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INFORMATION GUIDE

**GUIDELINES ON FUEL
RETAIL LICENCE/OUTLETS**

PETROLEUM PRODUCTS REGULATIONS, 2000

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GLOSSARY

TERM	DEFINITION
Operator	An operator is the person responsible for the day-to-day activities of a retail outlet whether such person is located on the relevant premises during business hours or not and whether or not the person is the owner of the retail outlet
Operating a Retail Outlet	To conduct the activity of an operator in respect of the outlet, and to conduct any activity reasonably required in connection with petrol and diesel, including the obtaining, handling, possession and storage of such fuel.
Retail Outlet	A retail outlet is any place from where petrol or diesel is sold or is offered for sale to consumers/the public for purposes of use or consumption
Licenced premises	premises in respect of which a retail licence is granted and which premises are described and specified in the retail licence
Retail licence	A licence issued in terms of the Petroleum Products Regulation 2000 authorising an applicant to operate a retail outlet. In terms of the Petroleum Products Regulations, 2000, nobody may operate a retail outlet unless such person has a retail licence.

1. FUEL RETAIL SITE VIABILITY ASSESSMENT

Before a prospective applicant decides to construct a Retail Outlet, the prospective applicant must submit a **Letter of Intent** accompanied by a comprehensive Business Plan to the Ministry for a fuel retail site viability assessment. This assessment will be conducted within **30 days** from the date of submission.

The site viability assessment of the proposed Retail Outlet will consider amongst other things, the need for a new fuel retail site based on the location description, expected volumes or storage tank capacity to be installed, and the proximity to existing fuel retail outlet(s).

Following the outcome of the fuel retail site viability assessment, the interested applicant will be informed whether the proposed site would be viable or not.

For sites that are deemed viable, interested applicants will be required to submit an application for a retail licence. The fuel retail site viability approval is valid for **six (6) calendar months** only. During this period of validity, the prospective applicant is required to finalize the environmental clearance application process.

NO CONSTRUCTION OF A FUEL RETAIL SITE SHALL COMMENCE WITHOUT A FUEL RETAIL LICENCE.

2. APPLICATION FOR A FUEL RETAIL LICENCE

A representative of a juristic person must complete the prescribed **Form PP/1** which is available on www.mme.gov.ng or can alternatively be obtained from the Ministry of Mines and Energy (MME), 6 Aviation Road, Sixth Floor.

The application for a fuel retail licence must be accompanied by detailed site technical drawings and an Environmental Clearance Certificate for MME's assessment which should be lodged as part of an application for a fuel retail licence.

An application fee of **N\$ 100** must be paid only after the application form is checked and verified by the administrators. All fees are payable at the MME **Cashier Office between 8:00 -12:00 daily**. A receipt will be issued which must be attached to the application as proof of payment.

The application should be fully completed, and documents submitted as per the checklist attached to the application form. **Incomplete Applications Will Not Be Considered.**

When deciding to issue a licence, the Minister shall consider the following:

- ◆ The protection of employees, and public safety & health.
- ◆ The protection of the environment.
- ◆ The applicants' record of compliance with the Petroleum Products and Energy Act, 1990; the Petroleum Products Regulations, and other applicable laws.
- ◆ The suitability of the retail outlet with regard to safety, health, security, hazardous substances, environment, and town planning requirements.
- ◆ The need for facilities to be provided to consumers at the premises concerned and the extent to which the interest of petroleum product consumers will be served.
- ◆ The economic viability of the fuel retail outlet with reference to the location and capital available.
- ◆ The social upliftment of previously disadvantaged people in Namibia.
- ◆ Any chance that monopolies in the industry might have a negative impact on competition in the sale of petroleum products.
- ◆ Prevention of vertical integration (wholesalers not to become operators/dealers).
- ◆ Proof of sufficient capital available for the operation of a retail outlet.
- ◆ Any other matter relevant to the orderly provision of petroleum products in Namibia.

The Minister may request the applicant to submit additional information relating to the above considerations. A provisional licence may be granted, until such additional information is furnished.

The Minister will make a decision within approximately **60 days**. Whenever the Minister fails to do so, the applicant may enquire in writing as to why there is a delay.

Should the application be successful, a licence will be issued to the applicant upon a payable fee of **N\$ 250.00**. The licence is valid for as long as the applicant complies with the Regulations.

Should the Minister refuse the application, the Minister must provide written reasons for such refusal.

3. DISQUALIFICATION OF APPLICATIONS FOR A RETAIL LICENCE

A licence may not be issued or held by an applicant if such an applicant:

- ◆ has during the five years preceding the application for the licence been convicted of an offence under the Act or is convicted during the currency of the licence.

- ◆ is not a Namibian citizen or is not lawfully resident in Namibia.
- ◆ is a body corporate and is not registered in Namibia or if its registration in Namibia has been cancelled.
- ◆ is or becomes an unrehabilitated insolvent.
- ◆ is or becomes subject to an order of competent court declaring such a person to be mentally ill or disordered.

4. ISSUANCE OF RETAIL LICENCE

One original licence will be issued to an applicant. If a licence is lost, stolen, or damaged, the licence-holder may apply for a duplicate in the prescribed **(Form PP/8)** subject to the payment of **N\$ 100**.

After the licence has been issued, the licence-holder must start with retail operations **within six (6) months**. If the applicant cannot start with operations **within six (6) months**, the applicant may notify the Minister in writing, stating the reasons for the delay. The Minister may grant such extension which shall not exceed **six (6) months**.

5. CONDITIONS OF A LICENCE

The following conditions apply to all retail licences:

- ◆ Retail licence-holder shall at all times comply with the Act, regulations including health, safety, environmental protection, and all other applicable laws
- ◆ Once a dangerous situation arises, a licence-holder must promptly report it and further inform the Minister what steps have been taken to mitigate the dangerous situation.
- ◆ The licence-holder must keep retail operation records and submit such information to the Minister yearly before or on 28 February.
- ◆ Petroleum Products sold to consumers shall comply with all specifications made applicable.
- ◆ All licences and permits related to the sale of petroleum products shall be displayed in any part of the licenced premises where it will be noticeable/accessible.
- ◆ The retail licence-holder may not obtain fuel by means of wholesale sale for purposes of retailing from any person other than a wholesale licence holder.

On the licence, provision is made for certain special conditions which the Minister may make applicable to a licence-holder relating to:

- ◆ the reporting of dangerous situations or accidents.

- ◆ the preparation and submission to the Minister of assessments of safety, health, environment, and security risks associated with the activities authorised under the licence.
- ◆ the safe disposal of petroleum products, including the collection and discarding of used oil.
- ◆ insurance against, or guarantee for, petroleum product spills which insurance or guarantee cover cost involved in the cleaning up of such spills up to an amount not exceeding N\$ 500 000.

6. INFORMATION TO BE SUBMITTED TO THE MINISTER ON A YEARLY BASIS

A retail licence-holder must **every year and not later than 28 February** provide the Minister with the following information:

- ◆ Confirmation that the retail outlet is still in operation and has at no time ceased to operate for a continuous period of three (3) months.
- ◆ Any change of information that the licence-holder submitted when he/she applied for the licence.
- ◆ The total throughput of petroleum products specified by product.

The Minister may further request that the applicant furnish him with any information the Minister may require to enable the Minister to effectively exercise his or her powers under the Regulations

7. SURRENDER, SUSPENSION, CANCELLATION OR CEASING OF EFFECT OF LICENCE OR CERTIFICATE

A licence will cease to have effect under the following circumstances:

- ◆ Where the licence-holder, without the permission of the Minister, fails to operate the retail outlet for more than three (3) months.
- ◆ Where a licence-holder by notice in writing to the Minister surrenders the licence.
- ◆ Where the licence-holder fails to comply with any provision of the Regulations or any condition of the licence, the licence may be cancelled or suspended, provided that the Minister has by written notice inform the licence-holder the Minister's intention to cancel or suspend the licence.
- ◆ Where the applicant becomes subject to one of the disqualifications set out in point 3 of this guideline.

GENERAL NOTES

Under any of the circumstances set out above, a licence holder is prohibited from operating the retail outlet. The applicant **must** send the original licence

to the Minister within **fourteen (14) days** after it ceased to have an effect. In case of a suspension, the applicant need does not have to send the licence to the Ministry but may not during the period that the licence is suspended operate a retail outlet. Any person who contravenes or fails to comply with this provision shall be guilty of an offence.

8. AMENDMENTS OF LICENCES

(a) Change of licence information

If any information on the licence changes, the licence-holder must, prior to such change, apply to the Minister for an amendment of the licence by completing **Form PP/9** and the appropriate fee of **N\$ 100** must be paid. If the Minister finds out that some information on a licence has changed and the applicant failed to inform the Minister thereof, the Minister may effect such change.

(b) Alteration, closure, and abandonment

The licence-holder who may for whatever reason, including the closing down of the business or a change of premises, abandon the relevant premises, must give notice to the Minister at least one month before such abandonment. Once the Minister has received the notice, an Inspector, or other competent person authorized thereto by the Minister, will inspect the premises to assess the status and see whether the premises have been sufficiently **restored**. If the Inspector is satisfied, the Inspector will issue a certificate of compliance in **Form PP/7**. No fee is payable.

Restore means:

- (a) the return of the premises to its original or its natural state; or
- (b) the rendering of the premises compatible with its intended after-use after cessation of petroleum-related activities thereon, and includes the removal of buildings, structures, plant and debris, the establishment of compatible contours and drainage, replacement of topsoil, re-vegetation, slope stabilization, and infilling of excavations

9. GENERAL PROHIBITIONS AND DUTIES

The following prohibitions and duties apply to everybody:

- ◆ Nobody may falsely claim to have a licence or certificate.
- ◆ Petrol and diesel may only be sold for cash or if a pre-payment has been made.
- ◆ Apart from a forklift, no vehicle may be driven by gas unless the Minister's permission has first been obtained.
- ◆ Petrol may only be sold at the official gazetted price.

- ◆ No benefits may be offered in return for the sale of petrol.
- ◆ Nobody may self-dispense petrol or diesel into a vehicle (protection of labour).
- ◆ Nobody may mix or blend a petroleum product, without the approval of the Minister, which does not comply with the approved specifications.
- ◆ Containers used to store petroleum products must be leakproof, spillproof, safe, and suitable for storage or conveyance as per adopted specifications.
- ◆ In disposing or dumping a petroleum product, a person must do so in accordance with good petroleum industry practices and other laws relating to the dumping thereof.

10. MAINTENANCE OF INFRASTRUCTURE AND EQUIPMENT

The following duties and prohibitions specifically relate to the licence-holder:

- ◆ Before commencing with improvement and upgrading construction work, approved designs, drawings, and sketches must be submitted to the Ministry for endorsement.
- ◆ Buildings, roadworks, structures, and plants used in connection with petroleum products must be erected and maintained in such manner as to avoid significant environmental harm and/or endangering the safety or health of a person or the safety of a person's property. There are also duties relating to plants which may not give rise to significant environmental harm and the duties of licence-and certificate-holders must be taken notice of.
- ◆ Measuring instruments must be correct and must comply with the Trade Metrology Act, 1973, as per the Namibia Standard Institute (NSI) requirements.

11. STANDARDS AND SPECIFICATIONS

The Ministry will continuously adopt Standards and Specifications applicable to the petroleum industry. A list of these specifications will be published in the Government Gazette. A copy of the Standards and Specifications can be inspected at the MME, or the applicant may alternatively purchase a copy from the Ministry of Justice.

Specification on the following will be made applicable:

- ◆ specifications regarding the design, construction, and maintenance of electrical equipment.
- ◆ specifications regarding the storage, distribution, and handling of petroleum products and the installation of storage tanks and other structures, pipework, pumps, and plant.

- ◆ specifications regarding the composition of petroleum products (unleaded petrol, diesel, jet fuel, heavy fuel oil, and LPG).

A licence-holder who wishes to deviate from a specification may apply to the Minister for permission to do so. The Minister will only give permission if the Minister is satisfied that the deviation will not negatively impact public safety or the environment.

12. FIRE AND EMERGENCY PRECAUTIONS

- ◆ Licence-holders must ensure that buildings, roadworks, structures, and plant are designed, constructed, equipped, and maintained to prevent or minimise the danger of fires and explosions.
- ◆ All personnel involved in petroleum products must act cautiously and comply with the provisions of the Regulations and other laws relating to fires and explosions.
- ◆ Buildings, structures, and plants where petroleum products are handled or stored must be suitably signposted.
- ◆ Licence-holders must when storing, keeping, handling, conveying, using, or disposing of a petroleum product take adequate precautions to prevent the outbreak of fires.
- ◆ Adequate fire-extinguishing appliances must be maintained in a good working order (tested at least once a year) and kept in accessible places where petroleum products are kept.
- ◆ Licence-holders must have a written emergency response plan available on their premises. Such a plan must show the location of fire-fighting equipment and include a plan of action for employees. The fire-fighting plan must be provided to employees and employees must be trained.
- ◆ Nobody may near petroleum products throw, leave, or create any open or naked spark, light, or flame or any burning or smoldering material that may cause danger or fire explosion.
- ◆ No person may keep a vehicle running while petrol or diesel is being dispensed into the tank of the vehicle.
- ◆ No person may smoke in the forecourt of a retail outlet where petrol or diesel is dispensed.
- ◆ No person may keep a cellular phone active (or any other electronic communication apparatus) within two (2) meters from a dispensing pump or within fifteen (15) meters from a vehicle while a petroleum product is being discharged from that vehicle into an underground storage tank.

13. PETROLEUM PRODUCT SPILLS

In the case of a petroleum product spill, the person in control of activities must take the necessary steps in accordance with good petroleum industry practices to clean up such a spill. If it is a major spill (**more than 200 liters**) the Minister must be informed thereof by completing **form PP/11**.

If a person fails to clean up a spill, the Minister may order a person to take such steps as the Minister will specify in the notice to clean up the spill within the period specified by the Minister. If a person still fails to clean up a spill, the Minister may clean it up and recover via Court procedures the costs thereof.

14. POWERS OF INSPECTORS

Inspectors /Controllers are responsible to ensure that the Petroleum Products and Energy Act, 1990, and the regulations thereunder are complied with. An Inspector/Controller, when exercising his/her power, must show his/her certificate of appointment and provide a notice in the **Form PP/12**. If it is not possible to provide the notice immediately, the notice must be provided as soon as possible thereafter. A licence-holder must provide such assistance as is reasonably required by the Inspector.

(a) Prohibition notices by Inspectors

If an Inspector anticipates that a dangerous situation exists, the Inspector may issue a prohibition notice prohibiting the activity giving rise to the dangerous situation from taking place until the Inspector is satisfied the sufficient measures have been taken to limit the risk.

If a person fails to comply with a prohibition notice, the Inspector may take such steps as is necessary to minimize the risk. The costs of such steps may be recovered from the person who failed to comply with the Inspector's prohibition notice.

(b) Action in emergency situations

If an Inspector thinks that a dangerous situation exists and there is not enough time to issue a notice in the **Form of PP/12**, the Inspector may after giving notice in writing or verbally, take such action as is necessary to minimize the danger or risk. An Inspector may seek assistance if necessary.

Nobody may hinder or obstruct an Inspector in the exercise of his/her duties, use foul or abusive language towards an Inspector, fail to comply with an instruction from an Inspector, refuse information, or answers requested by an Inspector or falsely pretend to be an Inspector.

15. PENALTIES FOR CONTRAVENTION OF OR FAILURE TO COMPLY WITH THE PROVISIONS OF THE PETROLEUM PRODUCTS AND ENERGY ACT OR REGULATIONS

If a person contravenes or fails to comply with a provision of the Petroleum Products and Energy Act, 1990, such person shall be guilty of an offence and the following may be imposed on such person:

- ◆ A fine of not more than N\$ 20 000
- ◆ A term of imprisonment of not more than two years
- ◆ Both a fine and imprisonment
- ◆ Confiscation of goods used to commit the offence
- ◆ Your licence may be suspended or cancelled

FOR MORE INFORMATION CONTACT THE MINISTRY OF MINES AND ENERGY AT:

**DIRECTORATE OF PETROLEUM AFFAIRS
OFFICE OF DIRECTOR**

6, Aviation Road

Private Bag 13297, Windhoek, Namibia, Tel: 061 – 284848212

www.mme.gov.na
