



DLA CLIFFE DEKKER  
HOFMEYR

# ALERT

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# ENVIRONMENTAL

## POTENTIAL DELAYS TO MINING OPERATIONS DUE TO THE REQUIREMENTS FOR WASTE MANAGEMENT LICENSES

Waste management licences (WMLs) are required from the Minister of Mineral Resources for residue stockpiles and deposits relating to prospecting, mining, exploration or production activities from 2 September 2014. Residue stockpiles and deposits regulated under the Mineral and Petroleum Resources Development Act, No 28 of 2002 were previously exempt from the National Environmental Management Waste Act, No 59 of 2008 (Waste Act), which has been changed by the amendments under the National Environmental Management Laws Amendment Act, No 25 of 2014.

For a WML to be required, residue stockpiles and deposits would need to constitute 'waste'. It would also be dependent on whether they fall within the listed waste management activities that require WMLs, which is dependent on the nature and size of the residue stockpiles and deposits.

This is unless an entity 'lawfully conducted' these

activities prior to 2 September 2014. Therefore, if residue stockpiles and deposits were not constructed with all of the required environmental consents, including environmental authorisations or water use licences before 2 September 2014, a WML would be required.

Obtaining WMLs can take up to one and half



*continued*

years. The consequence of the amendment is that the construction of such facilities may be delayed by these latest amendments.

From 2 September 2014, the Minister of Mineral Resources will also be the competent authority to issue WMLs for any waste management activities that are directly related to prospecting or exploration of a mineral or petroleum resource and extraction and primary processing of a mineral or petroleum resource.

The environmental regulation of mining operations has been an on-going dispute between the Minister of

Mineral Resources and the Minister of Environmental Affairs, with amendments previously being introduced to the environmental legislation to eventually transfer several competencies to the Minister of Environmental Affairs. Recent legal developments however show an about-turn in this, with the Minister of Mineral Resources set to retain this environmental competency. In addition, he has gained additional environmental regulatory powers, relating to issues such as mining waste.

*Sandra Gore*



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