

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2023-079658**

In the matter between:

**VAAL ENVIRONMENTAL JUSTICE
ALLIANCE, THE TRUSTEES FOR THE
TIME BEING OF THE GROUNDWORK
TRUST**

Plaintiff / Applicant / Appellant

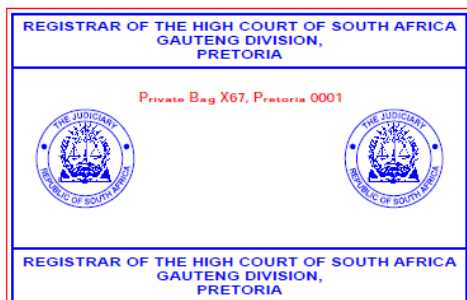
and

**THE MINISTER OF FORESTRY,
FISHERIES AND THE
ENVIRONMENT, NATIONAL AIR
QUALITY OFFICER, ARCELOR MITTAL
SOUTH AFRICA (PTY LTD)**

Defendant / Respondent

Notice of Motion (Long Form)

NOTE: This document was filed electronically by the Registrar on 11/8/2023 at 12:17:38 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTR

SIGNED BY:

**Registrar of High Court of South
Africa , Gauteng Division, Pretoria**

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

Case Number: _____

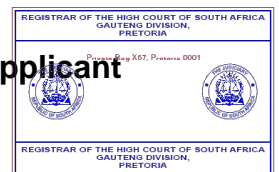
In the matter between:

VAAL ENVIRONMENTAL JUSTICE ALLIANCE

First Applicant

**THE TRUSTEES FOR THE TIME BEING OF THE
GROUNDWORK TRUST**

Second Applicant



And

**THE MINISTER OF FORESTRY, FISHERIES AND THE
ENVIRONMENT**

First Respondent

NATIONAL AIR QUALITY OFFICER

Second Respondent

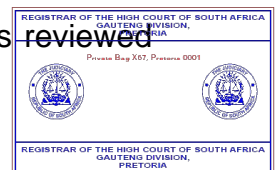
ARCELOR MITTAL SOUTH AFRICA (PTY LTD)

Third Respondent

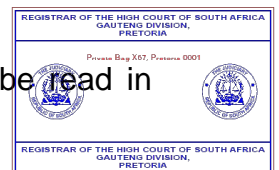
NOTICE OF MOTION

TAKE NOTICE THAT The Applicants will make application on a date to be determined by the Registrar of this honourable Court for an order in the following terms:

- 1 The decision of the National Air Quality Officer (“**NAQO**”) taken on 23 March 2020 to grant ArcelorMittal South Africa (“**AMSA**”) a postponement to comply with timeframes for Minimum Emission Standards (“**MES**”) and alternative limits is reviewed and set aside.
- 2 The decision taken by the Minister of Forestry, Fisheries and the Environment on 08 February 2023 to dismiss the applicants’ internal appeal against the decision of the NAQO and to grant AMSA a postponement to comply with timeframes for MES and grant AMSA alternative emission instead is reviewed and set aside.
- 3 The matter is remitted back to the NAQO for reconsideration.
- 4 The following declaratory relief is granted, so that the MES postponement provision is read in the light of the rights enshrined in the Constitution and the relevant legislative instruments, and is protective of people’s health and well-being in the Vaal Triangle Airshed Priority Area:
 - 4.1 It is declared that no application for postponement of compliance with the MES is permissible for areas where the National Ambient Air Quality Standards are non-compliant.
 - 4.2 It is declared that the Minister’s decision to allow for weaker emission limits than the existing plant standards for AMSA was unreasonable, unlawful, unconstitutional and invalid.
 - 4.3 It is declared that no further postponement applications will be granted beyond 31 March 2025.



- 4.4 It is declared that sections 11 and 12 of the section 21 Listed Activities and Associated Minimum Emission Standards Identified in Terms of Section 21 of the National Environmental Management: Air Quality Act 39 of 2004 (“**The Listed Activities**”) must be read integrally, and in line with the Constitution and relevant air quality management legislation.
- 4.5 It is declared that the section 12A of the Listed Activities is not a standalone provision.
- 4.6 It is declared that section 12A of the listed activities must be read in conjunction with the preceding provisions.
- 4.7 It is declared that section 12A read together with sections 11 and 12, does not allow for alternative emission limits weaker than existing plant standards.
- 5 The costs of this application are to be paid, jointly and severally, by any respondents opposing this relief, in accordance with section 32(3) of the National Environmental Management Act 107 of 1998 (“**NEMA**”).
- 6 Further or alternative relief.



TAKE NOTICE FURTHER THAT The affidavit of **SAMSON MOKOENA**, and the attached annexures, will be used in support of this application.

TAKE NOTE FURTHER THAT The applicants appoint the address of their attorneys, as set out below, as the address at which they will accept service of all process in these proceedings.

TAKE NOTICE FURTHER THAT:

- a) In terms of Rule 53(1)(a) of the Uniform Rules of Court, the first to third respondents are called upon to show cause why the decisions referred to in Prayers 1 and 2 above should not be set aside;
- b) In terms of Rule 53(1)(v), the first and second respondents are called upon, within fifteen days of receipt of this notice of motion, to despatch to the Registrar the record of all documents and all electronic records that relate to the making of the decisions referred to in Prayers 1-2 above, together with such reasons as the respondents are by law required or may require to give or make, and to notify the applicant's attorneys that they have done so.
- c) In terms of Rule 53(4), the applicant may within 10 days of receipt of the record from the Registrar, amend, add to, or vary the terms of its notice of motion and supplement the founding affidavit, by delivery of a notice and accompanying affidavit.



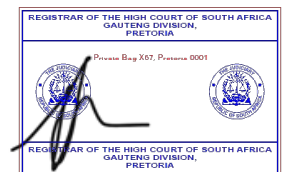
TAKE NOTICE FURTHER that any respondents who wish to oppose the relief sought are required:

- (a) within 15 days of receipt of this notice of motion or any amendment thereto as contemplated in Rule 53(4), to deliver a notice to the applicants' attorneys that such respondents intend to oppose this application;
- (b) to appoint an address within 15 kilometres of the office of the Registrar at which the respondents will accept notice and service of all process in such proceedings; and

(c) Within 30 days of the expiry of the time period referred to in Uniform Rule of Court 53(4), deliver such affidavits as they may desire in answer to the allegations made by the applicant.

KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY.

SIGNED and DATED at PRETORIA on this the 11th day of AUGUST 2023.



CENTRE FOR ENVIRONMENTAL RIGHTS

ATTORNEYS FOR THE APPLICANTS

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Ref: **CER73.1/BA/MMK/CD**

C/O: GMI ATTORNEYS

HARLEQUINS OFFICE PARK

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GROENKLOOF

PRETORIA

TEL: 0124288808

EMAIL: jsmallberger@gminc.co.za

TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

AND TO: **THE MINISTER OF THE DEPARTMENT OF FORESTRY,
FISHERIES AND THE ENVIRONMENT**
FIRST RESPONDENT
ENVIRONMENT HOUSE
473 STEVE BIKO ROAD
ARCADIA
PRETORIA

AND TO: **NATIONAL AIR QUALITY OFFICER: DEPARTMENT OF FORESTRY,
FISHERIES AND THE ENVIRONMENT**
SECOND RESPONDENT
ENVIRONMENT HOUSE
473 STEVE BIKO ROAD
ARCADIA, PRETORIA



AND TO: **ARCELORMITTAL SOUTH AFRICA LTD**
THIRD RESPONDENT
DELFO BOULDVARD,
VANDERBIJLPARK,
EMFULENI LOCAL MUNICIPALITY,
GAUTENG PROVINCE