

6 December 2023



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**OBJECTION TO DRAFT AMENDMENTS TO SECOND-HAND GOODS ACT, REGULATIONS FOR DEALERS AND RECYCLERS 2012 ("the ACT"), DATED 17 NOVEMBER 2023**

**DEADLINE FOR SUBMISSIONS AND COMMENTS 8 DECEMBER 2023**

1. We refer to the draft amendments published in the Government Gazette dated 17 November 2023 ("Draft Amendments") to the 2012 Regulations for Dealers and Recyclers, published in terms of section 41(c) of the Second-Hand Goods Act, No. 6 of 2009 ("Regulations").
2. We also refer to the Policy Directive, Containing Proposed Extension of the Export Prohibition of Certain Ferrous and Non-Ferrous Waste and Scrap Metal and Further Directives (Dated 23 November 2023) ("Policy"), being the Policy that gave rise to the proposed Draft Amendments.

3. Summary of Objections:

3.1 *Administrative overburden:*

- 3.1.1 The Draft Amendments do not directly address the core issues which give rise to the Policy's intention.
- 3.1.2 The increased administrative and regulatory burdens that the second-hand good dealers and recyclers will have to comply with in terms of the Draft Amendments, in addition to the sudden and substantial increase in administrative oversight work that will be imposed on the Department of Trade, Industry And Competition ("DTIC"), are unreasonable, unpoliceable and impractical.
- 3.1.3 The above persons likely do not have the capacity and structures in place to deal with increased administrative and regulatory burdens.
- 3.1.4 The requirements in terms of the Draft Amendments are unreasonable, and compliance therewith unduly onerous, and in some parts entirely impractical.
- 3.1.5 It is not feasible to impose a monthly reporting requirement, restriction on trade and the requirement for both dealers and purchasers to be registered.

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- 3.1.6 The continual increase in arbitrary regulation shall have an effect contrary to the objectives of the Policy, by prejudicing smaller/medium business enterprises.
- 3.1.7 By creating an over-regulated system of record-keeping and reporting (such as the monthly acquisitions and dispositions reporting contemplated in draft Regulations 4, 8 and 9A), those entities and persons engaging in unlawful activities will be better positioned to conceal such unlawful activities, within the sudden influx of information that regulatory bodies will now need to be processing.
- 3.1.8 There is already a stringent regulatory framework in which second-hand good dealers and recyclers operate, and have operated in, since the Regulations came into force in 2012, and second-hand good dealers and recyclers are already required to navigate this existing regulatory structure.

### 3.2 Unenforceability and Feasibility

- 3.2.1 The Draft Amendments shall be entirely disregarded by those persons participating in illegal and illicit activities within the scrap metal industry.
- 3.2.2 Payments to registered scrap metal dealers and recyclers is restricted to EFT transaction, there is no outright ban on cash for any party whatsoever, which the MRA has been advocating for a long time and certainly should be applied across the board to mitigate abuse of the system by parties masquerading as waste pickers.
- 3.2.3 Parties who generate scrap metal as a by-product to their core business such as metal fabricators, factories utilizing any machinery, construction firms, mines, SOE's, municipalities, schools, hospitals, farmers, artisans and engineering workshops, will be required to be certified to dispose of their scrap metal and redundant equipment and/or that which contains copper.

### 3.3 Lack of industry engagement and consultation:

- 3.3.1 The Draft Amendments arise after providing no substantive or meaningful engagement with the industry's roleplayers, businesses and affected persons, or the public in general.
- 3.3.2 Multiple interested parties, including the MRA, Steel and Engineering Industries Federation of Southern Africa ("SEIFSA"), the Shadow Deputy Minister of Trade and Industry, and other parties have addressed comprehensive correspondence to the DTIC and government objecting on the strongest terms to the Draft Amendments, to which objections no substantive response appears to have been provided.

**3.4 Protection of Personal Information:**

- 3.4.1 There are significant concerns over the collection, storage and transmission, of personal information of third parties by the second-hand good dealers and recyclers, required in terms of the Draft Amendments.
- 3.4.2 In terms of the proposed amended Regulations 4, 8 and 9A particularly, the second-hand good dealers and recyclers shall be required to deal with other suppliers, customers and waste pickers' personal information and distribute such information to the DTIC.
- 3.4.3 This distribution of the personal information, which is protected, shall compromise the second-hand goods dealers and recyclers' abilities to comply with the Protection of Personal Information Act, No. 4 of 2013.

Sincerely,

MRA Administration