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CONTENTS • INHOUD

No.

Page
No. Gazette
 No.**GENERAL NOTICES****Mineral Resources, Department of***General Notices*

231	Geoscience Amendment Bill (B2009): For public comments	3	33014
232	Publication of memorandum of objects of the Geoscience Amendment Bill (B2009)	4	33014

GENERAL NOTICES

NOTICE 231 OF 2010

DEPARTMENT OF MINERALS RESOURCES

GEOSCIENCE AMENDMENT BILL [B 2009]

I, Suzan Shabangu, Minister of Mineral Resources, hereby in terms of Rule 241(b), publish for public comments, the Geoscience Amendment Bill [B 2009].

Any person who wishes to submit representations or comments in connection with the Bill are invited to do so within 30 days of the date of this notice. All representations and comments must be submitted in writing to the Director-General of the Department of Mineral Resources:

By post to: The Director-General: Mineral Resources
Attention: Ms Faith Nzimande
Private Bag X59
Pretoria
0001

By email to andre.andreas@dme.gov.za

SUZAN SHABANGU
MINISTER OF MINERAL RESOURCES

NOTICE 232 OF 2010**DEPARTMENT OF MINERAL RESOURCES****PUBLICATION OF MEMORANDUM OF OBJECTS OF THE GEOSCIENCE
AMENDMENT BILL [B 2009]**

The Minister of Minerals and Energy intends introducing the Geoscience Amendment Bill, [B 2009], in the National Assembly during March 2010. A memorandum of objects of the Amendment Bill is hereby published in accordance with Rule 241(3) of the Rules of the National Assembly.

1. OBJECTS OF BILL

The main object of the Bill is to mandate the Council for Geoscience to be the custodians and curators of geotechnical information, to be a national mandatory advisory authority in respect of geohazards related to infrastructure development, to undertake exploration and prospecting research in the mineral and petroleum sectors and to add to the functions of the Council.

The Bill seeks to put mechanism in place to address problems which are associated with infrastructure development on dolomitic land.

The Bill empowers the Council for Geoscience to be the custodian of all geotechnical data with the purpose of compiling a complete geotechnical risk profile of the country;

The Bill further enables the Council for Geoscience to become the custodian of technical information relating to exploration and mining.

The short title of the principal Act is also to be amended.

2. DEPARTMENTS/ PARTIES CONSULTED

The following Departments and statutory bodies were consulted on the Bill:

National Treasury

Public Works

Housing

Education

Water Affairs

Local and Provincial Government

South African Local Government Association

3. PARLIAMENTARY PROCEDURE

The Department of Mineral Resources is of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

Once the Bill has been tabled in Parliament, a copy can be obtained from:

- (a) the Government Printers – Cape Town and Pretoria;
- (b) the Chief Director: Mineral and Mining Policy, Department of Mineral Resources, Mineralia Centre, 234 Visagie Street, Pretoria, Tel: 012 317 8493;
- (c) the Department of Mineral Resources website, namely www.dme.gov.za.

REPUBLIC OF SOUTH AFRICA

GEOSCIENCE AMENDMENT BILL

(The English text is the official text of the Bill)

(MINISTER OF MINERAL RESOURCES)

[B 2009]

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.

BILL

To amend the Geoscience Act, 1993, so as to mandate the Council for Geoscience to be the custodians of geotechnical information, to be an advisory authority in respect of geohazards related to infrastructure development, to undertake exploration and prospecting research in the mineral and petroleum sectors and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 100 of 1993

1. Section 1 of the Geoscience Act, 1993, (hereinafter referred to as the Principal Act), is hereby amended—

- (a) by the substitution for the definition of "chairman" of the following definition:
- "["chairman"] "chairperson" means the [chairman] chairperson of the [Management] Board appointed in terms of section 4;"**
- (b) by the substitution for the definition of "discovery" of the following definition:
- "discovery" means a technological or scientific discovery, [but excluding] including a discovery of a mineral deposit;"**
- (c) by the substitution for the definition of "Executive Management Committee" of the following definition:
- "["Executive Management Committee" means the Executive Management Committee] "Executive Committee" means the Executive Committee of the Board referred to in section 15;"**
- (d) by the substitution for the definition "executive officer" of the following definition:
- "["executive officer" means the person appointed in terms of section 18 as executive officer of the Council] "Chief Executive Officer" means the person appointed in terms of section 18 as the Chief Executive Officer of the Council;"**
- (e) by the substitution of the definition of the 'Management Board' of the following:
- "["Management Board"] "Board" means the [Management] Non Executive Board referred to in section 4;"**

- (f) by the substitution for the definition of mineral of the following definition:

“**“mineral”** means a mineral as defined in section 1 of the **[Minerals Act, 1991 (Act No. 50 of 1991)] Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)**.”

- (g) by the substitution for the definition of “Minister” of the following definition:

“**“Minister”** means the Minister of **[Mineral and Energy Affairs] Mineral Resources**.”

- (h) by the insertion after the definition of the “Minister” of the following definition:

“**“petroleum”** means petroleum as defined in section 1 of the **Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)**.”

- (i) by the substitution for the definition of “prospecting” of the following definition:

“**“prospecting”** means prospecting as defined in section 1 of the **[Minerals Act, 1991 (Act No. 50 of 1991)] Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)**.”

Substitution of section 3 of Act 100 of 1993

2. The following section is hereby substituted for section 3 of the principal Act:

"Objects of Council**3. The objects of the Council are to—**

- (a) promote the search for, and exploitation of, any mineral and petroleum in the Republic;
- (b) undertake research in the field of geoscience,
- (c) act as a national advisory authority in respect of geohazards related to infrastructure development and to furnish specialized geoscientific services."

Substitution of section 4 of Act 100 of 1993

3. The following section is hereby substituted for section 4 of the principal Act:

"[Management] Board

4. (1) With a view to the achievement of the objects of the Council, its affairs shall be managed by the **[Management]** Board, which shall, subject to the provisions of this Act, determine the policy and goals of the Council and exercise control over the performance of the functions of the Council.

(2) The **[Management]** Board shall consist of—

- (a) the **[chairman]** chairperson, who shall be appointed by the Minister;
- (b) at least **[eight]** nine but not more than **[ten]** 12 other members appointed by the Minister, of whom—

- (i) one shall be an official of the Department of **[Mineral]** Mineral Resources **[Affairs]** nominated by the Director-General: **[Mineral]** Mineral Resources **[Affairs]**;
- (ii) one shall be an official of the Department of Water Affairs and Environmental Affairs nominated by the Director-General: Water Affairs and Environmental Affairs;
- (iii) one shall be an official of the Department of **[Regional and]** Rural Development and Land Reform nominated by the Director-General: of **[Regional and]** Rural Development and Land Reform;
- (v) one shall be a person who is involved in the mining industry **[and was nominated by the Chamber of Mines;]**
- (vi) one shall be a person who is involved **[geoscientific education or training and was nominated by the Geological Society of South Africa]** in the petroleum industry;
- (vii) one shall be a person who is involved in commerce; and
- [(viii) one shall be a person with knowledge or experience of mineral activities who is involved in industrial development and was nominated by the Industrial Development Corporation; and]**
- (ix) one shall be an official of the department of Science and Technology nominated by the Director-General: Science and Technology;
- (x) one shall be an official of the department of National Treasury nominated by the Director-General: National Treasury; and
- (c) the **[executive officer]** Chief Executive Officer, who shall serve *ex officio* as a member of the **[Management]** Board.

[(3) After the expiry of the term of office of the first chairman the Minister shall appoint the chairman after consultation with the other members of the management Board.]

- (4) The Minister may, whenever he or she deems it necessary or expedient, subject to the provisions of subsection (1), appoint an alternate member for any member of the **[Management]** Board;
- (5) The members or alternate members of the **[Management]** Board shall be persons who—
- (a) have a special knowledge of or experience in any aspect of the Council's functions; or
 - (b) by virtue of the offices occupied by them are able to make a contribution to the achievement of the objects of the Council.

Substitution of section 5 of Act 100 of 1993

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

"Functions of Council

5. (1)(a) undertake geoscientific research and related technological development;
- (b) compile and develop a comprehensive and integrated collection of knowledge and information of geology, geochemistry, geophysics, engineering geology, economic geology, geochronology, palaeontology, geohydrological aquifer systems, geotechnical investigations, marine

- geology, geomagnetism, seismology, geohazards and environmental geology;
- (bA) promote onshore and offshore exploration for, and production of, petroleum;
- (bB) promote the search for, and the exploitation of, any minerals in the Republic;
- (bC) bring to the notice of the Minister any information in relation to the exploration and production of petroleum, prospecting for and mining of mineral resources which is likely to be of use or benefit to the Republic
- (c) serve as the national custodian of geotechnical information, exploration information and all other geoscientific information relating to the earth, the marine environment and geomagnetic space;
- (d) (i) study the distribution and nature of mineral and petroleum resources; and
- (ii) study the geo-environmental aspects of past, current and future mineral and petroleum exploitation;
- (e) study the use of the surface, the subsurface of the land and the sea bed, and from a geoscientific viewpoint advise government institutions and the general public on the judicious and safe use thereof;
- (eA) review and evaluate all geotechnical reports in respect of geohazards that may affect all infrastructure development at prescribed tariffs;
- (eB) all geotechnical reports pertaining to infrastructure development shall be submitted to the Council for evaluation.
- (f) develop and maintain the National Geoscientific Library, National Geoscientific Information Centre, the National Borehole Core Depository,

the National Geophysical and Geochemical Test Sites, and the
[Geological Museum as part of the Transvaal Museum] National
Geoscience Museum and the National Seismological Network;

- (g) conduct investigations and render specialized services to public and private institutions;
 - (h) (i) undertake research of its own accord; or
 - (ii) undertake research on behalf of the State or any other government institution, or on behalf of any person or institution, or support such research financially; **[and]**
 - (iii) undertake any exploration and prospecting research activities with the view to attracting investment into the mineral and petroleum resource sector; and
 - (i) do anything that is necessary for or conducive to the achievement of the said objects.
- (2) In order to promote relevant research and to support its objects the Council may—
- (a) make grants to universities, **[technikons,]** colleges and other educational and scientific institutions in aid of research by their staff or for the establishment of facilities for such research;
 - (b) undertake joint research projects with government departments **[of State]**, universities, **[technikons,]** colleges, other educational and scientific institutions and other persons;
 - (c) co-operate with educational authorities and scientific or technical societies for the promotion of the education and training of researchers, technical

- experts and other supporting personnel in schools, **[technikons]** colleges and universities;
- (d) grant study bursaries and loans to researchers, and make monetary contributions for research programmes in support of its own **[manpower]** human resource development requirements; and
- (e) co-operate with persons and institutions undertaking research in other countries by the exchange of geoscientific knowledge and information by means of international meetings and research projects.
- (f) Serve as the advisory authority to various local, provincial and national authorities in respect of geohazards and geology that may affect infrastructure development through the production of geoscientific and geological information.
- (3) In order to perform the functions and achieve the objects of the Council, the **[executive officer]** Chief Executive Officer may—
- (a) on behalf of the Council conclude agreements with any person or institution or, subject to the provisions of section 8, with any government or administration, on the conditions upon which the **[Management]** Board and that person, institution, government or administration may agree;
- (b) act as the official representative of the Council at all national and international organizations and meetings;
- (c) defend legal proceedings instituted against the Council and institute legal proceedings connected with its functions;
- (d) with the approval of the Minister, granted with the concurrence of the Minister of **[State Expenditure]** Finance, for or on behalf of the Council

purchase or otherwise acquire or possess or hire immovable property, and alienate, let, pledge or otherwise encumber such property;

(e) with the approval of the Minister, granted with the concurrence of the Minister of Finance, raise money by way of loans on such terms and conditions and against such security as the **[Management]** Board may deem expedient;

(f) hire or let services against payment;

(g) produce and sell reports, maps, computer programs and other intellectual property which the Council generates in the course of its research;

(h) do everything that is conducive to the performance of the functions or the achievement of the functions of the Council or is calculated, directly or indirectly, to enhance the value of or render profitable the property or rights of the Council.

(4) The Council shall, in addition to its other functions in terms of this Act or any other law—

(a) perform such functions and undertake such investigations or research as the Minister may assign to it; and

(b) advise the Minister on research in the field of geoscience.

(5) The functions of the Council mentioned in this section shall be performed by the **[executive officer]** Chief Executive Officer, except in so far as they have been assigned by this Act or by the Minister to any other person.”.

Amendment of section 6 of Act 100 of 1993

5. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following:

“(1) Notwithstanding the provisions of any other law, the Council shall have the right to inspect any information of the Department of **[Mineral]** Mineral Resources [Affairs] which the Minister, or an officer of the said Department designated by the Minister, may approve on such conditions as the Minister or the said officer may determine.”.

Amendment of Section 7 of Act 100 of 1993

6. Section 7 of the principal Act is hereby amended by the substitution for paragraph (a) of the following;

(a) undertake any mining development **[or undertake prospecting specifically with a view to mining development]** for itself; and”.

Amendment of Section 8 of Act 100 of 1993

7. Section 8 of the principal Act is hereby amended—

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

“(1) The Council may at the request of **[or with the prior approval of]** the Minister or for the purposes of furthering its objectives undertake geoscientific research and perform generic geological functions in any country or territory

outside the Republic on behalf of any person, institution, government or administration.”.

(b) by the substitution for subsection (3) of the following:

“(3) Notwithstanding anything to the contrary contained in this Act, geoscientific research and the performance of generic geological functions under subsection (1) shall be undertaken on such terms and conditions as may be agreed upon between the **[Management Board]** Council and the person, institution, government or administration on whose behalf the research and the performance of functions are to be undertaken **[, and as approved by the Minister]**.”.

(c) by the addition after subsection (4) of the following subsection:

“(5) The Board shall advise the Minister of activities contemplated under subsection (1).”.

Insertion of sections 8A and 8B in Act 100 of 1993

8. The following sections are hereby inserted after section 8 of the principal Act:

“Appointment of the geotechnical appeal committee

8A. The Board shall, in consultation with the Minister, appoint a geotechnical appeal committee comprising geotechnical, legal and other relevant experts.

Internal appeal process

8B. (1) Any person who is aggrieved by an administrative decision taken under this Act may, within 30 days of becoming aware of such decision, lodge with the Chief Executive Officer of the Council an appeal in writing in which he or she sets out in detail the grounds on which his or her appeal is based.

(2) The Chief Executive Officer shall communicate decisions of the appeal committee within a period of 60 days from the date of lodging an appeal.

(3) Subject to section 7(2)(c) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), no court shall review an administrative decision contemplated in subsection (1) unless the remedy provided for in that subsection has first been exhausted.

(4) Sections 6, 7(1), and 8 of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000), apply to any court proceedings contemplated in this section."

Substitution of section 9 of Act 100 of 1993.

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

**"Period of office and conditions of service of members of [Management]
Board, and filling of vacancies**

9. (1) A member or an alternate member of the **[Management]** Board, except the **[executive officer]** Chief Executive Officer, shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his or her appointment.

(2) Any person whose term of office as a member or an alternate member of the **[Management]** Board has expired[,] shall be eligible for reappointment.

(3) If a member or alternate member of the **[Management]** Board for any reason vacates his or her office, the Minister may appoint a person to act in the place of such member or alternate member for the unexpired period of his or her term of office.

[(4) The Minister may at any time terminate the period of office of a member or alternate member of the Management Board if such member is unable to perform his duties or is guilty of misconduct as defined in section 12]

(5) With the exception of the **[executive officer]** Chief Executive Officer or a member or an alternate member who is in the full-time employment of the State or the Council, the members or alternate members of the **[Management]** Board shall be appointed on such conditions, including conditions relating to the payment of remuneration and allowances, as the Minister may determine with the concurrence of the Minister of **[State Expenditure]** Finance.

Substitution of Section 10 of Act 100 of 1993

10. The following section is hereby substituted for section 10 of the principal Act:

(1) The Minister shall appoint a member of the **[Management]** Board as **[vice-chairman]** deputy-chairperson to act as **[chairman]** chairperson whenever the **[chairman]** chairperson is unable to perform his or her functions as **[chairman]** chairperson.

(2) The **[chairman or vice-chairman]** chairperson or deputy-chairperson, or in their absence a member of the **[Management]** Board elected by the members present, shall preside at a meeting of the **[Management]** Board.

(3) The provisions of this Act shall not prohibit the **[executive officer]** Chief Executive Officer from being appointed by the Minister as **[chairman]** chairperson of the **[Management]** Board for such period as the Minister may determine.

Substitution of section 11 of Act 100 of 1993

11. The following section is hereby substituted for section 11 of the principal Act:

"Limitation of powers of **[Management] Board and **[executive officer]**
Chief Executive Officer**

11. (1) The Minister may from time to time reserve any matter provided for in this Act, as a matter in respect of which a decision of the **[Management]** Board or

the **[executive officer]** Chief Executive Officer shall be subject to the approval of the Minister.

(2) The Minister and the Minister of **[or the Minister and the Minister of State Expenditure]** Finance, as may be required, may from time to time jointly reserve any financial matter provided for in this Act, as a matter in respect of which a decision of the **[Management]** Board or the **[executive officer]** Chief Executive Officer shall be subject to the consent of the Minister with the concurrence of the Minister of **[State Expenditure, as the case may be]** Finance. "

Amendment of Section 12 of Act 100 of 1993

12. Section 12 of the principal Act is hereby amended—

(a) by the substitution in paragraph (d) for subparagraphs (i) and (ii) of the following:

"(i) is in terms of the provisions of the **[Electoral Act, 1979 (Act No. 45 of 1979)]** Electoral Act, 1998 (Act No. 73 of 1998), nominated as a candidate for election as a member of Parliament; or

(ii) is in terms of the **[Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983)]** Constitution of the Republic of South Africa, 1996, designated or appointed as a member of Parliament or any other legislative or executive authority of the State."

Amendment of Section 13 of Act 100 of 1993

13. Section 13 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of the following:

"(1) A member of or an alternate member of the **[Management]** Board, except the **[executive officer]** Chief Executive Officer, shall vacate his or her office if—".

(b) by the substitution for paragraph (c) of the following:

"(c) (i) in the case of a member, he or she has been absent from more than two consecutive meetings of the **[Management]** Board without the leave of the **[chairman]** chairperson; or

[(ii)] in the case of the **[chairman]** chairperson, he or she has been so absent without the leave of the **[Management]** Board; or

(ii) in the case of an alternate member, he or she has without any reason acceptable to the **[chairman]** chairperson been so absent during the absence, or a vacancy in the office, of the member in whose stead he or she was appointed as a member or an alternate member,

unless the **[Management]** Board condones his or her absence on good cause shown;"

(c) by the deletion of paragraph (d).

(b) by the substitution for paragraph (e) of the following:

"(e) he or she ceases to hold the qualification by virtue of which he or she was appointed as a member or an alternate member of the **[Management]** Board; or

(c) by the addition after paragraph (f) of the following:

"(2) the Minister may at any time terminate the period of office of a member of the Board if such member is unable to perform his or her duties or is guilty of misconduct as contemplated in section 12.

(3) the Minister may on good cause shown dissolve the Board and appoint a new Board in accordance with section 9(3)."

Repeal of section 14 of Act 100 of 1993

14. Section 14 of the principal Act is hereby repealed.

Substitution of section 15 of Act 100 of 1993

15. The following section is hereby substituted for section 15 of the principal Act:

"[Executive Management] Board Committee

15. (1) The **[Management]** Board may **[nominate an executive management]** establish a Committee, which shall, subject to the directions of the **[Management]** Board, during the periods between meetings of the **[Management]**

Board perform such functions of the **[Management]** Board as the **[Management]** Board may determine from time to time.

(2) The **[Executive Management]** Committee shall not be competent, except in so far as the **[Management]** Board may otherwise direct, to set aside or vary a decision of the **[Management]** Board.

(3) The **[Executive Management]** Committee shall consist of the **[executive officer and the chairman]** chairperson and **[the vice-chairman]** deputy-chairperson of the **[Management]** Board, and as many, but not fewer than two, other members of the **[Management]** Board as the **[Management]** Board may determine.

(4) The **[chairman]** chairperson or in his or her absence the **[vice-chairman]** deputy-chairperson of the **[Management]** Board shall be the **[chairman]** chairperson of the **[Executive Management]** Committee.

(5) The provisions of section 17 (3) and (4) shall *mutatis mutandis* apply in respect of meetings of the **[Executive Management]** Committee.

(6) The **[Management]** Board shall not be discharged from responsibility for the performance of any function entrusted to the **[Executive Management]** Committee in terms of this section.

(7) The **[Management]** Board may vary or set aside any decision of the **[Executive Management]** Committee [, except a decision in consequence of which a payment has been made or any other right has been granted to any person]. “.

Repeal of section 16 of Act 100 of 1993

16. Section 16 of the principal Act is hereby repealed.

Substitution of section 17 of Act 100 of 1993

17. The following section is hereby substituted for section 17 of the principal act:

“Meetings of [Management] Board

17. (1) The meetings of the **[Management]** Board shall be held at such times and places as the **[Management]** Board may determine: Provided that the first meeting shall be held at such time and place as the **[chairman]** chairperson may determine.

(2) The **[chairman]** chairperson, or in his or her absence the **[vice-chairman]** deputy-chairperson, may at any time in his or her discretion call a special meeting of the **[Management]** Board, which shall be held at such time and place as the **[chairman or the vice-chairman]** chairperson or the deputy-chairperson, as the case may be, may direct.

(3) The quorum for a meeting of the **[Management]** Board shall be a majority of its members.

(4) A decision of the **[Management]** Board shall be taken by resolution of a majority of the members present at any meeting of the **[Management]** Board and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her deliberative vote as a member of the **[Management]** Board.

(5) No decision taken by or act performed under the authority of the **[Management]** Board shall be invalid by reason only of a casual vacancy on the **[Management]** Board or of the fact that a person who was not entitled to sit as a

member of the **[Management]** Board, sat as a member at the time when the decision was taken or that act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the **[Management]** Board who were present at the time and entitled to sit as members.

(6) For the purposes of this section "member" shall include an alternate member present at a particular meeting of the **[Management]** Board during the absence, or a vacancy in the office, of the member for whom he or she has been appointed.

(7) The **[Management]** Board may with the approval of the Minister accord observer status at any meeting of the **[Management]** Board to designated representatives of any person, institution, government or administration on whose behalf the Council is doing or has done geoscientific research or is performing or has performed generic geological functions in terms of section 8.”.

Substitution of section 18 of Act 100 of 1993

18. The following section is hereby substituted for section 18 of the principal Act:

“[Executive officer] Chief executive Officer of Council

18. (1) (a) The **[Management]** Board shall with the concurrence of the Minister appoint **[an employee of the Council as executive officer]** a Chief Executive Officer of the Council.

(b) The **[executive officer]** Chief Executive Officer of the Council shall hold office for a period not exceeding five years, but shall be eligible for reappointment.

(2) The **[executive officer]** Chief Executive Officer shall be responsible for the management and the performance of the functions of the Council by virtue

of this Act and such functions as may be assigned to him or her by the **[Management Council]** Board or the Minister in terms of the provisions of this Act or by the provisions of this Act or any other law, and shall report on such matters as the **[Management]** Board or the Minister may determine.

(3) The **[executive officer]** Chief Executive Officer shall perform his or her functions contemplated in subsection (2) in accordance with the policy and goals determined by the **[Management]** Board and subject to the control of the said Board.

(4) Whenever the **[executive officer]** Chief Executive Officer is unable to carry out his or her duties or perform his or her functions for any reason, or whenever there is a vacancy in the office of **[executive officer]** Chief Executive Officer, the **[Management]** Board after consulting the Minister may appoint a person **[designate an employee of the Council]** to act as **[executive officer]** Chief Executive Officer during such inability, or until **[an executive officer]** a Chief Executive Officer has been appointed in terms of subsection (1), and that **[employee]** person shall, while so acting, have all the powers and perform all the functions of the chief executive officer.

(5) The **[executive officer]** Chief Executive Officer shall be appointed on such conditions, including conditions relating to the payment of remuneration, allowances, subsidies and other benefits, as the **[Management]** Board may determine in accordance with a system approved from time to time by the Minister with the concurrence of the Minister of **[State Expenditure]** Finance.”.

Amendment of section 19 of Act 100 of 1993

20. Section 19 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following:

“(a) In addition to the employees referred to in subsection (1)(a), be assisted in the performance of his or her functions by officers and employees in the employment of the State who have been placed at the disposal of the Council in terms of the provisions of section 14(3)(a) of the Public Service Act, **[1984 (Act No. 111 of 1984)]** 1994 (Proclamation No. 103 of 1994).”.

Amendment of Section 20 of Act 100 of 1993

21. Section 20 of the principal Act is hereby amended—

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

“(2) (a) The **[executive officer]** Chief Executive Officer shall utilize the funds of the Council for defraying expenses in connection with the performance of its functions.

(b) The **[executive officer]** Chief Executive Officer shall utilize any money contemplated in subsection (1)(a) in accordance with approved statement of its estimated income and expenditure referred to in subsection (6): Provided that, subject to the provisions of paragraph (a), the **[executive officer]** Chief Executive Officer may with approval of the **[Management]** Board, granted with the concurrence of the Minister, utilize any amount or portion of any

amount required to be utilized for a particular purpose in connection with that matter: Provided further that the **[executive officer]** Chief Executive Officer may with approval of the **[Management]** Board, granted with concurrence of the Minister, utilize any balance of the money remaining at the end of the Council's financial year in question for any expenses in connection with the performance of its functions.

(c) The **[executive officer]** Chief Executive Officer shall utilize any donations or contributions contemplated in subsection (1)(e) for such purposes and in accordance with such conditions, if any, as may be specified by the donor or contributor in question. “.

(b) by the substitution for subsection (3) of the following subsection:

“(3) The **[executive officer]** Chief Executive Officer may in respect of any work performed or services rendered by him or her under this Act, or for the use of the facilities of the Council or rights resulting from any discoveries, inventions or improvements made by employees of the Council, charge such fees or make such other financial arrangements as the **[Management]** Board may deem fit. “.

(c) by substitution for subsection (4) of the following:

“(4) The **[executive officer]** Chief Executive Officer shall open an account in the name of the Council with an institution registered as a bank in terms of the **[Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990)]**, Banks Act, 1990 (Act No. 94 of 1990) and shall deposit therein all money received in terms of this section.”.

(d) by substitution for subsection (5) of the following:

“(5) (a) The **[executive officer]** Chief Executive Officer may invest any unexpended portion of the Council's funds with the Corporation for Public Deposits established by section 2 of the **[Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984)]** Banks Act, 1990 (Act No. 94 of 1990), or, subject to the approval of the Minister acting with the concurrence of the Minister of **[State Expenditure]** Finance, dispose thereof in any other manner.

(b) The **[Management]** Board may with the approval of the Minister, granted with the concurrence of the Minister of **[State of Expenditure]** Finance, establish such reserve funds and deposit therein such amounts as it may deem necessary or expedient.”

e) by the substitution in subsection (6) for paragraph (a) of the following:

“(a) The **[Management]** Board—

(i) shall in each financial year, at a time determined by the Minister, submit a statement of the Council's estimated income and expenditure during the following financial year;

(ii) May at any stage in any financial year submit supplementary statements of the Council's estimated expenditure for that financial year, to the Minister for his or her approval, granted with the concurrence of the Minister of **[State Expenditure]** Finance .”.

Amendment of Section 21 of Act 100 of 1993

22. Section 21 of the principal act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following:

“(1) The **[executive officer]** Chief Executive Officer shall be the accounting officer charged with the responsibility of accounting for all money received and all payments made by the Council.

(2) The accounting officer and the **[Management]** Board shall comply with the provisions of the **[Reporting by Public Entities Act, 1992 (Act No. 93 of 1992)]** Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

Amendment of Section 22 of Act 100 of 1993

23. Section 22 of the principal act is hereby amended—

(a) by the substitution for subsection (2) of the following:

“(2) If a person who is in the employment of the Council and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount may, subject to the provisions of subsections (4), (5) and (6), be deducted from his or her monthly salary: Provided that such deduction shall not in any month exceed a fourth of his or her monthly salary.”.

- (b) by the substitution for subsection (5) of the following:

“(5) A person who has in terms of subsection (1) been ordered to pay an amount may within a period of 30 days from the date of such order appeal in writing against such order to the **[Management]** Board, stating the grounds for his or her appeal and the **[Management]** Board may, after such investigation as it may deem necessary, dismiss the appeal, or order that appellant be exempted, either wholly or partly, as the **[Management]** Board may deem fair and reasonable, from the payment of such amount.”.

- (c) by the substitution for subsection (6) of the following:

“(6) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the **[Management]** Board under subsection (5), apply within a period of 30 days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount , and the court may upon such an application, if it is not convinced by the accounting officer on the merits of the case that the order was rightly made or that the amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.”.

Substitution of Section 23 of Act 100 of 1993

22. The following section is hereby substituted for section 23 of the principal Act:

"Delegation of powers and assignment of functions"**23. (1) The [Management] Board may—**

(a) on such conditions as it may determine, in writing delegate to the [chairman] chairperson or any other member of the [Management] Board, the [executive officer] Chief Executive Officer or any other employee of, or holder of an office with, the Council or to a committee established under section 15 [or 16], any power conferred upon the [Management] Board by or under this Act;

(b) in writing assign to the chairman [chairperson] or any other member of the [Management] Board, the [executive officer] Chief Executive Officer or any other employee of, or holder of an office with, the Council or a committee established under section 15 [or 16], any function assigned to the [Management] Board by or under this Act.

(2) The [executive officer] Chief Executive Officer may—

(a) in writing delegate to an employee of, or the holder of an office with, the Council any power conferred upon him or her by or under this Act in his or her capacity as [executive officer] Chief Executive Officer; or

(b) in writing assign to such employee or holder of an office any function assigned to him or her by or under this Act in the said capacity.

(3) Any delegation or assignment under subsection (1) or (2) may be made subject to such conditions and restrictions as may be determined by the [Management] Board or by the [executive officer] Chief Executive Officer, as the case may be, and may be rescinded or amended by the

[Management] Board or the **[executive officer]** Chief Executive Officer, as the case may be.

(4) The **[Management]** Board and the **[executive officer]** Chief Executive Officer shall not be divested of any power or function delegated or assigned under subsection (1) or (2) by **[it or him]** the Board or the Chief Executive Officer, and may **[, subject to the provisions of subsection (5)]**, amend or withdraw any decision made in the exercise of such delegated power or in the performance of a function so assigned.

[(5) A decision made in the exercise of a power so delegated and in consequence of which a payment has been made or any right has been conferred upon any person, shall not be amended or withdrawn.]

(6) Where a power or function is delegated or assigned under subsection (1) or (2) to the holder of an office, such power or function shall be deemed to have been delegated or assigned to the serving holder of such office or to any person acting in his or her stead.

(7) The Minister may issue a directive to authorize Council officials to enter any land of the government Republic of South Africa in order to execute Council's mandate and save where there is prohibition under any other law. "

Amendment of Section 24 of Act 100 of 1993

23. Section 24 of the principal act is hereby amended—

- (a) by the substitution for subsections (2), (3), (4), (5), and (6) of the following:

- “(2) The **[Management]** Board may make the discoveries, inventions and improvements referred to in subsection (1) and the rights in which are vested in the Council available for use in the public interest subject to such conditions and the payment of such fees or royalties as the **[Management]** Board may determine.
- (3) If the rights in any discovery, invention or improvement are vested in the Council in terms of subsection (1), the **[Management]** Board may award to the person responsible for the discovery, invention or improvement such bonus as it deems fit and make provision for financial participation by him or her in the profits derived from such discovery, invention or improvement to such extent as the Minister may determine with concurrence of the Minister of **[State Expenditure]** Finance.
- (4) The **[Management]** Board may on behalf of the Council apply for a patent in respect of any discovery, invention or improvement contemplated in subsection (1) and the Council shall for the purposes of the Patents Act, 1978 (Act No. 57 of 1978) be regarded as the assignee of the discoverer or inventor in question.
- (5) The rights in a discovery, invention or improvement made by the employees of the Council in the course of an investigation for or on behalf of another person, government or administration shall vest in the Council, unless otherwise agreed upon between the **[Management]** Board and the person, government or administration concerned.
- (6) The provisions of this section shall not apply in respect of a discovery or an invention or improvement contemplated in subsection (1) if, in the

opinion of the **[Management]** Board, such discovery, invention or improvement was made by the person concerned otherwise than—

- (a) in the course of his or her employment as an employee of the Council;
- (b) during the performance of functions in respect of which he or she has been placed at the disposal of the Council in terms of section 19(2);
- (c) in the course of any investigation or research with which he or she assisted the Council; or
- (d) in the course of any research in respect of which he or she receives a bursary or grant-in-aid from the Council, and which is not connected with such employment, investigation or research.”.

Amendment of Section 25 of Act 100 of 1993

24. Section 25 of the principal act is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) in subsection (1) of the following:

“(1) The Minister may after consultation with the **[Management]** Board, make regulations as to—”.

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

“(c) The procedure at meetings of the **[Management]** Board;”

Amendment of Section 26 of Act 100 of 1993

23. Section 26 of the principal act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs:

“(b) which immediately prior to the commencement of this Act was being utilized by the Geological Survey Branch of the Department of Mineral **[and Energy Affairs]** Resources; and

(c) which the Minister, with concurrence of the Minister of **[State Expenditure]** Finance, and where applicable, the Minister of **[Public Works]** Rural Development and Land Reform, may designate,”.

(b) by the substitution for subsection (5) of the following:

“(5) The Council may, with the approval of the Minister, granted with the concurrence of the Minister of **[State Expenditure]** Finance and the Minister of public Works, alienate immovable property that has passed to the Council in terms of subsection (1).”.

Short title and commencement

23. This Act is called the Geoscience Amendment Act, 2009, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.
