

THE BOTSWANA ENERGY REGULATORY AUTHORITY ACT

THE BOTSWANA ENERGY REGULATORY AUTHORITY (LIQUEFIED
PETROLEUM GAS OPERATIONS) REGULATIONS, 2018

(Made under section 74 (1))

ARRANGEMENT OF REGULATIONS

**PART I
PRELIMINARY PROVISIONS**

1. Citation
2. Application
3. Interpretation

**PART II
LICENSING PROCEDURES**

4. Obligation to obtain a licence
5. Power to enter and close facility
6. Licensing requirements
7. Application for a licence
8. Publication of licence applications
9. Grant of licence
10. Duration of a licence
11. Application for transfer of licence
12. Change of name
13. Change in shareholding structure
14. Application for renewal of licence
15. Suspension or revocation of licence

**PART III
GENERAL OBLIGATIONS OF A LICENSEE**

16. General obligations of a licensee
17. Protection to lives and property
18. Compensation for loss suffered
19. Insurance
20. Maintenance of records, provision and disclosure of information
21. Confidential information
22. Offence

23. Customer service standards

PART IV
ENVIRONMENTAL PROTECTION

- 24. Compliance with environmental laws and standards
- 25. Sanctions for violation of environmental laws

PART V
TECHNICAL OBLIGATIONS OF A LICENSEE

- 26. Compliance with specifications and standards
- 27. Execution of a dealership agreement
- 28. Super dealer to prepare a plan
- 29. Provision of technical support
- 30. Offence
- 31. Prohibition on the use of cylinders and seals
- 32. Offence
- 33. Prohibition to decant
- 34. Prohibition on under filling
- 35. The use of calibrated weighing scales
- 36. Reference of violation to the Certification Authority
- 37. Marking of cylinders
- 38. Unloading of LPG
- 39. Cylinder sealing
- 40. Deceptive trade practices
- 41. Storage of LPG
- 42. Provision of fire extinguishing equipment
- 43. Preparation of Emergency Preparedness Plan
- 44. Decommissioning procedure
- 45. Site restoration
- 46. Performing LPG Installations

PART VI
COMPLIANCE AND ENFORCEMENT

- 47. Inspection of a regulated facility
- 48. Notification of offences
- 49. Offence
- 50. Issuance of Compliance Orders
- 51. Power to enter and close a regulated facility, building or premises
- 52. Obligation of inspector during inspection
- 53. Prohibited acts to inspectors

PART VII
GENERAL PROVISIONS

- 54. Appeal
- 55. Receiving terminals
- 56. Regulations to prevail over the LPG (Distribution and Retail Business) Operational Guidelines

57. The Authority to supplement procedures

SCHEDULES

THE BOTSWANA ENERGY REGULATORY AUTHORITY ACT

THE BOTSWANA ENERGY REGULATORY AUTHORITY (LIQUEFIED
PETROLEUM GAS OPERATIONS) REGULATIONS, 2018

(Made under section 74(1))

PART I
PRELIMINARY PROVISIONS

- Citation **1.** These regulations may be cited as the Botswana Energy Regulatory Authority (Liquefied Petroleum Gas Operations) Regulations, 2018.
- Application **2.** These regulations shall regulate the activities related to LPG business; wholesale, distribution, retail, storage, transportation and consumer installation.
- Interpretation **3.** In these regulations, unless the context otherwise requires:
- “Act” means the Botswana Energy Regulatory Authority Act;
- “applicable law” means any principal law, treaty, proclamation, regulation, rule, order or a by-law that is customarily treated in Botswana as having legally binding force in matters pertaining to regulation of liquefied petroleum gas operations;
- “approved specification” means any specification or standard in relation to a LPG product applied by the Authority and as approved pursuant to the Standards Act Cap 43:07 and any other standards that are widely in the LPG industry;
- “Authority” means the Botswana Energy Regulatory Authority established under the provisions of the Act;
- “bulk consumer” means a consumer who buys LPG in bulk quantity for own use or any use other than re-selling;
- “bulk quantity” means a single container of LPG of not less than 250 kilograms;
- “BURS” means the Botswana Unified Revenue Services;
- “Certification Authority” means the Botswana Bureau of Standards

“Chief Executive Officer” means the chief executive officer of the Authority;

“Competition Authority” means the Competition Authority established under the provisions of the Competition Act;

“consumer” means any person who is supplied with LPG for own use or any use other than re-selling;

“consumer installation” means any installation involving pipe-works for the distribution of LPG, bulk containers, or cylinders of aggregate quantity not less than 250kg that is intended for own use or any use other than re-selling by the consumer;

“consumer installation operations” means an activity necessary to operate a consumer installation facility and includes all activities in respect of such facility and any activity reasonably required in connection with obtaining, handling, possession, storage and dispensing of LPG at such facility;

“cylinder” means any portable or stationary pressure container, together with all of its permanent supports and attachments installed for the storage and handling of LPG;

“dangerous situation” means a situation involving a LPG that:

- (a) endangers the safety or health of a person, or the safety of a person’s property; or
- (b) creates an eminent risk of significant environmental harm;

“dealer/retailer” means any person conducting LPG retail business;

“dealership agreement” means the contractual arrangement that establishes, *inter alia*, an exclusive relationship between a wholesaler and a dealer with respect to the purchase and sale of LPG as prescribed under regulation 27;

“decant” means transfer of LPG from one prescribed container to another;

“Department” means the Department of Environmental Affairs;

“Petroleum Industry Best Practises” means any conduct related to a petroleum product intended to preserve product quality and meeting generally accepted health, safety and environmental requirements;

“incident” means:

- (a) an event that involves the leakage of LPG from a transport vessel, storage vessel, cylinder filling, dispensing and offloading activities;
- (b) death or personal injury occurring as a result of the conduct of a regulated activity or LPG use or handling;
- (c) a fire or an event incidental to a fire resulting from the conduct of a regulated activity or LPG use or handling;
- (d) LPG product shortage or
- (e) any other significant event that may adversely affect the conduct of a regulated activity or LPG retail business;

“inspector” means an officer of the Authority or an agent of the Authority appointed by the Authority to perform the functions of inspection as required under the Act and regulated sector legislation;

“installer” means a person who performs an installation of pipe-work, storage vessels, containers, or any other equipment for the purposes of transporting, distribution, storage, handling or use of LPG;

“leak” means any unwanted or accidental release of LPG into the air or into any structure or thing;

“licence” means an authorization issued by the Authority to conduct a regulated activity pursuant to these regulations;

“licensee” means a holder of a licence;

“licence fee” means a fee payable by a licensee as shall be prescribed by the Minister from time to time;

“licensed installer” means an installer who is duly authorised by a recognised body or registered by the Public Procurement and Asset Disposal Board as a LPG installer/contractor.

“Liquefied Petroleum Gas” means any material having a vapour pressure for commercial propane and composed predominantly of the following hydrocarbons, either by themselves or as mixtures, propane, propylene, butane and butylene and the acronym “LPG” shall be used interchangeably;

“LPG wholesale business” means filling or re-filling of LPG, handling, storage and selling of LPG to a dealer or bulk consumer;

“LPG (Wholesale and Retail Business) Operational Guidelines” means the manual prepared by the Authority with instructions on how LPG wholesale and retail business is to be conducted;

“LPG retail business” means an activity necessary for storing, handling and selling LPG in cylinders to a consumer through a retail outlet;

“LPG wholesale business” means an activity necessary for:

- (a) the importation in bulk quantity, filling or re-filling of LPG ; or
- (b) selling of LPG to a retailer or a bulk consumer;

“Minister” means the minister responsible for LPG affairs;

“Notification of Offence” means the notification prescribed in the First Schedule;

“operator” means a person who is responsible for the day-to-day activities of an activity, whether such person is located on the relevant premises during business hours or is the owner of such regulated activity and who for these regulations, shall be deemed to have the authority and the ability to:

- (a) grant an inspector access to regulated activity to facilitate the performance of their duties;
- (b) detect any defect weakness within a regulated activity and make an authoritative judgment as to its suitability for further use;
- (c) answer questions raised by the inspectors; and
- (d) witness the inspection process.

“filling center” means a facility operated by a wholesaler duly authorized by the Authority to fill and decant LPG cylinders in terms of regulation 33;

“regulated activity” means an activity related to LPG; wholesale, distribution, storage, transportation or retail;

“regulated facility” includes the LPG; receiving terminal, refilling center, bullets, spheres, storage tanks, cylinders, distribution pipe-work, transportation equipment, associated equipment, accessories and buildings used to conduct a regulated activity;

“regulated sector legislation” means:

Cap. 73:01
 Cap. 66:01
 Cap. 67:01
 Cap. 74:01
 Cap. 43:08

- (a) the Electricity Supply (Amendment) Act;
- (b) the Mines and Minerals Act;
- (c) the Petroleum (Exploration and Production) Act;
- (d) the Botswana Power Corporation Act;
- (e) the Control of Goods, Prices and Other Charges Act; and
- (f) any other legislation that applies to, is used in or is relevant to the regulated sector;

“retail outlet” means any place where LPG is sold or offered for sale to a consumer on retail basis;

“transport vessel” means a truck, car, machinery, ship, railway wagon, barge or other means of transporting an LPG; and

“wholesaler” means any person that imports, stores, handles, re-fills, decants and sells LPG directly to a bulk consumer or a retailer.

PART III LICENSING PROCEDURES

Obligation to
obtain licence

4. - (1) No person shall conduct a regulated activity without seeking and obtaining a licence from the Authority.

(2) The Authority shall issue licenses in respect of the following activities:

- (a) LPG wholesale business; and
- (b) LPG bulk transportation business
- (c) LPG cylinders transportation
- (d) LPG Retail business
- (e) LPG Storage business
- (f) LPG Consumer Installations

(3) A person who conducts any regulated activity without a licence shall, not later than three months after coming into force of these regulations, apply to the Authority for a licence.

(4) Notwithstanding the provisions of sub-regulations (1) and (2) any person who has been conducting a regulated activity with a licence issued by an institution other than the Authority shall within twelve months from coming into force of these regulations, apply for a licence and the Authority shall proceed issuing (provided the applicant has satisfied all requirements of the Authority for the license required) the licence which shall contain terms and conditions as determined by the Authority.

(5) Any person who contravenes the provisions of sub-regulations (1), (2) and (3) (a) commits an offence and shall:

- (a) for a natural person be liable to a fine not exceeding P30,000 or imprisonment for a term not exceeding five years or to both; and
- (b) for a corporate body to a fine not exceeding ten percent of its annual turnover.

(6) Notwithstanding the penalty prescribed in sub-regulation (3) any person who contravenes the provisions of sub-regulation (2) may have its licence revoked in addition to the penalty in sub-regulation (5).

Power to enter
and close
facility

5. The Authority may, in the event it determines that any person has contravened the provisions of regulations 4 (1), (2) and (3), enter upon any facility where such contravention occurs and close it down.

Licensing
requirements

6. – (1) No person shall be issued with an LPG wholesale licence unless the application thereof meets the following technical and financial requirements:

- (a) possession of regulated facility that complies with approved specification and LPG standards or hospitality agreement with another licensee;
- (b) possession of adequate skilled personnel; and
- (c) proof of financial capability which is either:
 - (i) an audited financial statement showing annual gross turnover of not less than P 150 000.00 or equivalent in convertible currency;
 - (ii) a bank statement showing a balance of not less than P 50 000.00 or
 - (iii) a bank guarantee or credit facility of not less than P 150 000.00.

(3) Notwithstanding the provisions of sub-regulation (1), an applicant may rely on the financial capability of its parent company in making its application for a licence under these regulations.

(4) No person shall be issued with an LPG wholesale licence unless his application meets the technical and financial requirement specified by the Authority in Second Schedule of these regulations.

(5) Notwithstanding the generality of sub-regulation (1), the Authority may issue a licence with specific conditions to be fulfilled within a prescribed time.

(6) Any person who wishes to construct a LPG facility be it storage depot, wholesale outlet, retail outlet or consumer installation shall first seek authority from the Authority by submitting an application form (including all relevant attachments) specified the Second Schedule of this regulations.

(7) Upon approval the Authority shall stamp/seal the submitted drawings with its legal stamp/seal and the licensee shall be obliged to follow the approved drawings.

(8) In the case where the licensee seeks to alter/deviate from the drawings, the licensee shall first amend the drawings and seek for approval prior to proceeding with the change.

(9) Any person who contravenes the provisions of sub-regulations (6), (7) and (8) commits an offence and shall

- (a) for a natural person be liable to a fine not exceeding P30,000 or imprisonment for a term not exceeding five years or to both; and

- (b) for a corporate body to a fine not exceeding ten percent of its annual turnover.

Licence application

7. – (1) Any person who intends to undertake a regulated activity shall apply to the Authority for a licence by filling in the application form prescribed in the Second schedule of these regulations.

(2) The application for a licence in sub-regulation (1) shall be accompanied by a non-refundable application fee to be prescribed by the Minister.

Publication of application

8. – (1) (1) A licence application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the intended license to be issued by the Authority shall be published in the *Gazette* and at least two newspapers of wide circulation in Botswana in English with a view to soliciting comments and representations on the application where the Authority deems it necessary to do so.

(2) The costs of publication of the notice under sub-regulation (1) shall be borne by the Authority.

(3) The public shall be invited to submit their comments and representations within fourteen days from the date of publication and the comments and representations received shall be considered by the Authority in arriving at the decision on the application.

Grant of licence

9. - (1) The Authority shall, upon consideration of an application for a licence:

- (a) deny the application;
- (b) refer back the application; or
- (c) grant the application and issue a licence.

(2) The Authority shall, while making a decision to grant or deny a licence, take into consideration:

- (a) the licensing requirements prescribed in regulation 6;
- (b) compliance to land ownership and land use laws;
- (c) any objection or representation received from the public pursuant to regulation 8;
- (d) the applicant's record of compliance with the Act, these regulations and other regulated sector legislation and standards;
- (e) economic efficiency and benefit to the applicant and the public in general;
- (f) the compliance of a regulated facility on matters related to:
 - (i) safety;
 - (ii) health;
 - (iii) security;
 - (iv) quality;
 - (v) handling of hazardous substances;
 - (vi) environmental protection; and
 - (vii) approved standards and specifications
- (g) any other matter relevant to the orderly conduct of LPG business in Botswana.

(3) The Authority may deny issuing a licence to the applicant where it determines that:

- (a) the applicant does not meet the requirements of sub-regulation (2);
- (b) the applicant's activities may not be conducted in accordance with safety, health and environment requirements;
- (c) the applicant is applying for a licence in respect of the same activity that had its licence withdrawn or revoked in accordance with the Act in the preceding five years; or
- (d) the applicant has violated the mandatory requirements provided under the Act and relevant regulated sector legislation.

(4) After issuance of a licence, the applicant shall be notified to come and collect it upon payment of a licence fee as shall be prescribed by the Minister.

(5) The Authority shall, in the event that it denies or refers back an application for a licence inform the applicant of such decision in writing, including the reasons thereof.

Duration of
licence

10. – (1) A licence shall be valid for such term of years as indicated below;

- a) LPG wholesale licence –5 years
- b) LPG bulk transportation licence –1 year
- c) LPG cylinders transportation licence – 1year
- d) LPG storage licence –5years
- e) LPG retail licence – 3 years
- f) LPG consumer installation licence -5years

(2) A licence shall remain valid for the term stated above; however, the Authority may, on the written application of a licensee or on its own, extend or reduce the term of such licence for such further period as it may determine.

(3) Notwithstanding the provisions of sub-regulations (1) and (2), a licence shall cease to have effect if the respective licensee fails to conduct a regulated activity without lawful cause for the period of six consecutive months after issuance of the said licence.

Application for
transfer of
licence

11. - (1) No licence shall be assigned or transferred to another person without a written approval of the Authority.

(2) Any transferor or assignor of a licence shall apply to the Authority by filling in the form prescribed in the Third Schedule.

(3) Notwithstanding the provisions of sub-regulation (1) no application for a transfer or assignment of a licence shall be entertained by the Authority unless it is endorsed by the transferee or assignee, as the case may be, which assignee/transferee shall be obliged to fill the application form specified in the

Second Schedule of this regulations and shall be expected to comply with all requirements stated by the Authority.

(4) A licence application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the intended license to be issued by the Authority shall be published in the *Gazette* and at least two newspapers of wide circulation in Botswana in English with a view to soliciting comments and representations on the application.

(5) The costs for publication of the notice under sub-regulation (4) shall be borne by the Authority.

(6) The public may be invited to submit comments and representations within fourteen days from the date of publication of the notice and the comments and representations shall be considered by the Authority in arriving at the decision on the application.

(7) The Authority shall, after the expiration of the notice in sub-regulation (6), evaluate the application together with comments received, if any, and make a decision whether to grant or deny the application for transfer or assignment.

Change of name **12.** – (1) A licensee may change its name pursuant to the provisions of these regulations and regulated sector legislation.

(2) A licensee who has changed its name shall within seven days after such change notify the Authority in writing, which communication shall be accompanied by a certificate for change in name issued by relevant authorities.

Change of shareholding structure **13.** - (1) Any change of ownership where a third party becomes a majority shareholder of a licensee shall require the written approval of the Authority.

(2) The party seeking approval under sub-regulation (1) shall submit to the Authority the following documents in support of the application:

- (a) a covering letter addressed to the chief executive officer;
- (b) a duly signed and stamped deed of share transfer;
- (c) the current shareholding structure approved by the Companies Intellectual Property Authority (CIPA)
- (d) tax clearance certificate from BURS; and
- (e) a letter of clearance from the Competition Authority.

(3) The Authority may before approving the application for change in shareholding structure in sub-regulation (2) consult the Competition Authority, CIPA and BURS.

Application for
renewal of
licence

14. – (1) A licensee who wishes to renew its licence, not less than three months before expiration of the licence term, apply to the Authority for a renewal of the licence.

(2) Application for a renewal of a licence in sub-regulation (1) shall be in writing by filling in an application form prescribed in the Second Schedule of these regulations.

(3) The Authority shall, while making a decision whether to grant or deny an application for renewal of a licence, consider the applicant's compliance (including historic compliance record) to the Act, these regulations and the terms and conditions of the licence which is due to expire.

(4) Notwithstanding the provisions of sub-regulation (3) the Authority shall not renew a licence of a licensee who has, during the term of the licence which has expired or is due to expire, ignored, resisted or wilfully neglected or failed to comply with any Order given by the Authority to the said licensee.

(5) The Authority shall, in the event that it denies an application for renewal of a licence, inform the applicant of such decision in writing, including the reasons thereof.

Licence
suspension and
revocation

15. – (1) The Authority may suspend or revoke a licence:

(a) where a licensee:

- (i) contravenes the provisions of the Act or any regulated sector legislation, or fails to comply with any lawful direction or requirement of the Authority;
- (ii) defaults on or breaches any material condition of the licence;
- (iii) is declared bankrupt, insolvent or enters into liquidation;
- (iv) is found to have presented false information which formed the basis of the licence being granted; or

(b) as may be necessary in the public interest.

(2) In deciding which decision to take under sub-regulation (1), the Authority shall take into account:

- (a) the impact of the contravention on customers and consumers;
- (b) the extent to which the licensee has achieved any financial or any other gain from the contravening act;
- (c) where a licensee has committed a similar contravention in the past;
- (d) the duration and seriousness of the contravention; and
- (e) any mitigating or aggravating factors.

(3) A revocation or suspension of a licence shall not be made until a licensee has, by notice in writing, been given the opportunity by the Authority, to

rectify that contravention of failure, or show cause within such time as may be specified, why the licence should not be revoked or suspended.

PART IV
GENERAL OBLIGATIONS OF A LICENSEE

General
obligations

16. – (1) A licensee shall:

- (a) comply with:
 - (i) the Act;
 - (ii) relevant regulated sector legislation;
 - (iii) Orders and directives of the Authority;
 - (iv) these regulations;
 - (v) LPG standards; and
 - (vi) LPG Business Operational Guidelines;
- (b) not sell or offer for sale an empty (including fractional empty) cylinder;
- (c) inform the Authority within twenty-four hours after the occurrence of a dangerous situation or incident including the steps taken or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;
- (d) when a facility is left unattended, ensure that:
 - (i) all sources of energy (such as electrical power to the dispensing equipment, valves, pipe lines etc) is shut off; and
 - (ii) the dispensers, all cylinders and related equipment are adequately secured to prevent unauthorized access and use;
- (e) upon request, make available to the Authority records of the regulated activity;
- (f) a wholesaler and a retailer shall ensure their licence as issued by the Authority is conspicuously displayed at a business premise;
- (g) maintain and make available to the Authority upon request documentary evidence that:
 - (i) all electrical equipment and installations in the premises relevant for the conduct of its regulated activity comply with existing relevant codes or legislation;
 - (ii) all installations and installation accessories comply with the applicable approved standards;
 - (iii) all safety and emergency labelling is available in accordance with the applicable approved standards
 - (iv) all installations have been carried out by a relevant competent licensed installer/contractor as per the applicable approved standard; and
 - (v) areas of the premises where flammable gases or vapours may occur comply with existing relevant codes (fire zoning); and
- (h) not engage in any activities that disrupt or interfere with competition.

(2) Notwithstanding sub- regulation (1), a licensee shall:

- (a) ensure that risk assessments are carried out at least every two years or as specified in the license conditions;
 - (b) ensure that the testing and measuring instruments used for its regulated activity are accurate and regularly calibrated by a recognised body in accordance with the applicable legislation;
 - (c) ensure that a cylinder is disposed off safely and in compliance with applicable laws and standards;
 - (d) obtain and maintain a valid insurance cover in respect of all liabilities that may arise from the conduct of a regulated activity;
 - (e) conduct business in such a way that:
 - (i) bulk consumers/customers, retailers and consumers are treated fairly and equally; and
 - (ii) comparable services are provided to all bulk consumers, retailers and consumers;
 - (f) as soon as practicable, but in any event not later than fourteen days after it becomes aware of the fact, notify the Authority:
 - (i) if it is unable to conduct its regulated activity;
 - (ii) if the conduct of its regulated activity would or might lead to the breach of any of these Regulations or materially affect services to the customers or consumers; or
 - (iii) of any material change in circumstance that adversely affects its regulated activity;
 - (g) cause the operator to be present on a facility at all material times;
 - (h) notify the Authority of any change of its address, name or location not later than seven days after such change;
- licensee
- (i) display in a conspicuous place at its facility its licence or a true copy thereof, duly certified by the Authority; and
 - (j) issue an official receipt bearing its registered name and address in all transactions relating to LPG which shall specifically set out:
 - (i) its registered name and address;
 - (ii) the quantity and price of LPG sold, transported, filled or re-filled;
 - (iii) the date of the transaction;
 - (iv) in the case of the sale of LPG in cylinders:
 - (A) the brand of the product;
 - (B) the gross weight of a cylinder, including the contents thereof;
 - (C) the total price; and
 - (D) the unit price per cylinder
 - (E) the cylinder serial number or unique identification number.

(3) Notwithstanding sub-regulation (1) and (2), a wholesaler shall establish and maintain an effective system or mechanism of monitoring and tracking its LPG cylinders.

Protection of
lives and
property

17. - (1) A licensee shall, while storing, keeping, handling, conveying, using or disposing off LPG, take such precautions and exercise such care as may be reasonable under the circumstances in order to:

- (a) avoid endangering the safety or health of any person, or the safety of any person's property; and
- (b) prevent risk of environmental harm.

(2) A licensee or a dealer shall dispose off any waste related to LPG business in a manner and at a place intended for the safekeeping and safe disposal of such products pursuant to applicable law and LPG Standards.

Compensation
for loss suffered

18. – (1) A licensee shall be obliged to compensate any person who has suffered any loss as a result of a regulated activity.

(2) without prejudice to the rights and obligations given under any existing laws any person who has suffered loss as a result of a regulated activity shall first lodge a complaint with a licensee whose regulated activity has caused such loss with a view to reaching an amicable settlement. The complainant shall at the same time notify the Authority of the complaint.

(3) In the event no settlement is reached under sub-regulation (2), the person who has suffered loss may refer the matter to the Authority for a decision and the Authority shall deal with such matter as if it is a complaint lodged pursuant to the provisions of the Act and the Botswana Energy Regulatory Authority (Complaints Handling Procedure) Regulations, 2018.

(4) For the purpose of this regulation, a person includes an administrator, executor or executrix of the estate of a deceased person.

Insurance

19. A licensee shall ensure that it procures and maintain adequate insurance cover for environment, personnel, customers, consumers and visitors of a regulated facility.

Maintenance of
records,
provision and
disclosure of
information

20. - (1) A licensee shall at all times:

- (a) keep complete and accurate records and data related to its regulated activity; and
- (b) in accordance with the Authority's requirements and pursuant to its directions, promptly provide to the Authority documents, records or information related to its regulated activity.

Confidential
information

21. - (1) Any information received by the Authority from a licensee pursuant to these regulations and applicable law shall be presumed not to be

confidential unless stated so by the licensee and the Authority shall evaluate such information for confidentiality and inform the licensee accordingly.

(2) A licensee shall not withhold information from the Authority on the ground that it is confidential.

(3) A licensee may request the Authority not to circulate specific data or information that it has provided to the Authority, provided, that only the Authority shall determine whether such information is confidential.

(4) The Authority shall limit or prohibit the publication of any information to the public in the event it makes a determination that such information is confidential or disclosure of the said information would be detrimental to the person or business of the person or entity providing the information.

Offence

22. Any person who refuses to furnish information or statement as required under regulation 20 or furnishes false information or statement to the Authority commits an offence and shall be liable, on conviction, to a fine not exceeding P30,000 or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

Customer
Service
Standards

23. Subject to approval by the Authority and as specified in the guidelines issued by the Authority a licensee shall:

(a) establish:

- (i) a code of practice on consumer protection;
- (ii) service quality standards;
- (iii) key performance standards;
- (iv) procedures for handling customers complaints;
- (v) programmes to inform the public on services related issues;
- (vi) an office to receive and respond to questions, concerns and complaints related to its business; and

(b) maintain trained staff to address customer issues in a timely and transparent manner.

PART V ENVIRONMENTAL PROTECTION

Compliance
with
environmental
laws and
standards

24. - (1) Every licensee shall comply with the requirements of all applicable environmental laws and standards related to a facility and a retail outlet as appropriate.

(2) Subject to applicable laws a licensee shall:

- (a) carry out an environmental impact assessment before establishing a facility, or making a major improvement to an existing facility;

- (b) take all necessary preventive measures to avoid pollution resulting from its operations;
- (c) observe strict environmental, health, and industrial safety standards ; and
- (d) perform an environmental audit related to regulated activity.

(3) For the purpose of sub-regulation (2) (a) the term “major improvement” means change that aims at expanding or reducing the size of the facility and increasing or reducing the number of storage tanks.

Sanctions for events of violations of environmental laws

25. In the event the Authority determines that a licensee or a dealer has violated the licence conditions, the Act, these regulations or any relevant regulated sector legislation on matters related to the protection of environment it shall take appropriate actions.

PART VI TECHNICAL OBLIGATIONS OF A LICENSEE

Compliance with specifications and standards

26. – (1) A licensee shall comply with the relevant standards pertaining to the handling, storage, distribution, transportation and quality of LPG which is consistent with the Act, relevant regulated sector legislation and these regulations.

(2) A licensee shall not deviate from any relevant standard without prior approval of the Authority and the Authority shall not grant such an approval unless it is satisfied that such deviation is for public interest and will not negatively affect public safety and the environment.

Execution of a dealership agreement

27. – (1) No dealer shall conduct LPG business, unless it has entered into a dealership Agreement with wholesaler and that, it shall only procure LPG from the said wholesaler.

(2) A wholesaler, shall within thirty days after receipt of a written request for a dealership agreement from a dealer, notify such dealer whether it has accepted or denied the request.

(3) A wholesaler and a dealer shall execute and make available to the Authority upon request the dealership agreement signed.

(4) A wholesaler may refuse a request for a dealership agreement made by a dealer pursuant to sub-regulation (1), where the request made is not economically or technically feasible and may result in a wholesaler being unduly prejudiced.

(5) In the event a wholesaler, denies a request for a dealership agreement pursuant to sub-regulation (4) it shall give reasons in writing.

(6) Notwithstanding any agreement to the contrary, any party to a dealership agreement may terminate the dealership agreement it has entered into, where it determines that the operations of the other party is in violation of the provisions of the Act, relevant regulated sector legislation or these regulations.

(7) Any party to a dealership agreement may terminate the dealership agreement for any other reason than that stated in sub-regulation (6), provided a prior notice of sixty days or any period specified in the agreement is given to the other party.

(8) In the event a dealer is aggrieved by the refusal of the wholesaler in sub-regulation (4) or the termination of the dealership agreement in sub-regulations (6) and (7) he/she may refer the matter to the Authority for determination.

(9) Notwithstanding the generality of this regulation, a wholesaler shall, pursuant to the provisions of sub-regulation (1), identify and prepare a list of all dealers it has a dealership agreement with.

Wholesaler to
prepare a plan

28. – A wholesaler shall prepare and submit a report to the Authority which shall include:

- (a) a list of all wholesalers and/or dealers he is supplying LPG;
- (b) a detailed plan on how to provide technical support to wholesaler and/or dealers as required by regulation 29; and
- (c) detailed plan on how it will monitor the performance of wholesalers and/or dealers he transacts with.

Provision of
technical
support

29. - (1) Notwithstanding any provision of these regulations:

- (a) a wholesaler shall provide technical support to a dealer with whom it has a dealership agreement and shall ensure that its LPG business is conducted in accordance with these regulations and its regulated facility complies with the requirements prescribed in the Act, relevant regulated sector legislation, relevant standards and these regulations;

(2) Notwithstanding any provision of these regulations:

- (a) a retailer shall be deemed to be an agent of a wholesaler with whom it has a dealership agreement, and the said wholesaler shall be responsible for all the conducts of the dealer.

Offence

30. Any person who contravenes the provisions of rule 29 (1) commits an offence and shall be liable, on conviction, to a fine not exceeding P30,000 or

in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

Prohibition on the use of cylinders and seals

31. – (1) A licensee shall not use any cylinder for storage, handling, filling or re-filling of LPG unless such cylinder is completely leak proof, undamaged and suitable and safe for such storage, handling, filling or re-filling.

(2) A licensee shall not use a cylinder that poses or may pose a significant risk of environmental harm or to the safety or health of any person or property.

(3) A licensee shall ensure all cylinders are marked according to the provisions of BOS ISO 4706 or any other relevant standard.

(4) A licensee shall ensure that all cylinders in its possession are sealed after filling or re-filling.

(5) The seal described in sub-regulation (4) shall be of the type that cannot be easily broken or destroyed before LPG can flow out of the cylinder.

(6) A wholesaler, and a dealer shall be jointly and severally liable for providing cylinders with no seal or a broken seal.

(7) A licensee shall keep a record of all cylinders filled for a particular batch which record shall include but not limited to; the serial number, tare mass, gross mass, batch number, seal number and date of filling.

Offence

32. Any licensee who sells, offers for sale or distributes a cylinder with a broken seal or with no seal commits an offence and shall be liable, on conviction, to a fine not exceeding P30,000 or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

Prohibition to decant

33. – (1) No person shall decant a cylinder at any place other than a refilling centre.

(2) Any person who contravenes the provisions of sub-regulation (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding P30,000 or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

Prohibition on Under filling

34. – (1) A wholesaler, or a dealer shall ensure that cylinders carry the net LPG quantity as required by the provisions of the Weights and Measures Act Cap 43:06.

(2) A cylinder without a seal, with a broken seal or whose seal has been tampered with shall raise a rebuttable presumption that such cylinder is under filled.

(3) Possession of an under filled cylinder that has not been so identified or that has not been removed from a facility or a retail outlet, shall raise a presumption that such cylinder is for sale.

(4) Any person who contravenes this regulation commits an offence and shall, upon conviction, be liable to a fine not exceeding P30,000 or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

The use of
calibrated
weighing scales

35. - (1) A wholesaler, or a dealer shall:

- (a) maintain at all times at its regulated facility or a retail outlet, as the case may be, a weighing scale suitable for cylinders and such weighing scale shall be calibrated and sealed by a competent authority; and
- (b) prior to selling or offering for sale, ensure by weighing, that the LPG in a cylinder meets the required quantity.

Violation

36. – (1) A wholesaler, or dealer who:

- (a) sells, offers for sale or distributes an under filled cylinder;
- (b) fails or ignores to maintain a calibrated weighing scale in its facility as required under regulation 35; or
- (c) fails or refuses to maintain a weighing scale or to weigh the LPG contents in a cylinder,

commits an offence and shall, upon conviction, be liable to a fine not exceeding P30,000 or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover or to imprisonment for a term not exceeding five years or both.

(2) Notwithstanding the provisions of sub-regulation (1), a dealer shall be required to return the cylinders that do not meet the prescribed standards to a wholesaler.

Marking of
cylinders

37. (1) A cylinder shall have the owner's distinguishing colour, mark and clearly labelled with:

- (a) the owner's trade name;
- (b) the cylinder's serial number;
- (c) the date of the last major service; and
- (d) other additional markings as required by the approved applicable standard.

(2) Every wholesaler shall register with the Authority distinguishing colour and mark with the Authority and no wholesaler shall use a registered colour already registered and in use by another wholesaler.

(3) Notwithstanding the provisions of sub-regulations (1) and (2) and upon coming into force of these regulations there are more than one wholesaler using the same colour, then each wholesaler shall continue using the same colour but shall be at liberty to change the colour if it wishes and register the new colour with the Authority.

Unloading of
LPG

38. – (1) A wholesaler and a dealer shall ensure that a sales invoice for each shipment of LPG includes:

- (a) the name of a wholesaler, dealer, bulk consumer or consumer, as the case may be;
- (b) the quantity thereof; and
- (c) the delivery point.

(2) LPG shall be unloaded only by, or in the presence of a customer, a bulk consumer or their representative, as named on the sales invoice or transfer document.

(3) LPG shall only be unloaded at the delivery point designated by a customer or a bulk consumer as indicated on the sales invoice or transfer document.

Cylinder sealing

39. - (1) A licensee shall, upon refilling, ensure that a cylinder valve and a safety valve is properly closed and sealed to protect it against a leak and tampering.

(2) No licensee or dealer shall import, sell, fill, re-fill or distribute an LPG in a cylinder that has:

- (a) a broken or defective seal; or
- (b) not been properly closed and sealed in accordance with sub-regulation (1).

(3) A licensee and a dealer shall ensure that a cylinder seal in each cylinder they handle, sell or offer for sell complies with approved specification.

Deceptive trade
practices

40. - (1) No person shall engage in any activity that may deceive, mislead, or have the effect of deceiving or misleading the customer, with respect to:

- (a) the brand name of the LPG;
- (b) LPG's composition, grade or quantity; and
- (c) LPG consumer installation or any other LPG installation thereof.

Storage of LPG

41. – (1) A wholesaler, and dealer shall:

- (a) locate, construct, maintain and operate its works connected with storage of LPG in accordance with these regulations, respective licence, applicable laws and LPG standards and specifications;

- (b) ensure that all LPG installations within its control are carried out by a licensed installer in accordance with the LPG standards and specifications; and
- (c) conduct its regulated activity or LPG retail business as the case may be, in such a way so as not to endanger public health or safety.

(2) A wholesaler, and dealer shall mark with conspicuous signs on the place at which the storage tanks and cylinders are located; separating empty and filled (full) containers and labelling the storage areas of the same in accordance with the applicable LPG standards

(3) A wholesaler, and dealer shall, when storing LPG, employ appropriate safeguards to ensure that a leak is easily detected, including elevating a storage tank above the ground and placing a storage tank on a concrete pad.

(4) A licensee shall, where it intends to replace or install equipment at a regulated facility or a part thereof, notify the Authority (and submitting detailed design drawing) not less than thirty days prior to commencing such replacement or installation in order to allow the Authority to make necessary inspections and issue necessary approvals.

(5) Notwithstanding the provisions of sub regulation (4) above, a licensee shall seek approval for any significant changes to a regulated facility in accordance with these regulations, applicable law or any other order or direction issued by the Authority.

(6) A licensee shall ensure that its equipment used in regulated activity are calibrated, tested, maintained by relevant authorised persons and are compliant to all other legislative requirements.

Provision for
fire
extinguishing
equipment

42. - (1) Pursuant to the provisions of the Act and the relevant regulated sector legislation, a licensee shall provide and maintain adequate (as guided by the applicable LPG standards) fire protect equipment at a facility and a retail outlet as appropriate.

(2) Notwithstanding the provisions of sub-regulation (1), a licensee shall ensure that a facility or a retail outlet as appropriate is equipped as may be applicable with:

- (a) any emergency equipment required by the Act and the relevant regulated sector legislation or LPG standards for use in an emergency situation;
- (b) a hydrant system for as guided by the applicable LPG standard to fight fires in the facility; and
- (c) fire extinguishers of the specified types and sizes as specified in the applicable LPG standards.

(3) A licensee shall position the equipment described in sub-regulation (2) in accessible places at a facility where a LPG is loaded, handled, offloaded or delivered and in accordance with the applicable LPG standards.

(4) A licensee shall, not less than once a year, test the equipment described in sub-regulation (2) pursuant to its specification, the Act and relevant regulated sector legislation and in accordance with the applicable standards.

Preparation of
Emergency
Preparedness
Plan

43. A licensee shall establish an emergency plan to be employed in the event of an emergency at a facility that shall:

- (a) include a suitable and adequate fire-fighting plan that comprises:
 - (i) the locations and types of all fire-fighting equipment; and
 - (ii) an action plan that identifies, *inter alia*, assembly points, emergency exists and the tasks of all employees;
- (b) include provisions for the regular (at least every two years) training of employees to deal with an emergency situation, the records of which shall be preserved;
- (c) be provided to employees employed in or on the relevant premises; and
- (b) be made available to the Authority on request;
- (c) include provisions of first aid training of employees;
- (d) first aid facilities that are kept up to date and inspected monthly of which record shall be preserved;
- (e) relevant formal appointments such as fire marshals and first aiders with specific tasks to be performed by each in the case of an emergency situations;
- (f) carry out regular emergency response drills of which records shall be kept and corrective action plans emanating from the drills shall be actioned and such records preserved.

Decommissioning
procedure

44. – (1) A regulated facility may, subject to the provisions of this regulation, be decommissioned:

- (a) after receipt of a written approval from the Authority following a written application for a decommissioning from a licensee, as the case may be;
- (b) by an Order of the Authority where it is satisfied that such facility has been abandoned by its licensee for a period not less than three months; or
- (c) by an Order of the Authority that the same be decommissioned after the Authority is satisfied that the continued operation of such facility poses a danger to lives, property and environment.

(2) A licensee shall in the event that it seeks to decommission a regulated facility, apply in writing to the Authority not less than thirty days prior to such

decommissioning in order to enable the Authority to make necessary inspections and issue necessary approvals.

(3) Notwithstanding any provision of these regulations, a licensee shall pay all costs associated with the decommissioning of a regulated facility, whether such decommissioning has been done following the request by the licensee or by Order of the Authority, as the case may be.

(4) Notwithstanding the provisions of sub regulations (1), (2) and (3) the licensee shall be obliged to comply with all regulatory and legislative provisions such as environmental impact assessments as may be applicable when decommissioning a regulated facility.

Site restoration

45. - (1) A licensee, shall, prior or post, as may be applicable, decommissioning a regulated facility, restore the said facility to its original state so that it does not pose a threat to the environment or the safety and health of the public.

(2) The Authority shall, after completion of the restoration of a regulated facility to its original state by a licensee, and where the Authority is satisfied with the said restoration, issue a certificate of compliance to a licensee, confirming such restoration.

(3) For the purposes of sub- regulation (1) “restore” means:

- (a) to return the area in which a regulated facility is located to its original and natural state as it was before the construction and installation of the facility; or
- (b) to render the area in which a regulated facility is located, or part thereof, compatible with its intended after-use, including:
 - (i) removing buildings, structures, plant and debris;
 - (ii) establishing of compatible contours and drainage;
 - (iii) replacing top soil, re-vegetation, slope stabilization; and
 - (iv) infilling of excavations.

(4) The Authority shall, before issuing a certificate of compliance under sub-regulation (2), consult the Department or any other relevant authority.

Performing LPG Installations

46. (1) No person shall carryout LPG installations or install any LPG equipment unless that person has been registered with the relevant authority as a licensed installer or contractor.

(2) In the absence of a relevant authority registering licensed installers or contractors for the purposes of sub regulation (1) above; the Authority shall keep a register of competent LPG installers.

(3) Any person wishing to be registered by the Authority as a competent LPG installer shall apply in writing to the Authority and submit evidence that they

have adequate skilled personnel who have undergone training on LPG installers courses or LPG Standards dealing with installations. The applicant shall be expected to fully comply with the requirements of the Authority including payment of fees required by the Authority prior to approval of such an application.

(4) For the purposes of sub regulation (3) evidence of at least 3 years of LPG installations experience with traceable references from or submission of at least 3 LPG installations previously carried out; which installations shall be assessed for compliance with the applicable LPG standards; shall be accepted as adequate skills.

(5) In the case where the Authority registers competent LPG installers; the Authority shall issue in writing a certificate of registration to the registered installer.

(6) Sub regulations (2), (3), (4) and (5) shall apply only in the case where there is no duly authorised authority for registering LPG installers or contractors.

PART VII COMPLIANCE AND ENFORCEMENT

Inspection of a
regulated
facility

47. - (1) The Authority may inspect a regulated facility, a retail outlet or a vehicle/transporting equipment pursuant to the provisions of the Act, relevant regulated sector legislation, applicable standards and these regulations.

(2) The Authority may access and inspect a regulated facility, retail outlet, vehicle, equipment and documents, and a licensee or operator as the case may be, shall render such assistance to inspectors as may be required in the course of such inspection.

(3) Notwithstanding the generality of sub-regulation (2) an inspector shall have the right and obligation to enter upon any facility, retail outlet or vehicle for the purpose of conducting an inspection.

(4) During inspection, an inspector may:

- (a) take samples of any substance or articles stored in a facility, retail outlet or vehicle;
- (b) make copies or take extracts from any book, accounts or records kept on a facility, retail outlet or in the vehicle;
- (c) inspect machinery, equipment, appliances, meters, fittings and apparatus;
- (d) inspect any vehicle that is found in a facility or at a retail outlet or any place outside a facility or retail outlet; and
- (e) Stop an activity(ies) where the inspector is convinced that the continuation of such an activity(ies) endangers the lives of persons, property and environment. In the case an inspector stops an activity(ies) he/she shall inform the licensee by filling in an applicable form with reasons and the dangers that has caused the

stopping of such an activity(ies) (a copy of which shall immediately be transmitted to the Chief Executive Officer of the Authority. Where an activity(ies) has been stopped pursuant to this sub regulation, such an activity(ies) shall only be resumed when the corrective/preventive actions have been put in place and that such a danger no longer exists; after which the inspector shall issue in writing an authorisation for the continuation of such an activity(ies).

Notification of offences

48. - (1) At the conclusion of an inspection and where it is found that there was violation of the provisions of the Act, relevant regulated sector legislation and these regulations, the person responsible for such violation, shall:

- (a) where he disputes the offence, fill in Part A of the Notification of the Offence as prescribed in the First Schedule; or
- (b) where he admits the offence, fill in Part B of the Notification of the Offences as prescribed in the First Schedule; and
- (c) in any event pay the administration fee as prescribed by the Authority.

(2) In the event the person who has been found in violation of the law and who has admitted to the offence under the provision of sub-regulation 1 (a), such person shall, within fourteen days, from the day of the said admission, be required to pay the fine prescribed, failure to which the Authority may close down the licensee's operations.

(3) In the event the person who has been found in violation of the law and who disputed the offence under the provision of sub-regulation 1 (b), such person shall, within seven days from the date of commission of the offence be:

- (a) issued with a Compliance Order; and
- (b) charged with a criminal offence.

(4) Upon the conclusion of the inspection and where the inspector is satisfied that the continued operation of the transport vessel or a facility poses an imminent danger to the lives of people and animals or destruction of property, he may proceed to order for the closure or impoundment, as the case may be, of the said facility or transport unit regardless of whether the said person has admitted to the offence or not.

(5) Notwithstanding the provisions of sub-regulation (4), an inspector who has decided to close a facility or to impound a transport vessel, shall note down the reasons which have compelled him to take such decision including all the available evidences.

Offence

49. Any person who refuses to sign in the Notification of Offence upon being required by an inspector under regulation 47 commits an offence and shall be liable, on conviction, to a fine not exceeding P30,000 or to imprisonment for

a term not exceeding five years or both for a natural person or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover.

Issuance of
Compliance
Orders

50. The Authority may, while discharging its regulatory functions and where it finds that there is a continued violation of the provisions of the Act, the relevant regulated sector legislation and the provisions of these regulations, issue a Compliance Order to the person responsible for such violation.

Power to enter,
search and close
a facility,
building or
premises

51. – (1) Notwithstanding any provision in these regulations an inspector shall have the right and obligation to enter upon any facility, building or premises and close it down where he determines that a regulated activity being conducted therein is in contravention of the Act and these regulations.

(2) An inspector may, while discharging his obligation under sub-regulation (1), seek the assistance of law enforcement institutions including the police and such institutions shall provide the requested assistance to the inspector.

Obligations of
inspector during
inspection

52. - (1) During inspection an inspector shall be required to do the following:

- (a) identify himself to a licensee or customer with identity card issued by the Authority;
- (b) explain to a licensee or customer the purpose of the inspection;
- (c) conduct himself with fairness, objectivity and integrity;
- (d) not engage in any form of discrimination, bias or harassment;
- (e) refrain from taking part in duty where they have or may appear to have conflict of interest;
- (f) carry out inspection in a professional manner in accordance with the requirements of these regulations, codes, guidelines, inspection checklist, standards, applicable laws or standards and Petroleum Industry Best Practices;
- (g) not solicit or accept any bribe nor engage in any corrupt or perceived corrupt activity; and
- (h) not use force or abusive, threatening and insulting language to a licensee, or any person.

(2) Any inspector who contravenes the provision of sub-regulation (1) shall be dealt with in accordance with the Authority's procedures.

(3) Any person aggrieved by an act of an inspector during inspection may, within fourteen days from the date of the act, report the matter in writing to the Authority.

Prohibited acts
against
inspectors

53. - (1) A licensee shall not:

- (a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon it under these regulations;
- (b) use abusive, threatening or insulting language to an inspector;

- (c) deny or fail to comply with a requirement, direction or notice of an inspector;
- (d) offer or attempt to offer a bribe to the inspector or solicit a favour from the inspector or any other corrupt or perceived corrupt activity; and
- (e) when required by the Authority to answer a question, deny or fail to answer such question to the best of his knowledge, information and belief.

(2) Any person who contravenes the provision of sub-regulation (1) commits an offence and shall be liable, on conviction, to a fine not exceeding P30,000 or to imprisonment for a term not exceeding five years or both for a natural person or in the case of a corporate body, a fine not exceeding ten percent of its annual turnover.

PART VIII GENERAL PROVISIONS

- | | |
|--|---|
| Appeal | 54. – Any person aggrieved by the decision made by the Authority under Part II and III of these regulations may lodge an appeal to the High Court. |
| Receiving terminals | <p>55. – (1) A wholesaler having a receiving terminal shall upgrade its receiving terminal to allow it to receive at least forty-Five metric tonnes] of LPG at a time.</p> <p>(2) Any wholesaler who, after coming into force of these regulations, intends to construct a receiving terminal shall ensure that the constructed terminal has the capacity of receiving at least forty-five metric tonnes of LPG at a time.</p> |
| Regulations to prevail over the LPG Operational Guidelines | 56. – Notwithstanding the provision of any regulation to the contrary and for avoidance of doubt, where there is any conflict between the provisions of these regulations and the provisions of the LPG (Business) Operational Guidelines, the provisions of these regulations shall prevail. |
| The Authority to supplement procedures | 57. Where procedures are not provided for in these regulations, the Authority may do whatever is necessary and permitted by the Act and the relevant regulated sector legislation and LPG standards to enable it to effectively and completely adjudicate on any matter before it. |

FIRST SCHEDULE

(Made under Regulation 3)



THE BOTSWANA ENERGY REGULATORY AUTHORITY ACT

NOTIFICATION OF OFFENCE

(LIQUEFIED PETROLEUM GAS WHOLESALE/DISTRIBUTION BUSINESS)

To..... Address.....

1. You are charged with the following offence (s):
 - (a)
 - (b)
 - (c)
 - (d)
 - (e)
 - (f)

2. If you **WISH** to admit commission of the offence (s) you should complete “**PART B**” below and send this notification, together with the statutory penalty for each offence to which you admit, to the Authority within fourteen days from the date of service of this notification.

3. If you **DO NOT WISH** to admit to have committed the offence (s) you are required to complete “**PART A**” below and send this notification to the Chief Executive Officer of the Authority together with answers, in writing, to the charges mentioned above, within seven days from the date of service of this notification.

4. Penalty for each offence mentioned above shall be as provided for under the Botswana Energy Regulatory Authority Act and the Botswana Energy Regulatory Authority (Liquefied Petroleum Gas Operations) Regulations, 2018 or any other laws relevant to the conduct of the LPG Wholesale Business, LPG Distribution Business or LPG Retail Business.

PART “A”- NOTIFICATION OF INTENTION TO ANSWER CHARGES

I of residential or

business address) being the (owner/director/manager/representative) of.....

..... intend to respond to the Authority/ Court of Law on the charge (s)

Nos.....set out in Paragraph 1 of this Notification.

Signature:

Date:

PART “B”- ADMISSION OF OFFENCE

I of residential or business address) being the (owner/director/manager/representative) of.....plead guilty to the charge (s) Nos.....set out in Paragraph 1 of this Notification and I undertake to pay the requisite fine of BWP..... within a period of fourteen days from the date hereof.

Signature:

Date:

FACILITY/VEHICLE/VESSEL DETAILS

ISSUED BY

Motor Vehicle Reg. No.....

Name:

LPGWL /LPGDL No.

Designation:

Vessel Registration No.

Date:

Signature of the person issued with the notification

Signature of the Inspector

.....

.....



SECOND SCHEDULE

(Made under Regulation 7 (1))

Form No.....

APPLICATION FOR LPG WHOLESALE/ DISTRIBUTION LICENCE

For BERA Use Only	
Date Received:	File Number:

IMPORTANT NOTE: Complete this form and return it with all other relevant enclosures to the Chief Executive Officer of BERA at the above address.

In order to avoid unnecessary delays, answer fully all items and submit to BERA all of the information required to consider this application. BERA will not process this application until it has been found to be complete.

Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals N/A meaning Not Applicable. You should ensure that all required documentation are enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application.

	PART I: DETAILS OF THE APPLICANT
1.	Name of Applicant (Insert trading name)

<p>2.</p>	<p>Registration Status: (Fill Where Appropriate)</p> <p>(a) Certificate of Incorporation No.....</p> <p>(b) Memorandum and Articles of Association (where applicable)</p> <p>(c) Business license No.....</p> <p>(d) TIN No.</p> <p>(e) VAT No.....</p>
<p>3.</p>	<p>Physical and postal Address of the Facility:</p> <p>(a) Physical address:</p> <p>Street.....Plot No.....</p> <p>Block No.....Building No.....</p> <p>(a) Postal Address:</p> <p>(b) Telephone No:</p> <p>(c) Facsimile:Cell Phone.....</p> <p>(d) E-Mail:</p>
<p>4.</p>	<p>Legal status of the Applicant:</p> <p><input type="checkbox"/> Sole Proprietorship</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Public Limited Liability Company</p> <p><input type="checkbox"/> Private Limited Liability Company</p> <p><input type="checkbox"/> Parastatal Organization</p> <p><input type="checkbox"/> Government Agency</p> <p><input type="checkbox"/> Cooperative Society</p> <p><input type="checkbox"/> Joint Venture</p> <p><input type="checkbox"/> Other (specify).....</p>
<p>5.</p>	<p>Contact Person:</p> <p>(a) Name:</p> <p>(b) Title:</p> <p>(c) Physical address:</p> <p>Street.....Plot No.....</p> <p>(d) Postal Address:</p>

	(e) Telephone Number: (f) Facsimile:Cell phone: (g) E-mail:
6.	Application Fee and Method of Payment: (a) Amount: BWP..... (b) Mode: <input type="checkbox"/> Cash <input type="checkbox"/> Cheque <input type="checkbox"/> Other (specify)..... (c) Fees Payment Receipt No. (<i>Attach Copy</i>).....
PART II – ENCOLOSURE	
7.	Attach the following documents/ permits issued by relevant authorities(where appropriate) : <input type="checkbox"/> Building Permit <input type="checkbox"/> Land Title <input type="checkbox"/> Business license <input type="checkbox"/> Certificate of incorporation <input type="checkbox"/> Memorandum and Article of Association <input type="checkbox"/> TIN certificate. <input type="checkbox"/> VAT Certificate <input type="checkbox"/> Proof of ownership of the filling plant and storage depot that conforms to the petroleum Industry best practises <input type="checkbox"/> Hospitality agreement <input type="checkbox"/> Oil and Lubricant handling permit <input type="checkbox"/> adequate skilled personnel (personnel’s profile) <input type="checkbox"/> prrof of financial capability being either an audited financial statements showing an annual gross turnover of not less than P 150 000.00] or a bank statement showing a credit balance of not less than P 50 000.00 or a bank guarantee or a credit facility of not less than P 150 000.00 <input type="checkbox"/> Environmental Impact Assesment certificate <input type="checkbox"/> Fire Certificate from the Fire Department <input type="checkbox"/> Memoranda of understanding (if any) governing commercial transactions of regulated goods and services. <input type="checkbox"/> List of the Applicant’s intended customers
PART III – DECLARATION BY THE APPLICANT	
8.	I..... (insert name) being..... (insert title/position) hereby declare that I am authorized to make this application on behalf of the applicant (<i>insert the name of the applicant.....</i>). I further declare that to the best of my knowledge the information supplied herein are correct.

SWORN/AFFIRMED at.....)
by the said.....who is identified to)
me by...../known to me personally)
the latter being known to me personally this) **DECLARANT**
.....day of2018)

BEFORE ME:

COMMISSIONER FOR OATHS

NOTE:

If this application form is completed electronically it must be printed out, signed before a Commissioner of Oaths and submitted with the necessary supporting documents and submitted to the BERA Head Office

THIRD SCHEDULE

(Made under Regulation 11 (2))



Form No.....

APPLICATION FOR TRANSFER OF A LICENCE

This section to be completed by the Current Licensee			
	Current Licensee to complete as appropriate		
Current Licensee's name			
Name and address of the Transferor			
Reason for Transfer (attach documentary proof)			
Address of the Licensed Facility			
	Postcode		Tel No.
	Email		
Licence Particulars	Type of Licence:		
	Licence No:		
	Licence Duration:		
	Expiry Date:		
I agree to the Licence being transferred to the applicant(s) below:			

Name and physical Address of the Transferee :		Date:	
Business Organization (Sole proprietor, Company, Partnership)		Position:	
Principal Officer (only if the transferee is a company or partnership)		Date:	Company Seal
		Signature:	
Names of Partners or Shareholders		1.	
		2.	
		3.	
		4.	
		5.	
		6.	
		7.	

This section to be completed by the Applicant(s)			
<p>1. I the undersigned, being the new occupier of the premises detailed in the application, hereby apply for the transfer of the current licence and I hereby declare that the information stated herein in regard to the transferee are true to the best of my knowledge.</p> <p>2. In the event of a licence being transferred:</p> <p>(a) I agree to abide by the conditions laid down by BERA and applicable laws, and not to alter in any way the approved arrangements of the premises without the written approval of BERA, nor use the said premises for any other purpose than those prevailing at the time the licence is transferred;</p> <p>(b) the licence shall have the like effect in all respects as if no transfer had been made; and</p> <p>(c) all duties and responsibilities that were to be fulfilled by the transferor are automatically shift to the transferee as if no transfer was made.</p>			
Date			
Signed:		Position:	
Print Name			

Ownership of the site comprising the licensed facility.

If the transferor is not the owner of the site (i.e. a tenant), enter below the name and address of the owner or owners, as the case may be:

Details	Transferor to complete if applicable		
Name (of owner)			
Address:			
Post Code		Tel No.	
Email			

Fee BWP	Payable to: BERA Account:

Notes

1. The applicant(s), (if an individual person or partnership) must be over 18 years of age.
2. By signing the form both the transferee and transferor declare that they are authorized to make this application and that the information supplied there herein is correct.
3. This application together with the appropriate fee, should be forwarded to the Chief Executive Officer, BERA at

The application should be attached with the following documents;-

1. The original copy of a valid BERA licence in respect of the licensed facility;
2. Certified copy of tax Clearance in respect of the licensed facility;
3. Lease/ Sale agreement stamp duty paid;
4. Company Registration documents;
5. Transmission document (in case the type of transfer if by transmission i.e. death or order of the Court)
6. Proof of payment of transfer application fee; and
7. Any other document that will be required at the time of transfer

FOURTH SCHEDULE

(Made under Regulation 14 (2))



Form No.....

**APPLICATION FOR RENEWAL OF LPG WHOLESALE LICENCE/LPG
DISTRIBUTION LICENCE**

For BERA Use Only	
Date Received:	File Number:

IMPORTANT NOTE: Complete this form and return it with all other relevant enclosures to the Chief Executive Officer of BERA at the above address.

In order to avoid unnecessary delays, answer fully all items and submit to BERA all of the required information. You may submit your application electronically or by delivering the same to BERA offices. BERA will not process this application until it has been found to be complete.

Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals N/A meaning Not Applicable. You should ensure that all required documentation are enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application.

PART I: DETAILS OF THE APPLICANT	
1.	Name of Applicant (Insert trading name)

2.	<p>Registration Status: (Fill Where Appropriate)</p> <p>(a) Certificate of Incorporation No.....</p> <p>(b) Certificate of Compliance No.....</p> <p>(c) Business license No.....</p> <p>(d) TIN No.</p> <p>(e) VAT No.....</p>
3.	<p>Address of facility</p> <p>(a) Physical address: Street.....Plot No.....</p> <p>(b) Postal Address:</p> <p>(c) Telephone No:</p> <p>(d) Facsimile:Cell Phone.....</p> <p>(e) E-Mail:</p>
4.	<p>Legal status of the Applicant:</p> <p>Sole Proprietorship</p> <p>Partnership</p> <p>Public Limited Liability Company</p> <p>Private Limited Liability Company Parastatal Organization Government Agency</p> <p>Cooperative Society</p> <p>Joint Venture</p> <p>Other (specify).....</p>

5.	<p>Contact Person:</p> <p>(a) Name:</p> <p>(b) Title: (c) Physical address: Street.....Plot No.....</p> <p>(d) Postal Address:</p> <p>(e) Telephone Number:</p> <p>(f) Facsimile:Cell phone:</p> <p>(g) E-mail:</p>
6.	<p>Details of the Current Licence</p> <p>Type of a licence:.....</p> <p>Licence No.</p> <p>Date Issued.....</p> <p>Expiry Date.....</p>
7.	<p>Has the licensee undergone any material changes (structural, legal, managerial or related to the services supplied) since its previous application?</p> <p>Yes – If yes, provide details.....</p> <p>.....</p> <p>.....</p> <p>..... <i>(Use additional Sheet if Necessary)</i></p>

8.	<p>Application Fee and method of payment:</p> <p>(a) Amount: BWP.....</p> <p>(b) Mode: Cash Cheque Other (specify).....</p> <p>(c) Fees Payment Receipt No. (<i>Attach Copy</i>).....</p>
PART II – DECLARATION BY THE APPLICANT	
	<p>I..... (insert name) being..... (insert title/position) hereby declare that I am authorized to make this application on behalf of the applicant and that to the best of my knowledge the information supplied herein is correct and that within a reasonable period of time after notice, I undertake to provide whatever additional information BERA may require in order to evaluate this application.</p> <p>SWORN/AFFIRMED at.....) by the said.....who is identified to) me by...../known to me personally) the latter being known to me personally this) DECLARANT day of2018)</p> <p>BEFORE ME:</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">COMMISSIONER FOR OATHS</p> <p>NOTE: If this application form is completed electronically it must be printed out, signed before a Commissioner of Oaths and submitted with the necessary supporting documents and submitted to the BERA Head Office.</p>

Gaborone
....., 2018

XXXXX
Minister for Mineral Resources,
Green Technology and Energy
Security