



Warburton Attorneys Inc
Sustainability Law Specialists



INFORMATION ALERT:

WITHDRAWAL OF 11 JUNE 2021 AMENDMENT TO REGULATION 39(2) OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, AS AMENDED BY GOVERNMENT NOTICE NO. 517 PUBLISHED IN GOVERNMENT GAZETTE NO. 44701

On 3 March 2022, the Minister of Forestry, Fisheries and the Environment withdrew the 11 June 2021 amendment to Regulation 39(2) of the Environmental Impact Assessment (EIA) Regulations, 2014 by reinstating, with retrospective effect, the previous wording of the regulation. Consequently, proponents intending on undertaking any activities directly relating to prospecting or exploration of a mineral and petroleum resource or extraction and primary processing of a mineral resource are again exempted from the requirement to, before applying for an environmental authorisation, obtain written consent from the landowners on whose land such activity is to take place.

Considering the withdrawal notice is retrospective in its application, any failure by a proponent to obtain landowner consent during the period 11 June 2021 and 3 March 2022 will not invalidate the proponent's environmental authorisation application. According to the withdrawal notice, the reinstatement of the previous wording of regulation 39(2) was necessary as the public participation processes for the amendment of environmental legislation had not been adequately complied with.

https://www.dffe.gov.za/sites/default/files/gazetted_notices/nema_regulation39.2amendmentwithdrawal_g45999gon1816.pdf

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