

PC WATER
05.02.14

REPUBLIC OF SOUTH AFRICA

NATIONAL WATER AMENDMENT BILL

*(As initiated by the Portfolio Committee on Water and Environmental Affairs
as a Committee Bill for introduction in Parliament (proposed section 75);
prior notice of introduction published in website of Parliament .*

(The English text is the official text of the Bill.)

(Portfolio Committee on Water and Environmental Affairs)

[B --- 2014]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Water Act, 1998, so as to make provisions for the correct designation of the Department and Minister; to correct outdated references; to provide for an alignment and integration of the process for consideration of water use licenses; to provide for the appointment of the Minister as the responsible authority for appeals in certain circumstances; to amend the authority of the Water Tribunal as appeal authority in certain circumstances; and to provide for matters connected therewith.

Be it enacted by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 36 of 1998

1. Section 1 of the National Water Act, 1998 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "Department" of the following definition:

“**Department**” means the Department **[of] responsible for [Water] water [Affairs] affairs [and Forestry].**”; and

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(b) by the substitution for the definition of “Minister” of the following definition:

“**Minister**” means the Minister **[of] responsible for [Water] water [Affairs] affairs [and Forestry].**”

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Amendment of section 26 of Act 36 of 1998

2. Section 26 is hereby amended by the addition of the following subsection:

“(5) Regulations made in terms of this Act that may have the effect of amending the provisions of the Agreement referred to in section 163A must be made by the Minister in concurrence with the Minister responsible for mineral resources and must be tabled in Parliament 30 days prior to the final publication thereof. *of the rego. in the Gazette*”

Amendment of section 41 of Act 36 of 1998

3. Section 41 of the principal Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) A responsible authority may direct that any assessment under subsection (2)(a)(ii) must comply with the requirements contained in regulations made under **[section 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989)]** the applicable sections of the National Environmental Management Act, 1998 (Act No. 107 of 1998).”; and

(b) by the addition of the following subsections:

“(5) The Minister must align and integrate the process for consideration of a water use license with the timeframes and processes applicable to applications for—

(a) licences, permits or rights for prospecting, exploration, mining and production in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); and

(b) environmental authorisations in terms of the National Environmental Management Act, 1998 (Act No. 107 Of 1998) or a specific environmental Act.”

(6) Notwithstanding the provisions of section 148, any applicant for a water use licence as contemplated in subsection (5), who is aggrieved by a decision of the responsible authority, may lodge an appeal to the Minister against the decision.”

Amendment of section 148 of Act 36 of 1998

4. Section 148 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) subject to section 41(6), against a decision of a responsible authority on an application for a licence under section 41, or on any other application to which section 41 applies, by the applicant or by any other person who has timeously lodged a written objection against the application;”; and

(b) by the substitution in subsection (1) for paragraph (h) of the following paragraph:

"(h) subject to section 41(6), against the amendment of a condition of a licence by a responsible authority on review under section 49(2), by any person affected thereby;"

Insertion of section 163A to Act 36 of 1998

5. The following section is hereby inserted in the principal Act after section 163:

"Amendments to this Act

163A. (1) Any proposed amendments to this Act that may have the effect of amending the provisions of the Agreement, must be subject to concurrence between the Minister, the Minister responsible for water environmental affairs and the Minister responsible for mineral resources; and

(b) Any intervention contemplated in paragraph (a) that may lead to the amendment of the provisions of the Agreement must be tabled in Parliament prior to any steps being taken to effect those changes and Parliament may express its view on the proposed amendment of the Agreement.

(2) Agreement for the purpose of subsection (1) means the Agreement reached between the Minister, the Minister responsible for water environmental affairs and the Minister responsible for mineral resources

titled **One Environmental System** for the country with respect to mining, which entails:

(a) that all environment related aspects would be regulated through one system which is the ~~principal Act~~ National Environmental Management Act, 1998 (Act No. 107 of 1998) and that all environmental provisions would be repealed from the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002); and

(b) that the Minister responsible for environmental affairs sets the regulatory framework and norms and standards, and that the Minister responsible for ~~m~~Mineral ~~r~~Resources will implement the provisions of the ~~principal Act~~ National Environmental Management Act, 1998 (Act No. 107 of 1998) and the subordinate legislation as far as it relates to prospecting, exploration, mining or operations;

(c) that the Minister responsible for ~~m~~Mineral ~~r~~Resources will issue environmental authorisations in terms of the ~~principal Act~~ National Environmental Management Act, 1998 (Act No. 107 of 1998) for prospecting, exploration, mining or operations, and that the Minister responsible for environmental affairs will be the appeal authority for these authorisations;

(d) that the Minister, the Minister responsible for Mineral Resources and the Minister responsible for ~~Water Affairs~~ environmental affairs agree on fixed time-frames for the consideration and issuing of the authorisations in their respective legislation and also agreed to align the time frames and processes."

Amendment of Arrangement of Sections of Act 36 Of 1998

6. The Arrangement of Sections of the principal Act is hereby amended by the insertion after item 163A of the following item:

163A. Amendments to this Act

—— **Short title and commencement**

7. This Act is called the National Water Amendment Act, 2014 and comes into operation on the same date as the amendment Acts for the Mineral and Petroleum Resources Development Act, 2002 (Act No.28 of 2002) and the National Environmental Management Act, 1998(Act No_ 107 of 1998) on a date fixed by the President by proclamation in the *Gazette*.