

# ENVIRONMENTAL, HEALTH AND SAFETY LAW UPDATES: JUNE/ JULY 2016



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## 1 Environmental Legal Updates

### 1.1 National Environmental Management Act 107 OF 1998

Section/ provision/ document	Amendment/ update/development	Comments
<a href="#">National Environmental Management Act 107 of 1998 – Environmental Implementation Plan: Third Edition 2015-2020</a>	On the 16 March 2016 the Department of Energy published the 3 <sup>rd</sup> Edition Management Plan compiled in terms of section 11(2) of the National Environmental Management Act 1998 (Act 107 of 1998).	The primary purpose of the EMP is to co-ordinate and harmonise the environmental policies, plans, programmes and decisions of the various departments within the Department of Energy, that exercise functions that may affect the environment or are trusted with powers and duties aimed at the achievement, promotion and protection of a sustainable environment, including provincial and local spheres of government, in order to minimise the duplication of procedures and functions
<a href="#">National Environmental Management Act 107 of 1998 – GN 619 in GG 40041 of 10 June 2016 – Requirements – Information for submission of EA application related to shale gas</a>	Minister of Environmental Affairs, gave notice that any reference in Regulation 86 of the Regulations for Petroleum Exploration and Production, 2015 published in Government Notice No. R. 466 on 3 June 2015, to minimum information requirements, must be read as a reference to Appendices 1,2,3,4,5 and 6 as amended, of the Environmental Impact Assessment Regulations, 2014, until such time that more	The minimum information requirements, must be read as a reference to the listed Appendices until such time that more specific minimum information requirements have been published in terms of NEMA.

	specific information requirements have been published in terms of the National Environmental Management Act, 1998 (Act NO. 107 of 1998).	
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## 1.2 National Environmental Management Protected Areas Act 57 of 2003.

Section/ provision/ document	Amendment/ update/development	Comments
<a href="#">National Environmental Management Protected Areas Act 57 of 2003 - PN 68 in PG 2717 of 17 June 2016 - Declaration of nature reserves - D'Nyala; Musina; Greater Makalali; Manombe; Haenerstsburg; and Letaba Ranch Nature Reserves</a>	The Executive Council for Economic Development Environment and Tourism, declared a list of properties as nature reserves.	<b>List of properties declared as nature reserves:</b> 1. Leenie 531 LQ 2. Bismarck 547 LQ 3. Peveril 546 LQ 4. Buffelshoek 548 LO 5. Cremartardfonetein 563 LQ 6. Remainder of Rivers Bend 591 LQ 7. Portion 4 of Rivers Bend 591 LQ 8. Portion 5 of Rivers Bend 591 LQ 9. Portion 7 of Rivers Bend 591 LQ 10. Remainder of D'nyala 675 LQ 11. Portion 1 of D'nyala 675 L
National Environmental Management Protected Areas Act 57 of 2003 - PN 238 in PG 7628 of 10 June 2016 - Declaration of nature reserve: Papagaaiberg Nature Reserve	Provincial Minister of Local Government, Environmental Affairs and Development Planning in the Western Cape, under section 23(1) of the National Environmental Management Protected Areas Act, No. 57 2003, declared certain areas a nature reserve.	<b>Areas now declared nature reserves:</b> <ul style="list-style-type: none"> <li>• Remainder of Farm No. 183, Situated in the Stellenbosch Municipality, Division of Stellenbosch, Western Cape Province</li> <li>• •Remainder of Farm No. 181, Situated in the Stellenbosch Municipality, Division of Stellenbosch, Western Cape Province;</li> <li>• •Portion 5 of the Farm Kromme Rivier No. 175, Situated in the Stellenbosch Municipality, Division of Stellenbosch, Western Cape Province;</li> <li>• •Remainder of Portion 33 of the Farm Kromme Rivier No. 175, Situated in the Stellenbosch Municipality, Division of Stellenbosch, Western Cape Province;</li> </ul>
National	Assigns the Western Cape Nature	Signed at Cape Town on the 17th

<p>Environmental Management Protected Areas Act 57 of 2003 - PN 237 in PG 7628 of 10 June 2016 - Assignment of the Western Cape Nature Conservation Board as the Management Authority of the Driftsands Provincial Nature Reserve</p>	<p>Conservation Board as the Management Authority of the Driftsands Provincial Nature Reserve.</p>	<p>of May 2016.</p>
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### 1.3 National Environmental Management Biodiversity Act 10 OF 2004

Section/ provision/ document	Amendment/ update/development	Comments
<p><a href="#">National Environmental Management Biodiversity Act 10 of 2004 – Gen Notice 337 in GG 40058 of 10 June 2016 - Biodiversity Management Plan for Pickersgill's reed frog (<i>Hyperolius pickersgilli</i>) – for comment</a></p>	<p>The Minister of Environmental Affairs published the Biodiversity Management Plan for the Pickergill's Reed Frog (<i>Hyperolous Pickergilli</i>).</p>	<p>The public has until the 10 of July 2016 to make written representations on, or objections to the draft Biodiversity Management Plan.</p>

### 1.4 National Environmental Management Air Quality Act 39 of 2004

Section/ provision/ document	Amendment/ update/development	Comments
<p><a href="#">National Environmental Management Air Quality Act 39 of 2004 – Gen Notice 336 in GG 40054 of 7 June</a></p>	<p>Minister of Environmental Affairs, gave notice of intention to make the National Greenhouse Gas Emission Reporting Regulations.</p>	<p>Public have until the 7 of July 2016 to make representations or objections to the Draft National Greenhouse Emissions Reporting Regulations.</p>

<a href="#">2016 - Draft National Greenhouse Gas Emissions Reporting Regulations, 2015 - for comment</a>		
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### 1.5 Disaster Management Act, 57 of 2002

Section/ provision/ document	Amendment/ update/development	Comments
<a href="#">Disaster Management Act 57 of 2002 - PN 100 in PG 1680 of 1 June 2016 – Extension of the declaration of a KwaZulu-Natal Provincial State of Drought Disaster for a period of one month from 11 June 2016 ro 10 July 2016.</a>	Premier of the Province of KwaZulu-Natal, extended the declaration of a state of disaster as a result of the continuing protracted drought and the subsequent damage and possibility of loss of life.	Period of one month from 11 June 2016 to 10 July 2016.
<a href="#">Disaster Management Act 57 of 2002 – PN 134 in PG 3677 of 3 June 2016 - Joe Gqabi District Municipality – Extension of the Declaration of Local State of Organisc Pollution Disaster – Ugie Town in the Elundini Local Municipality area.</a>	The Council of Joe Gqabi District Municipality at its council meeting held on the 24th of February 2016 resolved to extend the Local State of Organic pollution Disaster in terms of section 55 (5)(c) of the Disaster Management Act, 2002 (Act No 57), after considering the progress achieved in managing the matter.	<b>The affected area:</b> <ul style="list-style-type: none"> <li>• Ugie Town</li> </ul>
Disaster Management Act 57 of 2002 - LAN 61366 in PG 7623 of 3 June 2016 - Central Karoo District Municipality –  Declaration of a	The Central Karoo District Municipality, in consultation with the Provincial and National Disaster Management Centres, resolved, that due to the current drought conditions in the jurisdiction area of the Sentral Karoo District Municipality, the District Municipality has to be declared as a local drought disaster.	The Sentral Karoo District Municipality, has been declared as a local drought disaster.

local drought disaster		
<a href="#">Disaster Management Act 57 of 2002 - Proc 23 in PG 7659 of 21 June 2016 - Ngaka Modiri Molema; Dr Ruth Segomotsi Mompoti; Bojanala; and Keneth Kauda District Municipalities: Declaration of a Provincial State of Drought Disaster</a>	Declaration of Provincial State of Drought Disaster in the Province of North West	The affected areas: <ul style="list-style-type: none"> <li>• Ngaka Modiri Molema;</li> <li>• Dr Ruth Segomotsi Mompoti;</li> <li>• Bojanala; and Keneth Kauda</li> <li>• District Municipalities</li> </ul>

## 1.6 National Heritage Resources Act, No. 25 of 1999

Section/ provision/ document	Amendment/ update/development	Comments
<a href="#">National Heritage Resources Act 25 of 1999 – GN 617 in GG 40041 of 3 June 2016 – Notice of provisional protection of the Lutheran Church, Gold Museum and the Dutch Embassy building, Erf 9245.</a>	The South African Heritage Resources Agency (SAHRA) made a notification regarding the Provisional Protection of the Lutheran Church, Gold Museum and the Dutch Embassy building, Erf No. 9245, in terms of Section 29 of the National Heritage Resources Act, No. 25 of 1999.	The Provisional Protection is from the 15th October 2015 until the 15th October 2017.

## 1.7 Noteworthy: Recent Court Cases

### 1.7.1 Liang v S (A344/2015) ZAWCHC (1 June 2016)

In October 2013, the accused was charged with possession of ivory and abalone. In August 2014, the accused was found guilty of all charges and sentenced to 10 years imprisonment and a fine of 5 million rand. An application for leave to appeal was made against the conviction and sentence. The grounds for appeal were stated that the sentence was too harsh as well as the fine exceeding the monetary jurisdiction of the court. The appeal succeed in part, the conviction in respect of count 2 was set aside the sentence in respect of count 1 was set aside and substituted with 7 year imprisonment and R300 000. the aforesaid appeal however was dismissed.

### **1.7.2 Caine Brothers v Development Tribunal for KwaZulu-Natal (471/2015) [2016] ZASCA 81 (30 May 2016)**

The Caine Brothers sought to review a decision of the approval of a land development application. The appeal was dismissed based on the principle that an objector to an application for land development is not entitled to review a decision on the basis that it has not had a hearing prior to the decision being made when in fact it has been heard on more than one occasion and in more than one forum.

### **1.7.3 Kenton on Sea Ratepayers Association and Others v Ndlambe Local Municipality and Others (4341/2014) [2016] ZAECGHC 45 (15 June 2016)**

Neglect of their sewage reticulation and the condition sewage works and the consequential impact on the Bushman's River estuary; and the condition of the waste dumpsite in the proximity of an estuary and a settlement. The court presented a structural interdict to the municipality to submit a report to court before 14 July 2016 setting out the steps they will take to maintain a sewage works and to decommission a dump site. Furthermore the court found that the failure on the part of the municipality to take steps constituted a breach of its constitutional and statutory duties.

## **2 Health & Safety Legal updates**

**No legislative updates for Health and Safety in the month of June 2016.**

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

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