

ENVIRONMENTAL, HEALTH AND SAFETY LAW UPDATES: MAY/ JUNE 2016



- Commercial Law
- Due Diligence Investigations
- Labour Law
- Corporate Law
- Company Secretarial Services
- International Trade Law
- Mergers & Acquisitions
- Health and Safety Law
- Environmental Law
- Property & Mining Law

1 Environmental Legal Updates

1.1 The National Water Act 36 of 1998

Section/ provision/ document	Amendment/ update/development	Comments
National Water Act 36 of 1998 - GN 600 in GG 40021 of 27 May 2016 - Restrictions on the use of water in terms of para. 6 (1) (i) of Schedule 3 to the Act for urban and irrigation purposes from the Armenia Dam in the Leeuw River water users association water supply scheme	Director General of the Department of Water and Sanitation believed that a potential water shortage exists in the Leeuw River Water Users Association water supply scheme. This is due to insufficient rains.	The following limitations apply from date of notice until further notice: <ul style="list-style-type: none"> • No water may be used for Irrigation purposes from the Armenia Dam. • 40% restriction on water use for Domestic and Industrial supply to the towns of Hobhouse and Thaba Patshoa within the Mantsopa Municipality.

1.2 National Environmental Management Act 107 OF 1998

Section/ provision/ document	Amendment/ update/development	Comments
National Environmental Management	The Minister of Environmental Affairs, hereby, give notice of my intention to adopt the standards for land-based	Members of the public have until the 6 th of June make written representations.

Act 107 of 1998 - GN 503 in GG 39971 of 6 May 2016 - Notice of intention to adopt draft standards for land-based abalone aquaculture - for comment	<p>abalone aquaculture, in terms of section 24(10)(a) read with section 24(10)(d) of the National Environmental Management Act, 1998.</p>	
National Environmental Management Act 107 of 1998 - GN 504 in GG 39971 of 6 May 2016 - Notice of intention to identify activities that may be excluded from the requirement to obtain an environmental authorisation but that must comply with standards for land-based abalone aquaculture - for comment	<p>National Environmental Management Act: Identification of activities that may be excluded from the requirement to obtain an environmental authorization.</p>	<p>Members of the public have until the 6th of June make written representations</p>
National Environmental Management Act 107 of 1998 – GN 520 in GG 39985 of 13 May 2016 - Draft amendments to the Regulations relating to qualification criteria, training and identification of, and forms to be used by, Environmental Management Inspectors	<p>The Minister of Environmental Affairs, gave notice to amend the Regulations relating to qualification criteria, training and identification of, and forms to be used by, Environmental Management Inspectors.</p>	<p>Members of the public have until the 13th of June make written representations</p>

published under GN R494 in GG 28869 of 2 June 2006 - for comment		
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1.3 National Environmental Management Protected Areas Act 57 of 2003.

Section/ provision/ document	Amendment/ update/development	Comments
National Environmental Management: Protected Areas Act: Regulations: Mountain Zebra Camdeboo Protected Environment	Minister of Environmental Affairs, published regulations conferring powers and duties to the Management Authority responsible for the Mountain Zebra Camdeboo Protected Environment, under section 86(1)(b) of the National Environmental Management: Protected Areas Act, 2003.	The purpose of Regulations is to — <ul style="list-style-type: none"> • provide for the management of the Mountain Zebra Camdeboo Protected Environment • conserve and restore biodiversity; • conduct integrated environmental management; • ensure the protected environment is managed and developed in an ecologically sound, economically viable, financially profitable and satisfying to the owners; • ensure that the use of natural and biological resources is undertaken in a sustainable manner; • control change in the use of land situated; • ensure that the supply of environmental goods and services is undertaken in an equitable and sustainable manner; • ensure that all developments as well as any other activities carried out and to be carried out are appropriate for the area.

1.4 National Environmental Management Biodiversity Act 10 OF 2004

Section/ provision/ document	Amendment/ update/development	Comments
National Environmental Management: Biodiversity Act: Biodiversity Management Plan for Clanwilliam Sandfish Labeo Seeberi	The Minister of Environmental Affairs, published the Biodiversity Management Plan for the Clanwilliam Sandfish, Labeo Seeberi, in terms of section 43(3) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	The Clanwilliam Sandfish Labeo Seeberi is listed by the IUCN Red Data List and by the South Africa's Threatened or Protected Species Regulations of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA). This recognize that species facing an extremely high risk of extinction and is therefore subject the restrictions imposed by national legislation on its removal from the wild, transport, trade and use.
National Environmental Management: Biodiversity Act 10 of 2004 - GN 427 in GG 39922 of 15 April 2016 - Draft Biodiversity Management Plan for Hartbeesspruit Ecosystem - for comment	Minister of Environmental Affairs, published the Biodiversity Management Plan for the Hartbeesspruit Ecosystem.	Members of the public are invited to submit to the Minister, within 30 days of the publication of the notice in a Gazette, written representations on, or objections to the draft Biodiversity Management Plan.

1.5 Disaster Management Act, 57 of 2002

Section/ provision/ document	Amendment/ update/development	Comments
Disaster Management Act 57 of 2002 - PN 72 in PG 3659 of 2 May 2016 - OR Tambo District Municipality -	Extended the declaration of OR Tambo District Municipality area as a Local State of Drought Disaster for a period of 30 days.	Local municipalities affected are; King Sabata Dalindyebo Local Municipality Mhlontlo Local Municipality Nyandeni Local Municipality Mhlontlo Local Municipality Port St Johns Local Municipality Ingquza Hill Local

Extension of the Declaration of a Provincial State of Drought Disaster: Local Municipalities: King Sabata Dalindyebo; Mhlontlo; Nyandeni; Mhlontlo; Port St Johns; and Ingquza Hill		Municipality
Disaster Management Act 57 of 2002 - PN 75 in PG 3663 of 6 May 2016 - Joe Gqabi District Municipality - Extension of the Declaration of a Local State of Drought Disaster - Local Municipalities - Elundini; Gariep; Maletswai; and Senqu.	<p>The Council of Joe Gqabi District Municipality at its council meeting held on the 24th of February 2016 resolve to extend the Local State of Drought Disaster.</p>	<p>The declared Local State of Drought Disaster. Areas affected are:</p> <ul style="list-style-type: none"> • Elundinin Local Municipality • Gariep Local Municipality • Maletswai Local Municipality • Senqu Local Municipality
Disaster Management Act 57 of 2002 - PN 76 in PG 3663 of 6 May 2016 - Joe Gqabi District Municipality - Extension of the Declaration of Local State of Organic Pollution Disaster - Ugie Town in the Elundini Local Municipality area	<p>The Council of Joe Gqabi District Municipality at its council meeting held on the 24th of February 2016 resolve to extend the Local State of Organic pollution Disaster.</p>	<p>The affected area is:</p> <ul style="list-style-type: none"> • Ugie Town
Disaster Management Act 57 of 2002 - PN 92 in PG 1665 of 9 May	<p>Premier of the Province of KwaZulu-Natal, under the Disaster Management Act, 2002 (Act No. 57 of 2002) as a result of the continuing protracted drought and the</p>	<p>The declaration of a state of disaster has been extended until the 10th of June 2016.</p>

2016 - Extension of the declaration of a KwaZulu-Natal Provincial State of Drought Disaster for a period of one month from 11 May 2016 to 10 June 2016	subsequent damage and possibility of loss of life in the eThekweni Metropolitan Municipality; and the Local Municipalities within the area of jurisdiction of the District Municipalities has , extended the declaration of a state of disaster for a period of one month from 11 May 2016 to 10 June 2016.	
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1.6 National Heritage Resources Act, No. 25 of 1999

Section/ provision/ document	Amendment/ update/development	Comments
National Heritage Resources Act 25 of 1999 - Proc 34 in GG 40013 of 25 May 2016 - Declaration of ZK Matthews House, Alice, Eastern Cape, The Old Fort, Christian Union Hall, HMS Building (the Old Dining Hall), Stuart Hall and Freedom Square, part of the Alice Campus of the University of Fort Hare, Alice, Eastern Cape, Heritage Sites	Declared the ZK Matthews House, Alice, Eastern Cape and the OJd Fort, Christian Union Hall, HMS Building (The Old Dining Hall), Stuart Hall And Freedom Square, part of the Alice Campus of The University of Fort Hare, Alice, Eastern Cape, South Africa as National Heritage Sites.	Declaration of new Heritage Sites in Eastern Cape.

1.7 Noteworthy: Recent Court Cases

1.7.1 [Abbott v Overstrand Municipality \(99/2015\) \[2016\] ZASCA 68 \(20 May 2016\) T](#)

The SCA dismissed the appeal of Mr Abbott, the owner of a house built on the bank of the Klein River, who sought to review and set aside the decision of the Overstrand Municipality to refuse to take steps to prevent damage being caused to his house by flooding of the Klein River. The SCA held

that Abbott had failed to prove that the municipality had the legal authority or obligation to take such steps. Abbott's contention was also rejected and was ordered to pay the costs of the municipality including the costs of two counsel.

1.7.2 [The Minister of Water and Environmental Affairs v Kruger and Others Case No 159/16 SCA Court Order of 16 May.](#)

The state appealed against the Gauteng High Court's decision to allow rhino horn trading and that the application for special leave to appeal to the Supreme Court of Appeal was dismissed. This paves the way for trading in rhino horn within SA's borders.

1.7.3 [S v Gonggose and Others \(ECM\) 2016 \(1\) SACR 556 \(ECM\)](#)

The case was based on the entitlement of the customary fishing community of Hobeni, Cwebe and Mendwane communities customary right to exercise their customary rights to access certain marine resources in a marine protected area. The appeal was premised on the constitutionality of provision of section 43 of MLRA in respect of conflict with customary rights to exploit marine resources. The court ruled that nothing in provision offending against Constitution.

2 Health & Safety Legal updates

2.1 *Dangerous Goods Training Bodies*

Section/ provision/ document	Amendment/ update/development	Comments
Dangerous Goods Training Bodies Date: 04/05/2016 Government Gazette No.: 39969 GN No.: 268	The Minister of Transport published a notice approving certain service providers as listed in the Schedule to the Notice as Dangerous Goods Training Bodies.	All organisations must ensure that the drivers of vehicles which require a professional driving permit undergo training at an approved training body. The list of service providers set out in the notice have been approved by the Department of Transport as Dangerous Goods Training Bodies.

For questions on this update please do not hesitate to contact the EOH Legal Services EHS team:

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