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CIVILIAN SECRETARIAT FOR THE POLICE SERVICE

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**INVITATION FOR PUBLIC COMMENTS
SECOND-HAND GOODS ACT, 2009 (ACT NO. 06 OF 2009)
AMENDMENTS TO REGULATIONS FOR DEALERS AND RECYCLERS**

In Government Notice No. R. 2801 published in Government Gazette No. 47627 dated 30 November 2022, the Minister of Trade, Industry and Competition (the "Trade Minister") published the Policy Implementation Actions on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metals Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metal Products to Limit Damage to Infrastructure and the Economy (the "Policy").

In the Policy, the Trade Minister set out various interventions which are to be implemented in what may broadly be described as a three-phased approach and proposed that the enhancement of the regulation of the scrap metal trade through amendments to the Regulations published under the Second-Hand Goods Act, (Act No. 6 of 2009) (the "SHGA").

The following changes are being considered to the Regulations published under the SHGA:

1. Enforcement of the registration regime for scrap metal sellers

While the SHGA contemplates that both buyers and sellers of scrap metal are required to be registered, this requirement is currently being enforced against buyers but not sellers.

Going forward, the Government intends to enforce the requirement that scrap metal sellers are subject to the registration regime envisaged in the SHGA. It is envisaged that a registration exemption will apply in relation to waste pickers (but not in relation to copper scrap metal).

2. Enhanced registration requirements

Registration as scrap metal buyers and sellers will only be granted to businesses that have a satisfactory Tax Compliance Status.

3. Enhanced reporting requirements

An input-output reporting system will be introduced that will be used both for purposes of compliance monitoring under the SHGA and for monitoring exports of scrap metal and semi-finished products. The reporting system will require scrap dealers to submit monthly electronic reports to ITAC, showing all purchases and sales of metal products (scrap, semi-finished and finished) by volume and value. The reports will inter alia contain the following information.

(i) Acquisition Table

Each row of the table will show a different purchase. The row will show a) the date of purchase, b) the type of metal purchased, c) the grade of metal purchased, d) the tonnage purchased, e) the total cost of the purchase, f) the business registration number of the seller, or in the case of an individual seller, the identity number of the individual, and g) any additional fields that may be required to secure the objective of input-output reporting.

(ii) Disposal table.

Each row of the table will show a different sale. The row will show a) the date of sale, b) the type of metal sold, c) the grade of metal sold, d) the tonnage sold, e) the total revenue of the sale, f) the business registration number of the buyer, g) or in the case of an export sale, the Unique Consignment Reference (UCR), and h) any additional fields that may be required to secure the objective of input-output reporting.

4. Inclusion of semi-finished metals in the registration regime

While semi-finished metal products fall within the scope of application of the SHGA, buyers (and sellers) of semi-finished metal products are not currently

registered. The Government will thus take steps to ensure that these businesses are registered.

5. Requirement for registered buyers to only purchase copper scrap and semi-finished copper products from registered sellers.

The Government is also considering imposing a requirement that registered buyers may only purchase copper scrap or semi-finished copper products from registered sellers of such products. The effect of this would be that all sales of scrap and semi-finished copper products will be prohibited other than between registered entities or persons.

In order to give effect to the Policy, the Minister of Police publishes, in the Schedule, draft regulations amending the Regulations for Dealers and Recyclers, 2012, in terms of section 41(1) of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009). Interested persons can also visit the website of the Civilian Secretariat for Police Service at <http://www.policesecretariat.gov.za> for a copy of the draft Regulations.

All interested persons and organisations are invited to submit written comments on the draft regulations by no later than 8 December 2023 by—

- (i) Emailing comments to: Jacob.Setouto@csp.gov.za
- (ii) Posting comments to:
Civilian Secretariat for Police Service
Private Bag X 922
PRETORIA, 0001
for the attention of: Mr. Milton Ntwana
- (iii) Hand delivery at the Civilian Secretariat for Police Service at Fedsure Forum Building, 2nd Floor, Corner of Pretorius and Lillian Ngoyi Streets, Pretoria.
- (iv) Kindly provide the name, address, telephone and email address of the person or organization submitting the comments.

- (3) The applicant must ensure that the duly completed application form and all the applicable documents referred to in these regulations are lodged with the office of the Designated Police Officer."

Amendment of Regulation 3

4. Regulation 3 of the Regulations is amended by the substitution for regulation 3 of the following regulation:

"3. Documents to accompany application for registration

- (1) An application for registration contemplated in section 3 of the Act must be accompanied by-
- (a) a statement which confirms that-
 - (i) applicant or any other person contemplated in section 5(1)(d) of the Act is not disqualified from being registered as a dealer; and
 - (ii) applicant undertakes to ensure compliance with the requirements of other legislation regulating that business or industry[.];
 - (b) a certified copy of the identity document of the applicant and every person responsible for the management or day-to-day control of the business in question;
 - (c) a recent utility account or the lease agreement verifying the address of the premises to which the application relates;
 - (d) written proof of the business' bank account;
 - (e) a copy of applicant's fingerprints, or where more than one person [are] is involved in the management of the business, a copy of the fingerprints of each person so involved; and
 - (f) where applicable-
 - (i) documents which verify applicant's establishment as a company, close corporation, trust, business trust, partnership or any other business form;
 - (ii) a certified copy of the identity document of each responsible person;
 - (iii) proof of VAT registration;
 - (iv) a copy of the membership certificate which verifies that applicant is a member of an accredited dealers' association at the time of the application;
 - (v) floor plan of the premises to which the application relates ; **[and]**

(vi) any other documentation that applicant wishes to submit in support of the application, including a copy of any certificate or permit relating to other legislation regulating that industry[.]; and

(vii) a certified copy of the applicant's tax compliance certificate.

(2) In the case of a scrap metal dealer, the application for registration contemplated in section 3 of the Act must, in addition to the documents referred to in subregulation (1), be accompanied by a list of the types of scrap metal that it intends to buy, sell, or buy and sell."

Amendment of Regulation 4

5. Regulation 4 of the Regulations is amended by the insertion after subregulation (2) of the following subregulations:

"(2A) All registered scrap metal dealers must comply with the following conditions:

(a) the scrap metal dealer must only acquire copper scrap metal from, or dispose of it to, scrap metal dealers registered to acquire or dispose of copper scrap metal; provided that the scrap metal dealer may acquire copper scrap from outside the Republic of South Africa;

(b) the scrap metal dealer may only carry on the business of dealing in scrap metal if the dealer is up to date with its reporting obligations contemplated in paragraph (c);

(c) the scrap metal dealer must, on the 14th day of each month, email a monthly electronic register of all acquisitions and disposals of scrap metal made by it for the previous month which contains the information set out in Annexure "B5-1" and "B5-2" to these regulations to SHGAmetals@thedtic.gov.za;

(d) the scrap metal dealer must, when conducting any transaction with a person to acquire scrap metal, pay such a person by way of an electronic funds transfer from the bank account of the scrap metal dealer to the bank account of that person."

(2B) Subregulation (2A) shall apply *mutatis mutandis* in respect of recyclers."

Amendment of regulation 8

6. Regulation 8 of the Regulations is amended by the substitution for regulation 8(2) and 8(3) of the following regulation:

"(2) A dealer or recycler is required to keep the register contemplated in section 21(1) of the Act in electronic format, and that dealer or recycler must ensure that an inspecting police official may inspect such register through access to the software program with which such electronic register is kept.

- (3) In the event of an inspection by a police official in terms of section 28(1) of the Act, the dealer, recycler, owner, employee or person in charge of the premises must –
- (a) provide the police official inspecting the register with-
 - (i) the most recent certificate contemplated in section 28(4)(b)(ii) of the Act; and
 - (ii) a compact disk or other similar storage device with an electronic copy of or extract from the register reflecting all transactions since the most recent certificate contemplated in (i); and
 - (b) comply with any reasonable request from such police official to produce a printout of or an extract from the register which reflects the stock that dealer or recycler has on hand at the premises in question."

Insertion of regulation 9A in the Regulations

7. The following regulation is hereby inserted in the Regulations after regulation 9:

"9A Dealing from different premises

- (1) In the event that a dealer or recycler conducts business from premises registered in terms of section 3(2) but stores goods on additional registered premises, such dealer or recycler must keep the applicable register contemplated in regulation 9 on both premises.
- (2) A dealer or recycler must keep records referred to in regulation 9 of any second-hand goods or scrap metal that is moved from premises where business is conducted to additional premises where second-hand goods or scrap metal are stored.
- (3) Where second-hand goods or scrap metal are moved between premises, the entries into the disposal register must correspond with the entries into the acquisition register at the receiving premises.
- (4) The entries into the disposal register must clearly indicate that the provisions of section 23(1)(d) have been complied with."

Insertion of regulation 13A in the Regulations

8. The following regulation is hereby inserted in the Regulations after regulation 13:

"13A Waste pickers

A recycler or dealer who acquires controlled metal from a waste picker must, in addition to the registers contemplated in section 21(1), keep a waste pickers' register in which the waster picker's full names and identity or passport number and the street address of the waster picker must be recorded."

Substitution of regulation 15 of the Regulations

9. The following Regulation is hereby substituted for regulation 15 of the Regulations:

"15. Offences and penalties

Any dealer or recycler who -

(a) contravenes or fails to comply with regulation 4(2)(A); 5(1)(a), 5(1)(b), 5(2) or 5(3);

(b) contravenes or fails to comply with regulation 7(2) or 7(3);

(c) contravenes or fails to comply with regulation 8(3)(a)(i), 8(3)(a)(ii), or 8(3)(b);

(d) contravenes or fails to comply with regulation 9A(1), 9A(2), 9A(3) or 9A(4);

(e) contravenes or fails to comply with regulation 10(1) or (4); or

(f) contravenes or fails to comply with regulation 13A.

is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding 12 months or both such fine or imprisonment."

Insertion of regulation 15A in the Regulations

10. The following regulation is hereby inserted in the Regulations after regulation 15:

"15A. Exemption for waste pickers

Waste pickers are excluded from having to comply with the requirements set out in regulations 2 to 13 of these regulations, unless the waste picker collects and sells copper scrap metal."

Amendment of Annexure "B" of the Regulations

11. "Annexure "B" of the Regulations is hereby amended by the substitution of Annexure "B5-1" and Annexure "B5-2" for Annexure "B5-1" and Annexure "B5-2" as contained in Appendix A to these regulations."

Commencement

12. This amendment to the regulations will come into operation on publication in the Gazette.

ANNEXURE "A"

MINIMUM PARTICULARS TO BE IN APPLICATION FORM: ALL DEALERS EXCEPT SCRAP METAL DEALERS

1. PARTICULARS OF APPLICANT

- 1.1. Name
- 1.2. ID Number / Passport Number
- 1.3. Residential Address
- 1.4. Postal Address
- 1.5. Telephone numbers
- 1.6. e-Mail
- 1.7. SA Citizen
- 1.8. Disqualification (section 14)

2. PARTICULARS OF BUSINESS

- 2.1. Name of Business
- 2.2. Business Address
- 2.3. Postal Address
- 2.4. Telephone numbers
- 2.5. e-Mail
- 2.6. Registered as Company / Close Corporation / Trust /Business trust
- 2.7. Registered name
- 2.8. Trading name
- 2.9. Registration Number

3. RESPONSIBLE PERSON

- 3.1. Name
- 3.2. ID Number / Passport Number
- 3.3. Residential Address
- 3.4. Postal Address
- 3.5. Telephone numbers
- 3.6. e-Mail
- 3.7. SA Citizen

4. PERSON IN CONTROL OF/OR RESPONSIBLE FOR MANAGEMENT OF THE COMPANY, CLOSE CORPORATION, TRUST OR PARTNERS IN CASE OF A PARTNERSHIP

- 4.1. Name
- 4.2. ID Number / Passport Number
- 4.3. Residential Address
- 4.4. Postal Address
- 4.5. Telephone numbers
- 4.6. e-Mail
- 4.7. SA Citizen

5. MEMBERSHIP OF ACCREDITED ASSOCIATION

- 5.1. Name of Association
- 5.2. Accreditation Number
- 5.3. Responsible person
- 5.4. Office Address
- 5.5. Postal Address

- 5.6. Telephone numbers
- 5.7. e-Mail
- 5.8. Membership Number
- 5.9. Category of membership

6. PARTICULARS OF BUSINESS

- 6.1. General dealer
- 6.2. Auctioneer
- 6.3. Jeweller
- 6.4. Motor vehicle dealer

[6.5. Scrap metal dealer]

[6.6.] 6.5. Recycler

[6.7.] 6.6. Other

7. GOODS TO BE TRADED IN

- 7.1. Type of goods
- 7.2. Category
- 7.3. Business Hours

8. PREMISES

- 8.1. Type of premises
- 8.2. More than one premises
- 8.3. Floor plan
- 8.4. Recycling equipment

ANNEXURE "A1"

MINIMUM PARTICULARS TO BE IN APPLICATION FORM: SCRAP METAL DEALERS

1. PARTICULARS OF APPLICANT

- 1.1. Name
- 1.2. ID Number / Passport Number
- 1.3. Residential Address
- 1.4. Postal Address
- 1.5. Telephone numbers
- 1.6. e-Mail
- 1.7. SA Citizen
- 1.8. Disqualification (section 14)

2. PARTICULARS OF BUSINESS OF A SCRAP METAL DEALER

- 2.1. Name of Business
- 2.2. Business Address
- 2.3. Postal Address
- 2.4. Telephone numbers
- 2.5. e-Mail
- 2.6. Registered as Company / Close Corporation / Trust /Business trust
- 2.7. Registered name
- 2.8. Trading name
- 2.9. Registration Number
- 2.10 Identity numbers of every employee of the business

3. RESPONSIBLE PERSON

3.1. Name

3.2. ID Number / Passport Number

3.3. Residential Address

3.4. Postal Address

3.5. Telephone numbers

3.6. e-Mail

3.7. SA Citizen

4. PERSON IN CONTROL OF/OR RESPONSIBLE FOR MANAGEMENT OF THE COMPANY, CLOSE CORPORATION, TRUST OR PARTNERS IN CASE OF A PARTNERSHIP

4.1. Name

4.2. ID Number / Passport Number

4.3. Residential Address

4.4. Postal Address

4.5. Telephone numbers

4.6. e-Mail

4.7. SA Citizen

5. MEMBERSHIP OF ACCREDITED ASSOCIATION

5.1. Name of Association

5.2. Accreditation Number

5.3. Responsible person

5.4. Office Address

5.5. Postal Address

5.6. Telephone numbers

5.7. e-Mail

5.8. Membership Number

5.9. Category of membership

6. GOODS TO BE TRADED

6.1. List of the types of scrap metals which the scrap metal dealer intends to buy, sell, or buy and sell

6.2. Business Hours

7. PREMISES

7.1. Type of premises

7.2. More than one premises

7.3. Floor plan

7.4. Recycling equipment

ANNEXURE "B5-1"

REGISTER OF ACQUISITION: SCRAP METAL DEALERS

ACQUIRED FROM		FULL DESCRIPTION OF ITEM		PERSON CONDUCTING TRANSACTION ON BEHALF OF DEALER		DATE, TIME AND PRICE OF TRANSACTION		DATE ITEM SOLD AND MANNER DISPOSED OF	
Full names:		Weight/Tonnage:		Full names:		Date:		Date:	
Identity Number:		Type of Metal:		Identity Number:		Time:		Manner of Disposal:	
		Grade of Metal:							
Manner in which identity verified:		Full Description of Item:							
Contact Address:				Dealership Name:					
Telephone Number:									
Vehicle registration:						Total Price:			
Name of Business:						R			
Company registration number:		Photograph of goods:							
Photograph of Individual:		YES	NO						
Video of Individual:		YES	NO						
<p>In the event that the item is cable consisting of controlled metal of which the cover has been burnt, please provide an explanation by the seller for the burnt cover:</p>									
<p>In the event that the scrap is imported provide details of the import documentation including bill of entry and invoice number</p>									

ANNEXURE "B5-2"

REGISTER OF DISPOSAL: SCRAP METAL DEALERS

DISPOSED TO		WEIGHT AND FULL DESCRIPTION OF GOODS		PERSON CONDUCTING DISPOSAL TRANSACTION ON BEHALF OF DEALER		DATE, TIME AND PRICE OF TRANSACTION	
Full names:		Weight/Tonnage:		Full names:		Date:	
Identity Number:		Type of Metal:		Identity Number:		Time:	
Manner in which identity verified:		Grade of Metal:				Total Price:	
Name of Business:						R	
Business registration number:		Full Description of Item:					
Contact Address:				Unique Consignment Reference (UCR) [Export Only]:			
Telephone Number:							