Strategic Priority 1 should be included, considering the advantages as well as the limits of publicly available data. The following indicators, amongst others, should be included:
 - Hunger/ food security (GHS)
 - Income poverty (upper-bound, lower-bound and food poverty levels) (GHS)
 - Employment (GHS/QLFS)
 - Access to health (GHS)
 - Access to basic services (GHS)
 - Access to ECD and basic education (GHS)
 - Access to grants (GHS/SASSA administrative data)
 - Sense of safety (VCS)
- Analyse data annually by gender, race, disability, age, type of household, and province to provide insight into where continued challenges exist in service delivery.
- Develop three-year strategic plans, in line with the cycle of the Medium-Term Expenditure Framework, to address backlogs and bottlenecks and build these strategic plans into the medium-term budgeting processes.
- Engage relevant stakeholders (government, civil society, academia, private sector etc) crucial to the implementation of the strategic plans.

- Resource relevant stakeholders with the appropriate information and, where possible, capacity and budgets to implement the strategic plans.
- Monitor implementation of strategic plans through required reporting to the NFSF.
- Annually monitor whether progress is being made on the abovementioned indicators and revise strategic plans as appropriate.
- Identify gaps in data (e.g. understanding gender dynamics in the household through time use surveys and analysing suitable data at district and local level) and collaborate with Statistics South Africa to address such gaps.
- Regularly identify and review policies to ensure that they achieve family well-being, in line with the objectives and strategic priorities.

4.2.2. Strategic Priority 2: Family Relationship Strengthening

Family relationship strengthening relies on the accessibility and use of a range of services and programmes to improve family communication relationships, enable families to manage conflict positively, and provide support during times of distress. The implementation approach for this strategic priority is to create the conditions for the flourishing of good practice programmes. To achieve this objective the NFSF should:

- Ensure that the ethos of Strategic Priority 2 of the Revised WPF filters through to service delivery at every level by
 - Requiring programmes that are funded by DSD and other funders represented on the NFSF to reflect this ethos and approach to family service (in approval of programme plans).
 - Monitoring the performance of service delivery partners with this commitment to the ethos of the Revised WPF in mind by building this aspect into performance plans of delivery agencies.
 - Conducting a three-year evaluation process to understand whether the ideas of the family policy are filtering through to implementation by service delivery partners.
- Gather data on the approximate number and spread of family programmes offered by government, civil society and the private sector including:
 - Preparation for marriage and long-term partnerships
 - Parenting/ caregiving programmes
 - Maternal and caregiver health and mental health support
 - Family strengthening programmes
 - Relationship counselling services
 - Trauma counselling services
 - Access to family planning
 - Services for families caring for family members in need of more intensive care
- Identify gaps in service delivery and promote the development of such services in under-served areas.
- Identify good practice and evidence-based programmes that can be scaled up through government and civil society.
- Allocate resources to capacity building of government and civil society service providers to deliver good practice and evidence-based programmes.
- Facilitate accredited training of professionals and volunteers.

4.2.3. Strategic Priority 3: Treatment and Support for Vulnerable Families

Strategic Priority 3 relies on empowering families to seek help and for key community stakeholders (including religious organisations and civil society organisations) to provide appropriate support, referral, and treatment. To achieve this objective the implementation approach at the level of the NFSF is to:

- Curate evidence-based information on domestic violence, abuse, substance abuse and other factors affecting vulnerable families as well as effective help-seeking strategies and support services targeted at:
 - Families
 - Communities
 - Help providers (e.g. teachers, social workers, psychologists, religious leaders, community leaders, healthcare professionals)
- Disseminate such information to Provincial and Local FSFs and other networks to inform awareness and information campaigns.
- Gather data on the approximate number and spread of treatment and support programmes offered by government, civil society, and the private sector.
- Identify gaps in service delivery and promote the development of such services in under-served areas.
- Identify good practice and evidence-based programmes that can be scaled up through government and civil society.
- Allocate resources to capacity building of government and civil society service providers to deliver good practice and evidence-based programmes.

4.3. Budget allocations

The effective implementation of the Revised WPF requires an annual budget to support the following:

- The work of the FSFs, as the core coordinating mechanism driving the implementation of the Revised WPF, needs to be appropriately resourced and budgeted for at each level. A key recommendation emerging from the consultations is that a qualified coordinator is crucial to the successful functioning of the FSFs. Therefore, at least one individual per FSF should be budgeted for annually to coordinate the engagements, prepare documentation for the engagements, coordinate the gathering of evidence to inform the three-year strategic implementation plans, document the strategic implementation plans, engage with FSFs at other levels, and monitor implementation of the strategic implementation plans. Resourcing for this capacity needs to be factored into annual budgets at all levels.
- Gathering and analysis of data to inform the strategic plans should be set aside annually.
- Capacity building of government and civil society organisations to ensure that evidence-based and good practice programmes can be effectively scaled up.
- Communication about the Revised WPF at all levels
- Annual monitoring and evaluation activities

In addition, the strategic implementation plans that are developed by the FSFs should be conceptualised in line with the Medium-Term Expenditure Framework cycle, and the cycles of developing/ revising Community and Integrated Development Plans to ensure appropriate resourcing and to inform budgeting processes at every level. This approach should ensure that relevant departments at all levels can include budgets for strategic plans into annual budgets for the departments.

4.4. Monitoring and evaluation

The availability of reliable and consistent data is essential for developing implementation plans and monitoring progress towards the goals of the Revised WPF. These data can also provide focus for the different sectors and stakeholders involved in the implementation of the Revised White Paper on Families.

This policy document provides guidelines for an approach to Monitoring and Evaluation (M&E), which should be used to develop a fully operationalised monitoring and evaluation framework that will be a companion document to this Revised WPF. The M&E will then serve as an important stage for the implementation of the White Paper on Families as it will provide all stakeholders with the means for learning from past experience, improving service delivery, planning and allocating resources, and demonstrating results as part of accountability to key stakeholders (World Bank, 2004).

The overarching approach to M&E for the Revised WPF is to:

- a. Collect baseline data on several indicators that will be tracked over time, per strategic priority
 - Strategic Priority 1
 - Hunger/ food security (GHS)
 - Income poverty (upper-bound, lower-bound and food poverty levels) (GHS)
 - Employment (GHS/QLFS)
 - Access to health (GHS)
 - Access to basic services (GHS)
 - Access to ECD and basic education (GHS)
 - Access to grants (GHS/SASSA data)
 - Sense of safety (VCS)
 - Strategic Priority 2
 - Nature and extent of family programmes
 - Gaps in service delivery
 - Strategic Priority 3
 - Nature and extent of family preservation and family support programmes and services
 - Gaps in service delivery
- b. NFSF to develop the strategic implementation plan for each strategic priority using the baseline data to guide the development of the plan and communicate this information to other levels of FSFs.
- c. Identify input, output and outcome indicators that will be monitored by FSFs at all levels to ensure that strategic plans are executed using the abovementioned implementation approach. Other relevant indicators include those in the *Monitoring and Evaluation Framework for Services to Families* of the Department of Social Development (Department of Social Development, 2011). DSD needs to provide support on developing these indicators and strategies for monitoring as required by FSFs at all levels.
- d. Monitoring will involve collecting data on a quarterly, biannual or annual basis (depending on the indicator) at all FSF levels and reporting on these at quarterly FSF meetings. This monitoring is intended to contribute positively to the successful implementation of the White Paper and to hold relevant service partners and implementing role players accountable for service delivery. The results

of the monitoring process will be used to reflect on what is happening on the ground in relation to the implementation plan. The results of monitoring will feedback into the implementation process on a regular basis and will continually be utilised to improve services offered. This process will provide opportunities to learn from the actual and present options for adjustment and improved implementation.

Every three-years a full evaluation of outcomes and impact indicators should be conducted to assess the effects of the work done by the various FSFs in relation to their strategic plans and the overall objectives and strategic priorities of the WPF should be conducted. Both qualitative and quantitative approaches to evaluation should be used. Quantitatively, an assessment of progress on the baseline indicators mentioned in a) above should be conducted. Other quantitative measures can be drawn from performance plans and evaluation reports of funded service-delivery partners. Qualitative approaches to assess whether the ethos of the Revised WPF is being incorporated into policy documents, IDPs, CDPs, and family services should be conducted.

Appendix A: Key government departments involved in achieving the WPF objectives

This Appendix outlines the key government departments that are crucial to engage with in order to achieve the objectives of the RWPF. Although specific civil society, private sector and academic partners are not listed, this omission should not be read to mean that these are not crucial stakeholders. Rather, an exhaustive list of all civil society, private sector, and academic partners is not possible.

Primary departments

The Department of Social Development (DSD)

The DSD is the coordinating department. It is also the main focal point for actions aimed at supporting family life and the strengthening of families in the country as well as coordinating treatment programmes. The Department of Social Development as a lead should coordinate the activities that would contribute to the successful implementation of the White Paper on Families. The Department will also ensure that all policies, legislation and initiatives of Government are explicitly tilted in favour of families in the country. It will be the leading department implementing the White Paper while performing the following tasks:

- Developing and facilitating the implementation of intersectoral and interdisciplinary protocols
- Mitigating the risk factors that impede families from fulfilling their various roles and responsibilities
- Ensuring an effective and holistic service delivery system, including prevention, early intervention, statutory intervention, and reunification/after care services and programmes
- Advocating on behalf of families through the dissemination of information and education strategies.
- Involving men in home-based care and the care of orphaned and vulnerable children in order to lessen the burden on women
- Exploring the possibility of calling for the inclusion of paternity leave in the Basic Conditions of Employment Act 75 of 1997 and strengthening the recognition of parenting and support for parents in the workplace.
- Developing minimum norms and standards for service delivery in the field of families.
- Facilitating capacity building of provincial stakeholders.
- Instituting and facilitating Family Services Forums at the various levels.

Department of Arts and Culture

The role of the Department of Arts and Culture in the implementation of the White Paper on families is to strengthen social cohesion in families. The Department recognises the family as a structure that fosters socialisation and instils positive values. The Department of Arts and Culture promotes arts, culture and heritage as ways to unite families, communities and the society at large toward building a happy nation. In addition, the Department:

- Develops talent in the arts for economic development to sustain families
- Promotes access to information for families
- Ensures the development and promotion of mother tongues
- In collaboration with the Department of Correctional Services ensures that offenders are rehabilitated by nurturing their talents and also providing opportunities for offenders' families to

participate during events where offenders are given a platform to showcase their talents

- Contributes towards the creation of awareness of domestic violence against women and children through the arts.

Departments of Co-operative Governance and Traditional Affairs

These departments are at the coalface of Government's service delivery and the implementation of policies. Most of the work of this department has a direct impact on the family. In order to harmonise all the department's efforts, multidisciplinary teams will be at the forefront of service delivery at this level. In addition, traditional leaders will be trained and engaged around issues of gender equality and human rights including training on the Constitution and provisions of family-related regional and international human rights instruments that South Africa had signed and ratified. The municipalities will ensure that the implementation of the White Paper is captured in line with their Integrated Development Plans (IDPs).

Department of Correctional Services

The Department of Correctional Services (DCS) has a crucial role to play in guaranteeing the well-being of South African families, as many offenders are also members of different families in the country. Since the department's primary goal is to facilitate the correction of offending behaviour, mainly through rehabilitation, families are considered as pivotal partners in this process. Families also play an important role in the reintegration of offenders back into society. The White Paper on Corrections in South Africa (2005) also recognises the family as the basic unit of society, as well as the primary level at which correction should take place. To this end:

- Families should be involved in rehabilitation programmes for family members who are prisoners.
- DCS should facilitate and support contact between families and prisoners, particularly children.
- DCS should strengthen its relationship with other departments, especially DSD, in order to effectively involve families in rehabilitation programmes for prisoners and to facilitate family contact successfully.
- Offenders should be reintegrated back into communities with the support and help of programmes which address their attitudes towards violence and gender transformation concepts should be used to address recidivism.

Department of Defence and Military Veterans

The Department of Defence (DOD), in particular, the Directorate Social Works' role in strengthening families cannot be overemphasized. Deployment and separation form part of military lifestyle, and is both challenging and stressful for the members and their families. Various separation/deployment/occupation-related challenges have been documented viz, domestic violence, financial problems, substance abuse, marital problems, problems with children, divorce, lack of organisational support, lack of social support systems, maintenance problems, loneliness and emotional problems, lack of communication facilities and workplace-related problems. Thus, the promotion of resilience of families forms the core of military occupational social work service delivery to the DOD employees and their dependants (families), military veterans and approved clientele within the DOD. Military occupational social work strives to maintain a balance between the demands of the military system and the needs of its members, in order to ensure the mission readiness of the organisation. Execution of the White Paper on Families will reinforce implementation of programmes that are aimed at addressing the aforementioned challenges, the core functions of which will be to:

- Facilitate coordination, collaboration and synergy in the implementation of the White Paper in the DOD nationally.

- Ensure the existence of a body viz Resilience Advisory Committee (RAC), that will identify and address deployment-related stressors and challenges within the DOD. This committee should account to the Military Council.
- Develop where necessary and review existing policies and programmes that have an impact on the family well-being
- The DOD should allocate the required financial, logistic and human capital to oversee the implementation of the White Paper.
- Ensure the implementation of a need-based, appropriate, available, accessible and accountable military occupational social work service within the DOD nationally in order to promote a balance between work demands and family life.
- Promote social change, problem solving in human relationships, resilience of people and the empowerment and liberation of individuals, families and communities in order to enhance their social functioning and social well-being.
- Network/consult and establish partnership with relevant service providers and stakeholders who have a vested interest in the well-being of families in South Africa.
- Support, monitor and evaluate the implementation of the White Paper.
- Ensure implementation of intervention programmes such as the resilience programme (which for example entails programmes such as HIV and AIDS, Financial management/recovery, sexual harassment, marriage enrichment, mission readiness course, deployment support to members and families, home visits, conflict management, stress management), a demobilization programme which entails preparation for reintegration both within the family and at the workplace, and provision of social work services both at home and within the mission areas during deployment.
- Regularly undertake research to determine the needs of members and families.

Departments of Education

Both the Department of Basic Education and Higher Education and Training will respond to the vision of the White Paper ensuring that all South African children have access to quality education. The department will also ensure that an inclusive education and training system is available to children with special educational needs and assist families through the placement of such children in mainstream schools, full-service schools and special schools. It will also attend to the following:

- The involvement of families in the education of children
- Ensuring that life orientation curricula incorporate family issues, sexual and reproductive health, gender equality and human rights, HIV and AIDS and alcohol and substance abuse.
- The promotion of parental involvement in their children's schooling
- The provision of early childhood development services
- Advocating for the provision of psycho-social services in schools
- The provision of youth development programmes with an emphasis on life orientation, skills development and training including trade and industry skills.
- Strengthen accountability mechanisms for educators aimed at addressing issues such as the violence, bullying and the commission of sexual acts between educators and learners.

- Provision of meals to learners in disadvantaged communities to assist with nutritional needs of developing bodies and minds

Department of Economic Development

The Department of Economic Development is responsible for coordinating the development and implementation of the country's economic strategy. It is crucial that this strategy takes into account the needs of families to be able to access economic opportunities and build economic assets by:

- Developing family-focused policies and strategies
- Promoting opportunities for families to access economic opportunities

Department of Small Business Development

The Department of Small Business Development is tasked with enhancing support to small business and cooperatives, with an emphasis on programmes to advance entrepreneurship amongst women, the youth, and people with disabilities to contribute to job creation and economic growth. This department has a responsibility to ensure that:

- Programmes and strategies are family focused
- Programmes and opportunities ensure that families can access support for the development of economic opportunities through SMMEs and cooperative development
- Programmes and strategies account for the gendered nature of care and are positioned to ensure that these care responsibilities do not undermine possibilities to access support for economic empowerment.

Department of Health

The Department of Health will contribute towards the implementation of the White Paper by ensuring that South African families have access to affordable and high-quality health services by:

- Developing family-focused policies, and programmes and services addressing the mental and physical well-being of families, including: primary healthcare services and health services for families affected by HIV and AIDS, violence, malnutrition, infectious diseases, chronic illnesses and mental health-related problems
- Health promotion and education at community level.
- Accountability mechanisms for health professionals should be strengthened to address issues such as discriminatory attitudes towards sex workers, lesbian and gay people and young people seeking advice on contraception and STI treatment.
- Actively involving patients and their families in the service provision process. Patients should be empowered and educated to understand their health needs rather than given instructions that are not accompanied with sufficient information.
- Engaging traditional healers in all issues relevant to the health concerns of people accessing health-related assistance from traditional healers to ensure that protective and safety mechanisms are put in place and that human rights standards are complied with.

Department of Home Affairs

The role of this department in protecting and regulating the interests of all inhabitants of South Africa, with regard to their individual status and identity, as well as specific rights and powers, is vital for the promotion of family life and the strengthening of the family. The department has an important role to play in the

implementation of the White Paper through:

- The registration of the family members of South African citizens and permanent residents to the National Population Register (NPR) with regard to birth, marriage, death and naturalization.
- The issuing of South African identity documents, which are crucial for access to state social security services.
- The regulation of the admission, staying and departing of asylum seeker, refugee and migrant families.

Department of Human Settlements

In facilitating the implementation of the White Paper, the Department of Human Settlements will ensure that South African families have access to quality housing that is supportive of their optimal socio-economic functioning. It will also make provision for the development of housing structures, including the implementation of the government-driven RDP housing programmes that are family-friendly and support community interaction. The department will additionally focus on:

- Housing development that takes cognisance of the diverse nature of families in South Africa.
- Housing development that is holistic and has links with other social systems, such as clinics, schools, transport, sport, recreation facilities and police stations.
- Housing that raises the livelihoods of families and is not merely used for shelter, but becomes an asset in the fight against poverty
- Human settlements that are supportive of family life and strengthen families.
- Investment in new human settlements that bears in mind family-friendly urban design; shared open space; adequate distance between households; walking distance to community facilities; increased street safety measures; and more green spaces.

Department of Justice and Constitutional Development

The Department of Justice and Constitutional Development's mandate will consolidate the implementation of the White Paper by ensuring peace and security in the country and by:

- Ensuring that the criminal justice system responds to the needs of the family
- Prioritising the safety of children
- Promoting restorative justice, in order to preserve families
- Ensuring that there is an effective family law system in the country.
- Strengthening mechanisms in place for the protection of complainants and their families involved in criminal proceedings.
- Strengthening protective mechanisms aimed at protecting and advancing the interests of vulnerable groups such as elderly and people with disabilities.
- Addressing the inconsistency between various statutes that are applicable to the same issues in an effort to improve the administration of justice.
- Exploring more effective maintenance systems and ways to ensure that men live up to their responsibilities, when they are able to do so. Forms of maintenance, other than monetary maintenance, for those who cannot afford to pay maintenance, should be explored.

Department of Labour

The Department of Labour will be involved in the implementation of the White Paper through, inter alia, the following:

- Ensuring that labour policies and laws support gender equity at the workplace
- Protecting workers' rights through the monitoring of employment conditions
- Monitoring fair practices at the workplace, especially with regard to maternity leave
- Contributing towards conditions conducive to the creation of employment by developing sound labour legislation
- Protecting children against child labour through the detection of such practices and the prosecution of perpetrators.
- Mainstreaming education on human rights, gender equality and work-life balance issues into workplaces.
- Raising awareness raising concerning child labour.
- Prioritising the skills development of workers.
- Recommend the development and implementation of paternity leave.

The South African Police Services

In order to contribute to the implementation of the White Paper, the South African Police Services SAPS) will coordinate more effectively with other stakeholders and specifically the other government departments forming part of the criminal justice system In addition, there will be:

- Increased patrolling and increase visibility of the SAPS.
- Strengthened accountability mechanisms for SAPS members, and effective and legitimate complaints processes and disciplinary procedures will be put in place.
- Improved training on SAPS's legal obligations contained in the Constitution, Domestic Violence Act 116 of 1998 and accompanying secondary legislation and policy relevant to domestic violence and the handling of domestic violence cases including for prevention, to avoid secondary victimisation and to dispel myths about domestic violence being a private/family matter.

Department of Rural Development

Families in rural areas are relatively more vulnerable than their urban counterparts. In addition, rural children are more prone to child poverty than urban children. Most rural provinces also exhibit high poverty ratios. Therefore, rural development strategies need to have a strong focus on families, and will be guided by the principles of the White Paper to:

- Increase economic development and rural upliftment
- Implement programmes that address gender equality education and awareness-raising in rural areas.
- Address access to education, services and justice.

Department of Women, Youth and People with Disabilities

This department will need to locate all these groups within the family setting and not treat them as disaggregated populations. Once these individuals are regarded as family members, service delivery will

target families and not just women, children and people with disabilities. Furthermore, the Department should address gender education, protection of children, life orientation skills in schools etc. and also recommend the extension of maternity leave and the creation of paternity leave.

Department of International Relations and Cooperation

With one of its objectives being to conduct and co-ordinate South Africa's international relations, this department will:

- Promote South Africa's national social development priorities, norms and standards as well as its foreign policy objectives pertaining to the family, on the international agenda
- Lead in all matters relating to South Africa's regional and international engagements
- Keep stakeholders informed of South Africa's ratification of international instruments related to the family
- Work with relevant departments to monitor and evaluate the country's progress on relevant Plans of Action where appropriate.

South African Social Security Agency (SASSA)

As the Agency mandated to ensure the provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework, SASSA will ensure that all eligible families, family members, and caregivers have access to the various social security and social assistance programmes aimed at strengthening and protecting the family in South Africa.

South African National AIDS Council (SANAC)

It is recognised that the South African National AIDS Council is not a governmental institution. However, its contribution in the implementation of the White Paper is required, especially given that the White Paper often acknowledges the significant effect that HIV and AIDS have on family members. As such, it is recommended that SANAC be included in the list of institutions implementing the White Paper and that the following items be included in its duties and responsibilities:

- The inclusion in the National Strategic Plan on HIV, STIs and TB 2012-2016 (NSP) of the distribution of female condoms in an effort to increase gender equality, improve the negotiation of condom use in relationships and reduce the spread HIV and the impact of AIDS.
- The development of more family-focused HIV and AIDS interventions.
- The support of community home based care providers.
- The continued research on the spread and impact of HIV.

Secondary departments

Department of Sport and Recreation

Sport and recreation are essential for national development, as they are central to human growth. They are also important catalysts for the realisation of mental health, and general health and social well-being. The Department of Sport and Recreation will facilitate the implementation of the White Paper by, inter alia, addressing the following:

- The use of sport and recreation in the fight against anti-social behaviour, and social vices, such as crime, juvenile delinquency and drug abuse
- Mainstreaming physical education in schools and institutions of higher learning

- Ensuring that all requisite resources (human, facilities and equipment) are made available for schools and communities to encourage participation in sport and recreation activities
- Making sport and recreation accessible to South African families by creating safe parks and other facilities
- Encouraging marginalised groups of persons, who are also family members, such as women, people with disabilities, the youth and rural dwellers, to participate in sport.
- Cooperate with other stakeholders to allow for sporting events to double as awareness raising events, or locations for condom distribution, mobile clinics etc.
- Educators need to be trained on how to conduct physical education and educate learners about the importance of exercise.

Department of Trade and Industry

The Department of Trade and industry strives to have a globally competitive South African economy, by creating an economic environment that is conducive to growth and development, decent and equitable employment, and which is built on the full potential of all citizens. The Department's policies and programmes are therefore geared towards increasing and strengthening economic development which could benefit all citizens and indirectly have a positive impact on families. The Department will contribute to the White Paper largely through the development and review of regulatory systems in the areas of competition, consumer protection, company and intellectual property as well as public interest regulation, including the manufacturing and distribution of liquor, all of which may have direct and indirect impact on families.

Department of Water Affairs

The Department of Water Affairs will facilitate the implementation of the White Paper by making sure that poor and marginalised families have access to clean and free water services.

South African Broadcasting Corporation

The media will contribute by portraying the positive aspects of functional, strong and resilient families. TV programmes, music, radio, movies and soap operas should promote gender equality, counteract materialism, promote responsible decision-making (including condom use), involved fathers and should take direct steps to prevent the glamorisation of violence, alcohol and substance abuse.

Appendix B: Current Legislative and Policy Framework

To achieve the aims and objectives of the White Paper on Families, South Africa is governed by a number of global, regional and national conventions, goals, and other instruments that the country has adopted, ratified or developed. Any changes to legislation and to policies which affect families have implications for the Revised White Paper on Families. Such changes and their impacts on families should always be monitored and considered. Some key examples of these are outlined in the sub-sections below, although this list is not exhaustive.

Global commitments

- Universal Declaration of Human Rights, 1948 (Article 16, 3) and the International Convention on Civil and Political Rights, 1966 (Article 23, 1)

Both these Articles define the family as “the natural and fundamental group unit of society and is entitled to protection by society and the State”.

- International Covenant on Economic, Social and Cultural Rights, 1966

In Article 10 (1) States Parties to the Covenant recognize that: “the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses”.

- Convention on the Rights of the Child, 1990

The Preamble of this Convention states that “the States Parties to the Convention are “convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community”. By the same token Declaration 14 of the Convention states thus: “half a million mothers die each year from causes related to childbirth. Safe motherhood must be promoted in all possible ways. Emphasis must be placed on responsible planning of family size and on child spacing. The family, as a fundamental group and natural environment for the growth and well-being of children, should be given all necessary protection and assistance”.

- The International Conference on Population and Development (ICPD) Plan of Action, 1994

In Chapter II Principle 9, the ICPD Plan of Action states that “the family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. Marriage must be entered into with the free consent of the intending spouses, and husband and wife should be equal partners.

- UN Convention on the Rights of Persons with Disabilities (CRPD), 2006

Article 23 – Respect for home and the family

- 1) States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
 - a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
 - b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

- c) Persons with disabilities, including children, retain their fertility on an equal basis with others.
- 2) States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
- 3) States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
- 4) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
- 5) States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.
- World Summit for Social Development, Copenhagen, Denmark, March 1995.

At this World Summit, it was agreed, among other things, that "the family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. Marriage must be entered into with the free consent of the intending spouses, and husband and wife should be equal partners".

- The Sustainable Development Goals

The Sustainable Development Goals or Global Goals are a collection of 17 interlinked global goals designed to be a "blueprint to achieve a better and more sustainable future for all". The SDGs were set in 2015 by the United Nations General Assembly and are intended to be achieved by the year 2030. SDGs that are relevant for the WPF include:

- Goal 1: End poverty in all of its forms everywhere
- Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture
- Goal 3: Ensure healthy lives and promote well-being for all at all ages
- Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
- Goal 5: Achieve gender equality and empower all women and girls
- Goal 6: Ensure availability and sustainable management of water and sanitation for all
- Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all
- Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
- Goal 10: Reduce inequality within and among countries
- Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable
- Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to

justice for all and build effective, accountable and inclusive institutions at all levels

- Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

Other international instruments that have relevance for the family and for this White Paper include:

- the United Nations Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW], 1979);
- Resolution 46/91 of the United Nations Declaration on the Rights of the Elderly (1991);
- the United Nations Standard Rules on Opportunities for Persons with Disabilities (1993); and
- the Malta Statement of the NGO Forum (1994), which launched the International Year of the Family and called upon governments to formulate family-sensitive policies, promoting self-reliance and participation of families, taking into consideration the aspirations and expectations of families themselves.

Regional commitments

At the regional level the recognition of the family as a critical player in sustainable socio-economic development is highlighted in various documents such as:

- **Dakar/Ngor Declaration on Population, Family and Sustainable Development (1992)** which, among other things, called on governments to give due consideration to the rights and responsibilities of all family members, to ensure that measures are put in place to protect the family from socio-economic distress and disintegration, and to integrate family concerns into all development plans.
- **Social Policy Framework for Africa (2008)** which proposed a minimum package of essential social protection for families, targeting healthcare as well as benefits for children, informal workers, the unemployed, older people, and persons with disabilities.
- **Plan of Action on the Family in Africa (2004)**. With a focus on nine priority areas, the Plan of Action on the Family is meant to serve as an advocacy instrument for strengthening family units, addressing the needs, improving the general welfare, and enhancing the life chances of family members. It also aims at guiding African Union Member States, including South Africa, in designing, implementing, monitoring and evaluating appropriate national policies and programmes for the family on the basis of their specific requirements and needs.
- **African Charter on Human and People's Rights (1981)**. Article 18 states that the family is the "natural unit and basis for society". It also instructs states to protect families and "take care of [families] physical health and morale."
- **African Charter on the Rights and Welfare of the Child (1990)**. Article 18 states that families are the natural unit and basis for society and provides that families "shall enjoy the protection and support of the State for [their] establishment and development".
- **African Youth Charter (2006)**. Article 8 contains a similar provision as that of the African Charter on the Rights and Welfare of the Child. South Africa ratified the African Youth Charter on 28 May 2009.
- **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)**. While a number of provisions in this Protocol relate in one way or another to families, the most pertinent are: Article 6(c) which provides that the state should encourage monogamy; Article 14(1) which prescribes rights related to sexual and reproductive health; and Article 24(1) which obliges states to provide for women's environmental, physical, economic and social needs.

- **SADC Protocol on Gender Development (2008).** Sub-article (1) of article 8 recommends “that women and men enjoy equal rights in marriage and are regarded as equal partners in marriage”; and sub-article (4) puts measures in place “to ensure that parents honour their duty of care towards their children, and maintenance orders are enforced.”

National legislation

Constitution of the Republic of South Africa (1996)

The overarching institutional framework that guides the implementation of South Africa's policies and legislation is the Constitution of the Republic of South Africa 1996 (Act no. 108). The White Paper on Families' main aim of promoting family life and strengthening the family resonates especially with sections 26, 27, 28 and 29 of the Constitution. The implementation of the White Paper is dependent on the realisation of these constitutional rights. For example, Section 26 is concerned with the right to adequate housing and Section 27 enshrines the right to healthcare, food, water and social security. With Section 26 and Section 27, the Constitution clearly notes that the state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of each of these rights. However, Section 28, dealing with the rights of the child, and Section 29, regarding the right to education, do not have conditions for their realisation. They have to be provided by the state.

The Constitution also encompasses a Bill of Rights that enshrines the socio-economic rights of the citizenry. These constitutional provisions directly influence the plight of the family and the manner in which its members contribute towards society's well-being and stability.

In addition to the Constitution, the White Paper is guided by the following legislation which is relevant to the family in general and to specific family members and issues affecting them:

- The Marriage Act, No. 25 of 1961
- The Reciprocal Enforcement of Maintenance Orders Act, No. 80 of 1963
- The Older Persons' Act, No. 13 of 2006
- The Criminal Procedure Act, No. 51 of 1977
- The Divorce Act, No. 70 of 1979
- The Children's Act, No. 38 of 2005
- The Children's Amendment Act, No. 41 of 2007
- The Matrimonial Property Act, No. 88 of 1984
- The Mediation in Certain Divorce Matters Act, No. 24 of 1987
- The Birth and Death Registration Act, No. 51 of 1992
- The Social Assistance Act, No. 13 of 2004
- The Prevention and Treatment of Drug Dependency Act, No. 20 of 1992
- The Hague Convention on the Civil Aspects of International Child Abduction Act, No. 72 of 1996
- The Housing Act, No. 107 of 1997
- The Domestic Violence Act, No. 116 of 1998
- The Adoption Matters Amendment Act, No. 56 of 1998
- The Employment Equity Act, No. 55 of 1998

- The Probation Services Act, No. 116 of 1991
- The Probation Services Amendment Act, No. 35 of 2002
- The Prevention of Illegal Eviction Act, No. 19 of 1998
- The Recognition of Customary Marriages Act, No. 120 of 1998
- The Sterilisation Act, No. 44 of 1998
- The Health Act, No. 61 of 2003
- The Choice of Termination of Pregnancy Act, No. 92 of 1996
- The Civil Union Act of 2006
- The Sexual Offences Act, No 32 of 2007.
- Child Justice Act 75 of 2008
- The Maintenance Act, 99 of 1998
- The Reciprocal Enforcement of Maintenance Orders (Countries in Africa) Act, 6 of 1989
- The Domicile Act, 3 of 1992
- The 1998 Refugee Act (as amended).

National policies

- White Paper for Social Welfare, 1997

As stated earlier, the White Paper for Social Welfare is the first overall social welfare policy under the 1996 Constitution and reaffirms Government's commitment to securing basic welfare, human rights and active citizen participation in promoting human well-being. Its stated vision is to reform the apartheid era residual social welfare system and to bring it in line with the new constitutional framework and binding international law. Section 1 in Chapter 8 focuses on the family and the life course: families, children, youth and ageing and outlines strategies to promote family life, as well as to strengthen families. The White Paper for Social Welfare's developmental paradigm aims to guide the implementation of pro-family policies and services in the country.

A comprehensive review of the implementation of the White Paper for Social Welfare was conducted in 2017 and the Summary Report on The Review of the White Paper for Social Welfare, 1997 by the Ministerial Committee should also inform the revised WPF.

- National Family Policy (final draft Version—July 2005)

The policy is premised on the principle that families are the core of society, and its goals include, among others, the protection and support of families through effective and efficient service delivery; the creation of an enabling environment geared towards the self-reliance of families; and the promotion of inter-sectoral collaboration amongst stakeholders in the provision of services.

- National Development Plan 2030

The following aspects of the NDP 2030 should inform the WPF:

- **Households and communities.** Proper nutrition and diet, especially for children under three, are essential for sound physical and mental development. The Commission makes recommendations on child nutrition, helping parents and families to break the cycle of poverty, and providing the best preparation for young children – including a proposal that every child should have at least two years of preschool education.

- The national development plan calls for universal access for at least 2 years of ECD.
- It encourages expansion of home, community and centre based programmes to support parenting and improve opportunities for young children to learn.
- Provision on nutrition intervention for pregnant women and young children
- Provision of full funding assistance covering tuition, books, accommodation and living allowances to student from poor families.
- The above mentioned initiatives strengthen families in order to combat the debilitating effect of development challenges and other socio-economic risk factors.

Other relevant policies in the country include:

- The Population Policy for South Africa (1998)
- White Paper on Home Affairs (2019)
- Consultative Stakeholder Engagements for the Development of the Marriages Policy. Concept Paper, September 2019.
- South Africa's National Policy Framework for Women's Empowerment (2000)
- Green Paper on families (2011)
- Gender Policy Framework for local government (2011)
- Draft National Policy Framework for Families (2001)
- The Policy on Gender Equality (2002)
- The Policy on Financial Awards to Service Providers (2004)
- The Policy on the Management of Substance Abuse (2005)
- The White Paper on Corrections in South Africa (2005)
- White Paper on the Rights of Persons with Disabilities (2015)
- National Youth Policy 2020-2030
- Integrated Youth Development Strategy (IYDS) 2020
- The National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation (2005)
- The National Childcare and Protection Policy: Working together to advance the Rights of all Children to Care and Protection, (2019) (Released February 2021.)
- National Adolescent Sexual and Reproductive Health and Rights (ASRH&R) Framework Strategy, 2014-2019
- The Policy for Older Persons (2005)
- National Intervention Strategy for Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Sector (2014)
- Draft National Disability Rights Policy, (2015)
- Department of Social Development Framework of Positive Values (2009)

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**GENERAL NOTICE 398 OF 2021****PROMOTION OF ACCESS TO INFORMATION ACT, 2000****DESCRIPTION SUBMITTED IN TERMS OF SECTION 15(1)**

I, Ronald Lamola, Minister of Justice and Correctional Services, hereby publish under section 15(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the descriptions submitted to me in terms of section 15(1) of the said Act by the –

THE PRESIDENCY

As set out in the Schedule



MR RONALD LAMOLA, MP

MINISTER FOR JUSTICE AND CORRECTIONAL SERVICES



REPUBLIC OF SOUTH AFRICA

FORM D

AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS:
 (Section 15 of the Promotion of Access to Information Act 2000 (Act no. 2 of 2000))
 [Regulation 5A]

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website)(SECTION 15(1)(a))
FOR INSPECTION IN TERMS OF SECTION 15(1)(a)(i):	
Not Applicable	Not Applicable
FOR PURCHASING IN TERMS OF SECTION 15(1)(a)(ii):	
Not Applicable	Not Applicable
FOR COPYING IN TERMS OF SECTION 15(1)(a)(iii)	
Not Applicable	Not Applicable
AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 15(1)(a)(iii)	
ANNUAL PERFORMANCE PLANS <ul style="list-style-type: none"> Revised Annual Performance Plan 2020/21 Annual Performance Plan 2020/21 Annual Performance Plan 2019/20 Revised Technical Indicator Descriptions 	Information can be accessed from The Presidency's website: www.thepresidency.gov.za or through the post: Directorate: Auxiliary Services Registry Office Attention: Deputy Information Officer Private Bag X1000

<ul style="list-style-type: none"> • Annual Performance Plan 2019/20 • Annual Performance Plan 2018/19 • Annual Performance Plan 2017/18 • Annual Performance Plan 2016/17 • Annual Performance Plan 2015/16 • Annual Performance Plan 2014/15 • Annual Performance Plan 2013/14 • Annual Performance Plan 2012/13 	<p>PRETORIA 0001</p> <p>Or</p> <p>Through email: informationofficer@presidency.gov.za ;</p> <p>Telephone: 012 300 5376, Fax: 086 687 2230.</p> <p>Documents can also be obtained from The Presidency's receptions in Pretoria and Cape Town respectively.</p>
<p>ANNUAL REPORTS</p> <ul style="list-style-type: none"> • Annual Report 2019/20 • Annual Report 2018/19 • Annual Report 2017/18 • Annual Report 2016/17 • Annual Report 2015/16 • Annual Report 2014/15 • Annual Report 2013/14 • Annual Report 2012/13 • Annual Report 2011/12 • Annual Report 2010/11 • Annual Report 2009/10 • Annual Report 2008/09 	<ul style="list-style-type: none"> • Pretoria – visitors' entrance on Government Avenue, Union Buildings, Pretoria. • Cape Town – Tuynhuys entrance, Parliament, Cape Town.
<p>STRATEGIC PLANS</p> <ul style="list-style-type: none"> • Strategic Plan 2020-2025 • Strategic Plan 2015 – 2020 • Strategic Plan 2012/13 – 2014/15 • Strategic Plan 2011/12 – 2013/14 	
<p>AFRICAN PEER REVIEW MECHANISM (APRM)</p> <ul style="list-style-type: none"> • Second Report on the Implementation of South Africa's APRM Programme of Action. 	
<p>COMMISSIONS</p> <ul style="list-style-type: none"> • Donen Commission Interim Report of 16 May 2006 • Donen Commission Report of 17 June 2006 	

- Donen Commission Report of 30 September 2006
- Donen Commission Synopsis Report of 28 August 2009
- Ginwala Enquiry
- Khampepe Commission of Inquiry into the Mandate and Location of the Directorate of Special Operations (The DSO)
- Independent Commission for the Remuneration of Public Office-Bearers Recommendations on salaries, allowances and benefits of Public Office Bearers for the fiscal year commencing on 1 April 2008
- Report of the Marikana Commission of Inquiry
- Nkandla Security Upgrade Report – August 2014
- Interim Report of the Commission of Inquiry into Tax Administration and Governance by SARS of 27 September 2018
- Final Report of the Commission of Inquiry into Tax Administration and Governance by SARS of 11 December 2018
- Report on the PIC Commission
- Presidential Commission on 4IR
- Report of the Commission of Inquiry into Higher Education and Training

JOINT INITIATIVE ON PRIORITY SKILLS ACQUISITION (JIPSA) AND ACCELERATED AND SHARED GROWTH INITIATIVE FOR SOUTH AFRICA (ASGISA)

- JIPSA Annual Report – 2008
- JIPSA Annual Report for 2007 – Background and highlights
- JIPSA Report on Activities in 2007
- Final JIPSA Report
- ASGISA Annual Report – 2006 | 2007 | 2008
- Reflections on ASGISA in its First Year
- Frequently asked questions about JIPSA
- Accelerated and Shared Growth Initiative – South Africa (ASGISA)

YOUTH PUBLICATION

- National Youth Policy 2009-2014
- National Youth Development Agency Act No.54 of 2008
- African Youth Charter July 2006

POLICY PUBLICATIONS AND DOCUMENTS

- Nation in the Making – A discussion document on macro-social trends in South Africa
- Social Cohesion and Social Justice in South Africa
- A Nation in the Making – A discussion document on macro-social trends in South Africa
- Economic Sector: Towards an Anti-Poverty Strategy for South Africa – A Discussion Document, 2008
- Towards an Anti-Poverty Strategy for South Africa – A Discussion Document, 2008
- Presidential Handbook
- State, Official and Provincial Official Funeral Policy July 2016
- The Presidency Language Policy
- d SEIAS guidelines May 2015
- SEIAS Final Impact Assessment Template 2020
- SEIAS Initial Impact Assessment Template 2020
- Process Map for application of SEIAS in the development of public policies and subordinate legislation /regulations
- SEIAS leaflet
- Sustainable Infrastructure Development Symposium South Africa (SIDSSA) 23 June 2020
- Emergency Response Action Plan (ERAP) Report on Gender-Based Violence and Femicide (GBVF) 30 April 2020
- National Strategic Plan (NSP) to Combat GBVF 2020-30
- Panel Report on Land Reform 04 May 2019

- Presidential Health Compact
- Presidential Health Summit 2018 Report
- G20 Osaka Leaders Declaration 2019
- High-Level Review Panel on the SSA

NATIONAL ORDERS BOOKLETS

- National Orders Booklet 2019
- National Orders Booklet 2018
- National Orders Booklet 2017National Orders Booklet 2016National Orders Booklet 2015National Orders Booklet 2014National Orders Booklet 2013National Orders Booklet 2012National Orders Booklet 2011
- National Orders Booklet 2010National Orders Booklet 2009National Orders Booklet 2008National Orders Booklet 2007National Orders Booklet 2006National Orders Booklet 2005National Orders Booklet 2004National Orders Booklet 2003
- National Orders Booklet 2002

SPEECHES

- President Cyril Ramaphosa – 2018 to 2020
- Deputy President David Mabuza – 2018 to 2020
- DG Dr Cassius Lubisi – 2018 to 2020

PRESS STATEMENTS

- President Cyril Ramaphosa – 2018, 2019, 20202017
- Deputy PresidentDavid Mabuza – 2018, 2019, 2020D
- Minister Jackson Mthembu – 2018, 2019, 2020
- DG Dr Cassius Lubisi – 2018, 2019, 2020

CABINET STATEMENTS

- Cabinet Statements 2020
- Cabinet Statements 2019
- Cabinet Statements 2018
- Cabinet Statements 2017

<ul style="list-style-type: none">• Cabinet Statements 2016 NATIONAL SYMBOLS <ul style="list-style-type: none">• National Coat of Arms• National Flag• National Anthem• National Bird• National Fish• National Flower• National Animal• National Tree PRIVATE OFFICE OF THE PRESIDENT <ul style="list-style-type: none">• President's monthly public engagement programme OFFICE OF THE DEPUTY PRESIDENT <p>Deputy President's monthly public engagement programme</p>	
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NON-GOVERNMENTAL ORGANIZATION

GENERAL NOTICE 399 OF 2021

FOOD SAFETY AGENCY (PTY) LTD

NOTICE: REPLACEMENT OF FEES PUBLISHED

The document “Inspection fees for Poultry Meat, Eggs and Processed Meat Products” of Notice 368 of 2021, published in Government Gazette No. 44724 of 18th June 2021 is hereby withdrawn and replaced with the document “Inspection fees for Processed Meat Products”

NON-GOVERNMENTAL ORGANIZATION**FOOD SAFETY AGENCY (PTY) LTD****INSPECTION FEES FOR PROCESSED MEAT PRODUCTS**

Food Safety Agency (Pty) Ltd has been designated as assignee in terms of section 2(3)(a) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), to apply sections 3(1)(a) and (b), 3A(1), 4A(1)(a), 7 and 8 of the said Act with respect to regulated animal products and processed meat products.

The following fees will be valid from 1 July 2021.

**HOUR AND KILOMETRE RATES:
INSPECTION AND/OR SAMPLING OF
PROCESSED MEAT PRODUCTS**

Description	Point of inspection	Fee
Normal Time (08:00 – 16:00)	Distribution centre, retailer, outlet, food store and cold storage facility	R468.00 per hour
Normal Overtime (Mon – Sat)		R520.00 per hour
Sunday & Public Holidays		R624.00 per hour
Kilometre Rate		R5.50 per kilometre

The above rates are applicable to inspection and/or sampling at any distribution centre, retailer, outlet, food store and cold storage facility that sells, keeps and/or distributes locally produced and/or imported processed meat products.

- Where hourly rates are applicable, a minimum of one hour (R468.00) will be charged. Thereafter time will be charged in half hour segments of R234.00 per half hour or part thereof. The same principle will be applied to overtime and Sunday time.
- In all instances where it is found that the hourly and kilometre rates are insufficient to cover the costs of the inspections, Food Safety Agency (Pty) Ltd, at its own discretion, reserves the right to amend the rates.

LABORATORY FEES – PROCESSED MEAT PRODUCTS

Type of analysis	Fee
Fat Content	R820.00 per sample/test
Moisture Content	R177.00 per sample/test
Protein Content	R322.00 per sample/test
Calcium Determination (MRM only)	R518.00 per sample/test
DNA Sampling	R988.00 per DNA sample/test

OTHER FEES

Special Claims Protocol Auditing - On a quotation basis

All fees exclude Value Added Tax (VAT)

CONTINUES ON PAGE 258 OF BOOK 3

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 673

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July
Julie

2021

No. 44799

PART 3 OF 3

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

GENERAL NOTICE 400 OF 2021

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA****CORRECTION NOTICE OF INITIATION OF A SUNSET REVIEW OF THE
ANTI-DUMPING DUTIES ON POLYETHYLENE TEREPHTHALATE
("PET") ORIGINATING IN AND IMPORTED FROM CHINESE TAIPEI,
INDIA AND THE REPUBLIC OF KOREA (SOUTH KOREA)**

Reference is made to Notice 369 of 2021, published in *Government Gazette* No. 44724 dated 18 June 2021.

THE PRODUCT

The anti –dumping duties subject to review is polyethylene terephthalate (PET), in primary forms (excluding liquids and pastes) classifiable under tariff subheading **3907.6, 3907.61.90 and 3907.69.90** originating in or imported from the India, South Korea and Chinese Taipei.

All other information remains the same.

Should you have any queries, please do not hesitate to contact investigating officers, Mr Busman Makakola at bmakakola@itac.org.za or Mr Emmanuel Manamela at emanamela@itac.org.za

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

GENERAL NOTICE 401 OF 2021

INTERNATIONAL TRADE ADMINISTRATION
COMMISSION

GUIDELINES, RULES AND CONDITIONS PERTAINING TO REBATE ITEM 306.02/5208.21/01.06 FOR REBATE OF THE FULL DUTY ON WOVEN FABRICS OF COTTON, CONTAINING 85 PER CENT OR MORE BY MASS OF COTTON, OF A MASS NOT EXCEEDING 100 G/M² BLEACHED, IN A PLAIN WEAVE, USED FOR THE MANUFACTURE OF WADDING, GAUZE, BANDAGES AND SIMILAR ARTICLES (FOR EXAMPLE, DRESSINGS, ADHESIVE PLASTERS, POULTICES), IMPREGNATED OR COATED WITH PHARMACEUTICAL SUBSTANCES OR PUT UP IN FORMS OR PACKINGS FOR RETAIL SALE, FOR MEDICAL, SURGICAL, DENTAL OR VETERINARY PURPOSES CLASSIFIABLE UNDER TARIFF SUBHEADING 5208.21.

Note: In terms of section 26 (4) of the International Trade Administration Act, 2002, the Commission may, *inter alia*, require an applicant to provide additional information in respect of the application. The conditions attached to and the information requested below reflects the minimum requirements, which ITAC would apply to evaluate an application under this rebate provision.

1. An applicant must register with South African Revenue Service (SARS) as an importer before applying for a rebate permit under rebate item 306.02/5208.21/01.06 for rebate of duty on woven fabrics of cotton used for the manufacture of wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale, for medical, surgical, dental or veterinary purposes and they must acquaint themselves with the requirements of SARS.
2. Applications for permits must be addressed to the International Trade Administration Commission (ITAC), Private Bag X 753, Pretoria or delivered by hand to the DTI Campus, (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.
3. Applications for permits must be submitted according to the requirements of the attached application form. If the space provided in the application form is insufficient, please use the format of the application form to submit the requested information.

4. If all the information requested in the application form is not submitted, the application will be deemed as deficient and the application will not be considered.
5. At least fourteen (14) working days should be allowed for the processing of applications and the issue of permits, provided that all necessary information, which renders the application duly completed, has been submitted to ITAC.
6. Each rebate permit issued defines the period during which the goods concerned can be cleared under the rebate. The period shall be for a calendar year, and commences on the date on which the permit was issued. The permit may be issued for a shorter period as requested by the applicant, or as decided upon by ITAC.
7. If an applicant intends to apply for a subsequent permit for which the period of validity should commence on the day after the expiry date of the previous permit issued, this must be clearly indicated in a new application. The application must be submitted to ITAC at least fourteen (14) working days prior to the expiry date of the previous permit as permits cannot be issued with retrospective effect.
8. Rebate permits may not be transferred in any manner by the holder thereof to any other person, or be used for the benefit of any person or entity, not named in the permit.
9. Any request for an amendment to a rebate permit must be forwarded to ITAC for consideration. Amendments will only be considered in the following instances:
 - a) Error by ITAC on permit;
 - b) Error by applicant regarding the product description or tariff subheading.

This will only be processed if the request is accompanied by a confirmation from SARS in this regard.

10. Should any party misplace a permit, the applicant should submit an affidavit on a company letterhead endorsed by a Commissioner of Oath, stating that the permit was lost and the circumstances surrounding the loss of such permit. ITAC may, on the facts furnished, exercise its discretion to issue a new permit that replaces the lost permit. Should the lost permit be found the applicant must return such permit to ITAC.
11. Extension of the period (one calendar year or less, as provided for in paragraph 6 above) from which the permit is valid may be granted. Extensions will only be granted where the relevant permit has not expired, and in the view of ITAC, good cause warrants extension of such permit. Such discretion shall lie solely with ITAC. Extensions will only be permitted for a period up to 3 months and the party applying for the extension must submit a letter and supporting documents to ITAC, furnishing reasons and good cause for the extension.
12. Rebate permits issued will be subject to the following conditions and reciprocities:
 - 12.1 There should be an intention by the applicant(s) to import woven fabrics of cotton, containing 85 per cent or more by mass of cotton, of a mass not exceeding 100 g/m² bleached, in a plain weave for the manufacture of wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale, for medical, surgical, dental or veterinary purposes as described in the rebate provision to such an extent that there is a visible permanent change in the fabrics, and a change in tariff heading.
 - 12.2 The applicant(s) must be able to prove that they have sufficient manufacturing capacity to process the volume of fabric internally for which it has applied for. If deemed necessary, ITAC will physically inspect the equipment and manufacturing process prior to the issue of a rebate permit.

- 12.3 The applicant must provide a formal letter on the applicant's business letter head confirming that the applicant complies with labour laws, regulations and agreements gazetted by the Minister of Labour.
- 12.4 An applicant must, together with the application, submit proof of registration and a Certificate of Compliance obtainable from the relevant National Bargaining Council. ITAC may consult with the South African Clothing and Textiles Worker's Union (SACTWU) regarding compliance.
- 12.5 The applicant must provide ITAC with its current SARS electronic access PIN, in order to enable ITAC to verify full tax compliance status.
- 12.6 The applicant must submit a SARS letter of approval for registration as a rebate user in terms of Schedule 3 to import and use the material under the provisions of rebate item 306.02/5208.21/01.06. This letter must reflect the physical address that the applicant is currently operating from.
- 12.7 The applicant must submit a letter of consent agreeing to transparency of information in that the following information may be shared with industry stakeholders [i.e. Texfed, Sustainable Cotton Cluster, Southern African Clothing and Textile Workers' Union (SACTWU) etc.]:
- 12.7.1 Name of applicant;
 - 12.7.2 Contact details of applicant;
 - 12.7.3 Technical description of fabric (i.e. weave type, width, weight, thread count, yarn density and finish);
 - 12.7.4 Volume applied for;
 - 12.7.5 Quantities to be manufactured from imported subject woven fabric of cotton.
- 12.8 Applicants must approach the Textile Federation (Texfed) and known local manufacturers, for confirmation of the local availability of the fabrics to be imported under rebate. This must be accompanied by a sample of the fabric to be imported, which must also be attached to the application to ITAC.

- 12.9 The applicant must commit, *inter alia*, to the creation of employment and provide in each permit application the number of jobs it expects to create annually as a result of the rebate provision. The applicant must submit to ITAC an annual report on its job creation performance.
- 12.10 Applicants are required to keep verifiable records of wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale, for medical, surgical, dental or veterinary purposes manufactured under rebate and sold by type, size and volume of each category.
13. ITAC reserves the right to conduct an audit on the usage of the rebate facility by rebate holders.

Non-compliance to the conditions of the permits:

14. If a *prima facie* case is established that any condition of this permit is not complied with, the consignment in terms of which the rebate permit was used can be seized by ITAC and the rebate permit will be temporarily suspended while ITAC conducts an investigation. If it is established that non-compliance took place, appropriate steps will be taken. These steps will be taken in terms of the International Trade Administration Act and the Customs and Excise Act, and can include, criminal charges, withdrawal of the permit or permits concerned and/or the rejection of future applications for permits.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**GENERAL NOTICE 402 OF 2021****INTERNATIONAL TRADE ADMINISTRATION
COMMISSION****GUIDELINES, RULES AND CONDITIONS PERTAINING TO
REBATE ITEM 310.01/2815.12/09.06****PROCEDURES AND CONDITIONS**

1. Applications for permits must be addressed to the International Trade Administration Commission (ITAC), Private Bag X 753, Pretoria or delivered by hand to the DTI Campus, Block E, C/o Meintjies street and Robert Sobukwe street, Sunnyside, Pretoria.
2. Applications for permits must be submitted according to the requirements of the attached application form. If the space provided in the application form is insufficient, please use the format of the application form to submit the requested information.
3. If all the information requested in the application form is not submitted, the application will not be considered, and it will be returned to the applicant.
4. At least two weeks should be allowed for the processing of applications and the issue of permits.
5. Each rebate permit issued defines the period during which the goods concerned can be cleared with rebate of duty, and the period shall be for a calendar year starting from the date on which the permit was issued or a shorter period as requested by the Applicant, or as decided upon by ITAC.
6. Rebate permit issued will be subject to the following conditions:

- 6.1 The applicant must submit a Tax Clearance Certificate;
- 6.2 The applicant must provide in each permit application the number of jobs it expects to create annually as a result of the rebate. The applicant will submit to ITAC a quarterly report on its job creation performance;
- 6.3 The applicant(s) need to consult with the local manufacturers of caustic soda to confirm if they are able to supply a reasonable quality and quantity of the caustic soda as required;
- 6.4 The applicant can request the manufacturer to respond within 14 days of their request. Should the local manufacturers of caustic soda not be able to supply the quantity requested, the applicant(s) need to obtain a confirmation letter from the manufacturer stating that they are not able to supply. The original letter needs to be submitted with the application form;
- 6.5 If the manufacturer unreasonably refuses to provide such a confirmation letter, ITAC will write a letter to the manufacturer informing them of the application and requesting them to confirm their production and production capacity. The manufacturer will then be allowed 7 days to respond to this letter. Should the manufacturer respond within the 7 day period, the information provided will be taken into account during the decision making process; and
- 6.6 Should, after receipt of the manufacturers response, or in the absence of such response, information be available that reflects that the manufacturer is reasonably unable to supply the quality and quantity of caustic soda required, ITAC will be able to issue a permit without, or despite, the required letter of confirmation by the manufacturer.

7. Rebate permit may not be transferred in any manner by the holder thereof, to any other person, or be used to the benefit of any person, not named in the permits.
8. Any request for an amendment of a rebate permit must be forwarded to ITAC for consideration. Amendments will only be considered in the following instances:
 - a) Error by ITAC on permit;
 - b) Error by applicant regarding product description or tariff subheading. This will only be processed if request is accompanied by a confirmation from SARS in this regard.

Note: No amendments of the statistical unit (quantity or value), which was applied for, will be considered – a new application has to be submitted in such instances together with the original previous permit.

9. Should any party displace a permit, the applicant should submit an affidavit on a company letterhead endorsed by a Commissioner of Oath, stating that the application was lost. ITAC will issue a new permit. Should the lost permit be found the applicant should return such a permit to ITAC.
10. Extension of the date as indicated on the rebate item No.xxx will only be permitted for a period up to 3 months and only in instances where:
 - a) An applicant has submitted a letter and supporting documents giving verifiable reasons for the extension; **and**
 - b) The permit has not expired.
11. If it is suspected that any condition of this permit is not complied with, the consignment in terms of which the rebate permit was used can be seized by ITAC. If it is established that non-compliance took place, appropriate steps will be taken. These steps will be taken in terms of the International

Trade Administration Act and the Customs and Excise Act, and can include, criminal charges, withdrawal of the permit or permits concerned and/or the rejection of future applications for permits.

INTERNATIONAL TRADE ADMINISTRATION
COMMISSION OF SOUTH AFRICA

**APPLICATION FOR A PERMIT IN TERMS OF REBATE ITEM
310.01/2815.12/09.06 FOR REBATE OF THE DUTY ON SOLID SODIUM
HYDROXIDE FOR THE MANUFACTURE OF SEMI-CHEMICAL FLUTING
PAPER CLASSIFIABLE UNDER TARIFF SUBHEADING 4805.11 IN SUCH
QUANTITIES, AND AT SUCH TIMES AS THE INTERNATIONAL TRADE
ADMINISTRATION COMMISSION MAY ALLOW BY SPECIFIC PERMIT**

APPLICATION FORM

BEFORE COMPLETING THIS FORM, PLEASE ACQUAINT YOURSELF WITH
THE GUIDELINES AND CONDITIONS PERTAINING TO REBATE ITEM

310.01/2815.12/09.06

1. DETAILS OF APPLICANT

Applicant: <hr/> Importer's code: <hr/> VAT registration no: <hr/>	<u>Postal address:</u> <hr/> <hr/> <hr/> <hr/>
Contact details of applicant: Contact person: <hr/> Telephone no.: <hr/> Cell no.: <hr/> Fax no.: <hr/> Email address: <hr/>	<u>Physical address where manufacturing takes place:</u> <hr/> <hr/> <hr/> <hr/> <hr/>
<u>he ITAC guidelines pertaining to rebate item 310.01/2815.12/09.06 has been obtained and perused:</u> Yes: <hr/> No: <hr/>	
<u>List of permit nos. of previous permits applied for in terms of rebate item 310.01/2815.12/09.06:</u>	

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2. Furnish The Following Information In Respect Of Each Of The Products Which Rebate Is Applied For:

(i) DESCRIPTION OF IMPORT PRODUCT/S AS IN THE CUSTOMS TARIFF	
(ii) TARIFF SUBHEADING OF EACH PRODUCT	
(iii) RATE OF CUSTOMS DUTY APPLICABLE TO EACH PRODUCT	
(iv) QUANTITY	
(v) CUSTOMS (FOB) VALUE IN RAND	
(vi) COUNTRY/IES IMPORTING FROM	

3. Indicate with a cross whether the outcome of the application should be forwarded by mail to the applicant or whether it will be collected at the offices of the International Trade Administration Commission at the DTI Campus, Block E, C/o Meintjies street and Rober Sobukwe street, Sunnyside, Pretoria.

BY MAIL	
BY HAND	

**DECLARATION IN RESPECT OF AN APPLICATION FOR A PERMIT IN TERMS OF
REBATE PROVISION 310.01/2815.12/09.06 OF SCHEDULE 3 TO THE CUSTOMS
AND EXCISE ACT, 1964**

**NB: The obligation to complete and submit this declaration cannot be
transferred to an external authorized representative, auditor or any other third
party acting on behalf of the claimant**

I, (full names) with identity
number, in my capacity as – managing director/chief
executive (in respect of a company) or senior member/ person with management
responsibility (close corporation, partnership or individual)

(Delete whichever is not applicable)

of (hereinafter
referred to as the applicant) hereby declare that –

- a) the Applicant complies with prescribed requirements in order to qualify for rebate in terms of the above-mentioned rebate provision;
- b) I have satisfied myself that the preparation of the application has been done in conformity with the guidelines and requirements in respect of the above-mentioned rebate provision, with which I have fully acquainted myself and to which I unconditionally agree to;
- c) I accept that the decision by the Chief Commissioner: International Trade Administration will be final and conclusive and that the said Chief Commissioner may at any time conduct or order that an investigation to verify information furnished in the application form, be conducted;
- d) The information furnished in this application is true and correct;

- e) The applicant or any one of its associates, or related party is not subject to an investigation by either the South African Police, the Office for Serious Economic Offences, International Trade Administration, or the Commissioner for South African Revenue Services (SARS) into previous claims or other related matters.

NAME: **DESIGNATION:**

SIGNATURE: **DATE AND YEAR:**

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, AND THAT HE/SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH, AND THAT HE/SHE CONSIDERS THIS OATH TO BE BINDING ON HIS/HER CONSCIENCE.

SIGNED and SWORN to before me at **on this**
Day of **Year.**

.....
COMMISSIONER OF OATHS

FULL NAMES:

CAPACITY:

BUSINESS ADDRESS:

.....

AREA:

CHECK LIST

1. **Please note:** Before the 310.01/2815.12/09.06 application form is submitted to ITAC, the applicant is required to complete the check list which is shown in Table 1 below:

Table 1: Check list

<u>Documents and information to be submitted</u>	Mark with X
Importer's code	
VAT registration no.	
Copy of previous permit (if applicable)	
All information required in the questionnaire has been submitted.	
Signed sworn affidavit	

2. The checklist will assist applicants to ensure that all the relevant information is submitted and that all the relevant documentation is attached.

It is hereby agreed that the checklist is a true reflection of all the documents that were attached and the information submitted:

Signature: _____

Designation: _____

Date: _____

BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 4 OF 2021



South African Council for Social Service Professions

Social Service Professions Act 110 of 1978

NOTICE IN TERMS OF REGULATION 11 OF THE NAMES OF PERSONS NOMINATED AS CANDIDATES FOR THE ELECTION OF MEMBERS OF THE 5TH SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS, 5TH PROFESSIONAL BOARD FOR SOCIAL WORK AND 4TH PROFESSIONAL BOARD FOR CHILD AND YOUTH CARE WORK; AND EXTENSION OF NOTICE FOR THE NOMINATION OF ONE (1) SOCIAL AUXILIARY WORKER NOMINATED BY SOCIAL AUXILIARY WORKERS TO SERVE ON THE 5TH PROFESSIONAL BOARD FOR SOCIAL WORK

1. Notice is herewith given in terms of regulation 11 of the *Regulations relating to election of members of the South African Council for Social Service Professions* (Government Notice No R. 1698 published in Government Gazette 19644 of 31 December 1998) of the names of persons nominated as candidates for the election of Members of the 5th South African Council for Social Service Professions, 5th Professional Board for Social Work and 4th Professional Board for Child and Youth Care Work and the election of such Members.

2. NAMES OF PERSONS NOMINATED

- 2.1 The following persons have been duly nominated in the prescribed manner by 16h00 on 23 March 2021 following the request for nominations published in *Board Notice 3 of 2021* (Government Gazette No 44173 of 5 February 2021) and meet the prescribe requirements to be nominated as set out in the applicable Regulations:

2.2 5th South African Council for Social Service Professions

- 2.2.1 Names of persons nominated as candidates by social workers for the election of *six (6) social workers* to serve on Council in terms of section 5(1)(a) of the Social Service Professions Act 110 of 1978 (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
BALGOBIND	CHANDIKA	1018168
DAVIDS	RONEL	1014784
DE SOUSA	AMANDA	1013085

GALLANT	ELWIN EDGAR	1007085
KHEU	THABISO	1020241
MATHYE	MIHLOTI	1007959
MBEDZI	REMBULUWANI	1021021
MDLETSHI	THOKOZILE	1016995
MOKHELE	CAROLINE	1022070
MOKONE	JOCOMINA	1009865
MURIDILI	MURENDENI	1028804
QALINGE	LULAMA	1010774
SHAMAM	FEMADA	1018297
SUKANTAKA	NOMVUYISO	1030219
SWART	ASHWILL	1031645
THIBELA	BISHOP	1021288
VAN DER WALT	NICOLETTE	1005929
VIVIERS	ANDRIES	1012729
ZONDI	BHEKINKOSI	1021918

- 2.2.2 Names of persons nominated as candidates by child and youth care workers for the election of *three (3) child and youth care workers* to serve on Council in terms of section 5(1)(b) of the Social Service Professions Act 110 of 1978 (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
ALLSOPP	JANET MERLE	7000013
GALLANT	ELWIN EDGAR	9010504
HARRIS	ALFRED ANTHONY	7000101
NHLAPO	THEMBA CORNELLIUS	9010907
NEDASAN	VAROSHINI	7000585
NDHLOVU	HLONIPHILE	9000686

- 2.3 *5th Professional Board for Social Work* (nominations in terms of the *Regulations regarding the establishment and constitution of a Professional Board for Social Work*):

- 2.3.1 Names of persons nominated as candidates by social workers for the election of four (4) *social workers* in terms of regulation 3(a) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
BHEMBE	NQABA KHANYAKWEZWE	1037842
MATHONSI	FRANS LESETJA	1033939
MOKOENA	BETHUEL PUSETISO	1040686
MOKONE	JOCOMINA MALEBO	1009865
SIKHWEZA	MZONKE WILFORD	1020380
STRYDOM	ALIDA	1005195

- 2.3.2 Names of persons nominated as candidates by social work education and training institutions for the election of one (1) *social worker* in terms of regulation 3(c) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
NADESAN	VAROSHINI	1010156

- 2.3.2.1 In accordance with regulation 13(1) of the *Regulations regarding the election and appointment of members of a professional board* (Government Notice No 1427 published in Government Gazette 24039 of 8 November 2002) when the number of persons accepted as candidates is equal to the number of members to be elected, the returning officer shall declare the candidate(s) who was so acceptable to be a duly elected member (one (1) social worker nominated as candidates by social work education and training institutions in terms of regulation 3(c)) and herewith publishes it accordingly in the Government Gazette as prescribed.

- 2.3.3 Names of persons nominated as candidates nominated by social workers for the election of one (1) *social worker engaged in full-time or part-time private practice* in terms of regulation 3(f) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
THOMPSON	JESSIE ANNIE	1010903

- 2.3.3.1 In accordance with regulation 13(1) of the *Regulations regarding the election and appointment of members of a professional board* (Government Notice No 1427 published in Government Gazette 24039 of 8 November 2002) when the number of persons accepted as candidates is equal to the number of members to be elected, the returning officer shall declare the candidate(s) who was so acceptable to be a duly elected member (one (1) social worker engaged in full-time or part-time private practice in terms of regulation 3(f)) and herewith publishes it accordingly in the Government Gazette as prescribed.

- 2.3.4 Names of persons nominated as candidates by social auxiliary workers for the election of one *social auxiliary worker* in terms of regulation 3(h) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
No nominations received.		

- 2.3.4.1 The Returning Officer, in accordance with regulation 13(2) of the *Regulations regarding the election and appointment of members of a professional board* (Government Notice No 1427 published in Government Gazette 24039 of 8 November 2002), is calling for further nominations of names of persons nominated as candidates by social auxiliary workers for the election of one *social auxiliary worker* in terms of regulation 3(h) as to ensure that the minimum number of nominations are received. See paragraph 3 of this Board Notice for more information.

2.4 **4th Professional Board for Child and Youth Care Work** (nominations in terms of the *Regulations regarding the establishment and constitution of a Professional Board for Child and Youth Care*):

2.4.1 Names of persons nominated as candidates by child and youth care workers for the election of five (5) *child and youth care workers* in terms of regulation 3(a) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
BARON	SAMANTHA EVETTE	7000526
CORNELIUS	FRANCISCO GERARD	9000299
DU TOIT	LESLEY SHARON	9011283
HARRIS	ALFRED ANTHONY	7000101
MAMABOLO	SEENG	7000363
MZULWINI	SIBONGILE GLADYS	7000584
NGHONYAMA	MUCHUCHI DONALD	7000504
NZAMA	SIMPHIWE SIYABONGA	7000525
SINGH	CHARLENE	7000403
SITHOLE	BENNY	9002751

2.4.2 Names of persons nominated as candidates by child and youth care education and training institutions for the election of one (1) *child and youth care worker or a person involved in the education and training of child and youth care workers* in terms of regulation 3(c) (in alphabetical order of surnames):

Surname	First names	SACSSP Registration number
MOLEPO	LESIBA PHINEAS	7000016

2.4.2.1 In accordance with regulation 13(1) of the *Regulations regarding the election and appointment of members of a professional board* (Government Notice No 1427 published in Government Gazette 24039 of 8 November 2002) when the number of persons accepted as candidates is equal to the number of members to be elected, the returning officer shall declare the candidate(s) who was so acceptable to be a duly elected member (one child and youth care worker or a person involved in the education and training of child and youth care workers in terms of regulation 3(c)) and herewith publishes it accordingly in the Government Gazette as prescribed.

2.5 Persons nominated as candidates for the elections may not initiate in any form any canvassing, or similar activities, for votes prior to the date on which the date and procedures for the elections are announced as contemplated in paragraph 3.2 below.

2.6 *Objections*

2.6.1 Any person who has a legitimate objection to any person nominated as a candidate as announced in this Board Notice, shall submit such objection in writing to the Returning Officer (elections@sacssp.co.za) within 30 days after the publication date of the Board Notice.

2.6.2 An objection contemplated in paragraph 2.6.1 shall contain:

(a) Name and surname, as well as SACSSP registration number of the nominated candidate;

- (b) Shall indicate in sufficient detail the reason for such an objection, substantiated with documentary proof; and
 - (c) the name, surname and contact details (email address and telephone number) of the person lodging the objection.
- 2.6.3 Any objection received shall be submitted to the candidate against whose nomination an objection is lodged to respond to such an objection within 14 calendar days, thereafter the Returning Officer may, at his or her discretion, conduct an investigation if need be.
- 2.6.4 The Returning Officer may employ the assistance of any staff member in the employ of the administration of the SACSSP to assist with the review, investigation and assessment of an objection.
- 2.6.5 The Returning Officer shall within 30 days after receipt of the response from the candidate as contemplated in paragraph 2.6.3 make any of the following determination with regards to the objection, and such determination shall be final:
- (a) That there are no reasonable grounds that the person nominated as a candidate for election may not be acceptable for such a nomination, and rejects the objection; or
 - (b) That there are reasonable grounds, substantiated with documentary proof, that the person nominated as a candidate for election is not be acceptable for such a nomination, and confirms the objection. Where after the Returning Officer shall inform such a nominated person in writing with reasons within 14 calendar days.
- 2.6.6 The Returning Officer shall publish by Board Notice in the Government Gazette in the case of a determination in terms of paragraph 2.6.5(b) that the person nominated as a candidate for election has withdrawn as nominee, without providing any reason thereto.
- 2.6.7 No anonymous objections shall be accepted, which include objections where the person lodging the objection requests to remain anonymous.
- 2.6.8 Candidates have an opportunity to withdraw their candidacy or lodge an objection to remain on the final list of candidates.
- 3. EXTENSION OF NOTICE FOR THE NOMINATION OF ONE (1) SOCIAL AUXILIARY WORKER NOMINATED BY SOCIAL AUXILIARY WORKERS TO SERVE ON THE 5TH PROFESSIONAL BOARD FOR SOCIAL WORK**
- 3.1 The period for the submission of names of persons nominated as candidates by social auxiliary workers for the election of one(1) social auxiliary worker in terms of regulation 3(h) of the of *Regulations regarding the establishment and constitution of a Professional Board for Social Work* made in terms of the Social Service Professions Act 110 of 1978 is herewith extended as to give effect to regulation 13(2) of the Regulations regarding the election and appointment of members of a professional board (Government Notice No 1427 published in Government Gazette 24039 of 8 November 2002),

- 3.2 Nominations are invited of names of persons as candidates nominated by social auxiliary workers for the election of one (1) social auxiliary worker in terms of regulation 3(h) to serve on the 5th Professional Board for Social Work.
- 3.3 Each *social auxiliary worker* who is a South African citizen resident in the Republic shall be eligible for nomination.
- 3.4 Nominations for persons who comply with the requirements in terms of the Act and Regulations shall be submitted by **16h00 on 02 August 2021** in the prescribed manner in the form of Annexure A to this Board Notice.
- 4. ELECTION OF MEMBERS TO SERVE ON THE 5TH SOUTH AFRICAN COUNCIL FOR SOCIAL SERVICE PROFESSIONS, 5TH PROFESSIONAL BOARD FOR SOCIAL WORK AND 4TH PROFESSIONAL BOARD FOR CHILD AND YOUTH CARE WORK**
- 4.1 The date and procedures for the election of Members to serve on the 5th South African Council for Social Service Professions, 5th Professional Board for Social Work and 4th Professional Board for Child and Youth Care Work shall be announced in due course by the Returning Officer, pending the following:
- 4.1.1 The final date of the term of office of the 4th Council, 4th Professional Board for Social Work and 3rd Professional Board for Child and Youth Care Work as determined by the Minister of Social Development.
- 4.1.2 The consideration of the proposed amendments to the *Regulations relating to election of members of the South African Council for Social Service Professions* (Government Notice No R. 1698 published in Government Gazette 19644 of 31 December 1998) as to allow for the addition of the option for electronic voting, which is not provided for in the current regulations.
- 4.2 The final list of candidates will be published on the website and circulated widely on all Council platforms, subject to the finalization of the nominations in terms of paragraph 3. Such list will inform the Ballot Paper.
- 4.3 The Returning Officer shall publish by Board Notice in the Government Gazette the date and procedures for the elections, subject to the outcomes of the matters indicated in paragraphs 4.1.1 and 4.1.2.



Langi Malamba (Ms)

Returning officer/ Registrar

South African Council of Social Services Professions

37 Annie Botha Avenue, Riviera, Pretoria 0001, South Africa

Office: +27 12 356 8300 Email: elections@sacssp.co.za

23 June 2021

Date

**South African Council for Social Service Professions
PROFESSIONAL BOARD FOR SOCIAL WORK**

**Annexure B:
NOMINATION FORM: PROFESSIONAL BOARD FOR SOCIAL WORK**

Request for the nomination of
ONE (1) SOCIAL AUXILIARY WORKER NOMINATED BY SOCIAL AUXILIARY WORKERS
to serve on the 5th Professional Board for Social Work in terms of regulation 3(h) of the of
Regulations regarding the establishment and constitution of a Professional Board for Social Work
made in terms of the Social Service Professions Act 110 of 1978

1. In terms of the provisions of regulations 9(1)(a), 9(2) and 10(a) of the *Regulations regarding the election and appointment of members of a professional board*, nominations are hereby requested for the following candidates to be elected by *social auxiliary workers* to serve on the 5th Professional Board for Social Work.
2. Nominations are invited for the election of one (1) social auxiliary worker nominated by social auxiliary workers.
- 2.1 Each *social auxiliary worker* who is a South African citizen resident in the Republic shall be eligible for nomination.
3. Each candidate shall be nominated separately in the following form:

NOMINATION FORM: ONE (1) SOCIAL AUXILIARY WORKER NOMINATED BY SOCIAL AUXILIARY WORKERS

I nominate (print the full first names, surname and registration number of the candidate as they appear in the Register):

First names:

Surname:

SACSSP Registration number:

for election as a member of the 5th Professional Board for Social Work in the category of **one (1) social auxiliary worker nominated by social auxiliary workers** as contemplated in regulation 3(h) of *Regulations regarding the establishment and constitution of a Professional Board for Social Work*.

.....
Signature of person nominating

Full first names and surname:

SACSSP registration number:

of the person who nominates as they appear in the register.

4. Each person who signs a nomination form shall lodge a declaration in the following form with the nominations:

DECLARATION BY PERSON WHO NOMINATES

I, (print the full names, surname and registration number as they appear in the register)

Full first names and surname:

with SACSSP registration number: ,

declare that I am a South African citizen resident in the Republic at (state full residential address):

.....

.....

.....
Signature of person nominating

.....
Date

Co-signed by two witnesses

.....
Signature witness (1)

Full names and surname:

ID number:

.....
Signature witness (2)

Full names and surname:

ID number:

5. Simultaneously with the lodging or not later than the time and date determined in subparagraph (4), each candidate shall lodge with the returning officer –
- (a) a curriculum vitae of not more than **150 words**, including, where possible, a telephone and/or fax number where the candidate may be reached;
 - (b) a clear passport size photograph on which the candidate's name and SACSSP registration number are indicated on the back;
 - (c) a deposit of R100,00;
 - (d) his or her consent to the nomination in the following form:

CONSENT TO NOMINATION**(must be completed and signed by each social auxiliary worker nominated)**

I (print full first names, surname and registration number as they appear in the register)

First names:

Surname:

SACSSP Registration number:

declare that –

- (a) I consent to nomination;
- (b) I am a South African citizen;
- (c) I am permanently resident in the Republic at (state full residential address)

.....
.....I agree to accept nomination in category of **one (1) social auxiliary worker nominated by social auxiliary workers** as contemplated in regulation 3(f) of *Regulations regarding the establishment and constitution of a Professional Board for Social Work*......
Signature of nominee.....
Date**Co-signed by two witnesses**

.....

Signature witness (1)

Full names and surname:

ID number:

.....

Signature witness (2)

Full names and surname:

ID number:

NOTE: If the person nominated is unable to sign the nomination form, he or she may inform the returning officer by letter or facsimile transmission or email that he or she consents to his or her nomination and co-signed by two witnesses.

6. Each completed nomination form must reach the returning officer by post, by hand or by email not later than **16h00 on 2 August 2021**. A nomination which does not comply with the above requirements or which has not been lodged with the *returning officer* at the address stated below by the said time and date shall be invalid.

7. Forms are also available from the returning officer

8. RETURNING OFFICER



Langi Malamba (Ms)

Returning officer

Postal address: SACSSP, Private Bag X12, Gezina, 0031

Street address: SACSSP, 37 Annie Botha Avenue, Riviera, Pretoria 0001, South Africa

Email: elections@sacssp.co.za

Website: www.sacssp.co.za

Telephone: +27 12 356 8300

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