

**PETROLEUM PRODUCTS ACT, 1977****REGULATIONS REGARDING PETROLEUM PRODUCTS MANUFACTURING LICENCES**

The Minister of Minerals and Energy has under sections 2B, 2D, 2E and 12C(1) of the Petroleum Products Act, 1977 made the regulations in the Schedule.

**SCHEDULE****ARRANGEMENT OF REGULATIONS**

Definitions.....	2
Scope of regulation .....	3
Application for a manufacturing licence.....	3
Conditions of a manufacturing licence .....	6
Transfer of manufacturing licence .....	8
Temporary manufacturing licences.....	8
Unsuccessful applications for a licence .....	8
Amendment of licence .....	8
Application for duplicate licence .....	9
Surrender, suspension and termination of licence .....	9
Controller to make decision within reasonable time .....	10
Appeals .....	11
False Declarations .....	11
Licence Fees .....	11
Additional Information .....	11
Publication of data by the Controller .....	12
ANNEXURE A .....	13
APPLICATION FORM .....	13
ANNEXURE B .....	14
DOCUMENTS TO BE SUBMITTED WITH AN APPLICATION FOR A <b>MANUFACTURING LICENCE</b> .....	14
ANNEXURE C .....	16
APPLICATION AND LICENCE <b>FEE</b> S .....	16
Annexure D .....	18

## Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context indicates otherwise -

“**accounting officer**” means an accounting officer as defined in the Close Corporations Act (Act No. 69 of 1984);

“**auditor**” means a person registered as an auditor in terms of the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991);

“**certified copy**” means a photocopy of an original document that has been-

(a) attested as a true copy of the original and is marked with the words “original seen” or “true copy of original document”; and

(b) signed and stamped by a attorney, a notary public, a police officer, a chartered accountant, or a certified accountant, and where the stamp includes the competent person’s capacity, physical address and licence number, if applicable;

“**Charter**” means the Charter in Schedule 1 of the Act;

“**Controller**” means the Controller of ‘Petroleum Products as contemplated in Section 3(1) of the Act;

“**declaration**” means an affidavit, affirmation or solemn or attested declaration made before a commissioner of oaths as contemplated in the Justices of the Peace and Commissioners Oath Act 1963, (Act No. 16 of 1963);

“**manufacturer**” means the manufacturer of prescribed petroleum products;

“**prescribed petroleum products**” refers to petroleum, diesel, illuminating paraffin, liquefied petroleum gas used for the propulsion of vehicles on public roads, jet fuel and aviation gasoline.

“**temporary licence**” means a licence issued in terms of Section 2B(5) of the Act;

“**the Act**” means the Petroleum Products Act 1977, (Act No. 120 of 1977), as amended;

## Scope of regulation

- 1 This Regulation applies to manufacturing licences;

## Application for a manufacturing licence

- 2 Application for licence in respect of manufacturing activities that qualifies in terms of section 2D of Act
  - (1) Any person manufacturing prescribed petroleum products in terms of Section 2D of the Act, must –
    - (a) apply to the Controller for a manufacturing licence by completing the application form contained in Annexure A; and
    - (b) lodge that application with the Controller together with the documents specified in Annexure B;
  - (2) A manufacturing licence contemplated in Sub regulation 2(1) above may not be issued before the applicant has paid the application fee specified in Annexure C, into a Bank account stipulated in this regulation;
- 3 Application for licence in respect of manufacturing activities that do not qualify in terms of section 2D of the Act, except in the case of applications contemplated in regulation 5 (3), shall be such that:
  - (1) Any person who does not qualify in terms of Section 2D of the Act must –
    - (a) apply to the Controller for a manufacturing licence by completing the form contained in Annexure A; and
    - (b) lodge that application with the Controller together with the documents specified in Annexure B.
  - (2) A manufacturing licence contemplated in sub regulation 2(1) above may not be issued before the applicant has paid the application fee specified in Annexure C, into a Bank account stipulated in this Regulation.

4 Evaluation procedure for the Manufacturing licence contemplated in Regulation 3 above

- (1) In evaluating the manufacturing licence application, the Controller must be satisfied that –
  - (a) the application form has been completed in full;
  - (b) all the documents specified in Annexure B have been submitted with the application form; and
  - (c) the applicant is the owner of the property, or has the written permission of the owner of the property on which the manufacturing facility to be located;

5 .Application procedures for manufacturing licences that may arise out of a need, identify by the State, for additional manufacturing capacity within the Republic of South Africa

- (1) In the event that a proven need has been identified, the following application procedure must be applied -
  - (a) an invitation to submit bids for a licence to manufacture petroleum products must be gazetted;
  - (b) the bids must be lodged with the Controller on or before the due date specify;
  - (c) the applicant must fully complete the application form;
  - (d) all the documents specified in Annexure B must be submitted with the application form;
  - (e) the applicant must be the owner of the property, or must have the written permission of the owner of the property on which the manufacturing facility is to be located:

6 Evaluation Procedures for the bids contemplated in Regulation 5 above

- (1) The bids contemplated in subregulation 5(1)(a) must be evaluated by a committee including representatives of the Departments of Minerals and Energy, Trade and Industry, Environmental Affairs & Tourism;

- 
- (2) The bids must be evaluated in manner that promotes-
- (a) the objectives set out in sections 2B and 2C of the Act;
  - (b) coastal refining and petrochemicals hub;
  - (c) government's broader economic development plans with respect to but not limited to location, size and effect on distribution network;
  - (d) New Economic Partnership for African Development and regional development objectives;
  - (e) security of supply;
- (3) The Committee evaluating the bids must make a recommendation to the Controller
- 7 An applicant for a manufacturing licence who does not qualify in terms of section 2D of the Act, must provide proof of payment for any other monies due, by any other Act or regulations for the purposes of rehabilitating the site upon the cessation of licensed manufacturing activities, before the manufacturing licence is issued;
- 8 A person involved in a manufacturing activity that does not qualify in terms of section 2D of the Act, may only be issued with a manufacturing licence once the Controller is satisfied that the manufacturing activity will
- (1) bring benefits to the area in which it is to be located; and
  - (2) all the parties that will be affected by the manufacturing activity are given an opportunity to present their views;
  - (3) There is a 25% HDSA participation in the Manufacturing facility in accordance with the Charter or plans to achieve that by 2010.
- 9 If the Controller is satisfied that an application for a licence meets the requirements of the Act and this Regulation, the Controller must then issue the licence for which such application has been made;

**10** A manufacturing licence must specify –

- (1) the name of the licensee;
- (2) the identity number or company registration number of the licensee;
- (3) the location of the manufacturing facility;
- (4) the licence number;
- (5) the total capacity of the manufacturing facility in barrels per day or equivalent thereof;
- (6) the date of issue of the licence; and
- (7) the Controller's signature;

**Conditions of a manufacturing licence****11** It shall be a condition of a manufacturing licence that licensees must –

- (1) only manufacture petroleum products within the capacity they are licensed;
- (2) only sell prescribed petroleum products, in the Republic of South Africa to –
  - (a) licensed wholesalers; and
  - (b) licensed retailers;
- (3) if so instructed, submit to the Controller, information –
  - (a) necessary for the regulating of prescribed petroleum products, within the period specified in the instruction;
  - (b) on prescribed petroleum products sold during the month and petroleum products and crude oil stored at month end, by a date specified in the instruction;
  - (c) in respect of progress in complying with the objectives of the Charter in a manner prescribed;
- (4) comply with the Charter by 2010;
- (5) before 28 February of each year, submit to the Controller the following information in respect of the previous calendar year –
  - (a) volumes of each prescribed petroleum product supplied to licensed wholesalers and retailers;

- (b) volumes of each prescribed petroleum products manufactured during the year;
- (c) volumes of each prescribed petroleum product-
  - (i) purchased from licenced wholesalers; and
  - (ii) imported and exported;
- (d) stocks of each petroleum product on hand on the last day of each year;
- (e) information in respect of progress in complying with the objectives of the Charter; and
- (9) an auditor's opinion on whether or not the licensed manufacturer is a going concern in a manner prescribed;

- (6) comply with the provisions of the fuel specifications in accordance with regulations contemplated in Section 12C(1)(e) of the Act
- (7) if so directed by the Controller, desist from supplying petroleum products to a licensed wholesaler or retailer, that is not in compliance with the Act or the conditions of its wholesaler or retail licence;
- (8) inform the Controller, in writing, of any change of address or telephone number within 30 days of the relevant change taking effect;
- (9) pay the annual licence fee determined in Annexure C before the anniversary of the date of issue of the licence;
- (10) when selling prescribed petroleum products, declare to the buyer, in writing, which, if any, regulated specifications, the petroleum products concerned comply with;
- (11) before installing new or additional capacity -
  - (a) apply by completing the application form in Annexure A and lodge it with the Controller;
  - (b) provide reasons and motivation for installing new or additional capacity;

### **Transfer of manufacturing licence**

12 A manufacturing licence may be transferred upon application to the Controller by completing the licence transfer form contained in Annexure D and stating the reasons for transfer therein;

### **Temporary manufacturing licences**

13 An application for a temporary manufacturing licence must –

- (1) only be made in respect of a manufacturing facility that has previously been a licensed manufacturing facility;
- (2) be made to the Controller by completing the form contained in Annexure A;
- (3) set out the reasons and a motivation for the application;
- (4) state the reasons why the applicant is the appropriate person to be issued a temporary licence;
- (5) be accompanied by a certified copy of the applicant's identity document if the applicant is an individual;
- (6) be accompanied by a certified copy of its registration documents, if the applicant is a corporate entity, trust or body other than an individual;

14 The Controller may set special conditions for a temporary manufacturing licence according to the circumstances, including its period of validity, which shall not be longer than six months;

15 The Controller must notify the applicant for a temporary licence in writing of the outcome of their application within 30 days of receiving the application;

### **Unsuccessful applications for a licence**

16 If the Controller declines to issue a licence, the applicant must be informed of that decision in writing;

### **Amendment of licence**

17 A licensee may apply, in writing, to the Controller for a licence to be amended by-

- (1) specifying the amendment sought; and
- (2) setting out the reasons for the amendment sought.



### **Application for duplicate licence**

18 In the event that a licence has been lost, damaged or destroyed the licensee must apply to the Controller for a duplicate thereof;

19 An application contemplated in Regulation 17 must be accompanied by –

- (1) a certified copy of the applicant's identity document if the applicant is an individual;
- (2) a certified copy of its registration documents, if the applicant is a corporate entity, trust or body other than an individual;
- (3) the license number of the licence that has been lost, damaged or destroyed; and
- (4) the duplicate licence application fee as specified in Annexure C;

### **Surrender, suspension and termination of licence**

20 A licensee may at any time, by written notice, surrender a licence to the Controller;

21 If a licensee fails to comply with any provision of the Act or these regulations, or any condition of a licence, or contravenes any such provision or condition, the Controller may, notwithstanding any other penalty which may be imposed under the Act or any other law, and subject to Regulation 22, terminate the licence;

22 The Controller may not terminate a licence unless –

- (1) the licensee has been informed in writing of the intention to terminate or suspend such licence by–
  - (a) setting out the particulars of such failure or contravention; and
  - (b) calling upon the licensee to make representations to the Controller that may be necessary, within 30 days after the date of that notice;

- (2) the Controller has considered -
- (a) any steps taken by the licensee to remedy the failure or contravention concerned or to prevent any such failure or contravention from being repeated; and
  - (b) any other relevant matters submitted by way of representations contemplated in subregulation (1)(a);

23 A licence ceases to be valid if -

- (1) the licence is surrendered;
- (2) the licence is terminated by the Controller; or
- (3) the licensee fails to comply with the conditions of the licence and does not remedy that within the time period specified by the Controller.

24 **If** a licence has ceased to be valid, the licensee must surrender the licence to the Controller within a period of **14** days from the date of receipt of the notification to that effect.

Controller to make **decision** within reasonable time

25 A decision by the Controller as required by these regulations must be made **within** a reasonable period of time taking into account -

- (1) the nature of the decision required;
- (2) compliance, by the applicant, with regulations 2; 4 and 5 above
- (3) provided that if a decision regarding an application for a licence is not made **within** a period of 90 days after the lodging **of** that application, the Controller must furnish, within **15** days, if **so** required in writing by the applicant, reasons for the delay, and thereafter shall take such decision within 60 days;

26 Any decision made by the Controller under these regulations must be conveyed in writing, accompanied by reasons thereof, to the applicant;

### Appeals

27 The Minister must consider and make a finding in respect of an appeal lodged pursuant to section 12A of the Act within 90 days from the date of receipt thereof;

### False Declarations

28 If it is proved to the satisfaction of the Controller that any person made a false declaration, the Controller may revoke or amend any decision or the award of any licence that was influenced by such false declaration.

### Licence Fees

29 A licensee must pay the annual licence fee specified in Annexure C before the anniversary date of the licence;

30 Payment of an annual manufacturing licence fee must be accompanied by the licence number of the manufacturing licence concerned;

### Additional Information

31 The Controller may request additional information, from an applicant, that may be necessary to enable the Controller to make a decision regarding the granting of a licence provided that such information is limited to information in substantiation of or in substitution for any –

- (1) declaration made by an applicant;
- (2) information required by the Controller and not provided by the applicant; and
- (3) reasons provided to the Controller pursuant to Regulation 22;

32 In such circumstances, Regulation 25 will only start to apply once the Controller has received the information contemplated in Regulation 31;

### Publication of data by the Controller

33 The Controller must, in March of each year, publish data on the number of –

- (1) valid manufacturing licences;
- (2) valid manufacturing licences held by historically disadvantaged South Africans;
- (3) new manufacturing licences issued;
- (4) suspended, terminated or surrendered manufacturing licences;

in the preceding calendar year;

34 The Controller shall maintain, at its place of business and on its website, a register of all licensed manufacturers, which must include the name, address, licence number of the manufacturer and the petroleum products the licensee is licensed to manufacture.

**ANNEXURE A**  
**APPLICATION FORM**

**ANNEXURE B****DOCUMENTS TO BE SUBMITTED WITH AN APPLICATION FOR A MANUFACTURING LICENCE**

An application for a manufacturing licence must be accompanied by –

- (a) a certified copy of the title deed of the property on which the manufacturing facility is located or is proposed to be located and if applicable, **the written permission of the owner of the property on which the manufacturing facility is located** or is proposed to be located;
- (b) a certified copy of the applicant's identity document and, in the case of a non-South African citizen, a permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be;
- (c) a certified copy of its registration documents, if the applicant is a corporate entity or a trust;
- (d) a certified copy of the Certificate of Incorporation (CM1) if the applicant is a company;
- (e) a certified copy of the Certificate of Incorporation (CK1) if the applicant is a close corporation;
- (f) proof of payment for any other monies due, by any other Act or regulations for the purposes of rehabilitating the site upon the cessation of licensed manufacturing activities;
- (g) a declaration by the applicant giving reasons why any certified copy required in this Annexure is not provided.
- (h) a declaration by the applicant that it is in compliance with the Charter or a statement of its plans to meet the requirements of the Charter.
- (i) certified copies of -
  - (i) the land use zoning certificate issued by a competent authority, authorising the manufacturing activity on the site;
  - (ii) the Record of Decision of the environmental authorities in accordance with the Environmental Conservation Act, 1989 permitting manufacturing operations on the site or a copy of a similar approval by an environmental authority or competent authority

- (iii) Tax clearance certificate of the latest year preceding the date of application.
- (j) a declaration by the applicant that it is in compliance with all national, provincial and local government legal requirements that are in force at the time the application is made.
- (k) declarations by ~~two~~ independent technical experts appointed by the applicant, that have been approved, in advance, by the Controller stating the production capability of the manufacturing facility, ~~or~~ if not yet constructed, will have, to manufacture each type of petroleum product;

**ANNEXURE C****APPLICATION AND LICENCE FEES**

Manufacturing licence application fee in respect of a manufacturing facility that qualifies in terms of section 2D of the Act	<b>R 1,000</b>
Manufacturing licence application fee in respect of a manufacturing facility that does not qualify in terms of section 2D of the Act in respect of prescribed petroleum products manufactured from any hydrocarbon including petroleum, crude oil, natural gas, natural gas liquids, or coal or any combination thereof	<b>R10 000</b>
Annual manufacturing licence fee in respect of petroleum products manufactured from any hydrocarbon including petroleum, crude oil, natural gas, natural gas liquids, or coal or any combination thereof	<b>R5 000</b>
Annual manufacturing licence fee in respect of petroleum	<b>R 500</b>



---

products manufactured from other raw materials	
Duplicate licence application fee	R500

Payment must be by direct deposit to the following account –

Account holder: Department of Minerals and Energy Petroleum Products

Bank: ????????

Account Number: ??????

Branch Code: ?????

**Annexure D**

- (a) be accompanied by a certified copy of the transferee's identity document if the transferee is an individual;**
- (b) be accompanied by a certified copy of the transferee's registration documents, if the transferee is a corporate entity, trust or body other than an individual.**



**the dme**

Department:  
Minerals and Energy  
REPUBLIC OF SOUTH AFRICA

**APPLICATION MANUFACTURING LICENSE**  
**PETROLEUM PRODUCTS ACT 120 OF 1977 AS AMENDED - PETROLEUM PRODUCTS REGULATIONS 2005**

<p><b>INSTRUCTIONS</b></p> <p>1. Read Regulation before completing this application form.</p> <p>2. Use capital letters and where applicable mark with a <input checked="" type="checkbox"/>.</p>	<p><b>OFFICIAL USE ONLY</b></p> <p><b>MANUFACTURING LICENCE NUMBER</b></p> <table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>										

**SECTION 1: APPLICANT'S DETAILS**

<b>REGISTERED NAME IN FULL</b>	
<b>TRADING NAME IN FULL</b>	
<b>POSTAL ADDRESS OF REGISTERED OFFICE</b>	
<b>POSTAL CODE</b>	
<b>PHYSICAL ADDRESS OF REGISTERED OFFICE</b>	
<b>POSTAL CODE</b>	
<b>TEL NO. (BUSINESS)</b>	
<b>MOBILE PHONE NUMBER</b>	
<b>FAX NO.</b>	





**DOCUMENTS TO BE ATTACHED WITH THIS APPLICATION FOR MANUFACTURING LICENCE**

<p>1. A <b>certified</b> copy of the applicant's identity document and, in the case of a non- South African citizen, permanent residence permit or employment permit and proof of residence in <b>South Africa</b>, or <b>proof</b> of domicile in South Africa, <b>as</b> the case may be</p>
<p>2. <b>If</b> the applicant is a corporate entity or a trust, a certified <b>copy of</b> registration documents.</p>
<p>3. A <b>certified copy</b> of the land use-zoning certificate issued by the competent authority.</p>
<p>4. A <b>certified copy of</b> the Record of Decision of the relevant environmental authorities <b>in accordance</b> with the Environment Conservation Act (Act No. 73 of 1989) permitting <b>retail</b> operations, if applicable.</p>
<p>5. A <b>certified</b> copy of the title deed to the property the applicant seeks to have licenced <b>as</b> a site or <b>in the</b> case of publicly owned <b>property</b> the written permission of the <b>landowner</b>.</p>
<p>6. <b>If the proposed</b> Manufacturing Facility allows direct <b>access</b> by vehicles to a national road, a <b>certified copy of</b> the permission given by the Relevant <b>Roads</b> Authority.</p>
<p>7. A <b>certified copy</b> of a declaration by the applicant stating that he/she/it is in compliance with all <b>national provincial</b> and local government legal requirements.</p>
<p>8. <b>Declaration</b> by the applicant that it is in compliance with the charter or detailed plans or how <b>they</b> will meet <b>the</b> requirements of the charter by 2010.</p>
<p>9. Provide proof of payment of <b>any</b> monies paid for the <b>purposes of</b> rehabilitating a site upon the <b>cessation</b> of manufacturing activities.</p>
<p>10. <b>If necessary</b>, a certified copy of a declaration by the applicant giving reasons why any certified <b>copy</b> required is <b>not</b> provided.</p>
<p>11. Tax <b>clearance</b> certificate <b>of</b> the latest year preceding <b>the</b> date of application.</p>

**DECLARATION**

I (full names) ..... hereby declare that all information provided herein is within my personal knowledge true and correct

Signed at ..... (place) on this ..... day of ..... (month) ..... (year)

.....  
Signature

I certify that the deponent:

- (a) has acknowledged that he knows and understand the contents of this application form and ~~is~~ annexures, that he has no objection to taking the prescribed oath and that he considers the oath binding on his conscience; and
- (b) has in the prescribed manner sworn that the contents of **this** application form and its annuexures are true and signed same **before** me at ..... (place) on this .....day of .....(month) ..... (year).

\_\_\_\_\_  
**COMMISSIONER OF OATHS**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Capacity: \_\_\_\_\_

**NOTE:** If this application form is completed electronically it must be printed out, signed and submitted with the necessary supporting documents to the address below.

**Submit this form to:-**

**Controller of Petroleum Products  
Department of Minerals and Energy  
Private Bag X59  
Pretoria  
0001**

**Or**

**Controller of Petroleum Products  
Department of Minerals and Energy  
Mineralia Centre  
234 Visagie Street  
Pretoria  
0001**

**Enquiries**

Contact: Director Petroleum and Gas Regulation

Contact No.: (012) 317 8648

Fax No.: (012) 322 8570

E-Mail: [petroleum.controller@dme.gov.za](mailto:petroleum.controller@dme.gov.za)