

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 1655

31 December 2021

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)****CONSULTATION ON INTENTION TO AMEND THE SECTION 24H REGISTRATION AUTHORITY
REGULATIONS, 2016**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby, in terms of sections 24(5)(e), 24H and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), read with regulation 1(2) of the Environmental Impact Assessment Regulations, 2014, consult on my intention to amend the Section 24H Registration Authority Regulations, 2016 as amended, as set out in the Schedule.

Members of the public are invited to submit written comments or inputs to the Minister, within 30 days of publication of this Notice in the Gazette, to the following addresses:

By post to: The Director-General:
Department of Forestry, Fisheries and the Environment
Attention: Mr Alvan Gabriel
Private Bag X447
PRETORIA
0001

By hand at: Reception, Environment House, 473 Steve Biko Road, Arcadia, Pretoria, 0083

Please note that due to the COVID-19 Pandemic, delivering comments by hand at the Department is being discouraged. Anyone entering the Department's buildings will be subjected to COVID-19 procedures.

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

Any enquiries in connection with the Notice can be directed to (012) 399 9322 or 066 081 9554.

Comments received after the closing date may not be considered.


BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

Definitions

1. In this Schedule unless the context indicates otherwise—

“the Regulations” means the Section 24H Registration Authority Regulations, 2016, published under Government Notice No. 849 in *Government Gazette* No. 40154 of 22 July 2016, as amended by Government Notice No. 906 in *Government Gazette* No. 43632 of 21 August 2020.

Amendment of index of the Regulations

2. The index is hereby amended—

- (a) by the substitution for the heading of Chapter 1 of the following heading:
“INTERPRETATION, PURPOSE AND APPLICATION OF THESE REGULATIONS”; and
- (b) by the insertion, after the heading of regulation 2, of the following heading:
“2A. Application of these Regulations”.

Amendment of Chapter 1 of the Regulations

3. Chapter 1 of the Regulations is hereby amended by the substitution for the heading of the following heading:
“INTERPRETATION, PURPOSE AND APPLICATION OF THESE REGULATIONS”.

Amendment of regulation 1 of the Regulations

4. Regulation 1 of the Regulations is hereby amended—

- (a) by the deletion of the definition of **“application”**;
- (b) by the insertion after the definition of **“applicant”** of the following definition:
“Environmental Impact Assessment Regulations” means the Environmental Impact Assessment Regulations published in terms of section 24(5) and 44 of the Act;”;
- (c) by the deletion of the definition of **“EMPr”**;
- (d) by the deletion of the definition of **“environmental assessment practitioner”**;
- (e) by the substitution for the definition of **“registered candidate environmental assessment practitioner”** of the following definition:
“registered candidate environmental assessment practitioner” means a candidate environmental assessment practitioner who is registered as such by the registration authority appointed in terms of section 24H of the Act in accordance with criteria prescribed in these Regulations;”; and
- (f) by the substitution for the definition of **“registered environmental assessment practitioner”** of the following definition:

“**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 criteria prescribed in these Regulations;”.

Amendment of regulation 2 of the Regulations

5. Regulation 2 of the Regulations is hereby amended by the substitution for paragraph numbers (1), (2) and (3) of paragraph numbers (a), (b) and (c).

Insertion of regulation 2A in the Regulations

6. The following regulation is hereby inserted in the Regulations after regulation 2:

“2A. Application of these Regulations

These Regulations apply to—

- (a) an application for an environmental authorisation contemplated in the Act and the Environmental Impact Assessment Regulations;
- (b) an application submitted in terms of section 24G of the Act;
- (c) an application for a waste management licence contemplated in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);
- (d) an application for an atmospheric emission license contemplated in the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
- (e) strategic environmental assessments, environmental management programmes or any other appropriate environmental management instruments introduced through regulations, contemplated in the Act, in so far as it informs an application contemplated in paragraphs (a) - (d); and
- (f) an appeal contemplated in section 43 of the Act relating to an application, strategic environmental assessment, environmental management programme or any other appropriate environmental instrument, contemplated in paragraphs (a) - (e).”.

Substitution of regulation 14 of the Regulations

7. The following regulation is hereby substituted for regulation 14 of the Regulations:

“14. Requirement to register as environmental assessment practitioner

- (1) No person other than a registered environmental assessment practitioner may perform tasks in connection with —
 - (a) an application for an environmental authorisation contemplated in the Act and the Environmental Impact Assessment Regulations;

- (b) an application submitted in terms of section 24G of the Act;
 - (c) an application for a waste management licence contemplated in Chapter 5 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), read with the Environmental Impact Assessment Regulations;
 - (d) an application for an atmospheric emission license contemplated in the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
 - (e) strategic environmental assessments, environmental management programmes or any other appropriate environmental management instruments introduced through regulations, contemplated in the Act, in so far as it informs an application contemplated in regulation 2A(a) - (e); and
 - (f) an appeal contemplated in section 43 of the Act, relating to an application, strategic environmental assessment, environmental management programme or any other appropriate environmental instrument, contemplated in paragraphs (a) - (e).
- (2) The tasks contemplated in subregulation (1)(a) are the tasks specified relating to—
- (a) the investigation, assessment, preparation and submission of a basic assessment report, EMPr and closure plan contemplated in regulations 19(1)(a), 19(2), 19(3), 19(4) and 19(6) and the assessment, evaluation and consideration of such reports and documents in order to recommend the making of a decision on an application for environmental authorisation contemplated in regulation 20(1) of Part 2 of Chapter 4 of the Environmental Impact Assessment Regulations;
 - (b) the investigation, preparation and submission of a scoping report contemplated in regulation 21(1) and 21(3) and the evaluation and consideration of the scoping report in order to recommend the making of a decision contemplated in regulation 22 of Part 3 of Chapter 4 of the Environmental Impact Assessment Regulations;
 - (c) the investigation, assessment, preparation and submission of an environmental impact assessment report, EMPr and closure plan contemplated in regulations 23(1)(a), 23(2), 23(3), 23(4) and 23(4B) and the assessment, evaluation and consideration of such reports and documents in order to recommend the making of a decision on an application for environmental authorisation contemplated in regulation 24(1) of Part 3 of Chapter 4 of the Environmental Impact Assessment Regulations; and
 - (d) the investigation, assessment, preparation and submission of a report contemplated in regulations 32(1)(a) and 32(2) and the assessment, evaluation and consideration of such reports in order to recommend the making of a decision contemplated in regulation 33(1) of Part 2 of Chapter 5 of the Environmental Impact Assessment Regulations.
- (3) The tasks contemplated in subregulation (1)(b) are the tasks specified in—
- (a) section 24G(1)(a)(ii) and 24G(1)(b)(ii) of the Act in so far as it relates to the investigation, evaluation and assessment of impacts;

- (b) section 24G(1)(a)(vii) and 24G(1)(b)(vii) of the Act in so far as it relates to the compilation of the report containing the information contemplated in paragraphs (aa) - (ee); and
 - (c) section 24G(2) of the Act in so far as it relates to the assessment, evaluation and consideration of the report or information submitted and recommending the making of a decision on an application contemplated in subregulation (1)(b).
- (4) The tasks contemplated in subregulation (1)(c) are the tasks specified in—
- (a) sections 45(2)(b) and 45(3) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in so far as it relates to the investigation, assessment, compilation and submission of documentation and information;
 - (b) section 48 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in so far as it relates to the assessment, evaluation and consideration of all relevant matters; and
 - (c) subregulation (2).
- (5) Notwithstanding subregulation (1), (2), (3) and (4), a person that—
- (a) takes the final decision, based on recommendations received, on an application contemplated in subregulation (1)(a) - (c) or any delegated authority in respect of subregulation (1)(a) - (c);
 - (b) prepares and submits comments on documents forming part of an application contemplated in subregulation (1)(a) - (c); and
 - (c) investigates, assesses, prepares and submits specialist reports contemplated in regulation 19(8) and 23(5) of the Environmental Impact Assessment Regulations;
- is not required to be a registered environmental assessment practitioner.”.

Amendment of regulation 15 of the Regulations

8. Regulation 15 is hereby amended—
- (a) by the insertion in subparagraph (i) of paragraph (b) of subregulation (1), after the words “level of competence” of the words “contemplated in the Qualification: Environmental Assessment Practice”;
 - (b) by the insertion in subparagraph (ii) of paragraph (b) of subregulation (1), after the words “level of competence” of the words “contemplated in the Qualification: Environmental Assessment Practice”; and
 - (c) by the insertion, in subregulation (4), before the word “sector” of the word “affected”.

Amendment of regulation 16 of the Regulations

9. Regulation 16 is hereby amended—

- (a) by the insertion in subregulation (2) after the words “to register” of the words “as an environmental assessment practitioner contemplated in this Chapter”; and
- (b) by the substitution for subparagraph (iv) in paragraph (b) of subregulation (2) for the following subparagraph:
“(iv) any other information which is indicative of meeting the requirements contemplated in the Qualification: Environmental Assessment Practice.”.

Amendment of regulation 17 of the Regulations

10. Regulation 17 is hereby amended—

- (a) by the substitution for paragraph (a) of subregulation (2) of the following paragraph:
“(a) a portfolio of evidence demonstrating competence which is indicative of meeting the requirements contemplated in the Qualification: Environmental Assessment Practice over the previous five year registration period;”; and
- (b) by the insertion in subregulation (5) after the words “as the application” of the words “for the renewal of registration”.

Amendment of regulation 18 of the Regulations

11. Regulation 18 is hereby amended—

- (a) by the insertion in paragraph (b) of subregulation (2) after the words “reasonable opportunity” of the words “of not less than 30 days”; and
- (b) by the insertion in subregulation (3) after the words “of the decision” of the words “within 15 days”; and
- (c) by the deletion in paragraph (b) of subregulation (4) of the words “in instances where the planning, management, coordination or review of an environmental impact assessment and associated EMPr has been initiated but not yet completed by the time of termination of registration”.

Amendment of regulation 21 of the Regulations

12. The following regulation is hereby substituted for regulation 21 of the Regulations:

“21. Transitional provisions

If a situation arises where the performance of the tasks contemplated in regulation 14 has been initiated or reports or documents submitted to the relevant authority for decision-making prior to the coming into effect of regulation 14 of these Regulations, the person performing such tasks may dispense of his or her responsibilities without complying with regulation 14 of these Regulations.”.

Amendment of regulation 22 of the Regulations

13. Regulation 22 is hereby amended—

- (a) by the insertion in subregulation (2) after the words “Regulation 14” of “(1) (a), (b), and (c); (2), (3) and (4)” and by the substitution for “48” of “54”;
- (b) by the insertion, after subregulation (2), of the following subregulation:
 - “(3) Regulation 14(1)(d), (e), and (f) of these Regulations takes effect on a date to be published by Notice in the *Government Gazette*.”.