



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Ref: O2/1/5/2

NATIONAL ASSEMBLY

(For written reply)

QUESTION NO. 485 {NW550E}

INTERNAL QUESTION PAPER NO. 4 of 2022

DATE OF PUBLICATION: 25 February 2022

Mr D W Bryant (DA) to ask the Minister of Forestry, Fisheries and the Environment:

In light of her proposed changes to the regulations of the National Environmental Management Act, Act 107 of 1998, on 31 December 2021, including a clause that states that no person other than a registered environmental assessment practitioner may perform tasks in connection with an appeal contemplated in section 43 of the specified Act, what (a) does the proposed clause aim to achieve that is currently not covered by the specified Act, (b) impact does she envisage will the proposed legislation have on the participation of nonregistered persons in the appeal processes and (c) specific qualification and/or status would be required for an individual to be considered a registered environmental assessment practitioner?

485. THE MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT REPLIES:

- a) The amendments to the Section 24H Regulations are required in order to provide contextual clarity and certainty on who is required to be registered as an EAP and by when. The proposed amendment also addresses potential implementation challenges.

Registration of EAPs will be done in a phased manner. Practitioners performing tasks linked to Environmental Impact Assessments in terms of the Environmental Impact Assessment Regulations, the Section 24G of the National Environmental Management Act and dealing with waste

management licences (WMLs) in terms of the National Environmental Management: Waste Act are required to register by 8 August 2022.

EAPs performing tasks other than these, including appeals, will be registered on dates to be announced.

Certain role-players in the EIA, NEMA section 24G and WML application processes are explicitly excluded from the requirement to be registered based on reasons of rationality and practicality. These are final decision-makers, such as the Minister, Members of the Executive Council (MECs), Heads of Departments (HODs) and delegated decision-makers; persons who prepare and submit comment on documents; and persons who investigate, assess, prepare and submit specialist reports.

The intention of the inclusion of appeals in the Regulations is to ensure that officials administering appeals within the respective appeal authorities are registered EAPs. This is because they are often required to review technical documents, such as scoping reports, environmental impact assessment reports and specialist reports. The intention of the registration requirement is to professionalise the EAP sector. It will also ensure the submission of quality and reliable reports as part of the application processes and ensure that the recommendations are from technically qualified officials and consultants who advise the official acting under a delegated authority, the Minister, MECs or HODs on applications and appeals.

- b) The Minister recognises that there is a right in law for affected parties to both request the reasons for administrative actions and decisions and to appeal those actions and decisions. It is also recognized that systems regulating appeal processes should be designed in such a way that they are accessible and affordable to all and particularly the poor. Given this, it is important that stakeholders who are of the view that the current amendments curtail the above rights, ensure their views are heard by raising their concerns through the public comment process.
- c) A qualification standard has been registered with the South African Qualifications Authority. Apart from demonstrable competence in the field, EAPs must possess a Recognition of Prior Learning assessment or an appropriate qualification that meets the relevant environmental assessment qualification standard registered with the national qualifications authority.

In terms of other criteria, at least three years' appropriate professional experience is required, as well as at least three impact assessments or reviews concluded in the period of 10 years preceding the date of the coming into effect of the compulsory deadline for registration as an EAP.

Also required are EIAs or reviews concluded before the 10-year period, coupled with active, in-depth involvement in the field of EIA during the 10-year period preceding the compulsory deadline for registration as an EAP.

In order to be registered as a candidate EAP, no professional experience is required.

Regards



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MS B D CREECY, MP

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

DATE: 09/03/22