

NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998

[\[View Regulation\]](#)

[ASSENTED TO 19 NOVEMBER, 1998]
[DATE OF COMMENCEMENT: 29 JANUARY, 1999]

(English text signed by the President)

This Act has been updated to *Government Gazette* 37713 dated 2 June, 2014.

as amended by

Mineral and Petroleum Resources Development Act, [No. 28 of 2002](#)
[with effect from 1 May, 2004]

National Environmental Management Amendment Act, [No. 56 of 2002](#)

National Environmental Management Amendment Act, [No. 46 of 2003](#)

National Environmental Management Amendment Act, [No. 8 of 2004](#)

National Environment Laws Amendment Act, [No. 44 of 2008](#)

National Environment Management Amendment Act, [No. 62 of 2008](#)

National Environment Laws Amendment Act, [No. 14 of 2009](#)

National Environmental Management Laws Second Amendment Act, [No. 30 of 2013](#)

National Environmental Management Laws Amendment Act, [No. 25 of 2014](#)

GENERAL NOTE

Please take note that section 26 (a) of [Act No. 30 of 2013](#) substitutes for the expression "Minister of Minerals and Energy" of the expression "Minister responsible for mineral resources" wherever it occurs.

Please take note that section 26 (b) of [Act No. 30 of 2013](#) substitutes for the expression "Minister of Water Affairs and Forestry" of the expression "Minister responsible for water affairs" wherever it occurs.

Please take note that section 26 (c) of [Act No. 30 of 2013](#) substitutes for the expression "Minister of Environmental Affairs and Tourism" of the expression "Minister responsible for environmental affairs" wherever it occurs.

EDITORIAL NOTE

Please note that details of Notices published in the *Government Gazettes* that amend the Schedules to the Act are annotated at the beginning of the Schedules.

ACT

To provide for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote cooperative governance and procedures for co-ordinating environmental functions exercised by organs of state; to provide for certain aspects of the administration and enforcement of other environmental management laws; and to provide for matters connected therewith.

[Long title amended by [s. 3](#) of [Act No. 56 of 2002](#) and substituted by [s. 13](#) of [Act No. 46 of 2003](#).]

Preamble.-WHEREAS many inhabitants of South Africa live in an environment that is harmful to their health and well-being;

everyone has the right to an environment that is not harmful to his or her health or well-being;

the State must respect, protect, promote and fulfill the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;

inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices;

sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations;

everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-

prevent pollution and ecological degradation;

promote conservation; and

secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

the environment is a functional area of concurrent national and provincial legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another;

AND WHEREAS it is desirable-

that the law develops a framework for integrating good environmental management into all development activities;

that the law should promote certainty with regard to decision-making by organs of state on matters affecting the environment;

that the law should establish principles guiding the exercise of functions affecting the environment;

that the law should ensure that organs of state maintain the principles guiding the exercise of functions affecting the environment;

that the law should establish procedures and institutions to facilitate and promote co-operative government and inter-governmental relations;

that the law should establish procedures and institutions to facilitate and promote public participation in environmental governance;

that the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society:

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"**activities**", when used in [Chapter 5](#), means policies, programmes, processes, plans and projects identified in terms of [section 24 \(2\) \(a\)](#) and [\(b\)](#);

[Definition of "[activities](#)" substituted by [s. 1](#) of [Act No. 56 of 2002](#), by [s. 1 \(a\)](#) of [Act No. 62 of 2008](#) and by [s. 1 \(a\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"**Agenda 21**" means the document by that name adopted at the United Nations Conference of Environment and Development held in Rio de Janeiro, Brazil in June 1992;

"**aircraft**" means an airborne craft of any type whatsoever, whether self-propelled or not, and includes a hovercraft;

[Definition of "[aircraft](#)" inserted by [s. 1 \(a\)](#) of [Act No. 46 of 2003](#).]

"**applicant**" means a person who has submitted an application for an environmental authorisation to the competent authority and has paid the prescribed fee;

[Definition of "[applicant](#)" inserted by [s. 1 \(b\)](#) of [Act No. 62 of 2008](#) and substituted by [s. 1 \(a\)](#) of [Act No. 25 of 2014](#) with effect from 2 September 2014.]

Wording of Sections

"**assessment**", when used in [Chapter 5](#), means the process of collecting, organising, analysing, interpreting and communicating information that is relevant to decision-making;

[Definition of "[assessment](#)" inserted by [s. 1 \(a\)](#) of [Act No. 8 of 2004](#).]

"**best practicable environmental option**" means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

"**commence**", when used in [Chapter 5](#), means the start of any physical implementation in furtherance of a listed activity or specified activity, including site preparation and any other action on the site or the physical implementation of a plan, policy, programme or process, but does not include any action required for the purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity;

[Definition of "[commence](#)" inserted by [s. 1 \(b\)](#) of [Act No. 8 of 2004](#), substituted by [s. 1 \(c\)](#) of [Act No. 62 of 2008](#) and by [s. 1 \(b\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"**commercially confidential information**" means commercial information, the disclosure of which would prejudice to an unreasonable degree the commercial interests of the holder: Provided that details of emission levels and waste products must not be considered to be commercially confidential notwithstanding any provision of this Act or any other law;

"**Committee**"

[Definition of "[Committee](#)" deleted by [s. 4 \(a\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

"**community**"

[Definition of "[community](#)" substituted by [s. 1 \(d\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(b\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"**competent authority**", in respect of a listed activity or specified activity, means the organ of state charged by this Act with evaluating the environmental impact of that activity and, where appropriate, with granting or refusing an environmental authorisation in respect of that activity;

[Definition of "[competent authority](#)" inserted by [s. 1 \(c\)](#) of [Act No. 8 of 2004](#).]

"**Constitution**" means [the Constitution](#) of the Republic of South Africa, 1996 ([Act No. 108 of 1996](#));

"**delegation**", in relation to a duty, includes an instruction to perform the duty;

[Definition of "[delegation](#)" inserted by [s. 1 \(b\)](#) of [Act No. 46 of 2003](#).]

"**Department**" means the Department responsible for environmental affairs;

[Definition of "[Department](#)" substituted by [s. 1 \(c\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"**development footprint**", in respect of land, means any evidence of its physical transformation as a result of

the undertaking of any activity;

[Definition of "[development footprint](#)" inserted by [s. 1 \(e\)](#) of [Act No. 62 of 2008](#).]

"Director-General" means the Director-General of the Department;

[Definition of "[Director-General](#)" substituted by [s. 1 \(d\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"ecosystem" means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"environment" means the surroundings within which humans exist and that are made up of-

- (i) the land, water and atmosphere of the earth;
- (ii) micro-organisms, plant and animal life;
- (iii) any part or combination of (i) and (ii) and the inter-relationships among and between them; and
- (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental assessment practitioner", when used in [Chapter 5](#), means the individual responsible for the planning, management, coordination or review of environmental impact assessments, strategic environmental assessments, environmental management programmes or any other appropriate environmental instruments introduced through regulations;

[Definition of "[environmental assessment practitioner](#)" inserted by [s. 1 \(d\)](#) of [Act No. 8 of 2004](#) and substituted by [s. 1 \(e\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"environmental authorisation", when used in [Chapter 5](#), means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act;

[Definition of "[environmental authorisation](#)" inserted by [s. 1 \(d\)](#) of [Act No. 8 of 2004](#) and substituted by [s. 1 \(f\)](#) of [Act No. 62 of 2008](#).]

Wording of Sections

"environmental implementation plan" means an implementation plan referred to in [section 11](#);

"environmental management co-operation agreement" means an agreement referred to in [section 35 \(1\)](#);

"environmental management inspector" means a person designated as an environmental management inspector in terms of [section 31B](#), [31BA](#) or [31C](#);

[Definition of "[environmental management inspector](#)" inserted by [s. 1 \(c\)](#) of [Act No. 46 of 2003](#) and substituted by [s. 1 \(c\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"environmental management plan" means a management plan referred to in [section 11](#);

"environmental management programme" means a programme required in terms of [section 24](#);

[Definition of "[environmental management programme](#)" inserted by [s. 1 \(g\)](#) of [Act No. 62 of 2008](#).]

"environmental mineral resource inspector" means a person designated as an environmental mineral resource inspector in terms of [section 31BB](#);

[Definition of "[environmental mineral resource inspector](#)" inserted by [s. 1 \(d\)](#) of [Act No. 25 of 2014](#).]

"evaluation", when used in [Chapter 5](#), means the process of ascertaining the relative importance or significance of information, in the light of people's values, preferences and judgements, in order to make a decision;

[Definition of "[evaluation](#)" inserted by [s. 1 \(e\)](#) of [Act No. 8 of 2004](#).]

"exploration area"

[Definition of "[exploration area](#)" inserted by [s. 1 \(h\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(e\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"financial provision" means the insurance, bank guarantee, trust fund or cash that applicants for an environmental authorisation must provide in terms of this Act guaranteeing the availability of sufficient funds to undertake the-

- (a) rehabilitation of the adverse environmental impacts of the listed or specified activities;
- (b) rehabilitation of the impacts of the prospecting, exploration, mining or production activities, including the pumping and treatment of polluted or extraneous water;

- (c) decommissioning and closure of the operations;
- (d) remediation of latent or residual environmental impacts which become known in the future;
- (e) removal of building structures and other objects; or
- (f) remediation of any other negative environmental impacts;
[Definition of "[financial provision](#)" inserted by [s. 1 \(f\)](#) of [Act No. 25 of 2014](#).]

"financial year" means a period commencing on 1 April of any year and ending on 31 March of the following year;

"Forum"

[Definition of "[Forum](#)" deleted by [s. 4 \(b\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

"hazard" means a source of or exposure to danger;

"holder" has the meaning assigned to it in [section 1](#) of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of "[holder](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"holder of an old order right" has the meaning assigned to "holder" in item 1 of Schedule II to the Minerals and Petroleum Resources Development Act, 2002;

[Definition of "holder of an old order right" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"integrated environmental authorisation" means an authorisation granted in terms of [section 24L](#);

[Definition of "[integrated environmental authorisation](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"interested and affected party", for the purposes of [Chapter 5](#) and in relation to the assessment of the environmental impact of a listed activity or related activity, means an interested and affected party contemplated in [section 24 \(4\) \(a\) \(v\)](#), and which includes-

- (a) any person, group of persons or organisation interested in or affected by such operation or activity; and
 - (b) any organ of state that may have jurisdiction over any aspect of the operation or activity;
- [Definition of "[interested and affected party](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"international environmental instrument" means any international agreement, declaration, resolution, convention or protocol which relates to the management of the environment;

"listed activity", when used in [Chapter 5](#), means an activity identified in terms of [section 24 \(2\) \(a\)](#) and [\(d\)](#);

[Definition of "[listed activity](#)" inserted by [s. 1 \(f\)](#) of [Act No. 8 of 2004](#).]

"listed area", when used in [Chapter 5](#), means a geographical area identified in terms of [section 24 \(2\) \(b\)](#) and [\(c\)](#);

[Definition of "[listed area](#)" inserted by [s. 1 \(f\)](#) of [Act No. 8 of 2004](#).]

"MEC" means the Member of the Executive Council to whom the Premier has assigned responsibility for environmental affairs;

[Definition of "[MEC](#)" substituted by [s. 1 \(g\)](#) of [Act No. 8 of 2004](#).]

Wording of Sections

"mine" has the meaning assigned to it in [section 1](#) of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of "[mine](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"Mineral and Petroleum Resources Development Act, 2002" means the Mineral and Petroleum Resources Development Act, 2002 ([Act No. 28 of 2002](#));

[Definition of "[Mineral and Petroleum Resources Development Act, 2002](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#).]

"mining area"

[Definition of "[mining area](#)" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(g\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"Minister" means the Minister responsible for environmental matters;

[Definition of "[Minister](#)" substituted by [s. 1 \(k\)](#) of [Act No. 62 of 2008](#) and by [s. 1 \(h\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"Minister responsible for mineral resources"

[Definition of "Minister responsible for mineral resources" previously "Minister of Minerals and Energy" inserted by [s. 1 \(j\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(j\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"national department" means a department of State within the national sphere of government;

"norms and standards" when used in [Chapter 5](#), means any norm or standard contemplated in [section 24 \(10\)](#);
[Definition of "[norms and standards](#)" inserted by [s. 1 \(n\)](#) of [Act No. 62 of 2008](#).]

"organ of state" means organ of state as defined in [the Constitution](#);

"owner of works" has the meaning contemplated in [paragraph \(b\)](#) of the definition of "[owner](#)" in [section 102](#) of the Mine Health and Safety Act, 1996 ([Act No. 29 of 1996](#));
[Definition of "owner of works" inserted by [s. 1 \(m\)](#) of [Act No. 62 of 2008](#).]

"person" includes a juristic person;

"pollution" means any change in the environment caused by-

- (i) substances;
- (ii) radio-active or other waves; or
- (iii) noise, odours, dust or heat,

emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

"prescribe" means prescribe by regulation in the *Gazette*;

"production area"

[Definition of "[production area](#)" inserted by [s. 1 \(o\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(j\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"prospecting area"

[Definition of "[prospecting area](#)" inserted by [s. 1 \(o\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(j\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"provincial head of department" means the head of the provincial department responsible for environmental affairs;

"public participation process", in relation to the assessment of the environmental impact of any application for an environmental authorisation, means a process by which potential interested and affected parties are given opportunity to comment on, or raise issues relevant to, the application;
[Definition of "[public participation process](#)" inserted by [s. 1 \(p\)](#) of [Act No. 62 of 2008](#).]

"Regional Mining Development and Environmental Committee"

[Definition of "[Regional Mining Development and Environmental Committee](#)" inserted by [s. 1 \(p\)](#) of [Act No. 62 of 2008](#) and deleted by [s. 1 \(j\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

"regulation" means a regulation made under this Act;

"residue deposit" has the meaning assigned to it in [section 1](#) of the Mineral and Petroleum Resources Development Act, 2002;
[Definition of "[residue deposit](#)" inserted by [s. 1 \(q\)](#) of [Act No. 62 of 2008](#).]

"residue stockpile" has the meaning assigned to it in [section 1](#) of the Mineral and Petroleum Resources Development Act, 2002;
[Definition of "[residue stockpile](#)" inserted by [s. 1 \(q\)](#) of [Act No. 62 of 2008](#).]

"review", when used in [Chapter 5](#), means the process of determining whether an assessment has been carried out correctly or whether the resulting information is adequate in order to make a decision;
[Definition of "[review](#)" inserted by [s. 1 \(h\)](#) of [Act No. 8 of 2004](#).]

"spatial development tool", when used in [Chapter 5](#), means a spatial description of environmental attributes, developmental activities and developmental patterns and their relation to each other;
[Definition of "[spatial development tool](#)" inserted by [s. 1 \(r\)](#) of [Act No. 62 of 2008](#).]

"specific environmental management Act" means-

- (a) the Environment Conservation Act, 1989 ([Act No. 73 of 1989](#));
- (b) the National Water Act, 1998 ([Act No. 36 of 1998](#));
- (c) the National Environmental Management: Protected Areas Act, 2003 ([Act No. 57 of 2003](#));
- (d) the National Environmental Management: Biodiversity Act, 2004 ([Act No. 10 of 2004](#));
- (e) the National Environmental Management: Air Quality Act, 2004 ([Act No. 39 of 2004](#));
- (f) the National Environmental Management: Integrated Coastal Management Act, 2008 ([Act No. 24 of 2008](#));
- (g) the National Environmental Management: Waste Act, 2008 ([Act No. 59 of 2008](#)); or
- (h) the World Heritage Convention Act, 1999 ([Act No. 49 of 1999](#)),

and includes any regulation or other subordinate legislation made in terms of any of those Acts;

[Definition of "[specific environmental management Act](#)" inserted by [s. 1 \(h\)](#) of [Act No. 8 of 2004](#), substituted by [s. 3 \(b\)](#) of [Act No. 44 of 2008](#) and by [s. 1 \(f\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

"specific environmental management Acts"

[Definition of "[specific environmental management Acts](#)" inserted by [s. 1 \(d\)](#) of [Act No. 46 of 2003](#) and deleted by [s. 3 \(a\)](#) of [Act No. 44 of 2008](#).]

Wording of Sections

"specified activity", when used in [Chapter 5](#), means an activity as specified within a listed geographical area in terms of [section 24 \(2\) \(b\)](#) and [\(c\)](#);

[Definition of "[specified activity](#)" inserted by [s. 1 \(h\)](#) of [Act No. 8 of 2004](#).]

"state land" means land which vests in the national or a provincial government, and includes land below the high water mark and the Admiralty Reserve, but excludes land belonging to a local authority;

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations;

"this Act" includes the schedules, and regulations and any notice issued under the Act;

"vessel" means any waterborne craft of any kind, whether self-propelled or not, but does not include any moored floating structure that is not used as a means of transporting anything by water.

[Definition of "[vessel](#)" inserted by [s. 1 \(e\)](#) of [Act No. 46 of 2003](#).]

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(3) A reasonable interpretation of a provision which is consistent with the purpose of this Act must be preferred over an alternative interpretation which is not consistent with the purpose of this Act.

(4) Neither-

- (a) a reference to a duty to consult specific persons or authorities; nor
- (b) the absence of any reference in this Act to a duty to consult or give a hearing,

exempts the official or authority exercising a power or performing a function from the duty to act fairly.

(5) Any administrative process conducted or decision taken in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 ([Act No. 3 of 2000](#)), unless otherwise provided for in this Act.

[Sub-s. (5) added by [s. 1 \(s\)](#) of [Act No. 62 of 2008](#).]

CHAPTER 1
NATIONAL ENVIRONMENTAL MANAGEMENT PRINCIPLES

2. Principles.-(1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and-

- (a) shall apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in [Chapter 2](#) of [the Constitution](#) and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;

- (b) serve as the general framework within which environmental management and implementation plans must be formulated;
- (c) serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment;
- (d) serve as principles by reference to which a conciliator appointed under this Act must make recommendations; and
- (e) guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment.

(2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.

(3) Development must be socially, environmentally and economically sustainable.

(4) (a) Sustainable development requires the consideration of all relevant factors including the following:

- (i) That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- (ii) that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- (iii) that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;
- (iv) that waste is avoided, or where it cannot be altogether avoided, minimised and re-used or recycled where possible and otherwise disposed of in a responsible manner;
- (v) that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;
- (vi) that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;
- (vii) that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and
- (viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.

(b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.

(c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.

(d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.

(e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.

(f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.

(g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge.

(h) Community well-being and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.

(i) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.

(j) The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.

(k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.

(l) There must be inter-governmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.

(m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.

(n) Global and international responsibilities relating to the environment must be discharged in the national interest.

(o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.

(p) The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.

(q) The vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted.

(r) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

CHAPTER 2 INSTITUTIONS

Part 1:

[Part 1 repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

3.

[[S. 3](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

3A. Establishment of fora or advisory committees.-The Minister may by notice in the *Gazette*-

- (a) establish any forum or advisory committee;
- (b) determine its composition and functions; and
- (c) determine, in consultation with the Minister of Finance, the basis and extent of the remuneration and payment of expenses of any member of such forum or committee.

[[S. 3A](#) inserted by [s. 6](#) of [Act No. 14 of 2009](#).]

4.

[[S. 4](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

5.

[[S. 5](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

6.

[[S. 6](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

Part 2:

[Part 2 repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

7.

[[S. 7](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

8.

[[S. 8](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

9.

[[S. 9](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

10.

[[S. 10](#) repealed by [s. 5](#) of [Act No. 14 of 2009](#).]

Wording of Sections

CHAPTER 3
PROCEDURES FOR CO-OPERATIVE GOVERNANCE

11. Environmental implementation plans and management plans.-(1) Every national department listed in [Schedule 1](#) as exercising functions which may affect the environment and every provincial department responsible for environmental affairs must prepare an environmental implementation plan within five years of the coming into operation of this Act, and at intervals of not more than five years thereafter.

[[Sub-s. \(1\)](#) substituted by [s. 2](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(2) Every national department listed in [Schedule 2](#) as exercising functions involving the management of the environment must prepare an environmental management plan within five years of the coming into operation of this Act, and at intervals of not more than five years thereafter.

[[Sub-s. \(2\)](#) substituted by [s. 2](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(3) Every national department that is listed in both [Schedule 1](#) and [Schedule 2](#) may prepare a consolidated environmental implementation and management plan.

(4) Every organ of state referred to in [subsections \(1\)](#) and [\(2\)](#) must, in its preparation of an environmental implementation plan or environmental management plan, and before submitting such plan take into consideration every other environmental implementation plan and environmental management plan already adopted with a view to achieving consistency among such plans.

(5) The Minister may by notice in the *Gazette*-

- (a) extend the date for the submission of any environmental implementation plans and environmental management plans for periods not exceeding 12 months;
- (b) on application by any organ of state, or on his or her own initiative with the agreement of the relevant Minister where it concerns a national department, amend [Schedules 1](#) and [2](#).

[[Para. \(b\)](#) substituted by [s. 7](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(6) The Director-General must, at the request of a national department or province assist with the preparation of an environmental implementation plan.

(7) The preparation of environmental implementation plans and environmental management plans may consist of the assembly of information or plans compiled for other purposes and may form part of any other process or procedure.

(8) The Minister may issue guidelines to assist provinces and national departments in the preparation of environmental implementation and environmental management plans.

12. Purpose and objects of environmental implementation plans and environmental management plans.-
The purpose of environmental implementation and management plans is to-

- (a) co-ordinate and harmonise the environmental policies, plans, programmes and decisions of the various national departments that exercise functions that may affect the environment or are

entrusted with powers and duties aimed at the achievement, promotion, and protection of a sustainable environment, and of provincial and local spheres of government, in order to-

- (i) minimise the duplication of procedures and functions; and
- (ii) promote consistency in the exercise of functions that may affect the environment;
- (b) give effect to the principle of co-operative government in [Chapter 3 of the Constitution](#);
- (c) secure the protection of the environment across the country as a whole;
- (d) prevent unreasonable actions by provinces in respect of the environment that are prejudicial to the economic or health interests of other provinces or the country as a whole; and
- (e) enable the Minister to monitor the achievement, promotion, and protection of a sustainable environment.

13. Content of environmental implementation plans.-(1) Every environmental implementation plan must contain:

- (a) a description of policies, plans and programmes that may significantly affect the environment;
- (b) a description of the manner in which the relevant national department or province will ensure that the policies, plans and programmes referred to in paragraph (a) will comply with the principles set out in [section 2](#) as well as any national norms and standards as envisaged under [section 146 \(2\) \(b\) \(i\) of the Constitution](#) and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment;
- (c) a description of the manner in which the relevant national department or province will ensure that its functions are exercised so as to ensure compliance with relevant legislative provisions, including the principles set out in [section 2](#), and any national norms and standards envisaged under [section 146 \(2\) \(b\) \(i\) of the Constitution](#) and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment; and
- (d) recommendations for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in [Chapter 5](#).

(2) The Minister may make regulations for the purpose of giving effect to [subsection \(1\) \(b\)](#) and [\(c\)](#).

[[Sub-s. \(2\)](#) substituted by [s. 8 of Act No. 14 of 2009](#).]

Wording of Sections

14. Content of environmental management plans.-Every environmental management plan must contain-

- (a) a description of the functions exercised by the relevant department in respect of the environment;
- (b) a description of environmental norms and standards, including norms and standards contemplated in [section 146 \(2\) \(b\) \(i\) of the Constitution](#), set or applied by the relevant department;
- (c) a description of the policies, plans and programmes of the relevant department that are designed to ensure compliance with its policies by other organs of state and persons;
- (d) a description of priorities regarding compliance with the relevant department's policies by other organs of state and persons;
- (e) a description of the extent of compliance with the relevant department's policies by other organs of state and persons;
- (f) a description of arrangements for co-operation with other national departments and spheres of government, including any existing or proposed memoranda of understanding entered into, or delegation or assignment of powers to other organs of state, with a bearing on environmental management; and
- (g) proposals for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in [Chapter 5](#).

15. Submission, scrutiny and adoption of environmental implementation plans and environmental management plans.-(1) Every environmental implementation plan and every environmental management plan must be submitted for approval to the Minister or MEC, as the case may be.

[[Sub-s. \(1\)](#) substituted by [s. 9 \(a\) of Act No. 14 of 2009](#).]

Wording of Sections

(2)

[[Sub-s. \(2\)](#) deleted by [s. 9 \(b\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(3)

[[Sub-s. \(3\)](#) deleted by [s. 9 \(b\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(4)

[[Sub-s. \(4\)](#) deleted by [s. 9 \(b\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(5) A national department which has submitted an environmental management plan must adopt and publish its plan in the *Gazette* within 90 days of such submission and the plan becomes effective from the date of such publication.

(6) The exercise of functions by organs of state may not be delayed or postponed on account of-

(a) the failure of any organ of state to submit an environmental implementation plan;

(b)

[[Para. \(b\)](#) deleted by [s. 9 \(c\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(c)

[[Para. \(c\)](#) deleted by [s. 9 \(c\)](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(d) any difference or disagreement regarding any environmental implementation plan and the resolution of that difference or disagreement; or

(e) the failure of any organ of state to adopt and publish its environmental implementation or management plan.

16. Compliance with environmental implementation plans and environmental management plans.-

(1) (a) Every organ of state must exercise every function it may have, or that has been assigned or delegated to it, by or under any law, and that may significantly affect the protection of the environment, substantially in accordance with the environmental implementation plan or the environmental management plan prepared, submitted and adopted by that organ of state in accordance with this Chapter: Provided that any substantial deviation from an environmental management plan or environmental implementation plan must be reported forthwith to the Director-General.

(b) Every organ of state must report annually within four months of the end of its financial year on the implementation of its adopted environmental management plan or environmental implementation plan to the Director-General.

(c) The Minister may recommend to any organ of state which has not submitted and adopted an environmental implementation plan or environmental management plan, that it comply with a specified provision of an adopted environmental implementation plan or submitted environmental management plan.

[[Sub-s. \(1\)](#) substituted by [s. 10](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(2) The Director-General monitors compliance with environmental implementation plans and environmental management plans and may-

(a) take any steps or make any inquiries he or she deems fit in order to determine if environmental implementation plans and environmental management plans are being complied with by organs of state; and

(b) if, as a result of any steps taken or inquiry made under [paragraph \(a\)](#), he or she is of the opinion that an environmental implementation plan and an environmental management plan is not substantially being complied with, serve a written notice on the organ of state concerned, calling on it to take such specified steps as the Director-General considers necessary to remedy the failure of compliance.

(3) (a) Within 30 days of the receipt of a notice contemplated in [subsection \(2\) \(b\)](#), an organ of state must respond to the notice in writing setting out any-

(i) objections to the notice;

(ii) steps that will be taken to remedy failures of compliance; or

(iii) other information that the organ of state considers relevant to the notice.

(b) After considering the representations from the organ of state and any other relevant information, the Director-General must within 30 days of receiving a response referred to in [paragraph \(a\)](#) issue a final notice-

(i) confirming, amending or cancelling the notice referred to in [subsection \(2\) \(b\)](#);

(ii) specify steps and a time period within which steps must be taken to remedy the failure of compliance.

(c) If, after compliance with the provisions of [paragraphs \(a\)](#) and [\(b\)](#) there still remains a difference or disagreement between the organs of state and the Director-General, the organ of state may request the Minister to refer any difference or disagreement between itself and the Director-General regarding compliance with an environmental implementation plan, or the steps necessary to remedy a failure of compliance, to conciliation in accordance with [Chapter 4](#).

(d) Where an organ of state does not submit any difference or disagreement to conciliation in accordance with paragraph (c), or if conciliation fails to resolve the matter, the Director-General may within 60 days of the final notice referred to in [paragraph \(b\)](#) if the matter has not been submitted to conciliation, or within 30 days of the date of conciliation, as the case may be-

(i) where the organ of state belongs to the provincial sphere of government, request the Minister to intervene in accordance with [section 100](#) of [the Constitution](#): Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in [section 41 \(2\)](#) of [the Constitution](#) once promulgated;

(ii) where the organ of state belongs to the local sphere of government, request the MEC to intervene in accordance with [section 139](#) of [the Constitution](#): Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in [section 41 \(2\)](#) of [the Constitution](#) once promulgated; or

(iii) where the organ of state belongs to the national sphere of government refer the matter for determination by the Minister in consultation with the Ministers responsible for the Department of Land Affairs, Department of Water Affairs and Forestry, Department of Minerals and Energy and Department of Constitutional Development.

(4) Each provincial government must ensure that-

(a) the relevant provincial environmental implementation plan is complied with by each municipality within its province and for this purpose the provisions of [subsections \(2\)](#) and [\(3\)](#) must apply with the necessary changes; and

(b) municipalities adhere to the relevant environmental implementation and management plans, and the principles contained in [section 2](#) in the preparation of any policy, programme or plan, including the establishment of integrated development plans and land development objectives.

(5) The Director-General must keep a record of all environmental implementation plans and environmental management plans, relevant agreements between organs of state and any reports submitted under [subsection \(1\) \(b\)](#); and such plans, reports and agreements must be available for inspection by the public.

16A. Environment outlook report.-(1) The Minister must within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013 prepare and publish a national environment outlook report for the Republic and at intervals of not more than four years thereafter.

(2) An MEC must-

(a) prepare and publish a provincial environment outlook report which must contain the information determined by the Minister in terms of [subsection \(4\)](#); and

(b) within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013, submit the report to the Minister and at intervals of not more than four years thereafter.

(3) A metropolitan or a district municipality may prepare and publish a municipal environment outlook report which must-

(a) contain the information determined by the Minister in terms of [subsection \(4\)](#); and

(b) be submitted to the Minister and MEC within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013 and at intervals of not more than four years thereafter.

(4) The Minister must, for the purposes of the environment outlook reports contemplated in [subsection \(2\)](#) and [\(3\)](#), by notice in the *Gazette*, determine-

(a) the procedure for compiling the report;

(b) the format; and

(c) the content of the report.

(5) The Minister must prescribe the process for the submission, evaluation and adoption of the environment outlook report.

(6) The relevant organs of state must co-operate with the Minister or MEC by furnishing the Minister or MEC with information required for inclusion in a national or a provincial environment outlook report.

(7) The Minister may, at the request of a province, assist with the preparation of a provincial environment outlook report.

(8) The MEC may, at the request of a municipality, assist with the preparation of a municipality's environment outlook report.

[S. 16A inserted by s. 3 of Act No. 30 of 2013 with effect from 18 December, 2014.]

CHAPTER 4 FAIR DECISION-MAKING AND CONFLICT MANAGEMENT

17. Reference to conciliation.-(1) Any Minister, MEC or Municipal Council-

- (a) where a difference or disagreement arises concerning the exercise of any of its functions which may significantly affect the environment, or
- (b) before whom an appeal arising from a difference or disagreement regarding the protection of the environment is brought under any law,

may, before reaching a decision, consider the desirability of first referring the matter to conciliation and-

- (i) must if he, she or it considers conciliation appropriate either-
 - (aa) refer the matter to the Director-General for conciliation under this Act; or
 - (bb) appoint a conciliator on the conditions, including timelimits, that he, she or it may determine; or
 - (cc) where a conciliation or mediation process is provided for under any other relevant law administered by such Minister, MEC or Municipal Council, refer the matter for mediation or conciliation under such other law; or
- (ii) if he, she or it considers conciliation inappropriate or if conciliation has failed, make a decision: Provided that the provisions of section 4 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), shall prevail in respect of decisions in terms of that Act and laws contemplated in subsection 1 (c) thereof.

(2) Anyone may request the Minister, a MEC or Municipal Council to appoint a facilitator to call and conduct meetings of interested and affected parties with the purpose of reaching agreement to refer a difference or disagreement to conciliation in terms of this Act, and the Minister, MEC or Municipal Council may, subject to [section 22](#), appoint a facilitator and determine the manner in which the facilitator must carry out his or her tasks, including timelimits.

(3) A court or tribunal hearing a dispute regarding the protection of the environment may order the parties to submit the dispute to a conciliator appointed by the Director-General in terms of this Act and suspend the proceedings pending the outcome of the conciliation.

18. Conciliation.-(1) Where a matter has been referred to conciliation in terms of **18. Conciliation.**-

(1) Where a matter has been referred to conciliation in terms of this Act, the Director-General may, on the conditions, including timelimits, that he or she may determine, appoint a conciliator acceptable to the parties to assist in resolving a difference or disagreement: Provided that if the parties to the difference or disagreement do not reach agreement on the person to be appointed, the Director-General may appoint a person who has adequate experience in or knowledge of conciliation of environmental disputes.

(2) A conciliator appointed in terms of this Act must attempt to resolve the matter-

- (a) by obtaining such information whether documentary or oral as is relevant to the resolution of the difference or disagreement;
- (b) by mediating the difference or disagreement;
- (c) by making recommendations to the parties to the difference or disagreement; or
- (d) in any other manner that he or she considers appropriate.

(3) In carrying out his or her functions, a conciliator appointed in terms of this Act must take into account the principles contained in [section 2](#).

(4) A conciliator may keep or cause to be kept, whether in writing or by mechanical or electronic means, a permanent record of all or part of the proceedings relating to the conciliation of a matter.

(5) Where such record has been kept, any member of the public may obtain a readable copy of the record upon payment of a fee as approved by Treasury.

(6) Where conciliation does not resolve the matter, a conciliator may enquire of the parties whether they wish to refer the matter to arbitration and may with their concurrence endeavour to draft terms of reference for such arbitration.

(7) (a) The conciliator must submit a report to the Director-General, the parties and the person who referred the matter for conciliation, setting out the result of his or her conciliation, and indicating whether or not an agreement has been reached.

(b) In the event of no agreement having been reached, the report may contain his or her recommendations and reasons therefor.

(c) Where relevant, the report must contain the conciliator's comments on the conduct of the parties.

(d) The report and any agreement reached as a result of the conciliation must be available for inspection by the public and any member of the public may obtain a copy thereof upon payment of a fee as approved by Treasury.

(8) The Director-General may from time to time with the concurrence of the Minister of Finance, appoint persons or organisations with relevant knowledge or expertise to provide conciliation and mediation services.

19. Arbitration.-(1) A difference or disagreement regarding the protection of the environment may be referred to arbitration in terms of the Arbitration Act, 1965 ([Act No. 42 of 1965](#)).

(2) Where a dispute or disagreement referred to in [subsection \(1\)](#) is referred to arbitration the parties thereto may appoint as arbitrator a person from the panel of arbitrators established in terms of [section 21](#).

20. Investigation.-The Minister may at any time appoint one or more persons to assist either him or her or, after consultation with a Municipal Council or MEC or another national Minister, to assist such a Municipal Council or MEC or another national Minister in the evaluation of a matter relating to the protection of the environment by obtaining such information, whether documentary or oral, as is relevant to such evaluation and to that end-

(a) the Minister may by notice in the *Gazette* give such person or persons the powers of a Commission of Inquiry under the Commissions Act, 1947 ([Act No. 8 of 1947](#));

(b) the Minister may make rules by notice in the *Gazette* for the conduct of the inquiry: Provided that the decision of the inquiry and the reasons therefor must be reduced to writing;

(c) the Director-General must designate, subject to the provisions of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), as many officers and employees of the Department as may be necessary to assist such person and any work may be performed by a person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of Finance may determine.

21. Appointment of panel and remuneration.-(1) The Minister may, with the concurrence of the Minister of Finance, determine remuneration and allowances, either in general or in any particular case, to be paid from money appropriated by Parliament for that purpose to any person or persons appointed in terms of this Act to render facilitation, conciliation, arbitration or investigation services, who are not in the full-time employment of the State.

(2) The Minister may create a panel or panels of persons from which appointment of facilitators and arbitrators in terms of this Act may be made, or contracts entered into in terms of this Act.

(3) The Minister may, pending the establishment of a panel or panels in terms of [subsection \(2\)](#), adopt the panel established in terms of [section 31 \(1\)](#) of the Land Reform (Labour Tenants) Act, 1996 ([Act No. 3 of 1996](#)).

22. Relevant considerations, report and designated officer.-(1) Decisions under this Act concerning the reference of a difference or disagreement to conciliation, the appointment of a conciliator, the appointment of a facilitator, the appointment of persons to conduct investigations, and the conditions of such appointment, must be made taking into account-

(a) the desirability of resolving differences and disagreements speedily and cheaply;

(b) the desirability of giving indigent persons access to conflict resolution measures in the interest of the protection of the environment;

(c) the desirability of improving the quality of decision-making by giving interested and affected persons the opportunity to bring relevant information to the decision-making process;

(d) any representations made by persons interested in the matter; and

(e) such other considerations relating to the public interest as may be relevant.

(2) (a)

[[Para. \(a\)](#) deleted by [s. 11](#) of [Act No. 14 of 2009](#).]

(b)

[[Para. \(b\)](#) deleted by [s. 11](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(c) The Director-General shall designate an officer to provide information to the public on appropriate dispute resolution mechanisms for referral of disputes and complaints.

(d) The reports, records and agreements referred to in this subsection must be available for inspection by the public.

CHAPTER 5
INTEGRATED ENVIRONMENTAL MANAGEMENT

23. General objectives.-(1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities.

(2) The general objective of integrated environmental management is to-

- (a) promote the integration of the principles of environmental management set out in [section 2](#) into the making of all decisions which may have a significant effect on the environment;
- (b) identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in [section 2](#);
- (c) ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;
- (d) ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment;
- (e) ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment; and
- (f) identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management set out in [section 2](#).

(3) The Director-General must co-ordinate the activities of organs of state referred to in [section 24 \(1\)](#) and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the co-ordination of procedures.

23A. Mainstreaming environmental management.-(1) The Minister may, with a view to promote or facilitate integrated, environmentally sustainable and sound management, provide for-

- (a) the guidelines on the development, content and use of voluntary organisation or sector based instruments; and
- (b) the circumstances under which such instruments may be submitted to and considered by the Minister.

(2) Such instruments must, at least-

- (a) integrate environmental considerations into decision-making;
- (b) provide for the implementation of best environmental practice;
- (c) promote the progressive adoption of environmentally sound technology; or
- (d) promote sustainable consumption and production, including, where appropriate, eco-endorsement or labelling.

(3) In his or her consideration of such instruments, the Minister may-

- (a) as appropriate, engage with the organisation or sector concerned, as the case may be, on the content and use of its instrument if the organisation or sector concerned, as the case may be, requires the Minister to endorse or approve such instrument; or
- (b) endorse or approve such instrument.

[[S. 23A](#) inserted by [s. 4](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

24. Environmental authorisations.-(1) In order to give effect to the general objectives of integrated

environmental management laid down in this Chapter, the potential consequences for or impacts on the environment of listed activities or specified activities must be considered, investigated, assessed and reported on to the competent authority or the Minister responsible for mineral resources, as the case may be, except in respect of those activities that may commence without having to obtain an environmental authorisation in terms of this Act.

- (1A) Every applicant must comply with the requirements prescribed in terms of this Act in relation to-
- (a) steps to be taken before submitting an application, where applicable;
 - (b) any prescribed report;
 - (c) any procedure relating to public consultation and information gathering;
 - (d) any environmental management programme;
 - (e) the submission of an application for an environmental authorisation and any other relevant information; and
 - (f) the undertaking of any specialist report, where applicable.

(2) The Minister, or an MEC with the concurrence of the Minister, may identify-

- (a) activities which may not commence without environmental authorisation from the competent authority;
- (b) geographical areas based on environmental attributes, and as specified in spatial development tools adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may be excluded from the requirement to obtain an environmental authorisation from the competent authority;

[[Para. \(b\)](#) substituted by [s. 5 \(a\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

Wording of Sections

- (c) geographical areas based on environmental attributes, and specified in spatial tools or environmental management instruments, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may be excluded from the requirement to obtain an environmental authorisation from the competent authority;

[[Para. \(c\)](#) substituted by [s. 5 \(a\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

Wording of Sections

- (d) activities contemplated in [paragraphs \(a\)](#) and [\(b\)](#) that may be excluded from the requirement to obtain an environmental authorisation from the competent authority, but that must comply with prescribed norms or standards; or

[[Para. \(d\)](#) substituted by [s. 5 \(a\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

Wording of Sections

- (e) activities contemplated in [paragraphs \(a\)](#) and [\(b\)](#) that, based on an environmental management instrument adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, may be excluded from the requirement to obtain an environmental authorisation from the competent authority;

[[Para. \(e\)](#) added by [s. 5 \(b\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

Provided that where an activity falls under the jurisdiction of another Minister or MEC; a decision in respect of [paragraphs \(a\)](#) to [\(d\)](#) must be taken after consultation with such other Minister or MEC.

(2A) (a) In accordance with the risk averse and cautious approach contemplated in [section 2 \(4\) \(a\) \(vii\)](#) and subject to [paragraphs \(e\)](#) and [\(f\)](#), the Minister may by notice in the *Gazette* prohibit or restrict the granting of an environmental authorisation by the competent authority for a listed or a specified activity in a specified geographical area for such period and on such terms and conditions as the Minister may determine, if it is necessary to ensure the protection of the environment, the conservation of resources or sustainable development.

(b) Where the Minister has exercised his or her powers in terms of [paragraph \(a\)](#), the competent authority must-

- (i) not accept any further application for an environmental authorisation for the identified listed or specified activity in the identified geographical area until such time that the prohibition has been lifted; and

(ii) deem all pending applications to have been withdrawn.

(c) The exercise of the Minister's powers in terms of [paragraph \(a\)](#) does not affect the undertaking of activities authorised by means of an environmental authorisation prior to the prohibition or restriction becoming effective.

(d) Where the prohibition or restriction affects the exercise of a power that an MEC has in terms of this Act, the prohibition or restriction contemplated in [paragraph \(a\)](#) may be published in the *Gazette* after consulting the MEC concerned.

(e) The Minister may by notice in the *Gazette*-

- (i) lift a prohibition or restriction made in terms of [paragraph \(a\)](#) if the circumstances which caused the Minister exercise his or her powers in terms of [paragraph \(a\)](#) no longer exist; or
 - (ii) amend any period, term or condition applicable to a prohibition or restriction if the circumstances which caused the Minister to exercise his or her powers in terms of [paragraph \(a\)](#) have changed.
- (f) Before the exercise of his or her powers in terms of [paragraph \(a\)](#), the Minister must-
- (i) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the power;
 - (ii) in accordance with the principles of co-operative governance set out in [Chapter 3 of the Constitution](#), consult an MEC who will be affected by the exercise of the power; and
 - (iii) publish a notice in the *Gazette* inviting members of the public to submit to the Minister, within 30 days of publication of the notice in the *Gazette*, written representations on the proposed prohibition or restriction.

[Sub-s. (2A) inserted by [s. 5 \(c\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

(3) The Minister, or an MEC with the concurrence of the Minister, may compile information and maps that specify the attributes of the environment in particular geographical areas, including the sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every competent authority.

(4) Procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment-

- (a) must ensure, with respect to every application for an environmental authorisation-
 - (i) coordination and cooperation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state;
 - (ii) that the findings and recommendations flowing from an investigation, the general objectives of integrated environmental management laid down in this Act and the principles of environmental management set out in [section 2](#) are taken into account in any decision made by an organ of state in relation to any proposed policy, programme, process, plan or project;
 - (iii) that a description of the environment likely to be significantly affected by the proposed activity is contained in such application;
 - (iv) investigation of the potential consequences for or impacts on the environment of the activity and assessment of the significance of those potential consequences or impacts; and
 - (v) public information and participation procedures which provide all interested and affected parties, including all organs of state in all spheres of government that may have jurisdiction over any aspect of the activity, with a reasonable opportunity to participate in those information and participation procedures; and
- (b) must include, with respect to every application for an environmental authorisation and where applicable-
 - (i) investigation of the potential consequences or impacts of the alternatives to the activity on the environment and assessment of the significance of those potential consequences or impacts, including the option of not implementing the activity;
 - (ii) investigation of mitigation measures to keep adverse consequences or impacts to a minimum;
 - (iii) investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in [section 3 \(2\)](#) of the National Heritage Resources Act, 1999 ([Act No. 25 of 1999](#)), excluding the national estate contemplated in section 3 (2) (i) (vi) and (vii) of that Act;
 - (iv) reporting on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information;
 - (v) investigation and formulation of arrangements for the monitoring and management of consequences for or impacts on the environment, and the assessment of the effectiveness of such arrangements after their implementation;
 - (vi) consideration of environmental attributes identified in the compilation of information and maps contemplated in [subsection \(3\)](#); and
 - (vii) provision for the adherence to requirements that are prescribed in a specific environmental management Act relevant to the listed or specified activity in question.

(4A) Where environmental impact assessment has been identified as the environmental instrument to be utilised in informing an application for environmental authorisation, [subsection \(4\) \(b\)](#) is applicable.

(5) The Minister, or an MEC with the concurrence of the Minister, may make regulations consistent with [subsection \(4\)](#)-

- (a) laying down the procedure to be followed in applying for, the issuing of, and monitoring compliance

with, environmental authorisations;

- (b) laying down the procedure to be followed in respect of-
- (i) the efficient administration and processing of environmental authorisations;
 - (ii) fair decision-making and conflict management in the consideration and processing of applications for environmental authorisations;
 - (iv) applications to the competent authority by any person to be exempted from the provisions of any regulation in respect of a specific activity;

(Editorial note: Numbering as per *Government Gazette*.)

- (v) appeals against decisions of competent authorities;
- (vi) the management and control of residue stockpiles and deposits;
[[Sub-para. \(vi\)](#) substituted by [s. 2 \(a\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

- (vii) consultation with land owners, lawful occupiers and other interested or affected parties;
 - (viii) mine closure requirements and procedures, the apportionment of liability for mine closure and the sustainable closure of mines with an interconnected or integrated impact resulting in a cumulative impact;
 - (ix) financial provision; and
 - (x) monitoring and environmental management programme performance assessments;
- (bA) laying down the procedure to be followed for the preparation, evaluation, adoption and review of prescribed environmental management instruments, including-
- (i) environmental management frameworks;
 - (ii) strategic environmental assessments;
 - (iii) environmental impact assessments;
 - (iv) environmental management programmes;
 - (v) environmental risk assessments;
 - (vi) environmental feasibility assessments;
 - (vii) norms or standards;
 - (viii) spatial development tools;
 - (viiiA) minimum information requirements; or
 - (ix) any other relevant environmental management instrument that may be developed in time;
[[Para. \(bA\)](#) substituted by [s. 2 \(b\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

- (bB) laying down the procedure for the preparation, evaluation and adoption of the instruments referred to in [subsection \(2\) \(c\)](#), [\(d\)](#) and [\(e\)](#), including criteria or conditions to be included in such instruments;
[[Para. \(bB\)](#) inserted by [s. 5 \(d\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]
- (c) prescribing fees, after consultation with the Minister of Finance, to be paid for-
- (i) the consideration and processing of applications for environmental authorisations; and
 - (ii) the review of documents, processes and procedures by specialists on behalf of the competent authority;
- (d) requiring, after consultation with the Minister of Finance, the provision of financial or other security to cover the risks to the State and the environment of non-compliance with conditions attached to environmental authorisations;
- (e) specifying that specified tasks performed in connection with an application for an environmental authorisation may only be performed by an environmental assessment practitioner registered in accordance with the prescribed procedures;
- (f) requiring that competent authorities maintain a registry of applications for, and records of decisions in respect of, environmental authorisations;
- (g) specifying that a contravention of a specified regulation is an offence and prescribing penalties for the contravention of that regulation;
- (h) prescribing minimum criteria for the report content for each type of report and for each process that is

contemplated in terms of the regulations in order to ensure a consistent quality and to facilitate efficient evaluation of reports;

- (i) prescribing review mechanisms and procedures including criteria for, and responsibilities of all parties in, the review process; and
- (j) prescribing any other matter necessary for dealing with and evaluating applications for environmental authorisations.

(6) An MEC may make regulations in terms of [subsection \(5\)](#) only in respect of listed activities and specified activities or areas in respect of which the MEC is the competent authority.

(7) Compliance with the procedures laid down by the Minister or an MEC in terms of [subsection \(4\)](#) does not absolve a person from complying with any other statutory requirement to obtain authorisation from any organ of state charged by law with authorising, permitting or otherwise allowing the implementation of the activity in question.

(8) (a) Authorisations obtained under any other law for an activity listed or specified in terms of this Act does not absolve the applicant from obtaining authorisation under this Act unless an authorisation has been granted in the manner contemplated in [section 24L](#).

(b) Authorisations obtained after any investigation, assessment and communication of the potential impacts or consequences of activities, including an exemption granted in terms of [section 24M](#) or permits obtained under any law for a listed activity or specified activity in terms of this Act, may be considered by the competent authority as sufficient for the purposes of [section 24 \(4\)](#), provided that such investigation, assessment and communication comply with the requirements of [section 24 \(4\) \(a\)](#) and, where applicable, comply with [section 24 \(4\) \(b\)](#).

(9) Only the Minister may make regulations in accordance with [subsection \(5\)](#) stipulating the procedure to be followed and the report to be prepared in investigating, assessing and communicating potential consequences for or impacts on the environment by activities, for the purpose of complying with [subsection \(1\)](#), where the activity-

- (a) has a development footprint that falls within the boundaries of more than one province or traverses international boundaries; or
- (b) will affect compliance with obligations resting on the Republic under customary international law or a convention.

(10) (a) The Minister, or an MEC with the concurrence of the Minister, may-

(i) develop or adopt norms or standards for-

- (aa) a listed activity or specified activity contemplated in [subsection \(2\) \(a\)](#) and [\(b\)](#);
- (bb) any part of the listed or specified activity referred to in [item \(aa\)](#);
- (cc) any sector relating to [item \(aa\)](#);
- (dd) any geographical area relating to [item \(aa\)](#); or
- (ee) any combination of the activities, sectors, geographical areas, listed activities or specified activities referred to in [items \(aa\), \(bb\), \(cc\) and \(dd\)](#);

[[Sub-para. \(i\)](#) substituted by [s. 5 \(e\)](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

Wording of Sections

- (ii) prescribe the use of the developed or adopted norms or standards in order to meet the requirements of this Act;
- (iii) prescribe reporting and monitoring requirements; and
- (iv) prescribe procedures and criteria to be used by the competent authority for the monitoring of such activities in order to determine compliance with the prescribed norms or standards.

(b) Norms or standards contemplated in [paragraph \(a\)](#) must provide for rules, guidelines or characteristics-

- (i) that may commonly and repeatedly be used; and
- (ii) against which the performance of activities or the results of those activities may be measured for the purposes of achieving the objects of this Act.

(c) The process of developing norms or standards contemplated in [paragraph \(a\)](#) must, as a minimum, include-

- (i) publication of the draft norms or standards for comment in the relevant *Gazette*;
- (ii) consideration of comments received; and
- (iii) publication of the norms or standards to be prescribed.

(d) The process of adopting norms or standards contemplated in [paragraph \(a\)](#) must, as a minimum, include-

- (i) publication of the intention to adopt existing norms or standards in order to meet the requirements of this Act for comment in the relevant *Gazette*;
- (ii) consideration of comments received; and
- (iii) publication of the norms or standards to be prescribed.

[S. 24 substituted by s. 2 of Act No. 8 of 2004 and by s. 2 of Act No. 62 of 2008.]

Wording of Sections

24A. Procedure for listing activity or area.-Before identifying any activity or area in terms of [section 24 \(2\)](#), the Minister or MEC, as the case may be, must publish a notice in the relevant *Gazette*-

- (a) specifying, through description, a map or any other appropriate manner, the activity or area that it is proposing to list;
- (b) inviting interested parties to submit written comments on the proposed listing within a period specified in the notice.

[S. 24A inserted by s. 3 of Act No. 8 of 2004.]

24B. Procedure for delisting of activities or areas.-(1) The Minister may delist an activity or area identified by the Minister in terms of [section 24 \(2\)](#).

(2) An MEC may, with the concurrence of the Minister, delist an activity or area identified by the MEC in terms of [section 24 \(2\)](#).

(3) The Minister or MEC, as the case may be, must comply with [section 24A](#), read with the changes required by the context, before delisting an activity or area in terms of this section.

[S. 24B inserted by s. 3 of Act No. 8 of 2004.]

24C. Procedure for identifying competent authority.-(1) When listing or specifying activities in terms of [section 24 \(2\)](#) the Minister, or an MEC with the concurrence of the Minister, must identify the competent authority responsible for granting environmental authorisations in respect of those activities.

(2) The Minister must be identified as the competent authority in terms of [subsection \(1\)](#), unless otherwise agreed to in terms of [section 24C \(3\)](#), if the activity-

- (a) has implications for international environmental commitments or relations, and where-
 - (i) it is identified by the Minister by notice in the *Gazette*; or
 - (ii) it is an activity that takes place in an area protected by means of an international environmental instrument, other than-
 - (aa) a conservancy;
 - (bb) a protected natural environment;
 - (cc) a proclaimed private nature reserve;
 - (dd) a natural heritage site;
 - (ee) the buffer zone or transitional area of a biosphere reserve; or
 - (ff) the buffer zone or transitional area of a world heritage site;

[Para. (a) substituted by s. 6 (b) of Act No. 30 of 2013.]

Wording of Sections

(b)

[Para. (b) deleted by s. 6 (c) of Act No. 30 of 2013.]

Wording of Sections

(c) has a development footprint that falls within the boundaries of more than one province or traverses international boundaries;

(d) is undertaken, or is to be undertaken, by-

- (i) a national department;
- (ii) a provincial department responsible for environmental affairs or any other organ of state performing a regulatory function and reporting to the MEC; or
- (iii) a statutory body, excluding any municipality, performing an exclusive competence of the national

sphere of government; or

- (e) will take place within a national proclaimed protected area or other conservation area under control of a national authority.

[Sub-s. (2) amended by s. 6 (a) of Act No. 30 of 2013.]

Wording of Sections

(2A) The Minister responsible for mineral resources must be identified as the competent authority in terms of [subsection \(1\)](#) where the listed or specified activity is directly related to-

- (a) prospecting or exploration of a mineral or petroleum resource; or
(b) extraction and primary processing of a mineral or petroleum resource.

[Sub-s. (2) substituted by s. 3 (a) of Act No. 25 of 2014.]

Wording of Sections

(2B) (a) Notwithstanding the other provisions of this section, and in the event of the Minister not being the competent authority, the Minister must be identified as the competent authority where a Cabinet decision stipulates that the Minister must be the competent authority for activities related to a matter declared as a national priority or matters related to such national priority.

(b) Notice must be given by the Minister in the *Gazette* approximately 90 days prior to the Cabinet decision referred to in [paragraph \(a\)](#).

(c) The notice referred to in [paragraph \(b\)](#) must as a minimum contain the following information:

- (i) The proposed decision to be considered by Cabinet and its rationale;
(ii) the approximate date of the consideration of the proposed decision by Cabinet;
(iii) the proposed date on which the decision will come into effect;
(iv) the proposed time-frame for which the Minister will be the competent authority, where appropriate;
(v) the activities contemplated in [section 24 \(2\) \(a\)](#) or geographical areas contemplated in [section 24 \(2\) \(b\)](#); and
(vi) any transitional arrangements that may be applicable to applications for environmental authorisations that already have been or are being processed.

(d) Once Cabinet has made the decision referred to in [paragraph \(a\)](#), the Minister must publish the decision by notice in the *Gazette*.

[Sub-s. (2B) inserted by s. 6 (d) of Act No. 30 of 2013.]

(2C) (a) Whenever a decision on an application for an environmental authorisation is not made within the time-frames applicable to that process, the applicant may apply to the Minister to facilitate the process of taking the decision by the Minister responsible for mineral resources, or where appropriate, to take the decision.

(b) The applicant must notify the Minister responsible for mineral resources in writing of the intention to exercise the option in [paragraph \(a\)](#) at least 30 days prior to the exercising of such option.

(c) The application contemplated in [paragraph \(a\)](#) must, at least, contain all the documents submitted to the Minister responsible for mineral resources in order to enable the Minister to take a decision.

(d) Before taking a decision contemplated in [paragraph \(a\)](#), the Minister must request the Minister responsible for mineral resources to provide him or her with a report within a specified time period on the status and causes of delay in the application and whether the Minister will be able to take the decision within a specified time period.

(e) After having received the report referred to in [paragraph \(d\)](#) or in the event that no response or no satisfactorily response or cooperation is received from the Minister responsible for mineral resources within the specified time period, the Minister must, where appropriate, take the decision or such other steps as the Minister may deem necessary, within a reasonable time period.

(f) The Minister must, simultaneously with the submission of the annual report contemplated in [section 40 \(1\) \(d\) \(i\)](#) of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)), submit a report to Parliament setting out the details regarding the exercise of the power referred to in subsection (e) during the previous financial year.

[Sub-s. (2C) inserted by s. 3 (b) of Act No. 25 of 2014 with effect from 2 September 2014.]

(3) The Minister and an MEC may agree that applications for environmental authorisations with regard to any activity or class of activities-

- (a) contemplated in [subsection \(2\)](#) may be dealt with by the MEC;
(b) in respect of which the MEC is identified as the competent authority may be dealt with by the Minister.

(4) In accordance with [section 125 \(2\) \(b\)](#) of [the Constitution](#), whenever an MEC fails to take a decision on an application for an environmental authorisation within the time periods prescribed by this Act, the applicant may apply to the Minister to take the decision.

[Sub-s. (4) added by s. 6 (e) of Act No. 30 of 2013.]

(5) The applicant must notify the MEC in writing of the intention to exercise the option in [subsection \(4\)](#) at least 30 days prior to the exercising of such option.

[Sub-s. (5) added by s. 6 (e) of Act No. 30 of 2013.]

(6) The application contemplated in [subsection \(4\)](#) must, at least, contain all the documents submitted to the MEC in order to enable the Minister to take a decision.

[Sub-s. (6) added by s. 6 (e) of Act No. 30 of 2013.]

(7) Before taking a decision contemplated in [subsection \(4\)](#), the Minister must request the MEC to provide him or her with a report within a specified time period on the status and causes of delay in the application.

[Sub-s. (7) added by s. 6 (e) of Act No. 30 of 2013.]

(8) After having received the report referred to in [subsection \(7\)](#) or in the event that no response or no satisfactory response or cooperation is received from the MEC within the specified time period the Minister must, where appropriate-

- (a) inform the applicant in the event that the MEC had complied with the relevant prescripts;
- (b) assist the MEC in accordance with [section 125 \(3\)](#) of [the Constitution](#) to fulfil his or her obligations under this Act; or
- (c) direct the MEC to take the decision and such other steps as the Minister may deem necessary within a specified time period.

[Sub-s. (8) added by s. 6 (e) of Act No. 30 of 2013.]

(9) In the event that the MEC fails to take the decision within the specified time period or in any other manner fails to comply with the directive contemplated in [subsection \(8\) \(c\)](#), the Minister must take the decision within a reasonable period of time.

[Sub-s. (9) added by s. 6 (e) of Act No. 30 of 2013.]

(10) The Minister must, simultaneously with the submission of the annual report contemplated in [section 40 \(1\) \(d\) \(i\)](#) of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)), submit a report to Parliament setting out the details regarding the exercise of the power referred to in [subsection \(8\)](#) during the previous financial year.

[S. 24C inserted by s. 3 of [Act No. 8 of 2004](#) and substituted by s. 3 of [Act No. 62 of 2008](#). Sub-s. (10) added by s. 6 (e) of [Act No. 30 of 2013](#).]

Wording of Sections

24D. Publication of list.-(1) The Minister or MEC concerned, as the case may be, must publish in the relevant *Gazette* a notice containing a list of-

- (a) activities or areas identified in terms of [section 24 \(2\)](#); and
- (b) competent authorities identified in terms of [section 24C](#).

(2) The notice referred to in [subsection \(1\)](#) must specify the date on which the list is to come into effect.

[S. 24D inserted by s. 3 of [Act No. 8 of 2004](#) and substituted by s. 4 of [Act No. 62 of 2008](#).]

Wording of Sections

24E. Minimum conditions attached to environmental authorisations.-Every environmental authorisation must as a minimum ensure that-

- (a) adequate provision is made for the ongoing management and monitoring of the impacts of the activity on the environment throughout the life cycle of the activity;
- (b) the property, site or area is specified; and
- (c) provision is made for the transfer of rights and obligations.

[S. 24E inserted by s. 3 of [Act No. 8 of 2004](#). Para. (c) substituted by s. 7 of [Act No. 30 of 2013](#).]

Wording of Sections

24F. Prohibitions relating to commencement or continuation of listed activities.-(1) Notwithstanding any other Act, no person may-

- (a) commence an activity listed or specified in terms of [section 24 \(2\) \(a\)](#) or [\(b\)](#) unless the competent authority or the Minister responsible for mineral resources, as the case may be, has granted an environmental authorisation for the activity; or

- (b) commence and continue an activity listed in terms of [section 24 \(2\) \(d\)](#) unless it is done in terms of an applicable norm or standard.

[[Sub-s. \(1\)](#) substituted by [s. 5](#) of [Act No. 62 of 2008](#).]

[Wording of Sections](#)

- (2)

[[Sub-s. \(2\)](#) substituted by [s. 5](#) of [Act No. 62 of 2008](#) and deleted by [s. 8 \(b\)](#) of [Act No. 30 of 2013](#).]

[Wording of Sections](#)

- (3)

[[Sub-s. \(3\)](#) deleted by [s. 8 \(b\)](#) of [Act No. 30 of 2013](#).]

[Wording of Sections](#)

- (4)

[[S. 24F](#) inserted by [s. 3](#) of [Act No. 8 of 2004](#) and amended by [s. 8 \(a\)](#) of [Act No. 30 of 2013](#). [Sub-s. \(4\)](#) deleted by [s. 8 \(b\)](#) of [Act No. 30 of 2013](#).]

[Wording of Sections](#)

24G. Consequences of unlawful commencement of activity.-(1) On application by a person who-

- (a) has commenced with a listed or specified activity without an environmental authorisation in contravention of [section 24F \(1\)](#);
- (b) has commenced, undertaken or conducted a waste management activity without a waste management licence in terms of [section 20 \(b\)](#) of the National Environmental Management: Waste Act, 2008 ([Act No. 59 of 2008](#)),

the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be, may direct the applicant to-

- (i) immediately cease the activity pending a decision on the application submitted in terms of this subsection;
- (ii) investigate, evaluate and assess the impact of the activity on the environment;
- (iii) remedy any adverse effects of the activity on the environment;
- (iv) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation;
- (v) contain or prevent the movement of pollution or degradation of the environment;
- (vi) eliminate any source of pollution or degradation;
- (vii) compile a report containing-
 - (aa) a description of the need and desirability of the activity;
 - (bb) an assessment of the nature, extent, duration and significance of the consequences for or impacts on the environment of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
 - (cc) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment of the activity;
 - (dd) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed;
 - (ee) an environmental management programme; or
- (viii) provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.

(2) The Minister, Minister responsible for mineral resources or MEC concerned must consider any report or information submitted in terms of [subsection \(1\)](#) and thereafter may-

- (a) refuse to issue an environmental authorisation; or
- (b) issue an environmental authorisation to such person to continue, conduct or undertake the activity subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary, which environmental authorisation shall only take effect from the date on which it has been issued; or
- (c) direct the applicant to provide further information or take further steps prior to making a decision provided for in [paragraph \(a\)](#) or [\(b\)](#).

(3) The Minister, Minister responsible for mineral resources or MEC may as part of his or her decision contemplated in [subsection \(2\) \(a\)](#), [\(b\)](#) or [\(c\)](#) direct a person to-

- (a) rehabilitate the environment within such time and subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary; or
- (b) take any other steps necessary under the circumstances.

(4) A person contemplated in [subsection \(1\)](#) must pay an administrative fine, which may not exceed R5 million and which must be determined by the competent authority, before the Minister, Minister responsible for mineral resources or MEC concerned may act in terms of [subsection \(2\) \(a\)](#) or [\(b\)](#).

(5) In considering a decision contemplated in [subsection \(2\)](#), the Minister, Minister responsible for mineral resources or MEC may take into account whether or not the applicant complied with any directive issued in terms of [subsection \(1\)](#) or [\(2\)](#).

(6) The submission of an application in terms of [subsection \(1\)](#) or the granting of an environmental authorisation in terms of [subsection \(2\) \(b\)](#) shall in no way derogate from-

- (a) the environmental management inspector's or the South African Police Services' authority to investigate any transgression in terms of this Act or any specific environmental management Act;
- (b) the National Prosecuting Authority's legal authority to institute any criminal prosecution.

(7) If, at any stage after the submission of an application in terms of [subsection \(1\)](#), it comes to the attention of the Minister, Minister for mineral resources or MEC, that the applicant is under criminal investigation for the contravention of or failure to comply with section 24F (1) or [section 20 \(b\)](#) of the National Environmental Management: Waste Act, 2008 ([Act No. 59 of 2008](#)), the Minister, Minister responsible for mineral resources or MEC may defer a decision to issue an environmental authorisation until such time that the investigation is concluded and-

- (a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;
- (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or
- (c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

[S. 24G inserted by [s. 3](#) of [Act No. 8 of 2004](#), substituted by [s. 6](#) of [Act No. 62 of 2008](#) and by [s. 9](#) of [Act No. 30 of 2013](#).]

Wording of Sections

24H. Registration authorities.-(1) An association proposing to register its members as environmental assessment practitioners may apply to the Minister to be appointed as a registration authority in such manner as the Minister may prescribe.

(2) The application must contain-

- (a) [the constitution](#) of the association;
- (b) a list of the members of the association;
- (c) a description of the criteria and process to be used to register environmental assessment practitioners;
- (d) a list of the qualifications of the members of the association responsible for the assessment of applicants for registration;
- (e) a code of conduct regulating the ethical and professional conduct of members of the association; and
- (f) any other prescribed requirements.

(3) After considering an application, and any other additional information that the Minister may require, the Minister may-

- (a) by notice in the *Gazette*, appoint the association as a registration authority; or
- (b) in writing addressed to the association, refuse the application, giving reasons for such refusal.

(4) The Minister may, for good cause and in writing addressed to the association, terminate the appointment of an association as a registration authority.

(5) The Minister must maintain a register of all associations appointed as registration authorities in terms of this section.

(6) The Minister may appoint as registration authorities such number of associations as are required for the purposes of this Act and may, if circumstances so require, limit the number of registration authorities to a single registration authority.

24I. Appointment of external specialist to review assessment.-(1) The Minister or MEC may appoint an external specialist reviewer, and may recover costs from the applicant, in instances where-

- (a) the technical knowledge required to review any aspect of an assessment is not readily available within the competent authority;
- (b) a high level of objectivity is required which is not apparent in the documents submitted, in order to ascertain whether the information contained in such documents is adequate for decision-making or whether it requires amendment.

[S. 24I inserted by s. 3 of Act No. 8 of 2004.]

24J. Implementation guidelines.-The Minister or an MEC, with the concurrence of the Minister, may publish guidelines regarding-

- (a) listed activities or specified activities; or
- (b) the implementation, administration and institutional arrangements of regulations made in terms of [section 24 \(5\)](#).

[S. 24J inserted by s. 8 of Act No. 62 of 2008.]

24K. Consultation between competent authorities and consideration of legislative compliance requirements of other organs of state having jurisdiction.-(1) The Minister or an MEC may consult with any organ of state responsible for administering the legislation relating to any aspect of an activity that also requires environmental authorisation under this Act in order to coordinate the respective requirements of such legislation and to avoid duplication.

(2) The Minister or an MEC, in giving effect to [Chapter 3 of the Constitution](#) and section 24 (4) (a) (i) of this Act, may after consultation with the organ of state contemplated in [subsection \(1\)](#) enter into a written agreement with the organ of state in order to avoid duplication in the submission of information or the carrying out of a process relating to any aspect of an activity that also requires environmental authorisation under this Act.

(3) The Minister or an MEC may-

- (a) after having concluded an agreement contemplated in [subsection \(2\)](#), consider the relevance and application of such agreement on applications for environmental authorisations; and
- (b) when he or she considers an application for environmental authorisation that also requires authorisation in terms of other legislation take account of, either in part or in full and as far as specific areas of expertise are concerned, any process authorised under that legislation as adequate for meeting the requirements of [Chapter 5](#) of this Act, whether such processes are concluded or not and provided that [section 24 \(4\) \(a\)](#) and, where applicable, [section 24 \(4\) \(b\)](#) are given effect to in such process.

[S. 24K inserted by s. 8 of Act No. 62 of 2008.]

24L. Alignment of environmental authorisations.-(1) A competent authority empowered under [Chapter 5](#) to issue an environmental authorisation and any other authority empowered under a specific environmental management Act may agree to issue an integrated environmental authorisation.

[Sub-s. (1) substituted by s. 4 (a) of Act No. 25 of 2014.]

Wording of Sections

(2) An integrated environmental authorisation contemplated in [subsection \(1\)](#) may be issued only if-

- (a) the relevant provisions of this Act and the other law or specific environmental management Act have been complied with; and
- (b) the environmental authorisation specifies the-
 - (i) provisions in terms of which it has been issued; and
 - (ii) relevant authority or authorities that have issued it.

[Sub-s. (2) amended by s. 4 (b) of Act No. 25 of 2014.]

Wording of Sections

(3) A competent authority empowered under [Chapter 5](#) to issue an environmental authorisation in respect of a listed activity or specified activity may regard such authorisation as a sufficient basis for the granting or refusing of

an authorisation, a permit or a licence under a specific environmental management Act if that specific environmental management Act is also administered by that competent authority.

(4) A competent authority empowered under [Chapter 5](#) to issue an environmental authorisation may regard an authorisation in terms of any other legislation that meets all the requirements stipulated in [section 24 \(4\) \(a\)](#) and, where applicable, [section 24 \(4\) \(b\)](#) to be an environmental authorisation in terms of that Chapter.

[S. 24L inserted by [s. 8](#) of [Act No. 62 of 2008](#).]

24M. Exemptions from application of certain provisions.-(1) The Minister or MEC, as the case may be, may grant an exemption from any provision of this Act, except from the provision of [section 24 \(4\) \(a\)](#) or the requirement to obtain an environmental authorisation contemplated in [section 24 \(2\) \(a\)](#) or [\(b\)](#).

[Sub-s. (1) substituted by [s. 10 \(a\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(2) The Minister responsible for mineral resources may grant an exemption from any matter contemplated in [section 24 \(4\) \(b\)](#).

(3) The Minister or an MEC, as the case may be, must prescribe the process to be followed for the lodging and processing of an application for exemption in terms of this section.

(4) The Minister, the Minister responsible for mineral resources or MEC may only grant an exemption contemplated in [subsection \(1\)](#) or [\(2\)](#), as the case may be, if-

(a) the granting of the exemption is unlikely to result in significant detrimental consequences for or impacts on the environment;

(b) the provision cannot be implemented in practice in the case of the application in question;

[Para. (b) amended by [s. 10 \(b\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(c) the exemption is unlikely to adversely affect the rights of interested or affected parties.; or

[Para. (c) amended by [s. 10 \(b\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(d) the activity is of national or provincial importance and is aimed at preventing or mitigating serious harm to the environment or property.

[S. 24M inserted by [s. 8](#) of [Act No. 62 of 2008](#). Para. (d) added by [s. 10 \(b\)](#) of [Act No. 30 of 2013](#).]

24N. Environmental management programme.-(1) The Minister, the Minister responsible for mineral resources or an MEC may require the submission of an environmental management programme before considering an application for an environmental authorisation.

[Sub-s. (1) substituted by [s. 5 \(a\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(1A) Where an environmental impact assessment has been identified as the environmental instrument to be utilised as the basis for a decision on an application for environmental authorisation, the Minister, the Minister responsible for mineral resources or an MEC must require the submission of an environmental management programme before deciding an application for an environmental authorisation.

[Sub-s. (1A) substituted by [s. 5 \(b\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(2) The environmental management programme must contain-

(a) information on any proposed management, mitigation, protection or remedial measures that will be undertaken to address the environmental impacts that have been identified in a report contemplated in [section 24 \(1A\)](#), including environmental impacts or objectives in respect of-

(i) planning and design;

(ii) pre-construction and construction activities;

(iii) the operation or undertaking of the activity in question;

(iv) the rehabilitation of the environment; and

(v) closure, if applicable;

(b) details of-

(i) the person who prepared the environmental management programme; and

(ii) the expertise of that person to prepare an environmental management programme;

- (c) a detailed description of the aspects of the activity that are covered by the environmental management programme;
- (d) information identifying the persons who will be responsible for the implementation of the measures contemplated in [paragraph \(a\)](#);
- (e) information in respect of the mechanisms proposed for monitoring compliance with the environmental management programme and for reporting on the compliance;
- (f) as far as is reasonably practicable, measures to rehabilitate the environment affected by the undertaking of any listed activity or specified activity to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and
- (g) a description of the manner in which it intends to-
 - (i) modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;
 - (ii) remedy the cause of pollution or degradation and migration of pollutants; and
 - (iii) comply with any prescribed environmental management standards or practices.

(3) The environmental management programme must, where appropriate-

- (a) set out time periods within which the measures contemplated in the environmental management programme must be implemented;
- (b) contain measures regulating responsibilities for any environmental damage, pollution, pumping and treatment of polluted or extraneous water or ecological degradation which may occur inside and outside the boundaries of the operations in question;

[\[Para. \(b\) substituted by s. 5 \(c\) of Act No. 25 of 2014.\]](#)

Wording of Sections

- (c) develop an environmental awareness plan describing the manner in which-
 - (i) the applicant intends to inform his or her employees of any environmental risk which may result from their work; and
 - (ii) risks must be dealt with in order to avoid pollution or the degradation of the environment.

(4)

[\[Sub-s. \(4\) deleted by s. 5 \(d\) of Act No. 25 of 2014.\]](#)

Wording of Sections

(5) The Minister, the Minister responsible for mineral resources or an MEC may call for additional information and may direct that the environmental management programme in question must be adjusted in such a way as the Minister, the Minister responsible for mineral resources or the MEC may require.

[\[Sub-s. \(5\) substituted by s. 5 \(e\) of Act No. 25 of 2014.\]](#)

Wording of Sections

(6) The Minister, the Minister responsible for mineral resources or an MEC may at any time after he or she has approved an application for an environmental authorisation approve an amended environmental management programme.

[\[Sub-s. \(6\) substituted by s. 5 \(e\) of Act No. 25 of 2014.\]](#)

Wording of Sections

(7) The holder and any person issued with an environmental authorisation-

- (a) must at all times give effect to the general objectives of integrated environmental management laid down in [section 23](#);
- (b) must consider, investigate, assess and communicate the impact of his or her prospecting or mining on the environment;
- (c) must manage all environmental impacts-
 - (i) in accordance with his or her approved environmental management programme, where appropriate; and
 - (ii) as an integral part of the prospecting or mining, exploration or production operation, unless the Minister responsible for mineral resources directs otherwise;

[\[Sub-para. \(ii\) substituted by s. 5 \(f\) of Act No. 25 of 2014.\]](#)

Wording of Sections

- (d) must monitor and audit compliance with the requirements of the environmental management programme;
- (e) must, as far as is reasonably practicable, rehabilitate the environment affected by the prospecting or mining operations to its natural or predetermined state or to a land use which conforms to the

generally accepted principle of sustainable development; and

- (f) is responsible for any environmental damage, pollution, pumping and treatment of polluted or extraneous water or ecological degradation as a result of his or her operations to which such right, permit or environmental authorisation relates.

[[Para. \(f\)](#) substituted by [s. 5 \(f\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(8) Notwithstanding the Companies Act, 2008 ([Act No. 71 of 2008](#)), or the Close Corporations Act, 1984 ([Act No. 69 of 1984](#)), the directors of a company or members of a close corporation are jointly and severally liable for any negative impact on the environment, whether advertently or inadvertently caused by the company or close corporation which they represent, including damage, degradation or pollution.

[[S. 24N](#) inserted by [s. 8](#) of [Act No. 62 of 2008](#). [Sub-s. \(8\)](#) added by [s. 5 \(h\)](#) of [Act No. 25 of 2014](#).]

240. Criteria to be taken into account by competent authorities when considering applications.-(1) If the Minister, the Minister responsible for mineral resources or an MEC considers an application for an environmental authorisation, the Minister, Minister responsible for mineral resources or MEC must-

- (a) comply with this Act;
- (b) take into account all relevant factors, which may include-
- (i) any pollution, environmental impacts or environmental degradation likely to be caused if the application is approved or refused;
 - (ii) measures that may be taken-
 - (aa) to protect the environment from harm as a result of the activity which is the subject of the application; and
 - (bb) to prevent, control, abate or mitigate any pollution, substantially detrimental environmental impacts or environmental degradation;
 - (iii) the ability of the applicant to implement mitigation measures and to comply with any conditions subject to which the application may be granted;
 - (iiiA) the ability of the applicant to comply with the prescribed financial provision;
[[Sub-para. \(iiiA\)](#) inserted by [s. 6 \(b\)](#) of [Act No. 25 of 2014](#).]
 - (iv) where appropriate, any feasible and reasonable alternatives to the activity which is the subject of the application and any feasible and reasonable modifications or changes to the activity that may minimise harm to the environment;
 - (v) any information and maps compiled in terms of [section 24 \(3\)](#), including any prescribed environmental management frame-works, to the extent that such information, maps and frame-works are relevant to the application;
 - (vi) information contained in the application form, reports, comments, representations and other documents submitted in terms of this Act to the Minister, Minister responsible for mineral resources, MEC or competent authority in connection with the application;
 - (vii) any comments received from organs of state that have jurisdiction over any aspect of the activity which is the subject of the application; and
 - (viii) any guidelines, departmental policies, and environmental management instruments that have been adopted in the prescribed manner by the Minister or MEC, with the concurrence of the Minister, and any other information in the possession of the competent authority that are relevant to the application;

[[Sub-para. \(viii\)](#) substituted by [s. 11](#) of [Act No. 30 of 2013](#).]

Wording of Sections

- (c) take into account the comments of any organ of state charged with the administration of any law which relates to the activity in question.

[[Sub-s. \(1\)](#) amended by [s. 6 \(a\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(2) The Minister, the Minister responsible for mineral resources or an MEC must consult with every State department that administers a law relating to a matter affecting the environment when such Minister, Minister responsible for mineral resources or MEC considers an application for an environmental authorisation.

[[Sub-s. \(2\)](#) substituted by [s. 6 \(c\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(2A) Where the matter relates to prospecting, exploration, mining or production, the request for comment contemplated in [subsection \(2\)](#), must be submitted by registered mail to the Director-General or provincial head of

department of the State department contemplated in [subsection \(2\)](#).

[[Sub-s. \(2A\)](#) inserted by [s. 6 \(d\)](#) of [Act No. 25 of 2014](#).]

(3) A State department consulted in terms of [subsection \(2\)](#) must submit comment within 30 days from the date on which the Minister, Minister responsible for mineral resources, or MEC, or environmental assessment practitioner requests such State department in writing to submit comment.

[[Sub-s. \(3\)](#) substituted by [s. 6 \(e\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

(4)

[[Sub-s. \(4\)](#) deleted by [s. 6 \(f\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

(5)

[[S. 24Q](#) inserted by [s. 8](#) of [Act No. 62 of 2008](#). [Sub-s. \(5\)](#) deleted by [s. 6 \(f\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

24P. Financial provision for remediation of environmental damage.-(1) An applicant for an environmental authorisation relating to prospecting, exploration, mining or production must, before the Minister responsible for mineral resources issues the environmental authorisation, comply with the prescribed financial provision for the rehabilitation, closure and ongoing post decommissioning management of negative environmental impacts.

[[Sub-s. \(1\)](#) substituted by [s. 7 \(a\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

(2) If any holder or any holder of an old order right fails to rehabilitate or to manage any impact on the environment, or is unable to undertake such rehabilitation or to manage such impact, the Minister responsible for mineral resources may, upon written notice to such holder, use all or part of the financial provision contemplated in [subsection \(1\)](#) to rehabilitate or manage the environmental impact in question.

(3) Every holder must annually-

- (a) assess his or her environmental liability in a prescribed manner and must increase his or her financial provision to the satisfaction of the Minister responsible for mineral resources; and
- (b) submit an audit report to the Minister responsible for mineral resources on the adequacy of the financial provision from an independent auditor.

[[Sub-s. \(3\)](#) substituted by [s. 7 \(b\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

(4) (a) If the Minister responsible for mineral resources is not satisfied with the assessment and financial provision contemplated in this section, the Minister responsible for mineral resources may appoint an independent assessor to conduct the assessment and determine the financial provision.

(b) Any cost in respect of such assessment must be borne by the holder in question.

(5) The requirement to maintain and retain the financial provision contemplated in this section remains in force notwithstanding the issuing of a closure certificate by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002 to the holder or owner concerned and the Minister responsible for mineral resources may retain such portion of the financial provision as may be required to rehabilitate the closed mining or prospecting operation in respect of latent, residual or any other environmental impacts, including the pumping of polluted or extraneous water, for a prescribed period.

[[Sub-s. \(5\)](#) substituted by [s. 7 \(c\)](#) of [Act No. 25 of 2014](#).]

[Wording of Sections](#)

(6) The Insolvency Act, 1936 ([Act No. 24 of 1936](#)), does not apply to any form of financial provision contemplated in [subsection \(1\)](#) and all amounts arising from that provision.

(7) The Minister, or an MEC in concurrence with the Minister, may in writing make [subsections \(1\)](#) to [\(6\)](#) with the changes required by the context applicable to any other application in terms of this Act.

[[S. 24P](#) inserted by [s. 8](#) of [Act No. 62 of 2008](#).]

24Q. Monitoring and performance assessment.-As part of the general terms and conditions for an environmental authorisation and in order to-

- (a) ensure compliance with the conditions of the environmental authorisation; and
- (b) in order to assess the continued appropriateness and adequacy of the environmental management programme,

every holder and every holder of an old order right must conduct such monitoring and such performance assessment of the approved environmental management programme as may be prescribed.

24R. Mine closure on environmental authorisation.-(1) Every holder, holder of an old order right and owner of works remain responsible for any environmental liability, pollution or ecological degradation, the pumping and treatment of polluted or extraneous water, the management and sustainable closure thereof notwithstanding the issuing of a closure certificate by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002, to the holder or owner concerned.

[Sub-s. (1) substituted by s. 8 (a) of Act No. 25 of 2014.]

Wording of Sections

(2) When the Minister responsible for mineral resources issues a closure certificate, he or she must return such portion of the financial provision contemplated in [section 24P](#) as the Minister may deem appropriate to the holder concerned, but may retain a portion of such financial provision referred to in [subsection \(1\)](#) for any latent, residual or any other environmental, including the pumping of polluted or extraneous water, for a prescribed period after issuing a closure certificate.

[Sub-s. (2) substituted by s. 8 (b) of Act No. 25 of 2014.]

Wording of Sections

(3) Every holder, holder of an old order right or owner of works must plan, manage and implement such procedures and requirements in respect of the closure of a mine as may be prescribed.

(4) The Minister may, in consultation with the Minister responsible for mineral resources and by notice in the *Gazette*, identify areas where mines are interconnected or their impacts are integrated to such an extent that the interconnection results in a cumulative impact.

(5) The Minister may, by notice in the *Gazette*, publish strategies in order to facilitate mine closure where mines are interconnected, have an integrated impact or pose a cumulative impact.

[S. 24R inserted by s. 8 of Act No. 62 of 2008.]

24S. Management of residue stockpiles and residue deposits.-Residue stockpiles and residue deposits must be deposited and managed in accordance with the provisions of the National Environmental Management: Waste Act, 2008 ([Act No. 59 of 2008](#)), on any site demarcated for that purpose in the environmental management plan or environmental management programme in question.

[S. 24S inserted by s. 9 of Act No. 25 of 2014.]

CHAPTER 6
INTERNATIONAL OBLIGATIONS AND AGREEMENTS

25. Incorporation of international environmental instruments.-(1) Where the Republic is not yet bound by an international environmental instrument, the Minister may make a recommendation to Cabinet and Parliament regarding accession to and ratification of an international environmental instrument, which may deal with the following:

- (a) Available resources to ensure implementation;
- (b) views of interested and affected parties;
- (c) benefits to the Republic;
- (d) disadvantages to the Republic;
- (e) the estimated date when the instrument is to come into effect;
- (f) the estimated date when the instrument will become binding on the Republic;
- (g) the minimum number of states required to sign the instrument in order for it to come into effect;
- (h) the respective responsibilities of all national departments involved;
- (i) the potential impact of accession on national parties;
- (j) reservations to be made, if any; and
- (k) any other matter which in the opinion of the Minister is relevant.

(2) Where the Republic is a party to an international environmental instrument the Minister, after compliance with the provisions of [section 231 \(2\)](#) and [\(3\)](#) of [the Constitution](#), may publish the provisions of the international environmental instrument in the *Gazette* and any amendment or addition to such instrument.

(3) The Minister may introduce legislation in Parliament or make such regulations as may be necessary for

giving effect to an international environmental instrument to which the Republic is a party, and such legislation and regulations may deal with *inter alia* the following-

- (a) the co-ordination of the implementation of the instrument;
- (b) the allocation of responsibilities in terms of the instrument, including those of other organs of state;
- (c) the gathering of information, including for the purposes of compiling and updating reports required in terms of the instrument and for submission to Parliament;
- (d) the dissemination of information related to the instrument and reports from international meetings;
- (e) initiatives and steps regarding research, education, training, awareness raising and capacity building;
- (f) ensuring public participation;
- (g) implementation of and compliance with the provisions of the instrument, including the creation of offences and the prescription of penalties where applicable; and
- (h) any other matter necessary to give effect to the instrument.

(4) The Minister may prior to a recommendation referred to in [subsection \(1\)](#), publish a notice in the *Gazette*, stating his or her intention to make such recommendation and inviting written comments.

26. Reports.-(1) The Minister must report to Parliament once a year regarding international environmental instruments for which he or she is responsible and such report may include details on-

- (a) participation in international meetings concerning international environmental instruments;
- (b) progress in implementing international environmental instruments to which the Republic is a party;
- (c) preparations undertaken in respect of international instruments to which the Republic is likely to become a party;
- (d) initiatives and negotiations within the region of Southern Africa;
- (e) the efficacy of co-ordination mechanisms; and
- (f) legislative measures that have been taken and the time frames within which it is envisaged that their objectives will be achieved.

(2) (a) The Minister must initiate an Annual Performance Report on Sustainable Development to meet the government's commitment to Agenda 21.

(b) (i) The Annual Performance Report must cover all relevant activities of all national departments and spheres of government.

(ii) All relevant organs of state must provide information to the Minister by a date to be determined by the Minister for the purposes of the report referred to in [paragraph \(a\)](#) and this may consist of an assembly of information compiled for other purposes.

(c) The Minister may appoint persons as he or she considers necessary to act as a Secretariat to ensure preparation of the report.

(d) The purpose of the report shall be to-

- (i) provide an audit and a report of the government's performance in respect of Agenda 21;
- (ii) review procedures for co-ordinating policies and budgets to meet the objectives of Agenda 21; and
- (iii) review progress on a public educational programme to support the objectives of Agenda 21.

27. Application.-(1) This Chapter applies to any international environmental instrument whether the Republic became a party to it before or after the coming into force of this Act.

(2) The provisions of any international environmental instrument published in accordance with this section are evidence of the contents of the international environmental instrument in any proceedings or matter in which the provisions of the instrument come into question.

CHAPTER 7 COMPLIANCE, ENFORCEMENT AND PROTECTION

Part 1: Environmental hazards, access to information and protection of whistleblowers

[Heading substituted by [s. 2](#) of [Act No. 46 of 2003](#).]

28. Duty of care and remediation of environmental damage.-(1) Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.

(1A) [Subsection \(1\)](#) also applies to a significant pollution or degradation that-

- (a) occurred before the commencement of this Act;
- (b) arises or is likely to arise at a different time from the actual activity that caused the contamination; or
- (c) arises through an act or activity of a person that results in a change to pre-existing contamination.

[[Sub-s. \(1A\)](#) inserted by [s. 12 \(a\)](#) of [Act No. 14 of 2009](#).]

(2) Without limiting the generality of the duty in [subsection \(1\)](#), the persons on whom [subsection \(1\)](#) imposes an obligation to take reasonable measures, include an owner of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which-

- (a) any activity or process is or was performed or undertaken; or
- (b) any other situation exists,

which causes, has caused or is likely to cause significant pollution or degradation of the environment.

(3) The measures required in terms of [subsection \(1\)](#) may include measures to-

- (a) investigate, assess and evaluate the impact on the environment;
- (b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment;
- (c) cease, modify or control any act, activity or process causing the pollution or degradation;
- (d) contain or prevent the movement of pollutants or the causant of degradation;
- (e) eliminate any source of the pollution or degradation; or
- (f) remedy the effects of the pollution or degradation.

(4) The Director-General, the Director-General of the department responsible for mineral resources or a provincial head of department may, after having given adequate opportunity to affected persons to inform him or her of their relevant interests, direct any person who is causing, has caused or may cause significant pollution or degradation of the environment to-

- (a) cease any activity, operation or undertaking;
- (b) investigate, evaluate and assess the impact of specific activities and report thereon;
- (c) commence taking specific measures before a given date;
- (d) diligently continue with those measures; and
- (e) complete those measures before a specified reasonable date:

Provided that the Director-General or a provincial head of department may, if urgent action is necessary for the protection of the environment, issue such directive, and consult and give such opportunity to inform as soon thereafter as is reasonable.

[[Sub-s. \(4\)](#) substituted by [s. 12 \(a\)](#) of [Act No. 30 of 2013](#) and amended by [s. 10](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(5) The Director-General, the Director-General of the department responsible for mineral resources or a provincial head of department, when considering any measure or time period envisaged in [subsection \(4\)](#), must have regard to the following;

- (a) the principles set out in [section 2](#);
- (b) the provisions of any adopted environmental management plan or environmental implementation plan;
- (c) the severity of any impact on the environment and the costs of the measures being considered;
- (d) any measures proposed by the person on whom measures are to be imposed;
- (e) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people; and

[[Para. \(e\)](#) substituted by [s. 12 \(b\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(f) any other relevant factors.

[Sub-s. (5) amended by s. 10 (b) of Act No. 25 of 2014.]

Wording of Sections

(6) If a person required under this Act to undertake rehabilitation or other remedial work on the land of another, reasonably requires access to, use of or a limitation on use of that land in order to effect rehabilitation or remedial work, but is unable to acquire it on reasonable terms, the Minister may-

(a) expropriate the necessary rights in respect of that land for the benefit of the person undertaking the rehabilitation or remedial work, who will then be vested with the expropriated rights; and

(b) recover from the person for whose benefit the expropriation was effected all costs incurred.

(7) Should a person fail to comply, or inadequately comply, with a directive under [subsection \(4\)](#), the Director-General or a provincial head of department may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.

[Sub-s. (7) substituted by s. 12 (b) of Act No. 14 of 2009 and by s. 12 (c) of Act No. 30 of 2013.]

Wording of Sections

(8) Subject to [subsection \(9\)](#), the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department may recover costs for reasonable remedial measures to be undertaken under [subsection \(7\)](#), before such measures are taken and all costs incurred as a result of acting under [subsection \(7\)](#), from any or all of the following persons-

(a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;

(b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title;

(c) the person in control of the land or any person who has or had a right to use the land at the time when-

(i) the activity or the process is or was performed or undertaken; or

(ii) the situation came about; or

(d) any person who negligently failed to prevent-

(i) the activity or the process being performed or undertaken; or

(ii) the situation from coming about:

Provided that such person failed to take the measures required of him or her under [subsection \(1\)](#).

[Sub-s. (8) amended by s. 12 (c) of Act No. 14 of 2009 and by s. 10 (c) of Act No. 25 of 2014.]

Wording of Sections

(9) The Director-General, the Director-General of the department responsible for mineral resources or provincial head of department may in respect of the recovery of costs under [subsection \(8\)](#), claim proportionally from any other person who benefited from the measures undertaken under [subsection \(7\)](#).

[Sub-s. (9) substituted by s. 10 (d) of Act No. 25 of 2014.]

Wording of Sections

(10) The costs claimed under [subsections \(6\)](#), [\(8\)](#) and [\(9\)](#) must be reasonable and may include, without being limited to, labour, administrative and overhead costs.

(11) If more than one person is liable under [subsection \(8\)](#), the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under [subsections \(1\)](#) and [\(4\)](#).

(12) Any person may, after giving the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department 30 days' notice, apply to a competent court for an order directing the Director-General, the Director-General of the department responsible for mineral resources or any provincial head of department to take any of the steps listed in [subsection \(4\)](#) if the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department fails to inform such person in writing that he or she has directed a person contemplated in [subsection \(8\)](#) to take one of those steps, and the provisions of [section 32 \(2\)](#) and [\(3\)](#) shall apply to such proceedings, with the necessary changes.

[Sub-s. (12) substituted by s. 10 (d) of Act No. 25 of 2014.]

Wording of Sections

(13) When considering any application in terms of [subsection \(12\)](#), the court must take into account the factors set out in [subsection \(5\)](#).

(14)

[Sub-s. (14) added by s. 12 (d) of Act No. 14 of 2009 and deleted by s. 12 (d) of Act No. 30 of 2013.]

Wording of Sections

(15)

Wording of Sections

29. Protection of workers refusing to do environmentally hazardous work.-(1) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having refused to perform any work if the person in good faith and reasonably believed at the time of the refusal that the performance of the work would result in an imminent and serious threat to the environment.

(2) An employee who has refused to perform work in terms of [subsection \(1\)](#) must as soon thereafter as is reasonably practicable notify the employer either personally or through a representative that he or she has refused to perform work and give the reason for the refusal.

(3) [Subsection \(1\)](#) applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure or otherwise remedied the matter concerned.

(4) No person may advantage or promise to advantage any person for not exercising his or her right in terms of [subsection \(1\)](#).

(5) No person may threaten to take any action contemplated by [subsection \(1\)](#) against a person because that person has exercised or intends to exercise his or her right in terms of [subsection \(1\)](#).

30. Control of incidents.-(1) In this section-

(a) **"incident"** means an unexpected, sudden and uncontrolled release of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property;

[Para. (a) substituted by s. 13 (b) of Act No. 30 of 2013.]

Wording of Sections

(b) **"responsible person"** includes any person who-

(i) is responsible for the incident;

(ii) owns any hazardous substance involved in the incident; or

(iii) was in control of any hazardous substance involved in the incident at the time of the incident;

(c) **"relevant authority"** means-

(i) a municipality with jurisdiction over the area in which an incident occurs;

(ii) a provincial head of department or any other provincial official designated for that purpose by the MEC in a province in which an incident occurs;

(iii) the Director-General;

(iv) any other Director-General of a national department.

(2) Where this section authorises a relevant authority to take any steps, such steps may only be taken by-

(a) the person referred to in [subsection \(1\) \(c\) \(iv\)](#) if no steps have been taken by any of the other persons listed in [subsection \(1\) \(c\)](#);

(b) the person referred to in [subsection \(1\) \(c\) \(iii\)](#) if no steps have been taken by any of the persons listed in [subsection \(1\) \(c\) \(i\)](#) and (c) (ii);

(c) the person referred to in [subsection \(1\) \(c\) \(ii\)](#) if no steps have been taken by the person listed in [subsection \(1\) \(c\) \(i\)](#);

Provided that any relevant authority may nevertheless take such steps if it is necessary to do so in the circumstances and no other person referred to in [subsection \(1\) \(c\)](#) has yet taken such steps.

(3) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer must forthwith after knowledge of the incident, report through the most effective means reasonably available-

(a) the nature of the incident;

(b) any risks posed by the incident to public health, safety and property;

(c) the toxicity of substances or by-products released by the incident; and

(d) any steps that should be taken in order to avoid or minimise the effects of the incident on public health and the environment to-

(i) the Director-General;

- (ii) the South African Police Services and the relevant fire prevention service;
- (iii) the relevant provincial head of department or municipality; and
- (iv) all persons whose health may be affected by the incident.

(4) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, as soon as reasonably practicable after knowledge of the incident-

- (a) take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety and property of persons;
- (b) undertake clean-up procedures;
- (c) remedy the effects of the incident;
- (d) assess the immediate and long-term effects of the incident on the environment and public health.

(5) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, within 14 days of the incident, report to the Director-General, provincial head of department and municipality such information as is available to enable an initial evaluation of the incident, including-

- (a) the nature of the incident;
- (b) the substances involved and an estimation of the quantity released and their possible acute effect on persons and the environment and data needed to assess these effects;
- (c) initial measures taken to minimise impacts;
- (d) causes of the incident, whether direct or indirect, including equipment, technology, system, or management failure; and
- (e) measures taken and to be taken to avoid a recurrence of such incident.

(6) A relevant authority may direct the responsible person to undertake specific measures within a specific time to fulfil his or her obligations under [subsections \(4\)](#) and [\(5\)](#): Provided that the relevant authority must, when considering any such measure or time period, have regard to the following:

- (a) the principles set out in [section 2](#);
- (b) the severity of any impact on the environment as a result of the incident and the costs of the measures being considered;
- (c) any measures already taken or proposed by the person on whom measures are to be imposed, if applicable;
- (d) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people;
- (e) any other relevant factors.

(7) A verbal directive must be confirmed in writing at the earliest opportunity, which must be within seven days.

(8) Should-

- (a) the responsible person fail to comply, or inadequately comply with a directive under [subsection \(6\)](#);
- (b) there be uncertainty as to who the responsible person is; or
- (c) there be an immediate risk of serious danger to the public or potentially serious detriment to the environment,

a relevant authority may take the measures it considers necessary to-

- (i) contain and minimise the effects of the incident;
- (ii) undertake clean-up procedures; and
- (iii) remedy the effects of the incident.

(9) A relevant authority may claim re-imbusement of all reasonable costs incurred by it in terms of [subsection \(8\)](#) from every responsible person jointly and severally.

(10) A relevant authority which has taken steps under [subsections \(6\)](#) or [\(8\)](#) must, as soon as reasonably practicable, prepare comprehensive reports on the incident, which reports must be made available through the most effective means reasonably available to-

- (a) the public;
- (b) the Director-General;
- (c) the South African Police Services and the relevant fire prevention service;

- (d) the relevant provincial head of department or municipality; and
- (e) all persons who may be affected by the incident.

(11)

[[S. 30](#) amended by [s. 13 \(a\)](#) of [Act No. 30 of 2013](#). [Sub-s. \(11\)](#) added by [s. 13](#) of [Act No. 14 of 2009](#) and deleted by [s. 13 \(c\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

30A. Emergency situations.-(1) The competent authority may on its own initiative or on written or oral request from a person, direct a person verbally or in writing to carry out a listed or specified activity, without obtaining an environmental authorisation contemplated in [section 24 \(2\) \(a\)](#) or [\(b\)](#), in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.

(2) The request from the person referred to in [subsection \(1\)](#) must at least include, where known-

- (a) the nature, scope and possible impact of the emergency situation;
- (b) the listed or specified activities that will be commenced with in response to the emergency situation;
- (c) the cause of the emergency situation; and
- (d) the proposed measures to prevent or to contain the emergency situation or to prevent, contain or mitigate the effects of the emergency situation.

(3) The competent authority may direct the person to undertake specific measures within a specific time period in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.

(4) The verbal directive referred to in [subsection \(1\)](#) must be confirmed in writing at the earliest opportunity, which must be within seven days.

(5) Before making a decision contemplated in [subsection \(3\)](#), the competent authority must at least, where information is available, consider-

- (a) the nature of the emergency situation;
- (b) the information contained in the request referred to in [subsection \(2\)](#);
- (c) whether the emergency situation was caused by or the fault of the person;
- (d) the principles in [section 2](#);
- (e) the risk of the impact on the environment as a result of the emergency and the costs of the measures considered; and
- (f) the risk of the impact on the environment of the emergency situation, prevention, control or mitigation measures and the post-event mitigation or rehabilitation measures that may be required.

(6) If the competent authority decides not to issue a directive provided for in [subsection \(1\)](#), the activity cannot commence or continue in the absence of an environmental authorisation.

(7) In this section "emergency situation" means a situation that has arisen suddenly that poses an imminent and serious threat to the environment, human life or property, including a 'disaster' as defined in [section 1](#) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)), but does not include an incident referred to in [section 30](#) of this Act.

[[S. 30A](#) inserted by [s. 14](#) of [Act No. 30 of 2013](#) with effect from 18 December, 2014.]

.

[Heading deleted by [s. 3](#) of [Act No. 46 of 2003](#).]

31. Access to environmental information and protection of whistle-blowers.-(1)

[[Sub-s. \(1\)](#) deleted by [s. 14](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(2)

[[Sub-s. \(2\)](#) deleted by [s. 14](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(3)

[[Sub-s. \(3\)](#) deleted by [s. 14](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(4) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be

dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with [subsection \(5\)](#).

(5) [Subsection \(4\)](#) applies only if the person concerned-

(a) disclosed the information concerned to-

- (i) a committee of Parliament or of a provincial legislature;
- (ii) an organ of state responsible for protecting any aspect of the environment or emergency services;
- (iii) the Public Protector;
- (iv) the Human Rights Commission;
- (v) any attorney-general or his or her successor;
- (vi) more than one of the bodies or persons referred to in [subparagraphs \(i\) to \(v\)](#);

(b) disclosed the information concerned to one or more news media and on clear and convincing grounds believed at the time of the disclosure-

- (i) that the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or
- (ii) giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for non-disclosure;

(c) disclosed the information concerned substantially in accordance with any applicable external or internal procedure, other than the procedure contemplated in [paragraph \(a\)](#) or [\(b\)](#), for reporting or otherwise remedying the matter concerned; or

(d) disclosed information which, before the time of the disclosure of the information, had become available to the public, whether in the Republic or elsewhere.

(6) [Subsection \(4\)](#) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.

(7) No person may advantage or promise to advantage any person for not exercising his or her right in terms of [subsection \(4\)](#).

(8) No person may threaten to take any action contemplated by [subsection \(4\)](#) against a person because that person has exercised or intends to exercise his or her right in terms of [subsection \(4\)](#).

Part 2: Application and enforcement of Act and any specific environmental management Act

[Part 2 inserted by [s. 4](#) of [Act No. 46 of 2003](#). Heading substituted by [s. 15](#) of [Act No. 14 of 2009](#).]

31A. Application.-(1) This Part applies to the enforcement of this Act and any specific environmental management Act.

[[Sub-s. \(1\)](#) substituted by [s. 16](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(2) In this Part, unless inconsistent with the context, a word or expression to which a meaning has been assigned in a specific environmental management Act has, in relation to the administration or enforcement of that Act, the meaning assigned to it in that Act.

(3) For the purposes of this Part, [Schedule 1](#) to the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), is deemed to include an offence committed in terms of this Act or a specific environmental management Act.

[[S. 31A](#) inserted by [s. 4](#) of [Act No. 46 of 2003](#).]

31B. Designation of environmental management inspectors by Minister.-(1) The Minister may-

(a) designate as an environmental management inspector, any staff member of-

- (i) the Department; or
- (ii) any other organ of state; and

(b) at any time withdraw a designation made in terms of [paragraph \(a\)](#).

(2) A designation in terms of [subsection \(1\) \(a\) \(ii\)](#) may only be made by agreement between the Minister and the relevant organ of state.

31BA. Designation of environmental management inspectors by Minister responsible for water affairs.-

(1) The Minister responsible for water affairs may-

- (a) designate as an environmental management inspector, any staff member of-
 - (i) the Department of Water Affairs and Forestry; or
 - (ii) any other organ of state; and
- (b) at any time withdraw a designation made in terms of [paragraph \(a\)](#).

(2) A designation in terms of [subsection \(1\) \(a\) \(ii\)](#) may only be made by agreement between the Minister responsible for water affairs and the relevant organ of state.

[S. 31BA inserted by s. 4 of Act No. 44 of 2008.]

31BB. Designation of environmental mineral resource inspectors by Minister responsible for mineral resources.-(1) The Minister responsible for mineral resources may-

- (a) designate as an environmental mineral resource inspector, any staff member of the Department of Mineral Resources; and
- (b) at any time withdraw a designation made in terms of [paragraph \(a\)](#).

[S. 31BB inserted by s. 11 of Act No. 25 of 2014.]

31C. Designation of environmental management inspectors by MEC.-(1) An MEC may-

- (a) designate as an environmental management inspector, any staff member of-
 - (i) the department responsible for environmental management in the province;
 - (ii) any other provincial organ of state; or
 - (iii) any municipality in the province; and
- (b) at any time withdraw a designation made in terms of [paragraph \(a\)](#).

(2) A designation in terms of [subsection \(1\) \(a\) \(ii\) or \(iii\)](#) may only be made by agreement between the relevant MEC and the relevant provincial organ of state or municipality.

[S. 31C inserted by s. 4 of Act No. 46 of 2003.]

31D. Mandates.-(1) When designating a person as an environmental management inspector, the Minister, the Minister responsible for water affairs or MEC, as the case may be, must, subject to [subsection \(2\)](#), determine whether the person concerned is designated for the enforcement of-

- (a) this Act;
- (b) a specific environmental management Act;
- (c) specific provisions of this Act or a specific environmental management Act;
- (d) this Act and all specific environmental management Acts; or
- (e) any combination of those Acts or provisions of those Acts.

(2) An MEC may designate a person as an environmental management inspector for the enforcement of only those provisions of this Act or any specific environmental management Act-

- (a) which are administered by the MEC or a provincial organ of state; or
- (b) in respect of which the MEC or a provincial organ of state exercises or performs assigned or delegated powers or duties.

(2A) The Minister responsible for mineral resources may designate a person as an environmental mineral resource inspector for the compliance monitoring and enforcement of the provisions of this Act or a specific environmental management Act in respect of which powers are conferred on him or her.

[Sub-s. (2A) inserted by s. 12 (a) of Act No. 25 of 2014.]

(3) A person designated as an environmental management inspector or environmental mineral resource

inspector may exercise any of the powers given to environmental management inspectors in terms of this Act that are necessary for the inspector's mandate in terms of [subsections \(1\)](#) or 2A that may be specified by the Minister, the Minister responsible for water affairs, the Minister responsible for mineral resources or MEC by notice in writing to the environmental management inspector or environmental mineral resource inspector.

[[Sub-s. \(3\)](#) substituted by [s. 12 \(b\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

(4) Despite the provisions in [subsections \(2A\)](#) and [\(3\)](#), the Minister may, with the concurrence of the Minister responsible for mineral resources, if the environmental mineral resource inspectors are unable or not adequately able to fulfill the compliance monitoring and enforcement functions, designate environmental management inspectors to implement these functions in terms of this Act or a specific environmental management Act in respect of which powers have been conferred on the Minister responsible for mineral resources.

[[Sub-s. \(4\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

(5) In the event that a complainant alleges that a specific compliance monitoring and enforcement function relating to prospecting, exploration, mining and production has not been implemented or has been inadequately implemented, the complainant must submit, in writing, information substantiating such allegations to the Minister responsible for mineral resources.

[[Sub-s. \(5\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

(6) In the event that the complainant is not satisfied with the response from the Minister responsible for mineral resources, the complainant may submit, in writing, such information to the Minister with substantiating documentation, including details of the engagement with the Minister responsible for mineral resources.

[[Sub-s. \(6\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

(7) On receipt of such information referred to in [subsection \(6\)](#), the Minister must consult with the Minister responsible for mineral resources on his or her response to the complainant.

[[Sub-s. \(7\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

(8) Subsequent to [subsection \(7\)](#), the Minister may, in concurrence with the Minister responsible for mineral resources, within a reasonable period of time and where appropriate-

- (a) assist or support the Minister responsible for mineral resources to fulfill his or her compliance monitoring and enforcement obligations under this Act; or
- (b) direct the environmental management inspectors as contemplated in [subsection \(4\)](#) to undertake the compliance monitoring and enforcement functions.

[[Sub-s. \(8\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

(9) The Minister must inform the complainant of steps taken in response to the complaint.

[[S. 31D](#) inserted by [s. 4](#) of [Act No. 46 of 2003](#) and substituted by [s. 5](#) of [Act No. 44 of 2008](#). [Sub-s. \(9\)](#) added by [s. 12 \(c\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

31E. Prescribed standards.-(1) The Minister may prescribe-

- (a) qualification criteria for environmental management inspectors; and
- (b) training that must be completed by environmental management inspectors.

(2) The Minister may only prescribe criteria and training in terms of [subsection \(1\)](#) after consultation with the Minister responsible for safety and security.

[[S. 31E](#) inserted by [s. 4](#) of [Act No. 46 of 2003](#).]

31F. Proof of designation.-(1) A prescribed identity card must be issued to each person designated as an environmental management inspector.

(2) When exercising any powers or performing any duties in terms of this Act or a specific environmental management Act, an environmental management inspector must, on demand by a member of the public, produce the identity card referred to in [subsection \(1\)](#).

[[S. 31F](#) inserted by [s. 4](#) of [Act No. 46 of 2003](#). [Sub-s. \(2\)](#) substituted by [s. 17](#) of [Act No. 14 of 2009](#).]

Wording of Sections

31G. Functions of inspectors.-(1) An environmental management inspector within his or her mandate in terms of [section 31D](#)-

- (a) must monitor and enforce compliance with a law for which he or she has been designated in terms of that section;

- (b) may investigate any act or omission in respect of which there is a reasonable suspicion that it might constitute-
 - (i) an offence in terms of such law;
 - (ii) a breach of such law; or
 - (iii) a breach of a term or condition of a permit, authorisation or other instrument issued in terms of such law.

(2) An environmental management inspector-

- (a) must carry out his or her duties and exercise his or her powers-
 - (i) in accordance with any instructions issued by the Minister or MEC, as the case may be; and
 - (ii) subject to any limitations and in accordance with any procedures that may be prescribed; and
- (b) may be accompanied by an interpreter or any other person whose assistance may reasonably be required;
- (c) must exercise his or her powers in a way that minimises any damage to, loss or deterioration of any premises or thing.

[S. 31G inserted by s. 4 of Act No. 46 of 2003.]

31H. General powers.-(1) An environmental management inspector, within his or her mandate in terms of [section 31D](#), may-

- (a) question a person about any act or omission in respect of which there is a reasonable suspicion that it might constitute-
 - (i) an offence in terms of a law for which that inspector has been designated in terms of that section;
 - (ii) a breach of such law; or
 - (iii) a breach of a term or condition of a permit, authorisation or other instrument issued in terms of such law;
- (b) issue a written notice to a person who refuses to answer questions in terms of [paragraph \(a\)](#), requiring that person to answer questions put to him or her in terms of that paragraph;
- (c) inspect, or question a person about, any document, book or record or any written or electronic information-
 - (i) which may be relevant for the purpose of [paragraph \(a\)](#); or
 - (ii) to which this Act or a specific environmental management Act relates;
- (d) copy, or make extracts from, any document, book or record or any written or electronic information referred to in [paragraph \(c\)](#), or remove such document, book, record or written or electronic information in order to make copies or extracts;
- (e) require a person to produce or deliver to a place specified by the inspector, any document, book or record or any written or electronic information referred to in [paragraph \(c\)](#) for inspection;
- (f) inspect, question a person about, and if necessary remove any specimen, article, substance or other item which, on reasonable suspicion, may have been used in-
 - (i) committing an offence in terms of the law for which that inspector has been designated in terms of [section 31D](#);
 - (ii) breaching such law; or
 - (iii) breaching a term or condition of a permit, authorisation or other instrument issued in terms of such law;
- (g) take photographs or make audio-visual recordings of anything or any person that is relevant for the purposes of an investigation or for a routine inspection;

[Para. (g) substituted by s. 18 of Act No. 14 of 2009.]

Wording of Sections

- (h) dig or bore into the soil;
- (i) take samples;
- (j) remove any waste or other matter deposited or discharged in contravention of the law for which that inspector has been designated in terms of [section 31D](#) or a term or condition of a permit,

authorisation or other instrument issued in terms of such law; or

- (k) carry out any other prescribed duty not inconsistent with this Act and any other duty that may be prescribed in terms of a specific environmental management Act.

(2) A written notice issued in terms of [subsection \(1\) \(b\)](#) must be in the prescribed format and must require a person to answer specified questions either orally or in writing, and either alone or in the presence of a witness, and may require that questions are answered under oath or affirmation.

(3) A person who receives a written notice in terms of [subsection \(1\) \(b\)](#), must answer all questions put to him or her truthfully and to the best of his or her ability, notwithstanding that an answer might incriminate him or her, but any answer that incriminates such person may not be used against him or her in any subsequent criminal proceedings for an offence in terms of this Act or a specific environmental management Act.

(4) An environmental management inspector must-

(a) provide a receipt for-

(i) any document, book, record or written or electronic information removed in terms of [subsection \(1\) \(d\)](#); or

(ii) any specimen, article, substance or other item removed in terms of [subsection \(1\) \(f\)](#); and

(b) return anything removed within a reasonable period or, subject to [section 34D](#), at the conclusion of any relevant criminal proceedings.

(5) In addition to the powers set out in this Part, an environmental management inspector must be regarded as being a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#))-

(a) to comply with his or her mandate in terms of [section 31D](#); and

(b) within the area of jurisdiction for which he or she has been designated.

[[S. 31H](#) inserted by [s. 4 of Act No. 46 of 2003](#). Sub-s. (5) substituted by [s. 6 of Act No. 44 of 2008](#).]

Wording of Sections

31I. Seizure of items.-(1) The provisions of [sections 30 to 34](#) of the Criminal Procedure Act, 1977, apply to the disposal of anything seized in terms of this Part, subject to such modifications as the context may require.

(2) When an item is seized in terms of this Part, the environmental management inspector may request the person who was in control of the item immediately before the seizure of the item, to take it to a place designated by the inspector, and if the person refuses to take the item to the designated place, the inspector may do so.

(3) In order to safeguard a vehicle, vessel or aircraft that has been seized, the environmental management inspector may immobilise it by removing a part.

(4) An item seized in terms of this section, including a part of a vehicle, vessel or aircraft referred to in [subsection \(3\)](#), must be kept in such a way that it is secured against damage.

(5) An environmental management inspector may-

(a) in the case of a specimen of a threatened or protected species or alien species being imported into the Republic, at the port of entry, request the person responsible for the import or that person's agent, to produce the original copies of the import permit, together with such other documentation as may be required; and

(b) in the case of a specimen of a threatened or protected species, being exported or re-exported from the Republic, at the port of exit, request the person responsible for the export or re-export or that person's agent to produce the original copy of the export or re-export permit, together with such other documentation as may be required.

[[S. 31I](#) inserted by [s. 4 of Act No. 46 of 2003](#).]

31J. Powers to stop, enter and search vehicles, vessels and aircraft.-(1) An environmental management inspector, within his or her mandate in terms of [section 31D](#), may, without a warrant, enter and search any vehicle, vessel or aircraft, or search any pack-animal or any other mechanism of transport, on reasonable suspicion that that vehicle, vessel, aircraft, pack animal or other mechanism of transport-

(a) is being or has been used, or contains or conveys anything which is being or has been used, to commit-

(i) an offence in terms of the law for which that inspector has been designated in terms of [section 31D](#); or

(ii) a breach of such law or a term or condition of a permit, authorisation or other instrument issued in terms of such law; or

(b) contains or conveys a thing which may serve as evidence of such offence or breach.

(2) An environmental management inspector may, without a warrant, seize a vehicle, vessel, aircraft, pack-animal or any other mechanism of transport or anything contained in or on any vehicle, vessel, aircraft, pack-animal or other mechanism of transport-

- (a) which is concerned in or is on reasonable grounds believed to be concerned in the commission of an offence;
- (b) which may afford evidence of the commission or suspected commission of an offence;
- (c) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence; or
- (d) which, on reasonable grounds, is being utilised in a manner that is likely to cause significant pollution, impact or degradation of the environment,

in terms of this Act or a specific environmental management Act.

[Sub-s. (2) substituted by s. 15 (b) of Act No. 30 of 2013.]

Wording of Sections

(3) The provisions of [section 31I](#) apply to anything seized in terms of [subsection \(2\)](#), subject to such modifications as the context may require.

(4) An environmental management inspector may, for the purpose of implementing [subsection \(1\)](#), at any time, and without a warrant-

- (a) order the driver of a vehicle or vessel to stop, or the pilot of an aircraft to land; or
- (b) if necessary and possible, force the driver or pilot to stop or land, as the case may be.

(5) An environmental management inspector may exercise on or in respect of such vehicle, vessel or aircraft any of the powers mentioned in [section 31H](#).

(6) An environmental management inspector may apply to the National or Provincial Commissioner of Police for written authorisation in terms of [section 13 \(8\)](#) of the South African Police Service Act, 1995 ([Act No. 68 of 1995](#)), to establish a roadblock or a checkpoint.

(7) An environmental management inspector has, within his or her mandate in terms of [section 31D](#), all the powers of a member of the South African Police Service in terms of section 13 (8) of the South African Police Service Act, 1995.

[S. 31] inserted by s. 4 of [Act No. 46 of 2003](#) and amended by s. 15 (a) of [Act No. 30 of 2013](#).]

Wording of Sections

31K. Routine inspections.-(1) An environmental management inspector, within his or her mandate in terms of [section 31D](#), and subject to [subsection \(2\)](#), may at any reasonable time conduct routine inspections and, without a warrant, enter and inspect any building, land or premises or search, including but not limited to, any vehicle, vessel, aircraft, pack-animals, container, bag, box, or item for the purposes of ascertaining compliance with-

- (a) the legislation for which that inspector has been designated in terms of [section 31D](#); or
- (b) a term or condition of a permit, authorisation or other instrument issued in terms of such legislation.

[Sub-s. (1) amended by s. 19 (a) of [Act No. 14 of 2009](#).]

Wording of Sections

(2) An environmental management inspector, within his or her mandate in terms of [section 31D](#), may, with a warrant obtained in terms of [subsection \(3\)](#), but subject to [subsection \(4\)](#), enter and inspect any residential premises for the purposes of ascertaining compliance with-

- (a) the legislation for which that inspector has been designated in terms of [section 31D](#); or
- (b) a term or condition of a permit, authorisation or other instrument issued in terms of such legislation.

(3) A magistrate may issue a warrant contemplated in [subsection \(2\)](#) only on written application by an environmental management inspector setting out under oath or affirmation that it is necessary to enter and inspect the specified residential premises for the purposes of ascertaining compliance with the Acts for which that inspector has been designated in terms of [section 31D](#).

(4) An environmental management inspector may in terms of [subsection \(2\)](#) enter and inspect any residential premises without a warrant, but only if-

- (a) the person in control of the premises consents to the entry and inspection; or
- (b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of the entry or inspection.

(5) While carrying out a routine inspection, an environmental management inspector may seize anything in or

on any, including but not limited to business or residential premises, land or vehicle, vessel, aircraft, pack-animals, container, bag, box, or item that may be used as evidence in the prosecution of any person for an offence in terms of this Act or a specific environmental management Act.

[Sub-s. (5) substituted by s. 19 (b) of Act No. 14 of 2009.]

Wording of Sections

(6) The provisions of [section 31I](#) apply to anything seized in terms of [subsection \(5\)](#), subject to such modifications as the context may require.

(7) An environmental management inspector may exercise on such building, land, premises, vehicle, vessel, aircraft, pack-animals, container, bag, box, item and the like any of the powers mentioned in [section 31H](#).

[S. 31K inserted by s. 4 of Act No. 46 of 2003. Sub-s. (7) substituted by s. 19 (c) of Act No. 14 of 2009.]

Wording of Sections

31L. Power to issue compliance notices.-(1) An environmental management inspector, within his or her mandate in terms of [section 31D](#), may issue a compliance notice in the prescribed form and following a prescribed procedure if there are reasonable grounds for believing that a person has not complied-

(a) with a provision of the law for which that inspector has been designated in terms of [section 31D](#); or

(b) with a term or condition of a permit, authorisation or other instrument issued in terms of such law.

(2) A compliance notice must set out-

(a) details of the conduct constituting non-compliance;

(b) any steps the person must take and the period within which those steps must be taken;

(c) any thing which the person may not do, and the period during which the person may not do it; and

(d) the procedure to be followed in lodging an objection to the compliance notice with the Minister or MEC, as the case may be.

(3) An environmental management inspector may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.

(4) A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Minister or MEC has agreed to suspend the operation of the compliance notice in terms of [subsection \(5\)](#).

(5) A person who receives a compliance notice and who wishes to lodge an objection in terms of [section 31M](#) may make representations to the Minister or MEC, as the case may be, to suspend the operation of the compliance notice pending finalisation of the objection.

[S. 31L inserted by s. 4 of Act No. 46 of 2003.]

31M. Objections to compliance notice.-(1) Any person who receives a compliance notice in terms of [section 31L](#) may object to the notice by making representations, in writing, to the Minister or MEC, as the case may be, within 30 days of receipt of the notice, or within such longer period as the Minister or MEC may determine.

(2) After considering any representations made in terms of subsection (1) and any other relevant information, the Minister or MEC, as the case may be-

(a) may confirm, modify or cancel a notice or any part of a notice; and

(b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

[S. 31M inserted by s. 4 of Act No. 46 of 2003.]

31N. Failure to comply with compliance notice.

(1)

[Sub-s. (1) deleted by s. 16 of Act No. 30 of 2013.]

Wording of Sections

(2) If a person fails to comply with a compliance notice, the environmental management inspector must report the non-compliance to the Minister or MEC, as the case may be, and the Minister or MEC may-

(a) revoke or vary the relevant permit, authorisation or other instrument which is the subject of the compliance notice;

(b) take any necessary steps and recover the costs of doing so from the person who failed to comply.

(c)

[Para. (c) deleted by s. 20 of Act No. 14 of 2009.]

Wording of Sections

(3)

[S. 31N inserted by s. 4 of Act No. 46 of 2003. Sub-s. (3) added by s. 7 of Act No. 44 of 2008 and deleted by s. 16 of Act No. 30 of 2013.]

Wording of Sections

31O. Powers of South African Police Service members.-(1) A member of the South African Police Service has, in respect of an offence in terms of this Act or a specific environmental management Act, all the powers of an environmental management inspector in terms of this Part excluding the power to conduct routine inspections in terms of [section 31K](#) and the power to issue and enforce compliance notices in terms of [sections 31L](#) to [31Q](#).

(2) Notwithstanding [subsection \(1\)](#), the Minister or MEC, as the case may be, may, with the concurrence of the Minister responsible for safety and security, by written notice to a member of the South African Police Service, assign to that member all the powers contemplated in [sections 31K](#) to [31Q](#).

[S. 31O inserted by s. 4 of Act No. 46 of 2003.]

31P. Duty to produce documents.-Any person to whom a permit, licence, permission, certificate, authorisation or any other document has been issued in terms of this Act or a specific environmental management Act, must produce that document at the request of an environmental management inspector.

[S. 31P inserted by s. 4 of Act No. 46 of 2003.]

31Q. Confidentiality.-(1) It is an offence for any person to disclose information about any other person if that information was acquired while exercising or performing any power or duty in terms of this Act or a specific environmental management Act, except-

- (a) if the information is disclosed in compliance with the provisions of any law;
- (b) if the person is ordered to disclose the information by a court;
- (c) if the information is disclosed to enable a person to perform a function in terms of this Act or a specific environmental management Act; or
- (d) for the purposes of the administration of justice.

(1A) [Subsection \(1\)](#) does not apply to information that pertains to-

- (a) environmental quality or the state of the environment;
- (b) any risks posed to the environment, public safety and the health and well-being of people; or
- (c) compliance with or contraventions of any environmental legislation by any person.

[Sub-s. (1A) inserted by s. 21 of Act No. 14 of 2009.]

(2)

[S. 31Q inserted by s. 4 of Act No. 46 of 2003. Sub-s. (2) deleted by s. 17 of Act No. 30 of 2013.]

Wording of Sections

Part 3: Judicial matters

[Heading inserted by s. 5 of Act No. 46 of 2003.]

32. Legal standing to enforce environmental laws.-(1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in [Chapter 1](#), or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources-

- (a) in that person's or group of person's own interest;
- (b) in the interest of, or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of or on behalf of a group or class of persons whose interests are affected;
- (d) in the public interest; and

- (e) in the interest of protecting the environment.

[[Sub-s. \(1\)](#) amended by [s. 6 \(a\)](#) of [Act No. 46 of 2003](#).]

Wording of Sections

(2) A court may decide not to award costs against a person who, or group of persons which, fails to secure the relief sought in respect of any breach or threatened breach of any provision of this Act, including a principle contained in [Chapter 1](#), or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources, if the court is of the opinion that the person or group of persons acted reasonably out of a concern for the public interest or in the interest of protecting the environment and had made due efforts to use other means reasonably available for obtaining the relief sought.

[[Sub-s. \(2\)](#) substituted by [s. 6 \(b\)](#) of [Act No. 46 of 2003](#).]

Wording of Sections

(3) Where a person or group of persons secures the relief sought in respect of any breach or threatened breach of any provision of this Act, or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment, a court may on application-

- (a) award costs on an appropriate scale to any person or persons entitled to practice as advocate or attorney in the Republic who provided free legal assistance or representation to such person or group in the preparation for or conduct of the proceedings; and
- (b) order that the party against whom the relief is granted pay to the person or group concerned any reasonable costs incurred by such person or group in the investigation of the matter and its preparation for the proceedings.

[[Sub-s. \(3\)](#) amended by [s. 6 \(c\)](#) of [Act No. 46 of 2003](#).]

Wording of Sections

33. Private prosecution.-(1) Any person may-

- (a) in the public interest; or
- (b) in the interest of the protection of the environment,

institute and conduct a prosecution in respect of any breach or threatened breach of any duty, other than a public duty resting on an organ of state, in any national or provincial legislation or municipal by-law, or any regulation, licence, permission or authorisation issued in terms of such legislation, where that duty is concerned with the protection of the environment and the breach of that duty is an offence.

(2) The provisions of [sections 9 to 17](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)) applicable to a prosecution instituted and conducted under [section 8](#) of that Act must apply to a prosecution instituted and conducted under [subsection \(1\)](#): Provided that if-

- (a) the person prosecuting privately does so through a person entitled to practice as an advocate or an attorney in the Republic;
- (b) the person prosecuting privately has given written notice to the appropriate public prosecutor that he or she intends to do so; and
- (c) the public prosecutor has not, within 28 days of receipt of such notice, stated in writing that he or she intends to prosecute the alleged offence,
 - (i) the person prosecuting privately shall not be required to produce a certificate issued by the Attorney-General stating that he or she has refused to prosecute the accused; and
 - (ii) the person prosecuting privately shall not be required to provide security for such action.

(3) The court may order a person convicted upon a private prosecution brought under [subsection \(1\)](#) to pay the costs and expenses of the prosecution, including the costs of any appeal against such conviction or any sentence.

(4) The accused may be granted an order for costs against the person prosecuting privately, if the charge against the accused is dismissed or the accused is acquitted or a decision in favour of the accused is given on appeal and the court finds either:

- (a) that the person instituting and conducting the private prosecution did not act out of a concern for the public interest or the protection of the environment; or
- (b) that such prosecution was unfounded, trivial or vexatious.

(5) When a private prosecution is instituted in accordance with the provisions of this Act, the Attorney-General is barred from prosecuting except with the leave of the court concerned.

34. Criminal proceedings.-(1) Whenever any person is convicted of an offence under any provision listed in

[Schedule 3](#) and it appears that such person has by that offence caused loss or damage to any organ of state or other person, including the cost incurred or likely to be incurred by an organ of state in rehabilitating the environment or preventing damage to the environment, the court may in the same proceedings at the written request of the Minister or other organ of state or other person concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused.

(2) Upon proof of such amount, the court may give judgment therefor in favour of the organ of state or other person concerned against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.

(3) Whenever any person is convicted of an offence under any provision listed in [Schedule 3](#) the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order-

- (a) the award of damages or compensation or a fine equal to the amount so assessed; or
- (b) that such remedial measures as the court may determine must be undertaken by the convicted person.

[[Sub-s. \(3\)](#) substituted by [s. 22](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(4) Whenever any person is convicted of an offence under any provision listed in [Schedule 3](#) the court convicting such person may, upon application by the public prosecutor or another organ of state, order such person to pay the reasonable costs incurred by the public prosecutor and the organ of state concerned in the investigation and prosecution of the offence.

(5) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in [Schedule 3](#) for the employer to do or omit to do, and the act or omission of the manager, agent or employee occurred because the employer failed to take all reasonable steps to prevent the act or omission in question, then the employer shall be guilty of the said offence and, save that no penalty other than a fine may be imposed if a conviction is based on this subsection, liable on conviction to the penalty specified in the relevant law, including an order under [subsections \(2\), \(3\) and \(4\)](#), and proof of such act or omission by a manager, agent or employee shall constitute *prima facie* evidence that the employer is guilty under this subsection.

(6) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in [Schedule 3](#) for the employer to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer.

(7) Any person who is or was a director of a firm at the time of the commission by that firm of an offence under any provision listed in [Schedule 3](#) shall himself or herself be guilty of the said offence and liable on conviction to the penalty specified in the relevant law, including an order under [subsection \(2\), \(3\) and \(4\)](#), if the offence in question resulted from the failure of the director to take all reasonable steps that were necessary under the circumstances to prevent the commission of the offence: Provided that proof of the said offence by the firm shall constitute *prima facie* evidence that the director is guilty under this subsection.

(8) Any such manager, agent, employee or director may be so convicted and sentenced in addition to the employer or firm.

(9) In [subsection \(7\)](#) and [\(8\)](#)-

- (a) "**firm**" shall mean a body incorporated by or in terms of any law as well as a partnership; and
- (b) "**director**" shall mean a member of the board, executive committee, or other managing body of a corporate body and, in the case of a close corporation, a member of that close corporation or in the case of a partnership, a member of that partnership.

(10) (a) The Minister may amend Part (a) of [Schedule 3](#) by regulation.

(b) An MEC may amend Part (b) of [Schedule 3](#) in respect of the province of his or her jurisdiction by regulation.

34A.

[[S. 34A](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#) and repealed by [s. 18](#) of [Act No. 30 of 2013](#).]

Wording of Sections

34B. Award of part of fine recovered to informant.-(1) A court which imposes a fine for an offence in terms of this Act or a specific environmental management Act may order that a sum of not more than one-fourth of the fine be paid to the person whose evidence led to the conviction or who assisted in bringing the offender to justice.

(2) A person in the service of an organ of state or engaged in the implementation of this Act or a specific environmental management Act is not entitled to such an award.

[[S. 34B](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34C. Cancellation of permits.-(1) The court convicting a person of an offence in terms of this Act or a specific environmental management Act may-

- (a) withdraw any permit or other authorisation issued in terms of this Act or a specific environmental management Act to that person, if the rights conferred by the permit or authorisation were abused by that person;
- (b) disqualify that person from obtaining a permit or other authorisation for a period not exceeding five years;
- (c) issue an order that all competent authorities authorised to issue permits or other authorisations be notified of any disqualification in terms of [paragraph \(b\)](#).

[[S. 34C](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34D. Forfeiture of items.-(1) The court convicting a person of an offence in terms of this Act or any of the specific environmental Acts may declare any item including but not limited to any specimen, container, vehicle, vessel, aircraft or document that was used for the purpose of or in connection with the commission of the offence and was seized under the provisions of this Part, to be forfeited to the State.

[[Sub-s. \(1\)](#) substituted by [s. 23](#) of [Act No. 14 of 2009](#).]

Wording of Sections

(2) The provisions of [section 35](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), apply to the forfeiture of any item in terms of [subsection \(1\)](#), subject to such modifications as the context may require.

(3) The Minister must ensure that any specimen forfeited to the State in terms of [subsection \(1\)](#) is-

- (a) repatriated to the country of export or origin as appropriate, at the expense of the person convicted of the offence involving that specimen;
- (b) deposited in an appropriate institution, collection or museum, if-
 - (i) the specimen is clearly marked as a seized specimen; and
 - (ii) the person convicted of the offence does not benefit or gain from such deposit; or
- (c) otherwise disposed of in an appropriate manner.

[[S. 34D](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34E. Treatment of seized live specimens.-Pending the institution of any criminal proceedings in terms of this Act or a specific environmental management Act or the resolution of such proceedings, a live specimen that has been seized in terms of this Part must be deposited with a suitable institution, rescue centre or facility which is able and willing to house and properly care for it.

[[S. 34E](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34F. Security for release of vehicles, vessels or aircraft.-(1) If a vehicle, vessel or aircraft is seized in terms of this Act and is kept for the purposes of criminal proceedings, the owner or agent of the owner may at any time apply to a court for the release of the vehicle, vessel or aircraft.

(2) A court may order the release of the vehicle, vessel or aircraft on the provision of security determined by the court.

(3) The amount of the security must at least be equal to the sum of-

- (a) the market value of the vehicle, vessel or aircraft;
- (b) the maximum fine that a court may impose for the alleged offence; and
- (c) costs and expenses incurred or reasonably foreseen to be incurred by the State in connection with prosecuting the offence and recoverable in terms of this Act.

(4) If the court is satisfied that there are circumstances which warrant a lesser amount of security, it may order the release of the vehicle, vessel or aircraft subject to the provision of security for such lesser amount.

[[S. 34F](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34G. Admission of guilt fines.-(1) The Minister may by regulation specify offences in terms of this Act or a

specific environmental management Act in respect of which alleged offenders may pay a prescribed admission of guilt fine instead of being tried by a court for the offence.

(2) An environmental management inspector who has reason to believe that a person has committed an offence specified in terms of [subsection \(1\)](#) may issue to the alleged offender a written notice referred to in [section 56](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)).

(3) The amount of the fine stipulated in the notice referred to in [subsection \(2\)](#) may not exceed the amount-

- (a) prescribed for the offence; and
- (b) which a court would presumably have imposed in the circumstances.

(4) The provisions of sections 56, 57 and 57A of the Criminal Procedure Act, 1977, apply, subject to such modifications as the context may require, to written notices and admission of guilt fines referred to in this section.

[[S. 34G](#) inserted by [s. 7](#) of [Act No. 46 of 2003](#).]

34H. Jurisdiction.-(1) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act or any specific Environmental Management Acts.

[[Sub-s. \(1\)](#) previously [s. 34H](#) renumbered by [s. 19](#) of [Act No. 30 of 2013](#).]

Wording of Sections

(2) Where a competent authority is of the view that a more severe penalty could be considered than those penalties referred to in [section 49B](#), the competent authority may request the National Prosecuting Authority to institute the criminal proceedings in the High Court.

[[S. 34H](#) inserted by [s. 24](#) of [Act No. 14 of 2009](#). [Sub-s. \(2\)](#) added by [s. 19](#) of [Act No. 30 of 2013](#).]

CHAPTER 8 ENVIRONMENTAL MANAGEMENT CO-OPERATION AGREEMENTS

35. Conclusion of agreements.-(1) The Minister and every MEC and municipality, may enter into environmental management co-operation agreements with any person or community for the purpose of promoting compliance with the principles laid down in this Act.

(2) Environmental management co-operation agreements must-

- (a) only be entered into with the agreement of-
 - (i) every organ of state which has jurisdiction over any activity to which such environmental management co-operation agreement relates;
 - (ii) the Minister and the MEC concerned;
- (b) only be entered into after compliance with such procedures for public participation as may be prescribed by the Minister; and
- (c) comply with such regulations as may be prescribed under [section 45](#).

(3) Environmental management co-operation agreements may contain-

- (a) an undertaking by the person or community concerned to improve on the standards laid down by law for the protection of the environment which are applicable to the subject matter of the agreement;
- (b) a set of measurable targets for fulfilling the undertaking in (a), including dates for the achievement of such targets; and
- (c) provision for-
 - (i) periodic monitoring and reporting of performance against targets;
 - (ii) independent verification of reports;
 - (iii) regular independent monitoring and inspections;
 - (iv) verifiable indicators of compliance with any targets, norms and standards laid down in the agreement as well as any obligations laid down by law;
- (d) the measures to be taken in the event of non-compliance with commitments in the agreement, including where appropriate penalties for non-compliance and the provision of incentives to the person or community.

CHAPTER 9 ADMINISTRATION OF ACT AND SPECIFIC ENVIRONMENTAL

36. Expropriation.-(1) The Minister may purchase or, subject to compensation, expropriate any property for environmental or any other purpose under this Act, if that purpose is a public purpose or is in the public interest.

[[Sub-s. \(1\)](#) amended by [s. 110](#) of [Act No. 28 of 2002](#).]

Wording of Sections

(2) The Expropriation Act, 1975 ([Act No. 63 of 1975](#)) applies to all expropriations under this Act and any reference to the Minister of Public Works in that Act must be read as a reference to the Minister for purposes of such expropriation.

(3) Notwithstanding the provisions of [subsection \(2\)](#), the amount of compensation and the time and manner of payment must be determined in accordance with [section 25 \(3\)](#) of [the Constitution](#), and the owner of the property in question must be given a hearing before any property is expropriated.

37. Reservation.-The Minister may reserve State land with the consent of the Minister authorised to dispose of the land, and after consultation with any other Minister concerned, for environmental or other purposes in terms of this Act, if that purpose is a public purpose or is in the public interest.

38. Intervention in litigation.-The Minister may intervene in litigation before a court in any matter under this Act.

39. Agreements.-The Director-General may enter into agreements with organs of state in order to fulfil his or her responsibilities.

39A. Prohibition of certain products.-The Minister may from time to time regulate, prohibit or control the production, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment.

[[S. 39A](#) inserted by [s. 20](#) of [Act No. 30 of 2013](#).]

40. Appointment of employees on contract.-(1) The Director-General may appoint employees on contract outside the provisions of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), when this is necessary to carry out the functions of the Department.

(2) The Director-General must, from time to time, and after consultation with the Department of Public Service and Administration, determine the conditions of employment of such employees.

(3) Such employees must be remunerated from money appropriated for that purpose by Parliament.

41. Assignment of powers.-(1) In this section "assignment" means an assignment as contemplated in [section 99](#) of [the Constitution](#).

(2) The Minister must record all assignments referred to in [subsection \(1\)](#) in a Schedule to this Act and may amend that Schedule.

42. Delegation of powers and duties by Minister and Director-General.-(1) The Minister may delegate a power or duty vested in him or her in terms of this Act or a specific environmental management Act to-

- (a) the Director-General;
- (b) an MEC, by agreement with the MEC;
- (c) the management authority of a protected area; or
- (d) any organ of state, by agreement with that organ of state.

(2) A delegation referred to in [subsection \(1\)](#)-

- (a) must be in writing;

- (b) may be made subject to conditions;
- (c) does not prevent the exercise of the power or the performance of the duty by the Minister himself or herself;
- (d) may include the power to subdelegate; and
- (e) may be withdrawn by the Minister.

(2A) The Minister must give notice in the *Gazette* of any delegation of a power or duty to an MEC, the management authority of a protected area or an organ of state.

(2B) The Minister may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

(2C) The Minister may not delegate a power or duty vested in the Minister in terms of this Act or a specific environmental management Act-

- (a) to make regulations;
- (b) to publish notices in the *Gazette*;
- (c) to appoint a member of a board or committee; or
- (d) to expropriate private land.

(3) The Director-General may delegate a power or duty vested in him or her by or under this Act or a specific environmental management Act to-

- (a) the holder of an office in the Department; or
- (b) after consultation with a provincial head of department, an officer in a provincial administration or municipality.

(4) The Director-General may permit a person to whom a power or duty has been delegated by the Director-General to delegate further that power or duty.

(5) A delegation referred to in [subsection \(3\)](#) and the permission referred to in [subsection \(4\)](#)-

- (a) must be in writing;
- (b) may be subject to conditions;
- (c) do not prevent the exercise of the power or the performance of the duty by the Director-General himself or herself; and
- (d) may be withdrawn by the Director-General.

[[S. 42](#) substituted by [s. 9](#) of [Act No. 46 of 2003](#).]

Wording of Sections

42A. Delegation of powers by MEC.-(1) The MEC of a province may delegate a power or duty vested in or delegated to the MEC in terms of this Act or a specific environmental management Act to-

- (a) the head of that MEC's department;
- (b) the management authority of a provincial or local protected area;
- (c) a municipality, by agreement with the municipality; or
- (d) any provincial organ of state, by agreement with that organ of state.

(2) A delegation in terms of [subsection \(1\)](#)-

- (a) must be in writing;
- (b) may be made subject to conditions;
- (c) does not prevent the exercise of the power or the performance of the duty by the MEC personally;
- (d) may include the power to subdelegate; and
- (e) may be withdrawn by the MEC.

(3) The MEC may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

(4) The MEC may not delegate a power or duty vested in the MEC in terms of this Act or a specific environmental management Act-

- (a) to make regulations;

- (b) to publish notices in the *Gazette*;
- (c) to appoint a member of a board or committee; or
- (d) to expropriate private land.

(5) A provincial head of department may delegate a power or duty vested in him or her or delegated to him or her by the MEC in terms of this Act or a specific environmental management Act to the holder of an office in the department.

[Sub-s. (5) added by s. 13 of Act No. 25 of 2014.]

(6) The delegation in [subsection \(5\)](#)-

- (a) must be in writing;
- (b) may be made subject to conditions; and
- (c) may be withdrawn by the provincial head of department.

[S. 42A inserted by s. 10 of Act No. 46 of 2003. Sub-s. (6) added by s. 13 of Act No. 25 of 2014.]

42B. Delegation by Minister responsible for mineral resources.-(1) The Minister responsible for mineral resources may delegate a function entrusted to him or her in terms of this Act to-

- (a) the Director-General of the Department of Minerals and Energy; or
- (b) any officer in the Department of Minerals and Energy.

(2) A delegation in terms of [subsection \(1\)](#)-

- (a) must be in writing;
- (b) may be made subject to any condition;
- (c) does not prevent the performance of the function by the Minister himself or herself; and
- (d) may be withdrawn by the Minister.

[S. 42B inserted by s. 9 of Act No. 62 of 2008.]

43. Appeals.-(1) Any person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act or a specific environmental management Act.

(1A) Any person may appeal to the Minister against a decision made in terms of this Act or any specific environmental management Act by the Minister responsible for mineral resources or any person acting under his or her delegated authority.

[Sub-s. (1A) substituted by s. 14 (a) of Act No. 25 of 2014.]

Wording of Sections

(1B)

[Sub-s. (1B) deleted by s. 14 (b) of Act No. 25 of 2014.]

Wording of Sections

(2) Any person may appeal to an MEC against a decision taken by any person acting under a power delegated by that MEC under this Act or a specific environmental management Act.

(3)

(4) An appeal under [subsection \(1\)](#), [\(1A\)](#) or [\(2\)](#) must be noted and must be dealt with in the manner prescribed and upon payment of a prescribed fee.

[Sub-s. (4) substituted by s. 14 (a) of Act No. 25 of 2014.]

Wording of Sections

(5) The Minister or an MEC, as the case may be, may consider and decide an appeal or appoint an appeal panel to consider and advise the Minister or MEC on the appeal.

(6) The Minister or an MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded.

(7) An appeal under this section suspends an environmental authorisation, exemption, directive, or any other decision made in terms of this Act or any other specific environmental management Act, or any provision or condition attached thereto.

[Sub-s. (7) substituted by s. 14 (a) of Act No. 25 of 2014.]

Wording of Sections

(8) A person who receives a directive in terms of [section 28 \(4\)](#) may lodge an appeal against the decision made by the Director-General, the Director-General of the department responsible for mineral resources, or the provincial head of the department to the Minister, the Minister responsible for mineral resources or the MEC, as the case may be, within 30 days of receipt of the directive, or within such longer period as the Minister, the Minister responsible for mineral resources or MEC may determine.

[[Sub-s. \(8\)](#) added by [s. 14 \(c\)](#) of [Act No. 25 of 2014](#).]

(9) Notwithstanding [subsection \(7\)](#) and pending the finalisation of the appeal, the Minister, the Minister responsible for mineral resources or MEC, as the case may be, may direct that any part or provision of the directive not be suspended, but only strictly in exceptional circumstances where there is an imminent threat to human health or the environment.

[[Sub-s. \(9\)](#) added by [s. 14 \(c\)](#) of [Act No. 25 of 2014](#).]

(10) A person who receives a directive and who wishes to lodge an appeal in terms of [subsection \(8\)](#) may make representations to the Minister, the Minister responsible for mineral resources or MEC, as the case may be, to suspend the operation of the directive or any part of the directive pending the finalisation of the appeal.

[[Sub-s. \(10\)](#) added by [s. 14 \(c\)](#) of [Act No. 25 of 2014](#).]

(11) After considering the appeal lodged in terms of [subsection \(8\)](#) and any other relevant information, the Minister, the Minister responsible for mineral resources or MEC, as the case may be-

- (a) may confirm, modify or cancel a directive or any part of a directive; and
- (b) may specify the period within which the person who received the directive must comply with any part of the directive that is confirmed or modified.

[[S. 43](#) substituted by [s. 4](#) of [Act No. 8 of 2004](#) and by [s. 10](#) of [Act No. 62 of 2008](#). [Sub-s. \(11\)](#) added by [s. 14 \(c\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

44. Regulations in general.-(1) The Minister may make regulations-

- (a) dealing with any matter which under this Act must be dealt with by regulation;
- (aA) prohibiting, restricting or controlling activities which are likely to have a detrimental effect on the environment;

[[Para. \(aA\)](#) inserted by [s. 2](#) of [Act No. 56 of 2002](#) and amended by [s. 21 \(a\)](#) of [Act No. 30 of 2013](#).]

Wording of Sections

- (aB) dealing with the production, prohibition, control, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment;

[[Para. \(aB\)](#) inserted by [s. 21 \(a\)](#) of [Act No. 30 of 2013](#).]

- (aC) relating to the procedure and criteria to be followed in the determination of an administrative fine in terms of [section 24G](#);

[[Para. \(aC\)](#) inserted by [s. 21 \(a\)](#) of [Act No. 30 of 2013](#).]

- (aD) relating to the procedure to be followed when oral requests are made in terms of [section 30A](#);

[[Para. \(aD\)](#) inserted by [s. 21 \(a\)](#) of [Act No. 30 of 2013](#) and amended by [s. 15 \(a\)](#) of [Act No. 25 of 2014](#).]

Wording of Sections

- (aE) on the assessment and determination of environmental liability;

[[Para. \(aE\)](#) inserted by [s. 15 \(a\)](#) of [Act No. 25 of 2014](#).]

- (aF) auditing and reporting of environmental liability;

[[Para. \(aF\)](#) inserted by [s. 15 \(a\)](#) of [Act No. 25 of 2014](#).]

- (aG) the amendment of the financial provision; and

[[Para. \(aG\)](#) inserted by [s. 15 \(a\)](#) of [Act No. 25 of 2014](#).]

- (aH) any other matter necessary to facilitate the implementation of the financial provision.

[[Para. \(aH\)](#) inserted by [s. 15 \(a\)](#) of [Act No. 25 of 2014](#).]

- (b) generally, to carry out the purposes and the provisions of this Act.

(1A) Any regulation made under [subsection \(1\)](#) must be made after consultation with all Cabinet members whose areas of responsibility will be affected.

[[Sub-s. \(1A\)](#) inserted by [s. 21 \(b\)](#) of [Act No. 30 of 2013](#).]

(1B) Until such time that the regulations made under [subsection \(1\)](#) have come into effect, the existing standard operating procedure, adopted by the Minister for determining administrative fines in terms of [section 24G](#),

applies.

[Sub-s. (1B) inserted by s. 21 (b) of Act No. 30 of 2013.]

(1C) Regulations made in terms of this Act or any other Act of Parliament that may have the effect of amending the provisions of the Agreement referred to in [section 50A](#) must be made by the Minister in concurrence with the Minister responsible for mineral resources and the Minister responsible for water affairs.

[Sub-s. (1C) inserted by s.15 (b) of Act No. 25 of 2014.]

(2) The Minister may make different regulations under this Act in respect of different activities, provinces, geographical areas and owners or classes of owners of land.

(3) The Minister may by regulation provide that infringements of certain regulations constitute criminal offences and prescribe penalties for such offences.

45. Regulations for management co-operation agreements.-(1) The Minister may make regulations concerning-

- (a) procedures for the conclusion of environmental management co-operation agreements, which must include procedures for public participation;
- (b) the duration of agreements;
- (c) requirements relating to the furnishing of information;
- (d) general conditions and prohibitions;
- (e) reporting procedures;
- (f) monitoring and inspection.

(2) An MEC or municipal council may substitute his or her or its own regulations or by-laws, as the case may be, for the regulations issued by the Minister under [subsection \(1\)](#) above: Provided that such provincial regulations or municipal by-laws must cover the matters enumerated in [subsection \(1\)](#), and comply with the principles laid down in this Act.

46. Model environmental management by-laws.-(1) The Minister may make model by-laws aimed at establishing measures for the management of environmental impacts of any development within the jurisdiction of a municipality, which may be adopted by a municipality as municipal by-laws.

(2) Any municipality may request the Director-General to assist it with the preparation of by-laws on matters affecting the environment and the Director-General may not unreasonably refuse such a request.

(3) The Director-General may institute programmes to assist municipalities with the preparation of by-laws for the purposes of implementing this Act.

(4) The purpose of the model by-laws referred to in [subsection \(1\)](#) must be to-

- (a) mitigate adverse environmental impacts;
- (b) facilitate the implementation of decisions taken, and conditions imposed as a result of the authorisation of new activities and developments, or through the setting of norms and standards in respect of existing activities and developments; and
- (c) ensure effective environmental management and conservation of resources and impacts within the jurisdiction of a municipality in co-operation with other organs of state.

(5) The model by-laws referred to in [subsection \(1\)](#) must include measures for environmental management, which may include-

- (a) auditing, monitoring and ensuring compliance; and
- (b) reporting requirements and the furnishing of information.

47. Procedure for making regulations.-(1) Before making any regulations under this Act, a Minister or MEC must-

- (a) publish a notice in the relevant *Gazette*-
 - (i) setting out the draft regulations; and
 - (ii) inviting written comments to be submitted on the proposed regulations within a specified period mentioned in the notice; and
- (b) consider all comments received in accordance with [paragraph \(a\) \(ii\)](#).

(2) The Minister must, 30 days before the final publication of any regulations made under this Act, table the regulations in Parliament.

[Sub-s. (2) substituted by s. 22 (a) of Act No. 30 of 2013.]

Wording of Sections

(2A) An MEC must, 30 days before the final publication of any regulations made under this Act, table the regulations in the relevant provincial legislature.

[Sub-s. (2A) inserted by s. 22 (b) of Act No. 30 of 2013.]

(3)

[Sub-s. (3) deleted by s. 5 of Act No. 8 of 2004, inserted by s. 11 of Act No. 62 of 2008 and deleted by s. 22 (c) of Act No. 30 of 2013.]

Wording of Sections

(4)

[Sub-s. (4) deleted by s. 5 of Act No. 8 of 2004.]

Wording of Sections

(5)

[Sub-s. (5) deleted by s. 5 of Act No. 8 of 2004.]

Wording of Sections

(6)

[Sub-s. (6) deleted by s. 5 of Act No. 8 of 2004.]

Wording of Sections

47A. Regulations, legal documents and steps valid under certain circumstances.-(1) A regulation or notice, or an authorisation, permit or other document, made or issued in terms of this Act or a specific environmental management Act-

- (a) but which does not comply with any procedural requirement of the relevant Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person;
- (b) may be amended or replaced without following a procedural requirement of the relevant Act if-
 - (i) the purpose is to correct an error; and
 - (ii) the correction does not change the rights and duties of any person materially.

(2) The failure to take any steps in terms of this Act or a specific environmental management Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure-

- (a) is not material;
- (b) does not prejudice any person; and
- (c) is not procedurally unfair.

[S. 47A inserted by s. 11 of Act No. 46 of 2003.]

47B. Consultation.-When in terms of this Act or a specific environmental management Act the Minister or an MEC is required to consult any person or organ of state, such consultation is regarded as having been satisfied if a formal written notification of intention to act has been made to that person or organ of state and no response has been received within a reasonable time.

[S. 47B inserted by s. 11 of Act No. 46 of 2003.]

47C. Extension of time periods.-The Minister or an MEC may extend, or condone a failure by a person to comply with, a period in terms of this Act or a specific environmental management Act, except a period which binds the Minister or MEC.

[S. 47C inserted by s. 11 of Act No. 46 of 2003.]

47CA. Extension of time periods applicable to appeals relating to prospecting, exploration, mining or production.-The Minister responsible for mineral resources in respect of a decision that relates to prospecting, exploration, mining or production in terms of this Act or any specific environmental management Act may only in exceptional circumstances extend or condone a failure by a person to comply with a time period in terms of this Act or a specific environmental management Act, except a time period which binds the Minister responsible for mineral

resources.

[S. 47CA inserted by s. 16 of Act No. 25 of 2014.]

47CB. Condonation of time periods applicable to appeals relating to prospecting, exploration, mining or production.-(1) The Minister may only in exceptional circumstances extend or condone a failure by a person to comply with a time period applicable to an appeal contemplated in [section 43 \(1A\)](#), except for a time period which binds the Minister.

(2) The Minister may not accept an application for condonation to submit an appeal contemplated in [section 43 \(1A\)](#) after 30 days has lapsed from the date of the decision by the Minister responsible for mineral resources or any person acting under his or her delegated authority.

(3) When considering an extension or condonation the Minister must consider the following factors:

- (a) The degree of lateness;
- (b) a detailed explanation of the reasons for the lateness;
- (c) whether and to what extent that person or the Minister responsible for mineral resources will suffer prejudice if the time period is extended or failure to comply with a time period is condoned; and
- (d) a detailed explanation of the merits of the application for extension or condonation.

(4) The time period may only be condoned for a maximum period equal to the time period allowed for the action for which condonation is sought in terms of this Act.

[S. 47CB inserted by s. 16 of Act No. 25 of 2014.]

47D. Delivery of documents.-(1) A notice or other document in terms of this Act or a specific environmental management Act may be issued to a person-

- (a) by delivering it by hand;
- (b) by sending it by registered mail-
 - (i) to that person's business or residential address; or
 - (ii) in the case of a juristic person, to its registered address or principal place of business;

[Para. (b) amended by s. 23 (a) of Act No. 30 of 2013.]

Wording of Sections

- (bA) by faxing a copy of the notice or other document to the person, if the person has a fax number;

[Para. (bA) inserted by s. 23 (a) of Act No. 30 of 2013.]

- (bB) by e-mailing a copy of the notice or other document to the person, if the person has an e-mail address; or

[Para. (bB) inserted by s. 23 (a) of Act No. 30 of 2013.]

- (bC) by posting a copy of the notice or other document to the person by ordinary mail, if the person has a postal address;

[Para. (bC) inserted by s. 23 (a) of Act No. 30 of 2013.]

- (c) where an address is unknown despite reasonable enquiry, by publishing it once in the *Gazette* and once in a local newspaper circulating in the area of that person's last known residential or business address.

(2) A notice or other document issued in terms of [subsection \(1\) \(b\)](#), [\(bA\)](#), [\(bB\)](#), [\(bC\)](#) or [\(c\)](#) must be regarded as having come to the notice of the person, unless the contrary is proved.

[S. 47D inserted by s. 11 of Act No. 46 of 2003. Sub-s. (2) substituted by s. 23 (b) of Act No. 30 of 2013.]

Wording of Sections

CHAPTER 10
GENERAL AND TRANSITIONAL PROVISIONS

48.

[S. 48 repealed by s. 24 of Act No. 30 of 2013.]

Wording of Sections

49. Limitation of liability.—Neither the State nor any other person is liable for any damage or loss caused by—

- (a) the exercise of any power or the performance of any duty under this Act or any specific environmental management Act; or
- (b) the failure to exercise any power, or perform any duty under this Act or any specific environmental management Act,

unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty was unlawful, negligent or in bad faith.

[S. 49 substituted by s. 12 of Act No. 46 of 2003.]

Wording of Sections

49A. Offences.—(1) A person is guilty of an offence if that person—

- (a) commences with an activity in contravention of [section 24F \(1\)](#);
- (b) fails to comply with any applicable norm or standard contemplated in [section 24 \(2\) \(d\)](#);
- (c) fails to comply with or contravenes a condition of an environmental authorisation granted for a listed activity or specified activity or an approved environmental management programme;
- (d) commences or continues with an activity in terms of [section 24 \(2\) \(c\)](#), [\(d\)](#) or [\(e\)](#) unless he or she complies with the procedures, criteria or conditions specified by the Minister or MEC in any regulation made under [section 24 \(5\) \(bB\)](#);
- (e) unlawfully and intentionally or negligently commits any act or omission which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment;
- (f) unlawfully and intentionally or negligently commit any act or omission which detrimentally affects or is likely to detrimentally affect the environment;
- (g) fails to comply with a directive issued in terms of this Act;
- (h) fails to comply with or contravenes any condition applicable to an exemption granted in terms of [section 24M](#);
- (i) fails to comply with [section 30 \(3\)](#), [\(4\)](#), [\(5\)](#) or [\(6\)](#);
- (j) contravenes [section 31 \(7\)](#) or [\(8\)](#);
- (k) fails to comply with or contravenes a compliance notice issued in terms of [section 31L](#);
- (l) discloses information about any other person if that information was acquired while exercising or performing any power or duty in terms of [section 31Q \(1\)](#);
- (m) hinders or interferes with an environmental management inspector in the execution of that inspector's official duties;
- (n) pretends to be an environmental management inspector, or the interpreter or assistant of such an inspector;
- (o) furnishes false or misleading information when complying with a request of an environmental management inspector;
- (p) fails to comply with a request of an environmental management inspector.

(2) It is a defence to a charge in terms of [subsection \(1\) \(a\)](#) to show that the activity was commenced or continued with in response to an incident or emergency situation contemplated in [section 30](#) or [section 30A](#), as the case may be, so as to protect human life, property or environment: Provided that—

- (a) in the case of an incident, the response is in compliance with the obligations contemplated in [section 30 \(4\)](#) and was necessary and proportionate in relation to the threat to human life, property or environment; and
- (b) in the case of an emergency situation contemplated in [section 30A](#), the response is in compliance with a directive issued in terms of [section 30A](#).

[S. 49A inserted by s. 25 of Act No. 30 of 2013.]

49B. Penalties.—(1) A person convicted of an offence in terms of [section 49A \(1\) \(a\)](#), [\(b\)](#), [\(c\)](#), [\(d\)](#), [\(e\)](#), [\(f\)](#) or [\(g\)](#) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

(2) A person convicted of an offence in terms of [section 49A \(1\) \(i\), \(j\) or \(k\)](#) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.

(3) A person convicted of an offence in terms of [section 49A \(1\) \(h\), \(l\), \(m\), \(n\), \(o\) or \(p\)](#) is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

[[S. 49B](#) inserted by [s. 25](#) of [Act No. 30 of 2013](#).]

50. Repeal of Laws.-(1) Repeals [sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14A, 14B, 14C, 15, 27A and 38](#) of the Environment Conservation Act, [No. 73 of 1989](#).

(2) [Sections 21, 22](#) and [26](#) of the Environment Conservation Act, 1989 ([Act No. 73 of 1989](#)) and the notices and regulations issued pursuant to [sections 21](#) and [22](#) and in force on the commencement date of this Act are repealed with effect from a date to be published by the Minister in the *Gazette*, which date may not be earlier than the date on which regulations or notices made or issued under [section 24](#) of this Act are promulgated and the Minister is satisfied that the regulations and notices under [sections 21](#) and [22](#) have become redundant.

(3) Any application made in terms of [section 21, 22](#) or [26](#) of the Environment Conservation Act, 1989 ([Act No. 73 of 1989](#)), that has been submitted but not finalised when those sections are repealed, must be finalised as if those sections had not been repealed.

[[Sub-s. \(3\)](#) added by [s. 6](#) of [Act No. 8 of 2004](#).]

(4) In order to ensure that the transition between the legal requirements of [sections 21, 22](#) and [26](#) of the Environment Conservation Act, 1989 ([Act No. 73 of 1989](#)), and the requirements of this Act is efficient, the Minister may by notice in the *Gazette* list activities included in Government Notice R.1182 of 5 September 1997 that will remain valid until such time as an MEC promulgates a list of activities for that province.

[[Sub-s. \(4\)](#) added by [s. 6](#) of [Act No. 8 of 2004](#).]

50A. Future amendments in respect of environmental matters in so far as it relates to the Agreement.-

(1) (a) Any proposed amendments to the provisions relating to prospecting, exploration, mining or production in this Act, the National Environmental Management Amendment Act, 2008 ([Act No. 62 of 2008](#)), a specific environmental management Act or any other Act of Parliament that may have the effect of amending the provisions of the Agreement, must be subject to concurrence between the Minister, the Minister responsible for water affairs and the Minister responsible for mineral resources.

(b) Any intervention contemplated in [paragraph \(a\)](#) that may lead to the amendment of the provisions of the Agreement must be tabled in Parliament prior to any steps being taken to effect those changes, and Parliament may express its view on the proposed amendment of the Agreement.

(2) Agreement for the purpose of [subsection \(1\)](#) means the Agreement reached between the Minister, the Minister responsible for water affairs and the Minister responsible for mineral resources titled **One Environmental System** for the country with respect to mining, which entails-

(a) that all environment related aspects would be regulated through one environmental system which is the principal Act and that all environmental provisions would be repealed from the Mineral and Petroleum Resources Development Act, 2002;

(b) that the Minister sets the regulatory framework and norms and standards, and that the Minister responsible for Mineral Resources will implement the provisions of the principal Act and the subordinate legislation as far as it relates to prospecting, exploration, mining or operations;

(c) that the Minister responsible for Mineral Resources will issue environmental authorisations in terms of the principal Act for prospecting, exploration, mining or operations, and that the Minister will be the appeal authority for these authorisations; and

(d) that the Minister, the Minister responsible for Mineral Resources and the Minister responsible for Water Affairs agree on fixed time-frames for the consideration and issuing of the authorisations in their respective legislation and agree to synchronise the time frames.

[[S. 50A](#) inserted by [s. 17](#) of [Act No. 25 of 2014](#).]

51. Savings.-Anything done or deemed to have been done under a provision repealed by this Act-

(a) remains valid to the extent that it is consistent with this Act until anything done under this Act overrides it; and

(b) subject to [paragraph \(a\)](#) is considered to be an action under the corresponding provision of this Act.

52. Short title.-This Act is called the National Environmental Management Act, 1998.

53. Commencement.-This Act comes into operation on a date fixed by the President in the *Gazette*.

SCHEDULE 1

[Section 11 \(1\)](#)

[[Schedule 1](#) amended by Government Notice No. 152 in *Government Gazette* 37401 of 28 February, 2014.]

National departments exercising functions which may affect the environment

- * Department of Environmental Affairs
- * Department of Rural Development and Land Reform
- * Department of Agriculture, Forestry and Fisheries
- * Department of Human Settlements
- * Department of Trade and Industry
- * Department of Water Affairs
- * Department of Transport
- * Department of Tourism
- * Department of Defence
- * Department of Public Enterprises
- * Department of Public Works

SCHEDULE 2

[Section 11 \(2\)](#)

[[Schedule 1](#) amended by Government Notice No. 152 in *Government Gazette* 37401 of 28 February, 2014.]

National departments exercising functions that involve the management of the environment

- * Department of Environmental Affairs
- * Department of Water Affairs
- * Department of Mineral Resources
- * Department of Energy
- * Department Rural Development and Land Reform
- * Department of Health
- * Department of Labour

SCHEDULE 3

[\(Section 34\)](#)

[[Schedule 3](#) amended by [s. 8](#) of [Act No. 8 of 2004](#), by [s. 25](#) of [Act No. 14 of 2009](#), by Government Notice No. 731 in *Government Gazette* 35665 of 6 September, 2012 with effect from 6 September, 2012 and by [s. 27](#) of [Act No. 30 of 2013](#).]

[Wording of Sections](#)

Part (a): National Legislation

Act No. 36 of 1947	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947	Section 18 (1) (i) in so far as it relates to contraventions of sections 7 and 7bis
Act No. 71 of 1962	Animals Protection Act, 1962	Sections 2 (1) and 2A

Act No. 63 of 1970	Mountain Catchment Areas Act, 1970	Section 14 in so far as it relates to contraventions of section 3
Act No. 15 of 1973	Hazardous Substances Act, 1973	Section 19 (1) (a) and (b) in so far as it relates to contraventions of sections 3 and 3A
Act 63 of 1977	Health Act, 1977	Section 27
Act No. 73 of 1980	Dumping at Sea Control Act, 1980	Section 2 (1) (a) and (b)
Act No. 6 of 1981	Marine Pollution (Control and Civil Liability) Act, 1981	Section 2 (1)
Act No. 43 of 1983	Conservation of Agricultural Resources Act, 1983	Sections 6 and 7
Act No. 2 of 1986	Marine Pollution (Prevention of Pollution from Ships) Act, 1986	Section 3A
Act No. 73 of 1989	Environment Conservation Act, 1989	Section 19 (1) and 19A read with 29 (3) , 20 (1) and (9) read with section 29 (4) , 29 (2) (a) , 31A and 41A read with 29 (3)
Act No. 18 of 1998	Marine Living Resources Act, 1998	Section 58 (1) in so far as it relates to contraventions of sections 43 (2) , 45 and 47 , and section 58 (2) in so far as it relates to contraventions of international conservation and management measures
Act No. 36 of 1998	National Water Act, 1998	Section 151 (1) (i) and (j)
Act No. 84 of 1998	National Forests Act, 1998	Sections 4 (8) , 7 (1) , 10 (1) , 11 (2) (b) , 15 (1) (a) and (b) , 17 (3) and (4) , 20 (3) , 21 (2) , 21 (5) , 24 (8) , 63 (1) (a) , (d) , (e) and (f) , 63 (2) (a) and (b) , 63 (3) to (5) , 64 (1) and (2)
Act No. 101 of 1998	National Veld and Forest Fire Act, 1998	Sections 10 (2) , 12 (1) , 12 (2) (b) , 12 (14) (a) , (4) , 17 (1) , 18 (1) (a) , 18 (2) , 18 (3) (b) , 18 (4) , 18 (4) (b) , 25 (2) (a) to (e) , 25 (5) , (6) and (7)
Act No. 107 of 1998	National Environment Management Act, 1998	Section 49A
Act No. 25 of 1999	National Heritage Resources Act, 1999	Sections 27 (18) and (22) , (23) (b) , 28 (3) , 29 (10) , 32 (13) , (15) , (16) , (17) , (19) and (20) , 33 (1) and (2) , 34 (1) , 35 (3) , (4) , (6) and (7) (a) , 36 (3) , 44 (2) and (3) , 50 (5) and (12) and 51 (8)
Act No. 57 of 2003	National Environmental Management: Protected Areas Act, 2003	Sections 45 (1) , 46 (1) , 47 (2) , 47 (3) , 48 (1) , 50 (5) , read with sections 89 (1) , 89 (1) (b) , (c) and (d) and 50A
Act No. 10 of 2004	National Environmental Management: Biodiversity Act, 2004	Sections 57 (1) read with 101 (1) (a) , 65 (1) read with 101 (1) (a) , 67 (2) read with 101 (1) (a) , 71 (1) read with 101 (1) (a) , 81 (1)
Act No. 39 of 2004	National Environmental Management: Air Quality Act, 2004	Sections 51 (1) (a) to (h) , 51 (2) and (3)
		Sections 15 (1) and (2) , read with 67 (1) (a) , 16 (1) (c) , (d) , (e) , (f) read with 67 (1) (a) , 20 (a) and (b) ,

Act No. 59 of 2008	National Environmental Management: Waste Act, 2008	read with 67 (1) (a) , 26 (1) (a) and (b) , read with 67 (1) (a) , 38 (2) and (3) , read with 67 (1) (a) , 17 (2) , read with 67 (1) (a) , 18 (1) , read with 67 (1) (a) , 21 , read with 67 (1) (b) , 22 (1) , read with 67 (1) (b) , 24 , read with 67 (1) (b) , 27 (2) , read with 67 (1) (b) , 36 (5) , read with 67 (1) (b) , 40 (1) , read with 67 (1) (b) , 67 (1) (c) , (d) , (e) , (f) , (g) , (h) , (i) , (j) , (k) , (l) , (m) , 67 (2) (a) , (b) , (c) , (d) , (e)
Act No. 24 of 2008	National Environmental Management: Integrated Coastal Management Act, 2004	Sections 69 read with 79 (1) (a) , 70 (1) read with 79 (1) (b) , (c) , (d) , (e) , 79 (1) (f) , (g) , (h) , (i) , 79 (2) (a) , (b) , (c) , 79 (3) (a) , (b) , (c) , 79 (4) (a) , (b)

Part (b): Provincial Legislation

<i>No. and year of law</i>	<i>Short title</i>	<i>Relevant provisions</i>
Ordinance No. 8 of 1969	Orange Free State Conservation	Section 40 (1) (a) in so far as it relates to contraventions of sections 2 (3), 14 (2), 15 (a), 16 (a) and s 33
Ordinance No. 9 of 1969	Orange Free State Townships	Section 40 (1) (a) (ii)
Ordinance No. 15 of 1974	Natal Nature Conservation	Section 55 in so far as it relates to section 37 (1) , to section 49 in respect of specially protected game and to section 51 in respect of specially protected game, section 109 in so far as it relates to section 101, to section 102 and to section 104, section 154 in so far as it relates to section 152; section 185 in so far as it relates to section 183, and section 208 in so far as it relates to section 194 and to section 200
Ordinance No. 19 of 1974	Cape Nature and Environmental Conservation	Section 86 (1 in so far as it relates to contraventions of sections 26, 41 (1) (b) (ii) and (c) to (e), 52 (a), 57 (a), 58 (h) and 62 (1)
Ordinance No. 12 of 1983	Gauteng Nature Conservation	Sections 16A, 42, 84, 96 and 98
Ordinance No. 15 of 1985	Cape Land Use Planning	Section 46 (1) in so far as it relates to sections 23 (1) and 39 (2)
Ordinance No. 15 of 1986	Transvaal Town Planning and Townships	Sections 42, 93 and 115
Act No. 29 of 1992	KwaZulu Nature Conservation	Section 67 in so far as it relates to sections 59 (1), 59 (2), 60 (1) and 62 (1); section 86 in so far as it relates to sections 76, 77 and 82; and section 110 in so far as it relates to section 109
Act No. 5 of 1998	KwaZulu Natal Planning and Development	Section 48

**GNR.982 of 4 December 2014: Environmental Impact Assessment Regulations, 2014
(Government Gazette No. 38282)**

	as amended by	
Notice	Government Gazette	Date
326	40772	7 April 2017

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to environmental impact assessments, under [sections 24 \(5\)](#) and [44](#) of the National Environmental Management Act, 1998 (Act [No. 107 of 1998](#)), as set out in [the Schedule](#) hereto.

(Signed)

BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

[Sched. substituted by GN 326 of 7 April 2017.]

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CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

1. Interpretation.-(1) In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context requires otherwise-

"activity" means an activity identified in any notice published by the Minister or MEC in terms of section 24D (1) (a) of the Act as a listed activity or specified activity;

"agreement" means the Agreement as contemplated in section 50A (2) of the Act;

"alternatives", in relation to a proposed activity, means different means of meeting the general purpose and requirements of the activity which may include alternatives to the-

- (a) property on which or location where the activity is proposed to be undertaken;
- (b) type of activity to be undertaken;
- (c) design or layout of the activity;
- (d) technology to be used in the activity; or
- (e) operational aspects of the activity;

and includes the option of not implementing the activity;

"application" means an application for an-

- (a) environmental authorisation in terms of [Chapter 4](#) of these Regulations;
- (b) amendment of an environmental authorisation in terms of [Chapter 5](#) of these Regulations;
- (c) amendment of an EMPr in terms of [Chapter 5](#) of these Regulations; or
- (d) amendment of a closure plan in terms of [Chapter 5](#) of these Regulations;

"basic assessment report" means a report contemplated in [regulation 19](#);

"closure plan" means a plan contemplated in [regulation 19](#);

"cumulative impact", in relation to an activity, means the past, current and reasonably foreseeable future impact of an activity, considered together with the impact of activities associated with that activity, that in itself may not be significant, but may become significant when added to the existing and reasonably foreseeable impacts eventuating from similar or diverse activities;

"EAP" means an environmental assessment practitioner as defined in section 1 of the Act;

"EMPr" means an environmental management programme contemplated in [regulations 19](#) and [23](#);

"environmental audit report" means a report contemplated in [regulation 34](#);

"environmental impact assessment" means a systematic process of identifying, assessing and reporting environmental impacts associated with an activity and includes basic assessment and S&EIR;

"environmental impact assessment report" means a report contemplated in [regulation 23](#);

"independent", in relation to an EAP, a specialist or the person responsible for the preparation of an environmental audit report, means-

- (a) that such EAP, specialist or person has no business, financial, personal or other interest in the activity or application in respect of which that EAP, specialist or person is appointed in terms of these Regulations; or
- (b) that there are no circumstances that may compromise the objectivity of that EAP, specialist or person in performing such work;

excluding-

- (i) normal remuneration for a specialist permanently employed by the EAP; or
- (ii) fair remuneration for work performed in connection with that activity, application or environmental audit;

"linear activity" means an activity that is arranged in or extending along one or more properties and which affects the environment or any aspect of the environment along the course of the activity, and includes railways, roads, canals, channels funiculars, pipelines, conveyor belts, cableways, power lines, fences, runways, aircraft landing strips, firebreaks and telecommunication lines;

"mitigation" means to anticipate and prevent negative impacts and risks, then to minimise them, rehabilitate or repair impacts to the extent feasible;

"National Appeal Regulations" means the national appeal regulations published in terms of section 43 (4) and 44 of the Act;

"plan of study for environmental impact assessment" means a study contemplated in [regulation 22](#) which forms part of a scoping report and sets out how an environmental impact assessment will be conducted;

"proponent" means a person intending to submit an application for environmental authorisation and is referred to as an applicant once such application for environmental authorisation has been submitted;

"receipt" means receipt on the date indicated-

- (a) on a receipt form if the application or document was hand delivered or sent via registered mail;
- (b) in an automated or computer generated acknowledgment of receipt;
- (c) on an acknowledgement in writing from the competent authority as the date of receipt if the application or document was sent via ordinary mail; or
- (d) on an automated or computer generated proof of transmission in the case of a facsimile message;

"registered environmental assessment practitioner or registered EAP" means an environmental assessment practitioner registered with an appointed registration authority contemplated in section 24H of the Act;

"registered interested and affected party", in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of [regulation 42](#);

"scoping report" means a report contemplated in [regulation 21](#);

"S&EIR" means the scoping and environmental impact reporting process contemplated in [regulation 21](#) to [regulation 24](#);

"significant impact" means an impact that may have a notable effect on one or more aspects of the environment or may result in non-compliance with accepted environmental quality standards, thresholds or targets and is determined through rating the positive and negative effects of an impact on the environment based on criteria such as duration, magnitude, intensity and probability of occurrence;

"specialist" means a person that is generally recognised within the scientific community as having the capability of undertaking, in conformance with generally recognised scientific principles, specialist studies or preparing specialist reports, including due diligence studies and socio-economic studies;

"State department" means any department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment; and

"the Act" means the National Environmental Management Act, 1998 (Act [No. 107 of 1998](#)).

(2) Any reference in these Regulations to an environmental assessment practitioner will, from a date determined by the Minister by notice in the *Gazette*, be deemed to be a reference to a registered environmental assessment practitioner, as defined.

2. Purpose of Regulations.-The purpose of these Regulations is to regulate the procedure and criteria as contemplated in [Chapter 5](#) of the Act relating to the preparation, evaluation, submission, processing and consideration of, and decision on, applications for environmental authorisations for the commencement of activities, subjected to environmental impact assessment, in order to avoid or mitigate detrimental impacts on the environment, and to optimise positive environmental impacts, and for matters pertaining thereto.

CHAPTER 2 TIMEFRAMES

3. Timeframes.-(1) Subject to [subregulations \(2\)](#) and [\(3\)](#), when a period of days must in terms of these Regulations be reckoned from or after a particular day, that period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday.

(2) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the period of 15 December to 5 January must be excluded in the reckoning of days.

(3) Unless justified by exceptional circumstances, as agreed to by the competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January.

(4) When a State department is requested to comment in terms of these Regulations, such State department must submit its comments in writing within 30 days from the date on which it was requested to submit comments and if such State department fails to submit comments within such 30 days, it will be regarded that such State department has no comments.

(5) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

(6) The competent authority must acknowledge receipt of all applications and documents contemplated in [regulations 16, 19, 21](#) 23, 29, 31 and 34 within 10 days of receipt thereof.

(7) In the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with these Regulations, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, the competent authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension.

(8) Any public participation process must be conducted for a period of at least 30 days.

4. Notification of decision on application.-(1) Unless indicated otherwise, after a competent authority has reached a decision on an application, the competent authority must, in writing and within 5 days-

(a) provide the applicant with the decision;

(b) give reasons for the decision to the applicant; and

(c) where applicable, draw the attention of the applicant to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, if such appeal is available in the circumstances of the decision.

(2) The applicant must, in writing, within 14 days of the date of the decision on the application ensure that-

(a) all registered interested and affected parties are provided with access to the decision and the reasons for such decision; and

(b) the attention of all registered interested and affected parties is drawn to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, if such appeal is available in the circumstances of the decision.

(3) For the purpose of this regulation, the decision includes the complete environmental authorisation granted or refused.

CHAPTER 3 GENERAL REQUIREMENTS FOR APPLICATIONS

5. General.-(1) All applications in terms of these Regulations must be decided upon by a competent authority.

(2) The competent authority, who must consider and decide upon an application in respect of a listed activity

or specified activity, must be determined with reference to the notice published under section 24D (1) and any agreement in terms of section 24C (3) of the Act.

(3) A competent authority must keep-

- (a) a register of all applications received by the competent authority in terms of these Regulations;
- (b) a register of all decisions in respect of environmental authorisations;
- (c) copies of all applications; and
- (d) copies of all decisions.

(4) When a national electronic system is provided for the recording of applications for environmental authorisation, this system must be used by all competent authorities to keep the records referred to in [subregulation \(3\) \(a\)](#) and [\(b\)](#).

(5) When a national electronic system is provided for the submission of applications for environmental authorisation, this system must be used by all applicants.

(6) When providing coordinates as part of the information submitted regarding the location of an activity as part of an application for environmental authorisation, such coordinates must be provided in degrees, minutes and seconds using the Hartebeesthoek94 WGS84 co-ordinate system.

6. Where to submit application.-(1) An application for an environmental authorisation or environmental authorisations for the commencement of an activity must be made to the competent authority referred to in [regulation 5](#).

(2) If the Minister is the competent authority in respect of an application, the application must be submitted to the Department.

(3) If an MEC is the competent authority in respect of an application, the application must be submitted to the provincial department responsible for environmental affairs in that province.

(4) If the Minister, Minister responsible for mineral resources or MEC has, in terms of section 42, 42B or 42A respectively of the Act, delegated any powers or duties of a competent authority in relation to an application, the application must be submitted to the person or authority to whom the powers had been delegated.

(5) If the Minister responsible for mineral resources is the competent authority in respect of an application, the application must be submitted to the relevant office of the Department responsible for mineral resources as identified by that Department.

Part 1:

Duties of competent authority

7. Consultation between competent authority and organs of state administering a law relating to a matter affecting the environment.-(1) Where an agreement has been reached in order to give effect to [Chapter 3](#) of the Constitution of the Republic of South Africa, 1996 and sections 24 (4) (a) (i), 24K and 24L of the Act, and where such agreement is applicable to an application, such application must be dealt with in accordance with such agreement.

(2) The competent authority or EAP must consult with every organ of state that administers a law relating to a matter affecting the environment relevant to that application for an environmental authorisation when such competent authority considers the application and unless agreement to the contrary has been reached the EAP will be responsible for such consultation.

(3) Where an applicant submits an application for environmental authorisation in terms of these Regulations and an application for an authorisation, permit or licence in terms of a specific environmental management Act or any other legislation, the competent authority and the authority empowered under such specific environmental management Act or other legislation must manage the respective processes in a cooperative governance manner.

(4) Where the processes prescribed in terms of these Regulations are used to inform applications in terms of other legislation, application processes must be aligned to run concurrently.

(5) Where a competent authority is requested by an applicant to comment in terms of these Regulations, such competent authority must submit its comments within 30 days.

8. Guidance by competent authority to proponent or applicant.-A competent authority, subject to the payment of any reasonable charges, if applicable-

- (a) may advise or instruct the proponent or applicant of the nature and extent of any of the processes that may or must be followed or decision support tools that must be used in order to comply with the Act and these Regulations;
- (b) must advise the proponent or applicant of any matter that may prejudice the success of an application;

- (c) must, on written request, furnish the proponent or applicant with officially adopted minutes of any official meeting held between the competent authority and the proponent, applicant or EAP; and
- (d) must, on written request, provide access to the officially adopted minutes of meetings contemplated in [paragraph \(c\)](#), to any registered interested or affected party.

9. Format of forms.-The format of any application form must be determined by the competent authority and must include, once established, the national sector classification of the activity applied for.

*Part 2:
Duties of proponents and applicants*

10. Competent authorities' right of access to information.-An applicant must-

- (a) use the application form contemplated in [regulation 9](#) when submitting an application in terms of these Regulations;
- (b) comply with any protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice; and
- (c) provide the competent authority with all information that reasonably has or may have the potential of influencing any decision with regard to an application.

11. Combination of applications.-(1) If a proponent or proponents intend to undertake one or more than one activity of the same type at different locations within the area of jurisdiction of a competent authority, the competent authority may, on written request, grant permission for the submission of a single application.

(2) If the competent authority grants permission in terms of [subregulation \(1\)](#), the application must be dealt with as a consolidated assessment process, but the potential environmental impacts of each activity must be considered in terms of the location where the activity is to be undertaken.

(3) If a proponent or applicant intends undertaking more than one activity as part of the same development within the area of jurisdiction of a competent authority, a single application must be submitted for such development and the assessment of impacts, including cumulative impacts, where applicable, and consideration of the application, undertaken in terms of these Regulations will include an assessment of all such activities forming part of the development.

(4) If one or more proponents intend undertaking interrelated activities at the same or different locations within the area of jurisdiction of a competent authority, the competent authority may, in writing, agree that the proponent or proponents submit a single application in respect of all of those activities and to conduct a consolidated assessment process but the potential environmental impacts of each activity, including its cumulative impacts, must be considered in terms of the location where the activity is to be undertaken.

(5) Where a combined application is submitted as contemplated in these Regulations, the proponent must, prior to submission of the application, confirm with the competent authority the fee payable in terms of the applicable regulations for such combined application.

12. Appointment of EAPs and specialists.-(1) A proponent or applicant must appoint an EAP at own cost to manage the application: Provided that an EAP need not be appointed for an application to amend an environmental authorisation where no environmental impact assessment or part thereof is required as part of such amendment application.

(2) In addition to the appointment of an EAP, a specialist may be appointed, at the cost of the proponent or applicant, if the level of assessment is of a nature requiring the appointment of a specialist.

(3) The proponent or applicant must-

- (a) take all reasonable steps to verify whether the EAP and specialist complies with [regulation 13 \(1\) \(a\)](#) and [\(b\)](#); and
- (b) provide the EAP and specialist with access to all information at the disposal of the proponent or applicant regarding the application, whether or not such information is favourable to the application.

13. General requirements for EAPs and specialists.-(1) An EAP and a specialist, appointed in terms of [regulation 12 \(1\)](#) or [12 \(2\)](#), must-

- (a) be independent;
- (b) have expertise in conducting environmental impact assessments or undertaking specialist work as

required, including knowledge of the Act, these Regulations and any guidelines that have relevance to the proposed activity;

- (c) ensure compliance with these Regulations;
- (d) perform the work relating to the application in an objective manner, even if this results in views and findings that are not favourable to the application;
- (e) take into account, to the extent possible, the matters referred to in [regulation 18](#) when preparing the application and any report, plan or document relating to the application; and
- (f) disclose to the proponent or applicant, registered interested and affected parties and the competent authority all material information in the possession of the EAP and, where applicable, the specialist, that reasonably has or may have the potential of influencing-
 - (i) any decision to be taken with respect to the application by the competent authority in terms of these Regulations; or
 - (ii) the objectivity of any report, plan or document to be prepared by the EAP or specialist, in terms of these Regulations for submission to the competent authority;

unless access to that information is protected by law, in which case it must be indicated that such protected information exists and is only provided to the competent authority.

(2) In the event where the EAP or specialist does not comply with [subregulation \(1\) \(a\)](#), the proponent or applicant must, prior to conducting public participation as contemplated in [chapter 6](#) of these Regulations, appoint another EAP or specialist to externally review all work undertaken by the EAP or specialist, at the applicant's cost.

(3) An EAP or specialist appointed to externally review the work of an EAP or specialist as contemplated in [subregulation \(2\)](#), must comply with [subregulation \(1\) \(a\)](#).

14. Disqualification of EAPs and specialists.-(1) If the competent authority at any stage of considering an application has reason to believe that the EAP or specialist is not complying or has not complied with the requirements of [regulation 13](#) in respect of the application, other than circumstances where the requirement of independence in [regulation 13 \(1\) \(a\)](#) has been met by compliance with [regulation 13 \(2\)](#) and [\(3\)](#), the competent authority may-

- (a) notify the EAP or specialist and the applicant of the reasons therefore, that the application is suspended until the matter is resolved and the extended timeframe for the processing of the application; and
- (b) afford the EAP or specialist and the applicant an opportunity to make representations to the competent authority regarding the suspected non-compliance with the requirements of [regulation 13](#) of the EAP or specialist, in writing.

(2) Other than circumstances where the requirement of independence in [regulation 13 \(1\) \(a\)](#) has been met by compliance with [regulation 13 \(2\)](#) and [\(3\)](#), an interested and affected party may notify the competent authority of any suspected non-compliance with [regulation 13](#).

(3) Where an interested and affected party notifies the competent authority of suspected non-compliance in terms of [subregulation \(2\)](#), the competent authority must investigate the allegation promptly.

(4) The notification referred to in [subregulation \(2\)](#) must be submitted in writing and must contain documentation supporting the allegation, which is referred to in the notification.

(5) If, after considering the matter, there is reason for the competent authority to believe that there is non-compliance with [regulation 13](#) by the EAP or specialist, the competent authority must, in writing, inform the interested and affected party who notified the competent authority in terms of [subregulation \(2\)](#), the EAP or specialist and the applicant accordingly and may-

- (a) refuse to accept any further reports, plans, documents or input from the EAP or specialist in respect of the application in question;
- (b) request the applicant to-
 - (i) commission, at own cost, an external review, by another EAP or specialist that complies with the requirements of [regulation 13](#), of any reports, plans or documents prepared or processes conducted in connection with the application;
 - (ii) appoint another EAP or specialist that complies with the requirements of [regulation 13](#) to redo any specific aspects of the work done by the previous EAP or specialist in connection with the application or to complete any unfinished work in connection with the application; or
 - (iii) take such action as the competent authority requires to remedy the defects; or
- (c) act in accordance with both [paragraphs \(a\)](#) and [\(b\)](#); and

indicate the actions to be completed and associated timeframes in order to finalise the application.

(6) If the application has reached a stage where a register of interested and affected parties has been

opened in terms of [regulation 42](#), the applicant must within 7 days from the suspension in terms of [sub-regulation \(1\) \(a\)](#), a decision in terms of [subregulation \(5\) \(a\)](#), a request in terms of [subregulation \(5\) \(c\)](#), or both such decision and request in terms of [subregulation \(5\) \(c\)](#), inform all registered interested and affected parties of such suspension, decision or actions to be completed in order to finalise the application.

15. Determination of assessment process applicable to application.-(1) An EAP must identify whether basic assessment or S&EIR must be applied to the application, taking into account-

- (a) any notices published in terms of section 24D of the Act;
- (b) any guidelines applicable to the application process or activity which is the subject of the application; and
- (c) any advice given by the competent authority in terms of [regulation 8](#).

(2) An application must be managed in accordance with-

- (a) [regulation 19](#) and [20](#) if basic assessment must be applied to the application or when identified and *gazetted* by the Minister in a government notice; or
- (b) [regulation 21](#) to [24](#) if S&EIR must be applied to the application.

(3) S&EIR must be applied to an application if the application is for two or more activities as part of the same development for which S&EIR must already be applied in respect of any of the activities.

CHAPTER 4 APPLICATION FOR ENVIRONMENTAL AUTHORISATION

Part 1: General

16. General application requirements.-(1) An application for an environmental authorisation must-

- (a) be made on an official application form obtainable from the relevant competent authority; and
- (b) when submitted in terms of [regulation 19](#) or [21](#), be accompanied by-
 - (i) unless [regulation 39 \(2\)](#) applies, the written consent referred to in [regulation 39 \(1\)](#), if the applicant is not the owner or person in control of the land on which the activity is to be undertaken;
 - (ii) proof of payment of the prescribed application fee, if any;
 - (iii) a declaration of interest by the EAP or specialist, which EAP or specialist meets all the requirements contemplated in [regulation 13](#);
 - (iv) an undertaking under oath or affirmation that all the information submitted or to be submitted for the purposes of the application is true and correct;
 - (v) the report generated by the national web based environmental screening tool, once this tool is operational;
 - (vi) a description of the location of the development footprint of the activity, including
 - (aa) the 21 digit Surveyor General code of each cadastral land parcel,
 - (bb) where available, the physical address or farm name,
 - (cc) where the required information in sub-regulation (aa) and (bb) is not available, the coordinates of the boundary of the property or properties,
 - (vii) a plan which locates the proposed activity or activities applied for at an appropriate scale, or if it is-
 - (aa) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is proposed; or
 - (bb) on land where the property has not been defined, the coordinates of the area within which the activity is proposed; and
 - (viii)
 - (ix) where applicable, proof of acceptance of an application for any right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002.

(2) An application for an environmental authorisation may-

- (a) where applicable, only be submitted after the acceptance of an application for any right or permit in terms of the Mineral and Petroleum Resources Development Act 2002;
 - (b) where section 24L of the Act applies, be submitted in the manner as agreed to by the relevant authorities.
- (3) Any report, plan or document submitted as part of an application must-
- (a) comply with any protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice;
 - (b) be prepared in a format that may be determined by the competent authority; and
 - (c) take into account any applicable government policies and plans, guidelines, environmental management instruments and other decision making instruments that have been adopted by the competent authority in respect of the application process or the kind of activity which is the subject of the application and indicate how the relevant information has been considered, incorporated and utilised.

17. Checking of application for compliance with formal requirements.-Upon receipt of an application, the competent authority must check whether the application-

- (a) is properly completed and that it contains the information required in the application form;
- (b) is accompanied by any other documents as required in terms of these Regulations; and
- (c) conforms to the requirements of these Regulations, any protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice or instructions or guidance provided by the competent authority to the submission of applications.

18. Criteria to be taken into account by competent authorities when considering applications.-When considering an application the competent authority must have regard to section 24O and 24 (4) of the Act, the need for and desirability of the undertaking of the proposed activity, the requirements of these Regulations, any protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice or any relevant guideline published in terms of section 24J of the Act.

*Part 2:
Basic assessment*

19. Submission of basic assessment report and environmental management programme, and where applicable closure plan, to competent authority.-(1) Where basic assessment must be applied to an application, the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority-

- (a) a basic assessment report, inclusive of specialist reports, an EMPr and where applicable a closure plan, which have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or
- (b) a notification in writing that the basic assessment report, inclusive of specialist reports, an EMPr and where applicable, a closure plan, will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the basic assessment report or EMPr or, where applicable, a closure plan, which changes or information was not contained in the reports or plans consulted on during the initial public participation process contemplated in [subregulation \(1\) \(a\)](#) and that the revised reports or EMPr or, where applicable, a closure plan will be subjected to another public participation process of at least 30 days.

(2) In the event where [subregulation \(1\) \(b\)](#) applies, the basic assessment report inclusive of specialist reports, an EMPr and where applicable, the closure plan, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority.

(3) A basic assessment report must contain the information set out in Appendix 1 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice, and, where the application for an environmental authorisation is for prospecting, exploration, or extraction of a mineral or petroleum resource, including primary processing, or activities directly related thereto, the basic assessment report must address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

(4) An EMPr must contain the information set out in Appendix 4 to these Regulations or must be a generic EMPr relevant to the application as identified and *gazetted* by the Minister in a government notice and, where the application for an environmental authorisation is for prospecting, exploration, or extraction of a mineral or petroleum resource, including primary processing or activities directly related thereto, the EMPr must contain attachments that address the requirement as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

(5) A closure plan is required where the application for an environmental authorisation relates to the decommissioning or closure of a facility.

(6) A closure plan must contain the information set out in Appendix 5 to these Regulations, and, where the application for an environmental authorisation is for prospecting, exploration, or extraction of a mineral or petroleum resource, including primary processing, or activities directly related thereto, the closure plan must address the requirements as set in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

(7) The content of a closure plan may be combined with the content of an EMPr on condition that the requirements of both Appendices 5 and 4, respectively, are met.

(7A) The content of a closure plan may be combined with the relevant plan contemplated in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act, on condition that the requirements of both those Regulations and Appendix 5, respectively, are met.

(8) A specialist report must contain all information set out in Appendix 6 to these Regulations or comply with a protocol or minimum information requirement relevant to the application as identified and *gazetted* by the Minister in a government notice.

20. Decision on basic assessment application.-(1) The competent authority must within 107 days of receipt of the basic assessment report and EMPr, or where relevant the closure plan, in writing-

- (a) grant environmental authorisation in respect of all or part of the activity applied for; or
- (b) refuse environmental authorisation.

(2) To the extent that authorisation is granted for an alternative, such alternative must, for the purposes of [subregulation \(1\)](#), be regarded as having been applied for, consulted on and its impacts investigated.

(3) On having reached a decision, the competent authority must comply with [regulation 4 \(1\)](#), after which the applicant must comply with [regulation 4 \(2\)](#).

(4) The Minister responsible for mineral resources may only issue an environmental authorisation if the provisions of section 24P (1) of the Act have been complied with.

*Part 3:
S&EIR*

21. Submission of scoping report to competent authority.-(1) If S&EIR must be applied to an application, the applicant must, within 44 days of receipt of the application by the competent authority, submit to the competent authority a scoping report which has been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority.

(2) Subject to [regulation 46](#), and if the findings of the scoping report is still valid and the environmental context has not changed, the submission of a scoping report as contemplated in [subregulation \(1\)](#) need not be complied with-

- (a) in cases where a scoping report was accepted as part of a previous application for environmental authorisation and the application has lapsed or was refused because of insufficient information;
- (b) on condition that [regulation 16](#) is complied with and that such application is accompanied by proof that registered interested and affected parties, who participated in the public participation process conducted as part of the previous application, have been notified of this intended resubmission of the application prior to submission of such application;
- (c) if the application contemplated in [paragraph \(b\)](#) is submitted by the same applicant for the same development, as applied for and lapsed or refused as contemplated in [paragraph \(a\)](#); and
- (d) if an environmental impact assessment report inclusive of specialist reports and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority, is submitted within a period of two years from the date of the acceptance of the scoping report contemplated in [paragraph \(a\)](#).

(3) A scoping report must contain all information set out in Appendix 2 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice.

22. Consideration of scoping report.-The competent authority must, within 43 days of receipt of a scoping report-

- (a) accept the scoping report, with or without conditions, and advise the applicant to proceed or continue with the tasks contemplated in the plan of study for environmental impact assessment; or
- (b) refuse environmental authorisation if-
 - (i) the proposed activity is in conflict with a prohibition contained in legislation; or
 - (ii) the scoping report does not substantially comply with Appendix 2 to these Regulations or any applicable protocol or minimum information requirements as identified and *gazetted* by the minister in a government notice and the applicant is unwilling or unable to ensure compliance with these requirements within the prescribed timeframe.

23. Submission and consideration of environmental impact assessment report and environmental management programme.-(1) The applicant must within 106 days of the acceptance of the scoping report submit to the competent authority-

- (a) an environmental impact assessment report inclusive of any specialist reports, and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or
- (b) a notification in writing that the reports, and an EMPr, will be submitted within 156 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the environmental impact assessment report or EMPr, which changes or information was not contained in the reports consulted on during the initial public participation process contemplated in [subregulation \(1\) \(a\)](#), and that the revised environmental impact assessment report or EMPr will be subjected to another public participation process of at least 30 days.

(2) In the event where [subregulation \(1\) \(b\)](#) applies, the environmental impact assessment report inclusive of specialist reports, and EMPr, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 156 days of the acceptance of the scoping report by the competent authority.

(3) An environmental impact assessment report must contain all information set out in Appendix 3 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice and, where the application is for an environmental authorisation for prospecting, exploration, extraction of a mineral or petroleum resource, including primary processing or activities directly related thereto, the environmental impact assessment report must contain attachments that address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

(4) An EMPr must contain all information set out in Appendix 4 to these Regulations or must be a generic EMPr relevant to the application as identified and *gazetted* by the Minister in a government notice and, where the application for an environmental authorisation is for prospecting, exploration, or extraction of a mineral or petroleum resource, including primary processing or activities directly related thereto, the EMPr must contain attachments that address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

(5) A specialist report must contain all information set out in Appendix 6 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice.

24. Decision on S&EIR application.-(1) The competent authority must within 107 days of receipt of the environmental impact assessment report and EMPr, in writing-

- (a) grant environmental authorisation in respect of all or part of the activity applied for; or
- (b) refuse environmental authorisation.

(2) To the extent that authorisation is granted for an alternative, such alternative must for the purposes of [subregulation \(1\)](#) be regarded as having been applied for, consulted on and its impacts investigated.

(3) On having reached a decision, the competent authority must comply with [regulation 4 \(1\)](#), after which an applicant must comply with [regulation 4 \(2\)](#).

(4) The Minister responsible for Mineral Resources may only issue an authorisation if the provisions of section 24P (1) of the Act have been complied with.

25. Issue of environmental authorisation.-(1) If the competent authority decides to grant authorisation, the competent authority must issue an environmental authorisation or environmental authorisations complying with [regulation 26](#) to, and in the name of, the applicant or applicants.

(2) If the competent authority decides to grant authorisation in respect of an application, the competent authority may issue a single environmental authorisation or multiple environmental authorisations in the name of the same or different applicants covering all aspects for which authorisation is granted.

(3) A competent authority may issue an integrated environmental authorisation as contemplated in section 24L of the Act.

(4) The competent authority may replace an existing valid environmental authorisation with an environmental authorisation contemplated in this regulation, indicating the extent of replacement in the environmental authorisation, if the existing valid environmental authorisation is directly related to the application for environmental authorisation.

26. Content of environmental authorisation.-An environmental authorisation must specify-

- (a) the name, address and contact details of the person to whom the environmental authorisation is issued;
- (b) a description of the activity that is authorised;
- (c) a description of the location of the activity, including-
 - (i) the 21 digit Surveyor General code of each cadastral land parcel,
 - (ii) where available, the physical address or farm name,
 - (iii) where the required information in [sub-regulation \(i\)](#) and (ii) is not available, the coordinates of the boundary of the property or properties,
 - (iv) a plan which locates the proposed activity or activities authorised at an appropriate scale, or, if it is-
 - (aa) a linear activity, a description and coordinates of the approved corridor of the activity or activities; or
 - (bb) on land where the property has not been defined, the coordinates of the area within which the activity is to be undertaken;
- (d) the conditions subject to which the activity may be undertaken, including conditions determining-
 - (i)
 - (ii) where the environmental authorisation does not include operational aspects, the period for which the environmental authorisation is granted, which period may not be extended unless the process to amend the environmental authorisation contemplated in [regulation 32](#) is followed, and the date on which the activity is deemed to have been concluded;
 - (iii) a distinction between the portions of the environmental authorisation that deal with operational and non-operational aspects respectively and the respective periods for which the distinct portions of the environmental authorisation is granted, where the environmental authorisation contains operational and non-operational aspects;
 - (iv) requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment throughout the life of the activity additional to those contained in the approved EMPr, and where applicable the closure plan; and
- (e) the frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the approved EMPr, and where applicable the closure plan, in order to determine whether such EMPr and closure plan continuously meet mitigation requirements and addresses environmental impacts, taking into account processes for such auditing prescribed in terms of these Regulations: provided that the frequency of the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr may not exceed intervals of 5 years;
- (f) the frequency of submission of an environmental audit report to the competent authority, including the timeframe within which a final environmental audit report must be submitted to the competent authority;
- (g) the frequency of updating the approved EMPr, and where applicable the closure plan, and the manner in which the updated EMPr and closure plan will be approved, taking into account processes for such amendments prescribed in terms of these Regulations;

- (h) a requirement that the environmental authorisation, approved EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, where applicable, audit reports including the environmental audit report contemplated by [regulation 34](#), and all compliance monitoring reports be made available for inspection and copying-
 - (i) at the site of the authorised activity;
 - (ii) to anyone on request; and
 - (iii) where the holder of the environmental authorisation has a website, on such publicly accessible website; and
- (i) any relevant conditions which the competent authority deems appropriate.

CHAPTER 5

AMENDMENT, SUSPENSION, WITHDRAWAL AND AUDITING OF COMPLIANCE WITH ENVIRONMENTAL AUTHORISATION AND ENVIRONMENTAL MANAGEMENT PROGRAMME

27. General.-(1) The competent authority that issued an environmental authorisation has jurisdiction in all matters pertaining to the amendment of that environmental authorisation as long as the environmental authorisation is still valid, provided that the competent authority that issued such environmental authorisation still has jurisdiction in terms of the Act.

(2) Where the competent authority decides to amend an environmental authorisation, the competent authority must-

- (a) issue an amendment to the environmental authorisation either by way of a new environmental authorisation or new environmental authorisations or an addendum to the relevant environmental authorisation; or
- (b) replace an existing valid environmental authorisation with an environmental authorisation contemplated in this regulation, indicating the extent of replacement in the environmental authorisation, if the existing environmental authorisation is directly related to the amendment required.

(3) Where an environmental authorisation granted in terms of these Regulations does not include operational aspects and the activity has been commenced with, the period for which such environmental authorisation is granted may only be extended for a maximum further period of 5 years.

(4) An environmental authorisation may be amended or replaced without following a procedural requirement contained in these Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially.

28. Application for amendment.-(1) An application for the amendment of an environmental authorisation must be submitted to the relevant competent authority on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

(1A) The competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application but may consider an application for environmental authorisation for the same development.

(1B) An environmental authorisation which is the subject of an amendment application contemplated in this Chapter remains valid pending the finalisation of such amendment application.

(2)

(3) An application in terms of [subregulation \(1\)](#) must be made in writing and accompanied by a motivation for such amendment.

Part 1:

Amendments where no change in scope or a change of ownership occur

29. Amendments to be applied for in terms of Part 1.-An environmental authorisation may be amended by following the process prescribed in this Part if the amendment-

- (a) will not change the scope of a valid environmental authorisation, nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for an environmental authorisation; or
- (b) relates to the change of ownership or transfer of rights and obligations.

30. Process and consideration of application for amendment and decision.-(1) Upon receipt of an application made in terms of [regulation 29](#) the competent authority-

- (a) may request additional information within a period determined by the competent authority and such request must accompany the acknowledgement of receipt of the application and if such information is not submitted within such a period the application will be deemed to have lapsed; and
- (b) must refuse the application for amendment if the amendment being applied for does not fall within the ambit of [regulation 29](#).

(2) The competent authority must within 30 days of acknowledging receipt of the application or of receipt of the additional information contemplated in [subregulation \(1\) \(a\)](#) decide the application.

Part 2:

Amendments where a change in scope occurs

31. Amendments to be applied for in terms of Part 2.-An environmental authorisation may be amended by following the process prescribed in this Part if the amendment will result in a change to the scope of a valid environmental authorisation where such change will result in an increased level or change in the nature of impact where such level or change in nature of impact was not-

- (a) assessed and included in the initial application for environmental authorisation; or
- (b) taken into consideration in the initial environmental authorisation;

and the change does not, on its own, constitute a listed or specified activity.

32. Process and consideration of application for amendment.-(1) The applicant must within 90 days of receipt by the competent authority of the application made in terms of [regulation 31](#), submit to the competent authority-

- (a) a report, reflecting-
 - (i) an assessment of all impacts related to the proposed change;
 - (ii) advantages and disadvantages associated with the proposed change; and
 - (iii) measures to ensure avoidance, management and mitigation of impacts associated with such proposed change; and
 - (iv) any changes to the EMPr;

which report-

- (aa) had been subjected to a public participation process, which had been agreed to by the competent authority and which was appropriate to bring the proposed change to the attention of potential and registered interested and affected parties, including organs of state, which have jurisdiction in respect of any aspect of the relevant activity, and the competent authority; and
 - (bb) reflects the incorporation of comments received, including any comments of the competent authority; or
- (b) a notification in writing that the report will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the report, which changes or information was not contained in the report consulted on during the initial public participation process contemplated in [subregulation \(1\) \(a\)](#) and that the revised report will be subjected to another public participation process of at least 30 days.

(2) In the event where [subregulation \(1\) \(b\)](#) applies, the report, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority.

33. Decision on amendment application.-(1) The competent authority must within 107 days of receipt of the report contemplated in [regulation 32](#), in writing decide the application.

(2) On having reached a decision, the competent authority must comply with [regulation 4 \(1\)](#), after which the holder applicant must comply with [regulation 4 \(2\)](#).

Part 3:

*Auditing and amendment of environmental authorisation,
environmental management programme and closure plan*

34. Auditing of compliance with environmental authorisation, environmental management programme and closure plan.-(1) The holder of an environmental authorisation must, for the period during which the environmental authorisation and EMPr, and where applicable the closure plan, remain valid-

- (a) ensure that the compliance with the conditions of the environmental authorisation and the EMPr, and where applicable the closure plan, is audited; and
 - (b) submit an environmental audit report to the relevant competent authority.
- (2) The environmental audit report contemplated in [subregulation \(1\)](#) must-
- (a) be prepared by an independent person with the relevant environmental auditing expertise;
 - (b) provide verifiable findings, in a structured and systematic manner, on
 - (i) the level of performance against and compliance of an organisation or project with the provisions of the requisite environmental authorisation or EMPr and, where applicable, the closure plan; and
 - (ii) the ability of the measures contained in the EMPr, and where applicable the closure plan, to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity;
 - (c) contain the information set out in Appendix 7; and
 - (d) be conducted and submitted to the competent authority at intervals as indicated in the environmental authorisation.
- (3) The environmental audit report contemplated in [subregulation \(1\)](#) must determine-
- (a) the ability of the EMPr, and where applicable the closure plan, to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity on an ongoing basis and to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the closure of the facility; and
 - (b) the level of compliance with the provisions of environmental authorisation, EMPr and where applicable the closure plan.
- (4) Where the findings of the environmental audit report contemplated in [subregulation \(1\)](#) indicate-
- (a) insufficient mitigation of environmental impacts associated with the undertaking of the activity; or
 - (b) insufficient levels of compliance with the environmental authorisation or EMPr and, where applicable the closure plan;

the holder must, when submitting the environmental audit report to the competent authority in terms of [subregulation \(1\)](#), submit recommendations to amend the EMPr or closure plan in order to rectify the shortcomings identified in the environmental audit report.

(5) When submitting recommendations in terms of [subregulation \(4\)](#), such recommendations must have been subjected to a public participation process, which process has been agreed to by the competent authority and was appropriate to bring the proposed amendment of the EMPr and, where applicable the closure plan, to the attention of potential and registered interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity and the competent authority, for approval by the competent authority.

(6) Within 7 days of the date of submission of an environmental audit report to the competent authority, the holder of an environmental authorisation must notify all potential and registered interested and affected parties of the submission of that report, and make such report immediately available-

- (a) to anyone on request; and
- (b) on a publicly accessible website, where the holder has such a website.

(7) An environmental audit report must contain all information set out in Appendix 7 to these Regulations.

35. Amendment of environmental management programme or closure plan as a result of an audit.-(1) The competent authority must consider the environmental audit report and amended EMPr and, where applicable the amended closure plan, contemplated in [regulation 34](#) and approve such amended EMPr, and where applicable the amended closure plan, if it is satisfied that it sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, or where applicable the closure of the facility, and that it has been subjected to an appropriate public participation process.

(2) Prior to approving an amended EMPr or closure plan contemplated in [subregulation \(1\)](#), the competent authority may request such amendments to the EMPr or closure plan as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity or to ensure that the closure plan sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the closure of the facility.

36. Other amendments of environmental management programme or closure plan.-(1) Where an amendment is required to the impact management actions of an EMPr, such amendments may immediately be effected by the holder and reflected in the next environmental audit report submitted as contemplated in the environmental authorisation and [regulation 34](#).

(2) Where an amendment to the impact management outcomes of an EMPr or an amendment of the closure objectives of a closure plan is required before an audit is required in terms of the environmental authorisation, an EMPr or closure plan may be amended on application by the holder of the environmental authorisation.

37. Amendment of environmental management programme or closure plan on application by holder of environmental authorisation.-(1)

(Editorial Note: Wording as per original *Government Gazette*.)

(2) The holder of the environmental authorisation must invite comments on the proposed amendments to the impact management outcomes of the EMPr or amendments to the closure objectives of the closure plan from potentially interested and affected parties, including the competent authority, by using any of the methods provided for in the Act for a period of at least 30 days.

(3) Reasonable alternative methods, as agreed to by the competent authority, to invite comments as contemplated in [subregulation \(2\)](#), may be used in those instances where a person desires but is unable to participate in the process due to-

- (a) illiteracy;
- (b) disability; or
- (c) any other disadvantage.

(4) The invitation to comment as contemplated in [subregulation \(2\)](#) must include an indication that any comments to the proposed amendments must be submitted to the holder of the environmental authorisation within 30 days of such invitation to comment.

(5) If no comments are received, the holder of the environmental authorisation may amend the EMPr or closure plan in accordance with its intention contemplated in [subregulation \(1\)](#) and submit the amended EMPr or closure plan to the competent authority for approval within 60 days of inviting comments.

(6) Prior to approving an amended EMPr or closure plan contemplated in [subregulation \(5\)](#), the competent authority may request such amendments to the EMPr or closure plan as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity or to ensure that the closure plan sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the closure of the facility.

(7) If comments are submitted to the holder of the environmental authorisation, such holder must submit such comments to the competent authority, including responses to such comments, together with the proposed amended EMPr or closure plan.

(8) The competent authority must, within 30 days of receipt of the information contemplated in [subregulation \(7\)](#), consider such information and issue a decision to approve the amended EMPr or closure plan or not.

(9) After the competent authority has reached a decision in terms of [subregulation \(5\)](#) or [\(8\)](#), the competent authority must, within 5 days-

- (a) provide the holder of the environmental authorisation with its decision, including the amended EMPr or closure plan if the decision was to approve the amended EMPr or closure plan, as well as reasons for the decision;
- (b) draw the attention of the holder of the environmental authorisation to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision; and
- (c) instruct the holder of the environmental authorisation to, within 14 days of the date of the decision, inform the parties who submitted comments of the decision, to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision.

38. Suspension and withdrawal of environmental authorisation.-(1) If the competent authority has reason to believe that the authorisation was obtained through fraud, non-disclosure of material information or misrepresentation of a material fact, the competent authority may, in writing, suspend or partially suspend, with

immediate effect, the environmental authorisation and direct the holder of such environmental authorisation forthwith to cease any activities that have been commenced or to refrain from commencing any activities, pending a decision to withdraw the environmental authorisation.

(2) The holder of the environmental authorisation may, within **10** days of the suspension issued in terms of [subregulation \(1\)](#), provide the competent authority with representations as to why the environmental authorisation should not be withdrawn

(3) Subject to [subregulation \(4\)](#), within 14 days of receipt of representations, alternatively within 14 days of the expiry of the time period in which to submit representations, the competent authority must consider the representations, if any, and must inform the applicant in writing of its decision to-

- (a) lift the suspension; or
- (b) withdraw, or partially withdraw, the environmental authorisation.

(4) In the event that the competent authority requires further information in order to take a decision referred to in [subregulation \(3\)](#) it shall-

- (a) within the 14 day time period set out in regulation (3), and in writing, request the holder to provide such further information; and
- (b) consider this additional information prior to taking a decision in terms of (3) (a) or (b).

(5) Where further information is requested, the competent authority shall have a further 14 day period from the date of receipt of this information, in which to make its decision in terms of [subregulation \(3\) \(a\)](#) or [\(b\)](#).

(6) In the event that the competent authority decides to withdraw, or partially withdraw, the environmental authorisation in terms of (3) (b), and the activity or activities have commenced, the competent authority may direct the holder to rehabilitate the effects of the activity on the environment.

(7) The provisions of this Part apply equally to any exemptions issued in terms of the ECA regulations or the previous NEMA regulations as defined in [Chapter 8](#) of these Regulations.

CHAPTER 6 PUBLIC PARTICIPATION

39. Activity on land owned by person other than proponent.-(1) If the proponent is not the owner or person in control of the land on which the activity is to be undertaken, the proponent must, before applying for an environmental authorisation in respect of such activity, obtain the written consent of the landowner or person in control of the land to undertake such activity on that land.

(2) [Subregulation \(1\)](#) does not apply in respect of-

- (a) linear activities;
- (b) activities constituting, or activities directly related to prospecting or exploration of a mineral and petroleum resource or extraction and primary processing of a mineral or petroleum resource; and
- (c) strategic integrated projects as contemplated in the Infrastructure Development Act, 2014.

40. Purpose of public participation.-(1) The public participation process to which the-

- (a) basic assessment report and EMPr, and where applicable the closure plan, submitted in terms of [regulation 19](#); and
- (b) scoping report submitted in terms of [regulation 21](#) and the environmental impact assessment report and EMPr submitted in terms of [regulation 23](#);

was subjected to must give all potential or registered interested and affected parties, including the competent authority, a period of at least 30 days to submit comments on each of the basic assessment report, EMPr, scoping report and environmental impact assessment report, and where applicable the closure plan, as well as the report contemplated in [regulation 32](#), if such reports or plans are submitted at different times.

(2) The public participation process contemplated in this regulation must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application unless access to that information is protected by law and must include consultation with-

- (a) the competent authority;
- (b) every State department that administers a law relating to a matter affecting the environment relevant to an application for an environmental authorisation;
- (c) all organs of state which have jurisdiction in respect of the activity to which the application relates; and

(d) all potential, or, where relevant, registered interested and affected parties.

(3) Potential or registered interested and affected parties, including the competent authority, may be provided with an opportunity to comment on reports and plans contemplated in [subregulation \(1\)](#) prior to submission of an application but must be provided with an opportunity to comment on such reports once an application has been submitted to the competent authority.

41. Public participation process.-(1) This regulation only applies in instances where adherence to the provisions of this regulation is specifically required.

(2) The person conducting a public participation process must take into account any relevant guidelines applicable to public participation as contemplated in section 24J of the Act and must give notice to all potential interested and affected parties of an application or proposed application which is subjected to public participation by-

- (a) fixing a notice board at a place conspicuous to and accessible by the public at the boundary, on the fence or along the corridor of-
 - (i) the site where the activity to which the application or proposed application relates is or is to be undertaken; and
 - (ii) any alternative site;
- (b) giving written notice, in any of the manners provided for in section 47D of the Act, to-
 - (i) the occupiers of the site and, if the proponent or applicant is not the owner or person in control of the site on which the activity is to be undertaken, the owner or person in control of the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;
 - (ii) owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;
 - (iii) the municipal councillor of the ward in which the site and alternative site is situated and any organisation of ratepayers that represent the community in the area;
 - (iv) the municipality which has jurisdiction in the area;
 - (v) any organ of state having jurisdiction in respect of any aspect of the activity; and
 - (vi) any other party as required by the competent authority;
- (c) placing an advertisement in-
 - (i) one local newspaper; or
 - (ii) any official *Gazette* that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;
- (d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official *Gazette* referred to in [paragraph \(c\) \(ii\)](#); and
- (e) using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desirous of but unable to participate in the process due to-
 - (i) illiteracy;
 - (ii) disability; or
 - (iii) any other disadvantage.

(3) A notice, notice board or advertisement referred to in [subregulation \(2\)](#) must-

- (a) give details of the application or proposed application which is subjected to public participation; and
- (b) state-
 - (i) whether basic assessment or S&EIR procedures are being applied to the application;
 - (ii) the nature and location of the activity to which the application relates;
 - (iii) where further information on the application or proposed application can be obtained; and
 - (iv) the manner in which and the person to whom representations in respect of the application or proposed application may be made.

(4) A notice board referred to in [subregulation \(2\)](#) must-

- (a) be of a size of at least 60cm by 42cm; and

- (b) display the required information in lettering and in a format as may be determined by the competent authority.

(5) Where public participation is conducted in terms of this regulation for an application or proposed application [subregulation \(2\) \(a\), \(b\), \(c\) and \(d\)](#) need not be complied with again during the additional public participation process contemplated in [regulations 19 \(1\) \(b\)](#) or [23 \(1\) \(b\)](#) or the public participation process contemplated in [regulation 21 \(2\) \(d\)](#), on condition that-

- (a) such process has been preceded by a public participation process which included compliance with [subregulation \(2\) \(a\), \(b\), \(c\) and \(d\)](#); and

- (b) written notice is given to registered interested and affected parties regarding where the-

- (i) revised basic assessment report or, EMPr or closure plan, as contemplated in [regulation 19 \(1\) \(b\)](#);

- (ii) revised environmental impact assessment report or EMPr as contemplated in [regulation 23 \(1\) \(b\)](#); or

- (iii) environmental impact assessment report and EMPr as contemplated in [regulation 21 \(2\) \(d\)](#);

may be obtained, the manner in which and the person to whom representations on these reports or plans may be made and the date on which such representations are due.

(6) When complying with this regulation, the person conducting the public participation process must ensure that-

- (a) information containing all relevant facts in respect of the application or proposed application is made available to potential interested and affected parties; and

- (b) participation by potential or registered interested and affected parties is facilitated in such a manner that all potential or registered interested and affected parties are provided with a reasonable opportunity to comment on the application or proposed application.

(7) Where an environmental authorisation is required in terms of these Regulations and an authorisation, permit or licence is required in terms of a specific environmental management Act, the public participation process contemplated in this Chapter may be combined with any public participation processes prescribed in terms of a specific environmental management Act, on condition that all relevant authorities agree to such combination of processes.

42. Register of interested and affected parties.-A proponent or applicant must ensure the opening and maintenance of a register of interested and affected parties and submit such a register to the competent authority, which register must contain the names, contact details and addresses of-

- (a) all persons who, as a consequence of the public participation process conducted in respect of that application, have submitted written comments or attended meetings with the proponent, applicant or EAP;

- (b) all persons who have requested the proponent or applicant, in writing, for their names to be placed on the register; and

- (c) all organs of state which have jurisdiction in respect of the activity to which the application relates.

43. Registered interested and affected parties entitled to comment on reports and plans.-(1) A registered interested and affected party is entitled to comment, in writing, on all reports or plans submitted to such party during the public participation process contemplated in these Regulations and to bring to the attention of the proponent or applicant any issues which that party believes may be of significance to the consideration of the application, provided that the interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.

(2) In order to give effect to section 240 of the Act, any State department that administers a law relating to a matter affecting the environment must be requested, subject to [regulation 7 \(2\)](#), to comment within 30 days.

44. Comments of interested and affected parties to be recorded in reports and plans.-(1) The applicant must ensure that the comments of interested and affected parties are recorded in reports and plans and that such written comments, including responses to such comments and records of meetings are attached to the reports and plans that are submitted to the competent authority in terms of these Regulations.

(2) Where a person desires but is unable to access written comments as contemplated in [subregulation \(1\)](#) due to-

- (a) a lack of skills to read or write;

- (b) disability; or
- (c) any other disadvantage;

reasonable alternative methods of recording comments must be provided for.

CHAPTER 7 GENERAL MATTERS

45. Failure to comply with requirements for consideration of applications.-An application in terms of these Regulations lapses, and a competent authority will deem the application as having lapsed, if the applicant fails to meet any of the time-frames prescribed in terms of these Regulations, unless extension has been granted in terms of [regulation 3 \(7\)](#).

46. Resubmission of similar applications.-No applicant may submit an application which is substantially similar to a previous application which has been refused unless the appeal on such refusal has been finalised or the time period for the submission of such appeal has lapsed.

47. Assistance to people with special needs.-The competent authority processing an application in terms of these Regulations must give reasonable assistance to people with-

- (a) illiteracy;
- (b) a disability; or
- (c) any other disadvantage,

who cannot, but desire to, comply with these Regulations.

48. Offences.-(1) A person is guilty of an offence if that person-

- (a) provides incorrect or misleading information in any form, including any document submitted in terms of these Regulations to a competent authority or omits information that may have an influence on the outcome of a decision of a competent authority;
- (b) fails to comply with [regulation 10 \(c\)](#);
- (c) fails to comply with [regulation 13 \(1\) \(f\)](#);
- (d) fails to comply with [regulation 34](#);
- (e) fails to comply with [regulation 37](#); or
- (f) commences with an activity where the environmental authorisation was suspended or withdrawn in terms of [regulation 38](#).

(2) A person convicted of an offence in terms of [subregulation \(1\) \(a\)](#), [\(b\)](#), [\(c\)](#), [\(d\)](#) or [\(e\)](#) is liable to the penalties as contemplated in section 49B (2) of the Act.

(3) A person convicted of an offence in terms of [subregulation \(1\) \(f\)](#) is liable to the penalties as contemplated in section 49B (1) of the Act.

CHAPTER 8 TRANSITIONAL ARRANGEMENTS AND COMMENCEMENT

49. Definitions.-In this Chapter-

"ECA" means the Environment Conservation Act, 1989 (Act [No. 73 of 1989](#));

"NEMA" means the National Environmental Management Act, 1998 (Act [No. 107 of 1998](#));

"ECA notices" as contemplated in these transitional arrangements, means the notices in terms of ECA (Government Notice R.1182, as amended by Government Notice R. 1355 of 17 October 1997, Government Notice R.448 of 27 March 1998 and Government Notice R.670 of 10 May 2002);

"ECA regulations" as contemplated in these transitional arrangements, means the regulations published in

terms of sections 26 and 28 of the ECA, by Government Notice R.1183 of 5 September 1997;

"previous MPRDA regulations" as contemplated in these transitional arrangements, means the regulations published in terms of section 107 of the Mineral and Petroleum Resources Development Act, 2002, by Government Notice R527 in *Government Gazette* 26275 of 23 April 2004 and as amended from time to time;

"previous NEMA notices" as contemplated in these transitional arrangements means the previous notices published in terms of section 24 (2) of NEMA (Government Notices R.386 and R.387 in the *Government Gazette* of 21 April 2006, and as amended from time to time, or Government Notice No. R.544, 545 and 546 in the *Government Gazette* of 18 June 2010, as amended from time to time); and

"previous NEMA regulations" as contemplated in these transitional arrangements means the previous Environmental Impact Assessment Regulations published in terms of NEMA (Government Notice No. R.385 in the *Government Gazette* of 21 April 2006 or Government Notice No. R.543 in the *Government Gazette* of 18 June 2010).

50. Continuation of actions undertaken and authorisations issued under previous ECA regulations.-(1) Any actions undertaken in terms of the ECA regulations and which can be undertaken in terms of a provision of these Regulations must be regarded as having been undertaken in terms of the provision of these Regulations.

(2) Any authorisation issued or exemption from obtaining an environmental authorisation granted in terms of the ECA regulations, must be regarded to be an environmental authorisation issued in terms of these Regulations.

51. Pending applications (ECA).-(1) An application submitted in terms of the ECA regulations and which is pending when these Regulations take effect, including pending applications for activities directly related to-

- (a) prospecting or exploration of a mineral or petroleum resource; or
- (b) extraction and primary processing of a mineral or petroleum resource;

must despite the repeal of those Regulations be dispensed with in terms of those Regulations as if those Regulations were not repealed.

(2) If a situation arises where an activity or activities listed under the ECA Notices no longer requires environmental authorisation in terms of the current activities and competent authorities identified in terms of sections 24 (2) and 24D of the Act or in terms of the National Environmental Management: Waste Act, 2008 (Act [No. 59 of 2008](#)), and where a decision on an application submitted under the ECA regulations is still pending, the competent authority will consider such application to be withdrawn.

(3) Where an application submitted in terms of the ECA regulations is pending in relation to an activity of which a component of the same activity was not listed under the ECA Notices, but is now identified in terms of section 24 (2) of the Act, the competent authority must dispense of such application in terms of those ECA regulations and may authorise the activity identified in terms of section 24 (2) as if it was applied for, on condition that all impacts of the newly listed activity and requirements of these Regulations have also been considered and adequately assessed.

52. Continuation of actions undertaken and authorisations issued under previous NEMA regulations.-(1) Any actions undertaken in terms of the previous NEMA regulations and which can be undertaken in terms of a provision of these Regulations must be regarded as having been undertaken in terms of the provision of these Regulations.

(2) Any authorisation issued in terms of the previous NEMA Regulations must be regarded to be an environmental authorisation issued in terms of these Regulations.

53. Pending applications and appeals (NEMA).-(1) An application submitted in terms of the previous NEMA regulations and which is pending when these Regulations take effect, including pending applications for auxiliary activities directly related to-

- (a) prospecting or exploration of a mineral or petroleum resource; or
- (b) extraction and primary processing of a mineral or petroleum resource,

must despite the repeal of those Regulations be dispensed with in terms of those previous NEMA regulations as if those previous NEMA regulations were not repealed.

(2) If a situation arises where an activity or activities, identified under the previous NEMA Notices, no longer requires environmental authorisation in terms of the current activities and competent authorities identified in terms of [section 24 \(2\)](#) and [24D](#) of the National Environmental Management Act, 1998 (Act [No. 107 of 1998](#)) or in terms of the National Environmental Management: Waste Act, 2008 (Act [No. 59 of 2008](#)), and where a decision on an application submitted under the previous NEMA regulations is still pending, the competent authority will consider such application to be withdrawn.

(3) Where an application submitted in terms of the previous NEMA regulations, is pending in relation to an activity of which a component of the same activity was not identified under the previous NEMA notices, but is now identified in terms of section 24 (2) of the Act, the competent authority must dispense of such application in terms of the previous NEMA regulations and may authorise the activity identified in terms of section 24 (2) as if it was applied for, on condition that all impacts of the newly identified activity and requirements of these Regulations have also been considered and adequately assessed.

(4) An appeal lodged in terms of the previous NEMA regulations, and which is pending when these Regulations take effect must despite the repeal of those previous NEMA regulations be dispensed with in terms thereof as if those previous NEMA regulations were not repealed.

54. Pending applications (MPRDA).-(1) An application submitted in terms of the previous MPRDA regulations and which is pending when these Regulations take effect must despite the repeal of those regulations be dispensed with in terms of those previous MPRDA regulations as if those previous MPRDA regulations were not repealed.

(2) An application submitted after the commencement of these Regulations for an amendment of an Environmental Management Programme or Environmental Management Plan, issued in terms of the Mineral and Petroleum Resources Development Act, 2002, must be dealt with in terms of Part 1 or Part 2 of [Chapter 5](#) of these Regulations.

(3) "Application" for the purpose of [subregulation \(1\)](#) means an application for a permit, right, approval of an Environmental Management Programme or Environmental Management Plan or amendment of such permit, right or Environmental Management Programme or Environmental Management Plan.

54A. Transitional provisions.-(1) Where, prior to 8 December 2014-

- (a) environmental authorisation was required for activities directly related to
 - (i) prospecting or exploration of a mineral or petroleum resource; or
 - (ii) extraction and primary processing of a mineral or petroleum resource;and such environmental authorisation has been obtained; and
- (b) a right permit or exemption was required in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act [No. 28 of 2002](#)) for-
 - (i) prospecting or exploration of a mineral or petroleum resource; or
 - (ii) extraction and primary processing of a mineral or petroleum resource;

and such right, permit or exemption has been obtained, and activities authorised in such environmental authorisation, right, permit or exemption commenced after 8 December 2014, such environmental authorisation, right, permit or exemption is regarded as fulfilling the requirements of the Act: Provided that where an application for an environmental authorisation was refused or not obtained in terms of the Act for activities directly related to prospecting, exploration or extraction of a mineral or petroleum resource, including primary processing, this subregulation does not apply.

(2) Where a right or permit issued in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act [No. 28 of 2002](#)) for-

- (a) prospecting or exploration of a mineral or petroleum resource; or
- (b) extraction and primary processing of a mineral or petroleum resource;

and the associated Environmental Management Programme or Environmental Management Plan approved in terms of Mineral and Petroleum Resources Development Act, 2002 (Act [No. 28 of 2002](#)) is still in effect after 8 December 2014, the requirements contained in Part 3 of [Chapter 5](#) of these Regulations apply to such Environmental Management Programmes or Environmental Management Plans and the first environmental audit report must be submitted to the competent authority no later than 7 December 2019 and at least every 5 years thereafter for the period during which such right, permit, Environmental Management Programme or Environmental Management Plan is still in effect.

(3) Where an environmental authorisation issued in terms of the ECA regulations or the previous NEMA regulations is still in effect by 8 December 2014, the EMPr associated with such environmental authorisation is subject to the requirements contained in Part 3 of [Chapter 5](#) of these Regulations and the first environmental audit report must be submitted to the competent authority no later than 7 December 2019 and at least every 5 years thereafter for the period during which such environmental authorisation is still in effect.

55. Continuation of regulations regulating authorisations for activities in certain coastal areas.-These Regulations do not affect the continued application of the regulations published in terms of sections 26 and 28 of the ECA, by [Government Notice R.1528 of 27 November 1998](#).

56. Repeal of Environmental Impact Assessment Regulations, 2010.-The Environmental Impact Assessment Regulations published in Government Notice No. R.543, in the *Gazette* No. 33306 of 18 June 2010, is hereby repealed.

57. Short title and commencement.-These Regulations are called the Environmental Impact Assessment Regulations, 2014 and take effect on 8 December 2014.

APPENDIX 1

1. Basic assessment process.-The environmental outcomes, impacts and residual risks of the proposed activity must be set out in the basic assessment report.

2. Objective of the basic assessment process.-The objective of the basic assessment process is to, through a consultative process-

- (a) determine the policy and legislative context within which the proposed activity is located and how the activity complies with and responds to the policy and legislative context;
- (b) identify the alternatives considered, including the activity, location, and technology alternatives;
- (c) describe the need and desirability of the proposed alternatives;
- (d) through the undertaking of an impact and risk assessment process, inclusive of cumulative impacts which focused on determining the geographical, physical, biological, social, economic, heritage, and cultural sensitivity of the sites and locations within sites and the risk of impact of the proposed activity and technology alternatives on these aspects to determine-
 - (i) the nature, significance, consequence, extent, duration, and probability of the impacts occurring to; and
 - (ii) the degree to which these impacts-
 - (aa) can be reversed;
 - (bb) may cause irreplaceable loss of resources; and
 - (cc) can be avoided, managed or mitigated; and
- (e) through a ranking of the site sensitivities and possible impacts the activity and technology alternatives will impose on the sites and location identified through the life of the activity to-
 - (i) identify and motivate a preferred site, activity and technology alternative;
 - (ii) identify suitable measures to avoid, manage or mitigate identified impacts; and
 - (iii) identify residual risks that need to be managed and monitored.

3. Scope of assessment and content of basic assessment reports.-(1) A basic assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include-

- (a) details of-
 - (i) the EAP who prepared the report; and
 - (ii) the expertise of the EAP, including a curriculum vitae;
 - (b) the location of the activity, including-
 - (i) the 21 digit Surveyor General code of each cadastral land parcel;
 - (ii) where available, the physical address and farm name;
 - (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;
 - (c) a plan which locates the proposed activity or activities applied for as well as associated structures and infrastructure at an appropriate scale;
- or, if it is-
- (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken; or
 - (ii) on land where the property has not been defined, the coordinates within which the activity is to

be undertaken;

- (d) a description of the scope of the proposed activity, including-
 - (i) all listed and specified activities triggered and being applied for; and
 - (ii) a description of the activities to be undertaken including associated structures and infrastructure;
- (e) a description of the policy and legislative context within which the development is proposed including-
 - (i) an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks, and instruments that are applicable to this activity and have been considered in the preparation of the report; and
 - (ii) how the proposed activity complies with and responds to the legislation and policy context, plans, guidelines, tools frameworks, and instruments;
- (f) a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location;
- (g) a motivation for the preferred site, activity and technology alternative;
- (h) a full description of the process followed to reach the proposed preferred alternative within the site, including-
 - (i) details of all the alternatives considered;
 - (ii) details of the public participation process undertaken in terms of [regulation 41](#) of the Regulations, including copies of the supporting documents and inputs;
 - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
 - (iv) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
 - (v) the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts-
 - (aa) can be reversed;
 - (bb) may cause irreplaceable loss of resources; and
 - (cc) can be avoided, managed or mitigated;
 - (vi) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
 - (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
 - (viii) the possible mitigation measures that could be applied and level of residual risk;
 - (ix) the outcome of the site selection matrix;
 - (x) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such; and
 - (xi) a concluding statement indicating the preferred alternatives, including preferred location of the activity;
- (i) a full description of the process undertaken to identify, assess and rank the impacts the activity will impose on the preferred location through the life of the activity, including-
 - (i) a description of all environmental issues and risks that were identified during the environmental impact assessment process; and
 - (ii) an assessment of the significance of each issue and risk and an indication of the extent to which the issue and risk could be avoided or addressed by the adoption of mitigation measures;
- (j) an assessment of each identified potentially significant impact and risk, including-
 - (i) cumulative impacts;
 - (ii) the nature, significance and consequences of the impact and risk;
 - (iii) the extent and duration of the impact and risk;
 - (iv) the probability of the impact and risk occurring;

- (v) the degree to which the impact and risk can be reversed;
- (vi) the degree to which the impact and risk may cause irreplaceable loss of resources; and
- (vii) the degree to which the impact and risk can be avoided, managed or mitigated;
- (k) where applicable, a summary of the findings and impact management measures identified in any specialist report complying with Appendix 6 to these Regulations and an indication as to how these findings and recommendations have been included in the final report;
- (l) an environmental impact statement which contains-
 - (i) a summary of the key findings of the environmental impact assessment;
 - (ii) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred site indicating any areas that should be avoided, including buffers; and
 - (iii) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives;
- (m) based on the assessment, and where applicable, impact management measures from specialist reports, the recording of the proposed impact management outcomes for the development for inclusion in the EMPr;
- (n) any aspects which were conditional to the findings of the assessment either by the EAP or specialist which are to be included as conditions of authorisation;
- (o) a description of any assumptions, uncertainties, and gaps in knowledge which relate to the assessment and mitigation measures proposed;
- (p) a reasoned opinion as to whether the proposed activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation;
- (q) where the proposed activity does not include operational aspects, the period for which the environmental authorisation is required, the date on which the activity will be concluded, and the post construction monitoring requirements finalised;
- (r) an undertaking under oath or affirmation by the EAP in relation to-
 - (i) the correctness of the information provided in the reports;
 - (ii) the inclusion of comments and inputs from stakeholders and I&APs;
 - (iii) the inclusion of inputs and recommendations from the specialist reports where relevant; and
 - (iv) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested and affected parties; and
- (s) where applicable, details of any financial provision for the rehabilitation, closure, and ongoing post decommissioning management of negative environmental impacts;
- (t) any specific information that may be required by the competent authority; and
- (u) any other matters required in terms of section 24 (4) (a) and (b) of the Act.

(2) Where a government notice *gazetted* by the Minister provides for the basic assessment process to be followed, the requirements as indicated in such a notice will apply.

APPENDIX 2

1. Objective of the Scoping Process.-The objective of the scoping process is to, through a consultative process-

- (a) identify the relevant policies and legislation relevant to the activity;
- (b) motivate the need and desirability of the proposed activity, including the need and desirability of the activity in the context of the preferred location;
- (c) identify and confirm the preferred activity and technology alternative through an identification of impacts and risks and ranking process of such impacts and risks;
- (d) identify and confirm the preferred site, through a detailed site selection process, which includes an identification of impacts and risks inclusive of identification of cumulative impacts and a ranking process of all the identified alternatives focusing on the geographical, physical, biological social, economic, and cultural aspects of the environment;
- (e) identify the key issues to be addressed in the assessment phase;

- (f) agree on the level of assessment to be undertaken, including the methodology to be applied, the expertise required as well as the extent of further consultation to be undertaken to determine the impacts and risks the activity will impose on the preferred site through the life of the activity, including the nature, significance, consequence, extent, duration and probability of the impacts to inform the location of the development footprint within the preferred site; and
- (g) identify suitable measures to avoid, manage or mitigate identified impacts and to determine the extent of the residual risks that need to be managed and monitored.

2. Content of the scoping report.-(1) A scoping report must contain the information that is necessary for a proper understanding of the process, informing all preferred alternatives, including location alternatives, the scope of the assessment, and the consultation process to be undertaken through the environmental impact assessment process, and must include-

- (a) details of-
 - (i) the EAP who prepared the report; and
 - (ii) the expertise of the EAP, including a curriculum vitae;
- (b) the location of the activity, including-
 - (i) the 21 digit Surveyor General code of each cadastral land parcel;
 - (ii) where available, the physical address and farm name;
 - (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;
- (c) a plan which locates the proposed activity or activities applied for at an appropriate scale, or, if it is-
 - (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken; or
 - (ii) on land where the property has not been defined, the coordinates within which the activity is to be undertaken;
- (d) a description of the scope of the proposed activity, including-
 - (i) all listed and specified activities triggered;
 - (ii) a description of the activities to be undertaken, including associated structures and infrastructure;
- (e) a description of the policy and legislative context within which the development is proposed including an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks and instruments that are applicable to this activity and are to be considered in the assessment process;
- (f) a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location;
- (g) a full description of the process followed to reach the proposed preferred activity, site and location of the development footprint within the site, including-
 - (i) details of all the alternatives considered;
 - (ii) details of the public participation process undertaken in terms of [regulation 41](#) of the Regulations, including copies of the supporting documents and inputs;
 - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
 - (iv) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
 - (v) the impacts and risks which have informed the identification of each alternative, including the nature, significance, consequence, extent, duration and probability of such identified impacts, including the degree to which these impacts-
 - (aa) can be reversed;
 - (bb) may cause irreplaceable loss of resources; and
 - (cc) can be avoided, managed or mitigated;
 - (vi) the methodology used in identifying and ranking the nature, significance, consequences extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
 - (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical,

- biological, social, economic, heritage and cultural aspects;
 - (viii) the possible mitigation measures that could be applied and level of residual risk;
 - (ix) the outcome of the site selection matrix;
 - (x) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such; and
 - (xi) a concluding statement indicating the preferred alternatives, including preferred location of the activity;
- (h) a plan of study for undertaking the environmental impact assessment process to be undertaken, including-
- (i) a description of the alternatives to be considered and assessed within the preferred site, including the option of not proceeding with the activity;
 - (ii) a description of the aspects to be assessed as part of the environmental impact assessment process;
 - (iii) aspects to be assessed by specialists;
 - (iv) a description of the proposed method of assessing the environmental aspects including aspects to be assessed by specialists;
 - (v) a description of the proposed method of assessing duration and significance;
 - (vi) an indication of the stages at which the competent authority will be consulted;
 - (vii) particulars of the public participation process that will be conducted during the environmental impact assessment process; and
 - (viii) a description of the tasks that will be undertaken as part of the environmental impact assessment process;
 - (ix) identify suitable measures to avoid, reverse, mitigate or manage identified impacts and to determine the extent of the residual risks that need to be managed and monitored.
- (i) an undertaking under oath or affirmation by the EAP in relation to-
- (i) the correctness of the information provided in the report;
 - (ii) the inclusion of comments and inputs from stakeholders and interested and affected parties; and
 - (iii) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested or affected parties;
- (j) an undertaking under oath or affirmation by the EAP in relation to the level of agreement between the EAP and interested and affected parties on the plan of study for undertaking the environmental impact assessment;
- (k) where applicable, any specific information required by the competent authority; and
- (l) any other matter required in terms of section 24 (4) (a) and (b) of the Act.

(2) Where a government notice *gazetted* by the Minister provides for any protocol or minimum information requirement to be applied to a scoping report, the requirements as indicated in such notice will apply.

APPENDIX 3

1. Environmental impact assessment process.-(1) The environmental impact assessment process must be undertaken in line with the approved plan of study for environmental impact assessment.

(2) The environmental impacts, mitigation and closure outcomes as well as the residual risks of the proposed activity must be set out in the environmental impact assessment report.

2. Objective of the environmental impact assessment process.-The objective of the environmental impact assessment process is to, through a consultative process-

- (a) determine the policy and legislative context within which the activity is located and document how the proposed activity complies with and responds to the policy and legislative context;
- (b) describe the need and desirability of the proposed activity, including the need and desirability of the activity in the context of the development footprint on the approved site as contemplated in the accepted scoping report;
- (c) identify the location of the development footprint within the approved site as contemplated in the accepted scoping report based on an impact and risk assessment process inclusive of cumulative impacts and a ranking process of all the identified development footprint alternatives focusing on the

geographical, physical, biological, social, economic, heritage and cultural aspects of the environment;

- (d) determine the-
 - (i) nature, significance, consequence, extent, duration and probability of the impacts occurring to inform identified preferred alternatives; and
 - (ii) degree to which these impacts-
 - (aa) can be reversed;
 - (bb) may cause irreplaceable loss of resources, and
 - (cc) can be avoided, managed or mitigated;
- (e) identify the most ideal location for the activity within the development footprint of the approved site as contemplated in the accepted scoping report based on the lowest level of environmental sensitivity identified during the assessment;
- (f) identify, assess, and rank the impacts the activity will impose on the development footprint on the approved site as contemplated in the accepted scoping report through the life of the activity;
- (g) identify suitable measures to avoid, manage or mitigate identified impacts; and
- (h) identify residual risks that need to be managed and monitored.

3. Scope of assessment and content of environmental impact assessment reports.-(1) An environmental impact assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include-

- (a) details of-
 - (iii) the EAP who prepared the report; and
 - (iv) the expertise of the EAP, including a curriculum vitae;
(Editorial Note: Numbering as per original *Government Gazette*.)
- (b) the location of the development footprint of the activity on the approved site as contemplated in the accepted scoping report, including-
 - (i) the 21 digit Surveyor General code of each cadastral land parcel;
 - (ii) where available, the physical address and farm name; and
 - (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;
- (c) a plan which locates the proposed activity or activities applied for as well as the associated structures and infrastructure at an appropriate scale, or, if it is-
 - (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken;
 - (ii) on land where the property has not been defined, the coordinates within which the activity is to be undertaken;
- (d) a description of the scope of the proposed activity, including-
 - (i) all listed and specified activities triggered and being applied for; and
 - (ii) a description of the associated structures and infrastructure related to the development;
- (e) a description of the policy and legislative context within which the development is located and an explanation of how the proposed development complies with and responds to the legislation and policy context;
- (f) a motivation for the need and desirability for the proposed development, including the need and desirability of the activity in the context of the preferred development footprint within the approved site as contemplated in the accepted scoping report;
- (g) a motivation for the preferred development footprint within the approved site as contemplated in the accepted scoping report;
- (h) a full description of the process followed to reach the proposed development footprint within the approved site as contemplated in the accepted scoping report, including-
 - (i) details of the development footprint alternatives considered;
 - (ii) details of the public participation process undertaken in terms of [regulation 41](#) of the Regulations, including copies of the supporting documents and inputs;
 - (iii) a summary of the issues raised by interested and affected parties, and an indication of the

- manner in which the issues were incorporated, or the reasons for not including them;
- (iv) the environmental attributes associated with the development footprint alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
- (v) the impacts and risks identified including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts-
 - (aa) can be reversed;
 - (bb) may cause irreplaceable loss of resources; and
 - (cc) can be avoided, managed or mitigated;
- (vi) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks;
- (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
- (viii) the possible mitigation measures that could be applied and level of residual risk;
- (ix) if no alternative development footprints for the activity were investigated, the motivation for not considering such; and
- (x) a concluding statement indicating the location of the preferred alternative development footprint within the approved site as contemplated in the accepted scoping report;
- (i) a full description of the process undertaken to identify, assess and rank the impacts the activity and associated structures and infrastructure will impose on the preferred development footprint on the approved site as contemplated in the accepted scoping report through the life of the activity, including-
 - (i) a description of all environmental issues and risks that were identified during the environmental impact assessment process; and
 - (ii) an assessment of the significance of each issue and risk and an indication of the extent to which the issue and risk could be avoided or addressed by the adoption of mitigation measures;
- (j) an assessment of each identified potentially significant impact and risk, including-
 - (i) cumulative impacts;
 - (ii) the nature, significance and consequences of the impact and risk;
 - (iii) the extent and duration of the impact and risk;
 - (iv) the probability of the impact and risk occurring;
 - (v) the degree to which the impact and risk can be reversed;
 - (vi) the degree to which the impact and risk may cause irreplaceable loss of resources; and
 - (vii) the degree to which the impact and risk can be mitigated;
- (k) where applicable, a summary of the findings and recommendations of any specialist report complying with Appendix 6 to these Regulations and an indication as to how these findings and recommendations have been included in the final assessment report;
- (l) an environmental impact statement which contains-
 - (i) a summary of the key findings of the environmental impact assessment;
 - (ii) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred development footprint on the approved site as contemplated in the accepted scoping report indicating any areas that should be avoided, including buffers; and
 - (iii) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives;
- (m) based on the assessment, and where applicable, recommendations from specialist reports, the recording of proposed impact management outcomes for the development for inclusion in the EMPr as well as for inclusion as conditions of authorisation;
- (n) the final proposed alternatives which respond to the impact management measures, avoidance and mitigation measures identified through the assessment;
- (o) any aspects which were conditional to the findings of the assessment either by the EAP or specialist which are to be included as conditions of authorisation;
- (p) a description of any assumptions, uncertainties and gaps in knowledge which relate to the

assessment and mitigation measures proposed;

- (q) a reasoned opinion as to whether the proposed activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation;
- (r) where the proposed activity does not include operational aspects, the period for which the environmental authorisation is required and the date on which the activity will be concluded and the post construction monitoring requirements finalised;
- (s) an undertaking under oath or affirmation by the EAP in relation to-
 - (i) the correctness of the information provided in the reports;
 - (ii) the inclusion of comments and inputs from stakeholders and I&APs;
 - (iii) the inclusion of inputs and recommendations from the specialist reports where relevant; and
 - (iv) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested or affected parties;
- (t) where applicable, details of any financial provision for the rehabilitation, closure, and ongoing post decommissioning management of negative environmental impacts;
- (u) an indication of any deviation from the approved scoping report, including the plan of study, including-
 - (i) any deviation from the methodology used in determining the significance of potential environmental impacts and risks; and
 - (ii) a motivation for the deviation;
- (v) any specific information that may be required by the competent authority; and
- (w) any other matters required in terms of section 24 (4) (a) and (b) of the Act.

(2) Where a government notice *gazetted* by the Minister provides for any protocol or minimum information requirement to be applied to an environmental impact assessment report the requirements as indicated in such notice will apply.

APPENDIX 4

1. Content of environmental management programme (EMPr).-(1) An EMPr must comply with section 24N of the Act and include-

- (a) details of-
 - (i) the EAP who prepared the EMPr; and
 - (ii) the expertise of that EAP to prepare an EMPr, including a curriculum vitae;
- (b) a detailed description of the aspects of the activity that are covered by the EMPr as identified by the project description;
- (c) a map at an appropriate scale which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers;
- (d) a description of the impact management outcomes, including management statements, identifying the impacts and risks that need to be avoided managed and mitigated as identified through the environmental impact assessment process for all phases of the development including-
 - (i) planning and design;
 - (ii) pre-construction activities;
 - (iii) construction activities;
 - (iv) rehabilitation of the environment after construction and where applicable post closure; and
 - (v) where relevant, operation activities;
- (e)
- (f) a description of proposed impact management actions, identifying the manner in which the impact management outcomes contemplated in [paragraph \(d\)](#) will be achieved, and must, where applicable, include actions to-
 - (i) avoid, modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;

- (ii) comply with any prescribed environmental management standards or practices;
- (iii) comply with any applicable provisions of the Act regarding closure, where applicable; and
- (iv) comply with any provisions of the Act regarding financial provision for rehabilitation, where applicable;
- (g) the method of monitoring the implementation of the impact management actions contemplated in [paragraph \(f \)](#);
- (h) the frequency of monitoring the implementation of the impact management actions contemplated in [paragraph \(f \)](#);
- (i) an indication of the persons who will be responsible for the implementation of the impact management actions;
- (j) the time periods within which the impact management actions contemplated in [paragraph \(f \)](#) must be implemented;
- (k) the mechanism for monitoring compliance with the impact management actions contemplated in [paragraph \(f \)](#);
- (l) a program for reporting on compliance, taking into account the requirements as prescribed by the Regulations;
- (m) an environmental awareness plan describing the manner in which-
 - (i) the applicant intends to inform his or her employees of any environmental risk which may result from their work; and
 - (ii) risks must be dealt with in order to avoid pollution or the degradation of the environment; and
- (n) any specific information that may be required by the competent authority.

(2) Where a government notice *gazetted* by the Minister provides for a generic EMPr, such generic EMPr as indicated in such notice will apply.

APPENDIX 5

1. Content of closure plan.-(1) A closure plan must include-

- (a) details of-
 - (i) the EAP who prepared the closure plan; and
 - (ii) the expertise of that EAP;
- (b) closure objectives;
- (c) proposed mechanisms for monitoring compliance with and performance assessment against the closure plan and reporting thereon;
- (d) measures to rehabilitate the environment affected by the undertaking of any listed activity or specified activity and associated closure to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development, including a handover report, where applicable;
- (e) information on any proposed avoidance, management and mitigation measures that will be taken to address the environmental impacts resulting from the undertaking of the closure activity;
- (f) a description of the manner in which it intends to-
 - (i) modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation during closure;
 - (ii) remedy the cause of pollution or degradation and migration of pollutants during closure;
 - (iii) comply with any prescribed environmental management standards or practices; and
 - (iv) comply with any applicable provisions of the Act regarding closure;
- (g) time periods within which the measures contemplated in the closure plan must be implemented;
- (h) the process for managing any environmental damage, pollution, pumping and treatment of extraneous water or ecological degradation as a result of closure;
- (i) details of all public participation processes conducted in terms of [regulation 41](#) of the Regulations, including-
 - (i) copies of any representations and comments received from registered interested and affected

parties;

- (ii) a summary of comments received from, and a summary of issues raised by registered interested and affected parties, the date of receipt of these comments and the response of the EAP to those comments;
 - (iii) the minutes of any meetings held by the EAP with interested and affected parties and other role players which record the views of the participants;
 - (iv) where applicable, an indication of the amendments made to the plan as a result of public participation processes conducted in terms of [regulation 41](#) of these Regulations; and
- (j) where applicable, details of any financial provision for the rehabilitation, closure and on-going post decommissioning management of negative environmental impacts.

APPENDIX 6

1. Specialist reports.- (1) A specialist report prepared in terms of these Regulations must contain-

- (a) details of-
 - (i) the specialist who prepared the report; and
 - (ii) the expertise of that specialist to compile a specialist report including a curriculum vitae;
 - (b) a declaration that the specialist is independent in a form as may be specified by the competent authority;
 - (c) an indication of the scope of, and the purpose for which, the report was prepared;
 - (cA) an indication of the quality and age of base data used for the specialist report;
 - (cB) a description of existing impacts on the site, cumulative impacts of the proposed development and levels of acceptable change;
 - (d) the duration, date and season of the site investigation and the relevance of the season to the outcome of the assessment;
 - (e) a description of the methodology adopted in preparing the report or carrying out the specialised process inclusive of equipment and modeling used;
 - (f) details of an assessment of the specific identified sensitivity of the site related to the proposed activity or activities and its associated structures and infrastructure, inclusive of a site plan identifying site alternatives;
 - (g) an identification of any areas to be avoided, including buffers;
 - (h) a map superimposing the activity including the associated structures and infrastructure on the environmental sensitivities of the site including areas to be avoided, including buffers;
 - (i) a description of any assumptions made and any uncertainties or gaps in knowledge;
 - (j) a description of the findings and potential implications of such findings on the impact of the proposed activity or activities;
 - (k) any mitigation measures for inclusion in the EMPr;
 - (l) any conditions for inclusion in the environmental authorisation;
 - (m) any monitoring requirements for inclusion in the EMPr or environmental authorisation;
 - (n) a reasoned opinion-
 - (i) whether the proposed activity, activities or portions thereof should be authorised;
 - (iA) regarding the acceptability of the proposed activity or activities; and
 - (ii) if the opinion is that the proposed activity, activities or portions thereof should be authorised, any avoidance, management and mitigation measures that should be included in the EMPr, and where applicable, the closure plan;
 - (o) a description of any consultation process that was undertaken during the course of preparing the specialist report;
 - (p) a summary and copies of any comments received during any consultation process and where applicable all responses thereto; and
 - (q) any other information requested by the competent authority.
- (2) Where a government notice *gazetted* by the Minister provides for any protocol or minimum information

requirement to be applied to a specialist report, the requirements as indicated in such notice will apply.

APPENDIX 7

1. Environmental audit report.-The environmental audit report must provide for recommendations regarding the need to amend the EMPr, and where applicable, the closure plan.

2. Objective of the environmental audit report.-The objective of the environmental audit report is to-

- (a) report on-
 - (i) the level of compliance with the conditions of the environmental authorisation and the EMPr, and where applicable, the closure plan; and
 - (ii) the extent to which the avoidance, management and mitigation measures provided for in the EMPr, and where applicable, the closure plan achieve the objectives and outcomes of the EMPr, and closure plan;
- (b) identify and assess any new impacts and risks as a result of undertaking the activity;
- (c) evaluate the effectiveness of the EMPr, and where applicable, the closure plan;
- (d) identify shortcomings in the EMPr, and where applicable, the closure plan; and
- (e) identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr, and where applicable, the closure plan.

3. Content of environmental audit reports.-(1) An environmental audit report prepared in terms of these Regulations must contain-

- (a) details of the-
 - (i) independent person who prepared the environmental audit report; and
 - (ii) expertise of the independent person that compiled the environmental audit report;
- (b) a declaration that the independent auditor is independent in a form as may be specified by the competent authority;
- (c) an indication of the scope of, and the purpose for which, the environmental audit report was prepared;
- (d) a description of the methodology adopted in preparing the environmental audit report;
- (e) an indication of the ability of the EMPr, and where applicable, the closure plan to-
 - (i) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity on an on-going basis;
 - (ii) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the closure of the facility; and
 - (iii) ensure compliance with the provisions of environmental authorisation, EMPr, and where applicable, the closure plan;
- (f) a description of any assumptions made, and any uncertainties or gaps in knowledge;
- (g) a description of any consultation process that was undertaken during the course of carrying out the environmental audit report;
- (h) a summary and copies of any comments that were received during any consultation process; and
- (i) any other information requested by the competent authority.

(Editorial Note: Numbering as per original *Government Gazette*.)

**GNR.983 of 4 December 2014: Environmental Impact Assessment Regulations Listing Notice 1 of 2014
(Government Gazette No. 38282)**

as amended by

Notice
327

Government Gazette
40772

Date
7 April 2017

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby repeal Listing Notice 1 of 2010, published under Notice No. 544 in *Gazette* No. 33306 dated 18 June 2010, and publish Listing Notice 1 of 2014 under sections

(Signed)

BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

[Sched. substituted by [GN 327 of 7 April 2017.](#)]

ARRANGEMENT OF REGULATIONS

1.	Purpose
2.	Definitions
3.	Identified activities and competent authorities
4.	Repeal of Notice 544 of 18 June 2010
5.	Short title
Appendix 1	

1. Purpose.-The purpose of this Notice is to identify activities that would require environmental authorisations prior to commencement of that activity and to identify competent authorities in terms of sections 24 (2) and 24D of the Act.

2. Definitions.-(1) In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates-

"agriculture" for purposes of this notice means any cultivation or raising of crops, feeding, breeding, keeping or raising of livestock;

"agri-industrial" means an undertaking involving the beneficiation of agricultural produce;

"associated structures, infrastructure and earthworks" means any structures, infrastructure or earthworks, including borrow pits, that is necessary for the development and functioning of a facility or activity;

"canal" means an open structure, that is lined or reinforced, for the conveying of a liquid or that serves as an artificial watercourse;

"channel" means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable in a natural watercourse, river or the sea;

"concentration of animals" means the keeping of animals in a confined space or structure, including a feedlot, where they are fed in order to prepare them for slaughter or to produce products such as milk or eggs;

"dam" when used in these Regulations means any barrier dam and any other form of impoundment used for the storage of water, excluding reservoirs;

"dangerous goods" means goods containing any of the substances as contemplated in South African National Standard No. 10234, supplement 2008 1.00: designated "List of classification and labelling of chemicals in accordance with the Globally Harmonized Systems (GHS)" published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards;

"decommissioning" means to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned;

"development" means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint;

"development footprint" means any evidence of physical alteration as a result of the undertaking of any activity;

"development setback" means a setback line defined or adopted by the competent authority;

"expansion" means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

"indigenous vegetation" refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;

"industrial complex" means an area used or zoned for industrial purposes, including bulk storage, manufacturing, processing or packaging purposes;

"large stock unit" means domesticated units including but not limited to cattle and horses, as well as game, including but not limited to antelope and buck with an average adult male live weight of 100 kilograms or more;

"linear activity" means an activity that is arranged in or extending along one or more properties and which affects the environment or any aspect of the environment along the course of the activity, and includes railways, roads, canals, channels, funiculars, pipelines, conveyor belts, cableways, power lines, fences, runways, aircraft landing strips, firebreaks and telecommunication lines;

"maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;

"maintenance management plan" means a management plan for maintenance purposes defined or adopted by the competent authority;

"marina" means a constructed waterway that is normally associated with residential or commercial use and that could include mooring facilities;

"phased activities" means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity, but excludes any activity for which an environmental authorisation has been obtained in terms of the Act or the Environment Conservation Act, 1989 (Act [No. 73 of 1989](#));

"previous NEMA notices" as contemplated in these transitional arrangements means the previous notices published in terms of section 24(2) of NEMA (Government Notices R. 386 and R. 387 in the *Government Gazette* of 21 April 2006, as amended, or Government Notice No. R. 544, 545 and 546 in the *Government Gazette* of 18 June 2010, as amended, or Government Notice No. R 983, 984 and 985 in the *Government Gazette* of 4 December 2014);

"small stock unit" means domesticated units, including sheep, goats and pigs, as well as game, including but not limited to antelope and buck with an average adult male live weight of less than 100 kilograms;

"the Act" means the National Environmental Management Act, 1998 (Act [No. 107 of 1998](#)), as amended;

"throughput capacity" means the design capacity or maximum capable capacity of a facility, structures or infrastructure, whichever is the greater;

"unit" in relation to a quantity standard for determining throughput of facilities or infrastructure for the slaughter of animals, has the meaning assigned to it in Regulations promulgated in terms of the Meat Safety Act, 2000 (Act [No. 40 of 2000](#));

"urban areas" means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas;

"watercourse" means-

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, pan, lake or dam into which, or from which, water flows; and any collection of water which the Minister may, by notice in the *Gazette*, declare to be a watercourse as defined in the National Water Act, 1998 (Act [No. 36 of 1998](#)); and

a reference to a watercourse includes, where relevant, its bed and banks; and

"wetland" means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

(2) The following words relevant to coastal activities will have the meaning assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act [No. 24 of 2008](#))-

- (a) "coastal public property";
- (b) "estuary";
- (c) "high-water mark";
- (d) "littoral active zone";
- (e) "sea"; and
- (f) "seashore".

(3) The following words will have the meaning assigned to them in terms of [section 1](#) of the Mineral and Petroleum Resources Development Act, 2002 (Act [No. 28 of 2002](#))-

- (a) "exploration right";
- (b) "mine";
- (c) "mineral";
- (d) "mining permit";
- (e) "mining right";
- (f) "petroleum";
- (g) "production right"; and
- (h) "prospecting right".

3. Identified activities and competent authorities.-(1) The activities listed in Appendix 1 are identified in terms of section 24 (2) (a) of the Act as activities that may not commence without an environmental authorisation from the competent authority.

(2) The investigation, assessment and communication of potential impact of activities must follow the procedure as prescribed in regulations 19 and 20 of the Environmental Impact Assessment Regulations published in terms of section 24 (5) of the Act.

4. Repeal of Notice 544 of 18 June 2010.-Notice No. 544 published in *Gazette* 33306 on 18 June 2010 is hereby repealed.

5. Short title.-This Listing Notice is called the Environmental Impact Assessment Regulations Listing Notice 1 of 2014, and takes effect on 8 December 2014.

APPENDIX 1

Identification of competent authority:

The competent authority in respect of the activities listed in this part of the Notice is the competent authority in the province in which the activity is to be undertaken, unless-

- (a) it is an application for an activity contemplated in section 24C (2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42 (1) of the Act; or
- (b) the listed or specified activity is or is directly related to-
 - (i) prospecting or exploration of a mineral or petroleum resource; or
 - (ii) extraction and primary processing of a mineral or petroleum resource;
 in which case the competent authority is the Minister responsible for mineral resources.

The exception mentioned in (b) above does not apply to the following activities contained in this Notice: 4; 5; 6; 7; 8; 23; 29; 30; 38; 39; 40; 41; 42; 43; 44; and 61.

APPENDIX 1

<i>Activity number</i>	<i>Activity description</i>	<i>Identification of competent authority</i>
1.	The development of facilities or infrastructure for the generation of electricity from a renewable resource where- <ul style="list-style-type: none"> (i) the electricity output is more than 10 megawatts but less than 20 megawatts; or (ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare; excluding where such development of facilities or infrastructure is for photovoltaic installations and	

	occurs-
	(a) within an urban area; or
	(b) on existing infrastructure.
2.	The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where-
	(i) the electricity output is more than 10 megawatts but less than 20 megawatts; or
	(ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare.
3.	The development and related operation of facilities or infrastructure for the slaughter of animals with a-
	(i) product throughput of poultry exceeding 50 poultry per day;
	(ii) product throughput of reptiles, game and red meat exceeding 6 units per day; or
	(iii) wet weight product throughput of fish, crustaceans or amphibians exceeding 20 000 kg per annum.
4.	The development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed-
	(i) 20 square metres per large stock unit and more than 500 units per facility;
	(ii) 8 square meters per small stock unit and-
	(a) more than 1 000 units per facility excluding pigs where (b) applies; or
	(b) more than 250 pigs per facility excluding piglets that are not yet weaned;
	(iii) 30 square metres per crocodile and more than 20 crocodiles per facility;
	(iv) 3 square metres per rabbit and more than 500 rabbits per facility; or
(v) 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.	
5.	The development and related operation of facilities or infrastructure for the concentration of-
	(i) more than 1 000 poultry per facility situated within an urban area, excluding chicks younger than 20 days;
	(ii) more than 5 000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days;
	(iii) more than 5 000 chicks younger than 20 days per facility situated within an urban area; or
	(iv) more than 25 000 chicks younger than 20 days per facility situated outside an urban area.
6.	The development and related operation of facilities, infrastructure or structures for aquaculture of-
	(i) finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or structures will have a production output exceeding 20 000 kg per annum (wet weight);
	(ii) molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30 000 kg per annum (wet weight); or

	(iii) aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60 000 kg per annum (wet weight);
	excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies.
7.	The development and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants, where the facility, infrastructure or structures will have a production output exceeding 50 000 kg per annum (wet weight).
8.	The development and related operation of hatcheries or agri-industrial facilities outside industrial complexes where the development footprint covers an area of 2 000 square metres or more.
9.	The development of infrastructure exceeding 1 000 metres in length for the bulk transportation of water or storm water-
	(i) with an internal diameter of 0,36 metres or more; or
	(ii) with a peak throughput of 120 litres per second or more;
	excluding where-
	(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or
	(b) where such development will occur within an urban area.
10.	The development and related operation of infrastructure exceeding 1 000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes -
	(i) with an internal diameter of 0,36 metres or more; or
	(ii) with a peak throughput of 120 litres per second or more;
	excluding where-
	(a) such infrastructure is for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve or railway line reserve; or
	(b) where such development will occur within an urban area.
11.	The development of facilities or infrastructure for the transmission and distribution of electricity-
	(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or
	(ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more;
	excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is-
	(a) temporarily required to allow for maintenance of existing infrastructure;

	(b) 2 kilometres or shorter in length;
	(c) within an existing transmission line servitude; and
	(d) will be removed within 18 months of the commencement of development
12.	The development of-
	(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
	(ii) infrastructure or structures with a physical footprint of 100 square metres or more;
	where such development occurs-
	(a) within a watercourse;
	(b) in front of a development setback; or
	(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse-
	excluding-
	(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
	(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
	(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;
	(dd) where such development occurs within an urban area;
(ee) where such development occurs within existing roads, road reserves or railway line reserves; or	
(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.	
13.	The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of activity 16 in Listing Notice 2 of 2014.
14.	The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.
15.	The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding-
	(i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
	(ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
	(iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of

	<p>the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.</p>
16.	The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.
17.	Development-
	(i) in the sea;
	(ii) in an estuary;
	(iii) within the littoral active zone;
	(iv) in front of a development setback; or
	(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;
	in respect of-
	(a) fixed or floating jetties and slipways;
	(b) tidal pools;
	(c) embankments;
	(d) rock revetments or stabilising structures including stabilising walls; or
	(e) infrastructure or structures with a development footprint of 50 square metres or more-
	but excluding-
	(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;	
(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or	
(dd) where such development occurs within an urban area.	
18.	The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where-
	(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or
	(ii) such planting of vegetation or placing of material will occur behind a development setback.
	The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

	but excluding where such infilling, depositing, dredging, excavation, removal or moving-	
19.	(a) will occur behind a development setback;	The competent authority in respect of the activities listed in this part of the Notice is the competent authority in the province in which the activity is to be undertaken, unless-
	(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;	
	(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;	
	(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or	
	(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.	
19A.	The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-	
	(i) the seashore;	(a) it is an application for an activity contemplated in section 24C (2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42 (1) of the Act;
	(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or	(b) the listed or specified activity is or is directly related to-
	(iii) the sea-	
	but excluding where such infilling, depositing, dredging, excavation, removal or moving-	
	(f) will occur behind a development setback;	
	(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;	
	(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;	(i) prospecting or exploration of a mineral or petroleum resource; or
	(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or	(ii) extraction and primary processing of a mineral or petroleum resource;
	where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.	in which case the competent authority is the Minister responsible for mineral resources;
20.	Any activity including the operation of that activity which requires a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including-	
	(a) associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource; or	
	(b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing;	
	but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in Listing Notice 2 applies.	The exception mentioned in (b) above does not apply to the following activities contained in this Notice: 4; 5; 6; 7; 8; 23; 29; 30; 38; 39; 40; 41; 42; 43; 44; and 61.
21.	Any activity including the operation of that activity which requires a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including-	
	(a) associated infrastructure, structures and earthworks, directly related to the extraction of a mineral resource ; or	

	<p>(b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing;</p> <p>but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in Listing Notice 2 applies.</p>
22.	The decommissioning of any activity requiring-
	(i) a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or
	(ii) a prospecting right, mining right, mining permit, production right or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure;
	but excluding the decommissioning of an activity relating to the secondary processing of a--
	(a) mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource; or
	(b) petroleum resource, including the refining of gas, beneficiation, oil or petroleum products-
	in which case activity 31 in this Notice applies.
23.	The development of cemeteries of 2 500 square metres or more in size.
	The development of a road-
	(i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or
24.	(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;
	but excluding a road-
	(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;
	(b) where the entire road falls within an urban area; or
	(c) which is 1 kilometre or shorter.
25.	The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of more than 2 000 cubic metres but less than 15 000 cubic metres.
	Residential, retail, recreational, tourism, commercial or institutional developments of 1 000 square metres or more, on land previously used for mining or heavy industrial purposes-
	excluding-
26.	(i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or
	(ii) where an environmental authorisation has been obtained for the decommissioning of

	such a mine or industry in terms of this Notice or any previous NEMA notice; or
	(iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.
27.	The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-
	(i) the undertaking of a linear activity; or
	(ii) maintenance puposes undertaken in accordance with a maintenance management plan.
28.	Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development-
	(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or
	(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;
	excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.
29.	The release of genetically modified organisms into the environment, where assessment for such release is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
30.	Any process or activity identified in terms of section 53 (1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
31.	The decommissioning of existing facilities, structures or infrastructure for-
	(i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
	(ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
	(iii)
	(iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or
	(v) any activity regardless the time the activity was commenced with, where such activity-
	(a) is similarly listed to an activity in (i) or (ii) above; and
	(b) is still in operation or development is still in progress;
	excluding where-
	(aa) activity 22 of this notice applies; or
(bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in	

	which case the National Environmental Management: Waste Act, 2008 applies.
32.	The continuation of any development where the environmental authorisation has lapsed and where the continuation of the development, after the date the environmental authorisation has lapsed, will meet the threshold of any activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014.
33.	The underground gasification of 300 kilograms or more coal per day, including any associated operation.
34.	The expansion of existing facilities or infrastructure for any process or activity where such expansion will result in the need for a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the release of emissions, effluent or pollution, excluding-
	(i) where the facility, infrastructure, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;
	(ii) the expansion of existing facilities or infrastructure for the treatment of effluent, wastewater, polluted water or sewage where the capacity will be increased by less than 15 000 cubic metres per day; or
	(iii) the expansion is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will be increased by 50 cubic meters or less per day.
35.	The expansion of residential, retail, recreational, tourism, commercial or institutional developments on land previously used for mining or heavy industrial purposes, where the increased development footprint will exceed 1 000 square meters;
	excluding-
	(i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or
	(ii) where an environmental authorisation has been obtained for the decommissioning of such a mine or industry in terms of this Notice or any previous NEMA notice; or
	(iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.
36.	The expansion of facilities or structures for the generation of electricity from a renewable resource where-
	(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or
	(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;

	excluding where such expansion of facilities or structures is for photovoltaic installations and occurs-
	(a) within an urban area; or
	(b) on existing infrastructure.
37.	The expansion and related operation of facilities for the generation of electricity from a non-renewable resource where-
	(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or
	(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more.
38.	The expansion and related operation of facilities for the slaughter of animals where the daily product throughput will be increased by more than-
	(i) 50 poultry;
	(ii) 6 units of reptiles, red meat and game; or
	(iii) 20 000 kg wet weight per annum of fish, crustaceans or amphibians.
39.	The expansion and related operation of facilities for the concentration of animals in densities that will exceed-
	(i) 20 square metres per large stock unit, where the expansion will constitute more than 500 additional units;
	(ii) 8 square meters per small stock unit, where the expansion will constitute more than;
	(a) 1 000 additional units per facility or more excluding pigs where (b) applies; or
	(b) 250 additional pigs, excluding piglets that are not yet weaned;
	(iii) 30 square metres per crocodile where the expansion will constitute an additional 20 crocodiles or more;
	(iv) 3 square metres per rabbit where the expansion will constitute more than 500 additional rabbits; or
	(v) 250 square metres per ostrich or emu where the expansion will constitute more than 50 additional ostriches or emus.
40.	The expansion and related operation of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by-
	(i) more than 1 000 poultry where the facility is situated within an urban area; or
	(ii) more than 5 000 poultry per facility situated outside an urban area.
41.	The expansion and related operation of facilities, infrastructure or structures for aquaculture of-
	(i) finfish, crustaceans, reptiles or amphibians, where the annual production output of such facility, infrastructure or structures will be increased by 20 000 kg (wet weight) or more;
	(ii) molluscs and echinoderms where the annual production output of such facility, infrastructure or structures will be increased by 30 000 kg (wet weight) or more; or

	<p>(iii) aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 60 000 kg (wet weight) or more;</p> <p>excluding where the expansion of facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 42 in this Notice will apply.</p>	
<p>(Editorial Note: Wording as per original <i>Government Gazette</i>. It is suggested that the word "applies" is intended to be "apply".)</p>		
42.	<p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 50 000 kg (wet weight) or more.</p>	
43.	<p>The expansion and related operation of hatcheries or agri-industrial facilities outside industrial complexes, where the development footprint of the hatcheries or agri-industrial facilities will be increased by 2 000 square metres or more.</p>	
44.	<p>The expansion of cemeteries by 2 500 square metres or more.</p>	
45.	<p>The expansion of infrastructure for the bulk transportation of water or storm water where the existing infrastructure-</p>	
	<p>(i) has an internal diameter of 0,36 metres or more; or</p>	
	<p>(ii) has a peak throughput of 120 litres per second or more; and</p>	
	<p>(a) where the facility or infrastructure is expanded by more than 1 000 metres in length; or</p>	
	<p>(b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;</p>	
	<p>excluding where such expansion-</p>	
	<p>(aa) relates to transportation of water or storm water within a road reserve or railway line reserve; or</p>	
<p>(bb) will occur within an urban area.</p>		
46.	<p>The expansion and related operation of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes where the existing infrastructure-</p>	
	<p>(i) has an internal diameter of 0,36 metres or more; or</p>	
	<p>(ii) has a peak throughput of 120 litres per second or more; and</p>	
	<p>(a) where the facility or infrastructure is expanded by more than 1 000 metres in length; or</p>	
	<p>(b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;</p>	
	<p>excluding where such expansion-</p>	
	<p>(aa) relates to the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes within a road reserve or railway line reserve; or</p>	

	(bb) will occur within an urban area.
47.	The expansion of facilities or infrastructure for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.
48.	The expansion of-
	(i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or
	(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;
	where such expansion occurs-
	(a) within a watercourse;
	(b) in front of a development setback; or
	(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;
	excluding-
	(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
	(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
	(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;
(dd) where such expansion occurs within an urban area; or	
(ee) where such expansion occurs within existing roads, road reserves or railway line reserves.	
49.	...
50.	The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50 000 cubic metres or more.
51.	The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.
52.	The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.
53.	The expansion and related operation of facilities for the desalination of water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.
	The expansion of facilities-
	(i) in the sea;
	(ii) in an estuary;

54.	(iii) within the littoral active zone;
	(iv) in front of a development setback; or
	(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;
	in respect of-
	(a) fixed or floating jetties and slipways;
	(b) tidal pools;
	(c) embankments;
	(d) rock revetments or stabilising structures including stabilising walls; or
	(e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,
	but excluding-
	(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or
	(bb) where such expansion occurs within an urban area.
55.	Expansion-
	(i) in the sea;
	(ii) in an estuary;
	(iii) within the littoral active zone;
	(iv) in front of a development setback; or
	(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;
	in respect of-
	(a) facilities associated with the arrival and departure of vessels and the handling of cargo;
	(b) piers;
	(c) inter- and sub-tidal structures for entrapment of sand;
	(d) breakwater structures;
	(e) coastal marinas;
	(f) coastal harbours or ports;
	(g) tunnels; or
(h) underwater channels;	
but excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.	
56.	The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre-
	(i) where the existing reserve is wider than 13,5 meters; or
	(ii) where no reserve exists, where the existing road is wider than 8 metres;
	excluding where widening or lengthening occur inside urban areas.
57.	The expansion and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage where the capacity will be increased by 15 000 cubic metres or more per day and the development footprint will increase

	by 1 000 square meters or more.	
58.	The increase of the amount of coal gasified underground, where any such increase exceeds 300 kg per day, including any associated operation.	
59.	The expansion and related operation of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products where the installed capacity of the facility will be increased by 50 cubic metres or more per day, excluding facilities for the refining, extraction or processing of gas from landfill sites.	
60.	The expansion and related operation of facilities or infrastructure for the bulk transportation of dangerous goods-	
	(i) in gas form, outside an industrial complex, by an increased throughput capacity of 700 tons or more per day;	
	(ii) in liquid form, outside an industrial complex or zone, by an increased throughput capacity of 50 cubic metres or more per day; or	
	(iii) in solid form, outside an industrial complex or zone, by an increased throughput capacity of 50 tons or more per day.	
61.	The expansion of airports where the development footprint will be increased.	
62.	...	
63.	The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following-	
	(i) water catchments;	
	(ii) water treatment works; or	
	(iii) impoundments;	
	where the capacity will be increased by 50 000 cubic metres or more per day, but excluding water treatment works where water is treated for drinking purposes.	
64.	The expansion of railway lines, stations or shunting yards where there will be an increased development footprint, excluding-	
	(i) railway lines, shunting yards and railway stations in industrial complexes or zones;	
	(ii) underground railway lines in mines; or	
	(iii) additional railway lines within the railway line reserve.	
65.	The expansion and related operation of-	
	(i) an anchored platform; or	
	(ii) any other structure or infrastructure;	
	on or along the sea bed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes.	
66.	The expansion of a dam where-	
	(i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or	
	(ii) where the high-water mark of the dam will be increased with 10 hectares or more.	

67.	Phased activities for all activities-
	(i) listed in this Notice, which commenced on or after the effective date of this Notice or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;
	excluding the following activities listed in this Notice-
	17 (i) (a-d);
	17 (ii) (a-d);
	17 (iii) (a-d);
	17 (iv) (a-d);
	17 (v) (a-d);
	20;
	21;
	22;
	24 (i);
	29;
	30;
	31;
	32;
	34;
	54 (i) (a-d);
	54 (ii) (a-d);
	54 (iii) (a-d);
	54 (iv) (a-d);
	54 (v) (a-d);
	55;
	61;
	64; and
	65; or
	(ii) listed as activities 5, 7, 8 (ii), 11, 13, 16, 27 (i) or 27 (ii) in Listing Notice 2 of 2014 or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;
where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.	

1. Definitions.-(1) In this Act, unless the context indicates otherwise-

"air pollution" means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

"air quality management plan" means a plan referred to in [section 15](#);

"air quality officer" means an officer appointed in terms of [section 14](#) as an air quality officer;

"ambient air" excludes air regulated by the Occupational Health and Safety Act, 1993 ([Act No. 85 of 1993](#));

"atmospheric emission" or **"emission"** means any emission or entrainment process emanating from a point, non-point or mobile source that results in air pollution;

"atmospheric emission licence" means an atmospheric emission licence contemplated in [Chapter 5](#);

"Atmospheric Pollution Prevention Act" means the Atmospheric Pollution Prevention Act, 1965 ([Act No. 45 of 1965](#));

"commissioning" means the commencement of a listed activity;

[Definition of "[commissioning](#)" inserted by [s. 1 \(a\) of Act No. 20 of 2014.](#)]

"controlled emitter" means any appliance or activity declared as a controlled emitter in terms of [section 23](#);

"Department" means the Department responsible for environmental affairs;

[Definition of "[Department](#)" substituted by [s. 1 \(b\) of Act No. 20 of 2014.](#)]

Wording of Sections

"environment" has the meaning assigned to it [section 1](#) of the National Environmental Management Act;

"Environment Conservation Act"

[Definition of "[Environment Conservation Act](#)" deleted by [s. 1 \(c\) of Act No. 20 of 2014.](#)]

Wording of Sections

"Gazette" when used in relation to-

- (a) the Minister, means the *Government Gazette*; and
- (b) the MEC, means the *Provincial Gazette* of the province concerned;

"greenhouse gas" means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation, and includes carbon dioxide, methane and nitrous oxide;

"licensing authority" means an authority referred to in [section 36 \(1\), \(2\), 3A, \(4\) or \(5\)](#) responsible for implementing the licensing system set out in [Chapter 5](#);

[Definition of "[licensing authority](#)" substituted by [s. 1 \(d\) of Act No. 20 of 2014.](#)]

Wording of Sections

"listed activity" means any activity listed in terms of [section 21](#);

"MEC" means the member of the Executive Council of a province who is responsible for air quality management in the province;

"Minister" means the Minister responsible for environmental affairs.

[Definition of "[Minister](#)" substituted by [s. 1 \(e\) of Act No. 20 of 2014.](#)]

Wording of Sections

"mobile source" means a single identifiable source of atmospheric emission which does not emanate from a fixed location;

"municipality" means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 ([Act No. 117 of 1998](#));

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 ([Act No. 32 of 2000](#));

"National Environmental Management Act" means the National Environmental Management Act, 1998 ([Act No. 107 of 1998](#));

"national framework" means the framework established in terms of [section 7 \(1\)](#);

"non-point source" means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location, and includes veld, forest and open fires, mining activities, agricultural activities and stockpiles;

"offensive odour" means any smell which is considered to be malodorous or a nuisance to a reasonable person;

"organ of state" has the meaning assigned to it in [section 239](#) of [the Constitution](#);

"ozone-depleting substance" means a substance having chemical or physical properties which, by its release into the atmosphere, can cause a depletion of the stratospheric ozone layer;

"point source" means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;

"pollution" has the meaning assigned to it in [section 1](#) of the National Environmental Management Act;

"priority area" means an area declared as such in terms of [section 18](#);

"priority area air quality management plan" means a plan referred to in [section 19](#);

"provisional atmospheric emission licence" means a provisional atmospheric emission licence contemplated in [Chapter 5](#);

"this Act" includes-

- (a) the national framework;

(b) any regulation made in terms of this Act; and

(c) any other subordinate legislation issued in terms of this Act.

(2) In this Act, a word or expression derived from a word or expression defined in [subsection \(1\)](#) has a corresponding meaning unless the context indicates that another meaning is intended.

2. Object of Act.-The object of this Act is-

(a) to protect the environment by providing reasonable measures for-

(i) the protection and enhancement of the quality of air in the Republic;

(ii) the prevention of air pollution and ecological degradation; and

(iii) securing ecologically sustainable development while promoting justifiable economic and social development; and

(b) generally to give effect to [section 24 \(b\)](#) of [the Constitution](#) in order to enhance the quality of ambient air for the sake of securing an environment that is not harmful to the health and well-being of people.

3. General duty of State.-In fulfilling the rights contained in [section 24](#) of [the Constitution](#), the State-

(a) through the organs of state applying this Act, must seek to protect and enhance the quality of air in the Republic; and

(b) must apply this Act in a manner that will achieve the progressive realisation of those rights.

4. Application of Act.-(1) This Act also applies to the exclusive economic zone and continental shelf of the Republic referred to in [sections 7](#) and [8](#), respectively, of the Maritime Zones Act, 1994 ([Act No. 15 of 1994](#)).

(2) This Act binds all organs of state-

(a) in the national and local spheres of government; and

(b) in the provincial sphere of government, subject to [section 146](#) of [the Constitution](#).

5. Application of National Environmental Management Act.-(1) This Act must be read with any applicable provisions of the National Environmental Management Act.

(2) The interpretation and application of this Act must be guided by the national environmental management principles set out in [section 2](#) of the National Environmental Management Act.

6. Conflicts with other legislation.-(1) In the event of any conflict between a section of this Act and-

(a) provincial legislation, the conflict must be resolved in terms of [section 146](#) of [the Constitution](#);

(b) a municipal by-law, the section of this Act prevails.

(2) In the event of any conflict between subordinate legislation issued in terms of this Act and-

(a) an Act of Parliament, the Act of Parliament prevails;

(b) provincial legislation, the conflict must be resolved in terms of [section 146](#) of [the Constitution](#); and

(c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.

(3) For the proper application of [subsection \(2\) \(b\)](#) the Minister must, in terms of [section 146 \(6\)](#) of [the Constitution](#), submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval.

CHAPTER 2
NATIONAL FRAMEWORK AND NATIONAL, PROVINCIAL AND LOCAL STANDARDS

Part 1:
National framework

7. Establishment.-(1) The Minister must, within two years of the date on which this section took effect, by notice in the *Gazette*, establish a national framework for achieving the object of this Act, which must include-

- (a) mechanisms, systems and procedures to attain compliance with ambient air quality standards;
- (b) mechanisms, systems and procedures to give effect to the Republic's obligations in terms of international agreements;
- (c) national norms and standards for the control of emissions from point and non-point sources;
- (d) national norms and standards for air quality monitoring;
- (e) national norms and standards for air quality management planning;
- (f) national norms and standards for air quality information management; and
- (g) any other matter which the Minister considers necessary for achieving the object of this Act.

(2) National norms and standards established in terms of [subsection \(1\)](#) must be aimed at ensuring-

- (a) opportunities for public participation in the protection and enhancement of air quality;
- (b) public access to air quality information;
- (c) the prevention of air pollution and degradation of air quality;
- (d) the reduction of discharges likely to impair air quality, including the reduction of air pollution at source;
- (e) the promotion of efficient and effective air quality management;
- (f) effective air quality monitoring;
- (g) regular reporting on air quality; and
- (h) compliance with the Republic's obligations in terms of international agreements.

(3) The national framework-

- (a) binds all organs of state in all spheres of government; and
- (b) may assign and delineate responsibilities for the implementation of this Act amongst-
 - (i) the different spheres of government; and
 - (ii) different organs of state.

(4) An organ of state must give effect to the national framework when exercising a power or performing a duty in terms of this Act or any other legislation regulating air quality management.

(5) The national framework-

- (a) may differentiate between different geographical areas;
- (b) may provide for the phasing in of its provisions;
- (c) may be amended; and
- (d) must be reviewed by the Minister at intervals of not more than five years.

(6) (a) Before publishing the national framework, or any amendment to the framework, the Minister must follow a consultative process in accordance with [sections 56](#) and [57](#).

- (b) [Paragraph \(a\)](#) need not be complied with if the framework is amended in a non-substantive way.

8. National monitoring and information management standards.-The national framework must establish national standards for-

- (a) municipalities to monitor-
 - (i) ambient air quality; and
 - (ii) point, non-point and mobile source emissions;
- (b) provinces to monitor-
 - (i) ambient air quality; and
 - (ii) the performance of municipalities in implementing this Act; and
- (c) the collection and management of data necessary to assess-

- (i) compliance with this Act;
- (ii) compliance with ambient air quality and emission standards;
- (iii) the performance of organs of state in respect of air quality management plans and priority area air quality management plans;
- (iv) the impact of, and compliance with, air quality management plans and priority area air quality management plans;
- (v) compliance with the Republic's obligations in terms of international agreements; and
- (vi) access to information by the public.

Part 2:

National, provincial and local ambient air quality and emission standards

9. National standards.-(1) The Minister, by notice in the *Gazette*-

- (a) must identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment or which the Minister reasonably believes present such a threat; and
- (b) must, in respect of each of those substances or mixtures of substances, establish national standards for ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; and
- (c) may, in respect of each of those substances or mixtures of substances, establish national standards for emissions from point, non-point or mobile sources.

(2) [Section 7 \(3\) \(a\), \(4\), \(5\) and \(6\)](#), with the necessary changes as the context may require, apply to a notice published in terms of this section.

10. Provincial standards.-(1) The MEC may, by notice in the *Gazette*-

- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the province or which the MEC reasonably believes present such a threat; and
- (b) in respect of each of those substances or mixtures of substances, establish provincial standards for-
 - (i) ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; or
 - (ii) emissions from point, non-point or mobile sources in the province or in any geographical area within the province.

(2) If national standards have been established in terms of [section 9](#) for any particular substance or mixture of substances, the MEC may not alter any such national standards except by establishing stricter standards for the province or for any geographical area within the province.

(3) A notice issued under this section may-

- (a) differentiate between different geographical areas within the province;
- (b) provide for the phasing in of its provisions; and
- (c) be amended.

(4) (a) Before publishing a notice in terms of this section, or any amendment to the notice, the MEC must follow a consultative process in accordance with [sections 56](#) and [57](#).

(b) [Paragraph \(a\)](#) need not be complied with if the notice is amended in a non-substantive way.

11. Local Standards.-(1) A municipality may in terms of a by-law-

- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the municipality or which the municipality reasonably believes present such a threat; and
- (b) in respect of each of those substances or mixtures of substances, establish local standards for emissions from point, non-point or mobile sources in the municipality.

(2) If national or provincial standards have been established in terms of [section 9](#) or [10](#) for any particular substance or mixture of substances, a municipality may not alter any such national or provincial standards except by establishing stricter standards for the municipality or any part of the municipality.

(3) A notice issued under this section may-

- (a) provide for the phasing in of its provisions; and
- (b) be amended.

(4) Before a municipality passes a by-law referred to in [subsection \(1\)](#), it must follow a consultative process in terms of [Chapter 4](#) of the Municipal Systems Act.

*Part 3:
General*

12. Ambient air quality and emission measurements.-For the purpose of this Chapter, the Minister must prescribe the manner in which-

- (a) ambient air quality measurements must be carried out;
- (b) measurements of emissions from point, non-point or mobile sources must be carried out; and
- (c) the form in which such measurements must be reported and the organs of state to whom such measurements must be reported.

CHAPTER 3
INSTITUTIONAL AND PLANNING MATTERS

13. National Air Quality Advisory Committee.-(1) The Minister must, by notice in the *Gazette*, establish the National Air Quality Advisory Committee in terms of this Act.

[\[Sub-s. \(1\) substituted by s. 2 \(a\) of Act No. 20 of 2014.\]](#)

Wording of Sections

(2) When establishing the Committee, the Minister-

- (a) must determine the composition of the Committee, including the appointment, tenure and termination of service of members of the Committee;
- (b) must determine the conditions of appointment of members of the Committee;
- (c) must determine the functions and functioning of the Committee; and
- (d) may prescribe any other matter relating to the Committee.

[\[Para. \(d\) substituted by s. 2 \(b\) of Act No. 20 of 2014.\]](#)

Wording of Sections

(3) The object of the Committee is to advise the Minister on any air quality related matter as the Minister may determine from time to time.

[\[Sub-s. \(3\) added by s. 2 \(c\) of Act No. 20 of 2014.\]](#)

14. Appointment of air quality officers.-(1) The Minister must designate an officer in the Department as the national air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the national government.

(2) The MEC must designate an officer in the provincial administration as the provincial air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the province.

(3) Each municipality must designate an air quality officer from its administration to be responsible for co-ordinating matters pertaining to air quality management in the municipality.

(4) (a) An air quality officer must perform the duties or exercise the powers assigned or delegated to that officer in terms of this Act.

(b) An air quality officer may delegate a power or assign a duty to an official in the service of that officer's administration, subject to such limitations or conditions as may be prescribed by the Minister.

(5) Air quality officers must co-ordinate their activities in such a manner as may be set out in the national framework or prescribed by the Minister.

15. Air quality management plans.-(1) Each national department or province responsible for preparing an environmental implementation plan or environmental management plan in terms of [Chapter 3](#) of the National Environmental Management Act must include in that plan an air quality management plan.

(2) Each municipality must include in its integrated development plan contemplated in [Chapter 5](#) of the Municipal Systems Act, an air quality management plan.

16. Contents of air quality management plans.-(1) An air quality management plan must-

- (a) within the domain of the relevant national department, province or municipality, seek-
 - (i) to give effect, in respect of air quality, to [Chapter 3](#) of the National Environmental Management Act to the extent that that Chapter is applicable to it;
 - (ii) to improve air quality;
 - (iii) to identify and reduce the negative impact on human health and the environment of poor air quality;
 - (iv) to address the effects of emissions from the use of fossil fuels in residential applications;
 - (v) to address the effects of emissions from industrial sources;
 - (vi) to address the effects of emissions from any point or non-point source of air pollution other than those contemplated in [subparagraph \(iii\)](#) or [\(iv\)](#);
 - (vii) to implement the Republic's obligations in respect of international agreements; and
 - (viii) to give effect to best practice in air quality management;
- (b) describe how the relevant national department, province or municipality will give effect to its air quality management plan; and
- (c) comply with such other requirements as may be prescribed by the Minister.

17. Reporting on implementation of air quality management plans.-The annual report which an organ of state must submit in terms of [section 16 \(1\) \(b\)](#) of the National Environmental Management Act must contain information on the implementation of its air quality management plan, including information on-

- (a) air quality management initiatives undertaken by it during the reporting period;
- (b) the level of its compliance with ambient air quality standards;
- (c) measures taken by it to secure compliance with those standards;
- (d) its compliance with any priority area air quality management plans applicable to it; and
- (e) its air quality monitoring activities.

CHAPTER 4 AIR QUALITY MANAGEMENT MEASURES

Part 1: Priority areas

18. Declaration of priority areas.-(1) The Minister or MEC may, by notice in the *Gazette*, declare an area as a priority area if the Minister or MEC reasonably believes that-

- (a) ambient air quality standards are being, or may be, exceeded in the area, or any other situation exists which is causing, or may cause, a significant negative impact on air quality in the area; and
- (b) the area requires specific air quality management action to rectify the situation.

(2) The Minister may act under [subsection \(1\)](#), if-

- (a) the negative impact on air quality in the area-
 - (i) affects the national interest; or
 - (ii) is contributing, or is likely to contribute, to air pollution in another country;

(b) the area extends beyond provincial boundaries; or

(c) the area falls within a province and the province requests the Minister to declare the area as a priority area.

(3) The MECs of two or more adjoining provinces may by joint action in terms of [subsection \(1\)](#) declare an area falling within those provinces as a priority area.

(4) Before publishing a notice in terms of [subsection \(1\)](#), the Minister or the relevant MEC or MECs must follow a consultative process in accordance with [sections 56](#) and [57](#).

(5) The Minister or MEC may, by notice in the *Gazette*, withdraw the declaration of an area as a priority area if the area is in compliance with ambient air quality standards for a period of at least two years.

19. Management of priority areas.-(1) If the Minister has in terms of [section 18](#) declared an area as a priority area, the national air quality officer must-

(a) after consulting the air quality officers of any affected province and municipality, prepare a priority area air quality management plan for the area; and

(b) within six months of the declaration of the area, or such longer period as the Minister may specify, submit the plan to the Minister for approval.

(2) If the MEC has in terms of [section 18](#) declared an area as a priority area, the air quality officer of the relevant province must-

(a) after consulting the national air quality officer and the air quality officer of any affected municipality, prepare a priority area air quality management plan for the area; and

(b) within six months of the declaration of the area, or such longer period as the MEC may specify, submit the plan to the MEC for approval.

(3) If the MECs in two or more adjoining provinces have by joint action in terms of [section 18](#) declared an area as a priority area, the air quality officers of the relevant provinces must jointly-

(a) after consulting the national air quality officer and the air quality officers of the affected municipalities, prepare a priority area air quality management plan for the area; and

(b) within six months of the declaration of the area, or such longer period as the relevant MECs may specify, submit the plan to the MECs for approval.

(4) Before approving a priority area air quality management plan, the Minister or the relevant MEC or MECs-

(a) must follow a consultative process in accordance with [sections 56](#) and [57](#);

(b) may require the relevant air quality officer to amend the plan within a period determined by the Minister or the relevant MEC or MECs.

(5) (a) The Minister or the relevant MEC or MECs must publish an approved plan in the *Gazette* within 90 days of approval.

(b) The approved plan takes effect from the date of its publication.

(6) A priority area air quality management plan must-

(a) be aimed at co-ordinating air quality management in the area;

(b) address issues related to air quality in the area; and

(c) provide for the implementation of the plan by a committee representing relevant role-players.

(7) A priority area air quality management plan lapses when the declaration of the area as a priority area is withdrawn in terms of [section 18 \(5\)](#).

20. Regulations for implementing and enforcing priority area air quality management plans.-The Minister or MEC may prescribe regulations necessary for implementing and enforcing approved priority area air quality management plans, including-

(a) funding arrangements;

(b) measures to facilitate compliance with such plans;

(c) penalties for any contravention of or any failure to comply with such plans; and

(d) regular review of such plans.

Part 2:

Listing of activities resulting in atmospheric emissions

21. Listing of activities.-(1) The Minister must, or the MEC may, by notice in the *Gazette*-

- (a) publish a list of activities which result in atmospheric emissions and which the Minister or MEC reasonably believes have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage; and
- (b) when necessary, amend the list by-
 - (i) adding to the list activities in addition to those contemplated in [paragraph \(a\)](#);
 - (ii) removing activities from the list; or
 - (iii) making other changes to particulars on the list.

(2) A list published by the Minister applies nationally and a list published by the MEC applies to the relevant province only.

(3) A notice referred to in [subsection \(1\)](#)-

- (a) must establish minimum emission standards in respect of a substance or mixture of substances resulting from a listed activity and identified in the notice, including-
 - (i) the permissible amount, volume, emission rate or concentration of that substance or mixture of substances that may be emitted; and
 - (ii) the manner in which measurements of such emissions must be carried out;
- (b) may contain transitional and other special arrangements in respect of activities which are carried out at the time of their listing; and
- (c) must determine the date on which the notice takes effect.

(4) (a) Before publishing a notice in terms of [subsection \(1\)](#) or any amendment to the notice, the Minister or MEC must follow a consultative process in accordance with [sections 56](#) and [57](#).

(b) [Paragraph \(a\)](#) need not be complied with if the notice is amended in a non-substantive way.

(Date of commencement of [s. 21](#): 1 April, 2010.)

22. Consequences of listing.-No person may without a provisional atmospheric emission licence or an atmospheric emission licence conduct an activity-

- (a) listed on the national list anywhere in the Republic; or
- (b) listed on the list applicable in a province anywhere in that province.

(Date of commencement of [s. 22](#): 1 April, 2010.)

22A. Consequences of unlawful conduct of listed activity resulting in atmospheric emission.-(1) Section 24G of the National Environmental Management Act, 1998, as amended, applies to the commencement, without an environmental authorisation, of a listed activity or the activity specified in item 2 in Listing Notice 1 and items 5 and 26 in Listing Notice 2, relating to air quality in terms of [Chapter 5](#) of the National Environmental Management Act, 1998.

(2) [Subsections \(4\) to \(10\)](#) are applicable to the operating, without a provisional registration or registration certificate, of a scheduled process in terms of the Atmospheric Pollution Prevention Act, 1965, at any time prior to the commencement of this Act.

(3) [Subsections \(4\) to \(10\)](#) are applicable to the conducting, without a provisional atmospheric emission licence or an atmospheric emission licence, of an activity listed in terms of [section 21](#) of this Act which results in atmospheric emission.

(4) On application by a person who conducted an activity contemplated in [subsection \(2\)](#) or [\(3\)](#), the licensing authority may direct the applicant to-

- (a) immediately cease the activity pending a decision on the application submitted in terms of this section;
- (b) investigate, evaluate and assess the impact of the activity on the environment, including the ambient air and human health;
- (c) remedy any adverse effect of the activity on the environment, including the ambient air, and human health;
- (d) cease, modify or control any act, activity, process or omission causing atmospheric emission;

- (e) eliminate any source of atmospheric emission;
- (f) compile a report containing-
 - (i) a description of the need and desirability of the activity;
 - (ii) an assessment of the nature, extent, duration and significance of the consequences for or impacts on the environment, including the ambient air, and human health of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
 - (iii) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment, including the ambient air, and human health of the activity;
 - (iv) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how issues raised have been addressed;
 - (v) an environmental management programme; or
- (g) provide such other information or undertake such further studies as the licensing authority may deem necessary.

(5) The licensing authority must consider any reports or information submitted in terms of subsection (4) and thereafter may-

- (a) refuse to issue an atmospheric emission licence;
- (b) issue an atmospheric emission licence to such person to conduct the activity subject to such conditions as the licensing authority may deem necessary, which atmospheric emission licence shall only take effect from the date on which it has been issued; or
- (c) direct the applicant to provide further information or take further steps prior to making a decision in terms of paragraphs (a) or (b).

(6) The licensing authority may as part of the decision contemplated in subsection (5), direct a person to-

- (a) rehabilitate the environment within such time and subject to such conditions as the licensing authority may deem necessary;
- (b) prevent or eliminate any source of atmospheric emission from the activity within such time and subject to such conditions as the licensing authority may deem necessary; or
- (c) take any other steps necessary under the circumstances.

(7) A person contemplated in subsection (4) must pay an administrative fine, which may not exceed R5 million and which must be determined by the licensing authority, before the licensing authority may act in terms of subsection 5 (a) or (b).

(8) In considering a decision contemplated in subsection (5) (a) or (b), the licensing authority may take into account whether or not the applicant complied with any directive issued in terms of subsections (4) or (5) (c).

(9) The submission of an application in terms of subsection (4) or the issuing of an atmospheric emission licence in terms of subsection 5 (b) or the payment of the administrative fine in terms of subsection (7) shall-

- (a) in no way derogate from the environmental management inspector's or the South African Police Services' authority to investigate any transgression of this Act; or
- (b) in no way derogate from the National Prosecuting Authority's legal authority to institute any criminal prosecution; and
- (c) not indemnify the applicant from liability in terms of section 51 (1) (a) for having contravened section 22.

(10) If, at any stage after the submission of an application in terms of subsection (4), it comes to the attention of the licensing authority, that the applicant is under criminal investigation for the contravention of or failure to comply with section 22, the licensing authority may defer a decision to issue an atmospheric emission licence until such time that the investigation is concluded and-

- (a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;
- (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or
- (c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

[S. 22A inserted by s. 3 of Act No. 20 of 2014.]

*Part 3:
Controlled emitters*

23. Controlled emitters.-(1) The Minister or MEC may, by notice in the *Gazette*, declare any appliance or activity, or any appliance or activity falling within a specified category, as a controlled emitter if such appliance or activity, or appliances or activities falling within such category, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes presents such a threat.

(2) Before publishing a notice in terms of [subsection \(1\)](#) or any amendment to the notice, the Minister or MEC must-

- (a) follow a consultative process in accordance with [sections 56](#) and [57](#);
- (b) apply the precautionary principle contained in section 2 (4) (a) (vii) of the National Environmental Management Act;
- (c) take into account the Republic's obligations in terms of any applicable international agreement; and
- (d) consider-
 - (i) any sound scientific information; and
 - (ii) any risk assessments.

(3) [Subsection \(2\)](#) need not be complied with if the notice is amended in a non-substantive way.

24. Standards for controlled emitters.-(1) A notice contemplated in [section 23 \(1\)](#) must establish emission standards, which must include standards setting the permissible amount, volume, emission rate or concentration of any specified substance or mixture of substances that may be emitted from the controlled emitter.

(2) The Minister must prescribe the manner in which measurements of emissions from controlled emitters must be carried out.

25. Consequences of declaration.-(1) No person may manufacture, sell or use any appliance or conduct an activity declared as a controlled emitter unless that appliance or activity complies with the standards established in terms of [section 24](#).

(2) [Subsection \(1\)](#) applies-

- (a) nationwide in respect of an appliance or activity declared by the Minister; or
- (b) in a relevant province only in respect of an appliance or activity declared by the MEC responsible for air quality in that province.

*Part 4:
Controlled fuels*

26. Controlled fuels.-(1) The Minister or MEC may, by notice in the *Gazette*, declare a substance or mixture of substances which, when used as a fuel in a combustion process, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes present such a threat, as a controlled fuel.

(2) Before publishing a notice in terms of [subsection \(1\)](#) or any amendment to the notice, the Minister or MEC must-

- (a) follow a consultative process in accordance with [sections 56](#) and [57](#);
- (b) apply the precautionary principle contained in section 2 (4) (a) (vii) of the National Environmental Management Act;
- (c) take into account the Republic's obligations in terms of any applicable international agreement; and
- (d) consider-
 - (i) any sound scientific information; and
 - (ii) any risk assessments.

(3) [Subsection \(2\)](#) need not be complied with if the notice is amended in a non-substantive way.

27. Use and prohibition of controlled fuels.-A notice contemplated in [section 26 \(1\)](#) may-

- (a) establish standards for the use of the controlled fuel in combustion processes;
- (b) establish standards for the manufacture or sale of the controlled fuel;
- (c) establish specifications, including maximum or minimum levels or concentrations of the constituents of substances or mixtures of substances, for the composition of controlled fuels;
- (d) prohibit the manufacture, sale or use of the controlled fuel;
- (e) differentiate between different geographical areas;
- (f) provide for the phasing in of its provisions; and
- (g) be amended.

28. Consequences of declaration.-(1) No person may manufacture, sell or use a controlled fuel unless that manufacture, sale or use complies with the standards established in terms of [section 27](#).

(2) No person may manufacture, sell or use a prohibited controlled fuel unless that manufacture, sale or use complies with any conditions of manufacture, sale or use established in terms of [section 27](#).

(3) [Subsections \(1\)](#) and [\(2\)](#) apply-

- (a) nationwide in respect of a substance or mixture of substances declared by the Minister; or
- (b) in a relevant province only in respect of a substance or mixture of substances declared by the MEC responsible for air quality in that province.

*Part 5:
Other measures*

29. Pollution prevention plans.-(1) The Minister or MEC may, by notice in the *Gazette*-

- (a) declare any substance contributing to air pollution as a priority air pollutant; and
- (b) require persons falling within a category specified in the notice to prepare, submit to the Minister or MEC for approval, and implement pollution prevention plans in respect of a substance declared as a priority air pollutant in terms of [paragraph \(a\)](#).

(2) The Minister or MEC may, by written notice to a person conducting a listed activity which involves the emission of a substance declared as a priority air pollutant, require that person to prepare, submit to the Minister or MEC for approval and implement a pollution prevention plan, whether or not that person falls within a category specified in terms of [subsection \(1\) \(b\)](#).

(3) Pollution prevention plans must comply with such requirements as may be prescribed by the Minister or MEC.

(4) A notice contemplated in [subsection \(1\) \(b\)](#) or [\(2\)](#) must contain a requirement that the person indicated in the notice monitors, evaluates and reports on the implementation of the pollution prevention plan that has been approved in terms of [subsection \(1\) or \(2\)](#).

[\[Sub-s. \(4\) added by s. 4 of Act No. 20 of 2014.\]](#)

30. Atmospheric impact reports.-An air quality officer may require any person to submit to the air quality officer an atmospheric impact report in a prescribed form if-

- (a) the air quality officer reasonably suspects that the person has on one or more occasions contravened or failed to comply with this Act or any conditions of a licence and that such contravention or failure has had, or may have, a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, or has contributed to the degradation of ambient air quality; or
- (b) a review of a provisional atmospheric emission licence or an atmospheric emission licence is undertaken in terms of [section 45](#).

31. Recognition programmes.-An air quality officer may establish a programme for the public recognition of significant achievements in the area of pollution prevention.

32. Control of dust.-The Minister or MEC may prescribe-

- (a) measures for the control of dust in specified places or areas, either in general or by specified machinery or in specified instances;
- (b) steps that must be taken to prevent nuisance by dust; or
- (c) other measures aimed at the control of dust.

33. Rehabilitation when mining operations cease.-If it is determined that a mine, having regard to its known ore reserves, is likely to cease mining operations within a period of five years, the owner of that mine must promptly notify the Minister in writing-

- (a) of the likely cessation of those mining operations; and
- (b) of any plans that are in place or in contemplation for-
 - (i) the rehabilitation of the area where the mining operations were conducted after mining operations have stopped; and
 - (ii) the prevention of pollution of the atmosphere by dust after those operations have stopped.

34. Control of noise.-(1) The Minister may prescribe essential national standards-

- (a) for the control of noise, either in general or by specified machinery or activities or in specified places or areas; or
- (b) for determining-
 - (i) a definition of noise; and
 - (ii) the maximum levels of noise.

(2) When controlling noise the provincial and local spheres of government are bound by any prescribed national standards.

35. Control of offensive odours.-(1) The Minister or MEC may prescribe measures for the control of offensive odours emanating from specified activities.

(2) The occupier of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.

CHAPTER 5
LICENSING OF LISTED ACTIVITIES

36. Licensing authority.-(1) Metropolitan and district municipalities are charged with implementing the atmospheric emission licensing system referred to in [section 22](#), and must for this purpose perform the functions of licensing authority as set out in this Chapter and other provisions of this Act, subject to [subsections \(2\), \(3\) and \(4\)](#).

(2) If a metropolitan or district municipality has delegated its functions of licensing authority to a provincial organ of state in terms of [section 238](#) of [the Constitution](#), that provincial organ of state must for the purposes of this Act be regarded as the licensing authority in the area of that municipality.

(3)

[\[Sub-s. \(3\) deleted by s. 5 \(a\) of Act No. 20 of 2014.\]](#)

[Wording of Sections](#)

(3A) (a) In accordance with [sections 125 \(2\) \(b\) and 156 \(1\) \(b\) of the Constitution](#) whenever a licensing authority fails to take a decision on an application for an atmospheric emission licence within the time period set out in [section 40 \(3\) or \(3A\)](#) of this Act, the person that applied for an atmospheric emission licence may apply to the Minister or MEC, as the case may be, to take the decision.

(b) The person contemplated in [paragraph \(a\)](#) must notify the licensing authority in writing of the intention

to exercise the option in [paragraph \(a\)](#) at least 30 days prior to the exercising of such option.

(c) The application contemplated in [paragraph \(a\)](#) must, at least, contain all the documents submitted to the licensing authority in order to enable the Minister or MEC, as the case may be, to take a decision.

(d) Before taking a decision as contemplated in [paragraph \(a\)](#), the Minister or MEC must request the licensing authority to provide him or her with a report within a specified time period on the status and causes of delay in the application.

(e) After having received the report referred to in [paragraph \(d\)](#) or in the event that no response or no satisfactory response or cooperation is received from the licensing authority within the specified time period the Minister or MEC, as the case may be, must, where appropriate-

- (i) inform the person that applied for an atmospheric emission licence in the event that the licensing authority has complied with the relevant prescripts;
- (ii) assist the licensing authority in accordance with [sections 125 \(3\)](#) and [155 \(7\)](#) of [the Constitution](#) to fulfil its obligations under this Act; or
- (iii) direct the licensing authority to take the decision and such other steps as the Minister or MEC, as the case may be, may deem necessary, within a specified time period.

(f) In the event that the licensing authority fails to take the decision within the specified time period or in any other manner fails to comply with the directive contemplated in [paragraph \(e\) \(iii\)](#), the Minister or MEC, as the case may be, must take the decision within a reasonable period of time.

(g) The Minister or MEC, as the case may be, must, simultaneously with the submission of the annual report contemplated in [section 40 \(1\) \(d\) \(i\)](#) of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)), submit a report to Parliament or Provincial Legislature, as the case may be, setting out the details regarding the exercise of the power referred to in this section during the previous financial year.

[[Sub-s. \(3A\)](#) inserted by [s. 5 \(b\)](#) of [Act No. 20 of 2014](#).]

(3B) The MEC or Minister, as the case may be, must make a decision on the application contemplated in [subsection \(3A\) \(a\)](#), within a reasonable period of time from the date of receipt of the application.

[[Sub-s. \(3B\)](#) inserted by [s. 5 \(b\)](#) of [Act No. 20 of 2014](#).]

(3C) In the event that the MEC fails to make a decision on the application, within a reasonable period of time, as contemplated in [subsection \(3B\)](#), the applicant may submit the application to the Minister for a decision in terms of [subsection \(3A\) \(a\)](#).

[[Sub-s. \(3C\)](#) inserted by [s. 5 \(b\)](#) of [Act No. 20 of 2014](#).]

(3D) In the event that the MEC does not have capacity to exercise the power, or for any good reason is unable to do so or to do so within a reasonable period of time, the MEC may request, in writing, the Minister to exercise the power in terms of [subsection \(3A\) \(a\)](#).

[[Sub-s. \(3D\)](#) inserted by [s. 5 \(b\)](#) of [Act No. 20 of 2014](#).]

(4) If a municipality applies for an atmospheric emission licence, a provincial organ of state designated by the MEC must be regarded as the licensing authority for the purpose of-

- (a) that application; and
- (b) the implementation of this Act in relation to any licence that may be issued to the municipality.

(Date of commencement of [s. 36](#): 1 April, 2010.)

(5) Notwithstanding [subsections \(1\)](#) to [\(4\)](#), the Minister is the licensing authority and must perform the functions of the licensing authority if-

- (a) a provincial organ of state, which has been delegated the power to perform the licensing authority function in terms of [subsection \(2\)](#) by the metropolitan or district municipality, applies for an atmospheric emission licence;
- (b) the listed activity falls within the boundaries of more than one province;
- (c) the listed activity forms part of a matter declared as a national priority in terms of a Cabinet decision and notice referred to in [section 24C \(2B\)](#) of the National Environmental Management Act, 1998, as amended by the National Environmental Management Laws Second Amendment Act, 2013;
- (d) the listed activity relates to the activities listed in terms of [section 24 \(2\)](#) of the National Environmental Management Act, 1998, or in terms of [section 19 \(1\)](#) of the National Environmental Management: Waste Act, 2008, or the Minister has been identified as the competent authority; or
- (e) the listed activity relates to a prospecting, mining, exploration or production activity as contemplated in the Mineral and Petroleum Resources Development Act, 2002 ([Act No. 28 of 2002](#)), in the area for which the right has been applied for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of [section 24C](#) of the National Environmental Management Act, 1998.

[[Sub-s. \(5\)](#) added by [s. 5 \(c\)](#) of [Act No. 20 of 2014](#).]

(6) For the purposes of [subsection \(5\) \(d\)](#), the Minister, as the competent authority empowered under [section 24C \(2\)](#) of the National Environmental Management Act, 1998 and as the licensing authority empowered under [section 43 \(1\)](#) of the National Environmental Management: Waste Act, 2008, may issue an integrated environmental authorisation for the activities listed under [section 24 \(2\)](#) of the National Environmental Management Act, 1998 and [section 19 \(1\)](#) of the National Environmental Management: Waste Act, 2008.

[Sub-s. (6) added by [s. 5 \(c\)](#) of [Act No. 20 of 2014](#).]

(7) An integrated environmental authorisation contemplated in [subsection \(6\)](#) may be issued only if-

- (a) the relevant provisions of this Act, the National Environmental Management Act, 1998, and the National Environmental Management: Waste Act, 2008, have been complied with; and
- (b) the integrated environmental authorisation specifies the provisions in terms of which it has been issued.

[Sub-s. (7) added by [s. 5 \(c\)](#) of [Act No. 20 of 2014](#).]

(8) The Minister and the licensing authority contemplated in [subsections \(1\) to \(4\)](#) may agree that an application for an atmospheric emission licence with regard to any activity contemplated in [section 22](#) may be dealt with by the Minister or the relevant licensing authority contemplated in [subsections \(1\) to \(4\)](#).

[Sub-s. (8) added by [s. 5 \(c\)](#) of [Act No. 20 of 2014](#).]

37. Application for atmospheric emission licences.-(1) A person must apply for an atmospheric emission licence by lodging with the licensing authority of the area in which the listed activity is or is to be carried out, an application in the form required by the licensing authority.

(2) An application for an atmospheric emission licence must be accompanied by-

- (a) the prescribed processing fee; and
- (b) such documentation and information as may be required by the licensing authority.

(Date of commencement of [s. 37](#): 1 April, 2010.)

38. Procedure for licence applications.-(1) The licensing authority-

- (a) may, to the extent that it is reasonable to do so, require the applicant, at the applicant's expense, to obtain and provide it by a given date with other information, in addition to the information contained in or submitted in connection with the application;
- (b) may conduct its own investigation on the likely effect of the proposed licence on air quality;
- (c) may invite written comments from any organ of state which has an interest in the matter; and
- (d) must afford the applicant an opportunity to make representations on any adverse statements or objections to the application.

(2) [Section 24](#) of the National Environmental Management Act applies to all applications for atmospheric emission licences, which are subject to an environmental impact assessment in terms of [section 24](#) of the National Environmental Management Act, and both an applicant and the licensing authority must comply with that section and any applicable notice issued or regulation made in relation to that section.

[Sub-s. (2) substituted by [s. 6 \(a\)](#) of [Act No. 20 of 2014](#).]

Wording of Sections

(3) (a) An applicant must, immediately after the submission of the application to the licensing authority, take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.

[Para. (a) substituted by [s. 6 \(b\)](#) of [Act No. 20 of 2014](#).]

Wording of Sections

(b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is or is to be carried out-

- (i) describing the nature and purpose of the licence applied for;
- (ii) giving particulars of the listed activity, including the place where it is or is to be carried out;
- (iiA) indicating where a copy of the application can be obtained;

[Sub-para. (iiA) inserted by [s. 6 \(c\)](#) of [Act No. 20 of 2014](#).]

- (iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and

(iv) containing such other particulars as the licensing authority may require.

(Date of commencement of [s. 38](#): 1 April, 2010.)

39. Factors to be taken into account by licensing authorities.-When considering an application for an atmospheric emission licence, the licensing authority must take into account all relevant matters, including-

- (a) any applicable minimum standards set for ambient air and point source emissions that have been determined in terms of this Act;
- (b) the pollution being or likely to be caused by the carrying out of the listed activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality;
- (c) the best practicable environmental options available that could be taken-
 - (i) to prevent, control, abate or mitigate that pollution; and
 - (ii) to protect the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution;
- (d) [section 24](#) of the National Environmental Management Act and any applicable environmental impact assessment done, the decision taken on the application of the environmental authorisation, and any applicable notice issued or regulation made pursuant to that section;
[Para. (d) substituted by [s. 7](#) of Act No. 20 of 2014.]

Wording of Sections

- (e) any relevant tradable emission scheme;
- (f) whether the applicant is a fit and proper person as contemplated in [section 49](#);
- (g) the applicant's submissions;
- (h) any submissions from organs of state, interested persons and the public; and
- (i) any guidelines issued by the Minister or MEC relating to the performance by licensing authorities of their functions.

(Date of commencement of [s. 39](#): 1 April, 2010.)

40. Decisions of licensing authority.-(1) The licensing authority may-

- (a) grant an application; or
 - (b) refuse an application.
- (2) Any decision by a licensing authority to grant an application must be consistent with-
- (a) this Act and any other applicable national or provincial legislation;
 - (b) any applicable national or provincial environmental management policies;
 - (c) [section 24](#) of the National Environmental Management Act and any applicable environmental impact assessment done, the decision taken on the application for the environmental authorisation, and any applicable notice issued or regulation made pursuant to that section;
[Para. (c) substituted by [s. 8 \(a\)](#) of Act No. 20 of 2014.]

Wording of Sections

- (d) the national environmental management principles set out in [section 2](#) of the National Environmental Management Act;
- (e) any transitional and other special arrangements contemplated in [section 21 \(3\) \(b\)](#);
- (f) any minimum standards for atmospheric emissions of identified substances or mixtures of substances as contemplated in [section 21 \(3\)](#);
- (g) any applicable pollution prevention plan contemplated in [section 29](#);
- (h) the objectives of any applicable air quality management plan; and
- (i) any ambient air quality or emission standards that have been determined in terms of this Act.

(3) If the decision on the relevant application for an environmental authorisation has been made in terms of [section 24](#) of the National Environmental Management Act, the licensing authority must decide the application within 60 days of the date on which the decision on the application for the environmental authorisation has been made.

[Sub-s. (3) substituted by [s. 8 \(b\)](#) of Act No. 20 of 2014.]

Wording of Sections

(3A) Where the listed activity relates to a prospecting, mining, exploration or production activity contemplated in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), in the area for which the right has been applied for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of section 24C of the National Environmental Management Act, 1998, the Minister, after consultation with the licensing authority contemplated in section 36 (1) and (2) of this Act, must decide the application within the timeframes set out in the National Environmental Management Act, 1998.

[Sub-s. (3A) inserted by s. 8 (c) of Act No. 20 of 2014.]

(4) After a licensing authority has reached a decision in respect of a licence application, it must within 30 days-

- (a) notify the applicant of the decision, and give written reasons if the application was unsuccessful;
- (b) in a manner determined by the licensing authority, notify any persons who have objected to the application; and
- (c) at the request of any person contemplated in paragraph (b), give written reasons for its decision or make public its reasons.

(Date of commencement of s. 40: 1 April, 2010.)

41. Successful applications.-(1) If an application for an atmospheric emission licence has been granted in terms of section 40 (1) (a), the licensing authority must first issue a provisional atmospheric emission licence to enable the commissioning of the listed activity.

(2) A provisional atmospheric emission licence is subject to such conditions and requirements-

- (a) as the licensing authority may determine; and
- (b) as the Minister or MEC has prescribed for listed activities of the kind in question.

(Date of commencement of s. 41: 1 April, 2010.)

(3) A provisional atmospheric emission licence is valid for a period of one year from the date of the commissioning of the listed activity, and may be extended for an additional one year on good cause shown to the licensing authority.

[Sub-s. (3) added by s. 9 of Act No. 20 of 2014.]

42. Issuing of atmospheric emission licences.-(1) The holder of a provisional atmospheric emission licence is entitled to an atmospheric emission licence when the commissioned facility has been in full compliance with the conditions and requirements of the provisional atmospheric emission licence for a period of at least six months.

(2) An atmospheric emission licence is subject to such conditions and requirements-

- (a) as are specified in terms of section 43;
- (b) as the licensing authority may determine; and
- (c) as the Minister or MEC has prescribed for listed activities of the kind in question.

(Date of commencement of s. 42: 1 April, 2010.)

43. Contents of provisional atmospheric emission licences and atmospheric emission licences.-(1) A provisional atmospheric emission licence and an atmospheric emission licence must specify-

- (a) the activity in respect of which it is issued;
- (b) the premises in respect of which it is issued;
- (c) the person to whom it is issued;
- (d) the period for which the licence is issued;
- (e) the name of the licensing authority;
- (f) the periods at which the licence may be reviewed;
- (g) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere-
 - (i) under normal working conditions; and

- (ii) under normal start-up, maintenance and shut-down conditions;
- (h) any other operating requirements relating to atmospheric discharges, including non-point source or fugitive emissions;
- (i) point source emission measurement and reporting requirements;
- (j) on-site ambient air quality measurement and reporting requirements;
- (k) penalties for non-compliance;
- (l) greenhouse gas emission measurement and reporting requirements; and
- (m) any other matters which are necessary for the protection or enforcement of air quality.

(2) A licence may-

- (a) specify conditions in respect of odour and noise;
- (b) require the holder of the licence to comply with all lawful requirements of an environmental management inspector carrying out his or her duties in terms of the National Environmental Management Act, including a requirement that the holder of the licence must, on request, submit to the inspector a certified statement indicating-
 - (i) the extent to which the conditions and requirements of the licence have or have not been complied with;
 - (ii) particulars of any failure to comply with any of those conditions or requirements;
 - (iii) the reasons for any failure to comply with any of those conditions or requirements; and
 - (iv) any action taken, or to be taken, to prevent any recurrence of that failure or to mitigate the effects of that failure.

(Date of commencement of [s. 43](#): 1 April, 2010.)

44. Transfer of provisional atmospheric emission licences and atmospheric emission licences.-(1) If ownership of an activity for which a provisional atmospheric emission licence or an atmospheric emission licence was issued is transferred, the licence may, with the permission of a licensing authority, be transferred by the holder of the licence to the new owner of the activity.

(2) (a) A person applying for permission for the transfer of a licence must lodge the application with the licensing authority of the area in which the listed activity is carried out.

(b) The application must be in the form required by the licensing authority.

(3) An application for the transfer of a licence must be accompanied by-

- (a) the prescribed processing fee; and
- (b) such documentation and information as may be required by the licensing authority.

(4) (a) An applicant must take appropriate steps to bring the application for the transfer of an atmospheric emission licence to the attention of interested persons and the public.

(b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is carried out-

- (i) describing the reasons for the transfer of an atmospheric emission licence;
- (ii) giving particulars of the listed activity, including the place where it is carried out;
- (iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and
- (iv) containing such other particulars as the licensing authority may require.

(5) When considering an application for the transfer of a licence, the licensing authority must take into account all relevant matters, including whether the person to whom the licence is to be transferred is a fit and proper person as contemplated in [section 49](#).

(Date of commencement of [s. 44](#): 1 April, 2010.)

45. Review of provisional atmospheric emission licences and atmospheric emission licences.-(1) A licensing authority must review a provincial atmospheric emission licence or an atmospheric emission licence at intervals specified in the licence, or when circumstances demand that a review is necessary, on payment of the prescribed processing fee.

[Sub-s. (1) substituted by s. 48 of Act No. 14 of 2009.]

Wording of Sections

(2) The licensing authority must inform the licence holder and the relevant provincial air quality officer, in writing, of any proposed review, the reason for such review and the cost of the prescribed processing fee.

[Sub-s. (2) substituted by s. 48 of Act No. 14 of 2009.]

Wording of Sections

(3) For purposes of the review, an air quality officer may require the licence holder to compile and submit an atmospheric impact report contemplated in [section 30](#).

(Date of commencement of [s. 45](#): 1 April, 2010.)

46. Variation of provisional atmospheric emission licences and atmospheric emission licences.-(1) A licensing authority may, by written notice to the holder of a provisional atmospheric emission licence or an atmospheric emission licence, vary the licence-

- (a) if it is necessary or desirable to prevent deterioration of ambient air quality;
- (b) if it is necessary or desirable for the purposes of achieving ambient air quality standards;
- (c) if it is necessary or desirable to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands;
- (d) at the written request of the holder of the licence;
- (e) if it is transferred to another person in terms of [section 44](#); or
- (f) if it is reviewed in terms of [section 45](#).

(2) The variation of a licence includes-

- (a) the attaching of an additional condition or requirement to the licence;
- (b) the substitution of a condition or requirement;
- (c) the removal of a condition or requirement; or
- (d) the amendment of a condition or requirement.

(3) If a licensing authority receives a request from the holder of a licence in terms of [subsection \(1\) \(d\)](#), the licensing authority must require the holder of the licence to take appropriate steps to bring the request to the attention of relevant organs of state, interested persons and the public if-

- (a) the variation of the licence will authorise an increase in the environmental impact regulated by the licence;
- (b) the variation of the licence will authorise an increase in atmospheric emissions; and
- (c) the proposed variation has not, for any reason, been the subject of an authorisation in terms of any other legislation and public consultation.

(4) Steps in terms of [subsection \(3\)](#) must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity authorised by the licence is, or will be, carried out-

- (a) describing the nature and purpose of the request;
- (b) giving particulars of the listed activity, including the place where it is or will be carried out;
- (c) stating a reasonable period within which written representations on or objections to the request may be submitted, and the address or place where representations or objections must be submitted; and
- (d) containing such other particulars as the licensing authority may require.

(5) [Sections 38](#) and [40](#), read with the necessary changes as the context may require, apply to the variation of a licence.

(Date of commencement of [s. 46](#): 1 April, 2010.)

47. Renewal of provisional atmospheric emission licences and atmospheric emission licences.-(1) A provisional atmospheric emission licence or an atmospheric emission licence may, on application by the holder of the licence, be renewed by a licensing authority.

(2) The holder of a licence must before the expiry date of the licence apply for the renewal of the licence to the licensing authority of the area in which the listed activity is carried out, by lodging to the licensing authority an application in the form required by the licensing authority.

(3) An application for the renewal of a licence must be accompanied by-

- (a) the prescribed processing fee;
 - (b) proof that the relevant provincial air quality officer has been notified of the application; and
 - (c) such documentation and information as may be required by the licensing authority.
- (4) The holder of a provisional atmospheric emission licence may not apply for the renewal of the provisional licence more than once.
- (5) [Sections 38, 40](#) and [43](#), read with the necessary changes as the context may require, apply to an application for the renewal of a licence.

(Date of commencement of [s. 47](#): 1 April, 2010.)

48. Emission control officers.-(1) An air quality officer may require the holder of a provisional atmospheric emission licence or an atmospheric emission licence to designate an emission control officer, having regard to the size and nature of the listed activity for which the licence was granted.

(2) An emission control officer must have requisite air quality management competence in respect of the listed activity in question, and must-

- (a) work towards the development and introduction of cleaner production technologies and practices;
- (b) take all reasonable steps to ensure compliance by the holder of the licence with the licence conditions and requirements; and
- (c) promptly report any non-compliance with any licence conditions or requirements to the licensing authority through the most effective means reasonably available.

(3) Nothing in this section affects the obligations and liability of the holder of a licence to comply with the conditions and requirements of the licence.

(Date of commencement of [s. 48](#): 1 April, 2010.)

49. Criteria for fit and proper persons.-In order to determine whether a person is a fit and proper person for the purposes of an application in terms of this Chapter, a licensing authority must take into account all relevant facts, including whether-

- (a) that person has contravened or failed to comply with this Act, the Atmospheric Pollution Prevention Act or any other legislation applicable to air quality;
- (b) that person has held a provisional atmospheric emission licence, an atmospheric emission licence or other authority that has been suspended or revoked;
- (c) that person has been a director or senior manager who is or was a director or manager of a company, a juristic person or firm to whom [paragraph \(a\)](#) or [\(b\)](#) applies; or
[[Para. \(c\)](#) substituted by [s. 49](#) of [Act No. 14 of 2009](#) and by [s. 10](#) of [Act No. 20 of 2014](#).]

Wording of Sections

- (d) the management of the listed activity which is the subject of the application will or will not be in the hands of a technically competent person.

(Date of commencement of [s. 49](#): 1 April, 2010.)

CHAPTER 6
INTERNATIONAL AIR QUALITY MANAGEMENT

50. Transboundary air pollution.-(1) The Minister may investigate any situation which creates, or may reasonably be anticipated to contribute to-

- (a) air pollution across the Republic's boundaries; or
- (b) air pollution that violates, or is likely to violate, an international agreement binding on the Republic in relation to the prevention, control or correction of pollution.

(2) If the investigation contemplated in [subsection \(1\)](#) reveals that the release of a substance into the air from a source in the Republic may have a significant detrimental impact on air quality, the environment or health in a country other than the Republic, the Minister may prescribe measures to prevent, control or correct the releases within the Republic.

(3) Before publishing regulations under [subsection \(2\)](#), the Minister must consult with-

- (a) the Cabinet member responsible for foreign affairs; and

(b) the MEC concerned.

(4) Regulations contemplated in [subsection \(2\)](#) may include provisions regarding-

- (a) the quantity or concentration of the substance that may be released into the air;
- (b) the manner in which and conditions under which the substance may be released into the air, either alone or in combination with any other substance;
- (c) the maintenance of records for the administration of any regulation made under this section;
- (d) the conduct of sampling, analyses, tests, measurements or monitoring of the substance and the submission of the results to the Minister; and
- (e) the conditions, test procedures and laboratory practices to be followed for conducting sampling, analyses, tests, measurements or monitoring of the substance.

(5) The Minister may, through the Cabinet member responsible for foreign affairs, advise the government of any country that would be affected by or benefit from the regulation before it is published.

CHAPTER 7 OFFENCES AND PENALTIES

51. Offences.-(1) A person is guilty of an offence if that person-

(a) contravenes a provision of [section 22, 25, 28 or 35 \(2\)](#);
[Para. (a) substituted by s. 11 of Act No. 20 of 2014.]

Wording of Sections

- (b) fails to submit or to implement a pollution prevention plan as required by [section 29 \(1\) \(b\)](#) or [\(2\)](#);
- (c) fails to submit an atmospheric impact report required in terms of [section 30](#);
- (d) fails to notify the Minister as required by [section 33](#);
- (e) contravenes or fails to comply with a condition or requirement of an atmospheric emission licence;

(Date of commencement of [para. \(e\)](#): 1 April, 2010.)

(f) supplies false or misleading information in any application for an atmospheric emission licence, or for the transfer, variation or renewal of such a licence;

(Date of commencement of [para. \(f\)](#): 1 April, 2010.)

(g) supplies false or misleading information to an air quality officer;

(h) contravenes or fails to comply with a condition subject to which exemption from a provision of this Act was granted in terms of [section 59](#).

(2) A person operating a controlled emitter is guilty of an offence if the emissions from that controlled emitter do not comply with the standards established under [section 24 \(1\)](#).

(3) A person performing a listed activity is guilty of an offence if air pollutants at concentrations above the emission limits, specified in an atmospheric emission licence, are emitted as a result of that activity.

(Date of commencement of [sub-s. \(3\)](#): 1 April, 2010.)

52. Penalties.-(1) A person convicted of an offence referred to in [section 51](#) is liable to a fine not exceeding five million rand, or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

[Sub-s. (1) substituted by s. 50 (a) of Act No. 14 of 2009.]

Wording of Sections

(2) A fine contemplated in [subsection \(1\)](#) must be determined with due consideration of-

- (a) the severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
- (b) the monetary or other benefits which accrued to the convicted person through the commission of the offence; and
- (c) the extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

[Sub-s. (2) substituted by s. 50 (a) of Act No. 14 of 2009.]

Wording of Sections

(3) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

[Sub-s. (3) added by s. 50 (b) of Act No. 14 of 2009.]

CHAPTER 8
GENERAL MATTERS

*Part 1:
Regulations*

53. Regulations by Minister.-The Minister may make regulations that are not in conflict with this Act, regarding-

- (a) any matter necessary to give effect to the Republic's obligations in terms of an international agreement relating to air quality and climate change;

[Para. (a) substituted by s. 12 (a) of Act No. 20 of 2014.]

Wording of Sections

- (aA) information relating to energy that is required for compiling atmospheric emissions;

[Para. (aA) inserted by s. 12 (b) of Act No. 20 of 2014.]

- (b) matters relating to environmental management co-operation agreements, to the extent that those agreements affect air quality;
- (c) emissions, including the prohibition of specific emissions, from point, non-point and mobile sources of emissions, including motor vehicles;
- (d) open fires and incinerators;
- (e) ozone-depleting substances;
- (f) codes of practice;
- (g) records and returns;
- (h) labelling;
- (i) trading schemes;
- (j) powers and duties of air quality officers;
- (k) appeals against decisions of officials in the performance of their functions in terms of the regulations;
- (l) incentives to encourage change in behaviour towards air pollution by all sectors in society;
- (lA) the procedure and criteria to be followed in the determination of an administrative fine in terms of [section 22A](#).

[Para. (lA) inserted by s. 12 (c) of Act No. 20 of 2014.]

- (m) requirements in respect of monitoring;
- (n) the avoidance or reduction of harmful effects on air quality from activities not otherwise regulated in terms of this Act;
- (o) any matter that may or must be prescribed in terms of this Act; or
- (p) any other matter necessary for the implementation or application of this Act.

54. Regulations by MECs responsible for air quality.-The MEC may make regulations for the province concerned, not inconsistent with this Act, in respect of any matter for which the MEC may or must make regulations in terms of this Act, including a matter referred to in [section 53 \(c\)](#) to [\(p\)](#).

55. General.-(1) Regulations made in terms of this Act may-

- (a) restrict or prohibit any act, either absolutely or conditionally;

- (b) apply-
 - (i) generally to the Republic or a province, as the case may be, or only in a specified area or category of areas; or
 - (ii) generally to all persons or only to a specified category of persons;
- (c) differentiate between different-
 - (i) areas or categories of areas; or
 - (ii) persons or categories of persons; and
- (d) incorporate by reference any code of practice or any national or international standard relating to air quality.

(2) Regulations made in terms of this Act may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.

[Sub-s. (2) substituted by s. 37 of Act No. 14 of 2013.]

Wording of Sections

(3) (a) Before publishing any regulation made in terms of this Act, or any amendment to the regulations, the Minister or MEC must follow a consultative process in accordance with [sections 56](#) and [57](#).

(b) [Paragraph \(a\)](#) need not be complied with if the regulations are amended in a non-substantive way.

Part 2: Consultative process

56. Consultation.-(1) Before exercising a power which, in terms this Act, must be exercised in accordance with this section and [section 57](#), the Minister or MEC must follow such consultative process as may be appropriate in the circumstances.

- (2) When conducting the consultations contemplated in [subsection \(1\)](#), the Minister must-
 - (a) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the power;
 - (b) in accordance with the principles of co-operative governance as set out in [Chapter 3](#) of [the Constitution](#), consult the MEC responsible for air quality in each province that will be affected by the exercise of the power; and
 - (c) allow public participation in the process in accordance with [section 57](#).
- (3) When conducting the consultations contemplated in [subsection \(1\)](#), the MEC must-
 - (a) consult all members of the Executive Council whose areas of responsibility will be affected by the exercise of the power;
 - (b) in accordance with the principles of co-operative governance as set out in [Chapter 3](#) of [the Constitution](#), consult the Minister and all other national organs of state that will be affected by the exercise of the power; and
 - (c) allow public participation in the process in accordance with [section 57](#).

57. Public participation.-(1) Before exercising a power which, in terms of this Act, must be exercised in accordance with this section, the Minister or MEC must give notice of the proposed exercise of the relevant power-

- (a) in the *Gazette*; and
 - (b) in at least one newspaper distributed nationally or, if the exercise of the power will affect only a specific area, in at least one newspaper distributed in that area.
- (2) The notice must-
- (a) invite members of the public to submit to the Minister or MEC, within 30 days of publication of the notice in the *Gazette*, written representations on or objections to the proposed exercise of the power; and
 - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections.
- (3) The Minister or MEC may in appropriate circumstances allow any interested person or community to

present oral representations or objections to the Minister or MEC, or a person designated by the Minister or MEC.

(4) The Minister or MEC must give due consideration to all representations or objections received or presented before exercising the power concerned.

*Part 3:
Delegations and exemptions*

58. Delegations.-(1) The Minister or MEC, as the case may be, may delegate or assign to an official in their respective departments-

- (a) any power or duty of the Minister or MEC contained in this Act, excluding the power to publish or amend a regulation in terms of [section 53](#) or [54](#) or a notice in terms of [section 7 \(1\)](#), [9 \(1\)](#), [10 \(1\)](#), [18 \(1\)](#), [21 \(1\)](#), [23 \(1\)](#) or [29 \(1\)](#); or
- (b) any power or duty reasonably necessary to assist the Minister or MEC in exercising a power or performing a duty of the Minister or MEC.

(2) The Minister or MEC must regularly review and, if necessary, amend or withdraw a delegation or assignment under [subsection \(1\)](#).

(3) A delegation or assignment to an official under [subsection \(1\)](#)-

- (a) is subject to such limitations and conditions as the Minister or MEC may impose;
- (b) may either be to a specific individual or to the holder of a specific post in the relevant department;
- (c) may authorise that official to subdelegate or further assign, in writing, the power or duty concerned to another official in the department, or to the holder of a specific post in the department; and
- (d) does not divest the Minister or MEC of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(4) The Minister or MEC may confirm, vary or revoke any decision taken by an official as a result of a delegation or subdelegation in terms of this section, subject to any rights that may have become vested as a consequence of the decision.

59. Exemptions.-(1) (a) Any person or organ of state may, in writing, apply for exemption from the application of a provision of this Act to the Minister.

(b) No exemption from a provision of [section 9](#), [22](#) or [25](#) may be granted in terms of [paragraph \(a\)](#).

(2) An application in terms of [subsection \(1\)](#) must be accompanied by reasons.

(3) (a) The Minister may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.

(b) The steps contemplated in [paragraph \(a\)](#) must include the publication of a notice in at least two newspapers circulating nationally-

- (i) giving reasons for the application; and
- (ii) containing such other particulars concerning the application as the Minister may require.

(4) The Minister may-

- (a) from time to time review any exemption granted in terms of this section; and
- (b) on good grounds withdraw any exemption.

(5) The Minister may on such conditions and limitations determined by the Minister delegate any of the powers contained in this section to-

- (a) the MEC responsible for air quality in a province; or
- (b) a metropolitan or district municipality.

CHAPTER 9
MISCELLANEOUS

60. Repeal of legislation.-(1) The legislation mentioned in the Table in [Schedule 1](#) is hereby repealed or amended to the extent set out in the third column of the Table, subject to [subsections \(2\)](#) and [\(3\)](#) of this section and [section 61](#).

(2) Anything done or deemed to have been done under a provision repealed by [subsection \(1\)](#) and which can be done in terms of a provision of this Act must be regarded as having been done under that provision of this Act.

(3) Anything done or deemed to have been done under a provision repealed by [subsection \(1\)](#) and which can be done in terms of the constitutional or statutory powers of a municipality, remains in force in the area of a municipality until repealed by the municipality of that area.

(Date of commencement of [s. 60](#): 1 April, 2010.)

61. Transitional arrangements in respect of registration certificates issued in terms of Atmospheric Pollution Prevention Act.-(1) (a) Despite the repeal of the Atmospheric Pollution Prevention Act by [section 60](#) of this Act, a provisional registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which [section 60](#) took effect, continues to be valid for a period of two years from that date, subject to [paragraph \(c\)](#).

(b) During the period for which a provisional registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of-

- (i) the holder of such a certificate as if that person is the holder of a provisional atmospheric emission licence issued in terms of [section 41 \(1\)](#) of this Act for the activity for which the certificate was issued; and
- (ii) the certificate as if the certificate is a provisional atmospheric emission licence.

(c) If during the two-year period referred to in [paragraph \(a\)](#)-

- (i) a provisional atmospheric emission licence is issued to the holder of a provisional registration certificate following a revision in terms of [section 45](#) or an application for renewal in terms of [section 47](#), the certificate expires on the date of issue of the provisional licence; or
- (ii) an atmospheric emission licence is issued to the holder of a provisional registration certificate in terms of [section 42 \(1\)](#), the certificate expires on the date of issue of the licence.

(2) (a) Despite the repeal of the Atmospheric Pollution Prevention Act by [section 60](#) of this Act, a registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which [section 60](#) took effect, continues to be valid for a period of four years from that date, subject to [paragraph \(d\)](#).

(b) During the period for which a registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of-

- (i) the holder of such a certificate as if that person is the holder of an atmospheric emission licence issued in terms of [section 42 \(1\)](#) of this Act for the activity for which the certificate was issued; and
- (ii) the certificate as if the certificate is an atmospheric emission licence.

(c) The holder of a registration certificate must within the first three years of the four-year period referred to in [paragraph \(a\)](#), lodge a renewal application in terms of [section 47](#) with the licensing authority of the area in which the activity for which the certificate was issued is carried out.

(d) (i) If the holder of a registration certificate fails to comply with [paragraph \(c\)](#), the certificate expires at the end of the three years referred to in [paragraph \(c\)](#).

(ii) If during the four-year period referred to in [paragraph \(a\)](#) an atmospheric emission licence is issued to the holder of a registration certificate following an application for renewal in terms of [paragraph \(c\)](#), the certificate expires on the date of issue of the licence.

(iii) If during the period before the holder of a registration certificate lodges an application for renewal in terms of [paragraph \(c\)](#), an atmospheric emission licence is issued to the holder of the certificate following a revision in terms of [section 45](#), the certificate expires on the date of issue of the licence. In such event compliance with [paragraph \(c\)](#) falls away.

(3) Despite the repeal of the Atmospheric Pollution Prevention Act by [section 60](#) of this Act, any application for a registration certificate made in terms of that Act which was not decided when [section 60](#) took effect, must be proceeded with in terms of this Act as if such application was an application for an atmospheric emission licence in terms of [section 37](#).

(Date of commencement of [s. 61](#): 1 April, 2010.)

62.

[[S. 62](#) repealed by [s. 13](#) of [Act No. 20 of 2014](#).]

Wording of Sections

Wording of Sections

64. Short title and commencement.-(1) This Act is called the National Environmental Management: Air Quality Act, 2004, and takes effect on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined in terms of [subsection \(1\)](#) for different provisions of the Act.

COMMENCEMENT OF THIS ACT

<i>Date of commencement</i>	<i>The whole Act/ Sections</i>	<i>Proclamation No</i>	<i>Government Gazette</i>	<i>Date of Government Gazette</i>
11 September, 2005	The whole except ss. 21, 22, 36 to 49, 51 (1) (e), 51 (1) (f), 51 (3), 60 and 61	R.898	28016	9 September, 2005
1 April, 2010	Ss. 21, 22, 36 to 49, 51 (1) (e), 51 (1) (f), 51 (3), 60, 61	220	33041	26 March, 2010