



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 18 March 2005

No.3397

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## Proclamation

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by the

**PRESIDENT OF THE REPUBLIC OF NAMIBIA**

No. 1

2005

### ANNOUNCEMENT OF THE GRANTING OF PRESIDENTIAL PARDON OR REPRIEVE TO CERTAIN CATEGORIES OF OFFENDERS

In terms of Sub-Article (8) of Article 32 of the Namibian Constitution I announce that I, under the powers vested in me by Sub-Article (3)(d) of that Article and in commemoration of the fifteenth anniversary of the Independence of the Republic of Namibia, with effect from 20 March 2005 -

- (a) pardon offenders -
- (i) who are serving sentences of imprisonment and in respect of whom a conditional release on parole has been approved before that date;
  - (ii) who are serving sentences of imprisonment of six months or less and -
    - (aa) who have on that date served at least half of the sentence; or

- (bb) who have on that date not served at least half of the sentence, but subject to the condition that such pardon becomes effective only as from the date on which half of the sentence has been served;
- (iii) who are on that date 60 years of age or older, irrespective of the sentences of imprisonment that are being served by such offenders;
- (b) reprieve, in the case of offenders serving sentences of imprisonment of two years or less, but more than six months, any such sentence with a period of three months, on condition that -
  - (i) on that date at least half of the sentence has been served; or
  - (ii) if on that date at least half of the sentence has not been served, the reprieve becomes effective only as from the date on which half of the sentence has been served:

Provided that any such pardon or reprieve does not apply to any such offender if he or she -

- (i) is serving a sentence of imprisonment in respect of any of the following crimes:
  - (a) Treason;
  - (b) murder;
  - (c) rape;
  - (d) robbery with aggravating circumstances;
  - (e) housebreaking with aggravating circumstances;
  - (f) assault, where a dangerous wound was inflicted;
- (ii) has been convicted of any prison offence during the period 21 September 2004 to 20 March 2005;
- (iii) had been released under any previous presidential pardon or reprieve since Namibia's Independence and has again been convicted for any crime committed thereafter;
- (iv) has further charges pending on 20 March 2005;
- (v) had whilst previously released on parole violated the parole conditions by committing another offence while so on parole;
- (vi) had escaped from lawful custody and while at large committed an offence.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 14th day of March, Two Thousand and Five.

**SAM NUJOMA**  
**President**  
**BY ORDER OF THE PRESIDENT-IN-CABINET**

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# Government Notice

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## MINISTRY OF MINES AND ENERGY

No. 30

2005

### REGULATIONS ON THE FUNDING OF APPROVED AGENCIES: PETROLEUM PRODUCTS AND ENERGY ACT, 1990 (ACT NO. 13 OF 1990)

I hereby under section 19A of the Petroleum Products and Energy Act, 1990 (Act No. 13 of 1990) -

- (a) prescribe the regulations set out in the Schedule; and
- (b) withdraw the regulations promulgated under Government Notice No. 230 of 27 October 2004.

**DR NICKEY IYAMBO**  
**MINISTER OF MINES AND ENERGY**

Windhoek, 17 March 2005

### SCHEDULE

#### Definitions

1. In these regulations, unless the context otherwise indicates, a word or expression defined in the Act has the same meaning, and -

“applicant” includes a person tendering for a project, or identified by the Council under regulation 3;

“benefits” means the benefits in economic terms to be derived from any project;

“funding” includes any funding, contribution or any other type of financial assistance applied for or approved by the Council in relation to a project;

“project” means any project, or activity for or in connection with or relating to the purchase, acquisition, distribution, sale, saving, development, conservation, storage or utilisation of any energy source, or to research in connection with any energy source.

#### Application for funding

2. (1) Any institution of State, body or person, including any body corporate or association of persons, desiring to apply for approval as eligible for funding from the Fund in respect of a project or activity may do so by duly completing the Form contained in Annexure A and lodging such application with the Council together with the information referred to in subregulation (2).

- (2) An application referred to in subregulation (1) must be accompanied by -
  - (a) full details of the proposed project, including the energy source to which the project relates and a summary of the nature of the project;
  - (b) the projected duration of the project;
  - (c) a detailed proposed budget for the project, and where the duration of a project is anticipated to extend over more than one financial year of the Fund, the budget must clearly indicate the amounts to be expended with regard to each financial year or part thereof;

- (d) sufficient descriptive information to demonstrate the net benefits of the project for the specific energy source to which the project relates;
- (e) the amount and nature of funding applied for from the Fund;
- (f) the proposed outputs of the project and, where applicable and possible, the time during the project at which the outputs would be delivered;
- (g) any insurance coverage or guarantee to be provided by the applicant;
- (h) any other financial assistance available to or at the disposal of the applicant for purposes of such project;
- (i) the estimated value of assets, equipment, human resources and other resources which would be available for use in connection with such project and which may affect the amount of funding required;
- (j) any other factors which may affect the implementation of the proposed project and the measures to be taken to mitigate the effects of such factors;
- (k) such additional information as the Council may require.

(3) The Council may request an applicant to provide supplementary or supportive particulars with regard to any matter referred to in subregulation (2).

(4) The Council may determine the form of and the information to be included in the budget referred to in subregulation (2)(c).

#### **Funding on initiative of Minister**

3. (1) The Minister may request the Council to identify to him or her any institution of State, body or person, including any body corporate or association of persons for funding from the Fund in respect of a project which the Minister proposed to be funded from the Fund or the Minister may do so on his or her own initiative.

(2) Where the Council, under subregulation (1), has identified an institution, body or person, the Council must investigate and assess the proposed project to estimate the net benefits and outputs of the project for the sector to which the project relates and submit a report to the Minister together with full details of the project and estimate of the anticipated cost thereof for approval.

(3) If the Minister approves a project but does not approve the institution, body or person identified by the Council, the Council may -

- (a) call interested institutions, bodies or persons to take up the approved project by way of public tender;
- (b) identify a specific institution, body or person that possesses the necessary and relevant expertise and ability to undertake the project.

(4) In calling for public tender referred to in subregulation (3)(a) and considering the awarding of such tender, the Council must act in a transparent manner and may not unduly discriminate against any institution, body or person.

(5) Any institution, body or person identified under subregulation (1) or (3)(b), or tendering for a proposed project under subregulation (3)(a), must submit to the Council the applicable information referred to in regulation 2(2).

#### **Assessment of projects for funding**

4. (1) In determining if a project should be funded and the amount and nature of funding to be made available for a project under regulation 2 the Council must take into consideration the information referred to in regulation 2, in so far as it is applicable, and -

- (a) the proposed net benefits and outputs to be derived from the project for the energy sector in question and whether such benefits and outputs are economically justifiable in view of the amount of funding to be made available;
  - (b) the availability of funds as contemplated in section 11(1) of the Act;
  - (c) the amount of funding to be made available in respect of every project during that financial year;
  - (d) the avoidance of substantial increases in levies or the introduction of new levies in one year;
  - (e) the maintenance of a reasonable stability in energy levies; and
  - (f) benefits or any other advantages of the proposed project for previously disadvantaged communities or persons.
- (2) In assessing a project for funding, the Council -
- (a) must consult with such persons as the Minister may determine;
  - (b) may consult with such persons as the Council may consider necessary,

and may further invite any person to a meeting of the Council with a view to such person clarifying aspects of the project and must act in a transparent manner.

#### **Consideration of application for funding**

5. (1) The Minister may, after consideration of any application made in terms of regulation 2, approve such application, with or without amendments, or reject such application.

(2) Where the Minister rejects an application he or she must provide the applicant with written reasons for such rejection.

#### **General conditions applicable to funding of approved agencies**

6. The following general conditions apply to all projects funded in terms of these regulations, namely -

- (a) except with the prior written permission of the Council, money acquired from the Fund for a project may only be expended in accordance with the budget of the approved project;
- (b) any amount of money acquired from the Fund for a project which is to be repaid, and which is not repaid on the due date shall be subject to the payment of interest on the amount so due;
- (c) there shall be periodic reporting on a project at such intervals as may be determined by the Council and in the form determined by the Council; and
- (d) all books of account relating to the project may be inspected by the Council at such intervals and in such manner as the Council may determine.

#### **Duties of Council with regard to projects**

7. (1) The Council shall oversee all projects funded from the Fund and shall ensure that money from the Fund is expended in accordance with the budget of the approved project.

(2) The Council shall review all projects funded from the Fund after their completion in order to determine whether the proposed net benefits and outputs have been realised.

(3) All records received by or produced by the Council in terms of these regulations shall be retained by the Council for a period of five years before such records are disposed of.

### **Recovery of money**

**8.** (1) The Council may, by notice in writing, require any institution, body or person to which or to whom money was paid from the Fund to repay, within the period specified in the notice, any amount so paid, if the Council is satisfied that there was an overpayment or that money was for any reason wrongly paid to such institution, body or person.

(2) The Council may, by notice in writing, require an approved agency to pay to the Council, within the period specified in the notice, an amount equal to the amount of the money paid or payable under these regulations in respect of a project if the approved agency has acted in breach of a condition applicable to approved agency or in breach of an agreement between the Council and approved agency.

(3) An amount payable to the Fund under this regulation may be recovered by the Permanent Secretary: Mines and Energy, as a debt due to the Fund, in any court of competent jurisdiction.

### **Short title**

**9.** These regulations are called the Regulations on the Funding of Approved Agencies, 2005.

**ANNEXURE A**

**FORM FAA/1**

**MINISTRY OF MINES AND ENERGY**

**PETROLEUM PRODUCTS AND ENERGY ACT, 1990  
REGULATIONS ON THE FUNDING OF APPROVED AGENCIES, 2005**

**APPLICATION FOR FUNDING  
(Regulation 2(1))**

*(Please note that where form is completed by hand it must be completed in block letters and that all information requested in terms of regulation 2(2) must be attached)*

1. Full name of applicant .....

*Note: In the event of application being made by a body corporate or a partnership, the name and capacity of the person who makes the application on behalf of the body corporate or partnership must be stated .....*

2. Postal address .....

3. Physical address .....

4. Telephone No. (including code) .....

5. Facsimile No. (including code) .....

6. E-mail (if any) .....

7. ID No/Passport No/Permanent Residence Permit No/Work Permit No/Registration No of Corporate Body\*

*(\*Delete whichever is not applicable)*

8. In the case of a body corporate or partnership, the following information regarding manager/managing director/CEO\* must be provided:

Full name: .....

Position: .....

ID No/Passport No/Citizenship/Permanent Residence Permit No/Work Permit No\*: .....

*(\*Delete whichever is not applicable)*

9. *In the case of a body corporate or partnership, full details of all directors, nature of shareholding, other partners or members, as the case may be, must be provided as set out in Form FAA/1A contained in Annexure B and must be attached to this application*

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10. *Address of registered office in Namibia* .....

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11. *In the case of a body corporate, provide name, registration number and country of registration, of all holding and subsidiary companies as defined in the Companies Act, 2004 (Act No. 28 of 2004)* .....

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**DECLARATION**

I, ....., hereby declare that the information submitted by me in this application is true and correct to the best of my knowledge and belief.

.....  
*Signature*

.....  
*Place*

.....  
*Date*

**ANNEXURE B****FORM FAA/IA**

**DETAILS OF DIRECTORS, OTHER PARTNERS OR MEMBERS,  
AS THE CASE MAY BE, OF APPLICANT**

No.	Name	Capacity (e.g. director, partner, etc)	ID/Passport Number	Citizenship	Postal and Residential Address	Telephone and Fax Numbers
1.						
2.						
3.						

4.							
5.							
6.							
7.							

Note: Attached further pages if necessary

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