

**GUIDELINES TO THE
WHOLESALE LICENCE
REGULATIONS**

FREQUENTLY ASKED QUESTIONS BY THE APPLICANTS

<u>Questions</u>	<u>Responses</u>
1. How long does it take for a temporary application to be approved?	It takes 1 to 2 weeks, depending on the complexity of the application lodged.
2. How long does it take for a decision to be taken on the application after the analysis is completed?	A Maximum period of two weeks, if not, it will be communicated to the applicant, which may be due to the technical issues, e.g. the Controller seeking clarity on certain matters, also depending on the complexity of the application, the time period will vary.
3. How long should I plan to wait for a response from this office in relation to my application for retail or wholesale?	We are compelled to respond to you within a period of 90 days. This period must be calculated from the date we receive proof of publication. The 90 day time period stops once the Controller's office requests further information until the date such information is provided by the applicant. Please note that there is a mandatory waiting period of 20 working days after the date publication, for the purposes of objections by any interested or effected party.
4. Who is the Controller?	The Controller of Petroleum Products is the Minister of the DEPARTMENT OF ENERGY, or an official that has been appointed by the Minister. The DDG: Hydrocarbon and energy planning is nominated as the Controller of Petroleum Products.

5. When should I apply for an amendment of a license?	A license certificate can be amended at anytime if there's been any form of change to the license holder's details (entity/individual etc.). When there is a majority change of ownership within the licensed entity an amendment is not applicable and therefore a new application must be lodged.
6. What exactly must be contained in a business plan?	The applicant should provide a bankable business plan and illustrate on how they will meet the objectives of the Act and give effect to the Charter. Kindly refer to the Business Plan Guidelines.

***FOR FURTHER INFORMATION ON FREQUENTLY ASKED QUESTIONS
PLEASE SEE BELOW***

1. WHO IS A WHOLESALER?

Any person or business that purchases and sells prescribed petroleum products in bulk (1500 liters or more, per transaction of petroleum products) from or to a licensed manufacturer, from or to a licensed wholesaler or to a licensed retailers or also sells prescribed petroleum products to end consumer for own consumption.

2. WHY DO I NEED A WHOLESALE LICENCE?

Section 2A (b) of The Petroleum Product Amendment Act, 2003 (Act No 58 of 2003) – the “Act” states that no person must operate as a wholesaler unless that person has a valid wholesale licence.

3. WHO MAY APPLY FOR A WHOLESALE LICENCE?

Any person who wants to sell prescribed petroleum products in bulk to other licensed wholesalers, retailers and end consumers (for own consumption) including those who are currently buying and selling prescribed petroleum products in bulk must apply for a wholesale licence.

4. WHAT HAPPENS IF I ALREADY OPERATE A WHOLESALING OUTLET?

If you are already operating a wholesaling outlet at the commencement of the Act, which is the 17th March 2006, you will be deemed to hold a wholesale licence.

However you must apply for a wholesale license within a period of six months from the commencement of the Act.

5. HOW DO I APPLY FOR A WHOLESALE LICENCE?

- a) You must complete the prescribed application form (i.e. form DE 28).
- b) For your convenience the application form is attached to this information guide; it is also available in an electronic and printable version of the application form which is obtainable from the Department of Energy website (www.energy.gov.za).

- c) Upon being informed by the Controller of Petroleum Products that your application has been successful you will be requested to pay a fee of R1, 000.00, irrespective of whether you have been operating before or after the commencement of the Act.

6. HOW LONG IS MY LICENCE VALID AND DO I NEED TO RENEW IT?

Your license will be valid for as long as your business is a going concern and does not need to be renewed,
However, you must submit wholesale license annual information (submission form DME 394) as well as pay the annual license fee of R500 required and submit proof of such payment to the controller of Petroleum Products.

7. CONDITIONS OF A WHOLESALE LICENCE

- (1) A licensed wholesaling activity must remain a going concern.
- (2) A licensed wholesaler must—
 - (a) purchase petroleum products only in bulk from other licensed wholesalers or licensed manufacturers, except in the case of importation of petroleum products;
 - (b) in the case of petroleum product sold in the Republic of South Africa, except in the case of liquefied petroleum gas and paraffin, only sell in bulk to—
 - (i) licensed manufacturers;
 - (ii) licensed wholesalers;
 - (iii) licensed retailers; or
 - (iv) end consumers for own consumption;
 - (c) not, except in the case of liquefied petroleum gas and paraffin, make use of a business practice, method of trading, agreement, arrangement, scheme or understanding which would result in a licensed wholesaler holding a retail licence except for training purpose;
- (3) A licensed wholesaler must—
 - (a) obtain an undertaking signed by an end consumer that the petroleum products purchased from that wholesaler are for own consumption;
 - (b) comply with the Charter;
 - (c) submit the licence annual information (set out in paragraph 9 below);
 - (d) if so instructed, submit to the Controller on a date and in the manner specified in the instruction—
 - (i) information necessary for the regulation of prices of petroleum products;

- (ii) data on petroleum products, purchased or sold and petroleum products stock levels during the period specified in the instruction;
 - (iii) information relating to progress in complying with the objectives of the Charter; and
 - (iv) any other information which might be required for regulatory purposes;
 - (e) keep minimum working stock levels in compliance with applicable regulations;
 - (f) pay the annual licence fee determined in Annexure B before the anniversary of the licence;
 - (g) allow any person authorized by the Controller in accordance with the Act access to the premises where wholesaling is conducted for the purposes of inspections or conducting an investigation;
 - (h) at all times comply-
 - (i) with the Act and these Regulations; and
 - (ii) carry out legitimate instructions from the Controller; and
 - (i) inform the Controller in writing of any change of address or telephone number within 30 days of the relevant change taking effect.
- (4) A wholesale licence, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the place of business may read it; and
- (5) Any licence issued in terms of these Regulations-
- (a) remains the property of the Department of Minerals and Energy;
 - (b) may be cancelled or suspended at any time subject to Regulation 20;
 - (c) may not be tempered with or defaced in any manner;
 - (d) may not be altered in any manner; and
 - (e) is not transferable.

8. CAN I TRANSFER MY LICENCE TO SOMEBODY ELSE?

No, it is not transferable.

9. INFORMATION, WHICH MUST BE GIVEN TO THE CONTROLLER ON A YEARLY BASIS AND OTHER INFORMATION THE CONTROLLER, MAY ASK FOR.

A licensed wholesaler must submit to the controller an annual license fee, a wholesale license annual information (submission form, DME 394) and the supporting documents according to the wholesale license regulations before the end of February each year. Notifying the controller of:

- a) Ownership of licensed activity has not changed;
- b) The volumes of the prescribed petroleum products sold and purchased within and outside the Republic of South Africa;
- c) Number of employees categorized by race, gender and disability and the number of employees trained;
- d) The number and title of the qualifications the employees obtained which are accredited by the South African Qualifications Authority; and
- e) Progress and an updated plan in respect of compliance with the objectives of the Charter.

10. WHAT IF MY PARTICULARS ON THE LICENCE CHANGE

You have to inform the Controller of Petroleum Products in writing of any change of trade name, postal address of registered office, business telephone number, mobile phone number, fax number or e-mail address within 30 days of the relevant change taking effect;
OR the change can be included on the Wholesale License Annual Information Submission Form (DME 394) as part of annual information provided that the 30 day period is complied with.

11. WHERE MUST I PUT MY LICENCE?

The licence or the certified copy should be displayed on the business premises in a manner which anyone entering the premises may read it.

12. HOW LONG MUST I WAIT FOR THE CONTROLLER TO MAKE A DECISION?

The Controller must make a decision within a period of 90 days provided that-

- a) in the case of an application for a license by an applicant in respect of whom the wholesaling facility is existing or is in the process of development, the period commences from the date of acceptance of the application;
- b) in the case of an application for a license by an applicant in respect of whom the wholesaling facility does not exist at the time of commencement of the Petroleum Products Amendment Act, No 58 2003, the period of 90 days commences from the date of receipt of the proof of publication of the notice.
- c) in the first six months after the commencement of the Wholesale Regulations, the period is 250 days.

13. WHAT DO INSPECTORS DO?

- a) An Inspector from the Department of Minerals and Energy may at any time, visit your operating business premises to collect product samples and to verify compliance with licence conditions, regulations pertaining to product specifications and standards, and any other regulatory requirements.
- b) Such inspectors will have clearly visible identification cards. To verify the identity of an inspector; you may phone the office of the controller of Petroleum products.

14. WHAT ARE THE PENALTIES FOR CONTRAVENTION OF OR FAILURE TO COMPLY WITH THE PROVISIONS OF THE PETROLEUM PRODUCTS AMENDMENT ACT OR REGULATIONS?

- (1) According to The Petroleum Products Amendments Act, 2003 (Act No 58, 2003) Any person who is found to be in contravention of the Act, shall be guilty of an offence; and be liable on conviction, to a fine not exceeding R1,000,000.00 or imprisonment for a period of not exceeding 10 years, or to both such fine and such imprisonment.