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**GOVERNMENT NOTICES • GOEWERMENSKENNISGEWINGS**

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**DEPARTMENT OF ENERGY**

NO. 563

08 JUNE 2018

**ELECTRICITY REGULATION ACT, 2006****PUBLISHED FOR PUBLIC COMMENTS: DRAFT LICENSING EXEMPTION AND  
REGISTRATION NOTICE**

I, Jeff Radebe, the Minister of Energy, intend to repeal the Exemption and Registration Notice published under Government Notice Number 1231 of 10 November 2017, and –

- (a) under section 36(4) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ("the Act"), and after consultation with the National Energy Regulator ("Regulator") and any person who may be affected, intend to amend Schedule 2 to the Act by substituting it with the Schedule ("the Schedule") set out in the Annexure hereto; and
- (b) under section 9(1) of the Act, and in consultation with the Regulator, intend to determine that a person who operates a generation facility contemplated in items 2.1, 2.2, 2.3, 2.4, 2.5 or a person who performs the activities of a reseller as contemplated in item 2.6 of the Schedule, must register with the Regulator.

Interested persons and organisations are invited to submit, within 30 days, written comments on the proposed amendments to the Licensing Exemption and Registration Notice to the Director-General, Department of Energy, Private Bag X96, Pretoria 0001; Matimba House 192 Visagie Street, Pretoria; or email to [joseph.maraba@energy.gov.za](mailto:joseph.maraba@energy.gov.za) (for attention Chief Directorate: Electricity Policy). Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments. Comments received after the closing date may not be considered.



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**JEFF RADEBE, MP****Minister of Energy**

**ANNEXURE****SCHEDULE 2****EXEMPTION FROM OBLIGATION TO APPLY FOR AND HOLD A LICENCE**

1. For purposes of items 2 and 3:
  - 1.1 **'existing generation facility'** means a generation facility which was in operation on or immediately prior to the date of commencement of this Schedule;
  - 1.2 **'national grid'** means the publicly-owned interconnected network of transmission and distribution power systems used for the supply of electricity to customers across the territory of the Republic, and includes any portion thereof;
  - 1.3 **'point of connection'** means the point at which a generator or customer connects to the national grid;
  - 1.4 **'property'** means:
    - 1.5.1 a farm, agricultural holding, erf or sectional title unit; and
    - 1.5.2 a building located on that farm, agricultural holding, erf or sectional title unit notwithstanding that the building extends beyond the boundary of that farm, agricultural holding, erf or sectional title unit;
  - 1.5 **'related customers'** means customers which are related and inter-related to each other within the meaning contemplated in section 2 of the Companies Act, 2008 (Act No.71 of 2008); and
  - 1.6 **'reseller'** means a person who purchases electricity from a distribution licensee in order to sell such electricity to a customer.
2. The following activities are exempt from the requirement to apply for and hold a licence under the Act, notwithstanding, these activities must be registered with the National Energy Regulator of South Africa (NERSA):
  - 2.1 The operation of a generation facility with an installed capacity of no more than 1MW which is connected to the national grid, in circumstances in which—
    - 2.1.1 the generation facility supplies electricity to a single customer and there is no wheeling of that electricity through the national grid;

- 2.1.2 the generator or single customer has entered into a connection and user-of-system agreement with, or obtained approval from, the holder of the relevant distribution licence; and
- 2.1.3 as at the date on which the connection and user-of-system agreement is entered into or the approval is obtained, the Minister has not published a notice in the Government Gazette stating that the amount of megawatts (MW) allocated in the integrated resource plan for embedded generation of this nature has been reached.
- 2.2 The operation of a generation facility with an installed capacity of no more than 1MW which is connected to the national grid, in circumstances in which—
- 2.2.1 the generation facility is operated solely to supply a single customer or related customers by wheeling electricity through the national grid;
- 2.2.2 the generator has entered into a connection and use-of-system agreement with the holder of the distribution or transmission licence in respect of the power system over which the electricity is to be transported; and
- 2.2.3 as at the date on which the connection and use-of-system agreement is entered into, the Minister has not published a notice in the Government Gazette stating that the amount of megawatt (MW) allocated in the integrated resource plan for embedded generation of this nature has been reached.
- 2.3 The operation of a generation facility with an installed capacity of no more than 1MW which is not connected to the national grid or having an interconnection agreement, in circumstances in which —
- 2.3.1 the generation facility is operated solely to supply electricity to the owner of the generation facility in question;
- 2.3.2 the generation facility is operated solely to supply electricity for consumption by a customer who is related to the generator or owner of the generation facility; or
- 2.3.3 the electricity is supplied to a customer for consumption on the same property on which the generation facility is located.
- 2.4 The operation of a generation facility for demonstration purposes only, whether or not the facility is connected to a transmission or distribution power system, in circumstances in which—

- 2.4.1 the electricity produced by the generation facility is not sold; and
- 2.4.2 If the facility is connected to the national grid, the generator has entered into a connection and use-of-system agreement with, or obtained approval from, the holder of the relevant transmission or distribution licence; and
- 2.4.3 the facility will be in operation for a period of not more than 36 months.
- 2.5 The operation of a generation facility where the electricity is produced from a co-product, by-product, waste product or residual product of an underlying industrial process, in circumstances in which-
- 2.5.1 the generation facility is operated solely to supply electricity to the owner of the generation facility in question;
- 2.5.2 the generation facility is operated solely to supply electricity for consumption by a customer who is related to the generator or owner of the generation facility within the meaning contemplated in section 2 of the Companies Act, 2008 (Act No. 71 of 2008); or
- 2.5.3 the electricity is supplied to a customer for consumption on the same property on which the generation facility is located.
- 2.6 The sale of electricity by a reseller in circumstances in which—
- 2.6.1 the tariff or price charged by the reseller to customers does not exceed the tariff or price that would have been charged to such customers for the electricity if it had been purchased from the holder of a distribution licence for the area in which the electricity is supplied to the customer; and/or an operator of a licensed distribution facility wherein the bulk point is connected or such customers would have been connected;
- 2.6.2 the reseller has entered into either a service delivery agreement in terms of the Municipal Systems Act, 2000 (where the licensed distributor is a municipality) or an agreement (where the licensed distributor is not a municipality) with the distributor regulating the relationship between the reseller and the holder of the distribution licence and the obligations of the reseller in respect of the quality of supply to customers (where the licensed distributor is not a municipality). The general conditions of the service delivery agreement must have been approved by National Energy Regulator of South Africa (NERSA); and

- 2.6.3 the general conditions of the service delivery agreement or agreement must have been approved by the National Energy Regulator of South Africa (NERSA).
3. The following activities are exempt from the requirement to apply for, and hold a licence under the Act and these activities are not required to be registered with the National Energy Regulator of South Africa (NERSA):
- 3.1 The operation of a generation facility for the sole purpose of providing standby or back-up electricity in the event of, and for a duration no longer than, an electricity supply interruption.
- 3.2 The continued operation of an existing generation facility which, immediately prior to the date of commencement of this Schedule, was exempt from the requirement to apply for and hold a licence under the Act.
- 3.3 The continued operation of an existing generation facility which prior to the date of commencement of this Schedule was in operation, and within 3 months of the commencement of this Schedule had declared non-compliance with the Schedule to the National Energy Regulator of South Africa (NERSA) and signed an agreement to comply within a time frame as specified by the Regulator.
- 3.4 The operation of a distribution facility that is connected to a generation facility contemplated in items 2.1 to 2.5 and is used exclusively for the wheeling of electricity from that facility to—
- 3.4.1 the customer, if the electricity is not to be transported through the national grid; or
- 3.4.2 the point of connection, if the electricity is to be transported through the national grid.