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GENERAL NOTICE

NOTICE 1142 OF 2014

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

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

DRAFT SECTION 24H REGISTRATION AUTHORITY REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to make the regulations pertaining to the appointment of a registration authority responsible for the registration of environmental assessment practitioners and pertaining to the specification of tasks in relation to an application for environmental authorisation that may only be performed by a registered environmental assessment practitioner, under Sections 24(5)(e), 24H and 44 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 days of publication of this notice in the Gazette, written representations on or objections to the following addresses:

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

By hand at: Reception, Environment House, 473 Steve Biko Road, Arcadia, Pretoria.

By e-mail: cengelbrecht@environment.gov.za.

Any inquiries in connection with the notice can be directed to Ms Chantal Engelbrecht at 012 399 9288.

Comments received after the closing date will not be considered.

BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

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CHAPTER 1

INTERPRETATION AND PURPOSE

Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context requires otherwise:
- “**applicant**” means a person that lodged an application for registration as an environmental assessment practitioner;
- “**application**” means an application by an association to be appointed as a registration authority in terms of section 24H of the Act;
- “**candidate environmental assessment practitioner**” means an environmental assessment practitioner who is registered as such by the registration authority appointed in terms of section 24H of the Act in accordance with prescribed criteria;
- “**Minister**” means the Minister responsible for environmental affairs;
- “**registered environmental assessment practitioner**” means an environmental assessment practitioner who is registered as such by the registration authority appointed in terms of section 24H of the Act in accordance with prescribed criteria
- “**registration authority**” means a registration authority appointed in terms of section 24H of the Act; and
- “**the Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

Purpose of Regulations

2. The purpose of these Regulations is to:
- (1) prescribe the manner in which an association proposing to register its members as environmental assessment practitioners may apply to the Minister to be appointed as a registration authority in terms of section 24H(1) of the Act;
 - (2) specify tasks performed in connection with an application for environmental authorisation that may only be performed by a registered environmental assessment practitioner, and
 - (3) prescribe the criteria for registration and renewal of registration of environmental assessment practitioners and associated procedures for such registration or renewal of registration.

CHAPTER 2

APPOINTMENT AS REGISTRATION AUTHORITY

Content of application

3. (1) An application by an association in terms of section 24H of the Act must contain:
- (a) the constitution of the association;
 - (b) a list of the members of the association;
 - (c) a description of the criteria and process to be used to register environmental assessment practitioners;
 - (d) a list of the qualifications of the members of the association responsible for the assessment of applicants for registration;
 - (e) a code of conduct regulating the ethical and professional conduct of members of the association; and
 - (f) a proposed structure of the association.
- (2) The constitution of a registration authority must, amongst others, indicate the governance and management matters.
- (3) The code of conduct must, as a minimum, include commitments to:
- (a) carry out professional activities in accordance with the principles of sustainable development;
 - (b) consider environmental concerns as early as possible in the development of policies and project conception;
 - (c) accountability for technical and professional conduct;
 - (d) ensuring that the integrity of the environment, including conservation and sustainable use of the biophysical environment, and the social welfare, health and safety aspects of the socio-economic environment, is placed above sectional or private interests;
 - (e) improvement and maintenance of own skills and competency in environmental assessment practice;
 - (f) objectivity when carrying out professional activities;
 - (g) taking responsibility for the findings and recommendations made as part of the carrying out of professional activities; and
 - (h) denouncing dishonesty, fraud, deceit, misrepresentation, discrimination or bias in executing professional activities.

Consideration of application and appointment of a registration authority

4. (1) After considering an application and any other additional information that the Minister may require, the Minister may:
- (a) by notice in the *Gazette*, invite comments on its intent to appoint an association as a registration authority;
 - (b) consider comments received; and

- (c) by notice in the *Gazette*, appoint the association as a registration authority or, in writing addressed to the association, refuse the application, giving reasons for such refusal.
- (2) The Minister must maintain a register of all associations appointed as registration authorities in terms of section 24H of the Act.
- (3) The Minister may appoint as registration authorities such number of associations as are required for the purposes of this Act and may, if circumstances so require, limit the number of registration authorities to a single registration authority.

Termination of appointment of an association as a registration authority

- 5. The Minister may, for good cause and in writing addressed to the association, terminate the appointment of an association as a registration authority.

CHAPTER 3

MINIMUM REQUIREMENTS OF REGISTRATION AUTHORITY

Objectives and responsibilities of a registration authority

- 6. (1) The objectives of a registration authority contemplated in section 24H of the Act must, as a minimum, include the promotion of:
 - (a) quality assurance regarding environmental assessment practice;
 - (b) the best interest of the environment, sustainable development and the public good;
 - (c) the transformation of environmental assessment practice through the empowerment of black and female professionals; and
 - (d) awareness of the purpose and practice of environmental assessment in South Africa.
- (2) A registration authority must:
 - (a) keep and maintain proper financial records in respect of every financial year relating to the assets, liabilities, income and expenditure of the registration authority;
 - (b) prepare audited financial statements for each financial year;
 - (c) submit to the Minister:
 - (i) financial statements within six months from the end of its financial year; and
 - (ii) within a period of six months from the end of its financial year, a comprehensive report on the operations of the registration authority during that year;
 - (d) advise the relevant authorities on environmental assessment issues or issues that may impact on sustainable development as necessary;
 - (e) communicate, to relevant authorities, information on matters of public importance acquired during the course of its work;
 - (f) liaise with relevant government entities if necessary; and
 - (g) generally, do all such things as it deems necessary or expedient to achieve the objectives.

Functions of a registration authority

7. (1) No circumstances may exist that may compromise the objectivity of the registration authority in performing any work in terms of section 24H of the Act.
- (2) The executive members of the registration authority must:
- (a) have no business or financial interest in the registration authority other than fair remuneration for work performed in connection with the execution of functions of the registration authority;
 - (b) have expertise in ensuring compliance to these Regulations; and
 - (c) be able to perform the work relating to the application in an objective manner.
- (3) A minimum of two thirds of the executive members of the registration authority must meet the requirements for registration as environmental assessment practitioners.
- (4) The registration authority may establish one or more committees which must perform such functions as the registration authority may determine.
- (5) Each committee established under this regulation must consist of such number of members as the registration authority may determine on condition that at least two thirds of the members of such committee must qualify to be registered environmental assessment practitioners.
- (6) The registration authority may at any time reconstitute or dissolve any committee established in terms of sub-regulation (5).
- (7) The registration authority must appoint a registration committee, from its members, which will be responsible to consider and decide on any application:
- (a) for registration as either candidate environmental assessment practitioner or registered environmental assessment practitioner; and
 - (b) for renewal of registration as registered environmental assessment practitioners.

Register of environmental assessment practitioners

8. The registration authority must keep and maintain a register of registered environmental assessment practitioners and registered candidate environmental assessment practitioners:
- (a) to be made available on the registration authority's website and in any other means decided by the registration authority; and
 - (b) which provides the names and contact details of all registered candidate environmental assessment practitioners and registered environmental assessment practitioners, their qualifications, and their province and town or city of residence.

Levying of Fees

9. A registration authority may, in its constitution, determine fees for application for registration and renewal of registration and for the lodging of appeals and must indicate the date on which such fees are payable.

Professional Conduct

10. (1) A registration authority must develop, administer and enforce a code of conduct for registered candidate environmental assessment practitioners and registered environmental assessment practitioners.
- (2) A registration authority must ensure that the code of conduct is available at no cost and accessible to all members of the public.

Disciplinary procedures

11. A registration authority must establish procedures for disciplinary action and sanction mechanisms.

Appeal procedures

12. A registration authority must establish procedures for the submission and consideration of appeals on decisions on applications for registration or renewal of registration.

Foreign qualifications

13. A registration authority must evaluate and verify any foreign qualification obtained with the relevant national qualifications authority.

CHAPTER 4**REGISTRATION OF ENVIRONMENTAL ASSESSMENT PRACTITIONERS****Requirement to register as environmental assessment practitioner or candidate environmental assessment practitioner**

14. No person may practice as an environmental assessment practitioner unless such environmental assessment practitioner is registered with a registration authority.

Minimum criteria for registration as environmental assessment practitioner or candidate environmental assessment practitioner

15. (1) A registration authority may register an applicant as environmental assessment practitioner if:
- (a) he or she has an Advanced Certificate: Environmental Assessment Practice or equivalent qualification; and
 - (b) the nature and length of professional experience of the applicant is:
 - (i) at least three years appropriate professional experience; and
 - (ii) at least three environmental assessments or reviews, at an appropriate scale, conducted in the period in which the applicant has held primary responsibility for the conduct or review of the environmental assessments and which demonstrate the required level of competence.
- (2) A registration authority may register an applicant as candidate environmental assessment practitioner if:

- (a) he or she has an Advanced Certificate: Environmental Assessment Practice or equivalent qualification; and
 - (b) the nature and length of professional experience of the applicant is:
 - (i) at least one year professional experience; and
 - (ii) at least one three environmental assessments or reviews at an appropriate scale.
 - (c) All registered persons must comply with the code of conduct for registered candidate environmental assessment practitioners and registered environmental assessment practitioners, as contemplated in regulations 3(3) and 10 of these Regulations.
- (3) A registration authority may register a person who is a non-resident of the Republic if:
- (a) he or she has complied with the registration criteria set out in subregulation (1) or (2); and
 - (b) he or she has paid such fees as may be determined by the registration authority.
- (4) The criteria for registration and renewal of registration may be amended by the Minister from time to time.

Procedure for registration

16. (1) A person who wishes to register as an environmental assessment practitioner may apply to a registration authority.
- (2) An application to register with a registration authority must:
- (a) be made on an official application form obtainable from the registration authority; and
 - (b) be accompanied by at least:
 - (i) certified copies of academic qualifications as specified in regulation 15 of these Regulations;
 - (ii) information and a portfolio of evidence of competence;
 - (iii) the relevant application fee; and
 - (iv) any other information that the registration authority may require to consider such application.
- (3) The registration authority must consider upon receipt of the application for registration contemplated in subregulation (2), and decide the application within 60 days.
- (4) The decision contemplated in subregulation (3) may be to:
- (a) register the applicant as candidate or registered environmental assessment practitioner for a period not exceeding five years;
 - (b) refuse the applicant for registration; or
 - (c) recommend that:
 - (i) further information or further evidence of competence be supplied; or
 - (ii) a structured interview is held to assess the applicant's competence.

- (5) An applicant may appeal the decision of the registration authority, and such appeal must be processed in line with the appeal procedures determined by the registration authority as contemplated in regulation 12 of these Regulations.

Procedure for renewal of registration

17. (1) A registered environmental assessment practitioner must, at least three months prior to the expiry of his or her registration, apply to the registration authority for renewal of registration.
- (2) Failure to lodge an application for renewal of registration at least three months prior to expiry may result in the registration authority not being able to process the renewal application in time and in the lapsing of the registration.
- (3) An application for renewal of registration must be made on an official application form obtainable from the registration authority and must contain:
- (a) information and a portfolio of evidence demonstrating effective competence in practice over the previous five year period of registration;
 - (b) evidence that the applicant has updated and improved his or her skills, knowledge and understanding in the field of environmental assessment during the past five year registration period; and
 - (c) evidence that the applicant has contributed to transformation, skills transfer, capacity building and awareness raising in the environmental assessment field during the past five year registration period.
- (4) The registration authority must consider upon receipt of the application for renewal of registration, and decide the application within 30 days.
- (5) The decision contemplated in subregulation (4) may be to:
- (a) renew registration of the registered environmental assessment practitioner for a period not exceeding five years; or
 - (b) refuse the application for renewal of registration.

Appeal Process

18. (1) A person affected by a decision contemplated in regulation 16(4) or 17(4) of these Regulations who wishes to appeal against the decision, must lodge an appeal with the registration authority within 30 days of the date of the decision.
- (2) An appeal must be:
- (a) submitted in writing; and
 - (b) accompanied by an appeal fee, if any.
- (3) The registration authority must consider upon receipt an appeal in accordance with the appeal procedures contemplated in regulation 12 of these Regulations and decide such appeal within 60 days.

- (4) The decision contemplated in subregulation (3) may be to:
- (a) uphold the appeal;
 - (b) dismiss the appeal;
 - (c) substitute any decision as it deems fit; or
 - (d) make such appropriate decision as, in its discretion, it deems necessary as the circumstances may require, provided that such a decision is within the Constitution and the jurisdiction of the registration authority.

Termination of registration

19. (1) A registration authority may terminate the registration of a registered environmental assessment practitioner or candidate environmental assessment practitioner if she or he:
- (i) no longer meets the criteria set out in regulation 15 of these Regulations;
 - (ii) has erroneously been registered, or has been registered on information subsequently proved to be false;
 - (iii) breaches the code of conduct of the registration authority contemplated in regulations 3(3) and 10 of these Regulations;
 - (iv) has been removed from an office of trust on account of improper conduct; or
 - (v) fails to pay the annual fee within 60 days from it becoming due.
- (2) The registration authority must:
- (a) notify the registered environmental assessment practitioner or candidate environmental assessment practitioner of its intention to terminate registration and the reasons why termination is considered; and
 - (b) give the registered environmental assessment practitioner or candidate environmental assessment practitioner an opportunity to submit any representations on the proposed termination which the registered environmental assessment practitioner or candidate environmental assessment practitioner wishes to make.
- (3) Upon having reached a decision on whether or not to terminate registration, the registration authority must notify, in writing, the registered environmental assessment practitioner or candidate environmental assessment practitioner of the decision.
- (4) The registration authority must provide the registered environmental assessment practitioner or candidate environmental assessment practitioner with written reasons if the decision is to terminate the registration.
- (5) The individual registration certificate must be returned to the registration authority where the registration has been terminated.
- (6) The details of an environmental assessment practitioner whose registration has been terminated must be removed from the register of registered environmental assessment practitioners or registered candidate environmental assessment practitioners.

Short title and commencement

20. (1) These Regulations are called the Section 24H Registration Authority Regulations, 2014, and take effect on the date of publication in the *Gazette* except for regulation 14.
- (2) Regulation 14 of these Regulations takes effect 18 months from the date of publication of these Regulations in the *Gazette*.
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