

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**MINERAL AND PETROLEUM  
RESOURCES DEVELOPMENT  
AMENDMENT BILL**

**[B 15—2013]**

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*(As agreed to by the Portfolio Committee on Mineral Resources  
(National Assembly))*

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**[B 15A—2013]**

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## AMENDMENTS AGREED TO

### MINERAL AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL

[B 15—2013]

#### CLAUSE 1

1. On page 3, in line 23, to omit “and petroleum resource” and to insert “or mineral product”.
2. On page 3, in line 35, after “persons” to insert:  

“within a district municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)”.
3. On page 3, from line 44, to omit the definition of “concentration of rights”.
4. On page 3, after line 50, to insert the following definition:  

“ ‘Council’ means the Ministerial Advisory Council established in section 56A;”.
5. On page 3, in line 60, to omit paragraph (g).
6. On page 4, from line 5, to omit the definition of “designated minerals” and substitute with the following definition:  

“ ‘designated minerals’ means such minerals as declared by the Minister in the Gazette, which constitute input into local beneficiation programmes in line with national development imperatives;”.
7. On page 4, from line 8, to omit the definition of “developmental pricing conditions”.
8. On page 4, from line 17, to omit the definition of “free carried interest” and substitute with the following definition:  

“ ‘free carried interest’ means interest allocated to the State in exploration or production operations without any financial obligation on the State;”.
9. On page 4, after line 46, to insert the following:  

“(l) by the insertion after the definition of “historically disadvantaged person” of the following definition:  
“ ‘historic residue stockpiles’ means any debris, discard, tailings, slimes, screening, slurry, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to a mining operation and which is or was stockpiled, stored or accumulated for potential re-use, or which is or was disposed of, by the holder of any right or title (including common law ownership) other than a prospecting right, mining right, mining permit, exploration right or production right issued in terms of this Act;”.

10. On page 5, after line 11, to insert the following:
- “(q) by the insertion after the definition of “mine” of the following definition:
- “**‘mine gate price’** means the price (excluding VAT) of the mineral or mineral product at the time that the mineral or mineral product leaves the area of the mine or the mine processing site, and excludes charges such as transport and delivery charges from the mine area or the mine processing site to the local beneficiator;”.
11. On page 5, in line 15, to omit “, reclamation permit”.
12. On page 5, in line 18, after “health” to insert “and safety”.
13. On page 5, in line 28, to omit “, reclamation permit”.
14. On page 5, after line 43, to insert the following:
- “(v) by the insertion after the definition of “production right” of the following definition:
- “**‘production sharing agreement’** means an agreement between the State and the petroleum company on how the extracted resource will be shared between the State and the petroleum company;”.
15. On page 5, in line 50, after “health” to insert “and safety”.
16. On page 5, in line 53, to omit “subsection” and to substitute “paragraph”.
17. On page 5, from line 59, to omit the definitions of “reclamation operation” and “reclamation permit”.
18. On page 6, after line 15, to insert the following:
- “(zA) by the insertion after the definition of “retention permit” of the following definitions:
- “**‘security of supply’** means orderly supply of designated minerals or mineral products for local beneficiation in order to support and sustain national development imperatives; **‘State participation’** means the right of the State to participate in petroleum development at exploration and production operations, including, inter alia:
- (a) free carried interest and may include production sharing agreements in production operations; and
- (b) representation at the joint project committee of the exploration or production operation;”.

## CLAUSE 2

1. On page 6, in line 56, after “promote” and to insert “optimal”.

## CLAUSE 3

1. On page 7, from line 9, to omit paragraph (b).

## CLAUSE 5

1. Clause rejected.

## NEW CLAUSE

1. That the following be a new Clause:

**Amendment of section 9 Act 28 of 2002, as amended by section 6 of Act 49 of 2008**

5. The following section is hereby substituted for section 9 of the principal Act:

**“Invitation for applications**

9. (1) The Minister must by notice in the *Gazette*, invite applications (including in respect of land relinquished or abandoned or which was previously subject to any right, permit or permission in terms of this Act, which has been cancelled or relinquished or which has been abandoned, or which has lapsed) for reconnaissance permissions, reconnaissance permit, prospecting rights, exploration rights, mining rights, technical co-operation permit, production rights and mining permits, in respect of any area of land, block or blocks, and may prescribe in such notice the period within which any application may be lodged with the Regional Manager and the procedures which must apply in respect of such lodgment.

(2) Any person may, after identifying an area of land, block or blocks and the type of mineral, mineral product or form of petroleum in or on such area or land, request the Minister to invite applications in such area of land, block or blocks in terms of subsection (1).

(3) Applications received in terms of subsection (1) must be processed in accordance with the provisions of the Act, including the terms and conditions upon which applications may be accepted, rejected, granted or refused.

(4) Any invitation referred to in subsection (1) must not include any mineral, mineral product or form of petroleum and land in respect of which another person holds a right or permit (excluding a reconnaissance permit or reconnaissance permission and an application made in terms of section 11 (2A)), or an application for a right or permit which has already been lodged prior to such invitation, and which remains to be granted or refused.

(5) The Minister shall, when processing applications, give preference to an application lodged by a person referred to in subsection (2).”.

## CLAUSE 6

1. On page 8, in line 5, to omit “14 days” and substitute with “[**14 days**] the prescribed period”.
2. On page 8, from line 12, to omit “within 30 days from the date of the notice” and to substitute “[**within 30 days from the date of the notice**] to the Regional Manager within the prescribed period”.
3. On page 8, in line 19, after “objection” to insert “and comments”.
4. On page 8, from line 20, to omit “within 30 days from date of such referral” and to substitute “within the prescribed period”.

## CLAUSE 8

1. On page 10, from line 14, to omit “and subject to such conditions as the Minister may determine” and to substitute “as prescribed”.
2. On page 10, from line 36, to omit “**bank or financial institution**” and to substitute “**bank or financial institution**”.

## CLAUSE 11

1. On page 11, from line 21, to omit paragraph (b).
2. On page 11, from line 37, to omit “60 days of the date of the notice“ and to substitute “[**60 days of the date of the notice**] the prescribed period”.
3. On page 11, in line 42, after “apply”, to insert “, where necessary,”.

## CLAUSE 12

1. On page 11, after line 51, to insert the following:
  - (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
    - “(c) the prospecting will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation [**is**] has been issued;”;
2. On page 12, from line 9, to omit paragraph (g) and to substitute with the following paragraph:
  - “(g) the applicant has, where necessary, submitted proof of application for a licence for use of water in terms of the applicable legislation.”.
3. On page 12, from line 16, to omit paragraph (e).
4. On page 12, after line 26, to insert the following:
  - (g) by the substitution for subsection (5) of the following subsection:
    - “(5) A [**prospecting**] right granted in terms of subsection (1) [**comes into effect on the effective date**] shall—
      - (a) come into effect on the effective date; and
      - (b) where an appeal against the granting of the right or the approval of the environmental authorisation has been lodged within the prescribed period, the notarial deed of granting shall not be executed until such appeal has been finalised.”;

## CLAUSE 13

1. On page 12, in line 36, to omit paragraph “(cA)” and to substitute:
  - “(cA) where necessary include proof of application for an amended environmental authorisation; and”

2. On page 12, after line 44, to insert the following:
  - (e) by the substitution in subsection (3) for paragraph (c) of the following paragraph:  
“(c)compliance with the conditions of the environmental authorisation[.]; and”;
  - (f) by the insertion in subsection (3) after paragraph (c) of the following paragraph:  
“(cA) the amended environmental authorisation has, where necessary, been approved.”;

#### CLAUSE 14

1. On page 13, after line 3, to insert the following:
  - (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs:  
“(a)subject to section 18, the exclusive right to apply for **[and be granted]** a renewal of the prospecting right in respect of the mineral and prospecting area in question;
  - (b) subject to section (2), the exclusive right to apply for **[and be granted]** a mining right in respect of the mineral and prospecting area in question; and”;

#### CLAUSE 15

1. On page 13, from line 26, to omit “subject to such conditions as the Minister may determine” and to substitute “as prescribed”.
2. On page 13, in line 31, to omit “section 16(4)(c)” and to substitute “section 16(4)(a)”.

#### CLAUSE 17

1. On page 13, from line 53, to omit paragraph (c).
2. On page 14, in line 15, to omit “180 days of the notice” and to substitute “the prescribed period”.
3. On page 14, in line 17, after “(d)” to insert “where necessary,”.

#### CLAUSE 18

1. On page 14, in line 28, after “paragraph” to insert “(d),”.
2. On page 14, after line 29, to insert the following:  
“(d) the mining will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation **[is]** has been issued;”.
3. On page 14, from line 42, to omit paragraph (i) and to substitute with the following paragraph:  
“(i) the applicant has, where necessary, submitted proof of application for a licence for use of water in terms of the applicable legislation.”

4. On page 14, in line 47, to omit “; and” and to substitute with a full stop.
5. On page 14, from line 48, to omit paragraph (b).
6. On page 14, in line 61, to omit “; and” and to substitute with a full stop.
7. On page 15, from line 1, to omit paragraph (b).
8. On page 15, after line 7, to insert the following:

(g) by the substitution for subsection (5) of the following subsection:  
 “(5) A **[mining]** right granted in terms of subsection (1) **[comes into effect on the effective date]** shall—  
 (a) come into effect on the effective date; and  
 (b) where an appeal against the granting of the right or the approval of the environmental authorisation has been lodged within the prescribed period, the notarial deed of granting shall not be executed until such appeal has been finalised.”.

#### CLAUSE 19

1. On page 15, in line 18, to omit “include” and to substitute “where necessary include proof of application for”.
2. On page 15, after line 27, to insert the following:
  - (e) by the substitution in subsection (3) for paragraph (d) of the following paragraph:  
 “([c]d) compliance with the conditions of the environmental authorisation[.]; and”;
  - (f) by the insertion in subsection (3) after paragraph (d) of the following paragraph:  
 “(dA) the amended environmental authorisation has, where necessary, been approved.”;

#### CLAUSE 21

Clause rejected.

1. That the following be a new Clause:

**Amendment of section 26 of Act 28 of 2002, as amended by section 22 of Act 49 of 2008**

**21.** Section 26 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:  
 “(1) The Minister **[may]** must in order to regulate the mining industry to meet national development imperatives and to bring optimal benefit for the Republic initiate or promote the beneficiation of [minerals] mineral resources in the Republic—  
 (a) to ensure transformation of the mining and other sectors involved in the beneficiation of minerals or mineral products;  
 (b) to ensure sustainability for the supply of minerals in the national interest; and  
 (c) to develop local capacity.”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) The Minister must—

- (a) in consultation with a Minister of the relevant national departments designate any mineral or mineral product for local beneficiation;
- (b) after taking into consideration the national developmental imperatives such as macro-economic stability, energy security, industrialisation, food security and infrastructure development; and
- (c) after considering the advice of the Council as contemplated in section 56B;

publish such conditions required to ensure security of supply for local beneficiation in the prescribed manner.”;

- (c) by the insertion after subsection (2A) of the following subsection:

“(2B) Every producer of designated minerals must offer to local beneficiators a prescribed percentage of its production of minerals or mineral products in prescribed quantities, qualities and timelines at the mine gate price or agreed price.”; and

- (d) by the substitution for subsection (3) of the following subsection:

“(3) No person, other than a producer (or an associated company of such producer) in respect of its own production and who has complied with subsection (2B), may export designated minerals or mineral products without the Minister’s prior written approval.”

#### CLAUSE 22

1. On page 16, from line 54, to omit paragraph (c).
2. On page 17, in line 4, omit the first “the” and to substitute “[the]”.
3. On page 17, in line 12, after “apply” to insert “, where necessary”.
4. On page 17, in line 18, after “apply” to insert “where necessary”.
5. On page 17, in line 26, after “environment” to insert “and an environmental authorisation has, where necessary, been issued”.
6. On page 17, from line 29, to omit paragraph (f) and to substitute:
 

“(f) the applicant has, where necessary, provided proof of application for a licence for use of water in terms of the applicable legislation.”.
7. On page 17, after line 30, to insert the following:
 

(j) by the insertion after subsection (6) of the following subsection:
 

“(6A) The Minister must, within the prescribed period of receipt of an application from the Regional Manager, refuse to issue a mining permit if the applicant does not meet the requirements referred to in subsection (6).”;
8. On page 17, in line 39, after “renewed” to insert “for”.
9. On page 17, in line 41, to omit the second “subsection” and substitute “subsections”.



10. On page 17, after line 41, to insert the following:
 

“(9) A right granted in terms of subsection (6) shall—

(a) come into effect on the effective date; and

(b) where an appeal against the granting of the right or the approval of the environmental authorisation has been lodged within the prescribed period, the notarial deed of granting shall not be executed until such appeal has been finalised.”.
11. On page 17, in line 42, to omit “9” and substitute with “10”.
12. On page 17, from line 44, to omit “granted and a notarial deed of renewal has been executed” and to substitute with “issued”.
13. On page 17, in line 50, to omit “granted” and to substitute “issued”.
14. On page 17, in line 52, to omit “execution” and to substitute “issuing”.

#### CLAUSE 23

1. On page 17, in line 57, to omit “[or],” and to substitute “or”.
2. On page 18, from line 11, to omit paragraph (c) and to substitute:
 

(c) **[an] the prescribed annual report detailing [the extent of the holder’s compliance with the provisions of section 2(d) and (f), the charter contemplated in section 100 and the approved social and labour plan] accurate information and data in respect of mineral reserves and resources within the mining areas; and**”.
3. On page 18, after line 18, to insert the following:

“(3) The holder of a mining right must submit to the Regional Manager the prescribed annual report detailing the holder’s compliance with provisions of section 2(d) and (f), the Amended Broad Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry provided for in section 100 and the approved social and labour plan.”.

#### CLAUSE 27

1. On page 19, after line 15, to insert the following paragraph:
 

by the deletion in subsection (2) of the word “and” at the end of paragraph (a);
2. On page 19, from line 16, to omit paragraph (b) and to substitute with the following paragraph:
 

by the substitution at the end of subsection (2)(b)(ii) for a full stop of a semicolon and by the addition of the following paragraphs:
3. On page 19, in line 18, to omit “(iii)” and substitute “(bA)” .
4. On page 19, in line 18, after “submit” to insert “the prescribed”.
5. On page 19, in line 21, to omit “(iv)” and substitute “(bB)”.

## NEW CLAUSE

1. That the following be a new clause:

**Amendment of section 38B of Act 28 of 2002, as amended by section 32 of Act 49 of 2008**

**29.** Section 38B of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) of the following subsection:

“(1) An environmental management plan or environmental management programme approved in terms of this Act before and at the time of the coming into effect of the National Environmental Management Amendment Act, [1998] 2014, shall be deemed to have been approved and an environmental authorisation been issued in terms of the National Environmental Management Act, 1998.”;

- (b) by the insertion after subsection (3) of the following subsection:

“(4) All pending applications lodged in terms of this Act prior to the coming into operation of the National Environmental Management Amendment Act, 2014, shall be processed in terms of this Act as if the National Environmental Management Amendment Act, 2014, is not in operation.”.

## CLAUSE 29

1. Clause rejected.

## NEW CLAUSE

1. That the following be a new clause to follow section 42.

**Insertion of section 42A in Act 28 of 2002**

**30.** The following section is hereby inserted after section 42 of the principal Act:

**“Management of historic residue stockpiles and residue deposits**

**42A.** (1) In order to promote orderly and optimal development of mineral resources and guarantee security of tenure, all historic residue stockpiles and residue deposits currently not regulated under this Act belong to the owners thereof and shall continue in force for a period of two years from the date on which the Mineral and Petroleum Resources Development Amendment Act, 2014 is promulgated.

(2) The holder of a mining right or mining permit who owns historic residue deposits or residue stockpiles which are located within the mining area has an exclusive right to apply for an amendment of the mining works programme in terms of section 102 to include such deposits and stockpiles into the right.

(3) The holder referred to in subsection (2) must process the residue deposits and residue stockpiles in terms of the amended mining works programme.

(4) The owner of any historic residue deposit and residue stockpile located outside the mining area has an exclusive right to apply in the prescribed manner, at the office of the Regional Manager in whose region the residue deposit or residue

stockpile is situated, for a mining right or mining permit, as the case may be, within a period of two years from the date of commencement of Mineral and Petroleum Resources Development Amendment Act, 2014.

(5) The mining right or mining permit, as the case may be, is valid for a period specified in such a right or permit, which period may not exceed 30 years depending on the circumstances of each case taking into account the nature and extent of the residue deposit and residue stockpile.

(6) The Minister must grant such a mining right or mining permit in terms of subsection (4) if the applicant satisfies the requirements contemplated in section 23 or 27, as the case may be.

(7) The holder must lodge the mining right or mining permit within the prescribed period from the date of execution at the Mineral and Petroleum Titles Registration Office for recording or registration, as the case may be.

(8) Upon execution, recording or registration of the mining right or mining permit, as the case may be, the historic residue deposit or residue stockpile shall be deemed to be regulated in terms of this Act.

(9) In cases of historic residue deposits and residue stockpiles located outside the mining area and where the owner fails to apply for a mining right or mining permit within the period referred to in subsection (4), the custodianship of the minerals in such historic residues and stockpiles shall revert back to the State and the State shall be entitled to invite applications thereon in terms of section 9.”.

#### CLAUSE 30

1. On page 20, from line 47 to omit “[**until the Minister has reissued**] notwithstanding the issuing of a closure certificate by the Minister” and to substitute “until the Minister has issued a closure certificate”.
2. On page 20, after line 49, to insert the following subsection:
  - (b) by the insertion after subsection (1) of the following subsection:
 

“(1A) Despite the issuing of the closure certificate the holder or owner referred to subsection (1) remains liable for any latent or residual environmental liability, pollution, ecological degradation, the pumping and treatment of extraneous water which may become known in the future.”;
3. On page 21, from line 9, to omit “60 days” and to substitute “[**60 days**] the prescribed period”.
4. On page 21, from line 21, to omit “safety, health or” and to substitute “[**safety, health or**]”.
5. On page 21, from line 22 to omit:
 

“for a period of 20 years after issuing a closure certificate” and to substitute “for such period, as the Minister may determine having regard to the circumstances relating to the relevant operation, which portion and period must be determined in the prescribed manner”.

## CLAUSE 34

1. On page 22, in line 40, after “[**or cancelled; and**]”, to insert “or cancelled, and”.

## CLAUSE 35

1. On page 23, in line 6, after “scheme” to insert “and zoned for residential purposes”.

## CLAUSE 36

1. On page 23, in line 15, to omit “nature of the mineral” and substitute “[**nature of the**] mineral”.
2. On page 23, in line 16, after “mineral” to insert “and petroleum”.
3. On page 23, in line 17, after “reconnaissance permission” to insert “technical co-operation permit, reconnaissance permit, exploration right, production right”.
4. On page 23, in line 22, after the first “permit,” to insert “technical co-operation permit, exploration right, production right,”.
5. On page 23, in line 24, after “of minerals” to insert “, petroleum or form of petroleum”.
6. On page 23, in line 30, after the first “permit” to insert “technical co-operation permit, exploration right, production right”.

## CLAUSE 43

1. On page 25, in line 36, to omit “and”.
2. On page 25, in line 37, to omit the full stop and to substitute “; and”
3. On page 25, after line 37, to insert the following paragraph:
 

“(g) at least two other persons with appropriate experience, expertise or skill to enhance the Council’s capabilities of performing its functions more effectively.”
4. On page 25, after line 37, to insert the following subsection:
 

“(3) The members of the Council must elect one of its members as deputy chairperson at their first meeting;”
5. On page 25, in line 40, after “mineral” to insert “and petroleum”.
6. On page 25, in line 41, to omit “mining” and substitute “petroleum”.
7. On page 25, from line 43, to omit “(c)” and substitute with the following:
 

“(c) the terms and conditions applicable to beneficiation as contemplated in section 26; and  
(d) any other matter which the Minister refers to the Council.”

8. On page 25, after line 43, to insert the following:

**Subcommittees of Council**

**56C.** (1) The Council may appoint subcommittees to assist with its functions as it may determine.

(2) The Council must determine the composition of a subcommittee,

(3) The Council may at any time dissolve or reconstitute a subcommittee.

(4) The Council must designate a member of a subcommittee as chairperson of that subcommittee.

(5) The Council is not absolved from the performance of any function entrusted to a subcommittee.

(6) The Council may make rules regarding the manner in which meetings of a subcommittee are to be convened, the procedure at, the functions of, and the quorums for such meetings and the manner in which minutes of such meetings must be kept.”

CLAUSE 45

1. On page 27, in line 4, to omit “, 26” and to substitute **[26,]**.

CLAUSE 49

1. On page 28, after line 45, to insert the following:

(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the reconnaissance will not result in unacceptable pollution, ecological degradation or damage to the environment and that the environmental authorisation **[is]**, where necessary, has been issued;”.

2. On page 28, from line 53, to omit paragraph (b).
3. On page 28, in line 55, to omit “reconnaissance permits” and substitute “data produced under the reconnaissance permit”.
4. On page 28, from line 59, to omit “paragraph (a)”.
5. On page 29, after line 2, to insert the following:

(d) by the addition of the following subsections after subsection (5):

“(6) The holder of the reconnaissance permit has an exclusive right to market the data collected under the reconnaissance permit for six years.

(7) Notwithstanding the provisions of subsection (6), the Minister may grant a reconnaissance permit over an area with an existing reconnaissance permit, if the applicant applies different methods and technologies for petroleum data acquisition that will advance petroleum exploration.”.

CLAUSE 50

1. On page 29, from line 17 to omit paragraph (c).

## CLAUSE 53

1. On page 30, from line 8 to omit paragraph (c).
2. On page 30, in line 24, after “apply”, to insert “, where necessary”.
3. On page 30, in line 30, to omit “a period of 120 days” and to substitute “[**a period of 120 days**] the prescribed period”.

## CLAUSE 54

1. On page 30, from line 37, to omit paragraph (g) and to substitute:
 

“(g) the applicant has, where necessary, provided proof of application for a licence for use of water in terms of the applicable legislation.”
2. On page 30, in line 51, to omit “; and” and to substitute with a full stop.
3. On page 30, from line 52 to omit paragraph (b).
4. On page 30, after line 61, to insert the following:
 

(g) by the substitution in subsection (6) of the following subsection:  
     “(6) [**An exploration**] A right granted in terms of subsection (1) [comes into effect on the effective date] shall—  
     (a) come into effect on the effective date; and  
     (b) where an appeal against the granting of the right or the approval of the environmental authorisation has been lodged within the prescribed period, the notarial deed of granting shall not be executed until such appeal has been finalised.”.
5. On page 31, from line 1, to omit paragraph (f).

## CLAUSE 55

1. On page 31, in line 13, to omit “light” and to substitute “right”.
2. On page 31, in line 24, after “included” to insert “proof of application for”.

## CLAUSE 58

1. On page 32, from line 34, to omit “14 days from the receipt of the application” and to substitute “[**14 days from the receipt of the application**] the prescribed period”.
2. On page 32, from line 42, to omit paragraph (c).
3. On page 33, from line 5, to omit “180 days from the date of the notice” and to substitute “[**180 days from the date of the notice**] the prescribed period”.
4. On page 33, in line 9, after “apply” to insert “where necessary”.

## CLAUSE 59

1. On page 33, after line 13, to insert the following:
  - (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
 

“(c) the production will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation has been issued;”.
2. On page 33, from line 16, to omit paragraph (j) and to substitute:
 

“(j) the applicant has, where necessary, provided proof of application for a licence for use of water in terms of the applicable legislation.”
3. On page 33, after line 28, to insert the following:
  - (e) by the insertion after subsection (5) of the following subsection:
 

“(6) A right granted in terms of subsection (1) shall—

    - (a) come into effect on the effective date; and
    - (b) where an appeal against the granting of the right or the approval of the environmental authorisation has been lodged within the prescribed period, the notarial deed of granting shall not be executed until such appeal has been finalised.”.
4. On page 33, from line 28, to omit paragraph (d).

## NEW CLAUSE

1. That the following be a new Clause:

**Insertion of section 86A to Act 28 of 2002**

**65.** The following section is hereby inserted after section 86 of the principal Act:

**“State participation on exploration and production rights**

**86A.** (1) The State has, through the designated organ of state, a right to a 20 percent free carried interest in all new exploration and production rights, from the effective date of such rights.

(2) In addition to the free carried interest contemplated in subsection (1), the State is, in the prescribed manner, entitled to a further participation interest in the form of—

(a) acquisition at an agreed price; or

(b) production sharing agreements.

(3) The State shall upon acquiring interest in terms of subsections (1) and (2) enter into a joint operating agreement with the operating petroleum company.

(4) The State is entitled to a corresponding percentage of voting rights to the interest held in such joint operating agreements.

(5) The Minister must, acting on behalf of the State, appoint two representatives to the joint project committee of the exploration or production operation to represent the interest of the State.”.

## CLAUSE 65

1. On page 35, in line 17, to omit “or” and substitute “[or]<sub>2</sub>”.
2. On page 35, in line 17, after “officer” to omit the comma.
3. On page 35, in line 17, after “officer” to insert “or any person with appropriate expertise”.

## CLAUSE 66

1. On page 35, in line 34, after “[or]” to insert “and”.
2. On page 35, in line 35, to omit “must” and to substitute “may”.
3. On page 35, in line 36, to omit “or a part thereof” and to substitute “[**or part thereof**]”.

## CLAUSE 67

1. Clause rejected.

## CLAUSE 68

1. On page 36, in line 7, to omit “in terms of this Act” and to substitute “[**in terms of this Act**]”.
2. On page 36, in line 13, after “Minister” to insert “, if the decision was taken in terms of this Act”.
3. On page 36, in line 18, to omit “Water and”.
4. On page 36, in line 24, to omit “An” and substitute with “[**An**] Subject to subsections (2A) and (2B), an”.
5. On page 36, in line 27, to omit “subsection” and to substitute “subsections”.
6. On page 36, after line 31, to insert the following:

“(2B) Any right granted in terms of this Act and any decision related to environmental matters shall, notwithstanding any other provision in this Act not be effective and shall not be executed unless the prescribed period for the lodgment of an appeal has expired, and if such appeal is lodged, until such appeal has been finalised.”

## CLAUSE 69

1. On page 36, in line 46, to omit “18, 24 and 34” and to substitute “11(4), 21(1A), 28(1) and 28(2)(d)”.

## CLAUSE 70

1. On page 36, from line 57, to omit “as reflected in the last available annual financial statements”.
2. On page 37, from line 8, to omit “as reflected in the last available annual financial statements”.



3. On page 37, in line 19, to omit “as reflected in the last available annual financial statements”.
4. On page 37, from line 25, to omit subsections (1A) and (1B) and to substitute with the following subsection:

“(1A) (a) (i) An authorised person in terms of section 91 may make a recommendation in writing to the Director-General that a fine be imposed on the holder which has failed to comply with any provision contemplated in section 98(iv).

(ii) The authorised person must serve a copy of the recommendation on the holder concerned.

(iii) The holder may make written representations to the Director-General within 30 days of receipt of a copy of the recommendation.

(iv) A representation made in terms of paragraph (iii) may not be used against the holder in any criminal or civil proceedings in respect of the same set of facts.

(b) (i) The Director-General, after considering the recommendation and any representation made in terms paragraph (a)(iii), must within the prescribed period from the date of receipt of the holder’s representations in terms of paragraph (a)(iii) or after expiry of the 30 day period in paragraph (a)(iii) without such representations having been made, whichever is the earlier—

(aa) disregard the recommendation;

(bb) impose a fine not exceeding R800 000; or

(cc) refer the matter to the National Prosecuting Authority for a decision as to whether the holder should be charged with an offence.

(ii) The Director-General must in writing notify the holder of his or her decision made in terms of paragraph (b)(i) within the prescribed period.

(iii) The holder may appeal the decision of the Director-General to the Minister in terms of section 96.

(iv) Save if the holder has lodged an appeal in terms of paragraph (b)(iii), the holder must pay any fine imposed in terms of paragraph (b)(i)(bb) within 30 days of receipt of the Director-General’s notification thereof in terms of paragraph (b)(ii).

(v) If the right holder fails to pay the fine within the period referred to in paragraph (b)(iv) and an appeal has not been lodged within the required period, the Director-General may forthwith file with the clerk or registrar of a competent court a certified copy of the notice contemplated in paragraph (b)(ii), and the notice thereupon has the effect of a civil judgment lawfully given in that court in favour of the Department.”

(c) Money received by the Department in payment of administrative fines imposed in terms of paragraph (a) must be paid to a fund established and controlled by the Council for Geoscience in terms of this Act.

(d) The Council for Geoscience must in consultation with the Minister use the money in the fund for the promotion of exploration and prospecting activities in the mining and petroleum industry and matters incidental thereto.”.

#### CLAUSE 72

1. On page 38, from line 33, after the second “for,” to insert “except where the extension is to consolidate existing adjacent rights,”.

## CLAUSE 74

1. On page 39, from line 16, to omit paragraph (jA) and to substitute “determination of terms and conditions applicable to beneficiation of mineral resources as contemplated in section 26”.
2. On page 39, after line 18, to insert the following:

“(jB) procedures applicable in respect of invitation for applications in terms of section 9;  
 (jC) the determination of the terms and conditions of the State participation as contemplated in section 86A;  
 (jD) (i) the manner and form in which interested and affected persons must be informed of an application for a right in terms of this Act; and  
       (ii) the manner and form of consultation required with such interested and affected persons.”; and  
 (d) by the addition after subsection (1) of the following subsection:  
“(1A) The Minister must, when making regulations as provided for in terms of subsection (1)(jA) and (jC), consult with affected stakeholders.”.

## NEW CLAUSE

1. That the following be a new Clause:

**Amendment of item 9 of Schedule II to Act 28 of 2002, as amended by section 85 of Act 49 of 2008**

**83.** Item 9 of Schedule II to the principal Act is hereby amended by the substitution for subitem (2) of the following subitem:

(2) The holder, user or acquirer of any reservation, permission or right to use the surface of land contemplated in subitem (1) must register such reservation, permission or right in the Mineral and Petroleum Titles Registration Office within six years from the date on which [this Act] the Mineral and Petroleum Resources Development Amendment Act, 2014, took effect and if such holder, user or **[occupier]** acquirer fails to register such reservation, permission or right, the reservation, permission or right shall cease to exist.

## LONG TITLE

1. On page 2, in the fifth line of the long title, after “relating to” to insert:  
       “the regulation of the mining industry through”.
2. On page 2, in the fifth line of the long title, after “beneficiation of minerals” to insert:  
       “or mineral products”.