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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS**NO. R. 1006****09 SEPTEMBER 2016****NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)****PROPOSED AMENDMENTS TO FINANCIAL PROVISIONING REGULATIONS, 2015**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to amend the Financial Provisioning Regulations, 2015, in terms of section 44(aE), (aF), (aG), (aH) read with sections 24(5)(b)(ix), 24(5)(d), 24N, 24P and 24R of the National Environmental Management Act, 1998, as set out in the Schedule hereto.

Members of the public are invited to submit within 30 days of the publication of this notice in the *Gazette*, written representations or objections to this notice to the following address:

By post to: Department of Environmental Affairs: The Director-General
Attention: Ms Chantal Engelbrecht
Private Bag X447
PRETORIA
0001

By hand at: Reception, Environment House, 473 Steve Biko Road, Arcadia, Pretoria.

By e-mail: cengelbrecht@environment.gov.za.

Any inquiries in connection with the notice can be directed to Ms Chantal Engelbrecht at 012 399 9288.

Comments received after the closing date will not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

Definition

1. In these regulations "the Regulations" means the Financial Provisioning Regulations, 2015 published under Government Notice No. R. 1147 of 20 November 2015.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended—

- (a) by the substitution for the definition of **"applicant"** of the following definition:

"applicant" means an applicant for a prospecting right, mining permit, mining right, exploration right, production right or exemption in terms of the Mineral and Petroleum Resources Development Act, 2002;"

- (b) by the substitution for the definition of **"holder"** of the following definition:

"holder" means the holder of a prospecting right, mining permit, mining right, exploration right, production right or exemption in terms of the Mineral and Petroleum Resources Development Act, 2002, which right, permit or exemption was issued prior to the date of the coming into effect of these Regulations;"

- (c) by the substitution for the definition of **"holder of a right or permit"** of the following definition:

"holder of a right or permit" means the holder of a prospecting right, mining permit, mining right, exploration right, production right or exemption in terms of the Mineral and Petroleum Resources Development Act, 2002, which right, permit or exemption is issued after the date of the coming into effect of these Regulations;"

Amendment of regulation 7 of the Regulations

3. Regulation 7 of the Regulations is hereby amended by the insertion, after the word **"forthwith"**, of the words **"or for the period of validity of the right or permit, whichever period is the shortest"**.

Amendment of regulation 8 of the Regulations

4. Regulation 8 of the Regulations is hereby amended—

- (a) by the insertion in paragraph (a) of subregulation (1), after the word **"underwriter"**, of the words **"for purposes of compliance with these Regulations."**; and

- (b) by the insertion after subregulation (1), of the following subregulation:

"(1A) Any financial vehicle contemplated in subregulation (1) must be clearly linked to one or more prospecting right, mining permit, mining right, exploration right, production right or exemption issued in terms of the Mineral and Petroleum Resources Development Act, 2002."

Amendment of regulation 9 of the Regulations

5. Regulation 9 of the Regulations is hereby amended by the substitution for subregulation (5) of the following subregulation:

"(5) Where an applicant or holder a right or permit makes use of the account administered by the Minister responsible for mineral resources and no interest will be payable by the Minister responsible for mineral resources to the holder of a right, permit or exemption for any amounts deposited in such account contemplated in regulation 8(1)(b) , any interest earned on the deposit shall first be used to defray bank charges in respect of that account and thereafter accumulate and form part of the financial provision."

Amendment of regulation 11 of the Regulations

6. Regulation 11 of the Regulations is hereby amended by the insertion in paragraph (b) of subregulation (4), after the word "assessments", of the words ", if subsequent assessments are required in terms of these Regulations."

Amendment of regulation 13 of the Regulations

7. Regulation 13 of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

"(3) All documentation submitted to the Minister responsible for mineral resources by a holder of a right or permit must be signed off by the Chief Executive officer or person appointed in a similar position and information regarding financial aspects contained in such documentation must be signed off by an independent auditor."

Amendment of regulation 16 of the Regulations

8. Regulation 16 of the Regulations is hereby amended by the insertion in paragraph (c) of subregulation (5), after the words "these Regulations", of the words ", taking into consideration care and maintenance related information."

Amendment of regulation 17 of the Regulations

9. Regulation 17 of the Regulations is hereby amended—
- (a) by the substitution in paragraph (b) of subregulation (5) for the words "15 months" of the words "27 months";
 - (b) by the insertion after subregulation (5) of the following subregulations:
 - "(5A) Unless indicated otherwise in these transitional provisions, the provisions of regulations 4, 5, 6, 7, 8 and 9 apply similarly to a holder.
 - (5B) The limitation set by regulation 8(1)(c)(i) applies to trust funds established after 20 November 2015 for purposes of compliance with these Regulations."; and

(c) by the insertion after subregulation (20) of the following subregulation:

"(21) The provision of regulation 16 applies similarly to a holder, read with the necessary changes."

Amendment of Appendix 1 of the Regulations

10. Appendix 1 of the Regulations is hereby deleted.

Amendment of Appendix 2 of the Regulations

11. Appendix 2 of the Regulations is hereby deleted.

Amendment of Appendix 3 of the Regulations

12. Appendix 3 is amended by the deletion of clause 1.

Amendment of Appendix 4 of the Regulations

13. Appendix 4 is amended—

(a) by the deletion of clause 1; and

(b) by the insertion, in clause 2(2) and clause 3(c)(iv), of the words "latent or" before the word "residual".

Amendment of Appendix 5 of the Regulations

14. Appendix 5 is amended—

(a) by the deletion of clause 1; and

(b) by the insertion, in clause 2(b), 3, 3(b) and 3(b)(ii), of the words "or residual" after the word "latent".

Amendment of Appendix 6 of the Regulations

15. Appendix 6 of the Regulations is amended—

(a) by the deletion of clause 1; and

(b) by the deletion, in clause 2(k), of the words "interested and".

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