

Mineral and Petroleum Resources Development Act 28 of 2002

Section 43: Issuing of a closure certificate

(1) The holder of a prospecting right, mining right, retention permit, mining permit, or previous holder of an old order right or previous owner of works that has ceased to exist, remains responsible for any environmental liability, pollution, ecological degradation, the pumping and treatment of extraneous water, compliance to the conditions of the environmental authorisation and the management and sustainable closure thereof, until the Minister has issued a closure certificate in terms of this Act to the holder or owner concerned.

(2) On the written application in the prescribed manner by the holder of a prospecting right, mining right, retention permit, mining permit or previous holder of an old order right or previous owner of works that has ceased to exist, the Minister may transfer such environmental liabilities and responsibilities as may be identified in the environmental management report and any prescribed closure plan to a person with such qualifications as may be prescribed.

(3) The holder of a prospecting right, mining right, retention permit, mining permit, or previous holder of an old order right or previous owner of works that has ceased to exist, or the person contemplated in subsection (2), as the case may be, must apply for a closure certificate upon-

- (a) the lapsing, abandonment or cancellation of the right or permit in question;
- (b) cessation of the prospecting or mining operation;
- (c) the relinquishment of any portion of the prospecting of the land to which a right, permit or permission relate; or
- (d) completion of the prescribed closing plan to which a right, permit or permission relate.

(4) An application for a closure certificate must be made to the Regional Manager in whose region the land in question is situated within 180 days of the occurrence of the lapsing, abandonment, cancellation, cessation, relinquishment or completion contemplated in subsection (3) and must be accompanied by the required information, programmes, plans and reports prescribed in terms of this Act and the National Environmental Management Act, 1998.

(5) No closure certificate may be issued unless the Chief Inspector and each government department charged with the administration of any law which relates to any matter affecting the environment have confirmed in writing that the provisions pertaining to health and safety and management pollution to water resources, the pumping and treatment of extraneous water and compliance to [sic] the conditions of the environmental authorisation have been addressed.

(5A) Confirmation from the Chief Inspector and each government department contemplated in subsection (5) must be received within 60 days from the date on which the Minister informs such Chief Inspector or government department, in writing, to do so.

(6) When the Minister issues a certificate he or she must return such portion of the financial provision contemplated in section 41 the National Environmental Management Act, 1998, as

the Minister may deem appropriate, to the holder of the prospecting right, mining right, retention permit or mining permit, previous holder of an old order right or previous owner of works or the person contemplated in subsection (2), but may retain any portion of such financial provision for latent and residual safety, health or environmental impact which may become known in the future.

(7) The holder of a prospecting right, mining right, retention permit, mining permit, or previous holder of an old order right or previous owner of works that has [sic] ceased to exist, or the person contemplated in subsection (2), as the case may be, must plan for, manage and implement such procedures and such requirements on mine closure as may be prescribed.

(8) Procedures and requirements on mine closure as it relates to the compliance of the conditions of an environmental authorisation, are prescribed in terms of the National Environmental Management Act, 1998.

(9) The Minister, in consultation with the Minister of Environmental Affairs and Tourism, may identify areas by notice in the *Gazette*, where mines are interconnected or their safety, health, social or environmental impacts are integrated which results in a cumulative impact.

(10) The Minister may, in consultation with the Minister of Environmental Affairs and Tourism, publish by notice in the *Gazette*, strategies to facilitate mine closure where mines are interconnected, have an integrated impact or pose a cumulative impact.

(11) The holder of a prospecting right, mining right, retention permit, mining permit, or previous holder of an old order right or previous owner of works that has [sic] ceased to exist, or the person contemplated in subsection (2), as the case may be, operating or who has operated within an area identified in subsection (9), must amend their programmes, plans or environmental authorisations accordingly or submit a closure plan, subject to the approval of the Minister, which is aligned with the closure strategies contemplated in subsection (10).

(12) In relation to mines with an interconnected or integrated health, safety, social or environmental impact, the Minister may, in consultation with the Minister of Environmental Affairs and Tourism, determine the apportionment of liability for mine closure as prescribed.

(13) No closure certificate may be issued unless-

(a) the Council for Geoscience has confirmed in writing that complete and correct prospecting reports in terms of section 21 (1) have been submitted to the Council for Geoscience;

(b) the complete and correct records, borehole core data or core-log data that the Council of Geoscience may deem relevant, have been lodged with the Council for Geoscience; or

(c) in the case of the holder a permit or right in terms of this Act, the complete and correct surface and the relevant underground geological plans have been lodged with the Council for Geoscience.