



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 584

Pretoria, 28 February 2014
Februarie 2014

No. 37400

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GENERAL NOTICE

NOTICE 142 OF 2014

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

DRAFT NATIONAL EXEMPTION REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention to make regulations pertaining to the process to be followed for the lodging and processing of an application for exemption under section 44(1)(a), read with section 24M(3), of the National Environmental Management Act, 1998 (Act No. 107 of 1998) in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 (thirty) days after the publication of the notice in the *Gazette*, written comments or inputs to the following addresses:


By post to: The Director-General
 Department of Environmental Affairs
 Attention: Ms Nomsa Mahlale
 Private Bag X447
 PRETORIA
 0001

By hand at: 2nd Floor (Reception), Fedsure Forum Building, 315 Corner Pretorius and Lillian Ngoyi Streets, Pretoria.

By e-mail: nmahlale@environment.gov.za, or by fax to: 012 320 7561.

Any inquiries in connection with the draft regulations can be directed to Mr S Shabalala at 012 310 3449.

Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE
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Interpretation

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, unless the context requires otherwise—

“environmental impact assessment” has the meaning assigned to it in regulation 1 of the Environmental Impact Assessment Regulations;

“Environmental Impact Assessment Regulations” means the regulations pertaining to environmental impact assessments developed in terms of section 24 of the National Environmental Management Act, 1998;

“MEC” has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998;

“Minister” has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998;

“Minister responsible for mineral resources” has the meaning assigned it in section 1 of the National Environmental Management Act, 1998;

“the Act” means the National Environmental Management Act, 1998.

Purpose of Regulations

2. The purpose of these Regulations is to regulate the process contemplated in section 24M(3) of the Act relating to the lodging and processing of an application for exemption in terms of the Act.

Application for exemption

3. Subject to section 24M(1) of the Act, a person may apply in writing for exemption from the application of a provision of the Act to the Minister, the Minister responsible for mineral resources, or the MEC, as the case may be.

Submission of application

4. (1) A written application contemplated in regulation 3 must be accompanied by—
- (a) the name, address and telephone number of the person applying for the exemption;
 - (b) an explanation of the reasons for the application;
 - (c) details of the specific provision from which the person is requesting exemption;
 - (d) any applicable supporting documents; and
 - (e) the prescribed application fee, if any.
- (2) The Minister, Minister responsible for mineral resources or MEC must, within 14 days of receipt of the application for exemption, acknowledge receipt in writing.
- (3) A person applying for an exemption from the provisions of the Act as it relates to environmental impact assessment or from the provisions of the Environmental Impact Assessment Regulations must communicate his or her notice of intention to apply for exemption by giving written notice in the manner prescribed in regulation 54(2)(a), (b), (c) or (d) of the Environmental Impact Assessment Regulations or a combination thereof which is appropriate in the circumstances and as agreed to with the Minister, Minister responsible for mineral resources or MEC.
- (4) The written notice contemplated in subregulation (3) must contain the following information—
- (a) the name, address and telephone number of the person applying for the exemption;
 - (b) the provisions from which the exemption is applied for;
 - (c) an explanation of the reasons for the application;
 - (d) the postal address, e-mail address, fax number, contact details of the person applying for the exemption to whom comments must be submitted; and
 - (e) the date on which comments on the exemption application must be submitted, provided that a minimum of 30 days must be allowed for the submission of comments.
- (5) A person applying for an exemption from the provisions of this Act, other than the provisions relating to environmental impact assessment, must communicate his or her notice of intention to apply for exemption by placing an advertisement in one provincial newspaper and one national newspaper.

- (6) The advertisement contemplated in subregulation (5) must contain the information set out in subregulation (4).

Consideration of application

5. (1) The Minister, Minister responsible for mineral resources or MEC, as the case may be, may upon receipt of the application for exemption, request the person applying for an exemption to furnish additional information where such information is necessary for the purposes of informing the Minister, Minister responsible for mineral resources or MEC's decision.
- (2) The Minister, Minister responsible for mineral resources or MEC, as the case may be, may in appropriate circumstances allow a member of the public to present oral representation to the Minister, Minister responsible for mineral resources or MEC, or to a person designated by the Minister, Minister responsible for mineral resources or MEC.
- (3) The Minister, Minister responsible for mineral resources or MEC, as the case may be, must consider all comments received, objections received or oral representations presented to the Minister, Minister responsible for mineral resources or MEC, or to a person designated by the Minister, Minister responsible for mineral resources or MEC before a decision is taken on the exemption application by the Minister, Minister responsible for mineral resources or MEC, as the case may be.
- (4) The Minister, Minister responsible for mineral resources or MEC must consider the application for exemption, additional information, if such information was submitted in terms of subregulation (1), and any comments, objections or oral representations and reach a decision within 30 days of receipt of all the information.

Decision on application

6. (1) Subject to section 24M(4) of the Act, the Minister, Minister responsible for mineral resources or MEC, as case may be, may grant or refuse to grant an exemption.
- (2) If an application for exemption is granted, the Minister, Minister responsible for mineral resources or MEC, as the case may be, must issue a written exemption notice to the person applying for exemption stating the—
- (a) name, address and telephone number of the person to whom the exemption is granted;
 - (b) provision of this Act from which exemption is granted;
 - (c) conditions subject to which exemption is granted, including conditions relating to the transfer of the written exemption notice; and
 - (d) period for which exemption is granted, if the exemption is granted for a period.
- (3) After the Minister, Minister responsible for mineral resources or MEC has reached a decision on an application for exemption, the Minister, Minister responsible for mineral resources or MEC must, in writing and within 2 days—
- (a) notify the person that applied for exemption; and

- (b) give written reasons for the decision.
- (4) The person that applied for an exemption must, in writing and within 12 days of the decision, notify any person that submitted comments or objections or oral submissions of—
 - (a) the outcome of the application and the reasons for the decision; and
 - (b) draw the attention of any person that submitted comments or objections or oral submissions to the fact that an appeal may be lodged against the decision in terms of section 43 of the Act, if such appeal is available in the circumstances of the decision.

Review of exemption

- 7. (1) The Minister, Minister responsible for mineral resources or MEC, as the case may be, may—
 - (a) from time to time review any exemption notice granted in terms of these Regulations; and
 - (b) on good grounds suspend or withdraw or amend the exemption notice, or any part thereof.
- (2) Before suspending or withdrawing or amending an exemption notice granted in terms of these Regulations, the Minister, Minister responsible for mineral resources or MEC, as the case may be, must give the person to whom the exemption notice was granted an opportunity to comment, in writing and within a reasonable period in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 after such notification, on the reasons for the proposed suspension or withdrawal or amendment.
- (3) The Minister, Minister responsible for mineral resources or MEC must consider any comments submitted in terms of subregulation (2) before making a decision on the suspension or withdrawal or amendment of any exemption granted in terms of these Regulations.
- (4) The Minister, Minister responsible for mineral resources or MEC must reach a decision on the suspension or withdrawal or amendment of any exemption granted in terms of these Regulations within 30 days of receipt of any comments submitted in terms of subregulation (2).

Repeal of regulations

- 8. The regulations mentioned in the Table in Annexure 1 to these Regulations are hereby repealed or amended to the extent set out in the third column of the Table.

Transitional arrangements

- 9. An application for exemption submitted in terms of chapter 5 of the Environmental Impact Assessment Regulations, 2010, and which is pending when these Regulations take effect, must despite the repeal of chapter 5 of the Environmental Impact Assessment Regulations, 2010, be dispensed with in terms of those regulations as if those regulations were not repealed, and a decision taken in terms of chapter 5 of the Environmental Impact Assessment Regulations, 2010 must be deemed as a decision taken in terms of these Regulations.

Short title and commencement

10. These Regulations are called the National Exemption Regulations, 2014, and take effect on the date of publication in the *Gazette*.

ANNEXURE 1

REGULATIONS REPEALED		
Date and year of publication	Short title	Extent of repeal
Government Notice No. R.543, <i>Gazette No. 33306</i> of 18 June 2010.	Environmental Impact Assessment Regulations, 2010.	Chapter 5.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
 Publications: Tel: (012) 334-4508, 334-4509, 334-4510
 Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
 Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
 Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
 Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
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