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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.

IHHOVISI LIKAMONGAMELI

Ino. 163 24 February 2005

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 39 Ka 2004: UkuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, 2004.

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

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,

*(English text signed by the President.)
(Assented to 19 February 2004.)*

UMTHETHO

Ukubuyekeza umthetho olawula iqophelo lomoya ngenhloso yokuvikela, yokuvuselela nokwenza ngcono iqophelo lomoya eNingizimu Afrika, ukwenza konke lokhu ngokubhekela isidingo sentuthuko emileyo; ukuhlinzekela inkambiso kazwelonke namazinga alawula ukuqashelwa kwamaqophelo omoya, ukuphatha nokulawula okwenzeka kuzo zonke izinhlobo zikahulumeni; inkambiso yemizamo ethile yamaqophelo omoya; nokubhekela zonke izinto ezithintekayo ngalolu daba.

ISANDULELO

NANJENGoba iqophelo lomoya okhona ezindaweni eziningi zaseRiphabhuliki lingenamthelela omuhle kulezo zindawo ezihlala abantu, kungasakhulunywa ngokukhuthaza inqubekela phambili yabo yezenhloso kahle neyomnotho;

Nanjengoba futhi umthetho onzima wezempilo ohambisana nomoya okhona onokubezekile uthinta kakhulu abantu abampofu;

Nanjengoba futhi ukunokubezeka komoya kubiza kakhulu ngokwenhlalakahle, ngokomnotho nangokwendawo esihlala kuyo okungavamile ukuthi kumelwe abanokubeki bomoya;

Nanjengoba futhi ukukhiqiza isisi emoyeni okunciphisa okutholakala kwi-ozone, isisi esakheka ngenxa yokushisa kwelanga emoyeni, nokunye okwakhekayo kunomthelela olimazayo kwimvelo ezweni nasemhlabeni jikelele;

Nanjengoba futhi wonke umuntu enelungelo lokuhlala endaweni engenabungozi empilweni nasekuphileni kahle kwabo;

Nanjengoba futhi wonke umuntu enelungelo lokuthi kuvikelwe indawo yokuhlala, ukuze kusizakale izizukulwane zamanje nezakusasa, ngokuthi kushaywe imithetho nezinye izinyathelo—

(a) ezivikela ukunokubezwa komoya nokonakalisa imvelo;

(b) ezikhuthaza ukulondoloza; kanye

(c) nokugcina ukuthuthukisa kokuqiniswa kwemvelo nokusetshenziswa kwezinto zosizo zemvelo ngesikhathi kukhuthazwa ukuthuthukiswa ezomnotho nezenhlakahle;

Nanjengoba futhi ukunciphisa ukunokubezwa komoya ngezindlela ezinamandla zokulawula, ubuchwepheshe obuhlanzekile nezindlela zokukhiqiza ezihlanzekile ziwukhiye wokuqinisekisa ukuthi iqophelo lomoya lenziwa ngcono;

Nanjengoba futhi umthetho owengeziwe udingeka ukuqinisa amasu kaHulumeni okuvikela indawo esihlala kuyo, ikakhulukazi, ukwenziwa ngcono kweqophelo lomoya osezindaweni esihlala kuzo, ukuze kube nendawo yokuhlala engenabungozi empilweni nasekuphileni kahle kwabantu,

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

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UKUPHATHWA KWEZEMVELO KAZWELONKE:
UMTHETHO WEZINGA LOMOYA, 2004

Act No. 39, 2004

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CHAPTER 1

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

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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 process emanating from a point, non-point or mobile source that results in air pollution; 35
 - “**atmospheric emission licence**” means an atmospheric emission licence contemplated in Chapter 5;
 - “**Atmospheric Pollution Prevention Act**” means the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965); 40
 - “**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 Environmental Management Act; 45
 - “**Environment Conservation Act**” means the Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - “**Gazette**” when used in relation to—

UKUPHATHWA KWEZEMVELO KAZWELONKE:
UMTHETHO WEZINGA LOMOYA, 2004

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1. (1) Kulo Mthetho, ngaphandle kokuba ingqikithi ichaze ngenye indlela—
- “**ukunukubezeka komoya**” kuchaza izinguquko kwingxube yomoya emkhathini, ikakhulu ngenxa yentuthu, insizi, izintuli (kuhlangene nomlotha ophephethekayo, izinhlayiya ezisamatshe zanoma hlobo luni, isisi, izici ezinephunga nalezo ezikhqiizwa emalabholethi; 30
- “**uhlelo lokusingatha iqophelo lomoya**” lusho uhlelo oluchazwe kwisigaba 15;
- “**uMthetho Onqanda Ukunukutshezwa Komoya**” uchaza Umthetho ovimbela ukunukutshezwa Komkhathi we-1965 (Umthetho wa- 45 we- 1965);
- “**isisi esikhqiizwa emoyeni**” sichaza noma yiluphi uhlobo lwesisi noma inqubo ebandakanya umkhqiizo osuka endaweni ethile eqondakalayo noma engaqondakali eguqula isimo sendalo yomoya wemvelo; 35
- “**imvume yokukhiqiza isisi emoyeni**” kuchaza imvume yokukhiqiza isisi emoyeni eqondwe eSahlukweni 5,
- i-“**Atmospheric Pollution Prevention Act**” kusho i-Atmospheric Pollution Act, 1965 (Umthetho No. 45 ka 1965); 40
- “**isiphathimandla sezinga lomoya**” sichaza isisebenzi esiqashwe ngaphansi kwesigaba- 14;
- “**isikhqiizi-sisi esilawulwayo**” sichaza noma yiluphi uhlobo noma isenzo esihlonzwe njengomkhqiizi-sisi olawulwayo ngokulandisa kwesigaba- 23;
- “**Umnyango**” uchaza Umnyango Wezemvelo Nokuvakasha; 45
- “**imvelo**” inencazelo ebekwe ngaphansi kwesigaba- 1 soMthetho kaZwelonke Wokuphathwa KweMvelo;
- “**uMthetho Wokongiwa KweMvelo**” kusho uMthetho Wokongiwa KweMvelo, 1989 (uMthetho No. 73 ka 1989);

- (a) the Minister, means the *Government Gazette*; and
- (b) the MEC, means the *Provincial Gazette* of the province concerned;
- “greenhouse gas”** means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation, and includes carbon dioxide, methane and nitrous oxide; 5
- “licensing authority”** means an authority referred to in section 36(1), (2), (3) or (4) responsible for implementing the licensing system set out in Chapter 5;
- “listed activity”** means any activity listed in terms of section 21;
- “MEC”** means the member of the Executive Council of a province who is responsible for air quality management in the province; 10
- “Minister”** means the Minister of Environmental Affairs and Tourism;
- “mobile source”** means a single identifiable source of atmospheric emission which does not emanate from a fixed location;
- “municipality”** means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 15
- “Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- “National Environmental Management Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- “national framework”** means the framework established in terms of section 7(1); 20
- “non-point source”** means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location, and includes veld, forest and open fires, mining activities, agricultural activities and stockpiles;
- “offensive odour”** means any smell which is considered to be malodorous or a nuisance to a reasonable person; 25
- “organ of state”** has the meaning assigned to it in section 239 of the Constitution;
- “ozone-depleting substance”** means a substance having chemical or physical properties which, by its release into the atmosphere, can cause a depletion of the stratospheric ozone layer; 30
- “point source”** means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;
- “pollution”** has the meaning assigned to it in section 1 of the National Environmental Management Act;
- “priority area”** means an area declared as such in terms of section 18; 35
- “priority area air quality management plan”** means a plan referred to in section 19;
- “provisional atmospheric emission licence”** means a provisional atmospheric emission licence contemplated in Chapter 5;
- “this Act”** includes— 40
- (a) the national framework;
- (b) any regulation made in terms of this Act; and
- (c) any other subordinate legislation issued in terms of this Act.

(2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended. 45

Object of Act

2. The object of this Act is—

- (a) to protect the environment by providing reasonable measures for— 50
- (i) the protection and enhancement of the quality of air in the Republic;
- (ii) the prevention of air pollution and ecological degradation; and
- (iii) securing ecologically sustainable development while promoting justifiable economic and social development; and
- (b) generally to give effect to section 24(b) of the Constitution in order to enhance the quality of ambient air for the sake of securing an environment that is not harmful to the health and well-being of people. 55

i-“**Environment Conservation Act**” kusho i-Environment Conservation Act, 1989 (Umthetho No. 73 ka 1989);

“**iGazethe**”, uma isetshenziswa mayelana—

- (a) noNgqongqoshe kaZwelonke, ichaza *iGazethe* kaHulumeni; no
(b) noNgqongqoshe wesiFundazwe ongamele iqophelo lomoya, ichaza *iGazethe* yesiFundazwe; 5

“**isisi sohlaza**” sichaza ingxube yesisi esitholakala emoyeni, kungaba esendalo noma esikhiqizwayo, esimunca futhi sikhiqize ingxube evela elabholethi nesixuba umoya ophefumulwayo;

“**umkhandlu wezimvume**” uchaza isikhungo esilawula ukukhishwa nokusebenza kohlelo lwemvume echazwe eSahlukweni- 5;

“**isenzo esisohlwini**” sichaza noma yisiphi isenzo esibhaliswe ngaphansi kwesigaba- 21;

“**uNgqongqoshe wesiFundazwe ongamele iqophelo lomoya**” uchaza ilunga loMkhandlu Ophakeme esiFundazweni olawula ukuphatha iqophelo lomoya esifundazweni; 15

“**uNgqongqoshe**” uchaza uNgqongqoshe kaZwelonke Wezemvelo Nokuvakasha;

“**umnyombo obonakalayo wesisi esingasuki endaweni ethile**” usho umnyombo owodwa obonakalayo wesisi esikhiqizwa emoyeni ongasuki endaweni engaguquki;

“**Umasipala**” uchaza umkhandlu obunjwe ngaphansi koMthetho Wezakhiwo zoMasipala koHulumeni baseKhaya we- 1998 (Umthetho we- 117 we- 1998); 20

“**Umthetho Wezinhlelo zoMasipala**” uchaza uMthetho Wezinhlelo zoMasipala woHulumeni baseKhaya we- 2000 (Umthetho wa- 32 we- 2000);

“**Umthetho kaZwelonke Wokuphatha Kwemvelo**” uchaza Umthetho kaZwelonke Wokugcinwa Kwemvelo we- 1998 (Umthetho we-107 we- 1998); 25

“**uhlaka lukazwelonke**” uchaza uhlaka okufanele lubunjwe ngokulandisa kwesigaba- 7(1);

“**umsuka ongaqondakali**” uchaza indawo okungelula ukuyichaza njengendawo okudabuka kuyo ngempela isisi esikhiqizelwa emoyeni, neholela kumonakalo odalekayo, lokhu kuhlenganisa imililo yasendle nasehlathini, izenzo zasemayini, izenzo zokutshala nenqumbi yempahla; 30

“**iphunga elibi**” lisho yinoma yiliphi iphunga elithathwa njengelinuka kabi noma eliyinkathazo kumuntu oqondekayo;

“**izinhlayiya eziguguda umhlabathi**” zichaza izici ezinobuthi noma izinhlansi eziphathekayo okuthi lapho zifazeka emkathini, zidale ukuguguleka koqweqwe lomhlaba; 35

“**umsuka womonakalo**” sichaza indawo ewumsuka wesisi esinukubeza umoya, sihlenganisa inqumbi yentuthu nomoya okhiqizwa yizimoto; noshemula bemizi,

“**ukunukubezeka komoya**” kunencazelo eshiwo esigabeni- 1 sokuPhathwa Kwemvelo kaZwelonke; 40

“**indawo enesidingo esiphuthumayo**” isho indawo ebekwe kanjalo njengokwesigaba 18,

“**uhlelo lokuphatha iqophelo lomoya endaweni enesidingo esiphuthumayo**”, luchaza uhlelo olubhekiswe kwisigaba 19,

“**imvume yokukhiqiza isisi emoyeni yesikhashana**” ichaza imvume yoku- khqiza isisi emoyeni yesikhashana eqondwe eSahlukweni 5 45

“**lo Mthetho**” uhlanganisa—

- (a) uhlaka lukazwelonke;
(b) noma yimuphi umgomo oshaywe ngaphansi kwalo Mthetho; kanye
(c) neminye emincane eshaywe ngaphansi kwalo Mthetho. 50

(2) Kulo Mthetho, igama noma isisho esithathelwe egameni noma kwisisho esichazwe esigatshaneni -(1) linencazelo efanayo ngaphandle kokuba indikimba ikhombe ukuthi kuqondwe incazelo ehlukile.

Inhloso yaloMthetho

2. Inhloso yalo Mthetho— 55

(a) ukuvikela indawo yokuhlala ngokuhlinzeka izinyathelo—

- (i) zokuvikela nokwenzangcono izinga lomoya eRiphabhuliki;
(ii) ukuvikela ukunukubezwa komoya nokonakaliswa kwemvelo;
(iii) nokuthola ukuthi kuthuthukiswe ukuqiniswa kwemvelo ngesikhathi kukhuthazwa ukuthuthukiswa ezomnotho nezenhlalakahle; 60

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AIR QUALITY ACT, 2004****General duty of State**

- 3.** In fulfilling the rights contained in section 24 of the Constitution, the State —
- (a) through the organs of state applying this Act, must seek to protect and enhance the quality of air in the Republic; and
 - (b) must apply this Act in a manner that will achieve the progressive realisation of those rights. 5

Application of Act

- 4.** (1) This Act also applies to the exclusive economic zone and continental shelf of the Republic referred to in sections 7 and 8, respectively, of the Maritime Zones Act, 1994 (Act No. 15 of 1994). 10
- (2) This Act binds all organs of state—
- (a) in the national and local spheres of government; and
 - (b) in the provincial sphere of government, subject to section 146 of the Constitution.

Application of National Environmental Management Act 15

- 5.** (1) This Act must be read with any applicable provisions of the National Environmental Management Act.
- (2) The interpretation and application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act. 20

Conflicts with other legislation

- 6.** (1) In the event of any conflict between a section of this Act and—
- (a) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution;
 - (b) a municipal by-law, the section of this Act prevails. 25
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and—
- (a) an Act of Parliament, the Act of Parliament prevails;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and 30
 - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval. 35

CHAPTER 2**NATIONAL FRAMEWORK AND NATIONAL, PROVINCIAL AND LOCAL STANDARDS*****Part 1: National framework*****Establishment 40**

- 7.** (1) The Minister must, within two years of the date on which this section took effect, by notice in the *Gazette*, establish a national framework for achieving the object of this Act, which must include—
- (a) mechanisms, systems and procedures to attain compliance with ambient air quality standards; 45
 - (b) mechanisms, systems and procedures to give effect to the Republic's obligations in terms of international agreements;
 - (c) national norms and standards for the control of emissions from point and non-point sources;
 - (d) national norms and standards for air quality monitoring; 50
 - (e) national norms and standards for air quality management planning;

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- (b) ukwenza isahluko 24(b) soMthethosisekelo sisebenze ukuze kwenzeke ngcono umoya osendaweni yokuhlala ukuze kube nendawo yokuhlala engenabungozi empilweni nasekuphileni kahle kwabantu.

Umsebenzi ovamile kaHulumeni

3. Ukufeza amalungelo aqukethwe esigabeni -24 soMthethosisekelo— 5
(a) ngokusebenzisa izinhloko zikahulumeni eziqhuba lo Mthetho, uhulumeni kufanele avikele, avuselele futhi enze ngcono iqophelo lomoya eNingizimu Afrika; noma
(b) uhulumeni kufanele aqhube umsebenzi walo Mthetho ukuze azuze impumelelo yalawo malungelo. 10

Ukusebenza kwalo Mthetho

4. (1) (a) Lo Mthetho usebenza eNingizimu Afrika, kuhlangene nemifula yezwe, ngaphandle kwezifunda zezomnotho nemingcele echazwe nguMthetho Wemingcele Yombutho Wasemanzini we- 1994 (Umthetho we-15 we- 1994);
(2) Lo Mthetho ubophezela zonke izinhloko zikahulumeni— 15
(a) emkhakheni kahulumeni kazwelonke nasekhaya; kanye
(b) nasemkhakheni kahulumeni wesifundazwe, ngokulandisa kwesigaba- 146 soMthethosisekelo.

Ukusebenza koMthetho kaZwelonke Wokuphathwa Kwemvelo

5. (1) Lo Mthetho kufanele ufundwe ngokuhlanganyela nemibandela yoMthetho 20 kaZwelonke Wokuphathwa Kwemvelo.
(2) Kuhunyushwe futhi kusetshenziswe ngokuhambisana nenkambiso enqunywe esigabeni- 2 salo Mthetho.

Ukushayisana neminye imithetho

6. (1) Uma kungenzeka kube khona ukushayisana phakathi kwesigaba esithile salo 25 Mthetho no—
(a) mthetho wesifundazwe, lokho kushayisana kumele kuxazululwe ngokuhambisana nesigaba 146 soMthethosisekelo
(b) umthetho oshaywe ngumasipala, isigaba salo Mthetho yiso esiyolandelwa.
(2) Uma kungaba khona ukushayisana phakathi komtheshwana osuselwa kulo Mthetho 30 no:
(a) mthemtho oshaywe yiPhalamende, Umthetho oshaywe yiPhalamende yiwo oyolandelwa,
(b) umthetho oshaywe yisifundazwe, ukushayisana kumele kuxazululwe ngokwesigaba 146 soMthethosisekelo; 35
(c) umthetho oshaywe ngumasipala umtheshwana ongaphansi kwalo Mthetho yiwo oyolandelwe
(3) Ukuze isigatshana sisebenze, 2(b) uNgqongqoshe kumele ngokulandela isigaba 146(b) soMthethosisekelo alethe yonke imithetho emincane eshaywe ngaphansi kwalona othintsha izifundazwe eMthandini kaZwelonke wezifundazwe ukuthi 40 yamukelwe, ivunywe.

ISAHLUKO 2

**UHLAKA LUKAZWELONKE NEQOPHELO LIKAZWELONKE,
EZIFUNDAZWE NAWEZINDAWO**

Ingxenye 1: Uhlaka lu kaZwelonke

45

Ukusungulwa

7. (1) Ngesaziso esikhishwe kwiGazethe, uNgqongqoshe kufanele esikhathini esingangeminyaka emibili ngosuku lapho lesi sigaba siqala ukusebenza khona asungule uhlaka lukazwelonke oluveza inkambo namazinga kazwelonke okuzuza inhloso yalo Mthetho engaxuba inkambo namazinga— 50

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- (f) national norms and standards for air quality information management; and
 - (g) any other matter which the Minister considers necessary for achieving the object of this Act.
- (2) National norms and standards established in terms of subsection (1) must be aimed at ensuring— 5
- (a) opportunities for public participation in the protection and enhancement of air quality;
 - (b) public access to air quality information;
 - (c) the prevention of air pollution and degradation of air quality;
 - (d) the reduction of discharges likely to impair air quality, including the reduction of air pollution at source; 10
 - (e) the promotion of efficient and effective air quality management;
 - (f) effective air quality monitoring;
 - (g) regular reporting on air quality; and
 - (h) compliance with the Republic's obligations in terms of international agreements. 15
- (3) The national framework—
- (a) binds all organs of state in all spheres of government; and
 - (b) may assign and delineate responsibilities for the implementation of this Act amongst— 20
 - (i) the different spheres of government; and
 - (ii) different organs of state.
- (4) An organ of state must give effect to the national framework when exercising a power or performing a duty in terms of this Act or any other legislation regulating air quality management. 25
- (5) The national framework—
- (a) may differentiate between different geographical areas;
 - (b) may provide for the phasing in of its provisions;
 - (c) may be amended; and
 - (d) must be reviewed by the Minister at intervals of not more than five years. 30
- (6) (a) Before publishing the national framework, or any amendment to the framework, the Minister must follow a consultative process in accordance with sections 56 and 57.
- (b) Paragraph (a) need not be complied with if the framework is amended in a non-substantive way. 35

National monitoring and information management standards

- 8. The national framework must establish national standards for—**
- (a) municipalities to monitor—
 - (i) ambient air quality; and
 - (ii) point, non-point and mobile source emissions; 40
 - (b) provinces to monitor—
 - (i) ambient air quality; and
 - (ii) the performance of municipalities in implementing this Act; and
 - (c) the collection and management of data necessary to assess— 45
 - (i) compliance with this Act;
 - (ii) compliance with ambient air quality and emission standards;
 - (iii) the performance of organs of state in respect of air quality management plans and priority area air quality management plans;
 - (iv) the impact of, and compliance with, air quality management plans and priority area air quality management plans; 50
 - (v) compliance with the Republic's obligations in terms of international agreements; and
 - (vi) access to information by the public.

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- (a) eqophelo lomoya wemvelo;
 (b) omkhqizo ovela emsukeni ophathekayo noma ongaphatheki;
 (c) okuqapha iqophelo lomoya;
 (d) okuhlela ukuphathwa kweqophelo lomoya;
 (e) okuphatha ulwazi lweqophelo lomoya; 5
 (f) izinqubo zikazwelonke zohlelo lokuphathwa kwezinga lomoya
 (g) nanoma yiluphi udaba uNgqongqoshe acabanga **ukuthi** ludingekile ekufinyeleleni ezinhlosweni zalo Mthetho.
- (2) Inkambo namazinga kaZwelonke ebekwe esigatshaneni -(1) kufanele iqondiswe— 10
- (a) ekuvezeni amathuba okuba umphakathi ubambe iqhaza ekuvikeleni, ekuvuseleleni nasekwenzeni ngcono iqophelo lomoya;
 (b) ekuqinisekiseni ukuthi umphakathi ukwazi ukufinyelela ezinhlelweni zolwazi ngeqophelo lomoya;
 (c) ekunqandeni ukunukutshiswa komoya nokudicileka phansi kokuhlanzeka komoya; 15
 (d) ekwehliseleni imikhqizo engase ibe yingozi ezingeni lomoya, kuhlangele nokunciphisa umkhqizo wesisi ezikhungweni eziyikhiqizayo;
 (e) ekukhuthazeni ikhono lokusingatha;
 (f) ekuqapheleni ngendlela efanele; 20
 (g) ekubikeni ngezinga leqophelo lomoya;
 (h) ekuhambisaneni nezibophezelo zeRephabhuliki ngokulandisa kwezivumelwane zamazwe omhlaba.
- (3) Uhlaka lukazwelonke—
- (a) lubopha ndawonye zonke izinhlaka zikahulumeni zeRephabhulik; 25
 (b) lungaba, lusabalalise izibophezelo zokuqhuba lo Mthetho—
 (i) emikhakheni ehlukeni kahulumeni;
 (ii) ezinhlakeni ezehlukene zikahulumeni;
- (4) Inhlango kaHulumeni kumele ilandele uhlelo lukazwelonke uma isebenzisa amandla ayo noma yenza umsebenzi ngokwalo Mthetho noma omunye umthetho oqondisa ukuphathwa kweqophelo lomoya. 30
- (5) Uhlaka lukazwelonke—
- (a) lungehlukanisa phakathi kwezindawana ezahlukene ezisezindaweni ezahlukene;
 (b) lungahlinzekela ukuqala kokusebenza kwezihlinzeko zalo; 35
 (c) lungachibiyelwa;
 (d) lumele ukubuyekizwa ngoNgqongqoshe ngezikhawu ezingedluli eminyakeni emihlanu.
- (6) Ngaphambi kokushicilela uhlaka lukazwelonke noma yiluphi uguquko ohlakeni, uNgqongqoshe kufanele alandele inqubo yokubonisana ehambisana nezigaba- 56 ne- 57. 40
- (b) Isigatshana -(a) asidingi ukusetshenziswa lapho kunoguquko oluncane ohlakeni.

Amazinga kaZwelonke Okuqapha nokuphatha ulwazi

8. Uhlaka lukazwelonke lungasungula amazinga kazwelonke—
- (a) olungaqashwa ngomasipala— 45
 (i) maqondana neqophelo lomoya osizungezile;
 (ii) ngemikhqizo evela emsukeni othile oqondakalayo noma ongaqondakali kanye nezisi ezikhishwa yizinto ezihambayo;
- (b) olungaqashwa yizifundazwe—
 (i) maqondana nemvelo; 50
 (ii) maqondana nomsebenzi oqhutshwa ngomasipala mayelana nokulandela lo Mthetho.
- (c) ukuqoqa nokuphatha imininingwane efanele ukuhlaziya—
 (i) ukuhambisana nalo Mthetho;
 (ii) ukuhambisana ozungezile kanye nezinga lomkhqizo wesisi emkhathini; 55
 (iii) igalelo lezinhlaka zikahulumeni maqondana namasu okuphatha namasu okuphatha alezo zinto ezinesidingo esiphuthumayo
 (iv) umthelela nokuhambisana namasu okuphatha kanjalo namasu okuphatha alezo zinto ezinesidingo esiphuthumayo;

Part 2: National, provincial and local ambient air quality and emission standards**National standards**

9. (1) The Minister, by notice in the *Gazette*—

- (a) must identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment or which the Minister reasonably believes present such a threat; and 5
- (b) must, in respect of each of those substances or mixtures of substances, establish national standards for ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; and 10
- (c) may, in respect of each of those substances or mixtures of substances, establish national standards for emissions from point, non-point or mobile sources.

(2) Section 7(3)(a), (4), (5) and (6), with the necessary changes as the context may require, apply to a notice published in terms of this section. 15

Provincial standards

10. (1) The MEC may, by notice in the *Gazette*—

- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the province or which the MEC reasonably believes present such a threat; and 20
- (b) in respect of each of those substances or mixtures of substances, establish provincial standards for—
 - (i) ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; or 25
 - (ii) emissions from point, non-point or mobile sources in the province or in any geographical area within the province.

(2) If national standards have been established in terms of section 9 for any particular substance or mixture of substances, the MEC may not alter any such national standards except by establishing stricter standards for the province or for any geographical area within the province. 30

(3) A notice issued under this section may—

- (a) differentiate between different geographical areas within the province;
- (b) provide for the phasing in of its provisions; and 35
- (c) be amended.

(4) (a) Before publishing a notice in terms of this section, or any amendment to the notice, the MEC must follow a consultative process in accordance with sections 56 and 57.

(b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive way. 40

Local standards

11. (1) A municipality may in terms of a by-law—

- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the municipality or which the municipality reasonably believes present such a threat; and 45
- (b) in respect of each of those substances or mixtures of substances, establish local standards for emissions from point, non-point or mobile sources in the municipality. 50

(2) If national or provincial standards have been established in terms of section 9 or 10 for any particular substance or mixture of substances, a municipality may not alter any such national or provincial standards except by establishing stricter standards for the municipality or any part of the municipality.

(3) A notice issued under this section may— 55

- (a) provide for the phasing in of its provisions; and
- (b) be amended.

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- (v) ukuhambisana nezibophezelo zaseNingizimu Afrika ngokulandisa kwezivumelwane zomhlaba jikelele;
- (vi) ukukwazi komphakathi ukuthola ulwazi oludingayo.

Ingxenywe 2: Amazinga kazwelonke esifundazwe nawendawo ezinga lomoya wemvelo nesisi esikhiqizwa emoyeni

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Amazinga kaZwelonke

9. (1) Ngokukhipha isaziso *kwiGazette*, uNgqongqoshe wesiFundazwe ongamele iqophelo lomoya—

- (a) kumele ahlangoze izici noma ingxube yezici ezitholakala emoyeni, amangcozu ayingxenywe yesici, amakhemikhali asemalabholetshi, okuchithiwe lokho okubonakala njengamanje noma esikhathini esizayo kunomthelela wobungozi empilweni noma kwimvelo endaweni; noma lokho uNgqongqoshe akholwa ikuthi kukhombisa ukuba yingozi; 10
 - (b) kufanele, ngokwalokho okunukubeza umoya ngakunye noma ingxube yakho, kumiswe imigomo kazwelonke yezinga lomoya osendaweni yokuhlala, kuhlanganisa nenani elivumelekile noma ukujiya kwalokho okunukubeza umoya ngakunye okunjalo noma ingxube yakho emoyeni osendaweni yokuhlala; ngokwalokho okunukubeza umoya ngakunye noma ingxube yakho; noma 15
 - (c) kumiswe imigomo kazwelonke yesisi esikhiqizwa emoyeni kusuka endaweni ebonakalayo, endaweni engabonakali noma ezintweni ezihambayo. 20
- (2) Isigaba 7(3)(a), (4), (5) and (6), nezichibiyelo ezifanele ngokuhambisana nokukukethwe, zisebenza kwisaziso esishicilelwe ngokwalesigaba.

Amazinga esifundazwe

10. (1) Ngokulandisa ngokunika isaziso *kwiGazette*, uNgqongqoshe wesifundazwe:— 25

- (a) angahlonza izici noma ingxube yezici ezitholakala emoyeni, amangcozu ayingxenywe yesici, amakhemikhali asemalabholetshi, okuchithiwe noma lokho okubonakalayo njengamanje noma esikhathini esizayo kunomthelela wobungozi empilweni noma kwimvelo yomasipala; noma lokho uNgqongqoshe akholwa ukuthi kukhombisa ukuba yingozi. 30
 - (b) angasungula amazinga esifundazwe aqondene nemikhiqizo yesisi esuka endaweni eyaziwayo noma engaziwa kumasipala, ngesici ngasinye noma ngengxube yazo.
- (2) Uma amazinga kazwelonke noma esifundazwe esungulwe ngaphansi kwesigaba-9 ngesici esithile noma ngengxube yezici, umasipala ngeke akwazi ukuguqula lawo mazinga kazwelonke noma esifundazwe ngaphandle kokusungula amazinga aqine kakhulu omasipala. 35
- (3) Isaziso esikhishwe ngaphansi kwalesi sigaba—
- (a) singehlukanisa phakathi kwezindawo ezehlukene esifundazweni; 40
 - (b) singahlinzeka ukufakwa kwezibonelelo zaso; nokuthi
 - (c) sichibiyelwa.
- (4) Ngaphambi kokushicilela isaziso ngaphansi kwalesigaba, noma yisiphi isishicilelo kwisaziso, uNgqongqoshe kumele alandele inqubo yokubonisana ehambisana nezigaba 53 no 54. 45
- (b) Isigatshana (a) asidingi ukusetshenziswa lapho kunoguquko oluncane ohlakeni.

Amazinga aseKhaya

11. (1) Umasipala ngokomthetho—

- (a) angabona okukhiqizwayo noma ingxube yakho emoyeni, okuthi ngokujiya kokungcola okuya emoyeni, ukunqwabelana kwamakhemikhali anobuthi, izinsalela noma yingayiphi indlela, kukhombise ukuba yingozi empilweni, ekuphileni kahle noma imvelo kumasipala, noma lokho uNgqongqoshe akholwa ukuthi kukhombisa ukuba yingozi; noma 50

(4) Before a municipality passes a by-law referred to in subsection (1), it must follow a consultative process in terms of Chapter 4 of the Municipal Systems Act.

Part 3: General

Ambient air quality and emission measurements

12. For the purpose of this Chapter, the Minister must prescribe the manner in which— 5

- (a) ambient air quality measurements must be carried out;
- (b) measurements of emissions from point, non-point or mobile sources must be carried out; and
- (c) the form in which such measurements must be reported and the organs of state to whom such measurements must be reported. 10

CHAPTER 3

INSTITUTIONAL AND PLANNING MATTERS

National Air Quality Advisory Committee

13. (1) The Minister may establish a National Air Quality Advisory Committee as a subcommittee of the National Environmental Advisory Forum, established in terms of the National Environmental Management Act, to advise the Minister on the implementation of this Act. 15

(2) When establishing the Committee, the Minister—

- (a) must determine the composition of the Committee, including the appointment, tenure and termination of service of members of the Committee; 20
- (b) must determine the conditions of appointment of members of the Committee;
- (c) must determine the functions and functioning of the Committee; and
- (d) may determine any other matter relating to the Committee. 25

Appointment of air quality officers

14. (1) The Minister must designate an officer in the Department as the national air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the national government.

(2) The MEC must designate an officer in the provincial administration as the provincial air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the province. 30

(3) Each municipality must designate an air quality officer from its administration to be responsible for co-ordinating matters pertaining to air quality management in the municipality.

(4) (a) An air quality officer must perform the duties or exercise the powers assigned or delegated to that officer in terms of this Act. 35

(b) An air quality officer may delegate a power or assign a duty to an official in the service of that officer's administration, subject to such limitations or conditions as may be prescribed by the Minister.

(5) Air quality officers must co-ordinate their activities in such a manner as may be set out in the national framework or prescribed by the Minister. 40

Air quality management plans

15. (1) Each national department or province responsible for preparing an environmental implementation plan or environmental management plan in terms of Chapter 3 of the National Environmental Management Act must include in that plan an air quality management plan. 45

(2) Each municipality must include in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act, an air quality management plan.

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- (b) ngokwalokho okunukubeza umoya ngakunye noma ingxube yakho, kumiswe imigomo kazwelonke, kumiswe imigomo kazwelonke yesisi esikhiqizwa emoyeni kusuka endaweni ebonakalayo, endaweni engabonakali noma ezintweni ezihambayo. 5
- (2) Uma imigomo kazwelonke noma yezifundawe isamisiwe ngokwesigaba 9 noma 10 yanoma yikuphi okukhiqizwayo noma ingxube yakho, umasipala akanakushintsha imigomo enjalo kazwelonke noma yezifundazwe ngaphandle uma kuzomiswa imigomo enemithetho eqinile kamasipala noma iyiphi ingxenye kamasipala
- (3) Isaziso esikhishwe ngaphansi kwalesi sigaba— 10
- (a) singahlinzeka ngokufakwa kwezibonelelo zazo;
- (b) zichibiyelwe
- (4) Ngaphambi kokuthi umasipala aphasis umthetho okukhonjwe kuwo esigatshaneni (1), kufanele ulandele inqubo yokubonisana ngokweSahluko 4 soMthetho woHlelo lukaMasipala.

Ingxenye 3: Okuvamile

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Iqophelo lomoya ozungezile nesikali somoya wemvelo

12. (1) Ngenhloso yalesi Sahluko, uNgqongqoshe kufanele anqume indlela—
- (a) okuyokalwa ngayo iqophelo lomoya ozungezile;
- (b) okuyokalwa ngayo isisi esikhiqizwe yindawo ngayinye eqondakalayo noma engaqondakali; noma 20
- (c) indlela okufanele lezozilinganiso zibikwe ngayo kanye nezinhloko zika-hulumeni okufanele kubikwe kuzo.

ISAPHLUKO 3**IZINDABA ZESIKHUNGO NEZOKUHELELA****Ikomidi likazwelonke lokuphatha Iqophelo Lomoya**

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13. (1) UNgqongqoshe angasungula Ikomidi likaZwelonke Lokweluleka Ngeqophelo lomoya eliyoluleka uNgqongqoshe ngokusebenza kwalo Mthetho.
- (2) Uma kusungulwa Ikomidi, uNgqongqoshe kufanele akhombwe:
- (a) ukubumbeka KweKomidi, kuhlangele nokuqashwa, ubude besikhathi nokuqedwa kobulungu eKomidini; 30
- (b) izimo zokuqokwa kwamalunga eKomidi;
- (c) imisebenzi nokusebenza kweKomidi; noma
- (d) noma yiluphi udaba oluphathelele neKomidi.

Ukuqokwa kweziphathimandla zeqophelo lomoya

14. (1) UNgqongqoshe kufanele akhethe isiphathimandla eMnyangweni esiyoba yisisebenzi sikazwelonke seqophelo lomoya lapho siyoxhumanisa khona izindaba eziqondene nokuphatha iqophelo lomoya kuhulumeni kazwelonke. 35
- (2) UNgqongqoshe wesiFundazwe ongamele esifundazweni kufanele akhethe isiphathimandla emkhandlwini wesifundazwe esiyqhuba umsebenzi nesiyoxhumanisa izindaba eziqondene nesifundazwe. 40
- (3) Umasipala ngamunye kufanele ukhethe ngaphakathi isiphathimandla sokuhlangezeka komoya esiyqhuba umsebenzi wokuxhumanisa izindaba eziqondene nokusingatha iqophelo lomoya kumasipala.
- (4) (a) Isiphathimandla somoya kufanele siqhube imisebenzi noma sisebenzise amandla agidlabezwe sona ngaphansi kwalo Mthetho. 45
- (b) Isiphathimandla seqophelo lomoya singedlulisa amandla noma umsebenzi ophawulwe esigatshaneni (4) aye kumuntu osebenza ehhovisi laleso siphathimandla, kuphela ngaphansi kwemibandela nezimo ezinqunye nguNgqongqoshe.
- (5) Iziphathimandla zokuhlangezeka komoya kufanele zixhumanise imisebenzi yazo ngendlela enganqunywa wuhlaka lukazwelonke noma nguNgqongqoshe. 50

Contents of air quality management plans

- 16.** (1) An air quality management plan must—
- (a) within the domain of the relevant national department, province or municipality, seek—
 - (i) to give effect, in respect of air quality, to Chapter 3 of the National Environmental Management Act to the extent that that Chapter is applicable to it; 5
 - (ii) to improve air quality;
 - (iii) to identify and reduce the negative impact on human health and the environment of poor air quality; 10
 - (iv) to address the effects of emissions from the use of fossil fuels in residential applications;
 - (v) to address the effects of emissions from industrial sources;
 - (vi) to address the effects of emissions from any point or non-point source of air pollution other than those contemplated in subparagraph (iii) or (iv); 15
 - (vii) to implement the Republic's obligations in respect of international agreements; and
 - (viii) to give effect to best practice in air quality management;
 - (b) describe how the relevant national department, province or municipality will give effect to its air quality management plan; and 20
 - (c) comply with such other requirements as may be prescribed by the Minister.

Reporting on implementation of air quality management plans

- 17.** The annual report which an organ of state must submit in terms of section 16(1)(b) of the National Environmental Management Act must contain information on the implementation of its air quality management plan, including information on— 25
- (a) air quality management initiatives undertaken by it during the reporting period;
 - (b) the level of its compliance with ambient air quality standards;
 - (c) measures taken by it to secure compliance with those standards;
 - (d) its compliance with any priority area air quality management plans applicable to it; and 30
 - (e) its air quality monitoring activities.

CHAPTER 4**AIR QUALITY MANAGEMENT MEASURES****Part 1: Priority areas** 35**Declaration of priority areas**

- 18.** (1) The Minister or MEC may, by notice in the *Gazette*, declare an area as a priority area if the Minister or MEC reasonably believes that—
- (a) ambient air quality standards are being, or may be, exceeded in the area, or any other situation exists which is causing, or may cause, a significant negative impact on air quality in the area; and 40
 - (b) the area requires specific air quality management action to rectify the situation.
- (2) The Minister may act under subsection (1), if— 45
- (a) the negative impact on air quality in the area—
 - (i) affects the national interest; or
 - (ii) is contributing, or is likely to contribute, to air pollution in another country;
 - (b) the area extends beyond provincial boundaries; or
 - (c) the area falls within a province and the province requests the Minister to declare the area as a priority area. 50
- (3) The MECs of two or more adjoining provinces may by joint action in terms of subsection (1) declare an area falling within those provinces as a priority area.

Amasu okuphatha iqhophelo lomoya

15. (1) Umnyango ngamunye kazwelonke noma wesifundazwe esinesibophezelo sokulungisa isu lokusebenza komthetho noma isu lokuphatha imvelo ngokulandisa kweSahluko- 3 soMthetho kaZwelonke Wokuphatha Ezemvelo kufanele ufake nje-
ngengxenye yesu, iqhinga lokuphatha iqophelo lomoya. 5

(2) Eqhingeni lentuthuko edidiyele elihlonzwe ngaphansi kwesahluko -25 soMthetho Wezinhlaka zoMasipala, umasipala ngamunye kufanele ufake isu lokusingatha iqophelo lomoya.

Okuqukethwe yisu lokuphatha iqophelo lomoya

16. Isu lokuphatha iqophelo lomoya kufanele— 10

- (a) ngokwamandla omnyango ofanele, esifundazwe noma kamasipala lihlose—
 - (i) ukwelekelela indikimba yeSahluko-3 soMthetho kaZwelonke Woku-
phathwa Kwezemvelo maqondana neqophelo lomoya;
 - (ii) ukwenza ngcono iqophelo lomoya ezweni lonke;
 - (iii) ukubona nokunciphisa umthelela omubi empilweni yomuntu 15
nasendaweni yokuhlala yezinga elibi lomoya;
 - (iv) ukubhekana nemithelela yokunukubezeka okuvela emikhiqizweni
yamafutha ezindaweni ezihlala abantu;
 - (v) ukubhekana nemithelela yesisi esisuka ezimbonini;
 - (vi) ukubhekana nemithelela yezisi ezinemisuka eqondakalayo noma 20
engaqondakali yokunukubezeka komoya ngaphandle kwaleyo oku-
khulunywe ngayo ezingatsheneni (iii) no (iv);
 - (vii) ukuqhuba izibophezelo zeNingizimu Afrika mayelana nezivumelwane
zamazwe omhlaba; noma
 - (viii) ukunika igunya lokusebenza kwemikhuba emihle yokuphatha iqophelo 25
lomoya;
- (b) lichaza indlela umnyango, isifundazwe noma umasipala eyoqhuba ngayo isu
lokuphatha iqophelo lomoya; noma
- (c) lihambisane nanoma yimuphi omunye umbandela ongase unqunywe
nguNgqongqoshe. 30

Ukubika ngomphumela wokuqhutshwa kwamasu eqophelo lomoya

17. Umbiko wonyaka okufanele wethulwe wuhlaka lukahulumeni ngokwesigaba-
16(1)(b) soMthetho kaZwelonke Wokuphatha Ezemvelo kufanele uqathe ulwazi
ngokuqhubeka kwesu leqophelo lomoya futhi kufanele uxube lemininingwane
elandelayo— 35

- (a) imizamo yokuphatha iqophelo lomoya eyenziwe kuze kube yisikhathi
sokwethula umbiko;
- (b) izinga lokuhambisana namazinga kazwelonke eqophelo lomoya;
- (c) izinyathelo ezithathiwe zokuzama ukuhambisana nalawo mazinga;
- (d) izenzo zokuthobela noma yimuphi umkhakha osemqoka kakhulu wohlelo 40
lokuphathwa kweqophelo lomoya ofunekayo; ne
- (e) imisebenzi yokuqapha iqophelo lomoya.

ISAHLUKO 4**IZINYATHELO ZOKUPHATHA IQOPHELO LOMOYA*****Ingxenye -1: Izindawo ezinesidingo esiphuthumayo***

45

Ukudalula izindawo ezinesidingo esiphuthumayo

18. (1) uNgqongqoshe kaZwelonke noma wesiFundazwe ongamele iqophelo lomoya
esifundazweni angakhipha isaziso se*Gazette*, adalule izindawo ezithile njengezi-
nesidingo esiphuthumayo uma ekholwa ukuthi—

- (a) imigomo yezinga lomoya osendaweni yokuhlala ayeqiwa, noma angeqiwa 50
endaweni, noma yisiphi esinye isimo esikhona esidala, noma esingesidala,
umthelela omubi kakhulu ezingeni lomoya endaweni;

(4) Before publishing a notice in terms of subsection (1), the Minister or the relevant MEC or MECs must follow a consultative process in accordance with sections 56 and 57.

(5) The Minister or MEC may, by notice in the *Gazette*, withdraw the declaration of an area as a priority area if the area is in compliance with ambient air quality standards for a period of at least two years. 5

Management of priority areas

19. (1) If the Minister has in terms of section 18 declared an area as a priority area, the national air quality officer must—

(a) after consulting the air quality officers of any affected province and municipality, prepare a priority area air quality management plan for the area; and 10

(b) within six months of the declaration of the area, or such longer period as the Minister may specify, submit the plan to the Minister for approval.

(2) If the MEC has in terms of section 18 declared an area as a priority area, the air quality officer of the relevant province must— 15

(a) after consulting the national air quality officer and the air quality officer of any affected municipality, prepare a priority area air quality management plan for the area; and

(b) within six months of the declaration of the area, or such longer period as the MEC may specify, submit the plan to the MEC for approval. 20

(3) If the MECs in two or more adjoining provinces have by joint action in terms of section 18 declared an area as a priority area, the air quality officers of the relevant provinces must jointly—

(a) after consulting the national air quality officer and the air quality officers of the affected municipalities, prepare a priority area air quality management plan for the area; and 25

(b) within six months of the declaration of the area, or such longer period as the relevant MECs may specify, submit the plan to the MECs for approval.

(4) Before approving a priority area air quality management plan, the Minister or the relevant MEC or MECs— 30

(a) must follow a consultative process in accordance with sections 56 and 57;

(b) may require the relevant air quality officer to amend the plan within a period determined by the Minister or the relevant MEC or MECs.

(5) (a) The Minister or the relevant MEC or MECs must publish an approved plan in the *Gazette* within 90 days of approval. 35

(b) The approved plan takes effect from the date of its publication.

(6) A priority area air quality management plan must—

(a) be aimed at co-ordinating air quality management in the area;

(b) address issues related to air quality in the area; and 40

(c) provide for the implementation of the plan by a committee representing relevant role-players.

(7) A priority area air quality management plan lapses when the declaration of the area as a priority area is withdrawn in terms of section 18(5).

Regulations for implementing and enforcing priority area air quality management plans 45

20. The Minister or MEC may prescribe regulations necessary for implementing and enforcing approved priority area air quality management plans, including—

(a) funding arrangements;

(b) measures to facilitate compliance with such plans; 50

(c) penalties for any contravention of or any failure to comply with such plans; and

(d) regular review of such plans.

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- (b) indawo idinga isenzo esithile sokuphatha ukuhlanzeka komoya ukulungisa isimo esikhona.
- (2) UNgqongqoshe angadalula indawo njengenesidingo esiphuthumayo ngaphansi kwesigatshana (1), uma—
- (a) umthelela omubi ngeqophelo lomoya kuleyo ndawo— 5
- (i) ushayisana noma ungahambisani nentshisekelo yesizwe noma;
- (ii) unegalelo noma ungase ube negalelo ekunukubezeni imvelo yakwelinye izwe;
- (b) indawo yenabela ngaphesheya komngcele wesinye isifundazwe; noma
- (c) indawo iwela ngaphansi kwesifundazwe lapho leso sifundazwe sicele khona uNgqongqoshe ukuba adalule leyo ndawo njenge nesidingo esiphuthumayo. 10
- (3) ONgqongqoshe beziFundazwe abongamele iqophelo lomoya ezifundazweni ezimbili noma ngaphezulu ezencikene bangaquma ngesikhathi esisodwa ngokwesigatshana (1), ukudalula indawo engaphansi kwalezo zifundazwe njengezindawo ezinesidingo esiphuthumayo. 15
- (4) Ngaphambi kokushicilela isaziso ngaphansi kwesigatshana -(1), uNgqongqoshe kaZwelonke noma wesiFundazwe kufanele alandela inqubo yokubonisana ehambisana nezigaba- 53 ne- 54.
- (5) UNgqongqoshe kaZwelonke noma wesiFundazwe ngesaziso kwi-Gazette, angahoxisa isimemezelelo sendawo njengendawo eqashelwe kakhulu uma indawo leyo ihambisana nemigomo yezinga lomoya osendaweni yokuhlala esikhathini okungenani esingange minyaka emibili. 20

Ukuphatha izindawo ezinesidingo esiphuthumayo

19. (1) Uma uNgqongqoshe esedalule indawo njengekleliswe phambili ngokulandisa kwesigaba 18, isiphathimandla sikazwelonke kufanele— 25
- (a) silungise isu lokuphatha laleyo ndawo mayelana neqophelo lomoya ngemuva kokubonisana neziphathimandla ezifundazweni ezithintekayo nomasipala;
- (b) zingakapheli izinyanga eziyisithupha idaluliwe indawo noma singakapheli isikhathi esivunye nguNgqongqoshe, sethule isu kuNgqongqoshe ukuze ligunyazwe. 30
- (2) Uma uNgqongqoshe wesiFundazwe ongamele iqophelo lomoya esifundazweni esedalule indawo njengekleliswe phambili ngaphansi kwesigaba- 18, isiphathimandla sokuhlanzeka komoya kuleso sifundazwe esithintekayo kufanele—
- (a) silungise isu leqophelo lomoya laleyo ndawo ngemuva kokuba selibonisene nesiphathimandla sikazwelonke kanye nesisebenzi seqophelo lomoya kumasipala othintekayo; 35
- (b) zingakapheli izinyanga eziyisithupha leyo ndawo idaluliwe noma singakapheli isikhathi esinganqunywa nguNgqongqoshe wesiFundazwe, ethule isu kuNgqongqoshe ukuze ligunyazwe.
- (3) Uma oNgqongqoshe bezifundazwe wimbili noma ngaphezulu bethathe isinyathelo behlangene ngokwesigaba 18 baqagula indawo ethize njengendawo enesidingo esiphuthumayo, k abaphethe iqophelo lomoya balezo zifundazwe ezithintekayo kumele bahlangane ba— 40
- (a) lungise uhlelo lokuphatha iqophelo lomoya laleyo ndawo emuva kokuxhumana nomphakathi weqophelo lomoya ezingeni kikazwelonke kanye nabaphathi beqophelo lomoya balabo masipala abathintekayo; 45
- (b) lethe uhlelo kuNgqongqoshe wesifundazwe ukuze aluvume, zingaphelile izinyanga eziyisithupha indawo idaluliwe noma isikhathi esinqunywe ngoNgqongqoshe oqondene nalolo daba.
- (4) Ngaphambi kokugunyaza isu lendawo, uNgqongqoshe kaZwelonke noma wesiFundazwe angafunda ukuba isiphathimandla sichibiyele isu singakapheli isikhathi esinqunywe nguNgqongqoshe kaZwelonke noma wesiFundazwe. 50
- (a) kufanele alandele inqubo yokubonisana ngokuhambisana nezigaba 56 no 57;
- (b) angadinga umphathi wezinga lomoya ofanele ukuba achibiyele uhlelo esikhathini esibekwe nguNgqongqoshe noma uNgqongqoshe kaZwelonke noma oNgqongqoshe besiFundazwe abafanele. 55
- (5) uNgqongqoshe kaZwelonke noma wesiFundazwe kufanele ashicilele isu kwiGazette zingakapheli izinsuku ezingu- 90 ligunyaziwe isu (b). Isu eligunyaziwe liqala ukusebenza ngosuku elishicilelwe ngalo.
- (6) Uhlelo lokuphathwa kwezinga lomoya endaweni eqashelwe kakhulu kufanele— 60
- (a) ibhekiswe ekuhloleni ukuphathwa kwezinga lomoya endaweni;

Part 2: Listing of activities resulting in atmospheric emissions**Listing of activities**

- 21.** (1) The Minister must, or the MEC may, by notice in the *Gazette*—
- (a) publish a list of activities which result in atmospheric emissions and which the Minister or MEC reasonably believes have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage; and 5
 - (b) when necessary, amend the list by—
 - (i) adding to the list activities in addition to those contemplated in paragraph (a); 10
 - (ii) removing activities from the list; or
 - (iii) making other changes to particulars on the list.
- (2) A list published by the Minister applies nationally and a list published by the MEC applies to the relevant province only.
- (3) A notice referred to in subsection (1)— 15
- (a) must establish minimum emission standards in respect of a substance or mixture of substances resulting from a listed activity and identified in the notice, including—
 - (i) the permissible amount, volume, emission rate or concentration of that substance or mixture of substances that may be emitted; and 20
 - (ii) the manner in which measurements of such emissions must be carried out;
 - (b) may contain transitional and other special arrangements in respect of activities which are carried out at the time of their listing; and
 - (c) must determine the date on which the notice takes effect. 25
- (4) (a) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must follow a consultative process in accordance with sections 56 and 57.
- (b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive way. 30

Consequences of listing

- 22.** No person may without a provisional atmospheric emission licence or an atmospheric emission licence conduct an activity—
- (a) listed on the national list anywhere in the Republic; or
 - (b) listed on the list applicable in a province anywhere in that province. 35

Part 3: Controlled emitters**Controlled emitters**

- 23.** (1) The Minister or MEC may, by notice in the *Gazette*, declare any appliance or activity, or any appliance or activity falling within a specified category, as a controlled emitter if such appliance or activity, or appliances or activities falling within such category, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes presents such a threat. 40
- (2) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must— 45
- (a) follow a consultative process in accordance with sections 56 and 57;
 - (b) apply the precautionary principle contained in section 2(4)(a)(vii) of the National Environmental Management Act;
 - (c) take into account the Republic's obligations in terms of any applicable international agreement; and 50
 - (d) consider—
 - (i) any sound scientific information; and
 - (ii) any risk assessments.
- (3) Subsection (2) need not be complied with if the notice is amended in a non-substantive way. 55

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(b) ibhekelele izinto eziphathelene nokuphathwa komoya endaweni;

(c) nokwenza uhlelo lusebenze yikomidi elimele ababambiqhaza abafanele.

(7) Isu lokuphatha iqophelo lomoya endaweni liphelelwa yisikhathi uma isinqumo sokuklelisa indawo sihoxiswa ngaphansi kwesigaba- 18(5).

Imigomo yokusebenzisa nokufaka igxalaba ekuqhubekeni kwamasu okuphatha iqophelo lomoya 5

20. UNgqongqoshe kaZwelonke noma wesiFundazwe angashaya imithetho edingekile ukuze kuqhutshwe futhi kufakwe igxalaba emaswini agunyaziwe okuphathwa kweqophelo lomoya ezindaweni ezinesidingo esiphuthumayo kungahlanganisa— 10

(a) amalungiselelo ezimali;

(b) izinyathelo zokugqugquzela iqhaza lokuhambisana nalawo masu;

(c) inhlawulo yanoma yikuphi ukuphambana noma ukwehluleka ukuhambisana nalawo masu; futhi

(d) ukubuyekeza ngezikhawu ezithile lawo masu. 15

Ingxenye- 2: Ukudweba uhlu lwezenzo eziholela kwizisi zomoya eziyingozi

Uhlu lwezenzo

21. (1) UNgqongqoshe kaZwelonke noma wesiFundazwe kufanele, ngesaziso kwi-Gazette—

(a) angashicilela uhla lwemisebenzi eholela ekukhiqizweni kwesisi emoyeni futhi uNgqongqoshe kaZwelonke noma wesiFundazwe akholwa ukuthi kungaba nobungozi endaweni yokuhlala kuhlanganisa nempilo, izimo zenhlalakahle, izimo zomnotho, izimo zemvelo noma umcebo wamasiko; 20

(b) uma futhi kudingekile, achibiyele uhla—

(i) ngokwengeza uhlu lwemisebenzi ngaphezu kwalezo eziqondwe endimeni (a); 25

(ii) ngokususa imisebenzi ohlwini; noma

(iii) noma enze ezinye izinguquko emininigwaneni esohlwini.

(2) Uhlu olushicilelwe nguNgqongqoshe kaZwelonke lusebenza ezweni lonke kanti uhlu olushicilelwe nguNgqongqoshe wesiFundazwe lubusa kuphela esifundazweni. 30

(3) Isaziso esiqondwe esigatshaneni- (1)—

(a) kufanele simise imigomo yesisi emaqondana nalokho noma ingxube yakho okuwumphumela womsebenzi esohlwini nobaliwe esazisweni, kuhlanganisa—

(i) inani, umthamo, izinga lokukhiqiza isisi noma ukujiya kwalokho noma ingxube yakho ewumphumela womsebenzi wokukhiqiza isisi okungakhiqizeka emoyeni okwemukelekile; kanye 35

(ii) nangendlela okukalwa ngayo lezo zisi ezinjalo;

(b) singaqukatha amalungiselelo esikhashana nalawo ahlukile mayelana nezenzo eziqhutshwa ngesikhathi zifakwa ohlwini. 40

(c) kufanele sinqume usuku isaziso okufanele siqale ngalo ukusebenza.

(4) (a) Ngaphambi kokushicilela isaziso ngokulandisa kwesigatshana- (1), noma yisiphi isichibiyelo esazisweni, uNgqongqoshe kaZwelonke noma wesiFundazwe kufanele alandele inqubo yokubonisana ehambisana nezigaba -53 ne 54.

(b) Isigatshana (a) asidingi ukusetshenziswa uguqukweni oluncane lwesaziso. 45

Imiphumela yokwenza uhla

22. Akukho muntu ngaphandle kwemvume yokukhiqiza isisi emoyeni yesikhashana noma imvume yokukhiqiza isisi emoyeni ongenza umsebenzi—

(a) obhalwe ohlwini lukazwelonke noma yikuphi eRiphabhuliki;

(b) noma obhalwe ohlwini olusebenza esifundazweni noma yikuphi kuleso sifundazwe. 50

Standards for controlled emitters

24. (1) A notice contemplated in section 23(1) must establish emission standards, which must include standards setting the permissible amount, volume, emission rate or concentration of any specified substance or mixture of substances that may be emitted from the controlled emitter. 5

(2) The Minister must prescribe the manner in which measurements of emissions from controlled emitters must be carried out.

Consequences of declaration

25. (1) No person may manufacture, sell or use any appliance or conduct an activity declared as a controlled emitter unless that appliance or activity complies with the standards established in terms of section 24. 10

(2) Subsection (1) applies—

- (a) nationwide in respect of an appliance or activity declared by the Minister; or
- (b) in a relevant province only in respect of an appliance or activity declared by the MEC responsible for air quality in that province. 15

Part 4: Controlled fuels**Controlled fuels**

26. (1) The Minister or MEC may, by notice in the *Gazette*, declare a substance or mixture of substances which, when used as a fuel in a combustion process, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes present such a threat, as a controlled fuel. 20

(2) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must—

- (a) follow a consultative process in accordance with sections 56 and 57; 25
- (b) apply the precautionary principle contained in section 2(4)(a)(vii) of the National Environmental Management Act;
- (c) take into account the Republic's obligations in terms of any applicable international agreement; and
- (d) consider— 30
 - (i) any sound scientific information; and
 - (ii) any risk assessments.

(3) Subsection (2) need not be complied with if the notice is amended in a non-substantive way.

Use and prohibition of controlled fuels

27. A notice contemplated in section 26(1) may—

- (a) establish standards for the use of the controlled fuel in combustion processes;
- (b) establish standards for the manufacture or sale of the controlled fuel;
- (c) establish specifications, including maximum or minimum levels or concentrations of the constituents of substances or mixtures of substances, for the composition of controlled fuels; 40
- (d) prohibit the manufacture, sale or use of the controlled fuel;
- (e) differentiate between different geographical areas;
- (f) provide for the phasing in of its provisions; and
- (g) be amended. 45

Ingxenye 3: Abakhiqizi-sisi abalawulwayo**Abakhiqizi-sisi abalawulwayo**

23. (1) Uma isitsha noma umshini othile osebenza ngogesi noma isenzo siholela emkhiqizweni wesisi onezinhlayi noma ingxube yazo, ubuthi obudaleka elabholetshi noma yini echithekayo enobungozi noma engaletha ubungozi empilweni noma kwimvelo, uNgqongqoshe kaZwelonke noma wesiFundazwe ongamele iqophelo lomoya angadalula esazisweni se*Gazette* lowo mshini noma isenzo kuleso sigaba esithintekayo njengesikhiqizi-sisi esilawulwayo. 5

(2) Ngaphambi kokushicilela isaziso ngokwesigatshana (1) noma ngasiphi isichibiyelo esazisweni, uNgqongqoshe kaZwelonke noma wesiFundazwe kufanele— 10

- (a) alandele inqubo yokubonisana ehambisana nezigaba- 53 ne- 54; futhi
- (b) asebenzise umthetho wokuvikela into engakenzeki osesigabeni 2(4)(a)(vii) wo Mthetho wokuPhatha ezemvelo zikaZwelonke;
- (c) cabanga ngezibophezelo zeRiphabhuliki ngokwanoma yiziphi izivumelwano ezisebenzayo zamazwe omhlaba; no— 15
- (d) acabangele—
 - (i) ulwazi olunzulu lobuchwepheshe;
 - (ii) noma yiziphi izinyathelo zokuhlaziya ubungozi; kanye

(3) Isigatshana- (2) asidingi ukusetshenziswa ezinguqukweni ezincane zesaziso.

Amazinga amiselwe abakhiqizi-sisi abalawulwayo

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24. (1) Njengokulandisa kwesaziso esikwisigaba 23(1) kufanele amise amazinga okukhiqiza isisi anoma yimuphi umshini okhiqizayo noma isenzo esidalulwe njengesikhiqizi-sisi.

(2) UNgqongqoshe kufanele anqume indlela okufanele isisi esikhiqizelwa emoyeni sikalwe ngayo noma kuqhutshwe ngayo lolu hlelo lokukala. 25

Imiphumela yodalulo

25. (1) Akukho muntu, ongadayisa noma asebenzise ithuluzi elithile noma enze umsebenzi omenyezelwe njengowomkhiqizi wesisi olayulwayo ngaphandle uma lelo thuluzi noma umsebenzi uhambisana nemigomo emiswe ngokwesigaba 24.

(2) Isigathana (1) sisebenza— 30

- (a) ezweni lonke ngokwethuluzi elithile noma umsebenzi omenyezelwe uNgqongqoshe; noma
- (b) esifundazweni esifanele kuphela ngokwethuluzi elithile noma umsebenzi omenyezelwe uNgqongqoshe wesiFundazwe obhekene nezinga lomoya.

Part 4: Lokho okusetshenziswa ukuphehla amandla okulawulwayo (fuel)

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Lokho okusetshenziswa ukuphehla amandla okulawulwayo

26. (1) UNgqongqoshe kaZwelonke noma wesiFundazwe, ngesaziso kwi-*Gazette*, angamemezela ukuthi okukhiqizwayo noma ingxube yakho, uma kusetshenziselwa ukuphehla amandla ngesikhathi kushiswa, kuholela esiseni esikhiqizwa emoyeni ngokujiya kokungcola okuya emoyeni, nokunqwabelana kwamakhemikhali anobuthi, izinsalela noma yingayiphi indlela, kuba yingozi empilweni noma endaweni yokuhlala noma lokho uNgqongqoshe kaZwelonke noma wesiFundazwe akholwa ukuthi kuzoba yingozi enjalo, njengokusetshenziswa ukuphehla amandla/ukushisa. 40

(2) Ngaphambi kokushicilela isaziso ngokwesigatshana (1) noma yisiphi isichibiyelo esazisweni, uNgqongqoshe kaZwelonke noma wesiFundazwe kufanele— 45

- (a) alandele inqubo yokuthintana ngokuhambisana nezigaba 56 no 57;
- (b) asebenzise umthetho wokuvikela isimo esithile singakaqali esisesigabeni 2(4)(a) (vii) soMthetho wokuPhatha kwezemvelo zikaZwelonke;
- (c) acabange ngezibophezelo zeRiphabhuliki ngokwanoma yiziphi izivumelwano ezisebenzayo zamazwe omhlaba; 50
- (d) nokubheka-
 - (i) noma yiluphi ulwazi olunzulu lwezesayensi;
 - (ii) nokuhlola ubungozi obukhona

Consequences of declaration

28. (1) No person may manufacture, sell or use a controlled fuel unless that manufacture, sale or use complies with the standards established in terms of section 27.
- (2) No person may manufacture, sell or use a prohibited controlled fuel unless that manufacture, sale or use complies with any conditions of manufacture, sale or use established in terms of section 27. 5
- (3) Subsections (1) and (2) apply—
- (a) nationwide in respect of a substance or mixture of substances declared by the Minister; or
 - (b) in a relevant province only in respect of a substance or mixture of substances declared by the MEC responsible for air quality in that province. 10

Part 5: Other measures**Pollution prevention plans**

29. (1) The Minister or MEC may, by notice in the *Gazette*—
- (a) declare any substance contributing to air pollution as a priority air pollutant; 15
and
 - (b) require persons falling within a category specified in the notice to prepare, submit to the Minister or MEC for approval, and implement pollution prevention plans in respect of a substance declared as a priority air pollutant in terms of paragraph (a). 20
- (2) The Minister or MEC may, by written notice to a person conducting a listed activity which involves the emission of a substance declared as a priority air pollutant, require that person to prepare, submit to the Minister or MEC for approval and implement a pollution prevention plan, whether or not that person falls within a category specified in terms of subsection (1)(b). 25
- (3) Pollution prevention plans must comply with such requirements as may be prescribed by the Minister or MEC.

Atmospheric impact reports

30. An air quality officer may require any person to submit to the air quality officer an atmospheric impact report in a prescribed form if— 30
- (a) the air quality officer reasonably suspects that the person has on one or more occasions contravened or failed to comply with this Act or any conditions of a licence and that such contravention or failure has had, or may have, a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, or has contributed to the degradation of ambient air quality; or 35
 - (b) a review of a provisional atmospheric emission licence or an atmospheric emission licence is undertaken in terms of section 45.

Recognition programmes

31. An air quality officer may establish a programme for the public recognition of significant achievements in the area of pollution prevention. 40

(3) Isigatshana (2) akudingi sithotshelwe uma isaziso sichibiyelwa ngendlela engaguquli izinto eziningi.

Umsebenzi nokwenqatshelwa kwalokho kokuphehla amandla okulawulwayo

27. Isaziso esiqondwe esigabeni 26(1)—

- (a) singamisa imigomo okusebenzisa lokho kokuphehla amandla okulawulwayo ngesikhathi kushiswa; 5
- (b) singamisa imigomo yokukhiqiza noma yokudayisa lokho kokuphehla amandla; 10
- (c) singamisa imininingwane, kuhlenganisa namazinga aphezulu noma aphantsi ezingxenywe zengxube ezakha lokho kokuphehla amandla okulawulwayo; 10
- (d) singenqabela ukukhiqizwa, ukudayiswa, noma ukusetshenziswa kwalokho kokuphehla amandla okulawulwayo; 15
- (e) singehlukanisa phakathi kwezindawo ezehlukene;
- (f) singahlinzeka ukufakwa kwezibonelelo zaso; futhi
- (g) kanti futhi singachibiyelwa. 15

Imiphumela yesimemezelo

28. (1) Akukho muntu ongakhiqiza, adayise, noma asebenzise lokho kokuphehla amandla okulawulwayo ngaphandle uma ukukhiqiza kuhambisana nemigomo emiswe ngokwesigaba 27.

(2) Akukho muntu ongakhiqiza, adayise, noma asebenzise lokho kokuphehla amandla okulawulwayo okungavunyelwe ngaphandle uma lokho kukhiqiza, ukudayisa noma ukusebenzisa kuhambisana nanoma iyiphi imibandela yokukhiqiza, ukudayisa noma ukusebenzisa okumiswe ngokwesigaba 27. 20

(3) Izigatshana (1) no (2) zisebenza—

- (a) ezweni lonke ngokwengxube emenyezelwe nguNgqongqoshe; noma 25
- (b) esifundazweni esifanele kuphela ngokwengxube emenyezelwe uNgqongqoshe wesiFundazwe obhekene nezinga lomoya kuleso sifundazwe.

Ingxenye- 5: Ezinye izinyathelo

Amasu okunqanda ukunukutshezwa kwemvelo

29. (1) Ngesaziso *seGazette*, UNgqongqoshe kaZwelonke noma wesiFundazwe ongamele iqophelo lomoya— 30

- (a) angadalula noma yisiphi isici esinomthelela wokunukubeza umoya nje-ngomkhiqizo osohlwini oluphambili kuleyo, enukubezayo; futhi
- (b) angafuna labo bantu abawela esigabeni esichazwe esazisweni ukuba balungise futhi balandele amasu okunqanda ukunukubezeka kwemvelo maqondana nesici noma isikhiqizi-sisi esidalulwe njengesiyisidingo esiphuthumayo ngokulandisa kwesigaba (a). 35

(2) UNgqongqoshe kazwelonke noma wesiFundazwe, ngesaziso esibhalelwe lowo ophethe izenzo ezisohlwini ezibandakanya isisi noma umkhiqizo odalulwe njengonesidingo esiphuthumayo, engafuna lowo muntu othintekayo ukuba alungise futhi aqhube isu lokunqanda ukunukubezeka kwemvelo, akukhathalekile ukuthi lowo muntu uwela esigabeni esichazwe ngaphansi kwesigatshana- (1)(b). 40

(3) Amasu okunqanda ukunukubezeka kwemvelo kufanele ahambisane nezidingo ezingase zichazwe nguNgqongqoshe kaZwelonke noma wesiFundazwe.

Imibiko yokuthinteka komoya

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30. Isiphathamandla seqophelo lomoya singadinga noma yimuphi umuntu ukuba alethe kuso umbiko wokuthinteka komoya kwifomu elinikeziwe uma—

- (a) isiphathamandla seqophelo lomoya sisola ukuthi umuntu kunesikhathi esisodwa noma ezingaphezulu kwesisodwa lapho ephule khona noma wehluleka ukuhambisana naloMthetho noma yimiphi imibandela yemvume nokuthi lokho kwephula noma ukuphambana nomthetho kuye kwaba, noma kungaba, nomthelela oyingozi ezindaweni esihlala kuzo, kuhlenganisa impilo, izimo zenhlakahle, izimo zomnotho, izimo zemvelo noma ifa 50

Part 6: Measures in respect of dust, noise and offensive odours**Control of dust****32.** The Minister or MEC may prescribe—

- (a) measures for the control of dust in specified places or areas, either in general or by specified machinery or in specified instances; 5
- (b) steps that must be taken to prevent nuisance by dust; or
- (c) other measures aimed at the control of dust.

Rehabilitation when mining operations cease

33. If it is determined that a mine, having regard to its known ore reserves, is likely to cease mining operations within a period of five years, the owner of that mine must promptly notify the Minister in writing— 10

- (a) of the likely cessation of those mining operations; and
- (b) of any plans that are in place or in contemplation for—
 - (i) the rehabilitation of the area where the mining operations were conducted after mining operations have stopped; and 15
 - (ii) the prevention of pollution of the atmosphere by dust after those operations have stopped.

Control of noise**34.** (1) The Minister may prescribe essential national standards—

- (a) for the control of noise, either in general or by specified machinery or activities or in specified places or areas; or 20
- (b) for determining—
 - (i) a definition of noise; and
 - (ii) the maximum levels of noise.

(2) When controlling noise the provincial and local spheres of government are bound by any prescribed national standards. 25

Control of offensive odours

35. (1) The Minister or MEC may prescribe measures for the control of offensive odours emanating from specified activities.

(2) The occupier of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises. 30

CHAPTER 5**LICENSING OF LISTED ACTIVITIES****Licensing authority**

36. (1) Metropolitan and district municipalities are charged with implementing the atmospheric emission licensing system referred to in section 22, and must for this purpose perform the functions of licensing authority as set out in this Chapter and other provisions of this Act, subject to subsections (2), (3) and (4). 35

(2) If a metropolitan or district municipality has delegated its functions of licensing authority to a provincial organ of state in terms of section 238 of the Constitution, that provincial organ of state must for the purposes of this Act be regarded as the licensing authority in the area of that municipality. 40

(3) If the MEC has in terms of section 139 of the Constitution intervened in a metropolitan or district municipality on the ground that that municipality cannot or does not fulfil its obligations as licensing authority in terms of this Act, a provincial organ of state designated by the MEC must for the duration of the intervention be regarded as the licensing authority in the area of that municipality. 45

(4) If a municipality applies for an atmospheric emission licence, a provincial organ of state designated by the MEC must be regarded as the licensing authority for the purpose of— 50

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- lamasiko noma kuye kwaba nesandla ekonakaleni komoya ozungeze indawo ehlala abantu; noma
- (b) ukubuyekwezwa kwemvume yesikhashana yokukhiqiza isisi emoyeni noma imvume yokukhiqiza isisi emoyeni kuyenziwa ngokwesahluko 45.

Izinhlelo zokuhlonipha igalelo

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31. Isiphathimandla seqophelo lomoya singasungula uhlelo lokuhlonipha umphakathi ngegalelo elibonakalayo lokunqanda ukunukubeza imvelo endaweni.

Ingxenye 6: Ukulawula umsindo, izintuli, namaphunga amabi**Ukulawula izintuli**

32. UNgqongqoshe kaZwelonke nowesiFundazwe ongamele iqophelo lomoya angashaya— 10

- (a) umthetho lapho enganquma khona izinyathelo zokulawula umsindo nokuzamazama. Lokhu angakwenza ngendlela evamile noma ngokusebenzisa isikhali esithile, ngesikhathi esithile noma indawo kuhlangele nokunquma; 15
- (b) incazelo yomsindo nokuzamazama; futhi
- (c) amaqophelo aphezulu omsindo nokuzamazama.

Ukubuyiselwa emalungelweni uma ukusebenza kwemayini kuma

33. (1) Uma kutholakala ukuthi imayini, uma ibheka umthamo wayo wokusansimbi okumbiwa phansi, kungenzeka imise ukusebenza kwemayini esikhathini esiyiminyaka emihlanu, umnikazi waleyo mayini kufanele azise ngokushesha uNgqongqoshe ngokubhala— 20

- (a) leyo misebenzi yemayini engase iyekwe;
- (b) nanoma yiziphi izinhlelo ezikhona noma ezicatshangelwa— 25
- (i) ukwenziwa kabusha kwendawo lapho bekwenziwa khona imisebenzi yemayini emva kokuba imisiwe; futhi
- (ii) nokuvikela ukunukubezeka komoya yizinthuli emva kokuba leyo misebenzi imisiwe.

Ukulawula umsindo

34. (1) UNgqongqoshe angabeka imigomo ebalulekile kazwelonke—

- (a) ukulawula umsindo, kungaba ngokujwayelekile noma ngendlela ethile yokwenza lokho noma ngemisebenzi noma ezindaweni ezithile; noma 30
- (b) ukuthola—
- (i) incazelo yomsindo;
- (ii) namazinga aphezulu omsindo.

(2) Uma kulawulwa umsindo uhulumeni wesifundazwe nowasekhaya baboshezelwa yinoma yimiphi imigomo kazwelonke ebekiwe. 35

Ukulawula iphunga elibi

35. (1) UNgqongqoshe kazwelonke noma wesiFundazwe anganquma izinyathelo okufanelwe zithathwe zokulawula iphunga elibi elidalwa yimisebenzi ethile.

(2) Osebenzisa noma yimaphi ala magceke kufanele athathe izinyathelo ezibonakalayo ukuvikela amaphunga amabi adaleka ngenxa yanoma yimuphi umsebenzi owenziwa emagcekeni anjalo. 40

ISIAHLUKO 5**UKUKHIPHA IMVUME YEZENZO EZISOHLWINI****Umkhandlu wokukhipha imvume**

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36. (1) Omasipala bamadolobha nezifunda bajutshwe ukuqhuba uhlelo lokukhipha izimvume zokukhiqiza isisi emkhathini oluphawulwe kwiNgxenye- 22 futhi ngokwale nhloso, kufanele yenze imisebenzi yomkhandlu wokukhipha imvume njengoba ibekiwe

- (a) that application; and
- (b) the implementation of this Act in relation to any licence that may be issued to the municipality.

Application for atmospheric emission licences

- 37.** (1) A person must apply for an atmospheric emission licence by lodging with the licensing authority of the area in which the listed activity is or is to be carried out, an application in the form required by the licensing authority. 5
- (2) An application for an atmospheric emission licence must be accompanied by—
- (a) the prescribed processing fee; and
 - (b) such documentation and information as may be required by the licensing authority. 10

Procedure for licence applications

- 38.** (1) The licensing authority—
- (a) may, to the extent that it is reasonable to do so, require the applicant, at the applicant's expense, to obtain and provide it by a given date with other information, in addition to the information contained in or submitted in connection with the application; 15
 - (b) may conduct its own investigation on the likely effect of the proposed licence on air quality;
 - (c) may invite written comments from any organ of state which has an interest in the matter; and 20
 - (d) must afford the applicant an opportunity to make representations on any adverse statements or objections to the application.
- (2) Section 24 of the National Environmental Management Act and section 22 of the Environment Conservation Act apply to all applications for atmospheric emission licences, and both an applicant and the licensing authority must comply with those sections and any applicable notice issued or regulation made in relation to those sections. 25
- (3) (a) An applicant must take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public. 30
- (b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is or is to be carried out—
- (i) describing the nature and purpose of the licence applied for;
 - (ii) giving particulars of the listed activity, including the place where it is or is to be carried out; 35
 - (iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and
 - (iv) containing such other particulars as the licensing authority may require.

Factors to be taken into account by licensing authorities

- 39.** When considering an application for an atmospheric emission licence, the licensing authority must take into account all relevant matters, including—
- (a) any applicable minimum standards set for ambient air and point source emissions that have been determined in terms of this Act;
 - (b) the pollution being or likely to be caused by the carrying out of the listed activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality; 45
 - (c) the best practicable environmental options available that could be taken—
 - (i) to prevent, control, abate or mitigate that pollution; and 50
 - (ii) to protect the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution;
 - (d) section 24 of the National Environmental Management Act and section 22 of the Environment Conservation Act and any applicable notice issued or regulation made pursuant to those sections; 55
 - (e) any relevant tradable emission scheme;

kulesi Sahluko neminye imigomo yalo Mthetho ngokuhambisana nezingxenyana (2), (3) no (4).

(2) Uma umasipala wedolobha noma wesifunda esedlulisele umsebenzi wawo wokuba yiziphathimandla zokukhipha imvume egatsheni lesifundazwe likahulumeni ngokwesahluko 238 soMthethosisekelo, lelo gatsha likahulumeni kufanele ngokwalo Mthetho lithathwe njenge siphathimandla sokukhipha imvume endaweni yalowo masipala. 5

(3) Uma uNgqongqoshe wesiFundazwe ngokwesigaba 139 soMthethosisekelo engenelela kumasipala wedolobha noma wesifunda ngesizathu sokuthi umasipala ngeke noma akakwazi ukuzeza izibophezelo zakhe njenge siphathimandla sokukhipha imvume ngokwalo Mthetho, igatsha lesifundazwe likahulumeni eliqokwe uNgqongqoshe wesiFundazwe kufanele ngesikhathi leso uNgqongqoshe wesiFundazwe angenelele ngaso lithathwe njenge siphathimandla sokukhipha imvume endaweni kamasipala lowo. 10

(4) Uma umasipala efaka isicelo semvume yokukhiqiza isisi emoyeni, igatsha likahulumeni lesifundazwe eliqokwe uNgqongqoshe wesifundazwe kufanele lithathwe njenge siphathimandla sokukhipha imvume kwenzelwa— 15

(a) leso sicelo; futhi

(b) nokuqaliswa kokusebenza kwalo Mthetho ngokuphathelele nanoma iyiphi imvume enganikezwa umasipala. 20

Ukufaka isicelo semvume yokukhiqiza isisi emoyeni

37. (1) Umuntu angafaka isicelo semvume yokukhiqiza isisi ngokwethula isicelo emkhandlwini wemvume endaweni lapho isenzo esisohlwini sikhona noma siyoqhutshwa khona, isicelo siyobhalwa kwifomu enqunywe ngumkhandlu wokukhipha imvume ngokuhambisana nemithetho yangaphakathi kumasipala. 25

(2) Isicelo semvume yokukhiqiza isisi emoyeni kufanele siphelezwe—

(a) yimali yokubhalisa; futhi

(b) nezinye izincwadi nolwazi oluyonqunywa ngumkhandlu wokukhipha imvume. 30

Inqubo yokufaka isicelo semvume

38. (1) Umkhandlu wokukhipha imvume—

(a) ungenza izicelo ezithile ezinomqondo kulowo ofake isicelo kodwa izindleko zokufeza okufuywayo ziyothwalwa ngofake isicelo, okufuywayo kufanele kutholwe futhi kulethwe ngosuku olunqunyiwe kuhambisana neminye imininingwane, ngaphezulu kolwazi oluqokethwe noma olwethulwe maqondana nesicelo; 35

(b) ungenza uphenyo ngokwawo ngomthelela ongenzeka ngemvume ehlongozwayo yeqophelo lomoya;

(c) ungamema imibono ebhaliwe kunoma yiluphi uhlaka lukahulumeni olunentshisekelo odabeni; futhi 40

(d) kufanele unike ofake isicelo ithuba lokwethula uvo olubhalwe phansi nganoma yimuphi umbiko ongemuhle noma ekuchithweni kwesicelo.

(2) Isigaba -24 soMthetho kaZwelonke Wokusingatha Ezemvelo usebenza kuzo zonke izicelo zemvume yokukhiqiza isisi emoyeni kanti ofake isicelo nomkhandlu okhipha imvume kufanele bahambisane nemibandela yaleso sigaba. 45

(3) (a) Ofake isicelo kufanele athathe izinyathelo ezifanele zokwazisa zonke izinhloko ezifanele zikahulumeni, abantu abanentshisekelo kanye nomphakathi ngesicelo sakhe.

(b) Lezo zinyathelo zihlanganisa ukushicilela emaphephandabeni adayisa endaweni lapho isenzo esisohlwini nesicelwayo sikhona noma siyoqhutshwa khona, kuyomele isicelo— 50

(i) sichaze uhlobo nenhloso yemvume ecelwayo;

(ii) siveze imininingwane yesenzo esisohlwini kuhlangene nendawo lapho sikhona noma siyoqhutshwa khona;

(iii) sinike isikhathi esenele sokwethula imibono ebhaliwe noma ukuphikisana nesicelo esethuliwe, ikheli noma indawo lapho imibono noma ukuphikisa isicelo kungethulwa khona; futhi 55

(iv) siqukathe eminye imininingwane engadingwa ngumkhandlu wemvumi. e.

- (f) whether the applicant is a fit and proper person as contemplated in section 49;
- (g) the applicant's submissions;
- (h) any submissions from organs of state, interested persons and the public; and
- (i) any guidelines issued by the Minister or MEC relating to the performance by licensing authorities of their functions.

5

Decisions of licensing authority

40. (1) The licensing authority may—
- (a) grant an application; or
 - (b) refuse an application.
- (2) Any decision by a licensing authority to grant an application must be consistent with—
- (a) this Act and any other applicable national or provincial legislation;
 - (b) any applicable national or provincial environmental management policies;
 - (c) section 24 of the National Environmental Management Act and section 22 of the Environment Conservation Act and any applicable notice issued or regulation made pursuant to those sections;
 - (d) the national environmental management principles set out in section 2 of the National Environmental Management Act;
 - (e) any transitional and other special arrangements contemplated in section 21(3)(b);
 - (f) any minimum standards for atmospheric emissions of identified substances or mixtures of substances as contemplated in section 21(3);
 - (g) any applicable pollution prevention plan contemplated in section 29;
 - (h) the objectives of any applicable air quality management plan; and
 - (i) any ambient air quality or emission standards that have been determined in terms of this Act.
- (3) If an authorisation notice is issued in terms of section 24 of the National Environmental Management Act or section 22 of the Environment Conservation Act in respect of an application, the licensing authority must decide the application within 60 days of the date on which the notice has been issued.
- (4) After a licensing authority has reached a decision in respect of a licence application, it must within 30 days—
- (a) notify the applicant of the decision, and give written reasons if the application was unsuccessful;
 - (b) in a manner determined by the licensing authority, notify any persons who have objected to the application; and
 - (c) at the request of any person contemplated in paragraph (b), give written reasons for its decision or make public its reasons.

Successful applications

41. (1) If an application for an atmospheric emission licence has been granted in terms of section 40(1)(a), the licensing authority must first issue a provisional atmospheric emission licence to enable the commissioning of the listed activity.
- (2) A provisional atmospheric emission licence is subject to such conditions and requirements—
- (a) as the licensing authority may determine; and
 - (b) as the Minister or MEC has prescribed for listed activities of the kind in question.

Issuing of atmospheric emission licences

42. (1) The holder of a provisional atmospheric emission licence is entitled to an atmospheric emission licence when the commissioned facility has been in full compliance with the conditions and requirements of the provisional atmospheric emission licence for a period of at least six months.
- (2) An atmospheric emission licence is subject to such conditions and requirements—
- (a) as are specified in terms of section 43;
 - (b) as the licensing authority may determine; and
 - (c) as the Minister or MEC has prescribed for listed activities of the kind in question.

Amaphuzu okufanele abhekwe yimikhandlu ekhipha imvume

39. Uma umkhandlu wemvume yokukhiqiza isisi emoyeni ucubungula isicelo, kufanele ubhekele zonke izinto ezibalulekile nezithintekayo—

- (a) noma yimiphi imigomo ephansi esebenzayo ebekwe umoya osendaweni yokuhlala nesisi esikhiqizwa emoyeni esisuka endaweni ebonakalayo ezitholakale ngokwalo Mthetho; 5
- (b) ukunukubeza umoya okungenzeka noma okungadaleka ngenxa yesenzo esisohlwini esicelwayo, umthelela ungaba kwimvelo, kuhlangu nempilo, izimo zenhlaloni, ezomnotho namagugu esiko; 10
- (c) izindlela ezingcono ezenzekayo eziphathelele nendawo yokuhlala ezikhona ezingathathwa—
 - (i) ukunqanda, ukulawula, ukugwema noma ukunciphisa lokho kunukubeza; futhi
 - (ii) ukuvikela imvelo, kuhlangu nempilo, isimo sezenhlalakahle, isimo sezomnotho, umcebo wamasiko nezinga lomoya osendaweni yokuhlala emonakalweni odalwe yilokho kunukubeza; 15
- (d) Isigaba 24 soMthetho kaZwelonke Wokuphatha Ezemvelo nesigaba 22 soMthetho kaZwelonke Wokugcinwa Kwemvelo nanoma yisiphi isaziso esiqondene nalokho esikhishiwe noma umthetho ofaneleyo kulezizigaba; 20
- (e) noma yiluphi uhlobo oluqondene lohlelo lohwebo ngomkhiqizo oyisizi; 20
- (f) akukhathalekile ukuthi ofake isicelo ngumuntu onamandla noma ofanele ngokwenzakalo yesikali esibekwe esigabeni- 46;
- (g) izincwadi noma imibhalo ethulwe ngofake isicelo;
- (h) noma yiziphi izincwadi noma imibhalo evela ezinhlangeni zikahulumeni, kwabanentshisekelo nasemphakathini; futhi 25
- (i) noma yimiphi imihlahlandlela ekhishwe nguNgqongqoshe kaZwelonke noma wesiFundazwe ongamele iqophelo lomoya esifundazweni maqondana negalelo lemikhandlu ekhipha izimvume ngemisebenzi yayo.

Izinqumo zomkhandlu okhipha imvume

- 40. (1)** Umkhandlu okhipha imvume— 30
 - (a) ungakhipha isicelo; noma
 - (b) wenqabe isicelo.
- (2)** Noma yisiphi isinqumo esikhishwe ngumkhandlu sokukhipha imvume kufanele sihambisane—
 - (a) nalo Mthetho neminye imigomo esebenza kuzwelonke nasesifundazweni; 35
 - (b) nenqubomgomo yokusingatha imvelo esebenza kuzwelonke nasesifundazweni;
 - (c) nezinqumo ezilawulwa yisigaba- 24 soMthetho kaZwelonke Wokuphatha Ezemvelo; nanoma yisiphi isaziso esikhishiwe mayelana nalokho;
 - (d) nenkambiso kazwelonke yokuphatha ezemvelo ebekwe esigabeni- 2 40
 - (e) noma yimaphi amalungiselelo ezinguquko noma akhethekile abekwe esigabeni 21(3)(b);
 - (f) noma yimiphi imigomo ebekiwe yesisi esikhiqizwa emoyeni yalokho okukhiqizwayo noma ingxube yakho njengoba kuqondwe esahlukweni 21(3); 45
 - (g) noma yiluphi uhlelo lokuvikela ukunukubezwa komoya okuqondwe esigabeni 26;
 - (h) nezinhloso zeqhinga lokuphatha iqophelo lomoya; futhi
 - (i) namazinga eqophelo lomoya noma umkhiqizo wesisi onqunywe ngaphansi kwalo Mthetho. 50
- (3)** Uma isaziso esinikeza igunya sikhishwa ngokwesigaba 24 soMthetho wezokuPhatha kweMvelo kaZwelonke noma isigaba 22 soMthetho wokuGcinwa kweMvelo ngokokufaka isicelo, iziphathimandla ezinikeza imvume kufanele zithathe isinqumo ngesicelo esifakiwe esikhathini esiyizinsuku ezingu-60 kusuka ngosuku isaziso esikhishwe ngalo. 55
- (4)** Ngemuva kokuba umkhandlu okhipha imvume sewufinyelele esinqumeni mayelana nesicelo semvume, ezinsukwini ezingu- 30 kufanele—
 - (a) wazise ofake isicelo unike nezizathu uma isicelo singaphumelelanga;
 - (b) wazise noma ngubani ophikisana nesicelo, ngendlela umkhandlu wemvume othathe ngayo isinqumo; futhi 60

Contents of provisional atmospheric emission licences and atmospheric emission licences

- 43. (1)** A provisional atmospheric emission licence and an atmospheric emission licence must specify—
- (a) the activity in respect of which it is issued; 5
 - (b) the premises in respect of which it is issued;
 - (c) the person to whom it is issued;
 - (d) the period for which the licence is issued;
 - (e) the name of the licensing authority;
 - (f) the periods at which the licence may be reviewed; 10
 - (g) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere—
 - (i) under normal working conditions; and
 - (ii) under normal start-up, maintenance and shut-down conditions;
 - (h) any other operating requirements relating to atmospheric discharges, including non-point source or fugitive emissions; 15
 - (i) point source emission measurement and reporting requirements;
 - (j) on-site ambient air quality measurement and reporting requirements;
 - (k) penalties for non-compliance;
 - (l) greenhouse gas emission measurement and reporting requirements; and 20
 - (m) any other matters which are necessary for the protection or enforcement of air quality.
- (2)** A licence may—
- (a) specify conditions in respect of odour and noise;
 - (b) require the holder of the licence to comply with all lawful requirements of an environmental management inspector carrying out his or her duties in terms of the National Environmental Management Act, including a requirement that the holder of the licence must, on request, submit to the inspector a certified statement indicating—
 - (i) the extent to which the conditions and requirements of the licence have or have not been complied with; 30
 - (ii) particulars of any failure to comply with any of those conditions or requirements;
 - (iii) the reasons for any failure to comply with any of those conditions or requirements; and 35
 - (iv) any action taken, or to be taken, to prevent any recurrence of that failure or to mitigate the effects of that failure.

Transfer of provisional atmospheric emission licences and atmospheric emission licences

- 44. (1)** If ownership of an activity for which a provisional atmospheric emission licence or an atmospheric emission licence was issued is transferred, the licence may, with the permission of a licensing authority, be transferred by the holder of the licence to the new owner of the activity. 40
- (2) (a)** A person applying for permission for the transfer of a licence must lodge the application with the licensing authority of the area in which the listed activity is carried out. 45
- (b)** The application must be in the form required by the licensing authority.
- (3)** An application for the transfer of a licence must be accompanied by—
- (a) the prescribed processing fee; and
 - (b) such documentation and information as may be required by the licensing authority. 50
- (4) (a)** An applicant must take appropriate steps to bring the application for the transfer of an atmospheric emission licence to the attention of interested persons and the public.

- (c) unike izizathu ezibhaliwe ngesinqumo noma wazise umphakathi ngezizathu, lapho ucelwa yilowo ophawulwe endimeni (b).

Izicelo eziphumelele

41. (1) Lapho isicelo semvume yokukhiqiza isisi siphumelele ngokwesigaba- 5
37(1)(a), umkhandlu wemvume kufanele ukhiphe imvume yesikhashana yokukhiqiza isisi ukuze kuqhutshekwe nokuqalisa isenzo esibhalwe ohlwini.

(2) Imvume yesikhashana yomkhiqizo wesisi ikhishwa ngaphansi kwezimo—

- (a) ezingase zinqunywe ngumkhandlu wemvume; futhi
(b) ezingase zinqunywe nguNgqongqoshe kaZwelonke noma wesiFundazwe.

Ukukhipha imvume yokukhiqiza isisi

10

42. (1) Umninimvume yesikhashana yokukhiqiza isisi emoyeni unelungelo lemvume yokukhiqiza isisi uma isikhungo esigunyaziwe sihambisana ngokugcwele nezimo nemibandela yemvume yesikhashana yokukhiqiza isisi emoyeni.

(2) Imvume yokukhiqiza isisi emoyeni yenzeka ngaphansi kwezimo nemibandela—

- (a) echazwe esigabeni- 40; 15
(b) engase inqunywe ngumkhandlu wemvume; futhi
(c) ezingase zinqunywe nguNgqongqoshe kaZwelonke noma wesiFundazwe ongamele iqophelo njengezenzo ezisohlwini.

Okuqukethwe yizimvume zesikhashana nezokugcina zokukhiqiza isisi emoyeni

43. (1) Imvume yesikhashana yokukhiqiza isisi kufanele icacise— 20

- (a) isenzo esiqondene nokukhishwa kwemvume;
(b) isakhiwo ekhishelwa sona;
(c) lowo muntu enikwa yena;
(d) ubude besikhathi esiyohlalwa yimvume;
(e) igama lomkhandlu okhiphe imvume; 25
(f) izikhathi imvume engabuyekwezwa ngazo;
(g) ukujiya kwalokho okunokubeza umoya, inani, umthamo, izinga lesisi eliya emayeni okwemukelekile okungadedelwa kuye emoyeni—
(i) ngaphansi kwezimo zokusebenza ezejwayelekile; futhi
(ii) ngaphansi kwesimo esijwayelekile sokuqalisa, sokugcina kahle 30
nokuvala isikhungo;
(h) eminye imibandela yokusebenza ephathelene nomkhiqizo wesisi emoyeni, kuhlangene nemikhiqizo engaqondakali lapho isuka khona;
(i) isikali somkhiqizo ongaqondakali lapho usuka khona nemibandela yokubika;
(j) isikali seqophelo lomoya esikhungweni nemibandela yokubika; 35
(k) inhlawulo yokungahambisani nemibandela;
(l) isikali somkhiqizo wesisi segesi nemibandela yokubika; futhi
(m) eminye imibandela ebalulekile ukuvikela iqophelo lomoya.

(2) Imvume—

- (a) ingacacisa ngezimo eziqondene nephunga nokuzamazama; 40
(b) idinga umnikazi wemvume ukuba ahambisane nayo yonke imibandela yomthetho womhloli ophethe ezemvelo lapho eqhuba umsebenzi wakhe ngokulandisa koMthetho kaZwelonke Wokuphatha Ezemvelo, kuhlangene nombandela wokuthi umnikazi wemvume kufanele ethule kumphathi umbiko ofungelwe uma ufuneka, lowo mbiko kumele uchaze— 45
(i) igxathu lokuhambisana nezimo nemibandela efunwa yimvume noma ochaza ukungahambisani nalezo zimo nemibandela;
(ii) imininingwane yokwehluleka ukuhambisana nanoma yiziphi izimo noma imibandela;
(iii) noma yiziphi izinyathelo ezithathiwe noma ezizothathwa ukunqanda 50
isimo sokuphindeka kwalokho kwehluleka noma amalinge okunciphisa umthelela wokwehluleka;
(iv) noma yiziphi izinyathelo, noma okufanele zithathwe, ukuvikela noma yikuphi ukuphindaphindeka kwalokho kungaphumeleli noma ukunciphisa imiphumela yalokho kungaphumeleli. 55

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(b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is carried out—

- (i) describing the reasons for the transfer of an atmospheric emission licence;
- (ii) giving particulars of the listed activity, including the place where it is carried out;
- (iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and
- (iv) containing such other particulars as the licensing authority may require.

(5) When considering an application for the transfer of a licence, the licensing authority must take into account all relevant matters, including whether the person to whom the licence is to be transferred is a fit and proper person as contemplated in section 49.

Review of provisional atmospheric emission licences and atmospheric emission licences

45. (1) A licensing authority must review a provisional atmospheric emission licence or an atmospheric emission licence at intervals specified in the licence, or when circumstances demand that a review is necessary.

(2) The licensing authority must inform the licence holder and the relevant provincial air quality officer, in writing, of any proposed review and the reason for such review.

(3) For purposes of the review, an air quality officer may require the licence holder to compile and submit an atmospheric impact report contemplated in section 30.

Variation of provisional atmospheric emission licences and atmospheric emission licences

46. (1) A licensing authority may, by written notice to the holder of a provisional atmospheric emission licence or an atmospheric emission licence, vary the licence—

- (a) if it is necessary or desirable to prevent deterioration of ambient air quality;
- (b) if it is necessary or desirable for the purposes of achieving ambient air quality standards;
- (c) if it is necessary or desirable to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands;
- (d) at the written request of the holder of the licence;
- (e) if it is transferred to another person in terms of section 44; or
- (f) if it is reviewed in terms of section 45.

(2) The variation of a licence includes—

- (a) the attaching of an additional condition or requirement to the licence;
- (b) the substitution of a condition or requirement;
- (c) the removal of a condition or requirement; or
- (d) the amendment of a condition or requirement.

(3) If a licensing authority receives a request from the holder of a licence in terms of subsection (1)(d), the licensing authority must require the holder of the licence to take appropriate steps to bring the request to the attention of relevant organs of state, interested persons and the public if—

- (a) the variation of the licence will authorise an increase in the environmental impact regulated by the licence;
- (b) the variation of the licence will authorise an increase in atmospheric emissions; and
- (c) the proposed variation has not, for any reason, been the subject of an authorisation in terms of any other legislation and public consultation.

(4) Steps in terms of subsection (3) must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity authorised by the licence is, or will be, carried out—

- (a) describing the nature and purpose of the request;
- (b) giving particulars of the listed activity, including the place where it is or will be carried out;
- (c) stating a reasonable period within which written representations on or objections to the request may be submitted, and the address or place where representations or objections must be submitted; and

Ukwedlulisela komunye imvume yesikhashana yokukhiqiza isisi emoyeni ne mvume yokukhiqiza isisi emoyeni

- 44.** (1) Imvume yesikhashana yokukhiqiza isisi emoyeni ne mvume yokukhiqiza isisi emoyeni ingedluliselwa komunye umuntu ngumnikazi wayo, ngokuthola imvume yomkhandlu okhipha izimvume. 5
- (2) (a) Umuntu ofaka isicelo semvume yokwedlulisa imvume ngokwethula isicelo sakhe kwifomu enqunywe ngumkhandlu ngokuhambisana nemithetho yangaphakathi. Leso sicelo siyokwenziwa emkhandlwini kuleyo ndawo lapho kuqhutshwa khona isenzo esisohlwini.
- (b) Leso sicelo kumele sibe kwifomu edingwa umkhandlu okhipha imvume. 10
- (3) Isicelo sokwedlulisela imvume yomkhiqizo wesisi emoyeni kufanele siphelzelwe—
- (a) yimali yokucubungula isicelo enqunyiwe; futhi
- (b) yizincwadi noma imibhalo nolwazi olunganqunywa ngumkhandlu wemvume, ngokuhambisana nemithetho yangaphakathi esikhungweni. 15
- (4) (a) Ofaka isicelo kufanele athathe izinyathelo ezifanele ukuletha isicelo sokwedluliselwa kwemvume yokukhiqiza isisi emoyeni ukuthi sibhekwe abantu nomphakathi oyidingayo.
- (b) Izinyathelo ezinjalo zihlanganisa ukushicilelwa kwesaziso okungenani emaphaphandabeni amabili atholakala endaweni lapho umsebenzi osohlwini ofakelwe isicelo wenziwa khona— 20
- (i) ichaza izizathu zokwedlulisa imvume yokukhiqiza isisi emoyeni;
- (ii) inikeza imininingwane yomsebenzi osohlwini, kuhlanganisa nendawo lapho wenziwa khona;
- (iii) isho isikhathi lapho izethulo ezibhalwe phansi noma okwenza isicelo singemukeleki kungalethwa ngaso, nekheli noma indawo lapho izethulo noma okwenza isicelo singaphumeleli zingalethwa khona; noma 25
- (iv) inemininingwane eminye enjalo njengoba ingadingwa iziphathimandla ezinikeza imvume.
- (5) Uma ucubungula isicelo sokudlulisa imvume, umkhandlu wemvume kufanele ubhekele zonke izinhlangothi zodaba, kuhlangene nokuthi umuntu okudluliselwa kuye imvume ukulungele futhi ufanele yini njengoba umhlahlandlela wesigaba-49 ubika. 30

Ukubuyekeza izimvume zesikhashana zokukhiqiza isisi emoyeni nezimvume zokukhiqiza isisi emoyeni

- 45.** (1) Umkhandlu okhipha izimvume kufanele ubuyekeze imvume yomkhiqizo wesisi ngezikhawu ezithile ezimisiwe noma ezikhathini lapho isimo siphoka ukuthi kwenziwe lokho. 35
- (2) Iziphathimandla zokukhipha imvume kufanele zazise umnikazi wemvume nomphathi wesifundazwe ofanele obheke izinga lomoya, ngokubhala, kwanoma yisiphi isibuyekezo esihlongozwayo nesizathu saleso sibuyekezo. 40
- (3) Ukwenzela ukubuyekizwa, umphathi obheke izinga lomoya angadinga umnikazi wemvume ukuthi enze futhi alethe umbiko wokuthinta emoyeni okuqondwe esigabeni 30.

Ukuguqula izimvume zesikhashana zokukhiqiza isisi emoyeni nezimvume zomkhiqizo wesisi emoyeni 45

- 46.** (1) Ngesaziso esibhaliwe, umkhandlu wemvume ungaguqula ngendlela ethize imvume yokukhiqiza isisi—
- (a) uma kudingekile noma kunesifiso sokunqanda ukonakala kakhulu kweqophelo lomoya endaweni;
- (b) uma kudingekile noma kunesifiso ngenhloso yokuzuza iqophelo elifanele lomoya endaweni; 50
- (c) uma kudingekile noma kunesifiso sokuhlangabezana nezidingo ezihambisana nomthelela kwinhlangenhle nezomnotho futhi isinqumo sifeza intshisekelo nezidingo zomphakathi;
- (d) ngesicelo esibhaliwe somnikazi wemvume; 55
- (e) uma isiyedluliselwe komunye umuntu ngokwesigaba 44; noma
- (f) isibuyekizwa ngokwesigaba 45.

(d) containing such other particulars as the licensing authority may require.

(5) Sections 38 and 40, read with the necessary changes as the context may require, apply to the variation of a licence.

Renewal of provisional atmospheric emission licences and atmospheric emission licences

5

47. (1) A provisional atmospheric emission licence or an atmospheric emission licence may, on application by the holder of the licence, be renewed by a licensing authority.

(2) The holder of a licence must before the expiry date of the licence apply for the renewal of the licence to the licensing authority of the area in which the listed activity is carried out, by lodging to the licensing authority an application in the form required by the licensing authority. 10

(3) An application for the renewal of a licence must be accompanied by—

(a) the prescribed processing fee;

(b) proof that the relevant provincial air quality officer has been notified of the application; and 15

(c) such documentation and information as may be required by the licensing authority.

(4) The holder of a provisional atmospheric emission licence may not apply for the renewal of the provisional licence more than once. 20

(5) Sections 38, 40 and 43, read with the necessary changes as the context may require, apply to an application for the renewal of a licence.

Emission control officers

48. (1) An air quality officer may require the holder of a provisional atmospheric emission licence or an atmospheric emission licence to designate an emission control officer, having regard to the size and nature of the listed activity for which the licence was granted. 25

(2) An emission control officer must have requisite air quality management competence in respect of the listed activity in question, and must—

(a) work towards the development and introduction of cleaner production technologies and practices; 30

(b) take all reasonable steps to ensure compliance by the holder of the licence with the licence conditions and requirements; and

(c) promptly report any non-compliance with any licence conditions or requirements to the licensing authority through the most effective means reasonably available. 35

(3) Nothing in this section affects the obligations and liability of the holder of a licence to comply with the conditions and requirements of the licence.

Criteria for fit and proper persons

49. In order to determine whether a person is a fit and proper person for the purposes of an application in terms of this Chapter, a licensing authority must take into account all relevant facts, including whether— 40

(a) that person has contravened or failed to comply with this Act, the Atmospheric Pollution Prevention Act or any other legislation applicable to air quality;

(b) that person has held a provisional atmospheric emission licence, an atmospheric emission licence or other authority that has been suspended or revoked; 45

(c) that person has been a director or senior manager who is or was a director or manager of a company or firm to whom paragraph (a) or (b) applies; and

(d) the management of the listed activity which is the subject of the application will or will not be in the hands of a technically competent person. 50

- (2) Ukushintsha kwemvume kuhlenganisa—
- (a) ukunamathisela isimo sokwengezela noma umbandela kwimvume;
 - (b) ukukhipha bese ufaka isimo noma umbandela othile esikhundleni somdala;
 - (c) ukususa isimo noma umbandela; noma
 - (d) ukuchibiyela isimo noma umbandela. 5
- (3) Uma umkhandlu wemvume utholá isicelo kumninimvume ngaphansi kwe-sigatshana- (1)(d), umkhandlu ungafuna umninimvume athathe izinyathelo ezifanele zokwazisa zonke izinhlobo ezifanele zikahulumeni, abantu abanentshisekelo nomphakathi ngaleso sinqumo sakhe, uma—
- (a) uguquko kwimvume luyogunyaza ukwenyuka kakhulu komthelela emvelweni ovele ubuswa yimvume ekhona; 10
 - (b) uguquko okuhlongozwayo lungazange lugunyazwe ngaphansi kwanoma yimuphi omunye umthetho nokubonisana nomphakathi, nganoma yisiphi isizathu; futhi
 - (c) ushintsho oluhlongozwayo, nganoma yisiphi isizathu, akaze lugunyazwe ngokwanoma yimuphi omunye umthetho nokubonisana nomphakathi. 15
- (4) Izinyathelo ezihlonzwe ngaphansi kwesigatshana-(3), kufanele sixube ukushicilelwa kwesaziso esikhangiswe endaweni lapho isenzo esisohlwini senzeka khona—
- (a) masichaze uhlobo nenhloso yesicelo; 20
 - (b) masinike imininingwane yesenzo esisohlwini, kuhlengene nendawo lapho siqhutshwa khona;
 - (c) asinike isikhathi esenele okungethulwa kuso izimpendulo ezibhaliwe noma impikiswano ngesicelo esethuliwe, ikheli noma indawo lapho izimpendulo noma impikiswano ngesicelo kufanele ibuyiswe kuyo; futhi 25
 - (d) masiqukathe neminye imininingwane engase idingwe ngumkhandlu wemvume.
- (5) Izigaba 38 no 40, kufundeka nezinguquko ezidingekayo njengokudingwa yingqikithi, zisebenza oguqukweni lwemvume.

Ukuvuselela kabusha izimvume zesikhashana zokukhiqiza isisi emoyeni nezimvume zokukhiqiza isisi emoyeni 30

47. (1) Ngesicelo esifakwe ngumninimvume, imvume ingavuselelwa ngumkhandlu wemvume.
- (2) Ngaphambi kokuphela kwesikhathi semvume, umnini wemvume engafaka isicelo sokuyivuselela emkhandlwini wezimvume kuleyo ndawo lapho kuqhutshwa khona isenzo esisohlwini, uyogcwalisa isicelo kwifomu ethile yezicelo enqunywe ngumkhandlu nehambisana nemithetho yangaphakathi. 35
- (3) Isicelo sokuvuselela imvume kufanele siphelzelwe—
- (a) yimali yokucubungula isicelo;
 - (b) ubufakazi bokuthi umphathi ofanele obheke izinga lomoya esifundazwe nazisiwe ngesicelo; noma 40
 - (c) yizincwadi noma imibhalo nolwazi olunganqunywa wumkhandlu wemvume ngokulandisa kwemithetho yangaphakathi.
- (4) Umnikazi wemvume yesikhashana yokukhiqiza isisi emoyeni akufanele avuselele imvume yesikhashana iziwombe ezevile kwesisodwa. 45
- (5) Izigaba sama-38, 40 nama- 43, zifundwa nezinguquko ezifunwa yindikimba, zisebenza esicelweni sokuvuselela imvume.

Iziphathimandla zokulawula isisi esikhiqizwa emoyeni

48. (1) Isiphathimandla seqophelo lomoya singadinga umnini wemvume ukuba aqoke isisebenzi esilawula ukukhiqizwa kwesisi, kuye ngobukhulu nohlobo lwesenzo esisohlwini nesikhishelwe imvume. 50
- (2) Isiphathimandla esilawula ukukhiqizwa kwesisi kufanele sibe nobungcweti obufanele besenzo esisohlwini nesiphathekayo, futhi—
- (a) sisebenzele ukuthuthukisa ubuchwepheshe nokukhiqiza okuhlanzekile;
 - (b) senze ngakho konke okusemandleni aso ukuhambisana nezimo kanye nemibandela yemvume; noma 55
 - (c) bika ngokushesha uma kukhona ukungalandelwa kwemibandela noma izimfanelo kuziphathimandla ezinikeza imvume ngendlela ezozwela kakhulu ekhona.

CHAPTER 6**INTERNATIONAL AIR QUALITY MANAGEMENT****Transboundary air pollution**

- 50.** (1) The Minister may investigate any situation which creates, or may reasonably be anticipated to contribute to— **5**
- (a) air pollution across the Republic's boundaries; or
 - (b) air pollution that violates, or is likely to violate, an international agreement binding on the Republic in relation to the prevention, control or correction of pollution.
- (2) If the investigation contemplated in subsection (1) reveals that the release of a substance into the air from a source in the Republic may have a significant detrimental impact on air quality, the environment or health in a country other than the Republic, the Minister may prescribe measures to prevent, control or correct the releases within the Republic. **10**
- (3) Before publishing regulations under subsection (2), the Minister must consult with— **15**
- (a) the Cabinet member responsible for foreign affairs; and
 - (b) the MEC concerned.
- (4) Regulations contemplated in subsection (2) may include provisions regarding— **20**
- (a) the quantity or concentration of the substance that may be released into the air;
 - (b) the manner in which and conditions under which the substance may be released into the air, either alone or in combination with any other substance;
 - (c) the maintenance of records for the administration of any regulation made under this section;
 - (d) the conduct of sampling, analyses, tests, measurements or monitoring of the substance and the submission of the results to the Minister; and **25**
 - (e) the conditions, test procedures and laboratory practices to be followed for conducting sampling, analyses, tests, measurements or monitoring of the substance.
- (5) The Minister may, through the Cabinet member responsible for foreign affairs, advise the government of any country that would be affected by or benefit from the regulation before it is published. **30**

CHAPTER 7**OFFENCES AND PENALTIES****Offences 35**

- 51.** (1) A person is guilty of an offence if that person—
- (a) contravenes a provision of section 22, 25 or 35(2);
 - (b) fails to submit or to implement a pollution prevention plan as required by section 29(1)(b) or (2);
 - (c) fails to submit an atmospheric impact report required in terms of section 30; **40**
 - (d) fails to notify the Minister as required by section 33;
 - (e) contravenes or fails to comply with a condition or requirement of an atmospheric emission licence;
 - (f) supplies false or misleading information in any application for an atmospheric emission licence, or for the transfer, variation or renewal of such a licence; **45**
 - (g) supplies false or misleading information to an air quality officer;
 - (h) contravenes or fails to comply with a condition subject to which exemption from a provision of this Act was granted in terms of section 59.
- (2) A person operating a controlled emitter is guilty of an offence if the emissions from that controlled emitter do not comply with the standards established under section 24(1). **50**
- (3) A person performing a listed activity is guilty of an offence if air pollutants at concentrations above the emission limits, specified in an atmospheric emission licence, are emitted as a result of that activity.

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(3) Ngaphansi kwalesi sigaba, akukho okuthambisa izibophezelo nokulindelwe kumnikazi wemvume mayelana nokulandela izimo nemibandela yemvume.

Umgomo wokukala abantu abafanele nabalungele imvume

49. Ukuze kutholakale ukuthi umuntu unamandla noma uyifanele yini imvume, ukufeza inhloso yesicelo ngaphansi kwalesi Sahluko, umkhandlu wemvume kufanele ubhekele amaphuzu abalulekile naqondene, ahlanganisa lokhu— 5

- (a) ukuhlola ukuthi umuntu akaze awephule lo Mthetho, Umthetho Onqanda Ukunukubeza Umoya noma eminye yemithetho eqondene namaqophelo omoya;
- (b) ukuhlola ukuthi umuntu akaze abe nayo imvume yesikhashana yokukhiqiza isisi emoyeni, imvume yokukhiqiza isisi emoyeni noma isikhundla ngaphansi kwalo Mthetho, Umthetho Onqanda Ukunukubeza (Atmospheric Pollution Prevention Act) noma eminye yemithetho eyamiswa noma yachithwa;
- (c) ukuhlola ukuthi esikhathini esiphambili noma njengamanje umuntu ubengeyena umqondisi noma umphathi omkhulu wenkampani noma ibhizinisi elithintwa yindima- (a) no (b); noma
- (d) ukuhlola ukuthi ukusingathwa kwesenzo esisohlwini esifakelwe isicelo siyoba sezandleni zomuntu onobuchwepheshe obufanele noma ngeke kube njalo. 10 15 20

ISAHLUKO 6

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**UKUPHATHA IZINGA LOKUHLANZEKA KOMOYA EZINGENI
LOMHLABA**

Ukunukubeza umoya okunqamula imingcele

50. (1) uNgqongqoshe kazwelonke angenza uphenyo nganoma yisiphi isimo esidala noma esibonakala singaba nomthelela— 25

- (a) ekunukubezeni umoya okweqa umngcele wezwe; noma
- (b) ekunukubezeni umoya okuphambene noma okungenzeka kuphambane nesivumelwane esisezingeni lomhlaba esibophezela iNingizimu Afrika mayelana nokunqanda, ukulawula noma ukulungisa isimo sokunukutshezwa komoya okuwumphumela wesici esithile noma izici ezichithwe emoyeni zisuka esikhungweni esithile. 30

(2) Uma kwenzeka ngemuva kophenya uNgqongqoshe enombono wokuthi ukukhiqizwa kwesici esithile emoyeni okudabuka eNingizimu Afrika kunomthelela omkhulu eqophelweni lomoya, kwimvelo noma empilweni yabantu ezweni elingumakhelwane neNingizimu Afrika, uNgqongqoshe anganquma imigomo ehlose ukunqanda, ukulawula noma ukulungisa isimo somkhiqizo ngaphakathi ezweni laseNingizimu. 35

(3) Ngaphambi kokushicilela imigomo eqondiswe esigatshaneni-(2), uNgqongqoshe angabonisa—

- (a) namalunga eKhabhinethe aqondene nezindaba zangaphandle;
- (b) noNgqongqoshe wesiFundazwe esifundazweni esithintekayo. 40

(4) Imithetho ephawulwe esigatshaneni -(2), ingahlanganisa imibandela ephathelene—

- (a) nesibalo noma ingxube yesici engakhiqizelwa emoyeni;
- (b) indlela nesimo okungachithwa ngayo isisi emoyeni, ngasodwa noma ngokuhlanganyela nezinye izisi noma isisi;
- (c) ukugcinwa kwemibhalo yokugcina noma yimuphi umgomo oshaywe ngaphansi kwalesi sigaba;
- (d) ukuthathiwa kwesampula, ukuhlaziya, ukuhlola, ukukala noma ukulandelela isici nokwethula imiphumela kuNgqongqoshe;
- (e) nezimo, inqubo yesivivinyo nemikhuba yaselabholetshi okummele ilandelwe ekuthatheni ingxenya eyisibonelo seqoqo lento, ukuhlaziya, uhlola, ukalwa noma ukulandelela ingxube yezici zomkhiqizo. 50

(5) Ngegama lelunga elimmele izindaba zangaphandle, uNgqongqoshe angeluleka uhulumeni welinye izwe elithintekayo noma elihlomulayo ngalokho okuqaguliwe, ngesaziso noma ngomgomo ngaphambi kokuba ushicilelwe. 55

Penalties

52. (1) A person convicted of an offence referred to in section 51 is liable to a fine, or to imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment.

(2) A fine contemplated in subsection (1)—

- (a) may not exceed an amount prescribed in terms of legislation regulating maximum fines for criminal offences; and
- (b) must be determined with due consideration of—
 - (i) the severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
 - (ii) the monetary or other benefits which accrued to the convicted person through the commission of the offence; and
 - (iii) the extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

CHAPTER 8**GENERAL MATTERS***Part 1: Regulations***Regulations by Minister**

53. The Minister may make regulations that are not in conflict with this Act, regarding—

- (a) any matter necessary to give effect to the Republic's obligations in terms of an international agreement relating to air quality;
- (b) matters relating to environmental management co-operation agreements, to the extent that those agreements affect air quality;
- (c) emissions, including the prohibition of specific emissions, from point, non-point and mobile sources of emissions, including motor vehicles;
- (d) open fires and incinerators;
- (e) ozone-depleting substances;
- (f) codes of practice;
- (g) records and returns;
- (h) labelling;
- (i) trading schemes;
- (j) powers and duties of air quality officers;
- (k) appeals against decisions of officials in the performance of their functions in terms of the regulations;
- (l) incentives to encourage change in behaviour towards air pollution by all sectors in society;
- (m) requirements in respect of monitoring;
- (n) the avoidance or reduction of harmful effects on air quality from activities not otherwise regulated in terms of this Act;
- (o) any matter that may or must be prescribed in terms of this Act; or
- (p) any other matter necessary for the implementation or application of this Act.

Regulations by MECs responsible for air quality

54. The MEC may make regulations for the province concerned, not inconsistent with this Act, in respect of any matter for which the MEC may or must make regulations in terms of this Act, including a matter referred to in section 53(c) to (p).

ISAHLUKO 7**UKWEPHULA UMTHETHO NENHLAWULO****Ukwephula umthetho**

51. (1) Umuntu uyobe ephula umthetho uma—
- (a) ephambana nemibandela yesigaba -22, 25 noma -32(2); 5
 - (b) ephambana noma ehluleka ukuhambisana nesimo noma nombandela wemvume yokukhiqiza isisi emoyeni ngokwesigaba 26(1)(b) noma (2);
 - (c) ehluleka ukuletha umbiko wokuthinta umoya odingekayo ngokwesigaba 27;
 - (d) ehluleka ukwazisa uNgqongqoshe njengokudingwa isigabe 30;
 - (e) ephambana noma ehluleka ukuhambisasna nemibandela noma izimfanelo zemvume yokukhiqiza isisi emoyeni; 10
 - (f) enika ulwazi olungamanga noma oludukisayo esicelweni sakhe semvume yokukhiqiza isisi emoyeni noma sokwedlulisela komunye, ukuguqula noma ukuvuselela kabusha leyo mvume;
 - (g) enika ulwazi olungamanga noma oludukisayo esiphathimandleni seqophelo lomoya; futhi 15
 - (h) ephambana noma ehluleka ukuhambisana nesimo anikwe ngaso igunya lokushwelezelwa ekuhambisaneni nombandela othile walo Mthetho, ngokulandisa kwesigaba- 56.
- (2) Umuntu osebenza ngesikhiqizi-sisi esilawulwayo uyoba necala lokwephula umthetho uma abakhiqizi-sisi abachaziwe beqe izinga elithile elimisiwe lengxube yaleyo mikhiqizo yesisi evela esikhungweni sabo esilawulwayo. 20
- (3) Umuntu osebenza ngesenzo esisohlwini uyoba necala lokwephula umthetho uma abakhiqizi-sisi abachaziwe beqe izinga elithile elimiswe kwimvume yokukhiqiza isisi nokuwumkhiqizo odalwa yisenzo esibhalisiwe. 25

Inhlawulo

52. (1) Umuntu otholwe enecala lokwephula umthetho ophawulwe ngaphansi kwesigaba- 48 engahlawuliswa noma abhadle ejele isikhathi esingevile eminyakeni eyishumi noma athole isijeziso sakho kokubili.
- (2) Inhlawulo ngokulandisa kwesigatshana -(1)— 30
- (a) ngeke yedlule inani elinqunywe ngumgomo olawula izinga eliphezulu lenhlawulo yesenzo sobugebengu;
 - (b) kufanele inqunywe ngokucubungula kahle—
 - (i) ubunzima besenzo sokwephula umthetho ngokubheka umthelela noma okungase kube wumthelela, isimo sezempilo, ukuphepha nezemvelo; 35
 - (ii) isimo semali noma eminye imihlomulo ezuzwe ngumuntu ophule umthetho ngenxa yesenzo sobugebengu; futhi
 - (iii) ubukhulu begalelo ekunukubezeni jikelele ngaphansi kwezimo ezijwayelekile okwenziwe yilowo otholwe enecala. 40

ISAHLUKO 8

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IZINDABA EZIVAMILE*Ingxenye -I: Imigomo***Imigomo kaNgqongqoshe**

53. Ungqongqoshe angenza noma ashaye imigomo eqondene nanoma yiluphi udaba uNgqongqoshe okufanele aluqondise ngaphansi kwalo Mthetho, kuhlangele neminye imigomo, inqobo uma ingashayisani nalo Mthetho maqondana— 45
- (a) nanoma yiluphi udaba olubalulekile ukufeza izibophezelo zaseNingizimu Afrika ngokwesivumelwane samazwe omhlaba esiqondene neqophelo lomoya;
 - (b) nezindaba eziphathelele nezivumelwane zokubambisana ngokusingatha ezemvelo, lapho lezo zivumelwane zithinta khona iqophelo lomoya; 50
 - (c) nomkhiqizo wesisi osuka emsukeni ethile eqondakalayo nengaqondakali, kuxubene nezimoto;

General

- 55.** (1) Regulations made in terms of this Act may—
- (a) restrict or prohibit any act, either absolutely or conditionally;
 - (b) apply—
 - (i) generally to the Republic or a province, as the case may be, or only in a specified area or category of areas; or
 - (ii) generally to all persons or only to a specified category of persons;
 - (c) differentiate between different—
 - (i) areas or categories of areas; or
 - (ii) persons or categories of persons; and
 - (d) incorporate by reference any code of practice or any national or international standard relating to air quality.
- (2) Regulations made in terms of this Act may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to—
- (a) imprisonment for a period not exceeding five years;
 - (b) an appropriate fine; or
 - (c) both a fine and imprisonment.
- (3) (a) Before publishing any regulation made in terms of this Act, or any amendment to the regulations, the Minister or MEC must follow a consultative process in accordance with sections 56 and 57.
- (b) Paragraph (a) need not be complied with if the regulations are amended in a non-substantive way.

Part 2: Consultative process**Consultation**

- 56.** (1) Before exercising a power which, in terms this Act, must be exercised in accordance with this section and section 57, the Minister or MEC must follow such consultative process as may be appropriate in the circumstances.
- (2) When conducting the consultations contemplated in subsection (1), the Minister must—
- (a) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the power;
 - (b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution, consult the MEC responsible for air quality in each province that will be affected by the exercise of the power; and
 - (c) allow public participation in the process in accordance with section 57.
- (3) When conducting the consultations contemplated in subsection (1), the MEC must—
- (a) consult all members of the Executive Council whose areas of responsibility will be affected by the exercise of the power;
 - (b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution, consult the Minister and all other national organs of state that will be affected by the exercise of the power; and
 - (c) allow public participation in the process in accordance with section 57.

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- (d) nemililo engagadiwe nezinsiza zokugxiviza udoti olahliwe;
- (e) nezici ezilimaza noma ezigugula uqweqwe lomkhathi;
- (f) nenqubo yokuziphatha;
- (g) nemibhalo namafomu agcwaliswayo;
- (h) ukulebula; 5
- (i) nezinhlelo zokudayisa;
- (j) amandla nemisebenzi yabaphathi ababheke izinga lomoya;
- (k) nezikhalo ngezinqumo ezithathwa ngabasebenzi ngamandla abanikwe wona nemisebenzi abayenzayo ngaphansi kwemigomo ekhona;
- (l) namalinge okukhuthaza ushintsho ekuziphatheni ngemikhuba yokunukubeza umoya kuyo yonke imikhakha yomphakathi; 10
- (m) izimfanelo ezimayelana nokubheka;
- (n) nokugwema noma nokunciphisa imithelela eyingozi eqophelweni lomoya ezenzweni ezingalawulwa ngaphansi kwalo Mthetho;
- (o) olunye udaba olubalulekile ukuqhuba lo Mthetho; futhi 15
- (p) noma yikuphi okunye okudingekayo kokuqalisa ukusebenza kwalo Mthetho.

Imigomo kaNgqongqoshe wesiFundazwe ongamele

54. Ungqongqoshe wesiFundazwe angashaya imigomo engashayisani nalo Mthetho mayelana nodaba oluqulwe esigabeni- 56(c) kuya ku- (q).

Okuvamile

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55. (1) Imigomo eyenziwe ngaphansi kwalo Mthetho—

- (a) inganqanda amandla noma ivimbe noma yisiphi isenzo ngokugcwele noma ibeke umbandela;
- (b) ingasebenza—
 - (i) ngokuvamile kuyo yonke iNingizimu Afrika noma esifundazweni, kuye ngesimo ngasinye noma kuphela endaweni eqokiwe noma ezigabeni ezithile zendawo; noma 25
 - (ii) ngokuvamile kubo bonke abantu noma engxenyeni ethile yesigaba sabantu; noma
- (c) ihlukanise phakathi— 30
 - (i) kwezindawo noma ngezigaba zezindawo; noma
 - (ii) kwabantu noma izigaba zabantu;
- (d) ididiyele ngokuhlela ngenqubo yokuziphatha noma ngamazinga kazwelonke noma ezinga lomhlaba mayelana neqophelo lomoya.
- (2) Imigomo eyenziwe ngaphansi kwalo Mthetho ingahlinzekela ukuba wonke umuntu ophula noma ohluleka ukuhambisana nombandela atholwe enecala lokwephula umthetho bese ejeziswa— 35
 - (a) ngokuboshwa isikhathi esingevile eminyakeni emihlanu;
 - (b) ngokukhokha inhlawulo efanele; futhi
 - (c) ngakho kokubili, inhlawulo nokuboshwa. 40
- (3) (a) Ngaphambi kokushicilela noma yimuphi umgomo ngaphansi kwalo Mthetho noma esinye isichibiyelo emigomweni, uNgqongqoshe noma uNgqongqoshe wesiFundazwe kufanele alandele inqubo yokubonisana ehambisana nezigaba ne 56 no 57.
- (b) Isigatshana (a) asidingi ukusetshenziswa ezinguqukweni ezincane zomgomo. 45

Ingxenywe -2: Inqubo yokubonisana

Ukubonisana

56. (1) Ngaphambi kokusebenzisa amandla agunyazwe ngaphansi kwemibandela yalo Mthetho nokufanele asetshenziswe ngokuhambisana nalesi sigaba kanjalo nesigaba- 54, uNgqongqoshe noma uNgqongqoshe wesiFundazwe ongamele iqophelo lomoya esifundazweni kufanele alandele inqubo yokubonisana efanele isimo esikhona. 50

(2) Uma kufanele ngokwesigatshana- (1), uNgqongqoshe kumele—

- (a) abonisane nawo wonke amalunga eKhabhinethe okuyophazamiseka izindawo zawo lapho kusetshenziswa amandla;

Public participation

57. (1) Before exercising a power which, in terms of this Act, must be exercised in accordance with this section, the Minister or MEC must give notice of the proposed exercise of the relevant power—

- (a) in the *Gazette*; and
- (b) in at least one newspaper distributed nationally or, if the exercise of the power will affect only a specific area, in at least one newspaper distributed in that area.

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(2) The notice must—

- (a) invite members of the public to submit to the Minister or MEC, within 30 days of publication of the notice in the *Gazette*, written representations on or objections to the proposed exercise of the power; and
- (b) contain sufficient information to enable members of the public to submit meaningful representations or objections.

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(3) The Minister or MEC may in appropriate circumstances allow any interested person or community to present oral representations or objections to the Minister or MEC, or a person designated by the Minister or MEC.

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(4) The Minister or MEC must give due consideration to all representations or objections received or presented before exercising the power concerned.

Part 3: Delegations and exemptions

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Delegations

58. (1) The Minister or MEC, as the case may be, may delegate or assign to an official in their respective departments—

- (a) any power or duty of the Minister or MEC contained in this Act, excluding the power to publish or amend a regulation in terms of section 53 or 54 or a notice in terms of section 7(1), 9(1), 10(1), 18(1), 21(1), 23(1) or 29(1); or
- (b) any power or duty reasonably necessary to assist the Minister or MEC in exercising a power or performing a duty of the Minister or MEC.

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(2) The Minister or MEC must regularly review and, if necessary, amend or withdraw a delegation or assignment under subsection (1).

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(3) A delegation or assignment to an official under subsection (1)—

- (a) is subject to such limitations and conditions as the Minister or MEC may impose;
- (b) may either be to a specific individual or to the holder of a specific post in the relevant department;
- (c) may authorise that official to subdelegate or further assign, in writing, the power or duty concerned to another official in the department, or to the holder of a specific post in the department; and
- (d) does not divest the Minister or MEC of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

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(4) The Minister or MEC may confirm, vary or revoke any decision taken by an official as a result of a delegation or subdelegation in terms of this section, subject to any rights that may have become vested as a consequence of the decision.

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- (b) abonisane noNgqongqoshe wesiFundazwe ongamele iqophelo lomoya esifundazweni esiyophazamiseka ngokusetshenziswa kwamandla, inqobo uma lokho kwenziwa ngokuhambisana nenkambiso yokubusa ngokubambisana njengoba sibika iSahluko 3 soMthethosisekelo; futhi
- (c) avumele iqhaza lomphakathi kwinqubo ngokulandela isigaba- 54. 5
- (3) Ngokubona kufanele, nokuhambisana nesigatshana (1), uNgqongqoshe wesiFundazwe ongamele iqophelo lomoya esifundazweni kufanele—
- (a) abonisane nawo wonke amalunga oMkhandlu Ophakeme okuyophazamiseka izindawo zawo lapho kusetshenziswa la mandla;
- (b) ngokuhambisana nenkambiso yokubusa ngokubambisana ebikwe yiSahluko- 3 soMthethosisekelo, abonisane noNgqongqoshe nazo zonke ezinye izinhloko zikahulumeni eziyothinteka ngokusetshenziswa kwamandla; futhi 10
- (c) avumele iqhaza lomphakathi kwinqubo ngokuhambisana nesigaba- 54.

Iqhaza elibanjwa ngumphakathi

57. (1) uNgqongqoshe kazwelonke noma uNgqongqoshe wesiFundazwe kufanele akhiphe isaziso samandla ahlangozelwa ukusetshenziswa, siyokhishwa— 15
- (a) *kwiGazette*; noma
- (b) nasephephandabeni okungenani elilodwa elidayiswa ezweni lonke, uma ukusebenzisa amandla kuthinta indawo ethile kuphela, okungenani sikhishwe ephephandabeni elilodwa elidayisa kuleyo ndawo. 20
- (2) Isaziso kufanele—
- (a) simeme wonke amalunga omphakathi ukuba ethule iziphakamiso noma aphikisane nokusetshenziswa kwamandla okuhlongozwayo kuNgqongqoshe kazwelonke noma kuNgqongqoshe wesiFundazwe, zingakapheli izinsuku ezingu-30 sikhishwe *kwiGazette* isaziso; futhi 25
- (b) siqathe ulwazi olwenele ukunika amalunga omphakathi ithuba elenele lokwethula iziphakamiso nokuphikisana nesinqumo.
- (3) Uma sifanele isimo, uNgqongqoshe kazwelonke noma wesiFundazwe engavumela umuntu noma umphakathi ukuba wethule iziphakamiso noma impikiswano ngomlomo kuNgqongqoshe kazwelonke noma wesiFundazwe, noma kulowo ojutshwe nguNgqongqoshe kazwelonke noma wesiFundazwe. 30
- (4) uNgqongqoshe kazwelonke noma wesiFundazwe kufanele acubungule kahle zonke iziphakamiso zokuvuma noma zokuphikisa ezitholiwe noma ezethuliwe ngaphambi kokusebenzisa lamandla.

Ingxenye 3: Ukujutshwa kwabantu emsebenzini nokuxolelwa umthetho 35

Ukujutshwa kwabantu emsebenzini

58. (1) UNgqongqoshe kazwelonke noma wesiFundazwe, uma kungase kube njalo, anganika umphathi igunya eminyangweni yabo:
- (a) lanoma yimaphi amandla noma lomsebenzi kaNgqongqoshe noma okulo Mthetho, kukhipha ngaphandle amandla okushicilela noma okuchibiyela umthetho ngokwesigaba 50 noma 51 noma isaziso ngokwesigaba 7(1), 9(1), 10(1), 18(1), 21(1), 23(1) noma 29(1); noma 40
- (b) lanoma yimaphi amandla noma umsebenzi odingekayo ukusiza uNgqongqoshe kazwelonke noma wesiFundazwe ekuqhubeni imisebenzi yakhe. 45
- (2) UNgqongqoshe kazwelonke noma wesiFundazwe kufanele babuyekeze njalo futhi, uma kudingekile, achibiyele noma ahoxise ukujuba umuntu ngaphansi kwesigatshana (1).
- (3) Ukujuba umsebenzi kumphathi ngaphansi kwesigatshana (1):
- (a) kuncike emkhawulweni nasemibandeleni enjalo njengoba kunganquma uNgqongqoshe kazwelonke noma; 50
- (b) kungaba umuntu othile noma umuntu ophethe isikhundla esithile emnyangweni ofanele;
- (c) angagunyaza ukuthi umphathi naye ajube omunye umuntu emsebenzini, ngokuthi abhale phansi, amandla nomsebenzi lowo emnyangweni; noma 55
- (d) futhi angephuci uNgqongqoshe kazwelonke noma umsebenzi wokujuba amandla omsebenzi.

Exemptions

59. (1) (a) Any person or organ of state may, in writing, apply for exemption from the application of a provision of this Act to the Minister.

(b) No exemption from a provision of section 9, 22 or 25 may be granted in terms of paragraph (a). 5

(2) An application in terms of subsection (1) must be accompanied by reasons.

(3) (a) The Minister may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.

(b) The steps contemplated in paragraph (a) must include the publication of a notice in at least two newspapers circulating nationally— 10

(i) giving reasons for the application; and

(ii) containing such other particulars concerning the application as the Minister may require.

(4) The Minister may— 15

(a) from time to time review any exemption granted in terms of this section; and

(b) on good grounds withdraw any exemption.

(5) The Minister may on such conditions and limitations determined by the Minister delegate any of the powers contained in this section to—

(a) the MEC responsible for air quality in a province; or 20

(b) a metropolitan or district municipality.

CHAPTER 9**MISCELLANEOUS****Repeal of legislation**

60. (1) The legislation mentioned in the Table in Schedule 1 is hereby repealed or amended to the extent set out in the third column of the Table, subject to subsections (2) and (3) of this section and section 61. 25

(2) Anything done or deemed to have been done under a provision repealed by subsection (1) and which can be done in terms of a provision of this Act must be regarded as having been done under that provision of this Act. 30

(3) Anything done or deemed to have been done under a provision repealed by subsection (1) and which can be done in terms of the constitutional or statutory powers of a municipality, remains in force in the area of a municipality until repealed by the municipality of that area.

Transitional arrangements in respect of registration certificates issued in terms of Atmospheric Pollution Prevention Act 35

61. (1) (a) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, a provisional registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which section 60 took effect, continues to be valid for a period of two years from that date, subject to paragraph (c). 40

(b) During the period for which a provisional registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of—

(i) the holder of such a certificate as if that person is the holder of a provisional atmospheric emission licence issued in terms of section 41(1) of this Act for the activity for which the certificate was issued; and 45

(ii) the certificate as if the certificate is a provisional atmospheric emission licence.

(c) If during the two-year period referred to in paragraph (a)—

(i) a provisional atmospheric emission licence is issued to the holder of a provisional registration certificate following a revision in terms of section 45 or an application for renewal in terms of section 47, the certificate expires on the date of issue of the provisional licence; or 50

(ii) an atmospheric emission licence is issued to the holder of a provisional registration certificate in terms of section 42(1), the certificate expires on the date of issue of the licence. 55

(4) UNgqongqoshe kazwelonke noma wesiFundazwe angaqinisekisa, ashintshe noma achithe noma yisiphi isinqumo esithathwe umphathi ngenxa yokujuba umuntu emsebenzini noma yena abuye ajube owakhe ngokwalesi sigaba, kuncike kunoma yimaphi amalungelo okungezeka abe akhona ngenxa yesinqumo.

Igunya lokuxolelwa yilo mthetho

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59. (1) (a) Ngesicelo esibhaliwe, noma yimuphi umuntu noma uhlaka lukahulumeni lungafaka isicelo sokuxolelwa emibandeleni yalo mthetho kuNgqongqoshe kazwelonke.

(b) Akukho ukuxolelwa umthetho esibonelelweni sesigaba 9, 22 noma 25 okunganikezwa ngokwendima (a).

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(2) Isicelo esenziwe ngaphansi kwesigatshana- (1), kufanele siphelezwe yizizathu.

(3) UNgqongqoshe—

(a) engafuna ulwazi olwengeziwe kulowo ofake isicelo ngaphambi kokuthatha isinqumo ngesicelo;

(b) engemukela isicelo noma asivume ngaphansi kwemibandela ethile; futhi

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(c) engasenqaba isicelo.

(4) UNgqongqoshe—

(a) engahoxisa noma yiliphi igunya lokuxolelwa wumthetho okukhishwe ngaphansi kwalesi sigaba uma kungahanjiswa nombandela okukhishwe ngaphansi kwawo igunya lokuxolelwa; noma

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(b) engabuyekeza izikhathi ngezikhathi igunya lokushwelezelwa noma umbandela okukhishwe ngaphansi kwawo igunya lokuxolelwa.

(5) UNgqongqoshe ezimweni nasezikhawulweni njengokunquma kukaNgqongqoshe angadlulisela noma yimaphi amandla akhona kulesi sahluko:

(a) kuNgqongqoshe wesiFundazwe obhekene nokuphathwa kweqophelo lomoya esifundazweni, noma

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(b) kumasipala wedolobha noma wesifunda.

ISAPHLUKO 9

INGXUBEVANGE

Ukushintshwa komthetho

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60. (1) Umthetho obalulwe oHlwini kuSheduli 1 uyaqedwa noma uyachibiyelwa uze ufike ezingeni elibekwe kwikhalamu yesithathu yoHla, kuncike ezigatshaneni (2) no (3) zalesi sigaba nesigaba 61.

(2) Noma yini eyenziwe noma ethathwa njengaleyo eyenziwe ngaphansi kombandela othathelwe indawo yisigatshana- (1) nengase yenziwe ngaphansi kombandela walo Mthetho, kufanele ithathwe njengeyenziwe ngaphansi kwalo Mthetho.

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(3) Noma yini eyenziwe noma ethathwe ngokuthi yenziwe ngaphansi kwesibonelelo esichithwe yisigatshana (1) nokungenziwa futhi ngokwamandla aphathelene nomthetho kamasipala, kuhlala kusebenza endaweni kamasipala kuze kuchithwe umasipala waleyo ndawo.

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Izinhlelo zezinguquko ngokwezitifiketi zokubhalisa ezikhishwa ngokoMthetho wokuVikela ukuNukubezwa koMoya

61. (1) (a) Naphezu kokuthi kuqedwe uMthetho wokuVikela ukuNukubezwa koMoya yisigaba 60 saloMthetho, izitifiketi zokubhalisa zesikhashana ezikhishwa ngokwalowo Mthetho futhi kwaba isitifiketi esisebenzayo ngokushesha ngaphambi kosuku isigaba 60 esaqala ukusebenza ngalo, siyaqhubeka nokusebenza isikhathi esiyiminyaka emibili kusukela kulolo suku, kuncike endimeni (c).

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(b) Ngesikhathi isitifiketi sokubhalisa sesikhashana siqhubeka nokusebenza, izibonelelo zalo Mthetho, zezinguquko ezidingekayo njengokudingwa yingqikithi, sisebenza ngokuthi-

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(i) umnikazi wesitifiketi esinjalo abe njengomuntu ongumnikazi wemvume yesikhashana yokukhiqiza isisi emoyeni esikhishwa ngokwesigaba 41 (1) salo Mthetho somsebenzi isitifiketi esikhishelwa wona; futhi

(ii) nesitifiketi kube sengathi siyimvume yesikhashana yokukhiqiza isisi emoyeni.

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(2) (a) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, a registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which section 60 took effect, continues to be valid for a period of four years from that date, subject to paragraph (d).

(b) During the period for which a registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of—

(i) the holder of such a certificate as if that person is the holder of an atmospheric emission licence issued in terms of section 42(1) of this Act for the activity for which the certificate was issued; and

(ii) the certificate as if the certificate is an atmospheric emission licence.

(c) The holder of a registration certificate must within the first three years of the four-year period referred to in paragraph (a), lodge a renewal application in terms of section 47 with the licensing authority of the area in which the activity for which the certificate was issued is carried out.

(d) (i) If the holder of a registration certificate fails to comply with paragraph (c), the certificate expires at the end of the three years referred to in paragraph (c).

(ii) If during the four-year period referred to in paragraph (a) an atmospheric emission licence is issued to the holder of a registration certificate following an application for renewal in terms of paragraph (c), the certificate expires on the date of issue of the licence.

(iii) If during the period before the holder of a registration certificate lodges an application for renewal in terms of paragraph (c), an atmospheric emission licence is issued to the holder of the certificate following a revision in terms of section 45, the certificate expires on the date of issue of the licence. In such event compliance with paragraph (c) falls away.

(3) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, any application for a registration certificate made in terms of that Act which was not decided when section 60 took effect, must be proceeded with in terms of this Act as if such application was an application for an atmospheric emission licence in terms of section 37.

Transitional provision regarding listed activities

62. Pending the listing of activities by the Minister in terms of section 21, the processes identified in the Second Schedule of the Atmospheric Pollution Prevention Act must for the purposes of this Act be regarded as activities listed by the Minister in terms of that section.

Transitional provision regarding ambient air quality standards

63. Until ambient air quality standards have been established in terms of section 9, 10 or 11, the ambient air quality standards contained in Schedule 2 apply.

Short title and commencement

64. (1) This Act is called the National Environmental Management: Air Quality Act, 2004, and takes effect on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined in terms of subsection (1) for different provisions of the Act.

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- (c) Uma ngesikhathi esiyiminyaka emibili okubhekiswe kuso endimeni (a)—
- (i) imvume yesikhashana yokukhiqiza isisi emoyeni inikezwa umnikazi wesitifiketi sokubhalisa sesikhashana kulandela ukubuyekwezwa ngokwesigaba 45 noma isicelo sokuvuselela ngokwesigaba 47, isitifiketi siphelwa yisikhathi ngesikhathi okukhishwa ngaso imvume yesikhashana; noma 5
 - (ii) imvume yokukhiqiza isisi emoyeni inikezwa umnikazi wesitifiketi sokubhalisa sesikhashana ngokwesigaba 42 (1), isitifiketi siphelwa yisikhathi ngosuku okukhishwa ngalo imvume.
- (2) (a) Naphezu kokuthi kuqedwe uMthetho wokuVikela ukuNukubezwa koMoya yisigaba 60 salo Mthetho, izitifiketi zokubhalisa zesikhashana ezikhishwa ngokwalowo Mthetho futhi kwaba isitifiketi esisebenzayo ngokushesha ngaphambi kosuku isigaba 60 esaqala ukusebenza ngalo, siyaqhubeka nokusebenza isikhathi esiyiminyaka emine kusukela kulolo suku, kuncike endimeni (d). 10
- (b) Ngesikhathi isitifiketi sokubhalisa sesikhashana siqhubeka nokusebenza, izibonelelo zalo Mthetho, zinezinguquko ezidingekayo njengokudingwa yingqikithi, sisebenza ngokuthi— 15
- (i) umnikazi wesitifiketi esinjalo abe njengomuntu ongumnikazi wemvume yesikhashana yokukhiqiza isisi emoyeni esikhishwa ngokwesigaba 41 (1) salo Mthetho somsebenzi isitifiketi esikhishelwa wona; futhi
 - (ii) nesitifiketi kube sengathi siyimvume yesikhashana yokukhiqiza isisi emoyeni. 20
- (c) Umnikazi wesitifiketi sokubhalisa kufanele esikhathini esingangeminyaka yokuqala emithathu yesikhathi seminyaka emine okuqondiswe kuso endimeni (a), afake isicelo sokuvuselela ngokwesigaba 47 kuziphathimandla zendawo ezinikeza imvume lapho umsebenzi okhishelwa isitifiketi wenziwa khona. 25
- (d) (i) Uma umnikazi wesitifiketi sokubhalisa ehluleka ukuhambisana nendima (c), isitifiketi siphelwa yisikhathi ekupheleni kweminyaka emithathu okuqondiswe kuyo endimeni (c).
- (ii) Uma, esikhathini esiyiminyaka emine okuqondiswe kuyo endimeni (a) imvume yokukhiqiza isisi emoyeni inikezwa umnikazi wesitifiketi sokubhalisa kulandela isicelo sokuvuselela ngokwendima (c), isitifiketi siphelwa yisikhathi ngosuku okukhishwa ngalo imvume. 30
 - (iii) Uma, ngesikhathi esingaphambi kokuthi umnikazi wesitifiketi sokubhalisa efaka isicelo sokuvuselela ngokwendima (c), imvume yokukhiqiza isisi emoyeni inikezwa umnikazi wesitifiketi kulandela ukubuyekwezwa ngokwesigaba 45, isitifiketi siphelwa yisikhathi ngosuku okukhishwa ngalo imvume. Esimweni esinjalo ukuhambisana nendima (c) akube kusasebenza. 35
- (3) Naphezu kokuthi kuqedwe uMthetho wokuVikela ukuNukubezwa koMoya yisigaba 60 saloMthetho, nomayisiphi isicelo sesitifiketi sokubhalisa esenziwe ngokwalowo Mthetho okungathathwanga ngaso isinqumo ngesikhathi isigaba 60 siqala ukusebenza, kufanele kuqhutshekwe naso ngokwalo Mthetho kube sengathi isicelo esinjalo bekungesemvume yokukhiqiza isisi emoyeni ngokwesigaba 37. 40

Isibonelelo soguquko esimayelana nemisebenzi esohlwini

62. Kusabhekwa ukubhalwa kwemisebenzi ohlwini nguNgqongqoshe ngokwesigaba 21, izinqubo ezibonakala kwiSheduli yesiBili yoMthetho wokuVikela ukuNukubezwa koMoya kufanele ukwenzela loMthetho zithathwe njengemisebenzi efakwe ohlwini nguNgqongqoshe ngokwaleso sigaba. 45

Imibandela yesikhashana mayelana namazinga omoya akhona endaweni

63. Kusalindwe ukunqunywa kwamazinga okuqondiswe kuwo esigabeni- 9, 10 noma 11, imihlahlandlela yeqophelo lomoya ekuSheduli iyoqhubeka isebenze. 50

Isihloko esifishane nokuqala

64. (1) Lo Mthetho ubizwa ngokuthi ukuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, 2004, futhi uzoqala ukusebenza ngosuku oluzoshiwo uNgqongqoshe ngesaziso kwi-Gazette.

(2) Izinsuku ezehlukene zingashiwo ngokwesigatshana (1) ngezibonelelo ezehlukene zoMthetho. 55

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NATIONAL ENVIRONMENT MANAGEMENT:
AIR QUALITY ACT, 2004

SCHEDULE 1

(Section 60)

Legislation repealed or amended

No. and year of Act	Short title	Extent of repeal or amendment
Act No. 45 of 1965	Atmospheric Pollution Prevention Act, 1965	The whole
Act No. 17 of 1973	Atmospheric Pollution Prevention Amendment Act, 1973	The whole
Act No. 21 of 1981	Atmospheric Pollution Prevention Amendment Act, 1981	The whole
Act No. 15 of 1985	Atmospheric Pollution Prevention Amendment Act, 1985	The whole
Act No. 107 of 1998	National Environmental Management Act, 1998	The amendment of section 1 by the substitution for the definitions of "specific environmental management Act" and "specific environmental management Acts" of the following definition: " 'specific environmental management Act' means— (i) the National Environmental Management: Biodiversity Act, 2003; (ii) the National Environmental Management: Protected Areas Act, 2003; or (iii) the National Environmental Management: Air Quality Act, 2004, and includes any regulations or other subordinate legislation made in terms of any of those Acts;".

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UMTHETHO WEZINGA LOMOYA, 2004

Act No. 39, 2004

ISHEDULI 1

(Isigaba 60)

Umthetho oyekisiwe noma ochibiyelwe

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Inombolo nonyaka woMthetho	Isihloko esifishane	Izinga lokuyekisa noma lokuchibiyela	
UMthetho Nombolo 45 ka-1965	UMthetho wesiChibiyelo wokuVikela ukuNukubezeka koMoya, 1965	Wonke	10
UMthetho Nombolo 17 ka-1973	UMthetho wesiChibiyelo wokuVikela ukuNukubezeka koMoya, 1973	Wonke	15
UMthetho Nombolo 21 ka-1981	UMthetho wesiChibiyelo wokuVikela ukuNukubezeka koMoya, 1981	Wonke	20
UMthetho Nombolo 15 ka-1985	UMthetho wesiChibiyelo wokuVikela ukuNukubezeka koMoya, 1985	Wonke	25
UMthetho Nombolo 107 ka-1998	UMthetho wokuPhathwa kwezeMvelo kaZwelonke, 1998	<p>Ukuchibiyelwa kwesigaba 1 ngokukhipha izincazelo “uMthetho wokuphatha ezemvelo ezithile” neMithetho yokuphatha ezemvelo ezithile” kufakwe le ncazelo elandelayo:</p> <p>“ ‘uMthetho wokuphatha ezemvelo ezithile’ usho—</p> <p>(i) UkuPhathwa kwezeMvelo kaZwelonke: uMthetho we-Biodiversity, 2003</p> <p>(ii) UkuPhathwa kwezeMvelo kaZwelonke: uMthetho weziNdawo eziVikelekile, 2003; noma</p> <p>(iii) uMthetho wo kuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, 2004, ufaka futhi noma yimiphi imithetho noma eminye imithetho emincane eyenziwe ngokwanoma iyiphi yaleyo Mithetho;”</p>	<p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>

SCHEDULE 2**(Section 63)****Ambient air quality standards**

1. Ambient concentrations of ozone (O_3) may not exceed—
 - (a) an instant peak of 0.25 parts per million measured at 25°C and normal atmospheric pressure; or
 - (b) a one-hour average of 0.12 parts per million measured at 25°C and normal atmospheric pressure.
2. Ambient concentrations of the oxides of nitrogen (NO_x) may not exceed—
 - (a) an instant peak of 1.4 parts per million measured at 25°C and normal atmospheric pressure;
 - (b) a one-hour average of 0.8 parts per million measured at 25°C and normal atmospheric pressure;
 - (c) a 24-hour average of 0.4 parts per million measured at 25°C and normal atmospheric pressure and the 24-hour limit may not be exceeded more than three times in one year;
 - (d) a one-month average of 0.3 parts per million measured at 25°C and normal atmospheric pressure; or
 - (e) an annual average of 0.2 parts per million measured at 25°C and normal atmospheric pressure.
3. Ambient concentrations of nitrogen dioxide (NO_2) may not exceed—
 - (a) an instant peak of 0.5 parts per million measured at 25°C and normal atmospheric pressure;
 - (b) a one-hour average of 0.2 parts per million measured at 25°C and normal atmospheric pressure;
 - (c) a 24-hour average of 0.1 parts per million measured at 25°C and normal atmospheric pressure and the 24-hour limit may not be exceeded more than three times in one year;
 - (d) a one-month average of 0.08 parts per million measured at 25°C and normal atmospheric pressure; or
 - (e) an annual average of 0.05 parts per million measured at 25°C and normal atmospheric pressure.
4. Ambient concentrations of sulphur dioxide (SO_2) may not exceed—
 - (a) a ten-minute average instant peak of 0.191 parts per million measured at 25°C and normal atmospheric pressure;
 - (b) an instant peak of 500 micrograms per cubic meter ($\mu g/m^3$) measured at 25°C and normal atmospheric pressure;
 - (c) a 24-hour average of 0.048 parts per million or 125 micrograms per cubic meter ($\mu g/m^3$) measured at 25°C and normal atmospheric pressure;
 - (d) an annual average of 0.019 parts per million or 50 micrograms per cubic meter ($\mu g/m^3$) measured at 25°C and normal atmospheric pressure.
5. Ambient concentrations of lead (Pb) may not exceed a one-month average of 2.5 micrograms per cubic meter ($\mu g/m^3$).
6. Ambient concentrations of particulate matter with a particle size of less than 10 microns (μ) in size (PM_{10}) may not exceed—
 - (a) a 24-hour average of 180 micrograms per cubic meter ($\mu g/m^3$) and the 24-hour limit may not be exceeded more than three times in one year; or
 - (b) an annual average of 60 micrograms per cubic meter ($\mu g/m^3$).
7. Ambient concentrations of total suspended solids may not exceed—
 - (a) a 24-hour average of 300 micrograms per cubic meter ($\mu g/m^3$) and the 24-hour limit may not be exceeded more than three times in one year; or
 - (b) an annual average of 100 micrograms per cubic meter ($\mu g/m^3$).

ISHEDULI 2

(Isigaba 63)

Imigomo ezinga lomoya osendaweni yokuhlala

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1. Ukujiya kwesisi esikwi-*ozone* (O_3) akufanele sedlule—
 - (a) ngokwenyuka okusheshayo kwezingxenye eziwu-0.25 esigidini ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; noma
 - (b) izingxenye eziwu-0.12 esigidini ngehora ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile. 10
2. Ukujiya kwama-oxides ne-nitrogen okusemoyeni (NO_x) akufanele kwedlule—
 - (a) ngokwenyuka okusheshayo kwezingxenye eziwu-1.4 esigidini ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile;
 - (b) izingxenye eziwu-0.8 esigidini ngehora ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; 15
 - (c) izingxenye eziwu-0.4 esigidini ngamahora awu-24 ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile kanti nesikalo samahora awu-24 akufanele sedlulwe ngaphezu kwezikhathi ezintathu onyakeni owodwa;
 - (d) izingxenye eziwu-0.3 esigidini ngenyanga eyodwa ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; noma 20
 - (e) izingxenye eziwu-0.2 esigidini ngonyaka ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile.
3. Ukujiya kwe-nitrogen dioxide (NO_2) emoyeni akufanele kwedlule—
 - (a) ngokwenyuka okusheshayo kwezingxenye eziwu-0.5 esigidini ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; 25
 - (b) izingxenye eziwu-0.2 esigidini ngehora ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile;
 - (c) izingxenye eziwu-0.1 esigidini ngamahora awu-24 ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile kanti nesikalo samahora awu-24 akufanele sedlulwe ngaphezu kwezikhathi ezintathu onyakeni owodwa; 30
 - (d) izingxenye eziwu-0.08 esigidini ngenyanga eyodwa ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; noma
 - (e) izingxenye eziwu-0.05 esigidini ngonyaka ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile. 35
4. Ukujiya kwe-sulphur dioxide emoyeni (SO_2) akufanele yedlule-
 - (a) ngokwenyuka okusheshayo kwezingxenye eziwu-0.191 esigidini ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile;
 - (b) ukwenyuka okusheshayo kuka-500 micrograms ngama-cubic meter (ug/m^3) ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile; 40
 - (c) izingxenye eziwu-0.048 esigidini ngamahora awu-24 noma u-125 micrograms ngama cubic meter ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile;
 - (d) izingxenye eziwu-0.019 esigidini ngonyaka noma u-125 micrograms ngama cubic meter ezingeni lokushisa eliwu-25°C nomoya wasemkhathini owejwayelekile. 45
5. Ukujiya komthofu emoyeni akufanele kwedlule u-2.5 micrograms wama-cubic meter ngenyanga eyodwa.
6. Ukujiya kwezinhlayiya emoyeni ezinobungako obungaphansi kuka-10 micron akufanele kwedlule— 50
 - (a) ku-180 micrograms wama-cubic meter ngamahora awu-24 kanti nesikalo samahora awu 24 akufanele sedlulwe ngaphezu kwezikhathi ezintathu onyakeni owodwa; noma
 - (b) ku-60 micrograms wama-cubic meter ngonyaka.
7. Ukujiya kwesamba sezinto eziqinile ezilengiswa emoyeni akufanele kwedlule— 55
 - (a) ku-300 micrograms wama-cubic meter ngonyaka kanti nesikalo samahora awu 24 akufanele sedlulwe ngaphezu kwezikhathi ezintathu onyakeni owodwa; noma
 - (b) ku-100 micrograms wama-cubic meter (ug/m^3) ngonyaka.