

DEPARTMENT OF ENERGY

NO. 1231

10 NOVEMBER 2017

ELECTRICITY REGULATION ACT, 2006

LICENSING EXEMPTION AND REGISTRATION NOTICE

I, Mmamoloko Kubayi, the Minister of 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, 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, determine that a person who operates a generation facility contemplated in items 2.1, 2.2, 2.3, 2.4, 2.5 or 2.6 of the Schedule, or a person who performs the activities of a reseller as contemplated in item 2.8 of the Schedule, must register with the Regulator.



MMAMOLOKO KUBAYI, MP
Minister of Energy

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

1. For purposes of item 1:
 - 1.1 **'electricity meter'** means a device that is used to measure the flow of electricity that flows out of or into the national grid and has been installed by or on behalf of a licensed distributor;
 - 1.2 **'existing generation facility'** means a generation facility which was in operation on or immediately prior to the date of commencement of this Schedule;
 - 1.3 **'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;
 - 1.4 **'point of connection'** means the point at which a generator or customer connects to the national grid;
 - 1.5 **'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;
 - 1.6 **'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
 - 1.7 **'reseller'** means a person who purchases electricity from a distribution licensee in order to sell such electricity to a customer.

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2. The following activities are exempt from the requirement to apply for and hold a licence under the Act, however these activities must be registered with the National Energy Regulator:
- 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 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 not more than 36 months.
- 2.5 The operation of a generation facility where the electricity 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 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.
- 2.7 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.

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- 2.8 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 Regulator (NERSA) and signed an agreement to comply within a time frame as specified by the Regulator.
- 2.9 The operation of a distribution facility that is connected to a generation facility contemplated in items 2.1 to 2.6 and is used exclusively for the wheeling of electricity from that facility to—
- 2.9.1 the customer, if the electricity is not to be transported through the national grid; or
- 2.9.2 the point of connection, if the electricity is to be transported through the national grid.
- 2.10 The sale of electricity by a reseller in circumstances in which—
- 2.10.1 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;
- 2.10.2 the reseller has entered into an agreement with the holder of a distribution licence over such area which regulates the relationship between the reseller and the holder of the distribution licence; and
- 2.10.3 the general conditions of the service delivery agreement must have been approved by the National Energy Regulator.