

Environmental Management (Control of Alluvial Mining)
(Amendment) Regulations, 2024 (No. 3)

IT is hereby notified that the Minister of Environment, Climate and Wildlife has, in terms of section 140 of the Environmental Management Act [Chapter 20:27], and in consultation with the Environmental Management Agency, made the following regulations:—

1. These regulations may be cited as the Environmental Management (Control of Alluvial Mining) (Amendment) Regulations, 2024 (No. 3).

2. The Environmental Management (Control of Alluvial Mining) Regulations, 2014, published in Statutory Instrument 92 of 2014 (hereinafter called “principal regulations”), are amended by the repeal of section 3 and substitution of the following sections—

“Prohibition of alluvial mining

3. (1) No person shall, with effect from the promulgation of this section, conduct alluvial mining activities or carry out prospecting for alluvial deposits in or along any river or public stream (as that term is defined in section 2(1) of the Water Act [Chapter 20:24]), whether or not—

- (a) they are in possession of—
 - (i) a special grant; or
 - (ii) an express written authority of the Minister responsible for administration of the Act granted under exceptional circumstances in terms of Statutory Instrument 92 of 2014; or
 - (iii) an Environmental Impact Assessment as required by section 97 of the Environmental Management Act that authorises the alluvial mining in question; or
 - (iv) any authority, permit or licence whatsoever under whatever enactment issued that purports to authorise alluvial mining activities or prospecting for alluvial deposits;

- (b) they are implementing an Environmental Management Plan pursuant to an EIA referred to in paragraph (a) (iii);

(2) To avoid doubt, any special grant, written authority, permit, licence, EIA or Environmental Management Plan referred to in subsection (1) that is or purports to be valid or in force immediately before the date of promulgation of this section shall, with effect from such date, cease to be valid or have any force or effect.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding twelve (12) months or to both such fine and such imprisonment.

(4) A magistrates' court convicting any person for contravening subsection (3) shall, on its own motion or on the motion of the prosecutor, order the person convicted to undertake such remedial action as may be necessary to rectify any environmental damage caused by the violation of this section, or make an order for damages proven to have been suffered during the course of the prosecution to be paid out for any persons affected by such contravention.

(5) The holder any special grant or written authority referred to in subsection (1)(a) (i) or (ii) who, immediately before the date of promulgation of this section, was lawfully conducting alluvial mining activities or carrying out prospecting for alluvial deposits shall, with effect from the promulgation of this section, immediately cease such activities or prospecting, and must, no later than thirty days of such cessation, have carried out such rehabilitation measures in terms of section 7 as may be appropriate in the circumstances.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding twelve (12) months or to both such fine and such imprisonment.

Seizure pursuant to section 3

3A (1) If a person is charged with contravening section 3(1), any inspector or police officer may seize—

- (a) any precious stones or other valuable mineral in the vicinity of any alluvial mining works or in the possession of any person acting in contravention of section 3(1); and
- (b) any vehicle, machinery or other equipment or articles used in connection with a contravention of section 3(1);

pending the outcome of the prosecution of the offence.

(2) Where a vehicle, machinery or other equipment or article is seized under subsection (1)(b), and the person from whom it is seized alleges that the vehicle, machinery or other equipment or article used in connection with the offence concerned was availed to him or her by another person who owns the vehicle, machinery or other equipment or article, such property shall nevertheless be liable to be seized and held under this section unless the owner proves to the satisfaction of an inspector or police officer that he or she was unaware that the property in question would be so used.

(3) All property which has been seized under subsection (1) shall—

- (a) be taken forthwith and delivered to a place of security under the control of an inspector or police officer; and
- (b) be held in custody at the owner's risk until—
 - (i) the criminal proceedings in connection with which that property has been seized are abandoned or discontinued or are concluded otherwise than with the conviction of the accused, in which event the custodian inspector or police officer shall forthwith restore such items to the person from whom they were seized or to whom they belong, as may be appropriate; or

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- (ii) the criminal proceedings have resulted in the conviction of the accused person, in which event the convicting court may order any such items to be forfeited to the State or returned to the accused person, as it deems fit in the circumstances.

(4) The Agency shall establish and maintain a register of items of property seized under this section, to be known as the seized items register, in which the Agency shall record the following—

- (a) a description of seized items including, where necessary their quantity; and
- (b) the name of the person from whom they were seized and the place at which they were seized and the reason for seizure; and
- (c) the date of seizure; and
- (d) the manner of eventual disposal (whether returned to the person referred to in paragraph (b) or forfeited to the State).”.

3. The Environmental Management (Control of Alluvial Mining) (Amendment) Regulations, 2021 (No. 2), published in Statutory Instrument 104 of 2021, are repealed.