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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 3336

21 April 2023

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)**CONSULTATION ON THE INTENTION TO AMEND THE REGULATIONS LAYING DOWN THE PROCEDURE TO BE FOLLOWED FOR THE ADOPTION OF SPATIAL TOOLS OR ENVIRONMENTAL MANAGEMENT INSTRUMENTS**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby publish for comment my intention in terms of section 24(5)(bA) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), to amend the Regulations laying down the procedure to be followed for the adoption of spatial tools or environmental management instruments, as published in Government Notice No. 542 in *Government Gazette* No. 42380 of 5 April 2019, as set out in the Schedule hereto.

It is proposed that the term "spatial tool" be deleted from the Regulations since a spatial tool is one of the environmental management instruments which can be adopted by the Minister or the MEC. This is confirmed by the soon to be enacted definition of "environmental management instrument" as contained in the National Environmental Management Laws Amendment Act, 2022 (Act No. 2 of 2022), which includes "spatial tool" in the definition of "environmental management instrument". The reference to the Department of Environmental Affairs is also proposed to be replaced by a more generic reference to the national or provincial department responsible for the environment, to avoid the need to amend the Regulations every time that the name of such Department changes.

In addition, a provision to enable the setting of a registration requirement is proposed. Although the Instrument Regulations provide for the process to adopt environmental management instruments for the purposes of excluding activities from the requirement to obtain environmental authorisation, it is often desirable to identify some procedures to be followed, and conditions to be applicable, as part of the exclusion. It is now intended to specifically provide for the inclusion of a registration process.

Members of the public are invited to submit written comments or inputs, within 30 days after the 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: Ms A van Reenen
Private Bag X447
PRETORIA
0001

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

By e-mail: avanreenen@dfe.gov.za

Any enquiries in connection with the notice can be directed to Ms A van Reenen at avanreenen@dfe.gov.za or 083 280 0730. Comments or inputs received after the closing date may not be considered.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated into a comments and response report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his or her name, or the name of the represented company/ organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this Government Notice.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Act, has that meaning and, unless the context indicates otherwise—

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998); and

“the Regulations” means the Regulations laying down the procedure to be followed for the adoption of spatial tools or environmental management instruments, published under Government Notice No. 542 in Government Gazette No. 42389 of 5 April 2019, as amended by Government Notice No. 2688 in Government Gazette No. 47377 of 28 October 2022.

Amendment of the title of the Regulations

2. The title of the Regulations is hereby amended by the substitution for the title of the following title:

“REGULATIONS LAYING DOWN THE PROCEDURE TO BE FOLLOWED FOR THE ADOPTION OF ENVIRONMENTAL MANAGEMENT INSTRUMENTS”.

Substitution of regulation 2 of the Regulations

3. Regulation 2 is hereby amended by the substitution of regulation 2 for the following Regulation:

“2. Purpose of Regulations

The purpose of these Regulations is to provide for the process of adoption of environmental management instruments contemplated in section 24(2)(c) and (e) of the Act and to provide for registration requirements, where deemed appropriate, for the exclusion of activities based on the adoption of an environmental management instrument in terms of these Regulations.”.

Substitution of regulation 3 of the Regulations

4. Regulation 3 is hereby amended by the substitution of regulation 3 for the following Regulation:

“3. Adoption requirements

Before adopting an environmental management instrument, the Minister or MEC must ensure that the environmental management instrument indicates the purpose for which it was developed and the exclusion which results from such adoption, where deemed appropriate.”.

Amendment of regulation 4 of the Regulations

5. Regulation 4 is hereby amended by—
 - (a) the deletion in paragraph (c) of subregulation (1) of the words “spatial tool or”;
 - (b) the substitution for paragraph (d) of subregulation (1) of the following paragraph:

- (d) on the website of the national department responsible for the environment in order to make the proposed environmental management instrument publicly available.”;
- (c) by the deletion in paragraph (b) of subregulation (2) of the words “spatial tool or”; and
- (d) by the deletion in paragraph (c) of subregulation (2) of the words “spatial tool or”.

Amendment of regulation 6 of the Regulations

6. Regulation 6 is hereby amended by the deletion of the words “spatial tool or”.

Substitution of regulation 7 of the Regulations

7. Regulation 7 is hereby amended by the substitution of regulation 7 for the following Regulation:

“7. Notification of adoption

Once the Minister or the MEC, in concurrence with the Minister, adopts an environmental management instrument contemplated in section 24(2)(c) or (e) of the Act, notice must be given in the relevant Gazette of the—

- (a) adoption of the environmental management instrument;
- (b) availability of the environmental management instrument for public access on the website of the national, and where relevant, the provincial department responsible for the environment; and
- (c) exclusion contemplated in section 24(2)(c) or (e) of the Act that has resulted from the adoption and any registration requirements, if relevant.”.

Amendment of regulation 8 of the Regulations

8. Regulation 8 is hereby amended by—
- (a) the deletion in paragraph (a) of the words “spatial tools or”; and
 - (b) the substitution in paragraph (b) of the words “Department of Environmental Affairs” for the words “national department responsible for the environment”.

Commencement of these regulations

9. These amendment regulations commence on the date of publication in the *Government Gazette*.

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