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ENVIRONMENTAL

Environmental processes during COVID-19 state of disaster

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On 31 March 2020, the Minister of Forestry, Fisheries and the Environment released directions (Directions) in terms of the Disaster Management Act, 2002 (Disaster Management Act), which seek to curtail the spread of COVID-19 and minimise the effects of the national state of disaster on environmental processes in South Africa.

The Directions are necessary bearing in mind that the movement of environmental authorities, applicants for environmental permits as well as interested and affected parties, has been restricted for the duration of the "lockdown" period – which, in terms of the Disaster Management Act, began at 23h59 on 26 March 2020 and is currently set to lapse at 23h59 on 16 April 2020.

Various environmental processes, therefore, cannot take place for the duration of the lockdown period. Accordingly, in terms of the Directions, certain prescribed timeframes applicable to environmental licensing processes, public participation processes, appeals processes, reporting requirements and the provision of waste management services have been extended by the number of days of the duration of the lockdown (including any possible extension of the lockdown). In particular, the following prescribed periods for **environmental authorisations and licences** have been extended:

1. the timeframes for the consultation and notification procedures prescribed in the Environmental Impact Assessment Regulations, 2014 (EIA Regulations);
2. the timeframes contained in any environmental authorisation issued in terms of the EIA Regulations, relating to the extension of an environmental authorisation and the requirement to submit an environmental audit report which periods will lapse or fall within the period of the duration of the lockdown period;
3. the timeframes prescribed in terms of the National Environmental Management: Waste Act, 2008 (NEMWA) and the National Environmental Management: Air Quality Act, 2004, relating to licenses and environmental authorisations; and
4. timeframes prescribed in terms of the National Appeal Regulations, 2014.

The Guidelines also confirm that the environmental authorities responsible for the processing of applications or appeals contemplated above will not receive or process such applications or appeals from 27 March 2020 until the termination of the lockdown period.

In so far as **NEMWA** is concerned, the Guidelines furthermore provide that:

1. any exemption issued in terms NEMWA, which expires during the lockdown period is extended;
2. authorities responsible for the processing of applications for the transfer of waste management licences in terms of NEMWA will not receive or process such applications during the lockdown period;
3. any authorisation for the export of waste tyres issued in terms of the Waste Tyre Regulations, 2017 which expires during the lockdown period is extended; and
4. authorities responsible for the processing of applications for the amendment of any order to remediate contaminated land issued in terms of NEMWA will not receive or process such applications during the lockdown period.

Finally, with reference to the **emission reporting** obligations prescribed in the National Atmospheric Emissions Regulations, 2015 and the National Greenhouse Gas Emission Reporting Regulations, 2017, which must ordinarily occur by "31 March" each calendar year, the

reporting period has been extended to 30 April 2020.

Notably, the Directions apply, *inter alia*, to all national, local and provincial authorities and appeal authorities – albeit that the Directions provide that where any of the aforementioned authorities have publicly indicated that a different arrangement applies, such an arrangement will prevail over any arrangement indicated in the Directions. To date, that relevant authorities in the Western Cape, Eastern Cape, Gauteng and North West have indicated that a different arrangement will apply.



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