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**DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**

**NO. 6099** **4 April 2025**

## INVITATION FOR THE PUBLIC TO COMMENT ON THE AMENDMENT OF THE SCOPE OF THE ENERGY USERS BLOCK EXEMPTION, 2025

1. By virtue of the powers vested in me in terms of section 10(10), read with section 78(1) of the Competition Act, 1998 (Act No. 89 of 1998) as amended (the Competition Act), I, Mr Mpho Parks Tau, Minister of Trade, Industry and Competition, after consultation with the Competition Commission, hereby publish for public comments the amendment to the Energy Users Block Exemption, 2023 Regulations published in GN R. 3447 of Government Gazette No. 48651 of 24 May 2023 as set out in the Schedule hereto.

2. Stakeholders and interested persons are invited to submit comments in writing on the proposed regulations within a period of 15 business days of the publication of this notice to the Minister of Trade, Industry and Competition, for the attention of Dr Ivan Galodikwe, email IGalodikwe@thedtic.gov.za or hand delivered at 3rd Floor, Block E, 77 Meintjies Street, Sunnyside, 0132.

**MR MPHO PARKS TAU, MP**
**MINISTER OF TRADE, INDUSTRY AND COMPETITION**
**DATE:** 13/03/2025

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**GENERAL EXPLANATORY NOTE:**

**[ ]** Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

**SCHEDULE**

**Definition**

1. In this schedule, "the Regulations" means the regulations published by Government Notice No. 48651 of 24 May 2023.

**Amendment of regulation 2 of the Regulations**

2. Regulation 2 of the Regulations is hereby amended by the substitution for regulation 2 of the following regulation:

"(2) The purpose of these Regulations is to give effect to the purposes of the Act as set out in section 2 of the Act by exempting a category of agreements or practices by Energy Users from the application of sections 4(1)(a), 4(1)(b)(i) - excluding the fixing of the selling prices of goods and services to customers or consumers, 4(1)(b)(ii) and 5(1) of the Act in response to the Electricity Supply Constraint <u>or to assist an industry in distress</u>:

a) solely with the purpose of enabling collaboration to:

i) secure backup or alternative energy supply; or
ii) reduce energy costs; or
iii) promote the optimisation and efficient use of energy supply; or
iv) secure shared or adjacent sites, infrastructure, equipment and facilities.

b) in order to contribute to regulatory measures aimed at the prevention of the escalation of the Electricity Supply Constraint <u>or to assist an industry in distress</u>."

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**Amendment of regulation 3 of the Regulations**

3. Regulation 3 of the Regulations is hereby amended by the addition of the following sub-regulation after sub-regulation 3(b)(iii):

"(b) Agreements or practices among Energy Users to reduce the cost or to promote the efficient use of energy supply only through:

(i) Joint negotiation and purchase of energy and related product and service supply, including power purchase agreements; or
(ii) Joint financing of backup and alternative energy supply; or
(iii) Joint purchasing of shared backup and alternative energy generation capacity.
iv) Joint or collective negotiation of negotiated price agreements or similar agreements with energy suppliers in an industry in distress."

**Amendment of regulation 6 of the Regulations**

4. Regulation 6 of the Regulations is hereby amended by the substitution for regulation 6 of the following regulation:

"(6) The scope of these Regulations is limited only to agreements or practices specified under regulation 3, and which have the sole purpose of responding to the Electricity Supply Constraint or to assist an industry in distress as set out in regulation 2."

**Amendment of regulation 15 of the Regulations**

5. Regulation 15 of the Regulations is hereby amended by the substitution for regulation 15 of the following regulation:

"(15) These Regulations remain in operation until withdrawn by the Minister taking into account the state of the Electricity Supply Constraint or the state of an industry in distress."