

No. R. 547

18 June 2010

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF
1998)
ENVIRONMENTAL MANAGEMENT FRAMEWORK REGULATIONS**

I, Buyelwa Patience Sonjica, Minister of Water and Environmental Affairs, hereby make the regulations pertaining to environmental management frameworks under sections 24(5) and 44 of the National Environmental Management Act, 1998, (Act No. 107 of 1998) in the Schedule hereto.



BUYELWA SONJICA

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

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Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context requires otherwise—

“attribute” means the quality ascribed to an element in the environment that distinguishes it in character, form or nature from other elements in the environment;

“environmental management framework” means a study of the biophysical and socio-cultural systems of a geographically defined area to reveal where specific land uses may best be practiced and to offer performance standards for maintaining appropriate use of such land;

“interested and affected party” means

- (a) any person, group of persons or organisation interested in or affected by an environmental management framework; and
- (b) any organ of state that may have jurisdiction over any aspect covered by the environmental management framework;

“Minister”, in relation to all environmental matters except with regard to the implementation of environmental legislation, regulations policies, strategies and guidelines relating to prospecting, mining, exploration, production and related activities on a prospecting, mining, exploration, production area, means the Minister of Water and Environmental Affairs;

“MEC” means the Member of the Executive Council to whom the Premier has assigned responsibility for environmental affairs;

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

Purpose of Regulations

2. (1) The purpose of this Part is to provide—

- (a) for the Minister or MEC with concurrence of the Minister to initiate the compilation of information and maps referred to in section 24(3) of the Act specifying the attributes of the environment in particular geographical areas;
- (b) for such information to inform environmental management; and
- (c) for such information and maps to be used as environmental management frameworks in the consideration, as contemplated in section 24(4)(b)(vi) of the Act, of applications for environmental authorisations in or affecting the geographical areas to which those frameworks apply.

(2) The provisions of this Part may not be read as purporting to affect the powers of the Minister or MEC in terms of section 24(3) of the Act to compile information and maps specifying the attributes of the environment in specific geographical areas.

(3) Environmental management frameworks are aimed at

- (a) promoting sustainability;
- (b) securing environmental protection; and
- (c) promoting cooperative environmental governance.

Development of environmental management frameworks

3. (1) The Minister or MEC with the concurrence of the Minister may initiate an environmental management framework for an area.

(2) In order to initiate an environmental management framework for an area, the Minister or MEC must—

- (a) conduct public consultation to inform the preparation of a draft environmental management framework;
- (b) compile a draft environmental management framework;
- (c) subject the draft to a public participation process by—
 - (i) making the draft available for public inspection at a convenient place; and

- (ii) inviting potential interested and affected parties by way of advertisements in newspapers circulating in the area and in any other appropriate way to inspect the draft and submit representations, and comments in connection with the draft to that person or organ of state;
- (iii) take appropriate steps to ensure that reasonable alternative methods of promoting public participation are followed in those instances where a person is desiring but unable to participate in the process due to
 - (aa) illiteracy;
 - (bb) disability; or
 - (cc) any other disadvantage,
- (d) consider representations and comments received;
- (e) review the draft in the light of any representations, and comments received; and
- (f) prepare a comments and response report including responses to all representations and comments received.

(3) The development of an environmental management framework must include an assessment of

- (a) the need for an environmental management framework;
- (b) the status quo of the geographical area that forms the subject of the environmental management framework;
- (c) the desired state of the environment; and
- (d) the way forward to reach the desired state.

(4) Public participation as contemplated in subregulation (2)(c) must ensure that participation by potential interested and affected parties in the development of the environmental management framework is facilitated in such a manner that all potential interested and affected parties are provided with a reasonable opportunity, sufficient understanding and skill, best suited to the local interests and groups in each geographical area, to provide comment during the process of developing the environmental management framework.

Content of environmental management frameworks

4. A draft environmental management framework must—
- (a) identify by way of a map or otherwise the geographical area to which it applies;
 - (b) specify the attributes of the environment in the area, including the sensitivity, extent, interrelationship and significance of those attributes;
 - (c) identify any parts in the area to which those attributes relate;
 - (d) state the conservation status of the area and in those parts;
 - (e) state the environmental management priorities of the area;
 - (f) indicate the kind of developments or land uses that would have a significant impact on those attributes and those that would not;
 - (g) indicate the kind of developments or land uses that would be undesirable in the area or in specific parts of the area;
 - (h) indicate the parts of the area with specific socio-cultural values and the nature of those values;
 - (i) identify information gaps;
 - (j) indicate a revision schedule for the environmental management framework;
- and
- (k) include any other matters that may be specified.

Adoption and consideration

5. (1) The Minister or MEC in concurrence with the Minister may adopt with or without amendments, an environmental management framework initiated in terms of regulation 3.

(2) If the Minister or MEC adopts with or without amendments an environmental management framework initiated in terms of regulation 3 the environmental management framework must be taken into account in the consideration of applications for environmental authorisation in or affecting the geographical area to which the framework applies.

(3) An environmental management framework not initiated in terms of regulation 3 may be taken into account in the consideration of applications for environmental authorisation in or affecting the geographical area to which the

framework applies, if such environmental management framework complies with the content requirements as stipulated in regulation 4 and the development of such EMF complied with the process requirements as stipulated in regulation 3.

(4) When an environmental management framework has been adopted, notice must be given in the Government Gazette or the official Gazette of the relevant province of—

- (a) the adoption of the environmental management framework; and
- (b) the place where the environmental management framework is available for public scrutiny.

(5) Environmental management frameworks adopted as provided in subregulation (1) must be implemented and monitored on a regular basis to ensure that it achieves its purpose and goal.

(6) Environmental management frameworks adopted as provided in subregulation (1) may from time to time, on the initiative of the Minister or an MEC in concurrence with the Minister, or as specified in the revision schedule of the environmental management framework, be revised, on condition that such revision is subject to a public participation process similar to that envisaged in regulation 3(4).

(7) When an environmental management framework has been revised as provided in subregulation (6), notice must be given in the Government Gazette or the official Gazette of the relevant province of—

- (a) the revision of the environmental management framework; and
- (b) the place where the revised environmental management framework is available for public scrutiny.

Short title and commencement

6. These Regulations are called the Environmental Management Framework Regulations, 2010, and take effect on a date determined by the Minister by notice in the Gazette.