



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

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## **THE PRESIDENCY**

No. 163

24 February 2005

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

**No. 39 of 2004: National Environment Management: Air Quality Act, 2004.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

Act No. 39,2004

NATIONAL ENVIRONMENT MANAGEMENT:  
AIR QUALITY ACT. 2004

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(English text signed by the President.)  
(Assented to 19 February 2005.)

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# ACT

To reform the law regulating air quality in order to protect the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development while promoting justifiable economic and social development; to provide for national norms and standards regulating air quality monitoring, management and control by all spheres of government; for specific air quality measures; and for matters incidental thereto.

## PREAMBLE

WHEREAS the quality of ambient air in many areas of the Republic is not conducive to a healthy environment for the people living in those areas let alone promoting their social and economic advancement;

And whereas the burden of health impacts associated with polluted ambient air falls most heavily on the poor;

And whereas air pollution carries a high social, economic and environmental cost that is seldom borne by the polluter;

And whereas atmospheric emissions of ozone-depleting substances, greenhouse gases and other substances have deleterious effects on the environment both locally and globally;

And whereas everyone has the constitutional right to an environment that is not harmful to their health or well-being;

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

- (a) prevent pollution and ecological degradation;
- (b) promote conservation; and
- (c) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

And whereas minimisation of pollution through vigorous control, cleaner technologies and cleaner production practices is key to ensuring that air quality is improved;

And whereas additional legislation is necessary to strengthen the Government's strategies for the protection of the environment and, more specifically, the enhancement of the quality of ambient air, in order to secure an environment that is not harmful to the health or well-being of people,

Act No. 39,2004

NATIONAL ENVIRONMENT MANAGEMENT  
AIR QUALITY ACT, 2004

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa,  
as follows: —

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**SCHEDULE 1****SCHEDULE 2****CHAPTER 1****INTERPRETATION AND FUNDAMENTAL PRINCIPLES****Definitions** 25

1. (1) In this Act, unless the context indicates otherwise —
  - “**air pollution**” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;
  - “**air quality management plan**” means a plan referred to in section 15; 30
  - “**air quality officer**” means an officer appointed in terms of section 14 as an air quality officer;
  - “**ambient air**” excludes air regulated by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
  - “**atmospheric emission**” or “**emission**” means any emission or entrainment 35
  - process emanating from a point, non-point or mobile source that results in air pollution;
  - “**atmospheric emission licence**” means an atmospheric emission licence contemplated in Chapter 5;
  - “**Atmospheric Pollution Prevention Act**” means the Atmospheric Pollution 40
  - Prevention Act, 1965 (Act No. 45 of 1965);
  - “**controlled emitter**” means any appliance or activity declared as a controlled emitter in terms of section 23;
  - “**Department**” means the Department of Environmental Affairs and Tourism;
  - “**environment**” has the meaning assigned to it section 1 of the National 45
  - Environmental Management Act;
  - “**Environment Conservation Act**” means the Environment Conservation Act, 1989 (Act No. 73 of 1989);
  - “**Gazette**” when used in relation to—