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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES

NO. R. 420

27 MARCH 2020

**PUBLICATION OF AMENDMENTS TO THE MINERAL AND PETROLEUM RESOURCES
DEVELOPMENT REGULATIONS FOR IMPLEMENTATION**

I, **SAMSON GWEDE MANTASHE, MP**, under section 107(1) of the Mineral and Petroleum Resources Development Act, 2002, (Act No. 28 of 2002), read with the provisions of section 14 of the Interpretation Act, 1957 (Act No. 33 of 1957), hereby amend the Mineral and Petroleum Resources Development Regulations, published under Government Notice R527 in Government Gazette 26275 dated 23 April 2004, as arranged in the attached Schedule.

These Amendment Regulations will become effective on the date of publication in the gazette.



MRS G MANTASHE, MP**MINISTER OF MINERAL RESOURCES AND ENERGY****DATE:** 26/03/2020

SCHEDULE

MINERAL AND PETROLEUM RESOURCES DEVELOPMENT REGULATIONS

Published under Government Notice R527 in Government Gazette 26275 dated 23 April 2004.

Commencement date: 23 April 2004.

As amended by:

Amendment of the Regulations by Government Notice R1288 in Government Gazette 26942 dated 29 October 2004. Commencement date: 29 October 2004.

Amendment of the Regulations by Government Notice R1203 in Government Gazette 29431 dated 30 November 2006. Commencement date: 30 November 2006.

Amendment of the Regulations by Government Notice R349 in Government Gazette 34225 dated 18 April 2011. Commencement date: 18 April 2011.

Regulations for Petroleum Exploration and Production, 2015 - Government Notice R466 in Government Gazette 38855 dated 3 June 2015. Commencement date: 3 June 2015.

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

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

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CHAPTER 1

SHORT TITLE

These Regulations shall be called the Amendment Regulations to the Mineral and Petroleum Resources Development Regulations, 2020.

1. DEFINITIONS

Amendment of regulation 1

Regulation 1 of the regulations is amended –

(a) *by addition of the definition of “Applicant” as follows:*

“Applicant” within the context of regulation 73B refers to any person who intends to use the surface of the land contrary to the objects of the Act as contemplated in section 52 of the Act;

(b) *by the deletion of the following definition-*

[“environmental impact assessment” means an assessment as contemplated in section 39(1) of the Act;]

(c) *by addition of the definition of “Mine community” as follows:*

“Mine community” refers to communities where mining takes place, major labour sending areas, adjacent communities within a local municipality, metropolitan municipality or district municipality;

(d) *by the substitution of the definition of “interested and affected persons” for the following definition:*

“Interested and affected persons” means a natural or juristic person or an association of persons with a direct interest in the proposed or existing prospecting or mining operation or who may be affected by the proposed or existing prospecting or mining operation. These include, but are not limited to; –

- (i) Mine Communities as defined in these Regulations;
- (ii) Landowners Traditional Council as defined in section 1 of the Traditional Leadership and Governance Framework Act, 2003;
- (iii) Land Claimants who have lodged claims in terms of the Restitution of Land Rights Act, 1994 which have not been rejected or settled in terms thereof;
- (iv) Lawful land occupier;

- (v) Holders of informal rights to land as defined in section 1 of the Interim Protection of Informal Land Rights Act, 1996;
- (vi) The Department responsible for Agriculture, Land Reform and Rural Development;
- (vii) The Department responsible for Co-operative Governance and Traditional Affairs;
- (viii) The Department responsible for Human Settlements, Water and Sanitation;
- (ix) Any other person (including on adjacent and non-adjacent properties) whose socio-economic conditions may be directly affected by the proposed or existing prospecting or mining operation;
- (x) The Local Municipality;
- (xi) Civil society; and
- (xii) The relevant Government Departments, agencies and institutions responsible for the various aspects of the environment and for infrastructure which may be affected by the proposed project;

(e) *by addition of the following definitions-*

“Labour sending area” means a local municipality in the Republic of South Africa from which a majority of mineworkers are from time to time permanently resident;

“meaningful consultation” means that the applicant, has in good faith facilitated participation in such a manner that reasonable opportunity was given to provide comment by the landowner, lawful occupier or interested and affected party in respect of the land subject to the application about the impact the prospecting or mining activities would have to his or her right of use of the land by availing all relevant information pertaining to the proposed activities enabling these parties to make an informed decision regarding the impact of the proposed activities;

“Regional Office” refers to the office in each region designated by the Minister in terms of section 7 of the Act and managed by Regional Managers designated by the Director General in terms of section 8.

CHAPTER 2

MINERAL AND PETROLEUM, SOCIAL AND ENVIRONMENTAL REGULATION

PART I: MINERAL AND PETROLEUM REGULATION

2. Regulation 3 of the regulations is hereby amended -

(a) by substitution of the heading of regulation 3 for the following heading:

"Meaningful Consultation with interested and affected persons"

(b) by the substitution of subregulation (3) for the following subregulation:

(3) In addition to the notice referred to in subregulation (1), the Regional Manager or designated agency, as the case may be, must also make known the application by **[at least one of]** the following methods -

(a) **[publication in the applicable Provincial Gazette];**

(b) placement of notice in the Magistrate's Court in the magisterial district applicable to the land in question; [or]

(c) **[advertisement in a local or national newspaper circulating in the area where the land or offshore area to which the application relates, is situated or]**

(d) placement of notice in local schools, public libraries, municipal offices, and Traditional Council offices.

(e) The notice to be in English and one other official language that is dominantly used in the relevant area.

(c) by the substitution of subregulation (4) for the following subregulation:

(4) A **[publication,] notice [or advertisement]** referred to in subregulation (3) must include -

(a) an invitation to members of the public to submit comments in writing on or before a date specified in the **[publication,] notice [or advertisement]**, which date may not be earlier than 30 days from the date of such **[publication,] notice [or advertisement]**;

(d) by the insertion after subregulation (4) of subregulation (5) as follows:

(5) The Regional Manager must obtain and keep confirmation of placement of the notice from:

(a) Clerk of the Court or photographs taken by the responsible official, if the notice was placed in terms of subregulation (3)(b); and

(b) photographs of the notice taken by the responsible official, if the notice was placed in terms of subregulation (3)(d).

(e) by addition of regulations 3A and 3B as follows;

Obligation on the part of the applicant to consult meaningfully

3A. (1) The meaningful consultation with landowners, lawful occupiers and interested and affected persons contemplated in sections 16(4)(b), 22(4)(b), 27(5) (a) of the Act shall be

conducted in terms of the public participation process prescribed in the Environmental Impact Assessment Regulations promulgated in terms of section 24(5) of the National Environmental Management Act, 1998.

3A (2) The office of the Regional Manager may participate in the meaningful consultation process by the applicant, as an observer, to ensure that the consultation by the applicant is meaningful and in accordance with these regulations.

Notification by the prospecting right holder, mining right holder and mining permit holder before commencement of operations

3B(1) A notice in terms of section 5A(c) of the Act shall:

(a) state the date and time of entry onto the land in question;

(b) be submitted to the Regional Manager to whose region the permission, permit or right relates or to the designated agency, within the 21 day period in section 5A(c) of the Act.

3B(2) The holder of the relevant permission, permit or right must submit proof of service in terms of section 97 of the Act of the notice in terms of section 5A(c) of the Act to the office of the Regional Manager to whose region the permission, permit or right relates or to the designated agency.

PART II: SOCIAL AND LABOUR PLAN

3. Amendment of regulation 41

Regulation 41 is amended

(a) by insertion of words in paragraph (c) as follows;

(c) ensure that holders of mining rights contribute towards the socio-economic development of the areas in which they are operating as well as labour sending areas.

4. Amendment of regulation 42

Regulation 42 is hereby amended

(a) by insertion of words in sub-regulation (2) paragraph (b) as follows;

(b) The Regional Manager may within 60 days of receipt thereof refer the said Social and Labour Plan back to the applicant with proposals for amendments and the revised Social

and Labour Plan must then be re-lodged within a period specified by the Regional Manager which period may not exceed 60 days.

(b) by addition of subregulations (3) and (4) as follows;

(3) The applicant must within 180 days from the date of receiving notification of acceptance of his or her application for a mining right from the Regional Manager, consult meaningfully with mine communities and interested and affected persons on the contents of the Social and Labour Plan to ensure that it addresses the relevant needs and is aligned to the updated Integrated Development Plans.

(4) The meaningful consultation process on the contents of the Social and Labour Plan shall be conducted in terms of the public participation process prescribed in the Environmental Impact Assessment Regulations promulgated in terms of section 24(5) of the National Environmental Management Act, 1998.

5. Amendment of regulation 43

Regulation 43 is hereby amended

(a) by substitution of regulation 43 for the following regulation;

43. **[A]** An approved Social and Labour Plan **[lodged with the Regional Manager]** is, subject to the periodic 5 year reviews, valid until a closure certificate has been issued in terms of section 43 of the Act.

6. Amendment of regulation 44

Regulation 44 is hereby amended

(a) by substitution of regulation 44 for the following regulation;

44. **[A]** An approved Social and Labour Plan may not be amended or varied without the consent of the Minister after the granting of the mining right to which such Social and labour Plan pertains.

7. Amendment of regulation 45

Regulation 45 is hereby amended

(a) by substitution of regulation 45 for the following regulation;

45. The holder of a mining right must submit an annual report on the compliance with the approved Social and Labour Plan to the relevant Regional Manager. The holder of a mining

right must convene a minimum of three meetings per annum with mine communities and interested and affected persons to update these stakeholders about the progress made with the implementation of the approved Social and Labour Plan. The outcomes of these meetings must form part of the annual report.

8. Amendment of regulation 46

Regulation 46 is hereby amended

(a) by deletion of words in subregulation (b) (v) as follows;

(v) The employment equity statistics which must be completed in the form of form S contained in Annexure II. **[and the mine plan to achieve the 10% women participation in mining and 40% Historically Disadvantaged South Africans (HDSA) participation in management within 5 years from the granting of the right or the conversion of the old order right.]**

9. Addition of Regulations 46A, 46B and 46C

The Regulations are hereby amended

(a) by addition of regulations 46A, 46B and 46C as follows;

46A Publication of an approved Social and Labour Plan

- (a) A mining right holder must publish the approved Social and Labour Plan in English and one other dominant official language commonly used within the mine community.
- (b) An approved Social and Labour Plan must be published by a mining right holder within 30 days of approval using the following avenues:
 - (i) Company website;
 - (ii) Hard copies of the approved Social and Labour Plan must be placed in local schools, public libraries, municipal offices, Traditional Council offices; and
 - (iii) Announcements must be made on local radio stations and local news papers about the availability and content of the approved Social and Labour Plan.

46B. Review of a Social and Labour Plan

- (a) A Social and Labour Plan lodged with the Regional Manager and approved by the Minister on granting the mining right must be reviewed after every five years from the date of such approval. When reviewing a Social and Labour Plan, the Minister must take into account:

- (i) the extent of the mining right holder's compliance with the approved Social and Labour Plan.
 - (ii) assessment of annual reports submitted in terms of regulation 45.
 - (iii) input, comment and reports from the mining right holder, mine community and interested and affected persons.
 - (iv) the changing nature of the relevant needs of the mine community as per the Integrated Development Plans.
- (b) The review process may be initiated from the fourth year of the Social and Labour Plan and shall be done in meaningful consultation with mine communities, and interested and affected persons.

46C Collaboration on Social and Labour Plan

- (a) Collaboration on approved Social and Labour Plan projects must be transparent, inclusive and based on meaningful consultation with mine communities and interested and affected persons; and
- (b) Amendment or variation of an approved Social and Labour Plan pursuant to the collaboration shall be done with the consent of the Minister.

PART III: ENVIRONMENTAL REGULATIONS FOR MINERAL DEVELOPMENT, PETROLEUM EXPLORATION AND PRODUCTION

10. Regulation 47 is hereby amended

- (a) *by substitution of subregulation (1) for the following subregulation;*

47 (1) for the purposes of this Part, the provisions of regulations [48, 49, 50, 51, 52, 53, 54, 55,] 56, 57, 48, 59, 60, 61, and 62 shall apply , with the necessary changes, to petroleum exploration and production.

11. Regulation 48 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

12. Regulation 49 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

13. Regulation 50 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

14. Regulation 51 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

15. Regulation 52 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

16. Regulation 53 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

17. Regulation 54 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

18. Regulation 55 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

19. Regulation 56 is hereby amended

(a) by substitution of subregulation (b), (d) and (e) for the following subregulations;

56 (b) risks pertaining to environmental impacts must be quantified and managed pro-actively, which includes the gathering of relevant information throughout the life of a prospecting or mining operation; in accordance with the provisions of the National Environmental Management Act, 1998, the Financial Provision Regulations, 2015 and the Environmental Impact Assessment Regulations, 2014.

56 (d) residual and possible latent environmental impacts are identified and quantified; in accordance with the provisions of the National Environmental Management Act, 1998, the Financial Provision Regulations, 2015 and the Environmental Impact Assessment Regulations, 2014.

56 (e) the land is rehabilitated, as far as is practicable, to its natural state, or to a predetermined and agreed standard or land use which conforms with the concept of sustainable development; in accordance with the provisions of the National Environmental Management Act, 1998, the Financial Provision Regulations, 2015 and the Environmental Impact Assessment Regulations, 2014; and

20. Regulation 57 is hereby amended

(a) by substitution of subregulation (2) (c) for the following subregulation;

(2) The application referred to in subregulation (1) must be accompanied by the following documentation –

(c) A final performance assessment report contemplated in **[regulation 55 (9)] the Environmental Impact Assessment Regulations, 2014.**

21. Regulation 58 is hereby amended

(a) *by substitution of subregulation (2) for the following subregulation;*

(2) the Minister may transfer liabilities and responsibilities as identified in the **[environmental management plan or the environmental management programme] environmental authorisation** and the required closure plan to a competent person contemplated in regulation 59.

22. Regulation 59 is hereby amended

(a) *by substitution of the words preceding paragraph (a) and paragraph (b) as follows;*

59 For the purposes of transferring environmental liabilities and responsibilities as may be identified in the **[environmental management plan or environmental management programme] environmental authorisation** and any closure plan, the person to whom such transfer is made must-

(b) have the expertise, financial and other resources to meet his or her obligations to carry out actions necessary to fulfil the environmental obligations as set out in the **[environmental management plan or the environmental management programme] environmental auhtorisation** or any closure plan concerned;

23. Regulation 61 is hereby amended

(a) *by substitution of of the words preceding paragraph (a), paragraph (a) and (c) for the following paragraphs:*

61. Closure objectives form part of the **environmental authorisation [draft environmental management programme or environmental management plan]**, as the case may be, and must –

(a) identify the key objectives for mine closure to guide the project design, development and management of environmental impacts in accordance with the National Environmental Management Act, 1998 and the Environmental Impact Assessment Regulations, 2014;

(c) provide proposed closure costs[.] in accordance with the National Environemntal Management Act, 1998 and the Financial Provision Regualtions, 2015.

24. Regulation 62 is hereby amended

(a) by substitution of paragraphs (c), (d), (e) and (h) for the following paragraphs:

(c) a summary of the regulatory requirements and conditions for closure negotiated and documented in the **[environmental management programme or the environmental management plan]** environmental authorisation, as the case may be;

(d) a summary of the results of the environmental risk report and details of the identified residual and latent impacts, in accordance with the National Environmental Management Act, 1998 and the Environmental Impact Assessment Regulations, 2014.

(e) a summary of the results of progressive rehabilitation, in accordance with the National Environmental Management Act, 1998 and the Environmental Impact Assessment Regulations, 2014.

(h) details of a proposed closure cost and financial provision for monitoring, maintenance and post closure management; in accordance with the National Environmental Management Act, 1998 and the Financial Provision Regulations, 2015.

PART IV: POLLUTION CONTROL AND WASTE MANAGEMENT REGULATION

25. Regulation 63 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

26. Regulation 64 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

27. Regulation 65 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

28. Regulation 66 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

29. Regulation 67 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

30. Regulation 68 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

31. Regulation 69 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

32. Regulation 70 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

33. Regulation 71 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.
34. Regulation 72 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.
35. Regulation 73 is hereby repealed, content is regulated in terms of the National Environmental Management Act, 1998.

PART V: REGULATION ON NOTICE OF PROFITABILITY AND CURTAILMENT OF MINING OPERATIONS AFFECTING EMPLOYMENT

36. The Regulations are hereby amended

(a) by addition, after regulation 73 of regulation 73A as follows;

73A. Notice of profitability and curtailment of mining operations

73A (1) A holder of a mining right or production right must submit the notice contemplated in section 52(1) of the Act to the Minister after the consultation envisaged in section 52(1) has been concluded.

(a) In submitting the notice, the holder must use the notice template in **Form Y** of these Regulations.

(b) The notice must contain details of the prior consultation contemplated in section 52(1) of the Act.

(c) The details of such prior consultation must include dates, times, attendance registers, minutes, considerations, proposals, resolutions, agreements, recommendations, reports and records relating to such consultation contemplated in section 52(1) before the notice is submitted to the Minister.

(d) The notice must be accompanied by an affidavit by the holder of a mining right or production right confirming that the factors contemplated in section 51(1) or (2) exist.

73A (2) The Minister must, within 7 days of receipt of the notice and all information contemplated in sub-regulation (1), refer the matter to the Mining and Minerals Development Board for consideration and recommendations.

73A (3) The Mining and Minerals Development Board must, as contemplated in section 52 (2) consult meaningfully with the holder of a mining right and organised labour, conduct investigations and make recommendations to the Minister within 60 days of the referral by the Minister.

73A (4) The notice required to be submitted to the Minister in terms of this regulation shall be forwarded to the following addresses:

(a) Postal Address:

The Minister / The Director-General

Department of Mineral Resources and Energy

Private Bag X 59

Arcadia

0007

FOR ATTENTION: THE CHIEF DIRECTOR: LEGAL SERVICES

(b) Physical address:

Department of Mineral Resources and Energy

2nd Floor, Block 2 B

Trevenna Campus

c/o Meintjes & Francis Baard Streets

Sunnyside

FOR ATTENTION: THE CHIEF DIRECTOR: LEGAL SERVICES.

**PART VI: REGULATION ON APPLICATION FOR USE OF SURFACE OF LAND CONTRARY
TO THE OBJECTS OF THE ACT**

37. The Regulations are hereby amended

(a) by the addition, after regulation 73 of regulation 73B as follows;

73B (1) An applicant who applies in terms of section 53 of the Act for the approval of the Minister to use the surface of land in a way which may be contrary to the objects as contemplated in section 53 of the Act, or is likely to impede any such object must submit an application for approval to the relevant Regional Manager.

73B (2) The application contemplated in regulation 73B(1) must provide the specific information in the format required in **Form Z**.

CHAPTER 3

APPEALS

38. Regulation 74 is hereby amended

(a) *by substitution of regulation 74 for the following regulation.*

Appeals against administrative decisions

74. (1) Any person who appeals in terms of section 96 of the Act against an administrative decision, must:

(a) lodge at the Regional Office a written notice of appeal to the Director-General or to the Minister, as the case may be;

(b) serve in terms of section 97 of the Act a copy of the notice of appeal on any other person whose rights may, in the opinion of the appellant, be affected by the outcome of the appeal and who must be listed in the notice of appeal, and in writing inform such person of such person's rights in terms of subregulation (9); and

(c) notify the Director-General or the Minister, as the case may be, in writing that a notice of appeal has been lodged at the Regional Office, and submit a copy of such notice to the Director-General or to the Minister, as the case may be.

(2) The notice of appeal referred to in subregulation (1) must be submitted within 30 days of the date of the appellant becoming aware of the decision in respect of which the appeal is lodged.

(3) The Regional Manager must:

(a) within 10 days of receiving a notice of appeal, identify any other person whose rights may, in the opinion of the Regional Manager, be affected by the outcome of the appeal and who is not already listed in the notice of appeal received in terms of sub-regulation (1);

(b) give written notice to the appellant of the identity and contact details of such further affected person;

(c) submit a copy of such notice contemplated in subregulation (3)(b) to the Director-General or the Minister, as the case may be; and

(d) require the appellant to serve in terms of section 97 of the Act a copy of the notice of appeal on such further identified person within 14 days of receipt by appellant of the Regional Manager's notice in terms of subregulation (3)(b).

(4) The Director-General or the Minister as the case may be, may, upon application and on good cause shown, condone and extend the time periods prescribed in this regulation.

(5) The notice of appeal must be accompanied by an affidavit which must:

(a) clearly state the decisions appealed against;

(c) clearly set out the grounds on which the appeal is based;

(d) list the affected persons contemplated in subregulation (1)(b); and

(e) be accompanied by supporting documentation referred to in the affidavit.

(6) the appellant must submit proof of service to the Regional Office with copies to the Director-General or to the Minister, as the case may be.

(7) The appeal must be accompanied, or followed within 14 days of lodgement, by the payment of a non-refundable appeal fee referred to in regulation 75(1) (f).

(8) Upon receipt of the notice of appeal referred to in subregulation (1), but no later than 10 days thereafter, the Regional Manager must send copies of all records pertaining to the decision or decisions which are the subject of the appeal to the appellant, to all identified affected persons, and to the Director-General or to the Minister, as the case may be.

(9) A third party receiving a copy of an appeal referred to in subregulation (1) may submit to the Regional Manager with a copy to the Director-General or to the Minister, as the case may be, an answering affidavit, and serve on the appellant a copy thereof, within 30 days of receipt of the copy of the appeal, setting out:

(a) the extent and nature of his or her rights;

(b) how the outcome of the appeal may affect his or her rights; and

(c) any other information pertaining to the grounds of appeal set out in the notice of appeal; and must within such 30 day period notify the Director-General or the Minister, as the case may be, in writing that such answering affidavit was filed, together with proof of submission and service thereof.

(10) The appellant after having received a copy of the record of decision as contemplated in subregulation (8) and after receiving any answering affidavit from affected parties referred to in subregulation (9):

(a) may submit to the Regional Manager, together with proof of service of a copy thereof on the affected party or parties, an amended notice of appeal relating to aspects flowing from the record of decision, or a replying affidavit to any answering affidavit, within 30 days after

having being served with the affected party or parties answering affidavit or on expiry of the 30 day period in subregulation (9); and

(b) must give written notice to the Director-General or to the Minister, as the case may be, that an amended notice of appeal or a replying affidavit has been submitted to the Regional Manager, together with proof of service of a copy thereof on the affected parties.

(11) The Regional Manager must within 10 days of filing by the Appellant of his or her replying affidavit or the expiry of the period referred to in subregulation (10), submit to the Director-General or to the Minister, as the case may be, copies of:

(a) the notice of appeal with all required annexures;

(b) proof of service in terms of subregulations (6) and (10)(a);

(c) all documentation pertaining to the decision or decisions subject to the appeal as contemplated in subregulation (8);

(d) all answering affidavits received from third parties who may be affected by the outcome of the appeal, if any; and

(e) any amended notice of appeal or any replying affidavits by the appellant, if any.

(12) All notices required to be given to the Director-General or to the Minister, as the case may be, in terms of this regulation shall be forwarded to the following addresses:

(a) Postal Address:

The Minister or The Director-General

Department of Mineral Resources and Energy

Private Bag X 59

Arcadia

0007

FOR ATTENTION: THE CHIEF DIRECTOR: LEGAL SERVICES

(b) Physical Address:

Department of Mineral Resources and Energy

2nd Floor, Block 2 B

Trevenna Campus

c/o Meinties & Francis Baard Streets

Sunnyside

FOR ATTENTION: THE CHIEF DIRECTOR: LEGAL SERVICES.

(13) The Director-General or the Minister, as the case may be, must, within 60 days of receipt of all information contemplated in subregulation (11) either:

(a) confirm the administrative decision concerned;

(b) set aside the administrative decision concerned with or without a remittal with or without directions, of the matter to the decision-maker for reconsideration;

(c) amend the administrative decision concerned; or

(d) substitute any other administrative decision for the administrative decision concerned.

(14) The Director-General or the Minister, as the case may be, must, within 14 days after the appeal decision has been made, notify the appellant, affected parties and the Regional Manager, of the decision with reasons therefor.

(15) The Minister will use the Minister's best endeavours to arrange with the Minister of Environmental Affairs that if appeals are received in terms of section 96(1) of the Act and in terms of section 43(1A) of the National Environmental Management Act, 1998, that relate to decisions taken in respect of the same proposed prospecting, mining, exploration or production operation, that:

(a) a copy of the appeal lodged in terms of section 96(1) of the Act will be sent to the Minister of Environmental Affairs and a copy of the appeal lodged in terms of section 43(1A) of the National Environmental Management Act, 1998 will be sent to the Director-General or to the Minister, as the case may be; and

(b) the Director-General or the Minister as the case may be, and the Minister of Environmental Affairs, will co-ordinate the finalisation of both appeals.

(16) Notwithstanding the provisions of section 97 of the Act, service of documents in terms of this regulation may be effected by way of electronic transmission to the designated e-mail addresses of the persons contemplated in this regulation.

(17) These regulations shall not apply to appeals lodged prior to the coming into operation of the Amendment Regulations to the Mineral and Petroleum Resources Development Regulations, 2020.

39. Commencement of amendments

The amendments to the Mineral and Petroleum Resources Development Regulations shall come into operation on the date of publication in the gazette for implementation.

40. Forms and templates

The following forms are inserted into annexure II to the regulations after the existing Form X:

- *Form Y*

- Form Z

(A) FORM Y

NOTICE IN TERMS OF SECTION 52 (1) OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, 2002.

Enquiries:

Tel:

Email:

Company address

Xxxxxx

Xxxxxx

Dear Honourable Minister.

RE: SECTION 52 (1) NOTICE.

We, the undersigned,

Company XXXX,

(registration number XXXX)

(Mining right number: ...MR)

(herein represented by [REDACTED] in his/her capacity as the Director of the company, he/she being duly authorised thereto by resolution of Directors of the Company).

Hereby, serve notice in terms of section 52 (1) of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

We confirm that we have consulted meaningfully with registered trade union/s (XYX) and (XYZ), affected employees and their representatives regarding possible downscaling and retrenchments at our operations in terms of section 52 (1) as can be gleaned from the attached affidavit and supporting documents.

The company undertakes that all the information provided in support of this notice is true and correct.

The company acknowledges that the Minister may invoke the provisions of sections 52 (3)(c) 93, 47, 99 and related provisions to ensure compliance with the requirements of section 52.

We await your response and guidance on this matter within the prescribed timeframe.

Signature of Company Representative.

Date:

(B) FORM Z

1. DETAILS OF THE APPLICATION.

The Regional Manager

<u>REGION</u>	
---------------	--

APPLICANT'S CONTACT DETAILS

<u>NAME OF APPLICANT</u>	
<u>POSTAL ADDRESS</u>	
<u>TELEPHONE NUMBER</u>	
<u>FAXCIMILE</u>	
<u>E-MAIL ADDRESS</u>	

1.1 Nature of the application:

(Mark with an X the type of approval applied for)

<u>Use of the surface of land other than in terms of a town-planning scheme approved in terms of section 53 of the Act.</u>	
<u>Use of the surface of land other than for farming or uses incidental to farming.</u>	
<u>Other non-agricultural land uses.</u>	

2 Description of the proposed land use in respect of which the application is made

2.1 The proposed land use

(Provide a detailed description of the proposed land use)

2.2 The locality of the proposed land use

(Provide a plan drawn to a suitable scale of the area applied for, which plan must include the co-ordinates according to the WGS 84; Hartbeeshoek system, co-ordinate gridlines with values, a north point, the scale, a locality plan at a scale of 1: 50 000 and the name of the local municipality)

2.3 The current land uses in the surrounding area

(Provide a description of and a plan depicting the current land uses in the surrounding area)

--

2.4 **Motivation for the proposed land use**

(Provide a motivation for the proposed land use, which motivation must include the area background information and the background information document, and confirm that these documents are attached as appendices)

--

3 **Confirmation of information submitted**

(The following information must be submitted electronically with the application)

<u>INFORMATION SUBMITTED</u>	<u>Mark with an X where applicable</u>	
	<u>YES</u>	<u>NO</u>
<u>Signed copy of a resolution by the applicant, authorising the person whose name and identification number is stated in paragraph 5 below to submit the application electronically on the applicant's behalf.</u>		
<u>Background information document</u>		
<u>Plan of the area under application</u>		
<u>Copy of the applicable title deed</u>		
<u>Report on meaningful consultation with interested and affected persons in the mining industry</u>		
<u>Report on meaningful consultation with the Council for Geoscience regarding both the mineral potential of the land concerned, and the possible presence of dolomitic formations thereon.</u>		

<u>Electronic folder of copies of comments and concerns raised by parties with interests in prospecting, mining, exploration or production in the area and surrounding area.</u>		
<u>Geological map of the area applied for</u>		

3.1 Identification of geological issues in the area

(Please access the spatial viewer of the Departments on line application system and provide the following information)

<u>MINING AND PROSPECTING, PRODUCTION AND EXPLORATION INTERESTS AND GEOLOGICAL ISSUES</u>	<u>Mark with an X where applicable</u>	
	<u>YES</u>	<u>NO</u>
<u>Have the holders of prospecting, mining, exploration or production rights within a 2 kilometer radius of the application area been identified?</u>		
<u>Have the holders of the aforesaid rights been meaningfully consulted?</u>		
<u>Is the land concerned underlain by dolomitic formations?</u>		
<u>Have any prospecting, mining, exploration or production right holders objected to the proposed land development on the basis of its incompatibility with their interests?</u>		

3.1.1 Geological description of the land

(Provide a geological description of the area applied for, and the surrounding area, supported by a geological map. The geological map must be attached as an appendix).

3.1.2 Discussion on prospecting or exploration interests in the area

3.1.2.1 Complete the information required below

<u>PROSPECTING OR EXPLORATION INTERESTS</u>	<u>Mark with an X where applicable</u>		
	<u>YES</u>	<u>NO</u>	<u>N/A</u>

<u>Are prospecting or exploration rights held over the land concerned or within 2 kilometers thereof?</u>			
<u>Are there applications for prospecting or exploration rights within 2 kilometers of the land concerned?</u>			
<u>Have the interested and affected persons identified above been meaningfully consulted?</u>			
<u>Have the interested and affected persons been requested to specifically comment on the possibility that future occupiers of the proposed development may object to their prospecting, exploration or future mining or production activities?</u>			
<u>Have the interested parties identified been requested to indicate how their current operations, including their environmental management obligations, will be affected by the proposed land development?</u>			
<u>Have the aforesaid interested and affected persons been requested to indicate how potential future mining or production operations will be impacted on by the proposed land development?</u>			
<u>Which minerals are being prospected for or explored on the land concerned?</u>			
<u>Which minerals are being prospected for or explored within 2 Kilometers of the area applied for?</u>			

3.1.2.2 Complete the information required below

DESCRIBE BELOW HOW THE PROPOSED LAND USE WILL BE AFFECTED BY CURRENT PROSPECTING OR EXPLORATION OPERATIONS

--

DESCRIBE BELOW HOW THE PROPOSED LAND USE WILL BE AFFECTED BY POTENTIAL FUTURE MINING OR PRODUCTION ON THE LAND AND SURROUNDING AREA

PROVIDE A SUMMARY BELOW OF HOW HOLDERS OF PROSPECTING RIGHTS OR EXPLORATION RIGHTS IN THE AREA HAVE DESCRIBED THE MANNER IN WHICH THEIR CURRENT OR FUTURE INTERESTS IN THE AREA WILL BE IMPACTED UPON BY THE PROPOSED DEVELOPMENT, INCLUDING ANY IMPEDIMENTS TO PROSPECTING, EXPLORATION, PRODUCTION OR MINING THAT ARE FORSEEN, IMPACTS ON THEIR ENVIRONMENTAL OBLIGATIONS, AND THE POTENTIAL FOR OBJECTIONS TO THEIR ACTIVITIES BY FUTURE OCCUPIERS OF THE PROPOSED DEVELOPMENT.

3.1.3 Discussion on mining and production interests in the area

3.1.3.1 Complete the information required below

<u>MINING INTERESTS</u>	<u>Mark with an X where applicable</u>		
	<u>YES</u>	<u>NO</u>	<u>N/A</u>
<u>Are mining rights or production rights held over the land concerned or within 2 kilometers thereof?</u>			
<u>Are there prospecting or exploration rights or applications for mining or production rights within 2 kilometers of the land concerned?</u>			
<u>Have the interested and affected persons identified above been meaningfully consulted?</u>			
<u>Have the interested parties identified above indicated how their current operations will be affected by the proposed land development?</u>			

Have the aforesaid interested and affected persons indicated how potential future mining or production operations will be impacted on by the proposed land development?			
Which minerals are being mined on the land concerned?			
Which minerals are being mined within 2 Kilometers of the area applied for?			
State whether the mining or production on the land or within 2 kilometers of the proposed land development is opencast or underground in nature.			
State the depth below surface that mining or production is or will take place as informed by the interested and affected persons identified above.			

3.1.3.2 Complete the information required below

<u>DESCRIBE BELOW HOW THE PROPOSED LAND USE WILL BE AFFECTED BY CURRENT MINING OR PRODUCTION OPERATIONS</u>
<u>DESCRIBE BELOW HOW THE PROPOSED LAND USE WILL BE AFFECTED BY POTENTIAL FUTURE MINING OR PRODUCTION ON THE LAND AND SURROUNDING AREA</u>
<u>PROVIDE A SUMMARY BELOW OF HOW HOLDERS OF PROSPECTING AND MINING RIGHT HOLDERS OR EXPLORATION AND PRODUCTION IN THE AREA HAVE DESCRIBED THE MANNER IN WHICH THEIR CURRENT OR FUTURE INTERESTS IN THE AREA WILL BE IMPACTED UPON BY THE PROPOSED DEVELOPMENT, INCLUDING ANY IMPEDIMENTS TO MINING OR PRODUCTION THAT ARE FORSEEN, IMPACTS ON THEIR ENVIRONMENTAL OBLIGATIONS, AND THE POTENTIAL FOR OBJECTIONS</u>

TO THEIR ACTIVITIES BY FUTURE OCCUPIERS OF THE PROPOSED DEVELOPMENT.

4 Deliberation as to why the objects of the Act will not be impeded by the proposed development

(Provide a deliberation explaining why, given the status of mining, prospecting, exploration or production and potential future mining and production in the area, given the potential impacts of the proposed land development on the mining and production potential of the land and vice versa, and the mitigatory measures to be formalised to avoid potential conflicts between mining, production and alternative land use interests, the intended use of the surface of the land will not be contrary to or likely to impede the objects of the Mineral and Petroleum Resources Development Act, 2002 or result in the mining of minerals or production of petroleum being detrimentally affected).

5 Undertaking by the applicant

Herewith I, the person whose name and identity number is stated below, confirm that I am the Applicant or the person authorised to act as representative of the Applicant in terms of the resolution submitted with the application, that the information contained herein is true and correct.	
<u>Full Names and Surname</u>	
<u>Identity Number</u>	

<u>Full Names and Surname</u>	
<u>Identity Number</u>	

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