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government
printing

Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

HIGH ALERT: SCAM WARNING!!!

TO ALL SUPPLIERS AND SERVICE PROVIDERS OF THE GOVERNMENT PRINTING WORKS

It has come to the attention of the *GOVERNMENT PRINTING WORKS* that there are certain unscrupulous companies and individuals who are defrauding unsuspecting businesses disguised as representatives of the *Government Printing Works (GPW)*.

The scam involves the fraudsters using the letterhead of *GPW* to send out fake tender bids to companies and requests to supply equipment and goods.

Although the contact person's name on the letter may be of an existing official, the contact details on the letter are not the same as the *Government Printing Works*. When searching on the Internet for the address of the company that has sent the fake tender document, the address does not exist.

The banking details are in a private name and not company name. Government will never ask you to deposit any funds for any business transaction. *GPW* has alerted the relevant law enforcement authorities to investigate this scam to protect legitimate businesses as well as the name of the organisation.

Example of e-mails these fraudsters are using:

PROCUREMENT@GPW-GOV.ORG

Should you suspect that you are a victim of a scam, you must urgently contact the police and inform the *GPW*.

GPW has an official email with the domain as [@gpw.gov.za](mailto:gpw@gpw.gov.za)

Government e-mails DO NOT have org in their e-mail addresses. All of these fraudsters also use the same or very similar telephone numbers. Although such number with an area code 012 looks like a landline, it is not fixed to any property.

GPW will never send you an e-mail asking you to supply equipment and goods without a purchase/order number. *GPW* does not procure goods for another level of Government. The organisation will not be liable for actions that result in companies or individuals being resultant victims of such a scam.

Government Printing Works gives businesses the opportunity to supply goods and services through RFQ / Tendering process. In order to be eligible to bid to provide goods and services, suppliers must be registered on the National Treasury's Central Supplier Database (CSD). To be registered, they must meet all current legislative requirements (e.g. have a valid tax clearance certificate and be in good standing with the South African Revenue Services - SARS).

The tender process is managed through the Supply Chain Management (SCM) system of the department. SCM is highly regulated to minimise the risk of fraud, and to meet objectives which include value for money, open and effective competition, equitability, accountability, fair dealing, transparency and an ethical approach. Relevant legislation, regulations, policies, guidelines and instructions can be found on the tender's website.

Fake Tenders

National Treasury's CSD has launched the Government Order Scam campaign to combat fraudulent requests for quotes (RFQs). Such fraudulent requests have resulted in innocent companies losing money. We work hard at preventing and fighting fraud, but criminal activity is always a risk.

How tender scams work

There are many types of tender scams. Here are some of the more frequent scenarios:

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to a company to invite it to urgently supply goods. Shortly after the company has submitted its quote, it receives notification that it has won the tender. The company delivers the goods to someone who poses as an official or at a fake site. The Department has no idea of this transaction made in its name. The company is then never paid and suffers a loss.

OR

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to Company A to invite it to urgently supply goods. Typically, the tender specification is so unique that only Company B (a fictitious company created by the fraudster) can supply the goods in question.

Shortly after Company A has submitted its quote it receives notification that it has won the tender. Company A orders the goods and pays a deposit to the fictitious Company B. Once Company B receives the money, it disappears. Company A's money is stolen in the process.

Protect yourself from being scammed

- If you are registered on the supplier databases and you receive a request to tender or quote that seems to be from a government department, contact the department to confirm that the request is legitimate. Do not use the contact details on the tender document as these might be fraudulent.
- Compare tender details with those that appear in the Tender Bulletin, available online at www.gpwonline.co.za
- Make sure you familiarise yourself with how government procures goods and services. Visit the tender website for more information on how to tender.
- If you are uncomfortable about the request received, consider visiting the government department and/or the place of delivery and/or the service provider from whom you will be sourcing the goods.
- In the unlikely event that you are asked for a deposit to make a bid, contact the SCM unit of the department in question to ask whether this is in fact correct.

Any incidents of corruption, fraud, theft and misuse of government property in the *Government Printing Works* can be reported to:

Supply Chain Management: Ms. Anna Marie Du Toit, Tel. (012) 748 6292.
Email: Annamarie.DuToit@gpw.gov.za

Marketing and Stakeholder Relations: Ms Bonakele Mbhele, at Tel. (012) 748 6193.
Email: Bonakele.Mbhele@gpw.gov.za

Security Services: Mr Daniel Legoabe, at tel. (012) 748 6176.
Email: Daniel.Legoabe@gpw.gov.za

Closing times for **ORDINARY WEEKLY** **2024** **GOVERNMENT GAZETTE**

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

- **28 December 2023**, Thursday for the issue of Friday **05 January 2024**
- **05 January**, Friday for the issue of Friday **12 January 2024**
- **12 January**, Friday for the issue of Friday **19 January 2024**
- **19 January**, Friday for the issue of Friday **26 January 2024**
- **26 January**, Friday for the issue of Friday **02 February 2024**
- **02 February**, Friday for the issue of Friday **09 February 2024**
- **09 February**, Friday for the issue of Friday **16 February 2024**
- **16 February**, Friday for the issue of Friday **23 February 2024**
- **23 February**, Friday for the issue of Friday **01 March 2024**
- **01 March**, Friday for the issue of Friday **08 March 2024**
- **08 March**, Friday for the issue of Friday **15 March 2024**
- **14 March**, Thursday for the issue of Friday **22 March 2024**
- **20 March**, Wednesday for the issue of Thursday **28 March 2024**
- **27 March**, Wednesday for the issue of Friday **05 April 2024**
- **05 April**, Friday for the issue of Friday **12 April 2024**
- **12 April**, Friday for the issue of Friday **19 April 2024**
- **19 April**, Friday for the issue of Friday **26 April 2024**
- **25 April**, Thursday for the issue of Friday **03 May 2024**
- **03 May**, Friday for the issue of Friday **10 May 2024**
- **10 May**, Friday for the issue of Friday **17 May 2024**
- **17 May**, Friday for the issue of Friday **24 May 2024**
- **24 May**, Friday for the issue of Friday **31 May 2024**
- **31 May**, Friday for the issue of Friday **07 June 2024**
- **07 June**, Friday for the issue of Friday **14 June 2024**
- **13 June**, Thursday for the issue of Friday **21 June 2024**
- **21 June**, Friday for the issue of Friday **28 June 2024**
- **28 June**, Friday for the issue of Friday **05 July 2024**
- **05 July**, Friday for the issue of Friday **12 July 2024**
- **12 July**, Friday for the issue of Friday **19 July 2024**
- **19 July**, Friday for the issue of Friday **26 July 2024**
- **26 July**, Friday for the issue of Friday **02 August 2024**
- **01 August**, Thursday for the issue of Thursday **08 August 2024**
- **08 August**, Thursday for the issue of Friday **16 August 2024**
- **16 August**, Friday for the issue of Friday **23 August 2024**
- **23 August**, Friday for the issue of Friday **30 August 2024**
- **30 August**, Friday for the issue of Friday **06 September 2024**
- **06 September**, Friday for the issue of Friday **13 September 2024**
- **13 September**, Friday for the issue of Friday **20 September 2024**
- **19 September**, Thursday for the issue of Friday **27 September 2024**
- **27 September**, Friday for the issue of Friday **04 October 2024**
- **04 October**, Friday for the issue of Friday **11 October 2024**
- **11 October**, Friday for the issue of Friday **18 October 2024**
- **18 October**, Friday for the issue of Friday **25 October 2024**
- **25 October**, Friday for the issue of Friday **01 November 2024**
- **01 November**, Friday for the issue of Friday **08 November 2024**
- **08 November**, Friday for the issue of Friday **15 November 2024**
- **15 November**, Friday for the issue of Friday **22 November 2024**
- **22 November**, Friday for the issue of Friday **29 November 2024**
- **29 November**, Friday for the issue of Friday **06 December 2024**
- **06 December**, Friday for the issue of Friday **13 December 2024**
- **12 December**, Thursday for the issue of Friday **20 December 2024**
- **18 December**, Wednesday for the issue of Friday **27 December 2024**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

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

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

EXTRA-ORDINARY

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

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

GOVERNMENT PRINTING WORKS - BUSINESS RULES

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

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

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

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

All notices received after the closing time will be rejected.

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

GOVERNMENT PRINTING WORKS - BUSINESS RULES

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

EXTRAORDINARY GAZETTES

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

NOTICE SUBMISSION PROCESS

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

GOVERNMENT PRINTING WORKS - BUSINESS RULES

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

QUOTATIONS

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

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

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

CANCELLATIONS

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

AMENDMENTS TO NOTICES

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

REJECTIONS

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

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

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

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

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

LIABILITY OF ADVERTISER

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

CUSTOMER INQUIRIES

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

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

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

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

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

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

PROOF OF PUBLICATION

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

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:
Government Printing Works

149 Bosman Street

Pretoria

Postal Address:

Private Bag X85

Pretoria

0001

GPW Banking Details:
Bank: ABSA Bosman Street

Account No.: 405 7114 016

Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

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

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
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Fax: 012-323-9574

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 5354

4 October 2024

GAZETTE NOTICE

DEPARTMENT OF LAND REFORM & RURAL DEVELOPMENT

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

Notice Is Hereby Given In Terms Of Section 11A (4) Of The Restitution Of Land Rights Act No. 22 Of 1994 As Amended, that a Claim For Restitution Of Land Rights Was Lodged By The Deceased Mr. Peter Tsoai, On The 30th Of December 1998, On Behalf Of His Grand-Father, The Deceased Mr. Krisjan Tswai, In Respect Of the Remaining Extent of Portion 2, the Remaining Extent of Portion 9, Portion 33 and Portion 35 of the farm Leeuwkraal 92 JR, Located In The City Of Tshwane Metropolitan Municipality, Gauteng Province.

The Initial Gazette Notice on the Remaining Extent of Portion 9 of the farm Leeuwkraal 92 JR only, was published on the 22nd of January 2022, in Government Gazette Number 45816, as Notice 1693 of 2022.

However, the Remaining Extent of Portion 2 of the farm Leeuwkraal 92 JR, was erroneously excluded on the initial published gazette notice.

During the survey held on the 11th of September 2019 as described above, the area determined to have been utilized by the deceased Mr. Krisjan Tswai before his dispossession, amounted to approximately **307.8744 hectares**.

In 2021 the Office contented that the number of hectares that was determined on the 11th of September 2019, was too big to have been resided upon and utilized by the members of the Tsoai Family alone, particularly because the Family had lost informal and unregistered rights.

The Office requested that the area be revisited where a new survey could be conducted with the Tsoai Family. Therefore, in November 2021 SG Limpopo revised down the number of hectares lost by the Tsoai Family to approximately **140 hectares**.

During the Deeds Search in the Office, it was realized that the other two (2) portions claimed, that are Portion 33 and Portion 35 of the farm Leeuwkraal 92 JR, no longer exist and therefore, the two (2) portions cannot be published.

In January 2024 the Office contacted SG Limpopo to assist in providing the current status of Portion 33 and Portion 35 as they no longer exist, and it was not clear what had really happened to them.

SG Limpopo clarified the Office by providing the SG Diagrams and Locality Maps that clearly show that Portion 33 is now consolidated into the Remaining Extent of Portion 2, while Portion 35 is now consolidated into the Remaining Extent of Portion 9 of the farm Leeuwkraal 92 JR.

PROPERTIES	CURRENT LANDOWNERS	TITLE DEED NUMBERS	TOTAL EXTENT OF LAND	TOTAL CLAIMED LAND	ENDORSEMENTS	HOLDERS	CLAIMANT
Remaining Extent of Portion 2 of the Farm Leeuwkraal 92 JR, located in the City of Tshwane Metropolitan Municipality	Minister of Rural Development & Land Affairs, In Trust For The Amandebele	T7775/1916 BP	1549.5704 H	140 H	JR,92,2-BP I-1352/2016I I-2158/2012C I-5176/2011I I-6737/2013I K492/2013S K6331/2010S CL-Eastern Gauteng S	42766/2013 24690/2011-20110428 24690/2011-20110428	Peter Tsoai

The Office of the Regional Land Claims Commissioner: Limpopo is investigating this land claim and any party that has an interest on the above-mentioned property, is hereby invited to submit in writing, within **90 days** of the publication of this notice, comments or information or objection to the said notice, under reference number: **KRP 10452**.

Submissions may also be delivered to:

Office of the Regional Land Claims Commissioner: Limpopo
Private Bag X9552
POLOKWANE
0700

13th - 15th Floors, Thabakgolo Nedbank
50-58 Landdros Mare Street, Cnr Schoeman Street
POLOKWANE
0699


LEB JANE MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2024/09/11

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 5355

4 October 2024

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

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

REF NO	CLAIMANT	PROPERTY DESCRIPTION & CLAIMED EXTENT	CURRENT LANDOWNERS	BONDS / NO BONDS	DEED OF TRANSFER	INTERESTED PARTIES
Z 0363 (KRP 11893) & Z 0163	Mr. Nongulane Elias Mahlangu	Portion 1 of the farm Kortfontein 530 JR Claimed Extent = 11.57 hectares	Van Stant Beleggings CC	None	18716/1981	Land the claimant, the current landowners, and the City of Tshwane Metropolitan District Municipality.

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

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

MR. L.H. MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2024/09/10

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 5356

4 October 2024

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)
AMENDMENT OF NOTICE 992 OF 2017 AS CONTAINED IN THE GOVERNMENT GAZETTE NO: 41114 IN RESPECT OF THE LAND
CLAIM LODGED BY MR. JOHANNES NYEMBEZI MSIZA, LAND CLAIM REFERENCED Z 0156**

Notice is hereby given in terms of section 11A(4) of the Restitution of Land Rights Act, 1994 as amended) that a claim has been lodged for restitution of land rights on:

REF NO.	CLAIMANTS	PROPERTY	CURRENT LANDOWNERS	EXTENT (HA)	TITLE DEED	INTERESTED PARTIES
Z 0156	Mr. Johannes Nyembezi Msiza	Portion 10 (RE) of the farm Nootgedacht 525 JR	Magdalena Hester Bosman ABSA Bank Ltd B104435/1993 B1597/2008 B161912/2004 B49385/1997 B74962/1996 B87015/2006	97.3311	T14697/1990	Land Claimant, the current landowners, and the City of Tshwane Metropolitan Municipality
		Portion 108 of the farm Nootgedacht 525 JR	Sunslide 175 CC	14.7024	T3336/2010	
		Portion 112 (RE) of farm Nootgedacht 525 JR	Van Rensburg Boerdery Rustfontein PTY LTD	34.5494	T80628/2013	
		Portion 113 of the farm Nootgedacht 525 JR	ABSA Bank Ltd B41216/2021	427.7256	T80628/2013	

	Portion 5 of farm Bossemanskraal 538 JR (Consolidated into portion 6 (RE) of farm Bossemanskraal 538 JR)	H P G Terblanche Boerdery Pty Ltd Firstrand Bank Ltd B39588/2009	661,4568	T 11471/2009	
	Portion 8 of farm Witpoort 563 JR	Arata Enterprise Pty Ltd	109,2682	T 47078/2017	

Take further notice that the Commission on Restitution of Land Rights will conduct further investigations on the claim in terms of the provisions of section 12 read with Rule 5 of the Rules Regarding Procedure of Commission Established in terms of section 16 of Restitution of Land Rights Act as amended. Any interested party on the claim is hereby invited to submit representations in terms of section 11A(4) of the Restitution of Land Rights Act 22 of 1994 as amended within 90 (ninety) working days from the publication date of this notice, any comments/information may be send to:

Chief Directorate: Land Restitution Support Gauteng Province

Private Bag X03

ARCADIA

0007

Tel: (012) 310-6500

Fax: (012) 324-6812

MR. L.H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

DATE:

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 5357

4 October 2024

WITHDRAW OF NOTICE NO. 270 OF 2005 PUBLISHED IN THE GOVERNMENT GAZETTE NO. 27295 DATED 25 FEBRUARY 2005 IN TERMS OF SECTION 11A (3) OF THE RESTITUTION OF LAND RIGHTS ACT, NO. 22 OF 1994, AS AMENDED.

A withdrawal notice is hereby given in terms of Section 11A (3) of the Restitution of Land Rights Act, No. 22 of 1994, as amended, to withdraw the Remaining Extent and portion 1 of the farm Joubertsdal 448 JT, Notice No. 270 of 2005 that was published in the Government Gazette No. 27295 dated 25 February 2005 on the properties mentioned hereunder in the District of Ehlanzeni in Mpumalanga Province (KRP 2121).

The land claim was erroneously gazetted the farm Remaining Extent of Joubertsdal 448 JT and portion 1 of the farm Joubertsdal 448 JT.

CURRENT PARTICULARS OF THE PROPERTIES TO BE WITHDRAWN


JOUBERTSDAL 448 JT

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
The Remaining extent of the farm 448 JT	Sappi Manufacturing Pty Ltd (195100318007)	T70915/2002	2594.8264ha	None	None	<ul style="list-style-type: none"> ● K2565/1982RM ● K3629/2000RM in favour of Cluff Mining South Africa ● K623/1952S ● K8825/2004L in favour of H.L Hall & Sons Group services Ltd. ● K993/4997RM Tradetronic Pty Ltd.
Portion 1	Sappi Manufacturing Pty Ltd (195100318007)	T70915/2002	385.7734ha	None	None	<ul style="list-style-type: none"> ● K2565/1982RM in favour of Cluff Mining South Africa Pty Ltd ● K5189/1996RM in favour of Jzcomar Prop CC.

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

Commission on Restitution of Land Rights
30 Samora Machel Drive
Nelspruit
1200

Tel No. 013 756 6000


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

DATE: 2024/09/11

KOMMUNIKASIE EN DIGITALE TEGNOLOGIEË, DEPARTEMENT VAN

NO. 5358

4 October 2024

FILMS AND PUBLICATIONS ACT, 1996 (ACT NO. 65 OF 1996), AS AMENDED
AMENDED FILMS AND PUBLICATIONS TARIFF'S REGULATIONS, 2020

I, Dr Mashilo Boloka, the Chief Executive Officer of the Film and Publication Board, hereby publish the Amended Tariff's Regulations, 2020, as contained in the schedule hereto, to reflect the annual Consumer Price Index (CPI) increase which is published in the Government Gazette plus 1% (one percent) effective from 1 April 2024. The Amended Films and Publications Tariff's Regulations, 2020 were initially published in the Government Gazette no:43872 on 6 November 2020.



DR MASHILO BOLOKA
CHIEF EXECUTIVE OFFICER
FILM AND PUBLICATION BOARD

Date: 01/08/2024

AMENDED FILMS AND PUBLICATIONS TARIFF'S REGULATIONS, 2020

1

AMENDED FILMS AND PUBLICATIONS TARIFF'S REGULATIONS, 2020**1. Physical Content and Distributor Size****1.1. Physical Content Tariffs**

Tariff number	Serial number	Description	Fees with size differentiation		
			Small client	Medium client	Large client
	1		REGISTRATION		
001	1.1	Distributor or exhibitor of films or interactive computer games, and mobile cellular and internet content (Online)	R1 661.19	R1 661.19	R1 661.19
002	1.1.1	Distributor or exhibitor of films or interactive computer games, and mobile cellular and internet content (Manual)	R2 222.62	R2 222.62	R2 222.62

003	1.2	Internet Service Provider	Registration	R830.59	R830.59	R830.59
004	1.3	Annual renewal of distribution certificate: Online	Registration	R112.83	R225.66	R338.49
005	1.3.1	Annual renewal of distribution certificate: Manual	Registration	R148.17	R296.35	R444.52
006	1.4	Issue of new certificate on change of details	Registration	R178.08	R354.80	R532.89
	2	CLASSIFICATION				
	2.1	Publication submitted in terms of section 16 (4) of the Films and Publications Act, 65 of 1996				
007	2.1.1	Periodical (annual fee)	Classification – Publication submitted in terms of Section 16 (4) of the Act	R11 164.77	R22 329.54	R33 494.31
008	2.1.2	Single Issue	Classification – Publication submitted in terms of Section 16 (4) of the Act	R1 258.81	R2 516.25	R3 775.06
	2.2	FILMS				

Public entertainment format						
2.2.1						
009	2.2.1.1	New release of original English language film	Classification – Films – Public Entertainment format	R2 327.30	R4 653.23	R7 415.07
010	2.2.1.2	New release of original non-English language film (Subtitled) – 50% of the original language	Classification - Films – Public Entertainment format	R1 163.65	R2 325.94	R3 706.81
011	2.2.1.3	New release of an adult movie (First 3 (three) hours)	Classification – Films – Public Entertainment format	R2 327.30	R4 653.23	R7 415.07
012	2.2.1.4	New release of an adult movie (3 (three) to 4 (four) hours)	Classification – Films – Public Entertainment format	R3 019.23	R6 037.11	R9 620.10
013	2.2.1.5	New release of an adult movie (4 (four) to 6 (six) hours)	Classification – Films – Public Entertainment format	R3 711.17	R7 420.98	R11 825.12
014	2.2.1.6	Trailer of a film (fee rate per minute)	Classification – Films – Public Entertainment format	R23.11	R46.22	R73.65
015	2.2.1.7	Re-release of original English language film – 50% of the applicable tariffs	Classification – Films – Public Entertainment format	R1 163.65	R2 325.94	R3 706.81

016	2.2.1.8	Re-release of original non-English language films (subtitled) – 50% of the applicable tariffs	Classification – Films – Public Entertainment format	R629.40	R1 258.81	R2 005.75
	2.2.2	Home entertainment format				
017	2.2.2.1	New release of original English – language films (First hour)	Classification – Films – Home Entertainment format	R1 045.38	R1 976.73	R2 965.73
018	2.2.2.2	New release of original English – language films (2 (two) to 3 (three) hours)	Classification – Films – Home Entertainment format	R1 567.39	R2 965.73	R4 448.60
019	2.2.2.3	New release of original English – language films (3 (three) to 5 (five) hours)	Classification – Films – Home Entertainment format	R2 090.76	R3 954.74	R5 825.24
020	2.2.2.4	New release of original non-English language film (Subtitled)	Classification – Films – Home Entertainment format	R1 556.52	R3 111.67	R4 668.19
021	2.2.2.5	New release of original non-English language film (Not subtitled)	Classification – Films – Home Entertainment format	R1 556.52	R3 111.67	R4 668.19

022	2.2.2.6	New release of an adult movie (First 3 (three) hours)	Classification – Films – Home Entertainment format	R2 327.30	R4 653.23	R6 980.53
023	2.2.2.7	New release of an adult movie (3 (three) to 4 (four) hours)	Classification – Films – Home Entertainment format	R3 019.23	R6 037.11	R8 373.22
024	2.2.2.8	New release of an adult movie (4 (four) to 6 (six) hours)	Classification – Films – Home Entertainment format	R3 711.17	R7 420.98	R11 132.15
025	2.2.2.9	Re-release of original English language film	Classification – Films – Home Entertainment format	R523.37	R1 045.38	R1 568.75
026	2.2.2.10	Re-release of original non-English language film (subtitled)	Classification – Films – Home Entertainment format	R778.94	R1 556.52	R2 335.45
027	2.2.2.11	Re-release of original non-English language film (not subtitled)	Classification – Films – Home Entertainment format	R2 593.74	R5 186.12	R7 779.86
Serials in any language or format						
028	2.2.3.1	Foreign productions (first 3 (three) hours)	Classification – Films – Serials in any language or format	R2 327.30	R4 653.23	R6 980.53

029	2.2.3.2	Foreign productions (per hour following first 3 (three) hours)	Classification – Films – Serials in any language or format	R414.62	R829.24	R1 243.85
030	2.2.3.4	South African productions (first 5 (five) hours)	Classification – Films – Serials in any language or format	R2 327.30	R4 653.23	R6 980.53
031	2.2.3.5	South African productions (per hour following first 5 (five) hours)	Classification – Films – Serials in any language or format	R414.62	R829.24	R1 243.85
Films produced in Africa						
032	2.2.4.1	Public entertainment format	Classification – Films – Films produced in Africa	R621.25	R1 241.13	R1 862.38
033	2.2.4.2	Home entertainment format	Classification – Films – Films produced in Africa	R564.15	R1 128.30	R1 692.46
INTERACTIVE COMPUTER GAMES						
034	2.3.1	New release in original format	Classification – Interactive computer games	R1 899.09	R3 798.17	R5 697.26
035	2.3.2	New release in different format	Classification – Interactive computer games	R1 899.09	R3 798.17	R5 697.26

036	2.3.3	Re-release in original format	Classification – Interactive computer games	R948.86	R1 897.73	R2 846.59
037	2.3.4	Re-release in different format	Classification – Interactive computer games	R948.86	R1 897.73	R2 846.59
038	2.3.5	Re-classification of games distributed with magazine	Classification – Interactive computer games	R950.22	R1 900.44	R2 850.67
039	2.3.6	Posters of films and interactive computer games	Classification – Interactive computer games	R31.27	R62.53	R93.80
EXEMPTIONS						
040	2.4.1	Exemption of Films for Film Festival	Classification – Exemptions	R1 551.08	R3 100.80	R4 651.87
041	2.4.2	Exemption of a film in home-entertainment format	Classification – Exemptions	R747.67	R1 495.34	R2 243.01
042	2.4.3	Exemption of a film in home-entertainment format (additional disc)	Classification – Exemptions	R188.96	R377.91	R566.87
043	2.4.4	Exemption of an interactive computer game	Classification – Exemptions	R931.19	R1 861.02	R2 792.21

044	2.4.5	Copy of a certificate of registration, classification or exemption or decision	Classification – Exemptions	R354.80	R354.80	R354.80
045	2.4.6	List of all titles classified by the FPB (per year)	Classification – Exemptions	R1 551.08	R3 100.80	R4 651.87
2.5 APPEAL TO APPEAL TRIBUNAL						
046	2.5.1	Trailer of film	Classification – Appeal to Appeal Tribunal	R4 653.23	R9 306.47	R13 959.70
047	2.5.2	Appeal of a film	Classification – Appeal to Appeal Tribunal	R4 653.23	R9 306.47	R13 959.70
048	2.5.3	Appeal of an adult film	Classification – Appeal to Appeal Tribunal	R7 420.98	R14 840.60	R22 261.57
049	2.5.4	Copy of report of Appeal Tribunal	Classification – Appeal to Appeal Tribunal	R55.74	R111.47	R167.21
050	2.5.5	Appeal of a computer game	Classification – Appeal to Appeal Tribunal	R3 798.17	R7 596.34	R11 394.51
051	2.5.6	Periodical publication	Classification – Appeal to Appeal Tribunal	R22 329.54	R44 659.09	R66 988.63

052	2.5.7	Single issue publication	Classification – Appeal to Appeal Tribunal	R2 516.25	R5 032.51	R7 548.76
	2.6	EXPEDITED CLASSIFICATION				
053	2.6	Expedited classification @ 25% above standard classification fee				

1.2. Split of revenue by client size

Distributor size	Number of titles submitted previous year	Proportion of relevant fee income
Small	Less than 5 (five) titles	20%
Medium	5 (five) to 99 (ninety-nine) titles	50%
Large	100 (hundred) + titles	30%

2. Online Distribution

2.1. Online Distributor Annual License Fees (Films / Games)

Number of Titles	Films	Serials
------------------	-------	---------

0 to 499 titles	R352.51 per title	R1 410.03 per season
500 to 999 titles	R282.01 per title	R1 128.02 per season
1 000 + titles	R214.66 per title	R902.41 per season
Capped fee	R2 447 373.82	

The fees above are applied in a stepped fashion (i.e. if a distributor offers more than 1,000 titles, the "0 to 499 titles" fee is applied for the first 499 titles, the "500 to 999 titles" fee is applied for the next 500 titles, and the "1 000 + titles" fee is applied for the remaining titles).

The above online distributor's annual license fees are capped at R2 447 373.82

3. Consumer Price Index Increase

The above tariffs are subject to an annual Consumer Price Index (CPI) increase which is published in the Government Gazette plus 1% (one percent) effective from 1 April of every year. The CPI indicates the annual headline consumer inflation rate published from time to time by Statistics South Africa (STATSSA) and is broadly accepted as an economic inflation indicator. For the purposes of the Tariffs, the CPI will be calculated as the average CPI rates provided by STATSSA for the months 1 April from the preceding year to 31 March of the following year and will then constitute the CPI figure to be taken into account for any CPI-linked increments plus 1% (one percent) that must be implemented from 1 April of the applicable year.

DEPARTMENT OF HEALTH

NO. 5359

4 October 2024

MEDICINES AND RELATED SUBSTANCES ACT, 1965 (ACT NO. 101 OF 1965) AS AMENDED**(DISPENSING FEE TO BE CHARGED BY PERSONS LICENSED IN TERMS OF SECTION 22C (1) (a))**

I, DR A MOTSOALEDI, the Minister of Health, have on the recommendation of the Pricing Committee, in terms of Section 22G (2) (b) of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) as amended, made the regulations in the schedule.

SCHEDULE**Definitions**

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context indicates otherwise-

“the Regulations” means the Regulations Relating to the Transparent Pricing System for Medicines and Scheduled Substances published under Government Notice No. R1102 of November 2005 as amended.

Substitution of Regulation 12

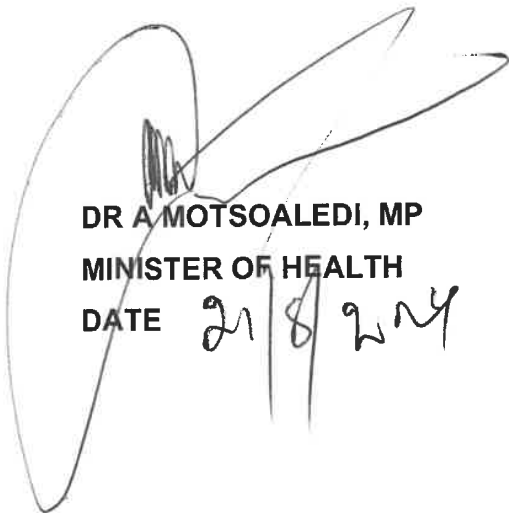
2. The following regulation is hereby substituted for Regulation 12 of the Regulations:

“12. The appropriate dispensing fee as contemplated in section 22G (2) (b) of the Act to be charged by persons licensed in terms of section 22C (1) (a) of the Act must be calculated, exclusive of VAT, as follows:

- (a) Where the single exit price of a medicine or scheduled substance is less than one hundred and fifty rand (R150.00), the dispensing fee must not exceed 30% of the single exit price in respect of that medicine or scheduled substance.
 - (b) Where the single exit price of a medicine or scheduled substance is equal to or greater than one hundred and fifty rand (R150.00), the dispensing fee must not exceed forty-five rand (R45.00) in respect of that medicine or scheduled substance.
3. The provisions of Regulation 12 must be reviewed annually by the Minister after taking into account-
- (a) the need to ensure the availability and affordability of quality medicines and scheduled substances in the Republic;
 - (b) annual inflation rates published periodically by Statistics South Africa;
 - (c) information supplied by persons licensed to dispense in terms of section 22C (1)(a) in accordance with guidelines determined by the Director-General from time to time by Notice in the Gazette; and
 - (d) any other information the Minister may deem necessary to consider.
4. Not less than three months before the review contemplated in regulation 12 (2), the Minister must publish a notice in the Gazette declaring his or her intention to make that

review and inviting interested persons to furnish him or her in writing with any comments thereon or any representation they may wish to make in regard thereto.

5. Persons Licensed to dispensing in terms of section 22C (1) (a) must-
- (a) by means of a clearly displayed notice in the dispensing practice, inform members of the public of the maximum fee structure used by such dispensing practice to determine the dispensing fee; and
 - (b) provide an invoice in respect of each medicine that clearly indicates the-
 - (i) dispensing fee charged; and
 - (ii) the single exit price.
 - (iii) VAT component



DR A MOTSOLEDI, MP
MINISTER OF HEALTH
DATE 21/8/2024

DEPARTMENT OF HEALTH

NO. 5360

4 October 2024

NATIONAL HEALTH ACT, 2003 (ACT No. 61 of 2003)

ESTABLISHMENT OF THE MINISTERIAL ADVISORY COMMITTEE ON ORGAN
TRANSPLANTATION

I, Pakishe Aaron Motsoaledi, Minister of Health after consultation with the National Health Council, in terms of section 91(1) of the National Health Act, 2003 (Act No. 61 of 2003), read with sections 91(2) of the Act, hereby establish a Ministerial Advisory Committee on Organ Transplantation and determine its composition, functions and working procedure, and in consultation with the Minister of Finance, determine the items, conditions, remuneration and allowances payable to its members.



DR PAKISHE AARON MOTSOALEDI, MP
MINISTER OF HEALTH

DATE:

3/9/2024

1. Definitions

In this Notice, a word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates-

“ad hoc sub-committee” means a committee appointed by the Ministerial Advisory Committee on Organ Transplantation;

“Committee” means the Ministerial Advisory Committee on Organ Transplantation;

“Department” means the National Department of Health; and

“the Act” means the National Health Act, 2003 (Act No. 61 of 2003).

2. Background

2.1 The Ministerial Advisory Committee on Organ Transplantation will advise the Minister on all matters related to organ transplantations in line with Section 91(1) of the National Health Act, 2003 (Act No: 61 of 2003).

2.2 The Committee will ensure that problems related to organ trafficking and abuse of potential donors by health practitioners/participants are avoided. It will also ensure that approval to perform organ transplantation which includes foreign nationals is granted by the Minister as a control measure.

3. Purpose and mandate

The Committee must advise the Minister on all matters related to organ transplantation in line with Section 91(1) of the National Health Act.

4. Composition of the committee

4.1 The Committee consists of the following members: -

- (a) One representative from the National Department of Health;
- (b) One Bioethicist; and
- (c) Seven Nephrologists;

- 4.2 In appointing members of the Committee, the factors which include, but are not limited to the appropriate representation of race, gender, and disability, must be taken into account.

5. Appointment of members of the Committee

- 5.1 The Minister may appoint members of the Committee from amongst persons nominated by interested persons.
- 5.2 If a suitable person or the required number of persons is not appointed as contemplated in paragraph 5.1, the Minister must appoint an appropriate person or persons who qualify to be appointed in terms of paragraph 4.1.
- 5.3 A member of the Committee is appointed for a period of five years and is eligible for reappointment for an additional term of five years.
- 5.4 A member of the Committee, excluding a member who is in full-time employment of the State, must be appointed on such conditions, as the Minister may determine, with the concurrence of the Minister of Finance.

6. Chairperson and Vice-Chairperson of Committee

- 6.1 The Minister must appoint a Chairperson and vice-chairperson of the Committee from the members contemplated in paragraph 4.
- 6.2 Whenever the Chairperson of the Committee is absent or unable to perform his or her functions as the Chairperson, the vice-chairperson must act as chairperson.
- 6.3 If the Vice-Chairperson is absent or unable to act as the Chairperson, the members present must designate another member of the Committee to act as Chairperson until the Chairperson or Vice-Chairperson is available.
- 6.4 A person acting as the Chairperson of the Committee in terms of paragraphs 6.2 and 6.3 exercises the powers and performs the duties of the Chairperson.

7. Appointment of ad hoc sub-committee

- 7.1 The Committee may appoint one or more ad hoc sub-committees from among its members to assist the Committee with performing its functions and exercising its powers.
- 7.2 The Committee may appoint one or more specialist ad hoc sub-committees consisting of members other than members of the Committee, to assist it with performing its functions and exercising its powers.

8. Disqualification from membership of the Committee and vacation of office

- 8.1 A person may not be appointed as a member of the Committee if that person-
- (a) is not a citizen of South Africa and ordinarily resident in the Republic;
 - (b) is an un-rehabilitated insolvent;
 - (c) has at any time been convicted of an offence involving dishonesty, whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine;
 - (d) has been removed from an office of trust; or
 - (e) is suffering from an infirmity of mind or body which prevents him or her from properly discharging his or her duties as a member of the Committee.
- 8.2 A member of the Committee must vacate his or her office if-
- (a) he or she becomes disqualified in terms of paragraph 8.1, from being appointed or serving, as a member of the Committee; or
 - (b) he or she submits his or her resignation to the Minister in writing;
 - (c) he or she has, without the leave of the committee, been absent from more than two consecutive meetings of the committee without an apology;
- 8.3 If a member of the Committee dies or vacates his or her office in terms of paragraph 8.1 or 8.2, the Minister may, subject to paragraph 5, appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.

9. Functions of the committee

- 9.1 Determine the need for the establishment of transplant facilities;
- 9.2 Provide advice to the Minister on transplant operations involving unrelated donors and recipients as well as non-South African citizens,
- 9.3 Provide recommendations on related living donor's applications, where genetic tests have failed to confirm relationships for the Minister's approval or disapproval;
- 9.4 Propose granting of authority to units to perform organ transplantation as a form of control;
- 9.5 Monitor unethical behavior in transplantation;
- 9.6 Work with relevant unit/s within the public and private health systems to determine the cost of the transplantation;
- 9.7 Determine future requirements in the transplantation services;
- 9.8 Appraise annual reports from transplant units and recommend remedial actions for the Minister's consideration;
- 9.9 Provide recommendations for living organ transplant operation between donor and recipient from other countries for the Minister's approval/disapproval; and
- 9.10 Provide recommendation to a request to place non-South African citizens on the South African transplant waiting list for the Minister's approval/disapproval.

10 Working procedures

10.1 Meetings of the Committee

- (a) The Committee must, in its first sitting, determine the rules for the conduct of proceedings at its meetings.
- (b) A quorum for a meeting of the Committee is the simple majority (50% plus 1) of its members.
- (c) A decision of the majority of the members of the Committee present at a meeting constitutes a decision of the Committee and, in the event of an equality of votes, the member presiding at the meeting must have a casting vote in addition to his or her deliberative vote.
- (d) A decision taken, or an act authorised, by the requisite majority of the

members of the Committee who were present at the time and entitled to sit as members, is not invalid by reason only of a vacancy on the Committee, or that a person who is not entitled to sit as a member of the Committee sat as a member at the time when the decision was taken, or the act was authorised.

- (e) Minutes of the proceedings of a meeting of the Committee must be properly prepared and recorded.
- (f) Minutes of the proceedings of a meeting must be submitted at the next meeting of the Committee and, if approved as correct, must be confirmed by the signature of the chairperson or that of a member who chaired the meeting and may, when so confirmed, be evidence, in a court of law, of the proceedings of the meeting.
- (g) Members must disclose their conflict of interest in each case discussed and possibly excuse him/her or themselves for all matters affecting them in terms of paragraph 11.

10.2 Activities of the Committee

- (a) Receives the applications including supporting documents from the "Department" for related or unrelated living organ transplantation or placement of foreign nationals on South African citizens on the South African waiting list for living organ transplantation.
- (b) Appraise the applications and make recommendations for the Minister's consideration based on the merit of each case.
- (c) Compile their recommendations for submission to the Minister for approval or disapproval.
- (d) Adhere to the applicable Code of Conduct.

11. Conflict of interest

A member of the Committee may not take part in a discussion of, or the making of decisions on, a matter before the Committee in which -

- (a) The member treated a potential recipient in the past few years;
- (b) Potential recipient is a family member, or a friend, or close acquaintance of the member; or
- (c) Potential recipient was treated in the same health establishment where the member was or is employed.

12. Remuneration and allowances of Committee members

12.1 The members of the committee who are not employed by the State, State Agencies or State Entities are entitled to be remunerated in accordance with the National Treasury annual rates.

12.2 Processing of each application for organ transplantation is equivalent to one hour's rating.

13 Termination of membership

13.1 A member of the Committee may, at any time, resign as a member of the Committee by giving not less than 30 days written notice to the Minister.

13.2 Despite paragraph 13.1, the Minister may terminate the appointment of a member of the Committee with immediate effect if the member-

- (a) is or becomes an un-rehabilitated insolvent;
- (b) is suffering from an infirmity of mind or body which prevents him or her from properly discharging his or her duties as a member of the Committee;
- (c) has been removed from an office of trust; or
- (d) is suffering from an infirmity of mind or body which prevents him or her from properly discharging his or her duties as a member of the Committee.

13.3 The Minister may terminate the appointment of a member of the Committee after consultation with the Committee and after hearing the member if the member-

- (a) fails to perform duties and functions of the Committee to the best of his or her ability;
- (b) has engaged in conduct, which, in the opinion of the Minister, brings or may bring the Department of Health or the activities of the Committee into disrepute or threatens the integrity of the Committee or Department of Health; and
- (c) is, in the opinion of the Minister, incompetent or unfit to fulfil his or her duties.

DEPARTMENT OF HEALTH

NO. 5361

4 October 2024

MEDICINES AND RELATED SUBSTANCES ACT, 1965**EXCLUSION OF MEDICINES FROM THE APPLICATION OF CERTAIN PROVISIONS OF REGULATION 12 OF THE GENERAL REGULATIONS MADE IN TERMS OF THE MEDICINES AND RELATED SUBSTANCES ACT, (ACT 101 OF 1965)**

The Minister of Health, in terms of section 36(1) of the Medicines and Related Substances Act, 1965 (Act No.101 of 1965) (the Act), and on the recommendation of the South African Health Products Regulatory Authority, hereby excludes medicines from the application of certain provisions of regulation 12(2) of the General Regulations made in terms of the Act, in that all medicines are excluded with respect only to the requirement that the patient information leaflet required in terms of regulation 12(1), also be in one other official language in addition to English: Provided that—

- (a) when the patient information leaflet accompanying the medicine contains the required information only in English, such information must be provided in an electronic format in any one of the other official languages; and
- (b) the manner in which such information in another language may be accessed is indicated on the patient information leaflet supplied with the medicine.

This exclusion shall be effective from the date it is published in the *Gazette* until regulation 12 is amended, or until otherwise communicated by means of a notice in the *Gazette*.


DR PAKISHE AARON MOTSOLEDI, MP
MINISTER OF HEALTH

DATE: 21/10/2024

DEPARTMENT OF HEALTH

NO. 5362

4 October 2024

HEALTH PROFESSIONS ACT, 1974 (ACT NO.56 OF 1974)

**REGULATIONS RELATING TO THE REGISTRATION BY DENTAL THERAPISTS
AND ORAL HYGIENISTS OF ADDITIONAL QUALIFICATIONS**

The Minister of Health has, under section 35 of the Health Professions Act, 1974 (Act 56 of 1974) and after consultation with the Health Professions Council of South Africa, made regulations in the schedule.



DR PAKISHE AARON MOTSOLEDI, MP
MINISTER OF HEALTH

DATE

21/8/2024

SCHEDULE

Definitions

1. In these regulations, any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context otherwise indicates.

“**dental therapist**” means a person registered as such under the Act;

“**oral hygienist**” means a person registered as such under the Act; and

“**the Act**” means the Health Professions Act, 1974 (Act No. 56 of 1974)

Additional Qualifications

2. The following qualification obtained by **dental therapists** shall be registrable as additional qualifications under section 35 of the Act:

Examining Authority and qualification	Abbreviation for registration
University of California - <i>Master of Public Health</i>	M Public Health California
University College London - <i>Diploma in community Dental Health</i>	Dip Community Dental Health – Univ. College London
University of KwaZulu-Natal – <i>Master of Medical Science</i>	(MmedSc) (Dental Therapy) – Kwa-Zulu

University of Limpopo <i>Doctor Philosophy in Dentistry</i>	PHD in Dentistry - Limpopo
University of the Western Cape – Doctor of Philosophy	(PHD) – Western Cape
Medical University of South Africa <i>Advanced Diploma in Community Dentistry</i>	Ad Dip Community Dentistry – MEDUNSA
<i>Bachelors Hnours in Dental Therapy</i>	B-Dent Ther (Hons) - MEDUNSA
<i>Doctor of Philosophy in Dentistry</i>	PHD in Dentistry - MEDUNSA

3. The following qualifications obtained by **oral hygienists** shall be registrable as additional qualifications under section 35 of the Act:-

Examining Authority and qualification	Abbreviation for registration
Maastricht University - The Netherlands – Master of Public Health	M Public Health The Netherlands
University of the Western Cape – <i>Magister Scientiae Dentium</i> <i>Philosophiae Doctor</i>	<i>MSc - Dentium Western Cape</i> <i>Phd Western Cape</i>
University of the Witwatersrand – Diploma in Health Service Management	DHSM Wits

Central University of Technology – Free State -	
Doctor Technologiae	Doctor Technologiae – Central University of Technology
Magister Technologiae	Magister Technologiae – Central University of Technology

Repeal

4. The regulations relating to the registration by dental therapists of additional qualifications as published under Government Notice No. R872 in *Government Gazette No. 13184* of 26 April 1991, and the regulations relating to the registration by oral hygienists of additional qualifications, as published under Government Notice No. R1319 in *Government Gazette No. 15000* of 23 July 1993 are hereby repealed.

Short title

5. These Regulations are called Regulations Relating To The Registration By Dental Therapists Of Additional Qualifications, 2024

NDIVHADZO YA MUVHUSO

MUHASHO WA MUTAKALO

Nomboro. R.

2024

MULAYO WA PHUROFESHENI DZA ZWA MUTAKALO WA, 1974**(MULAYO WA NOMBORO YA .56 WA 1974)****NDANGULO DZA U N'WALISA HA VHALAFHAMANO NA VHORAMUTAKALO WA
MULOMONI KHA U N'WALISA NDALUKANONYENGEDZWA**

Minisiṭa wa Mutakalo, nga fhasi ha khethekanyo ya 35 ya Mulayo wa Phurofesheni dza zwa Mutakalo wa, 1974 (Mulayo wa Nomboro ya 56 wa 1974) nahone nga murahu ha u kwamana na Khoro ya Phurofesheni dza zwa Mutakalo ya Afrika Tshipembe, o ita ndangulo kha shedulu.

**DOKOTELE VHO PAKISHE AARON MOTSOLEDI, MURADO WA
PHALAMENNDE**

MINISIṬA WA MUTAKALO

DATUMU:

21/8/2024

SHEDULU

Thalutshedzo

1. Kha idzi ndangulo na kha ipfi jihwe na jihwe kana kuambeke kuhwe na kuhwe hune kuambeke kwa vha kwo badzekanywa na zwe zwa avheliswa zwone kha Mulayo, zwine zwa khou ambiwa ndi zwenezwo zwi re kha Mulayo, nga nnda ha musi nyimele i tshi sumbedza nga ihwe ndila.

“mulafhamano” zwi amba muthu o hwalisaho sa mulafhamano nga fhasi ha Mulayo;

“ramutakalo wa zwa mulomoni” zwi amba muthu o hwalisaho sa ramutakalo wa zwa mulomoni nga fhasi ha Mulayo; na

“Mulayo” zwi amba Mulayo wa Phurofesheni dza zwa Mutakalo wa, 1974 (Mulayo wa Nomboro ya. 56 wa 1974).

Ndalukanonyengedzwa

2. (1) Ndalukano dzi tevhelaho dzi wanwaho nga vhalafhamano dzi a hwaliswa sa ndalukanonyengedzwa nga fhasi ha khethekanyo ya 35 ya Mulayo: -

Maandlanga a u Thathuvha na ndalukano	Dzinapfufhifhadzwa ja u hwalisa
University of California - <i>Master of Public Health</i>	M Public Health California
University College London - <i>Diploma in community Dental Health</i>	Dip Community Dental Health – Univ. College London

Maandalanga a u Thathuvha na ndalukano	Dzinapfufhifhadzwa ja u nwalisa
University of KwaZulu-Natal – <i>Master of Medical Science</i> <i>Doctor of Philosophy</i> <i>(dental therapy)</i>	(MmedSc) (Dental Therapy) – Kwa-Zulu Natal PHD (Dental Therapy) – KwaZulu-Natal
University of Limpopo <i>Doctor Philosophy in Dentistry</i>	PHD in Dentistry - Limpopo
University of the Western Cape – Doctor of Philosophy	(PHD) – Western Cape
Medical University of Southern Africa <i>Advanced Diploma in Community Dentistry</i> <i>Bachelors Honours in Dental Therapy</i> <i>Doctor of Philosophy in Dentistry</i>	Ad Dip Community Dentistry – MEDUNSA B-Dent Ther (Hons) - MEDUNSA PHD in Dentistry - MEDUNSA

(2) Ndalukano dzi tevhelaho dzi wanwaho nga vhoramutakalo wa zwa mulomoni dzi a nwaliswa sa ndalukanonyengedzwa nga fhasi ha khethekanyo ya 35 ya Mulayo: -

Maandalanga a u Thathuvha na ndalukano	Dzinapfufhifhadzwa ja u nwalisa
Maastricht University -	M Public Health The Netherlands

Maanǎalanga a u ǂhaǂhuvha na ndalukano	Dzinapfufhifhadzwa ja u nwalisa
The Netherlands – Master of Public Health	
University of the Western Cape – <i>Magister Scientiae Dentium</i> <i>Philosophiae Doctor</i>	<i>MSc - Dentium Western Cape</i> <i>PhD Western Cape</i>
University of the Witwatersrand – Diploma in Health Service Management	DHSM Wits
Central University of Technology – Free State - Doctor Technologiae Magister Technologiae	Doctor Technologale – Central University of Technology Magister Technologiae – Central University of Technology

Pheliso

3. Ndangulo dza u nwalisa nga vhalafhamao vha tshi nwalisa ndalukanonyengedzwa sa zwo anǎadzwaho nga fhasi ha Nǎdivhadzo ya Muvhuso ya Nomboro ya. R872 kha *Gazete ya Muvhuso ya Nomboro ya. 13184* ya 26 Lambamai 1991, na ndangulo dza u nwalisa nga vhoramutakalo wa zwa mulomoni vha tshi nwalisa ndalukanonyengedzwa, sa zwo anǎadzwaho nga fhasi ha Nǎdivhadzo ya Muvhuso ya Nomboro ya. R1319 kha

Gazete ya Muvhuso ya Nomboro ya. 15000 ya 23 Fulwana 1993 dzi khou fheliswa.

Dzina lipfufhi

4. Idzi Ndangulo dzi vhidzwa u pfi Ndangulo dza u Nwalisa ha Vhalafhamaṅo na Vhoramutakalo wa zwa Mulomoni vha tshi nwalisa Ndalukanonyengedzwa dza, 2024.

DEPARTMENT OF HEALTH

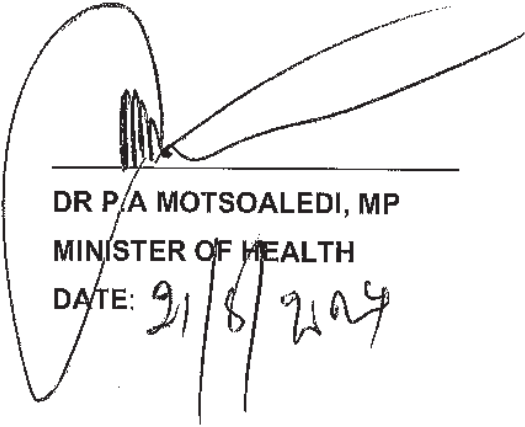
NO. 5363

4 October 2024

HEALTH PROFESSIONS ACT, 1974 (ACT NO.56 OF 1974)

REGULATIONS DEFINING THE SCOPE OF THE PROFESSION OF ORTHOPAEDIC
FOOTWEAR TECHNICIANS

The Minister of Health has, in terms of section 33 (1) of the Health Professions Act, 1974 (Act No. 56 of 1974), and on the recommendation of the Health Professions Council of South Africa and the Professional Board for Occupational Therapy, Medical Orthotist / Prosthetist, made the Regulations in the Schedule.



DR P.A. MOTSOALEDI, MP
MINISTER OF HEALTH

DATE: 9/8/2024

SCHEDULE

Definitions

1. In these Regulations, any word or 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), and

“Specialised Orthopaedic footwear devices/surgical boots” means therapeutic shoes including but not limited to custom-made and surgical footwear, shoe modifications made for therapeutic purposes, partial foot prosthesis and foot orthoses.

Acts pertaining to the profession of orthopaedic footwear technicians.

2. The following are acts pertaining to the profession of orthopaedic footwear technicians:-
 - (a) The implementation of the treatment plan based on an assessment by the Medical Orthotist and Prosthetist to design and manufacture specialised orthopaedic footwear to alleviate limitations and enhance function;
 - (b) The custom manufacturing process for the specialised orthopaedic footwear which includes:
 - (i) Measuring and casting for the specialised orthopaedic footwear orthoses;
 - (ii) Modification and/or rectification of the specialised orthopaedic footwear orthoses;
 - (iii) Material selection to use for the specialised orthopaedic footwear orthoses; and
 - (iv) Fabrication of the specialised orthopaedic footwear orthoses using

specialised techniques such as molding, blocking and lasting within an orthopaedic laboratory;

- (c) Management of patients with orthopaedic footwear or surgical boot needs;
- (d) Providing patient care and services under the direction and supervision of a Medical Orthotist and Prosthetist;
- (e) Providing specialised orthopaedic footwear device and surgical boot for the prevention and improvement of painful and disabling conditions of the foot and ankle, this includes patient measurements, implementation of the treatment plan, manufacturing of the orthopaedic footwear and surgical boots, manufacturing of the orthopaedic footwear device, fitting of the orthopaedic footwear device and follow-up on the fitting of the footwear device; and
- (f) The assessment and formulation of the treatment plan falls outside the scope of the profession of orthopaedic footwear technicians.

Repeal

3. The Regulations defining the scope of the profession of Orthopaedic Footwear Technicians as published under Government Notice No. R2263 in *Regulation Gazette No. 4136* of 9 October 1987 are hereby repealed.

Short title

4. These Regulations are called Regulations Defining the Scope of the Profession of Orthopaedic Footwear Technicians, 2024.

DEPARTEMENT VAN GESONDHEID

NO. 5363

4 Oktober 2024

WET OP GESONDHEIDSBEROEPE, 1974 (WET NO.56 VAN 1974)

REGULASIES TER OMSKRYWING VAN DIE BESTEK VAN DIE PROFESSIE VAN
ORTOPEDIESE-SKOEISELTEGNICI

Die Minister van Gesondheid het, ingevolge artikel 33(1) van die Wet op Gesondheidsberoepe, 1974 (Wet No. 56 van 1974), en op aanbeveling van die Gesondheidsberoeperaad van Suid-Afrika en die Professionele Raad vir Beroepsterapie, Mediese Ortotiste/Protetiste, die regulasies in die Bylae uitgevaardig.



DR PAKISHE AARON MOTSOLEDI, LP
MINISTER VAN GESONDHEID

DATUM:

21/8/2024

BYLAE**Woordomskrywings**

1. In hierdie regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Wet toegeskryf is, daardie betekenis, tensy dit uit die samehang anders blyk, en beteken—

“**die Wet**” die Wet op Gesondheidsberoep, 1974 (Wet No. 56 van 1974); en

“**gespesialiseerde ortopediese toestelle / chirurgiese stewels**” terapeutiese skoeisel, met inbegrip van maar nie beperk nie tot, gepasmaakte en chirurgiese skoeisel, skoenmodifiserings wat vir terapeutiese doeleindes aangebring is, gedeeltelike voetprosteses en voetortoses.

Wet wat wat op ortopediese-skoeiseltegnici betrekking het

2. Die volgende is handeling wat op die professie van ortopedieseskoeseltegnici betrekking het:

- (a) Die inwerkingstelling van die behandelingsplan op grond van 'n assessering deur die Mediese Ortotis en Protetis om gespesialiseerde ortopediese skoeisel te ontwerp en te vervaardig ten einde beperkings te verlig en funksionering te verbeter;
- (b) Die gepasmaakte vervaardigingsproses vir die gespesialiseerde skoeisel wat die volgende insluit:
 - (i) Meting en gieting vir die gespesialiseerde ortopediese skoenortoses,
 - (ii) Verstelling en/of regstelling van die gespesialiseerde ortopediese skoenortoses,
 - (iii) Kies van materiaal vir die gespesialiseerde ortopediese skoenortoses, en

- (iv) Vervaardiging van die gespesialiseerde ortopediese skoenortoses met gebruik van gespesialiseerde tegnieke soos gieting, bloklaswerk en laswerk in 'n ortopediese laboratorium;
- (c) Bestuur van pasiënte met behoeftes aan ortopediese skoeisel of chirurgiese stewels;
- (d) Voorsiening van pasiëntsorg en -dienste onder leiding en toesig van 'n Mediese Ortosis en Protetis;
- (e) Voorsiening van gespesialiseerde ortopedieseskoeiseltostel en chirurgiese stewel vir die voorkoming en verbetering van pynlike en belemmerende toestande van die voet en enkel, met inbegrip van neem van afmetings van pasiënte, inwerkingstelling van die behandelingsplan, vervaardiging van die ortopediese skoeisel en chirurgiese stewels, vervaardiging van die ortopedieseskoeiseltostel, passing van die ortopedieseskoeiseltostel en opvolging op die passing van die skoeiseltostel; en
- (f) Die assessering en formulering van die behandelingsplan val buite die bestek van die professie van ortopedieseskoiseltegnici.

Herroeping

3. Die regulasies ter omskrywing van die bestek van die professie van Ortopediese Skoeiseltegnici soos afgekondig in Goewermentskennigsgewing No. 2263 in *Regulasiestaatskoerant* No. 4136 van 9 Oktober 1987, word hierby herroep.

Kort titel

4. Hierdie regulasie heet die Regulasies ter Omskrywing van die Bestek van die Professie van Ortopediese Skoeiseltegnici, 2024.

DEPARTMENT OF HEALTH

NO. 5364

4 October 2024

MEDICINES AND RELATED SUBSTANCES ACT, (101 OF 1965 AS AMENDED)**REGULATIONS RELATING TO A TRANSPARENT PRICING SYSTEM FOR
MEDICINES AND SCHEDULED SUBSTANCES: DISPENSING FEE FOR
PHARMACISTS**

The Minister of Health has, on recommendation of the Pricing Committee, in terms of Section 22G (2) (b) of the Medicines and Related Substances Act, (No. 101 of 1965 as amended), made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In this schedule, “the Act” means the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) and any word or expression to which a meaning has been assigned in the Act shall have such meaning, unless the context indicates otherwise-

“dispense” means the supply of medicines based on a prescription to a patient or someone on behalf of the patient by a health professional authorized by law to supply medicines and includes-

- (a) the interpretation and evaluation of the prescription.
- (b) the selection, reconstitution, dilution, labelling, recording and the actual supply of the medicine.

- (c) the provision of information and instructions to ensure safe and effective use of a medicine by a patient; and
- (d) the provision of information as contemplated in section 22F (1)(a) of the Act.

“**dispensing fee**” means a fee determined in terms of these regulations, exclusive of Value Added Tax, that may be charged to dispense a medicine; and

“**the Regulations**” means the Regulations Relating to the Transparent Pricing System for Medicine and Scheduled Substances published in terms of Government Notice No. R1102 of November 2005, as amended.

Amendment of Regulation 10

2. The following regulation is hereby substituted for Regulation 10 of the Regulations:

“10. (1) The appropriate dispensing fee as contemplated in Section 22G (2) (b) of the Act to be charged by a pharmacist, must be calculated as follows:

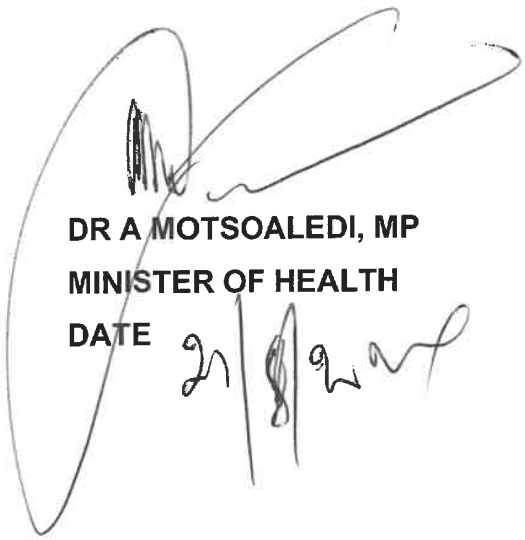
- (a) where the single exit price of a medicine or scheduled substance is less than one hundred and forty-five rand and sixty-four cents (R145.64), the dispensing fee shall not exceed R21.18 plus 46% of the single exit price in respect of that medicine or scheduled substance.
- (b) where the single exit price of a medicine or scheduled substance is greater than or equal to one hundred and forty-five rand and sixty-five cents (R145.65), but less than three hundred and eighty-seven rand and ninety-two cents (R387.92), the dispensing fee shall not exceed R39.30 plus 33% of the single exit price in respect of that medicine or scheduled substance.

- (c) where the single exit price of a medicine or scheduled substance is greater than or equal to three hundred and eighty-seven rand and ninety-three cents (R387.93), but less than one thousand four hundred and two rand and two cents (R1402.02), the dispensing fee shall not exceed R112.28 plus 15% of the Single Exit Price in respect of that medicine or scheduled substance.
- (d) where the single exit price of a medicine or scheduled substance is greater than or equal to one thousand four hundred and two rand and three cents (R1402.03), the dispensing fee shall not exceed R247.79 plus 5% of the Single Exit Price in respect of that medicine or scheduled substance.

This fee which is exclusive of VAT represents a maximum dispensing fee and doesn't preclude dispensers from charging a lower fee to be added to the SEP of a medicine or scheduled substance thus resulting in a final price to be paid by the consumer.

- (2) The provision of sub-regulation (1) must be reviewed annually by the Minister after taking into account-
 - (a) the need to ensure the availability and affordability of quality medicines and scheduled substances in the Republic.
 - (b) annual inflation rates published periodically by Statistics South Africa.
 - (c) information supplied by pharmacists in accordance with guidelines determined by the Minister from time to time by Notice in the Gazette; and
 - (d) any other information the Minister may deem necessary to consider.
- (3) A pharmacist dispensing a medicine must-
 - (a) by means of a clearly displayed notice in the pharmacy, inform members of the public of the maximum fee structure used by such pharmacist to determine the dispensing fee; and

- (b) provide an invoice in respect of each medicine which clearly indicates the-
- (i) dispensing fee charged; and
 - (ii) single exit price.



DR A MOTSOLEDI, MP
MINISTER OF HEALTH

DATE

21/8/2024

DEPARTMENT OF HEALTH

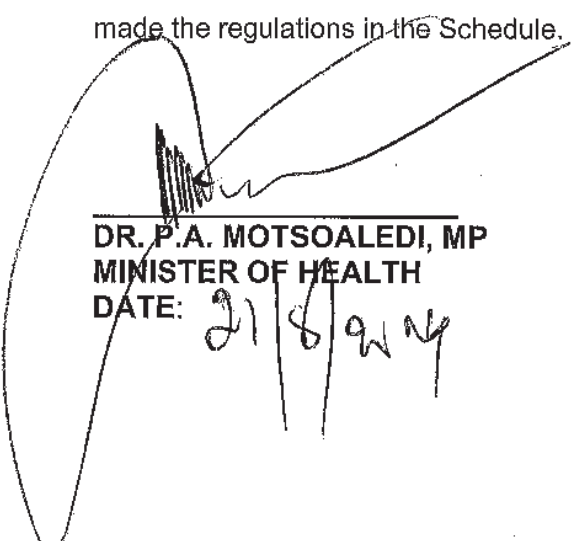
NO. 5365

4 October 2024

HEALTH PROFESSIONS ACT, 1974 (ACT NO.56 OF 1974)

REGULATIONS RELATING TO THE QUALIFICATIONS FOR REGISTRATION OF
MEDICAL ORTHOTISTS AND PROSTHETISTS

The Minister of Health has, in terms of section 24 of the Health Professions Act, 1974 (Act No. 56 of 1974), and on the recommendation of the Health Professions Council of South Africa, made the regulations in the Schedule.



DR. P.A. MOTSOLEDI, MP
MINISTER OF HEALTH
DATE: 21/8/2024

SCHEDULE**Definitions**

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear such meaning, unless the context indicates otherwise –
“**Act**” means the Health Professions Act, 1974 (Act No. 56 of 1974),

Qualification for registration

2. The registrar shall register as a Medical Orthotist and Prosthetist any person who is in possession of the following qualifications:

<i>Examining Authority and Qualification</i>	<i>Abbreviation for Registration</i>
Tshwane University of Technology	
National Diploma: Medical Orthotics and Prosthetics	ND: Medical Orthotics and Prosthetics
Bachelor of Science: Medical Orthotics and Prosthetics	BHSc: Medical Orthotics and Prosthetics
Durban University of Technology	
Bachelor of Health Sciences in Medical Orthotics and Prosthetics	BHSc: Medical Orthotics and Prosthetics
Walter Sisulu University	
Bachelor of Science: Medical Orthotics and Prosthetics	BHSc: Medical Orthotics and Prosthetics

Repeal

3. The rules for the registration of medical orthotists and prosthetists as published under Government Notice No. R. 58 in *Regulation Gazette No. 4306* of 13 January 1989 are hereby repealed.

Short title

4. These Regulations are called Regulations Relating to the Qualifications for Registration of Medical Orthotists and Prosthetists, 2024

KITSISO YA PUSO

LEFAPHA LA BOITEKANELO

Nm. R.

2024

HEALTH PROFESSIONS ACT, 1974 (MOLAO 56 WA 1974)**MELAWANATAOLO E E AMANANG LE BORUTEGI JWA GO KWADISWA GA
BADIRI BA TSA KALAFI BA BAOTHOTISITILE BAPOROSSETETISI**

Tona ya Boitekanelo o, go ya ka karolo 24 ka puisommogo le karolo 61(2) ya *Health Professions Act, 1974* (Molao 56 wa 1974), le morago ga go rerisana le Lekgotla la Badiri ba Seporofešene ba Boitekanelo la Aforika Borwa, dirile melawanataolo mo Šejuleng.



Ng PAKISHE AARON MOTSOALEDI, MP**TONA YA BOITEKANELO****LETLHA:** 21/8/2024

ŠEJULE

Ditlhaloso

1. Mo melawanataolong eno, lefoko kgotsa tlhagiso efe e e neilweng bokao mo Molaong e tla nna le bokao joo, ntle le fa maitshetlego a kaya mokgwa osele-
“melawanataolo” e kaya Melawanataolo e e amanang le borutegi jwa go kwadiswa ga Badiri ba tsa Kalafi ba Baothotsiti le Baporosetetsi jaaka e phasaladitswe mo Kitsisong ya Puso R. 398 mo Lokwalodikgannyeng la Puso Nm. 35366 la di 21 Motsheganong 2012.

Borutegi jwa go kwadiswa

2. Mokwadisi o tshwanetse go kwadisa jaaka Modiri wa tsa Kalafi wa Moothotsiti le Moporosetetsi motho ofe yo o nang le borutegi jo bo latelang: -

<i>Bothati jo bo Tlhatlhobang le Borutegi</i>	<i>Khutswafatso mabapi le Kwadiso</i>
Yunibesithi ya Thekenoloji ya Tshwane <i>National Diploma: Medical Orthotics and Prosthetics</i> <i>Bachelor of Health Sciences in Medical Orthotics and Prosthetics</i>	<i>ND: Medical Orthotics and Prosthetics</i> <i>BHSc: Medical Orthotics and Prosthetics</i>
Yunibesithi ya Thekenoloji ya Durban <i>Bachelor of Health Sciences in Medical Orthotics and Prosthetics</i>	<i>BHSc: Medical Orthotics and Prosthetics</i>
Yunibesithi ya Walter Sisulu <i>Bachelor of Health Science in Medical Orthotics and Prosthetics</i>	<i>BHSc: Medical Orthotics and Prosthetics</i>

Phimolo

3. Melawana ya Kwadiso ya Badiri ba tsa Kalafi ba Baothotisiti le Baporosetetisi jaaka e phasaladitswe mo Kitsisong ya Puso Nm. R. 58 mo *Regulation Gazette Nm. 4306* ya di 13 Ferikgong 1989 e a phimolwa fano.

Setlhogokhutswe

4. Melawanataolo eno e bidiwa Melawanataolo e e Amanang le Borutegi jwa Kwadiso ya Badiri ba tsa Kalafi ba Baothotisiti le Baporosetetisi, 2024.

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. 5366

4 October 2024

HIGHER EDUCATION ACT, 1997 (ACT NO. 101 OF 1997)**INSTITUTIONAL STATUTE****WALTER SISULU UNIVERSITY**

I, Dr Nobuhle Pamela Nkabane, MP, Minister of Higher Education and Training in accordance with section 33 (1) of the Higher Education Act, 1997 (Act No. 101 of 1997, as amended), hereby publish the amended Institutional Statute of the Walter Sisulu University set out in the Schedule attached hereto.



Dr NP Nkabane, MP

Minister of Higher Education and Training

Date: 09/09/2024

HIGHER EDUCATION ACT, 1997 (ACT NO. 101 OF 1997)**INSTITUTIONAL STATUTE, 2024****WALTER SISULU UNIVERSITY****CONTENTS**

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TERMS AND INTERPRETATION

1. Terms and Interpretation

In this Statute, applicable to Walter Sisulu University, any word or expression to which a meaning has been assigned by the Higher Education Act, 1997 (Act No. 101 of 1997), as amended, has that meaning, unless the context indicates otherwise:

"academic department" means a department consisting of teaching and learning, community engagement and research within specific or cognate disciplinary areas;

"academic employee" means any person appointed by the council to a teaching or research position at the University, including any other employee designated as such by the council, as well as honorary and adjunct appointments;

"academic year" means that part of a calendar year approved by the senate for the academic activities of the University, and ratified by the council;

"campus(es)" means the divisions of the University, other than the institutional office, being the physical sites and tangible or intangible infrastructure of the University where learning, teaching and research is delivered, as are established by the council from time to time after consultation with the senate, with the approval of the Minister;

"campus SRC committee" means the committee established to represent the students at a campus of the University, contemplated in paragraph 45(2);

"certificant" means a person to whom a certificate has been awarded by an accredited institution;

"chancellor" means the person contemplated in paragraph 4;

"community engagement" means community engagement as contemplated in paragraph 19(1), as approved by the council from time to time;

"congregation" means a meeting convened by the University for the purpose of conferring degrees and awarding diplomas and certificates as contemplated in paragraph 79(2);

"constitution of the SRC" means the Rules of the SRC approved by the council after consultation with the SRC;

"convocation" means the body contemplated in paragraph 47;

"**council**" means the Council of the University contemplated in paragraph 7;

"**days**" includes Saturdays, Sundays and public holidays;

"**executive dean**" means a person appointed as the executive head of a faculty, as contemplated in paragraph 80;

"**deputy executive dean**" means a person appointed to manage the affairs of a faculty in support of the executive dean, as contemplated in paragraph 69;

"**deputy vice-chancellor**" means the person(s) appointed as vice-principal(s) in accordance with section 26(2)(d), read with section 27(4)(b) of the Act, this Statute and the Rules;

"**diplomat**" means a person upon whom a diploma has been conferred by an accredited institution;

"**donor**" includes a person, body or legal entity who has made a donation to the University of the prescribed minimum value determined by the council from time to time, and who has been recognised as a donor as contemplated in paragraph 81(2);

"**due notice of a meeting**" means a written notice within the prescribed time, providing the agenda, time and place of the meeting and, where applicable, how to get sight of relevant additional information, irrespective of the means employed to convey the message or information to the addressee(s);

"**employee**" means an academic or a non-academic employee of the University;

"**executive management committee**" means the executive management committee of the University as contemplated in paragraph 66;

"**faculty**" means a cluster of academic departments functioning on a specific campus of the University, established by the council in terms of paragraph 7(2)(h);

"**functionaries of the council**" means all persons who exercise functions of the council in terms of delegated authority, and includes the secretary contemplated in paragraph 12 and any person co-opted by the council or a committee of the council as such, as contemplated in paragraph 8(1)(m);

"**functions**" includes powers and duties and vice versa;

"graduate" means a person upon whom a degree has been conferred by a university;

"group of donors" means the group established by the council as contemplated in paragraph 81(3);

"head of department" means the head of an academic department or cluster of departments of the University;

"institutional forum" means the institutional forum contemplated in section 31 of the Act and paragraph 29;

"institutional manager" means a member of the senior management of the University, who may be a member of the executive management committee and is based in the institutional office;

"institutional office" means a division of the University, being the physical head office of the University, not situated on any of the campuses of the University, at Nelson Mandela Drive, Mthatha, or another address identified in the Rules;

"legal entity" as contemplated in paragraph 83(6) means any juristic person, including those incorporated in terms of the Companies Act, Act No. 71 of 2008 or the Close Corporations Act, Act No. 69 of 1984;

"management" means, for the purpose of section 31(2)(a) of the Act, senior management as well as management as determined by the council;

"mandate" means the set of Rules describing the composition, terms of reference and functioning of a committee of the council, senate and any other structure, body or committee established in terms of this Statute;

"Minister" means the minister of state responsible for tertiary education;

"month" means a calendar month;

"non-academic employee" means a person on the permanent or temporary, full-time or part-time administrative or support staff of the University, other than an academic employee, and includes a person in this category who is serving a probationary period in terms of his or her contract of service prior to permanent appointment;

"professor" means an academic employee who has been given the status of professor and associate professor by the University, but does not include an emeritus professor, or a reader; an academic associate, visiting or assistant professor;

"qualification" means a certificate, a diploma or a degree;

"registrar" means the person appointed as registrar of the University as contemplated in section 26(4)(b) of the Act;

"representative employee organisation" means a registered employee organisation in accordance with sections 95 to 97 of the Labour Relations Act, Act No. 66 of 1995, as amended;

"Rules" means any Rules of the University made in terms of section 32 of the Act and published after approval by the council;

"senate" means the body responsible for academic matters contemplated in paragraph 19;

"senior management of the University" for the purposes of section 31 (l)(a)(iii) of the Act, and paragraphs 7(3)(c) and 29(a)(iii) of this Statute, means the vice-chancellor, the deputy vice-chancellor(s), the registrar, chief finance officer, chief operations officer, executive director: human resources, executive director: planning, monitoring and evaluation, executive deans, and deputy executive deans. and any other employee appointed by council to the senior management of the University;

"student" means any person registered by the University in terms of the Rules, for full-time or part-time study for a degree, diploma, or certificate of the University, or registered or enrolled for any course or programme of instruction offered by the University, provided that a person so registered or enrolled who is also a full-time or part-time employee of the University is not a student for the purpose of membership of the council, senate or any other structure or body of the University;

"SRC" means the students' representative council of the institution contemplated in paragraph 40, established by the council in accordance with the Rules, and includes a campus SRC committee contemplated in paragraph 45(2);

"the Act" means the Higher Education Act, 1997 (Act No. 101 of 1997) as amended;

"the University" means the Walter Sisulu University;

"urgent matter" means a matter, which, if not addressed before the next ordinary or special meeting of council or senate, could cause irreversible harm or prejudice to the University, its employees or students;

"vice-chancellor" means the principal of the University as contemplated in section 26(2)(c) of the Act; and

"written notice" means any notice in writing and includes any notice contemplated in terms of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002), or any Act that amends or repeals it.

UNIVERSITY

2. Name, status, seat and powers of University

- (1) The name of the University is Walter Sisulu University.
- (2) The University is a public higher education institution in terms of the Act, and is recognised as a juristic person, as contemplated in section 20(4) of the Act.
- (3) The University, in accordance with Notice No. 1749 published *Government Gazette* No. 25787 dated 28 November 2003, and as contemplated in sections 20(3)(c), 21(2)(c), and 23(3)(b)(iii) of the Act, has its seat in Mthatha, Eastern Cape Province, South Africa. This is where the institution's activities are principally administered.
- (4) The official physical address of the University is Nelson Mandela Drive, Mthatha, Eastern Cape Province, South Africa.
- (5) The official postal address of the University is Private Bag X 1, Mthatha, 5117, South Africa.
- (6) Notwithstanding subparagraph (2), the institution may not, without the concurrence of the Minister, dispose of or alienate in any manner, any immovable property acquired with the financial assistance of the State or grant to any person any real right therein or servitude.
- (7) The University functions in accordance with the Act, the Statute and the Rules approved by the council.

- (8) The University may confer degrees, award diplomas and certificates as approved by the council on recommendation of the senate. Such degrees, diplomas and certificates are to be approved, accredited and registered for by the University in accordance with the provisions of the Act.

3. Constitution of the University

- (1) The University consists of –
- (a) the chancellor;
 - (b) the council;
 - (c) the senate;
 - (d) the vice-chancellor;
 - (e) the deputy vice-chancellor(s);
 - (f) the executive deans;
 - (g) one or more registrars and other institutional managers as determined by the council;
 - (h) the SRC;
 - (i) the institutional forum;
 - (j) the student support services structure contemplated in section 27(3) of the Act and paragraph 7(2)(i);
 - (k) the faculties, departments and such other academic structures of the University as may be determined by the council in accordance with the Statute;
 - (l) the academic employees of the University;
 - (m) the non-academic employees of the University;
 - (n) the students of the University;
 - (o) the convocation; and

(p) all its property, infrastructure and assets, whether immovable, movable or intangible, and the rights thereto.

- (2) No vacancy in any of the offices contemplated in subparagraph 3(1), nor any deficiency in the numbers or defect in the composition of the structures or bodies contemplated in subparagraph 3(1)(I) impairs or affects the existence of the University as a juristic person or any function conferred upon the University by the Act or this Statute.

CHANCELLOR

4. Functions of chancellor

- (1) The chancellor is the titular head of the University and is responsible for conferring degrees and awarding diplomas and certificates in the name of the University.
- (2) The chancellor performs such other functions as are assigned to him or her by the council.

5. Election and appointment of chancellor

- (1) The chancellor is elected by the council in the following manner:
- (a) the chairperson of the council, after consultation with the vice-chancellor, determines the date on which a meeting of the council is to be held for the purpose of electing a chancellor, or, in the absence of the chairperson of the council, the vice-chancellor determines the date for such meeting, provided that such meeting must be held within ninety (90) days after the office of chancellor becomes vacant;
 - (b) the secretary of council gives due notice to the members of the council of the date, time of and venue for the meeting contemplated in subparagraph 5(1)(a);
 - (c) the secretary to the council invites the members of the council and other University structures, employees and students referred to in paragraph 3(1), to submit nominations for the office of the chancellor;
 - (d) the nominations contemplated in subparagraph 5(1)(c) must reach the secretary to the council at least twenty (20) working days before the meeting contemplated in subparagraph 5(1)(a);

- (e) the nominations contemplated in subparagraph 5(1)(c) must be in writing and must include the nominee's written consent and complete curriculum vitae;
 - (f) the secretary to the council must, within five working days after the closing date for nominations, inform members of the council in writing of the nominations received;
 - (g) the chancellor is elected by secret ballot by the majority of the members present at the meeting contemplated in subparagraph 5(1)(a);
 - (h) if no candidate receives a majority of votes, successive rounds of voting are held; and
 - (i) in each successive round of voting, the candidate receiving the fewest votes is eliminated as a candidate.
- (2) After the council has elected a chancellor, the name of the chancellor is announced by the chairperson of the council.

6. Term of office of chancellor

- (1) The Chancellor holds office for a term of four (4) years, unless he or she passes away, becomes incapacitated, resigns, or ceases to qualify to hold office as outlined in subparagraph (4).
- (2) A person may not be elected as a chancellor for more than two (2) consecutive terms of office.
- (3) If the chancellor is unable, for any reason, to perform the functions of the office, or if the office of chancellor becomes vacant, the vice-chancellor, a deputy vice-chancellor, or any person acting in their capacity may act for the chancellor, or failing them, any person designated by the council for this purpose, shall act for the chancellor until the vacancy is filled.
- (4) A person ceases to qualify to hold office as Chancellor if he or she:
 - (a) is removed from office by the Council;
 - (b) is, or becomes, insolvent;
 - (c) is declared to be of unsound mind by a court of law;

(d) is convicted of an offence subsequent to election and sentenced to a term of imprisonment without the option of a fine by a court of law; or

(e) reaches the expiry of the term of office.

- (5) The chancellor may only be removed from office by the council by means of a resolution passed by at least two-thirds of the members of the council. The resolution may not be passed without giving prior notice to the chancellor of the pending motion and its reasons, as well as affording him or her a reasonable opportunity to make representations.

COUNCIL

7. Functions of council

- (1) The council governs the University, subject to the Act and this Statute.
- (2) Without limiting the scope of subparagraph 7(1), the council has the powers and functions contemplated in subparagraphs 7(2)(a) to (m) below and may, in accordance with section 68 of the Act, delegate or assign to other University structures, the vice-chancellor or any other employee of the University, any of these powers and functions to –
- (a) make Rules under section 32 of the Act, which Rules must be published after approval by the council and have legal force, provided that the council may not change the composition of the SRC, the SRC's Constitution or establish a campus SRC committee before it has consulted with the SRC;
- (b) establish committees, determine the mandates and composition of such committees, including appointing persons who are not members of the council as members of such committees, and set the procedural requirements for each committee;
- (c) monitor and, if required, take appropriate steps to intervene in any action taken by a committee contemplated in subparagraph 7(2)(b) while exercising its delegated powers or functions, when such committee reports to council;

- (d) prepare and submit proposals for the extension of delivery sites or adoption of academic or training programmes in new fields of learning and training, in joint committees of the council and senate established for these purposes, in accordance with the Act, other legislation and the Rules;
- (e) appoint employees of the University as contemplated in paragraph 72(1) and (2), provided that academic employees may only be appointed after consultation with the senate, as contemplated in paragraph 72 (3);
- (f) determine the language policy of the University, subject to the policy determined by the Minister, with the concurrence of the senate;
- (g) determine conditions of service, the disciplinary provisions and the privileges and functions of the University's employees;
- (h) determine, after consultation with the senate, the academic structures required and the status, functions and name of each such structure, to ensure effective and efficient governance;
- (i) determine, after consultation with the SRC, the policy for the provision of student support services within the University, and must provide for a suitable structure to facilitate such consultation, as contemplated in section 27(3) of the Act;
- (j) suspend or dismiss any employee of the University, in the manner set out in the disciplinary Rules;
- (k) order an employee whom it has suspended to refrain from being on any premises under the control of the University and to refrain from participating in any of the University's activities, or set such other conditions as it may deem necessary;
- (l) establish legal entities in terms of the applicable legislation, for the benefit of the University; and
- (m) order the closure of the University in response to a life-threatening situation or circumstance such as a natural disaster or a threat to the safety or security of the students, staff or property.

- (3) Without limiting the scope of subparagraph 7(1), the council has the powers and functions contemplated in subparagraphs 7(3)(a) to (m) below, provided that the council, in accordance with section 68 of the Act, may not delegate or assign to other University structures, the vice-chancellor or any other employee of the University, any of these powers and functions to –
- (a) make the institutional Statute and any amendments thereto;
 - (b) draft and adopt the University's vision, mission and values and monitor the realisation thereof;
 - (c) appoint the senior managers of the University within Peromnes grades 1 to 4, subject to obtaining the advice of the senate and the institutional forum on the selection of candidates in accordance with paragraphs 19(4)(e) and 29(a)(iii);
 - (d) determine the student admission policy of the University, after consultation with the senate;
 - (e) determine, with the approval of the senate, the entrance requirements in respect of particular programmes, the number of students that may be admitted for a particular higher education programme and the manner of their selection, and the minimum requirements for readmission to study at the University;
 - (f) refuse, with the approval of the senate, readmission to a student who fails to satisfy the minimum requirements for readmission;
 - (g) determine tuition fees, accommodation fees or any other fees payable by students after consultation with the SRC;
 - (h) determine rental fees payable by staff making use of University accommodation;
 - (i) approve the annual budget of the University;
 - (j) conclude a loan or an overdraft agreement, subject to the approval of the Minister, when required;

- (k) enter into an agreement for the construction of a permanent building or other immovable infrastructural development, the purchasing of immovable property or the long-term lease of immovable property, subject to the approval of the Minister, when required;
 - (l) repeal or amend the composition of the senate, after consulting with the senate;
 - (m) make, repeal or amend any Rules relating to the academic functions of the University, subject to approval by the senate; and
 - (n) establish a commission of enquiry to investigate, and make recommendations for action by the council or senior management on matters involving significant risk to the University as determined by the council.
- (4) The council remains accountable for the performance of any function delegated or assigned in terms of subparagraph 7(2).
- (5) The council may appoint an independent body to conduct a performance evaluation of the council and its individual members at intervals determined by the council.

8. Composition of council

- (1) Although the Act allows for up to thirty (30) members, the Walter Sisulu University council shall comprise a maximum of twenty-one (21) members, made up of –
- (a) the vice-chancellor;
 - (b) not more than one (1) deputy vice-chancellor, designated by the vice-chancellor, provided that, in the case of more deputy vice-chancellors having been appointed, the remaining incumbent/s may attend council meetings without voting rights;
 - (c) five (5) persons appointed by the Minister, who must not be employees or students of the University;
 - (d) not more than two (2) members of the senate, elected by the senate;
 - (e) one (1) non-senate academic employee, elected by the academic employees;
 - (f) one (1) non-academic employee, elected by the non-academic employees;
 - (g) not more than two (2) students elected by the SRC;

- (h) not more than two (2) members of the convocation, who must not be employees or students of the University, elected by the executive committee of the convocation;
 - (i) one (1) person with expertise in law, who must not be an employee or student of the University, elected by the council;
 - (j) one (1) person with expertise in financial and investment matters, who must not be an employee or student of the University, elected by the council;
 - (k) two (2) persons with expertise in commerce and industry, who must not be employees or students of the University, elected by the council;
 - (l) not more than two (2) persons from the donors, who must not be employees or students of the University nor conduct business directly or indirectly with the University, elected by the council; and
 - (m) the council may when and for such period as is necessary co-opt no more than two (2) persons to advise the council on any specific matter relevant to the functions of the council, who will not have voting rights.
- (2) At least sixty per cent (60%) of the members of the council must be persons who are not employees or students at the University.
 - (3) When members are elected or appointed to the council, under-representation in terms of race, gender or persons with disabilities must be taken into consideration.
 - (4) A council member or a member of a committee of council -
 - (a) must be a person with knowledge and experience relevant to the objects and governance of the University;
 - (b) must participate in the deliberations of the council in the best interests of the University;
 - (c) must before he or she assumes office, declare any business, commercial or financial activities undertaken for financial gain that may raise a conflict or a possible conflict of interest with the University;

- (d) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the council; and
 - (e) may not –
 - (i) have a conflict of interest with the University;
 - (ii) have a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest with the University; and
 - (f) must before the meeting and in writing, inform the chairperson of that meeting of that conflict or possible conflict of interest.
- (5) Except as provided in subparagraphs 8(1) (a), (b) and (d) to (g) –
- (a) no student or employee of the University and no other person in receipt of regular remuneration from the University is eligible for appointment or nomination for election or election as a member of the council; and
 - (b) a member of council who becomes a student or an employee of the University or who enters into a contract with the University in terms of which he or she is to receive regular remuneration from the University must forthwith vacate his or her seat on the council.
- (6) The manner of appointment or election of candidates for the offices mentioned in subparagraphs 8(1)(d) to (I) is provided for in the Rules.

9. Election and term of office of council members

- (1) Members of council are elected in the manner determined by the Statute and Rules.
- (2) Subject to paragraph 11, the term of office of members of the council is five (5) years, except in the case of –
 - (a) members referred to in paragraph 8(1)(a) and (b), who serve by virtue of their offices and remain members of the council for as long as they occupy their offices; and

- (b) members referred to in paragraph 8(1)(g), elected by the SRC, whose term of office is one (1) year from the date of their election, provided that membership ceases automatically when a student member ceases to be a student.
- (3) The membership of a member who is elected from among the ranks of a specific interest group or body lapses upon termination of his or her association with that interest group or body.
- (4) Any member may serve as a member of the council for a maximum of two (2) terms, except that no student may serve as a member of the council for a term exceeding one (1) academic year.
- (5) If a vacancy arises in the council, it shall be filled using the same procedure as the original appointment.
- (6) A new member of the council appointed or elected in terms of subparagraph 9(5) to fill a vacancy occurring before the expiry of the term of office of the member being replaced, serves for the remainder of that term.

10. Termination of membership and filling of vacancies of members of council

- (1) A member of the council's term of office terminates if –
 - (a) he or she tenders a written resignation;
 - (b) the Minister or body who appointed or elected the member to the council, terminates such membership in writing at any time before the expiry of the member's term of office;
 - (c) he or she is absent from three (3) consecutive meetings without leave of the council;
 - (d) he or she is declared insolvent;
 - (e) he or she is removed from an office of trust by a court of law or is convicted of an offence;
 - (f) A council member removed from office as contemplated in sections 27(5B)(a) and (b) of the Act, read with the provisions of this statute, can never serve on the council of a public higher education institution.

- (f) he or she is removed from office subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) by vote of a majority of the members of the council present at any meeting;
 - (g) a member of the council who was not an employee or a student at the University is appointed as an employee or becomes a student of the University.
 - (h) is declared to be of unsound mind by a court of law; or
 - (i) is otherwise disqualified in terms of the Rules.
- (2) The council has the power to suspend any member from attending a meeting, or take disciplinary action or terminate his or her membership, under the following circumstances:
- (a) If such a member conducts him or herself in a manner that is or may not be in the best interest of the University, or that brings or may bring the council or the University into disrepute while identifiable as a council member, after the council has followed due process in terms of the Rules.
 - (b) If at least one-third of the members of the council at any meeting resolve that alleged conduct contemplated in subparagraph 10(2)(a) be investigated, the council must instruct that a disciplinary hearing be conducted by an ad hoc committee of council.
 - (c) If the ad hoc committee contemplated in subparagraph 10(2)(b) finds that the affected member failed to act in the best interests of the University or has behaved in a manner that brings or may bring the University into disrepute, then the committee may recommend the termination of the membership of such member from the council.
 - (d) If the ad hoc committee contemplated in subparagraph 10(2)(b) recommends the termination of the affected member from the council, and at least two-thirds of the members of council present at any meeting vote for his or her removal, such member will cease to be a member of council.
- (3) In the event of a vacancy due to death or any other reason, as contemplated in subparagraphs 10(1) and (2), the secretary to the council shall notify the constituency

that appointed or elected the affected member, requesting that constituency to appoint or elect a successor.

- (4) If seventy-five per cent (75%) or more of the members of the council resign, the council is deemed to have resigned, as contemplated in section 27(8) of the Act.
- (5) If the council resigns, as contemplated in subparagraph 10(4), a new council must be constituted in terms of the Statute.
- (6) The council may remove a member of the council as contemplated in subparagraph 10(1)(f) on the basis of poor performance indicated by a performance evaluation conducted in terms of paragraph 7(5).

11. Election and functions of the chairperson and deputy chairperson of council and their terms of office

- (1) The chairperson and the deputy chairperson of the council shall not be elected from the members contemplated in paragraph 8(1)(a), (b) and (d) to (g).
- (2) (a) The chairperson presides at meetings of the council and the executive committee of the council.
(b) The council determines any additional functions of the chairperson.
- (3) (a) The deputy chairperson presides at meetings of the council and the executive committee of the council in the absence of the chairperson.
(b) The deputy chairperson performs such other functions as the council may determine.
- (4) The chairperson and the deputy chairperson of the council are elected to their respective offices for a period of five years.
- (5) The chairperson and the deputy chairperson are eligible for re-election for a maximum of two terms.
- (6) Nominations for the office of the chairperson and the deputy chairperson of the council must be in writing and be directed to the secretary to the council.
- (7) If more than one candidate is nominated, voting is by secret ballot.
- (8) Each member of the council has only one vote during a ballot and no proxy is allowed.

- (9) A majority of all members present elects the chairperson and the deputy chairperson.
- (10) Whenever a vacancy occurs in the office of the chairperson or the deputy chairperson, the provisions of subparagraph (6) to (9) apply, with the necessary changes, to the filling of such vacancy.
- (11) A person who fills a vacancy in terms of subparagraph (10) holds office until the end of the predecessor's term;
- (12) The chairperson and the deputy chairperson may not be elected for more than two consecutive terms of five years each.

12. Secretary of council

- (1) The secretary of council is the registrar as contemplated in section 26(4)(b) of the Act, who must ensure compliance with the Statute, relevant legislation and national higher education and training policies, as well as the policies and Rules of the University.
- (2) The registrar may participate in the discussions of the council but may not vote.
- (3) The secretary acts as an electoral officer in all matters pertaining to council.
- (4) The secretary attends all meetings and keeps all relevant documents of the council.
- (5) The registrar may appoint an employee of the University to assist him or her but remains responsible for the performance of his or her functions.

13. Meetings of council

- (1) The council has at least three ordinary meetings during each academic year.
- (2) The notice of any motion for consideration at the next ordinary meeting must be in writing and must be lodged with the secretary at least twenty (21) days before the date determined by the council for such meeting, provided that any matter of an urgent nature may, without prior notice and with the consent of the chairperson and a majority of the members present, be considered at such meeting.
- (3) At least fourteen (14) days prior to the date of an ordinary meeting, the secretary gives due notice to each member of all the matters to be dealt with at such meeting. The notice shall include the time and place of the meeting as well as the agenda.

- (4) A special meeting may be called at any time by the chairperson, provided that at least seven (7) days' notice of the special meeting is given, and further provided that the chairperson may reduce the period of notice to twenty-four (24) hours if circumstances require, in which instance, notice may be given in any manner deemed convenient under the circumstances.
- (5) A special meeting must be called by the chairperson at the written request, of at least six members, with the objective of the meeting being clearly stated in the request provided that at least seven (7) days' notice of a special meeting is given.
- (6) An emergency meeting may be called by the chairperson at any time provided that members are given at least twenty-four (24) hours' notice of the meeting.
- (7) The notice of an emergency meeting may be given in any manner deemed convenient under the circumstances
- (8) No business other than that which the special meeting or emergency meeting was called may be transacted at such meeting, irrespective of the notice period.

14. Council meeting procedures

- (1) Council members must participate in the deliberations of the council meetings in the best interest of the University.
- (2) The quorum required for a meeting of council or its committees to be properly convened, is that at least one-half plus one (50% plus one) of the total number of members of the council or its committees, holding office on the date of such meeting which must be present at the start of the meeting, and further provided that a majority of the members present at the start of the meeting must be persons who are not employees or students of the University.
- (3) A properly convened meeting of council or its committees is not voided if, after the meeting begun, enough members end their participation in a manner, thereby leaving the meeting without the quorum contemplated in subparagraph 14(2), and the meeting may proceed with and conclude its business.
- (4) Except where otherwise provided in this Statute, all acts or matters authorised or required to be done or decided by the council or its committees, and all questions that may come before it, are done or decided by the majority of the members present at any

meeting, provided that the number present at the commencement of any meeting is at least one-half plus one (50% plus one) of the total number of members of council holding office on the date of such a meeting. This provision applies equally to council committees.

- (5) In the absence of both the chairperson and the deputy chairperson of the council, the members present shall elect one of their members who is neither staff nor students, to preside at that meeting.
- (6) The first order of business at an ordinary meeting, after being constituted, is for the chairperson to read and confirm the minutes of the last preceding ordinary meeting and subsequently held, meetings by signing them, provided that the meeting may consider the minutes as read if a copy thereof was previously sent to every member of the council. However, any objections to the minutes of a meeting must be raised and decided before confirmation of the minutes.
- (7) A member of the council may not, without the consent of the chairperson, speak more than once to a motion or to any amendment and the mover of any motion or any amendment has the right to reply.
- (8) Every motion or amendment must be seconded and, if so directed by the chairperson, must be in writing.
- (9) A motion or an amendment seconded as contemplated in subparagraph (8) may not be withdrawn except with the consent of the members present at the meeting.
- (10) The chairperson has, on any matter, a deliberative vote and may also exercise, in the event of an equality of votes, a casting vote.
- (11) If so, decided by the meeting, the number of members voting for or against any motion must be recorded in the minutes, and at the request of any member the chairperson must direct that the vote of such member be likewise recorded.
- (12) When a majority of the members of the council reaches agreement on a matter referred to them by letter or electronic means by the chairperson, without convening a meeting, and conveys such resolution by letter or electronic means, such resolution is equivalent to a resolution of the council and must be recorded in the minutes of the next ordinary meeting.

- (13) The views of a member of the council who is unable to attend a meeting may be submitted to the meeting in writing but may not count as attendance by or a vote of such member.
- (14) A point of order may be raised when a member is of the opinion that-
- (a) there is a deviation from the matter under discussion;
 - (b) a member uses insulting or repulsive language; or
 - (c) discussions are contrary to procedural Rules.
- (15) The ruling of the chairperson on a point of order or procedure is binding unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting, and the decision of the meeting is final.

15. Conflict of interests of council members, committee members and functionaries

- (1) A member of the council must not have a conflict of interest with the University.
- (2) A member of council who has a direct financial, personal or other interest in any matter to be discussed at a meeting, which entail or may entail a conflict of interest must, before or during the meeting, declare the interest.
- (3) The council, following consultation with the institutional forum, approves a code of conduct that all council members, committee members, and other individuals exercising delegated functions of the council must adhere to. This code of conduct addresses conflicts of interest or potential conflicts of interest that may arise with the University, in accordance with sections 27(7E)(a) and 32 of the Act, read together with paragraph 8(4).
- (4) The council establishes a register to record the annual declaration of interests of each member of the council, council committees, and all functionaries of the council, as required by section 27(7E)(b) of the Act and in accordance with the Rules.
- (5) Any person may, in writing, inform the chairperson of a meeting of the council or a committee of the council, before the meeting, of a conflict of interest of a member of the council with the University, in terms of paragraph 8(4)(c) to (e), of which such person may be aware.

- (6) A member referred to in paragraph 8(4)(e) and subparagraph 15(1) above is obliged to recuse himself or herself from the meeting during the discussion of the matter and the voting thereon.

16. Executive and other committees of council

- (1) The council appoints –
- (a) an executive committee of council;
 - (b) an audit, risk and compliance committee of council;
 - (c) a finance committee of council;
 - (d) a remuneration committee of council;
 - (e) an executive appointment and contract renewal committee of council;
 - (f) a human resource committee of council;
 - (g) a physical planning and infrastructure committee of council;
 - (h) a governance and council membership committee;
 - (i) such other committees and sub-committees as may be required.
- (2) The mandates and composition of the committees are determined by the council in the Rules. The council may:
- (a) combine any two or more of the committees contemplated in subparagraph (1);
and
 - (b) appoint a single person to be a committee.
- (3) A majority of the members of a committee must be persons who are not employees or students of the University.
- (4) The chairperson of a committee must not be an employee or a student of the University.
- (5) The meeting procedures for council meetings in terms of paragraph 14 apply, with the necessary changes, to meetings of committees of the council, provided that a committee of the council with delegated functions in terms of section 27(7C) of the Act and

paragraph 7(2)(b) may not take a decision on a matter considered by it if any member of the committee has a conflict of interest contemplated in paragraph 8(4)(c) to (e).

17. Minutes of council and council committees

- (1) The secretary to the council keeps the minutes of each meeting of the council and includes such minutes in the agenda of the next council meeting when the agenda is sent out in terms of paragraph 13(3).
- (2) The minutes of all committee meetings must be included in the agenda of the next ordinary meeting of the council following the respective committee meetings.

18. Drafting, amending or repealing of statute or a Rule

- (1) No motion to approve, amend or repeal any provision of this Statute is of force or effect without a written notice of at least fourteen (14) days, unless seventy-five per cent (75%) of all the members of council present vote in favour of dispensing with such a notice.
- (2) No motion to draft an amendment to or repeal the Statute may be adopted unless agreed to by at least seventy-five per cent (75%) of the members present at the meeting, provided that such meeting is constituted by no less than seventy-five per cent (75%) of all members.
- (3) Any motion to draft, amend or repeal the Statute or a Rule must be in accordance with the provisions of section 32(2) of the Act.

SENATE

19. Powers, functions and composition of the senate

- (1) Subject to the Act, the senate is accountable to the council and responsible for the strategic direction of all teaching, learning, research, community engagement and academic functions of the University, including the timely identification and appropriate management of risks in connection therewith, and all other functions delegated or assigned to it by the council;
- (2) The senate –
 - (a) provides academic leadership and debates matters of academic principle;
 - (b) promotes an institutional culture of high academic and ethical standards;

- (c) ensures the quality of academic programmes, research and community engagement activities; and
 - (d) co-determines with the council the language policy of the University.
- (3) Without limiting the scope of subsection 19(1) the organisation and oversight of instructions and examinations, and of lectures and classes, vest in the senate and the senate –
- (a) may make or amend any Rule relating to the curriculum for any degree, diploma, certificate or other qualification, or to the obtaining of any degree, diploma, certificate or other qualification, but may do so only after consulting the relevant faculty board and sub-committee;
 - (b) may make or amend any Rule relating to the manner in which students are to be examined;
 - (c) determines what standard of proficiency is required to be attained in any mode of assessment that may be used in order to satisfy the requirements for the obtaining of each degree, diploma, certificate or other qualification;
 - (d) advises the council on disciplinary measures and Rules concerning students;
 - (e) may make recommendations to the council regarding the faculty to which each academic department or other academic structure belongs;
 - (f) may make recommendations to the council regarding the establishment and disestablishment of faculties, academic departments, and other academic structures;
 - (g) determines, in accordance with any relevant deed or gift, and after consultation with the vice-chancellor, the conditions applicable to any scholarships and other academic prizes;
 - (h) determines the persons to whom scholarships and academic prizes are awarded;
 - (i) determines the functions of its committees;

- (j) may make standing orders on procedures and delegation of powers to improve the carrying out of its functions;
 - (k) may delegate its functions, provided that it may not delegate or assign a function delegated to it by the council without the council's agreement and remains accountable for the performance of all its functions; and
 - (l) must take note of any action taken by a committee in exercising its delegated powers or functions when such committee reports its actions to the next meeting of the senate.
- (4) The senate submits to the council –
- (a) advice with regard to the language policy of the University, in terms of section 27(2) of the Act;
 - (b) advice regarding approval of entrance requirements to specific programmes, the number and manner of selection of students admitted per academic programme, minimum requirements for readmission to study and refusal of readmission for failure to satisfy any minimum requirement set for readmission, in terms of section 37(4) of the Act;
 - (c) advice on the admission policy and Rules of the University, in terms of section 37(1) of the Act;
 - (d) such reports on its work, including on the management of risks attendant to the academic core business of the University, as may be required by the council;
 - (e) advice on matters referred to it by the council, including the appointment of senior management;
 - (f) advice on the appointment of academic employees, in accordance with the Rules; and
 - (g) recommendations on any other matter affecting the University as the senate considers useful.
- (5) The senate may, in terms of the Rules, cancel or refuse the registration of a student in all or one or more of the courses for which the student is registered or wishes to register in that year if, in the opinion of the senate, the academic achievement of the student is

such that the student may not at the end of the year obtain credit in such course or courses, as the case may be.

- (6) The senate must enhance and protect the integrity and quality of the academic activities at the University, and may to that end propose cancellation and withdrawal of any qualification, award or recognition granted by the University in error, in terms of paragraph 79(3)(i), or obtained by fraudulent or dishonest means, in terms of paragraph 79(3)(j) and may further do what is required to attain this goal.
- (7) The Senate, subject to the provisions of the Act, consists of-
- (a) the vice-chancellor;
 - (b) the deputy vice-chancellor(s);
 - (c) the registrar;
 - (d) other members of the executive management committee, on the invitation of senate;
 - (e) the executive deans;
 - (f) the executive deputy deans;
 - (g) all full and associate professors (including those appointed on a fixed term contract for a period of at least three (3) years);
 - (h) all heads of academic departments;
 - (i) the heads of academic centres that are not otherwise members of the senate;
 - (j) the head of academic planning;
 - (k) the head of quality assurance;
 - (l) the head of research and innovation;
 - (m) the head of library and information services;
 - (n) the head of student affairs;
 - (o) not more than two (2) members of the SRC, elected by the SRC, in accordance with the Rules;
 - (p) not more than two (2) non-academic permanent full-time employees, elected by the permanent non-academic employees, in accordance with the Rules;
 - (q) not more than one (1) member of the council who is not an employee or student of the University, designated by the council from time to time; and
 - (r) such additional members, without voting rights, as are approved by the senate from time to time, on the recommendation of the executive committee of senate.

- (8) The majority of the members of senate and senate committees must be senior academic employees.
- (9) The persons contemplated in subparagraphs 19(7)(a) to (o) are appointed in their official capacity as members of the senate.
- (10) The manner of election of members is as determined by each constituency.

20. Fiduciary duty and conflict of interest of senate members

- (1) Members of the senate must participate in the deliberations of the senate in the best interests of the University.
- (2) Failure to act in the best interests of the University or behaviour that brings the University into disrepute may result in the removal of such a member from the senate following due process.
- (3) If it is alleged that a member is not acting in the best interests of the University or has engaged in conduct that brings or tends to bring the University into disrepute, and at least one-third of the members of the senate at any meeting resolve that the alleged actions or conduct be investigated and suitable steps be taken against that person, the senate must instruct that a hearing by an ad hoc committee of senate take place.
- (4) If the committee finds that the member has failed to act in the best interests of the University or has behaved in a manner that brings the University into disrepute, then the committee may recommend that the member be removed from the senate.
- (5) The member may be removed from the senate if at least two-thirds of the members of the senate present at any meeting vote for his or her removal.

21. Terms of office of senate members

- (1) Members appointed in terms of paragraph 19(7)(a) to (n), (p) and (q) hold office for as long as they are appointed and/or elected in that capacity.
- (2) Members appointed in terms of paragraph 19(7)(o) hold office for a period of one (1) year, provided that membership ceases automatically when that member ceases to be a member of the SRC.

- (3) The membership of a member who is elected from among the ranks of a specific interest group or body lapses upon termination of his or her association with that interest group or body.
- (4) If a vacancy arises in the senate, it is filled using the same method as the original appointment.
- (5) The successor holds office for the full term of office.
- (6) Any member may serve as a member of the senate for more than one term, with the exception of a student representative who may not serve as a member of the senate for more than two terms.

22. Chairperson, deputy chairperson and secretary of senate

- (1) The vice-chancellor is the chairperson of the senate, as contemplated in section 26(4)(a) of the Act.
- (2) The deputy chairperson of the senate is the deputy vice-chancellor designated by the senate as such.
- (3) The secretary to the senate is the registrar.
- (4) The chairperson presides at the meetings of the senate and the meetings of the committees of the senate if deemed appropriate by the senate or senate committee.
- (5) The chairperson performs such other functions as the senate may determine.
- (6) In the absence of the chairperson, the deputy chairperson assumes the responsibilities outlined in subparagraph 22(4).
- (7) The deputy chairperson performs such other functions as the senate may determine.
- (8) If both the chairperson and the deputy chairperson are absent, the senate elects from among its members a chairperson for the meeting concerned.

23. Senate and senate committees' meetings and meeting procedures

- (1) The senate holds at least four (4) ordinary meetings during each academic year.

- (2) Unless specified otherwise in this paragraph or in the Rules, the provisions applicable to the council meetings in terms of paragraphs 13 and 14 apply, with the necessary changes, to the meetings and meeting procedures of the senate and its committees.
- (3) The chairperson of the senate may call an extraordinary or emergency meeting of the senate in accordance with the Rules.
- (4) The Senate is quorate if at least forty per cent (40%) of its members (excluding those members who have been granted official travel, research or sabbatical leave of absence) are present and remain present during the transacting of business and decision-making.

24. Executive committee and other committees of senate

- (1) The executive committee of the senate consists of –
 - (a) the vice-chancellor, who serves as the chairperson;
 - (b) the deputy vice-chancellor(s);
 - (c) the registrar;
 - (d) the executive deans;
 - (e) four (4) senate members at the rank of full professor elected by the senate, in accordance with the Rules;
 - (f) such other members as the executive committee of senate may determine, provided that the majority of the members are senior academic employees.
- (2) The executive committee of the senate –
 - (a) unless determined otherwise by the senate, makes recommendations to the senate on the reports of senate committees;
 - (b) ensures overall co-ordination of academic matters;
 - (c) ensures that policy decisions of the senate are implemented;
 - (d) ensures that academic standards, as prescribed by the senate, are maintained;
 - (e) makes decisions within its mandate in accordance with its delegated powers; and

- (f) performs such other functions, including advisory functions, as may be determined by the senate.
- (3) The executive committee of the senate has plenary powers to act on behalf of the senate between senate meetings, provided that any such resolution of the committee is ratified by senate at its next meeting.
- (4) In the absence of the vice-chancellor from any of the meetings of the executive committee of the senate, a deputy vice-chancellor designated by the vice-chancellor presides over the executive committee meetings.
- (5) In the absence of both the vice-chancellor and the deputy vice-chancellor, the provisions of paragraph 22(8) apply with the necessary changes.
- (6) The senate may constitute other committees which may include a faculty board for each faculty and such other committees as required.

25. Joint committees of council and senate

- (1) The council, in consultation with the senate, appoints such joint committees of the council and the senate as may be necessary for the performance of particular tasks.

FACULTY BOARD

26. Functions of faculty board

- (1) The faculty board of every faculty is a standing committee of the senate.
- (2) The council appoints an executive dean for every faculty in accordance with the Rules, who fulfils the functions as described in the Rules.
- (3) A faculty board –
 - (a) governs and regulates the activities of the faculty in line with the policies and Rules of the University;
 - (b) considers and recommends to the senate the academic programmes and qualifications offered by the faculty;
 - (c) promotes research and innovation in the faculty;

- (d) submits recommendations to the senate on matters that affect the faculty, as well as matters referred to it by the senate;
- (e) appoints committees of the faculty board;
- (f) advises the executive dean on policy for resource allocation in the faculty;
- (g) fulfils such other functions as the Rules may prescribe; and
- (h) is accountable to Senate for its work.

27. Composition of faculty board

- (1) Each faculty must establish a faculty board that consists of –
 - (a) the executive dean of the faculty, who serves as the chairperson;
 - (b) the executive deputy dean(s) of the faculty;
 - (c) the heads of departments of the faculty;
 - (d) all permanent full-time academic employees in the faculty and academic employees appointed on a fixed term contract for a period of at least three (3) years;
 - (e) the heads of faculty sub-committees and other academic units as approved by the faculty board;
 - (f) the head of faculty administration;
 - (g) at least two (2) undergraduate students registered in that faculty, designated by the relevant campus SRC committee, in terms of the Rules;
 - (h) at least two (2) postgraduate students in that faculty, designated by the relevant campus SRC committee in terms of the Rules;
 - (i) such other members as may be decided by the Faculty Board in terms of the Rules; and
 - (j) no more than two external members selected by the Faculty Board in a non-voting capacity for a term of two (2) years.
- (2) In the absence of the executive dean, the executive deputy dean presides, and in the absence of both the faculty board must elect a member to preside at that meeting.

28. Meetings and meeting procedures of faculty board

- (1) Unless specified otherwise in this paragraph or the Rules, the council's meetings and meeting procedures in terms of paragraphs 13 and 14 apply, with the necessary changes, to meetings of the faculty board.
- (2) The quorum of a faculty board is determined by senate from time to time but may not be less than one-third of the total membership of the faculty board excluding those who are on approved leave at the date of the meeting, and those who have missed the last three ordinary meetings of the faculty board prior to the meeting in question.
- (3) Ordinary meetings are held on the dates set by the senate.
- (4) Special meetings may be convened by the executive dean at any time and must be convened by the executive dean at the request in writing of at least ten (10) voting members, the objective of the meeting being clearly stated in the request.

INSTITUTIONAL FORUM**29. Functions of institutional forum**

- (1) The institutional forum must –
 - (a) advise the council on issues affecting the University, including –
 - (i) the implementation of the Act and the national policy on higher education;
 - (ii) race and gender equity policies;
 - (iii) the selection of candidates for senior management positions;
 - (iv) codes of conduct, mediation and dispute-resolution procedures;
 - (v) fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching, research and learning; and
 - (b) performs such other functions as determined by the council.

30. Composition of institutional forum

- (1) The institutional forum consists of –
 - (a) two (2) representatives of the management, elected by the executive management committee of the University;
 - (b) the person responsible for employment equity matters;
 - (c) two (2) members of the council who are not employees or students of the University, elected by the council, who will not have the right to vote in a council meeting when advice rendered to the council by the institutional forum is considered;
 - (d) two (2) representatives of the senate, elected by the senate;
 - (e) two (2) permanent full-time non-academic employees not on senate, elected by the permanent non-academic employees, in accordance with the Rules;
 - (f) two (2) permanent full-time academic employees not on senate, elected by the permanent academic employees, in accordance with the Rules;
 - (g) not more than two (2) voting representatives of each recognised labour union at the University, elected by such labour union;
 - (h) two (2) representatives of the convocation who are not employees or students of the University, elected by the convocation;
 - (i) two (2) representatives of the SRC, elected by the SRC; and
 - (j) not more than two (2) additional members as the institutional forum may determine from time to time, to assist the institutional forum to fulfil its functions, provided that such members have no voting rights.

31. Election and terms of office of members of institutional forum

- (1) The nomination and election of members must be transparent and democratic, and each constituency must follow the procedure prescribed by its own constituency and submit the names of its designate(s) or representatives to the registrar in writing before such member may take a seat in the institutional forum.
- (2) The term of office of a member or members of the institutional forum -
 - (a) contemplated in paragraph 30(1)(c) to (h) is three (3) years.

- (b) contemplated in paragraph 30(1)(j) is one year.
- (c) contemplated in paragraph 30(1)(a) and (b) who are members of the institutional forum by virtue of their offices, remain members of the institutional forum for as long as they hold such offices, or are replaced by the bodies that elected them.
- (3) Members are eligible for re-election, provided that the members contemplated in paragraph 30(1)(i) may not be re-elected for more than two terms.
- (4) Paragraphs 10(1) to (3) apply, with the necessary changes, to the termination of the membership of members of the institutional forum.

32. Office-bearers of institutional forum

- (1) The institutional forum elects from among its members a chairperson and deputy chairperson.
- (2) The chairperson and the deputy chairperson hold their respective offices for a period of two (2) years.
- (3) The chairperson and the deputy chairperson may not be re-elected for more than two terms.
- (4) The registrar designates an employee to act as a secretary to the institutional forum.

33. Meetings and meeting procedures of institutional forum

- (1) The institutional forum must have at least two meetings during each academic year.
- (2) Fifty per cent (50%) plus one of the members forms a quorum.
- (3) The procedure applicable to the council meetings in terms of paragraphs 13 and 14 is applicable, with the necessary changes, to the meetings of the institutional forum.

34. Committees of institutional forum

- (1) The institutional forum may appoint committees as required and determine the mandates and composition of such committees.

STUDENT SERVICES COUNCIL**35. Functions of student services council**

- (1) Subject to the provisions of section 27(3) of the Act and paragraph 7(2)(i), the student services council advises the council on the policy for student support services.
- (2) The student services council advises the council on the rendering of support services to the students of the University.
- (3) The student services council discusses any other matter referred to it by the council and advises the council on such matters.

36. Composition of student services council

- (1) The student services council may consist of –
 - (a) the deputy vice-chancellor responsible for student affairs and support services;
 - (b) one (1) member of the council, who is not an employee or student of the University, elected by the council;
 - (c) one (1) member of the senate, elected by the senate;
 - (d) the chief financial officer or his or her designate;
 - (e) the registrar or his or her designate(s);
 - (f) the head of student academic support or his or her designate;
 - (g) the head of student affairs;
 - (h) the head of student residences;
 - (i) the head of campus operations;
 - (j) not more than two (2) students from the SRC, nominated by the SRC, in terms of the Rules;
 - (k) not more than two (2) students from each of the campuses of the University, nominated by the relevant campus SRC committee, in terms of the Rules; and

- (1) such further members as are co-opted from time to time, in terms of the Rules.
- (2) The manner of election or designation of members contemplated in subparagraph 36(1)(b), (c), (j) and (k) is provided for in the Rules.

37. Terms of office of student services council members

- (1) The members contemplated in paragraph 36(1) who serve by virtue of their offices, remain members of the student services council for as long as they hold those specific offices.
- (2) The representatives of the council and senate are elected for a period of two (2) years, or for such shorter period as they are members of the council or senate.
- (3) The student representatives are elected by the SRC for a period of one academic year, provided that membership lapses automatically if a student representative ceases to be a student.
- (4) The provisions of paragraph 21(3) to (6) apply, with the necessary changes, to the student support services council.

38. Chairperson, deputy-chairperson and secretary of student services council

- (1) The deputy vice-chancellor responsible for student affairs and support services serves as the chairperson of the student services council;
- (2) The person made accountable for student affairs by the vice-chancellor is the deputy chairperson of the student services council;
- (3) The registrar or his or her delegate is the secretary of the student services council;
- (4) The provisions of paragraph 22 apply, with the necessary changes, with regard to the functions of the chairperson, deputy chairperson and the secretary.

39. Meetings and meeting procedures of student services council

- (1) The provisions applicable to council meetings in terms of paragraphs 13 and 14 apply, with the necessary changes, to the meetings and meeting procedures of the student services council.

STUDENTS' REPRESENTATIVE COUNCIL (SRC)**40. Functions of SRC**

- (1) The SRC represents all students within the University in matters that may affect students, subject to the authority of the council, in accordance with the Act, this Statute and the Rules.
- (2) The SRC derives its powers from the council, is not a legal entity separate from the University, and is not a bearer of its own rights,
- (3) The primary function of the SRC is to serve and promote the interests of the University and its student community.
- (4) The matters contemplated in subparagraph 40(1) include -
 - (a) exercising its powers and functions as delegated by the council;
 - (b) liaising with the council, the senate, the management, the general public, other institutions, students' representative councils of other institutions and national or international student organisations;
 - (c) being the umbrella organisation for all student committees, clubs, councils and societies, with the authority to grant or withdraw recognition of such student committees, clubs, councils and societies in terms of the Rules, subject to council approval for campus SRC committees after consultation with the vice-chancellor and head of student affairs in accordance with paragraph 45(2);
 - (d) coordinating and supervising the use of students' facilities and all matters pertaining thereto, in conjunction with the University management;
 - (e) convening and conducting all authorised meetings of the student body, managing all general referenda and petitions organised by the students, in accordance with the Rules;
 - (f) appointing office-bearers and establishing such committees it deems necessary, subject to paragraph 45;
 - (g) organising and promoting extramural activities for students;

- (h) keeping account of all monies paid over to it by the council and any other monies which may accrue to it in its capacity as representative of the students; also allocating or disbursing such funds for use by students, and making grants to approved student clubs, committees, societies and councils;
 - (i) being responsible for the preservation of order at student functions, and ensuring good conduct at all approved meetings of students;
 - (j) coordinating student involvement in all community projects initiated by it;
 - (k) assuming the responsibility for all student publications, in accordance with the Rules;
 - (l) advising the council on risks pertaining to its affairs;
 - (m) recommending to the council Rules to determine the conduct of its affairs;
 - (n) final decision-making in all matters falling within its jurisdiction; and
 - (o) such additional functions and privileges as may be specifically conferred upon it by the council.
- (5) The SRC, as contemplated in section 35 of the Act, including campus SRC committees, must be representative of the student body in terms of the campuses and faculties of the University, in accordance with the Rules.

41. Composition of SRC and criteria for eligibility of candidates

- (1) The composition of the SRC is determined by the council in accordance with the Rules, after consultation with the SRC, as contemplated in section 35 of the Act.
- (2) Eligibility for SRC candidacy is limited to registered students in good academic and financial standing, as outlined in the Rules.
- (3) The election of SRC members must adhere to democratic and transparent procedures, in accordance with the Rules.

42. Term of office of SRC members

- (1) The term of office of members of the SRC is one (1) year.
- (2) A student may not serve as a member of the SRC for more than two terms.

43. Privileges of SRC members

- (1) The privileges of members of the SRC are determined by the council, after consultation with the SRC.

44. Meetings and constitution of SRC

- (1) The number of meetings, the quorum requirements, and the meeting procedures are determined by the constitution of the SRC, as approved by the council, on the recommendation of the SRC.
- (2) The constitution of the SRC will have no legal force and effect unless such constitution or amendments thereto, is approved by council.

45. Committees of SRC

- (1) The SRC must, subject to the student disciplinary Rules, establish a disciplinary committee responsible for the discipline of any members of the SRC and members of the student structures affiliated to the SRC.
- (2) The council, upon advice from the vice-chancellor and SRC, may establish a campus SRC committee on each campus to perform designated functions for enrolled students, subject to the Rules.
- (3) The SRC may establish such other committees as determined by the SRC constitution.

46. General meeting of students

- (1) The SRC must convene at least one general meeting of students per campus per semester, in accordance with the Rules, provided that the SRC shall convene a general meeting of all students if requested in writing by a group of at least five hundred (500) bona fide students, proportionately representing the campuses of the University.
- (2) Meetings may not conflict with academic activities unless the vice-chancellor or his or her delegate has granted prior permission, subject to such conditions as the vice-chancellor may impose.

CONVOCATION

47. Functions

- (1) The convocation promotes the University, assists in fund-raising, and discusses any matter referred to it by the council.

48. Membership of convocation

- (1) The convocation consists of the vice-chancellor, deputy vice-chancellor, registrar, academic employees, as set out in the subparagraph 48(2), and all persons who are or become graduates, diplomates or certificants of the University or its predecessors, and such other persons as the council may determine.
- (2) Academic employees on permanent staff of the University, emeritus professors and other retired academic employees who were employed by the University for at least five (5) years prior to retirement, are members of the convocation.
- (3) The fact that the name of a person appears on the convocation roll is prima facie proof of him or her being a member of the convocation and of such person being entitled to vote.
- (4) The names of new graduates, diplomates and certificants of the University are deemed to have been inscribed in the convocation roll after degrees have been conferred or diplomas have been awarded, but members so registered are required to furnish their addresses to the secretary and to notify him or her of any change of address.

49. Office-bearers and committees of convocation

- (1) The convocation, at its first meeting, elects from among its members a president to act as chairperson at all its meetings, who holds office for a period of three (3) years.
- (2) Whenever the office of president becomes vacant, the deputy president acts as president until a successor is elected for a period of three (3) years, at the next meeting of the convocation.
- (3) The convocation establishes an executive committee and such other committees as it may deem necessary to perform its functions.

- (4) The executive committee of the convocation is composed of -
- (a) the president, deputy president and treasurer, elected by the convocation who must not be employees or full-time students of the University or have graduated from the University within five (5) years of their election;
 - (b) the vice-chancellor;
 - (c) not more than four (4) additional members, who may not be employees or full-time students of the University;
 - (d) one (1) convocation member of senate, elected by the senate; and
 - (e) one (1) convocation member of the non-academic permanent staff, elected by the non-academic permanent employees of the University.
- (5) The executive committee has the right of co-option.
- (7) The executive committee meets at least once a year.

50. Meetings of convocation

- (1) The president, or if the office of the president is vacant, the deputy president, convenes a meeting of the convocation annually or as often as required, and notice of such meeting must be given at least four (4) weeks prior to the date of the meeting, by any means reasonably available, including electronic means.
- (2) A member who wishes to raise any matter at such meeting must submit a written motion with regard to the said matter to the registrar or the president, at least two (2) weeks before the date of the meeting.
- (3) An extraordinary meeting of the convocation may be convened by the president if and when required.
- (4) An extraordinary meeting of the convocation must be convened by the president or, if the office of president is vacant, by the deputy president, upon a written request signed by at least twenty-five (25) members, reflecting the matters for consideration in the form of separate motions.
- (5) An extraordinary meeting as contemplated in subparagraph 50(4) must be held within two (2) months after receipt of the request.

51. Meeting procedures of convocation

- (1) A quorum of fifty (50) members constitutes a quorum at a meeting of the convocation, provided that, if not met, the meeting may adjourn and an extraordinary meeting may be convened with at least seven (7) days' notice, at which the members present constitute a quorum.
- (2) Notwithstanding the absence of a quorum at the start of an annual meeting, such meeting may proceed to elect office-bearers and to dispose of other formal matters, but no motions may be submitted at such meeting.
- (3) After its constitution, by reading the notice in terms of which it was convened, a meeting commences with the reading and confirmation, by the signature of the chairperson, of the minutes of the previous ordinary meeting and of all subsequent extraordinary meetings.
- (4) Any objection to such minutes must be raised and determined prior to their approval.
- (5) A member may not, without the permission of the meeting, speak more than once on a motion or amendment thereof, but the mover of the motion or amendment may reply.
- (6) All matters are decided by a majority of the members present.
- (7) In addition to his or her ordinary vote, the chairperson has a casting vote in the event of an equality of votes.
- (8) If a meeting so resolves, the number of votes in favour of or against a motion must be recorded in the minutes, and, at the request of a member, the chairperson must further direct that the vote of such member be likewise recorded.
- (9) A motion or amendment thereof must be seconded, and if the chairperson so directs, such motion or amendment must be in writing.
- (10) A motion or amendment may not be withdrawn without the permission of the meeting.
- (11) The chairperson may permit the discussion of a matter of which notice was not duly given, provided such discussion is unopposed.

- (12) The ruling of the chairperson on a point of order of procedure is binding, unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting, whose decision is final.
- (13) A copy of the resolutions of the convocation, and a statement on such other matters as the convocation may determine, duly certified by the chairperson and secretary are submitted to the chairperson of the council for the information of the council and to the vice-chancellor for the information of the senate.
- (14) The election of members of the convocation to the council is in the manner as determined by the executive committee of convocation.

52. Convocation code of conduct

- (1) Convocation must develop a code of conduct that regulates the conduct of its members.
- (2) The convocation code of conduct must be approved by the council

MANAGEMENT AND SENIOR MANAGEMENT

VICE-CHANCELLOR

53. Chief executive officer of the University

- (1) The vice-chancellor serves as the chief executive officer of the University.
- (2) The council determines the powers, functions and duties of the vice-chancellor

54. Functions of vice-chancellor

- (1) The vice-chancellor is responsible for the implementation of the day-to-day management and administration of all aspects of the entire University and has all the powers necessary to perform those functions, subject to the provisions of paragraph 22 (4), (5) and (8).
- (2) The vice-chancellor reports to the council.
- (3) By way of his or her office, the vice-chancellor is a member of all the committees of the council and the senate.

- (4) Subject to paragraph 7(3), the council may delegate its powers, assign additional functions, and grant additional powers and privileges to the vice-chancellor.
- (5) When the vice-chancellor is absent or unable to carry out his or her duties, the deputy vice-chancellor designated by the council takes over, or the council may appoint an acting vice-chancellor.
- (6) The vice-chancellor may delegate his or her powers to any employee of the University, without abdicating his or her responsibilities.
- (7) Subject to the Rules and policies an acting vice-chancellor has the same powers, privileges and functions as the vice-chancellor.

55. Appointment, term of office, vacation of office and filling of vacancy in office of vice-chancellor

- (1) The council after consultation with the senate and the institutional forum appoints the vice-chancellor for a term of not more than five (5) years.
- (2) Subject to section 31(1) of the Act, the advertising of the post, the invitation for the nomination of candidates, the search for suitable candidates, the criteria for the short-listing of candidates and the interviewing and appointment processes are done in the manner determined by council.
- (3) The term of office of the vice-chancellor terminates before its expiry if the incumbent dies, resigns from office or is discharged from office in the manner prescribed in the Rules.
- (4) A vice-chancellor whose term of office expires by effluxion of time may be appointed for one (1) further term of five (5) years based on proven sustainable good performance, following consultation with the senate and institutional forum.
- (5) If the office of the vice-chancellor becomes vacant, the registrar notifies the members of the council of the fact in writing.
- (6) A successor is appointed in terms of subparagraphs 55(1) and (2).

56. Discipline of vice-chancellor

The vice-chancellor is subject to the Rules governing staff discipline.

DEPUTY VICE-CHANCELLORS**57. Functions of deputy vice-chancellor**

- (1) The council determines the powers, functions and duties of the deputy vice-chancellor
- (2) The council may appoint one or more persons as deputy vice-chancellors, as contemplated in section 26(2)(d) and (g) of the Act.
- (3) The deputy vice-chancellor(s) must assist the vice-chancellor in the management and administration of the University at the institutional level, and may be given specific areas of responsibility by the vice-chancellor.
- (4) The deputy vice-chancellors are responsible for the execution of the functions designated to them by the vice-chancellor.

58. Appointment, term of office, vacation of office and filling of vacancies in office of deputy vice-chancellor

- (1) The appointment, term of office, vacation of office and filling of vacancies in the office of deputy vice-chancellors are in the manner determined by the council.

59. Discipline of deputy vice-chancellor

- (1) A deputy vice-chancellor is subject to the Rules governing staff discipline.

REGISTRAR**60. Functions of registrar**

- (1) The council appoints a person as the registrar, who will act as the electoral officer and secretary to the council, senate, student services council, institutional forum and the convocation.
- (2) The registrar supports the vice-chancellor in the management and administration of the University.
- (3) The registrar has a general custodial function at the institutional level, and in furtherance thereof ensures that the entire University complies with the Statute, relevant legislation, national higher education policies and University policies and Rules.

- (4) The registrar serves as the electoral officer for the SRC.

61. Appointment, term of office, vacation of office and filling of vacancy in office of registrar

- (1) The appointment, term of office, vacation of office and filling of a vacancy in the office of the registrar is in the manner determined in the Rules.

62. Discipline of registrar

- (1) The registrar is subject to the Rules governing staff discipline.

INSTITUTIONAL MANAGERS

63. Functions of an institutional manager

- (1) The council may appoint one or more persons as institutional managers, irrespective of the job title, to whom the council or the vice-chancellor may assign specific managerial and administrative functions at the institutional level.
- (2) An institutional manager is accountable to the vice-chancellor or his or her delegate.

64. Appointment, term of office, vacation of office, filling of vacancy and temporary absence in the office of institutional manager

- (1) The appointment, term of office, vacation of office and filling of a vacancy in the office of an institutional manager is in the manner determined in the Rules.
- (2) In the temporary absence of an institutional manager, the vice-chancellor designates another person to perform the functions of the office.

65. Discipline of institutional manager

- (1) An institutional manager is subject to the Rules governing staff discipline.

EXECUTIVE MANAGEMENT COMMITTEE

66. Functions of executive management committee

- (1) The vice-chancellor must establish an executive management committee to assist him or her in the day-to-day management and administration of the University.

- (2) The executive management committee advises the vice-chancellor on any matter pertaining to the managing of risks to achieve the goals of the University.
- (3) The executive management committee advises the vice-chancellor in accordance with the applicable legislation, this Statute and the Rules.
- (4) The executive management committee may delegate some of its functions but remains responsible and accountable for the performance and outcomes of any delegated function.

67. Composition of executive management committee

- (1) The executive management committee may consist of –
 - (a) the vice-chancellor;
 - (b) the deputy vice-chancellor(s);
 - (c) the registrar;
 - (d) the executive director of human resources;
 - (e) the executive director of planning, monitoring and evaluation;
 - (f) the chief financial officer; and
 - (g) any other employee designated by the vice-chancellor.
- (2) The executive management committee may, from time to time, co-opt any employee for a particular purpose as needed.

68. Chairperson, functioning, meetings and meeting procedures of executive management committee

- (1) The vice-chancellor serves as the chairperson of the executive management committee.
- (2) The vice-chancellor must set guidelines to ensure effective and efficient functioning of the executive management committee, to safeguard the proper functioning of institutional managers in their discrete areas of accountability.

- (3) The guidelines contemplated in subparagraph 68(2) must guide the handling of the unavoidable, necessary interaction between institutional managers on matters affecting their areas of accountability, including that -
 - (a) full, prior written disclosure of all facts pertaining to an interaction to all relevant executive managers, is required;
 - (b) no final decision affecting the area of accountability of an executive manager may be made without prior consultation with the relevant executive manager;
 - (c) the final resolution of any dispute arising from interaction between executive managers, pertaining to their respective areas of accountability, rests with the vice-chancellor;
 - (d) the executive management committee must be informed, at its next meeting, of any instance where an interaction contemplated in this paragraph arose or could arise, how it was resolved and the outcome must be recorded in the minutes;
 - (e) the council or a committee of council must regularly be informed regarding the handling of interactions between executive managers.
- (4) The vice-chancellor convenes meetings of the executive management committee and determines the agendas of such meetings.
- (5) The provisions applicable to council meetings in terms of paragraph 14 apply, with the necessary changes, to the meeting procedures of the executive management committee.

EXECUTIVE DEANS AND DEPUTY EXECUTIVE DEANS

69. Functions of executive deans and executive deputy deans

- (1) The executive dean serves as the executive and academic head of a faculty and is responsible for the overall governance, management and administration of the faculty.
- (2) The executive dean's primary reporting lines are to the deputy vice-chancellors.
- (3) The executive deputy dean act as a deputy to the executive dean, and performs any function assigned by the executive dean.

70. Appointment and term of office of executive dean

- (1) Executive deans are appointed by the council for a period of five (5) years.
- (2) The selection and appointment procedure, term of office, vacation of office and filling of a vacancy in the office of an executive dean is in the manner determined in the Rules.
- (3) In the temporary absence of an executive dean, the executive deputy dean assumes the role. If the executive deputy dean is unavailable, the vice-chancellor must designate another person to perform the functions of the office.

71. Discipline of executive deans

- (1) Executive Deans are subject to the Rules governing staff discipline.

EMPLOYEES**72. Appointment**

- (1) Subject to section 34 of the Act, the council and its delegates must appoint employees according to the staffing policies of the University as determined in the Rules.
- (2) With the exception of the appointment of the executive management from Peromnes grades 1 to 4, and provided that no person may appoint anyone who will report to him or her, the council may delegate its powers stipulated in subparagraph 72(1) to the vice-chancellor, and the council may delegate the power to make appointments to a relevant executive manager.
- (3) Notwithstanding subparagraphs 72(1) and (2), academic employees are appointed after consultation with the Senate in terms of the Rules.
- (4) An employee must in writing, before he or she assumes office –
 - (a) declare any legal entity, body or organisation that may in any way raise a conflict or possible conflict of interest with the University;
 - (b) notify the University of any conflict of interest before the University procures any goods or services from the employee, a legal entity, body or organisation in which the employee holds an interest.
- (5) An employee may not conduct business directly or indirectly with the University that entails or may entail a conflict of interest with the University, unless the council is of the opinion that –

- (a) the goods, products or services in question are unique;
 - (b) the supplier is a sole provider; and
 - (c) it is in the best interests of the University.
- (6) No employee may contract on behalf of the University with himself or herself or any legal entity, body or organisation in which he or she has any direct or indirect financial or personal interests.
- (7) Contracting referred to in subparagraph 72(6) relates to conduct that is aimed at receiving any direct or indirect personal gain that does not form part of the employment relationship contemplated in subparagraph 72(1).

73. Conditions of employment

- (1) The conditions of employment, including the determination and review of salaries of employees and all other forms of remuneration is approved by the council according to the University's policy as determined in the Rules which may be amended from time to time by the council.

74. Performance appraisal

- (1) All employees of the University are subject to continuous evaluation in the performance of their duties, in terms of the policies and Rules of the University.

75. Employees' discipline

- (1) Every employee is subject to a disciplinary code, a disciplinary procedure and a grievance procedure for employees, as approved by the council and determined in the Rules, which serve as an integral part of every employee's conditions of service.

76. Representative employees' organisations

- (1) Agreements with registered representative employees' organisations may, with reference to salary and related negotiations and according to the relevant labour legislation, be entered into by the institutional management and recommended to the council for approval.
- (2) The recognition agreement entered into between the University and a registered representative employees' organisation contemplated in subparagraph 76(1) may

periodically be reviewed and revised by the University, in terms of the Rules, and such revised recognition agreement becomes binding upon approval thereof by the council.

STUDENTS

77. Admission and registration of students

- (1) A person may be permitted by the council to register as a student only if he or she satisfies the legal requirements, if any, for admission to study at the University, and satisfies any further requirements for admission that may be determined by the council and laid down in the Rules.
- (2) The requirements for admission of a student to faculties are set out in the Rules and may be changed by the council after consultation with the senate.
- (3) A student is registered for one (1) year or for such shorter period as the council may determine in general or in a particular case.
- (4) In order for a student to renew his or her registration after expiry of the period contemplated in subparagraph 77(3), the student is required to comply with any conditions set by the council.
- (5) The council may refuse to allow the renewal of registration in accordance with the Rules, if a student fails to meet the conditions contemplated in subparagraph 77(4), which may include settling outstanding fees.
- (7) A student's signature or acceptance of online rules upon registration binds the student to abide by the Act, the Statute and the Rules of the University.

78. Discipline of students

- (1) The disciplinary procedures applicable to students are determined by the council after consultation with the SRC and the senate, and set out in the applicable Rules of the University.
- (2) The disciplinary measures and disciplinary provisions applicable to students are set out in the Rules and may be changed by the council after consultation with the senate, student services council and SRC.

- (3) Each of the disciplinary bodies, as determined by the Rules of the University, submit an annual report to the council, listing the offences and the penalties imposed by it.

DEGREES, DIPLOMAS AND CERTIFICATES

79. Authority, conferment, award and cancellation

- (1) The University has the authority to confer degrees and award diplomas and certificates, subject to the relevant legislation, this Statute and the Rules.
- (2) A congregation of the University is convened for the purpose of conferring degrees and awarding diplomas and certificates.
 - (3)
 - (a) A congregation is convened in the manner prescribed by the council in the Rules.
 - (b) The council delegates its authority contemplated in subparagraph 79(3)(a), to the vice-chancellor.
 - (c) A congregation is chaired by the chancellor or his or her delegate.
 - (d) A degree may be conferred and a diploma or certificate awarded in the absence of a graduate, diplomate or certificant, or posthumously.
 - (e) A person is not entitled to the privileges of a degree, diploma or certificate until such degree, diploma or certificate has been conferred or awarded by the University at a congregation.
 - (f) An official document confirming the conferment of a degree or the awarding of a diploma or certificate is issued once only, and this occurs at an official congregation of the University.
 - (g) If a student has satisfied the requirements for a degree, diploma or certificate and such degree, diploma or certificate has not yet been conferred or awarded, or if an official certificate has been lost, a document may be issued at the written request of the student, stating that the student has satisfied all the requirements for the degree, diploma or certificate and that it will be conferred or awarded on a certain date, or that it has already been conferred or awarded on a previous date.

- (h) In order to satisfy the requirements for the conferment of a degree, awarding of a diploma, certificate or other qualification, a student must satisfy the minimum requirements of the academic programme for that degree, diploma, certificate or other qualification, as prescribed in the Rules.
- (i) The council may, upon recommendation of the senate, withdraw any degree, diploma, certificate or other qualification or honour if any such degree, diploma, certificate or other qualification or honour was conferred in error.
- (j) The council may with regard to any completed qualification, upon recommendation of the senate, withdraw the qualification -
 - a. if it is proven that the requirements for admission to or for completion of the qualification were not satisfied before the qualification was granted or conferred; or
 - b. that the student or someone on his or her behalf acted dishonestly or fraudulently in any way with regard to admission, completing the learning or research programme or any aspect thereof, or any assessment with a view to meeting the requirements for the qualification; and
 - c. may take such further steps as it deems fit to ensure that the integrity and quality of the University's qualifications, and the academic reputation of the University is sustained.
- (k) The council may, upon recommendation of the senate, cancel, withdraw and demand summary return of all certificates, records and copies thereof that may have been issued in respect of any qualification contemplated in subparagraphs 79(3)(i) and (j).

80. Honorary degrees

- (1) The University may, without attendance and examination, confer an honorary degree of doctor in any faculty on any person who has rendered a distinguished service in the advancement of any branch of learning or technology, or upon any person the University deems worthy of such a degree.

- (2) The conferment of an honorary degree on a person does not entitle that person to practise any profession based solely on that honorary degree.
- (3) The criteria and procedures for conferring an honorary degree are determined in the Rules.

DONORS

81. Donors and donations

- (1) The University may receive donations in cash or in kind from donors, to assist the University in providing quality education, training, research and community service.
- (2) The University may recognise and register certain donors, as determined in the Rules.
- (3) The University may organise its recognised donors in terms of the Rules, and the council may to that end make policy and the vice-chancellor shall put the necessary processes and structures in place to ensure that such group of donors operates to the benefit of the University.

GENERAL PROVISIONS

82. Legal force of rules

- (1) The Rules made by the council have legal force.

83. Statute repealed and transitional provisions

- (1) The Statute of the Walter Sisulu University published in Notice No.13, Government Gazette No. 37235 of 17 January 2014, is hereby repealed. This Statute will come into effect on date of publication by Notice in the Government Gazette.
- (2) Persons holding office in terms of the Statute repealed as per subparagraph 83(1) are deemed to hold office under the corresponding provisions of this Statute.
- (3) Notwithstanding subparagraph 83(1), existing University structures defined in the Act continue under this Statute until new structures defined herein become operational.
- (4) Any actions taken under the Statute contemplated in subparagraph 83(1) are deemed to have been taken under corresponding provisions of this Statute.

- (5) All Rules in force at the commencement of this Statute remain applicable until replaced by provisions of this Statute or new Rules made under this Statute.
- (6) The senate, faculty boards, institutional forum, SRC and convocation which existed prior to the commencement of this Statute continue to exist and perform their functions as before, but must comply with the provisions of this Statute within twelve (12) months of the commencement of this Statute.
- (7) References in this statute to provisions of the Act shall be interpreted to encompass any amendments thereto. In the event of the repeal of such provisions, they shall be construed as referring to corresponding provisions, if any, of the successor Act

NATIONAL TREASURY

NO. 5367

4 October 2024

INVITATION TO NOMINATE CANDIDATES TO SERVE ON THE BOARD OF DIRECTORS OF THE PUBLIC INVESTMENT CORPORATION SOC LIMITED, SASRIA SOC LIMITED AND LAND AND AGRICULTURAL DEVELOPMENT BANK

The Minister of Finance hereby invites the nomination of persons to serve as members of the boards of directors of the abovementioned institutions.

The nominee must have **qualifications, and/or experience** in the following fields: **Public Investment Corporation SOC Limited:** leadership, strategy, governance, law, actuary, economics, investment and asset management, corporate and project finance, human resources, auditing, accounting, risk, auditing, finance, information and communications technology, public administration, and social sciences. (ii) **Sasria SOC Limited:** actuary; investments; insurance, reinsurance, leadership, strategy, governance, information and communications technology, law, accounting, auditing, risk, finance, and human resources. (iii) **Land and Agricultural Development Bank:** leadership, strategy, governance, law, accounting, auditing, risk, finance, human resources, information and communications technology, asset and liability management, corporate law, corporate treasury, agricultural economics, agricultural research and development, rural development, development finance, credit risk (modelling), banking, and financial markets.

The nomination must be accompanied by the following: (i) full names, address and contact numbers of the person or organisation making the nomination. (ii) a written and signed acceptance of the nomination by the nominee in the form of a letter also certifying that he/she is not disqualified from serving as a director in terms of the Companies Act, 2008 and in relation to the Land Bank nomination that he/she is not disqualified to serve as a member of the Board as determined by Section 10 of the Land Bank Act, 2002. (iii) a curriculum vitae of the nominee, providing the following information: full name; identity number and gender; physical address; contact numbers and email; previous experience quoting dates and organisations or institutions concerned; academic qualifications and service as a non-executive director on other boards. (iv) certified copies of the identity document and qualifications. (v) any other information that may be of assistance to the National Treasury in making recommendations.

Further considerations: Appointments will be subject to verifications of qualifications, relevant checks, and the preferred candidates obtaining necessary security clearance. Preference will be given to candidates whose appointments will enhance representativity.

The Minister of Finance determines the remuneration allowances and other benefits of the Chairperson and other Board members.

Disclaimer: The National Treasury reserves the right to amend, modify or withdraw this advert or to amend, modify or terminate any of the requirements set out herein at any time and from time to time, without prior notice and without liability to compensate or reimburse any party and to appoint candidates based on amongst others, qualifications, skills/ experiences and fit for purpose. If nominees are not contacted by 31 March 2025, they should consider their nominations unsuccessful.

Nominations should be submitted to the email address below by no later than **14 October 2024**.

Enquiries should be directed to **LANGUTA MANGANYE: ACTING DIRECTOR CORPORATE GOVERNANCE, Contact number: 078 782 9421 or E-mail: National_Treasury_Boards@zatreasury.onmicrosoft.com**

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DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5368

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****BROOM GROUP AFRICA (PTY) LTD
AND
BROOM LOGISTICS AFRICA (PTY) LTD****CASE NUMBER: 2024FEB0024**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 13 February 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein Broom Group Africa (Pty) Ltd ("BGA") intends to acquire the issued share capital in Broom Logistics Africa (Pty) Ltd ("BLA").

Parties and their Activities

2. The primary acquiring firm is BGA, a company incorporated in South Africa. BGA is wholly owned by DAKO Invest (Pty) Ltd ("Dako"). Dako is owned and controlled by DAKO Holdings (Pty) Ltd ("Dako Holdings").

BGA is a newly incorporated investment company and has to date not received any income or incurred any expenses and has no assets. BGA was incorporated for the sole purpose of acting as an investment vehicle for transportation, logistics and related services rendered in South Africa.

3. BGA does not have any shareholding by historically disadvantaged persons ("HDPs").
4. The primary target firm is BLA, a company incorporated in South Africa. BLA is jointly controlled by Dako, Broom Investment SAS Colombia, and Sociedad de Inversiones y Logística Técnica S.A.

5. The business activities of the BLA Group can broadly be described as the provision of logistics.
6. BLA does not have any shareholding by HDPs.

Competition Assessment

7. The Commission found that the merger does not result in any overlaps. Consequently, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa.

Public interest

8. To address the public interest concerns, the parties tendered a commitment indicating that within 24 (twenty-four) months of the Implementation Date of the proposed transaction, either of the Merging Parties shall conclude a HDP Transaction and/or ESOP. This commitment is set out in the conditions to the approval of the merger attached as **Annexure A** hereto.
9. The Commission found that the proposed transaction does not raise any other public interest concerns.

Conclusion

10. The Commission approves the proposed transaction with conditions set out in **Annexure A** hereto.

ANNEXURE A**CONDITIONS**

**BROOM GROUP AFRICA (PTY) LTD
AND
BROOM LOGISTICS AFRICA (PTY) LTD
CASE NUMBER: 2024MAR0024**

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them hereunder, and cognate expressions shall have corresponding meanings, namely:

- 1.1. **“Acquiring Firm”** means Broom Group Africa (Pty) Ltd;
- 1.2. **“Approval Date”** means the date the Commission issues a Clearance Certificate;
- 1.3. **“Broom Group Africa (Pty) Ltd”** means a private company incorporated in accordance with the laws of South Africa with registered business address located at Brickfield Offices 2, 13 Alberto Drive, Devonbosch, Corner Bottelary Road and R304, Stellenbosch, Western Cape, 7605.
- 1.4. **“Broom Logistics Africa (Pty) Ltd”** means a private company incorporated in accordance with the laws of South Africa with registered business address located at Brickfield Offices 2, 13 Alberto Drive, Devonbosch, Corner Bottelary Road and R304, Stellenbosch, Western Cape, 7605.
- 1.5. **“Commission”** means the Competition Commission of South Africa;
- 1.6. **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.7. **“Competition Act”** means the Competition Act No 89 of 1998, as amended;
- 1.8. **“Conditions”** means these conditions;
- 1.9. **“Day”** means any business day, being any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

- 1.10. “**ESOP**” means the establishment of an employee share ownership programme that will hold no less than 5% of the share capital in either of the Merging Parties within 24 (twenty-four) months from Implementation Date;
- 1.11. “**HDPs**” means historically disadvantaged persons, as contemplated in section 3(2) of the Act;
- 1.12. “**HDP Transaction**” means the introduction of an HDP shareholder/s as contemplated in section 3(2) of the Act, that will hold no less than 5% of the share capital in the Merging Parties within 24 (twenty-four) months from Implementation Date;
- 1.13. “**Implementation Date**” means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.14. “**Merger**” means the acquisition of sole control over the Target Firm by the Acquiring Firm;
- 1.15. “**Merging Entity**” means collectively the Acquiring Firm and the Target Firm;
- 1.16. “**Merger Parties**” means the Acquiring Firm and the Target Firm;
- 1.17. “**Qualifying Employees**” means at least 80 employees at the Merging Parties;
- 1.18. “**Target Firm**” means the Broom Logistics Africa (Pty) Ltd;
- 1.19. “**Tribunal**” means the Competition Tribunal of South Africa; and
- 1.20. “**Tribunal Rules**” means the Rules for the Conduct of Proceedings in the Tribunal.

2. The promotion of a greater spread of ownership, in particular to increase the levels of ownership by HDPs and works in firms in the market

- 2.1. Within 24 (twenty-four) months of the Implementation Date of the Proposed Transaction, either of the Merging Parties shall conclude the HDP Transaction and/or the ESOP.
- 2.2. The Merging Party that decides to conclude the ESOP, will comply with the principles set out in Annexure B below.
- 2.3. Should the Merging Parties prefer a combination of the ESOP and the HDP Transaction, the minimum combined value of the ESOP and HDP Transaction must be at least 5% of the issued share capital of the Merging Parties.

3. MONITORING

- 3.1. The Merging Parties shall inform the Commission in writing of the Implementation Date of the Merger within 5 (five) Days of its occurrence.
- 3.2. Prior to the implementation of the HDP Transaction, the Merging Parties shall provide the Commission with details of the HDP Transaction in writing. These details shall set out:
 - 3.2.1 the structure of the HDP Transaction;
 - 3.2.2 the identities of the HDP shareholder/s;
 - 3.2.3 evidence that the prospective participants to the HDP Transaction are HDPs.
 - 3.2.4 confirmation of whether the HDP Transaction constitutes a merger for the purposes of the Act.
- 3.3. For the avoidance of doubt, the HDP Transaction may not be implemented without the Commission's written approval. The Commission will provide its written decision within 30 Days of written notification, or such other period as may be agreed in writing.
- 3.4. The Commission may request such additional information from the Merging Parties which the Commission from time to time regards as necessary for the monitoring of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. An apparent breach by the Merging Parties of the Conditions shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

5. VARIATION

- 5.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, amended and/or the time period for fulfilment of the Conditions extended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, amended and/or the time period for fulfilment to be extended as aforementioned.

6. GENERAL

- 6.1. All correspondences in relation to the Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

Annexure B: ESOP Design Principles

<i>Cost to Workers and participating HDPs</i>	<ul style="list-style-type: none"> ○ No cost to Workers: Qualifying Workers must not be required to pay to participate in the ESOP. ○ Should the ESOP be funded through the notional vendor funding, the notional vendor funding will provide for a fixed trickle dividend in terms of which at least 35% of declared dividends will be paid to the beneficiaries with the remaining 65% used to service the vendor financed loan until such time as it is extinguished. ○ Once any loan funding has been extinguished, 100% of the declared dividends due to the beneficiaries will be distributed to the beneficiaries. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
<i>Governance</i>	<ul style="list-style-type: none"> ○ Qualifying Workers will be represented on the board of trustees of the ESOP.
<i>Duration</i>	<ul style="list-style-type: none"> ○ Perpetual / Evergreen
<i>Participants</i>	<ul style="list-style-type: none"> ○ All Qualifying Workers at the Merged Entity

<p><i>Participation Benefits</i></p>	<ul style="list-style-type: none">○ All Qualifying Workers will be entitled to dividends○ Beneficiaries will cease to participate for bad leaver events, resignations, retirement, medical incapacitation and boarding events, death and dismissals including any beneficiary that ceases to be employed by the Company or its subsidiaries or affiliates. Beneficiaries falling into any of the aforementioned categories shall have no claim against the ESOP for compensation.
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DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5369

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****AIPCF VIII GLOBAL CORP HOLDING LP****AND****BOART LONGYEAR GROUP LTD****CASE NUMBER: 2024JAN0006**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 8 January 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein AIPCF VIII Global Corp Holding LP ("AIPCF") intends to acquire Boart Longyear Group Ltd ("Boart Longyear"). Subsequent to the implementation of the proposed merger, AIPCF will exercise sole control over Boart Longyear.
2. The primary acquiring firm is AIPCF, a company incorporated in accordance with the laws of the Cayman Islands. AIPCF is managed by AIP, LLC ("AIP"), a company incorporated in accordance with the laws of United States of America ("USA"). AIPCF together with its controlled and controlling affiliates are referred to as the "AIPCF Group".
3. AIPCF Group does not directly or indirectly control any firms in South Africa. For completeness, AIPCF Group control 6 (six) foreign firms with activities in South Africa.
4. AIPCF Group does not have any shareholding/ownership held by historically disadvantaged persons ("HDPs") as contemplated in the Competition Act No.89 of 1998, as amended, (the "Act").

5. AIPCF Group is a private equity firm focused on acquiring, improving, and growing industrial businesses across sectors like manufacturing, distribution, and industrial services.
6. The primary target firm is Boart Longyear, a public company listed on the Australian Securities Exchange and incorporated in accordance with the laws of Canada. Boart Longyear control various firms globally. In South Africa, Boart Longyear controls 2 (two) subsidiaries, namely: (i) Longyear South Africa (Pty) Ltd (“Longyear South Africa”) and (ii) Veracio South Africa (Pty) Ltd (“Veracio South Africa”).
7. 26.23% of the shares in Longyear South Africa is held by HDPs through the Longyear BEE Trust.
8. Boart Longyear is an integrated provider of drilling services, drilling equipment and performance tooling for mining and mineral drilling companies globally. In South Africa, Boart Longyear conducts its activities through Longyear South Africa and Veracio South Africa.

Competition analysis

9. There are no horizontal overlaps between the activities of the merging parties. In addition, the proposed merger does not result in any vertical overlaps.

Public Interest considerations

10. To address public interest concerns, the Commission has accepted the conditions tendered by the merging parties, which are attached hereto as **Annexure A**.

**ANNEXURE A
AIPCF VIII GLOBAL CORP HOLDING LP**

AND

BOART LONGYEAR GROUP LTD.

CASE NO: 2024JAN0006

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning –

- 1.1 **“Acquiring Firm”** means AB Acquisition Corporation;
- 1.2 **“Approval Date”** means the date on which the Merger is approved in terms of the Competition Act;
- 1.3 **“Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.4 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.5 **“Competition Act”** means the Competition Act, 89 of 1998;
- 1.6 **“Conditions”** means these conditions;
- 1.7 **“Days”** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.8 **“HDPs”** means historically disadvantaged persons as contemplated by the Competition Act;

- 1.9 **“Implementation Date”** means the date on which the Merger is implemented by the Merging Parties in South Africa;
- 1.10 **“LRA”** means the Labour Relations Act, 66 of 1995, as amended;
- 1.11 **“Merger”** means the proposed transaction notified to the Commission under the above case number;
- 1.12 **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.13 **“Public Interest initiatives”** means all the Target Firm’s public interest initiatives such as bursary and learnership programmes for HDPs, preferential procurement from HDP owned firms, supplier, enterprise and socio-economic development, amongst others.
- 1.14 **“Target Firm”** means, for purposes hereof, Longyear South Africa Proprietary Limited and Veracio South Africa Proprietary Limited;
- 1.15 **“Tribunal”** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act; and
- 1.16 **“Tribunal Rules”** mean the Rules for the Conduct of Proceedings in the Tribunal.

2. EMPLOYMENT CONDITION

- 2.1 The merged entity shall not retrench any employees in South Africa as a result of the Merger.
- 2.2 For the sake of clarity, retrenchments for purposes of these Conditions, will not include (i) voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

3. ENTERPRISE AND SUPPLIER DEVELOPMENT, CORPORATE SOCIAL RESPONSIBILITY AND SKILLS DEVELOPMENT

- 3.1 For at least a 3 (three) year period following the Implementation Date, the merged entity in South Africa shall:

- 3.1.1 continue to operate all Public Interest initiatives and programs associated with the Target Firm in South Africa that are currently in place, subject to the provisions of those existing programs and considerations the Target Firm currently takes into account in the ordinary course. The Target Firm has disclosed the 2023 financial year expenditure on Public Interest initiatives to the Commission on a confidential basis; and
- 3.1.2 enhance the Target Firm's Public Interest initiatives and programs in South Africa to the value of no less than **R[CONFIDENTIAL]** per year by funding additional bursaries and hiring additional HDP employees in South Africa into roles which provide skills development.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1 The Target Firm in South Africa shall circulate a non-confidential version of the Conditions to all employees in South Africa within 10 (ten) Days of the Approval Date.
- 4.2 The Target Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of it becoming effective.
- 4.3 Within 45 (forty-five) Days of each anniversary of the Approval Date up until the third anniversary of the Implementation Date, the merged entity shall provide a suitable and appropriately detailed annual report to the Commission regarding compliance with the Conditions.
- 4.4 The Commission may request any additional information from the Merging Parties, which the Commission from time to time may deem reasonably necessary for purposes of monitoring the extent of compliance with these Conditions.

5. APPARENT BREACH

- 5.1 Should the Commission receive any complaint in relation to non-compliance with the above Conditions and otherwise determine that there has been an apparent breach of these Conditions, the breach shall be dealt with in terms of Rule 37 of the Tribunal Rules read together with Rule 39 of the Commission Rules.

6. VARIATION

- 6.1 The merged entity may at any time, and on good cause shown, apply to the Commission for any of the Conditions to be waived, amended or relaxed. Should a

dispute arise in relation to the variation of the Conditions, application may be made to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

7. GENERAL

- 7.1 All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NO. 5370****4 October 2024****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****DISCOVERY ENERGY HOLDINGS, L.P.****AND****THE ENERGY BUSINESS OF KOHLER CO.****CASE NUMBER: 2024JAN0024**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 19 January 2024, the Competition Commission ("Commission") received a notice of an intermediate merger wherein Discovery Energy Holdings, L.P. ("Discovery Energy Holdings"), an exempted limited partnership organised under the laws of the Cayman Islands, intends to acquire sole control of certain entities controlled by Kohler Co. ("Kohler") constituting its energy business ("Kohler Energy or the Target Firm").
2. The primary acquiring firm Discovery Energy Holdings is among the entities that are fully-owned, directly or indirectly managed and/or advised (including through intermediaries and funds) by Platinum Equity Advisors, LLC (Platinum Equity Advisors) and ultimately controlled by Platinum Equity, LLC ("Platinum Equity"), a limited liability company incorporated in accordance with the laws of the United States of America (USA). All those entities that are fully owned, directly or indirectly managed and/or advised (including through intermediaries and funds) by Platinum Equity Advisors and ultimately controlled by Platinum Equity are collectively referred to as Platinum Equity Group. Discovery Energy Holdings controls several firms in South Africa, including Calderys South Africa Proprietary Limited ("Calderys SA").

3. Neither Discovery Energy Holdings, nor Platinum Equity, have any shareholding by historically disadvantaged persons (“HDPs”) as contemplated in the Competition Act No.89 of 1998, as amended (the “Act”)
4. Platinum Equity Group is active in firms that provide services and solutions to customers in a broad range of businesses, including information technology, telecommunications, logistics, metal services, manufacturing, and distribution.
5. The primary target firm comprises certain entities controlled by Kohler Co. (“Kohler”) constituting its energy business (“Kohler Energy”). In South Africa, the Target Firm comprises only Clarke Energy South Africa Proprietary Limited (“Clarke South Africa”). Kohler is not controlled by any HDPs.
6. Kohler Energy is a manufacturing company that offers industrial energy systems, powertrain technologies and home energy solutions. Kohler Energy is headquartered in the USA. In South Africa, through Clarke South Africa, the Target Firm engages in the provision of distributed power plant solutions, including the engineering, installation, and maintenance of power plants used for industrial and mining activities.

Competition assessment

7. The Commission found that the proposed transaction will unlikely result in a substantial lessening or prevention of competition in any relevant market in South Africa.

Public interests

8. The merging parties tendered commitments which the Commission considers will render the merger justifiable on public interest grounds. These commitments are set out in **Annexure A**.

ANNEXURE A
DISCOVERY ENERGY HOLDINGS, L.P.
AND
THE ENERGY BUSINESS OF KOHLER CO.
CASE NUMBER: 2024JAN0024
CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them below and cognate expressions bear corresponding meaning: -

- 1.1 **"Acquiring Firm"** means Discovery Energy Holdings, L.P.;
- 1.2 **"Approval Date"** means the date referred to in the Commission's decision;
- 1.3 **"Business Day"** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.4 **"Clarke South Africa"** means Clarke Energy South Africa Proprietary Limited;
- 1.5 **"Commission"** means the Competition Commission of South Africa;
- 1.6 **"Competition Act"** means the Competition Act, No. 89 of 1998 (as amended);
- 1.7 **"Conditions"** means these conditions;
- 1.8 **"HDP"** means historically disadvantaged persons as contemplated in section 3(2) of the Competition Act;
- 1.9 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Acquiring Firm acquires sole control of the Target Firm;
- 1.10 **"Kohler"** means Kohler Co.;
- 1.11 **"LRA"** means the Labour Relations Act, No. 66 of 1995, as amended;
- 1.12 **"Merger"** means the acquisition of sole control by the Acquiring Firm of the Target Firm;
- 1.13 **"Merging Parties"** means the Acquiring Firm and the Target Firm;

1.14 “**Target Firm**” means certain entities (including Clarke South Africa) controlled by Kohler constituting its energy business; and

1.15 “**Tribunal**” means the Competition Tribunal of South Africa.

2. **CONDITIONS**

2.1 **Employment**

2.1.1 The Merging Parties shall not effect any merger specific retrenchments as a result of the proposed Merger.

2.1.2 For the sake of clarity, retrenchments do not include (i) voluntary separation arrangements; or (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

2.2 **Procurement from HDPs**

2.2.1 For a period of 3 (three) calendar years, being 2025, 2026 and 2027, Clarke South Africa will ensure that it procures to the total value of at least R 500,000 [CONFIDENTIAL], on an annual basis, the goods and/or services listed below, from firms owned or controlled by HDPs:

2.2.1.1 advertising services;

2.2.1.2 cleaning products;

2.2.1.3 motor vehicle parts;

2.2.1.4 printing and stationery;

2.2.1.5 security services; and

2.2.1.6 travel agency services.

2.3 **Capital expenditure**

- 2.3.1 For a period of 3 (three) calendar years, being 2025, 2026 and 2027, Clarke South Africa will incur capital expenditure of at least R 185,000 [CONFIDENTIAL], on an annual basis, to ensure continued growth of its business.
- 2.3.2 The capital expenditure referred to in paragraph 2.3.1 will:
- 2.3.2.1 relate to capital expenditure in respect of (i) motor vehicles, (ii) information technology equipment and (iii) fixtures and fittings; and
- 2.3.2.2 will be directed towards firms owned or controlled by HDPs.

3. **MONITORING OF COMPLIANCE WITH THE CONDITION**

- 3.1 The Merging Parties shall circulate a non-confidential version of the Conditions to their employees in South Africa within 5 (five) Business Days of the Approval Date.
- 3.2 As proof of compliance with clause 3.1 a senior executive of each of the Merging Parties shall within 10 (ten) Business Days of circulating the Conditions, submit to the Commission an affidavit attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to the employees and their employee representatives.
- 3.3 The Merging Parties shall inform the Commission of the Implementation Date within 5 (five) Business Days of it becoming effective.
- 3.4 By no later than 31 March 2026, 31 March 2027 and 31 March 2028, respectively, Clarke South Africa shall submit a report confirming compliance with all the Conditions. Each such report shall be accompanied by an affidavit attested to by a director of each of the Merging Parties confirming the accuracy of the information contained in the report and attesting to compliance with the Conditions.
- 3.5 The Commission may request any additional information from the Merging Parties which the Commission from time to time may deem necessary for purposes of monitoring the extent of compliance with these Conditions.

4. **BREACH**

- 4.1 In the event that the Commission determines that there has been an apparent breach by the Merging Parties of any of the above Conditions, this shall be dealt with in terms

of Rule 39 of the Rules for the Conduct of Proceedings in the Commission read together with Rule 37 of the Rules for the Conduct of Proceedings in the Tribunal.

5. **VARIATION**

- 5.1 The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, amended and/or the time period for fulfilment of the Conditions to be extended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, amended and/or the time period for fulfilment to be extended as aforementioned.

6. **GENERAL**

- 6.1 All correspondence in relation to the Conditions must be submitted to the following email addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5371

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****EPIROC GROUP****AND****CERTAIN BUSINESS ACTIVITIES AND ASSETS OF WECO (PTY) LTD****CASE NUMBER: 2024JAN0033**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 23 January 2024, the Competition Commission ("Commission") received a notice of an intermediate merger wherein Epiroc Group intends to acquire certain business activities and assets of Weco (Pty) Ltd ("Weco"). Upon implementation of the proposed transaction, Epiroc Group will own and solely control the business activities and assets of Weco.
2. The primary acquiring firms include Epiroc Holdings South Africa (Pty) Ltd ("Epiroc Holdings SA"), and other subsidiaries of Epiroc AB ("Epiroc AB"), a Swedish listed entity. In South Africa, Epiroc Holdings SA directly and indirectly controls several firms, including Aard Mining Equipment (Pty) Ltd ("AARD"). All the firms directly and indirectly controlled by Epiroc AB are referred to as Epiroc or the Acquiring Group.
3. Epiroc SA is held as to 26% by Tirisano Trust, which is a historically disadvantaged persons ("HDP") as contemplated in the Competition Act No.89 of 1998, as amended (the "Act"). Epiroc SA is also in the process of implementing an Employee Share Ownership Programme ("ESOP") of 5% in respect of AARD.
4. Epiroc develops and provides rock excavation and construction equipment and tools for surface and underground mining applications, including rock drills. Relevant to the proposed transaction are Epiroc's activities in respect of service and aftermarket support

(which entails selling parts, providing repairs & servicing and providing technical knowledge/expertise) (“aftermarket support”) for rock drills. Rock drills are components in drilling equipment used for underground and surface mining in order to drill holes into rock into which explosives are placed for excavation purposes. Epiroc provides aftermarket support for its own rock drills (Epiroc and AARD) and also for Sandvik’s (a competitor) rock drills.

5. The primary target firm comprises certain business activities and corresponding assets of Weco. These assets of Weco are referred to as the Target Firm.
6. The Target Firm is currently held as to 26% by the Weco Education Trust, an HDP empowerment trust.
7. The Target Firm provides service and aftermarket support for rock drills. Specifically, the Target Firm provides service and aftermarket support for rock drills manufactured by Original Equipment Manufacturers (“OEMs”) such as Epiroc (including AARD), Sandvik and Montabert, on behalf of its customers, mining houses and operators of the rock drills. In other words, the Target Firm does not own any rock drills, the rock drills are owned by the mining houses and construction companies. These mining houses/construction companies will use firms like the Target Firm for aftermarket support of the rock drills, such support may also be obtained from the OEMs directly. The Target Firm also sells Montabert rock drills as a non-exclusive agent, as well as rock drills that it remanufactures, and other components and spares, specifically for drill rigs.

Competition assessment

8. The Commission found that the proposed transaction will unlikely result in a substantial lessening or prevention of competition in any relevant market in South Africa.

Public interests

9. The merging parties tendered commitments which the Commission considers will render the merger justifiable on public interest grounds. These commitments are set out in **Annexure A**.

ANNEXURE A
THE EPIROC GROUP
AND
CERTAIN BUSINESS ACTIVITIES AND ASSETS OF WECO PROPRIETARY LIMITED
CASE NUMBER: 2024JAN0033

1. DEFINITIONS

In this document, the expressions used below will have the appropriate meaning assigned to them and the following and related expressions will bear the following meaning:

- 1.1 **“Acquiring Firms”** means collectively Epiroc Holdings South Africa Proprietary Limited, Epiroc SPV and Epiroc South Africa Proprietary Limited.
- 1.2 **“Approval Date”** means the date referred to on the Commission’s Merger Clearance Certificate;
- 1.3 **“Business”** means all assets of Weco relating to the manufacture, repair and supply and sale of hydraulic rock drills (also known as drifters) as well as other components and spares to the mining industry;
- 1.4 **“Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.6 **“Competition Act”** means the Competition Act, No. 89 of 1998, as amended;
- 1.7 **“Conditions”** means collectively, the conditions referred to in this document;
- 1.8 **“Days”** means any day that is not a Saturday, Sunday or official public holiday in South Africa;
- 1.9 **“Eligible Workers”** means at least all current or future Workers of the Target Firm below a managerial level who have been employed for a period of at least 2 (two) years, specifically excluding any Workers on fixed term contracts, independent contractors or any person who renders services at any time through the involvement

of a labour brokerage or otherwise by temporary contract other than as a permanently employed Worker of the Merged Firm;

- 1.10 “**Epiroc**” means Epiroc South Africa Proprietary Limited;
- 1.11 “**Epiroc SPV**” means K2023247076 (South Africa) Proprietary Limited;
- 1.12 “**ESOP**” means an employee share ownership programme, to be structured by way of a trust, to be implemented within the ESOP Establishment Period;
- 1.13 “**ESOP Establishment Period**” means a period of 24 (twenty-four) months reckoned from the Implementation Date;
- 1.14 “**HDP**” means a historically disadvantaged person as defined in section 3(2) of the Competition Act;
- 1.15 “**Implementation Date**” means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.16 “**Labour Relations Act**” means the Labour Relations Act, No. 66 of 1995;
- 1.17 “**Merger**” means the acquisition of the Target Firm by the Acquiring Firms;
- 1.18 “**Merged Firm**” means the Target Firm as controlled by the Acquiring Firms;
- 1.19 “**Merging Parties**” means the Acquiring Firms and the Target Firm;
- 1.20 “**NPAT**” means net profit after tax;
- 1.21 “**NVF**” means notional vendor financing or similar financing;
- 1.22 “**Prime Rate**” means the publicly quoted basic rate of interest, compounded monthly in arrears and calculated on a 365 (three hundred and sixty five) day year irrespective of whether or not the year is a leap year, from time to time published by Citibank at the relevant point in time as being its prime overdraft rate, as certified by any representative of that bank whose appointment and designation it shall not be necessary to prove;
- 1.23 “**SMMes**” means either a small business or a medium-sized business, as defined in the Competition Act;
- 1.24 “**South Africa**” means the Republic of South Africa;

- 1.25 “**Target Firm**” means the business of Weco relating to the manufacture, repair and supply and sale of hydraulic rock drills as well as other components and spares to the mining industry;
- 1.26 “**Tribunal**” means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act;
- 1.27 “**Tribunal Rules**” mean the Rules for the Conduct of Proceedings in the Tribunal;
- 1.28 “**Weco**” means Weco Proprietary Limited; and
- 1.29 “**Worker**” means the permanent employees (as contemplated under the Labour Relations Act) of the Target Firm who are South African resident.

2. ESTABLISHMENT OF THE ESOP

- 2.1 On or before the expiry of the ESOP Establishment Period, the Merged Firm shall establish the ESOP for the benefit of Eligible Workers. The ESOP shall hold (either directly or through Epiroc SPV) an interest equivalent to 5% of the value of the Target Firm as at the Implementation Date, in accordance with the design principles set out in **Annexure B**.

3. MANAGEMENT OF THE TARGET FIRM

- 3.1 The majority of the board of directors of Epiroc SPV shall be comprised of HDPs.

4. MONITORING

- 4.1 The Merging Parties shall circulate non-confidential versions of the Conditions to Workers of the Target Firm within 10 (ten) Days of the Approval Date.
- 4.2 As proof of compliance with Clause **Error! Reference source not found.** above, the Merging Parties shall, within 5 (five) Days of circulating the Conditions, submit to the Commission an affidavit by a senior official attesting to the circulation of the Conditions and provide a copy of the notices circulated.
- 4.3 Within 5 (five) days after the Implementation Date, the Merging Parties shall notify the Commission in writing of the Implementation Date.
- 4.4 The Merging Parties shall submit to the Commission a copy of the trust deed for the ESOP within 10 (ten) Days of it being duly signed and executed.

4.5 The Merging Parties shall submit a report on each anniversary of the Implementation Date, up until the 3rd (third) anniversary, setting out its compliance with these Conditions. This report shall be accompanied by an affidavit, attested to by a director of the Merged Firm, confirming the accuracy of the report.

4.6 The Commission may request any additional information from the Merging Parties, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.

5. VARIATION OF CONDITIONS

5.1 The Merging Parties may at any time, and on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

6. APPARENT BREACH

6.1 Any person who believes that the Merged Firms have failed to comply with these Conditions may approach the Commission with their complaint.

6.2 If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

7. GENERAL

7.1 All correspondence concerning these Conditions must be submitted to the following email addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

ANNEXURE B - CONFIDENTIAL

Item No.	Design Principle	Applicable Criteria
1.	Structure	<ul style="list-style-type: none"> ➤ The ESOP will be established as a unitised structure in which Eligible Workers will receive units. ➤ The ESOP will hold (either directly or through Epiroc SPV) an interest equivalent to 5% (five percent) of the value of the Target Firm as at the Implementation Date.
2.	Cost to Workers	<ul style="list-style-type: none"> ➤ Eligible Workers will not be required to pay anything to participate in the ESOP. ➤ The ESOP will be funded by way of NVF to be provided by Epiroc SPV, or an affiliate company. The NVF will bear interest at the Prime Rate. ➤ The NVF will provide for a trickle dividend to the ESOP of 35% for distribution to Eligible Workers, with the remaining 65% used to service the NVF, until such time that it is extinguished. ➤ Once the NVF has been extinguished, 100% of the declared dividends due to the ESOP will be distributed to the ESOP and thereafter distributed to Eligible Workers.
3.	Governance	<ul style="list-style-type: none"> ➤ Eligible Workers shall be entitled to appoint at least 50% of the trustees of the ESOP and Epiroc SPV shall be entitled to appoint the remaining trustees. Decisions will be taken by a majority of trustees and in the event of any deadlock, the trust deed for the ESOP will contain appropriate deadlock breaking mechanisms.
4.	Duration	<ul style="list-style-type: none"> ➤ Evergreen.
5.	Participants	<ul style="list-style-type: none"> ➤ All Eligible Workers of the Target Firm.

Item No.	Design Principle	Applicable Criteria
6.	<i>Participation Benefits</i>	➤ The ESOP will, after having complied with the terms of the NVF Loan, distribute the net income of the ESOP to Eligible Beneficiaries in the ratio stipulated in 2 above until such time that the NVF is extinguished (whereafter 100% of the declared dividends due to the ESOP will be distributed by the ESOP to Eligible Workers).

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5372

4 October 2024



*competition***commission**
south africa

Guidelines on Indivisible Transactions

September 2024

Final

1. PREFACE

1.1. This Guideline has been prepared in terms of section 79(1) of the Competition Act No. 89 of 1998 (as amended) (“the Act”) which provides that the Competition Commission (“Commission”) may prepare guidelines to indicate its policy approach on any matter falling within its jurisdiction in terms of the Act.

1.2. This Guideline is intended to provide guidance on the Commission’s approach when evaluating whether *two or more transactions* can be filed with the Commission under a single merger notification where each transaction, if treated separately, may on its own constitute a merger as defined in section 12(1) of the Act.

1.3. The Commission recognises that each transaction structure is different and as a result, this Guideline should not be interpreted as preventing the Commission from exercising its discretion on a case-by-case basis on whether multiple transaction should be notified and assessed under a single merger filing. Accordingly, this Guideline is not exhaustive of all factors that the Commission will take into account in determining whether multiple transactions are indivisible.

1.4. This Guideline is not binding on the Commission, the Tribunal or the courts but any person interpreting or applying section 12(2) of the Act must take this Guideline into account.¹

¹ Section 79(4) of the Act.

2. DEFINITIONS

The following terms are applicable to this guideline:

- 2.1. **“Acquiring Firm”** means a firm-
 - a) that, as a result of a transaction in any circumstances set out in section 12 of the Act, would directly or indirectly acquire, or establish direct or indirect control over, the whole or part of the business of another firm;
 - b) that has direct or indirect control over the whole or part of the business of a firm contemplated in paragraph (a); or
 - c) the whole or part of whose business is directly or indirectly controlled by a firm contemplated in paragraph (a) or (b).
- 2.2. **“Act”** means the Competition Act No. 89 of 1998, as amended;
- 2.3. **“CAC”** means Competition Appeal Court established in terms of section 36 of the 1998 Act;
- 2.4. **“Commission”** means the Competition Commission of South Africa established in terms of section 19 of the 1998 Act;
- 2.5. **“Competition Authorities”** refers collectively to the Commission, the Tribunal and the CAC as the case may be;
- 2.6. **“Failure to notify”** means the failure to notify a notifiable transaction as contemplated in section 13A(1) of the Act;
- 2.7. **“Firm”** includes a person (juristic or natural), partnership or a trust;

- 2.8. **“Guideline”** means this guideline which has been prepared and issued in terms of section 79(1) of the Act;
- 2.9. **“Indivisible Transaction”** refers to multiple transactions which can be notified and assessed under a single merger filing;
- 2.10. **“Merger”** means a merger as defined in section 12(1) of the Act and includes a proposed merger;
- 2.11. **“Target Firm”** means a firm-
- a) the whole or part of whose business would be directly or indirectly controlled by an acquiring firm as a result of a transaction in any circumstances set out in section 12 of the Act;
 - b) that, as a result of a transaction in any circumstances set out in section 12 of the Act, would directly or indirectly transfer direct or indirect control of the whole or part of, its business to an acquiring firm; or
 - c) the whole or part of whose business is directly or indirectly controlled by a firm contemplated in paragraph (a) or (b) above.
- 2.12. **“Tribunal”** means the Competition Tribunal of South Africa established in terms of section 26 Competition Act, No. 89 of 1998.

3. INTRODUCTION

- 3.1. This Guideline has been prepared to provide guidance to merger parties when structuring and notifying multiple transactions to the Commission.
- 3.2. This Guideline is intended to set out factors which the Commission will take into account in determining the indivisibility of multiple transactions. These factors are non-exhaustive.

- 3.3. This Guideline does not deal with the definition of control and the type of control which a party to a transaction will be acquiring, in terms of section 12(2) of the Act, when notifying a transaction to the Commission. Accordingly, this Guideline assumes that there is acquisition of control in respect of each transaction.
- 3.4. This Guideline applies to all merger transactions and is not market, sector or industry specific.

4. LEGISLATIVE FRAMEWORK

- 4.1. There are two requirements for the notifiability of a transaction. The first requirement is that a transaction must fall within the definition of a merger, as contemplated in section 12(1) of the Act. The second requirement is that a transaction must meet the requisite monetary threshold for a notifiable merger.
- 4.2. Section 12(1) of the Act defines what constitutes a merger. Section 12(1) provides as follows:

"For purposes of this Act, a merger occurs when one or more firms directly or indirectly acquire or establish direct or indirect control over the whole or part of the business of another firm. (b) A merger contemplated in paragraph (a) may be achieved in any manner, including through-(i) purchase or lease of the shares, an interest or assets of the other firm in question; or (ii) amalgamation or other combination with the other firm in question"

- 4.3. Section 12(2) of the Act provides for various instances that can be considered to determine a merger, however the subsection is non-

exhaustive.² In *Distillers Corporation (SA) Ltd v Bulmer (SA) Ltd* (Distillers) the Competition Appeal Court (“CAC”) held that the Act “*envisages a wide definition of control, so as to allow the relevant competition authorities to examine a wide range of transactions which could result in an alteration of the market structure and in particular reduce the level of competition in the relevant market.*”³

- 4.4. Section 13A(1) and (2) requires that parties to intermediate or large mergers must notify their transaction to the Commission. Generally, merging parties are not required to notify a small merger.⁴ However, a small merger may be voluntarily notified to the Commission at any time⁵ or the Commission may, within six months of the implementation of a small merger, require the merging parties to notify the small merger, if in the opinion of the Commission, a small merger may substantially prevent or lessen competition or cannot be justified on public interest grounds.⁶ Section 13A(3) expressly prevents the implementation of an intermediate and large merger without the prior approval of the competition authorities.⁷

5. ASSESSEMENT OF THE INDIVISIBILITY OF A TRANSACTION

- 5.1. The compulsory notification regime of the Act obliges parties, to a notifiable merger (intermediate or larger mergers), to notify the Commission in the manner and form prescribed of a proposed merger.⁸ The investigative powers of the Commission, are triggered when a transaction constitutes a notifiable merger in-terms of section 13A(1) of the Act.⁹

² *Bulmar SA (Pty) Ltd and Another v Distillers Corporation (SA) Ltd* 94/FN/Nov00 and 101/FN/Dec00 at p13.

³ 08/CAC/May01 at page 26.

⁴ Section 13(1)(a) of the Act.

⁵ Section 13(2) of the Act.

⁶ Section 13(3) of the Act.

⁷ *S.O.S Support Public Broadcasting Coalition v South African Broadcasting Corporation (SOC) Limited* [2018] ZACC 37; 2018 JDR 1674 (CC); 2018 (12) BCLR 1533 (CC) para 43.

⁸ *S.O.S Support Public Broadcasting Coalition v South African Broadcasting Corporation (SOC) Limited* [2018] ZACC 37; 2018 JDR 1674 (CC); 2018 (12) BCLR 1533 (CC) para 36.

⁹ *S.O.S Support Public Broadcasting Coalition v South African Broadcasting Corporation (SOC) Limited* [2018] ZACC 37; 2018 JDR 1674 (CC); 2018 (12) BCLR 1533 (CC) para 43.

- 5.2. Transactions are typically interdependent and indivisible where each transaction would not be implemented without the other transaction(s). Different transactions would not be considered indivisible if a transaction would proceed irrespective of whether or not the other transaction proceeds.
- 5.3. The indivisibility of a transaction may occur on a factual or legal basis or both. The Commission recognises both forms of indivisibility for purposes of determining whether multiple transaction should be notified under a single merger filing.

Factual and legal indivisibility

- 5.4. In *Crown Gold Recoveries (Pty) Ltd, the Industrial Development Corporation of SA Ltd and Khumo Bathong Holdings (Pty) Ltd (Khumo)*, the Tribunal, in the context of a two-phased transaction, held that “[t]he first leg is merely to facilitate the possibility for the second to happen. Legally and factually the two legs constitute parts of a single transaction”.¹⁰ The Tribunal considered the transactions to comprise a single merger where the transactions were both legally and factually related to each other.
- 5.5. The Tribunal recognises that in determining whether a transaction is indivisible or not, a transaction can be factually indivisible and/or it can be legally indivisible. The transaction will have to be factually indivisible or legally indivisible or both if the transaction is to be considered indivisible.¹¹

¹⁰ *Crown Gold Recoveries (Pty) Ltd and Industrial Development Corporation of South Africa Limited / Khumo Bathong Holdings (Pty) Ltd* (31/LM/May02) [2002] ZACT 38 (4 June 2002), page 3.

¹¹ *PeerMont Holdings (Pty) Ltd and LCI (Overseas) Investments (Pty) Ltd* (LM059Jun19) para 9. This transaction involved two separate transactions. The first transaction involved the purchase (by a majority shareholder – Emerald Safari Resort (Pty) Ltd (“Emerald”)) of shares held by minority shareholders, this was regarded as the minority transaction. Emerald was owned by LCI Overseas Investments (Pty) Ltd (the primary target firm). In the second transaction PeerMont Holdings (Pty) Ltd (“PeerMont”) was to acquire 100% of the issued share capital of the primary target firm. This was regarded as the majority transaction. The Tribunal agreed with the Commission that both the minority and majority transactions were both factually and legally indivisible.

Factors that the Commission will consider in determining indivisibility

5.6. For purposes of determining whether multiple transactions should be treated as a single indivisible transaction, in the sense that one transaction cannot be implemented without the implementation of the other transaction(s), the Commission will assess a number of interrelated factors. These factors include:¹²

- 5.6.1. the manner in which the transaction is structured;
- 5.6.2. the relationship between the transactions;
- 5.6.3. the interdependence of the transactions (whether one transaction could be carried out without the other transactions);
- 5.6.4. the rationale underlying the multiple transactions;
- 5.6.5. whether the transactions will be implemented simultaneously under same agreement;
- 5.6.6. whether there are multiple acquiring firms, under common shareholding, acquiring the same target firm(s);
- 5.6.7. whether there are multiple target firms with common shareholders/sellers and common acquiring firms;
- 5.6.8. whether there are multiple acquiring firms in terms of a single agreement pertaining to the same target firm (e.g. property transactions and consortium arrangements);

¹² For avoidance of doubt, the factors set out in these Guidelines are not exhaustive.

- 5.6.9. whether the transactions involve a similar competitive and public interest assessment and whether similar conditions are likely to be applicable to the transactions; and
- 5.6.10. whether the single notification is aimed at circumventing the applicable filing fees.
- 5.7. The assessment of indivisibility is a holistic assessment and no one factor is determinative of indivisibility. The assessment of indivisibility is also not about the convenience to the merging parties.
- 5.8. If a transaction meets the requirements of indivisibility, the Commission will assess the transaction under a single merger notification. However, if a transaction does not meet the requirements of indivisibility, the Commission may require merging parties to file the transactions separately.
- 5.9. A non-exhaustive list of examples of instances of indivisibility is provided in Annexure A which is attached to this Guideline.

6. FILING FEES

- 6.1. The determination of whether a transaction constitutes an indivisible transaction may implicate the applicable filing fee depending on whether the indivisible transaction constitutes an intermediate or large merger or multiple intermediate or large mergers.

7. DISCRETION

- 7.1. Section 79(4) provides that guidelines are not binding on the Commission, the Tribunal or the Courts but any person interpreting or applying section 12(2) of the Act must take the guidelines into account. The above Guidelines thus present the general methodology that the Commission will

follow in assessing whether multiple transactions are indivisible. Notwithstanding the above, this will not fetter the discretion of the Commission.

8. EFFECTIVE DATE

- 8.1. This Guideline becomes effective on the date indicated in the Government Gazette and may be amended by the Commission from time to time.

ANNEXURE A: EXAMPLES OF INSTANCES OF INDIVISIBILITY

- A. A non-exhaustive list of examples of instances of indivisibility, which the Commission has considered include:
- i. The target firms, being purchased by the same ultimate acquirer, are from the same ultimate seller and the acquisition of each target firm will not occur without acquisition of the other(s).¹³
 - ii. The extent to which the various legs of the transaction are dependent on each other.¹⁴ For example, Firm “A” acquires shares in Firms “B” who is

¹³ *Capitalworks Continental Holdings Partnership and Continental Compounders (Pty) Ltd and Continental Engineering Compounds (Pty) Ltd* (Case No: LM058Jul23) para 11. This transaction involved the acquisition of various shareholdings by Capitalworks Continental Holdings Partnership (“CCHP”) in (i) Continental Compounders (Pty) Ltd (“CC”) and (ii) Continental Engineering Compounds (Pty) Ltd (“CEC”), collectively referred to as “Continental”. Upon implementation of the proposed transaction, CCHP will acquire control over the Target Firms in terms of section 12(2)(g) of the Act. The Tribunal found that the proposed transactions constitute a single indivisible transaction as the Target Firms are involved in the same or interrelated lines of business, which is plastic compounding and are jointly controlled by common shareholders.

¹⁴ *Capitalworks Continental Holdings Partnership and Continental Compounders (Pty) Ltd and Continental Engineering Compounds (Pty) Ltd* (Case No: LM058Jul23) para 11.

merely holding it for a period of time while Firm “C” arranges financing in order to purchase the shares of Firm “B” from Firm “A”.¹⁵

- iii. The target firms are jointly controlled by common shareholders.¹⁶ For example, Firm “A” intends to acquire a shareholding in Firm “B” and Firm “C” wherein Firm “B” and Firm “C” are involved in the same line of business or related activities and Firm “B” and Firm “C” are jointly controlled by common shareholders.¹⁷
- iv. The target firms are intended to be disposed of simultaneously as an indivisible transaction. For example, Firm “A” enters into an agreement with Firm “B” and Firm “C” to purchase those firms simultaneously as one indivisible transaction. In circumstances where Firm “A” would not have acquired Firm “B” or Firm “C” without acquiring the other.¹⁸

¹⁵ *Crown Gold Recoveries (Pty) Ltd and Industrial Development Corporation of South Africa Limited / Khumo Bathong Holdings (Pty) Ltd* (31/LM/May02) [2002] ZACT 38 (4 June 2002).

¹⁶ *Capitalworks Continental Holdings Partnership and Continental Compounders (Pty) Ltd and Continental Engineering Compounds (Pty) Ltd* (Case No: LM058Jul23) para 11.

¹⁷ *Capitalworks Continental Holdings Partnership and Continental Compounders (Pty) Ltd and Continental Engineering Compounds (Pty) Ltd* (Case No: LM058Jul23).

¹⁸ *Khumonetix (Pty) Ltd v Auckland Investments 22 (Pty) Ltd, Blane & Company Sales (Pty) Ltd, Wideprops 97 (Pty) Ltd, Red Gold Investments (Pty) Ltd and Dreamfair Properties 11 (Pty) Ltd* LM112. This transaction involved the purchase by Khumonetix (Pty) Ltd (“Khumonetix”) of nine industrial properties. Post-merger Khumonetix would gain sole control and ownership of the target properties. The merging parties submitted that the proposed constituted an indivisible transaction as the sale agreements of the properties stipulated that they be sold as one indivisible transaction. The Tribunal agreed with the Commission’s view that the nine properties constituted an indivisible transaction as the nature of the target properties are interrelated because the transactional agreements were concluded simultaneously which indicates that the target properties were intended to be disposed of concurrently.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5373

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****VARUN BEVERAGES LIMITED
AND
THE BEVERAGE COMPANY (PTY) LTD****CASE NUMBER: 2023DEC0048**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

1. On 19 December 2023, the Competition Commission ("Commission") received notice of an intermediate merger wherein Varun Beverages Limited ("Varun India") intends to acquire the entire issued share capital of The Beverage Company (Pty) Ltd ("Bevco"). Upon implementation of the proposed transaction, Varun India will control Bevco.
2. The primary acquiring firm is Varun India. Varun India is incorporated in terms of the laws of India. Varun India is a public company which is listed on the National Stock Exchange of India Limited ("NSE"), as well as the Bombay Stock Exchange Limited ("BSE") and as such it is not controlled by any individual shareholders. Varun India controls a number of firms with only one subsidiary located in South Africa, namely Varun Beverages South Africa (Pty) Limited ("Varun SA").
3. Varun India does not have any ownership by Historically Disadvantaged Persons("HDPs").
4. Varun India and all of the firms controlled by it will collectively be referred to as "the Acquiring Group".
5. The Acquiring Group manufactures, distributes and sells a wide range of carbonated soft drinks, as well as a large selection of non-carbonated beverages, including

packaged drinking water sold under trademarks owned by PepsiCo. The Acquiring Group is an important player in the beverage industry principally in India and is one of the largest franchisees of PepsiCo worldwide (outside of the USA).

6. The Acquiring Group does not have any activities or operations in South Africa. Varun SA, its only South African subsidiary, has been inactive since it was established and has never conducted any operations.
7. The primary target firm is Bevco, a company incorporated in terms of the laws of South Africa. Bevco is not controlled by any individual firm. Bevco directly and indirectly controls The Beverage Company BidCo (Pty) Ltd and Little Green Beverages (Pty) Ltd.
8. The merging parties submit that Bevco does not have direct shareholding held by HDPs. However, they indicate that on a flow through basis, **[Confidential]** of the shares in Bevco are held by HDPs. According to the merging parties, the **[Confidential]** reflects indirect interests held in Bevco by **[Confidential]**.
9. Bevco and all the firms it controls will collectively be referred to as “the Target Group”.
10. The Target Group is a South African beverage producer headquartered in Johannesburg and produces carbonated soft drinks primarily in 2-litre plastic pack sizes. The Target Group’s primary bottling operating facilities are located in Johannesburg and East London. The Target Group sells its own branded carbonated soft drink products called Refresh! and is also a significant private label carbonated soft drink bottler to various retailers in South Africa. Moreover, the Target Group also produces a range of mixers, energy drinks and water and is the registered bottler for Pepsi in South Africa.
11. The Commission considered the activities of the merging parties and found that the proposed merger is unlikely to substantially prevent or lessen competition in any market.

Public Interest

12. To address employment, the parties tendered a condition that the merger will not result in any applications or job losses. To address other public interest issues, the parties tendered a package of conditions that includes: substantial capital expenditure over a period of 5 years post-merger; installing additional fridge coolers at various retail and

spaza outlets; increasing local procurement including from HDP owned firms; introducing an owner-driver scheme; and the implementation of a worker share ownership scheme.

13. The Commission considers that these conditions render the merger justifiable on substantial public interest grounds.
14. The Commission approves the proposed transaction subject to the conditions attached as **Annexure A** hereto.

ANNEXURE A
VARUN BEVERAGES LIMITED
AND
THE BEVERAGE COMPANY
CASE NUMBER: 2023DEC0048

CONDITIONS

1. DEFINITIONS

- 1.1. The following expressions shall bear the meanings assigned to them below, and cognate expressions bear corresponding meanings:
- 1.1.1. **“Approval Date”** means the date the Commission issues a Clearance Certificate in terms of the Competition Act;
- 1.1.2. **“Bevco”** means the Target Firm. Bevco is incorporated in terms of the laws of South Africa and has its principal place of business at 20 Anvil Street, Isando, Johannesburg, Gauteng, South Africa;
- 1.1.3. **“Business Days”** means any day which is not a Saturday, Sunday or an official holiday in South Africa;
- 1.1.4. **“Commission”** means the Competition Commission of South Africa;
- 1.1.5. **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.1.6. **“Competition Act”** means the Competition Act 89 of 1998, as amended from time to time;
- 1.1.7. **“Conditions”** mean these conditions;
- 1.1.8. **“DTIC”** means the Department of Trade, Industry and Competition of South Africa;
- 1.1.9. **“ESOT”** means Employee Share Ownership Trust;
- 1.1.10. **“ESOT Implementation Period”** within 12 months post the Implementation Date;
- 1.1.11. **“HDP”** means historically disadvantaged persons as contemplated in the Competition Act;

- 1.1.12. **“Independent Owner Driver”** means firms who meet the Qualification Criteria and in respect of which the Merged Entity has no shareholding;
- 1.1.13. **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.1.14. **“Labour Relations Act”** means Act 66 of 1995 (as amended);
- 1.1.15. **“Merged Entity”** means Bevco, subject to the control of Varun India;
- 1.1.16. **“Merger”** means the acquisition of control over Bevco by the Varun India;
- 1.1.17. **“Merger Parties”** means Varun India and Bevco and their respective subsidiaries;
- 1.1.18. **“Proposed transaction”** means the merger between Varun India and Bevco;
- 1.1.19. **“Qualification Criteria”** means Independent Owner Drivers who: (i) are HDPs or Firms which are owned or controlled by HDPs; (ii) hold all required permits, which have not previously been suspended for whatever reason; (iii) have police clearance; and (iv) have the necessary professional experience meaning that they: (a) own and/or operate a logistics business that complies with all applicable laws and regulations that provides transport services and can provide demonstrable proof of this; or (b) are employed by the Merged Entity.
- 1.1.20. **“Qualifying Workers”** means all permanently employees of Bevco for as long as they remain employed by Bevco.
- 1.1.21. **“SMME”** means Small, Medium and Micro Enterprises as defined in terms of section 1 of the Competition Act;
- 1.1.22. **“South Africa”** means the Republic of South Africa;
- 1.1.23. **“Varun India”** means the Acquiring Firm;

2. EMPLOYMENT

- 2.1. In the merger filing the merging parties undertake that the merger shall not result in any merger specific retrenchments as no merger specific retrenchments are contemplated and the merger does not result in any duplications.
- 2.2. For the sake of clarity, Merger specific retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement

packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements (for the purposes of the Labour Relations Act) unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

3. IMPACT ON THE SPECIFIC INDUSTRIAL SECTOR AND LOCAL INVESTMENT

3.1. Varun India will ensure that Bevco or any subsidiary of Bevco or company under common control with Bevco shall invest a minimum of **[Confidential]** over a period of five years ("**Capital Expenditure Commitment**"), commencing on the Implementation Date, in order to expand the production capacity of Bevco. The current total production capacity of Bevco is currently approximately **[Confidential]** ounces per annum, split between **[Confidential]** production lines across five regional facilities, being Boksburg, Durban, Isando, Cape Town and East London.

3.2. For the avoidance of doubt, Varun India commits that its South African production facilities will remain in South Africa for at least a minimum period of five years post the Implementation Date.

4. EFFECT ON THE ABILITY OF FIRMS OWNED BY HDPS OR SMMES TO ENTER INTO AND EXPAND IN THE MARKET

(i) *The HDP Suppliers Commitment*

4.1. Varun India will ensure that for a period of 36 months after the Implementation Date:

4.1.1. Bevco will continue to purchase from direct suppliers owned by HDPs or from alternative suppliers owned by HDPs or HDP firms, subject to supply occurring on reasonable commercial terms (including factors such as availability, price, quality, security of supply); and;

4.1.2. The annual aggregate purchases by Bevco from these HDP entities will be no less than **[Confidential]**, which is the aggregate purchases by Bevco from such entities in 2023 (subject to supply occurring on reasonable commercial terms including factors such as availability, price, quality, security of supply).

(ii) *Local Procurement Commitment*

4.2. Varun India will ensure that for a period of 36 months after the Implementation Date:

4.2.1. Bevco's aggregate purchases of raw materials and packaging from domestic South African based suppliers, (which include HDP suppliers), will increase by **[Confidential]**, which amount is **[Confidential]**% of Bevco's purchases from these entities in 2023 was **[Confidential]** billion and subject to supply occurring on reasonable commercial terms including factors such as availability, price, quality, security of supply. The raw materials sourced locally include **[Confidential]**.

4.2.2. At the end of the 3-year period Bevco's aggregate purchases of raw materials and packaging from domestic South African based suppliers will be no less than **[Confidential]**.

(iii) SMME Commitment

4.3. Varun India shall ensure that, over the five year period following the Implementation Date, Bevco or a related company installs cold storage refrigerators (called visicoolers) in at least **[Confidential]** retail and spaza stores in South Africa.

(iv) Owner-Driver Commitment

4.4. For a maximum period of 5 (five) years from the Implementation date, the Merged Entity shall provide financing on terms to be agreed between Bevco and Independent Owner Drivers who meet the Qualification Criteria to purchase trucks, bikes and push-carts with preference being granted by the Merged Entity to those HDPs employed by it as drivers.

4.5. Subject to the Merged Entity's operational needs and the ability of Independent Owner Drivers to service those, the Merged Entity will offer -

4.5.1. preferential option based on BEE rating, Black Ownership and previously disadvantaged groups with respect to volume and load allocation in bulk transport.

4.5.2. participation in route to market through a minimum of **[Confidential]** push carts to create and support small business development.

4.6. This is provided that the services to be provided by Independent Owner Drivers are available on reasonable, practical and competitive terms which comply with the Merged Entity's requirements.

4.7. The value of the commitment in Clause 4.4 is anticipated to be **[Confidential]** over a

period of five years.

5. PROMOTING A GREATER SPREAD OF OWNERSHIP

- 5.1. Varun India will, within the ESOT Implementation Period introduce an ESOT for Qualifying Workers which shall hold at least 5% of the current share capital of Bevco. The ESOT shall be established in accordance with the design principles set out in Annexure B.

6. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 6.1. The Merging Parties shall notify the Commission in writing of the Implementation Date within 5 (five) Business Days of it becoming effective.
- 6.2. Within 5 (five) Business Days post the ESOP Implementation Period, the Merging parties shall notify the Commission in writing of the following:
- 6.2.1. The total number of ESOT beneficiaries;
- 6.2.2. The total number of ESOT beneficiaries falling under the category of: (i) HDPs; (ii) Females; (iii) Youths (i.e. individuals under the age of 35 years).
- 6.3. The Merging Parties shall circulate a copy of the employment conditions to their employees, and employee representatives within 5 (five) Business Days of the Approval Date.
- 6.4. As proof of compliance with paragraph 6.3 a senior executive of Varun India shall within 10 (ten) Business Days of circulating the Conditions, submit to the Commission an affidavit attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to the employees and their employee representatives.
- 6.5. Within 45 (forty-five) Days of each anniversary of the Approval Date up until the 5th anniversary of the Implementation Date, the Merged Firm shall provide the Commission and the Minister with an appropriately detailed report regarding the Merged Firm's compliance with the Conditions.
- 6.6. The report referred to in clause 6.45 shall be accompanied by an affidavit attested to by the chief executive officer of the Acquiring Firm confirming the accuracy of the annual report and full compliance of these Conditions in the year to which the reports relate.

- 6.7. The Commission may request any additional information from the Merger Parties which the Commission from time to time may deem necessary for purposes of monitoring the extent of compliance with these Conditions.

7. VARIATION

- 7.1. The Merging Parties and/or the Commission may at any time, and on good cause shown, apply to the Tribunal for any of the Conditions to be waived or relaxed, including any including any resultant modification or substitution thereof.

8. APPARENT BREACH

- 8.1. If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

9. GENERAL

- 9.1. All correspondence in relation to the Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and Ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

ANNEXURE B - CONFIDENTIAL

Design Principle	Applicable Criteria
Structure	<ul style="list-style-type: none"> ○ Will be a trust to be established , and Qualifying Workers will be beneficiaries of the trust.
Cost to Workers	<ul style="list-style-type: none"> ○ The mechanism through which the shares in Bevco will be acquired by the ESOT will be developed by the parties taking account of these principles. If the acquisition funded through a loan, the loan agreement will provide that when a dividend is declared by the board of Bevco, at least [confidential]% of the value of the declared dividends (less withholding tax and after liabilities have been paid) will be used for the benefit of the beneficiaries with the remaining [confidential]% used to service the loan until such time as it is extinguished. Once the loan has been extinguished, 100% of the declared dividends due to the ESOT (after liabilities have been paid) will be distributed to the beneficiaries by the trustees in accordance with the terms of the Trust Deed (making provision for the trust to be able to discharge its liabilities until the payment of the next dividend). "Liabilities" for the purposes of this annexure include costs (administration costs, rental, fees of third party service providers such as auditors) and taxes. ○ No cost to workers: Workers will not be required to pay to be beneficiaries of the ESOT. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOT establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
Governance	<ul style="list-style-type: none"> ○ The board of trustees must be balanced and workers must be represented on the board, e.g., [Confidential]. ○ The independent trustee will be appointed by agreement between the other two trustees, subject to the candidate being acceptable to the Merged Entity and appropriately qualified.
Duration	<ul style="list-style-type: none"> ○ The ESOT is evergreen.

<i>Participants</i>	<ul style="list-style-type: none">○ ESOT – All Qualifying Workers will be beneficiaries of the ESOT○ Maternity leave will have no adverse impact on qualifying criteria.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5374

4 October 2024

NOTICE

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC)



Taking into consideration that CIPC official office days are Mondays to Fridays and does not include week-ends or public holidays, notice is hereby given in terms of and for purposes of the Acts mentioned in the Schedule below, that CIPC will be closed to the public from **10h00 on Tuesday 24 December 2024 up to and including Wednesday 1 January 2025**.

The CIPC Offices at –

- the Department of Trade, Industry and Competition (the dtic) (77 Meintjies Street, Block F – Entfufukweni) in Sunnyside, Pretoria;
 - 1st floor, Office 103, Sancaradia Building, 541 Madiba Street, Arcadia, Pretoria;
 - Talis House, No 17 Simmonds street, Cnr Main and Simmonds street, Marshalltown, Johannesburg;
 - Norton Rose House No 8, Shop Number 3, Riebeeck Street, Thibault Square, Cape Town; and
 - (CIPC officials) at Trade and Investment KwaZulu Natal (TIKZN) situated at 1 Arundel Close, Kingsmead Office Park, Kingsmead Boulevard, Stalwart Simelane Street in Durban,
- will re-open at 08h00 on Thursday 2 January 2025.

The lodgment of documents and services of legal documents will be accepted on Monday 23 December 2024 until 15h30.

The days from Tuesday 24 December 2024 up to and including Wednesday 1 January 2025 will be regarded as *dies non* for purposes of the stated Acts.

CIPC offers different lodgment / filing methods for certain services to its customers. During this period, services processed by automated means will continue to be processed while those services which require back-office intervention / finalisation e.g. services which require scanned documents to be e-mailed to dedicated e-mail addresses or uploaded via electronic platforms e.g. New E-Services, will only resume from Thursday 2 January 2025.

Please also take note that with regards to name reservations, all reserved names that would have lapsed between Tuesday 24 December 2024 up to and including Wednesday 1 January 2025, will now have their reservation dates moved forward to Thursday 2 January 2025 and will, therefore, only elapse on that date.

SCHEDULE

Trade Marks Act, 1993
 Patents Act, 1978
 Design Act, 1993
 Copyright Act, 1978
 Companies Act, 2008
 Close Corporations Act, 1984
 Co-operatives Act, 2005
 Registration of Copyright in Cinematograph Film Act, 1977

Kind regards.

Rory Voller

Signed by Rory Voller, RVoller@cipc.co.za

13/09/2024 16:03:10(UTC+08:00)

SIGNIFLOW

Rory Voller
 Commissioner: CIPC

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5375

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

**ECHO EDGE (PTY) LTD
AND
KHUMONETIX (PTY) LTD IN RESPECT OF THE LETTING ENTERPRISE KNOWN AS
INGERSOLL-RAND**

CASE NUMBER: 2024APR0010

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 8 April 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein Echo Edge (Pty) Ltd ("Echo Edge") intends to acquire Khumonetix (Pty) Ltd ("Khumonetix") in respect of the letting enterprise known as Ingersoll-Rand ("Target Property"). Post-merger, Echo Edge will exercise sole control over the Target Property.
2. The primary acquiring firm is Echo Edge, a private company, duly incorporated in accordance with the laws of South Africa. Echo Edge is ultimately controlled by **[CONFIDENTIAL]**
3. Echo Edge does not have any shareholding by historically disadvantaged persons ("HDPs") as contemplated in the Competition Act 89 of 1998 ("the Act").
4. Echo Edge is a private property investment company consisting of real estate companies holding a diversified property portfolio across South Africa. Echo Edge's Gauteng industrial property portfolio consists of two properties namely **[CONFIDENTIAL]**.

5. The primary target firm is Khumonetix, in respect of the Letting Enterprise known as Ingersoll-Rand (“Target Property”). Khumonetix is 100% owned by the **[CONFIDENTIAL]** Trust.
6. Khumonetix does not have any ownership by HDPs.
7. The Target Property is a light industrial property located in Jet Park, Boksburg. It is currently leased to Ingersoll-Rand (Pty) Ltd.

Competition Assessment

8. The Commission found that the proposed transaction is unlikely to result in any substantial prevention or lessening of competition in any market.

Public Interest considerations

9. The Commission found that Echo Edge and the Target Property do not have HDP ownership. To address this concern, the merging parties have tendered a condition as outlined in **Annexure A**.
10. There are no other public interest concerns arising.
11. The Commission therefore approves the proposed transaction subject to the conditions in **Annexure A**.

ANNEXURE A**ECHO EDGE PROPRIETARY LIMITED****AND****KHUMONETIX PROPRIETARY LIMITED IN RESPECT OF THE RENTAL
ENTERPRISE KNOWN AS INGERSOLL-RAND****CASE NUMBER: 2024APR0010**

CONDITIONS

1. Definitions

The following terms have the meaning assigned to them below, and cognate expressions have corresponding meanings -

- 1.1. **"Acquiring Firm"** Echo Edge Proprietary Limited, a company incorporated in accordance with the laws of South Africa;
- 1.2. **"Approval Date"** means the date on which the Commission issues a Clearance Certificate in terms of the Competition Act;
- 1.3. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act, with its principal place of business at 1st Floor, Mulayo Building (Block C), the DTI campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.4. **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission issued in terms of section 21 of the Competition Act;
- 1.5. **"Competition Act"** means the Competition Act No. 89 of 1998, as amended;
- 1.6. **"Conditions"** means these conditions;
- 1.7. **"Days"** means business days, being any day other than a Saturday, Sunday or official public holiday in South Africa;

- 1.8. **“Funding Amount”** means [CONFIDENTIAL], inclusive of VAT and all costs;
- 1.9. **“HDPs”** means a Historically Disadvantaged Person(s) as contemplated by the Competition Act No. 89 of 1998 (as amended);
- 1.10. **“HDP-owned”** means owned as to, at least, 50% plus 1 share by HDP(s);
- 1.11. **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;
- 1.12. **“Merger”** means the acquisition of sole control over the Target Property by the Acquiring Firm;
- 1.13. **“Merged Entity”** means collectively Acquiring Firm and Target Property;
- 1.14. **“Merger Parties”** means Acquiring Firm and Target Property;
- 1.15. **“Target Property”** means the property letting enterprise commonly referred to as “Ingersoll-Rand”;
- 1.16. **“Tribunal”** means the Competition Tribunal of South Africa.

2. Conditions

HDP procurement spend

- 2.1. The Acquiring Firm shall disburse the entire Funding Amount to procure the erection/ and installation and maintenance of solar panels and inverters at the Target Property.
- 2.2. The Acquiring Firm undertakes to procure the services referred to in paragraph 2.1 above from majority HDP-owned suppliers.
- 2.3. For the avoidance of doubt, the Acquiring Firm may disburse the Funding Amount in terms of this paragraph 2, within twenty-four (24) months of the Implementation Date, which period will include at least six (6) months of post-installation maintenance.

3. Monitoring of compliance with conditions

- 3.1. The Acquiring Firm will notify the Commission of the Implementation Date of the Merger within 10 (ten) business days of its occurrence.
- 3.2. The Acquiring Firm shall submit an affidavit to the Commission within 1 (one) month after the compliance with these Conditions, provided that this date falls within 24 months following the Implementation Date.

4. Breach

- 4.1. If the Merged Entity appears to have breached the above Conditions or if the Commission determines that there has been an apparent breach by the Merged Entity of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read with Rule 37 of the Rules for the Conduct of Proceedings in the Tribunal.

5. Variation

- 5.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, amended and/or the time period for fulfilment of the Conditions to be extended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, amended and/or the time period for fulfilment to be extended as aforementioned.

6. General

- 6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5376

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

**AGROBERRIES LIMITED
AND
BERRYWORLD GROUP HOLDINGS LIMITED**

CASE NUMBER: 2023JUN0028

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 21 June 2023, the Competition Commission ("Commission") received notice of an international transaction whereby Agroberreries Limited ("Agroberreries") intends to acquire (directly and/or indirectly), through several steps, [CONFIDENTIAL] of the entire issued share capital of BerryWorld Group Holdings Limited ("BerryWorld").
2. [CONFIDENTIAL]
3. The parties have requested that the Commission approve the acquisition [CONFIDENTIAL] of BerryWorld by Agroberreries. The Commission is of the view that that market conditions are unlikely to change significantly in the period between the acquisition of [CONFIDENTIAL]. As such, the Commission is amenable to the approval [CONFIDENTIAL] as sought by the merging parties.
4. The primary acquiring firm is Agroberreries, a firm based in the United Kingdom. Agroberreries is controlled by [CONFIDENTIAL], a company incorporated in terms of the laws of Panama. Agroberreries, together with their controlled affiliates, are referred to as the "Acquiring Group". The Acquiring Group does not directly or indirectly control any firms in South Africa.
5. The Acquiring Group does not have any activities in South Africa. Globally, Agroberreries is active in the fresh berry industry as a producer and marketer of berries, with offices in the United States of America and in the Netherlands. Agroberreries particularly specialises in blueberries, raspberries and blackberries. [CONFIDENTIAL]

6. The primary target firm is BerryWorld, a firm incorporated in the United Kingdom. BerryWorld directly or indirectly controls the following firms in South Africa: (i) BerryWorld SA Proprietary Limited (“BerryWorld SA”); and (ii) BerryWorld Local Proprietary Limited (“BerryWorld Local”).
7. BerryWorld is active in international berry breeding and marketing, with global operations in the United Kingdom, the Netherlands, Spain, France, South Africa, and Australia. BerryWorld SA markets and distributes blueberries for export to several countries.

Competition Assessment

8. The Commission considered the activities of the merging parties and found that no horizontal or vertical competition concerns arise because of the Proposed Transaction. This is due to Agroberries not having any activities in South Africa.
9. Considering the above, the Commission is therefore of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa.

Public Interest

10. The merging parties have made an unequivocal statement that the proposed merger will not result in any job losses. To address other public interest concerns, the parties have tendered the following commitments which will be valid for 3 years:
 - 10.1. increasing their current one-year internship program to a two-year internship program, to be offered to a minimum of two persons per annum that qualify as Historically Disadvantaged Persons (“HDPs”) within the meaning of the Competition Act;
 - 10.2. increasing its annual sponsorship in relation to its partnership with the Signa Academy, such that a fourth HDP learner will obtain an NQF Level 3 Qualification in agricultural related industries.
 - 10.3. one bursary to be offered to an HDP student to attend an appropriate tertiary institution/ agricultural college, on an annual basis. For the avoidance of doubt, one student will be offered a bursary in each of the three years and the bursary will fund the student’s entire tuition and related costs for their entire period of study towards the relevant qualification provided the student satisfies the pass requirements for each year;
 - 10.4. upon completion of their qualifications, the HDP students who were awarded the bursaries above will be employed as graduates by the merging parties; and
 - 10.5. the creation of a training program with respect to blueberry farming techniques focusing on educating HDP students at the target firm’s trial site in the Western Cape.
11. The proposed transaction does not raise any other public interest concerns.

12. The Commission approves the proposed transaction with the public interest conditions attached in **Annexure A** hereto.

ANNEXURE A**AGROBERRIES LIMITED****AND****BERRYWORLD GROUP HOLDINGS LIMITED****CASE NO: 2023JUN0028**

CONDITIONS

1. DEFINITIONS

- 1.1. The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning -
- 1.1.1. **"Acquiring Firm"** means Agroberreries Limited;
 - 1.1.2. **"Approval Date"** means the date referred to on the Commission's Merger Clearance Certificate (Form CC 15);
 - 1.1.3. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
 - 1.1.4. **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission;
 - 1.1.5. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
 - 1.1.6. **"Conditions"** means these conditions, and "Condition" means, as the context requires, any one of them;
 - 1.1.7. **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;

- 1.1.8. **“Graduate Program”** means a 24 month contract employment program which will be offered to the recipients of the Merging Parties’ bursaries upon completion of their qualifications, in order for them to gain work experience;
- 1.1.9. **“HDPs”** means historically disadvantaged persons as contemplated by the Competition Act No. 89 of 1998 (as amended);
- 1.1.10. **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.1.11. **“Internship Program”** means the Target Firm’s internship program offered to undergraduates which covers (i) grower and packhouse exposure (ii) international commercial understanding, (iii) career planning (iv) team collaboration, (v) work shadowing, (vi) mentorship and coaching and (vii) learning and development.
- 1.1.12. **“Merger”** means the acquisition of [CONFIDENTIAL] control of the Target Firm by the Acquiring Firm;
- 1.1.13. **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.1.14. **“NQF Level 3 Qualification”** means a qualification one receives after successfully completing Grade 11 or any other equivalent qualification.
- 1.1.15. **“South Africa”** means the Republic of South Africa;
- 1.1.16. **“SMME”** means a small, medium, or micro enterprise as contemplated in the National Small Enterprise Act, No. 102 of 1996;
- 1.1.17. **“Target Firm”** means BerryWorld Group Holdings Limited;
- 1.1.18. **“Tribunal”** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act; and
- 1.1.19. **“Tribunal Rules”** mean the Rules for the Conduct of Proceedings in the Tribunal.

2. CONDITIONS

- 2.1. The Merging Parties confirm that the Target Firm in South Africa shall commit to the following, for 3 (three) years following the Implementation Date:

- 2.1.1. increase its one-year Internship Program to a two-year Internship Program, to be offered to a minimum of 2 (two) HDPs per annum;
 - 2.1.2. increase its annual sponsorship, such that 1 (one) additional underprivileged HDP learner will obtain an NQF Level 3 Qualification in a study program related to the field of agriculture.;
 - 2.1.3. offer a total of 1 (one) bursary to HDP students to attend a tertiary institution/ agricultural college, on an annual basis. For the avoidance of doubt, one student will be offered a bursary in each of the three years, which will fund the student's entire tuition and related costs for their entire period of study towards the relevant qualification provided the student satisfies the pass requirements for each year;
 - 2.1.4. upon completion of their qualifications, the HDP students who were awarded the bursaries referred to in Clause 2.1.3. above will be included in the Graduate Program; and
 - 2.1.5. create of a training program with respect to blueberry farming techniques focusing on educating HDP students at the Target Firm's trial site in the Western Cape.
- 2.2. The total monetary amount committed to these programs shall be a minimum of R1 000 000 per annum over the three-year period or a minimum of R3 000 000 in total.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 3.1. The Acquiring Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of it becoming effective.
- 3.2. The Merger Entity shall, within 30 days of the Implementation Date, submit a report to the Commission confirming the details of the Target Firm's internship program and previous sponsorship of underprivileged HDP learners to obtain an NQF Level 3 Qualification. These submissions will serve of a benchmark for determining compliance with conditions 2.11 and 2.1.2.
- 3.3. The Merged Entity shall, on the first to third anniversary of the Implementation Date, submit a report confirming compliance with the condition in clause 2.
- 3.4. The Merged Entity shall, on the first to third anniversary of the Implementation Date, submit a report confirming compliance with the condition in clause 2.

- 3.5. Each report submitted in terms of paragraphs 3.2 to 3.3 shall be accompanied by an affidavit deposed to by a senior official of the Target Firms, confirming the accuracy of the information contained in the report and attesting to compliance with the Conditions.
- 3.6. The Commission may request any additional information from the Merging Parties, which the Commission from time to time may deem necessary for purposes of monitoring the extent of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 37 of the Tribunal Rules read together with Rule 39 of the Commission Rules.

5. VARIATION

- 5.1. The Merger Parties and/or the Commission may at any time, and on good cause shown, apply to the Commission for any of the Conditions to be waived, amended or relaxed. Should a dispute arise in relation to the variation of the Conditions, the Merger Parties may apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

6. GENERAL

- 6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5377

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****SPARROW JXB LIMITED****AND****OPTOMISE VOCO HOTEL PROPRIETARY LIMITED****CASE NUMBER: 2024APR0009**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

1. On 08 April 2024, the Competition Commission ("Commission") received notice of an intermediate merger whereby Sparrow JXB Ltd ("Sparrow") intends to acquire the entire issued share capital of Optomise Voco Hotel Proprietary Limited ("Optomise"). On completion of the proposed transaction, Sparrow will have sole control of Optomise.
2. The primary acquiring firm is Sparrow, a firm incorporated in Mauritius.
3. Sparrow, the firms controlled by Sparrow, and the firms controlling Sparrow will be referred to as the "Acquiring Group".
4. The Acquiring Group controls various firms in South Africa and abroad. Of relevance to this transaction are the activities of its subsidiaries (i) Cape Grace Hotel ("Cape Grace") and (ii) the Pullman Hotel
5. The Acquiring Group does not have any shareholding held by HDPs. However, the merging parties submit that the Acquiring Group will be implementing an HDP shareholder transaction within 18 to 24 months. The transaction entails the introduction of an HDP shareholder for **[CONFIDENTIAL]** % of the issued share capital in one of

the Acquiring Group's subsidiaries ("HDP Transaction"). This is as a result of a transaction that was previously considered by the Commission.

6. The Acquiring Group through Cape Grace and Stonehill owns two hotels in South Africa which are:
 - 6.1. The Cape Grace Hotel which is situated at the V&A Waterfront in Cape Town. The Cape Grace Hotel is a 120-room, 5 star luxury hotel which provides hotel accommodation as well as ancillary services thereto such as fine dining, conference, and spa facilities; and
 - 6.2. The Pullman Hotel (owned by Stonehill) which is situated in the city centre of Cape Town. The Pullman is a 214 room, 4 star hotel which operates as a mixed-use occupancy property.
7. The primary target firm is Optomise. Optomise is ultimately controlled **[CONFIDENTIAL]** Optomise and the firms controlled by Optomise will be referred to as the "Target Group". The Target Group does not have any shareholding held by HDPs.
8. The Target Group is an investment holding company in South Africa and its only investment in South Africa is a building known as the Bank Building ("Target Property"). The Target Property is located in Rosebank, Gauteng and comprises of the Voco Hotel, which is a 4 star hotel which provides hotel accommodation as well as ancillary services thereto such as dining, conference, and fitness facilities, a restaurant trading and office space.
9. The Commission considered the activities of the merging parties and found that the proposed merger results in a horizontal overlap in that both the Acquiring Group and Target Group are active in the broad market for the provision of short term hotel accommodation, 4-star graded hotels.
10. However, the Commission found that there is no geographic overlap between the 4 star short-term hotel accommodation owned by the merging parties as the hotels owned by the parties are located in different provinces. This is consistent with the approach adopted by the Commission in previous matters.
11. Considering the above, the Commission concludes that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.

Public interest assessment

Effect on employment

12. The merging parties submit that the transaction will have no adverse effect on employment. Furthermore, the merging parties submit that there will be no retrenchments as a result of the transaction.
13. To ensure that the transaction will not result in any retrenchments for the employees provided by a third party and who are directly involved in the day-to-day operations of the business of the Voco Hotel, the parties agreed to conditions set out in **Annexure A** herein.

Effect on promotion of a greater spread of ownership by historically disadvantaged persons and workers in firms in the market section 12A(3)(e)

14. The Commission considered the Acquiring Group's pending HDP Transaction which will result in the Acquiring Group having **[CONFIDENTIAL]**% shareholding held by HDPs. In this regard, the merging parties and the Commission have agreed to further remedies set out in **Annexure A** which includes a capex programme and procurement initiative.
15. There are no other public interest concerns arising.
16. The Commission approves the proposed transaction subject to conditions attached hereto as "**Annexure A**".

ANNEXURE A**SPARROW JXB LIMITED
AND
OPTOMISE VOCO HOTEL PROPRIETARY LIMITED
CASE No: 2024APR0009**

CONDITIONS

1. DEFINITIONS

- 1.1 The following expressions shall bear the meaning assigned to them below and cognate expressions shall bear a corresponding meaning -
- 1.1. "**Acquiring Firm**" shall have the meaning ascribed thereto in section 1(1) of the Competition Act;
- 1.2. "**Approval Date**" - the date on which the Merger is approved by the Commission and as set out in the Commission's clearance certificate (Notice CC 15);
- 1.3. "**Capex Programme**" - the refurbishment and upgrade programme to be implemented by the Primary Acquiring Firm at the Target Hotel. The Capex Programme includes expenditure and/or investments on construction, electrical, mechanical, engineering and plumbing (MEP), furniture, fixtures and equipment (FF&E), marketing and associated expenses and all professional fees and services relating to the aforementioned;
- 1.4. "**Commission**" - the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5. "**Competition Act**" - the Competition Act, No. 89 of 1998, as amended;
- 1.6. "**Conditions**" - these merger conditions contained in this Annexure A, and "**Condition**" means, as the context may require, any of them;

- 1.7. **"Days"** - any calendar day other than a Saturday, a Sunday or an official public holiday in the Republic of South Africa;
- 1.8. **"HDPs"** - historically disadvantaged person/s as contemplated in section 3(2) of the Competition Act;
- 1.9. **"Implementation Date"** - the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.10. **"Merged Entity"** - the Primary Target Firm subject to the control of the Primary Acquiring Firm following the Implementation Date;
- 1.11. **"Merging Parties"** - the Primary Acquiring Firm and the Primary Target Firm;
- 1.12. **"Merger"** - means the acquisition of 100% of the entire issued share capital of the Primary Target Firm by the Primary Acquiring Firm;
- 1.13. **"Primary Acquiring Firm"** - Sparrow JXB Limited (Mauritius) (GBC Number 204151);
- 1.14. **"Primary Target Firm"** - Optomise Voco Hotel Proprietary Limited (Registration Number 2019/465006/07);
- 1.15. **"SMME"** - either a small business or a medium-sized business, as those terms are defined in the Competition Act;
- 1.16. **"Target Hotel"** - the Voco Hotel, which is the main business of the Primary Target Firm;
- 1.17. **"Valor"** Valor Hospitality Partners Africa Proprietary Limited (Registration Number 2013/176188/07) and
- 1.18. **"Valor Employees"** - the employees of Valor who are directly involved in the day-to-day operations of the business of the Target Hotel. For the sake of clarity, a list of the employees of Valor who are involved in the day-to-day operations of the Target Hotel as at the Approval Date are reflected in **Schedule 1** hereto.

CONDITIONS

2. Capex Programme

- 2.1. The Primary Acquiring Firm undertakes to implement the Capex Programme in relation to the Target Hotel on the following basis –
- 2.1.1. the Primary Acquiring Firm will make a cumulative financial investment in the Target Hotel of not less than R[**CONFIDENTIAL**] within a period of [**CONFIDENTIAL**] months after the Implementation Date; and
 - 2.1.2. the Capex Programme will include expenditure and/or investments relating to construction, electrical, mechanical, engineering and plumbing (MEP) and furniture, fixtures and equipment (FF&E).

3. Employment

- 3.1. The Primary Acquiring Firm undertakes to employ the Valor Employees in the Primary Target Firm subject to the following conditions:
- 3.1.1. unless the Valor Employees are automatically transferred to the Primary Target Firm by operation of law, Valor consents in writing to the transfer of the Valor Employees to the Primary Target Firm on fair and reasonable commercial terms that are acceptable to the Primary Acquiring Firm; and
 - 3.1.2. Valor and the Primary Acquiring Firm reach written agreement on the commercial terms referred to in 3.1.1. within 3 months of the Implementation Date.
 - 3.1.3. For the sake of clarity, it is recorded and agreed that the Merging Parties will not be in breach of the Condition in 3.1. above if Valor and the Primary Acquiring Firm do not reach agreement on the commercial terms referred to in 3.1.1 by the date referred to in 3.1.2.
 - 3.1.4. Insofar as the Valor Employees are not employed by the Primary Target Firm in accordance with the provisions of 3.1 above, the Primary Target

Firm shall give preference to a Valor Employee who applies for a vacant position that may arise within the Merged Entity within a period of 12 (twelve) months from the Implementation Date, provided that the Valor Employee in question complies with the job requirements for the available vacant position.

4. Local Procurement

4.1. The Primary Acquiring Firm will use its reasonable commercial endeavours to procure products and services from SMME and/or HDP suppliers for purposes of the Capex Programme on condition that those SMME and/or HDP suppliers:

- 4.1.1. are able to supply readily available products required for the Capex Programme;
- 4.1.2. offer market related pricing; and
- 4.1.3. comply with the Acquiring Firm's service standards for workmanship, quality and response times.

5. MONITORING OF COMPLIANCE WITH THE CONDITIONS

5.1. The Merged Entity shall inform the Commission in writing of the Implementation Date within 5 Days of it becoming effective.

5.2. Within 20 Days of the Implementation Date, and on the first anniversary of the Implementation Date, if necessary, the Merged Entity shall provide the Commission with a report:

- 5.2.1. containing a description of the items on which funds have been spent as part of the Capex Programme;
- 5.2.2. the aggregated Rand value spent on the items referred to in 5.2.1; and

5.2.3. whether there have been any unforeseen delays or onerous approvals imposed by third parties which could affect the time period referred to in 2.1.1.

5.3. Any person including any employee of the Merging Parties who believes that the Merging Parties have not complied with or have acted in breach of the Conditions may approach the Commission.

5.4. The Commission may request additional information from the Merging Parties which is relevant for purposes of allowing the Commission to monitor the extent of compliance with these Conditions.

6. APPARENT BREACH

6.1. In the event of an apparent breach of these Conditions, this shall be dealt with in terms of Rule 37 of the Rules for the Conduct of Proceedings in the Competition Tribunal read together with Rule 39 of the Rules for the Conduct of Proceedings in the Commission.

7. VARIATION

7.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown and on notice to the Commission, for the Conditions to be waived, relaxed, modified and/or substituted.

8. GENERAL

8.1. All correspondence in relation to these Conditions must be submitted to the following email address: mergerconditions@compcom.co.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

Schedule 1

List of Valor Employees at the Approval Date [CONFIDENTIAL]

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5378

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

KSB SE & CO. KGAA

AND

DAVRON EQUIPMENT CLOSE CORPORATION AND DAVRON EQUIPMENT KWAZULU-NATAL
CLOSE CORPORATION

CASE NUMBER: 2024APR0006

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 04 April 2024, the Competition Commission ("Commission") received a notification of an intermediate merger in terms of which KSB SE & Co. Kommanditgesellschaft auf Aktien (KGaA) ("KSB") proposes to acquire sole control in each of Davron Equipment Close Corporation ("Davron"), Davron Equipment Kwazulu-Natal Close Corporation ("Davron KZN") and Davron Service and Maintenance Close Corporation ("Davron Services") (collectively the "Davron Entities"). Post-merger, KSB will have sole control of the Davron Entities.
2. The primary acquiring firm is KSB, a limited partnership in terms of the laws of Germany. In South Africa, KSB controls KSB Pumps (S.A.) (Pty) Ltd ("KSB SA") (100%). KSB SA controls KSB Pumps and Valves (Pty) Ltd ("KSB Pumps & Valves") (70%). The remainder of the shares in KSB Pumps & Valves are held by Insikazi Synergies (RF) Ltd (30%) ("Insikazi").
3. KSB, Klein Schanzlin & Becker GmbH, KSB Stiftung and Kühborth-Stiftung GmbH, and the firms they directly and indirectly control are collectively referred to as the KSB Group.
4. KSB is not owned or controlled by any historically disadvantaged persons ("HDPs") as contemplated in the Competition Act no 89 of 1998 (as amended) ("the Act"). However, KSB Pumps & Valves is controlled as to 30% by an HDP, Insikazi.

5. KSB Group is a player in the fire control and protection system industry. It manufactures and sells pumps, valves and associated components. In South Africa, through KSB Pumps & Valves, KSB Group supplies products to the fire control and protection market. The products are used in the building, energy, mining, petrochemicals and water industries.
6. The primary target firms are the Davron Entities. The shareholders in Davron and Davron KZN are David Geoffrey Pharoah (45%) ("DG Pharoah"), David Roy Wicks (5%), Bradley Eric Cramond (12.5%), Shane Wollenschlaeger (22.5%), Adele Deidre Bezuidenhout (5%), Richard Peter Crawshaw (5%), and Robert Stephen Pharoah (5%) ("RS Pharoah"). Davron Services is solely controlled by RS Pharoah.
7. The Davron Entities do not control any firm. The Davron Entities are not controlled or owned by any HDPs.
8. The Davron Entities offer a variety of goods and services in the fire safety market. In the main, the Davron Entities procure pumps, engines, electrical motors, steel panels and other components from various suppliers in order to design and manufacture fire control pumpsets. The Davron Entities manufacture, design and install fire protection pumpsets, controllers and associated fire safety equipment. Additional value-added services offered by Davron Entities, through Davron Services include inspections, servicing, repair and maintenance.

Competition assessment

9. The Commission considered the activities of the merging parties and found that there is a vertical overlap in the merging parties' activities. This is because KSB Group is a supplier of pumps and certain components used by the Davron Entities in the manufacturing of pumpsets.
10. The Commission found that the merger is unlikely to result in a substantial prevention or lessening of competition in any market.

Public interest

11. The merging parties tendered commitments which the Commission considers will render the merger justifiable on public interest grounds.

Conclusion

12. Considering the above, the Commission approves the proposed transaction subject to the conditions attached in **Annexure A** hereto.

ANNEXURE A
KSB SE & CO. KGAA
AND
DAVRON EQUIPMENT CLOSE CORPORATION AND DAVRON EQUIPMENT KWAZULU-
NATAL CLOSE CORPORATION
CASE NUMBER: 2024APR0006

1. DEFINITIONS

In this document, the expressions used below will have the appropriate meaning assigned to them and the following and related expressions will bear the following meaning:

- 1.1. **"Acquiring Firm"** means KSB SE & Co. KGaA;
- 1.2. **"Approval Date"** means the date on which the Merger is approved by the Commission and as set out in the Commission's clearance certificate (Notice CC 15);
- 1.3. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.4. **"Commission Rules"** mean the Rules for the Conduct of Proceedings in the Commission;
- 1.5. **"Competition Act"** means the Competition Act, No. 89 of 1998, as amended;
- 1.6. **"Conditions"** means the conditions in this Annexure A;
- 1.7. **"The Davron Entities"** means Davron Equipment Close Corporation, Davron Equipment Kwazulu-Natal Close Corporation collectively and Davron Service and Maintenance Close Corporation;
- 1.8. **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.9. **"Firm"** means a person, partnership or trust as defined in section 1 of the Competition Act;
- 1.10. **"HDP"** means a historically disadvantaged person as contemplated in section 3(2) of the Competition Act;
- 1.11. **"HDP Firms"** means Firms which are majority-owned or controlled by HDPs or Firms with a level 2 B-BBEE certification or higher;
- 1.12. **"Implementation Date"** means the date occurring after the Approval Date on which the Merger is implemented by the Merging Parties;

- 1.13. **“KSB”** means KSB SE & Co. KGaA;
- 1.14. **“KSB Pumps & Valves”** means KSB Pumps & Valves (Pty) Ltd, a local operating subsidiary of KSB;
- 1.15. **“Merged Entity”** means the Davron Entities under the sole control of the Acquiring Firm;
- 1.16. **“Merger”** means the acquisition by the Acquiring Firms of the Davron Entities as notified to the Commission under Commission case number 2024APR0006; and
- 1.17. **“Merging Parties”** means the Acquiring Firm and the Davron Entities.

2. EMPLOYMENT

- 2.1. The Merging Parties undertake that they will not conduct any merger-specific retrenchments for a period of 24-months following the Implementation Date, including the period between the Approval Date and Implementation Date
- 2.2. The Merged Entity further undertakes to arrange a monthly town-hall meeting, to discuss the implementation of the Merger, and other relevant operational matters on a monthly basis for six-months after the Implementation Date of the Merger. Thereafter, the Merging Parties undertake that quarterly meetings will be held with the employees of the Merged Entity.
- 2.3. For the sake of clarity, merger-specific retrenchments do not include: (i) voluntary separation arrangements and/or voluntary retrenchments; (ii) voluntary early retirement; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including (but not limited to) terminations as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract or a fixed-term third party contract employee or contract with a third party.

3. BOARD OF DIRECTORS – HDP REPRESENTATION

3.1. Within 6 (six) months of the Implementation Date, the Merging Parties undertake that the board of directors of the Merged Entity will consist of three persons, at least one of whom will be an HDP.

4. HDP PROCUREMENT CONDITION

4.1. The Merged Entity shall commit, whichever is higher:

4.1.1. a minimum spend of R10 million per year to source its products or services from HDP Firms for a period of two years from the Implementation Date; or

4.1.2. a minimum of 25% in its annual procurement spend from HDP Firms for a period of two years from the Implementation Date.

4.2. The Merged Entity shall within 3 months from the Implementation Date, outsource any additional cleaning and security services at the Davron Entities and KSB Pumps & Valves entities to HDP Firms for a period of 3 (three) years.

5. SOLAR INSTALLATION

5.1. The Merged Entity shall engage with accredited contractors and disburse the funding amount of R350 000 to procure the erection/ installation and maintenance of solar panels, inverters and battery backup to at least 2 (two) schools or clinics located in rural and previously disadvantaged areas of South Africa.

5.2. For the avoidance of doubt, the Merged Entity may disburse the funding amount in terms of this clause within 24 (twelve) months of the Implementation Date, which period will include at least six (6) months of post-installation maintenance.

5.3. The Merged Entity will endeavour for the first solar installation to be completed in 2025, and the second solar installation to be completed in 2026.

6. BURSARIES

6.1. The Merged Entity undertakes to offer bursaries to the minimum value of R500 000 for two (2) HDP students with a tertiary institution or college, for the duration of the HDP students' studies.

6.1.1. The first bursary will be awarded in 2025;

6.1.2. The second bursary will be awarded in 2026.

- 6.2. To the extent that the bursary allocation of R500 000 is not fully utilised by two HDP students for the enrolment and/or competition of their studies, the balance of the bursary amount will be donated to a tertiary institution or college, under the directions that it must be offered to the funding of HDP students' studies and/or study material.
- 6.3. To the extent possible, the Merged Entity will give preference to women in awarding of the bursaries.
- 6.4. The bursaries will be for a 3 to 4 years nationally recognised qualifications of National Qualification Framework (NQF) for the two HDP students to become qualified electricians. The bursary costs are inclusive of tools, registration and course material fees, study material, work experience, deployments and trade tests.
- 6.5. The Merging Parties will offer training to the two HDP students in this field of study. If the students are suitably qualified, the Merging Parties will offer employment opportunities and/or apprenticeships within the Davron Entities.

7. MONITORING

- 7.1. The Merged Entity shall inform the Commission in writing of the Implementation Date within 5 (five) Days of the Implementation Date.
- 7.2. The Merged Entity shall circulate a copy of the employment Conditions to all Employees and the Employee representatives of the Merged Entity within 5(five) Days of the Approval Date.
- 7.3. As proof of compliance with clause 7.2, a senior executive of the Merged Entity shall within 10 (ten) Days of circulating the Conditions, submit to the Commission an affidavit attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to such employees and employee representatives.
- 7.4. The Merged Entity shall submit an annual report to the Commission indicating compliance with respect to these Conditions for a period of 3 (three) years. These reports must be lodged within 20 (twenty) Days after each anniversary of the Implementation Date for a period of 3 (three) years. This report shall be accompanied by an affidavit, attested to by a senior official of the Merged Entity, confirming the accuracy of the report.
- 7.5. Following the appointment of the HDP on the board of directors of the Merged Entity, as contemplated in clause 3, the Merged Entity will within 20 (twenty) Days after the first anniversary of the Implementation Date provide the Commission with details of

the appointed individual as part of the first annual report submitted in terms of clause 7.4.

7.6. Following the installation of the solar panels and in line with clause 5, the Merged Entity shall provide the Commission with details of the recipient schools or clinics, including where they are located and evidence of the total amount spent. This shall form part of the merging parties annual report submitted in terms of clause 7.4.

7.7. Following the disbursement of the bursaries as contemplated in clause 6, the Merged Entity shall provide the Commission with details on the two HDP bursary recipients, including the tertiary institutions they are enrolled in, the NQF qualification enrolled for, and total value of the bursaries awarded. This shall form part of the merging parties annual report submitted in terms of clause 7.4.

7.8. The Commission may request additional information from the Merging Parties, which the Commission may reasonably deem necessary for the purposes of monitoring the extent of compliance with these Conditions.

8. VARIATION OF CONDITIONS

8.1. The Merger Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merger Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

9. APPARENT BREACH

9.1. If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

10. GENERAL

10.1. All correspondence concerning these Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5379

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

FRANCIS CARRUTHERS
AND
LESEDI NUCLEAR SERVICES (PTY) LTD

CASE NUMBER: 2023SEP0045

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 29 September 2023, the Competition Commission ("Commission") received notice of an intermediate merger whereby Stirling Investments Proprietary Limited ("Stirling") intends to acquire [Confidential] shareholding in Lesedi Nuclear Services Proprietary Limited ("Lesedi").
2. The primary acquiring firm is Stirling, a South African firm. Stirling is wholly owned by Mr Francis Carruthers ("Carruthers"). Carruthers currently owns [Confidential] shareholding in Lesedi, in his personal capacity. The proposed transaction envisages Stirling acquiring [Confidential] of the shareholding in the target firm, resulting in Carruthers having majority shareholding, [Confidential], post-transaction. Stirling is newly incorporated and will be used by Carruthers as a special purpose vehicle to acquire shareholding of the target firm, Lesedi.
3. The acquiring firm does not have any shareholding held by historically disadvantaged persons ("HDPs").
4. The primary target firm is Lesedi, a South African firm. Lesedi is an engineering firm providing specialist engineering services to clients *inter alia* within the power generation, mining, oil and gas industries.

5. The target firm is currently held [Confidential] by HDPs being [Confidential].

Competition assessment

6. The Commission considered the activities of the merging parties and found that they do not overlap as Lesedi is an engineering firm providing specialist engineering services, whilst Carruthers does not control any other firm besides Stirling. Stirling is a special purpose vehicle with no current activities. The Commission is of the view that the proposed transaction is unlikely to change the structure of any market. As such, it is unlikely to substantially prevent or lessen competition in any market.

Public interest assessment

7. To address the dilution in HDP shareholding arising from the merger, the merging parties have agreed that should the transaction be implemented, to pursue a HDP transaction at Lesedi post-merger. In addition, subject to certain shareholders exiting Lesedi, the merging parties will implement an employee share ownership plan ("ESOP") at Lesedi.
8. These commitments are set out in the conditions attached as **Annexure A** hereto.
9. The merger does not raise any further public interest issues.

ANNEXURE A
FRANCIS CARRUTHERS
AND
LESEDI NUCLEAR SERVICES (PTY) LTD
CASE NUMBER: 2023SEP0045

CONDITIONS

1. DEFINITIONS

In this document, the expressions used above will have the appropriate meanings assigned to them and the following and related expressions will bear the following meanings:

- 1.1 **“Acquiring Firm”** means Francis Carruthers;
- 1.2 **“Act”** means the Competition Act No. 89 of 1998, as amended;
- 1.3 **“Approval Date”** means the date on which the Merger is approved by the Commission and as set out in the Commission’s clearance certificate (Notice CC 15);
- 1.4 **“Commission”** means the Competition Commission of South Africa;
- 1.5 **“Conditions”** means the merger conditions included in this Annexure A;
- 1.6 **“Days”** means any day that is not a Saturday, Sunday, or public holiday in South Africa;
- 1.7 **“ESOP”** means the Employee Share Ownership Programme to be established pursuant to these Conditions;
- 1.8 **“ESOP Establishment Period”** means 18 (eighteen) months following [Confidential];
- 1.9 **“Framatome”** means Framatome Southern Africa Proprietary Limited, which holds [Confidential] shareholding in Lesedi;
- 1.10 **“HDPs”** means historically disadvantaged persons as contemplated in section 3(2) of the Act;
- 1.11 **“HDP Transaction”** means the Acquiring Firm’s commitment to introduce an HDP shareholder/ HDP shareholders as contemplated in section 3(2) of the

Act, that will hold no less than [Confidential] of the issued share capital in the Target Firm.

- 1.12 **“Implementation Date”** means the date, occurring after the last condition precedent to the Merger is fulfilled or waived, as the case may be, on which the Merger is implemented in accordance with its terms;
- 1.13 **“Merger”** means the proposed acquisition of the Target Firm by the Acquiring Firm as notified to the Commission under Case No. 2023SEP0045;
- 1.14 **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.15 **“South Africa”** means the Republic of South Africa;
- 1.16 **“Target Firm”** means Lesedi Nuclear Services (Pty) Ltd;
- 1.17 **“Tribunal”** means the Competition Tribunal of South Africa;
- 1.18 **“Qualifying Workers”** means Workers employed by the Target Firm; and
- 1.19 **“Worker”** means an employee as defined in the Labour Relations Act 66 of 1995 (as amended) and, in the context of ownership, refers to ownership by a broad base of Workers.

2. ESOP AND HDP OWNERSHIP

- 2.1. Within [Confidential], the Merging Parties shall establish the ESOP for the benefit of the Qualifying Workers. The ESOP shall hold no less than 10% of the issued shares in the Target Firm, in accordance with the design principles set out in Annexure B; and
- 2.2. Within 36-months (thirty-six) of the Implementation Date, the Merging Parties shall establish an HDP Transaction pursuant to which one or more HDP shareholder shall hold no less than [Confidential] of the issued shares in the Target Firm.

3. MONITORING

- 3.1. Within 5 (five) days after the Implementation Date, the Merging Parties shall notify the Commission in writing of the Implementation Date.
- 3.2. By no later than 36-months (thirty-six) months of the Implementation Date, the Merging Parties shall submit a compliance report to the Commission confirming that:
 - 3.2.1. the ESOP referred to in Clause 2.1 above, subject to the applicable conditions, has subscribed to 10% of the issued shares of the Target Firm; and
 - 3.2.2. the Target Firm has implemented an HDP ownership transaction as required under Clause 2.2.

- 3.3. Prior to the implementation of the HDP Transaction, the Acquiring Firm will provide the Commission with details of the HDP Transaction in writing. These details shall set out:
- 3.3.1. the structure of the HDP Transaction;
 - 3.3.2. the identities of the HDP shareholder/s;
 - 3.3.3. evidence that the prospective participants to the HDP Transaction are HDPs.
 - 3.3.4. the proportion of shareholding in the Acquiring firm that each prospective HDP shareholder(s) will receive; and
 - 3.3.5. confirmation of whether the HDP Transaction constitutes a merger for the purposes of the Act.
- 3.4. For the avoidance of doubt, the HDP Transaction may not be implemented without the Commission's written approval, which if details are in compliance with the conditions in clause 2.2 and 3.3 will be approved by the Commission within 30 Days of written notification, or such other period as may be agreed in writing.
- 3.5. The compliance report shall be accompanied by a copy of the trust deed for the registration of the ESOP and an affidavit from a director of the Merging Parties confirming the accuracy of the information contained in the report.
- 3.6. The Merging Parties shall submit a report on each anniversary of the Implementation Date, setting its compliance with Clause 2 of the Conditions. This report shall be accompanied by an affidavit, attested to by a director of the Merging Parties, confirming the accuracy of the report.
- 3.7. The Commission may request any additional information from the Merging Parties, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

5. VARIATION

- 5.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

6. GENERAL

- 6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5380

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

**AFRICAN BUSINESS EXPANSION AND CONSULTING PROPRIETARY LIMITED
("ABEC")**

AND

**DIMENSION DATA ADVANCED INFRASTRUCTURE PROPRIETARY LIMITED
("DIMENSION DATA").**

CASE NUMBER: 2023OCT0064

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

1. On 27 October 2023, the Competition Commission ("the Commission") received notice of an intermediate merger whereby African Business Expansion and Consulting Proprietary Limited ("ABEC") intends to acquire 100% of the shares in Dimension Data Advanced Infrastructure Proprietary Limited ("Dimension Data"). Post-merger, ABEC will have sole control over Dimension Data ("proposed transaction").

Parties

2. The primary acquiring firm is ABEC, a company incorporated under the laws of the Republic of South Africa. ABEC is controlled by the following shareholders Conrad Johann Kock (52%), Devon Carl Naude (16%), Paul Jean Ellis Cole (16%) and Marius Gemeke (16%). The shareholders of ABEC do not control any other firms. ABEC all the firms controlling it and all the firms controlled by those firms are hereinafter referred to as the "Acquiring Group".
3. The Acquiring Group has no shareholding held by historically disadvantaged persons ("HDPs").

4. The primary target firm is Dimension Data, a company incorporated under the laws of the Republic of South Africa. Dimension Data is controlled by Dimension Data Investments South Africa Proprietary Limited (“DDISA”). DDISA is ultimately controlled by Nippon Telegraph and Telephone Corporation (“NTT”). NTT is listed on the Tokyo Stock Exchange and its shares are widely held and not controlled by a single shareholder. NTT and DDISA controls a number of firms in South Africa. Dimension Data does not control any firms. Dimension Data all the firms controlling it and all the firms controlled by those firms are hereinafter referred to as the “Target Firm”.
5. The Target Firm, Dimension Data does not have any shareholding by HDPs. DDISA, the ultimate controller has a 24.77% shareholding by HDPs based on its Broad Based Black Economic Empowerment (“B-BBEE”) certificate dated 6 September 2023 and expiring on 5 September 2024. Therefore, DDISA's HDPs shareholding can be attributed to Dimension Data as it is wholly owned and controlled by DDISA. Therefore, the Target Firm has a 24.77% shareholding held by HDPs.

Activities

6. The Acquiring Firm does not have any trading activities and is controlled by management of the Target Firm. Furthermore, the Acquiring Group does not control any firms in South Africa.
7. The Target Firm is a facilities, network infrastructure and IT hardware systems services provider with a national footprint in South Africa. The Target Firm's service offering includes the provision of data centre infrastructure, integrated security, communication cabling, facilities services and managed and support services solutions.

Relationship between the parties

8. As such, there is no horizontal or vertical overlap arising as a result of the proposed transaction. Based on this, the Commission is of the view that there are no competition concerns likely to arise post-merger. In light of the above, the Commission is of the view that the proposed merger is unlikely to substantially prevent or lessen competition in any market.

Public interest

Employment

9. The Acquiring Group is currently not operational and there are no employees at ABEC.
10. The Commission engaged with the employee representatives of the employees of the Target Firm, and they did not raise any concerns. In light of the above, the Commission concluded that the merger is unlikely to raise any employment concerns.

The effect on the promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons (HDPs) and workers in firms in the market

11. The Commission found that the merger results in a dilution in HDP ownership. The parties have tendered ESOP and HDP transaction remedies to make good the dilution. In addition, the parties have tendered further remedies that benefit HDPS.
12. The Commission therefore approves the merger subject to the conditions set out in **Annexure A** hereto.

ANNEXURE A**AFRICAN BUSINESS EXPANSIONS AND CONSULTING (PTY) LTD****AND****DIMENSION DATA ADVANCED INFRASTRUCTURE (PTY) LTD****CASE NUMBER: 2023OCT0064**

CONDITIONS

1. DEFINITIONS

In this document, the expressions used above will have the appropriate meanings assigned to them and the following and related expressions will bear the following meanings:

- 1.1 **“Acquiring Firm”** means African Business Expansions and Consulting (Pty) Ltd;
- 1.2 **“Act”** means the Competition Act No. 89 of 1998, as amended;
- 1.3 **“Approval Date”** means the date on which the Merger is approved by the Commission and as set out in the Commission’s clearance certificate (Notice CC 15);
- 1.4 **“Commission”** means the Competition Commission of South Africa;
- 1.5 **“Conditions”** means the merger conditions included in this Annexure A;
- 1.6 **“Days”** means any day that is not a Saturday, Sunday, or public holiday in South Africa;
- 1.7 **“ESOP”** means the Employee Share Ownership Programme to be established pursuant to these Conditions;
- 1.8 **“ESOP Establishment Period”** means 24 (twenty-four) months from the Implementation Date;
- 1.9 **“HDPs”** means historically disadvantaged persons as contemplated in section 3(2) of the Act;

- 1.10 **“HDP Transaction”** means the Acquiring Firm’s commitment to introduce an HDP shareholder/ HDP shareholders as contemplated in section 3(2) of the Act, that will hold not less than 20% share capital in the Acquiring Firm.
- 1.11 **“Implementation Date”** means the date, occurring after the last condition precedent to the Merger is fulfilled or waived, as the case may be, on which the Merger is implemented in accordance with its terms;
- 1.12 **“Merger”** means the proposed acquisition of the Target Firm by the Acquiring Firm as notified to the Commission under Case No. 2023OCT0064;
- 1.13 **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.14 **“South Africa”** means the Republic of South Africa;
- 1.15 **“Target Firm”** means Dimension Data Advanced Infrastructure (Pty) Ltd;
- 1.16 **“Tribunal”** means the Competition Tribunal of South Africa;
- 1.17 **“Qualifying Workers”** means Workers employed by the Target Firm and with 2 years or more tenure at the Target Firm; and
- 1.18 **“Worker”** means an employee as defined in the Labour Relations Act 66 of 1995 (as amended) and, in the context of ownership, refers to ownership by a broad base of Workers.

2. ESOP AND HDP OWNERSHIP

- 2.1. Within 24 (twenty-four) months of the Implementation Date, the Merging Parties shall:
- 2.1.1. establish the ESOP for the benefit of Qualifying Workers. The ESOP shall hold 5% of the issued shares in the Target Firm, in accordance with the design principles set out in Annexure B; and
- 2.1.2. implement an HDP ownership transaction pursuant to which one or more HDP shareholder shall hold at least 20% of the issued shares in the Acquiring Firm.

3. INITIATIVES TO PROMOTE HDP PARTICIPATION IN THE SUPPLY CHAIN

- 3.1. The Merging Parties shall ensure that post-merger the Target Firm :
- 3.1.1. will continue with its current enterprise and supplier development initiatives, conducted pre-Merger (currently in the amount of R875 000 per annum) and that the Merger will not give rise to any negative change in relation to the manner in which the Target Firm conducts these initiatives; and

- 3.1.2. will allocate an additional R250 000 per annum over the next 24 months to various enterprise and supplier development initiatives to the benefit of Black woman-owned firms and small to medium and micro enterprises (SMMEs).

4. MONITORING

- 4.1. Within 5 (five) days after the Implementation Date, the Merging Parties shall notify the Commission in writing of the Implementation Date.
- 4.2. By no later than 24 (twenty-four) months of the Implementation Date, the Merging Parties shall submit a compliance report to the Commission confirming that:
 - 4.2.1. the ESOP referred to in Clause **Error! Reference source not found.** above has subscribed to 5% of the issued shares of the Target Firm; and
 - 4.2.2. the Acquiring Firm has implemented an HDP ownership transaction as required under Clause 2.1.2.
- 4.3. Prior to the implementation of the HDP Transaction, the Acquiring Firm will provide the Commission with details of the HDP Transaction in writing. These details shall set out :
 - 4.3.1. the structure of the HDP Transaction;
 - 4.3.2. the identities of the HDP shareholder/s;
 - 4.3.3. evidence that the prospective participants to the HDP Transaction are HDPs.
 - 4.3.4. the proportion of shareholding in the Acquiring firm that each prospective HDP shareholder(s) will receive; and
 - 4.3.5. confirmation of whether the HDP Transaction constitutes a merger for the purposes of the Act.
- 4.4. For the avoidance of doubt, the HDP Transaction may not be implemented without the Commission's written approval, which if details are in compliance with the conditions in clause 2.1.2 and 4.3 will be approved by the Commission within 30 Days of written notification, or such other period as may be agreed in writing.
- 4.5. The compliance report shall be accompanied by a copy of the trust deed for the registration of the ESOP and an affidavit from a director of the Merging Parties confirming the accuracy of the information contained in the report.
- 4.6. The Merging Parties shall submit a report on each anniversary of the Implementation Date, setting its compliance with Clause 3 of the Conditions. This report shall be

accompanied by an affidavit, attested to by a director of the Merging Parties, confirming the accuracy of the report.

- 4.7. The Commission may request any additional information from the Merging Parties, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.

5. APPARENT BREACH

- 5.1. Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

6. VARIATION

- 6.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

7. GENERAL

- 7.1. All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

ANNEXURE B - CONFIDENTIAL

Design Principle	Applicable Criteria
Structure	<ul style="list-style-type: none"> ○ Will be a unitised structure whereby a trust will be established, and Qualifying Workers will receive units. ○ The structure will be funded by the Target Firm (or one of its affiliates) with the ESOP subscribing for the shares in the Target Firm at a price equal to the value of 5% of the issued shares in the Target Firm.
Cost to Workers and participating HDPs	<ul style="list-style-type: none"> ○ Qualifying Workers will not be required to pay anything to participate in the ESOP. ○ The notional vendor funding will provide for a fixed trickle dividend in terms of which at least 35% of declared dividends will be paid to the beneficiaries with the remaining 65% used to service the vendor financed loan until such time as it is extinguished. Once the loan has been extinguished, 100% of the declared dividends due to the ESOP (after liabilities have been paid) will be distributed to the beneficiaries. The liabilities refer to costs (administration costs, rental, fees of third party service providers such as auditors) and taxes. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
Governance	<ul style="list-style-type: none"> ○ Qualifying Workers shall be entitled to appoint at least 50% of the trustees of the ESOP trust and the Merging Parties shall be entitled to appoint the remaining trustees. Decisions will be taken by a majority of trustees and in the event of any deadlock, the trust deed for the ESOP will contain appropriate deadlock breaking mechanisms.
Duration	<ul style="list-style-type: none"> ○ ESOP- will endure until terminated by the Trustees
Participants	<ul style="list-style-type: none"> ○ ESOP – All Workers with minimum requirements of 2 years or more tenure at the Target Firm
Demographics	<ul style="list-style-type: none"> ○ Currently, the Target Firm has 187 of Qualifying employees of which: <ul style="list-style-type: none"> ○ 145 are black ○ 47 are female ○ 52 are youth
Participation Benefits	<ul style="list-style-type: none"> ○ All Qualifying Workers will be entitled to dividends based on the number of units held by them in the ESOP. Units will be allocated to Qualifying Participants in accordance with the scheme rules. ○ Beneficiaries (i.e. Qualifying Workers) will cease to participate in the ESOP and forfeit their units if they cease to be Employees of the Target Firm for any reason.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5381

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

MAIN STREET 2000 (PTY) LTD

AND

MIX TELEMATICS LTD

CASE NUMBER: 2023NOV0037

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

1. On 21 November 2023, the Competition Commission ("Commission") received notice of an intermediate merger wherein PowerFleet Inc ("PowerFleet") through Main Street 2000 (Pty) Ltd ("Main Street") intends to acquire the entire issued ordinary share capital of MiX Telematics Ltd ("MiX Telematics"). Post-merger, Main Street will own and control 100% of Mix Telematics.
2. The primary acquiring firm is Main Street. Main Street is a newly incorporated company established for the purposes of the proposed transaction. Main Street is controlled by PowerFleet, a company incorporated in the State of Delaware, United States of America.
3. In South Africa, PowerFleet controls Main Street and The Pointer SA (Pty) Ltd (Pointer SA). PowerFleet and its subsidiaries will collectively be referred to as the Acquiring Group. The Acquiring Group does not have any shareholding held by Historically Disadvantaged Persons (HDPs).

4. The primary target firm is MiX Telematics, a public company listed on the JSE Limited ("JSE"). The shares in MiX Telematics are widely held, and no shareholder controls MiX Telematics. MiX Telematics controls several firms. MiX Telematics and its subsidiaries will collectively be referred to as the "Target Group".
5. The merging parties submit that 3.57% of MiX Telematics shareholding is held by HDPs.
6. In South Africa, the Acquiring Group operates through Pointer SA. Pointer SA is a provider of commercial fleet management and asset tracking solutions. The company was established in 1998 and has longstanding experience and expertise in designing and developing telematics solutions enabling businesses to manage their fleets, assets, deliveries, and on-the-road employees.

Competition analysis

7. The Commission considered the activities of the merging parties and found that the proposed presents a horizontal overlap in market for the provision of stolen vehicle recovery, vehicle tracking and fleet management telematics solutions in South Africa.
8. Despite the overlap, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market/s.

Public interest analysis

Effect on employment

9. The merging parties did not provide any firm statement that the merger will not result in any retrenchments or job losses. The merging parties submitted that PowerFleet will only be in a position to conduct the necessary due diligence exercises in relation to the employment following the implementation of the proposed transaction. In this regard, the merging parties agreed to a 24-month moratorium on merger related retrenchments. See Annexure A.

Effect on the promotion of a greater spread of ownership by historically disadvantaged persons and workers section 12 A(3)(e)

10. With respect to greater spread of ownership, the Commission requested the merging parties to propose remedies to ensure that the merger promotes greater spread of

ownership by HDPs and workers in firms in the market. In this regard, the parties agreed to the following condition:

- 19.1. Within **[CONFIDENTIAL]** months of the implementation date of the proposed transaction, the Merger Parties shall conclude an HDP Transaction and/or the ESOP. The HDP Transaction means a sale of at least **[CONFIDENTIAL]**% of the issued share capital of MiX Telematics Africa. The ESOP commitment entails the establishment of an ESOP to acquire a **[CONFIDENTIAL]**% interest in MiX Telematics Africa.
- 19.2. Should the Merging Parties instead opt to implement a combination of the ESOP and the HDP Transaction, the minimum combined value of the ESOP and HDP Transaction must be **[CONFIDENTIAL]**% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or subsidiary thereof.
20. The Commission is of the view that the remedies tendered by the parties, render the merger justifiable on substantial public interest grounds.
21. The proposed merger does not raise any other public interest issues.
22. The Commission approves the proposed transaction subject to the conditions attached as **Annexure A** hereto.

ANNEXURE A**MAINSTREET 2000 PROPRIETARY LIMITED****AND****MIX TELEMATICS LIMITED****CASE NUMBER: 2023NOV0037**

CONDITIONS

1 DEFINITIONS

- 1.1 The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings, namely:
- 1.1.1 **"Act"** means the Competition Act No. 89 of 1998 (as amended);
- 1.1.2 **"Acquiring Firm"** means Mainstreet 2000 Proprietary Limited;
- 1.1.3 **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC 15);
- 1.1.4 **"Commission"** means the Competition Commission of South Africa;
- 1.1.5 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.1.6 **"Conditions"** means these conditions;
- 1.1.7 **"Days"** mean business days in South Africa;
- 1.1.8 **"ESOP"** means the establishment of a [CONFIDENTIAL]% employee share ownership programme within [CONFIDENTIAL] months from Implementation Date in MiX Telematics Africa, an intermediate holding company, or a subsidiary thereof.
- 1.1.9 **"HDPs"** mean historically disadvantaged persons, as contemplated in section 3(2) of the Act;
- 1.1.10 **"HDP Transaction"** means a sale of [CONFIDENTIAL]% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or a

subsidiary thereof, to HDP shareholder(s) within **[CONFIDENTIAL]** months from Implementation Date.

- 1.1.11 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.1.12 **"Qualifying Workers"** means all HDP Workers of the Target Group's South African subsidiaries;
- 1.1.13 **"Mainstreet 2000"** means Mainstreet 2000 Proprietary Limited;
- 1.1.14 **"Mix Telematics"** means Mix Telematics Limited;
- 1.1.15 **"MiX Telematics Africa"** means MiX Telematics Africa Proprietary Limited, a subsidiary of Mix Telematics;
- 1.1.16 **"Merging Parties"** means Mainstreet 2000 and MiX Telematics;
- 1.1.17 **"Proposed Transaction"** means the acquisition of control by Mainstreet 2000 in Mix Telematics;
- 1.1.18 **"Target Group"** means Mix Telematics and its subsidiaries; and
- 1.1.19 **"Tribunal"** means the Competition Tribunal of South Africa;
- 1.1.20 **"Worker"** means an employee as defined in the Labour Relations Act 66 of 1995 (as amended) and, in the context of ownership, refers to ownership by a broad base of Workers.

2 CONDITIONS FOR THE APPROVAL OF THE MERGER

Employment

- 2.1 The Merging Parties shall not retrench any employees as a result of the Proposed Transaction for a period of 24 months from Approval Date.
- 2.2 It is recorded that this undertaking does not extend to:
- 2.2.1. voluntary retrenchment and/or voluntary separation arrangements;
- 2.2.2. voluntary early retirement packages;
- 2.2.3. unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act, 66 of 1995;

- 2.2.4. resignations or retirements in the ordinary course of business;
- 2.2.5. retrenchments lawfully effected for operational requirements unrelated to the Proposed Transaction;
- 2.2.6. terminations in the ordinary course of business, including but not limited to dismissals as a result of misconduct or poor performance; and
- 2.2.7. any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

The promotion of a greater spread of ownership, in particular to increase the levels of ownership by HDPs and works in firms in the market

- 2.3 Within [CONFIDENTIAL] months of the Implementation Date of the Proposed Transaction, the Merging Parties shall conclude the HDP Transaction and/or the ESOP.
- 2.4 Should the Merging Parties decide to conclude the ESOP, the ESOP will comply with the principles set out in **Annexure B** below.
- 2.5 Should the Merging Parties prefer a combination of the ESOP and the HDP Transaction, the minimum combined value of the ESOP and HDP Transaction must be 10% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or subsidiary thereof, to be held by HDP shareholder(s).
- 2.6 The Merging Parties shall, prior to implementing the HDP Transaction, ESOP, and/or a combination thereof, inform the Commission on the structure the Merging Parties will be implementing.

3 MONITORING COMPLIANCE WITH THE CONDITIONS

- 3.1 The Merging Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Days of it becoming effective.

- 3.2 Prior to the Implementation of the HDP Transaction and/or the ESOP, the Merging Parties must provide the Commission with the salient details pertaining to the HDP Transaction and/or the ESOP for approval prior to entering into the HDP Transaction and/or ESOP. This information will include details of the transaction and/or shareholder agreements, together with other material documents setting out the shareholding rights of the HDP shareholder and/or the rights of participants in respect of the ESOP.
- 3.3 The Commission shall (i) consider the information disclosed by the Merging Parties as soon as possible; and (ii) not unreasonably withhold the approval of the HDP Transaction and/or the ESOP. The Merging Parties shall within 5 (five) days of concluding an agreement with a HDP shareholder or the establishment of the ESOP, provide the Commission with the names and details of either the HDP shareholder or the profile of the ESOP participants.
- 3.4 Should the Merging Parties implement the ESOP, the Merging Parties will provide the details of total number of all Identified Workers in the Target Group at the time of implementation of the ESOP.
- 3.5 The Merging Parties shall submit a report on each anniversary of the Approval Date for the duration of the Conditions (as applicable), setting out its compliance with the Conditions set out in clauses 2.1 to 2.5 above and the progress thereof. This report shall be accompanied by an affidavit, attested to by a director of the Target Group, confirming the accuracy of the report. Such report shall include, amongst others:
- 3.5.1 Steps taken to implement the HDP Transaction and/or the ESOP;
 - 3.5.2 Details of the agreement entered into between the HDP shareholder and/or the ESOP and the Target Group; and
 - 3.5.3 Compliance with the requirements and commitments set out in clause 2.1 to 2.5.

4 APPARENT BREACH

- 4.1 Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determine that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

5 VARIATION OF THE CONDITION

- 5.1 The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

6 GENERAL

- 6.1 All correspondence in relation to these conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

ANNEXURE B - CONFIDENTIAL

Design Principle	Applicable Criteria
Structure	<ul style="list-style-type: none"> ○ Will be a unitised structure whereby a trust will be established, and all Qualifying Workers will receive units.
Cost to Workers and participating HDPs	<ul style="list-style-type: none"> ○ No cost to Workers: Qualifying Workers must not be required to pay to participate in the ESOP. ○ Should the ESOP be funded through the notional vendor funding, the notional vendor funding will provide for a fixed trickle dividend in terms of which at least 35% of declared dividends will be paid to the beneficiaries with the remaining 65% used to service the vendor financed loan until such time as it is extinguished. ○ Once any loan funding has been extinguished, 100% of the declared dividends due to the beneficiaries will be distributed to the beneficiaries. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
Governance	<ul style="list-style-type: none"> ○ Qualifying Workers will be represented on the board of trustees of the ESOP.
Duration	<ul style="list-style-type: none"> ○ Perpetual / Evergreen
Participants	<ul style="list-style-type: none"> ○ All Qualifying Workers at the Target Group
Participation Benefits	<ul style="list-style-type: none"> ○ All Qualifying Workers will be entitled to dividends ○ Beneficiaries will cease to participate for bad leaver events: resignations and dismissals.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5382

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

THALES SA

AND

COBHAM AEROSPACE SAS

CASE NUMBER: 2023NOV0026

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 15 November 2023, the Competition Commission ("the Commission") received notice of an intermediate merger whereby Thales SA ("Thales") intends to acquire the entire issued share capital of Cobham Aerospace SAS ("Cobham). Post-merger, Cobham Aerospace will be a wholly owned subsidiary of Thales.

Description of the merging parties

2. The primary acquiring firm, Thales, is duly incorporated under the laws of France and listed on the Euronext Stock Exchange in Paris. Thales's shares are widely held and thus no firm or individual has direct or indirect control over Thales. Thales controls Gemalto Southern Africa (Pty) Ltd ("Gemalto") and Thales South Africa Systems (Pty) Ltd ("TSAS"). Thales and its subsidiaries will henceforth be referred to as Thales or the "Acquiring Group".
3. The merging parties submit that [CONFIDENTIAL]% of the shares of TSAS are held by HDPs.

4. The primary target firm, Cobham Aerospace, is duly incorporated under the laws of France. Cobham Aerospace is currently controlled by Cobham Limited (the “Cobham Group”). The Cobham Group is solely controlled by Advent International GPE IX (“Advent International”), which is an Advent Fund solely controlled by Advent International Corporation (“Advent”). Advent is not directly or indirectly controlled by any firm or individual.
5. In South Africa, Cobham Aerospace controls Omnipless Manufacturing (Pty) Ltd (“Omnipless”) and Satori Air Communications Limited (“Satori”). Cobham Aerospace and all the firms directly and indirectly controlling it and all the firms directly and indirectly controlled by it will hereinafter, collectively be referred to as the “Cobham Group” or Target Firm.
6. The merging parties submit that **[CONFIDENTIAL]** of the Target Firm’s shares are held by HDPs.

Description of the transaction

7. In terms of the Share Purchase Agreement, Cobham Limited will sell 100% of the securities in Cobham Aerospace, and this will result in Thales holding 100% of the issued shares and voting rights of Cobham Aerospace and indirectly of Cobham Aerospace’s subsidiaries.

Activities of the merging parties

8. Thales Group is active globally in the sectors of defence and security, aerospace and space, digital identity and security as well as ground transportation. In South Africa, the Thales Group provides technology solutions in the aerospace, transportation, defence, digital identity and security sectors.
9. Globally, Cobham Aerospace provides (i) satellite communications systems (“SATCOM”), (ii) avionics products (such as air-to-ground antennas, audio and radio management systems and panel components), (iii) aircraft lighting products and (iv) spare parts and maintenance services. In South Africa, Cobham Aerospace operates through its subsidiaries, (i) Omnipless and (ii) Satori. The merging parties submit that the Target Firm’s sales in South Africa are limited to the sale of some spare parts mostly in the form of electronic equipment relating to the aviation industry and the provision of maintenance,

repairs and overhaul (“MRO”). These are the only activities which generated turnover for the Target Firm in the last financial year within South Africa.

Overlapping markets

10. The Commission considered the South Africa activities of the merging parties and found that, they overlap horizontally in the provision services relating to MRO specifically only related to aircraft electronic equipment. Globally, the activities of the merging parties overlap horizontally with regard to the (i) the avionics products, for example, audio-radio management systems, (ii) commercial SATCOM Systems, (iii) aircraft lighting, and (iv) the MRO activities.
11. The Commission further found that the proposed transaction does not raise a vertical overlap.

Competitive assessment

12. The Commission followed the approach of the European Commission (“EC”) and assessed the effects of the proposed transaction in the global market for the provision of MRO services, particularly on the components relating to electronic equipment utilised on aircrafts including the supply of spare parts on such electronic equipment.
13. The Commission is of the view that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in the affected markets.

Public interest

14. To address the public interest concerns identified by the Commission, the parties tendered commitments including job creation, capital expenditure, procurement from HDP suppliers and skills development initiatives at the Target Firm.
15. The Commission considers that the commitments tendered by the parties render the merger justifiable on substantial public interest grounds.

Conclusion

16. Based on the foregoing, the Commission approves the merger with Conditions included as **Annexure A**
- 17.

ANNEXURE A**THALES SA****AND****COBHAEM AEROSPACE****CASE NUMBER: 2023NOV0025**

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them hereunder, and cognate expressions shall have corresponding meanings, namely:

- 1.1. **“Act”** means the Competition Act 89 of 1998, as amended;
- 1.2. **“Approval Date”** means the dates contained on the Commission’s Clearance Certificate;
- 1.3. **“Acquiring Firm”** means Thales S.A., as defined hereunder;
- 1.4. **“Cobham Aerospace S.A.S”** means Cobham Aerospace S.A.S, a *société par actions simplifiée* incorporated under the laws of France, whose registered office is at 35 rue de Montlhéry 91450 Rungis Cedex, France, registered with the trade and company register of Créteil under registration number 889 218 707;
- 1.5. **“Commission”** means the Competition Commission of South Africa;
- 1.6. **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.7. **“Conditions”** means these conditions, which shall lapse three years following the Implementation Date
- 1.8. **“Day”** means any business day, being any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

- 1.9. **“HDPs”** means historically disadvantaged persons, as contemplated in section 3(2) of the Act;
- 1.10. **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties, which date will, in accordance with paragraph 6.1 below, be communicated to the Commission within 5 (five) Days of its occurrence;
- 1.11. **“Merger”** means Thales S.A.’s acquisition of Cobham Aerospace S.A.S, which acquisition was notified with the Commission on 6 November 2023;
- 1.12. **“Merging Parties”** means Thales S.A. and Cobham Aerospace S.A.S;
- 1.13. **“Omnipless”** means Omnipless Manufacturing (Pty) Ltd (**“Omnipless”**), a private company incorporated under the laws of South Africa with registered business address at 2 Westlake Drive, Westlake, Cape Town, South Africa under registration number 2002/009019/07.
- 1.14. **“South Africa”** means the Republic of South Africa;
- 1.15. **“SME”** means either a small or medium sized business as defined in the Act;
- 1.16. **“Target Firm”** means Cobham Aerospace S.A.S, as defined above;
- 1.17. **“Thales S.A.”** means Thales S.A., a *société anonyme* incorporated under the laws of France, registered under number 552 059 024, with registered office at 4, rue de la Verrerie, 92190 Meudon, France;
- 1.18. **“Tribunal”** means the Competition Tribunal of South Africa; and
- 1.19. **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the Tribunal.

2. EMPLOYMENT CONDITIONS

- 2.1. There shall, following the Approval Date, be no merger specific retrenchments arising from the Merger for a period of 3 years as from the Implementation Date
- 2.2. For the sake of clarity, merger-specific retrenchments do not include: (i) voluntary separation arrangements and/or voluntary retrenchments; (ii) voluntary early retirement; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including (but not limited to) terminations as a result of misconduct or poor performance; and (vii) any decision not

to renew or extend a contract or a fixed-term third party contract employee or contract with a third party.

2.3. Any retrenchments in respect of the markets and activities which are unrelated to the Merger will be presumed to be non-merger specific retrenchments.

2.4. The Merging Parties commit to create an additional **[CONFIDENTIAL]** jobs at Omnipless (which represents **[CONFIDENTIAL]**% of the current Omnipless employee head count) within **[CONFIDENTIAL]** after the Implementation Date. The Merging Parties will use reasonable efforts to ensure that the majority of appointments made in this regard, shall be HDPs.

3. CAPEX INVESTMENT

3.1. The Target Firm commits to investing at least **R[CONFIDENTIAL]** in capital expenditure (“CAPEX”) in relation to Omnipless within **[CONFIDENTIAL]** from Implementation Date (representing a **R[CONFIDENTIAL]** compared to the previous three-year CAPEX at Omnipless).

4. SUPPLIER DEVELOPMENT AND HDP/SMME CONDITIONS

4.1. Omnipless will also use its reasonable endeavours to proactively identify and procure from local suppliers who are SME and/or HDP controlled and who are able to supply required input products on commercially competitive terms, prices and quality such that products meet the requisite industry norms and standards and/or comply with any regulatory requirements imposed on the products.

5. SKILLS DEVELOPMENT CONDITIONS

5.1. The Merging Parties commit to continue and support the current skills development initiatives of the Target Firm. Specifically, the Merging Parties commit to the following:

5.1.1. continuation and support of the student program provided by the Target Firm providing in-service training to technicians with an intake of **[CONFIDENTIAL]**, with **[CONFIDENTIAL]**% of such students being HDPs;

5.1.2. continuation of partnerships with local universities such as Cape Peninsula University of Technology, the University of Stellenbosch and expansion in the future with University of Cape Town; and

5.1.3. providing bursaries to **[CONFIDENTIAL]** HDPs in order to improve their qualifications and skills for occupational level growth. In this regard, the Merging

Parties shall seek to identify **[CONFIDENTIAL]** suitably qualified candidates **[CONFIDENTIAL]** of the Implementation Date and offer a bursary valued at **R[CONFIDENTIAL]** each for purposes of pursuing or completing studies in the field of engineering or sciences. The total value of this commitment is **R[CONFIDENTIAL]** and will be used towards university fees and related ancillary costs.

6. MONITORING

- 6.1. The Acquiring Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.
- 6.2. The Merging Parties shall circulate a copy of the relevant aspects of these Conditions relating to employment (i.e., paragraphs 2.1, 2.2 and 2.3 to the trade unions representatives and employee representatives within 5 (five) Days of the Approval Date.
- 6.3. Thales shall submit an affidavit (deposed to by a senior official of Thales) on each anniversary of the Implementation Date for the next 3 (three) years confirming compliance with the Conditions, which shall lapse on the third anniversary of the Implementation Date.
- 6.4. All correspondence in relation to monitoring the above Conditions may be sent to celine.darrigade@thalesgroup.com.

7. APPARENT BREACH

- 7.1. Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determine that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

8. VARIATION

- 8.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

9. GENERAL

All correspondences in relation to the Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions

Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5383

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****MOL CHEMICAL TANKER PTE. LTD****AND****FAIRFIELD CHEMICAL CARRIERS PTE. LTD****CASE NUMBER: 2023NOV0025**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 15 November 2023, the Competition Commission ("the Commission") received notice of an intermediate merger whereby MOL Chemical Tanker Pte. Ltd ("MOLCT"), intends to acquire the entire issued share capital of Fairfield Chemical Carriers Pte Ltd ("FCC SG"). Post-merger, FCC SG will be a wholly owned subsidiary of MOLCT.

Description of the merging parties

2. The primary acquiring firm, MOLCT, is duly incorporated under the laws of Singapore as a wholly owned subsidiary of Mitsui O.S.K. Lines, Ltd ("MOL"), which is incorporated under the laws of Japan. MOL is listed on the Tokyo Stock Exchange and thus as its shares are widely disbursed, no firm or individual directly or indirectly controls MOL. MOLCT does not control any entities in South African, however, for the sake of completeness, MOL controls MOL Auto Carriers Express South Africa (Pty) Ltd ("MOL Auto Carriers") which is incorporated under the laws of the Republic of South Africa. MOLCT, its controllers and their other subsidiaries will henceforth be collectively referred to as the "Acquiring Group". None of MOLCT shares are owned by historically disadvantaged persons ("HDPs").

3. The primary target firm, FCC SG, is duly incorporated under the laws of Singapore. FCC SG is a wholly owned subsidiary of Fairfield Chemical Carriers, Inc. ("FCC"), a company incorporated under the laws of Liberia. FCC is controlled by Fairfield-Maxwell Ltd, a company incorporated in accordance with the laws of the United States. In South Africa, FCC SG controls Fairfield Chemical Carriers South Africa ("FCC SA"), a company duly registered under the laws of the Republic of South Africa.
4. The merging parties submit that **[CONFIDENTIAL]**% of the entire issued share capital of FCC SA are held by Them bani Shipping (Pty) Ltd ("Them bani"), a **[CONFIDENTIAL]**% black-owned entity. FCC owns the remaining **[CONFIDENTIAL]**% of the shares in FCC SA. FCC SG, its controllers and its subsidiaries will henceforth be referred to as the "Target Firm".

Description of the transaction

5. In terms of the Share Purchase Agreement ("SPA") entered into between the MOLCT and FCC on 30 September 2023, MOLCT will purchase **[CONFIDENTIAL]**% of the FCC's shares. Post-merger, MOLCT will control FCC.

Activities of the merging parties

6. The Acquiring Group is active in the chemical tanker business such as the transportation of organic and inorganic chemicals, vegetable oils, fats, etc. Whereas MOLCT does not render chemical tanker services within South Africa, MOL Auto Carriers, the Acquiring Group's only subsidiary within South Africa, operates a car carrier division, but has no activities within the chemical tanker industry.
7. The Target Firm is a chemical tanker shipping business that owns and operates a fleet of 36 chemical tankers across the world. In South Africa, the target firm operates through FCC SA, which also specialises in the transportation of organic and inorganic chemicals, vegetables oils, fats, etc.

Overlapping markets and assessment

8. The Commission considered the activities of the merging parties and found that they overlap horizontally in that both of them operate chemical tankers. The Commission further found that there is no vertical overlap between the activities of the merging parties.

9. In respect of the chemical tanker business, the Acquiring Group is not involved in any inbound/outbound routes to/from South Africa. Therefore, from a South African perspective, based on the routes followed by the merging parties, the Commission is of the view that there is no geographic overlap arising between the activities of the merging parties in the to/from South African routes.
10. Therefore, the Commission is of the view that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in the affected markets within South Africa.

Public interest

11. The parties have tendered substantial commitments including a moratorium on employment, maintenance of HDP shareholding, enterprise development and skills development. The Commission considers that the commitments made, render the merger justifiable on justifiable public interest grounds.

Conclusion

12. The Commission approves the merger subject to conditions attached as **Annexure A**.

ANNEXURE A**MOL CHEMICAL TANKERS PTE. LTD****AND****FAIRFIELD CHEMICAL CARRIERS PTE. LTD****CASE NUMBER: 2023NOV0025**

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning:

- 1.1. "**Acquiring Firm**" means MOLCT;
- 1.2. "**Approval Date**" means the date on which the Merger is approved in terms of the Act;
- 1.3. "**Commission**" means the Competition Commission of South Africa;
- 1.4. "**Competition Act**" means the Competition Act 89 of 1998, as amended;
- 1.5. "**Conditions**" means these conditions;
- 1.6. "**Day**" means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.7. "**FCC SG**" means Fairfield Chemical Carriers Pte. Ltd;
- 1.8. "**FCC SA**" means Fairfield Chemical Carriers South Africa (Pty) Ltd;
- 1.9. "**First Annual Period**" means the first 12-month period after the Implementation Date;
- 1.10. "**HDPs**" mean historically disadvantaged persons within the meaning of section 3(2) of the Competition Act;
- 1.11. "**Implementation Date**" means the date, occurring after the Approval Date, on

which the Merger is implemented by the Merging Parties in South Africa;

- 1.12. "**LRA**" means the Labour Relations Act 66 of 1995, as amended;
- 1.13. "**Merging Parties**" means the Acquiring Firm and the Target Firm;
- 1.14. "**Merger**" means the proposed acquisition by the Acquiring Firm over the Target Firm as notified to the Commission under Case No. 2023Nov0025;
- 1.15. "**MOLCT**" means MOL Chemical Tankers Pte. Ltd.;
- 1.16. "**Preceding Annual Period**" means the 12-month period preceding the Implementation Date;
- 1.17. "**Second Annual Period**" means the 12-month period from the first anniversary of the Implementation Date to the second anniversary of the Implementation Date;
- 1.18. "**Target Firm**" means Fairfield Chemical Carriers Pte. Ltd.;
- 1.19. "**Third Annual Period**" means the 12-month period from the second anniversary of the Implementation Date to the third anniversary of the Implementation Date;
and
- 1.20. "**Tribunal**" means the Competition Tribunal of South Africa.

2. **HDP OWNERSHIP**

- 2.1. The Commission notes that the relevant business and entity associated with the Target Firm within South Africa, FCC SA, is **[CONFIDENTIAL]**% owned by HDPs.
- 2.2. The Merging Parties record that the Merger will not affect the HDP shareholding in FCC SA and commit to maintain a minimum of **[CONFIDENTIAL]**% HDP shareholding in FCC SA for as long as MOLCT controls FCC SA.

3. **EMPLOYMENT CONDITION**

- 3.1. The Merging Parties undertake that there will be no retrenchments in South Africa as a result of the Merger for a period of 3 years after the Implementation Date of the Merger.

- 3.2. For the sake of clarity, retrenchments for purposes of these Conditions, will not include (i) voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

4. ENTERPRISE AND SUPPLIER DEVELOPMENT

- 4.1. In pursuance of the public interest goals contemplated in the Competition Act, the Merging Parties are committed to increasing levels of localisation across the value chain and making a positive impact on and developing local HDP-owned businesses and suppliers. In this regard, the Merging Parties record and undertake:

4.1.1. Enterprise Development:

- 4.1.1.1. The Target Firm's bursary programme expenditure, which is aimed at providing HDPs, including women HDPs with support to obtain maritime and related qualifications at a tertiary level, was **R[CONFIDENTIAL]** for the Preceding Annual Period. The Merging Parties commit to increase such expenditure per annum to **R[CONFIDENTIAL]** in the First Annual Period, **R[CONFIDENTIAL]** in the Second Annual Period and **R[CONFIDENTIAL]** in the Third Annual Period.

- 4.1.1.2. The Target Firm's enterprise development expenditure, which is aimed at developing South African HDP-owned businesses, was approximately **R[CONFIDENTIAL]** for the Preceding Annual Period. The Merging Parties commit to increase such expenditure to **R[CONFIDENTIAL]** per annum (amounting to total expenditure of **R[CONFIDENTIAL]** over the 3 (three) year period following the Implementation Date).

4.1.2. Supplier Development:

- 4.1.2.1. The Merging Parties commit to source bunker supply from HDP-owned businesses subject to appropriate quality standards being met and reasonable availability of facilities on reasonably competitive commercial terms (based on FCC SA's usual and standard business practices in South Africa over time).
 - 4.1.2.2. The Target Firm's supplier development expenditure, which is aimed at developing South African HDP-owned suppliers, was approximately **R[CONFIDENTIAL]** for the Preceding Annual Period. The Merging Parties commit to increase such expenditure to **R[CONFIDENTIAL]** per annum (amounting to total expenditure of **R[CONFIDENTIAL]** over the 3 (three) year period following the Implementation Date).
 - 4.2. The Conditions set out in this clause 4 shall apply for a period of 3 (three) years from the Implementation Date.

5. **MONITORING OF COMPLIANCE WITH THE CONDITIONS**

- 5.1. Within 45 calendar days of each anniversary of the Approval Date up until the 3rd anniversary of the Implementation Date, the Merging Parties shall provide a suitable and appropriately detailed annual report to the Commission regarding compliance with the Conditions.
- 5.2. These compliance reports shall be accompanied by an affidavit (deposed to by a senior official of the merged entity) confirming the accuracy of the information contained in the compliance reports.
- 5.3. The Commission may request the Merging Parties to provide any documents which the Commission considers necessary for monitoring compliance with the Conditions.

6. APPARENT BREACH

Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission read together with Rule 37 of the Tribunal Rules.

7. VARIATION

Should the Merging Parties seek to vary the Conditions, they shall make a proposal to the Commission to consent to a waiver, relaxation, modification and/or substitution of any aspect of the Conditions, which consent shall, if made on good cause, not be unreasonably withheld. To the extent that the Commission is unwilling or unable to grant any modification of these Conditions, the Merging Parties shall be entitled to make application to the Tribunal for approval by it of such waiver, relaxation, modification, or substitution of any one or more of the Conditions.

8. GENERAL

All correspondence in relation to these Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5384

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****PICK N PAY RETAILERS (PTY) LTD****AND****MASHIBE GROUP (PTY) LTD T/A PICK N PAY GERMISTON (IN BUSINESS RESCUE)****CASE NUMBER: 2023JUL0016**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 11 July 2023, the Competition Commission ("the Commission") received notice of an intermediate merger whereby Pick n Pay Retailers (Pty) Ltd ("PnP Retailers") intends to acquire Mashibe Group (Pty) Ltd, trading as Pick n Pay Germiston ("PnP Germiston") (in Business Rescue). Post-merger, PnP Germiston will be controlled by PnP Retailers. PnP Germiston is currently under business rescue.

The transaction

2. The primary acquiring firm, PnP Retailers, is a company duly incorporated under the laws of the Republic of South Africa. PnP Retailers is a wholly owned subsidiary of PnP Stores Limited ("PnP"), which is publicly listed on the Johannesburg Stock Exchange. Accordingly, its shares are widely held, and PnP is not directly or indirectly owned by a single firm or individual. However, for the sake of completeness, each of the shareholders owning at least 5% of PnP's shares include Newshelf 1321 (Pty) Ltd, (25.3%), Government Employees Pension Fund (20.2%) and Fidelity Series Emerging Markets Opportunities (5.3%).

3. PnP controls several firms. Relevant for the purposes of assessing the proposed transaction are its Pick n Pay retail network (which include Pick n Pay Hypermarkets, Pick n Pay Supermarkets and Pick n Pay Express) and its Boxer network (Boxer and Boxer Punch).
4. Approximately 20.27% of PnP shares are held by historically disadvantaged persons (“HDPs”) while black women hold 8.12% of the shares. PnP Retailers, PnP and all its subsidiaries will henceforth be referred to as the Acquiring Firm, Acquiring Group or “PnP Group”.
5. The primary target firm, PnP Germiston, is a company duly incorporated under the laws of the Republic of South Africa and is solely controlled by Mr Kwakwa in his personal capacity. PnP Germiston is operated as a franchise business in terms of a Franchise Agreement between Pick n Pay and Mr Kwakwa.
6. PnP Germiston is currently in a business rescue and is managed by PnP through a suite of agreements entered between PnP Franchisor and the Business Rescue Practitioner (“BRP”).
7. Prior to entering into business rescue, PnP Germiston’s shares were 100% held by HDPs. Henceforth, PnP Germiston will be referred to as PnP Germiston or the Target Firm and its owner, Mr Kwakwa will be referred to as “the Seller”.

Description of the transaction

8. In terms of the proposed transaction, PnP Retailers intends to acquire PnP Germiston as a going concern. Post-merger, PnP Germiston will be solely controlled by PnP Retailers.

Overlapping markets

9. The Commission considered the activities of the merging parties and found that their activities overlap horizontally as they both operate supermarkets and liquor stores which offer products or services that can be regarded as interchangeable.
10. The Commission further found that the activities of the merging parties have a vertical overlap in that the Target Firm purchases stock from the suppliers which are approved and recommended by Pick n Pay as well as from the Pick ‘n Pay distribution centres.

Competitive assessment

11. In assessing the merger, the Commission considered the market for (i) the retailing of grocery products within a 3km radius of the target firm and (ii) the market for the retailing of liquor within a 3km radius of the target firm.
12. The Commission found that the nearest PnP corporate-owned store (PnP Primrose) is located 4.2km from PnP Germiston. Therefore, if the strict 3km radius is applied, there is no geographic overlap between the activities of the merging parties. For the sake of completeness, other PnP supermarkets or liquor stores within 15km of the Target Store are PnP Redruth (10.km), PnP Hyper Boksburg (10.8km) and PnP Sunward Park (14.7km).

Vertical assessment

13. PnP Germiston purchases stock from the suppliers which are nominated, approved and/or recommended by the Acquiring Group as well as the Acquiring Group's distribution centres. The merging parties submit that the stock procured by franchisees from PnP Franchisor is in the form of dry bulk which constitute approximately **[CONFIDENTIAL]**% of the franchisee's total stock. Franchisees are allowed to procure additional stock, including perishables stock, from suppliers nominated and/or approved by the PnP Franchisor.
14. The Commission is of the view that the transaction is unlikely to result in any foreclosure concerns as more than **[CONFIDENTIAL]**% of the products sold in PnP franchise stores are procured in-house pre-merger (as they are purchased from the Pick 'n Pay distribution and supply centres approved by Pick n Pay) while the remaining **[CONFIDENTIAL]**% of stock is sourced from external suppliers nominated and approved by PnP Franchisor who will continue to supply the Target Store post-merger.

Failing firm

15. The merging parties submitted that PnP Germiston is a failing firm.

Creeping mergers assessment

16. The Commission found that PnP has acquired some franchise stores within the recent past. The Commission will continue to monitor the effect of these acquisitions on both competition and public interest grounds.
17. In all, the Commission is of the view that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition within any relevant market.

Public interest*Employment*

18. The merging parties submit that the proposed transaction will not have a negative effect on employment but will instead secure the continued employment of at least **[CONFIDENTIAL]** employees. The Commission contacted the employee representative of the target firm, and she did not raise any concerns.

The ability of small and medium sized businesses, or firms controlled or owned by historically disadvantaged persons, to effectively enter into, participate in or expand within the market.

19. The Commission is concerned that the acquisitions by PnP raise a negative public interest effect in the retail sector in terms of section 12A(3)(a) and the ability of SMMEs or firms owned by HDPs to effectively participate in or expand within the market, in terms of section 12A(3)(c).

Promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons (HDPs) and workers and workers in firms in the market. (section 12A(3)(e) of the Competition Act No. 89 of 1998 (as amended) (the "Act")

20. The Acquiring Group is 20.27% owned by HDPs and 8.12% of its shares are held by black women. The target firm is 100% owned by a historically disadvantaged person. Noting that the proposed transaction results in a significant dilution of HDP ownership in the target firm by more than 79.78%, the merging parties were requested to implement an HDP and/or ESOP as ways to promote a greater spread of ownership by HDP and workers.

21. Following numerous engagements with the Commission, the PnP offered a condition that, after a specified period of time, PnP shall sell Germiston to an HDP franchisee at a market related price. The Commission accepts this offered condition.

Conclusion

22. The Commission approves the proposed merger subject to conditions in **Annexure A**.

ANNEXURE A**PICK N PAY RETAILERS (PTY) LTD****AND****MASHIBE GROUP (PTY) LTD T/A PICK N PAY GERMISTON (IN BUSINESS RESCUE)****CASE No: 2023JUL0016****CONDITIONS TO THE APPROVAL OF THE MERGER****1 DEFINITIONS**

The following terms have the meaning assigned to them below, and cognate expressions have corresponding meanings –

- 1.1. **"Acquiring Firm"** means Pick n Pay Retailers (Pty) Ltd, a company incorporated in accordance with the laws of South Africa;
- 1.2. **"Approval Date"** means the date on which the Commission issues a Clearance Certificate in terms of the Competition Act;
- 1.3. **"Commission"** means the Competition Commission of South Africa;
- 1.4. **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission issued in terms of section 21 of the Competition Act;
- 1.5. **"Competition Act"** means the Competition Act No. 89 of 1998, as amended;
- 1.6. **"Conditions"** means these conditions;
- 1.7. **"Days"** means business days, being any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.8. **"HDPs"** means historically disadvantaged persons within the meaning of the Competition Act;
- 1.9. **"HDP franchisees"** means HDPs who own a majority interest in a Pick n Pay franchise store.

- 1.10. **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;
- 1.11. **"Merged Entity"** means the merged entities of Pick n Pay Retailers (Pty) Ltd and the Target Firm following the implementation of the Merger;
- 1.12. **"Merger"** means the acquisition of sole control over the Target Firm by the Acquiring Firm;
- 1.13. **"Merger Parties"** means the Acquiring Firm and the Target Firm;
- 1.14. **"South Africa"** means the Republic of South Africa;
- 1.15. **"Target Firm"** means the Mashibe Group (Pty) Ltd t/a Pick n Pay Germiston (In Business Rescue);
- 1.16. **"Tribunal"** means the Competition Tribunal of South Africa; and
- 1.17. **"Tribunal Rules"** means Rules for the Conduct of Proceedings in the Tribunal.

2 CONDITIONS TO THE APPROVAL OF THE MERGER

- 2.1. The Acquiring Firm shall, after a specified period of time, offer to sell the store to any existing HDP franchisees or any new HDP franchisee at a market related price.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 3.1. The Acquiring Firm shall inform the Commission in writing of the Implementation Date of the Merger within 5 (five) Days of its occurrence.
- 3.2. The Acquiring Firm shall submit an affidavit to the Commission within 1 (one) month after the second anniversary of the Implementation Date attesting to its compliance with clause 2.1.
- 3.3. The Commission may request such additional information from the Acquiring Firm which the Commission from time to time regards as necessary for the monitoring of compliance with these Conditions.

CONTINUES ON PAGE 258 OF BOOK 3

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4. APPARENT BREACH

- 4.1. An apparent breach by the Acquiring Firm of the Conditions shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

5. VARIATION

- 5.1. The Commission or the Acquiring Firm may at any time, on good cause shown, apply to the Tribunal for the Conditions or any part thereof to be lifted, revised or amended.

6. GENERAL

- 6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5385

4 October 2024



Guidelines for Competition in the South African Automotive Aftermarket

1. The Competition Commission hereby issues final Guidelines for Competition in the South African Automotive Aftermarket first published on 29 January 2021 in terms of section 79(1) of the Competition Act No. 89 of 1998 (as amended), which allows the Competition Commission to prepare guidelines to indicate its policy approach on any matter falling within its jurisdiction.
2. The Guidelines for Competition in the South African Automotive Aftermarket can be downloaded from <https://www.compcom.co.za/automotive/>.
3. Email: DanielaB@compcom.co.za or SewelaM@compcom.co.za.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5386

4 October 2024

COMPETITION COMMISSION**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****INHEP ELECTRONICS HOLDINGS (PTY) LTD****AND****CSSAF RADIOWAVE HOLDINGS (PTY) LTD****CASE NUMBER: 2024FEB0009**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

1. On 05 February 2024, the Competition Commission ("Commission") was notified of an intermediate merger wherein Inhep Electronics Holdings (Pty) Ltd ("Inhep") intends to acquire 100% of the issued shares of CSSAF Radiowave Holdings (Pty) Ltd ("CSSAF Radiowave"). On completion of the proposed transaction, Inhep will have sole control of CSSAF Radiowave.
2. The primary acquiring firm is Inhep. Inhep is controlled by Assa Abloy AB, a public limited liability company registered in accordance with the company laws of Sweden. Assa Abloy AB's shares are publicly traded on the Nasdaq Stockholm and no single shareholder controls Assa Abloy AB.
3. In South Africa, Assa Abloy AB operates through (i) Inhep, (ii) Traka Africa (Pty) Ltd ("Traka Africa"), (iii) Impro Technologies (Pty) Ltd ("Impro Technologies") and (iv) Assa Abloy SA (Pty) Ltd. Assa Abloy AB and all its subsidiaries will collectively be referred to as the "AASA Group".
4. The AASA Group does not have any shareholding held by members of historically disadvantaged persons ("HDPs").

5. The ASSA Group is a manufacturer and distributor of a range of security solutions in South Africa. Inhep specialises in intrusion detection solutions (IDS), which include alarm panels, infrared detectors, CCTV cameras, access control devices and associated accessories and consumables. The IDS range of solutions also includes communication systems, which enable security company monitoring centres to be able to connect to IDS security systems which are installed in residential homes and office buildings, such that they are then able to monitor and timeously respond to intrusions such as break-ins, robberies, and home invasions. These services form part of a broad offering which are primarily supplied to armed response security companies.
6. The ASSA Group offering also include a range of smart GSM and IP devices that enables full control of client's home or business via a mobile application. It offers users a complete overview of their IDS alarm system, including notification and live video feeds and also provides different access solutions to meet clients' needs such as digital access solutions (e.g. key or card-based access), automatic door closers, locksets, cylinders, door opening systems and panic and escape devices and other electronic key management solutions, intelligent locker systems and related software, accessories, and technical support.
7. The primary target firm is CSSAF Radiowave. CSSAF Radiowave is ultimately controlled by CSSAF Radiowave Holdings, a company incorporated in Mauritius. CSSAF Radiowave Holdings is controlled by the Carlyle Group.
8. CSSAF Radiowave controls Amecor (Pty) Ltd ("Amecor") with a shareholding of 70%. The remaining shareholding in Amecor (30%) is held by Ascension Capital Partners (Pty) Ltd ("Ascension GP") in its capacity as general partner of Ascension Fund No 4 LLP ("Ascension Fund"), en commandite partnership.
9. Therefore, Amecor has 30% of its shareholding held by HDPs.
10. CSSAF Radiowave operates through Amecor in South Africa. Amecor is a manufacturer and distributor of electronic security equipment to security companies in South Africa. This includes alarm communication equipment such as alarm panels and communicators, which are relied on by security companies in providing armed response services to households and businesses in South Africa. It provides a range of related products such as panic systems, remotes, receivers, and transceivers as

well as base stations. Amecor supplies its security solutions directly to security companies.

Competition analysis

11. The Commission considered the activities of the merging parties and found that the proposed transaction presents horizontal overlaps in the following markets: (i) Broad national market for the of the supply of electronic security equipment (including control panels and communications systems) to security companies; (ii) Narrow market for the supply of control panel security equipment; and (iii) Narrow market for the supply of communication security equipment.
12. Notwithstanding the overlaps arising and the input foreclosure concern received, the Commission found that the merger is unlikely to result in any substantial prevention or lessening of competition in any relevant market.

Public interest analysis

13. To remedy the public interest concerns arising from the proposed merger, the merging parties tendered an employment condition, HDP Transaction condition, and the investment towards increasing the local manufacturing capacity of the merging parties over the next two to three years. See Conditions attached as “**Annexure A**”. The Commission is agreeable to the proposed conditions.

Conclusion and recommendations

14. As such, the Commission approves the proposed transaction subject to the conditions attached as **Annexure A**.

ANNEXURE A
INHEP ELECTRONICS HOLDINGS PROPRIETARY LIMITED
AND
CSSAF RADIOWAVE HOLDINGS PROPRIETARY LIMITED

CASE NUMBER: 2024FEB0009

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meanings assigned to them below, and cognate expressions bear corresponding meanings –

- 1.1 **"Acquiring Firm"** means Inhep Electronics Holdings Proprietary Limited;
- 1.2 **"Approval Date"** means the date referred to on the Commission's merger clearance certificate (Form CC 15), being the date on which the Merger is approved in terms of the Competition Act;
- 1.3 **"Affected Employees"** means not more than 15 employees of the Merger Parties (as defined below) in South Africa who may be retrenched as a result of the Proposed Transaction;
- 1.4 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5 **"Competition Rules"** means the Rules for the Conduct of Proceedings in the Commission;
- 1.6 **"Competition Act"** means the Competition Act, 89 of 1998, as amended;
- 1.7 **"Conditions"** mean these conditions;
- 1.8 **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;

- 1.9 "HDP" means a historically disadvantaged person as defined in section 3(2) of the Competition Act;
- 1.10 "**Implementation Date**" means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.11 "**Merger Parties**" means the Acquiring Firm and CSSAF Radiowave Holdings Proprietary Limited;
- 1.12 "**Proposed Transaction**" means the acquisition by the Acquiring Firm of 100% of the shares of CSSAF Radiowave Holdings Proprietary Limited;
- 1.13 "**Target Firm**" means CSSAF Radiowave Holdings Proprietary Limited and its subsidiaries; and
- 1.14 "**Tribunal**" means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act.

2. EMPLOYMENT

- 2.1 The Merger Parties shall not retrench any employees because of the Proposed Transaction for a period of 24 months from the Implementation Date.
- 2.2 For the avoidance of doubt, this condition does not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages, (iii) unreasonable refusals to be redeployed or relocated in accordance with the provisions of the Labour Relations Act No. 66 of 1995; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Proposed Transaction; (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance; or (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.
- 2.3 Should the need to retrench employees arise post the 24 (twenty-four) month period contemplated in clause 2.1, such retrenchments will be limited to the Affected Employees.

- 2.4 Should the Merger Parties retrench any Affected Employees as contemplated in these Conditions, the Merger Parties shall for a period of 12 (twelve) months after effecting such retrenchments:
- 2.4.1 consider opportunities for the redeployment of the Affected Employees into other divisions within the Merged Entity;
- 2.4.2 give preference to any Affected Employees in relation to any available vacancies that may arise within the Merged Entity, provided they have the requisite qualifications, skills, know-how and experience; and
- 2.4.3 offer the Affected Employees training and invest in skills development initiatives for the benefit of the Affected Employees.

3. HDP OWNERSHIP

- 3.1 The Merger Parties undertake to ensure that, post-implementation of the Proposed Transaction:
- 3.1.1 the HDP ownership level of the Target Firm will be no less than 30%; and
- 3.1.2 the number of HDP directors on the board of the Target Firm at the Approval Date, will be maintained.

4. CAPITAL EXPENDITURE

The Merger Parties will invest an aggregate amount of **[Confidential]** over a period of two to three years towards expanding the Merger Parties' local manufacturing capacity and facilitating the export of the Merger Parties products manufactured in South Africa.

5. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 5.1 The Merger Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Days of the Implementation Date.
- 5.2 Within 10 (ten) business days of the Approval Date, the Merger Parties shall circulate a non-confidential version of the Conditions to all employees of the Merger Parties in South Africa.
- 5.3 For the duration of the Conditions, the Acquiring Firm shall, within 30 (thirty) days of each anniversary of the Implementation Date, provide the Commission with an

affidavit attested to by a senior official of the Acquiring Firm, confirming compliance with the Conditions.

- 5.4 The Commission may request such additional information from the Merger Parties, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.

6. APPARENT BREACH

Should the Commission receive any complaint in relation to non-compliance with the above Conditions or otherwise determine that there has been an apparent breach by the Merger Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

7. VARIATION OF CONDITIONS

The Merger Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merger Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

8. GENERAL

All correspondence concerning these Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5387

4 October 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

**CACM INVESTMENTS LTD
AND
ANCHOR GROUP (PTY) LTD AND CREDO WEALTH LTD**

CASE NUMBER: 2024FEB0018

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 12 February 2024, the Competition Commission ("Commission") received notice of an intermediate merger involving a restructure of Anchor Group (Pty) Ltd ("Anchor"), through a series of cross-conditional and inter-related transaction steps, which will ultimately result in CACM Investments Ltd ("CACM") acquiring 100% control over each of Anchor and Credo Wealth Ltd ("Credo").
2. The primary acquiring firm is CACM, a company incorporated in accordance with the laws of the British Virgin Islands. CACM is a special purpose vehicle (SPV) which has been created for the purpose of the proposed transaction. Since its inception, CACM has been controlled by a trust which benefits a natural person.
3. CACM does not currently control (directly or indirectly) any firm(s). Post-merger, CACM will control Anchor and Credo (the primary target firms in the current transaction). Given that CACM is an SPV, it does not conduct any business activities.
4. Currently, CACM does not have any shareholding by historically disadvantaged persons ("HDP").
5. The primary target firms are (i) Anchor, a private company incorporated in accordance with the laws of the Republic of South Africa; and (ii) Credo, a private company incorporated in accordance with the laws of the British Virgin Islands.

6. The primary target firms are not controlled by any firm(s). However, the target firms control several firms that are active in the asset management and wealth management markets.
7. Anchor has some HDP ownership, whilst Credo has none.
8. Anchor is an asset and wealth management business with three primary divisions, namely, private clients, asset management and stockbroking. Credo is a holding company, with its main operating subsidiary, Credo Capital Limited (“CCL”), a firm incorporated in the UK. CCL is an independent wealth management business operating in South Africa and the UK. Its market segments include private clients, financial intermediaries, and asset management. The service offering of the Credo subsidiaries include investment management, trading services and wealth planning.

Competition Assessment

9. The Commission found that the proposed transaction is unlikely to result in any substantial prevention or lessening of competition in any relevant markets.

Public Interest considerations

10. The merging parties tendered commitments which the Commission considers will render the merger justifiable on public interest grounds. These commitments are set out in **Annexure A**.
11. The Commission therefore conditionally approves the proposed transaction.

ANNEXURE A: CONDITIONS
CACM INVESTMENTS LIMITED
AND
ANCHOR GROUP PROPRIETARY LIMITED AND CREDO WEALTH LIMITED

CASE NUMBER:2024FEB0018

1. DEFINITIONS

In this document, the expressions used above will have the appropriate meanings assigned to them and the following and related expressions will bear the following meanings:

- 1.1 “**Act**” means the Competition Act No. 89 of 1998, as amended;
- 1.2 “**Anchor**” means Anchor Group Proprietary Limited;
- 1.3 “**CACM**” means CACM Investment Limited;
- 1.4 “**Commission**” means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5 “**Commission Rules**” means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.6 “**Conditions**” means these merger conditions, included in this Annexure A;
- 1.7 “**Credo**” means Credo Wealth Limited;
- 1.8 “**Days**” means any day that is not a Saturday, Sunday or public holiday in South Africa;
- 1.9 “**HDP**” means historically disadvantaged persons, as defined in Section 3(2) of the Act;
- 1.10 “**Implementation Date**” means the date on which the Merger is implemented by CACM, Anchor and Credo;

- 1.11 “**Merger**” means the acquisition by CACM of Anchor and Credo, as notified to the Commission under Case No. 2024FEB0018;
- 1.12 “**Merging Parties**” means CACM, Anchor and Credo;
- 1.13 “**South Africa**” means the Republic of South Africa.

2. CONDITION TO THE APPROVAL OF THE MERGER

- 2.1 Pursuant to and within 10 (ten) Days of the Implementation Date of the Merger, HDP ownership in CACM will increase to not less than 20%.

3. MONITORING

- 3.1 CACM will notify the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.
- 3.2 CACM shall, within 10 (ten) Days of the Implementation Date, submit an affidavit from a director of CACM, confirming compliance with the Condition.
- 3.3 The Commission may, at any time, request the Merging Parties to provide any additional documents and information it requires to verify compliance with the Condition.

4. APPARENT BREACH

- 4.1 Should the Commission receive any complaint in relation to non-compliance with the above Condition, or otherwise determines that there has been an apparent breach by the Merging Parties of this Condition, the alleged breach shall be dealt with in terms of Rule 39 of the Commission Rules.

5. VARIATION

- 5.1 The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

6. GENERAL

- 6.1 All correspondence concerning the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298

DEPARTMENT OF WOMEN, YOUTH AND PERSONS WITH DISABILITIES

NO. 5388

4 October 2024



REPUBLIC OF SOUTH AFRICA

**FROM POLICY TO ACTION: INSTITUTIONALISING SELF-REPRESENTATION
FOR PERSONS WITH DISABILITIES**

EXPLANATORY NOTE

Purpose

- The purpose of this framework is to provide for a statutory and regulatory reference and approach for the promotion and upholding of the right to self-representation by and for persons with disabilities in South Africa.
- To provide a framework for an integrated and multi-disciplinary coordination of the right to self-representation and support
- To provide for the establishment of consultative platforms/committees and national and provincial forums and related institutions to promote self-representation
- To prevent and combat discrimination and secondary victimization of persons with disabilities by providing early intervention and reintegration programmes into society through institutionalization of self-representation to enhance the representative voice of persons with disabilities
- To provide for designation and deployment strategy on consultative and decision making platforms
- To provide for empowerment and support services for persons with disabilities to ensure non-discrimination and representation at a socio-economic, political, civil, cultural and social participation aspects of life
- To provide for the development and implementation of self-representation through norms and minimum standards.
- To provide for the specific roles and responsibilities of relevant government departments and other stakeholders; And to provide for matters connected there with, for purposes of legal recourse

Preamble

Whereas-the framework relates to alignment of the White Paper on the Rights of Persons with Disabilities with legislation related to the right to self-representation by persons with disabilities

Whereas-the bill of rights in the Constitution of the Republic of South Africa 1996 provides that “everyone has the right amongst others to human dignity and equality before the law

Whereas- the United Nations Convention on the Rights of Persons with Disabilities provides for a declaration of basic principles of self-representation and justice for persons with disabilities to prevent abuse of power;

Whereas-the United Nations Convention on the Rights of Persons with Disabilities urges all state parties through its general obligations to enact appropriate legislation to promote self-representation as an absolute right for persons with disabilities

Whereas- the Republic of South Africa is a signatory to and has ratified the United Nations Conventions on the Right of Persons with Disabilities and all declarations of human rights

Whereas- the Republic of South Africa has since 1994 become an intergral an accepted member of community of nations and is committed that persons with disabilities have the right to self-representation and are at the epicentre of the justice system and process

Whereas-the Republic of South Africa recognises the right of and for self – representation for persons with disabilities by ensuring that the general provisions of legal recourse are effective, integrated, multi-disciplinary, supportive and that the empowerment of persons with disabilities towards self-representation is a permanent feature at a policy and legislation level and;

Whereas- it is necessary to combat and prevent tertiary, secondary and primary discrimination of persons with disabilities for the progressive realisation of the right to self-representation

BE IT THEREFORE APPROVED BY THE CABINET OF THE REPUBLIC OF SOUTH AFRICA

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CHAPTER 1: SELF-REPRESENTATION

Interpretation, Objectives and Application of the Framework

1.1 Abbreviations

ADP	Protocol to the African Charter for Human and Peoples' Rights on the Rights of Persons with Disabilities (Africa Disability Protocol)
CBR	Community-Based Rehabilitation
CAT	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women (1979);
CRC	Convention on the Rights of the Child
CERD	International Convention on the Elimination of All Forms of Racial Discrimination (1966).
CSOs	Civil Society Organisations
DPOs	Disabled Peoples' Organisations
INDS	1997 White Paper on an Integrated National Disability Strategy
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
PEPUDA	Promotion of Equality, Prevention of Unfair Discrimination Act
NBAC	National Bid Adjudication Committee
RBAC	Regional Bid Adjudication Committee
RDP	Reconstruction and Development Programme
SABC	South African Broadcasting Corporation
SAHRC	South African Human Rights Commission
UNCRPD	UN Convention on the Rights of Persons with Disabilities
WHO	World Health Organisation
WPRPD	White Paper on the Rights of Persons with Disabilities

1.2 Definitions and Interpretations

Advocacy: The political act or process of supporting a cause, idea or policy by individuals or a group/s with an aim to influence the outcome. Advocacy should ensure that affected peoples voices are heard, their rights are promoted and that their views are considered when decisions that impact directly on their lives are being made.

Assistive devices: Any device, product, equipment or tool that is designed or adapted to enable persons with disabilities to participate in activities, tasks or actions. They may include: (i) mobility aids such as wheelchairs, prostheses and crutches; (ii) Communication aids such as hearing aids, FM systems; (iii) Sensory aids such as white canes; noise reducing headphones and coloured lenses (iv) Technology aids such as computers for alternate and augmentative communication, screen readers, magnifiers, text in audio format.

Assistive technology: It is an umbrella term that includes assistive, adaptive, and rehabilitative devices and services for persons with disabilities, which enable persons with disabilities and learning differences to attain independence. They include for example, loop systems, sub texting and alternative input for cognitive assistance and computer or electrical assistive devices.

Disability: The UNCRPD does not attempt to define disability per se, but rather recognises disability as an evolving concept. Disability is imposed by society when a person with a physical, psychosocial, intellectual, neurological and/or sensory impairment is denied access to full participation in all aspects of life, and when society fails to uphold the rights and specific needs of individuals with impairments.

Discrimination: Discrimination is any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) imposes burdens, obligations or disadvantages on; and/or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds, which include disability and any other ground that might disadvantage a person, undermines human dignity or adversely affects an individual's rights and freedoms.

- Disability Discrimination:** Discrimination on the basis of disability means any distinction, exclusion or restriction of persons on the basis of disability, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, on all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It encompasses all forms of unfair discrimination, whether direct or indirect, including denial of reasonable accommodation.
- Self-Representation:** refers to the practice of people being able to articulate their own issues by themselves and for themselves. It refers to people being enabled and allowed to have their own voice in issues that relate to their specific needs and circumstances¹.
- Equality of arms:** is the guarantee that both sides will be given the same procedural opportunities to prove their cases.
- Accusatorial system:** is the right to direct confrontation as one of the essential ingredients in a fair trial.
- Compounded vulnerability:** Environmental as well as personal contexts can lead to compounded vulnerability to exclusion and human rights violations for persons with disabilities. These contexts could range from gender, race, impairment, where people live, socio-economic status, age, qualification levels, cultural beliefs, health status and others.

¹ Government of South Africa, White Paper on the Rights of Persons with Disabilities (WPRPD), 9 December 2015.

1.3 Objectives of the Framework

The objectives of this framework are to move from policy to action/ institutionalising self-representation for persons with disabilities by focusing on the following work:

- a Strengthening access and participation through self-representation;
- b Official recognition of representative organizations of and for persons with disabilities (inclusive of parent organizations);
- c Strengthening diversity and self-advocacy programmes for persons with disabilities (taking into consideration intersectionality issues);
- d self-representation in public life;
- e Constitutional and legal imperatives towards an obligation to legislate the right to self-representation.

Institutionalising the principle of self-representation of persons with disabilities: Following the development of a rights-based legislative framework, another achievement to note is the **institutionalisation of the principle of self-representation of persons with disabilities**. Evidence of representation and participation after 1994 by persons with disabilities at national, provincial and local spheres of government, including in Parliament **demonstrates the shift in attitude within the highest and critical offices of government and the state**.

The principle of self-representation has resulted in a number of other significant policy trajectories. For instance, **the strengthening of the disability movement** developed into a priority as there was a need to ensure that they are active participants in the policy value chain. A vibrant and organised disability sector and in particular a strong representative voice of persons with disabilities, directly **aligns with the call for an “active citizenry”** referred to in the National Development Plan (NDP) in order to ensure policy influence. For the disability sector in particular, it is demonstrated that **without the experience and expertise of disability issues by persons with disabilities themselves, policy-makers, service providers and the public at large will remain ignorant of their needs**, or at best, sympathise with persons with disabilities and respond accordingly. The CRPD therefore requires of state parties to **involve representative organisations of persons with disabilities in all matters affecting them**, including the monitoring of implementation of the UNCRPD.

Self-representation of also a key ingredient for **meeting differing needs through a developmental approach**.

The Self-Representation Framework (SRF) is a component of the White Paper on the Rights of Persons with Disabilities (WPRPD) as described in Strategic **Pillar 1: Removing Barriers to Access and Participation** and Strategic **Pillar 6: Strengthening the Representative Voice of Persons with Disabilities**.

1.4 Application of the Framework

1.4.1 The Legal Application of the Framework

This Framework applies to duty-bearers, including oversight institutions, government institutions, the judiciary, the private sector, the media, law and policy makers, public servants, frontline staff, as well as representative organisations of persons with disabilities (inclusive of parents' organisations), non-governmental organisations and civil society organisations (CSOs).

The Framework is aimed at achieving **inclusion** and strengthening **access and participation** through **self-representation**; providing **official recognition of representative organizations** of and for persons with disabilities (inclusive of parent organizations); **strengthening diversity and self-advocacy programmes** for persons with disabilities (taking into consideration intersectionality issues); **facilitating and promoting self-representation in public life** and in **increasing awareness of constitutional and legal imperatives** towards an obligation to legislate the right to self-representation.

Following the development of a rights-based legislative framework, another achievement to note is **the institutionalisation of the principle of self-representation of persons with disabilities**. Evidence of **representation and participation** after 1994 by persons with disabilities **at national, provincial and local spheres of government, including in Parliament demonstrates the shift in attitude within the highest and critical offices of government and the state**.

The framework is a policy guideline or instrument that provides a **detailed analysis of matters, principles and approaches to self-representation** in process, events or other environments that require **participation, mainstreaming/ inclusion (or 'involvement')** of the needs of persons with disabilities in specific sectors of government, life and generally in society.

The crosscutting nature of self-representation and inclusion strategies requires that the **principles and provisions of the framework apply to all sectors** of society/ all tiers of government, social/economic/human rights/political structures and their strategies.

The mandate for this framework is taken from the Bill of Rights of the Constitution of the Republic of South Africa. **The right to equality guaranteed in the 1996 Constitution includes social and political equality** at all levels. This means, in part, that persons with disabilities should enjoy equal access to fundamental rights, even if the exercise of these rights involves removing barriers and creating enabling mechanism.

For example:

- a. the right to vote is restricted by inaccessible polling booths and voting material;
- b. the right of access to public information is restricted as a result of inaccessible public media;
- c. failure to recognise Sign Language prevents Deaf people from enjoying access to full participation in the social, political and economic life of the country.

1.4.2 South African Legal Context

Brief Analysis of Post-1994 Disability Policy Formulation Milestones

The **Disability Rights Charter of 1992** was of significant instrumental value in establishing the minimum demands of persons with disabilities in preparation for democracy in South Africa. This Charter, founded on the principles enshrined in the 1955 Freedom Charter, informed, and continues to inform, the promotion and protection of the rights of persons with disabilities in South Africa.

The Integrated National Disability Strategy (INDS) presented the turning point for the disability sector in South Africa. Linked directly to the values and policy imperatives of the Reconstruction and Development Programme (RDP), it became the starting point of institutionalising change and setting the scene for the transformation of society and government².

The INDS was informed by the **United Nations Standard Rules for the Equalisation of Opportunities for Persons with Disabilities (United Nations, 1994)** and the **Disability Rights Charter**. It became the critical benchmark for all future disability legislation in South Africa, thereby further aligning national and international legislation and development. The public hearings held in the process of developing the INDS gave persons with disabilities across the geographical span of the country **the opportunity to voice their needs and concerns**. This, in essence demonstrated the beginnings of **“inclusive and representative policy design” (Ka Toni & Kathard, 2011: 24)** and also **government’s commitment to self-representation for persons with disabilities**.

The INDS represented a historical milestone in shifting away from the understanding of disability as a medical or health and welfare issue. The medical and social model of disability was officially documented to demonstrate this shift towards a rightsbased approach, which is embedded within the social model and adopted in the INDS. With a focus on removing barriers faced by persons with disabilities in all facets of their lives, the INDS brought to the fore the roles and responsibilities of other key

² DSD Country report (2015)

government departments, as well as civil-society organizations, in building a more inclusive society for persons with disabilities.

The strategic timing of developing and documenting the INDS early in the country's transformation agenda resulted in all relevant laws and policies that were revised or newly developed within the broader transformation agenda including disability as a rights-based issue.

South Africa **ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and its Optional Protocol** without reservation in 2007. This final phase in the twenty year journey since 1994 also observed important legislation and policies that were needed to address disability issues³.

Table 1 below shows legislation, policies, conventions and guidelines pertaining to people with disabilities in South Africa since 1994.

Table 1: Significant legislation, policies, conventions and guidelines pertaining to people with disabilities in South Africa

1994–2000	2001–2006	2007–2012
National legislation		
Constitution of South Africa (1996)	White Paper 6 on Special Needs Education (2001)	The Sexual Offences Act (2007)
National Education Policy Act (1996)	Mental Health Care Act (2002)	Ratification of the UNCRPD (2007)
Integrated National Disability Strategy (1997)	Code of Good Practice for the Employment of Persons with Disabilities (2002)	Children's Amendment Act (2007)
Housing Act (1997)		
Employment Equity Act (1998)	National Health Act (2004)	Social Assistance Amendment Act (2008)
Skills Development Act (1998)	South African Social Security Agency Act (2004)	National Skills Development Strategy (2010)
Skills Development Levies Act (1999)	Technical Assistance Guide to the Employment of People with Disabilities (2004)	
PEPUDA (2000)	Children's Act (2005)	
National Rehabilitation Policy (2000)		
International legislation		

³ Ibid

UN Standard Rules for Persons with Disabilities (1994)	UN Convention on the Rights of the Child (2001)	World Health Organisation (WHO) Community-based Rehabilitation Guidelines (2010)
UNESCO Salamanca Statement on Special Needs Education (2001)	UN Convention on the Rights of Persons with Disabilities – UNCRPD (2006)	

Source: Chappel & Rule, 2013

The period 2001 to 20012 entrenched disability rights in government legislation.

Within the context of the revision and redesign of the country's policies, the development of several white papers served to inform legislation reform as South Africa moved into the new millennium. This phase also put focus on the development of strategies and programmes to guide the implementation of legislation that had already been promulgated. As the understanding of disability at the policy level moved beyond a health and welfare construct, this new approach had to be conceptualised in the process of addressing the residual effects of apartheid within the health, social development, education, transport, communication and employment sectors, which are the core areas of service delivery for persons with disabilities⁴.

The ensure that these historical/contemporary policy values are entrenched in all sector-wide policies, legislation and strategies such as the NDP, the South African government adopted the **White Paper on the Rights of Persons with Disabilities (WPRPD)**. The WPRPD reiterates that the primary **responsibility for disability equity lies with national, provincial and local government; and other sectors of society** but also allocates **responsibilities to persons with disabilities and their families**. The vision of the WPRPD is the **creation of free and just society inclusive of all persons with disabilities as equal citizens**".

The WPRPD **commits duty bearers to realising the rights of persons with disabilities** by (among other measures):

- Updates South Africa's 1997 White Paper on an Integrated National Disability Strategy (INDS),
- Integrates obligations of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and in the Continental Plan of Action for the African Decade of Persons with Disabilities (both of which South Africa has signed), with South Africa's legislation, policy frameworks and the National Development Plan 2030,
- Endorses a mainstreaming trajectory for realising the rights of persons with disabilities,
- Provides clarity on and guides the development of standard operating procedures for mainstreaming disability,

⁴ The Presidency, Twenty-review South Africa (1994-2014): Background Paper: Disability

- Guides the review of all existing, and the development of new, sectoral policies, programmes, budgets and reporting systems to bring these in line with both Constitutional and international treaty obligations,
- Stipulates norms and standards for the removal of discriminatory barriers that perpetuate the exclusion and segregation of persons with disabilities,
- Broadly outlines the responsibilities and accountabilities of the various stakeholders involved in providing barrier-free, appropriate, effective, efficient and coordinated service delivery to persons with disabilities, and
- **Guides self-representation of persons with disabilities⁵.**

The White Paper recognises self-representation in:

- Strategic Pillar 1: Removing Barriers to Access and Participation and Strategic**
- Strategic Pillar 6: Strengthening the Representative Voice of Persons with Disabilities**
- Strategic Pillar 7: Building a Disability Equitable State Machinery**

The approach adopted for the framework highlights three (3) pillars, namely; rights, empowerment and equality as follows:

- The Rights Pillar*** - A 'rights-based' pillar essentially argues that all people are entitled to universal human rights and development should be oriented to meeting those rights. A series of international human rights treaties and other instruments adopted since 1945 have conferred legal form on inherent human rights and developed the body of international human rights. Other instruments have been adopted at the regional level reflecting the particular human rights concerns of the region and providing for specific mechanisms of protection. Respect for human rights requires the establishment of the rule of law at the national level.

With a rights-based approach, effective action for development moves from the optional realm of charity into the mandatory realm of law, with identifiable rights, obligations, rights-holders and duty-bearers.

The Empowerment Pillar: The empowerment approach is therefore identified as a core pillar for enabling this targeted group to avail to and access those opportunities that exist. It also includes encouraging, and developing the skills for self-sufficiency, with a focus on eliminating the need for charity or welfare in the individuals of the group

The Equality Pillar – The aim of equality is to focus on equalising the opportunities and life chances that are available, to persons with disabilities. It signifies an aspiration to work towards a society in which persons with disabilities are able to

⁵ White Paper on the Rights of Persons with Disabilities (WPRPD)

live equally fulfilling lives and to equally contribute to designing the society that they want.

1.4.3 Examples of the South African Policy Environment on Disability and Self-Representation

a. Public Works Department: Disability Policy Guideline

The principles guiding the implementation of the Department's Policy Guideline on Disability is in keeping with the imperatives of the constitution, the UNCRPD, Promotion of Equality, Prevention of Unfair Discrimination Act (PEPUDA), Integrated National Disability Strategy (INDS), Batho Pele Principles, and other related policies. These principles are:

1. Self-representation - to ensure the involvement of persons with disabilities and their organisations to attain the successful implementation of this Policy Guideline.
2. self-representation: persons with disabilities be included in the National Bid Adjudication Committee (NBAC) and Regional Bid Adjudication Committee (RBAC)
3. Facilitate the representation of persons with disabilities in the Bid Specification/ Evaluation Committees.

b. Disability Policy Western Cape

People with Disabilities have the right to self-representation in processes and structures of decision-making on issues that affect them. In situations where they cannot represent themselves, they have the right to choose/nominate a **family member to represent themselves**.

The right to self-representation is reinforced in this Policy on Disability in the sections entitled Roles and Responsibilities, Approach, Structures for Implementation and Monitoring and Evaluation. Some examples of entry points for applying the principle of self-representation are **programme or project conceptualisation and design; consultation processes; and participation in ad-hoc task teams**.

Self-respect and self-sufficiency: It is critical that all assistance and support provided to People with Disabilities is done with **their full consent and inclusion** (self-representation as described above). The purpose and outcome of the assistance and support is that of self-respect and self-sufficiency. In other words, all projects and activities should facilitate, as far as is possible and feasible, independent living – from the meeting of personal needs to that of participating in social and economic life.

- c. **Self-representation on SABC Board:** People with disabilities are best equipped to change perceptions and attitudes towards disability, and should therefore play a central role in the development of strategies and projects through their legitimate organisations. The appointment of a person with disability to the SABC Board (1996/97) was an important first step.
- d. **Self-representation-Transport Services:** People with disabilities experience problems arising from the lack of barrier free access on an almost daily basis. It is, however, important to ensure that advice is sought from the legitimate representatives of disabled people's organisations to ensure that a representative and not a personal viewpoint is obtained. Different disability populations have different public transport needs. There are also differences in the needs of people living in rural and urban areas. It is therefore essential that processes to develop accessible commuter systems include participation by all stakeholders.
- e. **Social Welfare Services:** Social welfare services should include a range of strategies designed to facilitate access by people with disabilities and parents of disabled children to mechanisms which will enhance their ability to live independently. Self-representation can be on management structures of either residents or their families or advocates.
- f. **Education Sector:** can facilitate a process to develop inclusive strategies that facilitate self-representation of students with disabilities as a distinct constituency on all forums and governance structures.

1.5 International Legal Context

Introduction

South Africa has been a key role player in the development of international disability policy instruments. Substantial historical milestones have now been gathered in an attempt to achieve and guarantee the rights of persons with disabilities. It is worth noting that persons with disabilities **actively and successfully participated** in the development of international, regional and national policy instruments.

Self-Representation played and continue to play a crucial role in the development, implementation, monitoring and evaluation on public/private sector and CSO policies/strategies.

Key international policy instruments on disability include:

a General International Norms Pertaining to Persons with Disabilities

The Charter of the United Nations requires member States to respect human rights for all without any distinction as to race, sex, language or religion and forms the nucleus for the protection of rights for persons with disabilities.

Specific articles of the Charter provide the foundation on which disability rights can be built. These articles are as follows:

- Article 1 (3) states that the purpose of the United Nations is "*...to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction*".
- Article 13 (1) (b) states that the General Assembly "*...shall initiate studies and make recommendations for the purpose of promoting international co-operation in the economic, social, cultural, educational, and health field, and assisting in the realisation of human rights and fundamental freedoms for all*"
- Article 55 (a) states that the "*...United Nations shall promote higher standards of living, full employment, and conditions of economic and social progress and development.*" Furthermore, article 55 (c) provides that the "*...United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms for all.*"

The Universal Declaration of Human Rights forms the fundamental normative basis on which international norms and standards concerning persons with disabilities have evolved. The Universal Declaration contains a number of provisions, which constitute the foundation for resolutions regarding disabilities based on the principle of equal rights.

Apart from the Universal Declaration of Human Rights there are six core human rights conventions that relate to the rights of persons with disabilities. The International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified in 1966 are the two basic human rights treaties and together with the Universal Declaration of Human Rights constitute the International Bill of Rights. The other four core human rights conventions are the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)(1949); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979); the Convention on the Rights of the Child (CRC) (1989); and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1966). While all six conventions stipulate the principle of non-discrimination, the last-mentioned treaties specify the general rights enunciated in the ICCPR and ICESCR.

The provisions on anti-discrimination in the ICCPR have special relevance to rights of persons with disabilities. One of the most important rights in relation to persons with disabilities is enunciated in article 25, which establishes that citizens are entitled to **"access on general terms of equality, to public service in his country"**.

General Comment No. 5 is a definitive analysis of the States parties' obligations under the ICESCR in the context of disability. It recognizes that:

"[t]hrough neglect, ignorance, prejudice and false assumptions, as well as through exclusion, distinction or separation, persons with disabilities have very often been prevented from exercising their economic, social or cultural rights on an equal basis with persons without disabilities. The effects of disability-based discrimination have been particularly severe in the fields of education, employment, housing, transport, cultural life, and access to public places and services." (para. 15)

States parties are encouraged to take affirmative action to:

"reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities." (para. 9) Further, states parties are, "required to take appropriate measures, to the maximum extent of their available resources, to enable such persons to seek to overcome any disadvantages, in terms of the enjoyment of the rights specified in the Covenant, flowing from their disability." (para. 5)

The General Comment No. 5 also states that, "it is also necessary to ensure that support services, including assistance devices are available for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights." (para. 33)

Unlike other human rights conventions, the Convention on the Rights of the Child in article 23 focuses directly on children with disabilities. Even though no direct obligations have been placed on State Parties to take measures to ensure that children with disabilities enjoy a life of dignity, self-reliance and integration with the community, article 23, paragraph 1-4 recognizes the importance of participation in the community, education, training health care, rehabilitation employment and recreation opportunities for children with disabilities. The Committee on the Rights of the Child has however established that the fact that **article 23 is dedicated to children with disabilities should not mean that the rights of children with disabilities are confined to that article.**

In the past few decades, the United Nations has given considerable attention to the rights of persons with disabilities. Increased crisis situations such as widespread hunger, wars, and ecological disasters afflicting many communities around the world have increased the numbers of persons with disabilities. Apart from general human

rights conventions, the United Nations has created extensive policy on issues of disability albeit at times using a medical model rather than human rights approaches. In 1971, the Declaration on the Rights of Mentally Retarded Persons was adopted by the General Assembly. Article 1 of the Declaration on the Rights of Mentally Retarded Persons proclaims that mentally retarded persons have the same rights as other human beings.

Article 1 of the **Declaration on the Rights of Disabled Persons adopted in 1975**, in its preamble, the General Assembly called for "...*national and international action to ensure that it will be used as a common basis and frame of reference for the protection of [the rights contained within the Declaration]*" Article 4 asserts broad social and economic rights for disabled persons and provides that disabled persons have the same civil and political rights as other human beings. Article 5 provides that "...*disabled persons are entitled to the measures designed to enable them to become as self-reliant as possible.*" Article 6 states that persons with disabilities have the "...*right to medical, psychological and functional treatment (...) to medical and social rehabilitation, education, vocational training and rehabilitation, aid, counselling, placement services and other services which will enable them to develop their capabilities and skills to the maximum and will hasten the processes of their social integration or reintegration.*" Article 7 provides that disabled persons have the right to economic and social security and to a decent level of living. **"Disabled persons are entitled to have their special needs taken into account at all stages of economic and social planning"** (article 8). Also, Article 9 states that disabled persons have the right "...*to live with their families or with foster parents and to participate in all social, creative or recreational activities.*"

The Declaration also prohibits discrimination. For example, article 10 states: **"Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature."** The Declaration further requires that disabled persons be "...**provided with qualified legal aid where such aid is indispensable for the protection of disabled persons themselves and their property**" (article 11). Finally, the Declaration states that persons with disabilities and their families have a right to receive information on the rights contained in the Declaration (article 13).

In the 1980's the activity that began in the 1970's picked up momentum and the next decade witnessed an acceleration of activity on rights on behalf of persons with disability. The year 1981 was declared the *International Year of Disabled Persons* by a General Assembly resolution 31/123 of 16 December 1976. An important United Nations Voluntary Fund on Disability was established by General Assembly Resolution 32/133 in connection with the International Year of Disabled Persons. The Fund was later renamed the *Voluntary Fund for the United Nations Decade of Disabled Persons* (1983-1992). The theme was **Full Participation and Equality**, defined as **the right of persons with disabilities to participate fully in**

their societies, to enjoy equal living conditions, and to have an equal share in improved conditions.

The resolution proclaimed that the year 1981 be devoted to the full integration of disabled persons in society; the encouragement of academic research projects to facilitate the participation of persons with disabilities in daily life; the education of the public in regard to the rights of persons with disabilities; ***understanding and accepting persons with disabilities; and encouraging persons with disabilities to form organizations to express their views.***

One of the most important outcomes of the *International Year of Disabled Persons* was the formulation of the *World Programme of Action Concerning Disabled Persons, which was adopted by the General Assembly in 1982*. The World Programme represents the first worldwide international long-term policy in relation to disabled persons. The Programme proposed three actions:

1. Prevention of mental, physical and sensory impairments;
2. Rehabilitation to assist disabled persons to reach their optimum mental, physical, and social capacities;
3. **Equalization of opportunities for persons with disabilities in areas including housing, transportation, education, social and medical well-being and recreation.**

The purpose of the World Programme is to promote effective measures for prevention of disability, rehabilitation and the **realisation of the goals of Full Participation of disabled persons in social life and development and of Equality**. The Programme adds a human rights dimension by recognising the **Equalization of Opportunities as an important objective for achieving full participation by disabled persons in all areas of life**.

The Programme marks a shift towards a **rights-based model** and an explicit recognition of the right of all persons to equal opportunity. In paragraph 12, the WPA defines "equalization of opportunities" as, "*the process through which the general system of society, such as the physical and cultural environment, housing and transportation, social and health services, educational and work opportunities, cultural and social life, including sports and recreational facilities, are made accessible to all*".

The General Assembly adopted the resolution **Implementation of the World Programme of Action Concerning Disabled Persons** the year following the adoption of the World Programme.

The General Assembly declared **the period of 1983 to 1992 the United Nations Decade of Disabled Persons**. The General Assembly encouraged Member States to use the decade to implement the World Programme of Action. In 1989,

the General Assembly adopted the Tallinn Guidelines for Action on Human Resources Development in the Field of Disability. The Guidelines provide a framework for the education and employment of persons with disabilities within government ministries and on all levels of national policy-making. The aim of the Tallinn Guidelines is to promote the human resources development of persons with disabilities. Guideline 6 states that human resource development "**...is a process centred on the human person that seeks to realise the full potential and capabilities of human beings.**" Guideline 9 provides that "**...the abilities of disabled persons and their families should be strengthened through community-based supplementary services provided by Governments and non-governmental organizations.**"

The Guidelines outline a series of strategies for promoting the human resource development of persons with disabilities. These strategies include the promotion of education, training and employment for disabled persons, as well as community awareness. In particular, guideline 33 provides that "...disabled persons have the right to be trained for and to work on equal terms in the regular labour force." Guideline 23 states that "...education at the primary, secondary and higher levels should be available to disabled persons within the regular educational system and in regular school settings, as well as in vocational training programmes." Guideline 23 provides **that "...in addition to being offered formal skills training and education, disabled persons should be offered training in social and self-help skills to prepare them for independent living.**" The thrust of the guidelines is that disabled persons are "**...agents of their own destiny rather than objects of care...**" (Guideline 8).

In 1991, the General Assembly adopted the Principles for the Protection of Persons with Mental Illness for the Improvement of Mental Health Care. The Principles define the basic rights and fundamental freedoms of persons with disabilities and was considered a new development in the field of treatment of mental health. The Principles represent minimum United Nations standards for protecting the fundamental freedoms and legal rights of those with mental illness. They are intended to be used by Governments, special agencies, national and regional organizations, international organizations, and non-governmental organizations as a guide.

The major outcomes of the last decade were the designation of December 3rd as the annual *International Day of Disabled Persons* (General Assembly Resolution 48/98 of 20 December 1993) and the subsequent adoption of **The Standard Rules on the Equalization of Opportunities for Persons with Disabilities**. The Standard Rules consist of four major sections: **1) Preconditions for equal participation; 2) Target areas for equal participation, 3) Implementation measures; and 4) Monitoring mechanisms.**

The Rules summarise the message of the World Programme of Action concerning Disabled Persons and are designed to provide Governments with policy guidelines and options, which can be incorporated into national legislation. The long-term strategy presents a framework for collaborative action at the national, regional and international levels to achieve the aim expressed by the Assembly in resolution 48/99 of a society for all by the year 2010. The Strategy outlines a sequence of suggested actions by interested Governments for the period 1995-2010, together with associated targets, time-frames for action and an ancillary set of support measures at the regional and international levels to realize that aim.

Although the Standard Rules on the Equalization of Opportunities for Persons with Disabilities are not legally binding and do not have the full force of law, they have been adopted by a large number of States and imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities for disabled persons. The Standard Rules is, in fact, the **first universal instrument to refer specifically to persons with disabilities, as well as to contain an extremely broad statement of the rights to equal opportunities.**

The second chapter of the Standard Rules deals with *Target Areas for Equal Participation* (rules 5 to 12). The selected target areas include accessibility, education, employment, income maintenance and social security, family life and personal integrity, culture, recreation and sports, and religion.

To attain independence, appropriate employment for disabled persons is essential. As stated in Rule 7 of the Standard Rules, **"States should recognise the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment."** One of the key aspects in social policy reform in recent years has been the recognition that disabled persons have been excluded from access to employment in the public and private sector for reasons unrelated to their ability to do the job. Rule 7 (1) provides that employment laws "...must not discriminate against persons with disabilities and must not raise obstacles to their employment."

Rule 9 (2) encourages States to **promote the full participation of persons with disabilities in family life.** In particular, persons with disabilities must not be denied the opportunity to express their sexual identity and experience parenthood. Rules 10 - 12 require States to ensure that people with disabilities have equal opportunities **to participate in cultural activities, recreation and sports, and religious life.** True equalization of opportunities means that disabled persons are ensured **equal participation in all areas of life, including cultural, recreational, sports, and religious life.**

Chapter III of the Standard Rules stipulates the various implementation measures for States to follow. States are responsible for, among other measures:

- a. Creating the legal basis for measures to achieve the objectives of full participation and equality for persons with disabilities (rule 15);
- b. Financing national programmes and measures to create equal opportunities for persons with disabilities (rule 16);
- c. Establishing and strengthening national co-ordinating committees to serve as a national focal point on disability matters (rule 17);
- d. Recognising the right of the organizations of persons with disabilities to represent persons with disabilities at national, regional and local levels (rule 18);**
- e. Participate actively in international co-operation concerning policies for the equalization of opportunities for persons with disabilities (rule 22).
- f. Rule 15 of Chapter III deals explicitly with legislation. It provides: "States have a responsibility to create the legal basis for measures to achieve the objectives of full participation and equality for persons with disabilities."

b. UN Convention on the Rights of Persons with Disabilities (UNCRPD)

South Africa ratified the **UN Convention on the Rights of Persons with Disabilities and its Optional Protocol** without reservation in 2007. The Convention states, in part, that:

- (k) *Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,*
- (m) *Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,*
- (o) *Considering that persons with disabilities should have the opportunity to be actively involved in decision making processes about policies and programmes, including those directly concerning them.*

Key articles of the CRPD related to participation and self-representation:

Article 3 of the CRPD entitled General principles

- (c) Full and effective participation and inclusion in society;

Article 4 General obligations

- (e) To take all appropriate measures to **eliminate discrimination** on the basis of disability by any person, organization or private enterprise;
 - (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development standards and guidelines;
 - (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
 - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities⁶.
3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Article 7 Children with disabilities

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right⁷.

Article 12 Equal recognition before the law

- 1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
- 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
- 3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

⁶ UN CRPD Article 4

⁷ Ibid

4. *States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law.*

Article 13 Access to justice

1. *States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*
2. *In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.*

Article 19: Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community.

Article 21 Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention⁸.

Article 27: Work and employment

1. *States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:*

- (a) *Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions.*

⁸ Ibid

There is a provision for *self-representation in Public Life*.

Article 30: Participation in cultural life, recreation, leisure and sport

1. *States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life*⁹.

Article 33: National implementation and monitoring

4 *Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process*¹⁰.

Article 34 Committee on the Rights of Persons with Disabilities

4. *The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, **representation** of the different forms of civilization and of the principal legal systems, **balanced** gender representation and **participation** of experts with disabilities*¹¹.

1.5.1 Self-Representation at Continental Level Using African Union (AU) Policy Instruments

The rights of persons with disabilities have been recognised in Africa's seminal human rights instrument, the 1981 African Charter on Human and Peoples' Rights¹² (African Charter), at the generic and specific levels. This recognition is also present in Africa's other key human rights instruments.

Article 2 of the African Charter provides that:

*'Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.'*¹³

Article 2 of the 2006 Youth Charter provides that:

'State Parties shall recognize the rights of Young people from ethnic, religious, and linguistic marginalized groups or youth of indigenous origin, to enjoy their own culture,

⁹ Ibid

¹⁰ Ibid

¹¹ UN CRPD Article 29

¹² Organization of African Unity, *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <http://www.unhcr.org/refworld/docid/3ae6b3630.html> [accessed 12 March 2012] Entry into force: 21 October 1986

¹³ Ibid

*freely practice their own religion or to use their own language in community with other members of their group.*¹⁴

Article 13 of the Children's Charter provides that:

'2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development'.

Article 8 of the Charter on Democracy, Elections and Governance (Democracy Charter) provides that:

'1. State Parties shall eliminate all forms of discrimination especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance.

2. State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups'.¹⁵

Article 31 of the Democracy Charter states:

'1. State parties shall promote participation of social groups with special needs, including the Youth and people with disabilities, in the governance process.

2. State parties shall ensure systematic and comprehensive civic education in order to encourage full participation of social groups with special needs in democracy and development processes'.¹⁶

In the Protocol to the African Charter on Human and Peoples' Rights of Persons with disabilities (Africa Disability Protocol or ADP) Rights Article 2: General Obligations states that:

'States Parties shall take appropriate and effective measures, including policy, legislative, administrative, institutional and budgetary steps, to ensure, respect, promote, protect and fulfil the rights and dignity of persons with disabilities, without discrimination on the basis of disability, including by

¹⁴ African Union, *African Youth Charter*, 2 July 2006, available at: <http://www.unhcr.org/refworld/docid/493fe0b72.html> [accessed 12 March 2012] Entry into Force: 08 August 2009

¹⁵ African Union, *African Charter on Democracy, Elections and Governance*, 30 January 2007, available at: <http://www.unhcr.org/refworld/docid/493fe2332.html> [accessed 12 March 2012]. Entry into force: 15 February 2012

¹⁶ Ibid

- j. *Closely consulting and actively engaging persons with disabilities and their representative organisations in implementation of the Protocol'.*

The right to **participation and self-representation** is recognised and affirmed in the ADP:

Article 17: Right to Participate in Political and Public Life

1. *Every person with a disability has the right to participate in political and public life.*
2. *States Parties shall take all appropriate policy, legislative and other measures to ensure this right, on the basis of equality, including through:*
 - a. *Undertaking or facilitating systematic and comprehensive civic education to encourage full participation of persons with disabilities in democracy and development processes, including by ensuring civic education materials are availed in accessible formats;*
 - b. *Ensuring that persons with disabilities, including persons with psychosocial disabilities and intellectual disabilities, can effectively participate in political and public life, including as members of political parties, electors and holders of political and public offices;*
 - c. *Putting in place reasonable accommodation and other support measures consistent with the secrecy of the ballot, including as appropriate, by ensuring accessibility to polling stations and facilitating assisted voting, for persons with disabilities to enable their effective participation in political and public life;*
 - d. *Realising increased and effective representation and participation of persons with disabilities on an equitable basis as members of regional, sub-regional, national and local legislative bodies;*
 - e. *Repealing or amending laws that on the basis of disability restrict the right of persons with disabilities to vote, stand for or remain in public office.*

2. PROCESS TOWARDS OFFICIAL RECOGNITION OF REPRESENTATIVE ORGANIZATIONS OF AND FOR PERSONS WITH DISABILITIES (INCLUSIVE OF PARENT ORGANIZATIONS)

Introduction

The Irene declaration of the national disability rights summit¹⁷ was adopted by all stakeholders (disabled people organisations, parents organisations, disability service organisations, national and provincial government departments, municipalities, institutions promoting democracy, non-governmental organisations, institutions of

¹⁷ DSD Disability Rights Summit 2016 10-12 March 2016

higher and further education, and international development agencies. The declaration, in part, resolved that:

1. Persons with disabilities in South Africa however continue to experience unacceptably high levels of exclusion, marginalisation and discrimination;
2. Children and adults with disabilities live in every community, and must therefore be visible in every playground, early childhood development centre and programme, school, college, university, place of work, sportsground and place of worship;

The declaration further states that:

3. *The collection of evidence that demonstrate access and participation by persons with disabilities to opportunities and services, is central to enable reporting on progress in reducing inequality and poverty experienced by persons with disabilities;*
4. *The right to self-representation by persons with disabilities on matters affecting their lives, is enshrined in the Constitutional values of freedom of association as well as the UNCRPD;*
5. *Only representative organisations of persons with disabilities can represent persons with disabilities and must be accountable to their constituencies;*
6. The right to equal recognition before the law for all persons, regardless of severity of impairment or geographical location, is enshrined in our Constitution and also an obligation contained in the UN Convention on the Rights of Persons with Disabilities;
7. Further engagement is required between key stakeholders on the interpretation of Article 12 (of the CRPD), and the **engagement process needs to affirm the principle of self-representation by rights-holders;**
8. The WHO Community-Based Rehabilitation (CBR) matrix provides a sound basis from which to plan community based disability-specific services, and must be **implemented within the social model of disability, placing representative organisations of persons with disabilities** at the centre of decision-making;

In order for DPOs to enjoy (governmental/other) support for the development and strengthening of their role in the planning and implementation of public policies and programmes, the following **Priority Actions** are recommended: **Member States:**

- a. To promote and facilitate the establishment of DPOs at local and national levels in order to support PWD empowerment;
- b. To establish and resource a national Civil Society Organisation/DPO fund;
- c. To promote and facilitate the establishment of National Federations of Disabled Persons Organizations;

- d. To promote and facilitate through financial support, local and national representation of persons with disabilities in all decision-making structures.

2.1 1997 White Paper on an Integrated National Disability Strategy (INDS)

The paradigm shift (from the medical to the social model) has come about largely through the development of strong Disabled Peoples' Organisations (DPOs). Central to the concept of the social model of disability is the principle of self-representation by people with disabilities through DPOs.

It is also important that people with intellectual or severe mental disabilities are able to speak for themselves through the use of advocates. The South African Federation for Mental Health has embarked on an advocacy programme to develop the concept of self-representation by people with severe mental and/or intellectual disabilities.

The principles upon which the Strategy is based include:

- a. A People-Driven Process
- b. A fundamental principle which informs the outlook of the disability rights movement in South Africa and internationally is the right to self-representation. This means that the collective determination of disabled people must be used to inform the strategies of the government.

In recognising this principle, the Government acknowledges the advisory and technical support role of organisations of persons with disabilities and their representatives in the decision-making processes.

2.2 Strengthening diversity and self-advocacy programmes for persons with disabilities (taking into consideration intersectionality issues);

The Irene Declaration made a resolution on self-representation and participation of persons with disabilities. It states:

9. *Representative organisations of persons with disabilities play a central role in monitoring process with the implementation of the UN Convention on the Rights of Persons with Disabilities and the White Paper on the Rights of Persons with Disabilities;*

2.3 On Strengthening Self-Representation by Persons with Disabilities it states that:

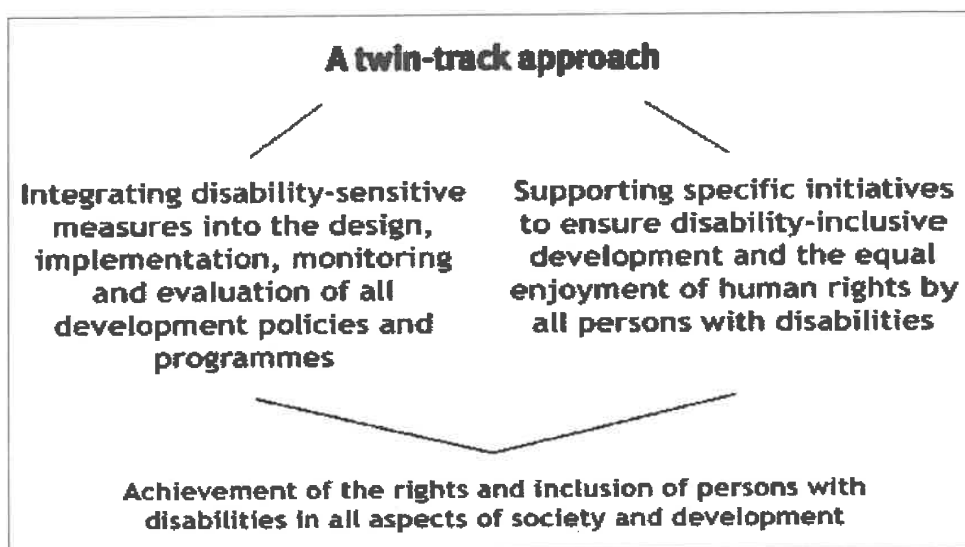
10. *Persons with disabilities requiring reasonable accommodation support to represent themselves must have affordable and timeous access to such services and/or technology;*

11. *Representative organisations of persons with disabilities must be strengthened at all levels, and particular attention must be paid to strengthening the organised voice of persons with disabilities which are currently under-represented;*
12. *A resourcing strategy must be developed to enable representative organisations of persons with disabilities to strengthen internal accountability mechanisms, and to participate in advocacy and monitoring programmes;*
13. *Political parties must walk the talk by ensuring that their election lists for public representatives equitably reflect persons with disabilities.*

In South Africa, self-representation and participation are gradually being embedded in all decision-making, public consultations, public structures and other environments.

2.4 Self-Representation and Participation from the Perspective of Twin-Track and Intersectional Approach to Disability-Inclusive Development.

The twin-track approach to disability programme was originally based on *mainstreaming disability while simultaneously undertaking targeted measures is known as the 'twin-track approach' to advancing disability-inclusive development as illustrated below:*



(adapted from DFID, Disability, Policy and Development (2000) 4).

South Africa's Constitution provides for the promotion and advancement of the rights of persons with disabilities, as part of groups who remain marginalised, which also include women, children, youth, the aged, and the LGBTIQ+ community, who are usually the victims of multiple, intersecting and aggravated forms of discrimination.

The intersectional approach recognises these multiple factors including, **sex, gender identity and sexual orientation or other characteristics for marginalised groups such as persons with disabilities.**¹⁸

Intersectional programming recognizes that multiple social identities such as **gender identity and expression, sexual orientation, disability, race or ethnicity** intersect in a marginalized individual's experience and are affected by the broader existence of privilege and oppression in society.

Intersectional programming recognizes that multiple social identities such as **gender identity and expression, sexual orientation, disability, race or ethnicity** intersect in a marginalized individual's experience and are affected by the broader existence of privilege and oppression in society.

Members of excluded and vulnerable groups share common strategies to defend their human rights, as well as to mitigate and prevent human rights abuse. They also develop strategies to address their specific needs and other variations such as age, socio-economic status, or geography that can impact them in different ways.

¹⁸

<http://www.med.monash.edu.au/gendermed/sexandgender.html>; <http://www.iamsocialjustice.com>

A broader **inclusivity approach values the participation of all people**. It assumes that **interventions will not affect all segments of society in the same way**. It requires stakeholders to identify and address the difference between the opportunities and barriers to equality and to design programmes in a way that does not perpetuate inequality.

Inclusive programming works to advance the human rights of Persons with Disabilities, Women and Girls, Lesbian Gay Bisexual Transgender and Intersex persons and other marginalized groups. Such programming **supports the unique experiences and multiple social identities of individuals** that impact their exclusion from society and takes an intersectional approach to program design and response.

Advocacy can include:

- ⦿ Establishing gender-inclusive intra-office procedures
- ⦿ Encouraging organisations to adopt policies related to gender, sexual orientation and non-discrimination
- ⦿ Ensure counselling and health care staff understand needs of all communities.

2.5 Self-Representation: Disability and Gender Mainstreaming

2.5.1 Why Gender and Disability

Self-Representation should also be addressed when addressing gender and disability.

Gender describes the characteristics that a society or culture delineates as masculine or feminine. Drawing from the gender mainstreaming experience, Albert and Miller (2005:16) note that at the outset, the emphasis placed on mainstreaming equality at the organisational level (e.g. organisational structures, procedures and culture) emerges from a long struggle to integrate equality issues at the programmatic level (e.g. country strategy papers, sector strategies, Poverty Reduction Strategy Papers, Sector-wide Approaches to Programming, and technical assistance).

Findings from Derbyshire's evaluation of mainstreaming gender equality (Albert & Miller, 2005:16) point to the '**evaporation**' of policy commitments at the organisational-level. Such evaporation of policy, notes Albert and Miller (2005:16) in the planning and implementation processes was a result of inadequate management procedures and the lack of commitment, understanding and skills among staff. This observation has relevancy to disability mainstreaming.

There is now greater awareness that effective management and implementation of initiatives to promote equality at the programmatic level requires actions to develop staff commitment, understanding and skills, as well as actions to promote equality within development organisations themselves. This submission would appear to

be in line with Wood's (2001:466) contention that developing capacity for implementation is about skills development, participation, communication, transparency, and above all, sustainability (Albert & Miller, 2005:16

Women with disabilities are particularly disadvantaged due to the multiple forms of discrimination they experience. For example, disabled girls are the least prioritised in terms of access to school and education. Development activities such as income-generating programmes for women are largely not accessible to women with disabilities and do not take active steps to include disabled women. Furthermore, **girls and women who have a disability are more likely to become victims of physical and sexual abuse.** For this reason, the **gender perspective must be mainstreamed across all programmes.**

Conducting a gender analysis is a requirement for all developing projects and activities, and a gender assessment is required for sector-wide strategies. Both these analyses and assessments should look at the roles and potential inequalities between all women and men within a targeted geographic area and should encompass all individuals, including all forms of diversity (e.g. ethnicity, age, religion, race, disability, etc). In practice, however, taking into account how diversity and gender dynamics might vary within these different groups has often been ignored and forgotten. One of the groups that is most frequently excluded from gender analysis- but is present in all ages, levels of society, geographic regions, and ethnic and racial groups- are men, women, and children with disabilities¹⁹.

When working on gender assessments, it is important to ensure that all individuals are being included within the assessment in order to have an accurate view of gender issues within the country. This is especially true of women with disabilities who often face double discrimination based on their gender and disability. There are also several other valid and important reasons why disability should be including the need to ensure that disability inclusive gender perspectives are integrated in policies, legislation, plans, programmes, budgets and activities in all spheres that affect women with disabilities²⁰.

Countries may opt to use the “**Six Domains of Gender Analysis**” which identifies six general areas that should be included in gender assessments and analyses, including: **(1) access to assets, (2) knowledge, beliefs, and perceptions, (3) practices and participation, (4) space and time, (5) legal rights and status, and (6) power.**²¹

¹⁹ USAID (2010)

²⁰ AU Draft African Disability Protocol.

²¹ The Gender Domains Framework was originally developed by Deborah Caro and Deborah Rubin

3. OBLIGATIONS OF PERSONS WITH DISABILITIES

3.1 Irene Declaration-A Rights-holders' Commitment

The Irene declaration states that all stakeholders agreed that:

14. *Rights-holders must be informed about their rights and recourse mechanisms through public education campaigns;*
15. *Representative organisations of persons with disabilities must strengthen its interface with oversight institutions to ensure that these institutions effectively monitor discrimination against persons with disabilities, and that government institutions budget sufficiently and equitably for service delivery to persons with disabilities;*
16. *Duty-bearers must be accountable to rights-holders, and including disability mainstreaming outcomes in the performance management system of heads of departments, will strengthen accountability;*
17. *Every person with a disability, regardless of race, gender, age, severity of impairment or geographical location, have a right to take decisions for themselves, including being provided with supported decision-making services;*
18. *Parents organisations and representative organisations of persons with disabilities must be at the centre of the design, management and implementation of community-based services;*
19. *All children, regardless of severity of impairment and geographical location, can learn and must have equitable access to appropriate early childhood development and education opportunities;*

Stakeholders that adopted the Irene declaration made resolutions related to strengthening **accountability of duty-bearers and recourse mechanisms for rights-holders by stating that:**

20. *Measures must be taken at all levels to ensure that rights-holders and duty-bearers are aware of the commitments made in the White Paper on the Rights of Persons with Disabilities, the obligations contained in the UN Convention on the Rights of Persons with Disabilities, as well as protection under existing legislation;*
21. *The Department of Public Service and Administration must implement, in consultation with the National School of Government, a disability rights diversity training course for all public servants, including municipal officials;*
22. *Disability organisations must strengthen and formalise cooperation with paralegal agencies and oversight institutions to hold duty-bearers accountable for exclusion, marginalisation and discrimination against persons with disabilities, especially in rural communities;*
23. *Organisations of and for persons with disabilities must be accountable to their respective constituencies and rights-holders.*

Through **self-representation and participation**, persons with disabilities will be able to **play their role of representing and defending the needs of persons**

with in all decisions that them. Objectives to achieve priority actions that could form part of self-representation and participation include to:

- a. Promote and create a positive attitude towards persons with disabilities in communities;
- b. Perform the management, monitoring and evaluation of the implementation of inclusive programmes/strategies/ legislation;
- c. Lobby and advocate for inclusion of persons with disabilities at community and national level;
- d. Sensitize and mobilize communities on the priority areas of policy instruments that should be prioritised in line with national development plans.
- e. Fulfil the role of lobbyist and advocate to Government for the implementation of national and international policies to improve the lives of PWDs;
- f. Fulfil the role of technical experts and advisors pertaining to all matters concerning disability;
- g. Promote empowerment of persons with disabilities in order to take control of their own development;
- h. Mobilize constituencies to engage with governments and stakeholders to understand the rights and needs of persons with disabilities;
- i. Promote inclusion of persons with disabilities as required by the CRPD and other international Conventions;
- j. Mobilise resources from Governments, the private sector and development partners to implement complementary activities in implementing the measures outlined in policy instruments and national/disability strategies;
- k. Account to their members, their networks and Governments, the private sector and development partners for funding received and progress made in support of their work.

The disability movement needs to play a key role in the process, and it will be important to negotiate with the government where the entry points are for participation of DPOs/Service Provider Organisations and other civil society allies.

It organises events such as workshops and conferences in which DPOs and civil society organisations (CSOs) participate with the aim of offering open discussions and to exchange information. CSOs' interventions can be strengthened by:

Improving capacity to deliver Community-Based Services to Persons with Disabilities implementing the resolutions of the Irene declaration related to:

- *Provincial governments formalising outsourcing of community-based services to disability organisations, including the delivery of family and care-giver empowerment programmes;*
- *Provincial governments developing and funding integrated and costed community-based disability services packages that prioritises community-based services to remote rural communities;*

- A costed strategy to strengthen and develop community-based representative organisations of persons with disabilities, including parent organisations, in particular in deep rural communities.

The participation of persons with disabilities and their representative organisations is critical to the success of any multi-stakeholder effort to advance the implementation of the Africa Disability Protocol (ADP) and other international treaties ratified by each government.

Persons with disabilities and DPOs provide a greater understanding of the actual experience of disability and thus form a basis for informed decisions. Moreover, participation and inclusion are empowering and facilitate active agency in decision making.

In actively consulting with persons with disabilities and their representative organisations, it is important that steps are followed to ensure full and effective participation. It is important to take into account accessibility considerations, to ensure the full participation of all members. Advanced planning by relevant government officials is therefore necessary and important.

Relationship/interaction between governments - Building sustainable partnerships between government and DPOs ('nothing about us without us'; 'leaving no one behind') are essential ingredients in self-representation and participation. Government needs to understand *its role vis-à-vis* that of the DPOs. Below is a summary displaying the different roles that are supposed to be played by the two entities.

Table 2: DPOs' role vis-à-vis that of the Government

Demand side: DPOs as rights holders	Supply side: Government as duty bearers	Shared roles between governments and DPOs
Advocacy and influencing	Policy and legislative	Awareness raising
Research and evidence	Systems/ structures/ programmes	Knowledge building and capacity development
Partnership building	Partnership building and co-ordination	Partnership in implementation of programmes
Resource mobilisation	Planning and budgeting	Reporting to relevant bodies, nationally, regionally and internationally

Participation in policy development, planning, implementation and monitoring and evaluation	Implementation and monitoring and evaluation	

3.2 Obligations of Government, Business and Civil Society

The functions in Table 1 above are typical roles of governments. Policy formulation, based on international/ regional treaties, policies, legislation and national development strategies are key instruments in the mainstreaming and inclusion of the needs of persons with disabilities.

Other roles of government and other duty-bearers include:

1. Domestication of the ratified treaties by ensuring that all obligations are covered in law;
2. The SA Human Rights Commission must strengthen its capacity to ensure that it does justice to its designation as independent monitoring mechanism for the implementation of the UN Convention on the Rights of Persons with Disabilities;
3. Committees in the legislatures must ensure that departmental budgets and performance plans incorporate the policy directives of the White Paper on the Rights of Persons with Disabilities.
4. Public finance mechanisms such as conditional grants for infrastructure, transport systems and neighbourhood and city development, provide an opportunity to make neighbourhoods universally accessible for all;

Other roles relate to the government's departmental machinery/clusters. For instance:

1. In the field of health, the role of government could be, among others:
 - a. The Department of Health must strengthen undergraduate, in-service and orientation education, awareness and training programmes on the rights of persons with disabilities to health services for, among others, health workers and traditional healers;
 - b. Persons with disabilities and parents of children with disabilities must have access to immediate and relevant information and peer counselling following diagnosis of disability;
 - c. The Department of Health must strengthen inter-governmental relation structures for better inter-sectoral planning, implementation, monitoring and reporting on health access and outcomes for persons with disabilities, and in particular for children with disabilities;

- d. SANAC must conduct a participatory evaluation of the impact of the current National Strategic Plan (NSP) for HIV, STIs and TB on the lives of persons with disabilities, and must ensure that the revised NSP is aligned with the principles and directives of the White Paper on the Rights of Persons with Disabilities;
 - e. The Department of Health must ensure that the re-engineering process of primary health care and ideal clinics and the Pillars of the Health Promotion Policy incorporate universal design principles and standards, and that a participatory evaluation is done of existing NHI pilot sites to highlight shortcomings of disability mainstreaming into the services provided on these sites, including access to facilities, and access to communication and information;
 - f. The Department of Health must accelerate the finalisation of the new rehabilitation policy, including provisioning of assistive devices and orthotics and prosthetics;
 - g. Government must roll out a sustainable on-going disability training programme for all frontline workers, including social workers, educators, nurses, doctors and therapists;
2. Provincial and district disability rights forums must be strengthened and focus on removing bottlenecks that hinder access to ECD and compulsory education for, and tracking exclusion of, children with disabilities;
 3. Other examples for different state actors include the need for:
 - a. *The SA Human Rights Commission, as well as the national departments of Health and Social Development, to engage provincial departments on the current process of de-institutionalisation of persons with severe psychosocial, intellectual and/or neurological disabilities to ensure that their rights are being protected and upheld at all times during the process, and that no-one is discharged into the community, their families and/or into other facilities without proper planning, adequate living conditions, rehabilitation and care services available in the community where they will stay;*
 - b. *The Department of Justice and South African Police Services to expedite the roll-out of Augmentative and Alternative Communication technology and services to strengthen access to justice for persons with severe communication disabilities, and in particular for those living in rural areas;*
 - c. *The Department of Trade and Industry to expedite the process of ratification and domestication of the Marrakesh Treaty by setting up the Authorised Entities, preparing the systems, affordable playback devices, content development and production guidelines;*
 - d. *South African Sign Language to become an official language of the Republic of South Africa and the process of tabling an amendment to the Constitution*

through the Constitutional Review Committee in Parliament, must be expedited;

e. Accelerating access to and regulation of services promoting access to information and communication.

4. Department of International Relations to conduct an audit of existing bilateral and multilateral international agreements to ensure that persons with disabilities benefit equitably from and participate equally in the programmes of these agreements;
5. South Africa to adopt the Africa Disability Protocol and support the development of a SADC Protocol on Persons with Disabilities;
6. The African Renaissance and International Development Fund Act must be audited to determine its contribution towards improving the lives of persons with disabilities.
7. The National Disability Rights Coordinating Mechanism in Government must establish a panel of entrepreneurs with disabilities and parents of children with disabilities who can provide implement support for the WPRPD;
8. All government institutions must ring-fence a budget for participation by and empowerment of young persons with disabilities, and must report annually on the impact of these programmes;
9. The National Youth Development Agency must ensure that young persons with disabilities participate in youth dialogues and programmes during National Youth Month;

When implementing policies/legislation, government must follow recommendations from research, baseline studies or statistical data as a basis for activities or interventions of the plan and the identified gaps could be used as the justification for the interventions. In this case, the aim is to facilitate the development of a sector-wide, multi-tier disability mainstreaming plans, with fiscal allocations, to be deliberated and adopted by stakeholders.

Typically, government planners should/must:

- i. Analyse the identified gaps and recommendations;
- ii. Analyse the national development plan in relation to disability;
- iii. Analyse initial plans or inputs from different ministries;
- iv. Hold consultations with working committees and representatives of stakeholders;
- v. Hold focus group sessions with stakeholders;

- vi. Ensure the disability indicators are set for all government departments and ministries;
- vii. Prepare the disability mainstreaming plans with budget;
- viii. Complete a logical framework approach (lfa) matrix, concise implementation plan and budget for each department;
- ix. Make a presentation of the national disability mainstreaming plans to stakeholders and finalise the plan after comments; and
- x. Prepare detailed report on implementation outcomes for different oversight and monitoring structures.

There is increasing focus on the role of '*disability focal points*'. There are many arguments for and against this approach. Those who support view focal points as mechanisms that ensure disability mainstreaming. The Irene declaration states that: '*Disability rights units at institutions of higher and further education and training play a pivotal role in providing effective access to campus life and the curriculum for students with disabilities*';

However, some argue that focal points are often used as '*dumping grounds*' for all matters related to persons with disabilities (including housing, assistive devices, transport, and others). Below is a typical role played by focal points.

Focal points

The work of focal points can include, among others:

- advising the Head of State/Government, policy makers and programme planners on the development of policies, legislation, programmes and projects with respect to their impact on people with disabilities;
- coordinating the activities of various ministries and departments on human rights and disability;
- coordinating activities on human rights and disability at federal, national, regional, state, provincial and local levels of government;
- revising strategies and policies to ensure that the rights of persons with disabilities are respected;
- drafting, revising or amending relevant legislation;
- raising awareness about the Convention and Optional Protocol within the government;
- ensuring that the Convention and Optional Protocol are translated into local languages and issued in accessible formats;
- establishing an action plan for implementation of the Convention;
- monitoring the implementation of the action plan on human rights and disabilities;
- raising awareness on disability-related issues and the rights of persons with disabilities among the public;
- building capacity within the government on disability-related issues;
- ensuring that persons with disabilities participate in the development of policies and laws that affect them;
- encouraging persons with disabilities to participate in organisations and civil society, and encouraging the creation of organisations of persons with disabilities.

Government's plans for self-representation should include the following sections:
Suggested key content list:

1. Foreword
2. Introduction
3. Situation of disability and context of the national programme
4. Vision for disability according to the national policy or national strategy for disability
5. Mission of the national programme according to the national policy or national strategy on disability
6. The national programme: aims, objectives, activities, as informed by the following:
 7. International, regional and national frameworks;
 8. The gaps and recommendations of the baseline study;
 9. Relationship between self-representation and National Development Plan (NDP) including entity budgets;
 10. Ministerial plans that include self-representation strategies;
 11. Different roles by stakeholders, including the CSOs.
 12. Logical Framework for Programme for self-representation
13. Monitoring and evaluation plan, including the following:
 - a. Disability targets and indicators pertaining different ministries;
 - b. Statistics and disability and self-representation including topics related to cost-benefit, effectiveness, capacity and accountability;
 - c. Reporting obligations with the AU and UN;
 - d. Budget

The National Disability Rights Coordinating Mechanism in Government provides an opportunity for self-representation.

4. LIMITATIONS AND EXCEPTIONS

4.1 Scope of application

This framework will assist rights holders and duty bearers to plan on inclusion of self-representation within their entities and in line with their core/ancillary businesses. The framework can be used in tiers of government, state-owned enterprises, and the private sector and in civil society organisations.

*Institutions promoting democracy, as well other oversight institutions such Parliament and the provincial legislatures, play an important role in **strengthening accountability of duty-bearers and providing recourse for rights-holders including courts** (e.g. equality courts) must use the framework during their work, public hearings and other proceedings/deliberations.*

Persons with disabilities **are not a homogenous group**, and race, age, gender, severity of impairment, geographical location, sexual orientation and socio-economic status impact on access to services/opportunities and ability to self-represent their needs without assisted decision-making.

The right to self-representation is not negotiable, and requires strong accountable and representative organisations of/for persons with disabilities at all levels of governance, and cognisant of race, gender, age, geographical location and impairment-specific nuances.

4.2 Legal Interpretations of Limitations and Exceptions

Some of the historical human rights instruments fall short of the minimum standards for ensuring the rights of persons with disabilities which are established in the CRPD. For instance, there are still laws that discriminate against persons with psychosocial and mental disabilities.

Some instruments do not include specifically persons with disabilities in anti-discrimination provisions. In addition, people with disabilities have far too often been **excluded by not being mentioned**, a matter of some significance particularly where **other key groups liable or vulnerable** to discrimination are mentioned²².

A notable paradox is the fact that while some instruments establish human rights, their treatment of the subject of disability includes a noticeable dose of the charity model of disability. The charity model anticipates that persons with disabilities have 'needs' as distinct from 'rights'. Again, for example, while 'special measures of protection' cannot be discounted as essential to ensure the rights of persons with disabilities, some rights instruments emphasise protection measures almost to the exclusion of the inherence of rights for disabled persons and their promotion²³.

The language employed in in some human rights policy/strategy instruments tends to fall short of the minimum standards established in the CRPD. For example, reference to 'physically and mentally challenged', thereby employing a euphemism – 'challenged' – which is not appropriate from a human rights approach to disability where a person with disabilities' 'problem' is located in society rather than in the individual.

²² Mute, L. (2012) *Concept on the list of issues to guide preparation of a protocol on the rights of persons with disabilities in Africa*.

²³ Ibid

Multiple discrimination: The living conditions of persons with disabilities mean that they are often marginalised at multiple levels, including lack of self-representation /participation, gender, race, age, HIV/AIDS and ethnicity. Taking the example of HIV/AIDS, it is important to consider and recognise that HIV/AIDS impacts negatively on disabled persons in all spheres of life. This is exacerbated by the fact that issues of sexuality are not often openly discussed; and that persons with disabilities are more likely to suffer rape and maiming in situations of conflict especially given the assumption that disabled persons are less likely to be infected with HIV.

Interaction between poverty/disability and impact on self-representation:

It is important to address poverty eradication as both a means to prevent disability and to provide effective redress to persons with disabilities. Any meaningful initiatives to address the needs and problems of persons with disabilities must of necessity consider **how to equitably allocate economic resources in order to increase the economic means and capacity** of disabled persons to self-represent their needs. It is important to enable persons with disabilities to self-represent and have an equal share in the improvements in the living conditions resulting from economic and social development.

Disempowering (cultural/other) practices: Policy measures are required to combat cultural and /or religious practices which disempower or discriminate against persons with disabilities thus reinforcing negative attitudes that make it **difficult for persons with disabilities to self-represent themselves**. For instance, measures to ensure that children with disabilities achieve the fullest possible social integration and individual development should include steps towards the cultural and spiritual development of the child and active participation of parents/guardians. It is necessary to ensure that parents of children with disabilities access information, referrals and counselling.

5. UNJUSTIFIABLE HARDSHIPS

Unjustifiable hardship is legally defined as “*an action that requires significant or considerable difficulty or expense.*”

In some circumstances, it may be unreasonable to provide complete accessibility to a public building, particularly for old existing buildings. Adjustments to a workplace to accommodate a person with disability could also be very onerous.

The principle of unjustifiable hardship provides an exception if the cost or difficulties of providing access will place an unjustifiable hardship on a person or organisation.

However, before coming to this conclusion, a person or organisation should:

- thoroughly consider how access might be provided or adjustments made
- discuss the issues directly with the person or groups involved
- consult relevant sources of advice.

Unjustifiable hardship is based on an assessment of what is fair and reasonable in the circumstances. If the proposed adjustments are likely to cause hardship, it is up to the person or organisation to show that they are unjustified.

Self-representation is unlikely to cause unjustifiable hardships when there are many choices with regards to accessible venues, translation/interpretations, mobility and other assistive devices and other requirements based on nature of disability.

6. LEGAL PROHIBITIONS

A legal prohibition is a *legal restriction against the use of something or against certain conduct*²⁴.

Certiorari is a formal request to a court challenging a legal decision of an administrative tribunal, judicial office or organization (eg. government) alleging that the decision has been irregular or incomplete or if there has been an error of law. As *certiorari* seeks to have a decision overturned for want of jurisdiction (*ultra vires*), prohibition seeks to prevent a prospective decision; to stop a lower court or tribunal "from doing something in excess of its jurisdiction"²⁵.

There are legal provisions that relate to self-representation and participation of persons with disabilities. South African legal instruments that have provision relate to self-representation include:

- i. The **Promotion of Equality and Prevention of Unfair Discrimination Act, 2000** (PEPUDA or the **Equality Act, Act No. 4 of 2000**) is a comprehensive South African **anti-discrimination law**. It prohibits **unfair discrimination** by the government and by private organisations and individuals and forbids hate speech and harassment²⁶; among other things, states that "*Special measures to promote equality with regard to race, gender and disability*
28. (1) *If it is proved in the prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purposes of sentence.*
(2) *The South African Human Rights Commission must, in its report referred to in section 15 of the Human Rights Commission Act, 1994 (Act No. 54 of 1994), include an assessment on the extent to which unfair discrimination on the grounds of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems.*
(3) (a) *The State, institutions performing public functions and all persons have a duty and responsibility, in particular:*

²⁴ Duhaime's Law Dictionary

²⁵ Wade, William, *Administrative Law* (Oxford: University Press, 2000), page 592

²⁶ Republic of South Africa (2000). Promotion of Equality and Prevention of Unfair Discrimination Act. Act No 4 of 2000. Chapter 5, Section 28.

- (i) eliminate discrimination on the grounds of race, gender and disability;*
- (ii) promote equality in respect of race, gender and disability.*
- (b) In carrying out the duties and responsibilities referred to in paragraph (a), the State, institutions performing public functions and, where appropriate and relevant, juristic and non-juristic entities, must—*
 - (i) audit laws, policies and practices with a view to eliminating all discriminatory aspects there of;*
 - (ii) enact appropriate laws, develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;*
 - (iii) adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and*
 - (iv) give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability.*

Finally, it is possible to enforce the right to self-representation.

End of Chapter One

CHAPTER 2: SELF REPRESENTATION AND RIGHTS OF ACCESS TO SERVICES

2.1 Rights perspective, rights of access and principles of Self-Representation

2.1.1 Problem Statement

Focus on equality of outcomes rethinking the struggle for equity in access. Government policies and programmes are designed to meet needs, and resources are allocated accordingly for the benefit of the greater public good. However, there are **large disparities between different race groups, geographical locations and between men and women that were inherited resulted in extremely uneven starting points when identifying needs, especially for persons with disabilities.** In addition, **disability does not only affect an individual, it affects an entire family** (Taylor, 2002).

The allocation of resources based on the needs and demands of society is a complex situation for South Africa, as the democratic changes resulted in **conflicting relations between communities and service providers, and especially between the disabled community and policy-makers with regard to wants/needs and demand/supply issues.** Despite positive trends in participation rates and access to services, the intended outcomes for the majority of persons with disabilities in South Africa **have not been achieved within the set time frames and targets,** especially regarding education and employment. Specific attention is required on institutionalising universal design and developing **a better understanding of the cost of disability to the affected individual and family, as well as the state**²⁷.

While access to services improved for the general population, in some instances it **deepened inequalities between able-bodied and disabled citizens.** An intervention in one sector is dependent on outcomes of another. This includes the timing and pace of delivery, priority choices and resource allocation, and the impact on each other to produce a web of interconnections and inter-relations. The understanding and development of several functional systems within a system of inclusive design, planning, implementation and monitoring is critical – with disability champions required at every level to ensure oversight and stewardship.

2.1.2 Right of Access

In the inheritance of such a segregated society as South Africa in 1994, achieving equity in access to all aspects of public participation and service delivery was the most important goal of government. Persons with disabilities were already at a greater disadvantage than those in the mainstream of an inequitable society, making the goal of equity in access a critical deliverable to be met for disability. This intention was seen across sectors as the legislative and policy context itself was transformed into a progressive rights-based framework.²⁸

With increasing attention being placed on achieving equity in access to goods and services across the public domain, it also became evident that other key, but silent

²⁷ The Presidency, Twenty-review South Africa (1994-2014): Background Paper: Disability

²⁸ The Presidency, Twenty-review South Africa (1994-2014): Background Paper: Disability

policy directions were not emphasized and implemented effectively. For persons with disabilities, access to information by relating to their rights and entitlements has been implemented at a slower rate than for their able-bodied counterparts due to inaccessible communication channels to filter information. In addition, policy guidelines on providing “reasonable accommodation” and for universal design across all sectors were not understood well and therefore not implemented consciously through programmatic interventions²⁹.

Without **universal design and reasonable accommodation** (and assistive devices) in the home, school, work and community environment, policy imperatives – no matter how progressive – remain an empty shell of promises for persons with disabilities. Desired outcomes for the realization of the rights of persons with disabilities are impossible without appropriate environmental universal design and/or redesign.

Universal access and design in Article 9 of the CRPD requires of governments to undertake appropriate measures to ensure that persons with disabilities are able to access, on an equal basis, the physical environment, public transport, information and communications, as well as other facilities and services open or provided to the public, both in urban and in rural areas. The most effective tool for achieving this is universal design, which benefits not only persons with disabilities, but also the broader diverse population.

The racial discrepancies with regard to access to these core services are well documented (Nkeli, 2008), but embarking on a transformation agenda means that these key government departments have to deal with redress by adopting the principle of improving equity in access across the sectors.

The CRPD has **Article 12 Equal recognition before the law**. Among other provisions, the article states that *States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity*³⁰.

Article 13 Access to Justice states that:

1. *States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*
2. *In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.*

Table 3 below reflects a few cases that relate to access to justice.

Table 3: Access to justice as demonstrated by four cases³¹

²⁹ Ibid

³⁰ UN CRPD

³¹ Ibid

Case details	Year	Complaint	Outcome
1. Prinsloo vs Van der Linder	1997	Unfair discrimination on the basis of disability	The court ruled in favour of the complainant and endorsed that “at the heart of the prohibition of unfair discrimination lies recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity”.
2. WH Bosch vs Minister of Safety and Security and Minister of Public Works	2005	Inaccessibility of courts	The Equality Court in Port Elizabeth found the discrimination to have been unfair.
3. Lettie Hazel Oortman vs St Thomas Aquinas Private School	2010	Discrimination against a child with a disability to access education	The school was obliged to readmit Chelsea Oortman and to take reasonable steps to remove all obstacles to enable the children to have access to all the classrooms and the toilet allocated to her by using a wheelchair.
4. Standard Bank Limited vs Commission for Conciliation, Mediation and Arbitration (CCiMA)	2008	Bank employee was dismissed after being injured in a car accident	The court ruled against the bank for not complying with the Code of Good Practice on Dismissal, as the bank failed to accommodate the employee, which rendered dismissal automatically unfair.

The right to access cross-cuts along all sectors of government and society. For instance, the provision of education for children and young persons with disabilities requires urgent attention, **starting with access to inclusive early childhood development opportunities**. It is, however, important to note that achieving *equity in access to special schools* detracted both communities and government officials **from keeping an eye on equality of outcomes in the educational sector**.

The Oortman case in the Equality Court in 2010 set an important legal precedent, although it was the only case during the latter part of the review period that challenged a school for not providing reasonable accommodation needs for a learner with a disability. As more parents and children with disabilities realise their right to education, more cases may emerge thereby challenging service delivery³².

Deaf persons’ access to opportunities and services is restricted as a result of a lack of access to education through Sign Language as medium of instruction, as well as interpreter services and subtitles on audiovisual broadcasts.

The Preamble to the CRPD states that:

(v) Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and

³² The Presidency, Twenty-review South Africa (1994-2014): Background Paper: Disability

*communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms*³³.

In Article 2: Definitions, the CRPD states that for the purposes of the Convention: "*Communication*" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.

Article 9 on Accessibility states that:

*To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility*³⁴. This article specifies several measures to achieve accessibility.

This articles also obligates State Parties Subject to take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and **to have equal access to bank loans, mortgages and other forms of financial credit**, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 19 on Living independently and being included in the community states that States Parties to the Convention should recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that *persons with disabilities have access to a range of in-residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.*

Article 20 Personal mobility states that States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

1. *Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;*
2. ***Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost***

Other articles that address the **right to access** include:

1. **Article 21 Freedom of expression and opinion, and access to information**

³³ UN CRPD

³⁴ UN CRPD

2. **Article 23 Respect for and the family** which partly defines *effective and appropriate measures*: **to 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.**
3. **Article 24 Education:** States Parties recognize the right of persons with disabilities to education; ensure an inclusive education system at all levels; **access to an inclusive, quality and free primary education and secondary education** on an equal basis with others in the communities in which they live and to **access general tertiary education, vocational training, adult education and lifelong learning** without discrimination and on an equal basis with others.
4. **Article 25 Health: to ensure access for persons with disabilities to health services that are gender sensitive, including health-related rehabilitation.**
5. **Article 27 Work and employment:** *access to a labour market and work environment that is open, inclusive and accessible to persons with disabilities and a labour market/work environment that is open, inclusive and accessible to persons with disabilities.*
6. **Article 28 Adequate standard of living and social protection:** to ensure equal access by persons with disabilities to clean water services, appropriate/affordable services, devices/other assistance for disability-related needs; access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes/poverty reduction programmes; access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care; to public housing programmes; and to retirement benefits and programmes.
7. **Article 29 Participation in political and public life**
8. **Article 30 Participation in cultural life, recreation, leisure and sport:** including cultural materials in accessible formats; television programmes, films, theatre and other cultural activities, in accessible formats; to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance; sporting, recreational and tourism venues; children with disabilities have equal access with other children to participation in play, recreation/leisure/sporting activities, including those activities in the school system; and to services from those involved in the organization of recreational, tourism, leisure and sporting activities.
9. **Article 32 International cooperation:** Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities; and facilitating cooperation in research/ access to scientific and technical knowledge.

The Africa Disability Protocol also has the following articles, among others, that define measures on the right of access:

1. Article 4: Right to Life
2. Article 8: Equal Recognition before the Law
3. Article 9: Right to Access Justice
4. Article 10: Right to Live in the Community
5. Article 11: Accessibility

2.1.3 Barriers to Access and Participation

Persons with disabilities experience three main types of interrelated barriers:

- (a) Social (including high cost, lack of disability awareness, and communication difficulties);
- (b) Psychological (such as fear for personal safety); and
- (c) Structural (including infrastructure, operations and information).

A barrier is anything that stops a person with a disability from fully taking part in society because of that disability. Some examples of barriers found in outdoor environments include:

- Curb cuts, ramps and railway crossings that are too steep or not properly maintained, or contain abrupt changes in slope.
- Lack of accessible parking spaces – size of spaces, location, number and enforcement of accessible parking spaces.
- Lack of textural changes and colour contrasts for staircases, entrances, ramps and curb cuts.
- Lack of wide clearance on a priority basis near hospitals and clinics, at intersections and transit stops and at public facilities.
- Insufficient number of drop-off/pick-up areas for para-transit users
- Lack of audible traffic signals at key intersections.
- Inadequate lighting that can cause a problem for people with vision loss.
- Confusing signs that prevent people from getting the information they need.
- Physical barriers created by business advertisements or patios on narrow walkways and other public spaces.

Some of the common barriers for people with mobility and agility disabilities include:

- environments inaccessible to people who use wheelchairs or motorized scooters (no curb cuts at intersections or ramps adjacent to stairs);
- steep grades and slopes;
- lack of grab bars, handrails and resting areas inside and outside public facilities;
- soft or unstable surfaces;
- narrow widths of sidewalks and paths due to the placement of street furniture (e.g. benches, and trash receptacles);
- heavy entrance doors; and
- lack of barrier-free public transportation

There are also discriminatory barriers that perpetuate the exclusion and segregation of persons with disabilities. Persistent **discriminatory attitudes and stereotypes**

about disability, inaccessible public transport systems, barriers in the built environment and a lack of access to communication and information, as well as **poor enforcement** of laws, have detracted from progress being made in the achievement of human rights of persons with disabilities in both the private and public sector³⁵.

Persons with disabilities **are not a homogenous group and have differing needs and experiences** based on the type and severity of impairment, and the level and extent of attitudinal, physical and communication barriers. This is compounded by demographic characteristics of age, gender, location, sexual orientation, socioeconomic status, and employment and marriage status. Some of the most vulnerable groups identified are youths with disabilities, women and children with disabilities, persons with disabilities living in rural areas, persons with intellectual and psychosocial disabilities and deaf persons due to the lack of access to sign language and interpreters.

2.1.4 Principles of Self-Representation

The principles of self-representation are paramount in ensuring an adequate standard of living, and goes hand in hand with the concepts of empowerment, participation and independent living.

Recognition of representative organisations requires duty-bearers to put in place systems that regulates self-representation for purposes of consultation during policy and programme development, implementation and monitoring and evaluation (M&E) processes in order to ensure the collective representative voice of persons with disabilities. Consultation constitutes a more structured process of self-representation whereby persons with disabilities are provided with access to policy and programme development processes and can participate in M&E processes on issues affecting their lives. This requires that representative organisations/structures of persons with disabilities who are affected by a specific area of focus, apply for recognition with the relevant institutions for purposes of consultation, and that the outcomes of such consultations are shared with management and governance structures.

Close consultation and participation of persons with disabilities in any planning process that concerns them is a right recognized in the CRPD, as well as one of its key principles. Actions to enhance participation of persons with disabilities and their representative organizations are:

- (a) Identify key actors, at both governmental and civil society level.
- (b) Involve organizations that represent men, women and children with all types of disabilities, including groups representing people with a single impairment, advocacy groups as well as umbrella organizations and those in remote and rural areas, so as to ensure that consultations are representative.
- (c) Facilitate the participation of persons with disabilities who may be marginalized in their own communities, such as women and children with disabilities, persons with mental or intellectual disabilities, persons with disabilities from ethnic minorities, and refugees with disabilities.

³⁵ Ibid

- (d) Provide the support, accommodation and capacity building that may be required to facilitate the participation of persons with all types of disabilities – physical, sensory, intellectual and mental - in consultation and decision-making processes.
- (e) Promote the participation of representative organizations of persons with disabilities in wider civil society consultations.
- (f) Choose venues for consultations that are accessible and easily reached and ensure that relevant information process is made available to persons with disabilities, including in alternative formats and languages.

The principles of self-representation are ‘**not a one-size-fit-all**’. These principles are based on a variety of factors including the nature of disability and circumstances that require self-representation. Generally, the principles include:

1. Self-represented persons are informed about their rights and about the consequences of the options they choose.
2. They must not find court procedures complex, confusing, intimidating
3. They must have the knowledge or skills to participate actively and effectively in their own litigation
4. Equal access to justice for everyone, as well as for the timely and efficient administration of justice

The basic principles self-representation, participation and mainstreaming efforts include the following:

- (a) Responsibility for implementing is system-wide, and rests at the highest levels within agencies;
- (b) Adequate accountability mechanisms for monitoring progress need to be established; which includes both setting up gender-based indicators and gender budgeting;
- (c) Initial identification of issues and problems across all areas of activity should be such that differences and disparities between persons with and without disabilities can be diagnosed;
- (d) Clear political will and allocation of adequate resources for mainstreaming — including additional financial and human resources, if necessary — are important for translation of the concept into practice;
- (e) Efforts to broaden the equitable participation of persons with disabilities at all levels of decision-making;
- (f) Mainstreaming does not replace the need for targeted, disability-specific policies and programmes, and positive legislation; nor does it do away with the need for disability units or focal points.

(Source: As described by the Division for the Advancement of Women of the Department of Economic and Social Affairs, and adapted here for disability).

2.1.5 Batho Pele Principles

The Batho Pele (“People First”) principles are aligned to the Constitution – know the service you’re entitled to. Government officials must follow the “Batho Pele” principles which require public servants to be polite, open and transparent and to deliver good service to the public.

1. Consultation

Citizens should be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice about the services that are offered. All stakeholders should be consulted on the nature, quantity and quality of services to be provided in order to determine the needs and expectations of the end users. Citizens can be consulted through the following: Customer surveys – Campaigns – Imbizo – Workshops³⁶.

2. Service standards

Citizens should be told what level and quality of public service they will receive so that they are aware of what to expect. Citizens should be told what level and quality of public services they will receive so that they are aware of what to expect. Strategies include: •Service charters •Strategic plans •Booklets with standards •Service level agreements.

3. Access

All citizens should have equal access to the services to which they are entitled. Examples: • Decentralized offices (one stop shops, and others) • Extended business hours • Use of Indigenous languages and Sign Language • Service charters displayed • Improved service delivery to physically, socially and culturally disadvantaged persons (including infrastructure) • Signage must be clear and helpful • All frontline staff should wear name tags

4. Courtesy

Citizens should be treated with courtesy and consideration e.g. tools, measurements & systems put in place to effect customer care - customer care units & staff.

5. Information

Citizens should be given full accurate information about the public services they are entitled to receive, e.g. • Braille and functional Sign Language, help desks, brochures, posters, press • Information to be available at service points, in various official languages. • Weekly newsletters from the City Managers • Frontline staff training • Induction training is made compulsory to all new employees.

6. Openness and transparency

Citizens should be told how national and provincial departments are run, how much they cost and who is in charge. Examples: Citizens should be told how departments are run, how much they cost and who is in charge • The Citizen should know who the Head of the Unit is. The management must be transparent and open to all staff members, e.g. appointment circulars • Regular staff meetings with Management must be encouraged.

7. Redress

If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when complaints are made, citizens should receive a sympathetic, positive

³⁶ Department of Public Service and Administration (DPSA) at <http://www.dpsa.gov.za/documents/Abridged%20BP%20programme%20July2014.pdf>

response. Establish a mechanism for recording any public dissatisfaction, e.g. toll-free number, suggestion boxes & customer satisfaction questionnaires • Each Unit must have a complaints handling system in place • Staff must be trained to handle complaints fast & efficiently.

8. **Value for money**

Public services should be provided economically and efficiently in order to give citizens the best possible value for money³⁷. Examples: •the use of expenditure controls, •improved internal controls (e.g. private use of phones, budget reviews) •Costs per unit of services delivered.

2.1.6 Consultation across the value chain

Consultations and public participation processes are important in the policy value chain. **The CRPD's Article 4 on General obligations states that:** *States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:*

- (a) *To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;*
- (b) *To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;*
- (c) *In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall **closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations***³⁸.

The CRPD's **Article 33 on National implementation and monitoring** provides for civil society, in particular persons with disabilities and their representative organizations, to be involved and to participate fully in the monitoring process.

Thus, the principles of consultations and participation in the policy value chain are well established in South Africa law and international treaties the country ratified.

The formal public consultations and participation activities, required by regulations, aim to provide citizens with both access to information and opportunities to participate in the process. The term "public participation" denotes the activities where permitting agencies and permittees encourage public input and feedback, conduct a dialogue with the public, provide access to decision-makers, assimilate public viewpoints and preferences, and demonstrate that those viewpoints and preferences have been considered by the decision-makers³⁹.

"The public" in this case refers not only to private citizens, but also representatives of DPOS, CSOs, labour organizations, public officials; and governmental and other

³⁷ Local Government Action available at <http://localgovernmentaction.org/dedi6.cpt3.host-h.net/content/batho-pele-principles>

³⁸ UN CRPD

³⁹ RCRA Public Participation Manual, 1996 Edition.

parties. When one considers “the public” in this broad sense, public participation can mean any stakeholder activity carried out to increase public’s ability to understand and influence the policy value chain.

In the best-case scenario, the stakeholders interact well, the lines of communication are strong between all the parties, and accessible information flows to and from stakeholders. This last point is important: **public participation or consultations reflect processes that are based on dialogue.** A vital and successful public participation programme requires a dialogue, not a monologue. In other words, information must flow between all stakeholder groups.

Without an active two-way communications process, no party will benefit from the “feedback loop” that public participation should provide. Feedback loops enable duty-bearers to monitor public interest or concerns, adjust public participation activities, and respond quickly and effectively to changing needs. The feedback loop is a useful tool for all stakeholders in the process. Rights holders have valid concerns and can often improve the quality of decisions and policy outcomes.

Public input can help policy makers in the policy making and decision-making processes. There are a number of reasons why DPOs and interest groups should be consulted through public participation and why citizens should make an effort to participate in decision-making. The first, and most obvious reason, is that duty-bearers are required, by law, to conduct public participation activities. The second reason to conduct consultations/public participation with public participation is good governance. Rights-holders, interest groups and any other parties have a right to be heard and to expect government to be open and responsive in line with the Batho Pele principles.

2.2 Products and Services

2.2.1 Products and Services

The principles, products and services related to self-representation are closely aligned to the CRPD as follows:

The CRPD is informed by an understanding of **equality referred to as “substantive equality” or “equality of results.”** To promote the equality of persons with disabilities in all areas of life and eliminate discrimination, States are required to: **provide reasonable accommodation, which consists of the modifications or adjustments that are necessary and reasonable in a particular case to ensure that a person with a disability is able to exercise a certain right; and take the specific measures that are necessary to advance equality.**

These measures include **positive action, preferential treatment or quota systems, for example, to advance the inclusion of persons with disabilities** in areas such as education, the economy, politics and employment.

The CRPD recognizes disability as **an evolving concept that “results from the interaction between persons with impairments and attitudinal and**

environmental barriers that hinders their full and effective participation in society on an equal basis with others.” Furthermore, it **does not provide a closed definition of persons with disabilities** but clarifies that they include “those who have long term physical, mental, intellectual and sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society with others.” This means that national definitions of disability should not only focus on the existence of an impairment resulting from a health situation, but should reflect the role of external barriers and focus on participation.

The **openness of the definition** implies that States **may broaden** the range of persons protected to include, for example, persons with short-term disabilities. Thus, self-representation, participation and programming should reflect a **flexible approach to persons with disabilities, in recognition that the range of subjects it includes may vary in accordance with socio-economic contexts and cultural environments.**

Self-representation products/services shall be aligned to the CRPD’s eight fundamental principles: **respect for inherent dignity, individual autonomy and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacity of children with disabilities.**

The CRPD recognizes **accessibility to the physical environment, to transportation, to information and communications, including information and communication technologies and systems, as essential to enabling persons with disabilities to live independently and fully participate** in all aspects of life (Article 9).

The CRPD requires States Parties to incorporate disability-sensitive measures into **mainstream service delivery, and to provide disability-specific services** (twin-track approach) that are necessary to support the inclusion and participation of persons with disabilities. Article 24 of the CRPD, for example, requires States Parties to develop an inclusive education system at all levels, to provide for reasonable accommodation of the individual’s requirements and ensure that persons with disabilities are provided with “**effective individualized support measures**” to maximize their academic and social development. On similar grounds, access to justice by persons with disabilities, in line with Article 13, requires the **removal of barriers to their participation** through the provision of **procedural and age-appropriate accommodations.**

Products and services shall be provided in order to address the needs of individual self-representatives. For instance:

For Deaf or hard of hearing people:

- Interpreter/intervener services;
- Accessible public telephones (e.g., no volume controls), teletypewriter or teletype (tty’s) and other adapted devices (e.g., adaptive media, FM and infrared systems in public facilities);
- Information/instructions written with the use of plain and clear language;
- Emergency bells, sirens and audible/visible signals;

- Avoiding background noise and poor acoustics in indoor environments including poor lighting as this can also be a problem for some people relying on speech reading or sign language;
- Enhanced listening systems;
- Sufficient sensitivity training.

For people who are Blind or visually impaired:

Technology and Adaptive Equipment such as: ⁴⁰

Hardware

- Computers
- Power Mac G3
- Scanners
- Laser Printers

Screen Reader Software

- Jaws for Windows 3.7 - Jaws utilizes an internal software speech synthesizer and a computer's sound card to read aloud information displayed on the computer screen thus enabling equal access electronic information

Low Vision Software

- Zoomtext Xtra - Level 2 - Version 7.0 - ZoomText Xtra is a screen magnification and screen reader software programmes designed specifically for the low-vision computer user. ZoomText Xtra includes DocReader", a tool for reading text from any Windows application. DocReader automatically reads through complete documents, including web pages and email.

Scanning and Reading Software

- Arkenstone Open Book - reads, edits and manages scanned images from books, magazines, manuals, mail and other printed documents. OPENBook turns a computer system into a scanning and reading machine, offering blind and vision-impaired individuals access to printed materials.
- WYNN Wizard and Reader - WYNN (What You Need Now) is a PC-based software package that helps you read, write, study, and comprehend effectively.

Adaptive Equipment

- Low-vision magnifier
- Height adjustable computer tables and arm supports
- Ergonomic chairs

Other measures could include:

- Sufficient use of contrasting colours, raised letters and characters on most signage;
- Good indoor lighting;
- No background noise which can be a barrier for individuals who are relying primarily on sensory input;
- Lack of textural surfaces in indoor and outdoor environments (e.g., no tactile markers warning pedestrians of potential objects in the path of travel on streets);
- Avoiding protruding objects that overhang the path of travel (e.g., wall-mounted light fixtures);
- Barrier-free streets and street crossings;

⁴⁰ <http://www.jmu.edu/humanresources/adadevices.shtml>

- Accessible building and room layouts; and
- Availability of public documents in alternative formats (e.g., braille, large print, raised print, diskette, tape or readable colour contrasts).

Some of the common barriers for people with cognitive/language disabilities include:

- lack of access to information and special services and difficulties in problem solving (language impairments can cause difficulty in comprehension and/or expression of written and/or spoken language);
- hi-tech environments that place pressure upon individuals or have high performance expectations that do not allow users to operate at their own comfortable levels;
- overly bright environments that confuse and affect concentration; and
- internal and external environments with signage that is difficult to read or understand.

2.2.2 Standard Operating Procedures

Standard operating procedures, including right of recourse and accountability are normally specified in the Constitution, legislation, policies, strategies and guidelines among others.

When self-representation relates to legal proceedings, procedures include:

1. To promote rights of access:

- Access to justice for those who represent themselves requires that all aspects of the court process be open, transparent, clearly defined, simple, convenient and accommodating.
- The court process should, to the extent possible, be supplemented by processes including case management, alternative dispute resolution (ADR) procedures, and informal settlement conferences presided over by a judicial officer.
- Information, assistance and self-help support, self-represented persons should be made available to self-represented persons through the normal means of information, including pamphlets, telephone and courthouse inquiries, legal clinics and internet searches.
- All self-represented parties should be:
 - i. Informed of the potential consequences and responsibilities of proceeding without a lawyer/advisor;
 - ii. Referred to available sources of representation, including those available from Legal Aid, pro bono assistance, community and other services;
 - iii. Referred to other appropriate sources of information, education, advice and assistance.

2. To promote equal justice

- a Judicial officers and court officials should do whatever is possible to provide a fair and impartial process and prevent an unfair disadvantage to self-represented persons.

- b Self-represented persons should not be denied relief on the basis of a minor or easily rectified deficiency in their case. The rights of the other party to the proceedings will also have to be taken into consideration.
- c Where appropriate, a judicial officer should consider engaging in such case management activities as are required to protect the rights and interests of self-represented persons. Such case management should begin as early in the court process as possible and principle of fairness and impartiality should be applied.
- d Depending on the circumstances and nature of the case, the presiding judicial officer may:
 - i. may explain the process;
 - ii. inquire whether both parties understand the process and the procedure;
 - iii. make referrals to agencies able to assist the litigant in the preparation of the case;
 - iv. provide information about the law and evidentiary requirements;
 - v. modify the traditional order of taking evidence; and
 - vi. question witnesses.

3. Responsibilities of the participants in the justice system – both judicial officers and court officials

- (a) Judicial officers and court officials should meet the needs of self-represented persons for information, referral, simplicity and assistance.
- (b) Forms, rules and procedures should be developed which are understandable to and easily accessed by self-represented persons.
- (c) To the extent possible, court officials should develop packages for self-represented persons and standardized court forms.
- (d) Judicial officers and court officials have no obligation to assist a self-represented person who is disrespectful, frivolous, unreasonable, vexatious, abusive, or making no reasonable effort to prepare their own case. However the courts do have tools available for dealing with witnesses/parties whose behaviour in court is not appropriate (contempt of court) or punitive costs orders because of a person's litigation tactics and downright abuse of court process.

When dealing with self-representation, it is essential to make all reasonable efforts to ensure that all segments of the population (with disabilities) have an equal opportunity to participate and have equal access to information in the process. These efforts may include, but are not limited to:

- a. **Providing interpreters, if needed, for public meetings.** Communicating with the community in its language is essential for the two-way information flow required to ensure the public an equitable voice in public participation activities.
- b. **Providing multilingual fact sheets and other information.** Making sure that the materials presented to the public are written clearly in the community's primary language.
- c. **Tailoring self-representation and participation programme to the specific needs of the community.** Developing a program that specifically addresses the needs of all persons with disabilities will demonstrate, to rights holders, interest in achieving equity and fostering cooperation.

- d. **Identifying internal/external channels of communication** that the stakeholders rely upon for its information, especially those channels that reach the community in its own language. Examples of these "channels" are a particular radio show or station, a local television station, a non-English newspaper, or even influential religious leaders. By identifying and making use of these valuable communication channels, duty-bearers can be sure that the information being publicised reaches its target audience.
- e. **Encouraging the participation of rights-holders and/or formation of advisory groups** to serve as the voice of the rights holders and stakeholders. Such groups can provide meaningful participation and empowerment for persons with disabilities.

Making information available to rights-holders and providing for their input can improve public perception in the duty-bearers and lead to greater trust and credibility. Trust and credibility, in turn, can lead to better communication and cooperation and can focus the public debate on issues of, among others, self-representation and participation. Establishing trust should be the cornerstone of public participation activities. As an example, the following is a list of things to remember when establishing the procedural credibility of public representation/ participation:

1. Remember the factors that are necessary for establishing trust -consistency, competence, care, and honour.
2. Encourage meaningful involvement by rights holders.
3. Pay attention to process, including equitable access to services, information and infrastructure.
4. Explain the process and eliminate any mistrust.
5. Be forthcoming with information and make rights holders to participate from the outset in all stages of the value chain.
6. Focus on building trust as well as generating good reliable data.
7. Follow up, get back to people, and fulfil your obligations as a duty bearer.
8. Make only promises that you can keep.
9. Provide information that meets people's needs and in accessible formats.
10. Get the facts straight and evidence-based data/statistics relevant to the consultation.
11. Coordinate within your organization and manage functions effectively.
12. Do not give mixed messages or messages that may cause confusion or display lack of knowledge/experience of disability and human rights.
13. Listen to and implement messages from the voices of right holders and other stakeholders.

Procedures for self-representation shall also include the following:

1. Definition of the nature/purpose of self-representation
2. Applicability of self-representation.
3. General accommodation criteria and identifying reasonable accommodation for self-representatives.
4. Obligations, roles and duties associated with self-representation for rights holders and duty-bearers.

5. Timeframes for key processes including any matters that govern the period of office of self-representatives.
6. Capacity provided to self-representatives in order to function optionally.

CHAPTER 3: LEGISLATIVE AND CONSTITUTIONAL OBLIGATIONS FOR SELF-REPRESENTATION

3.1 The Constitution of the Republic of South Africa, 1996

The **Constitution of the Republic of South Africa, 1996**, adopted in 1996, outlaws discrimination on the basis of disability and guarantees the right to equality for persons with disabilities. **The Constitution provides legal imperatives towards an obligation to legislate the right to self-representation.**

Section 9 of the Constitution under the heading "Equality", states:

9(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair⁴¹.

The inclusion of disability in the nondiscrimination and equality clause (section 9) of the Constitution of South Africa (1996), and was followed by the **White Paper on an Integrated National Disability Strategy** for South Africa. The main vision of the Integrated National Disability Strategy (INDS) was "... a **society for all, (where) the needs of all citizens constitute the basis for planning and policy, and the general systems and institutions of society are accessible to all**" (Office on the Status of Disabled Persons, 1997).

Section 27 of the Constitution makes provision for the development of an extensive social security system, and led to the South African Social Security Agency Act (Act 9 of 2004) and the establishment of the South African Social Security Agency (SASSA).

The Constitution provides for several independent commissions that monitor developments in their respective purviews. These include:

4. The Human Rights Commission
5. The Commission for Gender Equality
6. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

⁴¹ The Constitution of the Republic of South Africa, 1996, (section 9)

7. The Pan South African Language Board
8. The Independent Broadcasting Authority.

The 'Public Protector' (resembling the ombudsman in other democratic states) is empowered to investigate 'impropriety or prejudice' in any sphere of government, and to take appropriate remedial action.¹⁵

3.2 Related Case Law

a. In the North Gauteng High Court: CS1 NO: 57331.2011 related to the process to interview and/or appoint suitable short-listed candidate(s) as Magistrates in respect of the +- 51 posts. The judgement inter alia was that:

- i. [1] criteria used by the 3rd Respondent in short listing candidates for posts as entry level Magistrates and the application thereof at the following places: Mitchels Plain, East London, Stellenbosch, Strand, Benoni, Pretoria North, Johannesburg, Germiston, and Krugersdorp was unfairly discriminatory in that the applicant's (complainant) gender and/or disability was not appropriately considered when the short-listing was done by the 3rd Respondent.
- ii. [2] The respondents are directed to reconsider the short-listing of the candidates shortlisted in respect of the aforesaid twenty-three (23) posts mentioned in the 11 places, in order 2 above, and to reconsider the application of the applicant in respect of the aforesaid posts fairly having regard to her gender disability and other relevant factors. Respondents should specifically and seriously have regard to the provisions of section 174 and section 9 of the Constitution of the Republic of South Africa Act 108 of 1996 and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 together with the protocols signed by the Government of the Republic of South Africa dealing with promoting the position of disabled people.

b. In H v Fetal Assessment Centre [2014] ZACC 34"

Section 28(2) of the Constitution — child's best interests must be considered in determining whether to allow the child to claim compensation for a life with disability in "wrongful life" cases

Section 39(1) of the Constitution — may consider foreign law in interpreting the Bill of Rights Section 39(2) of the Constitution — development of the common law — High Court incorrectly dismissed claim on the basis of the exception.

Complex factual and legal considerations — inappropriate to make a final determination on the viability of the child's claim on the record — High Court must make the determination after considering the elements of the law of delict.

c. In De Vos N.O. and Others v Minister of Justice and Constitutional Development and Others [2015] ZACC 21

Criminal Procedure Act 51 of 1977 — section 77(6)(a)(i) — capacity of accused to understand proceedings — constitutionally invalid to the extent that it mandates the imprisonment of an adult accused person — and to the extent that it mandates the hospitalisation or imprisonment of children

Criminal Procedure Act 51 of 1977 — section 77(6)(a)(ii) — capacity of accused to understand proceedings — constitutionally invalid — to the extent that it mandates the institutionalisation of accused

- d.** *In Khoza and Others v Minister of Social Development and Others* (2003) — social welfare grants provided to South African citizens must also be provided to non-citizen permanent residents; to do otherwise is unfair discrimination.
- e.** *In National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others* (1998) — the criminalisation of male same-sex sexual relations is unfair discrimination on the grounds of gender and sexual orientation.
- f.** *In National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs and Others* (1999) — an immigration law which provides benefits to married couples discriminates on the basis of sexual orientation and must be extended to provide the same benefits to same-sex life partners.
- g.** *In Minister of Home Affairs and Another v Fourie and Another* (2005) — the denial of marriage to same-sex couples is unfair discrimination on the basis of sexual orientation.

3.3 Self-Representation in South Africa Courts

A party is permitted to represent him/herself in any court in a matter where he/she is a party to a matter. However, this is usually not advisable to do so unless you are familiar with the court processes. If you do intend to act for yourself, it is important that you notify the opposing attorney and the registrar of the High Court, in writing that you plan to represent yourself and that you wish to oppose the matter. If finances are the reason for not having legal representation, a person could apply for legal aid from organisations such as Legal Aid South Africa (www.legal-aid.co.za) or Probono.Org (<http://www.probono-org.org/>)⁴².

It is a fundamental principle that the accused should be allowed to present his case in court in an effective manner. This will enable him/her to establish the truth about

⁴² Ottis, M. at <https://www.justanswer.com/law/expert-mikeotis/>

his/her guilt or innocence⁴³. The right to present one's case applies to all aspects of court proceedings where the court makes a factual finding. This right is an expression of the *audi alteram partem* principle and part and parcel of the right to a fair trial⁴⁴.

The notion of a fair and adversarial hearing requires that the accused be given an adequate opportunity not only to challenge and question witnesses against him, but also to present his own witnesses in order to establish an effective defence.

The right to present one's case is also subject to the principle of "equality of arms". The principle of "equality of arms" is the guarantee that both sides will be given the same procedural opportunities to prove their cases⁴⁵. Therefore, the court cannot act in a way which gives the prosecution an advantage over the defence⁴⁶. (<http://uir.unisa.ac.za/bitstream/handle/10500/1840/10chapter10.pdf>)

In order for an accused to present his case effectively, he must, inter alia, have access to statements of state witnesses so that he can adduce and challenge evidence effectively⁴⁷. Thus, this right is also closely related to the right to be prepared for one's trial.

The right to present one's case is also linked to the other rights mentioned in section 35 of the Constitution⁴⁸. The right to present one's case contains a number of sub-rights, which are directly related to the main right. These sub-rights appear in the trial phase of the criminal process. They comprise rights such as **the right to cross-examine witnesses, the right to address the court on evidence to be adduced,**

⁴³ It is noteworthy that no onus rests on the accused to convince the court of the truth of any explanation he gives. If he gives an explanation, even if the explanation is improbable, the court is not entitled to convict unless it is satisfied, not only that the explanation is improbable, but that beyond any reasonable doubt it is false. As per Watermeyer AJ (as he then was) in *Rex v Difford* 1937 AD 370 at 373.

⁴⁴ The 'audi alteram partem' principle literally means 'hear the other side'. This means that no ruling of any importance, either on the merits or on procedural points, should be made without giving both parties the opportunity of expressing their views. See *S v Suliman* supra at 385. The rules of natural justice come into play here. The 'audi alteram partem' principle is followed in judicial proceedings in a number of countries throughout the world, along with the rights such as legal representation, the right to argument and cross-examination, and the leading of evidence.

⁴⁵ See art 14(1) of the ICCPR, which provides that all persons shall be equal before the courts and tribunals. Also see s 9(1) of the 1996 Constitution which provides that: Everyone is equal before the law and has the right to equal protection and benefit of the law". The right of all persons to be equal before the courts, requires that the prosecution and defence be treated equally in a criminal trial.

⁴⁶ In *Robinson v Jamaica*, supra at 223/1987 at 241, the HRC considered a case where the accused's request for adjournment in a murder trial in order to arrange for legal representation, was denied by the trial court. The Committee found that the refusal raised issues of fairness and violated art 14(1) because of the inequality of arms" between the parties. Also see Weissbrodt (2001) op cit 130.

⁴⁷ See *Shabalala v Attorney-General, Transvaal* supra at 1593.

⁴⁸ To illustrate this, the right is linked to the following rights such as, the right to present one's case via one's legal representative in terms of s 35(3)(f); the right to remain silent and thus to present one's case in a passive manner in terms of s 35(3)(h); and the right to present one's case in a language that you understand in terms of s 35(3)(k).

the right to give and adduce evidence, the right to address the court at the conclusion of evidence and the right to address the court on sentence. The right to present one's case effectively is fundamental to an accused's right to a fair trial⁴⁹.

The right to present one's case is fundamental to a fair trial. It is also a fundamental requirement of a fair trial, that there be "*equality of arms*". Therefore, the defence and the prosecution must be on an equal footing. This means that each party must be given a reasonable opportunity to present his case, including his evidence, under conditions that do not place him at a substantial disadvantage as a-vis his opponent⁵⁰.

South Africa follows the *accusatorial system*⁵¹. The interpretation of section 167 of the Constitution by our courts, illustrates that the accusatorial system is firmly entrenched in our law. In the accusatorial system, the right to direct confrontation is regarded as one of the essential ingredients in a fair trial⁵²

Access to justice through the Constitutional Court is demonstrated in the four cases in Table 4, where all the rulings were in favour of the complainants for discrimination experienced on the basis of a disability. With only four cases appearing at the courts for disability, it is apparent that citizens and society at large have not yet accessed the courts enough to promote their rights. With more awareness of both their rights and information on how to exercise those rights, persons with disabilities will make greater demands on services and contribute towards a functioning democracy.

With increasing attention being placed on achieving equity in access to goods and services across the public domain, it also became evident that other key, but silent policy directions were not emphasized and implemented effectively. For persons with disabilities, access to information by relating to their rights and entitlements has been implemented at a slower rate than for their able-bodied counterparts due to inaccessible communication channels to filter information. In addition, policy guidelines on providing "reasonable accommodation" and for universal design across all sectors were not understood well and therefore not implemented consciously through programmatic interventions. Without universal design and reasonable accommodation (and assistive devices) in the home, school, work and community environment, policy imperatives – no matter how progressive – remain an empty shell of promises for persons with disabilities. Desired outcomes for the realization of the rights of persons

⁴⁹ (<http://uir.unisa.ac.za/bitstream/handle/10500/1840/10chapter10.pdf>)

⁵⁰ Thus, the parties must have the opportunity to have knowledge of and comment on all evidence adduced or observations filed. See, inter alia, *Dombo Deheer BV v The Netherlands* (1993) 18 EHRR 213.

⁵¹ The accusatorial system implies that the presiding officer plays a passive role during the trial. He relies on information placed before him by the parties. Please refer to chapter 1, subsection 1.2.2.1 for a detailed discussion about the accusatorial system.

⁵² Many countries such as Botswana, United States and Mexico provide for direct confrontation in their constitutions.

with disabilities are impossible without appropriate environmental universal design and/or redesign.

Table 4: Access to justice as demonstrated by four cases

Case details	Year	Complaint	Outcome
1. Prinsloo vs Van der Linder	1997	Unfair discrimination on the basis of disability	The court ruled in favour of the complainant and endorsed that "at the heart of the prohibition of unfair discrimination lies recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity".
2. WH Bosch vs Minister of Safety and Security and Minister of Public Works	2005	Inaccessibility of courts	The Equality Court in Port Elizabeth found the discrimination to have been unfair.
3. Lettie Hazel Oortman vs St Thomas Aquinas Private School	2010	Discrimination against a child with a disability to access education	The school was obliged to readmit Chelsea Oortman and to take reasonable steps to remove all obstacles to enable the children to have access to all the classrooms and the toilet allocated to her by using a wheelchair.
4. Standard Bank Limited vs Commission for Conciliation, Mediation and Arbitration (CCMA)	2008	Bank employee was dismissed after being injured in a car accident	The court ruled against the bank for not complying with the Code of Good Practice on Dismissal, as the bank failed to accommodate the employee, which rendered dismissal automatically unfair.

3.4 The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)

These included the **Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)**, passed in 2000, which gives effect to the equality clause in the Bill of Rights, and defines 'discrimination' as ***"any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) poses burdens, obligations or disadvantage on; or (b) withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds."*** 'Equality' according to the definition of the Act includes equality in terms of outcomes.

This legislation is especially important in recognising the way in which discrimination is manifest in our society and, most importantly, the need to put in place concrete mechanisms to address discrimination and promote equality. Disabled People South Africa (DPSA) explains:

*"[The Act] recognises the existence of systemic discrimination and inequalities, particularly in respect of race, gender and disability in all spheres of life as a result of past and present unfair discrimination, as well as the need to take measures at all levels to eliminate such discrimination and inequalities."*⁶⁹

The Act deals with prevention, prohibition and elimination of unfair discrimination, hate speech and harassment, and states that neither the state nor any person may unfairly discriminate against any person on the ground of disability, including:

- (a) denying or removing from any person who has a disability any supporting or enabling facility necessary for their functioning in society
- (b) contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility
- (c) failing to eliminate obstacles that unfairly limit or restrict those with disabilities from enjoying equal opportunities, or failing to take steps to reasonably accommodate their needs.

Under the Act, the South African Human Rights Commission and other relevant constitutional institutions may, in addition to any other obligation, in terms of the Constitution or any law, request any other component falling within the definition of the state or any person to supply information on any measures relating to the achievement of equality including, where appropriate, on legislative and executive action and compliance with legislation, codes of practice and programmes⁵³.

In addition to the powers and functions of the constitutional legal structures, these institutions are also competent to:⁵⁴

- a. Assist complainants in instituting proceedings in an equality court – particularly complainants who are disadvantaged
- b. Conduct investigations into cases and make recommendations as directed by the court regarding persistent contraventions of this act or cases of unfair discrimination, hate speech or harassment referred to them by an equality court
- c. Request from the department, in the prescribed manner, regular reports regarding the number of cases and the nature and outcome thereof.

Special measures to promote equality with regard to race, gender and disability provide that:

- a. If it is proved in the prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purposes of sentence.
- b. The South African Human Rights Commission must, in its report referred to in section 15 of the Human Rights Commission Act, 1994 (Act No. 54 of 1994), include an assessment on the extent to which unfair discrimination on the grounds

⁵³ Dube K. (2005) 'The role and effectiveness of disability legislation in South Africa'

⁵⁴ Government of South Africa
(2000b)

of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems.

- c. The state, institutions performing public functions and all persons have a duty and responsibility, in particular to eliminate discrimination on the grounds of race, gender and disability; and promote equality in respect of race, gender and disability.

3.5 Labour Relations Act 1998

The Labour Relations Act 1998 provides for the regulation of unfair treatment in the workplace via a provision on unfair labour practices. The provision in the previous act was very broadly defined. Consequently, courts had wide discretion to decide which treatment constituted an unfair labour practice. The new Act has moved away from broad definitions of unfair labour practices and instead, specifically lists the kinds of treatment that will be regarded as 'unfair'. The Act defines four kinds of such treatment. Most applicable to persons with disabilities are stipulations on unfair discrimination.

3.6 The Employment Equity Act, No. 55 of 1998

The Employment Equity Act, No. 55 of 1998, is based on section 9(3) of the Constitution Act, No.108 of 1996. According to the Constitution:

"The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth." (Constitution Act, No.108 of 1996).

The Employment Equity Act No. 55 of 1998 is aimed at achieving equity in the workplace by--

- a. promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- b. implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce.⁵⁵

⁵⁵ Employment Equity Act No. 55 of 1998

It defines "**people with disabilities**" as people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.⁵⁶

Facts about reasonable accommodation:

1. The obligation to make reasonable accommodation may arise when an applicant or employee voluntarily discloses a disability related accommodation need or when such a need is reasonably self-evident to the employer.
2. Employers must also accommodate employees when work or the work environment changes or impairment varies which affects the employee's ability to perform the essential functions of the job
3. The employer should consult the employee and, where reasonable and practical, technical experts to establish appropriate mechanisms to accommodate the employee.
4. The particular accommodation will depend on the individual, the degree and nature of impairment and its effect on the person, as well as on the job and the working environment.
5. Reasonable accommodation may be temporary or permanent, depending on the nature and extent of the disability.

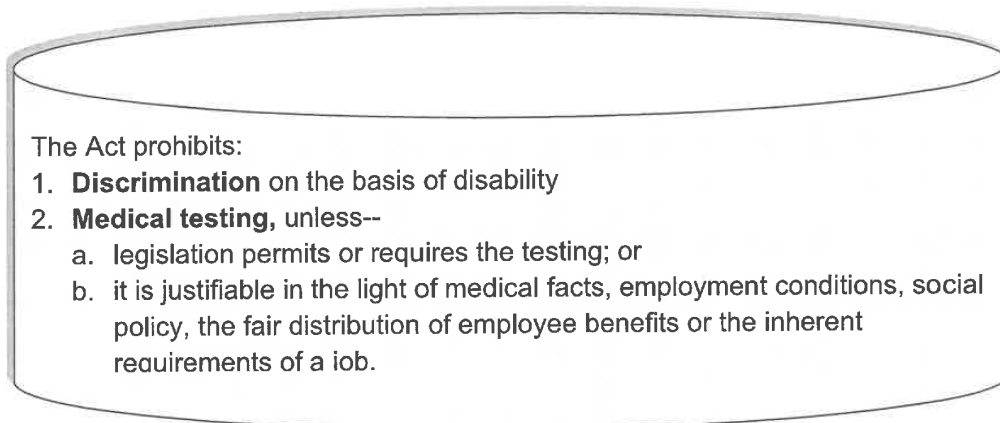
A key point mentioned in the Code and the Act is that an employer may not -

- a. Employ people with disabilities or,
- b. Retain employees **who** become disabled, on **less** favourable terms and conditions than employees doing the same **work**, for **reasons** connected with the disability.

NOTE---

No person may **harass** an employee on the ground of disability. Such harassment may include **teasing**, ridicule and offensive **remarks**. Any alleged harassment should be handled by the employer in terms of the guidelines contained in the Code of **Good Practice** on the Handling of Sexual Harassment Cases published in **terms** of the **Labour Relations Act**, 1995.

⁵⁶ ibid



Thus, the Employment Equity Act, No. 55 of 1998 protects people with disabilities against unfair discrimination in the workplace and directs employers to implement affirmative action measures to redress discrimination.

The Act is supported by the **Code of Good Practice on the Employment of People with Disabilities** which is a guide for employers and employees on promoting equal opportunities and fair treatment for people with disabilities as required by the Employment Equity Act (the Act). The Code is intended to help employers and employees understand their rights/ obligations, promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at work. The Code also helps create awareness of the contributions people with disabilities can make and to encourage employers to fully use the skills of such persons.

The Code is not an authoritative *summary* of the law, nor does it create additional rights and obligations. Failure to observe the Code does not, by itself, render a person liable in any proceedings. Nevertheless, when the courts and tribunals interpret and apply the Employment Equity Act, they must consider it.

The Code states that employers should adopt the most cost-effective means that is consistent with effectively removing the barriers to perform the job, and to enjoy equal access to the benefits and opportunities of employment. Reasonable accommodation requirement applies to applicants and employees with disabilities who are suitably qualified for the job and may be required -

- i. During the recruitment and selection processes;
- ii. In the working environment;
- iii. In the way work is usually done, evaluated and rewarded; and
- iv. In the benefits and privileges of employment.

Schedule 8 of Labour Relations Act: Code of Good Practice: Dismissal

[Schedule 8 amended by s. 57 of Act No. 42 of 1996 and by s. 56 of Act No. 12 of 2002] provides several cases where employment may be terminated. Section **10 deals**

with Incapacity: Ill health and injury—(1) states that incapacity on the grounds of ill health or injury may be temporary or permanent.

If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the possible alternatives short of dismissal.

When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee.

In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability. In the process of the investigation the employee should be allowed the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee

The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.

Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances

The Technical Assistance Guidelines on the Employment of People with Disabilities (TAG) is intended to complement the Code published in August 2002 to assist with the practical implementation of aspects of the Act relating to the employment of people with disabilities in the workplace. It builds on the Code to set out practical guidelines and examples for employers, employees and trade unions on how to promote equality, diversity and fair treatment in employment through the elimination of unfair discrimination.

The TAG aims to assist employers by helping them to understand:

- Their obligation to implement non-discrimination and affirmative action measures in respect of people with disabilities in the workplace
- Their right to generate economically viable enterprises and/or organisations which effectively provide services and products without discriminating against people with disabilities
- The opportunities that are afforded to them and their enterprises/organisations through the employment of people with disabilities

- Practical ways to move forward that are relevant to their business and that ensure the application of non-discrimination and affirmative action measures for potential and existing employees with disabilities.

The TAG aims to assist people with disabilities by helping them to understand:

- Their right not to be discriminated against in all aspects of employment
- The affirmative action measures to which they may be entitled to through the provisions of the Act
- Their obligation in participating as an informed partner with the employer in the process of employment
- Their right to the provision of reasonable accommodation if required
- Opportunities that exist to prepare for entering and advancing in the workplace
- Practical ways to move forward in preparing for and accessing employment opportunities that may exist.

A case study:

According to Xolani Matyolo, Perrott, Van Niekerk & Woodhouse, in the case between National Education Health and Allied Workers Union ("NEHAWU") on behalf of Lucas and the Department of Health (Western Cape [2004] 25 ILJ 2091 (BCA), the Applicant (employee) had been employed as a general worker in the nursing department of the hospital operated by the Department of Health. After being injured on duty:

- She could no longer be able to bend or lift heavy objects
- Was transferred to the clerical department while she was being assessed.
- Did not cope well there the other employees were unhappy that her work output was low and that she received special treatment.⁵⁷

The employee's application for a more senior position was unsuccessful and the employer applied for her discharge for incapacity in terms of the Public Service Act 1994 but the department required that she be assessed by a specialist and by an occupational therapist.

She was "advised" by her union and refused to be seen by the occupational therapist. Subsequent thereto her employment was terminated for incapacity due to ill health or injury. The Department's code incorporated the Labour Relations Act Code of Good Practice and the employer purported to have complied with the terms of items 10 and 11 thereof.

⁵⁷ Management Of Incapacity Due To Ill Health: By Xolani Matyolo, Perrott, Van Niekerk & Woodhouse Inc. The full edition of this newsletter may be read at www.elaw.co.za or www.caselaw.co.za

Arbitrator's Findings----

In determining the fairness of the dismissal the arbitrator noted that the Code of Good Practice in the Employment Equity Act 55 of 1998 was far broader than the Labour Relations Act Code in respect of impairments that amounted to a disability, in that, where impairment amounted to a disability under the Employment Equity Act the employee was entitled to reasonable accommodation.

The arbitrator adopted a purposive approach that the general objective of the statutory arrangements in both the LRA and the Employment Equity Act was to promote procedural and substantive fairness in relation to people with disabilities and to encourage employers to keep people with disabilities in employment if there is good reason to be accommodated. The arbitrator was of the view that the general concept of fairness required an employer to consider whether a particular employee was a person with disabilities under the Employment Equities Act in determining whether there was a sufficient, valid and fair reason to terminate employment. The arbitrator's view was that even in circumstances where the employee had not specifically sought special treatment with reference to the Employment Equity Act and claimed the status of the person with a disability, the above ought to be taken into consideration.

The Arbitrator made a point that disability status is not to be considered only as a weapon to claim special treatment under the affirmative action provisions in chapter 2 of the EEA but that it should also be considered as a shield to protect the person who has a disability from being dismissed from employment for a reason related to that disability.

In this case it was common cause that the employee lived with incapacity on the grounds of ill health or injury within the meaning of item 10 of the Labour Relations Code. **After considering the evidence the arbitrator however found that she also fell within the definition of people with disabilities as defined in the Employment Equity Act. On perusal of the evidence it was found that the employer had attempted to accommodate the employee's disability in terms of Section 10 in terms of the Labour Relations Act rather than as an employee with a disability in terms of the Employment Equity Act.** The arbitrator considered which procedure would have produced a substantively fairer outcome for the Applicant and concluded had the parties followed the Employment Equity Act Code and the Technical Assistance Guidelines on the employment of people with disabilities at an early stage they all would have informed themselves, worked together and identified possible accommodation.

Having considered the extent of the employer's duty to make reasonable accommodation for the employee, **the arbitrator found insufficient evidence that the employer had considered any reasonable accommodation in relation to this rule or the nursing department but all in relation to a clerical job for which she was in any event not qualified.** What this means is that more than only looking at alternatives, the employer must also try and "create" a suitable role for the ill employee. **What this award raises is that compliance with the Labour Relations Act Code may not be sufficient in instances where ill health leads to disability. The LRA Code requires employers to look for suitable alternatives adapt the employee's current role where possible to accommodate the employee's circumstances.** (Xolani Matyolo, Perrott, Van Niekerk & Woodhouse)

Chapter 5 of the TAG provides detailed analysis of reasonable accommodation, offering examples and situations that may require reasonable accommodation for different disabilities. The Chapter also provides:

- i. Criteria for reasonable accommodation
- ii. Application of principles for applicants and employees
- iii. When an employer is obliged to provide reasonable accommodation
- iv. Reasonable accommodation obligation when changes to work, environment or the impairment occur
- v. Consultation with the employee/applicant with a disability and use of technical experts
- vi. Conditions that may affect accommodation
- vii. Reasonable accommodation may be temporary or permanent, depending on the nature and extent of the disability
- viii. Representative list of examples of reasonable accommodation⁵⁸

The TAG also provides guidance on:

- Evaluating performance and reasonable accommodation
- Employers are not obliged to provide reasonable accommodation if it creates an unjustifiable hardship
- Defining unjustifiable hardship
- Unjustifiable hardship cannot be generalised to other employers or to the future
- Frequently asked questions about reasonable accommodation
- Examples where reasonable and unjustifiable criteria might not be objectively determined
 - Best practice – Corporate level reasonable accommodation – “Hire the passion and train the skill”
 - Best practice for using the Supported Employment Model-Intellectual and other disabilities
- Guidelines for employers
- Guidelines for people with disabilities

3.7 Social Assistance Act No 59 1992

The Social Assistance Act 1992 provides for the rendering of social assistance to individuals, national councils and welfare organisations. The Act was amended in 1994 to further regulate the making of grants and financial awards to certain people and bodies. The Welfare Laws Amendment Act 1997 was amended the Social Assistance Act 1992 in order to:

- Provide for uniformity of, equality of access to, and effective regulation of, social assistance throughout South Africa
- Introduce the child-support grant
- Do away with capitation grants

⁵⁸ Department of Labour: *'The Technical Assistance Guidelines on the Employment of People with Disabilities (TAG)'*

- Abolish maintenance grants subject to the phasing out of existing maintenance grants over a period not exceeding three years
- Provide for the delegation of certain powers
- Extend the application of the provisions of the Act to all areas in the Republic.

3.8 The Skills Development Act

One of the purposes of the Skills Development Act is to improve the employment prospects of persons previously disadvantaged by unfair discrimination, and to redress those disadvantages through training and education. In this regard, people with disabilities in particular, among other disadvantaged groups, will be targeted. The Act offers persons with disabilities various forms of assistance, namely:

1. A more efficient and effective departmental employment service is offered, capable of informing disabled persons of the various support measures that are available. Expansion of the quality and reach of these services is planned.
2. An expanded number and range of learnerships (courses and skills training), geared to meet the needs of community development as well as industry, are planned. Special measures will be in place to ensure that the most vulnerable have access to these opportunities. Some of these learnerships will be designed to help persons with disabilities find work in the formal sector. Others will aim to empower persons with disabilities to become self-employed and self-sufficient. A network of support measures will be established to address the needs of persons with disabilities after they have qualified, to give them a better chance to attain employment.
3. By bringing learning and working opportunities closer to social and economic development needs, the divide between those with work and those without work will diminish. Everyone will have his or her skills recognised via the National Qualifications Framework and hence will be able to sell his or her skills and services in the same market place. People who are able to earn their own income will enjoy the self-respect that such independence brings as well as the sense of achievement that signifies true empowerment.

The Skills Development Act outlined various forms of assistance to enable persons with disabilities to access learnership programmes. In recognition of building capacity among employers to deal effectively with disability issues, the Technical Assistance Guidelines on the Employment of People with Disabilities, documented by the Department of Labour in 2004, provided practical examples of ways in which to ensure reasonable accommodation and equality for persons with disabilities in the workplace. **The Compensation for Occupational Injuries and Diseases Act (COIDA)** was the earliest recognition of disability in the workplace due to occupational injuries, although the focus was on compensation rather than re-employment.

The **Sectoral Education and Training Authorities (SETAs)** were established in terms of the Skills Development Act, Act 97 of 1998. The 21 SETAs are expected to direct and facilitate the delivery of sector-specific skills interventions that help achieve the goals of National Skills Development Strategy and address employer demand for skilled labour (RSA CRPD Report, 2012).

The National Skills Development Strategy III, released in 2012, acknowledges that previous programmes have failed to achieve equal access for people with disabilities, despite the 4% target that had been set, and re-commits to “significantly open up opportunities for skills training for people experiencing barriers to employment caused by various forms of physical and intellectual disability.”

3.9 The National Development Plan (NDP)

The NDP states that:

‘Disability must be integrated into all facets of planning, recognising that there is no one-size-fits-all approach. In line with the priorities of the plan, people with disabilities must have enhanced access to quality education and employment. Efforts to ensure relevant and accessible skills development programmes for people with disabilities, coupled with equal opportunities for their productive and gainful employment, must be prioritised’ (NDP 2030)

Each chapter of the NDP was analysed and outcomes/results related to disability were set.

3.10 The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)

The Act gives effect to section 217 (3) of the Constitution. Section 2(1) (d) of the PPPFA provides that any organ of state may contract with persons, categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability.

The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) recognises the economic rights of people with disabilities to engage in entrepreneurial activities that promotes self-reliance and independent living. Measures include access to opportunities within public sector procurement systems, whereby the supply chain management process aims to empower historically disadvantaged communities and a target of 5% access of all preferential procurement has been set aside for entrepreneurs with disabilities.

3.11 The Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007) protects persons with intellectual and psycho-social disabilities from, among other things, sexual exploitation and sexual grooming, and protects persons with mental disabilities from being used for pornographic purposes. The act further provides, among others, for the establishment of a National Register for Sex Offenders, in which the particulars of sex offenders convicted of any sexual offence against a child or a person who is mentally disabled are recorded.

3.12 South African Local Government Association (SALGA) developed the Disability Framework for Local Government (2009–2014)

The South African Local Government Association (SALGA) developed the Disability Framework for Local Government (2009–2014) as a response to the ratification of the UNCRPD, and it strategically addressed disability in the local government sphere for the first time in the country. This framework guides municipalities to develop partnerships with the disability sector that promote equal opportunities and access to services at the local level for persons with disabilities. However, governance and administrative challenges in the local government sphere detracted from the effective implementation of the framework at municipal level.

The National Land Transport Act (Act 5 of 2009) recently included accessible transport for persons with disabilities in its amendment, as transport challenges remain a neglected area of development

3.13 The South African Schools Act (Act 84 of 1996) (SASA)

The South African Schools Act (Act 84 of 1996) (SASA) gives expression to a transformed educational system. It provides for compulsory education for children between the ages of 7 and 15 years, promotes community involvement and formalizes parental involvement in schools through the establishment of school governing bodies (SGBs), outlining their specific functions in the provision of education, as well as the financial management of school funds. SASA does not differentiate between regular and special schools in the public sector, resulting in special schools being subject to the same management and governance requirements to make special-needs education accessible and relevant to the communities it serves.

White Paper 6 on Inclusive Education (EWP6) marks a critical milestone in the educational sector by changing the focus from segregated facilities for children with disabilities to the provision of appropriate support in ordinary schools that will remove barriers to learning, including those that children with disabilities experience.

3.14 Library for the Blind Act 91 1998

The South African Library for the Blind, declared under Section 1 of the State-aided Institutions Act, 1931 (Act 23 of 1931), continues to exist as a juristic body, notwithstanding the withdrawal of the notice by this Act. The objective of the Library for the Blind is to provide a national library and information service to serve blind readers and other people whose disability does not enable them to read printed materials in South Africa. The functions of the Library for the Blind are to:

- (a) Build up a balanced and appropriate collection of South African and other documents for the use of blind and print-disabled readers
- (b) Record its collections appropriately
- (c) Provide a bibliographic service to those readers
- (d) Provide access to documents nationally and internationally to those readers
- (e) Provide library and information services on a national basis to those readers
- (f) Co-ordinate and preserve the national audio and Braille literary heritage

(g) Produce documents in special media, such as Braille and audio, as required by users.

The functions must be performed solely in respect of documents for the use of or relating to blind and print-disabled readers.

CHAPTER 4: FINANCING SELF-REPRESENTATION

4.1 Costing for self-representation

4.1.1 Cost Factors Related to self-representation

The adoption of Sustainable Development Goals (SDGs) resulted in the adoption of the Addis Ababa Action Agenda (AAAA). This Agenda is a global framework for financing development and includes guidelines on **domestic public resources, international development cooperation, domestic and international private and business finance, debt and debt sustainability, science, technology and innovation and capacity building**.⁵⁹ The Agenda is a useful tool for budgeting and financing of self-representation/participation of persons with disabilities in the development process, service delivery and other benefit schemes.

Self-representation and **participation** go hand-in-hand. To achieve the objectives of self-representation, participation is required and **vice versa**. Both concepts, including mainstreaming strategies, result in **inclusion**.

At an operational level, entities that promote and provide self-representation must plan for all associated costs, such as:

- a. Provision of sign language/tactile interpreters, preferably at all events regardless of whether Deaf or deaf blind people are there or not as argued by the users of these services.
- b. Providing guides, Braille and related equipment to ensure that the needs of Blind people are addressed.
- c. Personal assistances services
- d. Mechanisms/provision of assisted decision-making support services for persons with psychosocial disabilities.
- e. Accessible transport, venues, housing and written/print/electronic and other materials.
- f. Other requirements of the diversified disabilities within the population of persons with disabilities.

It is important to facilitate access by persons with disabilities to mobility aids, devices, assistive technologies and all forms of assistance and intermediaries including by making them available at affordable or no cost. Private entities should be encouraged to undertake and promote research, development, and production of new mobility aids, devices and assistive technologies.

⁵⁹ CBM/IDA (2017), TOOLKIT FOR DPOs VOLUNTARY NATIONAL REVIEWS: How to review if the SDGs have been achieved for persons with disabilities in your country! ON PARTICIPATION IN NATIONAL, REGIONAL AND GLOBAL LEVELS.

4.2 What Is the Cost of Exclusion-Analysis of Costs and Benefits

The goal of **self-representation, participation and mainstreaming** is, partly to achieve **inclusion** in all sectors of the economy and society. These three concepts are at the heart of the philosophy of the disability rights movement and those that support this cause.

The importance of these three concepts can be illustrated by determining the cost of exclusion.

Calculating macroeconomic losses related to disability helps in understanding the scope of disability-associated concerns, and serves as an important basis to calculate the opportunity costs of inactivity, e.g. in the context of a cost-benefit analysis. Nonetheless, in the past, only one empirical study published by the World Bank has tried to estimate losses in Gross Domestic Product (GDP) related to disability (Metts 2000)⁶⁰.

An often-cited calculation of worldwide economic losses related to disability has been provided by Metts (2000) and published by the World Bank. Metts estimates that the total annual value of global GDP lost in relation to disability lies between US\$ 1.37 and US\$ 1.94 trillion. The extrapolation technique sets the assumption that GDP losses (in Canada) related to disability are: a positive function of the incidence of exclusion of people with disabilities, because those who are excluded do not contribute; and an inverse function of the general unemployment rate, because a lower unemployment rate infers a higher probability of labour market activity.

The extrapolation carried out by Metts (2000) is an important effort to develop an accumulated figure that summarizes the worldwide economic costs of excluding people with disabilities from the world of work. However, it is clear that the analysis builds on assumptions which are difficult to defend: certainly, the social, cultural, and political structure of Canada does not represent the conditions in the rest of the world; and clearly differences in economic performance between countries cannot be reduced to differences in unemployment rates.

While inclusion, like everything else in society, is not cheap, excluding persons with disabilities has a much higher price. In the long run, leaving disabled people out of development is counterproductive and to do so is to deny them their human rights. Researchers have shown there is a strong financial case to be made for inclusion.

⁶⁰, Buckup, Sebastian, The price of exclusion the economic consequences of excluding people with disabilities from the world of work; International Labour Office, Employment Sector, Skills and Employability Department. - Geneva: ILO, 2009 85 p. (Employment working paper; no.43)

⁶¹ Ibid

The World Report on Disability⁶², in 2011, found that persons with disabilities are more likely to be unemployed, and to earn less when employed. Addressing this discrimination in work would have clear economic benefits – increasing production by persons with disabilities, and increasing their spending and reducing over-reliance of social benefits/security measures for a good number of productive persons with disabilities.

Self-representation and participation are essential tools that assist in achieving **economic benefits of disability inclusion** beyond direct access to work. For instance, supporting people with complex disabilities to undertake self-care or to help with household tasks; enabling a child with disability to attend school all have broader benefits in opening up new opportunities and redistributing care burdens, with knock-on economic as well as social impacts.

Pathway 1: Earnings and labour productivity – Exclusion from education may lead to lower employment and earning potential among people with disabilities. Not only does this make individuals and their families more vulnerable to poverty, but it can also limit national economic growth⁶³.

Pathway 2: Non-employment costs and benefits – Increasing access to education can also have positive impacts in areas such as crime, control of population growth, health, citizen participation and gender empowerment, which in turn have financial and social consequences⁶⁴.

Pathway 1: Individual earnings and household income - Exclusion from work/employment of people with disabilities may lead to lower income due to disproportionately high levels of underemployment/unemployment as well as lower pay-scales for performing the same work as individuals without disabilities. In addition to challenges accessing formal employment, people with disabilities also face barriers to informal work and self-employment, due, for instance, to exclusion from micro-credit schemes. Finally, caregivers may forgo work opportunities to assist family members with disabilities.

In South Africa, lost earnings averaged US\$4,798 per adult with severe depression or anxiety disorder per year (about half of GDP per capita) **totalling US\$3.6 billion** when aggregated to the national level⁶⁵.

⁶² World Health Organisation, World Bank (2011)

⁶³ Banks, L. M. and Polack, *The Economic Costs of Exclusion and Gains of Inclusion of People with Disabilities: Evidence from Low and Middle-Income Countries*; Tobias Pflanz/CBM

⁶⁴ Ibid

⁶⁵ Banks, L. M. and Polack, *The Economic Costs of Exclusion and Gains of Inclusion of People with Disabilities: Evidence from Low and Middle-Income Countries*; Tobias Pflanz/CBM

Total economic loss due to disabling environment and exclusion from labour market disability is estimated at \$17 818 000⁶⁶. A study was carried out in a selection of ten low and middle-income developing countries, three of which are in Asia (China, Thailand, and Viet Nam), and seven in Africa (Ethiopia, Malawi, Namibia, **South Africa**, Tanzania, Zambia and Zimbabwe). **It came to the conclusion that economic losses related to disability are large and measurable, falling into a band between 3 and 7 per cent of GDP.**

Inclusion of people with disabilities in work/employment can lead to greater economic self-sufficiency⁶⁷.

From a human rights and social justice perspective, the widespread exclusion of people with disabilities from society is unequivocally unacceptable. The evidence presented in this report, emphasises that exclusion is also untenable from an economic perspective: not only does exclusion create a significant economic burden for individuals and their families, **but it can also carry substantial costs to societies at large^{68,69}.**

Real costs of exclusion aren't just narrow economic ones: **it is the human costs that matter most.** Equality is a basic human right – an end in itself, not just a means to economic ends. As the Bond disability and development group argues, excluding disabled people from development on any grounds – including cost – is discrimination, and is at odds with human rights treaties such as the UN convention on the rights of persons with disabilities.

4.3 Budget/ Fiscal allocation

It is critical for the government to expressly state how it plans to fund the planned activities. Requisite budget lines should be specifically identified. Often, activities are planned without having been budgeted for, a situation that should be avoided at all costs. Budget considerations should include, but not be limited to:

- activities geared towards implementation;
- training of stakeholders, especially focal points;
- awareness-raising and advocacy work;
- co-ordination;
- monitoring and reporting;
- publication and networking (for instance website, conferences, newsletter);
- research;
- policy reform/harmonisation;
- prioritised ministerial services/infrastructure/activities.

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Extract of a discussions between, among others, Jasmine O'Connor and Hannah Loryman.

- **Role of bi-multilateral cooperation.** Embedding disability components in development cooperation agreements.
- **Other innovative financing mechanisms** eg. Multi-sector funds, specific allocation of proceeds from the national lottery and others.

Government's fiscal plans and medium-term expenditure framework must routinely include disability, self-representation/participation by persons with disabilities and **mainstreaming in all sectors of government and society.**

END

CHAPTER 5: INSTITUTIONALISING ARRANGEMENTS FOR COORDINATION OF SELF-REPRESENTATION

5.1 Public Sector

Introduction

The CRPD Article 33 – on national implementation and monitoring provides mechanisms for coordination and coordination mechanism within government to facilitate related action in different sectors and at different levels.

The former Office on the Status of Disabled People (OSDP) in the Presidency was responsible for monitoring the implementation of the INDS in all the government departments, and for facilitating mainstreaming of disability across the public sector as well as in civil society.

Coordination is part of disability considerations be mainstreamed in all planning processes, with a particular focus on (i) equality of outcomes; (ii) universal design; (iii) the removal of barriers; (iv) reasonable accommodation measures and (v) redress, and that a M&E system be put in place which provides an assessment of the impact of the implementation of policies, programmes, services and public sector spend on the lives of persons with disabilities.

Principles informing coordination of self-representation include:

1. Persons with disabilities have a right to participate equally with others in any activity and service intended for the general public;
2. Principles of universal design and reasonable accommodation provisioning must inform all new and existing legislation, standards, policies, strategies, plans and budgets;
3. Targeted programmes and services aimed at redressing and/or to ensure that the diverse needs of persons with disabilities are adequately met must be underpinned by effective planning, adequate allocation of human resources and sufficient financial investment;
4. Persons with disabilities must be consulted on selecting appropriate reasonable accommodation measures, assistive technology and personal support; and
5. Representative organisations of persons with disabilities (inclusive of parents' organisations) must be consulted throughout the design-planning implementation-monitoring-evaluation-regulation value chain.

Improved coordination of disability rights-based research that articulates national priorities, and which provides sound evidence for future policy and practice decisions, will ultimately lead to improved outcomes for South Africans with disabilities⁷⁰.

M & E requires a significant measure of independent and impartial views, and is therefore best managed and conducted by a multi-disciplinary and multi-stakeholder team of people that account and report to the national disability rights coordinating mechanism on the processes engaged in, and the findings of the process. However,

⁷⁰ WPRPWD

the national disability rights coordinating mechanism remains responsible for leading and ensuring that monitoring and evaluation is implemented.

Collaboration and co-operative M & E by all three spheres of government, the private sector and disabled people's organisations will be facilitated by the national disability rights coordinating mechanism. The provincial and local spheres of government will be supported to set up M & E systems that are aligned and feed into the national system.

The national disability rights coordinating mechanism will establish the necessary coordination structures, mechanisms, processes and systems to fulfil its M&E responsibility.

Article 33 (National implementation and monitoring) of the UNCRPD requires that one or more focal points within government be designated to accelerate implementation of the UNCRPD, and a coordination mechanism must be established within government to facilitate related action in different sectors and at different levels.

Government and coordination machineries must be strengthened at:

1. *Institutional level*, responsible for providing strategic direction and technical support in the delivery of equality and elimination of discrimination against persons with disabilities;
2. *Inter-departmental level (national and provincial)*, providing strategic direction and technical support in the delivery of equality and elimination of discrimination against persons with disabilities;
3. *Inter-provincial level*, responsible for the oversight, management, co-ordination of the implementation of programmes for persons with disabilities in all provinces in order to ensure standards are maintained across provinces;
4. *District level*, responsible for coordination of action and sharing of experiences between local municipalities in a district;
5. *Local level*, providing support to ward committees to drive local action aimed at promoting and protecting the rights of persons with disabilities; and
6. *Government-Civil Society Interface* - Provision should be made for full participation of civil society structures at national, provincial and local level, particularly in issue-based working groups.

5.2 Policy Directives: Institutional Arrangements

1. Disability rights coordinating mechanisms must be designated and/or appointed in all public institutions;
2. Institutional capacity to contribute to the national disability rights agenda across the spectrum of development, statistical and innovation agencies must be strengthened through the development of designated disability-focused programmes and mechanisms;
3. Statistics South Africa, as the national statistical body, must establish a Disability Statistics Advisory Group on disability to guide the research, development, testing, validity and analysis of disability question(s) and responses to provide acceptable disability data for inclusion in the national Census, household, labour and other socio-economic surveys. Membership of the Advisory Group must include, among others, national government departments, the South African Local Government

- Association, disability organisations, research institutions and institutions of higher education;
4. The South African Bureau of Standards must strengthen its universal design capacity in the work of their design institute and standard setting bodies;
 5. The CSIR must strengthen its capacity to promote universal design in its research, technological innovation as well as industrial and scientific development programmes; and
 6. The South African Qualifications Authority (SAQA) must strengthen its capacity to promote and coordinate the development of a national universal design qualifications framework.

The role of the public sector can be analysed in line with the tiers of government as detailed in the WPRPWD:

5.3 National Coordination

The President, upon taking office, decides on the macro-organisation of the state, including designation of the national disability rights coordinating mechanism.

Placement must be in accordance with the general system of organisation of functions. The role and functions of the national disability rights coordinating mechanism include:

- (a) Coordination of and technical support for the implementation of the WPRPD;
- (b) Development and coordination of the five-year national disability rights programme of action, aligned with the MTSF;
- (c) Monitoring of and reporting on compliance with the UNCRPD and other international disability-related treaties;
- (d) Coordination and management of government-wide disability rights cooperative governance forums at national level;

5.4 Provincial Co-ordination

Premiers, upon taking office, decide on the macro-organisation of provincial administrations, including designation of the provincial disability rights coordinating mechanisms. Placement must be in accordance with the general system of organisation of functions. The role and functions of provincial disability rights coordinating mechanisms include:

- a. Development and coordination of the five-year provincial disability rights programmes of action;
- b. Monitoring of compliance with the UNCRPD and implementation of the WPRPD at provincial, district and local level;
- c. Management of disability rights cooperative governance forums at provincial level;
- d. Coordination of international treaties and national disability rights reporting at provincial level.

5.5 Roles and Functions of Legislatures and the Houses of Traditional Leaders

The National Assembly, the National Council of Provinces, provincial legislatures, municipal councils as well as the national and provincial Houses of Traditional Leaders, through their committee systems, constituency programmes and by involving rights-holders, have important oversight responsibilities in ensuring that every public

institution integrates the WPRPD policy Directives into institutional plans, budgets and reports.

The hosting of annual sectoral legislatures (referred to as Disability Rights Parliaments or Councils), is another important mechanism to strengthen accountability by duty-bearers to rights-holders. Rights-holders are to strengthen the importance of this function through empowering of their representatives within these Parliaments/Councils.

Traditional leaders, as custodians of traditional customs, play a central role in championing the rights of persons with disabilities in traditional communities, including upholding their rights in proceedings of traditional courts.

5.6 Intra-Institutional Coordination

It is the responsibility of every public institution to put in place structural arrangements to ensure the institution is able to fulfil its obligations as contained in the WPRPD, in accordance with the system of organisation of functions within each institution. This might take the form of designation, appointment of disability rights coordinators/units as well as disability rights intra-departmental committees, which will be responsible for, among others:

- a. Coordinating an institutional analysis and alignment of all legislation, policies, plans, programmes and services of government institutions to ensure effective mainstreaming of disability and implementation of the WPRPD;
- b. Coordinating consultative platforms with civil society;
- c. Conducting quality assurance audits and documenting good practice in disability rights mainstreaming; and
- d. Advising the executive team on progress made and measures that should be taken to accelerate disability rights mainstreaming across all programmes of the institution.

5.7 Roles and Functions of Institutions promoting Democracy

The following State Institutions strengthen constitutional democracy in South Africa, and therefore also play important roles in ensuring that the rights of persons with disabilities are protected and promoted:

- a. The SAHRC;
- b. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities;
- c. The Commission for Gender Equality;
- d. The Auditor-General; and
- e. The Electoral Commission

Article 33 (National Implementation and Monitoring) of the UNCPRD requires states parties to establish, among others, an independent monitoring framework to strengthen monitoring of the rights of women, men and children with disabilities at national level by either establishing a new independent monitoring mechanism to conduct the monitoring work, or by strengthening and designating an existing mechanism to enable it to provide the monitoring function required by the UNCPRD.

The UNCRPD furthermore anticipates that the independent monitoring mechanism will ensure that civil society, persons with disabilities and their representative organisations participate fully in all aspects of the monitoring processes just as they should be involved in the development and implementation of policies, programmes and legislation to implement the UNCRPD.

Section 13(1)(b) of the South African Human Rights Commission Act, 2013 empowers the SAHRC to “monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission”, and requires of the SAHRC to prepare and submit reports to the National Assembly pertaining to any of these human rights instruments.

The independent monitoring mechanism is responsible for, among others:

- a. Reporting on human rights matters as it affects persons with disabilities, including submission of reports to the National Assembly;
- b. Contributing to periodic reporting to United Nations treaty bodies and committees, as well as the Africa Commission on Human and People’s Rights and its relevant committees;
- c. Making recommendations to Government with regards the harmonisation of national legislation, regulations and practices with international human rights standards;
- d. Participating in national advocacy campaigns promoting the rights of persons with disabilities; and
- e. Considering and processing complaints about human rights violations and discrimination perpetrated against persons with disabilities.

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities play a central role in promoting and advancing the cultural rights of persons with disabilities in general, and in particular of the Deaf community.

5.8 Coordination by the Private Sector

The creation of barrier-free environments requires collective and concurrent action by law and policy makers, service providers, regulatory bodies, the private sector as well as organisations of and for persons with disabilities.

The **universal design audits** of all existing infrastructure to establish the degree of compliance **with the SABS minimum norms and standards for the use of people with disabilities must be implemented**. Disability access of the built environment must include all public and private sector institutions and shared spaces. Quantified and costed plans must be developed to address the outcomes of the audits and the budget must be provided for implementation of the plan by all sectors.

State and private sector should provide incentives and reward systems towards promoting universally designed and accessible built-environments that meet regulated norms and standards. These incentives must be aimed at transforming the attitude of built-environment professionals towards designing barrier-free spaces and facilities.

The promotion of the employment of persons with disabilities in the private sector through appropriate policies and measures, including affirmative action programmes, incentives and other measures shall be prioritised.

Persons with disabilities must self-represent themselves in various structures within the private sector. Such representation shall be in:

1. Enforcing compliance with the obligations contained in the UNCRPD as well as Constitution of the Republic of South Africa
2. Company Boards
3. Company departments responsible for such functions as research/development/universal design of products/services; procurement structures; employment equity forums; and other company strategies.
4. Development of company policies and strategies
5. Business chambers and councils
6. Business Strategies
7. Training and skills development strategies
8. Review all programmes targeting children for access to children with disabilities.
9. Collaboration and co-operative M & E systems
10. Other private sector strategies.

Trade unions and work-place employee structures shall facilitate the self-representation of persons with disabilities.

5.8.1 Roles and Functions of Research and Academic Institutions

Research and academic institutions must ensure that they advance the rights of persons with disabilities in general, and implementation of the WPRPD by mainstreaming disability throughout their research work and academic courses.

5.8.2 Roles and Functions of the Media and Advertising Industry

The media and advertising industry plays a central role in shaping the minds and behaviour of the community.

The vast majority of information about disability in the mass media is extremely negative, with disabling stereotypes which medicalise, patronise, criminalise and dehumanise persons with disabilities. These form the bed-rock on which the attitudes towards, assumptions about and expectations of persons with disabilities are based. They are fundamental to the discrimination and exploitation which disabled people encounter daily, and contribute significantly to their systematic exclusion from mainstream community life.

Media and advertising agencies must therefore transform the industry to provide the kind of information and imagery which acknowledges and explores the complexity of the experience of disability and a disabled identity as well as facilitates the meaningful integration of all persons with disabilities into the mainstream economic and social life of the community.

5.9 Coordination by the Political Sectors

5.9.1 Provision of the CRPD.

The CRPD Article 29 on Participation in political and public life outlines measures that are applicable to self-representation in the political sector. **The article provides that:**

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

(b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

(i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

(ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels⁷¹.

5.9.2 Political rights

All people who have the nationality of a country are called citizens. All citizens have the right to have a say in how their country is run. This means they have political rights. Political rights are for example:

⁷¹ UN CRPD Article 29

a *The right to vote in elections*

In elections, citizens choose who will run their country, their region or their city. For example, citizens elect their Members of Parliament and have the right to become candidates in elections. A person with a disability should also be able to be a candidate, if he or she fulfils the conditions, as any other citizen.

This means other citizens can vote for persons with disabilities in elections and can become a representative (not necessarily for persons with disabilities only).

Persons with disabilities who are citizens can take part in politics. It means they can have a say in the way their country is run. Permanent citizens have no rights to vote or be voted for but as citizens, persons with disabilities have political rights to vote and be elected to public office. The Convention requires governments to make sure that people with disabilities have the same chances to take part in politics as anyone else.

5.10 Consultative Platforms

5.10.1 National and Provincial Disability Rights Coordinating Mechanisms

The existence of the national and provincial disability rights coordinating mechanisms does not remove responsibility for functional coordination from institutions which have a coordinating function for purposes of government-wide planning, M&E, budgeting and financial oversight, building a capable public administration, regulating the labour market and other sectors.

The National Disability Rights Machinery shall be constituted by:

- (a) Accounting officers and/or designated disability rights coordinators of the Departments of Planning, M&E, Public Service and Administration, National Treasury, Women, International Relations and Cooperation, Statistics South Africa, and will be chaired by the department in which the national disability rights coordinating mechanism is placed;
- (b) Accounting officers and/or designated disability rights coordinators of the departments chairing each of the FOSAD clusters. A disability rights forum must be established for each FOSAD cluster to facilitate mainstreaming of disability into all issues presented to the cluster;
- (c) Accounting officers of national disability organisations; and
- (d) Additional technical expertise will be sourced from research institutions, independent consultancies, institutions of higher education, organised business and labour sectors, as well as international development and human rights agencies.

Provincial Disability Rights Machineries will report to the Provincial Executive Councils and Premiers' Coordinating Forums, and will be constituted by:

1. Provincial disability rights coordinating mechanisms;
2. Disability Rights managers from each provincial government departments and public entities;
3. Regional offices of national government departments;
4. South African Local Government Association;
5. District municipalities and metropolitan councils;

6. Local municipalities;
7. Provincial disability rights organisations; and
8. Provincial offices of institutions promoting democracy;

Additional expertise can be sourced from research institutions, institutions of higher education, organised business and labour sectors based in the respective provinces.

Local municipalities and metropolitan councils must establish disability rights consultative forums, with representation by, among others:

- (a) All disability organisations operating within the municipal boundaries;
- (b) The disability representatives of every ward committee;
- (c) Senior management of all municipal departments; and
- (d) Secretariat services must be provided by the designated disability rights coordination mechanism within the municipality.

The roles and functions of the municipal disability rights consultative forums include:

- a. Providing a clearing house for disability priorities for inclusion in municipal integrated development plans and budgets;
- b. Monitoring implementation of the WPRPD at municipal level; and
- c. Providing advice to local Councils and IDP Steering Committees on the promotion and protection of the rights of persons with disabilities.

5.10.2 Roles and Functions of Disability Organisations

Organisations of and for persons with disabilities play a central role in advancing the implementation, as well as monitoring of the WPRPD. Their functions include:

- (a) Supporting the empowerment of their members and constituencies through human rights education campaigns;
- (b) Supporting the implementation of the WPRPD;
- (c) Monitoring implementation of the WPRPD.

A Civil Society Disability Rights Monitoring Fund must be established to support the monitoring responsibilities of representative organisations of persons with disabilities.

Partnership are essential: The right to live independently and to be included as an equal citizen in one's community requires partnerships between all sectors of society. **Public sector institutions and service organizations need to align** their services at community level to provide the seamless support services required to realize this right.

Organs of civil society need to become active agents of change in fighting discriminatory attitudes and belief systems that push persons with disabilities and their families to the margins of society. Organizations of persons with disabilities, as the representative voice of persons with disabilities, need to strengthen their footprint at local level to empower persons with disabilities, to advocate for change, and to monitor and act upon rights infringements.

5.10.3 Deployment Strategy

A cadre policy as a political mechanism may take one of two forms:

1. **Cadre deployment:** The appointment by a government's governing party of a loyalist to an institution, as a means of circumventing public reporting-lines and bringing that institution under the control of the party, as opposed to the state. It involves the creation of a parallel power-structure to a constitution, so that party members answer first to the party and second to the public. In turn, that party advances its own interests ahead of those of the public.
2. **Cadre employment:** Economic patronage dispensed to individuals, companies and agencies, by the government, not on merit, but on the basis that they enjoy some political connection to the governing party⁷².

In the public service "cadre deployment", has already struck down as illegal, has prejudicial consequences for the promotion of constitutionalism and has been declared by the High Court. However, deployment continues after the High Court has characterized it as illegal and unconstitutional is indicative of movement away from the rule of law and the constitutional requirements for good governance⁷³.

The public administration provided for in the Constitution should exist to render services to all people in a manner which is impartial, fair, and equitable and without bias. [s 195]. It must loyally execute the lawful policies of the government of the day [s 197].

The State can hardly respect, protect, promote and fulfil the guaranteed human rights of all, as it must do in terms of the Bill of Rights, if deployed cadres are instead pursuing the purpose of the deploying authority.

The African National Congress (ANC) has justified cadre deployment by arguing that the *'deepening general crisis of the apartheid regime, the mass revolutionary actions of the oppressed masses inside South Africa and developments internationally confront the ANC with great challenges. Under conditions of fascist state terror and violence the Movement is called upon to lead the people in raising the level of struggle to that of a people's war for seizure of power. We also need to mobilize the international community to intensify its support for our struggle and for the complete isolation of racist South Africa'*⁷⁴.

To effectively carry out these and other crucial tasks the Movement has to strengthen itself. One of the basic challenges we face in this context is that of formulating and implementing a coherent and systematic cadre policy. Delegates' Additional Recommendations in Plenary Cadre policy should include discipline of

⁷² Available at [https://en.wikipedia.org/wiki/Cadre_\(politics\)](https://en.wikipedia.org/wiki/Cadre_(politics))

⁷³ Hoffman, P.

⁷⁴ <https://web.archive.org/web/20160304055527/http://www.anc.org.za/show.php?id=134>

all cadres as a prime quality in the definition of a cadre. In the words of our President, 'discipline is the mother of victory'⁷⁵.

There may be merit in developing an affirmative action policy that ensures that persons with disabilities are 'deployed' in order to achieve equality, equity, and other legislated measures. However, the constitutionality of such policy must be ascertained prior to adoption.

END OF CHAPTER

⁷⁵ <https://web.archive.org/web/20160304055527/http://www.anc.org.za/show.php?id=134>

POINTS TO PONDER/QUESTIONS TO CONSIDER

- Provide a step by step application of the right to self-representation
- How should self-representation be interpreted and defined?
- What should be the main objectives of self-representation?
- Should self-advocacy be considered as part self-representation?
- Should there be legal limitation and exceptions to the right to self-representation?
- Should rights and services be provided within the specific framework of self-representation?
- How should self-representation be assessed and reported on?
- What should be the specific roles and responsibilities of government and all stakeholders including consultative platforms, deployments and report back
- What should be the institutional arrangements for the right to self-representation including responsibilities, functions and duties of consultative platforms or committees
- What should be the criteria for appointments on platforms including deployment, selection criteria, and political affiliation and clearing house for the disability sector?
- How should the report on activities of representatives be compiled and submitted both at national, provincial and local forums
- What is the nomination procedure for deployees and representatives including their functions and responsibilities
- Should representatives be accredited and how should they be removed from their areas of representation
- What should be the dissolution criteria of representative platforms
- How should legal recourse to the right to self-representation be effected and what should be the necessary remedies

CONCLUSION

“Everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.”

The Constitution of the Republic of South Africa, 1996

This framework provides guidance for the embedding self-representation within the context of enhancing the representative voice of persons with disabilities in all aspects of community life in order to secure the right to equal access and participation for all citizens and residents in South Africa, regardless of age, gender, ability, religion, culture or language.

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NOTICE 2774 OF 2024

AMENDMENT OF GAZETTE NOTICE NO. 1981 OF 2005 [NO.28169 DATED 4 November 2005] IN TERMS OF RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT No. 22 OF 1994)

Notice is hereby given in terms of Section 11A(4) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended. This claim for the restitution of land rights have been submitted to the Regional Land Claims Commission: Western Cape.

The particulars regarding these claims are as follows:

Claimant : Ms. Paulina J. Abrahams
 ODI : Mr Christian Hendrik Johannes Abrahams
 Capacity : Tenancy
 Date submitted : 30 December 1998

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

Notice is hereby given in terms of Section 11A(4) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended. These claims for the restitution of land rights have been submitted to the Regional Land Claims Commission: Western Cape. The particulars regarding these claims are as follows:

Ref number	Claimants	Claimed property description.	Claim submission date	Extent	Year of disposition
A833	Ms. Paulina J. Abrahams	Erf 5 Piketberg, Westcoast District Municipality	30/12/1998	5710 square meters	1974

The Regional Land Claims Commission: Western Cape will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 14 days from the publication of this notice, any comments/information to:

The Regional Land Claims Commission: Western Cape
 Private Bag X9163
 CAPE TOWN
 8000
 Tel: 021 – 409 0300
 Fax: 021 – 424 5146

CHECKED

DATE

Mr. L.H. Maphutha
 Regional Land Claims Commissioner

APPROVED
 DATE 2024/08/08

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NOTICE 2775 OF 2024

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

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

Project Name : Pearce Family Claim
Number of Claims : 1
Area : Bellville
Claimants : As listed below
Property : As listed below
Date Submitted : 3 May 1996

REF NO	CLAIMANT INITIALS & SURNAME	PROPERTY DESCRIPTION	CURRENT OWNER
KRK6/2/3/A/3/15/0/49 (M140)	A.E Matthee	Lot 9, 10, 15 a portion Lot B of Lot 24 and Lot 16 consolidated into Erf 21464 Bellville, City of Cape Town	Moddersun Property PTY LTD

The Regional Land Claims Commission will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 90 days from the publication of this notice, any comments / information to:

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

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

CHECKED.....


MR PHILLIP SEHLABELA
RESTITUTION ADVISOR: LEGAL
 DATE: 18/03/2024

APPROVED.....


MR L.H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER
 DATE: 03/06/2024

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NOTICE 2776 OF 2024

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

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


Number of Claims : 1
Area : Bonnievale
Claimants : Mr Moses Witbooi & Ms Sophia Scheepers
Properties : As listed below
Date Submitted : 06 November 1995 & 26 April 1996

REF NO	CLAIMANT	PROPERTY DISCRIPTION	CURRENT OWNER
KRK6/2/3/A/25/122/ 0/18/W1 Bonnievale	Mr Moses Witbooi & Ms Sophia Scheepers	Erf 718 Rotten Hill Bonnievale	No data could be found

The Regional Land Claims Commission will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 90 days from the publication of this notice, any comments / information to:

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

Tel: (021)409-0300
 Fax: (021)409-0539

CHECKED.....

DATE.....26/11/2023

APPROVED.....

DATE.....2023/12/13

Mr. L.H Maphutha
 Regional Land Claims Commissioner

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT**NOTICE 2777 OF 2024****EXTENSION OF THE APPLICATION OF THE PROVISIONS OF THE INTERIM PROTECTION OF INFORMAL LAND RIGHTS ACT, 1996 (ACT NO. 31 OF 1996)**

Whereas the application of the provisions of the Interim Protection of Informal Land Rights Act, 1996 (Act No. 31 of 1996), will expire on the 31 December 2024, I Mzwanele Nyhontso, Minister of Land Reform and Rural Development, under section 5(2) of the said Act, hereby extend the application of the provisions of the said Act for a further period of 12 months ending on 31 December 2025.



**MR M NYHONTSO, MP
MINISTER FOR LAND REFORM AND RURAL DEVELOPMENT**

DEPARTEMENT VAN LANDBOU, GRONDHERVORMING EN LANDELIKE ONTWIKKELING**KENNISGEWING 2777 VAN 2024****VERLENGING VAN DIE TOEPASSING VAN DIE BEPALINGS VAN DIE WET OP DIE TUSSENTYDSE BESKERMING VAN INFORMELE GRONDREGTE, 1996 (WET No. 31 VAN 1996)**

Aangesien die toepassing van die bepalings van die wet op die Tussentydse Beskerming van Informele Groendregte, 1996 (Wet No. 31 van 1996), op 31 Desember 2024 sal verstryk, verleng ek, Mzwanele Nyhontso, Minister vir Landbou Grondhervorming end Landelike Ontwikkeling, kragtens artikel 5(2) van genoemde Wet, Hierby die toepassing van die bepalings van genoemde Wet vir 'n verdere tydperk van 12 maande, eindigende op 31 Desember 2025.



**MR M NYHONTSO, MP
MINISTER: GRONDHERVORMING EN LANDELIKE ONTWIKKELING**

NON-GOVERNMENTAL ORGANIZATION

NOTICE 2778 OF 2024



27 September 2024

Our ref: 1570

DMRE Ref: 12/3/339

Dear Registered Interested and Affected Party (I&AP):

NOTIFICATION: ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT 107 OF 1998): ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS (2014) FOR THE PROPOSED AFRICA OIL SA CORP BLOCK 3B/4B OFFSHORE EXPLORATION, OFF THE WEST COAST OF SOUTH AFRICA.

Notice is given in terms of the Environmental Impact Assessment (EIA) Regulations (Government Notice R982 as amended, promulgated under the National Environmental Management (Act 107 of 1998-NEMA), that Africa Oil SA Corp, Ricocure (Pty) Ltd and Azinam Limited (the Joint Venture (JV) Partners) have been granted an Environmental Authorisation on the 16th September 2024 by the Department of Mineral and Resources and Energy (DMRE), for the undertaking of exploration activities (drilling of up to 5 exploration wells) within the Block 3B/4B offshore area- Listed activity 18 (GNR 984).

The Environmental Authorisation and the reasons for the decision provided by the competent authority are provided as an attachment hereto.

Should you wish to Appeal any aspect of the decision, an appeal may be lodged against the decision in terms of the National Appeal Regulations of 2014 (Government Notice R993) within 20 calendar days¹ of the date of this notification (i.e. by no later than 17 October 2024) and must be submitted in writing in the prescribed appeal form obtainable from the relevant appeal administrator.

An extract from Chapter 2 of the National Appeals Regulations is presented below for your convenience:

4(1) An appellant must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party² and any organ of state with interest in the matter within 20 days from:

- a) the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or*
- b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).*

4(2) An appeal submission must be:

- a) submitted in writing **in the form obtainable from the appeal administrator**; and*
- b) accompanied by:*
 - i. a statement setting out the grounds of appeal;*
 - ii. supporting documentation which is referred to in the appeal submission; and*

¹ When a period of days must in terms of these Regulations be reckoned from or after a particular day, that period must be reckoned as from the start of the day following that particular day to the end of the last day of the period. If the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday. The period of 15 December to 5 January, as well as any public holidays must be excluded in the reckoning of days.

² Please note that as a registered I&AP, and in accordance with our Privacy Policy, your contact information as contained within the I&AP database will be made available to any appellant on request for the purposes of complying with Regulation 4(1) of the National Appeal Regulations, 2014 (GNR 993).

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Directors: L Whitlow, A Smith.



- iii. *a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.*

An appeal, including any supporting documentation, must be submitted to the Minister of Forestry, Fisheries and the Environment (DFFE), and copies must be sent to the Minister of Mineral Resources and Energy (Head Office), the Petroleum Agency SA (PASA), and the Applicant (via the EIMS contact information provided) by one (1) of the following means:

1. Department of Forestry, Fisheries, and the Environment:

- **Attention:** Appeals and Legal Review Directorate: Director Appeals and Legal Review
- **Email:** appeals@dffe.gov.za
- **By Post:** Private Bag x 447, Pretoria, 0001
- **By Hand:** Environmental House, Corner Steve Biko and Soutspansberg Street, Pretoria, 0083

2. Copy(s) of the lodged appeal(s) to the Petroleum Agency SA:

- **Attention:** The Chief Executive Officer
- **Email:** EAappeals@petroleumagency.co.za
- **By Post:** Private Bag x 5111, Tygervalley, 7536
- **By Hand:** Heron Place, Second Floor, Heron Close, Century City, Cape Town, 7441.

3. Copy(s) of the lodged appeal(s) to the Department of Mineral Resources and Energy:

- **Attention:** Legal Services Directorate: Director Legal Services
- **Email:** Pieter.Alberts@dmre.gov.za
- **Facsimile:** 086 710 0877
- **By Post:** Private Bag x 59, Arcadia, 0007.
- **By Hand:** Trevenna Campus, Building 2C, c/o Meintjies and Francis Baard Street, Sunnyside.

4. Copy (s) of the lodged appeal to the Applicant, via EIMS, at the details below:

- **Contact Person:** Alex Msipa or Lucien James
- **EIMS Reference Number:** 1570
- **Telephone:** (011) 789 7170/ Fax: (086) 571 9047
- **E-mail:** block3b4b@eims.co.za

Please include the project reference number 1570 in all correspondence.

Kind Regards,

EIMS Public Participation Team

NIE-REGERINGSORGANISASIE

KENNISGEWING 2778 VAN 2024



27 September 2024

Ons verwysing: 1570

DMPR verwysing: 12/3/339

Geagte Belangstellende en Geaffekteerde Party (B&GP):

KENNISGEWING: OMGEWINGSMAGTIGING INGEVOLGE VAN DIE WET OP NASIONALE OMGEWINGSBESTUUR (WET 107 VAN 1998): OMGEWINGSIMPAKBEPALINGSREGULASIES (2014) VIR DIE VOORGESTELDE AFRICA OIL SA CORP BLOK 3B/4B OFFSHORE EKSPLORASIE, AAN DIE WESKUS VAN SUID AFRIKA.

Kennis word gegee ingevolge die Omgewingsimpakstudie (OIS) Regulasies (Staatskennisgewing R982 soos gewysig, gepromulgeer ingevolge die Nasionale Omgewingsbestuur (Wet 107 van 1998-NEMA)), dat Africa Oil SA Corp, Ricocure (Pty) Ltd en Azinam Limited (die gesamentlike ondernemingsvennote (JV Partners)) 'n Omgewingsmagtiging toegeken is op die 16e September 2014, deur die Departement van Minerale Bronne en Energie (DMBE), vir die onderneming van eksplorasië aktiwiteit (die boor van tot en met 5 eksplorasië boregate) in die Blok 3B/4B offshore/ afluandige gebied-Gelysde aktiwiteit 18 (Staatskennisgewing R984).

Die redes vir die besluit wat deur die bevoegde owerheid verskaf word, word as 'n aanhangsel hierby verskaf.

Indien u teen enige aspek van die beslissing wil appelleer, kan 'n appèl teen die beslissing ingevolge die Nasionale Appèlregulasies van 2014 (Goewermentskennisgewing R993) **binne 20 kalenderdae¹ vanaf die datum van hierdie kennisgewing ingedien word** (d.w.s. nie later nie as 17 Oktober 2024) en moet dit skriftelik ingedien word in die voorgeskrewe appèlvorm wat van die betrokke appèladministrateur verkrygbaar is.

'n Uittreksel uit Hoofstuk 2 van die Nasionale Appèlregulasies word hieronder vir u gerief aangebied:

4(1) 'n Appellant moet die appèl by die appèladministrateur indien, en 'n afskrif van die appèl aan die applikant, enige geregistreerde belanghebbende en geaffekteerde party² en enige staatsorgaan met belang in die aangeleentheid binne 20 dae vanaf:

- a) die datum waarop die kennisgewing van die besluit vir 'n aansoek om 'n omgewingsmagtiging of 'n afvalbestuurslisensie deur die aansoeker aan die geregistreerde belanghebbende en geaffekteerde partye gestuur is; of
- b) die datum waarop die kennisgewing van die besluit deur die bevoegde owerheid, uitreikingsowerheid of lisensie-owerheid aan die aansoeker gestuur is, in die geval van ander besluite as dié waarna in paragraaf (a) verwys word.

4(2) 'n Appèlvoorlegging moet:

- a) skriftelik ingedien word in die vorm wat van die appèladministrateur verkrygbaar is; en

¹Wanneer 'n tydperk van dae, in terme van hierdie Regulasies, vanaf of na 'n bepaalde dag gereken moet word, moet daardie tydperk gereken word vanaf die begin van die dag wat volg op daardie betrokke dag tot die einde van die laaste dag van die tydperk. Indien die laaste dag van die tydperk op 'n Saterdag, Sondag of openbare vakansiedag val, moet daardie tydperk verleng word tot die einde van die volgende dag wat nie 'n Saterdag, Sondag of openbare vakansiedag is nie. Die tydperk van 15 Desember tot 5 Januarie, asook enige openbare vakansiedae moet by die afrekening van dae uitgesluit word.

²Neem asseblief kennis dat as 'n geregistreerde B&GP, en in ooreenstemming met ons Privaatheidsbeleid, u kontakligting, soos vervat in die B&GP-databasis, op versoek aan enige appellant beskikbaar gestel sal word vir die doeleindes om aan Regulasie 4(1) van die Nasionale Appèlregulasies, 2014 (GNR 993) te voldoen.



b) *vergesel wees met-*

- i. *'n verklaring waarin die gronde van appèl uiteengesit word;*
- ii. *stawende dokumentasie waarna in die appèlvoorlegging verwys word; en*
- iii. *'n verklaring, insluitend stawende dokumentasie, deur die appellant om nakoming van regulasie 4(1) van hierdie Regulasies te bevestig.*

'n Appèl, insluitend enige stawende dokumentasie, moet by die Minister van Bosbou, Visserye en Omgewing (DFFE) ingedien word, en afskrifte moet aan die Minister van Minerale Hulpbronne en Energie (Hoofkantoor), die Petroleumagentskap SA (PASA) gestuur word, en die Aansoeker (by die EIMS-kontakinligting verskaf) deur een (1) van die volgende metodes:

1. **Departement van Bosbou, Visserye en die Omgewing:**

- o **Aandag:** Appeals and Legal Review Directorate: Director Appeals and Legal Review
- o **E-pos:** appeals@dffe.gov.za
- o **Pos:** Privaatsak x 447, Pretoria 0001
- o **Per Hand:** Environmental House, hoek van Steve Biko en Soutspansberg Straat, Pretoria, 0083

2. **Afskrif(e) van die ingediende appèl(s) aan die Petroleum Agentskap SA:**

- o **Aandag:** Die Hoof Uitvoerende Beampte
- o **E-pos:** EAappeals@petroleumagency.com
- o **Pos:** Privaatsak x 5111, Tygervalley, 7536
- o **Per Hand:** Heron Place, Second Floor, Heron Close, Century City, Cape Town, 7441

3. **Afskrif(e) van die ingediende appèl by die Departement van Minerale Hulpbronne en Energie:**

- o **Aandag:** Direkteur: Regsdienste
- o **E-pos:** Pieter.Alberts@dmre.gov.za
- o **Pos:** Privaatsak x 59, Arcadia, 0007
- o **Per Hand:** Trevenna Kampus, Gebou 2C, hoek van Meintjies en Francis Baard Straat, Sunnyside.

4. **Afskrif(e) van die ingediende appèl aan die aansoeker by EIMS, by die onderstaande besonderhede:**

- o **Kontak Persoon:** Alex Msipa of Lucien James
- o **EIMS-verwysingsnommer:** 1570
- o **Telefoon:** (011) 789 7170/ Faks: (086) 571 9047
- o **E-pos:** block3b4b@eims.co.za

Sluit asseblief die projekverwysingsnommer 1570 by alle korrespondensie in.

Vriendelike groete,

EIMS Publieke Deelname Span

27 eyoMsintsi 2024

Imbekiselo yethu: 1570

Referensi ye DMRE: 12/3/339

Othandekayo Obhaliswe Njengeqela Elinomdla Nelichaphazelekayo (I&AP):

ISAZISO: ISIGUNYAZISO SEZENDALO NOKUSINGQONGILEYO NGOKOMTHETHO KAZWELONKE WEZENDALO ESINGQONGILEYO (UMTHETHO 107 KA-1998): IMITHETHO YEFUTHE KWINDALO ESINGQONGILEYO (2014) YEPROJEKTHI ECETYWAYO YE-AFRICA OIL SA CORP KWII-BLOKHO 3B/4B KULWANDLE KULWANDLE OLU KUDE KUFUPHI NONXWEME LWASENTSHONA, EMZANTSI AFRIKA.

Sikhupha isaziso sokuba ngokuvisisana nemiMiselo yokuHlolwa kweFuthe kwiNdalo esiNgqongileyo (EIA) (Isaziso sikaRhulumente R982 ngokohlengahlengiso, esikhutshwa phantsi komthetho woLawulo lweNdalo esiNgqongileyo (uMthetho 107 ka-1998-NEMA)), le projekthi ye-Africa Oil SA Corp, Ricocure (Pty) Ltd kunye ne-Azinam Limited (i-Joint Venture (JV) Partners) echazwe ngasentla inikwe isiGunyaziso seNdalo esiNgqongileyo ngomhla we-16 kweyoMsintsi 2024 liSebe lobuNcwane beziMbiwa naMandla (nelaziwa nje nge Department of Mineral Resources and Energy – DMRE) ngokuphathelele ukwenziwa kwemisebenzi yokuhlola (ukuya kuthi ga kwimingxuma yokuhlola emi-5) ngaphakathi kweBloko 3B/4B kulwandle olu kude kufuphi nonxweme lwaseNtshona – Umsebenzi odwelisiweyo 18 (GNR 984).

Izizathu zesigqibo esithathiweyo ligunya elifanelekayo zinikeziwe njengesongezelelo apha.

Xa unganqwenela ukufaka isibheni kuso nasiphina isigqibo, isibheni singathi sifakwe nxa nxa neso sigqibo ngokuvisisana nemiMiselo kaZwelonke yokuFaka isibheni ka-2014 (iSaziso sikaRhulumente R993) phakathi kwiintsuku ezingama-20¹ zomhla wesi saziso (oko kukuthi ungasululanga owe-17 eyeDwarha 2024) kwaye simele sifakwe ngembalelwano kwifomu ebekelwe izibheni oyifumana kumlawuli wezibheni ofanelekileyo.

Isicatshulwa esivala kwisaHluko 2 seMimiselo yeziBheni kaZwelonke sinikelwe apha ngezantsi ukukwenzela lula:

4(1) *Lowo ufaka isibheni umele afake isibheni sakhe kumlawuli wezibheni, kwaye ikopi yesibheni inikwe umfaki-sicelo, nalo naliphina iqela elinomdla nelichaphazelekayo² nalo naliphina icandelo likarhulumente elinomdla kulo mbandela phakathi kwiintsuku ezingama-20 ukususela:*

- a) *kumhla wesaziso ngesigqibo somfaki sicelo ngesigunyaziso sendalo esingqongileyo okanye ilayisenisi yokulawulwa kwenkunkuma iye yathunyelwa kumaqela abhalisiweyo nachaphazelekayo ngumfaki-sicelo; okanye*
- b) *kumhla apho isaziso esithunyelwe ngawo kumfaki sicelo ligunya elifanelekileyo, igunya elikhupha isigunyaziso okanye igunya elikhupha ilayisenisi, xa kusenzeka ukuba kubekho isigqibo esingesiso esokubhekiselwe kuso kwisiqendu (a).*

4(2) *Isibheni esifakiweyo simele:*

¹ Xa ithuba leentsuku ngokwemiqathango yale Mimiselo libalwe ukususela okanye emva kosuku oluthile, elo xesha malibalwe ukususela ekuqaleni kosuku olulandela olo suku ukuya ekupheleni kosuku lokugqibela lwethuba. Ukuba usuku lokugqibela lwexesha lunguMgqibelo, iCawa okanye iholide kawonke-wonke, elo xesha kufuneka landiswe ukuya ekupheleni kosuku olulandelayo olunguMgqibelo, ngeCawa okanye iholide kawonke-wonke. Ithuba elisusela kwi-15 EyoMnga ukuya kwi-5 EyoMqungu, kunye nazo naziphi na iiholide zikawonke-wonke kufuneka zingabandakanywa ekubaleni iintsuku.

² Nceda uqaphele ukuba njenge-I&AP ebhalisiweyo, kwaye ngokungqinelana noMgaqo-nkqubo wethu waBucala, iinkcukacha zakho zoqhagamshelwano njengoko ziqulethwe kuvimba weenkukacha ze-I&AP ziya kufumaneka kuye nawuphi na umbheni ngesicelo ngenjongo yokuthobela uMimiselo 4(1) weMigaqo yeSizwe yesiBheni. , 2014 (GNR 993).

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W www.eims.co.za | E mail@eims.co.za | Co Reg 1992/005927/07 | VAT 489 013 9027

Directors: L Whitlow, A Smith.



- a) *sifakwe ngembalelwano **kwifomu efumaneka kumlawuli wezibheno**; kwaye*
- b) *ikhathshwe*
- i. *sisitatimente esibeka isiseko sesibheno;*
- ii. *amaxwebhu axhasayo ekubhekiselwe kuwo xa kufakwa isibheno; kunye*
- iii. *nesitatimente, esiquka amaxwebhu axhasayo, avela kumfaki-sicelo ukuqinisekisa ukuba ukuthotyelwa kommiselo 4(1) wale Mimiselo.*

Isibheno, kuquka nawaphina amaxwebhu axhasayo, kufuneka zithunyelwe kuMphathiswa wezaMahlathi, ukuLoba nokusiNgqongileyo (Department of Forestry, Fisheries and the Environment - (DFFE), kwaye iikopi mazithunyelwe kuMphathiswa weDMRE (i-Ofisi eyiNtloko) kunye nePetroleum Agency SA (PASA) ngenye (1) yezi zilandelayo.:

1. **ISebe lezamaHlathi, ukuLoba neNdalo esiNgqongileyo (DFFE)**
 - o **Iya ku:** UMLawuli woHlolo lweziBheno nezoMthetho: Director: Appeals and Legal Review
 - o **I-Email:** appeals@dffe.gov.za
 - o **IPosi:** Private Bag X 447, Pretoria, 0001
 - o **Ngesandla:** Environmental House, Corner Steve Biko and Soutpansberg Street, Pretoria, 0083
2. **I(ii)Kopi yesi(zi)bheno esi(zi)fakiweyo kwi-Petroleum Agency SA**
 - o **Iya ku:** The Chief Executive Officer
 - o **I-Email:** EAappeals@petroleumagencyrsa.com
 - o **Iposi:** Private Bag X 5111, Tygervalley, 7536
 - o **Ngesandla:** Heron Place, Second Floor, Heron Close, Century City, Cape Town, 7441
3. **I(ii)Kopi yesi(zi)bheno esi(zi)fakiweyo kwiSebe lobuNcwane beziMbiwa naMandla**
 - o **Iya ku:** Director: Legal Services
 - o **I-Email:** Pieter.Alberts@dmre.gov.za
 - o **Iposi:** Private Bag X 59, Arcadia, 0007
 - o **Ngesandla:** Trevenna Campus Building 2C, c/o Meintjies and Francis Baard Street, Sunnyside, 0007
4. **I(ii)Kopi yesi(zi)bheno esi(zi)fakiweyo umfaki-sicelo, ngokusebenzisa i-EIMS, kwezinkcukacha zingezantsi**
 - o **Umntu Ongaqhagamshelana naye:** Alex Msipa or Lucien James
 - o **I-Reference Number Ye-EIMS:** 1570
 - o **Umnxeba:** (011) 789 7170/ Ifeksi: (086) 571 9047
 - o **I-E-mail:** block3b4b@eims.co.za

Nceda uquke inombolo yeprojekthi 1570 kuyo yonke imbalelwano.

Ngokuzithoba Okukhulu,

Iqela le-EIMS leNtatho Nxaxheba yoLuntu

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 2779 OF 2024

STANDARDS ACT, 2008
STANDARDS MATTERS

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

SECTION A: DRAFTS FOR COMMENTS

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

Draft Standard No. and Edition	Title, scope and purport	Closing Date
SANS 60317-12:20XX Ed 3	<i>Specifications for particular types of winding wires Part 12: Polyvinyl acetal enamelled round copper wire, class 120.</i> This part of IEC 60317 specifies the requirements of enamelled round copper winding wires of class 120 with a sole coating based on polyvinyl acetal or polyvinyl formal resin, which can be modified provided it retains the chemical identity of the original resin and meets all specified wire requirements	2024-11-29
SANS 6122:20XX Ed 4	<i>Structural timber — Characteristic values of strength-graded timber — Sampling, full-size testing and evaluation.</i> This standard provides requirements for sampling, testing and assessing the characteristic values, or verification, of structural properties for specific grades and sizes of sawn timber, including finger-jointed timber, laminated timber or any other timber product used for structural purposes other than those listed in 1.2	2024-11-29
SANS 20156:20XX Ed 1	<i>Uniform provisions concerning the approval of vehicles with regards to software update and software updates management system.</i> This Regulation applies to vehicles of Categories 1 M, N, O, R, S and T that permit software updates	2024-11-29
SANS 11812:20XX Ed 2	<i>Small craft — Watertight or quick-draining recesses and cockpits.</i> This document specifies watertightness, draining time and sill heights requirements for watertight and quick-draining recesses and cockpits in small craft of up to 24 m load line length (see Reference [1]).	2024-11-29
SANS 15118-9:20XX Ed 1	<i>Road vehicles — Vehicle to grid communication interface Part 9: Physical and data link layer conformance test for wireless communication.</i> This document specifies conformance tests in the form of an abstract test suite (ATS) for a system under test (SUT) implementing an electric-vehicle or supply-equipment communication controller (EVCC or SECC) with support for WLAN-based high-level communication (HLC) according to ISO 15118-8 and against the background of ISO 15118-1. These conformance tests specify the testing of capabilities and behaviours of an SUT, as well as checking what is observed against the conformance requirements specified in ISO 15118-8 and against what the implementer states the SUT implementation's capabilities are.	2024-11-29
SANS 61980-2:20XX Ed 1	<i>Electric vehicle wireless power transfer (WPT) systems Part 2: Specific requirements for MF-WPT system communication and activities.</i> This part of IEC 61980 addresses communication and activities of magnetic field wireless power transfer (MF-WPT) systems	2024-11-29
SANS 61980-3:20XX Ed 1	<i>Electric vehicle wireless power transfer (WPT) systems Part 3: Specific requirements for magnetic field wireless power transfer systems.</i> This part of IEC 61980 applies to the off-board supply equipment for wireless power transfer via magnetic field (MF-WPT) to electric road vehicles for purposes of supplying electric energy to the RESS (rechargeable energy storage system) and/or other on-board electrical systems. The MF-WPT system operates at standard supply voltage ratings per IEC 60038 up to 1 000 V AC and up to 1 500 V DC from the supply network. The power transfer takes place while the electric vehicle (EV) is stationary	2024-11-29
SATS 62840-1:20XX Ed 1	<i>Electric vehicle battery swap system Part 1: General and guidance.</i> This part of IEC 62840, which is a Technical Specification, gives the general overview for	2024-11-29

	battery swap systems, for the purposes of swapping batteries of electric road vehicles (EVs) when the vehicle powertrain is turned off and when the battery swap system is connected to the supply network at standard supply voltages according to IEC 60038 with a rated voltage up to 1 000 V AC and up to 1 500 V DC	
SANS 62840-2:20XX Ed 1	<i>Electric vehicle battery swap system Part 2: Safety requirements.</i> This part of IEC 62840 provides the safety requirements for a battery swap system, for the purposes of swapping swappable battery system (SBS) of electric vehicles. The battery swap system is intended to be connected to the supply network. The power supply is up to 1 000 V AC or up to 1 500 V d.c, in accordance with IEC 60038	2024-11-29
SANS 62840-3:20XX Ed 1	<i>Electric vehicle battery swap system Part 3: Particular safety and interoperability requirements for battery swap systems operating with removable RESS/battery systems.</i> This document applies to battery swap systems for removable RESS of electric road vehicle when connected to the supply network, with a rated supply voltage up to 480 V AC or up to 400 V DC, for battery systems with a rated voltage up to 120 V DC	2024-11-29
SANS 63119-2:20XX Ed 1	<i>Information exchange for electric vehicle charging roaming service Part 2: Use cases.</i> This part of IEC 63119 specifies roaming use cases of information exchange between EV charging service providers (CSP), charging station operators (CSOs) and clearing house platforms through roaming endpoints. The elementary use cases defined in this document are designed to support the user to have access to the EV supply equipment which does not belong to the home-CSP	2024-11-29
SANS 63110-1:20XX Ed 1	<i>Protocol for management of electric vehicles charging and discharging infrastructures Part 1: Basic definitions, use cases and architectures.</i> This part of IEC 63110, as a basis for the other parts of IEC 63110, covers the definitions, use cases and architecture for the management of electric vehicle charging and discharging infrastructures	2024-11-29
SANS 60255-26:20XX Ed 1	<i>Measuring relays and protection equipment Part 26: Electromagnetic compatibility Requirements.</i> This part of IEC 60255 specifies the requirements for electromagnetic compatibility for measuring relays and protection equipment. It is applicable to measuring relays and protection equipment and combinations of devices to form schemes for power system protection including the control, monitoring, communication and process interface equipment used with those systems.	2024-11-29
SANS 60255-27:20XX Ed 1	<i>Measuring relays and protection equipment Part 27: Product safety requirements.</i> This part of IEC 60255 specifies the product safety requirements for measuring relays and protection equipment having a rated AC voltage up to 1 000 V, or a rated DC voltage up to 1 500 V. Above these limits, IEC 60664-1 is applicable for the determination of clearance, creepage distance and withstand test voltage	2024-11-29
SANS 60255-1:20XX Ed 1	<i>Measuring relays and protection equipment Part 1: Common requirements.</i> This part of IEC 60255 specifies common rules and requirements applicable to measuring relays and protection equipment, including any combination of equipment to form a distributed protection scheme for power system protection such as control, monitoring and process interface equipment, to obtain uniformity of requirements and tests. This document covers the main technologies in use today; other emerging technologies present specific EMC and safety issues but the philosophy in this document will be applied	2024-11-29

SCHEDULE A.1: AMENDMENT OF EXISTING STANDARDS

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

Draft Standard No. and Edition	Title	Scope of amendment	Closing Date
SANS 1165:20XX Ed 1.2	<i>Modified poly(vinyl chloride) (PVC-M) pressure pipes and couplings for compressed air services in underground mining</i>	Amended to update referenced standards and to delete the annex on notes to purchasers.	2024-11-29

SANS 664-1:20XX Ed 1.2	<i>Wedge gate and resilient seal valves for Waterworks Part 1: General</i>	Amended to delete the annex on notes to purchasers	2024-11-29
SANS 664-1:20XX Ed 1.2	<i>Wedge gate and resilient seal valves for Waterworks Part 1: General</i>	Amended to delete the annex on notes to purchasers	2024-11-29
SANS 10400-M:20XX Ed 3.2	<i>The application of the National Building Regulations Part M: Stairways</i>	Amended to update the clause on requirements	2024-11-29
SANS 3001-AG13:20XX Ed 1.1	<i>Civil engineering test methods Part AG13: Determination of the soundness of mudrock aggregates</i>	Amended to update the introduction, referenced standards, and the clause on procedure for determining water classification and quality requirements.	2024-11-29
SANS 746:20XX Ed 2.2	<i>Cast-iron pipes and pipe fittings for use above ground in drainage installations</i>	Amended to delete the appendix on notes to purchasers	2024-11-29
SANS 1476:20XX Ed 1.4	<i>Fabricated flanged steel pipework</i>	Amended to delete the appendix on notes to purchasers	2024-11-29
SANS 1067-1:20XX Ed 2.2	<i>Copper-based fittings for copper tubes Part 1: Compression fittings</i>	Amended to delete the annex on notes to purchasers	2024-11-29
SANS 815-1:20XX Ed 1.4	<i>Shoulder-ended and groove-ended piping systems Part 1: Shoulder-ended steel pipes, fittings and couplings</i>	Amended to delete the annex on notes to purchasers.	2024-11-29

SECTION B: ISSUING OF THE SOUTH AFRICAN NATIONAL STANDARDS

SCHEDULE B.1: NEW STANDARDS

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

Standard No. and year	Title, scope and purport
SANS 80601-2-74:2024 Ed 1	<i>Medical electrical equipment Part 2-74: Particular requirements for basic safety and essential performance of respiratory humidifying equipment.</i> Clause 1 of IEC 60601-1:2005+AMD1:2012+AMD2:2020 applies, except as follows. NOTE The general standard is IEC 60601-1:2005+AMD1:2012+AMD2:2020
SANS 81001-1:2024 Ed 1	<i>Health software and health IT systems safety, effectiveness and security Part 1: Principles and concepts.</i> This document provides the principles, concepts, terms and definitions for health software and health IT systems, key properties of safety, effectiveness and security, across the full life cycle, from concept to decommissioning, as represented in Figure 1. It also identifies the transition points in the life cycle where transfers of responsibility occur, and the types of multi-lateral communication that are necessary at these transition points. This document also establishes a coherent concepts and terminology for other standards that address specific aspects of the safety, effectiveness, and security (including privacy) of health software and health IT systems
SANS 2066:2024 Ed 1	<i>Home compostability of materials.</i> This standard specifies the procedures and requirements for materials, including products (finished products for single use) that are deemed suitable for home composting. The materials and products considered as suitable for home composting as a complete product are inclusive of all the individual components which meet the requirements of this standard

SCHEDULE B.2: AMENDED STANDARDS

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

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Standard No. and year	Title, scope and purport
SANS 1654:2024 Ed 2.3	<i>DC-powered (battery-operated) machines for use in hazardous locations in mines.</i> This standard specifies requirements for d.c.-powered (battery-operated) machines for use in hazardous locations in mines
SANS 258:2024 Ed 2.5	<i>Wax stoep polish.</i> This standard covers wax polish suitable for use on surfaces of cement, and available in three colours.
SANS 1884-3:2024 Ed 1.1	<i>Holding pens for temporary housing of animals Part 3: Vehicles for the transportation of wild carnivores by road to holding pens and other facilities.</i> This standard specifies the requirements for vehicles used for road transportation of wild carnivores

SCHEDULE B.3: WITHDRAWN STANDARDS

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

Standard No. and year	Title
SANS 5851:2002	<i>Liquid limit of fines in aggregates for base-courses</i>
SANS 10260-2:2004	<i>Industrial gas pipelines Part 2: Distribution of hydrogen at consumer sites</i>
SANS 10260-4:2004	<i>Industrial gas pipelines Part 4: Distribution of carbon dioxide at consumer sites</i>

SCHEDULE 5: ADDRESS OF THE SOUTH AFRICAN BUREAU OF STANDARDS HEAD OFFICE

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

BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 672 OF 2024**Guideline for Professional Fees in terms of Section 34 (2) of the Architectural Profession Act, 2000 Act 44 of 2000 (“the Act”)**

The guidelines for professional fees indicated in Tables 1, 2, 3, and 4 below must be read in the context of the Framework Guideline for Professional Fees. The guidelines for professionals' fees repeal the Board Notice 471 of 2023. The guidelines for professional fees describe the two methods of fee calculation: project cost-based and time-based. Both methods use the definitions of the complexity of the project type derived from the SACAP Identification of Work (IDoW) published under Board Notice 27 of 2021 as set out below:

- 1) **“Low complexity projects”** means simple buildings or groups of buildings in an uncomplicated grouping with low impact on the environment:

These are structures with low-performance requirements. Structures of simple utilitarian character, design, and detail. The structures are constructed utilizing standard low-technology building methods. They require a minimum of mechanical and electrical services or equipment, and basic civil works infrastructure;

- 2) **“Medium complexity projects”** means buildings or groups of buildings in a relatively uncomplicated grouping with a medium impact on its environs:

These are structures with medium performance requirements. The structures are of average character and design or detail. The structures require non-complex structural and civil works and an average level of mechanical or electrical equipment as could normally be handled by design-supply specialist contractors;

- 3) **“High complexity projects”** means a building or buildings in a large or complicated grouping with a significant impact on its environs:

These are structures with high-performance requirements and demanding a sophisticated level of design and detailed content to respond to specialized requirements. Complex buildings will usually incorporate comparatively large or specialized mechanical, electrical, and other specialist installations, or be of complex structural or civil design.

- 4) Further to the complexity ratings of Building Types as listed in Schedule 1 of the IDoW, the levels of complexity must be measured on a project-by-project basis.

METHOD 1: Project Cost Based Fee

The project cost-based fee in Tables 1-3 is based on the full scope of standard services provided.

Table 1: Low Complexity

LOW COMPLEXITY					
Cost Bracket	Value of works		Primary Fee	Plus, a secondary fee	
	From	To		Add %	On balance over
	A	B	C	D	E
1.	1	200 000,00	11 341,85	17,53%	1
2.	200 001,00	650 000,00	46 393,33	16,85%	200 001,00
3.	650 001,00	2 000 000,00	122 193,97	12,43%	650 001,00
4.	2 000 001,00	4 000 000,00	289 927,74	10,83%	2 000 001,00
5.	4 000 001,00	6 500 000,00	506 559,80	10,55%	4 000 001,00
6.	6 500 001,00	13 000 000,00	770 251,28	9,16%	6 500 001,00
7.	13 000 001,00	40 000 000,00	1 365 321,64	8,86%	13 000 001,00
8.	40 000 001,00	130 000 000,00	3 755 421,23	8,85%	40 000 001,00
9.	130 000 001,00	260 000 000,00	11 717 437,86	8,28%	130 000 001,00
10.	260 000 001,00	520 000 000,00	22 475 739,42	8,08%	260 000 001,00
11.	520 000 001,00	1 040 000 000,00	43 501 431,14	7,88%	520 000 001,00
12.	1 040 000 001,00	0	84 483 711,59	7,28%	1 040 000 001,00

Table 2: Medium Complexity

MEDIUM COMPLEXITY					
Cost Bracket	Value of works		Primary Fee	Plus, a secondary fee	
	From	To		Add %	On balance over
	A	B	C	D	E
1.	1	200 000,00	13 570,07	20,96%	1
2.	200 001,00	650 000,00	55 507,74	20,16%	200 001,00
3.	650 001,00	2 000 000,00	146 200,15	14,87%	650 001,00
4.	2 000 001,00	4 000 000,00	346 886,84	12,96%	2 000 001,00
5.	4 000 001,00	6 500 000,00	606 078,35	12,62%	4 000 001,00
6.	6 500 001,00	13 000 000,00	921 574,57	10,95%	6 500 001,00
7.	13 000 001,00	40 000 000,00	1 633 552,23	10,60%	13 000 001,00
8.	40 000 001,00	130 000 000,00	4 493 209,93	10,59%	40 000 001,00
9.	130 000 001,00	260 000 000,00	14 019 441,47	9,91%	130 000 001,00
10.	260 000 001,00	520 000 000,00	26 891 315,09	9,68%	260 000 001,00
11.	520 000 001,00	1 040 000 000,00	52 047 706,61	9,43%	520 000 001,00
12.	1 040 000 001,00	0	101 081 351,13	8,71%	1 040 000 001,00

Table 3: High Complexity

HIGH COMPLEXITY					
Cost Bracket	Value of works		Primary Fee	Plus, a secondary fee	
	From	To		Add %	On balance over
	A	B	C	D	E
1.	1	200 000,00	15 798,28	24,41%	1
2.	200 001,00	650 000,00	64 622,16	23,47%	200 001,00
3.	650 001,00	2 000 000,00	170 206,35	17,31%	650 001,00
4.	2 000 001,00	4 000 000,00	403 845,93	15,09%	2 000 001,00
5.	4 000 001,00	6 500 000,00	705 596,92	14,69%	4 000 001,00
6.	6 500 001,00	13 000 000,00	1 072 897,87	12,76%	6 500 001,00
7.	13 000 001,00	40 000 000,00	1 901 782,84	12,33%	13 000 001,00
8.	40 000 001,00	130 000 000,00	5 230 998,63	12,33%	40 000 001,00
9.	130 000 001,00	260 000 000,00	16 321 445,09	11,52%	130 000 001,00
10.	260 000 001,00	520 000 000,00	31 306 890,75	11,26%	260 000 001,00
11.	520 000 001,00	1 040 000 000,00	60 593 982,10	10,98%	520 000 001,00
12.	1 040 000 001,00	0	117 678 990,65	10,16%	1 040 000 001,00

Method of Fee Calculation

- Primary Fee (C) for applicable Cost Bracket of Value of Works.
- Secondary Fee (D) for applicable Cost Bracket of Value of Works.
- Calculated as (Applicable Value of Works minus Column E) x % in terms of Column D.

Example: Fee Calculations – From tables above.

Complexity	Low Complexity	Medium Complexity	High Complexity
Value of Works	R3 000 000	R3 000 000	R3 000 000
Primary Fee	R289 927,74	R346 886,84	R403 845,93
Secondary Fee	$(R\ 3\ 000\ 000 - R\ 2\ 000\ 001) \times 10,83\%$ R 999 999 x 10,83% R108 316,51	$(R\ 3\ 000\ 000 - R\ 2\ 000\ 001) \times 12,96\%$ R 999 999 x 12,96% R129 602,87	$(R\ 3\ 000\ 000 - R\ 2\ 000\ 001) \times 15,09\%$ R 999 999 x 15,09% R150 889,22
Professional Fee	Primary Fee + Secondary Fee R289 927,74 + R108 316,51 R398 244,25	Primary Fee + Secondary Fee R346 886,84 + R129 602,87 R476 489,71	Primary Fee + Secondary Fee R403 845,93 + R150 889,22 R554 735,15

METHOD 1: Time-Based Fee

Description – Estimate the number of hours needed to carry out the agreed scope of work using the table below and the preferred method.

Table 4: Hourly Rates Table

Principal / Staff Category	Experience/ Context	Work	Rate Per Hour (excluding VAT)	Rate Per Hour (excluding VAT)	Rate Per Hour (excluding VAT)
			Method 1 - Gross Annual Remuneration	Method 2 - Guideline Rate Calculated by SACAP	Method 3 - DPISA Hourly Fee Rates for Consultants
1. Principals	Specialist		22.5% per R100.00 or part thereof of the total annual cost of employment	R3 313	Commensurate with Level 14, 15, and 16 salary bands
	>10 years experience		20% per R 100.00 or part thereof of the total annual cost of employment	R2 663	Commensurate with Level 14 and 15 salary bands
	<10 years experience		18.5% per R100.00 or part thereof of the total annual cost of employment	R1 991	Commensurate with Level 12, 13, and 14 salary bands.
2a. Salaried Staff	Associates and managers		17.5% per R100.00 or part thereof of the total annual cost of employment	R1 420	Commensurate with Level 11, 12, and 13 salary bands
2b. Salaried Staff	Registered architectural professionals performing work of an architectural nature		16.5% per R100.00 or part thereof of the total annual cost of employment	R960	Commensurate with Level 9, 10, 11, 12 salary bands

	And carrying direct responsibilities for activities related to a project.			
2c. Salaried Staff	Registered architectural professionals Performing work of an architectural nature under direction and control.	15% per R 100.00 or part thereof of the total annual cost of employment	R571	Commensurate with Level 7, 8, 9, 10 salary bands
2d. Salaried Staff	Staff performing work under direction and control to support architectural work outputs.	12.5% per R100.00 or part thereof of the total annual cost of employment	R408	Commensurate with Level 6, 7, and 8 salary bands

Example of Time-Based Fee Calculation

Total Annual Cost of Employment			
Divided by R100,00			
Multiply with the guideline percentage.			
Example: Time-based Fee Calculations – From tables above.			
	1. Principal with more than 10 years experience	2b. Salaried Staff	2d Salaried Staff
Monthly Cost of Employment	R80 000	R40 000	R15 000
Annual Cost of Employment	R960 000,00	R480 000,00	R180 000,00
R100 or part thereof (Annual cost divided by R100,00)	R9 600,00	R4 800,00	R1 800,00
	x	x	x
Percentage to be applied	20%	16,50%	12,50%
Hourly Rate	R1 920,00	R792,00	R225,00

Guidelines for reimbursement of expenses

Disbursement Expense Item	Guiding Principle for disbursement expenses
Specialized Professional and other services	

Payments made on behalf of a client for fees and other charges for specialized professional and other services.	At cost plus, a minimum of 10% for attendance where a project cost-based fee applies and/or where there is no time-based reimbursement for attendance.
Travel	
Travel time	For a time-based fee, rates issued by the National Department of Public Works & Infrastructure, or similar.
	For a project cost-based fee, 100% of an hourly rate for travel greater than 30 minutes and 50km per trip (being 1 hour and 100km per return trip) or as negotiated between the client and the architectural professional.
Travel mileage	Rates for reimbursable expenses issued by the National Department of Public Works and Infrastructure, the disbursement tariffs issued by the National Department of Transport, employee guidelines issued by the South African Revenue Services, or the vehicle rates calculator of the Automobile Association (AA), or similar.
Parking	At cost
Toll fees	
Car hire	
Airfare	
Train	
Bus	
Taxi	
Substance	
Accommodation	At cost, as per the standard prescribed by the client, at least a 3-star hotel/lodge
Subsistence allowance	Rates for Reimbursable Expenses issued by the National Department of Public Works and Infrastructure, or the disbursement tariffs issued by the National Department of Transport, or employee guidelines issued by the South African Revenue Services, or similar.
Special daily allowance	
Postage	
Postage	At cost

Special postage	At cost plus a minimum of 10% attendance where a project cost-based fee applies and/or where there is no time-based reimbursement for attendance.
Courier	
Documentation	
Typing of original/master per A4	Rates for Reimbursable Expenses issued by the National Department of Public Works and Infrastructure, or the disbursement tariffs issued by the National Department of Transport, or similar.
Duplicating on white paper (A3 & A4 sizes)	
Duplicating on colored paper (A3 & A4 sizes)	
Duplicating in colour (A3 & A4 sizes)	
Document binding	
Duplicating of drawings (A3 to A0 sizes)	
Plotting on 80g plain paper (A3 to A0 sizes)	
Plotting on 80g plain paper in colour (A3 to A0 sizes)	
Plotting on quality paper (A3 to A0)	
Plotting on quality paper in colour (A3 to A0)	
Purchase of documents required for the project	
Removal, portable data storage medium with project-related information	
Special Quotes	
Maps	At cost, plus a minimum of 10% for attendance where a project cost base fee applies and/or where there is no time-based reimbursement for attendance.
Models	
Presentation materials	
Photography	
Artwork	
Other	
Any other disbursement requested by and/or agreed to by the client.	At cost, plus a minimum of 10% for attendance where a project cost base fee applies and/or where there is no time-based reimbursement for attendance.

Framework for guidelines for professional fees in respect of architectural services rendered by the registered architectural professionals published in terms section 34 (2) of the Act.

1. Introduction

- a) In terms of section 34 (2) of the Act, the South African Council for the Architectural Profession, hereafter referred to as SACAP, must annually, after consultation with the Voluntary Associations, determine guidelines for professional fees and publish those fees in the *Gazette*.
- b) The Guidelines for professional fees shall be in line with the principles referred to in section 4(k)(v) of the Council for the Built Environment Act 43 of 2000 which stipulate that “the principles upon which Council must base guideline for professional fees should be per any legislation relating to the promotion of competition”.
- c) The guideline for professional fees is published annually in the Government Gazette as a guideline only and does not amount to direct or indirect price fixing. The guideline professional fees are deemed as a guide to provide fair and reasonable remuneration to the architectural professional to provide for an appropriate level and quality of service in terms of the Standard of Service.

2. Purpose

- a) The Council of the Built Environment (CBE) Policy Framework on the determination and review of guidelines for professional fees for built environment professions stipulates that the guideline for professional fees is determined and published as a guide only and not as prescribed fees that registered professionals are entitled to charge.
- b) Guideline for professional fees is, for guidance required to promote market efficiency and redress consumers and the public information deficit, relative to the professional’s knowledge and expertise. The guideline for professional fees is not prescribed or set as maximum or minimum mandatory fees to be charged for professional services rendered but serves as a guideline.

3. Principles

- a) The guideline for professional fees is based on the cost of works as per the fee survey undertaken by SACAP, the Building Costs Index, and the inflation rate. As per the CBE Policy Framework on determination and review of guidelines for professional fees for built environment professions, the guideline for professional fees takes into

consideration reasonable rate of return on investment, intellectual capital, effort, and, most importantly, risk.

- b) The guideline for professional fees tables have been split into 3 complexities to align with the Identification of Work policy Board Notice 27 of 2021.
- c) The guideline for professional fee tables represents the fees for full service by a hypothetical average-sized architectural practice, practicing responsibly and sustainably. This means that the tables are not meant to fit any one specific project perfectly and, in almost all cases, should be adjusted up or down concerning specific project conditions.
- d) Unless otherwise agreed, in writing, by the architectural professional, the information produced about a single project is authorized for use only on that project and may not be used for another project, in whole or in part.
- e) The guideline for professional fees is expressly not suitable for use in a basket of professional fees calculation, where all professional fees are reduced to fit a required overall fee basket. Reduction of fees in this manner, without due regard to a concurrent agreed reduction of service, is strongly discouraged because the quality of service will be impacted negatively to the detriment of a client.

4. General provisions

The guideline for professional fees published under Gazette No. 47108 Board Notice 471 of 2023 is hereby repealed. The new board notice shall apply once it is published in the gazette in terms of section 34 (2) of the Act.

5. Definitions and interpretations

In this document, unless the context otherwise indicates, an expression or word hereunder shall mean:

SACAP means the South African Council for the Architectural Profession;

Act means the Architectural Profession Act 44 of 2000;

Agreement means a written agreement between a client and the registered professional;

Alteration in terms of Clause 23 means a change in a building or facility that affects or could affect the usability of a building or facility or portion thereof;

Addition in terms of Clause 24 means projects that increase, expand, or extend a facility's gross floor area or height of a facility are considered additions.

Registered Person means a person registered in one of the categories of professionals and candidates referred to in section 18 of the Act;

Architectural professional means a person registered in one of the categories of professionals referred to in section 19(2)(a) and (b);

Architectural Practice means a juristic person appointed to provide the architectural service for the project;

Board notice means the notice containing the guidelines for professional fees which, in terms of section 34(2) of the Act, is published annually by SACAP in the Government Gazette;

Budget means the anticipated cost of the project and/or works, provided that estimates on which the budget is based shall be deemed to be valid for a period not exceeding 3 months;

Building contract means the Joint Building Contracts Committee (JBCC) Principal Building Agreement or any other building contract entered into between the client and the contractor;

Client means the party appointing the architectural professional or practice to perform the services or any part thereof referred to in this document.

Consultant means a professional person/s or entity/entities appointed by the client to provide services in respect to the project;

Construction documentation means graphic representations, plans, sections, elevations, site plans, specifications, construction details, service co-ordination information, schedules, and such other details and descriptions as are within the reasonable competence of an architectural professional which is sufficient to indicate the scope of the works;

Contract means an agreement entered into by the client with a contractor for the execution of the works or part thereof; it may also be referred to as the building contract;

Contractor means the entity or entities contracting with the client for the execution of the works or part thereof;

Inspection means such periodic visits to, or in connection with the works, by the architectural professional as are necessary to establish the conformity of the work to the contract documentation and quality in terms of the acceptable industry standards, and to provide on-site clarification and further information during the progress of the work.

Inspect shall carry the same meaning;

Practical completion means the stage of completion where the works or a section thereof are certified by the principal agent as substantially complete, free of patent defects other than minor defects, and can effectively be used for the purpose intended;

Principal Agent means the person appointed and authorized to fulfill the obligations of the principal agent in the agreed form of the construction contract;

Principal consultant means the person appointed and authorized by the client to lead the consultants in all matters including design and technical coordination;

Project means the development for which the architectural professional and consultants are appointed and may not be limited to the works;

Specialist means an architectural professional highly skilled in a specific and restricted field;

Principal means the proprietor, partner, director, or member who bears the risks of practice and takes full responsibility for the potential liabilities of practice;

Works means all work executed or intended to be executed according to the building contract.

6. Interpretation

The hourly rates shall be deemed to include establishment charges and charges for time expended by clerical staff;

The words "advise", "appoint", "approve", "authorize", "certify", "consent", "decide", "delegate", "designate", "instruct", "issue", "notify", "object", "reply", "request", and "specify" shall indicate an act required to be carried out in writing;

All monetary amounts exclude VAT which shall be added to any amounts that become due and payable, provided the service provider is registered for VAT.

Notice in terms of service agreements shall be deemed to have been duly received when delivered by hand on the day of the delivery; sent by registered post 7 (seven) days after posting, and sent by e-mail on delivery/read receipt confirmation or 3 (three) days after transmission.

7. The Architectural professional service

7.1 A client appoints an architectural professional to provide a service for a project as contemplated by the Architectural Profession Act, the National Building Regulations and Building Standards Act 103 of 1977 as amended, and the South African National Standards SANS 10 400 and other applicable statutory legislation.

7.2 The architectural professional accepts the appointment to exercise reasonable professional skill, care, and diligence in the performance of obligations, for a fee as defined in a written agreement.

7.3 Registered persons may be appointed for a standard service as architectural professionals, principal consultants, and principal agents. Furthermore, services additional to the standard service may be included, and these non-exhaustive additional services may be included as the parties may deem appropriate.

8. Fees description

8.1 The calculation of fees based on a percentage of project cost is the standard basis for determining professional fees and represents the accepted basis by the Built Environment Professions for remuneration of professional services. Such fees are referred to as project cost-based fees.

8.2 An alternative to project cost-based fees can be negotiated; for example, time-based fees or cost-per-building area fees..

9. Project cost-based fee

9.1 A project cost-based fee is appropriate when there is a well-defined scope of service for the architectural professional. Such fee is based on a budget for the works for fee calculation purposes and shall be adjusted on the final cost of the works.

9.2 The project cost-based fee results in a sliding scale, which arises from the series of percentages related to the value of the works and its complexity – low, medium, or high – as defined in the guideline profession fees board notice. The primary fee is stated as an appropriate value to smooth the sliding scale.

9.3 The adjustment provided in the guidelines for professional fees is based on the reduced aggregate of the value of the works and/or projects from which the budget for

the works for fee purposes is derived. This arises from the provision that fees for architectural services are calculated on the total value of the works and represent an average over all elements of the works and/or project.

9.4 Where a fee is calculated as a project cost-based fee, the fee consists of a primary fee (Column C) plus a secondary fee. The secondary fee is calculated as a percentage (Column D) of the value of the works per cost bracket indicated in Column E. *Refer to guidelines for professional fees.*

9.5 Whenever the project cost base fee structure is revised and published as a Board Notice in a gazette, the new rates shall apply to work performed after the effective date of the new annual guidelines for professional fees. Alternatively, in terms of a written agreement between the architectural professional and the client.

9.6 The formula and examples thereof are in the guidelines for professional fees.

9.7 Where an architectural professional has undertaken work, to change the agreed design and the fee is not covered by an increase in fees relative to the construction cost, a time-based fee may be agreed for this change.

10. Time-based fee

10.1 Where the scope of service is not clearly defined, or the service relates to small-scale projects, or the service is of an unusual or specialized nature, a time-based fee is recommended to be used as the basis of remuneration. Where fees for architectural professional services are time-based, such fees may be based on an hourly rate as set out in the guidelines for professional fee board notice.

10.2 Where an architectural professional has undertaken work to change the agreed design and the fee is not covered by the agreed time-based fee, additional fees may be agreed upon.

10.3 Where the Architectural Professional is required to redo or alter work already completed to give effect to a cost saving, there shall be an additional fee for this work calculated on a time charge basis. This additional fee shall be agreed upon before the carrying out of the work.

11. The Standard Service is generally divided into 6 work stages.

The essential functions of each work stage relevant to the service are identified hereafter as follows:

Stage 1: Inception

- a) Receive, appraise, and report on the client's requirements about the client's brief;
- b) Determine the site and rights and constraints;
- c) Determine budgetary constraints;
- d) Determine the need for consultants;
- e) Determine indicative project timelines;
- f) Determine methods of contracting; and
- g) whether other statutory authority applications are required or desirable.

Stage 2: Concept and viability (concept design)

- a) Prepare an initial design concept and advise on:
 - i the intended space provisions and planning relationships;
 - ii proposed materials and intended building services; and
 - iii the technical and functional characteristics of the design.
- b) Check for conformity of the concept with the rights to the use of the land.
- c) Consult with local and statutory authorities.
- d) Review the anticipated costs of the project.
- e) Review the project programme.

Stage 3: Design Development

- a) Develop all aspects of the design from concept to full development including, but not limited to, construction systems, materials, fittings, and finishes selections;
- b) Review the programme and budget with the client, principal consultant, or other consultants;
- c) Coordinate other consultants' designs into building design;
- d) Prepare design development drawings including drafting technical details and material specifications;
- e) Discuss and agree on the building plan application and approval requirements with the local authority;

Stage 4: Documentation and Procurement**Stage 4.1**

- a) Prepare documentation required for local authority building plan application submission;
- b) Co-ordinate technical documentation with the consultants and complete primary co-ordination sufficient to support building plan submission;
- c) Review the costing and programme with the consultants;
- d) Obtain the client's authority, and submit documents for approval at the local authority.

Stage 4.2

- a) Prepare specifications for the works;
- b) Complete technical documentation sufficient for tender;
- c) Obtain offers for the execution of the works;
- d) Evaluate offers, and recommend a successful tenderer for appointment;
- e) Prepare the contract documentation and arrange the signing of the building contract by the client and the successful tenderer;
- f) Complete all remaining technical and construction documentation and coordinate same with the consultants;

Stage 5: Construction

- a) Administer the building contract;
- b) Give possession of the site to the contractor;
- c) Issue construction documentation;
- d) Review sub-contractor designs, shop drawings, and documentation for conformity of design intent;
- e) Inspect the works for conformity with the contract documentation and acceptable quality in terms of industry standards;
- f) Administer and perform the duties and obligations assigned to the principal agent in the building contract;
- g) Manage the completion process of the project;
- h) Assist the client in obtaining the required documentation necessary for the client to obtain the occupation certificate.

Stage 6: Close-out

- a) Facilitate the project close-out including the collation of the necessary documentation to effect completion, handover, and operational manual of the project.
- b) When the contractor's obligations to the building contract have been fulfilled, the architectural professional shall issue the certificates related to the contract completion.
- c) Provide the client with construction record documentation and the relevant technical and contractual undertakings by the contractor and sub-contractors.

12. Partial services and additional services

- a) The Act provides for the appointment of various architectural professionals for fulfilling each or any stage of a standard service or parts thereof.
- b) Partial and additional services may be agreed on, and the options most regularly utilized are the following:
 - i. Appointment as architectural professional and principal consultant (not as principal agent);
 - ii. Appointment as a design architectural professional (design only);
 - iii. Appointment as an architectural professional of record (design by others, can be a principal agent);
 - iv. Appointment as principal agent only; and
 - v. Appointment to perform additional services.
 - vi. Any combination of the above appointments may also be agreed

13. Additional services

The following non-exhaustive services are additional to the standard service and qualify for additional fees these services may be added individually or in varying combinations, and shall be provided by prior agreement between the client and the architectural professional:

13.1 Special Design Services

The preparation of special designs within, or concerning, the facilities which are contemplated in a standard service, may include the following:

- i. Rational design and Green Star design; participation in the preparation of rational designs and green star design and document format conversion of other consultants' designs;
- ii. Town-planning and/or urban design including participation in the application for the establishment and/or amendment of regional and local

- town-planning and urban design schemes and the amendment of title conditions, negotiations with interest groups and authorities;
- iii. Sectional titles plans, submissions, alteration, and registration;
 - iv. Master planning – defining and planning the layout of future development of buildings and/or services on the same site;
 - v. Landscape design – participation in landscape planning and construction;
 - vi. Interior design – the design of interiors and the selection of furnishings, fixtures and special finishes;
 - vii. Specialized equipment layout and consequential coordination requirements;
 - viii. Liaison with special designers and specialist consultants;
 - ix. Purpose-made items: the design and documentation of purpose-made items;
 - x. Promotional material, artwork, and immersive digital experiences, participation in the preparation of promotional material;
 - xi. Plant operation and production layouts, participation in the definition of plant operation layouts;
 - xii. Building Information Modelling (BIM) services beyond design and construction documentation. This includes BIM services intended for asset maintenance and/or facilities management.
 - xiii. Submit documents for approval to the local authority, attend to referrals if any, and resubmit.

13.2 Special Management Services

- a) Elaboration of architectural professionals' services including inter alia:
 - i. the preparation of broad project parameters;
 - ii. project scope statements;
 - iii. project milestones;
 - iv. budget and cash-flow forecasts;
 - v. tender inquiry documentation;
 - vi. contractor and supplier selection;
 - vii. adjudication and tender awards;
 - viii. progress status monitoring;
 - ix. variations management;
 - x. quality management over and above the industry norms;
 - xi. communication management;
 - xii. payment processing and

- xiii. final account close-outs.
- b) *Cost and valuation services*: participation in the administration of costs and payments where a quantity surveyor has not been appointed.
- c) *Special inspections*: more intensive inspections and assessment of the works than the norm for assessing compliance with specifications and design intent.
- d) *Special Project Management Functions*: more extensive project management of the works than the norm for complex projects, including the preparation of the BIM protocol document and the management thereof.

13.3 Special studies

- a) *Preparation of the client's brief* – assist the client in the preparation of his requirements about the purpose, scope, use, and operation of the project;
- b) *Site selection* –research the suitability and location of a site for a proposed project;
- c) *Feasibility studies* – participation in technical and/or economic feasibility studies;
- d) *Environmental studies* –participation in environmental studies;
- e) *Energy analysis, studies, and planning* – Green Star Ratings;
- f) *Market surveys* – participation in market surveys;
- g) *Traffic studies* – participation in traffic-flow studies.
- h) *Drone studies*; specialised photography for technical application and marketing material.
- i) *Specialist survey*- Point Cloud and Liddar Survey
- j) *As-built measured survey*- required for verification of portions of construction undertaken during the works

13.4 Special Submissions to Statutory Authorities

- a) Land Use;
- b) Environment;
- c) Heritage;
- d) Trading Licences/Liquor Licences etc.

13.5 Work on existing premises

- a) *Surveys and inspections* – inspect, survey, measure and prepare documentation of existing premises, with other consultants as needed;

- b) *Restorations and renovations* – services in connection with work on existing buildings;
- c) *Heritage sites* – services in connection with work on heritage buildings, structures and sites;
- d) Services in connection with demolition permits of existing buildings and structures.

13.6 Other services

- a) Participation in litigation and dispute resolution (where a concurrent service is provided);
- b) Additional services as may be mutually agreed on.

14. Basis of fees agreement

- a) The client agrees to pay the architectural professional the fees for the services as recorded in the formal agreement entered into by the parties;
- b) Where a project cost-based fee is applied, the final fee is calculated on the final cost of the works. The initial fee is based on a budget for the works for fee calculation purposes and shall be adjusted on the final cost of the works.
- c) Where a project time-based fee is applied, the fee is based on an estimate of the skills, hours, and resources necessary to complete the work. Accurate costing is to be kept and reported on.

15. Project cost-based fees for standard and partial services

- a) The architectural professional shall refer to the annexure on the guidelines for professional fees to determine whether a project is of low, medium, or high complexity. Different fee scales apply to different complexities of a project.
- b) These are derived from bracketed project values and are determined annually by SACAP and published in the Government Gazette.
- c) For a partial service, assuming the fee is a project cost-based fee, the percentage of the fee for each complete work stage to be performed is as set out under clause 21. Where the work stage is only partially completed, the percentage of the fee shall be agreed between the parties.
- d) The construction budget for fee purposes excludes VAT, contingencies, fees for other consultants and specialists as well as the escalation provision.

16. Project cost-based fees for a reduced service

- a) Where the architectural professional is not the principal agent, a reduction of the fee for the work not exceeding 10% of the fee for stages 5 and 6 may be considered.
- b) Where the architectural professional is not the principal consultant, a reduction of the fee for the work not exceeding 10% of the fee for stages 1 to 4 may be considered.

17. Apportionment of fees between work stages and interim payments.

- a) The fee applicable to each work stage is apportioned according to the table below and may be adjusted by agreement.
- b) The architectural professional is entitled to render interim fee accounts during stages as agreed between the parties.
- c) The fees payable for stage 5 are related to the duration of the contract period and not the performance of the contractor. Interim claims during this stage will be contract time lapsed and not progress made by the contractor.

Work stages 1 to 6	Proportion of fee	Cumulative total
1	2%	2%
2	15%	17%
3	20%	37%
4.1	10%	47%
4.2	20%	67%
5	30%	97%
6	3%	100%

18. Guideline for professional fees for additional services;

Unless otherwise agreed, the fee for additional services is time-based, and it is based on hourly rates as in the current guideline for professional fees.

19. Time-based fees

Where fees for architectural professional services are time-based fees, the hourly rates as set out in the guideline for professional fees may apply. Whenever these rates are revised, the new rates may apply to work performed after the effective date of such revision.

20. Guideline for professional fees for alterations

The fee for work that includes alterations is based on the total project cost and increased for that portion of the work comprising or affected by alterations by 30% (130% of the fee).

21. Guideline for professional fees for additions

The fee for work associated with an addition to an existing building may not attract additional fees, except for that portion of work associated with the parts of the addition interfacing with the existing building. The fee for this latter work is increased by 30% (130% of the fee). Should it be necessary that the architectural professional survey, assess, and/or prepare documentation for the existing building, the cost of this shall be charged on a time basis.

22. Guideline for professional fees for services provided for the restoration of buildings subject to heritage legislation

The fee for work that includes restoration of buildings subject to heritage legislation is based on the total project cost and increased for that portion of the work comprising or affected by heritage considerations by 40% (140% of the fee).

23. Guideline for professional fees for a project that includes repeated buildings

For a project consisting of several repeated buildings erected under a single building contract for a single client, the fee may be adjusted by agreement, subject to the architectural professional being retained for a full service and the repeated buildings being built on one site or a series of adjoining or closely related sites;

- a) either entirely apart from each other or linked with screen walls, common walls, or other similar means; and repetitions of one or more prototype designs for units, blocks, or elements and built from the repeated use of one or more sets of drawings and related documents with nominal or no modification for each re-use. This does not apply to similar floors or divisions in a multi-story building;
- b) The guideline for professional fees for repeated buildings provides for a full fee applicable to the origination of the first building/s, referred to hereafter as prototypes. Thereafter the fee adjustment is applied to each of the repeated prototypes.
- c) The adjusted fee applies to work stages 1 to 4 inclusive. The adjusted fee apportionment is 35% of the guideline professional fee for stages 1 to 4 inclusive;

- d) The adjusted fee does not apply to work stages 5 and 6. The full guideline professional fee for these stages shall apply.

24. Guideline for professional fees for buildings repeated under separate building contracts.

An architectural professional is entitled to be paid full fees on the original building designs. Unless otherwise agreed, where repeated buildings are erected under separate building contracts and the drawings and related documents for a project are re-used for subsequent projects with nominal or no modification, the fee may be adjusted.

25. Guideline for professional fees for an appointment where the architectural professional takes over the work of another professional

The stage of completion shall be agreed upon, and an appropriate budget for the works agreed upon, and the fee for the work stages or the stage in which the service is commencing may be subject to an increase of 25%.

26. Guideline for professional fees for deployment of employees

Where an employee of the architectural professional is deployed on-site for extended inspection or other agreed purposes, the amount of the reimbursement shall be the total cost of employment plus 30%.

27. Payment of fees

The payment of fees for stages 1 to 4.2 shall be in line with deliverables as set out in the stages of work. The payment of fees for stage 5 shall be in equal monthly instalments in line with the initial construction duration.

Example

Stage 5 cost	R100 000.00
Initial construction duration	12 months
$R100\ 000.00/12$	R 8.333,33
Monthly invoice	R 8.333,33

28. Extended initial contractual contract period

- a) If the initial construction period is exceeded by more than 10% through no fault of the architectural professional, the architectural professional shall be remunerated for all additional work resulting from the extension of time at hourly rates according to the guidelines for professional fees together with related reimbursable expenses. The architectural professional shall inform the client in writing that the allocated period for providing professional services has been exceeded by 10% and therefore the services shall be charged at the hourly rates according to the current guidelines for professional fees together with related reimbursable expenses.
- b) The fee for the services of the architectural professional during the contract period shall not be linked to a contractor's performance or progress. The fees shall be assessed entirely independently.

29. Adjustment of guidelines for professional fees and disbursements

- a) The guidelines for professional fees and disbursements are based on the following parameters:
 - i. Scope of services;
 - ii. Scope of the project/works;
 - iii. Project programme;
 - iv. Cost of the works;
 - v. Cost of the project;
 - vi. Appointment of other consultants;
 - vii. Appointment of contractors.
- b) Should any material variation to the parameters as stated occur, the guideline professional fees and disbursements shall be adjusted.

30. Fast Tracking

- a) Adjustment to the project programme, commonly known as 'fast-tracking', that requires the application of additional resources by the architectural professional, may attract an additional fee. The architectural professional shall motivate the client to the additional resources needed to complete the project within the allocated time and shall be at the total cost of additional resources plus 30%.

31. Travelling time

- a) Where the fee is a project cost-based fee, time charges shall apply at 100% of hourly rate for travel greater than 1 hour and 50 km per trip (being 2 hours and 100 km per return trip) or as negotiated between the client and the architectural professional.
- b) Where the fee is on a time basis, time charges shall apply to the full round trip regardless of distance.

32. Guideline for professional fees on termination by the client

- a) Where the agreement between the client and the architectural professional is terminated, the client shall pay for that portion of the service that has been executed by the architectural professional.
- b) Termination of the project shall attract an additional fee equal to 20% of the remaining fee that would have been payable had the project not been terminated.

33. Guideline for professional fees for dispute resolution services

- a) For acting as an expert witness, adjudicator, mediator, or arbitrator, the fee shall be in line with specialists' fees charged at the hourly rates published in the guideline for professional fees.
- b) Where a project is referred to dispute resolution, architectural professionals retained on that project are to be reimbursed for the additional service required about the dispute resolution processes according to the hourly rates published in the board notice as necessary.

34. Payment of professional accounts

- a) The architectural professional's accounts are due and payable on presentation. The architectural professional shall be entitled to render interim accounts. Fee and reimbursement invoices may be invoiced separately.

35. Reimbursement of expenses

- a) In addition to the fees set out in this schedule, the client shall reimburse the architectural professional for all reasonable disbursements properly incurred and accounted for.
- b) The expenses contemplated may include the following:
 - i) Specialised professional and other services;
 - ii) Payments made on behalf of a client for fees, submission fees for local authority and other statutory approvals as well as other charges for specialized professional and other services.

iii Travel

- Travel mileage;
- Parking;
- Toll fees;
- Car hire;
- Airfare;
- Train;
- Bus;
- Taxi;
- Uber/Bolt or the likes

iv Subsistence

- Accommodation;
- Subsistence allowance;
- Special daily allowance;

v Postage

- Special postage;
- Postage
- Courier;

vi Documentation

- Typing of original/master per A4;
- Duplication in white paper (A3 & A4 sizes);
- Duplicating in coloured paper (A3 & A4 sizes);
- Duplication in colour (A3 & A4 sizes);
- Document binding;
- Scanning of drawings and documents;
- Duplicating of drawings (A3 to A4);
- Plotting on 80g plain paper (A3 to A0);
- Plotting on 80g plain paper in colour (A3 to A0);
- Plotting on quality paper (A3 to A0);
- Plotting on quality paper in colour (A3 to A0);
- Purchase of documents and research material required for the project;
- CD with project-related information;

vii Special quotes

- Maps;

- Models;
 - Presentation;
 - Photography;
 - Artwork
- viii **Specialised computer software**
- ix **Time-limited software subscriptions incurred specifically for the project**
- x **Other**
- Any other disbursement requested by and/or agreed to by the client.
- c) A relevant guideline rate may be applied. Refer to the Guidelines for professional fees.
- d) A minimum of 10% of the cost of the disbursement may also be claimed for attendance where a project cost-based fee applies and/or where there is no time-based reimbursement for attendance.

36. Claims to be separate and not set-off

- c) Should a client allege a claim against the architectural professional, a contractor, or any other party involved in the project, such claim shall be dealt with on its own merits.
- d) A client is not entitled to withhold payment of fees or disbursements or part thereof due to the architectural professional, based on the alleged claim, the client shall make payment without any set-off and waives all rights to any such set-off.
- e) Should a professional error, omission, and/or negligence be implied, dispute resolution or litigation shall be used to claim from the architectural professional.
- f) No penalties shall be applied to professional service agreement contracts.

37. Regular invoicing

Invoicing in line with the completed work stages as required by the Value-Added Tax Act, 1991 (Act No. 89 of 1991) is accepted as good practice and is deemed to be the basis of the agreement between the client and architectural professional. Additionally, regular invoicing as agreed with the client may be considered.

38. Engagement of architectural professionals

- a) A professional service is deemed to be subject to an appropriate formal written agreement in which the rights and obligations of the parties and the terms and conditions of service are recorded.

- b) The specific service is agreed on, and the basis for the calculation of professional fees is recorded.
- c) The parties shall also agree on the following:
- the agreed service to be provided;
 - authority of the architectural professional;
 - the architectural professional's ownership of the intellectual property or copyright;
 - limits to responsibility;
 - limit professional liability to a term of five (5) years;
 - payment of invoices;
 - interest on overdue invoices;
 - disputed invoices;
 - suspension or deferment;
 - termination of engagement;
 - damage to; or destruction of the works and
 - dispute resolution provisions.
- d) The expectation is that the agreed fees are based on a budget for the works to ensure that the fees are calculated on the anticipated final project cost. A realistic value of the work has to be done to determine fees.
- e) Where a Professional Architect registered with SACAP is employed in a standard service, such Professional Architect shall be appointed to fulfill architectural services, principal consultant, and principal agent services. The services shall be described as a 'full service', partial, and/or additional services as may be agreed.
- f) Where an architectural professional other than a Professional Architect is employed in a project. The services and functions to be provided should be in line with the Identification of Work. Such an appointment may be for a standard service. Partial and/or additional services may be agreed upon.

BOARD NOTICE 673 OF 2024**Nursing Act, 2005 (Act No. 33 of 2005)****NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA, IN TERMS OF THE NURSING ACT, 2005 (ACT NO. 33 OF 2005)**

The South African nursing Council intends to, in terms of the Nursing Act, 2005 (Act No. 33 of 2005) set the standards for use in all health establishments in South Africa in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed Standard to the Registrar and CEO of the South African Nursing Council, Cecilia Makiwane building 602 Pretorius street, Pretoria, 0001, or email them to Standards@sanc.co.za , within three (3) months of publication of this Notice.

SCHEDULE

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA

1. PREAMBLE

The South African Nursing Council (SANC) is a statutory body established in terms of the Nursing Act, 2005 (Act No. 33 of 2005) to set and maintain the standards of nursing education and practice in the Republic of South Africa. Nursing Practice Standards are authoritative statements of the duties that all nurse practitioners regardless of role, population, or specialty, are expected to perform competently. Standards define the key functions, activities, processes and structures required for nurse practitioners to be able to provide quality nursing services. The SANC has the responsibility in terms of the Act to serve and protect the public in matters involving nursing and midwifery services, and to uphold and maintain professional conduct, ethics, and practice standards. Although these standards are authoritative, they should be read with the Nursing Act, Scopes of Practice and any other legislative or policy documents and guidelines.

2.1. DEFINITIONS

“act” means the Nursing Act, 2005 (Act No. 33 of 2005).

“code of ethics” means the rules or standards governing the conduct of a person or the conduct of the members of a profession.

“competence” means level of performance demonstrating the effective application of knowledge, skills, judgement and personal attributes required to practise safely and ethically in a role and setting.

“council” means the South African Nursing Council.

“clinical competence” means the combination of knowledge, psychomotor, communication and decision-making skills that enable an individual to perform a specific task to a defined level of proficiency, including adherence to ethical principles in clinical settings.

“continuing Professional Development” means a purposeful statutory process whereby practitioners registered with SANC, through personal commitment, engage in a range of learning activities to maintain and improve their knowledge, skills, attitudes and professional integrity to keep up to date with new science, innovation and health care developments; to enable them to practise safely, ethically, competently, and legally within their evolving scope of practice; and to provide quality care to the South African community.

“critically ill” means a health care user who has an actual or potentially life-threatening condition.

“delegation” means assignment of tasks to another practitioner by the accounting person or person in charge.

“document validity” means a legal document that is officially accepted, usually for a particular period of time.

“general nurse” means a person educated and competent to practice general nursing in the manner and to the level prescribed, who is capable of assuming responsibility and accountability for such practice and is registered as such in terms of the Nursing Act (Act No. 33 of 2005).

“general nursing care” means the promotion of health, the prevention of illness, the treatment of all health problems, rehabilitation of individuals and groups.

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA

“general nursing unit” means an area of nursing practice where the promotion of health, prevention of illness, treatment of all health problems, including rehabilitation is provided for individuals and groups.

“health care unit” means a subdivision of a health establishment.

“health care personnel” means health care providers and health care workers.

“health care user” means the person receiving treatment in a health establishment, including receiving blood or blood products, or using a health service, and if the person receiving treatment or using a health service.

“health establishment” means the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, whether nursing, rehabilitative, palliative, convalescent, preventative or other health services.

“health services management qualification” means a qualification in Nursing Administration or Health Services Management of at least one-year duration and is registered as such by the Council.

“In- service training” means a professional training or staff development effort, where professionals are trained and discuss their work with others in their peer group.

“nurse” means a person registered in a category in terms of section 31(1) of the Nursing Act, 2005 (Act No. 33 of 2005).

“nursing” means a caring profession practised by a person registered under Section 31, which supports, cares for and treats a health care user to achieve or maintain health and where this is not possible, cares for a health care user so that he or she lives in comfort and with dignity until death.

“clinic” means any health establishment that provides mainly outpatient services and short stay care to the community.

“nursing practice” means the practice of nursing as defined in the Act and carried out within relevant scopes of practice of nurse practitioners

“nursing Process” means a systematic approach to patient-centred care that nurses use to perform clinical reasoning and make clinical judgments when providing patient care.

“nursing unit” nursing unit means any designated area in the health establishment that has been commissioned for providing care to health care users.

“peer review” means the evaluation of work by one or more persons with similar competencies using similar tools of measurement.

“plan of care” means a plan of care developed for healthcare users by nurse practitioners.

“policy” means an authoritative document that prescribes or directs the course of action in a health establishment.

“primary health care centre” means any health establishment that provides mainly outpatient services to the community.

“registered nurse” Any person registered in the categories in terms of the Nursing Act section 30 or 31.

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA

“standard” means authoritative statements by which the nursing profession describes the responsibility for which its practitioners are accountable. These statements are articulated and used by the profession in judging and evaluating the quality of nursing care provided and further describes the responsibilities for which its practitioners are accountable.

“shift leader” means a practitioner registered as a professional or general nurse or midwife assigned to oversee the efficient functioning of the nursing unit for a specific shift.

“safe” means protection from any hazard or harm.

“scope of practice” means the parameters within which a category of a nurse or a midwife may practise.

“speciality nursing” means a defined area of nursing practice which requires application of specified in-depth knowledge, expertise and skills that concentrate on a specific area of clinical nursing and requires registration as such with the SANC.

“speciality nursing unit” means an area of specialised nursing practice in a hospital or other health care delivery setting where specialised promotion of health, prevention of illness, treatment of all health problems, including rehabilitation, is provided for individuals and groups.

“standard operating procedure” means a document containing step by step instructions on how to perform a technical procedure or activity.

“standardised plan of care” means a generic care plan developed for specified conditions for nursing interventions.

“supervision” means any guidance provided by a nurse that conveys information on the theoretical knowledge and clinical techniques needed by a supervised nurse to enhance their professional practice and safeguard the quality of care.

2.2. ACRONYMS

Acronym	Description
ICT	Information and Communication Technology
QIP	Quality Improvement Plan
SANC	South African Nursing Council
SOP	Standard operating Procedures
CPD	Continuing Professional Development

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA**3. SCOPE AND APPLICATION**

Nursing Practice Standards are applicable for use in all health establishments in South Africa

4. PURPOSE OF THE NURSING PRACTICE STANDARDS

The purpose is to:

Regulate nursing practice and outline the minimum required standards of practice for nurse practitioners in the provision of nursing care.

5. OBJECTIVES OF THE NURSING PRACTICE STANDARDS

The objectives are to:

- Direct and maintain safe and competent clinical nursing practice.
- Improve the quality of nursing practice.
- Promote health care users' safety.
- Promote standardisation of nursing care provision.
- Facilitate improved health outcomes for health care users.

6. ARRANGEMENT OF THE STANDARDS

The standards are arranged according to chapters with subdomains, standards, criteria, and measures used for the verification of compliance to these standards. The standards consist of the following chapters:

- **Chapter 1: Nursing Leadership and Management**
- **Chapter 2: Resourcing of the Nursing Unit**
- **Chapter 3: Professional and Ethical Practice**
- **Chapter 4: Clinical care and patient safety**
- **Chapter 5: Continuing Professional Development (CPD) and Training**
- **Chapter 6: Research**

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA

CHAPTER 1

1. Nursing Leadership and Management

Sub-domain	Standard	Criteria	Measures
1.1 Oversight and accountability	1.1.1 The nursing management structure must have required qualifications to provide necessary oversight for efficient nursing service delivery.	1.1.1.1 The head of nursing in a health establishment must have appropriate qualifications, competencies, and experience.	<p>1.1.1.1.1 Nursing Services in the health establishment is managed by a registered professional nurse with a qualification in health services management.</p> <p>1.1.1.1.2 Evidence of a qualification in health services management is available.</p> <p>1.1.1.1.3 Evidence of at least 5 or more years of nursing management experience.</p> <p>1.1.1.1.4 A job description which clearly outlines roles and responsibilities is available and signed.</p> <p>1.1.1.1.5 Current Performance management agreement is available and signed.</p> <p>1.1.1.1.6 Performance reviews are conducted in line with the policy.</p>
		1.1.1.2 The head of nursing in a specialised health establishment must have appropriate qualifications, competencies and experience.	<p>1.1.1.2.1 Nursing Services in a specialised health establishment is managed by a registered professional nurse with qualification in health services management.</p> <p>1.1.1.2.2 Evidence of a qualification in relevant speciality.</p> <p>1.1.1.2.3 Evidence of at least 5 or more years of nursing management experience.</p>

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			<p>1.1.1.2.4 A job description which clearly outlines roles and responsibilities, is available and signed.</p> <p>1.1.1.2.5 Current Performance agreement is available and signed.</p> <p>1.1.1.2.6 Performance reviews are conducted in line with the policy.</p>
		<p>1.1.1.3 Specialised units must be managed by a registered nurse with appropriate competencies, qualifications, and experience.</p>	<p>1.1.1.3.1 The speciality unit is managed by a registered professional nurse with a qualification in health services management.</p> <p>1.1.1.3.2 Evidence of a qualification in relevant speciality is available.</p> <p>1.1.1.3.3 Evidence of at least 3 years of experience post obtaining the speciality qualification.</p> <p>1.1.1.3.4 A job description which clearly outlines roles and responsibilities is available and signed.</p> <p>1.1.1.3.5 Current performance agreement is available and signed.</p> <p>1.1.1.3.6 Performance reviews are conducted in line with the policy.</p>
		<p>1.1.1.4 General unit must be managed by a registered nurse with appropriate competencies, qualifications and experience.</p>	<p>1.1.1.4.1 The general unit is managed by a registered general nurse with a qualification in health services management.</p> <p>1.1.1.4.2 Evidence of a qualification in health services management is available.</p> <p>1.1.1.4.3 Evidence of at least 3 years of general nursing experience.</p>

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			<p>1.1.1.4.4 A job description which clearly outlines roles and responsibilities, is available and signed.</p> <p>1.1.1.4.5 Current performance agreement is available and signed.</p> <p>1.1.1.4.6 Performance reviews are conducted in line with the policy.</p>
		<p>1.1.1.5 The shift leader in a speciality unit must possess a qualification in the relevant speciality.</p>	<p>1.1.1.5.1 Evidence of a qualification in the relevant speciality is available.</p> <p>1.1.1.5.2 Evidence of at least 2 years' relevant practice experience in the speciality area is available.</p> <p>1.1.1.5.3 An updated job description which clearly outlines roles and responsibilities, is available and signed.</p> <p>1.1.1.5.4 Current performance agreement is available and signed.</p> <p>1.1.1.5.5 Performance reviews are conducted in line with the policy.</p>
<p>1.2 Legislation and policies for nursing practice</p>	<p>1.2.1 Nursing care provided complies with relevant legislative frameworks and policies.</p>	<p>1.2.1.1 Nursing care provided is in line with applicable regulatory frameworks and relevant policies.</p>	<p>1.2.1.1.1 CHECKLIST: Up to date nursing legislation is available. Instruction: Verify whether the documents listed below are available. The documents may be manual or electronic. There must be evidence that the document is communicated to staff. Score 1 if the document is available and 0 if not available.</p>

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<ul style="list-style-type: none"> • Nursing Act, 2005 (Act No. 33 of 2005). • Regulations relating to the Scope of Practice for nurses and midwives, R2127 of June 2022. • Regulations relating to the Scope of Practice of persons who are Registered or Enrolled under the Nursing Act, R2598 of 30 November 1984. • Regulations setting out the Acts or Omissions in respect of which the Council may take disciplinary steps, Govt, Notice No. R767 of October 2014. • The SANC Code of Ethics for Nurses • Regulations relating to the Approval of and the Minimum Requirements for the Education and Training of a Learner Leading to Registration in the Category Auxiliary Nurse No, R. 169 of 8 March 2013. • Regulations Relating to the Approval of and the Minimum Requirements for the Education and Training of a Learner Leading to Registration in the Category Staff Nurse, No. R. 171 of 8 March 2013 			
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			<ul style="list-style-type: none"> Regulations Relating to the Approval of and the Minimum Requirements for the Education and Training of a Learner leading to Registration in the Categories Professional Nurse and Midwife No. R. 174 8 March 2013: Regulations relating to the approval and the minimum requirements for the education and training of a student leading to registration as a Nurse Specialist or a Midwife Specialist. No R. 635 of 5 June 2020:
<p>1.3 Hygiene and Cleanliness</p>	<p>1.3.1 A system to ensure nursing service areas meet basic hygiene requirements is available.</p>	<p>1.2.1.2 Nursing care provided is in line with applicable and relevant policies.</p>	<p>1.2.1.2.1 CHECKLIST: Up to date nursing practice policies and standard operating procedures applicable to the unit are available. Instruction: Verify whether the documents listed below are available. The documents may be manual or electronic. Score 1 if the document is available and 0 if not available.</p>
		<p>1.2.1.3 Nursing care provided is in line with applicable standard operating procedures.</p>	<p>1.2.1.3.1 There is evidence that relevant policies and standard operating procedures are communicated to health care personnel.</p>
	<p>1.3.1.1.1 Nursing service areas must always be kept clean and hygienic.</p>	<p>1.3.1.1.1 Cleaning equipment relevant for the unit is available. CHECKLIST: a. detergents/ chemicals b. coded mops</p>	

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	<p>c. mobile cleaning buckets</p> <p>d. protective gloves</p> <p>1.3.1.1.2 CHECKLIST: Cleaning personnel are trained on aspects listed below.</p> <p>a. Use of cleaning equipment.</p> <p>b. Use of cleaning materials.</p> <p>c. Use of disinfectants, including dilution.</p> <p>d. Use of detergents, including dilution</p> <p>e. Cleaning procedures.</p> <p>f. Implementation of infection prevention and control procedures, including, but not limited to, personal protective equipment to be worn.</p> <p>1.3.1.1.3 Cleaning schedules are available and up to date.</p> <p>1.3.1.1.4 Proof of damp dusting is available.</p> <p>1.3.1.1.5 Cleaning and/or work completed is verified by the cleaning supervisor or delegated personnel.</p> <p>Daily checklists are available reflecting the following areas are checked:</p> <ul style="list-style-type: none"> • Nursing service areas are clean. • Nursing service areas are free from malodour. • Health care personnel toilets are clean. 		
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			<ul style="list-style-type: none"> Health care personnel toilets free from malodour. Patient's toilets are clean. Patient's toilets are free from malodour.
<p>1.4 Delegation of nursing duties</p>	<p>1.4.1 The unit must ensure that delegation of duties to nurse practitioners must be in line with their Scopes of Practice.</p>	<p>1.4.1.1 There is a system to ensure that nursing care is delegated efficiently to promote the provision of safe nursing care.</p>	<p>1.4.1.1.1 A delegation book or file is available manual or electronic.</p> <p>1.4.1.1.2 Evidence of daily allocation of duties is available.</p> <p>1.4.1.1.3 Delegation of duties is in line with the Scopes of Practice of nursing personnel.</p> <p>1.4.1.1.4 Nurses are allocated according to workload.</p> <p>1.4.1.1.5 Acceptance of tasks allocated is documented and signed.</p> <p>1.4.1.1.6 There is evidence of signing on completion of allocated duties.</p>
<p>1.5 Risk management</p>	<p>1.5.1 The nursing unit must have a system for continuous reporting, monitoring and mitigation of nursing care related risks.</p>	<p>1.5.1.1 Nursing care related risks are effectively managed in accordance with relevant guidelines.</p>	<p>1.5.1.1.1 A risk register is available.</p> <p>1.5.1.1.2 Risk assessment related to nursing practice has been conducted.</p> <p>1.5.1.1.3 Risk management plan related to nursing practice risks is available.</p> <p>1.5.1.1.4 Risk mitigation plans are implemented for all nursing practice related risks. Documented evidence is available.</p> <p>1.5.1.1.5 Evidence of participation in risk management meetings.</p>

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<p>1.6 Patient Safety Incidents (PSI)</p>	<p>1.6.1 The nursing unit must have a system to safeguard users against the risks associated with unsafe and inappropriate care.</p>	<p>1.6.1.1 Health Care user safety incidences are effectively managed in accordance with relevant guidelines.</p>	<p>1.6.1.1.1 A policy for management of user safety incidents is available. 1.6.1.1.2 A reporting system for user safety incidents is in place. 1.6.1.1.3 User safety incidents register is available. 1.6.1.1.4 User safety incidents are analysed. 1.6.1.1.5 There is evidence of participation in user safety incidents meetings. 1.6.1.1.6 Evidence of mitigation plans to address identified user safety incidents, are implemented. 1.6.1.1.7 User safety incidents are reported to the relevant authority.</p>
<p>1.7 Occupational health and safety (OHS)</p>	<p>1.7.1 The nursing unit must comply with the requirements of the Occupational Health and Safety Act, 1993.</p>	<p>1.7.1.1 The nursing unit must have a system to protect health care personnel and users from workplace hazards.</p>	<p>1.7.1.1.1 The Occupational health and Safety Act, 1993(Act No 85 of 1993) is available. 1.7.1.1.2 Healthcare personnel are orientated on the procedure to report Occupational Health and safety hazards. 1.7.1.1.3 A reporting system for needlestick injuries and other incidents related to the failure of standard precautionary measures is available. 1.7.1.1.4 A system of medical surveillance is implemented. 1.7.1.1.5 Incidents/accidents and/or near misses are reported to the manager and the health and safety representative by the end of the</p>

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1.8 Quality nursing care			shift or within 24 hours to the relevant authority.
	<p>1.8.1 The nursing unit must have a quality management and improvement system in place, to support the provision of quality nursing services.</p>	<p>1.8.1.1 The nursing unit must develop and implement a quality management and improvement system.</p> <p>1.8.1.1.1 A quality management plan aligned to the overall quality improvement plan in the health establishment, is available.</p> <p>1.8.1.1.2 A quality improvement plan for each nursing unit is available.</p> <p>1.8.1.1.3 Evidence of implementation of the QIP is available.</p> <p>1.8.1.1.4 Evidence of participation in QIP meetings is available.</p> <p>1.8.1.2 The nursing unit must have a formal system for monitoring and evaluation of the nursing care provided.</p>	<p>1.8.1.1.1 A quality management plan aligned to the overall quality improvement plan in the health establishment, is available.</p> <p>1.8.1.1.2 A quality improvement plan for each nursing unit is available.</p> <p>1.8.1.1.3 Evidence of implementation of the QIP is available.</p> <p>1.8.1.1.4 Evidence of participation in QIP meetings is available.</p> <p>1.8.1.2.1 A Standard Operating Procedure for conducting nursing audits is available.</p> <p>1.8.1.2.2 Nursing audits are conducted in line with the Standard Operating Procedure.</p> <p>1.8.1.2.3 The results of the audit demonstrate compliance with the scientific nursing process and associated policies.</p> <p>1.8.1.2.4 CHECKLIST: Nursing Audit checklist must involve assessment of Nurse's compliance with Patients' Rights Charter.</p>

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		<p>1.8.1.3 The nursing unit must establish a peer review system to evaluate compliance with Nursing Practice Standards.</p>	<p>1.8.1.3.1 Peer reviews are conducted bi-annually to evaluate compliance with nursing practice standards.</p> <p>1.8.1.3.2 There is evidence that gaps identified during peer review are addressed to improve nursing care provision.</p>
<p>1.9 Staff satisfaction surveys</p>	<p>1.9.1 The nursing unit must establish systems and processes to monitor and improve the staff wellbeing.</p>	<p>1.9.1.1 The nursing unit must ensure nurses are provided with mechanisms to give their views on nursing care provision.</p> <p>1.9.1.1.2 The nursing unit must ensure nurses are provided with employee wellness programmes.</p>	<p>1.9.1.1.1 A structured staff satisfaction survey is conducted as per policy.</p> <p>1.9.1.1.2 Outcome of structured staff satisfaction survey displayed and communicated to staff.</p> <p>1.9.1.1.3 Gaps identified during the staff satisfaction surveys are addressed.</p> <p>1.9.1.1.4 SOP for employee assistance programme is available.</p> <p>1.9.1.1.5 There is documented evidence that nurses are referred for employee wellness programmes.</p> <p>1.9.1.1.6 There is evidence that debriefing sessions are conducted post traumatic incidences.</p>
<p>1.10 Health care users' experience of nursing care provision</p>	<p>1.10.1 Complaints and compliment management system for health care users is available.</p>	<p>1.10.1.1 The nursing unit must provide health care users with information relating to complaints, compliments and suggestions management system.</p>	<p>1.10.1.1.1 A system to provide users with information on complaints, compliments and suggestions management procedure is available.</p> <p>1.10.1.1.2 Complaints are managed in accordance with the timelines documented in the national guidelines or Health establishment policy (for private sector).</p>

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			<p>1.10.1.1.3 A health care user experience of care surveys is conducted annually and/ or in line with policy of the health establishment.</p> <p>1.10.1.1.4 Outcome of experience of care surveys conducted annually and /or as per the policy of the institution, is displayed.</p> <p>1.10.1.1.5 Results of the surveys are used to make improvements in nursing care provision.</p>
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CHAPTER 2

2. Resourcing of the Nursing Unit

Subdomain	Standard	Criteria	Measures
2.1 Human Resource	2.1.1 The nursing unit must have systems in place to manage health care personnel in line with relevant legislation, policies, and guidelines.	2.1.1.1 The nursing unit must implement a human resource plan that meet the needs of the health establishment. 2.1.1.2 The nursing unit must implement an approved staffing plan.	2.1.1.1.1 A human resource plan is available. 2.1.1.1.2 Recruitment of Health care personnel is in line with human resource plan. 2.1.1.1.3 The nursing unit staff has relevant qualifications to provide efficient nursing service delivery. 2.1.1.1.4 The nursing unit has the required number and skills mix of health care personnel to meet the needs of the unit. 2.1.1.1.5 There is evidence of workload distribution and appropriate staff allocation.
	2.1.2 The nursing unit must develop and implement performance management and development system.	2.1.2.1 The nursing unit must have a performance management and development system in place.	2.1.2.1.1 Human resource development policy is available. 2.1.2.1.2 Job descriptions which clearly outline roles and responsibilities is available and signed. 2.1.2.1.3 Current performance agreements for all staff are available and signed. 2.1.2.1.4 Performance reviews are conducted in line with the policy. 2.1.2.1.5 A human resource development plan is available.

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	<p>2.1.3 The nursing unit must ensure that nurses maintain their registration with the South African Nursing Council.</p>	<p>2.1.3.1 The nursing unit must have a system to monitor that nurses maintain their professional registration with the SANC on an annual basis.</p>	<p>2.1.3.1.1 Health care providers have evidence of current registration with the SANC.</p>
	<p>2.1.4 The nursing unit must provide mandatory orientation for all health care personnel appointed in the unit.</p>	<p>2.1.4.1 The nursing unit has a system to develop and implement an orientation programme for nursing staff.</p>	<p>2.1.4.1.1 The unit's orientation plan is available. 2.1.4.1.2 The Nursing unit provides induction/ orientation to all new health care personnel. 2.1.4.1.3 Evidence of attendance with the date, topic covered and signatures by staff receiving orientation is available.</p>
<p>2.2 Medicines and medical supplies</p>	<p>2.2.1 The nursing unit must comply with the provisions of the Pharmacy Act, 1974 and the Medicines and Related Substances Act, 1965.</p>	<p>2.2.1.1 The nursing unit must ensure the availability of medicines and medical supplies for the delivery of services.</p>	<p>2.2.1.1.1 Protocols for management of medicines and medical supplies are available. 2.2.1.1.2 Medicines required for the unit must be available. 2.2.1.1.3 Medical supplies required for the unit must be available. 2.2.1.1.4 Ordering of medical supplies is done in line with relevant Standard Operating Procedure. 2.2.1.1.5 Storage of medical supplies is done in line with relevant Standard Operating Procedure 2.2.1.1.6 The nursing unit has access to medicines for emergency after hours.</p>

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			<p>2.2.1.1.7 CHECKLIST: Medicine is given as prescribed.</p> <ul style="list-style-type: none"> a. Relevant signature b. Practice number c. Dose frequency d. Route e. Date f. Signature with designation <p>2.2.1.1.8 Standard Operating Procedures for prescribing, ordering, dispensing and administration of medicines are available.</p> <p>2.2.1.1.9 Standard Operating Procedures for storage of medicines are available</p>
		<p>2.1.2.2 The nursing unit must implement and maintain a stock control system for medicine and medical supplies.</p>	<p>2.2.1.2.1 The nursing units implement stock control systems for medicine and medical supplies.</p> <p>2.2.1.2.2 There is evidence that FIFO / FEFO principles are implemented.</p>
<p>2.3 Supply of linen</p>	<p>2.3.1 Nursing unit must ensure that linen is available for nursing care provision.</p>	<p>2.3.1.1 The nursing unit must have a system in place to ensure that there is enough supply of linen.</p>	<p>2.3.1.1.1 The unit manager has determined the linen requirements for the unit.</p> <p>2.3.1.1.2 The nursing unit has an adequate supply of linen and patients clothing.</p> <p>2.3.1.1.3 CHECKLIST: Interview 3 patients</p>
<p>2.4 Equipment</p>	<p>2.4.1 The nursing unit must ensure that the equipment required is available and functional.</p>	<p>2.4.1.1 The nursing unit must have a system to ensure that Essential and functional equipment is available.</p>	<p>2.4.1.1.1 Essential and functional equipment is available.</p>

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		<p>2.4.1.2 The nursing unit must have a system to maintain equipment as per manufacturer's instructions.</p>	<p>2.4.1.2.1 Healthcare personnel have been trained on the use of relevant equipment.</p> <p>2.4.1.2.2 Medical equipment is maintained and serviced as per manufacturer's instructions.</p> <p>2.4.1.2.3 Non-functional and/or faulty equipment must be reported or condemned.</p> <p>2.4.1.2.4 Evidence of reporting and follow up of faulty equipment and condemning of non-functional equipment is available.</p> <p>2.4.1.2.5 Evidence of compliance and adherence to the manufacturer's instructions of use (e.g., plugged in, calibrated, cleaned after use, good storage etc.</p> <p>2.4.1.2.6 CHECKLIST: Functional essential equipment for the unit is available.</p>
<p>2.5 Asset management</p>	<p>2.5.1 The nursing unit must ensure that the assets are managed in compliance with the asset management protocols.</p>	<p>2.5.1.1 The nursing unit must have a system to ensure that all equipment is accounted for, and disposal of equipment is in line with relevant protocols.</p>	<p>2.5.1.1.1 An updated Inventory register is available.</p> <p>2.5.1.1.2 The inventory register is checked as per policy.</p> <p>2.5.1.1.3 Evidence of Inventory of all equipment in the unit is available as per policy.</p> <p>2.5.1.1.4 Equipment movement book is available and up to date.</p>

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CHAPTER 3			
3. Professional and Ethical Practice			
Subdomain	Standard	Criteria	Measures
3.1 Professional image	3.1.1 The nursing unit must have a system to monitor compliance with prescribed uniform.	3.1.1.1 The nursing unit must develop, implement, and monitor compliance to the uniform policy.	<p>3.1.1.1.1 Uniform policy for the institution is available.</p> <p>3.1.1.1.2 There is evidence that the uniform policy was communicated to nurses.</p> <p>3.1.1.1.3 Nurses on duty wear uniform as prescribed.</p> <p>3.1.1.1.4 Adherence to uniform policy is monitored.</p> <p>3.1.1.1.5 Nurses must always have official identification tags that are visibly worn as part of the uniform.</p>
	3.1.2 The nursing unit must have a system to monitor compliance to distinguishing device regulations.	3.1.2.1 The distinguishing devices must be worn as prescribed by SANC.	<p>3.1.2.1.1 The distinguishing devices regulation is available.</p> <p>3.1.2.1.2 Evidence supporting that the regulations were communicated to the nurses, is available.</p> <p>3.1.2.1.3 Nurses on duty wear correct distinguishing devices as prescribed for each category.</p> <p>3.1.2.1.4 There is evidence that the nursing unit monitors adherence to the distinguishing device regulations.</p>

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<p>3.2 Code of conduct</p>	<p>3.2.1 The Nursing unit must ensure compliance with SANC Code of Ethics for Nurses.</p>	<p>3.2.1.1 The nursing unit must have systems to implement and monitor compliance to SANC Code of Ethics.</p>	<p>3.2.1.1.1 The SANC Code of Ethics for Nurses is available in the unit. 3.2.1.1.2 There is documented evidence that nursing staff have read the code of ethics. 3.2.1.1.3 Updated in-service training plan is available. 3.2.1.1.4 In-service training plan includes advocacy. Interview 3 Nurses, Checklist 3.2.1.1.5 In service training to capacitate nurses on their advocacy role has been conducted in the past 12 months.</p>
<p>3.2.2 The nursing unit must ensure that nurses fulfil their patient advocacy role.</p>	<p>3.2.2.1 The nurses must perform their patient advocacy role in line with the scope of Practice Regulations.</p>	<p>3.2.2.1.1 Three nurses are interviewed to verify whether in -service training on their patient advocacy role has been conducted in the past 12 months (Checklist). 3.2.2.1.2 Patient Record Audit demonstrates that nurses are fulfilling their advocacy role for patients.</p>	<p>3.2.2.1.1 Three nurses are interviewed to verify whether in -service training on their patient advocacy role has been conducted in the past 12 months (Checklist). 3.2.2.1.2 Patient Record Audit demonstrates that nurses are fulfilling their advocacy role for patients.</p>

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	<p>3.2.3 Staff punctuality and absenteeism must be monitored and managed.</p>	<p>3.2.3.1 The nursing unit must have a system to monitor staff punctuality and absenteeism in accordance with SOPs.</p>	<p>3.2.3.1.1 A manual or electronic logging system is available for nurses to use when commencing and ending duties. There is evidence that measures are implemented to manage staff punctuality. 3.2.3.1.2 There is evidence that measures are implemented to manage staff absenteeism. 3.2.3.1.3 There is evidence that measures are implemented to manage staff absenteeism.</p>
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CHAPTER 4

4. Clinical care and patient safety

Subdomain	Standard	Criteria	Measures
<p>4.1 Clinical Nursing management</p>	<p>4.1.1 The nursing unit must establish and maintain clinical nursing management systems, structures, and procedures.</p>	<p>4.1.1.1 The nursing unit must have updated Policies and Standard Operating procedures (SOPs) directing the implementation of the nursing process.</p>	<p>4.1.1.1.1 Updated Policies for nursing interventions relevant for the unit are available. 4.1.1.1.2 Updated SOP interventions relevant for the unit are available. 4.1.1.1.3 There is evidence that health care personnel are trained on policies and SOPs) relevant for the unit. 4.1.1.1.4 There is evidence that policies and SOPs directing implementation of clinical nursing management, are communicated to the nursing staff.</p>

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			<p>4.1.1.1.5 There is evidence of the implementation of policies and SOPs relevant to the nursing unit.</p>
	<p>4.2.1 The nursing unit must have systems in place to guide and manage emergency care for patients/users.</p>	<p>4.2.1.1 Emergency care must be provided in line with emergency care management protocols.</p>	<p>4.1.1.2.1 There is evidence that the health establishment participates in relevant forums to discuss nursing practice process: Forums are not limited to the ones indicated below:</p> <ul style="list-style-type: none"> • Maternal mortality meetings, Morbidity and mortality meetings. • Quality Assurance meetings. • Occupational Health & Safety • Infection Prevention & Control meetings. • Disaster Management meetings. <p>4.1.1.2.2 Attendance Registers / Minutes are available as evidence of compliance.</p>
<p>4.2 Emergency care</p>		<p>4.2.1.1.1 SOPs for emergency care management relevant to the unit are available.</p> <p>4.2.1.1.2 Emergency trolley equipment and material relevant is available, functional and not expired (Checklist)</p> <p>4.2.1.1.3 The emergency trolley is checked in accordance with approved SOP.</p>	

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			<p>4.2.1.1.4 Nurse practitioners are able to demonstrate how emergency equipment is used.</p> <p>4.2.1.1.5 There is evidence of comprehensive handover of emergency patients in between shifts.</p> <p>4.2.1.1.6 Nurses are trained in providing basic life support.</p> <p>4.2.1.1.7 Emergency mock drills are conducted at least bi-annually.</p>
<p>4.3 Infection prevention and control</p>	<p>4.3.1 The nursing unit must establish and maintain an environment, which minimises the risk of infection to users, personnel, and visitors.</p>	<p>4.3.1.1 The nursing unit must minimise the risk of transmission of health care associated infections.</p> <p>4.3.1.2 The nursing unit must implement an Infection Prevention and Control Programme.</p>	<p>4.3.1.1.1 Hand washing facilities are available in nursing service areas.</p> <p>4.3.1.1.2 Hand hygiene audits are conducted and managed effectively.</p> <p>4.3.1.2.1 The Infection Prevention and Control Policy is available.</p> <p>4.3.1.2.2 The Infection Prevention and Control Programme is available.</p> <p>4.3.1.2.3 SOPs for infection prevention and control are available.</p> <p>4.3.1.2.4 SOPs for infection prevention and control are communicated to the staff.</p> <p>4.3.1.2.5 There is evidence that staff is trained on infection prevention and control practice.</p>
<p>4.4 User Identification</p>	<p>4.4.1 The nursing unit must establish systems to identify health care users correctly.</p>	<p>4.4.1.1 There must be systems in place to facilitate user identification.</p>	<p>4.4.1.1.1 A policy on health care user identification is available.</p> <p>4.4.1.1.2 SOPs on health care user identification is available.</p>

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4.5 Personal Protective Equipment (PPE)	4.5.1 The nursing unit must implement a system for mandatory provision of Personal Protective Equipment.	4.5.1.1 The nurses in the nursing unit must be provided with Personal Protective Equipment.	4.4.1.1.3 All users in the nursing units are identified in line with the SOP.
4.6 Nursing care plans	4.6.1 The unit must ensure that individualised and integrated nursing care plans are developed and implemented for all health care users.	4.6.1.1 Individualised nursing care plans must be developed and implemented to ensure comprehensive nursing care.	4.5.1.1.1 Relevant Personal Protective Equipment is available. 4.5.1.1.2 Nurses wear relevant Personal Protective Equipment as per Infection Prevention and Control guidelines.
4.7 Nursing Care Supervision	4.7.1 Nursing care provided must be monitored/	4.7.1.1 The shift leader/ supervisor must conduct a review of	4.6.1.1.1 There is evidence of assessment of individual health care needs. 4.6.1.1.2 Nursing care plans are developed based on the individual needs of the patient. 4.6.1.1.3 There is evidence that nursing care plans are implemented using the nursing process approach. 4.6.1.1.4 Nursing care is delegated to competent nurse practitioners according to their Scopes of Practice. 4.6.1.1.5 There is proof that an evidence-based approach is used, in the implementation of nursing care. 4.6.1.1.6 Complete and comprehensive nursing interventions are recorded timeously for individual healthcare users. 4.6.1.1.7 There is evidence that nursing care plans are evaluated twice per shift.
			4.7.1.1.1 Evidence of shift leader's review of nursing care provided is available.

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA

	reviewed by shift leader/supervisor.	nursing care provided at least twice per shift.	4.7.1.1.2
4.8 Waste management	4.8.1 The nursing unit must ensure that waste is handled, stored, and disposed of safely in accordance with waste management protocols	4.8.1.1 The nursing unit must have appropriate system for waste management	4.8.1.1.1 The unit has appropriate containers for waste (general, medical waste and sharps). 4.8.1.1.2 There is evidence of correct segregation of waste. 4.8.1.1.3 The waste containers must have colour coded lining bags. 4.8.1.1.4 There is evidence of correct disposal of waste. 4.8.1.1.5 Human tissue disposal in compliance with the human tissue Act.
4.9 Records management	4.9.1 The nursing unit must create and maintain a system to record the nursing care provided.	4.9.1.1 The nursing unit must have a system of creating and maintaining concise, complete and accurate records for nursing care provided.	4.9.1.1.1 SOP for records management and Archiving is available. 4.9.1.1.2 Complete and accurate records are kept for all nursing interventions in the unit. 4.9.1.1.3 Date and time of entries. 4.9.1.1.4 Legibility of handwriting on records. 4.9.1.1.5 Signatures and designations. 4.9.1.2.1 Evidence of safe keeping of records.
		4.9.1.2 The nursing unit must ensure confidentiality of health records.	

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CHAPTER 5			
5. Continuing Professional Development (CPD) & Training			
SUBDOMAIN	Standard	Criteria	Measures
5.1 Continuing Professional development (CPD) for nurses and midwives	5.1.1 The nursing unit must implement the SANC's CPD system for all nurses and midwives, to aspire towards the achievement of professional standards of excellence.	5.1.1.1 A CPD programme must be implemented to promote lifelong learning, safe, ethical and professional growth of nurse practitioners.	5.1.1.1.1 The SANC CPD framework is available. 5.1.1.1.2 The SANC CPD framework is communicated to the nursing staff. 5.1.1.1.3 The SANC CPD forms are available. 5.1.1.1.4 The SANC CPD process is communicated to the nursing staff. 5.1.1.1.5 The SANC CPD process must be implemented in all the units.
		5.1.1.2 The HE must have a CPD champion to coordinate all CPD activities.	5.1.1.2.1 Evidence of the availability of a CPD champion is available. 5.1.1.2.2 Evidence of the availability and accessibility of CPD activities in all units. 5.1.1.2.3 Staff learning needs (skills audit) are determined using a defined process. 5.1.1.2.4 Evidence of the implementation of a CPD monitoring system is available. 5.1.1.2.5 Evidence of the implementation of a CPD compliance improvement plan.
5.2 Training	5.2.1 The nursing unit must have a comprehensive training and development programme.	5.2.1.1 The HE must have a system to ensure that in-service training is provided so that nurses remain up-to-date and relevant with current trends in nursing practice.	5.2.1.1.1 An in-service training plan for staff is available in the unit. 5.2.1.1.2 There is evidence that training is based on learning needs identified.

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			5.2.1.1.3	A record of attendance of training is kept.
			5.2.1.1.4	Record of CPD points accumulated as per CPD Grid in the CPD Framework is available. NB: Sample three

CHAPTER 6				
6. Research				
Sub domain	Standard	Criteria	Measures	
6.1 Research	6.1.1 The nursing unit must establish and maintain systems to promote research.	6.1.1.1 The HE must have a system to ensure that there is compliance with the health establishment's policies and protocols where research projects are being conducted.	6.1.1.1.1	An updated research policy is available.
		6.1.1.2 The HE must have a system to implement evidence-based practice.	6.1.1.1.2	Evidence of permission granted on all requests to conduct research is available.
			6.1.1.2.1	There is evidence that nurses take part in research activities that generate evidence.
			6.1.1.2.2	Evidence based approach is used in nursing practice.

NURSING PRACTICE STANDARDS FOR USE IN ALL HEALTH ESTABLISHMENTS IN SOUTH AFRICA**7. TRANSITIONAL ARRANGEMENTS**

Nurse Practitioners without relevant postgraduate qualifications are required to obtain such qualifications within five (5) years of promulgation of these regulations.

8. GENERAL PROVISIONS**8.1. Short title and commencement**

These standards shall be called the Nursing Practice Standards for use in all health establishments in South Africa and come into operation on the date of publication in Government Gazette.

BOARD NOTICE 674 OF 2024**SOUTH AFRICAN PHARMACY COUNCIL****RULES RELATING TO GOOD PHARMACY PRACTICE**

The South African Pharmacy Council herewith publishes amendments for implementation to the Minimum Standards as contained in Annexure A of the *Rules relating to Good Pharmacy Practice*, which was published on 17 December 2004, Government Gazette No: 27112, in Board Notice 129 of 2004 (as amended), in terms of Section 35A(b)(ii) of the Pharmacy Act, 53 of 1974.

SCHEDULE**Rules relating to what constitutes good pharmacy practice.**

1. In these rules “the Act” shall mean the Pharmacy Act, 53 of 1974, as amended, and any expression to which a meaning has been assigned in the Act shall bear such meaning.
2. The following rule to Annexure A of the *Rules relating to Good Pharmacy Practice* is hereby added:
 - (a) Rule 1.12: Minimum Standards relating to Pharmacies that only provide Oncology Services.
3. The following rule to Annexure A of the *Rules relating to Good Pharmacy Practice* is hereby amended:
 - (a) Rule 4.2.3.3.1: Standard operating procedures: Community Pharmacy.

VM TLALA

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CHAPTER 1 PROFESSIONAL STANDARDS FOR PREMISES

1.12 MINIMUM STANDARDS RELATING TO PHARMACIES THAT ONLY PROVIDE ONCOLOGY SERVICES

1.12.1 PURPOSE

The purpose of this Minimum Standard is to regulate pharmacies that provide oncology services only.

1.12.2 GENERAL CONSIDERATIONS

Pharmacies that only offer oncology services must apply to the Director-General (DG): National Department of Health, for a pharmacy licence with the condition to provide oncology services only. Nothing in this Minimum Standard precludes a community or institutional pharmacy from offering oncology services over and above the pharmaceutical services as prescribed in the Regulations. Therefore, Rule 2.17.3: *Cytotoxic preparation and reconstitution service*, still applies to all pharmacies that offer oncology services.

1.12.3 TRAINING

Pharmacists who provide any of the services identified in this standard should:

- (a) ensure that they have adequate training, knowledge and skills to provide the services they offer; and
- (b) ascertain the instructions and requirements of all the products that are used in the provision of the respective services they offer.

1.12.4 PHYSICAL FACILITIES AND EQUIPMENT

Notwithstanding the provisions of the minimum standards for pharmacy premises, facilities and equipment of the *Rules relating to Good Pharmacy Practice*, the pharmacy may share the waiting area and the private area with the healthcare facility where the oncology service is being provided. In the case where the waiting area is shared with the healthcare facility, the following will apply:

- (a) proof that patients have access to a waiting area, and/or private area (compliant with GPP) if the service is offered within a healthcare practice; and
- (b) documentary evidence that the waiting area and/or private area may be used for this purpose.

1.12.5 COUNSELLING AND CONFIDENTIALITY

- (a) Complete and uninterrupted privacy must be maintained during the provision of these services.
- (b) Patient information must only be disclosed to another duly authorised pharmacist, healthcare professional or to a person authorised by law to request it with the consent of the patient or the caregiver, when applicable.

- (c) During counselling, the pharmacist must act in an ethical and professional manner that takes into consideration the fundamental personal constitutional rights of patients.
- (d) In terms of counselling areas, the following will apply:
 - (i) patients have access to a counselling room (compliant with GPP) if the service is offered within a healthcare practice; and
 - (ii) that the private area for counselling may be used for this purpose.

1.12.6 REFERENCE SOURCES

The pharmacy providing oncology services must ensure that in addition to the requirements in terms of Rule 1.2.11.5, reference sources that are relevant to oncology services are in place.

1.12.7 STANDARD OPERATING PROCEDURES (SOPs)

The Responsible Pharmacist of the pharmacy providing oncology services must ensure that in addition to the requirements in terms of Rule 4.2.3.3, written policies and SOPs relevant to oncology services are in place.

1.12.8 SPECIFIC CONSIDERATIONS WHERE THE SERVICE IS DELIVERED FROM A PHARMACY IN ANOTHER HEALTHCARE FACILITY

1.12.8.1 Designation and condition of the pharmacy:

- (a) a pharmacist must be present when medicines are prepared and dispensed;
- (b) there must be a suitable room designated as a dispensary with adequate equipment to offer such service; and
- (c) the pharmacy must comply with the minimum standards relevant to dispensaries.

1.12.8.2 Control of access to the pharmacy:

- (a) the pharmacist must ensure that every key, key card, or other device, or the combination of any device, which allows access to the dispensary when it is locked, is kept only on his/her person; and
- (b) a procedure must be in place to ensure access to the pharmacy in an emergency.

CHAPTER 4

PROFESSIONAL STANDARDS FOR PHARMACY MANAGEMENT

4.2 MINIMUM STANDARDS FOR PHARMACY ADMINISTRATION AND MANAGEMENT

Rule 4.2.3.3.1, Standard operating procedures: Community Pharmacy is hereby deleted and replaced with Rule 4.2.3.3.1 as follows:

4.2.3.3.1 Community Pharmacy

Premises

- (a) good housekeeping (cleaning procedures, etc. as well as pest elimination);
- (b) access control – keys, who can be in dispensary & stockrooms etc; and
- (c) procedures for specialised services (dependent on what specialised services the pharmacy offers).

Pharmaceutical Services:

- (a) all professional services and procedures provided as per the scope of practice of a pharmacist;
- (b) informed consent;
- (c) confidentiality;
- (d) infection control;
- (e) elimination;
- (f) disposal of sharp-edged & hazardous materials;
- (g) needle stick injury & blood spill procedures (where applicable); and

Management and Administrative Procedures:

- (a) ADR & Quality reporting combined with the handling of product complaints;
- (b) storage, retrieval and disposal of records and patient information;
- (c) receiving of medicines;
- (d) storage of medicines;
- (e) cold chain management;
- (f) handling of S6 medicines;
- (g) pre-packing and quality assurance procedures (where applicable);
- (h) collection and delivery of medicines;
- (i) effective stock rotation;
- (j) stock-taking;
- (k) disposal or removal of expired, damaged and/or contaminated stock as required;
- (l) recall of medicine;
- (m) compounding of extemporaneous preparations, where applicable;
- (n) preparation of TPN/large volume parenteral (including quality assurance procedures) (where applicable);
- (o) oncology mixing (including quality assurance procedures) (where applicable);
- (p) preparation of IV admixtures (including quality assurance procedures) (where applicable);
- (q) enquiry or complaint procedure;
- (r) staff training.

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