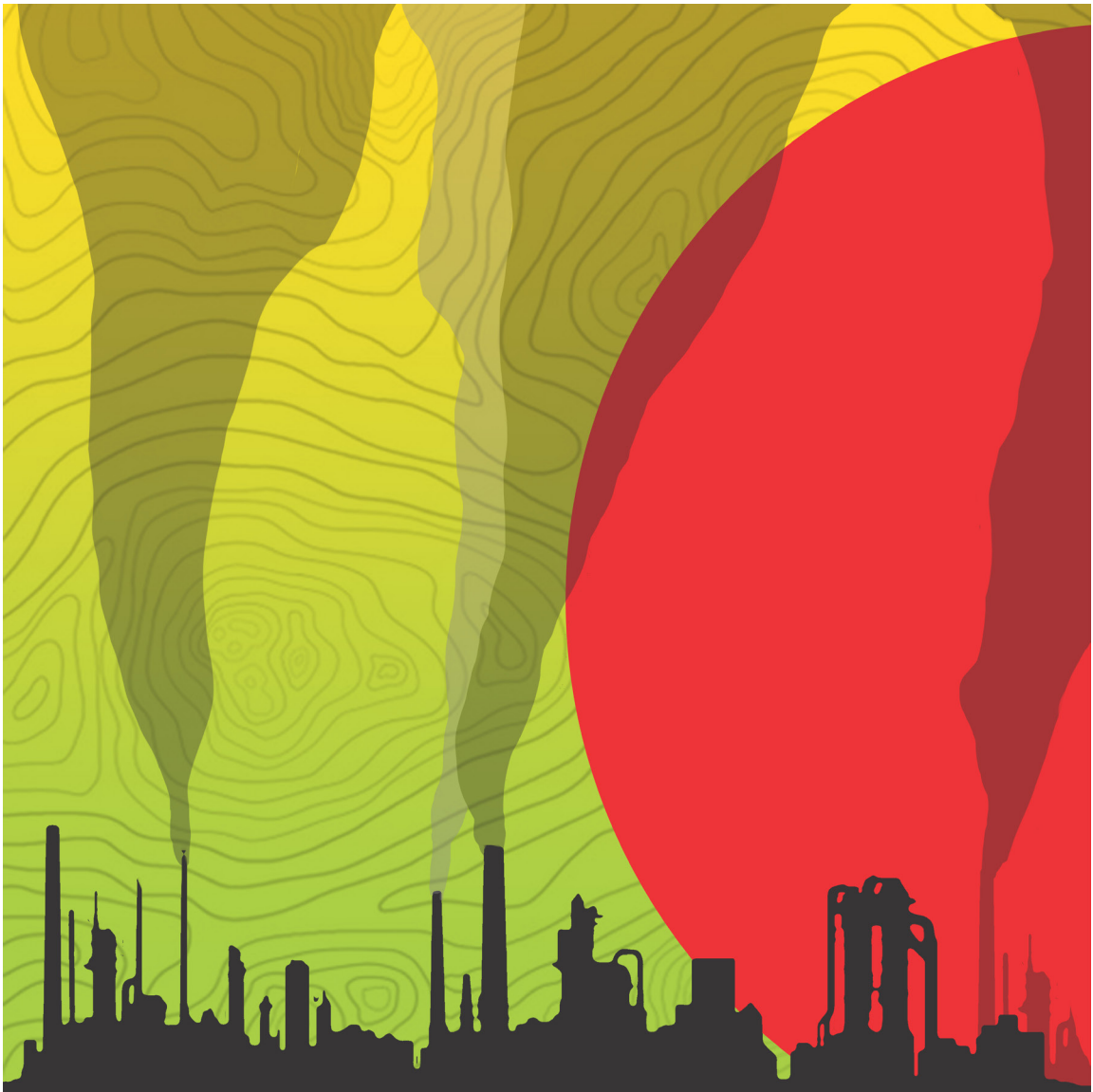

peoples guide to environmental rights

a guidebook to help South Africans understand and protect their environmental rights.

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CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

Section 24 - Bill Of Rights – Environment

Everyone has the right

1. to an environment that is not harmful to their health or well-being; and
2. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
    - iii. prevent pollution and ecological degradation; promote conservation; and
    - iv. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

NATIONAL ENVIRONMENTAL MANAGEMENT ACT

Section 2(2) | National Environmental Management Principles

Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.

NOTE: The information published in this booklet is for information and educational purposes, and does not constitute legal advice. Please consult a legal professional for up to date and detailed legal advice if you are contemplating formal legal action.

“NEVER DOUBT THAT A SMALL GROUP OF THOUGHTFUL, COMMITTED CITIZENS CAN CHANGE THE WORLD; INDEED, IT IS THE ONLY THING THAT EVER HAS.”

Margaret Mead

Glossary of Laws referred to in this booklet

Constitution	Constitution of the Republic of South Africa, 1996
Heritage Act	National Heritage Resources Act 25 of 1999
Marine Living Resource Act	Marine Living Resources Act 18 Of 1998
MPRDA	Mineral and Petroleum Development Resource Act 28 of 2002
NEM: Air Quality Act	National Environmental Management: Air Quality Act 39 Of 2004
NEM: Biodiversity Act	National Environmental Act: Biodiversity Act 10 of 2004
NEM: Coastal Management Act	National Environmental Management: Integrated Coastal Management Act 24
NEM: Protected Areas	National Environmental Management: Protected Areas Act 57 Of 2003
NEMA	National Environmental Management Act 107 Of 1998
PAIA	The Promotion of Access to Information Act 2 of 2000
PAJA	Promotion Of Administrative Justice Act 3 Of 2000
Water Act	National Water Act 36 Of 1998

BA	Basic Assessment
BAR	Basic Assessment Report
CA	Competent Authority
DEFF	Department of Environment, Forestry and Fisheries
EA	Environmental Authorisation
EAP	Environmental Assessment Practitioner
EAR	Environmental Audit Report
EIA	Environmental Impact Assessment
EIR	Environmental Impact Assessment Report
EMP	Environmental Management Plan
EMPr	Environmental Management Program
I&AP	Interested and Affected Parties
PP	Public Participation
PPP	Public Participiation Process
RI&AP	Registered Interested and Affected Parties
S&EIR	Scoping and Environmental Impact Assessment Report

ROLEPLAYERS INVOLVED IN ENVIRONMENTAL MANAGEMENT

Applicant: This is the party who is intending to undertake the activity and is applying for an Environmental Authorisation or mining or prospecting rights

Competent Authority (CA): This is the organ of state responsible for evaluating the environmental impact of that activity and, where appropriate, with granting or refusing an environmental authorisation in respect of that activity. This may be a local or provincial government body.

Department of Environment, Forestry and Fisheries (DEFF): This is the national state department responsible for the environment and administering NEMA and other regulatory instruments. It is not necessarily the competent authority for most applications, but is the party who will hear appeals against the decision of the competent authority

Department of Mineral Resources and Energy (DMRE): This is the national state department responsible for regulating mining and issuing mining and prospecting licenses

Environmental Assessment Practitioner (EAP): This is the specialist who investigates potential impacts and risks and produces the Environmental Impact Assessment.

Holder: Once an environmental authorisation or mining license has been granted, the applicant becomes known as the holder, and continues to have environmental responsibilities.

Interested and Affected Party (I&AP): any person, group of persons or organisation interested in or affected by an activity; and any organ of state that may have jurisdiction over any aspect of the operation or activity

Registered Interested and Affected Party (RI&AP): This is an I&AP who registers as such with the EAP, ideally as early as possible in the process. The law places additional obligations on the EAP and applicant to inform RI&APs of the progress in the application process.

WHY DO WE HAVE ENVIRONMENTAL RIGHTS?

The natural environment is our host. It creates the conditions that allow us to live on this planet. We all have the fundamental right to access the services and resources provided by our environment in a just and equitable way.

All human activity impacts on the natural environment to a greater or lesser extent. It is important that these impacts are understood and managed in a holistic way to protect the wellbeing of current and future generations.

Environmental and related laws seek to regulate people's activities and ensure that the environment is well managed and protected, whilst balancing this need against other social, human rights and economic needs.

WHY HAVE WE PUBLISHED THIS BOOKLET?

This booklet is intended to provide insight and information about the rights, laws and practices applicable to environmental management in South Africa. This in turn can help empower people and communities to understand and protect their environmental rights.

Unfortunately there are parties who knowingly or unknowingly infringe on our rights to a healthy and safe environment, and we may find ourselves needing to protect these rights.

WHO ARE THE ROLEPLAYERS?

Although there are a great many role players in any given situation, with diverse interests, we can look at this in simple terms to understand the dynamics. On the one hand we get those who want to undertake activities that will significantly impact the environment. These can include:

- Businesses such as mining and industrial companies.
- Industrial agricultural interests
- Township and property developers
- The state when it is developing infrastructure such as dams and highways.
- Utilities such as Eskom or Transnet.

On the other had we have those stakeholders whose access to and use of their environment may be significantly impacted, and those who are concerned that such impact poses a danger to their environment. These can include:

- Individuals and communities who will be directly affected. Many environmental impacts are felt far beyond the source activity, such as air-pollution and climate change, meaning that many people are affected.
- Organs of state who are responsible for protecting the environment that will be impacted.
- Civil society including organisations promoting environmental, cultural, labour and human rights.

Then we have the organs of state that are responsible for regulating environmental management and balancing the rights and interests of those for and against the environmental impacts in question. These organs of state also need to balance the need to protect the environment with other needs such as social and economic development, and the need to earn revenue.

WHAT GOES WRONG?

There are businesses and developers who are environmentally responsible in terms of their activities. They are also organs of state that effectively engage with environmental management with a sense of responsibility and an understanding of what is at stake.

Unfortunately these are not universal experiences and the kinds of challenges that we see in the pursuit of environmental justice include:

- Businesses and developers who are not sufficiently committed to environmental protection and do not allocate sufficient resources to environmental impact mitigation and management.
- Role players who are dishonest about the risks to the their environment because they do not want opposition to their plans.
- State officials and departments who appear to be strongly in favour of the activity and do not act objectively, or do not take the impacts sufficiently seriously.
- Applicants and officials who treat public participation as a box ticking exercise, and neglect to make it meaningful

- Divided communities where some members are for the activity, and others are against it. This can sometimes be aggravated by the actions of applicants.
- False or exaggerated claims of the benefits of the activity, such as job creation, contracts and tenders and social investment such as clinics and schools.

INTERNATIONAL TREATIES AND CONVENTIONS THAT INFLUENCE SOUTH AFRICAN ENVIRONMENTAL LAW

South Africa is signatory to various international instruments aimed at projecting the environment. Some of the more important ones include:

- **United Nation Framework Convention on Climate Change (UNFCCC)** – to stabilise greenhouse gas emissions, ensure sustainable development and protect food production
- **The Paris Agreement** – The most recent agreement reached at the annual UNFCCC meetings, aimed at ensuring the all nations reduce greenhouse gas emissions.
- **Convention on Biological Diversity (CBD)** – ensures conservation of biological diversity and sustainable use of its components.
- **Convention to Combat Desertification (CCD)** – mitigates desertification in drought prone countries
- **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)** – ensures that trade of endanged animals and plants does not impact teir conservation.
- **The Heritage Convention** and **The Nagoya Protocol** – ensure the fair and equitable sharing of benefits arising out of the utilization of genetic resources, thereby contributing to the conservation and sustainable use of biodiversity.

PRINCIPLES AND VALUES OBSERVED IN SOUTH AFRICAN ENVIRONMENTAL LAW

Some of these principles are directly prescribed in South African law, and some are norms and values that are taken into account by lawmakers and the judiciary.

SUSTAINABLE DEVELOPMENT

NEMA defines sustainable development as including the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations.

INTERGENERATIONAL EQUITY

This principle introduces the idea of fairness, equity and justice across generations, from children to seniors. This is important because many forms of environmental destruction will impact most heavily on future generations.

ENVIRONMENTAL JUSTICE

NEMA provides that "environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons."

PUBLIC TRUST DOCTRINE

"The environment," according to NEMA, "is held in public trust for the people. The beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage."

PRECAUTIONARY PRINCIPLE

Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

NEMA requires that a risk-averse and cautious approach be applied, which takes into account the limits of current knowledge about the consequences of decisions and actions.

PREVENTIVE PRINCIPLE

This principle is based on the understanding that it is cheaper to prevent and avoid crises before they occur, than it is to address them once they have occurred.

NEMA requires that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied.

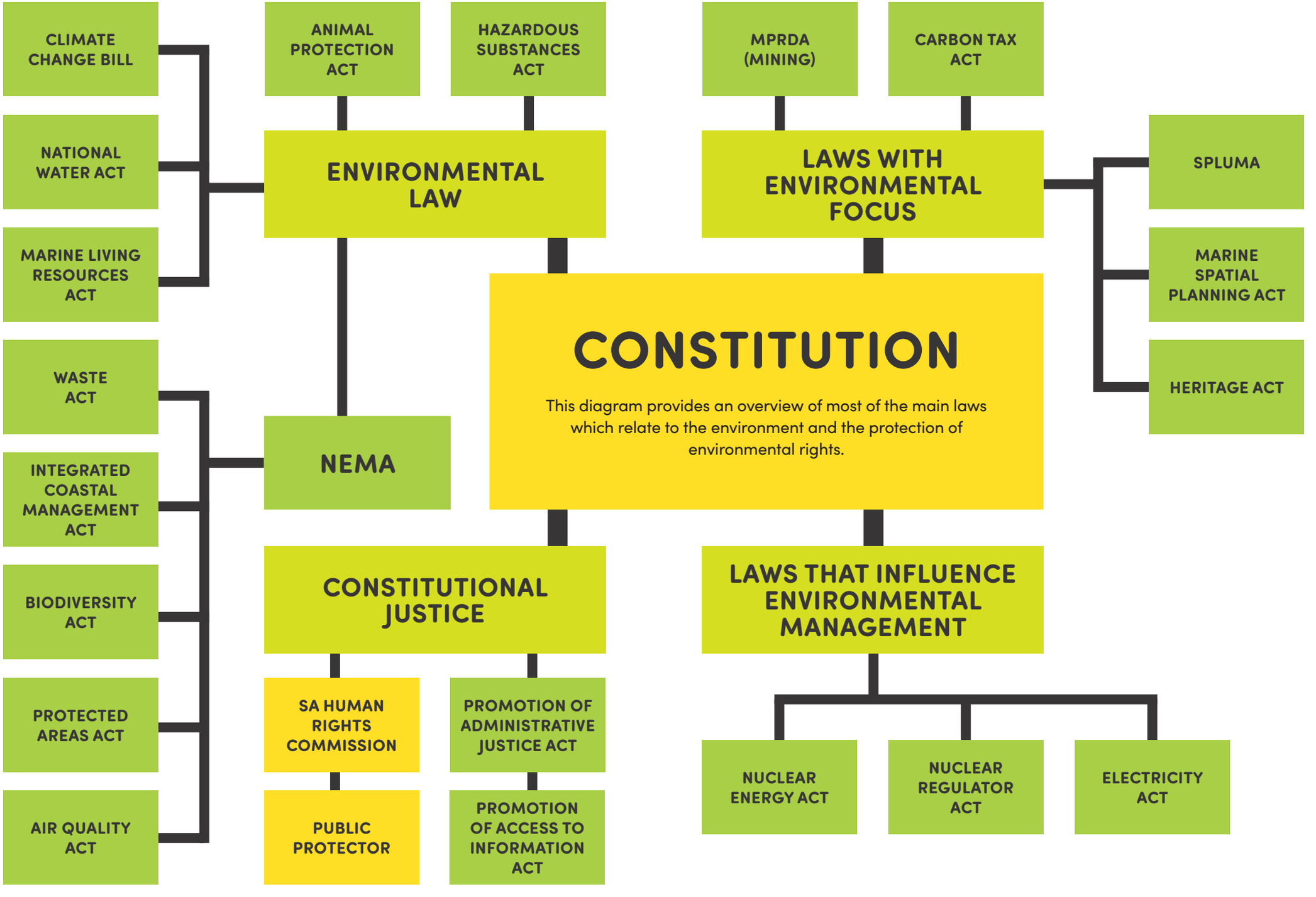
POLLUTER-PAYS PRINCIPLE

This principle makes the party responsible for producing the pollution responsible for paying for the damage done to the natural environment.

NEMA directs that the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.

"I DREAM OF OUR VAST DESERTS, OF OUR FORESTS, OF ALL OUR GREAT WILDERNESSES. WE MUST NEVER FORGET THAT IT IS OUR DUTY TO PROTECT THIS ENVIRONMENT."

Nelson Mandela


CLIMATE CHANGE BILL
NATIONAL WATER ACT
MARINE LIVING RESOURCES ACT
WASTE ACT
INTEGRATED COASTAL MANAGEMENT ACT
BIODIVERSITY ACT
PROTECTED AREAS ACT
AIR QUALITY ACT
ANIMAL PROTECTION ACT
HAZARDOUS SUBSTANCES ACT
ENVIRONMENTAL LAW
NEMA
SA HUMAN RIGHTS COMMISSION
PUBLIC PROTECTOR
PROMOTION OF ADMINISTRATIVE JUSTICE ACT
PROMOTION OF ACCESS TO INFORMATION ACT
CONSTITUTIONAL JUSTICE
MPRDA (MINING)
CARBON TAX ACT
LAWS WITH ENVIRONMENTAL FOCUS
SPLUMA
MARINE SPATIAL PLANNING ACT
HERITAGE ACT
CONSTITUTION
This diagram provides an overview of most of the main laws which relate to the environment and the protection of environmental rights.
LAWS THAT INFLUENCE ENVIRONMENTAL MANAGEMENT
NUCLEAR ENERGY ACT
NUCLEAR REGULATOR ACT
ELECTRICITY ACT

YOUR ENVIRONMENTAL RIGHTS

NEMA defines "environment" as:

i. the land, water and atmosphere of the earth;
ii. micro-organisms, plant and animal life;
iii. any part or combination of (i) and (ii) and the interrelationships among and between them; and
iv. the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being.

Your rights may compete with the rights of other persons, or may be limited by other aspects of the law. The conflict between competing rights can be resolved through negotiation, alternate dispute resolution (such as mediation) or in formal legal proceedings.

There are various provisions in the law that directly and indirectly provide environmental rights to people. For example the environment can be protected by invoking human rights or heritage and cultural rights.

THE RIGHTS OF NATURE AND THE RIGHTS OF PEOPLE

The Environmental Law in South Africa (and most other states around the world) recognises the rights that people have in relation to the environment. For example, people have a right to clean air and clean water. The environment itself does not have rights under this system.

There is a growing global movement advocating for nature itself to have rights. Examples would be rivers, mountains, forests, conservation areas, lakes and wetlands. There is a growing number of states which have legally created rights for such aspects of the natural environment.

These are some of the most important environmental rights given to people in South African law:

THE RIGHT TO A HEALTHY AND SAFE ENVIRONMENT

S24 BILL OF RIGHTS, CONSTITUTION

Everyone has the right to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

RIGHT OF ACCESS TO SUFFICIENT FOOD AND WATER

S27 BILL OF RIGHTS - CONSTITUTION

Many environmentally destructive activities pollute or diminish scarce fresh water resources, endangering people's water supplies and possibly also affecting people's abilities to grow food. The right places an obligation on the state to ensure that the ability to access water and food is protected.

RIGHT OF ACCESS TO INFORMATION

S32 BILL OF RIGHTS - CONSTITUTION

Everyone has a right to access informaion (with some limitations for sensitive information) held by the state. Information from private parties (a company for example) can also be accessed in order to protect your rights.

Information on environmental decision-making can be essential in order to protect your rights effectively, and developers and the state do not always provide information, but it can be demanded.

RIGHT TO JUST ADMINISTRATIVE ACTION

S33 BILL OF RIGHTS - CONSTITUTION

Administrative action means any decision, or failure to make a decision, by any organ of state or person acting on the authority of an organ of state. Everyone has a right to administrative action that is lawful, reasonable and procedurally fair. This may include ensuring that there is some form of public participation.

RIGHT TO ASSEMBLY, PICKET, DEMONSTRATE AND PETITION

S17 BILL OF RIGHTS - CONSTITUTION

Sometimes it is effective or necessary to take protest action to defend environmental rights. The Constitution guarantees that everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

RIGHT TO PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING

S(2)(4)(f) – NEMA

NEMA states that the participation of all interested and affected parties (I&APs) in environmental governance must be promoted and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.

RIGHT TO REFUSE TO DO WORK THAT WILL HARM THE ENVIRONMENT

S29 - NEMA

No person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having refused to perform any work if the person in good faith and reasonably believed at the time of the refusal that the performance of the work would result in an imminent and serious threat to the environment.

RIGHT TO PRIVATELY PROSECUTE PARTIES TO PROTECT THE ENVIRONMENT

S33 - NEMA

NEMA gives any person the right to institute criminal proceedings against any other party (except organs of state) for breaching a compulsory duty of care towards the environment. This can only happen in cases where the national prosecuting authority fails to take action.

RIGHT TO BE CONSULTED AND LODGE OBJECTIONS BEFORE MINING ACTIVITIES TAKE PLACE

S10 - MPRDA

Before any prospecting license, mining license or mining permit is granted, interested and affected persons must be given an opportunity to lodge objections.

RIGHT TO BE CONSULTED AND OBJECT TO DAMAGE TO AND REMOVAL OF GRAVES

S36(5) – HERITAGE RESOURCE ACT

No one may destroy, damage, alter or remove graves or burial grounds older than 60 years without obtaining agreement from the communities who have a traditional interest in them.

PLANNING PHASE LISTED ACTIVITIES

- EA APPLICATION BAR or S&EIR
- SCOPING REPORTING
- PUBLIC PARTICIPATION
- EIA BAR or S&EIR
- PUBLIC PARTICIPATION (MIN 30 DAYS)
- EMPr
- ADDITIONAL PPP IF THERE ARE CHANGES
- DECISION (CA)
- APPEAL

OPERATIONAL PHASE LISTED ACTIVITIES

- ENVIRONMENTAL AUDIT REPORT (EAR)
- RECOMMENDATION TO AMEND EMPr
- PUBLIC PARTICIPATION
- EMPr AMENDED

OPERATIONAL PHASE LISTED ACTIVITIES

- AMENDING THE EA
- CHANGE IN SCOPE
- PUBLIC PARTICIPATION
- EA AMENDED

MINING OR PROSPECTING RIGHTS

- APPLICATION
- SECTION 10 NOTICE
- CONSULTING WITH I&APs
- PUBLIC PARTICIPATION
- APPLICATION ACCEPTED
- EIA
- PUBLIC PARTICIPATION
- DECISION

These diagrams summarise four of the main processes which we find described in NEMA or the MPRDA, and indicate the stages at which public participation is compulsory.

PUBLIC PARTICIPATION

WHAT IS PUBLIC PARTICIPATION?

Public Participation (PP) and the Public Participation Process (PPP) are the rights of people and organisations to be given a reasonable opportunity to participate in information and participation procedures when impacts on the environment are being investigated, assessed and communicated.

PP and PPP can be undertaken in different forms. These can range from relatively simple notices about the decisions being made with an opportunity to submit comments, all the way through to extensive meetings, conferences, negotiations and consensus building exercises.

NEMA AND PUBLIC PARTICIPATION

NEMA is the primary law that gives us the right to PP when it comes to protecting the environment. It is described in the Act in the Regulations. It is also unpacked in the Guidelines* published by the then Department of Environmental Affairs in 2017.

*The full Guidelines can be viewed at:
https://www.environment.gov.za/sites/default/files/docs/publicparticipationguideline_intermsofnemaEIAregulations.pdf

The full name of the Guidelines document is:
Department of Environmental Affairs (2017), Public Participation guideline in terms of NEMA EIA Regulations, Department of Environmental Affairs, Pretoria, South Africa.

WHAT A PROPER PPP MUST ALLOW FOR:

- An opportunity for all role-players (including I&APs) to obtain clear, accurate and understandable information about the environmental impacts of the proposed activity.
- All role-players to be able to voice their support concerns and questions regarding the proposed activity.
- An opportunity for role-players to suggest ways of reducing or mitigating the negative impacts.
- he EAP or applicants to incorporate the needs, preferences and values expressed by I&APs
- To provide an opportunity for clearing up misunderstanding about technical issues, resolve disputes and reconcile conflicting interests.
- To encourage transparency and accountability in decision-making.
- To contribute towards maintaining a healthy, vibrant democracy.

WHEN MUST PPP BE UNDERTAKEN?

Before the submission of an application for an EA. Even if there was no PPP, I&APs must be given 30 days to comment on reports and plans after the submission of an application for an EA.

Additional PP may be required were significant changes have been made to the reports and where these changes have not been part of the initial PPP. Additional PP may be required where changes have been made to the scope of the EA that will result in an increased impact to the environment. When an EA holder makes recommendations to rectify shortcoming in its environmental management pan or programme, these recommendations must undergo a PPP.

PPP must not be conducted between 15 December and 5 January, except in exceptional circumstances and agreed by the Competent Authority.

NOTIFICATION AND HOW PPP MUST BE CONDUCTED

I&APs have a right to be informed early and in an informative and proactive way regarding proposals that may affect their lives or livelihoods.
The level of PP should at least be informed by:

- The scale of anticipated impacts of the project
- The sensitivity of the affected environment and the degree of controversy of eth project
- The characteristics of the I&APs.
- Notifications may be given via notices on notice boards, providing written notice and placing advertisements: they must be large and visible enough to meaningfully attract attention.
- Written notice can be sent to anticipated I&AP's.

- Advertisements must be placed in newspapers that will easily reach the intended audiences.
- Where potential I&APs include historically disadvantaged communities or where their may be reduced reading and writing skills, public meetings should be considered.
- The person conducting the PP must ensure that the language used allows for effective facilitation of a PPP.
- Adequate notice of any meetings must be given to ensure meaningful PP.
- Notification about the project must provide enough detail for I&AP's to get a fair understanding of the proposal. This must include the nature, location and specific activities. The information must be presented in a reasonably simple and understandable manner.

IDENTIFYING AND APPROACHING SPECIFIC I&AP'S

- Certain parties are automatically I&AP's, such as the relevant organs of state and the person(s) in control of the land.
- Other I&AP's should be sought out and engaged, such as communities nearby and any other people who will be directly affected.
- Persons conducting the PPP should investigate who potential I&AP's may be, and make an effort to include them.

BROADENING PARTICIPATION, CAPACITY BUILDING AND SPECIAL NEEDS

- Participation measure must be put in place to ensure cultural and language requirements of I&AP's are met. Language must be taken into account when serving a notice and selecting newspapers for advertisements.
- When environmental reporting is done on 1 of 3 regional languages, executive summaries should be made available in the other 2 languages

The mechanisms below are not compulsory, but they all can be requested and, depending on the circumstances, can all indicate that the party conducting the PPP is sincere about making it meaningful. Failure to take any of these steps can give you grounds to complain that the PPP was not meaningful.

The following could be considered to facilitate their participation or overcome potential constraints:

- Announcing the PPP on a local radio station in a local language, at an appropriate time (e.g. peak hours);
- Using participatory rural appraisal and participatory learning and action approaches and techniques could be used to build the capacity of the I&APs to engage and participate more effectively;
- Specific approaches to existing community structures, committees and leaders;
- Holding public meetings at times and venues suitable to the community;
- Holding separate meetings with vulnerable and marginalised groups; and
- Appropriate access to information must be provided.

The use of the following PP mechanisms over and above the requirements should also be considered:

- Public meetings and open days;
- Conferences;
- Press releases;
- Questionnaires or opinion surveys;
- Information desks and/or info lines (helpline);
- Web-based platforms/social media; and
- Meetings/workshops with constituencies such non-government organisations (NGO's) and community based organisations (CBO's).

PUBLIC PARTICIPATION IN PRACTICE – THE PROBLEMS AND CHALLENGES

While the law is reasonably strong in terms of promoting PP, the effectiveness relies significantly on how seriously the applicant, the EAP and the competent authority regard the need to do this properly.

The following problems and challenges are often are often seen I practice:

- The applicant (developer) for the EA appoints and pays the experts who assess and compile the reports on the environmental impacts, and this can sometimes bring their neutrality and objectivity into question.
- Applicants / developers want their project to go ahead and see PP as a necessary box ticking exercise with little interest in evaluating meaningful alternatives, including the option of not going ahead. There is often little real attempt to:
  - Ensure that all potential I&AP's are identified and contacted.
  - Ensure that there is real capacity-building to ensure that I&AP's are fully

informed and able to participate meaningfully.
    - Make the information truly understandable, particularly in a range of languages.
    - Publicise the application widely.
    - Ensure that all concerns are addressed
- It is often felt that the relevant state decision-makers are pro-development at the expense of environmental concerns.

PUBLIC PARTICIPATION AND MINING

Mining is governed by the MPRDA and administered by the DMRE. There are carious opportunities to engage in PPP.

If an applicant applies for mining or prospecting rights, the state issues a Section 10 Notice that notifies the public of the application. The public then has 30 days in which to lodge written objections and comments.

If the application is accepted after this, the mine then must consult with all I&APs. It must also commence with an Environmental Impact Assessment, which provides a further opportunity to engage in a PPP.

PUBLIC PARTICIPATION AND WATER USE

The Water Act provides that most types of more intensive water use can only occur if the user has obtained a water use licence. If this is an intensive user, the activities may impact on other people, communities and businesses.

The Water Act says that the state may give I&APs an opportunity to object and engage in PP, but it is not an automatic right under this law. But because the granting of a water use license is an administrative action, PAJA can be used to compel the relevant authority to conduct a PPP.

THESE ARE SOME OF THE THINGS THAT YOU CAN DO TO UPHOLD YOUR RIGHTS TO MEANINGFUL PUBLIC PARTICIPATION:

Stay Informed: If you know that there are environmentally impactful activities planned in your area, keep an eye out for public notices and advertisements in the newspapers. Share this information with your networks and communities so that many eyes can be on the lookout, and so that as many people as possible understand what is going on.

Register as an I&AP: To ensure that you have as much power as possible to protect your rights, it is important to register as an I&AP. Once you are registered you will be kept informed of all subsequent developments. There is also more pressure on the EAP to ensure that your concerns comments and submissions are recorded and responded to.

Applicants for an EA, or the EAP that they appoint must give details on how to register as an I&AP. Usually this registration will be undertaken by the EAP wh o conducts the PP on behalf of the applicant.

Submit comments, objections and concerns in writing: You can write in the language and style of your choice:

- Reports are often in very technical language, but you can comment in simple language, relating your concerns exactly as you feel them.
- Tell the human story of how you and your community live and work currently, and how this will be impacted by the proposed activity.
- It can be powerful to stand together and submit comments as a group, movement or community, with many people signing a submission. In these cases, it is encouraged that the various individuals to also send in comments under their own names. It is powerful when a lot of people are saying the same thing.
- Make sure that your submissions are sent to the address provided within the stipulated time period. The period for PP must be no less than 30 days.

- Ask any question and state any concern and objection that occurs to you. There are no right or wrong comments, even if some are more valid than others.

Public Participation meetings: It is your right to attend and voice your input. Within reason you can demand that you are heard. All input must be recorded and incorporated into the report that is compiled about the PPP.

Use the meetings to ask questions and get as much information as possible. Note the answers you get, and if you feel that your question has not been adequately answered, you can point this out and ask it again.

If you represent a group or community, introduce yourself accordingly.

OBJECTIONS ABOUT THE PROCEDURE:

There are a number of important principles that ensure that a PPP is valid and fully meets the intention of NEMA. If any of the following are not met, it is encouraged that you voice your concern at meetings and/or put them in writing in your submission:

- Was the intended project and the PPP well advertised taking into account the scope, the possible impacts and the potential I&AP's?
- Was the information presented clearly understandable and were the risks and impacts highlighted in an objective way?
- Were the languages used sufficient to meet the communication needs of all those present in meetings? Were there interpreters if necessary?
- Were the venues sufficiently convenient for I&AP's to access and attend? Were any special needs catered for?
- Were any attempts made to build the capacity of I&AP's to understand and participate? Were concepts explained in clear simple language?
- Were answers given to questions in accordance with the formal material presented? Sometimes facilitators give responses 'off the top of their heads,' with no reference to the assessment reports that are being debated.
- Did the facilitators engage objectively, highlighting good and bad aspects, or was it a 'sales pitch' that sought only to paint a positive picture of the intended activity?
- If you are in a community that will be strongly impacted by the activity, was your community proactively approached and invited to engage in the PPP?

EXAMPLES OF CONCERNS AND OBJECTIONS THAT CAN BE RAISED.

You can ask any questions, raise any concerns and make any objections that occur to you provided that they link to environmental impacts.

Some examples of concerns that you may raise include concerns about:

- Water pollution
- Excessive use of water if water supplies are limited
- Air pollution
- Loss of biodiversity - destruction of vegetation and habitat of animals
- Health impacts
- Impact of the activity on existing jobs and socio-economic wellbeing.
- Climate change
- Aesthetic qualities of the area which will be impacted
- Noise
- Destruction of heritage, cultural and sacred areas including graves and burial grounds
- Waste management

ADDITIONAL WAYS TO PROTECT YOUR RIGHTS

Protecting your legal rights can be challenging, and there are additional actions you can take which will support and complement your efforts.

LODGING COMPLAINTS

If you are aware of activities that are breaking the law, you are well within your rights to lay a complaint with the SAPS.

You can also lodge a complaint with the Environmental Management Inspectorate (sometimes known as the "Green Scorpions') whose responsibility it is to investigate and prosecute environmental offences.

NETWORKING AND INFORMATION SHARING

Relationships and networks built on facing common challenges such as threats to our environment can be a powerful way of creating a united opposition that has a strong voice. It indicates to decision makers that the concerns are strong and widespread, and can influence outcomes

Discussing and sharing information about Impacts, activities and concerns can be very powerful in terms of raining awareness and creating support.

PUBLICITY

Media coverage (newspaper, radio, television) also raises awareness and can inspire popular opposition to destructive projects and activities. Readers and listeners relate to human stories of people and communities experiencing social and environmental injustice.

PROTEST ACTION

Protests, pickets, demonstrations and petitions can also raise awareness and signal to decision makers that the activities are unacceptable and likely to face sustained opposition.

LOBBYING LOCAL POLITICIANS

Directly lobbying and engaging with elected politicians and appointed officials, especially at a local government level, can sometimes be effective. The negative impacts of an activity can often cause the same risks and challenges for these people as they do for you.

USEFUL CONTACT DETAILS

Centre For Environmental Rights NPC
Tel: 021 447 1647
Email: info@cer.org.za
Website: www.cer.org.za

South African Human Right Commission
Tel: 011 877 3600
Email: info@sahrc.org.za
Website: www.sahrc.org.za

Legal Resources Centre
Tel: 011 836 9831
Website: www.lrc.org.za

Centre for Applied Legal Studies
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