

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
NATIONAL ENVIRONMENTAL
LAWS AMENDMENT BILL**

[B 14—2017]

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

[B 14A—2017]

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AMENDMENTS AGREED TO

NATIONAL ENVIRONMENTAL LAWS AMENDMENT BILL

[B 14—2017]

CLAUSE 1

1. On page 4, after line 8, to insert the following paragraph:

“(a) by the insertion after the definition of ‘assessment’ of the following definition:
‘audit’ means a review of the scientific and engineering acceptability of the measures and the adequacy of related costs associated with undertaking progressive rehabilitation, decommissioning, closure and post closure activities for listed and specified activities, including the pumping and treatment of extraneous and polluted water, where relevant;’”.
2. On page 4, after line 8, to insert the following paragraph:

“(b) by the insertion after the definition of ‘best practicable environmental option’ of the following definition:
‘black’, when used in section 2(4)(qA), has the meaning assigned to “black people” in section I of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);”.
3. On page 4, after line 12, to insert the following paragraph:

“(d) by the insertion after the definition of ‘environmental management inspector’ of the following definition:
‘environmental management instrument’ means—

 - (i) environmental management framework;
 - (ii) strategic environmental assessment;
 - (iii) spatial tool;
 - (iii) environmental management programme;
 - (iv) environmental risk assessment;
 - (v) environmental feasibility assessment;
 - (vi) norm or standard;
 - (vii) minimum information requirements; or
 - (viii) any other relevant environmental management instrument, as may be developed in time;”.
4. On page 4, from line 18, to omit paragraph (c) and to substitute the following paragraph:

“(f) by the substitution for the definition of ‘financial provision’ of the following definition:
‘financial provision’ means the amount which is to be provided in terms of this Act, guaranteeing the availability of sufficient funds to undertake progressive rehabilitation, decommissioning, closure and post closure activities for listed and specified activities to ensure the mitigation, remediation and rehabilitation of adverse environmental impacts including latent environmental impacts and residual environmental impacts as well as the pumping and treatment of extraneous and polluted water, where relevant;’”.

5. On page 4, after line 24, to insert the following paragraphs:

- “(g) by the insertion after the definition of ‘international environmental instrument’ of the following definition:
‘latent environmental impacts’ means impacts which are existing but not yet developed or manifest, but are dormant;
- (h) by the insertion after the definition of ‘Minister responsible for mineral resources’ of the following definitions:
‘municipal council’ means a municipal council referred to in section 157(1) of the Constitution;
‘municipality’, when referred to as—
 (a) an entity, means a municipality as described in section 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000); and
 (b) a geographic area, means a municipal area determined in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);
‘municipal manager’ means a person appointed in terms of section 54A(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
‘mitigate’ means to alleviate, reduce or make less severe;”;
- (i) by the insertion after the definition of ‘regulation’ of the following definitions:
‘rehabilitate’ means to restore to the approved end use of land;
‘remediate’ means to repair or reverse damage;
‘residual environmental impacts’ means impacts remaining after all actions to mitigate, rehabilitate and remediate have been undertaken; and
- (j) by the deletion of the definition ‘spatial development tool’ ”.

CLAUSE 3

1. On page 5, from line 13, to omit paragraph (a) and to substitute the following paragraph:

- “(a) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs:
 (b) geographical areas based on environmental attributes, and as specified in [spatial development tools] an environmental management instrument, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may be excluded from the requirement to obtain an environmental authorisation from the competent authority;
 (c) geographical areas based on environmental attributes, and specified in [spatial tools or] an environmental management [instruments] instrument, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which [specified] activities contemplated in paragraphs (a) and (b) may be excluded from the requirement to obtain an environmental authorisation from the competent authority, but which must comply with the requirements set in such environmental management instrument, if any;’ ”.

2. On page 5, from line 30, to omit paragraph (c) and to substitute the following paragraph:
 - “(c) by the substitution in subsection (5) for the words preceding paragraph (bA) of the following words:
 - ‘laying down the procedure to be followed for the preparation, evaluation, adoption and review of **[prescribed]** environmental management instruments, including any conditions set out in such instrument, if any condition applies, including—”.
3. On page 5, in line 51, after “Act”, to insert “and make it publicly available”.

CLAUSE 4

1. On page 6, from line 4, to omit paragraph (b).
2. On page 6, in line 26, after “be”, to insert “, indicating in each application, all other licences, authorisations and permits applied for”.
3. On page 6, in line 29, after “or”, to insert “extraction and”.

CLAUSE 5

1. On page 6, in line 57, to omit “and”.
2. On page 6, after line 57, to insert the following paragraphs:
 - “(c) by the substitution in subsection (1) for the words following paragraph (b) of the following words:
 - ‘the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be, **[may]** must direct the applicant to—’;
 - (d) by the insertion in subsection (1)(b) after subparagraph (i) of the following subparagraph:
 - ‘(iA) undertake public participation as prescribed;’;
 - (e) by the substitution in subsection (1)(vii) for item (ee) of the following item:
 - ‘(ee) an environmental management programme; **[or]** and’.
3. On page 6, in line 60, to omit “R5” and to substitute “**[R5]** R10”.

CLAUSE 7

1. On page 7, after line 46, to insert the following paragraph:
 - “(a) by the substitution for the heading of the following heading:
 - ‘**Criteria to be taken into account by competent authorities when considering applications and consultation requirements**’.

CLAUSE 8

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Substitution section 24P of Act 107 of 1998, as amended by section 7 of Act 25 of 2014

8. The following section is hereby substituted for section 24P of the National Environmental Management Act, 1998:

Financial provision for remediation of environmental damage

24P. (1) In this section, “review” means a formal assessment of the financial provisioning with the intention of instituting change, if necessary.

(2) The Minister, or an MEC in concurrence with the Minister, may prescribe the instances for which financial provision must be determined and provided for listed or specified activities.

(3) Where prescribed, an applicant, must, before the competent authority issues an environmental authorisation, determine the financial provision which is required for undertaking progressive rehabilitation, decommissioning, closure and post closure activities including the pumping and treatment of extraneous and polluted water where relevant.

(4) Where prescribed, the applicant, holder of an environmental authorisation, holder, holder of an old order right is required to provide financial provision for progressive rehabilitation, decommissioning, closure and post closure activities, including the pumping and treatment of extraneous and polluted water where relevant, to ensure the mitigation, remediation and rehabilitation of adverse environmental impacts, including latent environmental impacts and environmental residual impacts.

(5) A holder of an environmental authorisation, holder or holder of an old order right must annually undertake, as prescribed, the mitigation, remediation and rehabilitation measures.

(6) The financial provisioning vehicles which must be used when providing the financial provision include—

- (a) cash deposited into an account administered by the Minister responsible for mineral resources;
- (b) insurance from an institution that is registered in terms of the applicable insurance sector legislation;
- (c) a financial guarantee from an institution that is registered in terms of the applicable financial sector legislation;
- (d) a trust fund established for the sole purposes of subsection (4); and
- (e) any other vehicle, including any condition applicable to such a vehicle, identified by the Minister by notice in the *Gazette* in concurrence with the Minister of Finance and the Minister responsible for mineral resources, and including, but not limited to—
 - (i) a closure rehabilitation company,
 - (ii) a parent company guarantee; and
 - (iii) an affiliate company guarantee.

(7) The financial provisioning vehicles contemplated in subsection (6) may be used in combination as required.

(8) (a) Where the Minister, Minister for mineral resources or the MEC is not satisfied with the determination or review of the financial provision, the Minister, the Minister responsible for mineral resources or the MEC may appoint an independent

party to conduct an assessment of the determination or review on their behalf.

(b) Any costs in respect of such assessment must be borne by the applicant, holder of the environmental authorisation, holder or holder of an old order right.

(9) If any holder of an environmental authorisation, holder or holder of an old order right fails to undertake such mitigation, remediation and rehabilitation of such impact, as prescribed, the Minister responsible for mineral resources, the Minister responsible for water affairs or MEC may, upon written notice to such holder, use all or part of the financial provision contemplated in this section to undertake mitigation, remediation and rehabilitation as the Minister responsible for mineral resources, the Minister or MEC deems appropriate.

(10) The financial provision may only be used for the purposes of progressive rehabilitation, decommissioning, closure, post closure, as prescribed, to ensure mitigation, remediation and rehabilitation of adverse environmental impacts for which it was provided and shall not be used for any other purposes.

(11) The Insolvency Act, 1936 (Act No. 24 of 1936), does not apply to any form of financial provision contemplated in subsection (2) and all amounts arising from that provision.”.

NEW CLAUSE

1. That the following be a new clause:

“Insertion of section 24PA in Act 107 of 1998

9. The following section is hereby inserted in the National Environmental Management Act, 1998, after section 24P:

Financial provision for mining

24PA. (1) A holder of an environmental authorisation for listed or specified activities for, or directly related to, prospecting or exploration of a mineral or petroleum resource or extraction and primary processing of a mineral or petroleum resource, a holder or holder of an old order right must—

- (a) maintain and retain a financial provision until a closure certificate is issued by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002;
- (b) every three years review the environmental liability as prescribed and adjust, where required, the financial provision accordingly to the satisfaction of the Minister responsible for mineral resources;
- (c) every three years subject the financial provision and the basis of the calculations to an independent audit, as prescribed;
- (d) every five years, or in the case of a mining permit every three years, submit to the Minister responsible for mineral resources, an audit report;
- (e) publish, within five days of being notified by the Minister responsible for mineral resources of the review decision, the decision in a provincial newspaper as well as a newspaper distributed within the municipal area within which the mining operation is located, and indicate where the review can be obtained; and
- (f) annually undertake the mitigation, remediation and rehabilitation measures, as prescribed.

(2) The Minister responsible for mineral resources may, in consultation with the Minister and Minister responsible for water affairs, approve an annual drawdown of the financial provision in the prescribed manner to support final decommissioning and closure for a period not exceeding 10 years before the final decommissioning and closure.

(3) The financial provision provided in respect of latent environmental impacts or residual environmental impacts, including the pumping and treatment of extraneous and polluted water, must be transferred to the Minister responsible for mineral resources upon the issuing of a closure certificate, unless otherwise prescribed.

(4) Where the financial provisioning vehicle used for the financial provision in respect of latent environmental impacts or residual environmental impacts, including the pumping and treatment of extraneous and polluted water, is insurance, the Minister responsible for mineral resources must access the funds on issuing the closure certificate.

(5) If any holder of an environmental authorisation contemplated in subsection (1) fails to mitigate, remediate and rehabilitate environmental impacts as prescribed, the Minister responsible for mineral resources or the Minister responsible for water affairs may, upon written notice to such holder, use all or part of the financial provision contemplated in this section to rehabilitate or manage the environmental impact in question.”.

CLAUSE 9

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Amendment of section 24R of Act 107 of 1998, as amended by section 8 of Act 25 of 2014

10. Section 24R of the National Environmental Management Act, 1998, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) Every holder, holder of an environmental authorisation for listed or specified activities for, or directly related to, prospecting or exploration of a mineral or petroleum resource or extraction and primary processing of a mineral or petroleum resource, holder of an old order right and owner of works remain responsible for any environmental liability, pollution or ecological degradation, the pumping and treatment of polluted or extraneous water, the management and sustainable closure thereof notwithstanding the issuing of a closure certificate by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002, to the holder or owner concerned.

- (b) by the deletion of subsection (2).

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

“(3) Every holder, holder of environmental authorisation for listed or specified activities for, or directly related to, prospecting or exploration of a mineral or petroleum resource or extraction and primary processing of a mineral

or petroleum resource, holder of an old order right or owner of works must plan, manage and implement such procedures and requirements in respect of the closure of a mine as may be prescribed.”.

CLAUSE 11

1. On page 9, after line 24, to insert the following paragraph:

“(a) by the substitution in substitution (3) for paragraph (d) of the following paragraph:
 ‘(d) contain or prevent the movement of pollutants or the **[causant] cause** of degradation;’ ”.
2. On page 9, from line 30, to omit “who is causing, has caused or may cause significant pollution or degradation of the environment, and any other person to whom the duty of care applies,” and to substitute “[**who is causing, has caused or may cause significant pollution or degradation of the environment**] referred to in subsection (2)”.
3. On page 9, in line 47, to omit “advanced” and to substitute “adequate”.
4. On page 10, from line 24, to omit paragraph (f) and to substitute the following paragraph:

“(f) by the substitution for subsection (9) of the following subsection:
 ‘(9) The Director-General, the Director-General of the department responsible for mineral resources [**or**], provincial head of department or a municipal manager of a municipality, may in respect of the recovery of costs under subsection (8), claim proportionally from any person who benefited from the measures undertaken under subsection (7).’ ”.
5. On page 10, from line 35, to omit paragraph (g).
6. On page 10, in line 52, after “municipality”, to insert “₂”.
7. On page 10, in line 55, after “municipality”, to insert “₂”.
8. On page 10, in line 58, after “municipality”, to insert “₂”.

CLAUSE 12

1. On page 11, after line 4, to insert the following paragraph:

“(a) by the substitution for the heading of the following heading:
 ‘**Designation of environmental mineral [resource] and petroleum inspectors by Minister responsible for mineral resources**’ ”.
2. On page 11, in line 11, after “state”, to insert “that executes a regulatory function”.

NEW CLAUSES

1. That the following be new clauses:

“Amendment of section 31B of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

13. Section 31B of the of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

- ‘(ii) any other organ of state that executes a regulatory function; and’.

Amendment of section 31BA of Act 107 of 1998, as inserted by section 4 of Act 44 of 2008

14. Section 31BA of the of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraphs (i) and (ii) of the following subparagraphs:

- ‘(i) the Department [**of Water Affairs and Forestry**] responsible for water affairs; or
(ii) any other organ of state that executes a regulatory function; and’.

Amendment of section 31C of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003

16. Section 31C of the of the National Environmental Management Act, 1998, is hereby amended by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

- ‘(ii) any other organ of state that executes a regulatory function; and’ ”.

CLAUSE 13

1. On page 11, after line 39, to insert the following paragraphs:

“(e) by the substitution for subsection (4) of the following subsection:

‘(4) Despite the provisions in subsections (2A) and (3), the Minister may, [**with the concurrence of**] after consultation with the Minister responsible for mineral resources, if the environmental mineral [**resource**] and petroleum inspectors are unable or not adequately able to fulfill the compliance monitoring and enforcement functions and where there is *prima facie* evidence of unlawful activities or of an existing or imminent adverse risk to the environment, designate environmental management inspectors to implement these functions in terms of this Act or a specific environmental management Act in respect of which powers have been conferred on the Minister responsible for mineral resources.’;

(f) by the substitution for subsection (7) of the following subsection:

‘(7) On receipt of such information referred to in subsection (6), the Minister must [**consult**] notify with the Minister responsible for mineral resources on his or her response to the complainant.’; and

(g) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words:

‘Subsequent to subsection (7), the Minister may, [**in**

concurrence] after consultation with the Minister responsible for mineral resources, within a reasonable period of time and where appropriate—’ ”.

CLAUSE 16

1. On page 12, from line 24, to omit paragraph (b) and to substitute the following paragraph:

“(b) by the insertion in subsection (1) after paragraph (a) of the following paragraph:

‘(aA) may access and inspect any property, object or pack-animal for the purposes of ascertaining compliance with the legislation for which that inspector has been designated in terms of section 31D and for ascertaining compliance with a term or condition of a permit, authorisation or other instrument issued in terms of relevant legislation.’ ”.

CLAUSE 28

1. On page 16, after line 42, to insert the following paragraph:

“(d) by the addition of the following subsection:

‘(3) The Minister responsible for mineral resources may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.’ ”.

CLAUSE 30

1. On page 17, in line 30, to omit the second comma.
2. On page 17, in line 30, after “notice”, to insert “that is aimed at addressing significant harm to the environment,”.
3. On page 17, in line 53, after “notice”, to insert “that is aimed at addressing significant harm to the environment,”.

CLAUSE 31

1. Clause rejected.

CLAUSE 32

1. On page 18, after line 27, to insert the following paragraph:

“(c) by the addition in subsection (1) of the following paragraphs:
‘(q) fails to comply with section 24P(3), (4), (5), (6) or (10);
(r) fails to comply with section 24PA(1) or (3).’ ”.

CLAUSE 33

1. On page 18, in line 34, to omit “or (g)” and to substitute “[**or (g)**], (g), (q) or (r)”.

NEW CLAUSE

1. That the following be a new clause:

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

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

- (a) by the substitution for subsection (1) of the following subsection (1):

“(1) Despite other legislation, no person may conduct commercial prospecting, mining, exploration, production or **[related]** activities related to prospecting, mining, exploration or production—

(a) in, or beneath, a special nature reserve, national park or nature reserve;

(b) in, or beneath, a protected environment without the written permission of the Minister and the **[Cabinet member] Minister** responsible for **[minerals and energy affairs] mineral** resources; or

(c) in, or beneath, a protected area referred to in section 9(b), (c) or (d).”;

- (b) by the substitution for subsection (4) of the following subsection:

“(4) The Minister and the Minister responsible for mineral and petroleum resources must only give written permission contemplated in subsection (1)(b), subject to the following:

- (a) The person requesting the permission submitting a report showing that—

(i) there is an insufficient amount of the mineral or petroleum resource sought to be prospected or explored for, or mined or produced outside of the relevant protected environment for the Republic to meet its strategic national goals; and

(ii) the activity would not result in a permanent change to the landscape or adversely affect a water catchment area; and

- (b) the outcome of a prescribed public participation process which must take into account the interests of local communities and the environmental principles referred to in section 2 of the National Environmental Management Act.”.

CLAUSE 37

1. On page 19, after line 52, to insert the following paragraph:

- “(c) by the insertion after the definition of ‘vulnerable species’ of the following definition:

“‘**well-being**’ means a state where the living conditions of a faunal biological resource are conducive to its health;”.

NEW CLAUSE

1. That the following be a new clause:

“Insertion of section 9A in Act 10 of 2004

44. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 9:

Prohibition of certain activities

9A. The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, prohibit any activity that may negatively impact on the well-being of a faunal biological resource.”.

CLAUSE 42

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Amendment of section 75 of Act 10 of 2004

47. Section 75 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

‘(1) Control [**and**] or eradication of a listed invasive species must be carried out by means of methods that are appropriate for the species concerned and the environment in which it occurs.

(2) Any action taken to control [**and**] or eradicate a listed invasive species must be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment.

(3) The methods employed to control [**and**] or eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself in any manner.’; and

(b) by the addition of the following subsection:

‘(6) The Minister must provide education and awareness to local communities affected by listed invasive species.’”.

CLAUSE 43

1. On page 20, in line 50, to omit “(b)” and to substitute “(a)”.
2. On page 21, from line 1, to omit “the protection of the well-being of a faunal biological resource during the carrying out a restricted activity involving such faunal biological resource” and to substitute “the well-being of a faunal biological resource”.

CLAUSE 47

1. On page 22, in line 16, to omit “R5” and to substitute “R10”.
2. On page 22, in line 21, to omit “may” and to substitute “must”.
3. On page 22, after line 23, to insert the following paragraph

“(aA) undertake public participation, as prescribed;”.
4. On page 22, in line 47, to omit “or” and to substitute “and”.

NEW CLAUSE

1. That the following be a new clause:

“Insertion of section 47A in Act 39 of 2004

54. The following section is hereby inserted in the National Environmental Management: Air Quality Act, 2004, after section 47:

Revocation or suspension of atmospheric emission licences

47A. (1) The licensing authority may, by written notice to the holder of an atmospheric emission licence, revoke or suspend that licence if the licensing authority is of the opinion that the licence holder has contravened a provision of this Act or a condition of the licence and such contravention may have, or is having, a significant detrimental effect on the environment, including health impacts.

(2) The licensing authority may not revoke or suspend an atmospheric emission licence before it has—

- (a) consulted relevant organs of state;
- (b) afforded the holder of the atmospheric emission licence an opportunity to make a submission in respect of the intended revocation or suspension; and
- (c) in the event that the holder has made a submission contemplated in paragraph (b), the licensing authority has considered that submission.

(3) Despite subsection (2), if urgent action is necessary for the protection of the environment, the licensing authority may immediately issue a notice of revocation or suspension and, as soon thereafter as is possible, consult with relevant organs of state and give the holder of the atmospheric emission licence an opportunity to make a submission.”.

CLAUSE 51

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Repeal of Chapter 9 of Act 24 of 2008

57. Chapter 9 of the National Environmental Management: Integrated Coastal Management Act, 2008, is hereby repealed.”.

CLAUSE 52

1. On page 24, from line 37, to omit paragraph (d) and to substitute the following paragraph:

“(d) by the insertion after the definition of ‘*Gazette*’ of the following definition:

‘**general waste**’ means waste that does not pose an immediate hazard or threat to health or to the environment, and includes—

- (a) domestic waste;
- (b) building and demolition waste;
- (c) business waste;
- (d) inert waste; or
- (e) any waste classified as non-hazardous waste in terms of the regulations made under section 69;”;

2. On page 25, from line 9, to omit paragraph (i) and to substitute the following paragraph:

“(i) by the substitution in the definition of “waste” for paragraphs (a) and (b) of the following paragraphs:

‘(a) any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or **recovered and includes all wastes as defined in Schedule 3 to this Act**]; or

(b) any other substance, material or object [**that is not included in Schedule 3**] that may be defined as a waste by the Minister by notice in the *Gazette*,’.

CLAUSE 56

1. On page 27, in line 34, after “management”, to insert “, and have gender representation and other categories”.

CLAUSE 57

1. On page 30, in line 24, to omit “or revoke” and to substitute “, revoke or withdraw”.

NEW CLAUSE

1. That the following be a new clause:

“Amendment of section 36 of Act 59 of 2008

64. Section 36 of the National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for subsection (5) of the following subsection:

‘(5) An owner of the land that is [**significantly**] likely to be contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister and MEC of that contamination as soon as that person becomes aware, of that contamination.’.

CLAUSE 61

1. On page 33, in line 2, to omit “[**extraction and**]” and to substitute “extraction and”.

CLAUSE 69

1. On page 35, in line 14, after “person”, to insert “or organ of state”.

CLAUSE 74

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Repeal of Schedule 3 to Act 59 of 2008, as inserted by section 18 of Act 26 of 2014

81. Schedule 3 to the National Environmental Management: Waste Act, 2008, is hereby repealed.”.

CLAUSE 75

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Substitution of section 12 of Act 62 of 2008, as amended by section 26 Act 25 of 2014

Transitional provisions

82. The following section is hereby substituted for section 12 of the National Environmental Management Amendment Act, 2008:

‘12. (1) Where, prior to 8 December 2014—

- | |
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| <p>(a) an environmental authorisation or a waste management licence was required for activities directly related to—</p> <ol style="list-style-type: none">(i) prospecting or exploration of a mineral or petroleum resource; or(ii) extraction and primary processing of a mineral or petroleum resource, <p>and such environmental authorisation or waste management licence has been obtained; and</p> <p>(b) a right, permit or exemption was required in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for—</p> <ol style="list-style-type: none">(i) prospecting or exploration of a mineral or petroleum resource; or(ii) extraction and primary processing of a mineral or petroleum resource, <p>and such right, permit or exemption has been obtained, and activities authorised in such environmental authorisation, waste management licence, right, permit or exemption</p> |
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commenced after 8 December 2014, such environmental authorisation, waste management licence, right, permit or exemption is regarded as fulfilling the requirements of the Act: Provided that where an application for an environmental authorisation or waste management licence was refused or not obtained in terms of the Act for activities directly related to prospecting, exploration or extraction of a mineral or petroleum resource, including primary processing, this subsection does not apply.

(2) Despite subsection (1), the Minister responsible for mineral resources may direct the holder of a right, permit or any old order right, if he or she is of the opinion that the prospecting, mining, exploration and production operations are likely to result in unacceptable pollution, ecological degradation or damage to the environment, to take any action to upgrade the environmental management plan or environmental management programme to address the deficiencies in the plan or programme.

(3) The Minister responsible for mineral resources must issue an environmental authorisation if he or she is satisfied that the deficiencies in the environmental management plan or environmental management programme referred to in subsection (2) have been addressed and that the requirements contained in Chapter 5 of the National Environmental Management Act, 1998, have been met. ”.

CLAUSE 76

1. Clause rejected.