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Kaapstad, 2 June 2014

No. 37715

## THE PRESIDENCY

No. 450

2 June 2014

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**Act No. 27 of 2014: National Water Amendment Act, 2014**

## DIE PRESIDENSIE

No. 450

2 Junie 2014

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

**Wet No 27 van 2014: Nasionale Waterwysigingswet, 2014**



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## 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.
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*(English text signed by the President)  
(Assented to 30 May 2014)*

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# ACT

To amend the National Water Act, 1998, so as to make provision for the correct designation of the Department and Minister; to correct outdated references; to provide for an alignment and integration of the process for consideration of water use licences, relating to prospecting, exploration, mining or production activities; to provide for the appointment of the Minister as the responsible authority for appeals relating to prospecting, exploration, mining or production activities; to amend the authority of the Water Tribunal as appeal authority relating to prospecting, exploration, mining or production activities; to provide for the concurrence between the Minister, the Minister responsible for mineral resources and the Minister responsible for environmental affairs when amending provisions of the Agreement related to prospecting, exploration, mining or production activities; and to provide for matters connected therewith.

**B**E 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];;”;

(b) by the substitution for the definition of “Minister” of the following definition: 10  
“**‘Minister’** means the Minister [of] responsible for [Water] water [Affairs] affairs [and Forestry];; and

(c) by the insertion after the definition of “riparian habitat” of the following definition:

“**‘specific environmental management Act’** has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);”.

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### ALGEMENE VERDUIDELIKENDE NOTA:

- [ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.  
— Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeningen aan.
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*(Engelse teks deur die President geteken)  
(Goedgekeur op 30 Mei 2014)*

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# WET

Tot wysiging van die Nasionale Waterwet, 1998, ten einde voorsiening te maak vir die regte posbenaming van die Departement en die Minister; om verouderde verwysings reg te stel; om voorsiening te maak vir 'n inlynstelling en integrasie van die proses waartydens watergebruiklisensies ten opsigte van prospekteer-, eksplorasie-, mynbou- of produksieaktwiteite oorweeg word; om voorsiening te maak vir die aanstelling van die Minister as die verantwoordelike gesag vir appèlaansoek ten opsigte van prospekteer-, eksplorasie-, myn- of produksieaktwiteite; om die gesag van die Watertribunaal as appèlgesag ten opsigte van prospekteer-, eksplorasie-, myn- of produksieaktwiteite, te wysig; om voorsiening te maak vir instemming tussen die Minister, die Minister verantwoordelik vir minerale hulpbronne en die Minister verantwoordelik vir omgewingsake ten opsigte van prospekteer-, eksplorasie-, myn- of produksieaktwiteite; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

Die PARLEMENT van die Republiek van Suid-Afrika bepaal, soos volg:—

### Wysiging van artikel 1 van Wet 36 van 1998

1. Artikel 1 van die Nasionale Waterwet, 1998 (hierna die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van "Departement" deur die volgende omskrywing te vervang:  
“**‘Departement’** die Departement **[van Waterwese en Bosbou]** verantwoordelik vir waterwese;”;
- (b) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:  
“**‘Minister’** die Minister **[van Waterwese en Bosbou]** verantwoordelik vir waterwese;”; en
- (c) deur die volgende omskrywing na die omskrywing van "riviermonding" in te voeg:  
“**‘spesifieke omgewingsbestuurswet’** dit wat in artikel 1 van die **Wet op Nasionale Omgewingsbestuur, 1998** (Wet No. 107 van 1998), daaraan toegskryf is;”.

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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 the Minister responsible for environmental affairs and must be tabled in Parliament 30 days prior to the final publication of the regulations in the Gazette.”.

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### 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)] sections 24(5) and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).”; and

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(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—

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(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

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(b) environmental authorisations in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) or any specific environmental management act.

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(6) Notwithstanding the provisions of section 148, any applicant for a water use licence arising out of the integration process 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

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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

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

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“(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:

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#### “Amendments to this Act

**163A.** (1) (a) 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 mineral resources and the Minister responsible for environmental affairs; and

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(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

## Wysiging van artikel 26 van Wet 36 van 1998

**2.** Artikel 26 word hierby gewysig deur die volgende subartikel by te voeg:

“(5) Regulasies wat kragtens hierdie Wet uitgevaardig word, wat tot gevolg kan hê dat die bepalings van die Ooreenkoms in artikel 163A bedoel, gewysig word, moet deur die Minister, in ooreenstemming met die Minister verantwoordelik vir minerale hulpbronne en die Minister verantwoordelik vir omgewingsake, uitgevaardig word en moet in die Parlement ter tafel gelê word 30 dae voor die finale publikasie van die regulasies in die *Staatskoerant*.”.

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## Wysiging van artikel 41 van Wet 36 van 1998

**3.** Artikel 41 van die Hoofwet word hierby gewysig—

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(a) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) ’n Verantwoordelike gesag kan gelas dat enige beoordeling kragtens subartikel (2)(a)(ii) aan die vereistes vervat in regulasies wat kragtens [artikel 26 van die Wet op Omgewingsbewaring, 1989 (Wet No. 73 van 1989)] artikels 24(5) en 44 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), uitgevaardig is, voldoen.”; en

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(b) deur die volgende subartikels by te voeg:

“(5) Die Minister moet die oorwegingsproses van ’n watergebruiklisensie inlyn stel en integreer met die tydsbestek en prosesse wat van toepassing is op aansoeke om—

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(a) lisensies, permitte of regte betreffende prospektering, eksplorasie, myn en produksie kragtens die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002); en

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(b) omgewingsmagtigings ingevolge die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), of enige spesifieke omgewingsbestuurswet.

(6) Ondanks die bepalings van artikel 148, mag enige aansoeker om ’n watergebruiklisensie wat spruit uit die integrasieproses in subartikel (5) bedoel, wat verontreg voel deur ’n besluit van die verantwoordelike gesag, by die Minister appèl aanteken teen die besluit.”.

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## Wysiging van artikel 148 van Wet 36 van 1998

**4.** Artikel 148 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (f) deur die volgende paragraaf te vervang:

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“(f) behoudens artikel 41(6), teen ’n beslissing van ’n verantwoordelike gesag oor ’n aansoek om ’n lisensie kragtens artikel 41, of oor enige ander aansoek waarop artikel 41 van toepassing is, deur die aansoeker of deur enige ander persoon wat tydig skriftelik teen die aansoek beswaar gemaak het;”; en

(b) deur in subartikel (1) paragraaf (h) deur die volgende paragraaf te vervang:

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“(h) behoudens artikel 41(6), teen die wysiging van ’n voorwaarde van ’n lisensie deur ’n verantwoordelike gesag by hersiening kragtens artikel 49(2), deur enige persoon wat daardeur geraak word;”.

## Invoeging van artikel 163A in Wet 36 van 1998

**5.** Die volgende artikel word hierby na artikel 163 in die Hoofwet ingevoeg:

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### “Wysigings aan hierdie Wet

**163A.** (1) (a) Enige voorgestelde wysigings aan hierdie Wet wat wysigings aan die bepalings van die Ooreenkoms tot gevolg kan hê, moet onderhewig wees aan instemming deur die Minister, die Minister verantwoordelik vir minerale hulpbronne en die Minister verantwoordelik vir omgewingsake; en

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(b) Enige ingryping in paragraaf (a) beoog, wat die wysiging van die bepalings van die Ooreenkoms tot gevolg kan hê, moet in die Parlement ter tafel gelê word voordat enige stappe gedoen word om daardie veranderinge

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 mineral resources and the Minister responsible for environmental affairs titled ***One Environmental System*** for the country with respect to mining, which entails:

(a) that all environment related aspects would be regulated through one environmental system which is the 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);

(b) that the Minister responsible for environmental affairs sets the regulatory framework and norms and standards, and that the Minister responsible for mineral resources will implement the provisions of the 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 mineral resources will issue environmental authorisations in terms of the 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; and

(d) that the Minister, the Minister responsible for mineral resources and the Minister responsible for 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 30 insertion after item 163 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 National Environmental Laws Amendment Act, 2014. 35

uit te voer, en die Parlement mag sy mening oor die voorgestelde wysiging van die Ooreenkoms uitspreek.

(2) By die toepassing van subartikel (1) beteken Ooreenkoms die Ooreenkoms tussen die Minister, die Minister verantwoordelik vir minerale hulpbronne en die Minister verantwoordelik vir omgewingsake, getiteld ***One Environmental System*** vir die land met betrekking tot mynbou, wat behels dat:

(a) alle aspekte wat met die omgewing verband hou deur een omgewingstelsel gereguleer word, naamlik die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), en dat alle bepalings betreffende die omgewing in die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002), herroep word;

(b) die Minister verantwoordelik vir omgewingsake die reguleringsraamwerk en norme en standaarde vasstel, en dat die Minister verantwoordelik vir minerale hulpbronne die bepalings van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), en die ondergeskikte wetgewing in soverre dit verband hou met prospektering, eksplorasie, mynbou of bedrywighede, in werking sal stel;

(c) die Minister verantwoordelik vir minerale hulpbronne omgewingsmagtigings sal uitreik kragtens die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), ten opsigte van prospektering, eksplorasie, mynbou of bedrywighede, en dat die Minister verantwoordelik vir omgewingsake die appèlgesag sal wees betreffende hierdie magtigings; en

(d) die Minister, die Minister verantwoordelik vir minerale hulpbronne en die Minister verantwoordelik vir omgewingsake moet ooreenstem oor vasgestelde tydsbestekke vir die oorweging en uitreiking van die magtigings ten opsigte van hul onderskeie wetgewing en moet ook ooreenkom om die tydsbestekke en prosesse in ooreenstemming te bring.”.

#### **Wysiging van Indeling van Artikels van Wet 36 van 1998**

**6. Die Indeling van Artikels van die Hoofwet word hierby gewysig deur die volgende item na item 163 in te voeg:** 30

“163A. Wysigings aan hierdie Wet”.

#### **Kort titel en inwerkingtrede**

**7. Hierdie Wet heet die Nasionale Waterwysigingswet, 2014 en tree in werking op dieselfde datum as die Wysigingswet op Omgewingsbestuurswette, 2014.** 35

