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24 June 2022

No. 46602

THE PRESIDENCY

No. 2203 **24 June 2022**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 02 of 2022: National Environmental Management Laws Amendment Act, 2022

DIE PRESIDENSIE

No. 2203 **24 Junie 2022**

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 02 van 2022: Wysigingswet op Nasionale Omgewingsbestuurswette, 2022

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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk in vierkantige hakies, dui skrapings uit bestaande verordeninge aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 21 Junie 2022)

WET**Tot wysiging van die—**

- Wet op Nasionale Omgewingsbestuur, 1998, ten einde die aanhaling in die omskrywing van “Grondwet” reg te stel; nuwe omskrywings by te voeg van “inheemsekennispraktisyn”, “munisipale bestuurder”, “munisipale raad”, “munisipaliteit”, “mynbouaktiwiteit”, “omgewingsbestuursinstrument”, “oudit”, “rehabiliteer”, “swart”, “versag” en “verskuilde omgewingsinwerkings”; die omskrywing van “omgewingsinspekteur vir minerale hulpbronne” reg te stel; duidelikheid te voorsien in die omskrywing van “finansiële voorsorg”; ’n nuwe omgewingsbestuursbeginsel by te voeg om diversiteit in die sektor te bevorder; duidelikheid te voorsien oor wat ’n omgewingsbestuursinstrument is; die term omgewingsbestuursinstrument konsekwent in die Wet te gebruik; ’n gedupliseerde bepaling te verwyder oor die maak van regulasies vir die neerlê van prosedures vir die aanneming van omgewingsbestuursinstrumente; voorsiening te maak vir ’n register, en vir die beskikbaarstelling van daardie register, van alle omgewingsbestuursinstrumente wat ingevolge die Wet aangeneem is; duidelikheid te voorsien dat die Minister verantwoordelik vir minerale hulpbronne vir mynbouaktiwiteite, soos omskryf, verantwoordelik is; duidelik te stel dat die LUR as die bevoegde owerheid gesien kan word vir die verwerking van aansoeke om omgewingsmagtigings vir nasionale prioriteite indien die Kabinet geïdentifiseer het dat die Minister die bevoegde owerheid moet wees, wanneer daar ooreenstemming tussen die Minister en die tersaaklike LUR is; voorsiening te maak vir ooreenstemming tussen die Minister, Minister verantwoordelik vir minerale hulpbronne of LUR aangaande die verwerking van omgewingsmagtigingsaansoeke; voorsiening te maak vir gelyktydige indiening van aansoeke ingevolge die Wet op Nasionale Omgewingsbestuur en die spesifieke omgewingsbestuurswette vir die doeleindes van die *One Environmental System*; voorsiening te maak vir gelyktydige indiening van aansoeke ingevolge die Wet op Nasionale Omgewingsbestuur en die spesifieke omgewingsbestuurswette om geïntegreerde omgewingsmagtigings moonlik te maak; voorsiening te maak vir ’n sneller vir die gelyktydige indiening van aansoeke ingevolge die Wet op Nasionale Omgewingsbestuur of spesifieke omgewingsbestuurswette na aanvaarding van ’n aansoek ingevolge die “Mineral and Petroleum Resources Development Act”, 2002; duidelikheid te voorsien dat ’n

commenced, undertaken or conducted may also lodge a section 24G application relating to an environmental authorisation or a waste management licence; to increase the maximum amount payable for a section 24G administrative fine; to empower the Minister to prescribe the information that must be contained in an environmental management programme; to provide clarity on consultation to be undertaken and to enable an environmental assessment practitioner to undertake the consultation with an organ of state on applications for environmental authorisation; to provide clarity on what is to be audited in relation to financial provisioning; to provide the Minister with the power to prescribe instances for which financial provisioning is required; to provide clarity that an applicant or holder of an environmental authorisation, holder and holder of an old order right relating to mining activities must provide financial provision for progressive rehabilitation, mitigation, decommissioning, mine closure and the management of post-closure environmental impacts; to identify the vehicles which must be used when providing the financial provision; to allow the Minister responsible for mineral resources or Minister responsible for water affairs access to the financial provision to undertake rehabilitation if the holder of an environmental authorisation for a mining activity, holder or holder of an old order right fails to do so; to make it clear that the financial provision may only be used for the purposes of progressive rehabilitation, decommissioning, closure and post-closure activities as prescribed; to allow for periods for review of the financial provision and the publication of the review decision to be prescribed; to make it a compulsory requirement for the rehabilitation which can be undertaken annually to be undertaken; to provide for the Minister responsible for mineral resources in consultation with the Minister and the Minister responsible for water affairs to approve an annual drawdown of funds as prescribed for rehabilitation purposes within a certain timeframe before decommissioning and closure; to require the transfer of financial provision to the Minister responsible for mineral resources on the issuing of a closure certificate; to require the Minister responsible for mineral resources to access funds, on the issuing of a closure certificate, provided for the rehabilitation of latent environmental impacts in the case where the vehicle is insurance; to include the holder of an environmental authorisation for a mining activity, holder and holder of an old order right and owner of works, under the provisions related to environmental liability and the requirement to plan, manage and implement mine closure procedures; to provide clarity that residue stockpiles and residue deposits must be managed in terms of this Act; to provide clarity that a section 28(4) directive may also be issued to an owner of the land, a person in control of the land or a person that has a right to use the land in question; to empower a municipal manager to issue section 28(4) directives; to empower the Minister responsible for mineral resources to designate environmental mineral and petroleum inspectors from an organ of state that executes regulatory functions; to empower an MEC to designate environmental management inspectors to undertake compliance and enforcement actions in respect of provincial environmental legislation; to empower the Minister to prescribe a Code of Conduct for environmental management inspectors and environmental mineral and petroleum inspectors; to provide alignment between the powers and duties of environmental mineral and petroleum inspectors and environmental management inspectors and the training they are required to attend prior to designation; to provide clarity that the conducting of a “search” is not the primary purpose of an environmental management inspector undertaking a routine inspection; to empower an environmental management inspector to detain an item for further analysis or verification for purposes of determining compliance or not with applicable legal requirements; to provide clarity that the Minister’s power to develop regulations on admission of guilt fines contextualises the related provisions of the Criminal Procedure Act, 1977; to empower the Minister responsible for mineral resources, the Minister responsible for water affairs and a municipal manager to delegate functions and duties in terms of

regopvolger of persoon wat die grond waarop 'n onwettige aktiwiteit begin, onderneem of uitgevoer is, beheer, ook 'n artikel 24G-aansoek aangaande 'n omgewingsmagtiging of afvalbestuurslisensie kan indien; die maksimum bedrag te verhoog wat vir 'n artikel 24G-administratiewe boete betaalbaar is; die Minister te bemagtig om die inligting voor te skryf wat in 'n omgewingsbestuursprogram vervat moet word; duidelikheid te voorsien oor raadpleging wat gedoen moet word en om 'n omgewingsbestuurspraktisyn in staat te stel om die raadpleging te doen wat met 'n staatsorgaan gedoen moet word oor aansoeke om omgewingsmagtiging; duidelikheid te voorsien oor wat geouditeer moet word in verband met finansiële voorsorg; die Minister te magtig om gevalle waarvoor finansiële voorsorg benodig word, voor te skryf; duidelikheid te voorsien dat 'n aansoeker of houër van 'n omgewingsmagtiging, houër en houër van 'n ou orde reg rakende mynbouaktiwiteite, finansiële voorsorg opsy moet sit vir progressiewe rehabilitasie, versagting, uitdiensstelling, mynsluiting en die bestuur van nasluitingsinwerkings; die mediums te identifiseer wat gebruik moet word in die voorsiening van die finansiële voorsorg; die Minister verantwoordelik vir minerale hulpbronne of die Minister verantwoordelik vir watersake toegang te gee tot die finansiële voorsorg om rehabilitasie en remediëring te onderneem indien die houër van 'n omgewingsmagtiging vir 'n mynbouaktiwiteit, houër of houër van 'n ou orde reg versum om dit te doen; dit duidelik te stel dat die finansiële voorsorg slegs gebruik kan word vir die doeleindes van progressiewe rehabilitasie, uitdiensstelling, sluiting, en nasluitingsaktiwiteite soos voorgeskryf; voorsiening te maak dat hersieningstydperke van die finansiële voorsorg en die publikasie van die hersieningsbeslissing voorgeskryf word; dit 'n verpligte vereiste te maak dat die rehabilitasie wat jaarliks onderneem kan word, wel onderneem word; voorsiening te maak vir die Minister verantwoordelik vir minerale hulpbronne in oorleg met die Minister en die Minister verantwoordelik vir watersake om 'n jaarlikse onttrekking van fondse soos voorgeskryf binne 'n sekere tydperk goed te keur vir uitdiensstelling en sluiting; om te vereis dat finansiële voorsorg oorgeplaas word na die Minister verantwoordelik vir minerale hulpbronne by die uitreiking van 'n sluitingsertifikaat; te vereis dat die Minister verantwoordelik vir minerale hulpbronne toegang kry tot fondse by die uitreiking van 'n sluitingsertifikaat, wat voorsien is vir die rehabilitasie van residuele omgewingsinwerkings in 'n geval waar die medium versekering is; die houër van 'n omgewingsmagtiging vir 'n mynbouaktiwiteit, houër of houër van 'n ou orde reg en eienaar van werke, in te sluit in die bepalinge rakende omgewingsaanspreeklikheid en die vereiste om mynsluitingsprosedures te beplan, te bestuur en in werking te stel; dit duidelik te maak dat residu voorraadstapels en residu neerslae ingevolge hierdie Wet bestuur moet word; duidelikheid te voorsien dat 'n artikel 28(4)-opdrag ook uitgereik kan word aan 'n grondeienaar, 'n persoon in beheer van die grond of iemand wat 'n reg het om die betrokke grond te gebruik; 'n munisipale bestuurder te magtig om artikel 28(4)-opdragte uit te reik; die Minister verantwoordelik vir minerale hulpbronne te magtig om omgewingsinspekteurs vir minerale en petroleum aan te wys in 'n staatsorgaan wat 'n reguleringsfunksie uitvoer; die LUR te magtig om omgewingsbestuursinspekteurs aan te wys om afdwingingsaksies ten opsigte van provinsiale omgewingswetgewing te onderneem; die Minister te magtig om 'n Gedragskode vir omgewingsbestuursinspekteurs en omgewingsinspekteurs vir minerale en petroleum voor te skryf; ooreenstemming te voorsien tussen die bevoegdhede en pligte van omgewingsinspekteurs vir minerale en petroleum en omgewingsbestuursinspekteurs en die opleiding wat hulle voor aanwysing moet bywoon; duidelikheid te voorsien dat die doen van 'n "deursoeking" nie die primêre doel van 'n roetine-inspeksie deur 'n omgewingsbestuursinspekteur is nie; 'n omgewingsbestuursinspekteur te magtig om 'n item vir verdere analise of verifiëring terug te hou ten einde vas te stel of aan die toepaslike regsvereistes voldoen is of nie; duidelikheid te voorsien dat die Minister se bevoegdheid om regulasies oor skulderkenningsboetes te ontwikkel, die verwante bepalinge van die Strafproseswet, 1977,

this Act; to provide clarity on circumstances in which an appeal against a directive or other administrative enforcement notice that is aimed at addressing significant harm to the environment does not automatically suspend it; to provide clarity that an appeal or objection against a directive or compliance notice must be lodged at the appropriate appeal or objection authority; to correct references and cross-references to offences and penalties; to make failure to comply with certain financial provisioning requirements an offence and to update the list of offences and penalties; and to clarify that prospecting, exploration and production operations form part of the one environmental system agreement;

- National Environmental Management: Protected Areas Act, 2003, so as to provide for the Chief Financial Officer of the South African National Parks to be a member of the Board; to provide for the criteria under which a section 48 permission may be issued or rejected; and to create a new offence for non-compliance with section 48A which prohibits certain activities in marine protected areas; to rectify incorrect references to offences;
- National Environmental Management: Biodiversity Act, 2004, so as to provide clarity on the definition of “control” and to insert definitions of “eradicate” and “well-being”; to ensure that indigenous biological resources are used sustainably; to ensure that certain species remain in State custody despite escape from a protected area; to empower the Minister to prohibit certain activities that may negatively impact on the well-being of an animal; to provide for the Chief Financial Officer of the South African National Biodiversity Institute to be a member of the Board; to provide clarity on measures to be undertaken to eradicate listed invasive species; to provide clarity on the steps, actions or methods to be undertaken to either control or eradicate listed invasive species; and to ensure that the MECs responsible for environmental affairs follow the consultation process set out in sections 99 and 100 before exercising a power in terms of a provision under the Act;
- National Environmental Management: Air Quality Act, 2004, so as to provide the Minister with discretion to establish the National Air Quality Advisory Committee; to provide clarity on the consequences of unlawful commencement of a listed activity; to provide clarity that a provincial organ of state is the licensing authority where a listed activity falls within the boundaries of more than one metropolitan municipality or more than one district municipality or both a metropolitan and district municipality; to provide for textual amendment to section 36(5)(d); and to provide for revocation or suspension of an atmospheric emission licence;
- National Environmental Management: Integrated Coastal Management Act, 2008, so as to allow for the removal of structures erected prior to commencement of the Act and to repeal Chapter 9 in order to align appeals with section 43 of the National Environmental Management Act, 1998;
- National Environmental Management: Waste Act, 2008, so as to move all definitions from Schedule 3 to section 1; to provide for textual amendment to the definitions of “residue deposits”, “residue stockpiles” and “waste”; to add definitions for “commercial value” and “trade in” as it relates to the definition of “waste”; to provide for the exclusion of residue stockpiles and residue deposits from the provisions of the Act; to provide for the Waste Management Bureau to be established as a public entity; to provide for the simultaneous submission of the site assessment report and remediation plan relating to contaminated land; to provide clarity that the Minister must keep a national register of all contaminated land areas; to provide clarity that the Minister responsible for mineral resources is responsible for implementation of the waste management system in so far as it relates to a waste management activity that is a mining activity as defined; to empower the Minister to take a decision in the place of the provincial licensing authority under certain circumstances; to provide for the payment of processing fee for the variation of a waste management licence; to increase the fines that could be imposed in terms of regulations made under the Act; to provide clarity that there will be no exemptions provided from obtaining a waste management licence; and to repeal Schedule 3;

kontekstualiseer; die Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake en 'n munisipale bestuurder te magtig om werksaamhede en pligte ingevolge hierdie Wet te delegeer; duidelikheid te voorsien oor omstandighede waaronder 'n appèl gemaak kan word teen 'n opdrag of ander administratiewe afdwingingskennisgewing wat daarop gerig is om beduidende skade aan die omgewing te hanteer, dit nie outomaties opskort nie; dit duidelik te stel dat 'n appèl of beswaar teen 'n opdrag of voldoeningkennisgewing by die gepaste appèlowerheid of beswaarowerheid ingedien moet word; verwysings en kruisverwysings na misdrywe en strawwe reg te stel; om versuim om aan sekere vereistes vir finansiële voorsorg te voldoen 'n misdryf te maak en om die lys van misdrywe en strawwe by te werk; en om duidelik te stel dat prospekterings-, eksplorasië- en produksiebedrywe deel uitmaak van die ooreenkoms vir *One Environmental System*;

- die Xhosa-teks van “National Environmental Management: Protected Areas Act, 2003”, ten einde voorsiening te maak vir die Hoof- Finansiële Beampte van die Suid-Afrikaanse Nasionale Parke om 'n lid van die raad te wees; voorsiening te maak vir die maatstawwe waarvolgens 'n artikel 48-toestemming uitgereik of geweier kan word; 'n nuwe misdryf vir nienakoming van artikel 48A te skep, wat sekere aktiwiteite in mariene-beskermdegebiede verbied; verkeerde verwysings na misdrywe reg te stel;
- die Setswana-teks van die “National Environmental Management: Biodiversity Act, 2004”, ten einde duidelikheid te voorsien oor die omskrywing van “control” en om omskrywings in te voeg van “eradicate” en “well-being”; te verseker dat inheemse biologiese hulpbronne volhoubaar gebruik word; te verseker dat sekere spesies in Staatsbewaring bly ten spyte van ontsnapping uit 'n beskermde gebied; die Minister te magtig om sekere aktiwiteite wat 'n negatiewe inwerking op die welstand van 'n dier kan hê, te verbied; voorsiening te maak vir die Hoof- Finansiële Beampte van die Suid-Afrikaanse Nasionale Instituut vir Biodiversiteit om 'n lid van die raad te wees; duidelikheid te voorsien oor maatreëls wat onderneem moet word om gelyste indringerspesies uit te roei; te verseker dat die LUR'e verantwoordelik vir omgewingsake die oorlegproses in artikels 99 en 100 uiteengesit, volg voordat hulle 'n bevoegdheid ingevolge 'n bepaling van die Wet uitoefen;
- die Zulu-teks van die “National Environmental Management: Air Quality Act, 2004”, ten einde die Minister diskresie te gee om die Nasionale Advieskomitee op Luggehalte in te stel; duidelikheid te voorsien oor die gevolge van die wederregtelike aanvang van 'n gelyste aktiwiteit; duidelikheid te voorsien dat 'n provinsiale staatsorgaan die lisensieringsowerheid is waar 'n gelyste aktiwiteit binne die grense van meer as een metropolitaanse munisipaliteit of meer as een distriksmunisipaliteit, of beide 'n metropolitaanse munisipaliteit of distriksmunisipaliteit val; voorsiening te maak vir tekstuele wysigings aan artikel 36(5)(d); voorsiening te maak vir intrekking of opskorting van 'n atmosferiese emissielisensie;
- Xhosa-teks van die “National Environmental Management: Integrated Coastal Management Act, 2008”, ten einde voorsiening te maak vir die verwydering van strukture wat voor die inwerkingtreeding van die Wet opgerig is en Hoofstuk 9 te herroep ten einde appèlle in ooreenstemming te bring met artikel 43 van die Wet op Nasionale Omgewingsbestuur;
- die Setswana-teks van die “National Environmental Management: Waste Act, 2008”, ten einde al die omskrywings uit Bylae 3 na artikel 1 te skuif; voorsiening te maak vir tekstuele wysigings aan die omskrywings van “residue deposits” en “residue stockpiles” en “waste” en omskrywings by te voeg vir “commercial value” en “trade in” soos dit in verband staan met die omskrywing van “waste”; voorsiening te maak vir die uitsluiting van residu voorraadstapels en residu neerslae uit die bepalings van die Wet; voorsiening te maak vir die stigting van die Afvalbestuurburo as 'n openbare instelling; voorsiening te maak vir die gelyktydige indiening van die terreinbepalingsverslag en remediëringsplan in verband met besoedelde grond; duidelikheid te voorsien dat die Minister 'n nasionale register van alle besoedelde gebiede grond moet byhou; duidelikheid te voorsien dat die

- **National Environmental Management Amendment Act, 2008, so as to clarify the instances prior to 8 December 2014 when the requirements of the Act are regarded as having been fulfilled; and to provide clarity that an appeal against an environmental management programme or plan lodged in terms of the Mineral and Petroleum Resources Development Act must be finalised under that Act;**
 - **To provide for transitional provisions regarding residue stockpiles and residue deposits approved in terms of the National Environmental Management: Waste Act, 2008; to provide for transitional provisions regarding the continuation of the Waste Management Bureau;**
- and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 107 of 1998, as amended by section 1 of Act 56 of 2002, section 1 of Act 46 of 2003, section 1 of Act 8 of 2004, section 1 of Act 44 of 2008, section 1 of Act 62 of 2008, section 1 of Act 14 of 2009, section 1 of Act 30 of 2013 and section 1 of Act 25 of 2014 5

1. Section 1 of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the insertion after the definition of “assessment” of the following definition: 10
- “ **‘audit’**, when used in sections 24P and 24PA, means a review of the scientific and engineering acceptability of the measures and the adequacy of related costs associated with financial provision, as prescribed;”
- (b) by the insertion after the definition of “best practicable environmental option” of the following definition: 15
- “ **‘black’**, when used in section 2(4)(gA), has the meaning assigned to “black people” in section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);”
- (c) by the substitution for the definition of “Constitution” of the following definition: 20
- “ **‘Constitution’** means the Constitution of the Republic of South Africa, 1996 [(Act No. 108 of 1996)];”
- (d) by the insertion after the definition of “environmental management inspector” of the following definition: 25
- “ **‘environmental management instrument’** means—
- | | |
|--|----|
| (i) environmental management framework; | 30 |
| (ii) strategic environmental assessment; | |
| (iii) spatial tool; | |
| (iv) environmental management programme; | |
| (v) environmental risk assessment; | |
| (vi) environmental feasibility assessment; | |
| (vii) norm or standard; | |

Minister verantwoordelik vir minerale hulpbronne verantwoordelik is vir die implementering van die afvalbestuurstelsel vir sover dit verband hou met 'n afvalbestuuraktiwiteit wat 'n mynbouaktiwiteit is soos omskryf; die Minister te magtig om onder sekere omstandighede in die plek van die provinsiale lisensieringsowerheid 'n besluit te neem; voorsiening te maak vir die betaling van verwerkingsgelde vir die verandering van 'n afvalbestuurslisensie; die boetes te verhoog wat ingevolge regulasies kragtens die Wet gemaak, opgelê kan word; duidelik te stel dat geen vrystellings van die verkryging van 'n afvalbestuurslisensie gegee sal word nie; Bylae 3 te herroep deur 'n nuwe Bylae te vervang;

- Wysigingswet op Nasionale Omgewingsbestuur, 2008, ten einde die gevalle voor 8 Desember 2014 te verduidelik waarin die vereistes van die Wet geag word aan voldoen te wees; duidelikheid te voorsien dat 'n appèl teen 'n omgewingsbestuursprogram of -plan ingevolge die “Mineral and Petroleum Resources Development Act” ingedien, kragtens daardie Wet afgehandel moet word;
- Voorsiening te maak vir oorgangsmatreëls aangaande residu voorraadstapels en residu neerslae goedgekeur ingevolge die “National Environmental Management: Waste Act, 2008”; voorsiening te maak vir oorgangsmatreëls aangaande die voortbestaan van die Afvalbestuurburo; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 107 van 1998, soos gewysig deur artikel 1 van Wet 56 van 2002, artikel 1 van Wet 46 van 2003, artikel 1 van Wet 8 van 2004, artikel 1 van Wet 44 van 2008, artikel 1 van Wet 62 van 2008, artikel 1 van Wet 14 van 2009, artikel 1 van Wet 30 van 2013 en artikel 1 van Wet 25 van 2014 5

1. Artikel 1 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur die omskrywing van “finansiële voorsorg” deur die volgende omskrywing te vervang: 10
- “**‘finansiële voorsorg’** die bedrag wat ingevolge hierdie Wet voorsien moet word, deur 'n houër, houër van 'n ou orde reg of applikant, wat die beskikbaarheid waarborg van voldoende fondse om progressiewe rehabilitasie, uitdiensstelling, afsluiting en nasluitingsaktiwiteite te onderneem, asook die pomp en suiwering van besoedelde of vreemde water, waar tersaaklik, om te verseker dat die Staat nie aanspreeklik word vir daardie uitgawes wat deur 'n houër, houër van 'n ou orde reg of applikant gedek moet word nie;”;
- (b) deur die omskrywing van “Grondwet” deur die volgende omskrywing te vervang: 20
- “**‘Grondwet’** die Grondwet van die Republiek van Suid-Afrika, 1996 [(Wet No. 108 van 1996)];”;
- (c) deur die volgende omskrywing na die omskrywing van “houër van ou orde reg” in te voeg: 25
- “**‘inheemsekennispraktisyn’** dit wat in artikel 1 van die ‘Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019’ (Wet No. 6 van 2019), daaraan toegeskryf is;”;
- (d) deur die volgende omskrywing na die omskrywing van “Minister” in te voeg:

- (viii) minimum information requirements; or
- (ix) any other relevant environmental management instrument, as may be developed in time;”;
- (e) by the substitution for the definition of “environmental mineral resource inspector” of the following definition: 5
 “**‘environmental mineral [resource] and petroleum inspector’** means a person designated as an environmental mineral [resource] and petroleum inspector in terms of section 31BB;”;
- (f) by the substitution for the definition of “financial provision” of the following definition: 10
 “**‘financial provision’** means the amount which is to be provided in terms of this Act by a holder, holder of an old order right or applicant, guaranteeing the availability of funds to fulfil the obligation to undertake progressive rehabilitation, decommissioning, closure and post-closure activities including the pumping and treatment of polluted or extraneous water to ensure that the State does not become liable for those costs which should be covered by a holder, holder of an old order right or applicant;”;
- (g) by the insertion after the definition of “holder of an old order right” of the following definition: 20
 “**‘indigenous knowledge practitioner’** has the meaning assigned to it in section 1 of the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (Act No. 6 of 2019);”;
- (h) by the insertion after the definition of “international environmental instrument” of the following definition: 25
 “**‘latent environmental impacts’**, when used in sections 24P and 24PA, means impacts which are existing and defined, but not yet developed and will manifest post-closure;”;
- (i) by the insertion after the definition of “Mineral and Petroleum Resources Development Act, 2002” of the following definition: 30
 “**‘mining activity’** means an activity which requires a permission, right, permit or consent in terms of the Mineral and Petroleum Resources Development Act, 2002, including hydraulic fracturing and reclamation;”;
- (j) by the insertion after the definition of “Minister responsible for mineral resources” of the following definitions: 35
 “**‘municipal council’** means a municipal council referred to in section 157(1) of the Constitution;
‘municipality’, when referred to as—
 (a) an entity, means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
 (b) a geographic area, means a municipal area determined in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);
‘municipal manager’ means a person appointed in terms of section 54A(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
‘mitigate’ when used in section 24P and 24PA, means to alleviate, reduce or make less severe;”;
- (k) by the insertion after the definition of “regulation” of the following definition: 50
 “**‘rehabilitate’**, when used in sections 24P and 24PA, means to restore to the approved end use of land;”;
- (l) by the deletion of the definition “spatial development tool”.

- “ **‘munisipale bestuurder’** ’n persoon ingevolge artikel 54A(1) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), aangestel;
- ‘munisipale raad’** ’n munisipale raad in artikel 157(1) van die Grondwet bedoel; 5
- ‘munisipaliteit’** wanneer daarna verwys word as ’n—
- (a) entiteit, ’n munisipaliteit soos omskryf in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), beskryf; en
- (b) ’n geografiese gebied, ’n munisipale gebied vasgestel ingevolge artikel 21 van die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet No. 27 van 1998); 10
- (e) deur die volgende omskrywing na die omskrywing van “myn” in te voeg:
 “ **‘mynbouaktiwiteit’** ’n aktiwiteit wat toestemming, ’n reg, permit of toestemming ingevolge die ‘Mineral and Petroleum Resources Development Act, 2002’, vereis, ook hidrobreking en herwinning;” 15
- (f) deur die volgende omskrywing na die omskrywing van “omgewingsbestuursamewerkingsooreenkoms” in te voeg:
 “ **‘omgewingsbestuursinstrument’**—
- (i) ’n omgewingsbetuursraamwerk; 20
- (ii) strategiese omgewingsbepaling;
- (iii) ruimtelike nutsmiddel;
- (iv) omgewingsbestuursprogram;
- (v) omgewingsrisikobepaling;
- (vi) omgewingshaalbaarheidsbepaling; 25
- (vii) norm of standaard;
- (viii) minimum inligtingsvereistes; of
- (ix) enige ander tersaaklike omgewingsbestuursinstrument, soos mettertyd ontwikkel mag word;”;
- (g) deur die omskrywing van “omgewingsinspekteur vir minerale hulpbronne” deur die volgende omskrywing te vervang: 30
 “ **‘omgewingsinspekteur vir minerale [hulpbronne] en petroleum’** ’n persoon ingevolge artikel 31BB as ’n omgewingsinspekteur vir minerale [hulpbronne] en petroleum aangewys;”;
- (h) deur die volgende omskrywing na die omskrywing van “omgewingsvoetspoor” in te voeg: 35
 “ **‘oudit’**, wanneer dit in artikels 24P en 24PA gebruik word, ’n hersiening van die wetenskaplike en ingenieursaanvaarbaarheid van die maatreëls en die toereikendheid van gepaardgaande koste wat met finansiële voorsorg gepaard gaan, soos voorgeskryf;”;
- (i) deur die volgende omskrywings na die omskrywing van “regulasie” in te voeg: 40
 “ **‘rehabiliteer’** om na die goedgekeurde eindgebruik van grond te herstel;”;
- (j) deur die omskrywing van “ruimtelike-ontwikkelingshulpmiddel” te skrap; 45
- (k) deur die volgende omskrywing na die omskrywing van “Staatsorgaan” in te voeg:
 “ **‘swart’** wanneer in artikel 2(4)(gA) gebruik, dit wat in artikel 1 van die ‘Broad-Based Black Economic Empowerment Act, 2003’ (Wet No. 53 van 2003), aan ‘black people’ toegeskryf is;” en 50
- (l) deur die volgende omskrywings na die omskrywing van “volhoubare ontwikkeling” in te voeg:
 “ **‘versag’**, by gebruik in artikel 24P en 24PA, beteken om te verlig, te verminder of minder ernstig te maak;
- ‘verskuilde omgewingsinwerkings’**, by gebruik in artikels 24P en 24PA, inwerkings wat bestaan en wat omskryf is, maar nog nie ontwikkel het nie en na sluiting sal manifesteer;” 55

Amendment of section 2 of Act 107 of 1998

2. Section 2 of the National Environmental Management Act, 1998, is hereby amended by the insertion in subsection (4) after paragraph (q) of the following paragraph:

“(qA) The full participation of previously disadvantaged professionals, with specific emphasis on black professionals and indigenous knowledge practitioners in the environmental management sector, must be recognised and their participation in the sector promoted.” 5

Amendment of section 24 of Act 107 of 1998, as amended by section 2 of Act 8 of 2004, section 2 of Act 62 of 2008, section 5 of Act 30 of 2013 and section 2 of Act 25 of 2014 10

3. Section 24 of the National Environmental Management Act, 1998, is hereby amended—

(a) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs: 15

“(b) geographical areas based on environmental attributes, and as specified in **[spatial development tools]** an environmental management instrument, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may not commence without an environmental authorisation from the competent authority; 20

(c) geographical areas based on environmental attributes, and specified in **[spatial tools or]** an environmental management **[instruments]** instrument, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which **[specified]** activities contemplated in paragraphs (a) and (b) may be excluded from the requirement to obtain an environmental authorisation from the competent authority, but which must comply with the requirements set in such environmental management instrument, if any;” 25

(b) by the substitution in subsection (2A) for subparagraph (i) of paragraph (b) of the following subparagraph: 30

“(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 or restriction has been lifted;” 35

(c) by the substitution in subsection (5) for paragraph (bA) of the following paragraph: 40

“(bA) laying down the procedure to be followed for the preparation, evaluation, adoption and review of **[prescribed]** environmental management instruments, including any conditions set out in such instrument, if any condition applies[, **including—**

- (i) **environmental management frameworks;**
- (ii) **strategic environmental assessments;**
- (iii) **environmental impact assessments;**
- (iv) **environmental management programmes;** 45
- (v) **environmental risk assessments;**
- (vi) **environmental feasibility assessments;**
- (vii) **norms or standards;**
- (viii) **spatial development tools;**
- (viiiA) **minimum information requirements; or** 50
- (ix) **any other relevant environmental management instrument that may be developed in time;”;**

(d) by the deletion in subsection (5) of paragraph (bB); and

(e) by the insertion after subsection (5) of the following subsection: 55

“(5A) The Minister must keep a register of all environmental management instruments adopted in terms of this Act and make it publicly available.”

Wysiging van artikel 2 van Wet 107 van 1998

2. Artikel 2 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur die volgende paragraaf na paragraaf (q) in subartikel (4) in te voeg:

“(qA) Die volle deelname van voorheen benadeelde beroepslui, met spesifieke beklemtoning van swart beroepslui en inheemsekennispraktisyns, in die omgewingsbestuurssektor moet erken word en hul deelname in die sektor moet bevorder word.”.

Wysiging van artikel 24 van Wet 107 van 1998, soos gewysig deur artikel 2 van Wet 8 van 2004, artikel 2 van Wet 62 van 2008, artikel 5 van Wet 30 van 2013 en artikel 2 van Wet 25 van 2014

3. Artikel 24 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

(a) deur in subartikel (2) paragrawe (b) en (c) deur die volgende paragrawe te vervang:

“(b) geografiese gebiede identifiseer, gegrond op omgewings-eienskappe, en soos gespesifiseer in **[ruimtelike-ontwikkelingshulpmiddels]** ’n omgewingsbestuursinstrument op die voorgeskrewe wyse deur die Minister of ’n LUR, met die instemming van die Minister, goedgekeur, waarin gespesifiseerde aktiwiteite nie ’n aanvang mag neem sonder ’n omgewingsmagtiging van die bevoegde owerheid nie;

(c) geografiese gebiede identifiseer, gegrond op omgewings-eienskappe, en soos gespesifiseer in **[ruimtelike hulpmiddels]** ’n omgewingsbestuursinstrument, op die voorgeskrewe wyse deur die Minister of ’n LUR, met die instemming van die Minister, goedgekeur, waarin **[gespesifiseerde]** aktiwiteite beoog in paragrawe (a) en (b) van die vereiste om omgewingsmagtiging van die bevoegde owerheid te kry, uitgesluit kan word, maar wat aan die vereistes gestel in sodanige omgewingsbestuursinstrument, indien enige, moet voldoen;”;

(b) deur in subartikel (2A) subparagraaf (i) van paragraaf (b) deur die volgende subparagraaf te vervang:

“(i) nie enige verdere aansoek om ’n omgewingsmagtiging vir die geïdentifiseerde gelyste of gespesifiseerde aktiwiteit in die geïdentifiseerde geografiese gebied aanvaar totdat die verbod of beperking gelig is nie;”;

(c) deur in subartikel (5) paragraaf (bA) deur die volgende paragraaf te vervang:

“(bA) die prosedure neerlê wat gevolg moet word by die voorbereiding, evaluering, goedkeuring en hersiening van voorgeskrewe omgewingsbestuursinstrumente, met inbegrip van enige voorwaardes in sodanige instrument uiteengesit, indien enige voorwaarde van toepassing is [met inbegrip van—

- (i) **omgewingsbestuursraamwerke;**
- (ii) **strategiese omgewingsbepalings;**
- (iii) **omgewingsinvloedbepalings;**
- (iv) **omgewingsbestuursprogramme;**
- (v) **omgewingsrisikobepalings;**
- (vi) **omgewingsuitvoerbaarheidsbepalings;**
- (vii) **norme of standaarde;**
- (viii) **ruimtelike ontwikkelingshulpmiddels;**
- (viiiA) **minimum inligtingsvereistes; of**
- (ix) **enige ander tersaaklike omgewingsbestuursinstrument wat mettertyd ontwikkel word];”;**

(d) deur in subartikel (5) paragraaf (bB) te skrap; en

(e) deur die volgende subartikel na subartikel (5) in te voeg:

“(5A) Die Minister moet ’n register hou van alle omgewingsbestuursinstrumente wat ingevolge hierdie Wet goedgekeur is en dit openbaar beskikbaar stel.”.

Amendment of section 24C of Act 107 of 1998, as amended by section 3 of Act 62 of 2008, section 6 of Act 30 of 2013 and section 3 of Act 25 of 2014

4. Section 24C of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (2A) of the following subsection: 5
 “(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 10
 (b) **extraction and primary processing of a mineral or petroleum resource]** a mining activity.”;
- (b) by the substitution in subsection (2B) for paragraph (a) of the following paragraph: 15
 “(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, unless otherwise agreed to in terms of subsection (3).”; 20
- (c) by the substitution for subsection (3) of the following subsection: 25
 “(3) The Minister, the Minister responsible for mineral resources and an MEC may agree that applications for environmental authorisations with regard to any activity or class of activities—
 (a) contemplated in [subsection] subsections (2) and (2B) may be dealt with by the MEC or the Minister responsible for mineral resources;
 (b) in respect of which the MEC is identified as the competent authority may be dealt with by the Minister or the Minister responsible for mineral resources.”; and 30
- (d) by the addition of the following subsections: 35
 “(11) A person who requires an environmental authorisation which also involves an activity that requires a licence or permit in terms of any of the specific environmental management Acts, must simultaneously submit those applications to the relevant competent authority or licensing authority, as the case may be, indicating in each application all other licences, authorisations and permits applied for. 40
 (12) A person who wishes to apply for a mining activity which also involves an activity that requires a licence, permit or authorisation in terms of any of the specific environmental management Acts, must simultaneously apply for an environmental authorisation after the acceptance, where such acceptance is applicable, of the application in terms of the Mineral and Petroleum Resources Development Act, 2002. 45
 (13) If the competent authority or licensing authority contemplated in subsections (11) and (12), as the case may be, is the same authority to consider and decide the application for an environmental authorisation under this Act and the application under a specific environmental management Act, an integrated decision must be issued in accordance with section 24L.”.

Amendment of section 24G of Act 107 of 1998, as substituted by section 6 of Act 62 of 2008 and section 9 of Act 30 of 2013 50

5. Section 24G of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraphs: 55

Wysiging van artikel 24C van Wet 107 van 1998, soos gewysig deur artikel 3 van Wet 62 van 2008, artikel 6 van Wet 30 van 2013 en artikel 3 van Wet 25 van 2014

4. Artikel 24C van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur subartikel (2A) deur die volgende subartikel te vervang: 5
- “(2A) Die Minister verantwoordelik vir minerale hulpbronne word as die bevoegde gesag ingevolge subartikel (1) geïdentifiseer waar die gelyste of gespesifiseerde aktiwiteit ’n mynbouaktiwiteit daarstel [**direk verband hou met—**
- (a) **prospektering of eksplorasië van ’n minerale of petroleumhulpbron; of** 10
- (b) **uithaal en primêre verwerking van ’n minerale of petroleumhulpbron, is of direk daarmee verband hou**].”;
- (b) deur in subartikel (2B) paragraaf (a) deur die volgende paragraaf te vervang: 15
- “(a) Ondanks die ander bepalings van hierdie artikel, en indien die Minister nie die bevoegde owerheid is nie, moet die Minister as die bevoegde owerheid geïdentifiseer word waar ’n Kabinetsbesluit bepaal dat die Minister die bevoegde owerheid moet wees vir aktiwiteite wat verband hou met ’n aangeleentheid wat as ’n nasionale prioriteit verklaar is of aangeleentede wat met sodanige nasionale prioriteit verband hou, tensy ingevolge subartikel (3) anders op ooreengekom is.”; 20
- (c) deur subartikel (3) deur die volgende subartikel te vervang: 25
- “(3) Die Minister, die Minister verantwoordelik vir minerale hulpbronne en ’n LUR kan ooreenkom dat aansoeke om omgewingsmagtigings met betrekking tot enige aktiwiteit of klas aktiwiteite—
- (a) beoog in [**subartikel**] subartikels (2) en (2B) deur die LUR of Minister verantwoordelik vir minerale hulpbronne hanteer kan word; 25
- (b) ten opsigte waarvan die LUR as die bevoegde owerheid geïdentifiseer is, deur die Minister of die Minister verantwoordelik vir minerale hulpbronne gehanteer kan word.”; en 30
- (d) deur die volgende subartikels by te voeg: 35
- “(11) Iemand wat ’n omgewingsmagtiging benodig wat ook ’n aktiwiteit behels wat ’n lisensie of permit ingevolge enige van die spesifieke omgewingsbestuurswette vereis, moet daardie aansoek gelyktydig by die tersaaklike owerheid of lisensiëringsowerheid, na gelang van die geval, indien en alle ander lisensies, magtigings en permitte waarvoor aansoek gedoen word, aandui. 35
- (12) Iemand wat om ’n mynbouaktiwiteit wat ook ’n aktiwiteit behels wat ’n lisensie, permit of magtiging vereis ingevolge enige van die spesifieke omgewingsbestuurswette, wil aansoek doen, moet terselfdertyd aansoek doen om ’n omgewingsmagtiging binne ’n maksimum tydperk van 14 maande vanaf die datum van aanvaarding, waar sodanige aanvaarding van toepassing is, van die aansoek ingevolge die ‘Mineral and Petroleum Resources Development Act, 2002’. 45
- (13) Indien die bevoegde owerheid of lisensiëringsowerheid beoog in subartikels (11) en (12), na gelang van die geval, dieselfde owerheid is wat die aansoek om omgewingsmagtiging kragtens hierdie Wet en die aansoek kragtens ’n spesifieke omgewingsbestuurswet moet oorweeg, moet ’n geïntegreerde besluit ooreenkomstig artikel 24L uitgereik word.”. 50

Wysiging van artikel 24G van Wet 107 van 1998, soos vervang deur artikel 6 van Wet 62 van 2008 en artikel 9 van Wet 30 van 2013

5. Artikel 24G van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig— 55

- (a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

- “(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)[,];
- (c) is in control of, or successor in title to, land on which a person— 5
- (i) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F(1); or
 - (ii) has commenced with, undertaken or conducted a waste management activity in contravention of section 20(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), 10
- the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be[,]—
- (aa) **[may]** must direct the applicant to— 15
- [(i)] (A) immediately cease the activity pending a decision on the application submitted in terms of this subsection, except if there are reasonable grounds to believe the cessation will result in serious harm to the environment;
 - [(ii)] (B) investigate, evaluate and assess the impact of the activity on the environment; 20
 - [(iii)] (C) remedy any adverse effects of the activity on the environment;
 - [(iv)] (D) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation; 25
 - [(v)] (E) contain or prevent the movement of pollution or degradation of the environment;
 - [(vi)] (F) eliminate any source of pollution or degradation;
 - (G) undertake public participation which is appropriate to bring the unlawful commencement, undertaking or conducting of a listed, specified or waste management activity to the attention of interested and affected parties, and to provide them with a reasonable opportunity to comment on the application in accordance with relevant elements of public participation as prescribed in terms of this Act; and 30 35
 - [(vii)] (H) compile a report containing—
- [(aa)] (AA) a description of the need and desirability of the activity;
 - [(bb)] (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; 40 45
 - [(cc)] (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; and 50
 - [(dd)] (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, if applicable; 55
 - [(ee) **compile an environmental management programme; or]** and

- “(b) sonder ’n afvalbestuurslisensie ingevolge artikel 20(b) van die ‘National Environmental Management: Waste Act, 2008’ (Wet No. 59 van 2008), met ’n afvalbestuursaktiwiteit ’n aanvang geneem het, onderneem het of verrig het[,];
- (c) in beheer is van, of regsopvolger is van, grond waarop iemand— 5
- (i) in stryd met artikel 24F(1) ’n aanvang geneem het met ’n gelyste of spesifieke aktiwiteit sonder ’n omgewingsmagtiging;
- (ii) met ’n afvalbestuursaktiwiteit ’n aanvang geneem het, onderneem het of gedoen het in stryd met artikel 20(b) van die ‘National Environmental Management: Waste Act, 2008’ (Wet No. 59 van 2008), 10
- [kan]** moet die Minister, Minister verantwoordelik vir minerale hulpbronne of betrokke LUR, na gelang van die geval[,]—
- (aa) die aansoeker gelas om— 15
- [(i)] (A) die aktiwiteit onmiddellik te staak hangende ’n beslissing oor die aansoek ingevolge hierdie subartikel ingedien, behalwe indien daar redelike gronde is om te vermoed dat die staking ernstige skade vir die omgewing tot gevolg sal hê; 20
- [(ii)] (B) die invloed van die aktiwiteit op die omgewing te ondersoek, evalueer en bepaal;
- [(iii)] (C) enige nadelige uitwerkings van die aktiwiteit op die omgewing reg te stel;
- [(iv)] (D) enige handeling, aktiwiteit, proses of uitlating wat besoedeling of omgewingsagteruitgang veroorsaak te staak, verander of beheer; 25
- [(v)] (E) die verspreiding van besoedeling of agteruitgang van die omgewing te stuit of voorkom;
- [(vi)] (F) enige bron van besoedeling of agteruitgang **[uitskakel]** uit te skakel; 30
- (G) openbare deelname te onderneem wat gepas is om die onwettige aanvang, onderneming of uitvoer van ’n gelyste, gespesifiseerde of afvalbestuuraktiwiteit onder die aandag van belanghebbende en geraakte partye te bring, en hulle te voorsien van ’n redelike geleentheid om op die aansoek kommentaar te lewer ooreenkomstig die tersaaklike elemente van openbare deelname soos ingevolge hierdie Wet voorgeskryf; en 35
- [(vii)] (H) ’n verslag **[opstel]** op te stel wat—
- [(aa)] (AA) ’n beskrywing van die nodigheid en wenslikheid van die aktiwiteit, uiteensit; 40
- [(bb)] (BB) ’n bepaling van die aktiwiteit se aard, omvang, duur en belang van die gevolge vir of invloed daarvan op die omgewing, met inbegrip van die kumulatiewe uitwerking en die wyse waarop die geografiese, fisiese, biologiese, maatskaplike, ekonomiese en kulturele aspekte van die omgewing deur die voorgestelde aktiwiteit geraak kan word, uiteensit; 45
- [(cc)] (CC) ’n beskrywing van versagende maatreëls wat getref is of getref gaan word ten opsigte van die aktiwiteit se gevolge vir of invloed op die omgewing, uiteensit; 50
- [(dd)] (DD) ’n beskrywing van die proses van openbare deelname wat gevolg is toe die verslag opgestel is, met inbegrip van alle kommentaar wat van belangstellende en geraakte partye ontvang is en ’n aanduiding van hoe die kwessies wat geopper is, hanteer is, indien van toepassing, uiteensit; en 55
- [(ee)] ’n omgewingsbestuursprogram, 60

- [(viii)] *(bb)* may direct the applicant to compile an environmental management programme or to 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.”; 5
- (b) by the substitution for subsection (4) of the following subsection:
 “(4) A person contemplated in subsection (1) must pay an administrative fine, which may not exceed [R5] R10 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).”; and 10
- (c) by the substitution in subsection (6) for paragraph (a) of the following paragraph:
 “(a) the environmental management inspector’s, environmental mineral and petroleum inspector’s or the South African Police Services’ authority to investigate any transgression in terms of this Act or any specific environmental management Act;”. 15

Amendment of section 24N of Act 107 of 1998, as amended by section 5 of Act 25 of 2014 20

6. Section 24N of the National Environmental Management Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) The environmental management programme must contain[—] information that is prescribed. 25
- [(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 subsection (1A), including environmental impacts or objectives in respect of—** 25
- (i) **planning and design;** 30
- (ii) **pre-construction and construction activities;** 30
- (iii) **the operation or undertaking of the activity in question;**
- (iv) **the rehabilitation of the environment;**
- (v) **closure, if applicable;**
- (b) **details of—** 35
- (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;** 40
- (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;** 45
- (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** 50
- (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** 55
- (iii) **comply with any prescribed environmental management standards or practices.]”.**

- (viii)] (bb) kan gelas dat die applikant 'n omgewingsbestuurprogram opstel of sodanige ander inligting verstrek of sodanige verdere studies onderneem wat die Minister, Minister verantwoordelik vir minerale hulpbronne of LUR, na gelang van die geval, nodig mag ag.”;
- (b) deur subartikel (4) deur die volgende subartikel te vervang:
 “(4) 'n Persoon in subartikel (1) beoog, moet 'n administratiewe boete betaal, wat nie meer as [R5] R10 miljoen mag wees nie en wat deur die bevoegde owerheid bepaal moet word voordat die Minister, Minister verantwoordelik vir minerale hulpbronne of betrokke LUR ingevolge subartikel (2)(a) of (b) kan handel.”; en
- (c) deur in subartikel (6) paragraaf (a) deur die volgende paragraaf te vervang:
 “(a) die omgewingsbetuursinspekteur, omgewingsinspekteur vir minerale en petroleum of die Suid-Afrikaanse Polisie diens se bevoegdheid om enige oortreding ingevolge hierdie Wet of enige bepaalde omgewingsbestuurswet te ondersoek nie;”.

Wysiging van artikel 24N van Wet 107 van 1998, soos gewysig deur artikel 5 van Wet 25 van 2014

6. Artikel 24N van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Die omgewingsbestuursprogram moet [—] voorgeskrewe inligting bevat.
- [(a) inligting bevat oor enige voorgestelde bestuur-, verligtings-, beskermings- of herstelmaatreëls wat onderneem gaan word ten einde die omgewingsinwerkings aan te spreek wat in 'n verslag beoog in subartikel 24 (1A) geïdentifiseer is, met inbegrip van omgewingsinwerkings of oogmerke ten opsigte van—
- (i) beplanning en ontwerp;
 (ii) pre-konstruksie- en konstruksie-aktiwiteite;
 (iii) die bedryf of onderneming van die betrokke aktiwiteite;
 (iv) die rehabilitasie van die omgewing; en
 (v) sluiting, indien van toepassing;
- (b) besonderhede bevat van—
- (i) die persoon wat die omgewingsbestuursprogram voorberei het; en
 (ii) die kundigheid van daardie persoon om 'n omgewingsbestuursprogram voor te berei;
- (c) 'n uitvoerige beskrywing bevat van die aspekte van die aktiwiteit wat deur die omgewingsbestuursprogram gedek word;
- (d) inligting bevat wat die persone identifiseer wat verantwoordelik sal wees vir die implementering van die maatreëls in paragraaf (a) beoog;
- (e) inligting bevat ten opsigte van die meganismes voorgestel vir monitering van nakoming van die omgewingsbestuursprogram en vir rapportering van die nakoming;
- (f) sover dit redelik doenlik is, maatreëls bevat om die omgewing wat geraak word deur die onderneming van 'n gelyste aktiwiteit of gespesifiseerde aktiwiteit te rehabiliteer tot sy natuurlike of voorafbepaalde staat of tot grondgebruik wat voldoen aan die algemeen aanvaarde beginsel van volhoubare ontwikkeling; en
- (g) 'n beskrywing bevat van die wyse waarop dit van plan is om—
- (i) 'n handeling, aktiwiteit of proses wat besoedeling of omgewingsagteruitgang veroorsaak, te temper, reg te stel te beheer of te staak;
 (ii) die oorsaak van besoedeling of agteruitgang en migrasie van besoedelende stof reg te stel; en
 (iii) te voldoen aan enige voorgeskrewe omgewingsbestuurstandaarde of -praktyke.]”.

Amendment of section 24O of Act 107 of 1998, as amended by section 11 of Act 30 of 2013 and amended by section 6 Act 25 of 2014

7. Section 24O of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for the heading of the following heading: 5
“Criteria to be taken into account by competent authorities when considering applications and consultation requirements”;
- (b) by the substitution for subsection (2) of the following subsection; 10
“(2) The Minister, the Minister responsible for mineral resources [or], an MEC or an environmental assessment practitioner must consult with every [State department] organ of state that administers a law relating to a matter affecting the environment when such Minister, the Minister responsible for mineral resources or an MEC considers an application for an environmental authorisation.”;
- (c) by the deletion of subsection (2A); and 15
- (d) by the substitution for subsection (3) of the following subsection: 20
“(3) [A State department] An organ of state 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] organ of state in writing to submit comment.”.

Substitution of section 24P of Act 107 of 1998, as amended by section 7 of Act 25 of 2014

8. The following section is hereby substituted for section 24P of the National Environmental Management Act, 1998: 25

“Financial provision for remediation of environmental damage

24P. (1) In this section, ‘review’ means a formal assessment of the financial provisioning with the intention of instituting change, if necessary.

(2) The Minister, or an MEC in concurrence with the Minister, may prescribe the instances for which financial provision must be set aside. 30

(3) Where prescribed, an applicant, must, before the competent authority issues an environmental authorisation, determine the financial provision which is required for undertaking progressive rehabilitation, decommissioning, closure and post-closure activities, including the pumping and treatment of extraneous and polluted water, where relevant. 35

(4) Where prescribed, the applicant, holder of an environmental authorisation, holder or holder of an old order right must provide financial provision for progressive rehabilitation, mitigation, decommissioning, closure and post-closure activities, including the pumping and treatment of extraneous and polluted water, where relevant, to ensure the mitigation and rehabilitation of adverse environmental impacts, including latent environmental impacts. 40

(5) A holder of an environmental authorisation, holder or holder of an old order right must annually undertake, as prescribed, the mitigation, remediation and rehabilitation measures. 45

(6) The financial provisioning vehicles which must be used when providing the financial provision include—

- (a) cash deposited into an account administered by the Minister responsible for mineral resources; 50
- (b) insurance from an institution that is registered in terms of the applicable insurance sector legislation;
- (c) a financial guarantee from an institution that is registered in terms of the applicable financial sector legislation;
- (d) a trust fund established for the sole purposes of subsection (4); and

Wysiging van artikel 24O van Wet 107 van 1998, soos gewysig deur artikel 11 van Wet 30 van 2013 en gewysig deur artikel 6 van Wet 25 van 2014

7. Artikel 24O van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang: 5
 “**Kriteria wat in ag geneem moet word deur bevoegde owerhede wanneer aansoeke oorweeg word en vereistes vir oorlegpleging**”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang: 10
 “(2) Die Minister, die Minister verantwoordelik vir minerale hulpbronne [of], ’n LUR of ’n omgewingsinvloedbepalingspraktisyn moet met elke [Staatsdepartement] staatsorgaan wat ’n wet administreer met betrekking tot ’n aangeleentheid wat ’n uitwerking op die omgewing het, oorleg pleeg wanneer sodanige Minister, Minister verantwoordelik vir minerale hulpbronne of ’n LUR ’n aansoek om ’n omgewingsmagtiging oorweeg.”; en 15
- (c) deur subartikel (2A) te skrap; en
- (d) deur subartikel (3) deur die volgende subartikel te vervang: 20
 “(3) ’n [Staatsdepartement] Staatsorgaan waarmee ingevolge subartikel (2) oorleg gepleeg is, moet sy kommentaar binne 30 dae voorlê vanaf die datum waarop die Minister, Minister verantwoordelik vir minerale hulpbronne of LUR, of omgewingsinvloedbepalingspraktisyn sodanige [Staatsdepartement] staatsorgaan skriftelik versoek om kommentaar voor te lê.”.

Vervanging van artikel 24P van Wet 107 van 1998, soos gewysig deur artikel 7 van Wet 25 van 2014 25

8. Artikel 24P van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby deur die volgende artikel vervang:

“Finansiële voorsorg vir remediëring van omgewingskade

24P. (1) In hierdie artikel beteken ‘hersiëning’ ’n formele assessering van die finansiële voorsorg met die voorneme om veranderinge te maak, indien nodig. 30

(2) Die Minister, of ’n LUR met die instemming van die Minister, kan die gevalle voorskryf waar finansiële voorsorg getref moet word.

(3) Waar voorgeskryf, moet ’n aplikant, voordat die bevoegde owerheid ’n omgewingsmagtiging uitreik, die finansiële voorsorg vasstel wat benodig word vir die onderneming van progressiewe rehabilitasie, uitdiensstelling, afsluiting en nasluitingsaktiwiteite, met inbegrip van die pomp en suiwing van vreemde en besoedelde water, waar tersaaklik. 35

(4) Waar voorgeskryf, moet die aansoeker, houer van ’n omgewingsmagtiging, houer of houer van ’n ou orde reg finansiële voorsorg tref vir progressiewe rehabilitasie, versagting, uitdiensstelling, afsluiting en nasluitingsaktiwiteite, met inbegrip van die pomp en suiwing van vreemde en besoedelde water, waar tersaaklik, om die versagting en rehabilitasie van nadelige omgewingsinwerkings, met inbegrip van verskuilde omgewingsinwerkings, te verseker. 40 45

(5) ’n Houer van ’n omgewingsmagtiging, houer of houer van ’n ou orde reg moet jaarliks, soos voorgeskryf, die versagtings-, remediërings- en rehabilitasiemaatreëls onderneem.

(6) Die mediums vir finansiële voorsorg wat gebruik moet word wanneer die finansiële voorsorg getref word, sluit in— 50

- (a) kontant gedeponeer in ’n rekening deur die Minister verantwoordelik vir minerale hulpbronne geadministreer;
- (b) versekering van ’n instelling wat ingevolge die toepaslike wetgewing oor die versekeringssektor geregistreer is;
- (c) ’n finansiële waarborg van ’n instelling wat ingevolge die toepaslike wetgewing oor die finansiële sektor geregistreer is; 55
- (d) ’n trustfonds ingestel vir die alleendoeleindes van subartikel (4); en

- (e) any other vehicle, including any condition applicable to such a vehicle, identified by the Minister by notice in the *Gazette* in concurrence with the Minister of Finance and the Minister responsible for mineral resources, and including, but not limited to—
- (i) a closure rehabilitation company;
 - (ii) a parent company guarantee; and
 - (iii) an affiliate company guarantee.
- (7) The financial provisioning vehicles contemplated in subsection (6) may be used in combination as required.
- (8) (a) Where the Minister, the Minister for mineral resources or the MEC is not satisfied with the determination or review of the financial provision, the Minister, the Minister responsible for mineral resources or the MEC may appoint an independent party to conduct an assessment of the determination or review on their behalf.
- (b) Any costs in respect of such assessment must be borne by the applicant, holder of the environmental authorisation, holder or holder of an old order right.
- (9) If any holder of an environmental authorisation, holder or holder of an old order right fails to undertake such mitigation, remediation and rehabilitation of such impact, as prescribed, the Minister responsible for mineral resources, the Minister responsible for water affairs or MEC may, upon written notice to such holder, use all or part of the financial provision contemplated in this section to undertake mitigation, remediation and rehabilitation as the Minister, the Minister responsible for mineral resources or the MEC deems appropriate.
- (10) The financial provision may only be used for the purposes of progressive rehabilitation, decommissioning, closure, post closure, as prescribed, to ensure mitigation, remediation and rehabilitation of adverse environmental impacts for which it was provided and shall not be used for any other purposes.
- (11) The Insolvency Act, 1936 (Act No. 24 of 1936), does not apply to any form of financial provision contemplated in subsection (2) and all amounts arising from that provision.”.

Insertion of section 24PA in Act 107 of 1998

9. The following section is hereby inserted in the National Environmental Management Act, 1998, after section 24P: 35

“Financial provision for mining

- 24PA.** (1) A holder of an environmental authorisation for a mining activity, holder or holder of an old order right must—
- (a) maintain and retain a financial provision until a closure certificate is issued by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002;
 - (b) review and adjust the environmental liability, as prescribed;
 - (c) at the intervals as prescribed, subject the financial provision and the basis of the calculations to an independent audit;
 - (d) at the intervals as prescribed, submit to the Minister responsible for mineral resources an audit report;
 - (e) publish, at the intervals as prescribed, the review decision in a provincial newspaper as well as a newspaper distributed within the municipal area within which the mining operation is located, and indicate where the review can be obtained; and
 - (f) annually undertake the mitigation and rehabilitation measures, as prescribed.

- (e) enige ander medium, met inbegrip van enige voorwaarde van toepassing op so 'n medium, deur die Minister by kennisgewing in die *Staatskoerant* saam met die Minister van Finansies en die Minister verantwoordelik vir minerale hulpbronne, geïdentifiseer, en met inbegrip van, maar nie beperk nie tot—
- (i) 'n sluitingsrehabiliteringsmaatskappy;
 - (ii) 'n moedermaatskappywaarborg; en
 - (iii) 'n filiaalmaatskappywaarborg.
- (7) 'n Kombinasie van die finansiële voorsorgmiddele in subartikel (6) beoog kan, waar nodig, saam gebruik word.
- (8) (a) Waar die Minister, die Minister vir minerale hulpbronne of die LUR nie tevrede is met die bepaling of hersiening van die finansiële voorsorg nie, kan die Minister, die Minister verantwoordelik vir minerale hulpbronne of die LUR 'n onafhanklike party aanstel om 'n assessering van die bepaling of hersiening namens hulle te doen.
- (b) Enige koste ten opsigte van sodanige assessering moet deur die aansoeker, houer van die omgewingsmagtiging, houer of houer van 'n ou orde reg gedra word.
- (9) Indien enige houer van 'n omgewingsmagtiging, houer of houer van 'n ou orde reg versuim om sodanige versagting, remediëring en rehabilitasie van sodanige inwerking, soos voorgeskryf, te onderneem, kan die Minister verantwoordelik vir minerale hulpbronne, die Minister verantwoordelik vir watersake of die LUR, by skriftelike kennisgewing aan sodanige party, 'n deel of die geheel van die finansiële voorsorg in hierdie artikel beoog, gebruik om versagting, remediëring en rehabilitasie te onderneem soos die Minister, die Minister verantwoordelik vir minerale hulpbronne of LUR gepas ag.
- (10) Die finansiële voorsorg kan slegs gebruik word vir die doeleindes van progressiewe rehabilitasie, uitdiensstelling, afsluiting, nasluiting, soos voorgeskryf, om versagting, remediëring en rehabilitasie van nadelige omgewingsinwerkings waarvoor dit voorsien is, te verseker en moet nie vir enige ander doeleindes gebruik word nie.
- (11) Die Insolvensiewet, 1936 (Wet No. 24 van 1936), is nie van toepassing nie op enige vorm van finansiële voorsorg in subartikel (2) beoog en alle bedrae wat uit daardie bepaling voortspruit.”

Invoeging van artikel 24PA in Wet 107 van 1998

9. Die volgende artikel word hierby ná artikel 24P in die Wet op Nasionale Omgewingsbestuur, 1998 ingevoeg:

“Finansiële voorsorg vir mynbou

- 24PA.** (1) 'n Houer van 'n omgewingsmagtiging vir 'n mynbou-aktiwiteit, 'n houer of houer van 'n ou orde reg moet—
- (a) 'n finansiële voorsorg handhaaf en behou totdat 'n sluitingsertifikaat deur die Minister verantwoordelik vir minerale hulpbronne uitgereik word ingevolge die 'Mineral and Petroleum Resources Development Act, 2002';
 - (b) die omgewingsaanspreeklikheid hersien en aanpas, soos voorgeskryf;
 - (c) met voorgeskrewe tussenposes die finansiële voorsorg en die grondslag van die finansiële berekeninge aan 'n onafhanklike oudit onderwerp;
 - (d) met voorgeskrewe tussenposes 'n ouditverslag aan die Minister verantwoordelik vir minerale hulpbronne voorlê;
 - (e) met voorgeskrewe tussenposes, die hersieningsbesluit in 'n provinsiale koerant asook 'n koerant wat binne die munisipale gebied waarin die mynbedrywigheid geleë is, versprei word, publiseer en aandui waar die hersiening verkry kan word; en
 - (f) jaarliks die versagtings-, remediërings- en rehabilitasiemaatreëls, soos voorgeskryf, onderneem.

(2) The Minister responsible for mineral resources may, in consultation with the Minister and Minister responsible for water affairs, approve an annual drawdown of the financial provision in the prescribed manner to support final decommissioning and closure for a period not exceeding 10 years before the final decommissioning and closure.

(3) The financial provision provided in respect of latent environmental impacts or residual environmental impacts, including the pumping and treatment of extraneous and polluted water, must be transferred to the Minister responsible for mineral resources upon the issuing of a closure certificate, unless otherwise prescribed.

(4) Where the financial provisioning vehicle used for the financial provision in respect of latent environmental impacts or residual environmental impacts, including the pumping and treatment of extraneous and polluted water, is insurance, the Minister responsible for mineral resources must access the funds on issuing the closure certificate.

(5) If any person contemplated in subsection (1) fails to mitigate and rehabilitate environmental impacts, as prescribed, the Minister responsible for mineral resources or the Minister responsible for water affairs may, upon written notice to such person, use all or part of the financial provision contemplated in this section to rehabilitate or manage the environmental impact in question.”.

Amendment of section 24R of Act 107 of 1998, as amended by section 8 of Act 25 of 2014

10. Section 24R of the National Environmental Management Act, 1998, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every holder, holder of an environmental authorisation for a mining activity, 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.”;

(b) by the deletion of subsection (2); and

(c) by the substitution for subsection (3) of the following subsection:

“(3) Every holder, holder of an environmental authorisation for a mining activity, 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.”.

Repeal of section 24S of Act 107 of 1998, as inserted by section 9 of Act 25 of 2015

11. Section 24S of the National Environmental Management Act, 1998, is hereby repealed.

Amendment of section 28 of Act 107 of 1998, as amended by section 12 of Act 14 of 2009, section 12 of Act 30 of 2013 and section 10 of Act 25 of 2014

12. Section 28 of the National Environmental Management Act, 1998, is hereby amended—

(a) by the substitution in substitution (3) for paragraph (d) of the following paragraph:

“(d) contain or prevent the movement of pollutants or the [causant] cause of degradation;”;

(b) by the substitution for subsection (4) of the following subsection:

(2) Die Minister verantwoordelik vir minerale hulpbronne kan, in oorleg met die Minister en Minister verantwoordelik vir watersake, 'n jaarlikse onttrekking goedkeur van die finansiële voorsorg op die voorgeskrewe wyse om finale uitdiensstelling en afsluiting te ondersteun vir 'n tydperk van hoogstens 10 jaar voor die finale uitdiensstelling en sluiting.

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(3) Die finansiële voorsorg wat voorsien is vir verskuilde omgewingsinwerkings of residuele omgewingsinwerkings, met inbegrip van die pomp en suiwering van vreemde en besoedelde water, moet by die uitreiking van 'n sluitingsertifikaat na die Minister verantwoordelik vir minerale hulpbronne oorgedra word, tensy andersins voorgeskryf.

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(4) Waar die finansiële voorsorgmedium wat gebruik word vir die finansiële voorsorg ten opsigte van verskuilde omgewingsinwerkings of residuele omgewingsinwerkings, met inbegrip van die pomp en suiwering van oortollige en vreemde water, versekering is, moet die Minister verantwoordelik vir minerale hulpbronne by uitreiking van die sluitingsertifikaat toegang tot die fondse kry.

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(5) Indien enige persoon in subartikel (1) bedoel, versuim om omgewingsinwerkings te versag en te rehabiliteer soos voorgeskryf, kan die Minister verantwoordelik vir minerale hulpbronne of die Minister verantwoordelik vir watersake, by skriftelike kennisgewing aan daardie persoon, die geheel of 'n gedeelte van die finansiële voorsorg in hierdie artikel beoog, gebruik om die betrokke omgewingsinwerking te rehabiliteer of te bestuur.”

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Wysiging van artikel 24R van Wet 107 van 1998, soos gewysig deur artikel 8 van Wet 25 van 2014

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10. Artikel 24R van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Elke houer, houer van 'n omgewingsmagtiging vir 'n mynbouaktiwiteit, houer van 'n ou orde reg en eienaar van 'n bedryf bly verantwoordelik vir enige omgewingsverpligting, besoedeling en ekologiese agteruitgang, die pomp en behandeling van besoedelde of vreemde water, die bestuur en volhoubare afsluiting daarvan ondanks die uitreiking van 'n afsluitingsertifikaat deur die Minister verantwoordelik vir minerale hulpbronne ingevolge die ‘Mineral and Petroleum Resources Development Act, 2002’ aan die betrokke houer of eienaar.”;

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(b) deur subartikel (2) te skrap; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Elke houer, houer van 'n omgewingsmagtiging vir 'n mynbouaktiwiteit, houer van 'n ou orde reg en eienaar van 'n bedryf moet die prosedures en vereistes wat ten opsigte van 'n mynsluiting voorgeskryf word, beplan, bestuur en **[implimenteer]** implimenteer.”.

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Herroeping van artikel 24S van Wet 107 van 1998, soos ingevoeg deur artikel 9 van Wet 25 van 2015

11. Artikel 24S van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby herroep.

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Wysiging van artikel 28 van Wet 107 van 1998, soos gewysig deur artikel 12 van Wet 14 van 2009, artikel 12 van Wet 30 van 2013 en artikel 10 van Wet 25 van 2014

12. Artikel 28 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

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(a) deur in subartikel (3) paragraaf (d) deur die volgende paragraaf te vervang:

“(d) die beweging van besoedelende stof of die oorsaak van agteruitgang **[in bedwang]** te stuit [hou] of te voorkom;”;

(b) deur subartikel (4) deur die volgende subartikel te vervang:

- “(4) The Director-General, the Director-General of the department responsible for mineral resources [**or**], a provincial head of department or a municipal manager of a municipality 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**] referred to in subsection (2) 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.**”];
- (c) by the insertion after subsection (4) of the following subsection:
- “(4A) Before issuing a directive contemplated in subsection (4), the Director-General, the Director-General of the department responsible for mineral resources, a provincial head of department or a municipal manager of a municipality must give adequate notice in writing to the person to whom the directive is intended to be issued, of his or her intention to issue the directive and provide such person with a reasonable opportunity to make representations in writing: Provided that the Director-General, the Director-General of the department responsible for mineral resources, a provincial head of department or a municipal manager of a municipality may, if urgent action is necessary for the protection of the environment, issue the directive referred to in subsection (4), and give the person on whom the directive was issued an opportunity to make representations as soon as is reasonable thereafter.”;
- (d) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:
- “The Director-General, the Director-General of the department responsible for mineral resources [**or**], a provincial head of department or a municipal manager of a municipality, when considering any measure or time period envisaged in subsection (4), must have regard to the following[—]”;
- (e) by the substitution for subsection (7) of the following subsection:
- “(7) Should a person fail to comply, or inadequately comply, with a directive issued under subsection (4), the Director-General, the Director-General of the department responsible for mineral resources [**or**], a provincial head of department or a municipal manager of a municipality may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.”;
- (f) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words:
- “Subject to subsection (9), the Director-General, the Director-General of the department responsible for mineral resources [**or**], a provincial head of department or a municipal manager of a municipality may recover costs for reasonable remedial measures undertaken or to be undertaken under subsection (7), before or after such measures are taken and all costs incurred as a result of acting under subsection (7), from any or all of the following persons—”;
- (g) by the substitution for subsection (9) of the following subsection:

- “(4) Die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit kan[, nadat voldoende geleentheid aan persone wat geraak word, gegee is om hom of haar van hul betrokke belange in te lig,] enige persoon [wat beduidende besoedeling of agteruitgang van die omgewing veroorsaak, veroorsaak het of kan veroorsaak] in subartikel (2) bedoel, gelas om—
- (a) enige aktiwiteit, bedryf of onderneming te staak;
- (b) die inwerking van gespesifiseerde aktiwiteite te ondersoek, evalueer en vas te stel en verslag daaroor te doen;
- (c) voor ’n gegewe datum met bepaalde stappe te begin;
- (d) daardie stappe ywerig voort te sit; en
- (e) daardie stappe voor ’n redelike datum, wat vermeld word, te voltooi[;]
- Met dien verstande dat die Direkteur-generaal of ’n provinsiale departementshoof, indien dringende optrede nodig is om die omgewing te beskerm, sodanige lasgewing kan uitreik en oorleg pleeg en sodanige geleentheid bied om inligting te verskaf as wat so spoedig daarna redelik is.]”;**
- (c) deur die volgende subartikel na subartikel (4) in te voeg:
- “(4A) Voor die uitreiking van ’n opdrag in subartikel (4) beoog, moet die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne, ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit genoegsaam skriftelik kennis gee aan die persoon aan wie die opdrag uitgereik gaan word, van sy of haar voorneme om die opdrag uit te reik en daardie persoon ’n redelike geleentheid gun om skriftelike vertoë te rig: Met dien verstande dat die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne, ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit, indien dringende stappe vir die beskerming van die omgewing nodig is, die opdrag in subartikel (4) bedoel kan uitreik, en die persoon teen wie die opdrag uitgereik is ’n geleentheid gun om so gou moontlik daarna vertoë te rig.”;
- (d) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit moet, wanneer ’n stap of tydperk beoog in subartikel (4) oorweeg word, die volgende in aanmerking neem[—:]”;
- (e) deur subartikel (7) deur die volgende subartikel te vervang:
- “(7) Sou ’n persoon versuim om gehoor te gee aan ’n opdrag of nie genoegsaam gehoor gee aan ’n opdrag kragtens subartikel (4) uitgereik nie, kan die Direkteur-generaal [of], provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit redelike stappe doen om die situasie reg te stel of by ’n bevoegde hof aansoek doen om gepaste regshulp te verleen.”;
- (f) deur in subartikel (8) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Behoudens subartikel (9), kan die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit koste vir redelike herstelstappe wat kragtens subartikel (7) gedoen is of wat gedoen staan te word, verhaal, voordat of nadat sodanige stappe gedoen word en alle koste wat aangegaan is as gevolg van optrede kragtens subartikel (7) van of al die volgende persone—”;
- (g) deur subartikel (9) deur die volgende subartikel te vervang:

- “(9) The Director-General, the Director-General of the department responsible for mineral resources **[or]**, a provincial head of department or a municipal manager of a municipality, may in respect of the recovery of costs under subsection (8), claim proportionally from any person who benefited from the measures undertaken under subsection (7).”; and 5
- (h) by the substitution for subsection (12) of the following subsection:
- “(12) Any person may, after giving the Director-General, the Director-General of the department responsible for mineral resources **[or]**, a provincial head of department or a municipal manager of a municipality, 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 or a municipal manager of a municipality, 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 or a municipal manager of a municipality, fails to inform such person in writing that he or she has directed a person contemplated in subsection **[(8)] (4)** to take one of those steps, and the provisions of section 32(2) and (3) shall apply to such proceedings, with the necessary changes.”. 10 15 20

Amendment of section 31B of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

13. Section 31B of the of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph: 25

“(ii) any other organ of state that executes a regulatory function; and”.

Amendment of section 31BA of Act 107 of 1998, as inserted by section 4 of Act 44 of 2008

14. Section 31BA of the of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraphs (i) and (ii) of the following subparagraphs: 30

- “(i) the Department **[of Water Affairs and Forestry]** responsible for water affairs; or
(ii) any other organ of state that executes a regulatory function; and”.

Amendment of section 31BB of Act 107 of 1998, as inserted by section 11 of Act 25 of 2014 35

15. Section 31BB of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for the heading of the following heading: 40
“Designation of environmental mineral [resource] and petroleum inspectors by Minister responsible for mineral resources”;
- (b) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 45
 “(a) designate as an environmental mineral **[resource]** and petroleum inspector, any staff member of **[the Department of Mineral Resources]**—
 (i) the department responsible for mineral resources; or
 (ii) any other organ of state that executes a regulatory function; and”;
- (c) by the addition of the following subsection: 50
 “(2) A designation in terms of subsection (1)(a)(ii) may only be made by agreement between the Minister responsible for mineral resources and the relevant organ of state.”.

- “(9) Die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit kan, met betrekking tot die verhaal van koste kragtens subartikel (8), na verhouding eis van enige persoon wat deur die stappe wat kragtens subartikel (7) gedoen is, bevoordeel is.”; en 5
- (h) deur subartikel (12) deur die volgende subartikel te vervang:
- “(12) Enige persoon kan, nadat die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit 30 dae kennis gegee is, by ’n bevoegde hof aansoek doen om ’n bevel wat die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], enige provinsiale departementshoof of ’n munisipale bestuurder van ’n munisipaliteit opdrag gee om enige stappe te doen wat in subartikel (4) gelys word, indien die Direkteur-generaal, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne [of], ’n provinsiale departementshoof of munisipale bestuurder van ’n munisipaliteit versuim om sodanige persoon skriftelik in kennis te stel dat hy of sy die persoon beoog in subartikel [(8)] (4) gelas het om een van daardie stappe te doen, en dan geld die bepalings van artikel 32(2) en (3), met die nodige veranderinge, op sodanige verrigtinge.”. 10 15 20

Wysiging van artikel 31B van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

13. Artikel 31B van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur in subartikel (1)(a) subparagraaf (ii) deur die volgende subparagraaf te vervang: 25
- “(ii) enige ander staatsorgaan wat ’n reguleringswerkzaamheid verrig; en”.

Wysiging van artikel 31BA van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 44 van 2008

14. Artikel 31BA van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur in subartikel (1)(a) subparagraaf (i) en (ii) deur die volgende subparagraaf te vervang: 30
- “(i) die Departement [van Waterwese en Bosbou] verantwoordelik vir watersake; of 35
- (ii) enige ander staatsorgaan wat ’n reguleringsfunksie verrig.”.

Wysiging van artikel 31BB van Wet 107 van 1998, soos ingevoeg deur artikel 11 van Wet 25 van 2014

15. Artikel 31BB van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig— 40
- (a) deur die opskrif deur die volgende opskrif te vervang:
- “**Aanwysing van omgewingsinspekteurs vir minerale [hulpbronne] en petroleum deur Minister verantwoordelik vir minerale hulpbronne**”;
- (b) deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: 45
- “(a) enige personeelid van [die Departement van Minerale Hulpbronne]—
- (i) die departement verantwoordelik vir minerale hulpbronne; of
- (ii) enige ander staatsorgaan wat ’n reguleringsfunksie verrig, as ’n omgewingsinspekteur vir minerale [hulpbronne] en petroleum aanwys; en”; en 50
- (c) deur die volgende subartikel by te voeg:
- “(2) ’n Aanwysing ingevolge subartikel (1)(a)(ii) kan slegs by ooreenkoms tussen die Minister verantwoordelik vir minerale hulpbronne en die tersaaklike staatsorgaan gemaak word.”. 55

Amendment of section 31C of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

16. Section 31C of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

“(ii) any other provincial organ of state that executes a regulatory function; and”.

Amendment of section 31D of Act 107 of 1998, as amended by section 12 of Act 25 of 2014

17. Section 31D of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (d) and (e) of the following paragraphs, respectively:
- “(d) this Act and all specific environmental management Acts; **[or]**
 (e) **[any combination of those Acts or provisions of those Acts.]** any provincial Act that substantively deals with environmental management; or”;
- (b) by the addition in subsection (1) of the following paragraph:
 “(f) any combination of the Acts contemplated in this subsection or combination of the provisions of the said Acts.”;
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 “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 or any provincial Act that substantively deals with environmental management—”;
- (d) by the substitution for subsection (2A) of the following subsection:
 “(2A) The Minister responsible for mineral resources may designate a person as an environmental mineral **[resource]** and petroleum 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.”;
- (e) by the insertion after subsection (3) of the following subsection:
 “(3A) An environmental management inspector and environmental mineral and petroleum inspector must exercise any power bestowed on them in terms of this Act in accordance with any applicable duty provided for in this Act.”;
- (f) by the substitution for subsection (4) of the following subsection:
 “(4) Despite the provisions in subsections (2A) and (3), the Minister may, **[with the concurrence of]** after consultation with the Minister responsible for mineral resources, **[if the environmental mineral resource inspectors are unable or not adequately able to fulfil the compliance and enforcement functions,]** if it is necessary to address significant harm to the environment caused by prospecting, exploration, mining or production activities, [designate] direct the environmental management inspectors to implement or support the implementation of 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.”; and
- (g) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words:
 “Subsequent to subsection (7), the Minister may, **[in concurrence]** after consultation with the Minister responsible for mineral resources, within a reasonable period of time and where appropriate, direct the environmental management inspectors to—”.

Wysiging van artikel 31C van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

16. Artikel 31C van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur in subartikel (1)(a) subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) enige ander provinsiale staatsorgaan wat ’n reguleringswerkzaamheid uitvoer; en”.

Wysiging van artikel 31D van Wet 107 van 1998, soos gewysig deur artikel 12 van Wet 25 van 2014

17. Artikel 31D van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

(a) deur paragrawe (d) en (e) in subartikel (1) onderskeidelik deur die volgende paragrawe te vervang:

“(d) hierdie Wet en alle spesifieke omgewingsbestuurswette; **[of]**

(e) **[enige kombinasie van daardie Wette of bepalings van daardie Wette]** enige provinsiale Wet wat wesenlik oor omgewingsbestuur handel; of”;

(b) deur die volgende paragraaf in subartikel (1) by te voeg:

“(f) enige kombinasie van die Wette in hierdie subartikel beoog of kombinasie van die bepalings van die vermeldde Wette.”;

(c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“ ’n LUR kan ’n persoon as ’n omgewingsbestuursinspekteur aanwys vir die afdwinging van slegs daardie bepalings van hierdie Wet of enige spesifieke omgewingsbestuurswet of enige provinsiale Wet wat wesenlik oor omgewingsbestuur handel—”;

(d) deur subartikel (2A) deur die volgende subartikel te vervang:

“(2A) Die Minister verantwoordelik vir minerale **[hulpbronne]** en petroleum kan ’n persoon aanwys as ’n omgewingsinspekteur vir minerale hulpbronne vir voldoeningsmonitering en afdwinging van bepalings van hierdie Wet of ’n spesifieke omgewingsbestuurswet ten opsigte waarvan bevoegdhede aan hom of haar verleen word.”;

(e) deur die volgende subartikel na subartikel (3) in te voeg:

“(3A) ’n Omgewingsbestuursinspekteur en omgewingsinspekteur vir minerale en petroleum moet enige bevoegdhede ingevolge hierdie Wet aan hulle opgelê ooreenkomstig enige plig in hierdie Wet voor voorsiening gemaak, uitoefen.”;

(f) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Ondanks die bepalings in subartikels (2A) en (3), kan die Minister, **[met die instemming van]** ná oorleg met die Minister verantwoordelik vir minerale hulpbronne, **[indien die omgewingsinspekteurs vir minerale hulpbronne nie die werkzaamhede vir voldoeningsmonitering en -afdwinging kan vervul of genoegsaam kan vervul nie]** indien dit nodig is om wesenlike skade aan die omgewing te hanteer wat deur prospektering, eksplorاسie, mynbou of produksieaktiwiteite veroorsaak is, omgewingsbestuursinspekteurs **[aanwys]** opdrag gee om hierdie werkzaamhede in werking te stel of die inwerkingstelling van hierdie werkzaamhede te ondersteun ingevolge hierdie Wet of ’n spesifieke omgewingsbestuurswet ten opsigte waarvan bevoegdhede aan die Minister verantwoordelik vir minerale hulpbronne verleen is.”; en

(g) deur in subartikel (8) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Na subartikel (7) kan die Minister, **[in]** ná oorleg met die Minister verantwoordelik vir minerale hulpbronne, in ’n redelike tydperk en waar gepas die omgewingsbestuursinspekteurs opdrag gee om—”.

Amendment of section 31E of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

18. Section 31E of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively: 5
 “(a) qualification criteria for environmental management inspectors and environmental mineral and petroleum inspectors; and
 (b) training that must be completed by environmental management inspectors and environmental mineral and petroleum inspectors.”; 10
 and
 (b) by the addition of the following subsection:
 “(3) The Minister may prescribe a Code of Conduct applicable to all designated environmental management inspectors and environmental mineral and petroleum inspectors.”. 15

Substitution of section 31F of Act 107 of 1998, as amended by section 17 of Act 14 of 2009

19. The following section is hereby substituted for section 31F of the National Environmental Management Act, 1998:

“Proof of designation 20

31F. (1) A prescribed identity card must be issued to each person designated as an environmental management inspector or an environmental mineral and petroleum inspector.

(2) When exercising any powers or performing any duties in terms of this Act [or], a specific environmental management Act or a provincial Act that substantively deals with environmental management, an environmental management inspector or environmental mineral and petroleum inspector must, on demand by a member of the public, produce the identity card referred to in subsection (1).” 25

Amendment of section 31G of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003 30

20. Section 31G of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 35
 “An environmental management inspector or an environmental mineral and petroleum inspector, within his or her mandate in terms of section 31D—”;
 (b) by the insertion in subsection (1) after paragraph (a) of the following paragraph: 40
 “(aA) may access and inspect any property, object or pack-animal for the purposes of ascertaining compliance with the legislation for which that inspector has been designated in terms of section 31D and for ascertaining compliance with a term or condition of a permit, authorisation or other instrument issued in terms of relevant legislation.”; 45
 (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 “An environmental management inspector or a mineral and petroleum inspector—”; and 50
 (d) by the substitution in subsection (2)(a) for subparagraph (i) of the following subparagraph:
 “(i) in accordance with any instructions issued by the Minister, Minister responsible for mineral resources, Minister responsible for water affairs or MEC, as the case may be;”. 55

Wysiging van artikel 31E van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

18. Artikel 31E van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang: 5
- “(a) kwalifikasiekriteria vir omgewingsbestuursinspekteurs en omgewingsinspekteurs vir minerale en petroleum voorskryf; en
- (b) opleiding voorskryf wat omgewingsbestuursinspekteurs en omgewingsinspekteurs vir minerale en petroleum moet ondergaan.”; en 10
- (b) deur die volgende subartikel by te voeg:
- “(3) Die Minister kan ’n gedragskode voorskryf wat op alle aangewese omgewingsbestuursinspekteurs en omgewingsinspekteurs vir minerale en petroleum van toepassing is.”. 15

Vervanging van artikel 31F van Wet 107 van 1998, soos gewysig deur artikel 17 van Wet 14 van 2009

19. Artikel 31F van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby deur die volgende artikel vervang:

“Bewys van aanwysing 20

31F. (1) ’n Voorgeskrewe identiteitskaart moet uitgereik word aan elke persoon wat as omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum aangewys is.

(2) ’n Omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum moet tydens die uitoefening van enige bevoegdheid of die uitvoering van enige pligte ingevolge hierdie Wet [of], ’n spesifieke omgewingsbestuurswet of ’n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, op versoek van ’n lid van die publiek, die identiteitskaart bedoel in subartikel (1) toon.”. 25

Wysiging van artikel 31G van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003 30

20. Artikel 31G van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 35
- “ ’n Omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum, binne sy of haar mandaat ingevolge artikel 31D—”;
- (b) deur in subartikel (1) die volgende paragraaf na paragraaf (a) in te voeg: 40
- “(aA) kan toegang kry tot enige eiendom, voorwerp of pakkier en dit inspekteer met die doeleindes om nakoming aan wetgewing waarvoor daardie inspekteur ingevolge artikel 31D aangewys is, vas te stel, en om nakoming van ’n term of voorwaarde van ’n permit, magtiging of ander instrument ingevolge tersaaklike wetgewing uitgereik, vas te stel.”; 45
- (c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “ ’n Omgewingsbestuursinspekteur of ’n inspekteur vir minerale en petroleum—”; en
- (d) deur in subartikel (2)(a) subparagraaf (i) deur die volgende subparagraaf te 50
- vervang:
- “(i) ooreenkomstig enige instruksies wat deur die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake of LUR, na gelang van die geval, uitgereik word;”. 55

Amendment of section 31H of Act 107 of 1998, as amended by section 6 of Act 44 of 2008 and section 18 of Act 14 of 2009

21. Section 31H of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 5
 “An environmental management inspector or environmental mineral and petroleum inspector, within his or her mandate in terms of section 31D, may—”;
- (b) by the substitution in subsection (1)(a) for the words preceding subparagraph (i) of the following words: 10
 “question a person about any act or omission **[in respect of which there is a reasonable suspicion that it might]** that may constitute—”;
- (c) by the substitution in subsection (1) for paragraph (b) of the following paragraph: 15
 “(b) upon reasonable suspicion, 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;”;
- (d) by the substitution in subsection (1)(c) for subparagraph (ii) of the following subparagraph: 20
 “(ii) to which this Act **[or]**, a specific environmental management Act or a provincial Act that substantively deals with environmental management, relates;”;
- (e) by the substitution in subsection (1) for paragraphs (j) and (k) of the following paragraphs, respectively: 25
 “(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]** 30
 (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]** issue a lawful instruction in the execution of his or her mandate;” 35
- (f) by the addition in subsection (1) of the following paragraph: 40
 “(l) 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 or a provincial Act that substantively deals with environmental management.” 40
- (g) by the substitution for subsection (2) of the following subsection: 45
 “(2) A written notice issued in terms of subsection (1)(b) must **[be in the]** correspond substantially with 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.” 45
- (h) by the substitution for subsection (3) of the following subsection: 50
 “(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 or a provincial Act that substantively deals with environmental management.” 55
- (i) by substitution in subsection (4) for the words preceding paragraph (a) of the following words: 60
 “An environmental management inspector or environmental mineral and petroleum inspector must—” and
- (j) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words: 60

Wysiging van artikel 31H van Wet 107 van 1998, soos gewysig deur artikel 6 van Wet 44 van 2008 en artikel 18 van Wet 14 van 2009

21. Artikel 31H van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 5
 “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan binne sy of haar mandaat ingevolge artikel 31D—”;
- (b) deur in subartikel (1)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: 10
 “ ’n persoon ondervra oor enige handeling of late **[ten aansien waarvan daar redelike verdenking bestaan dat dit] wat mag neerkom op—**”;
- (c) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: 15
 “(b) by redelike verdenking, ’n skriftelike kennisgewing uitreik aan ’n persoon wat weier om vroe ingevolge paragraaf (a) te beantwoord, wat daardie persoon versoek om vroe wat ingevolge daardie paragraaf aan hom of haar gestel word, te beantwoord.”;
- (d) deur in subartikel (1)(c) subparagraaf (ii) deur die volgende subparagraaf te vervang: 20
 “(ii) waarop hierdie Wet [of], ’n spesifieke omgewingsbestuurswet of ’n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, betrekking het.”;
- (e) deur in subparagraaf (1) paragrawe (j) en (k) onderskeidelik deur die volgende paragrawe te vervang: 25
 “(j) enige afval of ander stof verwyder wat in stryd met die wetgewing waarvoor daardie inspekteur ingevolge artikel 31D aangewys is of ’n bepaling of voorwaarde van ’n permit, magtiging of ander dokument wat ingevolge sodanige wetgewing uitgereik is, gestort of uitgelaat is; [of] 30
 (k) **[enige ander voorgeskrewe plig uitvoer wat nie met hierdie Wet onbestaanbaar is nie, asook enige ander plig wat ingevolge ’n spesifieke omgewingsbestuurswet voorgeskryf mag word.] ’n regmatige instruksie in die uitvoer van sy of haar mandaat gee;**”;
- (f) deur die volgende paragraaf in subartikel (1) by te voeg: 35
 “(l) enige ander voorgeskrewe plig uitvoer wat nie met hierdie Wet onbestaanbaar is nie, en enige ander plig ingevolge ’n spesifieke omgewingsbestuurswet of provinsiale Wet wat wesenlik oor omgewingsbestuur handel.”;
- (g) deur subartikel (2) deur die volgende subartikel te vervang: 40
 “(2) ’n Skriftelike kennisgewing uitgereik ingevolge subartikel (1)(b) moet **[in] wesenlik ooreenstem met** die voorgeskrewe formaat **[wees]** en moet ’n persoon versoek om gespesifiseerde vroe hetsy mondelings of skriftelik, en hetsy alleen of in die teenwoordigheid van ’n getuie, te beantwoord, en kan versoek dat vroe onder eed of bevestiging beantwoord moet word.”; 45
- (h) deur subartikel (3) deur die volgende subartikel te vervang: 50
 “(3) ’n Persoon wat ’n skriftelike kennisgewing ingevolge subartikel (1)(b) ontvang, moet alle vroe aan hom of haar gestel eerlik en na die beste van sy of haar vermoë beantwoord, ondanks die feit dat ’n antwoord hom of haar mag inkrimineer, maar enige antwoord wat daardie persoon inkrimineer, mag nie teen hom of haar gebruik word in enige daaropvolgende strafregtelike verrigtinge vir ’n misdryf ingevolge hierdie Wet [of], ’n spesifieke omgewingsbestuurswet of ’n provinsiale Wet wat wesenlik oor omgewingsbestuur handel nie.”; 55
- (i) deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 60
 “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum moet—”; en
- (j) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“In addition to the powers set out in this Part, an environmental management inspector or environmental mineral and petroleum 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)”. 5

Amendment of section 31I of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

22. Section 31I of the National Environmental Management Act, 1998, is hereby amended— 10

- (a) by the substitution for subsection (2) of the following subsection: 10
- “(2) When an item is seized in terms of this Part, the environmental management inspector or environmental mineral and petroleum inspector may [**request**] instruct 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.”; 15
- (b) by the substitution for subsection (3) of the following subsection: 20
- “(3) In order to safeguard a vehicle, vessel or aircraft that has been seized, the environmental management inspector or environmental mineral and petroleum inspector may immobilise it by removing a part.”; and
- (c) by the substitution for paragraphs (a) and (b) of subsection (5) of the following paragraphs, respectively: 25
- “(a) in the case of a specimen of threatened or protected species or alien species being imported into the Republic, at the port of entry, [**request**] instruct 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 30
- (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**] instruct 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.”. 35

Amendment of section 31J of Act 107 of 1998, as amended by section 15 of Act 30 of 2013

23. Section 31J of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 40
- “An environmental management inspector or environmental mineral and petroleum 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—”; 45
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 50
- “An environmental management inspector or environmental mineral and petroleum 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—”; 50
- (c) by the substitution in subsection (2) for the words following paragraph (d) of the following words: 55

“Benewens die bevoegdheids uiteengesit in hierdie Deel word ’n omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum geag ’n vredesbeampte te wees en kan alle bevoegdheids uitoefen wat aan ’n vredesbeampte, of aan ’n polisiebeampte wat nie ’n offisier is nie, ingevolge Hoofstukke 2, 5, 7 en 8 van die Strafproseswet, 1977 (Wet No. 51 van 1977), toegewys is”.

Wysiging van artikel 31I van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

22. Artikel 31I van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Wanneer daar ingevolge hierdie Deel op ’n artikel beslag gelê word, kan die omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum die persoon wat onmiddellik voor die beslaglegging op die artikel in beheer daarvan was, [versoek] opdrag gee om dit na ’n plek te neem wat deur die inspekteur aangewys word, en indien die persoon weier om die artikel na die aangewese plek te neem, kan die inspekteur dit doen.”;
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) Die omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan ’n voertuig, vaartuig of lugvaartuig waarop beslag gelê is, immobiliseer deur ’n onderdeel daarvan te verwyder, ten einde dit te beveilig.”; en
- (c) deur paragrawe (a) en (b) van subartikel (5) onderskeidelik deur die volgende paragrawe te vervang:
- “(a) in die geval van ’n monster van ’n bedreigde of beskermde spesie of uitheemse spesie wat in die Republiek ingevoer word, die persoon wat verantwoordelik is vir die invoer, of daardie persoon se agent, by die inkларingshawе [versoek] opdrag gee om die oorspronklike afskrifte van die invoerpermit, saam met sodanige ander dokumentasie wat vereis mag word, te toon; en
- (b) in die geval van ’n monster van ’n bedreigde of beskermde spesie wat uit die Republiek uitgevoer of heruitgevoer word, die persoon wat verantwoordelik is vir die uitvoer of heruitvoer, of daardie persoon se agent, by die uitvoerhawе [versoek] opdrag gee om die oorspronklike afskrif van die uitvoer- of heruitvoerpermit, saam met sodanige ander dokumentasie wat vereis mag word, te toon.”.

Wysiging van artikel 31J van Wet 107 van 1998, soos gewysig deur artikel 15 van Wet 30 van 2013

23. Artikel 31J van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan, binne sy of haar mandaat ingevolge artikel 31D, sonder ’n lasbrief enige voertuig, vaartuig of lugvaartuig betree en deursoek, of enige pakkier of enige ander vervoermeganisme deursoek, by redelike verdenking dat daardie voertuig, vaartuig, lugvaartuig, pakkier of ander vervoermeganisme—”;
- (b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan, sonder ’n lasbrief, beslag lê op ’n voertuig, vaartuig, lugvaartuig of enige ander vervoermeganisme of enigiets in of op enige voertuig, vaartuig, lugvaartuig, pakkier of ander vervoermeganisme—”;
- (c) deur in subartikel (2) die woorde wat op paragraaf (d) volg deur die volgende woorde te vervang:

- “in terms of this Act [**or**], a specific environmental management Act or a provincial Act that substantively deals with environmental management.”;
- (d) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 5
 “An environmental management inspector or environmental mineral and petroleum inspector may for the purpose of implementing subsection (1), at any time, and without a warrant—”;
- (e) by the substitution for subsection (5) of the following subsection: 10
 “(5) An environmental management inspector or environmental mineral and petroleum inspector may exercise on or in respect of such vehicle, vessel or aircraft any of the power mentioned in section 31H.”; and
- (f) by the substitution for subsection (6) of the following subsection: 15
 “(6) An environmental management inspector or environmental mineral and petroleum 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 68 of 1995), to establish a roadblock or a checkpoint.”.

Amendment of section 31K of Act 107 of 1998, as amended by section 19 of Act 14 of 2009 20

24. Section 31K of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 25
 “An environmental management inspector or environmental mineral and petroleum 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—”;
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 35
 “An environmental management inspector or environmental mineral and petroleum 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—”;
- (c) by the substitution for subsection (3) of the following subsection: 40
 “(3) A magistrate may issue a warrant contemplated in subsection (2) only on written application by an environmental management inspector or an environmental mineral and petroleum 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.”;
- (d) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 45
 “An environmental management inspector or environmental mineral and petroleum inspector may in terms of subsection (2) enter and inspect any residential premises without a warrant, but only if—”;
- (e) by the substitution for subsection (5) of the following subsection: 50
 “(5) While carrying out a routine inspection, an environmental management inspector or environmental mineral and petroleum 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** 55

- “ingevolge hierdie Wet [of], ’n bepaalde Wet op omgewingsbestuur of ’n provinsiale Wet wat wesenlik oor omgewingsbestuur handel.”;
- (d) deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan, ten einde aan subartikel (1) uitvoering te gee, te eniger tyd, en sonder ’n lasbrief—”;
- (e) deur subartikel (5) deur die volgende subartikel te vervang:
 “(5) ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan enige van die bevoegdhede genoem in artikel 31H op of met betrekking tot sodanige voertuig, vaartuig of lugvaartuig uitoefen.”; en
- (f) deur subartikel (6) deur die volgende subartikel te vervang:
 “(6) ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan by die Nasionale of Provinsiale Kommissaris van Polisie aansoek doen om skriftelike magtiging ingevolge artikel 13(8) van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995), om ’n padblokkade of ’n kontrolepunt op te rig.”.

Wysiging van artikel 31K van Wet 107 van 1998, soos gewysig deur artikel 19 van Wet 14 van 2009 20

24. Artikel 31K van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “ ’n Omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum kan, binne sy of haar mandaat ingevolge artikel 31D, en behoudens subartikel (2), te enige redelike tyd roetine-inspeksies hou en sonder ’n lasbrief, enige gebou, stuk grond of perseel betree en inspekteer [of deursoek], met inbegrip van, maar nie beperk nie tot, enige voertuig, vaartuig, lugvaartuig, pakkdiere, houer, doos of artikel, ten einde vas te stel of daar voldoen is aan—”;
- (b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “ ’n Omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum kan, binne sy of haar mandaat ingevolge artikel 31D, met ’n lasbrief ingevolge subartikel (3) verkry, maar behoudens subartikel (4), enige residensiële perseel betree en inspekteer ten einde vas te stel of daar voldoen is aan—”;
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) ’n Landdros kan ’n lasbrief bedoel in subartikel (2) slegs uitreik op skriftelike aansoek van ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum wat onder eed of bevestiging moet vermeld dat dit noodsaaklik is om die vermeldde residensiële perseel te betree en te inspekteer ten einde vas te stel of daar voldoen is aan die Wette waarvoor daardie inspekteur ingevolge artikel 31D aangewys is.”;
- (d) deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “ ’n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan ingevolge subartikel (2) enige residensiële perseel sonder ’n lasbrief betree en inspekteer, maar slegs indien—”;
- (e) deur subartikel (5) deur die volgende subartikel te vervang:
 “(5) Wanneer ’n roetine-inspeksie uitgevoer word, kan ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum [beslag lê op enigiets of op enige besigheids- of residensiële perseel, stuk grond of voertuig, vaartuig, lugvaartuig, pakkdiere, houer, doos, of artikel wat as getuienis gebruik kan word

evidence in the prosecution of any person for an offence in terms of this Act or a specific environmental management Act.]—

- (a) upon reasonable suspicion that an offence in terms of the law for which that inspector has been designated in terms of section 31D has been committed, 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, a specific environmental management Act or a provincial Act that substantively deals with environmental management; and
- (b) detain, for a reasonable period of time, 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 for the purpose of ascertaining compliance with the legislation for which that inspector has been designated in terms of sections 31B, 31BA and 31C, as the case may be.”; and
- (f) by the substitution for subsection (7) of the following subsection:
 “(7) An environmental management inspector or environmental mineral and petroleum inspector may exercise on such building, land, premises, vessel, aircraft, pack animals, container, bag, box, item and the like any of the powers mentioned in section 31H.”.

Amendment of section 31L of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

25. Section 31L of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 “An environmental management inspector or environmental mineral and petroleum inspector, within his or her mandate in terms of section 31D, may issue a compliance notice **[in]** which must correspond substantially with the prescribed form and following a prescribed procedure if there are reasonable grounds for believing that a person has not complied—”;
- (b) by the substitution in subsection (2) of paragraph (d) of the following paragraph:
 “(d) the procedure to be followed in lodging an objection to the compliance notice with the Minister, Minister responsible for mineral resources, Minister responsible for water affairs [or], MEC or municipal council, as the case may be.”;
- (c) by the substitution for subsection (3) of the following subsection:
 “(3) An environmental management inspector or environmental mineral and petroleum inspector may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.”; and
- (d) by the substitution for subsections (4) and (5) of the following subsections, respectively:
 “(4) A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Minister, Minister responsible for mineral resources, Minister responsible for water affairs [or], MEC or a municipal council 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, Minister responsible for mineral resources, Minister responsible for water affairs [or], MEC or a municipal council, as the case may be, to suspend the operation of the compliance notice pending finalisation of the objection.”.

in die vervolging van enige persoon vir 'n misdryf ingevolge hierdie Wet of 'n spesifieke omgewingsbestuurswet]—

- (a) by redelike vermoede dat 'n misdryf ingevolge die wet waarvoor daardie inspekteur ingevolge artikel 31D aangewys is, gepleeg is, beslag lê op enigiets in of op enige, insluitende maar nie beperk nie tot, sake- of woonperseel, stuk grond of voertuig, vaartuig, lugvaartuig, pakkier, houer, sak, doos of artikel wat as getuienis gebruik kan word in die vervolging van enige persoon vir 'n misdryf ingevolge hierdie Wet of 'n spesifieke omgewingsbestuurswet of 'n provinsiale Wet wat wesenlik handel oor omgewingsbestuur; en 5 10
- (b) vir 'n redelike tydperk, enigiets in of op enige, insluitende maar nie beperk nie tot, 'n sake- of woonperseel, stuk grond of voertuig, vaartuig, lugvaartuig, pakkier, houer, sak, doos of artikel terughou met die doel om vas te stel of voldoen word aan die wetgewing waarvoor daardie inspekteur ingevolge artikels 31B, 31BA en 31C, na gelang van die geval, aangewys is.”; en 15
- (f) deur subartikel (7) deur die volgende subartikel te vervang:
 “(7) 'n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale of petroleum kan enige van die bevoegdhede in artikel 31H genoem op sodanige gebou, stuk grond, perseel, voertuig, vaartuig, lugvaartuig, pakkier, houer, doos, item en so meer uitoefen.”. 20

Wysiging van artikel 31L van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

25. Artikel 31L van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig— 25
- (a) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “'n Omgewingsbestuursinspekteur of 'n omgewingsinspekteur vir minerale en petroleum kan, binne sy of haar mandaat ingevolge artikel 31D, 'n voldoeningskennisgewing [**in**] wat wesenlik met die voorgeskrewe formaat moet ooreenstem en ooreenkomstig 'n voorgeskrewe prosedure uitreik, indien daar redelike gronde bestaan om te glo dat 'n persoon nie voldoen het nie—”; 30
- (b) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:
 “(d) die prosedure wat gevolg moet word by die voorlegging van 'n beswaar teen die voldoeningskennisgewing aan die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake [of], LUR of munisipale raad, na gelang van die geval.”; 35
- (c) deur subartikel (3) deur die volgende subartikel te vervang: 40
 “(3) 'n Omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum kan op goeie gronde 'n voldoeningskennisgewing wysig en die tydperk waarbinne 'n persoon aan die kennisgewing moet voldoen, verleng.”; en
- (d) deur subartikels (4) en (5) onderskeidelik deur die volgende subartikels te vervang: 45
 “(4) 'n Persoon wat 'n voldoeningskennisgewing ontvang, moet aan daardie kennisgewing voldoen binne die tydperk vermeld in die kennisgewing, tensy die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake [of], LUR of 'n munisipale raad toestem om die werking van die voldoeningskennisgewing ingevolge subartikel (5) op te skort. 50
 (5) 'n Persoon wat 'n voldoeningskennisgewing ontvang en wat ingevolge artikel 31M 'n beswaar wil voorlê, kan verhoë rig tot die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake [of], LUR of 'n munisipale raad, na gelang van die geval, om die werking van die voldoeningskennisgewing hangende die afhandeling van die beswaar op te skort.” 55

Amendment of section 31M of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

26. Section 31M of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(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], the Minister responsible for mineral resources, the Minister responsible for water affairs, MEC or municipal council, as the case may be, within 30 days of receipt of the notice, or within such longer 10
 period as the Minister [or], the Minister responsible for mineral resources, the Minister responsible for water affairs, MEC or municipal council may determine.”; and
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 15
 “After considering any representations made in terms of subsection (1) and any other relevant information, the Minister [or], the Minister responsible for mineral resources, the Minister responsible for water affairs, MEC or municipal council, as the case may be—”.

Amendment of section 31N of Act 107 of 1998, as amended by section 7 of Act 44 of 2008 and section 20 of Act 46 of 2003 20

27. Section 31N of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

- “If a person fails to comply with a compliance notice, the environmental 25
 management inspector or an environmental mineral and petroleum inspector must report the non-compliance to the Minister, Minister responsible for mineral resources, Minister responsible for water affairs, [or] MEC or municipal council, as the case may be, and [the Minister or MEC] they may—”.

Amendment of section 31O of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003 30

28. Section 31O of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 35
 “(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 or a provincial Act that substantively deals with environmental management, all the powers of an environmental management inspector or environmental mineral and petroleum inspector in terms of this Part, 40
 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 31O.”; and
- (b) by the substitution for subsection (2) of the following subsection: 45
 “(2) Notwithstanding subsection (1), the Minister, Minister responsible for mineral resources, Minister responsible for water affairs 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 31O.”.

Wysiging van artikel 31M van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

26. Artikel 31M van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 5
- “(1) Enige persoon wat ingevolge artikel 31L ’n voldoeningskennisgewing ontvang, kan beswaar aanteken teen die kennisgewing deur skriftelik verhoë aan die Minister [of], die Minister verantwoordelik vir minerale hulpbronne, die Minister verantwoordelik vir watersake, die LUR of munisipale raad, na gelang van die geval, te rig binne 30 dae na ontvangs van die kennisgewing, of binne die langer tydperk wat die Minister [of], die Minister verantwoordelik vir minerale hulpbronne, die Minister verantwoordelik vir watersake, LUR of munisipale raad bepaal.”; en 10
- (b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang: 15
- “(a) kan die Minister [of], die Minister verantwoordelik vir minerale hulpbronne, die Minister verantwoordelik vir watersake, LUR of munisipale raad, na gelang van die geval, ’n kennisgewing of enige deel van ’n kennisgewing bekragtig, wysig of intrek; en 20
- (b) moet die Minister [of], die Minister verantwoordelik vir minerale hulpbronne, die Minister verantwoordelik vir watersake, LUR of munisipale raad, na gelang van die geval, die tydperk aandui waarbinne die persoon wat die kennisgewing ontvang het, moet voldoen aan enige deel van die kennisgewing wat bekragtig of gewysig is.”. 25

Wysiging van artikel 31N van Wet 107 van 1998, soos gewysig deur artikel 7 van Wet 44 van 2008 en artikel 20 van Wet 46 van 2003

27. Artikel 31N van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 30

- “Indien ’n persoon versuim om aan ’n voldoeningskennisgewing te voldoen, moet die omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum die nie-voldoening rapporteer aan die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake, [of] LUR of munisipale raad, na gelang van die geval, en [die Minister of LUR] kan hulle—”. 35

Wysiging van artikel 31O van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

28. Artikel 31O van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig— 40

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 40
- “(1) ’n Lid van die Suid-Afrikaanse Polisie diens beskik, met betrekking tot ’n misdryf ingevolge hierdie Wet [of], ’n spesifieke omgewingsbestuurswet of ’n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, oor al die bevoegdhede van ’n omgewingsbestuursinspekteur of omgewingsinspekteur vir minerale en petroleum ingevolge hierdie Deel, behalwe die bevoegdheid om roetine inspeksies ingevolge artikel 30K te doen en die bevoegdheid om voldoeningskennisgewings ingevolge artikel 31L tot 31O uit te reik en af te dwing.”; en 45
- (b) deur subartikel (2) deur die volgende subartikel te vervang: 50
- “(2) Ondanks subartikel (1) kan die Minister, Minister verantwoordelik vir minerale hulpbronne, Minister verantwoordelik vir watersake of LUR, na gelang van die geval, met die instemming van die Minister verantwoordelik vir veiligheid en sekuriteit, by skriftelike kennisgewing aan ’n lid van die Suid-Afrikaanse Polisie diens, aan daardie lid al die bevoegdhede beoog in artikel 31K tot 31O verleen.”. 55

Substitution of section 31P of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

29. The following section is hereby substituted for section 31P of the National Environmental Management Act, 1998:

“Duty to produce documents” 5

31P. 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 or a provincial Act that substantively deals with environmental management, must produce that document [at the request] on instruction of an environmental management inspector or an environmental mineral and petroleum inspector.” 10

Amendment of section 31Q of Act 107 of 1998, as amended by section 21 of Act 14 of 2009 and section 17 of Act 30 of 2013

30. Section 31Q of the National Environmental Management Act, 1998, is hereby amended— 15

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“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[,], or a provincial Act that substantively deals with environmental management, except—”; and 20

(b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(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 a provincial Act that substantively deals with environmental management; or” 25

Substitution of section 34E of Act 107 of 1998, as inserted by section 7 of Act 46 of 2003 30

31. The following section is hereby substituted for section 34E of the National Environmental Management Act, 1998:

“Treatment of seized live specimens

34E. (1) 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] may be deposited with a suitable institution, rescue centre or facility which is able and willing to house and properly care for it. 35

(2) For the purposes of this Chapter, seized live specimens may be disposed of in terms of section 30(a) of the Criminal Procedure Act, 1977.” 40

Amendment of section 34G of Act 107 of 1998, as inserted by section 7 of Act 46 of 2003

32. Section 34G of the National Environmental Management Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) [The] Despite section 57(5) of the Criminal Procedure Act, 1977, 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.”

Vervanging van artikel 31P van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003

29. Artikel 31P van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby deur die volgende artikel vervang:

“Plig om dokumente te toon” 5

31P. Enige persoon aan wie 'n permit, lisensie, toestemming, sertifikaat, magtiging of enige ander dokument ingevolge hierdie Wet [of], 'n spesifieke omgewingsbestuurswet of 'n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, uitgereik is, moet daardie dokument [op versoek van] in opdrag van 'n omgewingsbestuursinspekteur of 'n omgewingsinspekteur vir minerale en petroleum toon.” 10

Wysiging van artikel 31Q van Wet 107 van 1998, soos gewysig deur artikel 21 van Wet 14 van 2009 en artikel 17 van Wet 30 van 2013

30. Artikel 31Q van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig— 15

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Dit is 'n misdryf vir enige persoon om inligting oor enige ander persoon bekend te maak indien daardie inligting bekom is tydens die uitoefening van enige bevoegdheid of die uitvoer van enige plig ingevolge hierdie Wet [of], 'n spesifieke omgewingsbestuurswet[,] of 'n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, behalwe—”; en 20

(b) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang: “(c) indien die inligting bekendgemaak word om 'n persoon in staat te stel om 'n werksaamheid ingevolge hierdie Wet [of], 'n spesifieke omgewingsbestuurswet of 'n provinsiale Wet wat wesenlik oor omgewingsbestuur handel, uit te voer deur enige persoon; of” 25

Vervanging van artikel 34E van Wet 107 van 1998, soos ingevoeg deur artikel 7 van Wet 46 van 2003

31. Artikel 34E van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby deur die volgende artikel vervang: 30

“Behandeling van lewende monsters waarop beslag gelê is

34E. (1) 'n Lewende monster waarop ingevolge hierdie Deel beslag gelê is, [moet] kan, hangende die instel van strafregtelike verrigtinge ingevolge hierdie Wet of 'n spesifieke omgewingsbestuurswet, of hangende die afhandeling van sodanige verrigtinge, in bewaring gegee word by 'n geskikte instelling, reddingsentrum of fasiliteit wat in staat en gewillig is om daardie monster te huisves en behoorlik daarna om te sien. 35

(2) By die toepassing van hierdie Hoofstuk, kan lewende monsters waarop beslag gelê is, ingevolge artikel 30(a) van die Strafproseswet, 1977, oor beskik word.” 40

Wysiging van artikel 34G van Wet 107 van 1998, soos ingevoeg deur artikel 7 van Wet 46 van 2003

32. Artikel 34G van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 45

“(1) [Die] Ondanks artikel 57(5) van die Strafproseswet, 1977, kan die Minister [kan] misdrywe ingevolge hierdie Wet of 'n spesifieke omgewingsbestuurswet ten aansien waarvan beweerde oortreders 'n voorgeskrewe skulderkenningsboete kan betaal in plaas daarvan om deur 'n hof vir die misdryf verhoor te word, by regulasie spesifiseer.” 50

Amendment of section 42B of Act 107 of 1998, as inserted by section 9 of Act 62 of 2008

33. Section 42B of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) The Minister [**of Minerals and Energy**] 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**] responsible for mineral resources; 10
 (b) any officer in the Department [**of Minerals and Energy.**] responsible for mineral resources; or
 (c) any organ of state, by agreement with that organ of state.”;
 (b) by the substitution in subsection (2) for paragraphs (c) and (d) of the following paragraphs, respectively: 15
 “(c) does not prevent the performance of the function by the Minister responsible for mineral resources himself or herself; [**and**]
 (d) [**may be withdrawn by the Minister**] may include the power to subdelegate[.]”;
 (c) by the addition in subsection (2) of the following paragraphs: 20
 “(e) may be withdrawn by the Minister responsible for mineral resources, subject to any rights that may have accrued to any person; and
 (f) does not divest the Minister responsible for mineral resources of the responsibility for the performance of the function.”; and 25
 (d) by the addition of the following subsection:
 “(3) The Minister responsible for mineral resources 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.”. 30

Insertion of sections 42C and 42D in Act 107 of 1998

34. The following sections are hereby inserted in the National Environmental Management Act, 1998, after section 42B:

“Delegation of powers and duties by Minister responsible for water affairs 35

42C. (1) The Minister responsible for water affairs may delegate a power or duty vested in him or her in terms of this Act to an official in the department responsible for water affairs.

(2) A delegation in terms of subsection (1)—

- (a) must be in writing; 40
 (b) may be subject to conditions;
 (c) does not prevent the exercise of the power or the performance of the duty by the Minister responsible for water affairs personally;
 (d) may include the power to subdelegate;
 (e) may be withdrawn by the Minister responsible for water affairs, subject to any rights that may have accrued to any person; and 45
 (f) does not divest the Minister responsible for water affairs of the responsibility for the exercise of the power or the performance of the duty.

Delegation of powers and duties by municipal manager 50

42D. (1) The municipal manager of a municipality may delegate a power or duty vested in him or her in terms of this Act to an official in the municipality.

(2) A delegation in terms of subsection (1)—

Wysiging van artikel 42B van Wet 107 van 1998, soos ingevoeg deur artikel 9 van Wet 62 van 2008

33. Artikel 42B van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 5
 “(1) Die Minister verantwoordelik vir minerale hulpbronne kan ’n werksaamheid aan hom of haar ingevolge hierdie Wet toevertrou, delegeer aan—
 (a) die Direkteur-generaal van die Departement [**van Minerale en Energie**] verantwoordelik vir minerale hulpbronne; [**of**] 10
 (b) enige beampte in die Departement [**van Minerale en Energie**] verantwoordelik vir minerale hulpbronne; of
 (c) enige staatsorgaan, by ooreenkoms met daardie staatsorgaan.”;
 (b) deur in subartikel (2) paragrawe (c) en (d) onderskeidelik deur die volgende paragrawe te vervang: 15
 “(c) verhoed nie die verrigting van die werksaamheid deur die Minister verantwoordelik vir minerale hulpbronne self nie; [**en**] 20
 (d) [**kan deur die Minister teruggetrek word.**] kan die bevoegdheid insluit om te subdelegeer;”;
 (c) deur in subartikel (2) die volgende paragrawe by te voeg: 20
 “(e) kan deur die Minister verantwoordelik vir minerale hulpbronne ingetrek word, onderworpe aan enige regte wat aan enigiemand toegeval het; en
 (f) ontdoen nie die Minister verantwoordelik vir minerale hulpbronne van die verantwoordelikheid vir die verrigting van die werksaamheid nie.”; en 25
 (d) deur die volgende subartikel by te voeg: 30
 “(3) Die Minister verantwoordelik vir minerale hulpbronne kan enige besluit geneem na aanleiding van ’n delegering of subdelegering ingevolge hierdie artikel, bevestig, verander of herroep, behoudens enige regte wat na aanleiding van die besluit aan ’n persoon kon toegeval het.”.

Invoeging van artikels 42C en 42D in Wet 107 van 1998

34. Die volgende artikels word hierby na artikel 42B in die Wet op Nasionale Omgewingsbestuur, 1998, ingevoeg:

“Delegering van bevoegdhede en pligte deur Minister verantwoordelik vir watersake 35

- 42C.** (1) Die Minister verantwoordelik vir watersake kan ’n bevoegdheid of plig wat ingevolge hierdie Wet by hom of haar berus, delegeer aan ’n beampte in die departement verantwoordelik vir watersake.
 (2) ’n Delegering ingevolge subartikel (1)— 40
 (a) moet skriftelik wees;
 (b) kan aan voorwaardes onderworpe wees;
 (c) voorkom nie die uitoefening van die bevoegdheid of die verrigting van die plig deur die Minister verantwoordelik vir watersake persoonlik nie; 45
 (d) kan die bevoegdheid om te subdelegeer, insluit;
 (e) kan deur die Minister verantwoordelik vir watersake teruggetrek word, behoudens enige regte wat aan enigiemand toegeval het; en
 (f) ontdoen nie die Minister verantwoordelik vir watersake van die verantwoordelikheid vir die uitoefening van die bevoegdheid of die verrigting van die plig nie. 50

Delegering van bevoegdhede en pligte deur munisipale bestuurder

- 42D.** (1) Die munisipale bestuurder van ’n munisipaliteit kan ’n bevoegdheid of plig wat ingevolge hierdie Wet by hom of haar berus, aan ’n beampte in die munisipaliteit delegeer. 55
 (2) ’n Delegering ingevolge subartikel (1)—

- (a) must be in writing;
- (b) may be subject to conditions;
- (c) does not prevent the exercise of the power or the performance of the duty by the municipal manager personally;
- (d) may be withdrawn by the municipal manager, subject to any rights that may have accrued to any person; and
- (e) does not divest the municipal manager of the responsibility for the exercise of the power or the performance of the duty.”.

Amendment of section 43 of Act 107 of 1998, as substituted by section 4 of Act 8 of 2004 and section 10 of Act 62 of 2008 and amended by section 14 of Act 25 of 2014

35. Section 43 of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the insertion after subsection (1B) of the following subsection—
 - “(1C) Any person may appeal against a decision made by the licensing authority contemplated in section 36(1) or 47A of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), in the case of municipalities, to the municipal council.”; and
- (b) by the substitution for subsections (7), (8) and (9) of the following subsections, respectively:
 - “(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 Act, or any provision or condition attached thereto, except for a directive or other administrative enforcement notice that is aimed at addressing significant harm to the environment, issued in terms of this Act or any other specific environmental management Act.
 - (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 or any person acting under his or her delegated authority, the Director-General of the department responsible for mineral resources or any person acting under his or her delegated authority, [or] the provincial head of department or any person acting under his or her delegated authority or the municipal manager of a municipality or any person acting under his or her delegated authority, to the Minister, the Minister responsible for mineral resources [or], the MEC or the municipal council, as the case may be, within thirty days of receipt of the directive, or within such longer period as the Minister, the Minister responsible for mineral resources [or], MEC or municipal council may determine.
 - (9) [Notwithstanding] Despite subsection (7) [and], pending the finalisation of the appeal, the Minister, Minister responsible for mineral resources [or], the MEC or municipal council, as the case may be, may, on application and on good cause shown, direct that **[any part or provision of the directive not be suspended, but only strictly in exceptional circumstances and where there is an imminent threat to human health or the environment.]**—
 - (a) the environmental authorisation, exemption or any other decision made in terms of this Act or any other specific environmental management Act, or any provision or condition attached thereto may wholly or in part, not be suspended; or
 - (b) the directive or any administrative enforcement notice that is aimed at addressing significant harm to the environment, issued in terms of this Act or any other specific environmental management Act or part thereof, be suspended.”.

- (a) moet skriftelik wees;
- (b) kan aan voorwaardes onderworpe wees;
- (c) voorkom nie die uitoefening van die bevoegdheid of die verrigting van die plig deur die munisipale bestuurder persoonlik nie;
- (d) kan deur die munisipale bestuurder ingetrek word, behoudens enige regte wat aan enigiemand kon toegeval het; en
- (e) ontdoen nie die munisipale bestuurder van die verantwoordelikheid vir die uitoefening van die bevoegdheid of die verrigting van 'n plig nie.”.

Wysiging van artikel 43 van Wet 107 van 1998, soos vervang deur artikel 4 van Wet 8 van 2004 en artikel 10 van Wet 62 van 2008 en gewysig deur artikel 14 van Wet 25 van 2014

35. Artikel 43 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur die volgende subartikel ná subartikel (1B) in te voeg:
 - “(1C) Enigiemand kan appelleer teen 'n beslissing deur die lisensieringsgesag in artikel 36(1) of 47A van die ‘National Environmental Management: Air Quality Act’, 2004 (Wet No. 39 van 2004), beoog, in die geval van munisipaliteite, by die stadsraad.”; en
- (b) deur subartikels (7), (8) en (9) onderskeidelik deur die volgende subartikels te vervang:
 - “(7) 'n Appèl kragtens hierdie artikel skort 'n omgewingsmagtiging, vrystelling[, **opdrag,**] of enige ander besluit ingevolge hierdie Wet op enige ander bepaalde [**omgewingsbestuurswet**] omgewingswet geneem, of enige bepaling of voorwaardes daaraan geheg, op, behalwe vir 'n opdrag, of ander administratiewe afdwingingskennisgewing, wat gemik is op die hantering van beduidende skade aan die omgewing, ingevolge hierdie Wet of enige ander bepaalde omgewingsbestuurswet uitgereik.
 - (8) 'n Persoon wat 'n opdrag ingevolge artikel 28(4) ontvang kan 'n appèl aanteken teen die besluit geneem deur die Direkteur-generaal of enigiemand wat onder sy of haar gedelegeerde gesag optree, die Direkteur-generaal van die departement verantwoordelik vir minerale hulpbronne of enige persoon wat onder sy of haar gedelegeerde gesag optree, of die provinsiale departementshoof of enige persoon wat onder sy of haar gedelegeerde gesag optree of die munisipale bestuurder van 'n munisipaliteit of enige persoon wat onder sy of haar gedelegeerde gesag optree by die Minister, die Minister verantwoordelik vir minerale [**of**], die LUR of die munisipale raad, na gelang van die geval, binne 30 dae vanaf ontvangs van die opdrag, of binne sodanige langer tydperk wat die Minister, die Minister verantwoordelik vir minerale hulpbronne [**of**], LUR of munisipale raad bepaal.
 - (9) Ondanks subartikel (7) [**en**], hangende die afhandeling van die appèl, kan die Minister, die Minister verantwoordelik vir minerale hulpbronne [**of**], die LUR of munisipale raad, na gelang van die geval, by aansoek en by die aanvoer van goeie gronde, opdrag gee dat [**enige deel of bepaling van die opdrag nie opgeskort word nie, maar slegs in buitengewone omstandighede waar daar 'n onmiddellike bedreiging vir menslike gesondheid of die omgewing is.**]—
 - (a) die omgewingsmagtiging, vrystelling of enige ander besluit ingevolge hierdie Wet of enige ander bepaalde omgewingsbestuurswet geneem, of enige bepaling of voorwaarde daaraan verbonde, óf in die geheel óf gedeeltelik, nie opgeskort kan word nie; of
 - (b) die opdrag of enige administratiewe afdwingingskennisgewing wat gemik is op die hantering van beduidende skade aan die omgewing ingevolge hierdie Wet of enige ander bepaalde omgewingsbestuurswet uitgereik, opgeskort word.”.

Amendment of section 49A of Act 107 of 1998, as inserted by section 25 of Act 30 of 2013

36. Section 49A of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (b) of the following paragraph: 5
 “(bA) fails to comply with any provision identified as an offence in such applicable norm or standard, in which case paragraph (b) does not apply.”;
- (b) by the substitution in subsection (1) for paragraphs (m), (n), (o) and (p) of the following paragraphs, respectively: 10
 “(m) hinders or interferes with an environmental management inspector or an environmental mineral and petroleum inspector in the execution of that inspector’s official duties;
 (n) pretends to be an environmental management inspector or an environmental mineral and petroleum inspector, or the interpreter or assistant of such an inspector; 15
 (o) furnishes false or misleading information when complying with [a request] an instruction of an environmental management inspector or an environmental mineral and petroleum inspector; 20
 (p) fails to comply with [a request of] an instruction from an environmental management inspector or an environmental mineral and petroleum inspector.”; and
- (c) by the addition in subsection (1) of the following paragraphs: 25
 “(q) fails to comply with section 24P(3), (4), (5), (6) or (10);
 (r) fails to comply with section 24PA(1) or (3).”.

Amendment of section 49B of Act 107 of 1998, as inserted by section 25 of Act 30 of 2013

37. Section 49B of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 30
 “(1) A person convicted of an offence in terms of section 49A(1)(a), (b), (bA), (c), (d), (e), (f) [or (g)], (g), (q) or (r) is liable to a fine not exceeding R10 million or imprisonment not exceeding 10 years, or to both such fine and such imprisonment.”; and 35
- (b) by the substitution for subsection (3) of the following subsection: 40
 “(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 not exceeding R1 million or imprisonment for a period not exceeding one year, or to both [a] such fine and such imprisonment.”.

Amendment of section 50A of Act 107 of 1998, as inserted by section 17 of Act 25 of 2014

38. Section 50A of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 45
 “An 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 the *One Environmental System* for the country with respect to prospecting, 50
 exploration, mining or production, which entails—”; and
- (b) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs: 55
 “(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

Wysiging van artikel 49A van Wet 107 van 1998, soos ingevoeg deur artikel 25 van Wet 30 van 2013

36. Artikel 49A van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (1) die volgende paragraaf na paragraaf (b) in te voeg: 5
 “(bA) versuim om te voldoen aan enige bepaling in sodanige toepaslike norm of standaard as misdryf geïdentifiseer, in welke geval paragraaf (b) nie van toepassing is nie;”;
- (b) deur in subartikel (1) paragrawe (m), (n), (o) en (p) onderskeidelik deur die volgende paragrawe te vervang: 10
 “(m) ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum belemmer in, of inmeng met, die verrigting van daardie inspekteur se amptelike pligte;
- (n) voorgee om ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum te wees, of om die tolk of assistent van sodanige inspekteur te wees; 15
- (o) vals of misleidende inligting verstrek wanneer aan ’n [versoek] instruksie deur ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum voldoen word;
- (p) versuim om aan ’n [versoek] instruksie van ’n omgewingsbestuursinspekteur of ’n omgewingsinspekteur vir minerale en petroleum te voldoen.”; en 20
- (c) deur die volgende paragrawe in subartikel (1) by te voeg:
 “(q) versuim om aan artikel 24P(3), (4), (5), (6) of (10) te voldoen;
 (r) versuim om aan artikel 24PA(1) of (3) te voldoen.” 25

Wysiging van artikel 49B van Wet 107 van 1998, soos ingevoeg deur artikel 25 van Wet 30 van 2013

37. Artikel 49B van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 30
 “(1) ’n Persoon wat skuldig bevind is aan ’n misdryf ingevolge artikel 49A(1)(a), (b), (bA), (c), (d), (e), (f) [of], (g), (q) of (r) is strafbaar met ’n boete van hoogstens R10 miljoen of met gevangenisstraf vir ’n tydperk van hoogstens 10 jaar, of met sodanige boete sowel as sodanige gevangenisstraf.”; en 35
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) ’n Persoon wat skuldig bevind is aan ’n misdryf ingevolge artikel 49A(1)(h), (l), (m), (n), (o) of (p) is strafbaar met ’n boete van hoogstens R1 miljoen of met gevangenisstraf vir ’n tydperk van hoogstens een jaar, of met sodanige boete sowel as sodanige gevangenisstraf.” 40

Wysiging van artikel 50A van Wet 107 van 1998, soos deur artikel 17 van Wet 25 van 2014 ingevoeg

38. Artikel 50A van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 45
 “By die toepassing van subartikel (1), beteken ‘**Ooreenkoms**’ die Ooreenkoms tussen die Minister, Minister verantwoordelik vir waterwese en die Minister verantwoordelik vir minerale hulpbronne getiteld *One Environmental System* vir die land met betrekking tot prospektering, eksplorاسie, mynbou of produksie, wat behels—”; en 50
- (b) deur in subartikel (2) paragrawe (b) en (c) deur die volgende paragrawe te vervang:
 “(b) dat die Minister die reguleringsraamwerk en norme en standarde stel, en dat die Minister verantwoordelik vir minerale hulpbronne die bepalinge van die Hoofwet en die ondergeskikte wetgewing in soverre dit met prospektering, eksplorاسie, [myn] mynbou of 55

subordinate legislation as far as it relates to prospecting, exploration, mining or production operations;

- (c) that the Minister responsible for mineral resources will issue environmental authorisations in terms of the principal Act for prospecting, exploration, mining or production operations, and that the Minister will be the appeal authority for these authorisations; and”.

Amendment of Schedule 3 to Act 107 of 1998, as amended by section 8 of Act 8 of 2004, section 25 of Act 14 of 2009, Government Notice No. 731 of 2012 and section 27 of Act 30 of 2013

39. Schedule 3 to the National Environmental Management Act, 1998, is hereby amended—

- (a) by the repeal in part (a) of line 5;
- (b) by the substitution in line 17 of part (a) for column 3 the following column:
“Section 45(1), 46(1), 47(2), 47(3), 48(1), 48A(1), 50(5), read with sections 89(1)(b), (c) and (d) and 50A”;
- (c) by the substitution in line 21 of part (a) for column 3 of the following column:
“Sections 7B, 7C read with 79(1)(j), (k), 13(3) read with 79(1)(l), 13(1A) read with 79(2)(j), 79(2)(k), 15 read with 79(2)(d), 59 read with 79(2)(e), 60 read with 79(2)(a), 65 read with 79(1)(m), 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)] 92 read with 79(1)(n), 95 read with 79(2)(h), 79(2)(i), 96 read with 79(1)(o), 79(2)(a)”;
- (d) by the substitution in line 4 of part (b) for column 3 of the following column:
“Section 86(1) in so far as it relates to contraventions of sections 26, [41] 44(1)(b)(ii) and 44(1)(c) to (e), 52(a), 57(a), 58(b) and 62(1)”.

Amendment of section 48 of Act 57 of 2003, as substituted by section 18 of Act 31 of 2004 and section 21 of 2014

40. Section 48 of the National Environmental Management: Protected Areas Act, 2003, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
“Despite other legislation, no person may conduct commercial prospecting, mining, exploration, production or activities related to prospecting, mining, exploration or production—”;
- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
“(b) in a protected environment without the written permission of the Minister [**and the Cabinet member responsible for mineral and energy affairs**]; or”;
- (c) by the substitution for subsections (2) and (3) of the following subsections, respectively:
“(2) The Minister, after consultation with the Cabinet member responsible for mineral [**and energy affairs**] resources, must review all mining activities which were lawfully conducted in areas indicated in subsection (1) (a), (b) and (c) immediately before this section took effect.
(3) The Minister, after consultation with the Cabinet member responsible for mineral [**and energy affairs**] resources, may, in relation to the activities contemplated in subsection (2), as well as in relation to mining activities conducted in areas contemplated in that subsection which were declared as such after the commencement of this section, prescribe conditions under which those activities may continue in order to reduce or eliminate the impact of those activities on the environment or for the environmental protection of the area concerned.”;

[bedrywighede] produksiebedrywighede verband hou, in werking sal stel;

- (c) dat die Minister verantwoordelik vir minerale hulpbronne omgewingsmagtigings ingevolge die Hoofwet sal uitreik vir prospektering, eksplorاسie, [myn] mynbou of [bedrywighede] produksiebedrywighede en dat die Minister die appèlowerheid vir hierdie magtigings sal wees; en”.

Wysiging van Bylae 3 tot Wet 107 van 1998, soos gewysig deur artikel 8 van Wet 8 van 2004, artikel 25 van Wet 14 van 2009, Goewermentskennisgewing No. 731 van 2012 en artikel 27 van Wet 30 van 2013

39. Bylae 3 tot die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig—

- (a) deur reël 5 in deel (a) te herroep;
- (b) deur in reël 17 van deel (a) kolom 3 deur die volgende kolom te vervang: “Artikels 45(1), 46(1), 47(2), 47(3), 48(1), 48A(1), 50(5), saamgelees met artikels 89(1), 89(1)(b), (c) en (d) en 50A”;
- (c) deur in reël 21 in die Afrikaanse teks van deel (a) kolom 1, 2 en 3, die volgende reëls in te voeg en verder te wysig: “Artikels 7B, 7C gelees met 79(1)(j), (k), 13(3) gelees met 79(1)(l), 13(1A) gelees met 79(2)(j), 79(2)(k), 15 gelees met 79(2)(d), 59 gelees met 79(2)(e), 60 gelees met 79(2)(a), 65 gelees met 79(1)(m), 69 gelees met 79(1)(a), 70(1) gelees met 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)] 92 gelees met 79(1)(n), 95 gelees met 79(2)(h), 79(2)(i), 96 gelees met 79(1)(o), 79(2)(a);”;
- (d) deur in reël (4) van deel (b) kolom 3 deur die volgende kolom te vervang: “Artikel 86 (1) in soverre dit betrekking het op oortredings van artikels [41] 44(1)(b)(ii) en 44(1)(c) tot (e), 52(a), 57(a), 58(b) en 62(1)”.

Kwenziwa utshintsho kwisolotyana 48 loMthetho 57 ka-2003, elathi lathatyathelw’ indawo lisolotyana 18 loMthetho 31 ka-2004 nalisolotyana loMthetho 21 ka-2014

40. Kwenziwa utshintsho kwisolotyana 48 loMthetho Wokulondolozwa Kwendalo Yesizwe: UMthetho Weendawo Zolondolozo Ezikhuselweyo ka-2003—

- (a) ngokuthi isolotyana (1) lithatyathelw’ indawo sisiqendu (1) esilandelayo: “(1) Nokuba uthini na omnye umthetho wepalamente, akukho ovumelekileyo ukuba ahlole ubukho bezimbiwa emhlabeni ngenjongo yorhwebo, ambe izimbiwa, ahlole, enze imveliso okanye enze imisebenzi emalunga nokuhlola ubukho bezimbiwa emhlabeni, ukumba izimbiwa, ahlole okanye enze imveliso—”;
- (b) ngokuthi isolotjina (1) lithatyathelw indawo sisiqendu (b) esilandelayo: “(b) kwindawo okanye phantsi kwendawo ekhuselweyo engenayo imvume ebhaliweyo yoMphathiswa [neyoMphathiswa weKhabhinethi] ophathiswe [izimbiwa nemicimbi yamandla] izimbiwa; okanye”;
- (c) ngokuthi indawo yesolotjana lesi-(2) nelesi-(3) ithatjathwe ngamasolotjana alandelayo: “(2) UMphathiswa, emva kokubonisana nelungu leKhabhinethi eliphathiswe ubuncwane obuzizimbiwa [nemicimbi yamandla], makaqwalasele ngokutsha yonke imisebenzi yokumbiwa kwezimbiwa eyayiqhutywa ngokusemthethweni kwimimandla eboniswe kwisolotyana (1)(a), (b) no-(c) ngaphambi nje kwexesha elaqalisa ngalo ukusebenza eli solotyana. (3) UMphathiswa, emva kokubonisana nelungu leKhabhinethi eliphathiswe ubuncwane obuzizimbiwa [nemicimbi yamandla], unokuthi, malunga nemisebenzi exelwe kwisolotyana (2), nangokumalunga nemisebenzi yokumbiwa kwezimbiwa eqhutywa kwimimandla exelwe kwelo solotyana eyabhengezwa njengenjalo emva kokuqalisa kweli solotyana ukusebenza, amisele imiqathango enokuthi loo misebenzi iqhubeke ngayo ukuze kuncitshiswe okanye kupheliswe ifuthe laloo misebenzi kwindalo esingqongileyo okanye ukwenzela ukukhuselwa kwendalo esingqongileyo kummandla lowo.”;

- (d) by the substitution for subsection (4) of the following subsection:
- “(4) A person who wishes to apply for permission under subsection (1)(b) to conduct commercial prospecting, mining, exploration, production or activities related to prospecting, mining, exploration or production, must immediately on receipt of an environmental authorisation in terms of the National Environmental Management Act, submit his or her application in the prescribed manner to the Minister, together with—
- (a) any information, reports, studies conducted or consultation done for the environmental impact assessments process in respect of the activities under consideration in terms of Chapter 5 of the National Environmental Management Act; and
- (b) any appeal lodged in respect of the environmental authorisation.”;
- and
- (e) by the addition of the following subsections:
- “(5) The Minister, when exercising his or her power in terms of subsection (1)(b)—
- (a) must take into account—
- (i) the principles contained in section 2 of the National Environmental Management Act;
- (ii) any information, reports, studies conducted or consultation done for the environmental impact assessments process in respect of the activities under consideration in terms of chapter 5 of the National Environmental Management Act;
- (iii) any appeal contemplated in subsection (4)(b);
- (iv) the ecological integrity of the protected environment;
- (b) may, amongst others, take into account—
- (i) the potential impact on ecological functioning and ecosystem services provided by the protected environment to society;
- (ii) whether the protected environment is a biodiversity priority area for species; and
- (iii) whether the protected environment is a strategic water resource area;
- (6) Despite subsection (4), the Minister may require the person who applies for the permission under subsection (1)(b), to provide any further information as he or she may deem necessary before making a decision.”.

Amendment of section 57 of Act 57 of 2003

41. Section 57 of the National Environmental Management: Protected Areas Act, 2003, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the Chief Executive Officer and the Chief Financial Officer.”.

Amendment of section 89 of Act 57 of 2003, as amended by section 28 of Act 14 of 2009

42. Section 89 of the National Environmental Management: Protected Areas Act, 2003, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
- “(a) contravenes or fails to comply with a provision of section 45(1), 46(1), 47(2), (3) or (3A), 48(1), [49A(5)(b),] 48A(1) or 50(5) [or 55(2)(fA)].”;
- (b) by the deletion in subsection (1) of the word “or” at the end of paragraph (c);
- (c) by the substitution in subsection (1) for the fullstop at the end of paragraph (d) of a semi-colon;

- (d) indawo yesolotyana (4) ithatyathwe lisolotyana elilandelayo:
- “(4) Umntu onqwenela ukwenza isicelo semvume ngokwesolotyana (1)(b) yokuhlola ubukho bezimbiwa emhlabeni ngenjongo yorhwebo, yokumba izimbiwa, yokuhlola okanye ngenjongo yemveliso, makathi ngoko nangoko esakufumana isigunyaziso sendawo esingqongileyo ngokoMthetho woLondolozo lweNdalo yeSizwe, angenise isicelo sakhe ngendlela emiselweyo kuMphathiswa, kunyeù
- (a) nayo nayiphi na ingcombolo, iingxelo, uhlolisiso olwenziweyo okanye ukubonisana okwenzelwe ukuqonda ifuthe elinokubakho kwindalo esingqongileyo malunga nemisebenzi eqwalaselwayo ngokweSahluko 5 soMthetho wokuLondolozwa kweNdalo yeSizwe; kunye
- (b) nasiphi na isibheni esifakwe mayela nesigunyaziso sendalo esingqongileyo.”;
- (e) ngokufakela kwesolotyana ezilandelayo:
- “(5) UMphathiswa, xa esebenzisa amagunya akhe ngokwesolotyana (1)(b)—
- (a) makathabathele engqalelweni—
- (i) imigaqo equlethwe kwisolotyana 2 loMthetho wokuLondolozwa kweNdalo yeSizwe;
- (ii) nayiphi na ingcombolo, iingxelo, uhlolisiso olwenziweyo okanye ukubonisana okwenzelwe ukuqonda ifuthe elinokubakho kwindalo esingqongileyo malunga nemisebenzi eqwalaselwayo ngokweSahluko 5 soMthetho wokuLondolozwa kweNdalo yeSizwe;
- (iii) nasiphi na isibheni esixelwe kwisolotyana (4)(b);
- (iv) ukungonakali kwendalo esingqongileyo ekhuselweyo;
- (b) unokuthi, phakathi kwezinye izinto, athabathele engqalelweni—
- (i) ifuthe elinokuthi libekho ekusebenzeni kobudlelwane phakathi kwezinto ezidalweyo neenkonzo zokusebenzelana kwendalo ezinikezelwa yindalo esingqongileyo ekhuselweyo kuluntu;
- (ii) enoba indalo esingqongileyo ekhuselweyo iyeyona kufanele kuqalwe ngayo kubuntlantluninzi bezinto eziphilayo; nokuthi
- (iii) enoba indalo esingqongileyo ekhuselweyo ingummandla ochuliweyo wobuncwane obungamanzi;
- (6) Nokuba lithina na isolotyana (4), uMphathiswa usengafuna ukuba umntu owenza isicelo semvume phantsi kwesolotyana (1)(b), anike ingcombolo ebhekele phaya ngokwendlela abona kufaneleke ngayo ngaphambi kokuba enze isigqibo.”.

Kwenziwa utshintsho kwisolotyana 57 loMthetho 57 ka-2003

41. Kwenziwa utshintsho kwisolotyana 57 loMthetho Wokulondolozwa Kwendalo Yesizwe: UMthetho Weendawo Zolondolozo Ezikhuselweyo ka-2003, ngokuthi isiqendu (c) kwisolotyana (1) sithatyathelw’ indawo sisiqendu esilandelayo:
- “(c) iGosa Eliyintloko Eliququzelelayo neGosa Eliyintloko Lezimali.”.

Kwenziwa utshintsho kwisolotyana 89 loMthetho 57 ka-2003, elathi lona lenziwa utshintsho lisolotyana 28 loMthetho 14 ka-2009

42. Kwenziwa utshintsho kwisolotyana 89 loMthetho Wokulondolozwa Kwendalo Yesizwe: UMthetho Weendawo Zolondolozo Ezikhuselweyo ka-2003—
- (a) ngokuthi isiqendu (a) kwisolotyana (1) sithatyathelw’ indawo sisiqendu esilandelayo:
- “(a) waphula okanye uyoyisakala ukwenza okutshiwo lisolotyana 45(1), 46(1), 47(2), (3) okanye (3A), 48(1), [49A(5)(b),] 48A(1) okanye 50(5) [okanye 55(2)(fA)].”;
- (b) ngokuthi kwisolotyana (1) kucinywe igama elithi “okanye” ekupheleni kwesiqendu (c);
- (c) ngokuthi kwisolotyana (1) endaweni yesiphumlisi ekupheleni kwesiqendu (d) kufakwe *isemi-colon*;

- (d) by the addition in subsection (1) of the following paragraph:
 “(e) contravenes or fails to comply with a rule made in terms of section 55(2)(fA).”;
- (e) by the substitution for subsection (2) of the following subsection:
 “(2) A person convicted of an offence in terms of subsection (1)(a), (b), (c) or (d) is liable, in the case of a first conviction, to a fine not exceeding R5 million or 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 ten years or in both instances to both a fine and such imprisonment.”; and
- (f) by the insertion after subsection (2) of the following subsection:
 “(2A) A person convicted of an offence in terms of subsection (1)(e) is liable to the penalties prescribed pursuant to section 55(2)(fA).”.

Amendment of section 1 of Act 10 of 2004, as amended by section 29 of Act 14 of 2009 and section 1 of Act 14 of 2013 15

43. Section 1 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution for the definition of “control” of the following definition:
 “‘**control**’, in relation to **[an alien or]** invasive species, means—
- (a) [to combat or eradicate an alien or invasive species] the systematic destruction of all specimens of invasive species from within a specified area of, or the whole of, the Republic; or 20
- (b) where such **[eradication] systematic destruction** is not possible, to prevent, as far as may be practicable, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of **[an alien or]** invasive species; 25
- (b) by the insertion after the definition of “environmental management inspector” of the following definition:
 “‘**eradicate**’ means the complete removal of invasive species from within the Republic, including all living parts of that species;” and 30
- (c) by the insertion after the definition of ‘vulnerable species’ of the following definition:
 “‘**well-being**’ means the holistic circumstances and conditions of an animal, which are conducive to its physical, physiological and mental health and quality of life, including the ability to cope with its environment.”. 35

Amendment of section 2 of Act 10 of 2004

44. Section 2 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the deletion in paragraph (a) of the word “and” at the end of subparagraph (ii); and 40
- (b) by the insertion in paragraph (a) after subparagraph (ii) of the following subparagraph:
 “(iiA) the consideration of the well-being of animals in the management, conservation and sustainable use thereof; and” . 45

Amendment of section 3 of Act 10 of 2004

45. Section 3 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

- “(2) The Minister may, by notice in the *Gazette*, specify the species and the circumstances under which the State remains the custodian of faunal biological resources that escape from land under its control.”. 50

- (d) ngokuthi kwisolotyana (1) kongezwe isiqendu esilandelayo:
 “(e) waphula okanye woyisakala ukwenza okufunwa ngumgaqo owenziwe ngokwesolotyana 55(2)(fA).”;
- (e) ngokuthi isolotyana (2) lithatyathelw’ indawo lisolotyana elilandelayo:
 “(2) Umntu ofunyaniswe enetyala lokwenza isenzo esikukona ngokwesolotyana (1)(a), (b), (c) okanye (d) uya kugwetywa, xa eqala ukufunyaniswa enetyala, ifayini engagqithiyo kwizigidi ezi-R5 okanye ukuvalelwa ixesha elingagqithiyo kwiminyaka emihlanu, aze xa efunyaniswa enetyala okwesibini nangaphezulu, agwetywe ifayini engagqithiyo kwizigidi ezili-R10 okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka elishumi okanye kuzo zombini iimeko agwetywe kokubini ifayini nokuvallelwa entolongweni.”; nangokuthi
- (f) emva kwesolotyana (2) kufakelwe isolotyana elilandelayo:
 “(2A) Umntu ofunyaniswe enetyala lokwenza isenzo esikukona ngokwesolotyana (1)(e) uya kohlwaywa izohlwayo ezixelwe kwisolotyana 55(2)(fA).”.

Tlhabololo ya karolo 1 ya Molao 10 wa 2004, jaaka e tlhabololwa ka karolo 29 ya Molao 14 wa 2009 le karolo 1 ya Molao 14 wa 2013

43. Karolo 1 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa jaana— 20

- (a) ka kemisetso ya tlhaloso ya “taolo” ka tlhaloso e e latelang:
 “**‘taolo’**, mabapi le ditshedi [tse di sa tlwaelegang kgotsa] tse di tsenelelang, e kaya—
- (a) [go lwantsha kgotsa go fedisa ditshedi tse di sa tlwaelegang kgotsa tse di tsenelelang] tshenyo ya thulaganyo ya dikai tsotlhe tsa ditshedi tse di tsenelelang go tswa mo lefelong le le totobaditweng la, kgotsa bophara jwa, Rephaboliki; kgotsa
- (b) foo [phediso] tshenyo ya thulaganyo eo e sa kgonagaleng, go thibela, go fitlha fa go ka kgonegang, poelelo, tlhomo gape, kgolo gape katiso, koketsego, tsosoloso kgotsa go anamiswa ga ditshedi [tse di sa tlwaelegang kgotsa] tse di tsenelelang; 25
- (b) ka go tsenngwa morago ga tlhaloso ya “motlhatlhoi wa botsamaisi jwa tikologo” ga tlhaloso e e latelang:
 “**‘fedisa’** go kaya go tloswa ka gotlhe ga ditshedi tse di tsenelelang go tswa mo Rephaboliking, go akaretsa le dikarolo tsotlhe tse di tshelang tsa ditshedi tseo;” le 35
- (c) ka go tsenngwa morago ga tlhaloso ya ‘ditshedi tse di mo kotsing’ ka tlhaloso e e latelang:
 “**‘go itekanela’** go kaya boemo jo maemo a go tshela a ditlamelo tsa baecoloji tsa ditshedi go siametseng boitekanelo jwa tsona;” 40

Tlhabololo ya karolo 2 ya Molao 10 wa 2004

44. Karolo 2 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa—

- (a) ka kemisetso mo temaneng (a) ka go phimola lefoko “le” ya temanatlaleletso (ii) ka temanatlaleletso e e latelang; 45
- (b) ka go tsenya mo temaneng (a) morago ga temanatlaleletso, e e latelang:
 “(iiA) go tsewa tsia ga go itekanela ga diphologolo mo tadang tshomerelong le tisiso e e tsweleng ya tsona; le”.

Tlhabololo ya karolo 3 ya Molao 10 wa 2004 50

45. Karolo 3 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa ka go tlaleletswa ga karolotlaleletso e e latelang, karolo e e leng teng e nna karolotlaleletso (1):

- “(2) Tona, ka kitsiso mo Lokwalodikgannyeng la Puso, o ka totobatsa ditshedi le mabaka ao ka fa tlase ga ona Puso e salang go nna motlhokomedi wa metswedi ya baoloji ya ditshedi e e tlhagelelang mo lefatsheng le le ka fa tlase ga taolo ya ona.” 55

Insertion of section 9A in Act 10 of 2004

46. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 9:

“Prohibition of certain activities

9A. The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, prohibit any activity that may negatively impact on the well-being of an animal.” 5

Amendment of section 13 of Act 10 of 2004

47. Section 13 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph: 10

“(c) the Chief Executive Officer and the Chief Financial Officer of the Institute.”.

Amendment of section 73 of Act 10 of 2004

48. Section 73 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended— 15

- (a) by the deletion in subsection (2) of paragraph (a);
- (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
 - “(b) take steps to control **[and]** or eradicate the listed invasive species **[and to prevent it from spreading]** as prescribed by the Minister; and”;
- (c) by the insertion after subsection (2) of the following subsection:
 - “(2A) The Minister may prescribe circumstances under which a competent authority must be notified in writing of the presence or occurrence of a listed invasive species.”. 20 25

Amendment of section 75 of Act 10 of 2004

49. Section 75 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively: 30
 - “(1) Control **[and]** or eradication of a listed invasive species must be carried out by means of methods that are appropriate for the species concerned and the environment in which it occurs.
 - (2) Any action taken to control **[and]** or eradicate a listed invasive species must be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment. 35
 - (3) The methods employed to control **[and]** or eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself in any manner.”; and 40
- (b) by the addition of the following subsection:
 - “(6) The Minister must provide education and awareness to local communities affected by listed invasive species.”. 45

Amendment of section 97 of Act 10 of 2004, as amended by section 45 of Act 14 of 2009 and section 30 of Act 14 of 2013 45

50. Section 97 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the insertion in subsection (1) after paragraph (a) of the following paragraph:

“(aA) the well-being of an animal;”. 50

Go tsenngwa ga karolo 9A mo Molaong 10 wa 2004

46. Karolo e e latelang e tsenngwa mo Tsamaisong ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, morago ga karolo 9:

“Kganelo ya ditiro tse di rileng

9A. Tona, ka kitsiso mo Lokwalodikgannyeng la Puso le go ya ka mabaka ao a ka totobatswang ke Tona mo kitsisong, o ka kganelo tiro nngwe le nngwe e e ka amang bobele go itekanela ga tlamelolo ya baoloji ya ditshedi.” 5

Tlhabololo ya karolo 13 ya Molao 10 wa 2004

47. Karolo 13 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa ka kemisetso mo karotlaleletsong (1) ya temana (c) ka temana e e latelang: 10

“(c) Motlhankedimogolo wa Khuduthamaga le Motlhankedimogolo wa Ditšhelethe wa Setheo.”.

Tlhabololo ya karolo 73 ya Molao 10 wa 2004

48. Karolo 73 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa jaana— 15

(a) ka go ntshiwa mo karotlaleletsong (2) ga temana (a);

(b) ka kemisetso mo karotlaleletsong (2) ya temana (b) ka temana e e latelang:

“(b) tsaya dikgato go laola [le] kgotsa fedisa ditshedi tse di tsenelelang tse di neetsweng [le go di thibela mo go anameng] jaaka go laetswe ke Tona; le”; le 20

(c) ka go tsenngwa morago ga karotlaleletso (2) ga karotlaleletso e e latelang:

“(2A) Tona o ka neelana ka mabaka ao ka fa tlase ga ona bolaodi jo bo nang le bokgoni bo tshwanetseng go itsisiwe, ka go kwala, ka ga go nna teng ga kgotsa tiragalo ya ditshedi tse di tsenelelang tse di neetsweng.”. 25

Tlhabololo ya karolo 75 ya Molao 10 wa 2004

49. Karolo 75 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004 e tlhabololwa jaana—

(a) ka kemisetso ya dikarotlaleletso (1), (2) le (3) ka dikarotlaleletso tse di latelang, ka tatelano: 30

“(1) Taolo [le] kgotsa phediso ya ditshedi tse di tsenelelang e tshwanetse go dirwa ka tiriso ya mekgwa e e nepagetseng mabapi le ditshedi tse di amegang le tikologo e di diragalang mo go yona.

(2) Tiro nngwe le nngwe e e dirwang go laola [le] kgotsa go fedisa ditshedi tse di tsenelelang tse di umakilweng e tshwanetse go dirwa ka kelotlhoko le ka mekgwa o o ka se tliseng kotsi mo baotaebesithing le tshenyego mo tikologong. 35

(3) Mekgwa e e diriswang go laola [le] kgotsa go fedisa ditshedi tse di tsenelelang tse di umakilweng o tshwanetse go diriswa mo matlhogelweng, a a namisang segolo kgolo gape ya setshedi seo se se tsenelelang gore go thibelwe setshedi seo mo go tlhagiseng matlhogelo, direng peo, go itsaleng gape kgotsa go itlhomeng gape ka mekgwa ofe.”; le 40

(b) ka go tsenngwa ga karotlaleletso e e latelang: 45

“(6) Tona o tshwanetse go tlamela ka thuto le temoso go baagi ba selegae ba ba angwang ke setshedi se se tsenelelang se se kailweng.”.

Tlhabololo ya karolo 97 ya Molao 10 wa 2004, jaaka e tlhabolotswe ka karolo 45 ya Molao 14 wa 2009 le karolo 30 ya Molao 14 wa 2013

50. Karolo 97 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa ka go tsenngwa mo karotlaleletsong (1) morago ga temana (a) ga temana e e latelang: 50

“(aA) tshireletso ya go itekanela ga motswedi wa baoloji wa setshedi.”.

Amendment of section 99 of Act 10 of 2004

51. Section 99 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) Before exercising a power which, in terms of a provision of this Act, must be exercised in accordance with this section and section 100, the Minister or MEC for Environmental Affairs must follow an appropriate consultative process in the circumstances.”; and
- (b) by the insertion after subsection (2) of the following subsection: 10
 “(2A) The MEC must, before exercising a power in terms of subsection (1)—
 (a) consult all Cabinet members, Members of the Provincial Executive Council and organs of state, whose areas of responsibility may be affected by the exercise of the power in the province;
 (b) consult the Minister, in accordance with the principles of cooperative governance set out in Chapter 3 of the Constitution; and 15
 (c) allow public participation in the process in accordance with section 100.”.

Amendment of section 100 of Act 10 of 2004

52. Section 100 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended— 20

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 25
 “The Minister or MEC for Environmental Affairs must give notice of the proposed exercise of the power referred to in section 99—”;
- (b) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 30
 “(a) in the *Gazette* or *Provincial Gazette*, as the case may be; and”;
- (c) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 35
 “(a) invite members of the public to submit to the Minister or MEC for Environmental Affairs, within 30 days of publication of the notice in the *Gazette* or *Provincial Gazette*, as the case may be, written representations on, or objections to, the proposed exercise of the power; and”;
- (d) by the substitution for subsection (3) and (4) of the following subsections, respectively: 40
 “(3) The Minister or MEC for Environmental Affairs may in appropriate circumstances allow any interested person or community to present oral representations or objections to the Minister or MEC for Environmental Affairs or a person designated by the Minister or MEC for Environmental Affairs. 45
 (4) The Minister or MEC for Environmental Affairs must give due consideration to all representations or objections received or presented before exercising the power.”.

Amendment of section 101 of Act 10 of 2004

53. Section 101 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the insertion in paragraph (b) of subsection (1) of the words “9A or” after the words “in terms of section”.

Amendment of section 13 of Act 39 of 2004, as amended by section 2 of Act 20 of 2014 50

54. Section 13 of the National Environmental Management: Air Quality Act, 2004, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Minister **[must]** may, by notice in the *Gazette*, establish the National Air Quality Advisory Committee in terms of this Act.”. 55

Tlhabololo ya karolo 99 ya Molao 10 wa 2004

51. Karolo 99 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa *Biodiversity*, 2004, e tlhabololwa jaana—

- (a) ka kemisetso ya karotlaleletso (1) ka karotlaleletso e e latelang: 5
 “(1) Pele go diragatswa thata e, go ya ka kabelo ya Molao ono, e tshwanetseng go diragatswa go tsamaelana le karolo eno le karolo 100, Tona kgotsa MEC wa Merero ya tsa Tikologo o tshwanetse go latela tsela e e maleba ya therisano mo maemong.”; le
- (b) ka go tsenngwa morago ga karotlaleletso (2) ga karotlaleletso e e latelang: 10
 “(2A) MEC o tshwanetse, pele a diragatsa thata go ya ka karotlaleletso (1) go—
- (a) rerisana le mqloko othle a Kabinete, Maroko Khanselekhuduthamaga ya Diporofense le ditheo tsa puso, tseo ditiro tse ba di rwalelang maikarabelo di ka angwang ke tiragatso ya thata mo porofenseng; 15
- (b) rerisana le Tona, go tsamaelana le meono ya puso ya tirisano mmogo e e tlhagisitsweng mo Kgaolong 3 ya Molaotseo; le
- (c) letla botsayakarolo jwa baagi mo kगतong go tsamaelana le karolo 100.”.

Tlhabololo ya karolo 100 ya Molao 10 wa 2004

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52. Karolo 100 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, 2004, e tlhabololwa jaana—

- (a) ka kemisetso mo karotlaleletsong (1) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang: 25
 “Tona kgotsa MEC wa Merero ya tsa Tikologo o tshwanetse go dira kitsiso ka ga tiragatso ya thata e e tshitsintsweng e e kailweng mo karolong 99—”;
- (b) ka kemisetso mo karotlaleletsong (1) ya temana (a) ka temana e e latelang: 30
 “(a) mo Lokwalodikgannyeng la Puso kgotsa mo Lokwalodikgannyeng la Puso la Porofense, go ya ka moo mabaka a leng ka teng; le”;
- (c) ka kemisetso mo karotlaleletsong (2) ya temana (a) ka temana e e latelang: 35
 “(a) laletsa maloko a setšhaba go romelela Tona kgotsa MEC wa Merero ya tsa Tikologo, mo malatsing a le 30 a phasalatso ya kitsiso mo Lokwalodikgannyeng la Puso kgotsa mo Lokwalodikgannyeng la Puso la Porofense, go ya ka moo mabaka a leng ka teng, ditlhagiso tse di kwetsweng ka ga, kgotsa dikemokgatlanong go, tiragatso ya thata e e tshitsintsweng; le”; le
- (d) ka kemisetso ya dikarotlaleletso (3) le (4) ka dikarotlaleletso tse di latelang, ka tatelano: 40
 “(3) Tona kgotsa MEC wa Merero ya tsa Tikologo o ka, ka mabaka a a maleba, letla motho mongwe le mongwe yo o nang le kगतhego kgotsa baagi go dira ditlhagiso tsa molomo kgotsa dikemokgatlanong go Tona kgotsa MEC wa Merero ya tsa Tikologo kgotsa motho yo o tlhomilweng ke Tona kgotsa MEC wa Merero ya tsa Tikologo. 45
 (4) Tona kgotsa MEC wa Merero ya tsa Tikologo o tshwanetse go sekaseka ditlhagiso tsofhe kgotsa dikemokgatlanong tse di amogetsweng kgotsa tse di dirilweng pele ga tiragatso ya thata.”.

Tlhabololo ya karolo 101 ya Molao 10 wa 2004

53. Karolo 101 ya Tsamaiso ya Bosetšhaba ya Tikolo: Molao wa Mefutafuta ya Ditshedi, 2004, e tlhabololwa ka go go tsenngwa, mo temaneng (b) ya karotlaleletso (1) ga mafoko 9A kgotsa a morago ga mafoko “go ya ka karolo”. 50

Ukuchibiyela isigaba se-13 soMthetho wama-39 wezi-2004, njengoba uchibiyelwe esigabeni sesi-2 soMthetho wama-20 wezi-2014

54. Isigaba se-13 sokuPhathwa KwezeMvelo kaZwelonke: uMthetho weZinga loMoya, wezi-2004, uchitshiyelwe ngokufaka endaweni yesigatshana soku-(1) 55 isigatshana esilandelayo:

- “(1) UNgqongqoshe [kumele] engasungula, ngesaziso esiku*Gazethi* Ikomidi likaZwelonke Lokweluleka Ngeqophelo lomoya eliyoluleka uNgqongqoshe

Substitution of section 22A of Act 39 of 2004, as inserted by section 3 of Act 20 of 2014

55. The following section is hereby substituted for section 22A of the National Environmental Management: Air Quality Act, 2004:

“Consequences of unlawful conduct of listed activity resulting in atmospheric emission 5

22A. (1) Upon application for an atmospheric emission licence by a person who—

- (a) operated, at any time prior to the commencement of this Act, a scheduled process in terms of the Atmospheric Pollution Prevention Act, without a provisional registration or registration certificate; or 10
 - (b) conducted or is conducting, without a provisional atmospheric emission licence or an atmospheric emission licence, an activity listed in terms of section 21 which results in atmospheric emission, 15
- the relevant licensing authority must fine the applicant an administrative fine which may not exceed R10 million before the application for an atmospheric emission licence may be considered.

(2) An application contemplated in subsection (1) must be submitted in accordance with the requirements contained in section 37.

(3) On application contemplated in subsection (1), the licensing authority must direct the applicant to— 20

- (a) immediately cease the activity pending a decision on the application submitted in terms of this section;
- (aA) undertake public participation, as prescribed;
- (b) investigate, evaluate and assess the impact of the activity on the environment, including the ambient air and human health; 25
- (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; 30
- (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; 35
 - (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; 40
 - (iv) a description of the public participation process followed during the course of compiling the report, including all comments received from the interested and affected parties and an indication of how issues raised have been addressed; and 45
 - (v) an environmental management programme; and
- (g) provide such other information or undertake such further studies as the licensing authority may deem necessary. 50

(4) If 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 a

Ukufakwa endaweni yesigaba sama-22A soMthetho wama-39 ka-2004, njengokuba kufakwe yesigaba sesi-3 soMthetho wama-20 ka-2014

55. Isigaba esilandelayo sifakwe endaweni yesigaba sama-22A sokuPhathwa KwezeMvelo kaZwelonke: uMthetho weZinga loMoya, wezi-2004:

“Imiphumela yezenzo ezingekho emthethweni ezibaliwe ezenza ukuthi kuphume izinto ziye emoyeni 5

22A. (1) Ekufakeni isicelo selayisense yezinto eziphuma ziye emoyeni sifakwa umuntu—

(a) Osebenze, nganoma isiphi isikhathi ngaphambi kokuqaliswa kwaloMthetho, uhlelo ngokwemigomo ye-*Atmospheric Pollution Prevention Act*, ongabhaliwe okwesikhashana noma ongenaso isitifikethi sokubhalisa; noma 10

(b) ubuwenza noma wenza umsebenzi osohlwini ngokwemigomo yesigaba sama-21 owenza ukuthi kube nezinto eziphumayo ziye emoyeni, 15

ongenayo ilayisense yesikhashana yezinto eziphumayo ziye emoyeni noma ilayisense yezinto eziphumayo ziye emoyeniIsikhungo samalayisense kumele senze ukuthi umfaki wesicelo ahlawulele ukuphatha ngenhlawulo engekevile izigidini eziyi-10 ngaphambi kokuthi mhlawumbe sithathwe isicelo selayisense yezinto eziphuma ziye emoyeni. 20

(2) Isicelo okukhulunywe ngaso esigatshaneni soku-(1) kumele sihanjisiwe ngokuhambisana nezimfuneko eziqokethwe isigaba sama-37.

(3) Isicelo okukhulunywe ngaso esigatshaneni soku-(1), isikhungo samalayisense singaqondisa isicelo—

(a) ukuyekisa ngokushesha umsebenzi kusalindwe isinqumo ngesicelo esihanjisiwe ngaphansi kwalesi sigaba; 25

(aA) kwenziwe ukubamba iqhaza komphakathi, njengokuba kunqunywe;

(b) ukuphenya kanye nokuHlolwa umthelela womsebenzi emvelweni, okufaka phakathi umoya ozungezile kanye nempilo yabantu; 30

(c) ukulungisa noma imuphi umthelela olimazayo womsebenzi emvelweni, okufaka phakathi umoya ozungezile kanye nempilo yabantu; 35

(d) ukuyekisa, ukushintsha kanye nokulawula noma isiphi isenzo, umsebenzi, uhlelo noma izinto eziphumayo ziye emoyeni;

(e) ukuqeda noma imuphi umthombo wezinto eziphuma ziye emoyeni; 35

(f) ukuhlanganisa umbiko—

(i) onencazelo yesidingo kanye nokudingeka komsebenzi;

(ii) onokuhlolwa kwemvelo, ububanzi, isikhathi kanye nokubaluleka kwemiphumela noma imithelela emvelweni, okufaka phakathi umoya ozungezile kanye nempilo yabantu komsebenzi, okufaka phakathi imithelela eqhubekayo kanye nendlela yemvelo ngokwendawo, umzimba, ezezimali kanye namasiko okungathinteka ngawo umsebenzi ohlongozwayo; 40

(iii) onencazelo ngezinyathelo zokunqandwa ezithathiwe noma ezizothathwa mayelana nemiphumela, noma imithelela emvelweni, okufaka phakathi umoya ozungezile, kanye nempilo yabantu; 45

(iv) onencazelo yohlelo lokubamba iqhaza komphakathi olulandelwayo ngesikhathi sokuhlanganiswa umbiko, okufaka phakathi yonke imibono etholakele esuka kubantu abanentshisekelo noma abathintekayo kanye nokuvezwa ukuthi izinkinga eziphakamisiwe ziphendulwe kanjani; kanye 50

(v) uhlelo lokuphathwa kwemvelo; kanye

(g) ohlinzeka imininingwane eminye efanayo noma othatha izifundo ezifanayo njengokuba isikhungo samalayisense sibona kufanele. 55

(4) Uma kufika esikhungweni samalayisense ukuthi umfaki wesicelo ungaphansi kophenyo lwecala lokuphambana, noma ukwehluleka ukuhambisana nesigaba sama-22, isikhungo samalayisense singahlehlisa isinqumo sokukhipha ilayisense yesikhashana yezinto eziphuma ziye

provisional atmospheric emission licence or 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 the contravention of, or failure to comply with, section 22;
- (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of the contravention of, or failure to comply with, section 22; or
- (c) the applicant concerned has been convicted by a court of law of an offence in respect of the contravention of, or failure to comply with, section 22 and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

(5) The submission of an application or the issuing of a provisional atmospheric emission licence or an atmospheric emission licence in terms of this section, or the payment of an administrative fine in terms of subsection (1), must—

- (a) in no way derogate from the authority of the environmental management inspector or the South African Police Service, to investigate any transgression of this Act;
- (b) in no way derogate from the National Prosecuting Authority's legal authority to institute any criminal prosecution; or
- (c) not indemnify the applicant from liability in terms of section 51(1)(a)."

Amendment of section 36 of Act 39 of 2004, as amended by section 5 of Act 20 of 2014

56. Section 36 of the National Environmental Management: Air Quality Act, 2004, is hereby amended—

- (a) by the insertion after subsection (2) of the following subsection:
 - “(2A) A provincial organ of state must be regarded as the licensing authority if a listed activity falls within the boundaries of—
 - (a) more than one metropolitan municipality;
 - (b) more than one district municipality; or
 - (c) both a metropolitan and district municipality.”;

- (b) by the substitution in subsection (5) for paragraph (d) of the following paragraph:
 - “(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] and the Minister has been identified as the competent authority;”;

- (c) by the substitution for subsection (8) of the following subsection:
 - “(8) The Minister and the licensing authority contemplated in subsections (1) to (4), or the MEC and the licensing authority contemplated in subsections (1) to (5), 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, MEC or the relevant licensing authority contemplated in subsections (1) to [(4)] (5).”.

Insertion of section 47A in Act 39 of 2004

57. The following section is hereby inserted in the National Environmental Management: Air Quality Act, 2004, after section 47:

- emoyeni noma ilayisense yezinto eziphuma ziye emoyeni kuze kufike isikhathi sokuphethwa kophenyo futhi—
- (a) uma uPhiko Lwezokushushisa kuZwelonke seluthathe isinqumo sokungaqalisi ukushushisa ngenxa yokuphambana, noma ukwehluleka ukuhambisa nesigaba sama-22; 5
- (b) umfakisicelo ukhululiwe noma utholwe engenacala emva kokushushiswa maqondana nokuphambana noma ukwehluleka ukuhambisana nemigomo yesigaba sama-22; noma
- (c) umfakisicelo ugwetshwe inkantolo yomthetho, egwetshelwa icala lokuphambana noma lokwehluleka ukulandela isigaba sama-22 futhi umfakisicelo usezisebenzise zonke ezinye izindlela zomthetho zokufaka isikhalazo enkantolo noma ukucela ukuthi liphinde libuyekwezwe icala. 10
- (5) Ukuhanjiswa kwesicelo noma ukukhishwa kwelayisense yesikhashana yezinto eziphumayo ziye emoyeni noma ilayisense yezinto eziphuma ziye emoyeni ngokwemigomo yalesi sigaba, noma ukukhokhwa kwenhlawulo yokuphatha ngokwemigomo yesigatshana soku-(1), kumele— 15
- (a) kungashintshi nakancane esikhungweni senduna yokuphathwa kwemvelo noma uPhiko Lwezamaphoyisa eNingizimu Afrika, ukuphenya noma ikuphi ukweqiwa kwalo Mthetho; 20
- (b) kungashintshi nakancane esiphathimandleni Sophiko Lwezokushushisa kuZwelonke ukuqalisa noma ikuphi ukushushiswa kwecala; noma
- (c) kungavikeli umfaki wesicelo ecaleni ngokwemigomo yesigaba sama-51(1)(a).” 25

Ukuchibiyela isigaba sama-36 soMthetho wama-39 wezi-2004, njengoba Sichitshiyelwe yisigaba sesi-5 soMthetho wama-20 wezi-2014

56. Isigaba sama-36 sokuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, wezi-2004, uchibiyelwe— 30
- (a) ngokushutheka emuva kwesigatshana wesi-(2) isigatshana esilandelayo: 30
- “(2A) Igatsha lombuso lesifundazwe kumele lithathwe njengesiphathimandla samalayisense uma umsebenzi osohlwini ungena emngceleni—
- (a) womasipala abakhulu abangaphezu kowodwa; 35
- (b) yesifunda sikamasipala engaphezu kwesisodwa; noma
- (c) nomasipala abafanele abavunyelwe ngokubhala.”;
- (b) ngokufaka endaweni yesigatshana sesi-(5) isigatshana (d) isigatshana esilandelayo: 40
- “(d) okwenziwayo okusohlwini kuhambisana nemisebenzi esohlwini ngokwemigomo yesigaba sama-24(2) se-*National Environmental Management Act*, 1998, noma ngokwemigomo yesigaba se-19(1) se-*National Environmental Management: Waste Act*, 2008, [noma] futhi uNgqongqoshe esevezwe njengomkhandlu ofanele;” le
- (c) ngokufaka endaweni yesigatshana sesi-(8) isigatshana esilandelayo: 45
- “(8) UNgqongqoshe nomkhandlu okhipha ilayisensi ovezwe esigatshaneni soku-(1) ukuya kwesesi-(4), noma u-MEC kanye nesikhungo samalayisense okuvezwe ezigatshaneni soku-(1) kanye nesesi-(5), bangavumelana ngokuthi isicelo selayisensi yokunukubeza umoya mayelana nokwenziwayo okuvezwe esigabeni sama-22 kungadingidwa uNgqongqoshe, u-MEC noma umkhandlu oqondene okhipha ilayisensi ovezwe esigatshaneni soku-(1) ukuya kwesesi-[(4) (5)].” 50

Ukufaka isigaba sama-47A soMthetho wama-39 ka-2004

57. Isigaba esilandelayo sifakiwe lapha ku-*National Environmental Management: Air Quality Act*, ka-2004, emuva kwesigaba sama-47: 55

“Revocation or suspension of atmospheric emission licences

47A. (1) The licensing authority may, by written notice to the holder of an atmospheric emission licence, revoke or suspend that licence if the licensing authority has evidence that the licence holder has contravened a provision of this Act or a condition of the licence and such contravention may have, or is having, a significant detrimental effect on the environment, including health impacts. 5

(2) The licensing authority must before exercising the power in terms of subsection (1), in writing—

(a) consult organs of state whose areas of responsibility may be affected by the exercise of the power; and 10

(b) afford the holder of the atmospheric emission licence an opportunity to make a submission in respect of the intended revocation or suspension, which submission must be accompanied by an atmospheric impact report as contemplated in section 30 of this Act. 15

(3) The licensing authority, when consulting in terms of subsection (2), must indicate the time period within which—

(a) the organs of state must submit comments; and

(b) the holder or the atmospheric emission licence must make his or her submission to the licensing authority.” 20

Amendment of section 53 of Act 39 of 2004, as amended by section 12 of Act 20 of 2014

58. Section 53 of the National Environmental Management: Air Quality Act, 2004, is hereby amended by the deletion of paragraph (k).

Amendment of section 60 of Act 24 of 2008 25

59. Section 60 of the National Environmental Management: Integrated Coastal Management Act, 2008, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Minister or MEC, may issue a written repair or removal notice to any person responsible for a structure on or within the coastal zone if that structure either prior to or after the commencement of this Act—”; and 30

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) has had, is having or is likely to have, an adverse effect on the coastal environment by virtue of its existence, because of its condition or because it has been abandoned; or” 35

Repeal of Chapter 9 of Act 24 of 2008

60. Chapter 9 of the National Environmental Management: Integrated Coastal Management Act, 2008, is hereby repealed. 40

Amendment of section 1 of Act 59 of 2008, as amended by section 38 of Act 14 of 2013 and section 1 of Act 26 of 2014

61. Section 1 of the National Environmental Management: Waste Act, 2008, is hereby amended—

(a) by the substitution for the definition of “associated structures and infrastructure” of the following definition: 45

“ ‘associated structures and infrastructure’ [, when referred to in Schedule 1,] means any building or infrastructure that is necessary for

“Ukususwa kwamalayisense ezinto eziphumela emoyeni

- 47A.** (1) Isiphathimandla samalayisense, ngesaziso esibhaliwe kumnikazi welayisense yezinto eziphumela emoyeni, singasusa leyo layisense uma loyo mnikazi welayisense ephambene nomhlinzeko waloMthetho noma isimo selayisense kanye nokuphambana okunjalo okungenza, noma okwenza, ukuthi kube nomthelela oyingozi kakhulu emvelweni, okuhlanganisa ezempilo. 5
- (2) Isiphathimandla samalayisense singasusa ilayisense yezinto eziphumela emoyeni ngaphambi kokuthi—
- (a) sixoxisene namagatsha ombuso afanele okungase imisebenzi yazo ithikanyezwe ukusetshenziswa kwamandla okuphatha; kanye 10
- (b) sinike umnikazi welayisense yezinto eziphumela emoyeni ithuba lokuthi ahambise maqondana nokususwa kwelayisense okuqondiwe lokho kunika kupanele kuhambisane numloiko womnelela womoya njengoba kuhlangozwe kusigaba 30 saloMthetho. 15
- (3) Isiphathimandla samalayisensi uma sixoxisana ngokwesigatshana (2) kumele sisho iskhathi—
- (a) izinhlaka zombuso okumele zilethe imibono ngaso; kanye
- (b) nomnikazi noma ilayisensi yezinto eziphuma emoyeni kumele ahambise isicelo sakhe kwisiphathimandla samalayisensi.” 20

Ukuchibiyela isigaba sama-53 soMthetho 39 wezi-2004, njengoba uchitshiyelwe esigabeni se-12 soMthetho wama-20 wezi-2014

58. Isigaba sama-53 sokuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, 2004, uchitshiyelwe ngokususa isigaba (k).

Kwenziwa utshintsho kwisoloty 60 loMthetho 24 ka-2008

- 59.** Kwenziwa utshintsho kwisoloty 60 loMthetho woLawulo Lokusingqongileyo lweSizwe: uMthetho Odibeneyo woLawulo loNxweme ka-2008—
- (a) ngokuthi indawo yamazwi awandulela isiqendu (a) ithatyathwe kwisolotyana (1) ithatyathwe ngamazwi alandelayo: 30
- “UMphathiswa okanye uMphathiswa wePhondo, unokunika isaziso esibhaliweyo sokukhanda okanye sokushenxisa kuye nabani na onolawulo lwesakhiwo kummandla wamanxweme ukuba eso sakhiwo nokuba kungaphambi okanye ngemva kokuqalisa kwalo Mthetho ukusebenza—”; nangokuthi
- (b) indawo yesiqendu (a) kwisolotyana (1) ithatyathwe sisiqendu esilandelayo: 35
- “(a) siye saba nesiphumo esibi, sinesiphumo esibi okanye singanaso kokungqonge amanxweme, ngenxa yobukho baso, ngenxa yemeko yaso, okanye ngenxa yokulahlwa; okanye”.

Kucithwa iSahluko 9 soMthetho 24 ka-2009

60. ISahluko 9 soMthetho woLawulo Lokusingqongileyo lweSizwe: uMthetho Odibeneyo woLawulo loNxweme, uyacithwa. 40

Tlhabololo ya karolo 1 ya Molao 59 wa 2008, jaaka e tlhabololwa ka karolo 38 ya Molao 14 wa 2013 le karolo 1 ya Molao 26 wa 2014

- 61.** Karolo 1 ya Tsamaiso ya Tikologo ya Bosetshaba: Molao wa Leswe, 2008, e tlhabololwa jaana— 45
- (a) ka kemisetso ya tlhaloso ya “dikago tse di amanang le mafaratlhatlha” ka tlhaloso e e latelang:
- “ ‘dikago tse di amanang le mafaratlhatlha’ [, fa di kaiwa mo ejuleng 1,] di kaya moago mongwe le mongwe kgotsa thulaganyetso ya popegotheo e e tlhokegang mabapi le go dira ga sebebofatsi kgotsa tiro 50

- the functioning of a facility or waste management activity or that is used for an ancillary service or use from the facility;”;
- (b) by the insertion after the definition of “best practicable environmental option” of the following definitions:
- “**‘building and demolition waste’** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;
- ‘business waste’** means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes;”;
- (c) by the insertion after the definition of “commence” of the following definition:
- “**‘commercial value’** means the retail value a thing would have if it were offered for sale;”;
- (d) by the insertion after the definition of “disposal” of the following definition:
- “**‘domestic waste’** means waste, excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreation purposes;”;
- (e) by the insertion after the definition of “Gazette” of the following definition:
- “**‘general waste’** means waste that does not pose an immediate hazard or threat to health or to the environment, and includes—
- (a) domestic waste;
- (b) building and demolition waste;
- (c) business waste;
- (d) inert waste; or
- (e) any waste classified as non-hazardous waste in terms of the regulations made under section 69;”;
- (f) by the insertion after the definition of “general waste” of the following definition:
- “**‘hazardous waste’** means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;”;
- (g) by the insertion after the definition of “industry waste management plan” of the following definition:
- “**‘inert waste’** means waste that—
- (a) does not undergo any significant physical, chemical or biological transformation after disposal;
- (b) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- (c) does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant.”;
- (h) by the substitution for the definition of “recovery” of the following definition:
- “**‘recovery’** means the controlled extraction or retrieval of [any substance,] energy, or material [or object] from waste;”;
- (i) by the insertion after the definition of “recycle” of the following definitions:
- “**‘residue deposit’** has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;
- ‘residue stockpile’** has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;”;
- (j) by the insertion after the definition of “this Act” of the following definition:
- “**‘trade in’** means buying, selling or bartering;”;
- (k) by the substitution for the definition of “waste” of the following definition:

- ya taolo ya leswe kgotsa e e diriswang mabapi le tirelo ya tlaletso kgotsa tiriso go tswa kwa sebefofatsing;”;
- (b) ka go tsengwa morago ga tlhaloso ya “tlhopho e e ka diregang ya tikologo e e siameng go gaisa” ga ditlhaloso tse di latelang:
 “**‘leswe la kago le thubo ya dikago’** le kaya leswe, go sa akaretswe leswe le le kotsi, le le dirilweng fa go agiwa, go baakanngwa kgotsa go thubiwa ga kago nngwe le nngwe, e bile le akaretsa matlakala, mmu, matlapa le dikgong tse di latlhweng fa go agiwa, go fetolwa, go baakanngwa kgotsa go thubiwa;
‘leswe la kgwebo’ le kaya leswe le le tswang mo mafelong a a diriswang ka botlalo kgotsa segolo mabapi le maitlhomo a tiro ya kgwebo, kgwebopotlana, kgwebokgolo, boitumediso kgotsa tsamaiso ya puso;”;
- (c) ka go tsengwa morago ga tlhaloso ya ‘tshimololo’ ga tlhaloso e e latelang:
 “**‘boleng jwa thekiso’** bo kaya boleng jwa thekiso jwa sengwe fa se rekiswa;”;
- (d) ka go tsengwa morago ga tlhaloso ya “tatlho” ga tlhaloso e e latelang:
 “**‘leswe la mo gae’** le kaya, go sa akaretswe leswe le le kotsi, le le tswang mo mafelong a a diriswang ka botlalo kgotsa segolo mabapi le maitlhomo a bodulo, thuto, tlhokomelo ya boitekanelo, metshameko kgotsa boitapoloso;”;
- (e) ka go tsengwa morago ga tlhaloso ya “Lokwalodikgang la Puso” ga tlhaloso e e latelang:
 “**‘leswe ka kakaretso’** le kaya leswe le le seng kotsi kgotsa le le senang matshosetsi mo boitekanelong kgotsa mo tikologong, e bile le akaretsa—
 (a) leswe la mo gae;
 (b) leswe la kago le thubo ya dikago;
 (c) leswe la kgwebo;
 (d) leswe le le sa fetogeng; kgotsa
 (e) leswe lengwe le lengwe le le tsewang jaaka leswe le le seng kotsi go ya ka melawana e e dirilweng ka fa tlase ga karolo 69;”;
- (f) ka go tsengwa morago ga tlhaloso ya “leswe ka kakaretso” ga tlhaloso e e latelang:
 “**‘leswe le le kotsi’** le kaya leswe le le nang dielemente tse di ka bolang le tse di sa boleng kgotsa metswako e e ka, ka ntlha ya dipharologantsho tsa popego, khemikale kgotsa bothole, amang segolo boitekanelo le tikologo;”;
- (g) ka go tsengwa morago ga tlhaloso ya “leano la tsamaiso ya leswe la madirelo” ga tlhaloso e e latelang:
 “**‘leswe le le sa fetogeng’** le kaya leswe le le—
 (a) senang phetogo e kgolo ya sebopego, khemikale kgotsa baeloji morago ga le sena go latlhwaga;
 (b) sa tukang, sebopego se sa tsibogeng kgotsa le le senang khemikale e e ka le bodisang kgotsa le le ka amang sengwe le sengwe kgotsa tikologo e le kgomanang le yona; e bile
 (c) le le sa ameng tikologo mo go maswe, ka ntlha ya go nna le sekgotlelo le ka ntlha ya fa bothole jwa metsi a a tswenatswenang mo go lona bo se bothokwa.”;
- (h) ka kemisetso ya tlhaloso ya “tseogape” ka tlhaloso e e latelang:
 “**‘tseogape’** e kaya go ntshiwa go go laolwang kgotsa pusetso ya [sere sengwe le sengwe,] enoji, kgotsa materiale [kgotsa selo] go tswa mo matlakaleng;”;
- (i) ka go tsengwa morago ga tlhaloso ya “tirisosešwa” ga ditlhaloso tse di latelang:
 “**‘tshalelo ya leswe’** e na le bokao jo bo le e neetsweng mo karolong 1 ya *Mineral and Petroleum Resources Development Act, 2002*;
‘tshalelo ya thoto’ e na le bokao jo bo le e neetsweng mo karolong 1 ya *Mineral and Petroleum Resources Development Act, 2002*;”;
- (j) ka go tsengwa morago ga tlhaloso ya “Molao ono” ga tlhaloso e e latelang:
 “**‘thekiso’** e kaya go reka, go rekisa kgotsa go ananya;” le
- (k) ka kemisetso ya tlhaloso ya “leswe” ka tlhaloso e e latelang:

“ ‘waste’ means—

- (a) any substance, material or object—
- (i) that the generator of that substance, material or object has no further use for within its own processes, whether or not it has any commercial value for the generator, but which can be re-used, recycled, recovered or traded in by any person; or
 - (ii) that is rejected, abandoned, discarded or disposed of, either temporary or permanently, or is intended to be discarded or disposed of by the generator of that substance, material or object, regardless of whether or not that substance, material or object has any commercial value for the generator or can be re-used, recycled, recovered or traded in by any person; or
- (b) any other substance, material or object that may be defined as a waste by the Minister by notice in the *Gazette*; but any waste or portion of waste, referred to in paragraphs (a) and (b), ceases to be a waste—
- (aa) once it is re-used, recycled or recovered or traded in by the holder of that waste or portion of waste in accordance with a condition stipulated in a valid waste management licence, where applicable, or in accordance with an applicable norm or standard made in terms of this Act; or
 - (bb) where the Minister has, in the prescribed manner, excluded the holder of any waste stream or a portion of a waste stream from the definition of waste, enabling the holder thereof to trade in the excluded waste stream or portion of the excluded waste stream, provided that the holder has satisfied the requirements of proving the environmentally safe use of the waste stream or portion of waste stream by it or any other person and committed to provide the Minister with annual reports of the use thereof;”.

Amendment of section 4 of Act 59 of 2008, as amended by section 19 of Act 25 of 2014 and section 2 of Act 26 of 2014

62. Section 4 of the National Environmental Management: Waste Act, 2008, is hereby amended by the insertion in subsection (1) after paragraph (b) of the following paragraph:

“(bA) residue deposits and residue stockpiles that are regulated under the National Environmental Management Act;”.

Amendment of section 34A of Act 59 of 2008, as inserted by section 13 of Act 26 of 2014

63. Section 34A of the National Environmental Management: Waste Act, 2008, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) An implementation Bureau dealing with waste management to be known as the “Waste Management Bureau” is hereby established, **within the Department,** as a juristic person.”; and
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) In the event of absence of a functional [**Bureau or a Chief Executive Officer**] Board, the powers and duties of the [**Bureau**] Board revert to the [**Director-General of the Department contemplated in section 34G(1),**] Minister who, in such a case, must exercise those powers and perform those duties until the [**Bureau**] Board is functional [**or a Chief Executive Officer is appointed**] again.”.

'leswe' le kaya—

“(a) sere sengwe le sengwe, materiale kgotsa selo—

- (i) se motlhodi wa sere seo, material kgotsa selo seo a senang tiriso ya sona gape mo ditsamaisong tsa sona, se ka tswa se na le boleng jwa thekiso kgotsa se sena jona go motlhodi, mme se ka diriswa gape, sa diriswa sešwa, sa busetswa kgotsa sa rekiswa ke motho ofe; kgotsa 5
- (ii) se se sa batlegeng, se se gannweng, se se tlhokomologilweng, se se tlogetsweng kgotsa se se latlhi-lweng, nakwana kgotsa leruri, kgotsa se se ikaeletsweng kgotsa se go tlokegang gore se tlogelwe kgotsa se latlhwe, ke motho yo o tshotseng sere seo, materiale kgotsa selo, go sa kgathalesege gore sere, materiale kgotsa selo seo se na le boleng jwa thekiso mo mothong yo o se tshotseng kgotsa se ka diriswa gape, sa diriswa sešwa, sa busetswa kgotsa sa rekiswa ke motho ofe; kgotsa 10
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- (b) sere sengwe le sengwe, material kgotsa selo se se ka tlhaloswang jaaka leswe ke Ton aka kitsiso mo Lokwalodikgannyeng la Puso; mme leswe lefe kgotsa karolo ya leswe, e e kailweng mo ditemaneng (a) le (b), e khutlisa go nna leswe— 20
- (aa) fa le sena go diriswa gape, go diriswa sešwa, kgotsa go busetswa kgotsa go rekiswa ke motho yo o tshotseng leswe leo kgotsa karolo ya leswe go ya ka mabaka a a beilweng mo laesenseng ya taolo ya leswe e e nepagetseng, fa e diriswa, kgotsa go tsamaelana le moetlo kgotsa maemo a a dirilweng go ya ka Molao ono; kgotsa 25
- (bb) fa Tona, ka tsela e e beilweng, a sa akaretsa motho yo o tshotseng moedi wa leswe kgotsa karolo ya moedi wa leswe mo tlhalosong ya leswe, go kgontsha motshodi wa ona go gweba mo moeding o o sa akaretswang kgotsa mo karolong ya moedi wa leswe, fa fela motshodi a kgotsotsofaditse ditlhokego tsa tiriso e e bolokese gileng mo tikologong ya moedi wa leswe kgotsa karolo ya moedi wa leswe ka ona kgotsa motho mongwe le mongwe ofe le go ineela go tlamela Tona ka dipegelo tsa ngwaga tse di ka ga tiriso ya ona;” 30

Tlhabololo ya karolo 4 ya Molao 59 wa 2008, jaaka e tlhabolotswe ka karolo 19 ya Molao 25 wa 2014 le karolo 2 ya Molao 26 wa 2014 35

62. Karolo 4 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka go tsenngwa mo karolotlaleletsong (1) ya temana (b) ga temana e e latelang:

“(bA) tshalelo ya leswe le tshalelo ya dithoto tse di laolwang ka fa tlase ga Molao wa Tsamaiso ya Tikologo;” 40

Tlhabololo ya karolo 34A ya Molao 59 wa 2008, jaaka o tsentswe karolo 13 ya Molao 26 wa 2014

63. Karolo 34A ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, o tlhabololwa ka—

- (a) kemisetso ya karolotlaleletso (1) ka karolotlaleletso e e latelang: 45
- “(1) Biro ya Tsenyotirisong e e sekasekang tsamaiso ya leswe e e tla itsegeng jaaka “Biro ya Taolo ya Leswe” e a tlhongwa [, mo **Lefapheng,**] jaaka setheo.”; le
- (b) ka kemisetso ya temanatlaleletso (3) ka temanatlaleletso e e latelang: 50
- “(3) Fa go diragala gore go se nne le [**Biro kgotsa Motlhankedimogolo wa Khuduthamaga**] Boto e e dirang, dithata le ditiro tsa [**Biro**] Boto e boela kwa [**Mokaedingkakaretso wa Lefapha yo o tlhalositsweng mo karolong 34G(1),**] Tona yo, mo lebakeng leo, o tshwanetse go diragatsa dithata tseo le go dira ditiro go fitlhela [**Biro**] Boto e dira [**kgotsa Motlhankedimogolo wa Khuduthamaga a thapiwa**] gape.” 55

Substitution of section 34C of Act 59 of 2008, as inserted by section 13 of Act 26 of 2014

64. The following section is hereby substituted for section 34C of the National Environmental Management: Waste Act, 2008:

“Minister’s supervisory powers

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34C. (1) The Minister—

- (a) must monitor the exercise and performance by the Bureau of its powers and duties;
- (b) may set norms and standards for the exercise and performance by the Bureau of its powers and duties;
- (c) may issue directives to the Bureau on policy, planning, strategy and procedural issues to ensure its effective and efficient functioning; and
- (d) must determine limits on fees charged by the Bureau in the exercise and performance of its powers and duties.

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(2) The Bureau must exercise its powers and perform its duties subject to the policy determined under section 34B and any norms and standards, directives and determinations issued by the Minister in terms of subsection (1).”

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Substitution of sections 34F, 34G, 34H, 34I, 34J, 34K and 34L of Act 59 of 2008, as inserted by section 13 of Act 26 of 2014

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65. The following sections are hereby substituted for sections 34F, 34G, 34H, 34I, 34J, 34K and 34L of the National Environmental Management: Waste Act, 2008:

“General powers**34F. The Bureau may, for the purpose of performing its duties—**

- (a) appoint its own staff, subject to section 34X;
- (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;
- (c) acquire, or dispose of, any right in, or to, movable or immovable property, or hire or let any property, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (d) open and operate its own bank accounts;
- (e) invest any of its money, subject to section 34W;
- (f) charge fees for any work performed or services rendered by it, except for any such work performed or services rendered in terms of section 34E;
- (g) collect royalties resulting from any discoveries, inventions or computer programmes;
- (h) insure itself against—
 - (i) any loss, damage or risk; or
 - (ii) any liability it may incur in the application of this Act;
- (i) perform legal acts, including acts in association with, or on behalf of, any other person or organ of state; and
- (j) institute or defend any legal action.

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Governing board, composition and membership**34G. (1) The Bureau is governed by a Board consisting of—**

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- (a) not fewer than seven and not more than nine members appointed in terms of section 34I;
- (b) the Director-General or an official of the Department designated by the Director-General; and
- (c) the Chief Executive Officer of the Bureau.

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Kemisetso ya karolo 34C ya Molao 59 wa 2008, jaaka e tsentswe ka karolo 13 ya Molao 26 wa 2014

64. Karolo e e latelang e emisetsa karolo 34C ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008:

“Dithata tsa bolebeledi tsa Tona

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34C. (1) Tona o—

- (a) tshwanetse go lebelela tiro le tiragatso ka Biro ya dithata tsa yona le ditiro;
- (b) ka dira meetlo le maemo mabapi le tiro le tiragatso ka Biro ya ditiro tsa yona;
- (c) o ka rebolela Biro ditaelo ka ga merero ya pholisi, togamaano, leano le tsamaiso go netefatsa go dira ga yona ka nonofo le bokgoni; e bile
- (d) tshwanetse go tshomamisisa ditekanyetso mo dituelelong tse di duediswang ke Biro mo tirong le tiragatsong ya dithata le ditiro tsa yona.

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(2) Biro e tshwanetse go diragatsa dithata tsa yona le go dira ditiro tsa yona go latela pholisi e e thomamisitsweng ka fa tlase ga karolo 34B le ka fa tlase ga meetlo le maemo mangwe le mangwe, ditaelo le ditshomamisiso tse di rebotsweng ke Tona go ya ka karolotlaleletso (1).”.

Kemisetso ya dikarolo 34F, 34G, 34H, 34I, 34J, 34K le 34L tsa Molao 59 wa 2008, jaaka di tsentswe ka karolo 13 ya Molao 26 wa 2014

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65. Dikarolo tse di latelang di emisetswa mabapi le dikarolo 34F, 34G, 34H, 34I, 34J, 34K le 34L tsa Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008:

“Dithata ka kakaretso**34F. Biro e ka, mabapi le maitlomo a go dira ditiro tsa yona—**

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- (a) thapa badiri ba yona, go latela karolo 34X;
- (b) fitlhelela, ka tumalano, ditirelo tsa motho mongwe le mongwe, go akaretsa lekala lengwe le lengwe la puso, mabapi le go dira tiro nngwe le nngwe e e rileng kgotsa tlamego;
- (c) fitlhelela, kgotsa rulaganya, tshwanelo nngwe le nngwe mo, kgotsa ya, thoto e e sutang kgotsa e e sa suteng, kgotsa hira kgotsa hirisa thoto nngwe le nngwe, go latela *Public Finance Management Act, 1999* (Molao 1 wa 1999);
- (d) bula le go dirisa diakhaonto tsa bona tsa banka;
- (e) beeletsa nngwe le nngwe ya tšhelete ya yona, go latela karolo 34W;
- (f) duedisa dituelelo mabapi le tiro nngwe le nngwe e e dirilweng kgotsa ditirelo tse di abilweng ke yona, ntle fela le ditiro tseo di dirilweng kgotsa ditirelo tse di abilweng go ya ka karolo 34E;
- (g) kgobokanya dikatso tse di nnileng teng ka ntlha ya dithibololo, ditlhamo kgotsa diporokerama tsa dikhomputara;
- (h) inšora kgatthanong le—
- (i) tatlhegelo nngwe le nngwe, tshenyegelo kgotsa kotsi; kgotsa
- (ii) molato mongwe le mongwe o e ka o iponelang mo tirisong ya Molao ono;
- (i) dira ditiro tsa semolao, go akaretsa ditiro tse di amanang le, kgotsa mo boemong jwa, motho mongwe le mongwe kgotsa lekala la puso; le
- (j) dira kgotsa go buelela tiro nngwe le nngwe ya semolao.

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Boto e e busang, popego le botokololo**34G. (1) Biro e buswa ke Boto e e bopilweng ka—**

- (a) maloko a a seng kwa tlase ga supa e bile a sa fete robongwe a a thapilweng go ya ka karolo 34I;
- (b) Mokaedikakaretso kgotsa motlhankedi wa Lefapha yo o tshomilweng ke Mokaedikakaretso; le
- (c) Motlhankedimogolo wa Khuduthamaga wa Biro.

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- (2) The Minister—
- (a) must determine the number of members to be appointed in terms of subsection (1)(a); and
- (b) may alter the number determined in terms of paragraph (a), but a reduction in the number may be effected only when a vacancy in the Board occurs. 5
- (3) The Board takes all decisions in the performance of the duties and exercise of powers of the Bureau, except—
- (a) those decisions taken in consequence of a delegation in terms of section 34U; or 10
- (b) where the Public Finance Management Act provides otherwise.

Qualifications

- 34H.** (1) A member of the Board must—
- (a) be a fit and proper person to hold office as a member; and
- (b) have appropriate qualifications and experience in the field of waste management. 15
- (2) The following persons are disqualified from becoming or remaining members of the Board:
- (a) A person holding office as a member of Parliament, a provincial legislature or a municipal council; or 20
- (b) a person who has been removed from office in terms of section 34O.

Appointment procedure

- 34I.** (1) Whenever it is necessary to appoint members of the Board referred to in section 34G(1)(a), the Minister must—
- (a) through advertisements in the media circulating nationally and in each of the provinces, invite nominations for appointment as such a member; and 25
- (b) compile a list of the names of persons nominated, setting out the prescribed particulars of each individual nominee.
- (2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by— 30
- (a) the personal details of the nominee;
- (b) the nominee's qualifications or experience; and
- (c) any other information that may be prescribed.
- (3) The Minister must, subject to subsection (4), appoint— 35
- (a) the required number of persons from the list compiled in terms of subsection (1)(b); and
- (b) if such list is inadequate, any suitable person.
- (4) When making appointments the Minister must— 40
- (a) consult the MECs for Environmental Affairs; and
- (b) have regard to the need for appointing persons to promote representivity.
- (5) Appointments must be made in such a way that the Board is composed of persons covering a broad range of appropriate expertise in the field of waste management, and have gender representation and other categories. 45

Chairperson

- 34J.** (1) Whenever necessary, the Minister must appoint a member of the Board as the Chairperson of the Board.
- (2) The Chairperson is appointed for a period determined by the Minister which may, in the case of a member referred to in section 34K(1)(a), not extend beyond the period of his or her term as a member. 50
- (3) The Minister may appoint a member of the Board as acting chairperson of the Board if—
- (a) the Chairperson is absent for a substantial period; or 55
- (b) the appointment of a Chairperson is pending.

- (2) Tona—
- (a) o tshwanetse go tlhomamisa palo ya maloko a a tshwanetseng go thapiwa go ya ka karolotlaleletso (1)(a); le
- (b) o ka fetola palo e e tlhomamisitsweng mo temaneng (a), mme phokotso ya palo e ka tsenngwa mo tirisong fela fa go tlhagelela phatlhatiro mo Botong. 5
- (3) Boto e dira ditshwetso tsotlhe mo tiragatsong ya ditiro le tiragatsong ya dithata tsa Biro, ntle le fa—
- (a) ditshwetso tseo tse di dirilweng e le ka ntlha ya tholelo go ya ka karolo 34U; kgotsa 10
- (b) *Public Finance Management Act* e tlamela ka mokgwa mongwe.

Borutegi

- 34H.** (1) Leloko la Boto le tshwanetse—
- (a) go itekanela le go tlhomama go ka nna modiri jaaka leloko; le
- (b) go nna le borutegi jo bo maleba le maitemogelo mo lephateng la tsamaiso ya leswe. 15
- (2) Batho ba ba latelang ba iletswa go nna maloko a a setseng a Boto:
- (a) Motho yo o dirang jaaka leloko la Palamente, peomolao ya porofense kgotsa khansele ya mmasepala; kgotsa
- (b) motho yo o ntshitsweng mo tirong go ya ka karolo 34O. 20

Tsamaiso ya thapo

- 34I.** (1) Fa go tlhokega gore go thapiwe maloko a Boto a a kailweng mo karolong 34G(1)(a), Tona o tshwanetse—
- (a) ka dipapatso mo diphasalatsong tse di phasalatswang bosetšhaba le mo porofenseng nngwe le nngwe, go laletsa ditlhopho mabapi le go thapiwa jaaka maloko ao; le 25
- (b) go rulaganya lenane la maina a batho ba ba tlhophilweng, le le thalasang dintlha tse di neetsweng tsa mongwe le mongwe yo o tlhophilweng.
- (2) Tlhopho nngwe le nngwe e e dirilweng ka tsibogelo ya papatso go ya ka karolotlaleletso (1)(a) e tshwanetse go tshetswa ka— 30
- (a) dintlha tsa bowena tsa motho yo o tlhophilweng;
- (b) borutegi jwa motho yo o tlhophilweng kgotsa maitemogelo; le
- (c) tshedimotsetso nngwe le nngwe e e ka laelwang. 35
- (3) Tona o tshwanetse, go latela karolotlaleletso (4), go thapa—
- (a) palo e e tlhokegang ya batho go tswa mo lenaneng le le rulagantsweng go ya ka karolotlaleletso (1)(b);le
- (b) fa lenane leo le sa nepagala, motho mongwe le mongwe yo o maleba.
- (4) Fa go thapiwa, Tona o tshwanetse go— 40
- (a) rerisana le MEC wa tsa Merero ya Tikologo; le
- (b) go ela tlhoko tlhokego ya go thapa batho go tseletsatsa boemedi.
- (5) Dithapo di tshwanetse go dirwa ka mokgwa o e leng gore Boto e bopiwa ka batho ba ba fitlhelelang mefuta e e farologaneng ya bokgoni mo lephateng la tsamaiso ya leswe, e bile ba kgona go emelela bong le ditlhopho tse dingwe. 45

Modulasetilo

- 34J.** (1) Fa go tlhokega, Tona o tshwanetse go thapa leloko la Boto jaaka Modulasetilo wa Boto.
- (2) Modulasetilo o thapiwa mabapi le paka e e tlhomamiswang ke Tona e e ka, mo lebakeng la leloko le le kailweng mo karolong 34K(1)(a), se oketsweng go feta paka ya gagwe ya tiro jaaka leloko. 50
- (3) Tona o ka thapa leloko la Boto jaaka modulasetilo wa nakwana wa Boto fa—
- (a) Modulasetilo a seyo sebaka se seleele; kgotsa
- (b) go sa letetswe go thapiwa ga Modulasetilo. 55

Term of office

34K. Members of the Board referred to in section 34G(1)(a)—

- (a) are appointed for a period of three years or, if section 34P(2) applies, for a term determined in terms of that section;
- (b) on completion of that term, are eligible for reappointment for one additional term of three years; and
- (c) may have their appointment in terms of paragraph (a) or (b) extended by the Minister for a specific period not exceeding one year.

Conditions of appointment

34L. (1) The Minister must determine the conditions of employment of members of the Board referred to in section 34G(1)(a). 10

(2) (a) The Minister may, with the concurrence of the Minister of Finance, determine the terms and conditions of employment of members of the Board who are not in the employment of the government.

(b) The remuneration and allowances of the members of the Board contemplated in paragraph (a) must be paid by the Bureau. 15

(3) (a) Members who are in the employ of the government are not entitled to remuneration and allowances, but must be compensated for out-of-pocket expenses by the Bureau.

(b) The members of the Board referred to in paragraph (a) are appointed on a part-time basis.”. 20

Insertion of sections 34M, 34N, 34O, 34P, 34Q, 34R, 34S, 34T, 34U, 34V, 34W, 34X, 34Y and 34Z in Act 59 of 2008

66. The following sections are hereby inserted in the National Environmental Management: Waste Act, 2008, after section 34L: 25

“Conduct of members

34M. (1) A member of the Board—

- (a) must perform the duties of office in good faith and without favour or prejudice;
- (b) must disclose to the Board any personal or private business interest that that member, or any spouse, partner or close family member of that Board member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered, unless the Board decides that the interest of that Board member in the matter is trivial or irrelevant;
- (c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and
- (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Bureau.

(2) A member of the Board who contravenes or fails to comply with subsection (1) is guilty of misconduct. 40

Termination of membership

34N. (1) A member of the Board referred to in section 34G(1)(a) ceases to be a member when that person—

- (a) is no longer eligible in terms of section 34H to be a member;
- (b) resigns; or
- (c) is removed from office in terms of section 34O. 45

(2) A member may resign only by giving at least three months’ written notice to the Minister, but the Minister may accept a shorter period in a specific case. 50

Paka ya tiro**34K.** Maloko a Boto a a kailweng mo karolong 34G(1)(a)—

- (a) a thapiwa sebaka sa dingwaga tse tharo kgotsa, fa karolo 34P(2) e diriswa, sebaka se se tlhomasisweng go ya ka karolo eo;
- (b) mo bokhutlong jwa paka eo, a itekanetse go ka thapiwa gape sebaka sa paka e nngwe gape ya dingwaga tse tharo; le
- (c) go thapiwa ga bona go ya ka temana (a) kgotsa (b) go ka katoloswa ke Tona sebaka se se rileng se se sa feteng ngwaga o le esi.

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Dipeelo tsa thapo**34L.** (1) Tona o tshwanetse go tlhomamisa dipeelo tsa tiro tsa maloko a Boto a a kailweng mo karolong 34G(1)(a).

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(2) (a) Tona o ka, ka tumalano le Tona ya Matlotlo, tlhomamisa mabaka le dipeelo tsa tiro tsa maloko a Boto a a sa direng mo Pusong.

(b) Tuelo le ditshiamelo tsa maloko a Boto a a tlhalositsweng mo temaneng (a) di tshwanetse go duelwa ke Biro.

15

(3) (a) Maloko a a direlang Puso ga a a tshwanela go amogela tuelo le ditshiamelo, mme ba ka busetswa madi ke Biro mabapi le ditshenyegelo tse ba di dueletseng ka bobona.

(b) Maloko a Boto a a kailweng mo temaneng (a) a thapiwa nakwana.”.

Go tsenngwa ga dikarolo 34M, 34N, 34O, 34P, 34Q, 34R, 34S, 34T, 34U, 34V, 34W, 34X, 34Y le 34Z mo Molaong 59 wa 2008

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66. Dikarolo tse di latelang di tsenngwa mo Tsamaisong ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, morago ga karolo 34L:**“Maitsholo a maloko****34M.** (1) Leloko la Boto—

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(a) le tshwanetse go dira ditiro tse le di thapetsweng ka mowa o o edileng le ntle le tseoethlakore kgotsa kgobelelo;

(b) le tshwanetse go senolela Boto ka ga kgatlhego nngwe le nngwe ya kgwebo ka namana kgotsa ya poraefete e leloko, monyalanimmogo mongwe le mongwe, molekane kgotsa leloko la losika la kamano e kgolo la leloko la Boto, le ka nngang le yona mo morerong o o fa pele ga Boto, e bile le tshwanetse go ikogela morago mo ditsamaisong tsa Boto fa go sekwasekwa morero oo, ntle le fa Boto e swetsa gore kgatlhego ya leloko leo la Boto mo morerong oo e potlana kgotsa ga e maleba;

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35

(c) le ka se dirise maemo, ditshwanelo kgotsa kitso ya leloko mabapi le go una molemo wa poraefete kgotsa go tswela motho yo mongwe mosola; e bile

(d) le ka se dire ka mokgwa ofe o o nyenyefatsang boikanyego, go sa tseyeng lethakore, boikemedi kgotsa tshiamo ya Biro.

40

(2) Leloko la Boto le le gatakang kgotsa le le palelwang ke go obamela karolotlaleletso (1) le bonwa molwato wa maitsholomabe.

Khutliso ya botokololo**34N.** (1) Leloko la Boto le le kailweng mo karolong 34G(1)(a) le khutlisa go nna leloko fa motho yoo—

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(a) a sa tlhole a na le bokgoni go ya ka karolo 34H jwa go nna leloko;

(b) a rola tiro; kgotsa

(c) a ntshiwa mo tirong go ya ka karolo 34O.

(2) Leloko le ka rola tiro fela ka go romelela Tona kitsiso e e kwetsweng ya bonnye dikgwedi di le tharo, mme Tona o ka amogela nako e e khutshwane mo lebakeng le le rileng.

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Removal from office

34O. (1) The Minister may, subject to due process of law, remove a member of the Board referred to in section 34G(1)(a) from office, but only on the ground of—

- (a) misconduct, incapacity or incompetence;
- (b) absence from three consecutive meetings of the Board without the prior permission of the Board except on good cause shown;
- (c) insolvency; or
- (d) conviction of a criminal offence without the option of a fine.

(2) A member of the Board may be removed from office on the grounds of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the Minister.

(3) The Minister may suspend a member under investigation in terms of this section.

Filling of vacancies

34P. (1) A vacancy in the Board is filled—

- (a) in the case of a vacating Chairperson, by appointing another member in terms of section 34J(1) as the Chairperson; and
- (b) in the case of a vacating member referred to in section 34G(1)(a), by following the procedure set out in section 34I.

(2) A person appointed to fill a vacancy holds office for the remaining portion of the term of the vacating Chairperson or member.

Meetings

34Q. (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson in writing to convene a Board meeting at a time and place set out in the request.

(2) The Chairperson presides at meetings of the Board, but if the Chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.

Procedures

34R. (1) The Board may determine its own procedures subject to the provisions of this Act.

(2) The Board must keep records of its proceedings and of the decisions taken.

Quorum and decisions

34S. (1) A majority of the members of the Board serving at any relevant time constitutes a quorum for a meeting of the Board.

(2) A matter before the Board is decided by the votes of a majority of the members present at the meeting.

(3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member.

Committees

34T. (1) The Board may establish one or more committees to assist it in the performance of its duties or the exercise of its powers.

(2) When appointing members to a committee, the Board is not restricted to members of the Board.

(3) The Board—

- (a) must determine the duties of a committee;

Tloso mo tirong

- 34O.** (1) Tona o ka, go latela dikgato tse di maleba tsa molao, tloso leloko la Boto le le kailweng mo karolong 34G(1)(a) mo tirong, mme fela ka lebaka la—
- (a) maitsholomabe, go sa itekanelang kgotsa go sa kgoneng; 5
- (b) go se tsenele dikopano tsa Boto makgetlo a le mararo a a latelanang ntle le go kopa tetla mo Botong ntle le fa a bontshitse lebaka le le utlwalang;
- (c) botšhoni; kgotsa
- (d) go bonwa molato wa tlolomolao ya bosenyi ntle le boikgethelo jwa tuediso. 10
- (2) Leloko la Boto le ka tloswa mo tirong ka lebaka la maitsholomabe kgotsa go tlhoka bokgoni fela morago ga phitlhelelo ya seo e dirilwe ke boto ya dipatlisiso e e thapilweng ke Tona.
- (3) Tona o ka sekega leloko ka fa tlase ga patlisiso go ya ka karolo eno. 15

Tlatso ya diphatlhatiro

- 34P.** (1) Phatlhatiro mo Botong e tlatswa—
- (a) mo lebakeng la fa Modulasetilo a rola tiro, ka go thapa leloko le lengwe go ya ka karolo 34J(1) jaaka Modulasetilo; e bile 20
- (b) mo lebakeng la leloko le le rolang tiro le le kailweng mo karolong 34G(1)(a), ka go latelela tsamaiso e e thagisitsweng mo karolong 34I.
- (2) Motho yo o thapilweng go tlatso phatlhatiro o dira sebaka se se setseng sa paka ya Modulasetilo kgotsa leloko le le rolang tiro.

Dikopano

- 34Q.** (1) Modulasetilo wa Boto o swetsa gore Boto e tla kopana leng le gore kae, mme bontsi jwa maloko bo ka kopa Modulasetilo ka go mo kwalela gore a bitse kopano ya Boto ka nako le kwa lefelong le le itsisitsweng mo kopong. 25
- (2) Modulasetilo o okama kwa dikopanong tsa Boto, mme fa Modulasetilo a se teng kwa kopanong, maloko a a leng teng ba tshwanetse go thopha leloko le lengwe gore le okame kwa kopanong. 30

Ditsamaiso

- 34R.** (1) Boto e ka tlhomamisa ditsamaiso tsa yona go latela ditaello tsa Molao ono.
- (2) Boto e tshwanetse go tshola direkoto tsa ditsamaiso tsa yona le tsa ditshwetso tse di tserweng. 35

Khoramo le ditshwetso

- 34S.** (1) Bontsi jwa maloko a Boto a a dirang ka nako nngwe le nngwe e e maleba a tlhama khoramo mabapi le kopano ya Boto.
- (2) Morero o o fa pele ga Boto o swetswa ka diboutu tsa bontsi jwa maloko a a tsenetseng kopano. 40
- (3) Fa go na le go sa lekaneng ga diboutu mo morerong mongwe le mongwe o o fa pele ga Boto, leloko le le okameng kopano le tshwanetse go diragatsa boutu ya makgaolakgang mo godimo ga boutu ya gagwe jaaka leloko. 45

Dikomiti

- 34T.** (1) Boto e ka tlhama komiti e le esi kgotsa go feta go e thusa mo go diragatseng ditiro kgotsa dithata tsa yona.
- (2) Fa go thapiwa maloko a komiti, Boto ga e pateletsege go thapa fela maloko a Boto. 50
- (3) Boto—
- (a) e tshwanetse go tlhomamisa ditiro tsa komiti;

- (b) must appoint a chairperson and other members of a committee;
- (c) may remove a member of a committee from office at any time, taking into account the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- (d) must determine a working procedure of a committee. 5
- (4) The Board may dissolve a committee at any time.
- (5) (a) Section 34L, read with the necessary changes as the context may require, applies to the terms and conditions of employment of committee members.
- (b) A staff member of the Bureau appointed to a committee serves on the committee subject to the terms and conditions of that person's employment. 10

Delegation of powers and duties

- 34U.** (1) When necessary for the proper performance of its duties, the Board may, subject to subsection (2), delegate any of its powers or duties to— 15
- (a) a member of the Board;
- (b) a committee referred to in section 34T; or
- (c) a staff member of the Bureau.
- (2) The following powers and duties may not be delegated by the Board:
- (a) The appointment or reappointment of a person as the Chief Executive Officer in terms of section 34V(1) or (2); 20
- (b) the determination of the terms and conditions of service of the Chief Executive Officer in terms of section 34V(3);
- (c) the determination of an employment policy in terms of section 34W(1); and 25
- (d) the setting of financial limits in terms of section 34W(2)(a) or (3).
- (3) A delegation in terms of subsection (1)—
- (a) is subject to any limitations, conditions and directions that the Board may impose;
- (b) must be in writing; 30
- (c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and
- (d) does not prevent the exercise of the delegated power or the carrying out of the delegated duty by the Board.
- (4) The Board may confirm, vary, revoke or withdraw any decision taken in consequence of a delegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision. 35

Appointment of Chief Executive Officer

- 34V.** (1) The Board, acting with the concurrence of the Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of the Bureau. 40
- (2) The Chief Executive Officer—
- (a) is appointed for a term not exceeding five years; and
- (b) may be reappointed by the Board with the concurrence of the Minister, but only for one additional term not exceeding five years. 45
- (3) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine in accordance with a policy approved by the Minister with the concurrence of the Cabinet member responsible for finance.
- (4) The Chief Executive Officer— 50
- (a) must perform such duties and may exercise such powers as the Board may delegate to him or her; and
- (b) must report to the Board on aspects of management, the performance of duties and the exercise of powers, at such times or intervals and in such manner as the Board may determine. 55

- (b) e tshwanetse go thapa modulasetilo le maloko a mangwe a komiti;
- (c) e ka tlosa leloko la komiti mo tirong nako nngwe le nngwe, ka go tsaya tsia ditaelo tsa *Promotion of Administrative Justice Act, 2000* (Molao 3 wa 2000); e bile
- (d) e tshwanetse go tihomamisa tsamaiso ya tiro ya komiti. 5
- (4) Boto e ka phatlalatsa komiti ka nako nngwe le nngwe.
- (5) (a) Karolo 34L e buiswa ka phetogo e e tlhokegang go ya ka moo bokao bo tlhokang ka teng, e diriswa mo mabakeng le dipeelong tsa go thapiwa ga maloko a komiti.
- (b) Leloko la badiri la Biro le le thapilweng mo komiting le dira mo 10
komiting go latela mabaka le dipeelo tsa tiro ya motho yoo.

Tholelo ya dithata le ditiro

- 34U.** (1) Fa go tlhokega gore e dire ditiro tsa yona ka nepagalo, Boto e ka, go latela karolotlaleletso (2), rolela nngwe le nngwe ya dithata tsa yona go— 15
- (a) leloko la Boto;
- (b) komiti e e kailweng mo karolong 34T; kgotsa
- (c) leloko la badiri la Biro.
- (2) Dithata le ditiro tse di latelang di ka se rolelwe ke Boto:
- (a) go thapiwa kgotsa go thapiwa gape ga motho jaaka 20
Motlhankedimogolo wa Khuduthamaga go ya ka karolo 34V(1) kgotsa (2);
- (b) tihomamiso ya mabaka le dipeelo tsa tirelo ya Motlhankedimogolo wa Khuduthamaga go ya ka karolo 34V(3);
- (c) tihomamiso ya pholisi ya thapo go ya ka karolo 34W(1); le 25
- (d) tlhamo ya ditekanyetso tsa ditšhelete go ya ka karolo 34W(2)(a) kgotsa (3).
- (3) Tholelo go ya ka karolotlaleletso (1)—
- (a) e go ya ka ditekanyetso, mabaka le dikaelo tse Boto e ka di 30
pateletsang;
- (b) e tshwanetse go kwalwa;
- (c) ga e amoge Boto maikarabelo a yona mabapi le tiragatso ya thata e e roletsweng kgotsa tiragatso ya tiro e e roletsweng; e bile
- (d) ga e thibe le tiragatso ya thata e e roletsweng kgotsa go dirwa ga tiro e 35
e roletsweng ke Boto.
- (4) Boto e ka tihomamisa, farologanya, phimola kgotsa gogela morago tshwetso nngwe le nngwe e e tserweng ka ntlha ya tholelo go ya ka karolo eno, go latela ditshwanelo dingwe le dingwe tse di diragatswang mo mothong ka ntlha ya tshwetso.

Thapo ya Motlhankedimogolo wa Khuduthamaga 40

- 34V.** (1) Boto, ka go dira ka tumalano ya Tona, e tshwanetse go thapa motho wa boithutelo jo bo maleba le maitemogelo jaaka Motlhankedimogolo wa Khuduthamaga wa Biro.
- (2) Motlhankedimogolo wa Khuduthamaga— 45
- (a) o thapiwa sebaka sa paka e e sa feteng dingwaga tse tlhano; e bile
- (b) o ka thapiwa gape ke Boto ka tumalano le Tona, fela sebaka sa paka ya tlaleletso e le esi e e sa feteng dingwaga tse tlhano.
- (3) Motlhankedimogolo wa Khuduthamaga o thapiwa go latela dipeelo tseo le mabaka tsa thapo jaaka Boto e ka tihomamisa go tsamaelana le pholisi e e rebotsweng ke Tona ka tumalano le leloko la Kabinete le le 50
rwalang maikarabelo a tsa matlotlo.
- (4) Motlhankedimogolo wa Khuduthamaga—
- (a) o tshwanetse go diragatsa ditiro tseo e bile o ka diragatsa dithata tseo go ya ka moo Boto e di mo roletseng ka teng; e bile
- (b) o tshwanetse go begela Boto ka ga mereo ya tsamaiso, tiragatso ya 55
ditiro le tiragatso ya dithata, ka dinako tseo kgotsa dipaka tseo le ka mokgwa oo, jaaka fa Boto e ka tihomamisa.

- (5) (a) The Chairperson of the Board may appoint another employee of the Bureau as acting Chief Executive Officer for a period not exceeding six months, whenever—
- (i) the Chief Executive Officer is for any reason absent or unable to perform his or her duties; or
 - (ii) there is a vacancy in the office of the Chief Executive Officer.
- (b) Whilst acting as Chief Executive Officer, such employee—
- (i) has the powers and duties of the Chief Executive Officer; and
 - (ii) is employed subject to such terms and conditions of employment as the Chairperson may determine in accordance with the policy referred to in subsection (3).

Employment of staff

- 34W.** (1) The Board, acting with the concurrence of the Minister, must determine an employment policy for the Bureau.
- (2) The Chief Executive Officer—
- (a) within the financial limits set by the Board, must determine a staff establishment necessary for the work of the Bureau; and
 - (b) may appoint persons in posts on the staff establishment.
- (3) An employee of the Bureau is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy of the Bureau and within the financial limits set by the Board.
- (4) (a) A person in the service of another organ of state may be seconded to the Bureau by agreement between the Chief Executive Officer and such organ of state.
- (b) Persons seconded to the Bureau perform their duties under the supervision of the Chief Executive Officer.
- (5) A person in the service of the Bureau may, with the consent of that person, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state.

Funding

- 34X.** The funds of the Bureau consist of—
- (a) income derived by the Bureau from the performance of its duties and the exercise of its powers;
 - (b) money appropriated by Parliament;
 - (c) grants received from organs of state;
 - (d) voluntary contributions, donations and bequests;
 - (e) income derived from investments referred to in section 34Y; and
 - (f) money derived from any other source, subject to the Public Finance Management Act.

Investments

- 34Y.** The Bureau may invest any of its funds not immediately required—
- (a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and
 - (b) in such a manner as the Minister may approve.

- (5) (a) Modulasetilo wa Boto o ka thapa modiri yo mongwe wa Biro jaaka Motlhankedimogolo wa Khuduthamaga wa nakwana sebaka sa paka e e sa feteng dikgwedi tse thataro, nako nngwe le nngwe fa—
- (i) Motlhankedimogolo wa Khuduthamaga fa ka lebaka lengwe a seyo kgotsa a sa kgone go dira ditiro tsa gagwe; kgotsa 5
- (ii) go na le phatlatiro mo ofising ya Motlhankedimogolo wa Khuduthamaga.
- (b) Fa a dira nakwana jaaka Motlhankedimogolo wa Khuduthamaga, modiri yoo—
- (i) o na le dithata le ditiro tsa Motlhankedimogolo wa Khuduthamaga; e 10
bile
- (ii) o thapiwa go latela dipeelo le mabaka a thapo jaaka Modulasetilo a ka tlhomamisa go tsamaelana le pholisi e e kailweng mo karolotlaleletsong (3).

Thapo ya badiri 15

- 34W.** (1) Boto, e dira ka tumalano le Tona, e tshwanetse go tlhomamisa pholisi ya thapo ya Biro.
- (2) Motlhankedimogolo wa Khuduthamaga—
- (a) mo ditekanetsong tse di beilweng ke Boto, o tshwanetse go tlhomamisa tlhomo ya badirimmogo e e leng botlhokwa mabapi le tiro ya Biro; e bile 20
- (b) o ka thapa batho mo diphatlhatirong go ya ka tlhomo ya badirimmogo.
- (3) Modiri wa Biro o thapilwe go latela dipeelo le mabaka a thapo tse di tlhomamisitsweng ke Motlhankedimogolo wa Khuduthamaga go tsamaelana le pholisi ya thapo ya Biro le mo ditekanetsong tsa matlotlo tse di beilweng ke Boto. 25
- (4) (a) Motho yo o mo tirelong ya lekala le lengwe la puso o ka reboelwa Biro ka tumalano magareng ga Motlhankedimogolo wa Khuduthamaga le lekala leo la puso.
- (b) Batho ba ba reboletsweng Biro ba dira ditiro tsa bona ka fa tlase ga 30
tlhokomelo ya Motlhankedimogolo wa Khuduthamaga.
- (5) Motho yo o mo tirelong ya Biro o ka, ka tetla ya motho yoo, reboelwa lekala le lengwe la puso ka tumalano magareng ga Motlhankedimogolo wa Khuduthamaga le lekala leo la puso.

Ka ga matlole 35

- 34X.** Matlole a Biro a na le—
- (a) lotseno le le bonweng ke Biro go tswa mo tiragatsong ya ditiro tsa yona le go diragatseng dithata tsa yona;
- (b) madi a a lekanyeditsweng ke Palamente;
- (c) dikabelo tse di amogetsweng go tswa kwa makaleng a puso; 40
- (d) dikabelo tsa boithaopo, dithuso le dimpho;
- (e) lotseno le le bonweng mo dipeeletsong tse di kailweng mo karolong 34Y; le
- (f) madi a a bonweng mo Metsweding e mengwe, go latela Public Finance Management Act. 45

Dipeeletso

- 34Y.** Biro e ka beeletsa nngwe le nngwe ya matlole a yona a a sa tlhokegeng ka bonako—
- (a) go latela pholisi nngwe le nngwe ya peeletso e e ka dirwang go ya ka karolo 7(4) ya Public Finance Management Act; le 50
- (b) ka mokgwa o o ka rebolwang ke Tona.

Winding-up or dissolution of Bureau

34Z. (1) The Bureau may not be wound up or dissolved except in terms of an Act of Parliament.

(2) Upon its winding-up or dissolution, the Bureau must transfer its remaining assets or the proceeds of those assets, after satisfaction of its liabilities, to the State or to an equivalent Schedule 3A Public Entity contemplated in the Public Finance Management Act, 1999 (Act No. 1 of 1999), which has the same objectives as the Bureau.”

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Amendment of section 36 of Act 59 of 2008

67. Section 36 of the National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsection (5) of the following subsection: 10

“(5) An owner of the land that is **[significantly]** likely to be contaminated, or a person who undertakes an activity that caused the land to be **[significantly]** contaminated, must notify the Minister and MEC of that contamination as soon as that person becomes aware, of that contamination.”

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Amendment of section 37 of Act 59 of 2008

68. Section 37 of the National Environmental Management: Waste Act, 2008, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 20

“(a) **[cause]** require a site assessment to be conducted in respect of the relevant investigation area, and submit a site assessment report and a remediation plan, if applicable, to the Minister or the MEC, as the case may be; or”;

(b) by the substitution in subsection (1)(b) for subparagraph (ii) of the following subparagraph: 25

“(ii) direct the person who has undertaken or is undertaking the high risk activity or activity that caused or may have caused the contamination of the investigation area, to **[cause]** require a site assessment to be conducted by an independent person, at own cost, and to submit a site assessment report and a remediation plan, if applicable, to the Minister or MEC within a period specified in the notice.”;

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(c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) A site assessment report and a remediation plan, if applicable, must comply with any directions that may have been published or given by the Minister or MEC in a notice contemplated in section 36(1) or (6) and must at least include information on whether the investigation area is contaminated.”

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Amendment of section 38 of Act 59 of 2008

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69. Section 38 of the National Environmental Management: Waste Act, 2008, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“On receipt of a site assessment report and a remediation plan, if applicable, contemplated in section 37, the Minister or MEC, as the case may be, may, after consultation with the Minister **[of Water Affairs and Forestry]** responsible for water affairs and any other organ of state concerned, decide that—”

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Amendment of section 41 of Act 59 of 2008

70. Section 41 of the National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsections (1), (2) and (3) of the following subsections, respectively: 50

Phediso kgotsa phatlalatsa ya Biro

34Z. (1) Biro e ka se fediswe kgotsa phatlalatswe ntle le go ya ka Molao wa Palamente.

(2) Fa e fediswa kgotsa phatlalatswa, Biro e tshwanetse go sutisetsa dithoto tsa yona tse di setseng kgotsa lotseno le le bonweng go tswa mo dithotong tseo, morago ga kgotsafatso ya melato ya yona, kwa Pusong kgotsa kwa Setheong sa Setšhaba se se tsamaelanang le ejule 3A e e tshalositsweng mo *Public Finance Management Act, 1999* (Molao 1 wa 1999), se se nang le maikaelelo a a tshwanang le a Biro.”

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Tlhabololo ya karolo 36 ya Molao 59 wa 2008

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67. Karolo 36 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka kemisetso ya karolotlaleletso (5) ka karolotlaleletso e e latelang:

“(5) Mong wa naga e [segolo] e ka kgotlhelegang, kgotsa motho yo o dirang tiro e e dirang gore naga e kgotlhelege [segolo] thata, o tshwanetse go itsise Tona le MEC ka ga kgotlhelego eo ka bonako morago ga fa motho yoo a sena go lemoga, ka ga kgotlhelego eo.”

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Tlhabololo ya karolo 37 ya Molao 59 wa 2008

68. Karolo 37 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa—

(a) ka kemisetso mo karolotlaleletsong (1) ya temana (a) ka temana e e latelang: 20

“(a) [dira] tlhoka gore go tlhatlhojwe lefelo mabapi le lefelo le le maleba la tlhotlhomiso, le go romela pegelo ya tlhatlhobo ya lefelo le leano la phepafatso, fa go tlhokega, kwa go Tona kgotsa MEC, go ya ka mabaka; kgotsa”;

(b) ka kemisetso mo karolotlaleletsong (1)(b) ya temanatlaleletso (ii) ka temana e e latelang: 25

“(ii) kaela motho yo o ipofileng kgotsa yo o ipofang go dira tiro ya matshosetsi a magolo kgotsa tiro e e tlhodileng kgotsa e e ka tswang e tlhodile kgotlelo ya lefelo la tlhotlhomiso, go [dira] tlhoka gore go dirwe tlhatlhobo ya lefelo ke motho yo o ikemetseng, ka ditshenyegelo tsa gagwe, le go romela pegelo ya tlhatlhobo ya lefelo le leano la phepafatso, fa go tlhokega, kwa go Tona kgotsa MEC mo nakong e e tsepamisitsweng mo kitsisong.”; le

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(c) ka kemisetso mo karolotlaleletsong (2) ya temana (a) ka temana e e latelang: 35

“(a) Pegelo ya tlhatlhobo ya lefelo le leano la phepafatso, fa go tlhokega, e tshwanetse go ikamanya le dikaelo tse di ka tswang di phasaladitswe kgotsa di neetswe Tona kgotsa MEC mo kitsisong e e tshalositsweng mo karolong 36(1) kgotsa (6) e bile e tshwanetse go akaretsa tshedimosetso ya gore a lefelo la tlhotlhomiso le kgotlelegile.”

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Tlhabololo ya karolo 38 ya Molao 59 wa 2008

69. Karolo 38 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka kemisetso mo karolotlaleletsong (1) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang:

“Fa a sena go amogela pegelo ya tlhatlhobo ya lefelo le leano la phepafatso, fa go tlhokega, e e tshalositsweng mo karolong 37, Tona kgotsa MEC, go ya ka moo maemo a leng ka teng, o ka, morago ga go rerisana le Tona [ya Merero ya Metsi le Dikgwa] e e rwalang maikarabelo a merero ya metsi le setheo sengwe le sengwe sa puso se se amegang, swetsa gore—”

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Tlhabololo ya karolo 41 ya Molao 59 wa 2008

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70. Karolo 41 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka kemisetso ya dikarolotlaleletso (1), (2) le (3) ka dikarolotlaleletso tse di latelang, ka tatelano:

- “(1) The Minister must keep a national contaminated land register of **[investigation] contaminated land** areas that includes information on—
- (a) the owners and any users of **[investigation] contaminated land** areas;
 - (b) the location of **[investigation] contaminated land** areas;
 - (c) the nature and origin of the said contamination; 5
 - (d) whether **[an investigation] a contaminated land** area—
 - (i) **[is contaminated,]** presents a risk to health or the environment, and must be remediated urgently;
 - (ii) **[is contaminated,]** presents a risk to health or the environment, and must be remediated within a specified period; or 10
 - (iii) **[is contaminated,]** does not present an immediate risk, but measures are required to address the monitoring and management of that risk; **[or] and**
 - [(iv) is not contaminated;**
 - (e) **the status of any remediation activities on investigation areas; and] 15**
 - (f) restrictions of use that have been imposed on the **[investigation] contaminated land** areas.
- (2) The Minister may change the status of **[an investigation] the contaminated land** area contemplated in subsection (1)(d)(i) or (ii) as provided for in subsection (1)(d)(iii) or (iv) if a remediation order has been complied with or other 20 circumstances eventuate that justify such a change.
- (3) An MEC who has identified **[an investigation] a contaminated land** area must furnish the relevant information to the Minister for recording in the national contaminated land register.”.

Amendment of section 43 of Act 59 of 2008, as amended by section 21 of Act 25 of 2014 25

71. Section 43 of the National Environmental Management: Waste Act, 2008, is hereby amended—

- (a) by the substitution for subsection (1A) of the following subsection: 30

“(1A) The Minister responsible for mineral resources is the licensing authority where the waste management activity is a mining activity as defined in the National Environmental Management Act.”;
- (b) by the substitution for subsection (1B) of the following subsection: 35

“(1B) The Minister responsible for mineral resources is responsible for the implementation of the [provisions that relate to] licensing system provided for in this Chapter in so far as the matters referred to in subsection (1A) are concerned.”;
- (c) by the substitution for subsection (3) of the following subsection: 40

“(3) Despite subsections (1), (1A) and (2), the Minister, the Minister responsible for mineral resources and an MEC may agree that an application or applications for waste management licences regarding any waste management activity—

 - (a) referred to in subsection (1), may be dealt with by the MEC or the Minister responsible for mineral resources; **[or]**
 - (aA) referred to in subsection (1A), may be dealt with by the Minister; or 45
 - (b) in respect of which the MEC or the Minister responsible for mineral resources has been identified as the licensing authority, may be dealt with by the Minister.”; and
- (d) by the addition of the following subsection: 50

“(4) (a) In accordance with section 125(2)(b) of the Constitution, whenever a licensing authority, referred to in subsection (2), fails to take a decision on an application for a waste management licence within the

- “(1) Tona o tshwanetse go tshola rejisetara ya bosetšhaba ya lefatshe le le kgotlelegileng ya dikgaolo tsa **[tlhotlhomiso]** lefatshe le le kgotlelegileng tse di akaretsang tshedimosetso ka ga—
- (a) beng le badirisi bangwe le bangwe ba dikgaolo tsa **[tlhotlhomiso]** lefatshe le le kgotlelegileng; 5
- (b) lefelo la **[tlhotlhomiso]** dikgaolo tsa lefatshe le le kgotlelegileng;
- (c) mofuta le kwa kgotlelo e e kaiwang e tswang teng;
- (d) gore **[a tlhotlhomise]** kgaolo ya lefatshe le le kgotlelegileng—
- (i) **[e kgotlelegile,]** e baya boitekanelo kgotsa tikologo mo kotsing, e bile e tshwanetse go phepafatswa ka bonako; 10
- (ii) **[e kgotlelegile,]** e baya boitekanelo kgotsa tikologo mo kotsing e bile e tshwanetse go phepafatswa mo nakong e e totobaditsweng; kgotsa
- (iii) **[e kgotlelegile,]** ga e lere kotsi ya ka pele, mme dikgato di a tlhokega go samagana le tebelelo le taolo ya kotsi eo; **[kgotsa]** e bile 15
- [(iv) ga e a kgotlelega;** 15
- (e) **maemo a ditiro dingwe le dingwe tsa phepafatso mo dikgaolong tsa ditlhotlhomiso; le]**
- (f) dikganelo tsa tiriso tse di beilweng mo **[tlhotlhomisong]** kgaolong ya lefatshe le le kgotlelegileng. 20
- (2) Tona o ka fetola maemo a **[tlhotlhomiso]** kgaolo ya lefatshe le le kgotlelegileng le le tlhalositsweng mo karotlaleletsong (1)(d)(i) kgotsa (ii) jaaka go tlametswe mo kalotlaleletsong (1)(d)(iii) kgotsa (iv) fa taolo ya phepafatso e obametswe kgotsa fa mabaka mangwe a diragala mme a dira gore phetogo ya go nna jalo e siame.
- (3) MEC yo o tlhagisitseng **[tlhotlhomiso]** kgaolo ya lefatshe le le kgotlelegileng o tshwanetse go naya Tona tshedimosetso e e maleba gore e tle e kwalwe mo rjisetareng ya bosetšhaba ya lefatshe le le kgotlelegileng.”. 25

Tlhabololo ya karolo 43 ya Molao 59 wa 2008, jaaka e tlhabololwa ka karolo 21 ya Molao 25 wa 2014

71. Karolo 43 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e a tlhabololwa— 30
- (a) ka kemisetso mo karotlaleletsong (1A) e e latelang:
- “(1A) Tona e e rwalang maikarabelo mabapi le ditlhagiso tsa diminerale ke molaodi wa kabo ya laesense mo tiro ya taolo ya leswe e leng tiro ya go epa jaaka go tlhalositswe mo Molaong wa Bosetšhaba wa Tsamaiso ya Tikologo.”. 35
- (b) ka kemisetso ya karotlaleletso (1B) ka karotlaleletso e e latelang:
- “(1B) Tona e e rwalang maikarabelo mabapi le ditlhagiso tsa diminerale o rwala maikarabelo a go tsenngwa mo tirisong ga **[dikabelo tse di amanang le]** thulaganyo ya kabo ya laesense e e tlametsweng mo Kgaolong eno mabapi le merero e e kailweng mo karotlaleletsong (1A).”; 40
- (c) ka kemisetso ya karotlaleletso (3) ka karotlaleletso e e latelang:
- “(3) Go sa nyatswe dikarotlaleletso (1), (1A) le (2), Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale le MEC ba ka dumalana gore kopo kgotsa dikopo tsa dilaesense tse di mabapi le tiro nngwe le nngwe ya taolo ya leswe—
- (a) tse di kailweng mo karotlaleletsong (1), di ka sekasekwa ke MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale; **[kgotsa]** 50
- (aA) tse di kailweng mo karotlaleletsong (1A), di ka sekasekwa ke Tona; kgotsa
- (b) tse mabapi le tsona MEC kgotsa Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale a supilweng jaaka molaodi wa dilaesense, di ka sekasekwa ke Tona.”; le 55
- (d) ka go tlaleletswa ka temanatlaleletso e e latelang:
- “(4) (a) Go tsamaelana le karolo 125(2)(b) ya Molaotheo, nako nngwe le nngwe fa bolaodi jwa dilaesense, jo bo kailweng mo karotlaleletsong (2), bo palelwa ke go tsaya tshwetso mo kopong ya laesense ya tsamaiso ya leswe mo nakong e e neetsweng ke Molao ono, motho yo o dirileng 60

period prescribed by this Act, the person that applied for a waste management licence may apply to the Minister to take the decision.

(b) The person referred to in paragraph (a) must notify the MEC or the Minister responsible for mineral resources, as the case may be, 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 MEC or the Minister responsible for mineral resources, as the case may be, in respect of the application for a waste management licence, in order to enable the Minister to take a decision.

(d) Before taking a decision contemplated in paragraph (a), the Minister must request the MEC or the Minister responsible for mineral resources, as the case may be, to provide him or her with a report within a specified period on the status and causes for the failure to make a decision in the application for waste management licence concerned.

(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 MEC or the Minister responsible for mineral resources, as the case may be, within the specified period, the Minister must, where appropriate—

- (i) inform the applicant in the event that the MEC or the Minister responsible for mineral resources, as the case may be, had complied with the relevant prescripts;
- (ii) assist the MEC or the Minister responsible for mineral resources, as the case may be, in accordance with section 125(3) of the Constitution to fulfil his or her obligations under this Act; or
- (iii) direct the MEC or the Minister responsible for mineral resources, as the case may be, to take the decision and such other steps as the Minister may deem necessary within a specified period.

(f) In the event that the MEC or the Minister responsible for mineral resources, as the case may be, 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 must take the decision within a reasonable period.

(g) 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 this section during the previous financial year.”

Repeal of section 43A of Act 59 of 2008

72. Section 43A of the National Environmental Management: Waste Act, 2008, is hereby repealed.

Amendment of section 52 of Act 59 of 2008

73. Section 52 National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) If the environment or the rights or interests of other parties are likely to be adversely affected, the [Minister or MEC] licensing authority must, before deciding the application for transfer, request the applicant to conduct a consultation process that may be appropriate in the circumstances to bring the application for the transfer of a waste management licence to the attention of relevant organs of state, interested persons and the public.”

kopo ya laesense ya tsamaiso ya leswe o ka dira kopo go Tona gore a tseye tshwetso.

(b) Motho yo o kailweng mo temaneng (a) o tshwanetse go itsise MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, ka go kwala ka ga maikaelelo a go diragatsa boikgethelo jo bo mo temaneng (a) bonnye malatsi a le 30 pele ga tiragatso ya boikgethelo joo.

(c) Kopo e e tlhalositsweng mo temaneng (a) e tshwanetse, bonnye, go nna le dikwalo tsotlhe tse di romeletsweng MEC kgotsa Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale, go ya ka moo mabaka a leng ka teng, mabapi le kopo ya laesense ya tsamaiso ya leswe, go kgontsha Tona go tsaya tshwetso.

(d) Pele a tsaya tshwetso e e tlhalositsweng mo temaneng (a), Tona o tshwanetse go kopa MEC kgotsa Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale, go ya ka moo mabaka a leng ka teng, go mo tlamela ka pegelo mo nakong e e totobaditsweng e e ka ga maemo le mabaka a a dirileng gore a palelwe ke go tsaya tshwetso mo kopong ya laesense ya tsamaiso ya leswe e e kailweng.

(e) Morago ga go amogela pegelo e e kailweng mo temaneng (d) kgotsa mo lebakeng la fa go sa amogelwa tsibogo kgotsa tsibogo e e kgotsofatsang kgotsa tirisano mmogo go tswa go MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, mo nakong e e totobaditsweng Tona o tshwanetse go, mo go leng maleba—

(i) itsise modirakopo mo lebakeng la fa MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, a ikamantseng le ditaello tse di maleba;

(ii) thusa MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, go tsamaelana le karolo 125(3) ya Molaotheo go diragatsa ditlamego tsa gagwe ka fa tlase ga Molao ono; kgotsa

(iii) laela MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, go tsaya tshwetso le dikgato tse dingwe tse di maleba jaaka Tona a ka bona go tlhokega mo nakong e e totobaditsweng.

(f) Mo lebakeng la fa MEC kgotsa Tona e e rwalang maikarabelo a tlhagiso ya diminerale, go ya ka moo mabaka a leng ka teng, a palelwa ke go tsaya tshwetso mo nakong e e totobaditsweng kgotsa ka mokgwa ofe a palelwa ke go ikamanya le ditaello tse di tlhalositsweng mo temaneng (e)(iii), Tona o tshwanetse go tsaya tshwetso mo nakong e e amogelesegang.

(g) Tona o tshwanetse, ka nako e le esi le kgoroso ya pegelo ya ngwaga e e tlhalositsweng mo karolong 40(1)(d)(i) ya *Public Finance Management Act, 1999* (Molao 1 wa 1999), romela pegelo kwa Palamenteng e e tlhalosang dintlha tse di mabapi le tiragatso ya thata e e kailweng mo karolong eno mo nakong ya ngwaga wa ditšhelete o o fetileng.”.

Phimolo ya karolo 43A ya Molao 59 wa 2008

72. Karolo 43A ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e a phimolwa.

Tlhabololo ya karolo 52 ya Molao 59 wa 2008

73. Karolo 52 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka kemisetso ya karolotlaleletso (5) ka karolotlaleletso e e latelang:

“(5) Fa tikologo kgotsa ditshwanelo kgotsa dikgatlhago tsa baamegi ba bangwe di lebege e kete di tla amega bobbe, [Tona kgotsa MEC] bolaodi jwa dilaesense bo tshwanetse, pele bo swetsa ka kopo ya tshutiso, go kopa modirakopo go dira tsamaiso ya therisano e e ka nnang maleba mo maemong ao go lemosa ditheo tsa puso tse di maleba, batho ba ba nang le kgatlhego le setšhaba ka kopo ya tshutiso ya laesense ya tsamaiso ya leswe.”.

Amendment of section 54 of Act 59 of 2008

74. Section 54 of the National Environmental Management: Waste Act, 2008, is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) The variation of a waste management licence is subject to the payment of a prescribed processing fee.”

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Amendment of section 67 of Act 59 of 2008, as amended by section 23 of Act 25 of 2014

75. Section 67 of the National Environmental Management: Waste Act, 2008, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 10

“(a) contravenes or fails to comply with a provision of section 15, 16(1)(c), (d), (e) or (f), 20, 26(1), [43A,] or any order under section 38(2) or (3) or a notice under section 17(2) or 18(1);”; and

(b) by the insertion in subsection (1) after paragraph (f) of the following paragraph: 15

“(fA) contravenes any provision in the norm or standard contemplated in paragraph (f), in which such contravention is identified as an offence, and in such case paragraph (f) does not apply;”.

Amendment of section 69 of Act 59 of 2008, as amended by section 24 of Act 25 of 2014 20

76. Section 69 of the National Environmental Management: Waste Act, 2008, is hereby amended by the deletion in subsection (1) of paragraph (iA).

Repeal of section 69A of Act 59 of 2008

77. Section 69A of the National Environmental Management: Waste Act, 2008, is hereby repealed. 25

Amendment of section 71 of Act 59 of 2008

78. Section 71 of the National Environmental Management: Waste Act, 2008, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection: 30

“(2) Regulations made in terms of sections 69 and 70 may provide that any person who contravenes or fails to comply with a provision thereof, is guilty of an offence and liable on conviction to—

(a) imprisonment for a period not exceeding five years;

(b) a fine not exceeding five million rand, 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; or 35

(c) both a fine and imprisonment.”; and

(b) by the insertion after subsection (2) of the following subsection: 40

“(2A) Regulations made in terms of sections 69 and 70 may differentiate between the penalties for the contravention of the different provisions thereof, but the maximum penalty may not exceed a penalty provided for in subsection (2).”.

Amendment of section 74 of Act 59 of 2008 45

79. Section 74 National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person or organ of state may apply in writing for exemption from the application of a provision of this Act—

Tlhabololo ya karolo 54 ya Molao 59 wa 2008

74. Karolo 54 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka go tsenngwa morago ga karotlaleletso (2) ga karotlaleletso e e latelang:

“(2A) Pharologantsho ya laesense ya tsamaiso ya leswe e go ya ka tuelo ya tuelelo e e neetsweng ya tsamaiso.” 5

Tlhabololo ya karolo 67 ya Molao 59 wa 2008, jaaka e tlhabololwa ka karolo 23 ya Molao 25 wa 2014

75. Karolo 67 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa— 10

(a) ka kemisetso mo karotlaleletsong (1) ya temana (a) ka temana e e latelang:
“(a) tlola kgotsa a retelelwa ke go ikamanya le molawana wa karolo 15, 16(1)(c), (d), (e) kgotsa (f), 20, 26(1), [43A,] kgotsa taelo nngwe le nngwe ka fa tlase ga karolo 38(2) kgotsa (3) kgotsa kitsiso ka fa tlase ga karolo 17(2) kgotsa 18(1);” le 15

(b) ka go tsenngwa mo karotlaleletsong (1) morago ga temana (f) ga temana e e latelang:
“(fA) tlola kabelo nngwe le nngwe mo meetlong le maemong a a tlhalositsweng mo temaneng (f), e mo go yona tlolo eo e supilweng jaaka tlolomolao, mme mo lebakeng leo temana (f) ga e diriswe;” 20

Tlhabololo ya karolo 69 ya Molao 59 wa 2008, jaaka e tlhabololwa ka karolo 24 ya Molao 25 wa 2014

76. Karolo 69 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka go ntshiwa mo karotlaleletsong (1) ga temana (iA).

Phimolo ya karolo 69A ya Molao 59 wa 2008 25

77. Karolo 69A ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e a phimolwa.

Tlhabololo ya karolo 71 ya Molao 59 wa 2008

78. Karolo 71 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa jaana— 30

(a) ka kemisetso ya karotlaleletso (2) ka karotlaleletso e e latelang:
“(2) Melawana e e dirilweng go ya ka karolo 69 le 70 e ka laela gore mongwe le mongwe yo o tloang kgotsa yo o retelelwang ke go ikamanya le ditaelo tsa yona o bonwa molato wa go tlola molao e bile o tshwanetse ke katlholo ya— 35

(a) go golegwa sebaka sa paka e e sa feteng dingwaga tse tlhano;
(b) tuediso e e sa feteng dimilione tse tlhano tsa diranta, mme mo lebakeng la go bonwa molato gape kgotsa la bobedi, tuediso e e sa feteng R10 dimilione kgotsa go golegwa sebaka sa paka e e sa feteng dingwaga tse 10 kgotsa mo mabakeng ka bobedi tuediso le go golegwa goo; kgotsa 40

(c) tuediso le go golegwa ka bobedi.”; le

(b) ka go tsenngwa morago ga karotlaleletso (2) ga karotlaleletso e e latelang:
“(2A) Melawana e e dirilweng go ya ka karolo 69 le 70 e ka farologanya magareng ga dikotlhao tsa tlolo ya ditaelo tsa yona tse di farologaneng, mme kotlhao ya makisimamo ga e a tshwanela go feta kotlhao e e tlametsweng mo karotlaleletsong (2).” 45

Tlhabololo ya karolo 74 ya Molao 59 wa 2008

79. Karolo 74 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008 e tlhabololwa ka kemisetso ya karotlaleletso (1) ka karotlaleletso e e latelang: 50

“(1) Motho mongwe le mongwe kgotsa setheo sa puso o ka dira kopo ya gore a gololwe mo tirisong ya taelo ya Molao ono ka go kwalela—

- (a) to the Minister [~~or~~];
- (b) where the Minister responsible for mineral resources is responsible for administering the provision of the Act from which the person or organ of state requires exemption, to the Minister responsible for mineral resources; or
- (c) where the MEC is responsible for administering the provision of the Act from which the person or organ of state requires exemption, to the MEC,² except the exemption from the requirement to obtain a waste management licence contemplated in Chapter 5.”.

Amendment of section 75 of Act 59 of 2008

80. Section 75 National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

- “(1) The Minister, Minister responsible for mineral resources or MEC, as the case may be, may request an applicant contemplated in section 74 to furnish additional information where such information is necessary for the purposes of informing the Minister, Minister responsible for mineral resources or MEC’s decision.
- (2) If the rights or interests of other parties are likely to be adversely affected by the proposed exemption, the Minister, Minister responsible for mineral resources or MEC, as the case may be, must, before deciding the application, request the applicant to—
- (a) bring the application to the attention of relevant organs of state, interested persons and the public by conducting a public participation process indicated by the Minister, Minister responsible for mineral resources or MEC; and
- (b) [to] submit any comments received from the public following such process to the Minister, Minister responsible for mineral resources or MEC.”.

Amendment of section 76 of Act 59 of 2008

81. Section 76 National Environmental Management: Waste Act, 2008, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 30
 “The Minister, Minister responsible for mineral resources or the MEC, as the case may be, may—”;
- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 35
 “If an application is granted, the Minister, Minister responsible for mineral resources or MEC, as the case may be, must issue a written exemption notice to the applicant stating—”; and
- (c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 40
 “The Minister, Minister responsible for mineral resources or the MEC, as the case may be, may by notice in the *Gazette* exempt an organ of state from a provision of this Act if—”.

Amendment of section 77 of Act 59 of 2008

82. Section 77 National Environmental Management: Waste Act, 2008, is hereby amended— 45

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 50
 “The Minister, Minister responsible for mineral resources or MEC may—”; and
- (b) by the substitution for subsections (2) and (3) of the following subsections, respectively:

- (a) go Tona [**kgotsa**];
- (b) fa Tona e e rwalang maikarabelo mabapi le tlhagiso ya diminerale a rwala maikarabelo a go diragatsa taelo ya Molao o motho kgotsa setheo sa puso se tlhokang go gololwa mo go yona, go Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale; kgotsa 5
- (c) fa MEC a rwala maikarabelo a go tsamaisa taelo ya Molao o motho kgotsa setheo sa puso se dirileng kopo ya go gololwa mo go yona, go MEC, ntle le kgololo go tswa mo tlhokegong ya go fitlhelela laesense ya tsamaiso ya leswe e e tlhalositsweng mo Kgaolong 5.”.

Tlhabololo ya karolo 75 ya Molao 59 wa 2008 10

80. Karolo 75 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa ka kemisetso ya dikarotlaleletso (1) le (2) ka dikarotlaleletso tse di latelang, ka tatelano:

- “(1) Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, go ya ka moo mabaka a leng ka teng, o ka kopa mokopi yo o tlhalositsweng mo karolong 74 go neelana ka tshedimosetso ya tlaleletso fa tshedimosetso eo e tlhokega mabapi le maitlomo a go itsise ka tshwetso ya Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC. 15
- (2) Fa ditshwanelo kgotsa dikgatlhego tsa baamegi ba bangwe di ka angwa bobee ke kgololo e e tshitsintsweng, Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, go ya ka moo mabaka a leng ka teng, o tshwanetse, pele a swetsa ka kopo, go kopa modirakopo go— 20
- (a) romela kopo kwa setheong sa puso se se maleba, batho ba ba nang le kgatlhego le setšhaba ka go tshwara ditsamaiso tsa botsayakarolo jwa mo phatlhalatseng jo bo tlhagisitsweng ke Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC; le 25
- (b) [**go**] romela ditshwaelo dingwe le dingwe tse di amogetsweng go tswa kwa setšhabeng go latela tsamaiso kwa go Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC.”.

Tlhabololo ya karolo 76 ya Molao 59 wa 2008 30

81. Karolo 76 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa jaana—

- (a) ka kemisetso mo karotlaleletsong (1) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang: 35
- “Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, go ya ka moo mabaka a leng ka teng, o ka—”;
- (b) ka kemisetso mo karotlaleletsong (3) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang: 40
- “Fa kopo e amogetswe, Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, go ya ka moo mabaka a leng ka teng, o tshwanetse go rebola kitsiso e e kwetsweng ya kgololo go modirakopo e e tlhagisang—”; le
- (c) ka kemisetso mo karotlaleletsong (4) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang: 45
- “Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, go ya ka moo mabaka a leng ka teng, ka kitsiso mo *Lokwalodikgannyeng la Puso* o ka golola setheo sa puso mo taelong ya Molao ono fa—”.

Tlhabololo ya karolo 77 ya Molao 59 wa 2008

82. Karolo 77 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e tlhabololwa jaana— 50

- (a) ka kemisetso mo karotlaleletsong (1) ya mafoko a a tlang fa pele ga temana (a) ka mafoko a a latelang: 55
- “Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC o ka—”; le
- (b) ka kemisetso ya dikarotlaleletso (2) le (3) ka dikarotlaleletso tse di latelang, ka tatelano:

“(2) Before suspending, withdrawing or amending an exemption, the Minister, Minister responsible for mineral resources or MEC must give the person to whom the exemption was granted an opportunity to comment, in writing, on the reasons for the suspension, withdrawal or amendment.

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(3) If an exemption has been granted in respect of a waste management activity, or part thereof, and ownership of that waste management activity is transferred, the exemption may, with the permission of the Minister, Minister responsible for mineral resources or MEC, be transferred by the holder of the exemption to the new owner of the waste management activity.”.

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Substitution of certain expressions in Act 59 of 2008

83. The National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for the expression “Minister of Water Affairs and Forestry”, wherever it occurs, of the expression “Minister responsible for water affairs”.

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Repeal of Schedule 3 to Act 59 of 2008, as inserted by section 18 of Act 26 of 2014

84. Schedule 3 to the National Environmental Management: Waste Act, 2008, is hereby repealed.

Substitution of section 12 of Act 62 of 2008, as amended by section 26 Act 25 of 2014

Transitional provisions

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85. The following section is hereby substituted for section 12 of the National Environmental Management Amendment Act, 2008:

“**12.** (1) Where, prior to 8 December 2014—

(a) an environmental authorisation or a waste management licence was required for activities directly related to—

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(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 or waste management licence has been obtained; and

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(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

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(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, waste management licence, right, permit or exemption commenced after 8 December 2014, such environmental authorisation, waste management licence, right, permit or exemption is regarded as fulfilling the requirements of the Act: Provided that where an application for an environmental authorisation or waste management licence 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 subsection does not apply.

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(2) Despite subsection (1), the Minister responsible for mineral resources may direct the holder of a right, permit or any old order right, if he or she is of the opinion that the prospecting, mining, exploration and production operations are likely to result in unacceptable pollution, ecological degradation or damage to the environment, to take any action to upgrade the environmental management plan or environmental management programme to address the deficiencies in the plan or programme.

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“(2) Pele go sekegwa, go gogelwa morago kgotsa go fetolwa kgololo, Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC o tshwanetse go naya motho yo o neilweng kgololo tšhono ya go tshwaela, ka go kwala, ka mabaka a tshekego, kgogelomorago kgotsa phetolo.

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(3) Fa kgololo e neetswe mabapi le tiro ya tsamaiso ya leswe, kgotsa karolo ya yona, le tsholo ya tiro ya tsamaiso ya leswe e sutisitswe, kgololo e ka, ka tetla ya Tona, Tona e e rwalang maikarabelo a ditlhagiso tsa diminerale kgotsa MEC, sutiswa ke motho yo o tshotseng kgololo go mong yo mošwa wa tiro ya tsamaiso ya leswe.”

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Kemisetso ya ditlhagiso tse di rileng mo Molaong 59 wa 2008

83. Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, o tlhabololwa ka kemisetso ya tlhagiso “Tona ya Merero ya Metsi le Dikgwa”, gongwe le gongwe fa e tlhagelelang, ka tlhagiso “Tona e e rwalang maikarabelo a merero ya metsi”.

Phimolo ya ejule 3 ya Molao 59 wa 2008, jaaka o tsentswe karolo 18 ya Molao 26 wa 2014

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84. Sejule 3 ya Tsamaiso ya Tikologo ya Bosetšhaba: Molao wa Leswe, 2008, e a phimolwa.

Vervanging van artikel 12 van Wet 62 van 2008, soos gewysig deur artikel 26 van Wet 25 van 2014

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85. Artikel 12 van die Wysigingswet op Nasionale Omgewingsbestuur, 2008, word hierby deur die volgende artikel vervang:

“**12.** (1) Waar, voor 8 Desember 2014—

(a) ’n omgewingsmagtiging of ’n afvalbestuurslisensie vereis is vir aktiwiteite wat regstreeks verband hou met—

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(i) prospektering of eksplorاسie van ’n minerale of petroleumhulpbron; of

(ii) uithaal en primêre verwerking van ’n minerale of petroleumhulpbronne,

en sodanige omgewingsmagtiging of afvalbestuurslisensie verkry is;

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en

(b) ’n reg, permit of vrystelling vereis is ingevolge die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002), vir—

(i) prospektering of eksplorاسie van ’n minerale of petroleumhulpbron; of

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(ii) uithaal en primêre verwerking van ’n minerale of petroleumhulpbron,

en sodanige reg, permit of vrystelling verkry is, en aktiwiteite in sodanige omgewingsmagtiging, afvalbestuurslisensie, reg, permit of vrystelling gemagtig ná 8 Desember 2014 ’n aanvang geneem het,

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word sodanige omgewingsmagtiging, afvalbestuurslisensie, reg, permit of vrystelling geag die vereistes van die Wet te vervul: Met dien verstande dat waar ’n aansoek om ’n omgewingsmagtiging of afvalbestuurslisensie geweier is of nie verkry is nie ingevolge die Wet

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vir aktiwiteite wat regstreeks verband hou met prospektering, eksplorاسie of uithaal van ’n minerale of petroleumhulpbron, met inbegrip van primêre verwerking, hierdie subartikel nie van toepassing is nie.

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(2) Ondanks subartikel (1), kan die Minister verantwoordelik vir minerale hulpbronne die houer van ’n reg, permit of enige ou orde reg, indien hy of sy van oordeel is dat die prospektering, myn, eksplorاسie en vervaardigingsbedrywighede waarskynlik onaanvaarbare besoedeling, ekologiese agteruitgang of skade aan die omgewing tot gevolg kan hê,

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opdrag gee om enige stappe te doen om die omgewingsbestuursplan of omgewingsbestuursprogram op te gradeer om die tekortkominge in die plan of program te hanteer.

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(2) Ondanks subartikel (1), kan die Minister verantwoordelik vir minerale hulpbronne die houer van ’n reg, permit of enige ou orde reg, indien hy of sy van oordeel is dat die prospektering, myn, eksplorاسie en vervaardigingsbedrywighede waarskynlik onaanvaarbare besoedeling, ekologiese agteruitgang of skade aan die omgewing tot gevolg kan hê,

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opdrag gee om enige stappe te doen om die omgewingsbestuursplan of omgewingsbestuursprogram op te gradeer om die tekortkominge in die plan of program te hanteer.

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(2) Ondanks subartikel (1), kan die Minister verantwoordelik vir minerale hulpbronne die houer van ’n reg, permit of enige ou orde reg, indien hy of sy van oordeel is dat die prospektering, myn, eksplorاسie en vervaardigingsbedrywighede waarskynlik onaanvaarbare besoedeling, ekologiese agteruitgang of skade aan die omgewing tot gevolg kan hê,

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opdrag gee om enige stappe te doen om die omgewingsbestuursplan of omgewingsbestuursprogram op te gradeer om die tekortkominge in die plan of program te hanteer.

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(3) The Minister responsible for mineral resources must issue an environmental authorisation if he or she is satisfied that the deficiencies in the environmental management plan or environmental management programme referred to in subsection (2) have been addressed and that the requirements contained in Chapter 5 of the National Environmental Management Act, 1998, have been met.” 5

Transitional provisions for residue deposits and residue stockpiles

86. (1) Despite the repeal of the relevant provisions in relation to residue stockpiles in the National Environmental Management: Waste Act, 2008, by the National Environmental Management Laws Amendment Act, 2022, any approval granted or waste management licence issued in relation to residue deposits and residue stockpiles remain valid until it lapse or replaced under the provisions of the National Environmental Management Act, 1998. 10

(2) Despite the repeal of section 69(iA) of the National Environmental Management: Waste Act, 2008, the regulations pertaining to the management of residue deposits and residue stockpiles made in terms of this section, remain operational and shall be deemed to have been made under the National Environmental Management Act, 1998. 15

Transitional provisions for Waste Management Bureau

87. (1) Anything done under the repealed provisions in Part 7A of the National Environmental Management: Waste Act, 2008, remains valid until anything done under the provisions that substitutes the provisions in Part 7A overrides it. 20

(2) The Waste Management Bureau in place at the time of the commencement of the National Environmental Management Laws Amendment Act, 2022, remains in place until the members of Board are appointed in terms of section 34G of the National Environmental Management: Waste Act, 2008, (as amended by this Amendment Act). 25

(3) The Minister may direct that the employees or the Chief Executive Officer of the Waste Management Bureau at the time of the commencement of the National Environmental Management Laws Amendment Act, 2022, be absorbed by the new structure in the same positions.

Transitional provision due to amendment of definition of “waste” 30

88. (1) Any substance, material or object, which is “waste” in terms of the amended definition of “waste”, but was not regarded as such prior to the commencement of the amended definition must be regarded as waste from the date of the commencement of the amended provision, unless it is excluded in terms of section 4 from the scope of the National Environmental Management: Waste Act, 2008. 35

(2) A person in control of the substance, material or object must within 60 days from the date of the commencement of the amended definition of “waste”, either—

- (a) apply for a waste management licence, if the person conducts an activity, which is listed in terms of section 19(1) of the principal Act;
- (b) comply with a norm or standard, if the person conducts an activity, which is listed in terms of section 19(3) of the Act, if applicable; or 40
- (c) apply for the exclusion of the substance, material or object from the definition of waste in the prescribed manner.

Short title and commencement

89. This Act is called the National Environmental Management Laws Amendment Act, 2022, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 45

(3) Die Minister verantwoordelik vir minerale hulpbronne moet 'n omgewingsmagtiging uitreik as hy of sy oortuig is dat die tekortkominge in die omgewingsmagtigingsplan of omgewingsbestuursprogram in subartikel (2) bedoel, hanteer is en dat aan die vereistes in Hoofstuk 5 van die Wet op Nasionale Omgewingsbestuur, 1998, vervat, voldoen is.”

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Oorgangsmaatreëls vir residu neerslae en residu voorraadstapels

86. (1) Ondanks die herroeping van die bepalings in verband met residu voorraadstapels in die “National Environmental Management: Waste Act, 2008”, deur die Wysigingswet op Nasionale Omgewingswette, 2022, bly enige goedkeuring toegestaan of afvalbestuurslisensie uitgereik in verband met residu neerslae en residu voorraadstapels, van toepassing totdat dit verstryk of totdat dit vervang word kragtens die bepalings van die Wet op Nasionale Omgewingsbestuur, 1998.

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(2) Ondanks die herroeping van artikel 69(iA) van die “National Environmental Management: Waste Act, 2008”, bly die regulasies uitgevaardig in verband met die bestuur van residu neerslae en residu voorraadstapels ingevolge hierdie artikel, van krag en word geag kragtens die Wet op Nasionale Omgewingsbestuur, 1998, uitgevaardig te wees.

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Oorgangsbepalings vir Afvalbestuursburo

87. (1) Enigiets kragtens die herroepde bepalings in Deel 7A van die “National Environmental Management: Waste Act, 2008”, gedoen, bly geldig totdat enigiets kragtens die bepalings wat die bepalings in Deel 7A vervang, dit omverwerp.

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(2) Die Afvalbestuursburo in plek by inwerkingtreding van die Wysigingswet op Nasionale Omgewingsbestuurswette, 2022, bestaan voort totdat die lede van die Raad ingevolge artikel 34G van die “National Environmental Management: Waste Act, 2008” (soos deur hierdie Wysigingswet gewysig), aangestel is.

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(3) Die Minister kan opdrag gee dat die werknemers of die Hoof- Uitvoerende Beampte van die Afvalbestuursburo ten tyde van die inwerkingtreding van die Wysigingswet op Nasionale Omgewingsbestuurswette, 2022, in dieselfde posisies deur die nuwe struktuur geabsorbeer word.

Oorgangsbepaling weens wysiging van omskrywing van “afval”

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88. (1) Enige stof, materiaal of voorwerp, wat “afval” is ingevolge die omskrywing van “afval”, maar wat nie voor die inwerkingtreding van die gewysigde omskrywing as sulks beskou is nie, moet as afval beskou word vanaf die datum van inwerkingtreding van die gewysigde bepaling, tensy dit uitgesluit word ingevolge artikel 4 van die bestek van die “National Environmental Management: Waste Act”, 2008.

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(2) 'n Persoon in beheer van die stof, materiaal of voorwerp moet binne 60 dae vanaf die datum van die inwerkingtreding van die omskrywing van “afval”—

- (a) óf aansoek doen om 'n afvalbestuurslisensie, as die persoon 'n aktiwiteit verrig wat ingevolge artikel 19(1) van die Wet gelys is, indien van toepassing; of
- (b) voldoen aan 'n norm of standaard, as die persoon 'n aktiwiteit verrig, wat ingevolge artikel 19(3) van die Wet gelys is, indien van toepassing; of
- (c) aansoek doen om die uitsluiting van die stof, materiaal of voorwerp uit die omskrywing van afval op die voorgeskrewe wyse.

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Kort titel en inwerkingtreding

89. Hierdie Wet heet die Wysigingswet op Nasionale Omgewingsbestuurswette, 2022, en tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

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