

(21 June 2007 - to date)

NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

(Gazette No. 19519, Notice No. 1540. Commencement date: 29 January 1999 [Proc. No. 8, Gazette No.19703])

GAZETTING THE NATIONAL ENVIRONMENTAL ADVISORY FORUM CONSTITUTION

*Published under Government Notice 514 in Government Gazette 29999, dated 21 June 2007.
Commencement date: 21 June 2007.*

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

It is hereby notified that the Minister of Environmental Affairs and Tourism is in terms of Chapter 2, section 6(1)(a)(i) of the National Environmental Management Act, 1998 (Act 107 of 1998), laying down rules for the functioning of the National Environmental Advisory Forum (NEAF), by publishing in the Gazette, a constitution for the Forum which contains provisions relating to, *inter alia*,:

- (a) advice on matters relating to Chapter 6 of NEMA;
- (b) participation in meetings relating to international environmental matters;
- (c) subcommittees and working groups of the Forum.

(Signed)

MCJ VAN SCHALKWYK
MINISTER

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT 107 OF 1998)

NATIONAL ENVIRONMENTAL ADVISORY FORUM

PRIVATE BAG X447
PRETORIA
0001

FINAL CONSTITUTION

March 2007

Prepared by:

1. Purpose
2. Membership
3. Meetings and procedures of the forum
4. Committees
5. Reporting/publications
6. Finance
7. International environmental engagement
8. Amendment to the constitution

1. PURPOSE

The National Environmental Advisory Forum (the Forum) is a body established in terms of Chapter 2 of the National Environmental Management Act, 1998 (Act 107 of 1998) (the Act).

The purpose of the Forum is to:

inform the Minister of Environmental Affairs and Tourism (the Minister) of the views of stakeholders, and/or experts, regarding the application of the principles set out in section 2 of the Act;

advise the Minister on any matter concerning environmental management and governance, specifically the setting and achievement of objectives and priorities for environmental governance as well as appropriate methods of monitoring compliance with the principles set out in section 2 of the Act;

on its own initiative, and after consultation with the Director-General, draw the Minister's attention to any matter concerning environmental management requiring attention; and, consider any matter that the Minister may refer to the Forum.

2. MEMBERSHIP

2.1 Appointment

The Forum shall consist of at least 12 but not more than 15 members appointed by the Minister.

Members are nominated and appointed as prescribed in terms of sections 4(2) and (3), respectively of the Act.

2.1.3. Members shall represent stakeholder sectors, and/or be such persons having appropriate experience, expertise and skills, including persons disadvantaged or made vulnerable by unfair discrimination, in order to enable the Forum to carry out its functions.

(Note: Numbering as per original Government Gazette)

2.2 Term of Office

Subject to clauses 2.3 and 2.4 below, a member of the Forum shall hold office for a period of two years. At the expiry of his or her term of office, a member may be appointed for one further term of two years.

2.3 Alternate or Replacement Members

Each member of the Forum may designate, with the concurrence of the Minister and the organisation or persons who nominated him or her, an alternate to take his or her place if he or she is unable to attend a meeting of the Forum.

2.3.1 In the case where such member has not been appointed as a result of any nomination by an organisation and does not represent a sector interest group, the Director-General in consultation with the Chair of NEAF shall assist the Minister in appointing an alternate member.

2.3.2 The Minister may appoint a replacement member if a member vacates his or her office in terms of clause 2.4 below, and the Minister may invite replacement nominations from the sector or organisation that nominated such member. In the event that such member has not been appointed as a result of any nomination by an organisation and does not represent a sector interest group, the Director-General in consultation with the Chair of NEAF shall assist the Minister in appointing a replacement member.

2.3.2.1 The replacement member must serve the balance of the term of the person he or she replaces.

2.4 Termination

Subject to section 5(3) of the Act, a member or replacement member of the Forum must vacate his/her office if:

2.4.1 the Minister at any time terminates such term of office for good reason; or

2.4.2 such a member can no longer perform his/her duties on the Forum; or

2.4.3 he/she is convicted of a criminal offence, including dishonesty, and is sentenced to imprisonment without the option of a fine; or

2.4.4 he/she is absent from more than two consecutive meetings of the Forum without leave of the chairperson; or

2.4.5 he/she resigns by written notice to the Minister.

2.5 Remuneration

2.5.1 The members or replacement members of the Forum will be paid such remuneration and allowances for their services, including any out of pocket and/or incidental expenses, as the Minister determines with the concurrence of the Minister of Finance.

2.5.2 Payment to members of a committee of the Forum will be paid such remuneration and allowances for their services, including any out of pocket and/or incidental expenses, as the Minister determines with the concurrence of the Minister of Finance

2.6 Conflict of interest

If any member of the Forum or his or her spouse has any direct or indirect interest in any matter before the Forum that may result in personal benefit, he or she shall disclose such interest and may not take part in any discussion or decision regarding such matter.

3. MEETINGS AND PROCEDURES OF THE FORUM

3.1 Frequency of Meetings

3.1.1 Meetings shall take place at least four times per calendar year.

3.1.2 Additional meetings may be convened in the event of a matter requiring urgent attention that cannot wait until the next scheduled meeting.

3.1.3 The meetings of the Forum shall be open to the public. The Director-General shall ensure that notices of the meetings of the Forum are published in advance on the relevant government website.

3.2 Matters to be discussed at Meetings

3.2.1 The Forum will only consider matters relevant to its purpose.

3.3 Chairperson/Vice Chairperson

Prepared by:

3.3.1 The Minister shall appoint the chairperson of the Forum.

3.3.2 The Minister may, in addition, appoint a vice-chairperson.

3.3.3 In the event that the chairperson is absent from any meeting of the Forum, the vice-chairperson presides at the meeting, and if both the chairperson and vice-chairperson are absent from any meeting, the Forum shall elect one of its members present at the meeting to act as chairperson.

3.4 Quorum

The quorum shall consist of half of the members of the Forum plus one.

3.5 Decision-making procedures

3.5.1 The Forum shall attempt to reach decisions by consensus.

3.5.2 If consensus is not achieved:

3.5.2.1 the decision of the majority of members present at a meeting shall constitute a decision of the Forum, provided that any minority view shall also be recorded

3.6 Support

3.6.1 The Director-General may designate as many officers and employees as he or she may deem necessary to assist the Forum in the performance of its work.

4. COMMITTEES

The Forum will establish the following committees to assist the Forum in the performance of its functions:

Biodiversity and Biosafety
Climate Change and Energy
Pollution and waste management
Marine and coastal management

Such committees may include persons who need not necessarily be members of the Forum.

Remuneration for such committee members is covered under 2.5

All committees are to be chaired by a member of the Forum.

Every committee established in terms of 4.1 must report at each meeting of the Forum on its own activities to assist the Forum.

Committees will not have any decision-making powers.

5. REPORTING/PUBLICATIONS

5.1 The Forum must:

5.1.1. Submit written reports of its advice and/or actions to the Minister; and

5.2.1 Present an annual review on the work performed by the Forum including, inter alia:

5.2.1.1 information on advice and recommendations submitted by the Forum to the Minister, including any minority opinions during the year under review;

5.2.1.2 responses and actions taken by the Minister pursuant to any advice and recommendations made by the Forum during the year under review; and,

5.2.1.3 the work plan for the next year.

5.3 All documents considered or produced by the Forum shall be available for inspection by the public. These shall be published on the relevant Government departments webpage.

(Note: Numbering as per original Government Gazette)

6. FINANCE

6.1 The Minister shall, with the concurrence of the Minister of Finance make available funds for the functioning of the Forum for purposes other than the payment of remuneration of the members which functions shall be specified in the operational guidelines.

6.2 All funds will be administered by the Department of Environmental Affairs and Tourism in accordance with government procedures

7. INTERNATIONAL ENVIRONMENTAL ENGAGEMENT

7.1. Members of the Forum may provide advice on matters relating to Chapter 6 of the Act:

7.1.1. Such advice shall be provided as requested by the Minister to the Forum on specific international obligations

7.2 Members of the Forum may participate in meetings relating to international environmental matters subject to:

7.2.1 The invitation or request by the Minister for such a member (as in 7.2) to participate or accompany him or her at such a meeting

8. AMENDMENT TO THE CONSTITUTION

8.2 The Constitution may be amended with the written consent of the Director-General and the Minister.

(Note: Numbering as per original Government Gazette)