

Environmental emergencies as a consequence of Covid-19

The National Environmental Management Act, 1998 (NEMA) defines an "emergency situation" as one that has arisen suddenly that poses an imminent and serious threat to the environment, human life or property, including a 'disaster' as defined in section 1 of the Disaster Management Act, 2002 (DMA).



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The Covid-19 (coronavirus) pandemic has been classified and declared as a disaster under the DMA.

The immediate consequences of this is that the environmental Ministries are afforded a host of over-riding powers in ensuring emergency situations are adequately dealt with and the safety of humans, property and/or the environment protected.

Infrastructure development under NEMA

In terms of section 30A, the Minister of Environment, Forestry and Fisheries (Environment Minister) and Provincial Authorities may, on their own initiative or on request, issue a verbal or written directive to carry out activities without obtaining an environmental authorisation in order to contain or mitigate the effects of an emergency situation.

This could be used to build emergency infrastructure projects to help curb the effects of Covid-19. Temporary hospitals, water treatment facilities, cemeteries and waste management facilities may all need to be established, by Government and potentially by the private sector (remote mines, for example). In many instances, these projects would typically require environmental authorisations, which would delay the projects.

Water use licensing under the National Water Act, 1998

Section 67 permits, in an emergency situation, or in cases of extreme urgency, the Minister of Human Settlements, Water and Sanitation (Water Minister) to dispense with various water use licensing requirements and procedures. The Water Minister could rely on these powers to permit water projects to proceed without having to obtain a water use licence.

This could be used to ensure that affected communities, hospitals, clinics etc. are provided with emergency water services to allow communities to wash their hands and medical professionals to do their work. Water services can be provided through boreholes and containerised water treatment facilities.

Provision of water services under the Water Services Act, 1997

Typically, the provision of water services falls within the mandate of the local municipalities, i.e. the defined water services authorities in the relevant jurisdiction. Approvals for alternative water services, supplied by parties other than the local municipality, are difficult to obtain. However, in emergency situations, the Water Minister has overriding powers to provide water services (i.e. water supply services and sanitation services).

National Government may need to be called on to exercise these powers to assist municipalities.

Webber Wentzel will continue to monitor the developments of the Covid-19 disaster and its implications on environmental regulation, and will keep you apprised of all new material developments.

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