

Environmental Management (Control of Alluvial Mining)
Regulations, 2014

It is hereby notified that the Minister of Environment, Water and Climate in terms of section 140 of the Environmental Management Act [*Chapter 20:27*], has made the following regulations—

Title

1. These regulations may be cited as the Environmental Management (Control of Alluvial Mining) Regulations, 2014.

Interpretation

2. In these regulations—

“Act” means the Environmental Management Act [*Chapter 20: 27*];

“Agency” means the Environmental Management Agency;

“alluvial deposit” in relation to—

- (a) to precious stones, any deposit, either non-coherent or consolidated, of any geological age, which has been formed by the agency of water or wind;
- (b) to any other mineral, any accumulation of sand, gravel or clay deposited by surface water containing valuable minerals;

“alluvial mining” in terms of these regulations means mining activities and prospecting along streams or rivers;

“artisanal miner” means a miner who carries out mining activities using approved tools and employs up to 50 people, these include Government registered groups or syndicates or co-operatives;

“Director-General” means the Director-General of the Agency;

“Environmental Impact Assessment (EIA)” means an evaluation of a project to determine its impact on the environment and human health and to set out the required environmental monitoring and management procedure and plans that are required to mitigate pollution, land degradation as well as negative impact on other

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- land users and socio-economic hardships of affected communities;
- “Environmental Management Plan” means a plan that mitigates pollution, land degradation and negative impact on other land users and socio-economic hardships of affected communities during and after the implementation of the project;
- “highest flood level” means the maximum level to which the water level could rise, due to rainfall and natural run-off in the catchment area and above the level of water normally conserved in any artificially constructed work or reservoir on a stream;
- “inspector” means an inspector in terms of section 35 of the Act;
- “local authority” means a municipal council, town council, local board, rural district, catchment/sub catchment councillor, any Government department, or parastatal such as National Parks and Wildlife Authority or the Forestry Commission that is in charge of a geographical area;
- “mechanical equipment or motor powered equipment” includes but it is not limited to excavators, dredgers, James table, generators, front end loaders, bull dozers and any other heavy earth moving equipment used in mining activities;
- “natural defined banks” means the banks containing the flow of a stream when flowing at its highest or maximum capacity or level and keeping the usual natural direction of its own course;
- “pollution” has the same meaning given to it in the Act;
- “reservoir” means a natural or artificial impoundment of water;
- “sustainable project” means the project is economically viable, maintains ecosystems equilibrium, socially acceptable, and will not leave the affected people worse off than they were before the project implementation;

“water course” means a water channel of natural origin in which water flows;

“wetland” has the same meaning given to it in the Act.

Restriction of alluvial mining

3. (1) No person shall, notwithstanding that they are in possession of a special grant, conduct alluvial mining activities or prospecting of alluvial deposit without an Environmental Impact Assessment Report and Certificate issued by the Agency in terms of section 100 of the Act.

(2) Alluvial mining shall not take place on—

- (a) land within 200 m of the naturally defined banks; or
- (b) land within 200 m of the highest flood level of any body of water conserved in a natural or artificially constructed water storage work or stream; or
- (c) any bed, banks or course of any river or stream; or
- (d) land within 200 m from any wetland:

Provided the 200 m distance prescribed in subsection 2 (a), (b), and (d) shall not be construed as an express authorisation to carry out alluvial mining in such areas outside the 200 m perimeter before the granting of an EIA certificate by the Agency.

(3) Consideration for certification shall include relevant variables such as geology, hydrogeology, hydrology, soils, and topography of the area which may result in the adjustment of the minimum distances set in subsection (2).

(4) Alluvial mining shall only be carried out as prescribed in the EIA as issued by the Agency.

(5) Under no circumstances shall alluvial mining be carried out through use of mechanical equipment or motor powered equipment.

(6) Use of mercury and cyanide or any other chemical is prohibited.

(7) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

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(8) A magistrates' court hearing such matter shall have the discretion as accorded in section 139(2) and (3) of the Act, to order the proponent to undertake such remedial action as may be necessary to rectify any environment damage caused by the violation of subsection (1) or (2), or further make an order for damages to be paid out for any persons affected by such violation.

(9) Any person who fails to implement the environmental management plan as specified in the EIA report certified by the Agency shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

Application for a certificate

4. (1) An EIA Report shall only be prepared by an EIA consultant duly registered by the Agency.

(2) Prior to commencement of a project, an application for an EIA certificate to conduct alluvial mining shall be forwarded to the Agency and considered upon submission of the EIA report to the Agency and payment of the prescribed fee as set out in Statutory Instrument 3 of 2011.

(3) Within 60 working days after receiving the EIA report and application, the Director-General—

- (a) shall review the report and consider the application and cause the Agency to issue out a certificate to the applicant if the application meets all necessary requirements; or
- (b) may require the applicant to supply further information before a certificate can be issued; or
- (c) may reject the application based on evidence on the ground which shows that the project is not feasible or sustainable;
- (d) upon approving a project in terms of paragraph (a), the Director-General shall issue to the applicant a certificate in the prescribed form as provided for in terms of section 100(5) of the Act.

(4) Any person aggrieved by a decision made in subsection (3) shall, in terms of section 130 of the Act, have the right to appeal

to the Minister of Environment, Water and Climate against such decision.

Conditions attached to certificates

5. (1) The following conditions shall apply to all alluvial mining including mining of alluvial deposits within the above stated conditions—

- (a) no person issued with an Environmental Impact Assessment certificate and a mining permit to carry out alluvial mining shall set up a residing camp onsite. The camp shall be setup at a designated area by the local authority at a distance of not less than 300 m from the boundary of an alluvial mining site or 500 m from the highest flood level or bank of the river;
- (b) no sanitary convenience, reservoir, or depots for any substance that is likely to cause pollution of the water resource maybe located within 250 m from streams or reservoirs;
- (c) no mining facilities may use any residue or substance which causes or is likely to cause pollution of surface or underground water resources;
- (d) the sitting of works plan, which includes physical amenities, shall be approved by the Ministry responsible for Mines in consultation with relevant stakeholders prior to the issuance of an EIA certificate;
- (e) before commencement of the project and issuance of the EIA certificate, a water permit for the use of water in the alluvial mining process should be obtained from Zimbabwe National Water Authority (ZINWA);
- (f) ore stockpiles, slimes dams or settling ponds may not be constructed within 250 m from the river bank or the highest flood-line of any watercourse. All slimes dams and settling ponds shall be lined as approved by the EIA;
- (g) settling ponds are to be appropriately designed, constructed and reinforced to avert breaches;
- (h) the mine effluent management system should be a closed system and no discharge into the environment is permitted;

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- (i) mechanical conservation works should be put in place to control erosion around the mine works area;
- (j) any person granted an EIA certificate to carry out alluvial mining shall submit periodic environmental reports to the Agency on any issues raised in the EIA report or any other issues that may arise as a result of the implementation of the project;
- (k) no person shall carry out alluvial mining under an EIA certificate without acquiring valid relevant certificates or permits required under other enactments;
- (l) alluvial mining shall only be carried out under the supervision and guidance of a mine manager:

Provided that additional conditions shall depend on the nature and circumstances of the project as will be determined under EIA review referred to in section 3(3)(a) below.

(2) In the event of a breach of any of the above stated conditions or any further conditions so attached to the EIA certificate, the Director-General can either suspend or cancel the certificate, whichever is appropriate, in terms section 11 of S.I. 7 of 2007 as read with section 104 of the Act.

(3) Any person who contravenes any of the above conditions or further conditions so attached to their certificate shall be guilty of an offence and liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(4) A magistrate court hearing such matter shall have the discretion, as accorded in section 139(2) and (3) of the Environmental Management Act, to order the proponent to undertake such remedial action as may be necessary to rectify any environmental damage caused by the violation of the conditions or further make an order for damages to be paid out for any persons affected by such violation.

Amendment and cancellation of certificate

6. The Director-General may amend, suspend or cancel the Environmental Impact Assessment certificate issued to any person if—

- (a) the miner to whom such certificate was issued contravenes or fails to comply with the requirements of their Environmental Management Plan;
- (b) the person issued with the certificate acts in contravention of the conditions set out in sections 3 and 5;
- (c) any other circumstances arise during implementation that warrant amendment of the Environmental Impact Assessment certificate:

Provided that cancellation or suspension or amendment shall not be limited to the above circumstances but shall also encompass the circumstances provided for in section 104 of the Act.

Rehabilitation measures during and at cessation of the alluvial mining, closure of the mine or by order of court

7. (1) During operation, the miner shall ensure progressive rehabilitation of works undertaken, restoration of mined areas, ensure pollution abatement, erosion and siltation control, re-vegetation of mined areas and monitoring of water quality and quantity.

(2) Rehabilitation of the environment at closure of the mining operation or by court order shall be the sole responsibility of the proponent and in the case of operations conducted under an EIA certificate; rehabilitation shall be carried out in accordance with the guidelines set out in the Environmental Management Plan (EMP) and rehabilitation plan set out in the EIA document submitted and certified by the Agency.

(3) Where alluvial mining was being conducted contrary to the provisions of this instrument without an EIA certificate, a magistrate in handing down an order for rehabilitation may do so in consultation with the Agency.

(4) Any rehabilitation work shall only be deemed complete upon inspection and issuance of a clearance certificate by the Agency.

(5) Furthermore, in the event of latent effects on the environment being experienced even after issuance of a clearance certificate, it shall be the miner's responsibility to implement measures to rectify such effects.

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(6) A compliance certificate to ensure on-going rehabilitation shall be issued annually by the Agency.

Inspections

8. (1) An inspector may conduct inspections on any alluvial mining site at any reasonable time.

(2) All alluvial miners shall have certificates issued in terms of the EIA report displayed at the mining sites at all times.

(3) Any person who obstructs an inspector from carrying out his or her duties under this instrument and or does not produce an EIA certificate on request by such officer shall be guilty of an offence and liable to an environmental penalty fine not exceeding level 14 or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.