

**REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA**

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**Cape Town,  
Kaapstad,**

**5 December 2008  
Desember 2008**

**No. 31685**

**THE PRESIDENCY**

**No. 1318**

**5 December 2008**

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

**No. 44 of 2008: National Environment  
Laws Amendment Act, 2008.**

**DIE PRESIDENSIE**

**No. 1318**

**5 Desember 2008**

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

**No. 44 van 2008: Wysigingswet op  
Nasionale Omgewingswette, 2008.**

Act No. 44, 2008 NATIONAL ENVIRONMENT LAWS AMENDMENT ACT, 2008

**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.

*(English text signed by the President.)*  
*(Assented to 3 December 2008.)*

**ACT**

To provide for the Atmospheric Pollution Prevention Act, 1965, to be regarded as a specific environmental management Act until section 60 of the National Environmental Management: Air Quality Act, 2004, takes effect; to amend the Environment Conservation Act, 1989, so as to rectify certain incorrect references in the Act; to amend the National Environmental Management Act, 1998, so as to clarify an uncertainty in the Act concerning certain definitions; to authorise the Minister of Water Affairs and Forestry to designate persons as environmental management inspectors; to provide for environmental management inspectors to be regarded as peace officers as contemplated in the Criminal Procedure Act, 1977; and to provide for a penalty for the offence of failing to comply with a compliance notice in terms of section 31N of the National Environmental Management Act, 1998; and to amend the National Environmental Management: Air Quality Act, 2004, so as to substitute Schedule 1 to that Act; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Atmospheric Pollution Prevention Act, 1965, to be regarded as specific environmental management Act**

1. (1) Subject to subsection (2), the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965), must be regarded as a specific environmental management Act for the purposes of the National Environmental Management Act, 1998 (Act No. 107 of 1998). 5

(2) This section lapses when section 60 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), takes effect.

**Amendment of section 29 of Act 73 of 1989, as amended by section 18 of Act 79 of 1992, Proclamation R29 of 1995 and Proclamation R43 of 1996** 10

2. Section 29 of the Environment Conservation Act, 1989, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any person who contravenes a provision of section 20(1), [20(6)] 20(9), 22(1) or 23(2) or a direction issued under section [20(5)] 20(8) or fails to comply 15

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.

\_\_\_\_\_ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

*(Engelse teks deur die President geteken.)  
(Goedgekeur op 3 Desember 2008.)*

**WET**

Ten einde voorsiening daarvoor te maak dat die Wet op Voorkoming van Lugbesoedeling, 1965, geag word 'n spesifieke omgewingsbestuurswet te wees totdat artikel 60 van die "National Environmental Management: Air Quality Act, 2004," in werking tree; die Wet op Omgewingsbewaring, 1989, te wysig ten einde bepaalde foutiewe verwysings in die Wet reg te stel; die Wet op Nasionale Omgewingsbestuur, 1998, te wysig ten einde regsonsekerheid in die Wet op te klaar met betrekking tot bepaalde woordomsrywings; die Minister van Waterwese en Bosbou te magtig om persone as omgewingsbestuursinspekteurs aan te wys; voorsiening daarvoor te maak dat omgewingsbestuursinspekteurs vredesbeamptes geag word soos beoog in die Strafproseswet, 1977; en voorsiening te maak vir 'n straf vir die misdryf van versuim om te voldoen aan 'n voldoeningskennisgewing ingevolge artikel 31N van die Wet op Nasionale Omgewingsbestuur, 1998; en die "National Environmental Management: Air Quality Act, 2004," te wysig deur Bylae 1 van daardie Wet te vervang; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wet op Voorkoming van Lugbesoedeling, 1965, geag spesifieke omgewingsbestuurswet te wees**

1. (1) Die Wet op Voorkoming van Lugbesoedeling, 1965 (Wet No. 45 van 1965), 5 word, behoudens subartikel (2), geag 'n spesifieke omgewingsbestuurswet te wees vir doeleindes van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998).

(2) Hierdie artikel verval wanneer artikel 60 van die "National Environmental Management Act: Air Quality Act, 2004 (Wet No. 39 van 2004), in werking tree.

**Wysiging van artikel 29 van Wet 73 van 1989, soos gewysig deur artikel 18 van Wet 10 79 van 1992, Proklamasie R29 van 1995 en Proklamasie R43 van 1996**

2. Artikel 29 van die Wet op Omgewingsbewaring, 1989, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Iemand wat 'n bepaling van artikel 20(1), [20(6)], 20(9), 22(1) of 23(2) of 'n voorskrif kragtens artikel [20(5)] 20(8) uitgereik, oortree of versuim om aan 'n 15

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with a condition of a permit, permission, authorization or direction issued or granted under the said provisions shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.” 5

**Amendment of section 1 of Act 107 of 1998, as amended by section 1 of Act 56 of 2002, section 1 of Act 46 of 2003, section 1 of Act 8 of 2004 and section 60 of Act 39 of 2004**

3. Section 1 of the National Environmental Management Act, 1998, is hereby amended— 10

- (a) by the deletion in subsection (1) of the definition of “specific environmental management Acts”; and  
 (b) by the substitution in subsection (1) for the definition of “specific environmental management Act” of the following definition: 15

“**‘specific environmental management Act’** means—

- (a) the Environment Conservation Act, 1989 (Act No. 73 of 1989);  
 (b) the National Water Act, 1998 (Act No. 36 of 1998);  
 (c) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); 20  
 (d) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004); or  
 (e) the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004),  
 and includes any regulation or other subordinate legislation made in terms of any of those Acts;” 25

**Insertion of section 31BA in Act 107 of 1998**

4. The following section is hereby inserted in the National Environmental Management Act, 1998, after section 31B:

**“Designation of environmental management inspectors by Minister of Water Affairs and Forestry 30**

- 31BA.** (1) The Minister of Water Affairs and Forestry may—  
 (a) designate as an environmental management inspector, any staff member of— 35  
     (i) the Department of Water Affairs and Forestry; or  
     (ii) any other organ of state; and  
 (b) at any time withdraw a designation made in terms of paragraph (a).  
 (2) A designation in terms of subsection (1)(a)(ii) may only be made by agreement between the Minister of Water Affairs and Forestry and the relevant organ of state.” 40

**Substitution of section 31D of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003**

5. The following section is hereby substituted for section 31D of the National Environmental Management Act, 1998:

**“Mandates 45**

- 31D.** (1) When designating a person as an environmental management inspector, the Minister, the Minister of Water Affairs and Forestry or MEC<sub>2</sub> as the case may be, must, subject to subsection (2), determine whether the person concerned is designated for the enforcement of— 50  
 (a) this Act;  
 (b) a specific environmental management Act;  
 (c) specific provisions of this Act or a specific environmental management Act;

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voorwaarde van 'n permit, goedkeuring, magtiging of voorskrif uitgereik of verleen ingevolge gemelde bepalings te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 000 of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of met daardie boete sowel as daardie gevangenisstraf, en met 'n boete van hoogstens drie maal die handelswaarde van enige saak ten opsigte waarvan die misdryf gepleeg is. 5

**Wysiging van artikel 1 van Wet 107 van 1998, soos gewysig deur artikel 1 van Wet 56 van 2002, artikel 1 van Wet 46 van 2003, artikel 1 van Wet 8 van 2004 en artikel 60 of Wet 39 van 2004**

3. Artikel 1 van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby 10 gewysig—

- (a) deur in subartikel (1) die omskrywing van “spesifieke omgewingsbestuurswette” te skrap; en
- (b) deur in subartikel (1) die omskrywing van “spesifieke omgewingsbestuurswet” deur die volgende omskrywing te vervang: 15
- “**spesifieke omgewingsbestuurswet**—
- (a) die Wet op Omgewingsbewaring, 1989 (Wet No. 73 van 1989);
- (b) die Nasionale Waterwet, 1998 (Wet No. 36 van 1998);
- (c) die “National Environmental Management: Protected Areas Act, 2003” (Wet No. 57 van 2003); 20
- (d) die “National Environmental Management: Biodiversity Act, 2004” (Wet No. 10 van 2004); of
- (e) die “National Environmental Management: Air Quality Act, 2004” (Wet No. 39 van 2004), 25
- en sluit alle regulasies of ander ondergeskikte wetgewing uitgevaardig kragtens enige van daardie Wette in.”

**Invoeging van artikel 31BA in Wet 107 van 1998,**

4. Die volgende artikel word hierby in die Wet op Nasionale Omgewingsbestuur, 1998, na artikel 31B ingevoeg:

“**Aanwysing van omgewingsbestuursinspekteurs deur Minister van Waterwese en Bosbou** 30

**31BA.** (1) Die Minister van Waterwese en Bosbou kan—

- (a) enige personeelid van— 35
- (i) die Departement van Waterwese en Bosbou; of
- (ii) enige ander staatsorgaan,
- as 'n omgewingsbestuursinspekteur aanwys; en
- (b) 'n aanwysing ingevolge paragraaf (a) gedoen te eniger tyd intrek.
- (2) 'n Aanwysing ingevolge subartikel (1)(a)(ii) kan slegs by ooreenkoms tussen die Minister van Waterwese en Bosbou en die betrokke staatsorgaan gedoen word.” 40

**Vervanging van artikel 31D van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003**

5. Artikel 31D van die Wet op Nasionale Omgewingsbestuur, 1998 word hierby deur die volgende artikel vervang:

“**Mandate** 45

**31D.** (1) Wanneer 'n persoon as 'n omgewingsbestuursinspekteur aangewys word, moet die Minister, die Minister van Waterwese en Bosbou of LUR, na gelang van die geval, behoudens subartikel (2), bepaal of die betrokke persoon aangewys word vir die afdwinging van—

- (a) hierdie Wet; 50
- (b) 'n spesifieke omgewingsbestuurswet;
- (c) spesifieke bepalings van hierdie Wet of 'n spesifieke omgewingsbestuurswet;

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- (d) this Act and all specific environmental management Acts; or  
 (e) any combination of those Acts or provisions of those Acts.

(2) An MEC may designate a person as an environmental management inspector for the enforcement of only those provisions of this Act or any specific environmental management Act—

- (a) which are administered by the MEC or a provincial organ of state; or  
 (b) in respect of which the MEC or a provincial organ of state exercises or performs assigned or delegated powers or duties.

(3) A person designated as an environmental management inspector may exercise any of the powers given to environmental management inspectors in terms of this Act that are necessary for the inspector's mandate in terms of subsection (1) and that may be specified by the Minister, the Minister of Water Affairs and Forestry or MEC by notice in writing to the inspector.”

**Amendment of section 31H of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003**

6. Section 31H of the National Environmental Management Act, 1998, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) In addition to the powers set out in this Part, an environmental management inspector must be regarded as being a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)—

- (a) to comply with his or her mandate in terms of section 31D; and  
 (b) within the area of jurisdiction for which he or she has been designated.”

**Amendment of section 31N of Act 107 of 1998, as inserted by section 4 of Act 46 of 2003**

7. Section 31N of the National Environmental Management Act, 1998, is hereby amended by the addition of the following subsection:

“(3) A person convicted of an offence in terms of subsection (1) is liable to a fine not exceeding five million rand or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.”

**Substitution of Schedule 1 to Act 39 of 2004**

8. The following Schedule is hereby substituted for Schedule 1 to the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004):

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- (d) hierdie Wet en alle spesifieke omgewingsbestuurswette; of
- (e) enige kombinasie van daardie Wette of bepalings van daardie Wette.
- (2) 'n LUR kan 'n persoon as 'n omgewingsbestuursinspekteur aanwys vir die afdwinging van slegs daardie bepalings van hierdie Wet of enige spesifieke omgewingsbestuurswet— 5
- (a) wat deur die LUR of 'n provinsiale staatsorgaan geadminestreer word; of
- (b) ten aansien waarvan die LUR of 'n provinsiale staatsorgaan bevoegdhede uitoefen of pligte uitvoer wat opgedra of gedelegeer is.
- (3) 'n Persoon wat as omgewingsbestuursinspekteur aangewys is, kan enige van die bevoegdhede uitoefen wat ingevolge hierdie Wet aan omgewingsbestuursinspekteurs verleen word wat nodig is vir die inspekteur se mandaat ingevolge subartikel (1), en soos by skriftelike kennisgewing deur die Minister, die Minister van Waterwese en Bosbou of LUR aan die inspekteur gespesifiseer word.”. 10 15

**Wysiging van artikel 31H van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003**

6. Artikel 31H van die Nasionale Omgewingsbestuurswet, 1998, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang: 20
- “(5) Benewens die bevoegdhede uiteengesit in hierdie Deel word 'n omgewingsbestuursinspekteur geag 'n vredesbeampte te wees en kan alle bevoegdhede uitoefen wat aan 'n vredesbeampte, of aan 'n polisiebeampte wat nie 'n offisier is nie, ingevolge Hoofstukke 2, 5, 7 en 8 van die Strafproseswet, 1977 (Wet No. 51 van 1977), toegewys is—
- (a) om te voldoen aan sy of haar mandaat ingevolge artikel 31D; en 25
- (b) binne die regsgebied waarvoor hy of sy aangewys is.”.

**Wysiging van artikel 31N van Wet 107 van 1998, soos ingevoeg deur artikel 4 van Wet 46 van 2003**

7. Artikel 31N van die Wet op Nasionale Omgewingsbestuur, 1998, word hierby gewysig deur die volgende subartikel by te voeg: 30
- “(3) 'n Persoon wat ingevolge subartikel (1) aan 'n misdryf skuldig bevind is, is strafbaar met 'n boete van hoogstens vyf miljoen rand of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of met sowel sodanige boete as sodanige gevangenisstraf.”.

**Vervanging van Bylae 1 van Wet 39 van 2004** 35

8. Die Engelse teks van Bylae 1 van die “National Environmental Management: Air Quality Act, 2004” (Wet No. 39 van 2004), word hierby deur die volgende Bylae vervang:

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**“SCHEDULE 1****(Section 60)****Legislation repealed**

<u>No. and year of Act</u>	<u>Short title</u>	<u>Extent of repeal</u>	
<u>Act No. 45 of 1965</u>	<u>Atmospheric Pollution Prevention Act, 1965</u>	<u>The whole</u>	5
<u>Act No. 17 of 1973</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1973</u>	<u>The whole</u>	
<u>Act No. 21 of 1981</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1981</u>	<u>The whole</u>	10
<u>Act No. 15 of 1985</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1985</u>	<u>The whole”.</u>	

**Short title and commencement**

**9.** This Act is called the National Environment Laws Amendment Act, 2008, and takes effect on a date determined by the Minister of Environmental Affairs and Tourism by notice in the *Gazette*. 15



**“SCHEDULE****(Section 60)****Legislation repealed**

<u>No. and year of Act</u>	<u>Short title</u>	<u>Extent of repeal</u>	
<u>Act No. 45 of 1965</u>	<u>Atmospheric Pollution Prevention Act, 1965</u>	<u>The whole</u>	5
<u>Act No. 17 of 1973</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1973</u>	<u>The whole</u>	
<u>Act No. 21 of 1981</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1981</u>	<u>The whole</u>	10
<u>Act No. 15 of 1985</u>	<u>Atmospheric Pollution Prevention Amendment Act, 1985</u>	<u>The whole</u> ”.	

**Kort titel en inwerkingtreding**

7. Hierdie Wet heet die Wysigingswet op Nasionale Omgewingswette, 2008, en tree 15 in werking op 'n datum deur die Minister van Omgewingsake en Toerisme by kennisgewing in die *Staatskoerant* bepaal.