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DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 815

08 JULY 2016

**NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL
MANAGEMENT ACT, 2008
(ACT NO. 24 OF 2008)****APPEAL REGULATIONS**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to the process to be followed on the processing and consideration of, and decisions on appeals, under section 74 read with section 83(1)(j) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008), set out in the Schedule hereto.



**BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

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CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

1. Interpretation

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—

“**appellant**” means any person or organ of state who is entitled to submit an appeal in terms of section 74 of the Act and includes an applicant;

“**applicant**” means a person to whom a decision contemplated in section 74 of the Act, has been issued;

“**independent**”, in relation to a person appointed as a member of an advisory appeal panel, means—

- (a) that such a person has no business, financial, personal or other interest in the appeal in respect of which that person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that appeal; or
- (b) that there are no circumstances that may compromise the objectivity of that person in performing such work; and

“**the Act**” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).

2. Purpose of Regulations

The purpose of these Regulations is to regulate the procedure contemplated in sections 74, 75, 76, 77 and 78 of the Act relating to the submission, processing and consideration of, and a decision on an appeal.

3. Application of Regulations

- (1) These Regulations are applicable to a decision that is subject to an appeal to the Minister or MEC in terms of section 74 of the Act.
- (2) No appeal is available if the Minister or MEC took the decision himself or herself in his or her capacity as the issuing authority.

CHAPTER 2

ADMINISTRATION AND PROCESSING OF APPEALS

4. Lodging of appeal

Any appellant who wishes to submit an appeal must—

- (a) within the time periods specified in section 74(3)(a), lodge an appeal in writing in the form obtainable from the Minister or MEC; and
- (b) include, in addition to what is contained in section 74(3) of the Act—
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal; and
 - (iii) proof of payment of a non-refundable appeal fee if prescribed in terms of the Act.

5. Responding statements

- (1) The Minister or MEC must, within 10 days of receiving an appeal in terms of regulation 4 from any appellant, notify the applicant, if applicable, that—
 - (a) such appeal has been lodged and submit a copy thereof to the applicant; and

- (b) the applicant may submit to the Minister or MEC, a responding statement within 30 days from the date on which the applicant was notified of the appeal by the Minister or MEC.

6. Processing of an appeal

- (1) The Minister or MEC must within 5 working days acknowledge receipt of the appeal submission or responding statement, as contemplated in regulations 4 and 5 of these Regulations, respectively.
- (2) The appellant and the applicant, if applicable, must be notified within 5 working days of—
 - (a) any interim order issued in terms of section 76 of this Act, if the Minister or MEC, as the case may be, issues such an order; and
 - (b) the appointment of an advisory appeal panel in terms of section 75 of the Act read with regulation 8 of these Regulations, if the Minister or MEC, as the case may be, appoints an advisory appeal panel to consider and advise the Minister or MEC on the appeal.

7. Decision on appeal

- (1) The Minister or MEC, as the case may be, must reach a decision on an appeal within 90 days of receipt of all information, including—
 - (a) any responding statement; or
 - (b) recommendations of an advisory appeal panel, if appointed.
- (2) The Minister or MEC, as the case may be, must notify the appellant and the applicant, where applicable, of the appeal decision within 14 days after the appeal decision having being made.
- (3) The decision contemplated in sub-regulation (1) must contain reasons.

8. Advisory appeal panel

- (1) If the Minister or MEC, as the case may be, decides to appoint an advisory appeal panel to consider and advise the Minister or MEC on the appeal, the Minister or MEC must furnish the appeal panel with a written instruction concerning—
 - (a) the issues in respect of which the advisory appeal panel must make recommendations; and
 - (b) the period within which recommendations must be submitted to the Minister or MEC.
- (2) In addition to the criteria in sections 75(3) and (4) of the Act, a member of the appeal panel must be independent.
- (3) The recommendations of the appeal panel must be submitted in writing to the Minister or MEC.

CHAPTER 3**GENERAL MATTERS****9. Transitional arrangements**

- (1) Any appeal that is pending when these regulations take effect must be administered in terms of the Act.
- (2) Any appeal submitted after the date that these regulations come into effect must be administered in terms of these regulations, read together with the Act.

10. Short title and commencement

These Regulations are called the Integrated Coastal Management Appeal Regulations, 2016, and take effect on the date of publication in the *Gazette*.