

DEPARTMENT OF WATER AND SANITATION

NO. 6393

4 July 2025

NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)**TERMS OF REFERENCE ON THE ESTABLISHMENT OF MINISTERS
ADVISORY COMMITTEE ON WATER SECTOR ECONOMIC
REGULATION**

Whereas, in terms of Section 99 read with section 100 of the National Water Act, 1998 (Act No. 36 of 1998) and section 76 of the Water Services Act (Act No. 108 of 1997) I Pemmy Majodina, Minister of Water and Sanitation, duly authorised hereby establishes an Advisory Committee on Water Sector Economic Regulation and develops Terms of Reference providing for duties, membership and powers of the committee.

Accordingly, the Department hereby invites suitably qualified individuals and organisations to express their interest in serving on this Advisory Committee.

**MISS PEMMY C.P. MAJODINA, MP****MINISTER OF WATER AND SANITATION****DATE:** 02 | 06 | 2025

SCHEDULE

1. DEFINITIONS:

In this Notice, a word or expression to which a meaning has been assigned in the Act bears the meaning so assigned. Unless the context otherwise indicates.

“Committee” means the Minister’s Advisory Committee on Water Sector Economic Regulation.

“Department” means the Department of Water and Sanitation.

“DG” means the Director General of the Department responsible for Water and Sanitation; and

“Minister” means the Minister as defined in the National Water Act and Water Services Act.

“Post graduate qualifications” means a qualification higher than a degree or equivalent to NQF level 8

2. Establishment of Advisory Committee

The Minister hereby establishes an Advisory Committee to be known as the "Water Sector Economic Regulation Committee" (hereinafter referred to as "the Advisory Committee". The Committee shall serve as a panel of experts to the Minister.

3. Purpose and Functions of the Committee

- (1) The purpose and functions of the Committee shall be to advise the Minister on matters of the economic regulation relating to the following:
- (a) the establishment of an Independent Economic Regulator
 - (b) monitoring compliance to norms and standards and a pricing strategy to guide water use institutions in determining water services tariffs and water use charges;
 - (c) reviewing and assessing the fairness of tariffs determined from the norms and standards and the pricing strategy;
 - (d) developing standards and monitor the quality of water service provision;
 - (e) investigating abuse of monopoly power and improve competitive practices;
 - (f) monitoring of water supply contracts in terms of Section 19(5) of Water Services and any other water related contracts
 - (g) publishing regulatory performance reports and technical studies relating to economic and social regulation annually;
 - (h) dispute resolution
 - (i) promoting consumer survey studies and corrective actions

4. Powers

- (a) collaborative networks with international/national institutions
- (b) The Committee shall have the power to recommend on the regulatory findings to the Minister.
- (c) the Committee shall have no decision-making powers to bind the Minister, other than to report on its findings to the Minister
- (d) the Committee does not have the power to intervene directly with Water Management Institution or Water Services Institutions but through the Chief Directorate: Economic and Social Regulation.

- (e) the Committee is not a juristic person and, therefore, does not have any powers to enter into any form of a contract.

5. Membership

- (a) the Committee shall comprise of eleven (11) members; constituted by ten (10) panel experts in the required fields, (who are appointed by the Minister and are not employees of the Department) and the Chief Director responsible for Economic and Social Regulation.
- (b) Committee structure will constitute:-
- i. Chairperson
 - ii. Deputy Chairperson
 - iii. Seven ordinary Members
 - iv. Secretariat
 - v. Official of the Department who is an Ex-Officio member of the Committee and has voting rights to resolve impasse as and when it happens.
- (c) each member of the Advisory Committee is appointed for a term of two years.
- (d) in selecting members of the Committee, the Minister must, among other things, consider the need for representation by previously disadvantaged persons due to past racial, gender, regional representation and any other form of discrimination.
- (e) the committee's contract is not linked to the Ministers term of office.

6. Required Expertise

- (1) Members of the Committee shall possess proven skills, knowledge, and experience necessary for the efficient and effective performance of the committee's duties, particularly in the field of:

No	Field	Background	Number of Posts
1	Post graduate qualification in Economics or similar field	Regulatory expert with strong skills in Economic and Social Regulation	3
2	Post graduate qualification in Accounting, Registered as Chartered Accountant	Expertise in financial modelling, regulatory accounting systems and corporate and project finance	1
3	LLB and registered as an Attorney or Advocate	Experience in interpretation of legislation, litigation and legal drafting (administrative law)	1
4	Post graduate qualification in Natural sciences, scientific and research	Experience or understanding of the water sector will be advantageous (Infrastructure development, Operation and Maintenance)	1
5	Post graduate qualification in Development or Social studies	Understanding of the government water pro poor policies in relation to water	1
6	Post graduate qualification in Information	Experience in technology and tools used in the infrastructure sector with preference in the water sector	1

No	Field	Background	Number of Posts
	Technology or Business Processes Including Knowledge Management		
7	Post graduate qualification in Engineering	Experience in the engineering field of the water sector will be advantageous.	1
8	Secretariate: Post graduate qualification in Public Administration/ Management/ Governance, Finance related qualification	Previous experience in rendering administration functions in a Regulatory Institution, Board or Committee.	1
9	Ex officio member		1
Total			11

- (2) Minimum of 5 years sectoral expertise
- (3) Regulatory experience will serve as an added advantage.
- (4) Previous experience as a member of Board

7. Procedure for nomination and appointment of Committee Members

- (1) The Department must publish a notice calling for nominations of members of the committee in two national media platforms
- (2) A notice must set out in general terms, at least-
 - (a) the activities of the Committee:

- (b) the term of office for which the appointments are considered:
 - (c) the requirements with which a nomination must comply
 - (d) the closing date for nominations: and
 - (e) the address to which nominations must be delivered.
- (3) The Minister will appoint the selection panel to recommend people for appointments as members of the Committee.
- (4) Every nomination of a person for appointment to a committee member must be signed by a proposer and a seconder. None of whom may be the nominee and must contain the nominee's signed acceptance. No person may nominate or second more than one person.
- (5) The Minister must, before appointing a person to be a member of the Committee, consider any recommendations made by a selection panel.
- (6) If the Committee member resigns, dies or is removed, the replacement appointment will be sourced from the pool of previous applications.

8. Exclusions, termination and removal of a member from the Committee

- (1) The Minister may remove a member from serving on the Committee on the following grounds:
- (a) if a member has been convicted of any offence involving dishonesty or has been sentenced to imprisonment without the option of a fine.
 - (b) if a member has been declared to be of unsound mind by a competent authority.
 - (c) if a member fails to disclose a conflict of interest as required by applicable regulations.

- (d) if the nominated member renders a professional service provision or is contracted to the Department for any other regulatory services which may be related to the functions of ESR
 - (e) if a member is an employee of the Department or board member of any Water Sector Entities
 - (f) any person who was declared unfit to hold public office.
 - (g) if a member is an office-bearer of any party, movement, organisation or body of a political nature;
 - (h) if a member is an un-rehabilitated insolvent;
- (2) The Minister shall consider any representations made before making a final decision on the removal of a member from the Committee.
- (3) A member of the Advisory Committee ceases to hold office:-
- (a) from the effective date of his or her resignation/removal;
 - (b) if he or she has been absent for more than three consecutive meetings without leave of the chairperson. Leave may be granted retrospectively, if the absence of a member was due to unforeseen circumstances;
 - (c) if he or she has been declared to be of unsound mind by a competent authority
- (4) An ordinary member and the Deputy Chairperson of the Committee must notify the Chairperson in writing of their resignation.
- (5) The Chairperson must notify the Minister in writing of their resignation.

9. Operational Obligations of the Committee

- (1) The Committee shall meet quarterly.
- (2) The Committee may establish sub-committees that may meet more often according to work requirements, as per section 11 below.
- (3) A quorum of the Committee is constituted by attendance at a meeting,

either virtually or in person, by at least 70% of its members.

- (4) Should the Committee's secretariat not be available/resign, the Department may provide secretariat and other administrative services to the Committee in the interim.

10. Remuneration

- (1) The members of the Committee may be remunerated as directed by the Minister in line with the concurrence of the Minister of Finance through the DPSA determined rates.
- (2) Remuneration of the Committee is a performance-based and will be remunerated in accordance with the timesheet submitted as per their respective signed contracts.
- (3) Different remuneration rates of Chairperson and Deputy Chairperson will apply specifically for presiding over primary meetings.
- (4) Committee members are allocated up to the maximum hourly rates of 80 hours per month (equivalent to 10 days a month).
- (5) Committee members shall be entitled for four hours preparation time which is included in the allocated time as per 10(a) above.
- (6) Employees of national, provincial and local government or organs of the government are not entitled to additional remuneration.

11. sub-committee work

- (1) The Committee members may formulate sub committees objectively to focus on areas where there is a need for specialised services.
- (2) The sub committees will be designated at the time of finalisation of the year planner
- (3) The number and type of Committees may vary depending on scope and magnitude of the work being carried out.

- (4) The Chairperson may where required allocate an individual Committee Member to undertake additional work based on skills set required and the expected deliverable.
- (5) Additional work shall not be a repetitive of activities nor shall be ongoing
- (6) The hours remunerated for additional activities must fall within the monthly limit as set out in section 10(a) above.

12. Deliverables

- (1) The Committee shall within the first three months of appointment, finalise its work plan
- (2) The work plan shall comprise of priority project, time deliverables, resources required.

13. Reporting lines

- (1) The Committee shall through the Chief Directorate: Economic and Social Regulation submit any work including quarterly reports to the Minister.
- (2) The reports for any work done shall be signed off by the Chief Directorate: Economic and Social Regulation
- (3) The Chief Director: Economic and Social Regulation will sign off the minutes of the meetings and any other relevant documents submitted by the Committee.