

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No:**

In the matter between:

**THE TRUSTEES FOR THE TIME BEING OF  
GROUNDWORKTRUST** First Applicant

**VUKANI ENVIRONMENTAL JUSTICE ALLIANCE  
MOVEMENT IN ACTION** Second Applicant

and

**THE MINISTER OF ENVIRONMENTAL AFFAIRS** First Respondent

**NATIONAL AIR QUALITY OFFICER** Second Respondent

**THE PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA** Third Respondent

**MEMBER OF THE EXECUTIVE COUNCIL  
FOR AGRICULTURE AND RURAL DEVELOPMENT,  
GAUTENG PROVINCE** Fourth Respondent

**MEMBER OF THE EXECUTIVE COUNCIL  
FOR AGRICULTURE, RURAL DEVELOPMENT, LAND  
AND ENVIRONMENTAL AFFAIRS,  
MPUMALANGA PROVINCE** Fifth Respondent

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**APPLICANTS RULE 16A NOTICE**

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**TAKE NOTICE THAT** in this application, in terms of Rule 53 of the Uniform Rules of Court, the applicants have raised the following constitutional issues, namely:

- 1 Whether the the poor air quality in the Highveld Priority Area is in breach of residents' section 24(a) right to an environment that is not harmful to their health and well-being, as enshrined in the Constitution of the Republic of South Africa, 1996 ("Constitution").

- 2 Whether section 20 of the National Environmental Management: Air Quality Act 39 of 2004 (Air Quality Act) — interpreted in terms of Section 7(2) and section 24 of the Constitution, read with section 3 of the Air Quality Act — imposes a power coupled with a duty on the Minister of Environmental Affairs (the “Minister”) to establish regulations, as this is reasonably required to give effect to the Highveld Priority Area Air Quality Management Plan (“Highveld Plan”).
- 3 Alternatively, if it is found that the Minister has a discretion to establish regulations, whether the former Minister’s exercise of that discretion by refusing to establish regulations is unlawful and unconstitutional.
- 4 Whether the former Minister’s refusal to prescribe regulations ought to be reviewed and set aside in terms of the Promotion of Administrative Justice Act 3 of 2000, alternatively, section 1(c) of the Constitution.
- 5 Whether the enduring and unsafe levels of air pollution in the Highveld Priority Area also violates other constitutional rights dependant on a healthy environment, including the rights to dignity, life, bodily integrity and the right to have children’s interests considered paramount in every matter concerning the child.
- 6 Whether it is just and equitable to direct the Minister to prepare and initiate regulations in terms of section 20 of the Air Quality Act to implement and enforce the Highveld Plan within 6 months of this order, and the appropriate terms of that direction.

**TAKE FURTHER NOTICE** that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

**TAKE FURTHER NOTICE** that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

**TAKE FURTHER NOTICE** that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

**TAKE FURTHER NOTICE THAT** any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within

five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

Dated and signed at \_\_\_\_\_ this \_\_\_\_ day of June 2019.

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**CENTRE FOR ENVIRONMENTAL RIGHTS**

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Ref: Rentia Kruyshaar/CER

- TO: THE REGISTRAR OF THE ABOVE COURT  
PRETORIA**
- AND TO: THE MINISTER OF ENVIRONMENTAL AFFAIRS**  
First Respondent  
473 Steve Biko  
Arcadia  
PRETORIA
- AND TO: THE NATIONAL AIR QUALITY OFFICER**  
Second Respondent  
473 Steve Biko  
Arcadia  
PRETORIA
- AND TO: THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**  
Third Respondent  
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PRETORIA
- AND TO: MEMBER OF THE EXECUTIVE COUNCIL  
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- AND TO: MEMBER OF THE EXECUTIVE COUNCIL  
FOR AGRICULTURE, RURAL DEVELOPMENT,  
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MPUMALANGA PROVINCE**  
Fifth Respondent  
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- AND TO: THE STATE ATTORNEY**  
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PRETORIA