



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

## STAATSKOERANT

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### OFFICE OF THE PRESIDENT

### KANTOOR VAN DIE PRESIDENT

No. 1540. 27 November 1998

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

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

No. 107 of 1998: National Environmental Management Act, 1998.

No. 107 van 1998: Wet op Nasionale Omgewingsbestuur, 1998.

(English text signed by the President.)

(Assented to 19 November 1998.)

# ACT

**To provide for co-operative, environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; and to provide for matters connected therewith.**

## PREAMBLE

**WHEREAS** many inhabitants of South Africa live in an environment that is harmful to their health and well-being:

everyone has the right to an environment that is not harmful to his or her health or well-being; 5

the State must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;

inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices; 10

sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations;

everyone has the right to have the environment protected, for the benefit of present and future generations. ~~through~~ reasonable legislative and other measures that— 15  
 prevent pollution and ecological degradation;  
 promote conservation; and  
 secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development:

the environment is a functional area of concurrent national and provincial legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another; 20

**AND WHEREAS** it is ~~desirable—~~

that the law develops a framework for integrating good environmental management into all development activities; 25

that the law ~~should~~ promote certainty with regard to ~~decision-making~~ by organs of state on matters affecting the environment;

that the law should establish principles guiding the exercise of functions affecting the environment;

that the law should ensure that organs of state maintain the principles guiding the exercise of functions affecting the environment; 30

that the law should establish procedures and institutions to facilitate and promote co-operative government and intergovernmental relations;

that the law should ~~establish~~ procedures and institutions to facilitate ~~and~~ promote public participation in environmental ~~governance~~; 35

that the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society;

**I**T IS NOW ENACTED by the Parliament of the Republic of South Africa, as follows:—

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**SCHEDULES**

## Definitions

1. (1) In this Act, unless the context requires otherwise—
- (i) ‘activities,’ when used in Chapter 5 means policies, programmed, plans and projects: (ii)
  - (ii) ‘Agenda 21’ means the document by that name adopted at the United Nations Conference of Environment and Development held in Rio de Janeiro, Brazil in June 1992: (i)
  - (iii) ‘best practicable environmental option’ means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term: (iv)
  - (iv) ‘commercially confidential information.’ means commercial information, the disclosure of which would prejudice to an unreasonable degree the commercial interests of the holder: Provided that details of emission levels and waste products must not be considered to be commercially confidential notwithstanding any provision of this Act or any other law; (iv)
  - (v) ‘Committee’ means the Committee for Environmental Co-ordination referred to in section 7: (xv)
  - (vi) ‘community’ means any group of persons or a part of such a group who share common interests, and who regard themselves as a community; (x)
  - (vii) ‘Constitution’ means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996): (xii)
  - (viii) ‘Department..’ means the Department of Environmental Affairs and Tourism: (v)
  - (ix) ‘Director-General..’ means the Director-General of Environmental Affairs and Tourism: (vi)
  - (x) ‘ecosystem.’ means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit; (vii)
  - (xi) ‘environment.’ means the surroundings within which humans exist and that are made up of—
    - (i) the land, water and atmosphere of the earth;
    - (ii) micro-organisms, plant and animal life;
    - (iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
    - (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being: (xix)
  - (xii) ‘environmental implementation plan’ means an implementation plan referred to in section 11: (xxii)
  - (xiii) ‘environmental management co-operation agreement’ means an agreement referred to in section 35(1): (xxi)
  - (xiv) ‘environmental management plan’ means a management plan referred to in section 11: (xx)
  - (xv) ‘financial year’ means a period commencing on 1 April of any year and ending on 31 March of the following year: (viii)
  - (xvi) ‘Forum’ means the National Environmental Advisory Forum referred to in section 3; (ix)
  - (xvii) ‘hazard’ means a source of or exposure to danger: (xi)
  - (xviii) ‘international environmental instrument’ means any international agreement, declaration, resolution, convention or protocol which relates to the management of the environment; (xiv)
  - (xix) ‘MEC’ means the Member of the Executive Council to whom the Premier has assigned the performance in the province of the functions entrusted to a MEC by or under such a provision: (xvi)
  - (xx) ‘Minister’ means the Minister of Environmental Affairs and Tourism: (xvii)
  - (xxi) ‘national department’ means a department of State within the national sphere of government: (xviii)
  - (xxii) ‘organ of state’ means organ of state as defined in the Constitution: (xxvii)
  - (xxiii) ‘person’ includes a juristic person; (xxiii)
  - (xxiv) ‘pollution’ means any change in the environment caused by—
    - (i) substances;
    - (ii) radioactive or other waves; or
    - (iii) noise, odours, dust or heat.