

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**NATIONAL ENVIRONMENTAL  
LAWS AMENDMENT BILL**

**[B 14B—2017]**

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*(As agreed to by the Portfolio Committee on Environmental Affairs  
(National Assembly))*

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**[B 14C—2017]**

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## AMENDMENTS AGREED TO

### NATIONAL ENVIRONMENTAL LAWS AMENDMENT BILL

[B 14B—2017]

#### CLAUSE 3

1. On page 6, in line 31, to omit “(5)”, and to substitute “(5)(bA)”.
2. On page 6, in line 31, to omit “paragraph (bA)”, and to substitute “subparagraph (i)”.

#### CLAUSE 4

1. On page 7 in line 14, to omit “extractions”, and to substitute “extraction”.

#### CLAUSE 5

1. Clause rejected.

#### NEW CLAUSE

#### **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**

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:

“(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);

(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;
- [(vii)](G) 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;
  - [(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;
  - [(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; and
  - [(ee)](EE) compile an environmental management programme; [or] and
  - (F) undertake public participation as prescribed; and
- [(viii)](bb) may direct the applicant 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.”;
- (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).”.

#### CLAUSE 17

1. On page 13, from line 51, to omit paragraph (e) and to substitute the following paragraph:
  - (e) 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.”.

2. On page 14, from line 5, to omit paragraph (f).
3. On page 14, from line 9, to omit paragraph (g) and to substitute the following paragraph:

“(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—”.

#### CLAUSE 34

1. Clause rejected.

#### NEW CLAUSE

1. That the following be a new clause.

**34.** 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, 1998 (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.”.

#### CLAUSE 38

1. Clause rejected.

#### NEW CLAUSE

1. That the following be a new clause:

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

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

- (a) by the substitution in subsection (8) 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), (3) and (4) of the following subsections:  
 “(2) The Minister, after consultation with the Cabinet member responsible for mineral resources **[and energy affairs]**, 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 resources **[and energy affairs]**, 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