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ENVIRONMENTAL ALERT

IN THIS ISSUE

Revived NEMLA Bill consultation process continues

The Minister of Environment, Forestry and Fisheries held a virtual meeting on 9 June 2020, to brief the nine provincial legislatures and Select Committee on Land Environment, Mineral Resources and Energy (Select Committee) on the latest draft of the National Environmental Management Laws Amendment Bill (NEMLA Bill or Bill) [B14D-2017]. Although this version of the Bill was previously passed by the National Assembly in November 2018 and transmitted to the National Council of Provinces (NCOP) for concurrence, the May 2019 elections resulted in it lapsing before the NCOP could process it. It was, however, revived by the NCOP in October 2019 and is currently with the provinces and Select Committee for consideration.

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The NEMLA Bill proposes various amendments to the National Environmental Management Act 107 of 1998 (NEMA), the National Environmental Management Amendment Act 62 of 2008 and various specific environmental management acts. Proposed amendments to these laws have been in the pipeline since the first version of the NEMLA Bill [B14-2017] was introduced to Parliament in May 2017.

We previously addressed the key amendments proposed by the latest version of the Bill, which commentary was published in March 2019 and is available [here](#):

By way of a refresher, some of the anticipated amendments to NEMA specifically include:

- the inclusion of a new section 2 principle that the environment sector must advance and promote the full participation of black professionals;
- Section 24 which deals with environmental authorisations makes provision for environmental management instruments, which either can replace the need for an environmental authorization or make it easier for an applicant to obtain one;

- the amendment enables when financial provision is required for activities requiring environmental authorisation, and will not just be limited to activities authorised in terms of the Mineral and Petroleum Resources Development Act 28 of 2002 such as mining and prospecting; and
- Section 28, which deals with the duty of care and the remediation of environmental damage, will be amended to extend the power to issue directives to municipal managers, as well as allow for a notification and an opportunity to make representations prior to the issuing of a directive.

Given the relevance of the NEMLA Bill on a provincial level, each of the nine provincial legislatures must now consider and debate the Bill and, as part of this process, meaningfully engage with the public by way of inviting written submissions or holding public hearings. The potential impact of COVID-19 lockdown on public hearings was raised as a concern during the meeting, particularly considering the importance of such hearings in engaging with communities. Each province will ultimately be responsible for the nature and scope of their respective consultation processes.

Considering the extensive amendments proposed under the NEMLA Bill, all stakeholders are encouraged to timeously seek advice on the potential impacts of the Bill's proposed amendments on their businesses or operations for purposes of meaningfully participating in the provincial consultation processes.

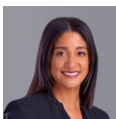
Alecia Pienaar, Margo-Ann Werner and Laura Wilson

OUR TEAM

For more information about our Environmental practice and services, please contact:



Allan Reid
Mining & Minerals Sector Head
Director
Corporate & Commercial
T +27 (0)11 562 1222
E allan.reid@cdhlegal.com



Margo-Ann Werner
Senior Associate
T +27 (0)11 562 1560
E margo-ann.werner@cdhlegal.com



Alecia Pienaar
Associate
T +27 (0)11 562 1017
E alecia.pienaar@cdhlegal.com

BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

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