

REPUBLIC OF SOUTH AFRICA

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**SELECT COMMITTEE AMENDMENTS  
TO  
NATIONAL ENVIRONMENTAL  
MANAGEMENT LAWS  
AMENDMENT BILL**

**[B 14D—2020]**

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*(As agreed to by the Select Committee on Land Reform, Environment, Mineral and  
Energy (National Assembly))*

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**[B 14E—2017]**

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# PROPOSED SELECT COMMITTEE AMENDMENTS TO

## NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT BILL

[B 14D—2020]

### CLAUSE 1

1. On page 5, in line 10, after “audit” to insert “when used in sections 24P and 24PA,”.
2. On page 5, from lines 12 to 15, to omit “undertaking progressive rehabilitation, decommissioning, closure and post closure activities for listed and specified activities, including the pumping and treatment of extraneous and polluted water, where relevant” and to substitute “financial provision, as prescribed”.
3. On page 5, from line 27, to omit the definition of ‘environmental management instrument’ and to substitute the following definition:

“ ‘**environmental management instrument**’ means—

- (i) environmental management framework;
- (ii) strategic environmental assessment;
- (iii) spatial tool;
- (iv) environmental management programme;
- (v) environmental risk assessment;
- (vi) environmental feasibility assessment;
- (vii) norm or standard;
- (viii) minimum information requirements; or
- (ix) any other relevant environmental management instrument, as may be developed in time;”.

4. On page 5, from line 45, to omit the definition of “financial provision” and to substitute the following definition:

“ ‘**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;”.

5. On page 5, after line 52, to insert the following paragraph:

“(g) by the insertion after the definition of “holder of an old order right” of the following definition:

“ ‘**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);”.

6. On page 6, from line 3, to omit the definition of “latent environmental impacts” and to substitute with the following definition:
 

“ ‘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;”.
7. On page 6, after line 4, to insert the following paragraph:
 

“(i) by the insertion after the definition of ‘Mineral and Petroleum Resources Development Act, 2002’ of the following definition:  
     “ ‘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;”.
8. On page 6, in line 18, after “mitigate” to insert “when used in sections 24P and 24PA,”.
9. On page 6, in line 20, after “rehabilitate” to insert “when used in sections 24P and 24PA,”.
10. On page 6, from line 21, to omit the definitions of “remediate” and “residual environmental impacts”.

## CLAUSE 2

1. On page 6, from line 30, to omit paragraph (qA) and to substitute 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.”.

## CLAUSE 3

1. On page 6, from line 38, to omit paragraph (a) and to substitute the following paragraph:
 

“(a) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs:  
     “(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;  
     (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;”.

2. On page 7, from line 1, to omit paragraph (c) and to substitute the following paragraph:

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

“(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;**
- (v) **environmental risk assessments;**
- (vi) **environmental feasibility assessments;**
- (vii) **norms or standards;**
- (viii) **spatial development tools;**
- (viiiA) **minimum information requirements; or**
- (ix) **any other relevant environmental management instrument that may be developed in time];”.**

#### CLAUSE 4

1. On page 7, from line 16, to omit paragraph (a) and to substitute the following paragraph:

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

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

- (a) **prospecting or exploration of a mineral or petroleum resource; or**
- (b) **extraction and primary processing of a mineral or petroleum resource]** a mining activity.”;

2. On page 7, from line 30, to omit paragraph (c) and to substitute the following paragraph:

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

“(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.”.

3. On page 7, from line 41, to omit subsection (12) and to substitute the following subsection:

“(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.”.

## CLAUSE 5

1. On page 8, from line 5, to omit paragraphs (a) and (b) and to substitute the following paragraphs:

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

“(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—

(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),

the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be[,];—

(aa) **[may]** must direct the applicant to—

[(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;

[(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;

[(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

[(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;