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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 737

12 August 2021

ELECTRICITY REGULATION ACT, 2006 (ACT No. 4 OF 2006)**AMENDMENT OF GOVERNMENT NOTICE [NUMBER], PUBLISHED ON [DATE],
GOVERNMENT GAZETTE [NUMBER]: LICENSING EXEMPTION AND
REGISTRATION NOTICE**

I, Gwede Samson Mantashe, the Minister of Mineral Resources and Energy, hereby;

-

(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 2") 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 3.1, 3.2, 3.3, 3.4 or a person who performs the activities of a reseller as contemplated in item 3.5 of the Schedule, must register with the Regulator.



GWEDA MANTASHE, MP

Minister of Mineral Resources & Energy

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

1. For purposes of items 2 and 3, unless defined in Chapter 1 (Section 1) of the Electricity Regulation Act:
 - 1.1 **“Capacity”** means, in respect of a Unit or the Facility, at any time and from time to time, the output power (expressed in megawatts or MW) of such Unit, or the Facility, as the case may be;
 - 1.2 **“Code”** means the Distribution Code, the Transmission Grid Code or any other Code, approved by the Regulator;
 - 1.3 **“Connection agreement”** means an agreement detailing the conditions under which the Distributor or Transmitter intends to connect the Customer or any other connection such as an Embedded Generator;
 - 1.4 **“Customer”** means a person or legal entity that has entered into an agreement with a Distributor or Transmitter for the provision of distribution or transmission services. A legal entity may be an Embedded Generator, another Distributor, an end-use customer, an international customer, a retailer or a reseller;
 - 1.5 **“Delivery Point”** means the physical point(s), situated on the Site of the Facility, where the energy output is to be delivered by the generator;
 - 1.6 **“Demonstration purposes”** means the Facility constructed for the purpose to prove or test commercial and/or technical viability within a specified time period;
 - 1.7 **“Embedded Generator”** means a legal entity that operates one or more Unit(s) that is connected to the distribution system. Alternatively, a legal entity that desires to connect one or more Unit(s) to the distribution system;
 - 1.8 **“End-use customer”** means a user of electricity connected to the distribution or transmission system;
 - 1.9 **“Facility”** means the generation (or distribution facility or energy storage as applicable) located at the Site and comprising all plant, machinery and equipment, all associated buildings, structures, roads on the Site that are not national, provincial or municipal roads, and other appurtenances, together with all required interfaces to be constructed for the safe, efficient and timely operation of that facility and, for the avoidance of doubt, excluding the transmission connection works or distribution connection works, as the case may be;

- 1.10 **“Point of Connection”** means the electrical node on a distribution or transmission system where a Customer’s assets are physically connected to the licensed Distributor’s or Transmitter’s assets;
- 1.11 **“Property”** means:
- 1.11.1 a farm, agricultural holding, erf or sectional title unit; and
- 1.11.2 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;
- 1.12 **“Reseller”** means a person who purchases electricity from a trading entity in order to sell such electricity to a customer;
- 1.13 **“Site”** means part of the Property upon which the Facility is to be constructed and operated;
- 1.14 **“Unit”** means a separate electricity generating unit or section (comprising multiple units) forming part of the Facility, which is or are capable of generating and delivering energy to the Delivery Point, and **“Units”** means all or any combination of them; and
- 1.15 **“Wheeling”** means conveyancing of electricity from the Point of Connection to a point of consumption through a third-party transmission or distribution network.

Activities exempt from licensing and registration

2. 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 Regulator-

2.1 The operation of a generation Facility with or without energy storage for the sole purpose of providing standby or back-up electricity in the event of, for a duration no longer than, an electricity supply interruption.

2.2 The operation of any generation Facility with or without energy storage provided irrespective of capacity (MW), the Facility does not have a Point of Connection.

2.3 The operation of a Facility with a capacity of no more than 100 kilowatts, which complies with the Code and has a Point of Connection; the Distributor has prescribed the conditions relating to the continued use of the Point of Connection; and the Regulator has prescribed the manner in which the Distributor shall keep a register of each Facility.

3. The following activities are exempt from the requirement to apply for and hold a licence under the Act, but these activities must comply with the Code and any other authorisations and/or agreements as may be required, and must be registered with the Regulator;

Activities with a capacity of no more than 100MW, exempt from licensing and require registration

- 3.1 The operation of a generation Facility with or without energy storage, with a capacity of no more than 100 MW with a Point of Connection on the transmission or distribution power system, in circumstances where-

3.1.1 the generation Facility is operated to supply electricity to an end-use customer and there is no wheeling of that electricity;

3.1.2 the generation Facility is operated to supply electricity to an end-use customer by wheeling; and the generator has entered into a connection agreement with the holder of the transmission or distribution licence in respect of the power system over which the electricity is to be wheeled;

3.1.3 the generation Facility does not export nor import any electricity onto or from the transmission or distribution power system.

Other activities exempt from licensing and require registration

- 3.2 The operation of a generation Facility with or without energy storage for demonstration purposes only, whether or not the Facility is connected to a transmission or distribution power system and will be in operation for not more than 36 months.

- 3.3 The continued operation of an existing generation Facility with or without energy storage 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, must register with the Regulator within six months of commencement of this schedule subject to-

- 3.3.1 the generation Facility having complied with the Code and is connected to the transmission or distribution power system.
- 3.4 The operation of a distribution Facility up to the Point of Connection that connects the generation Facility contemplated in items of 3.1 and 3.3 above where there is conveyancing of electricity through the transmission or distribution power system.
- 3.5 The trading of electricity by a reseller in circumstances in which-
- 3.5.1 the price charged by the reseller to customers does not exceed the tariff 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
- 3.5.2 the reseller has entered into either a service delivery agreement in accordance with the Municipal Systems Act, (Act No 32 of 2000) (where the licensed distributor is a municipality) or a similar agreement with the distributor (where the licensed distributor is not a municipality) that regulates 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; and the Regulator has ratified the general terms and conditions of such service delivery agreement.

Revocation and deregistration

4. The Regulator may vary, suspend or remove any registration on receipt of an application by a registrant or on application by a third party or upon violation of the regulatory requirements to comply with the Code and any other authorisations and/or agreements as may be required.
5. The Regulator may revoke a registration under the following circumstances-
- 5.1 On application by a registrant or the facility is no longer required or when the conditions of registration are not met.
6. A registrant must, in the circumstances contemplated in item 5.1 give the Regulator at least 6 months' notice in writing of his or her intention to cease activities, unless the Regulator determines otherwise.

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