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The International Comparative Legal Guide to:

Environment & Climate Change Law 2014

11th Edition

A practical cross-border insight into environment and climate change law

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Chapter 32

South Africa

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1 Environmental Policy and its Enforcement

1.1 What is the basis of environmental policy in South Africa and which agencies/bodies administer and enforce environmental law?

The environmental right enshrined in the Constitution of the Republic of South Africa, 1996 ("the Constitution") and relevant national and provincial legislation are the basis for environmental policy.

The Constitution provides that "the Environment" is a functional area of concurrent national and provincial legislative competence.

The following government departments are involved in administration and enforcement of environmental laws, namely the:

- Department of Water and Environmental Affairs ("DWEA");
- Department of Mineral Resources ("DMR");
- Department of Energy ("DoE"); and
- Department of Agriculture, Forestry and Fisheries.

At provincial level, environmental directorates in the nine provincial governments are responsible for the administration and enforcement of environmental law in the relevant province.

1.2 What approach do such agencies/bodies take to the enforcement of environmental law?

In the first instance, the departments involved in administration and enforcement of environmental law have created specialist enforcement directorates or designated officials as inspectors.

The enforcement directorates/inspectors mainly use administrative and criminal measures to enforce environmental laws.

The relevant directorates/inspectors are becoming increasingly active in the enforcement of environmental laws.

1.3 To what extent are public authorities required to provide environment-related information to interested persons (including members of the public)?

Access to information held by the State is governed by the Constitution and the Promotion of Access to Information Act, 2000. Every person is entitled to access information held by the State. Although the State has grounds to refuse access, unless disclosure of the record would reveal imminent and serious public safety or environmental risk, disclosure is mandatory.

2 Environmental Permits

2.1 When is an environmental permit required, and may environmental permits be transferred from one person to another?

Most environmental statutes require authorisations, licences or permits before particular activities can commence. Permits are usually required for natural resource extraction or utilisation. Permits are required under legislation regulating hazardous substances, nuclear activities, biodiversity conservation, protected areas, fishing and certain agricultural activities. Activities causing pollution or which may result in pollution may also require authorisation. The National Water Act, 1998 ("NWA") requires licences for certain water uses. The National Environmental Management Act, 1998 ("NEMA") requires an environmental authorisation before many types of construction activities can commence. The National Environmental Management Waste Act, 2008 ("the Waste Act") requires licensing of various listed waste activities. The National Environmental Management Air Quality Act, 2004 ("the Air Quality Act") requires licensing of various listed activities which result in atmospheric emissions.

Generally, dependent upon the empowering legislation, environmental authorisations or permits are only transferable with the consent or approval of the relevant authority.

2.2 What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit?

Environmental legislation generally contains provisions permitting appeals of decisions granting permits, licences and authorisations. In addition, a person aggrieved by an authority's decision may, under the Promotion of Administrative Justice Act, 2000 ("PAJA"), seek a judicial review of the decision in a court or tribunal. Furthermore, in terms of PAJA, a person who has been aggrieved by an authority's decision has a right to be given reasons for the decision.

2.3 Is it necessary to conduct environmental audits or environmental impact assessments for particularly polluting industries or other installations/projects?

The main environmental impact assessment provisions are contained in NEMA which requires an environmental authorisation preceded by some form of impact assessment for a wide range of

construction activities. In addition, some sectoral legislation, such as the, Waste Act, Minerals and Petroleum Resources Development Act, 2002 ("MPRDA"), Development Facilitation Act, 1995, Biodiversity Act, 2004 and Marine Living Resource Act, 1998 contain impact assessment provisions. Most Environmental Impact Assessments ("EIAs") are governed by the EIA Regulations, promulgated under NEMA.

Environmental authorisations to commence certain activities may require holders to furnish competent authorities with reports on environmental impacts of the activities at specified intervals or when requested by authorities.

2.4 What enforcement powers do environmental regulators have in connection with the violation of permits?

NEMA provides for the establishment of Environmental Management Inspectors and there are both national and provincial enforcement departments. Most environmental statutes contain criminal sanctions for breach. Penalties usually involve a prison sentence for a specific period, a fine or both such prison sentence and fine. Penalties in the range of R1 million to R10 million are increasingly prescribed.

Many statutes empower officials to issue abatement notices and/or directives. Failure to comply with directives usually constitutes an offence.

Civil liability may arise, on the basis of delictual/tort law, from violations of permits, licences or authorisations, if a person acted wrongfully, culpably and caused harm to another, and damages resulted.

Virtually all environmental legislation requiring permits, licences or authorisations contain provisions providing for their withdrawal, suspension or cancellation.

3 Waste

3.1 How is waste defined and do certain categories of waste involve additional duties or controls?

The Waste Act introduces a more extensive waste definition. It includes waste generated by mining, medical or other sectors, but does not apply to radioactive waste, mining residue deposits/stockpiles or explosives. Hazardous waste is widely defined, including any waste that may have a detrimental impact on health and the environment. By-products are not defined as waste and any portion of waste re-used, recycled and recovered ceases to be waste.

Under the Waste Act, specified measures may be required for waste identified by the Minister of Water and Environmental Affairs ("the Minister") as "priority waste". Such measures could relate to minimisation, storage, re-use, recycling, recovery, treatment and disposal of waste, registration, monitoring and reporting requirements and compiling industry waste management plans. These measures are not yet of legal force.

A person transporting hazardous waste must obtain written confirmation that receivers are authorised to accept.

The Hazardous Substances Act, 1973, classifies hazardous substances into four categories, each with their own requirements for disposal. The Hazardous Chemical Substances Regulations, published under the Occupational Health and Safety Act, 1993, has requirements for packaging, transportation and disposal of hazardous waste.

The Hazardous Substances Act prohibits persons handling or dealing with radioactive waste without the Director-General's written authority. The National Radioactive Waste Disposal Institute Act, 2009, provides the legislative framework for establishing an Agency responsible for radioactive waste disposal.

DWAF's "Minimum Requirements for the Disposal of Waste by Landfill" distinguishes between waste categories; they have no legal force, but are often incorporated into waste disposal site permits, thereby enforcing additional duties and controls regarding hazardous waste.

3.2 To what extent is a producer of waste allowed to store and/or dispose of it on the site where it was produced?

Generally this is prohibited. The Waste Act prohibits waste disposal that is likely to cause environmental pollution or harm to health and well-being.

It requires that a waste disposal site may only be established or operated once the Minister has issued a licence and an environmental assessment is submitted. The storage of general waste and hazardous waste in lagoons or at a facility that has the capacity to store in excess of 100m³ or 80m³ of general waste and hazardous waste respectively requires a licence.

3.3 Do producers of waste retain any residual liability in respect of the waste where they have transferred it to another person for disposal/treatment off-site (e.g. if the transferee/ultimate disposer goes bankrupt/disappears)?

NEMA contains "cradle to grave" principles (responsibility for environmental and health consequences of products, processes or services, starting with the extraction or processing of raw materials and extending through manufacturing and use to include ultimate disposal).

The Waste Act incorporates this principle, by providing for extended producer responsibility for certain products. These responsibilities are subject to the Minister issuing regulations on specified measures that are required; this has not yet occurred. A producer's responsibilities may include waste minimisation programmes, the financing of such programmes, conducting life cycle assessments or labelling requirements. The application of these provisions implies that producers retain responsibility for their waste, notwithstanding transfer to a lawful recipient.

It also places a general duty on sellers of products, that may be used by the public and which are likely to result in hazardous waste generation, to take reasonable steps to inform the public of the waste's impact on health and the environment.

3.4 To what extent do waste producers have obligations regarding the take-back and recovery of their waste?

There are presently no specific obligations requiring that waste producers take back or recover their waste; however, as discussed above, a person retains responsibility for their waste.

Extended producer responsibility under the Waste Act may include requirements for re-use, recycling, reduction and treatment of waste resulting from identified products.

4 Liabilities

4.1 What types of liabilities can arise where there is a breach of environmental laws and/or permits, and what defences are typically available?

Generally, breach of environmental statutes invokes criminal sanctions.

Certain statutes impose strict liability, including the MPRDA and National Nuclear Regulator Act, 1999.

NEMA and the NWA also provide for recovery of costs for preventing damage and rehabilitation of the environment.

4.2 Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

NEMA provides that if environmental harm is authorised by law, such as a permit issued under any environmental law, the relevant operator is obliged to minimise and rectify such harm. Where a person fails to take reasonable measures to minimise or rectify effects of environmental pollution or degradation, the relevant authority may itself take such measures, and recover costs from the responsible operator.

NEMA has been amended recently to provide for liability for historical pollution. An operator occupying land may also be liable in future for remediation costs under the Waste Act (discussed below).

An operator may therefore, in certain circumstances, be liable for pollution remediation costs, notwithstanding that the activity is authorised.

4.3 Can directors and officers of corporations attract personal liabilities for environmental wrongdoing, and to what extent may they get insurance or rely on other indemnity protection in respect of such liabilities?

Under NEMA, a corporation's officer may, in certain circumstances, personally be criminally liable for an offence and damages.

A corporation's director may also be criminally prosecuted and liable to pay what are, in effect, civil damages, if such director fails to take all reasonable steps necessary to prevent an offence being committed.

Directors and officers of corporations cannot contract out of statutory liability which they incur for environmental wrongdoing, although there is nothing which provides that they cannot: a) be indemnified by their corporations for any damages or fines payable for environmental damage; or b) take out insurance against the payment of any damages or fines.

4.4 What are the different implications from an environmental liability perspective of a share sale on the one hand and an asset purchase on the other?

The environmental legislative regime imposes strict obligations on persons (including companies) who pollute the environment. These obligations are specifically aimed at land owners or operations or substances causing pollution. However, due to the principle of separate legal personality in company law, these obligations do not usually extend to such owners' shareholders, although the statutes as drafted could allow a claim against a person who benefited from polluting activity which could include a shareholder.

Generally, it is therefore preferable, from an environmental liability perspective, to purchase shares rather than assets.

However, direct delictual liability could be attributed to shareholders in certain limited circumstances, such as for operations, plans, policies, procedures they imposed or omissions they caused a subsidiary to make, provided all the delictual liability elements are present.

Additionally, if shareholders misused the corporate personality of a subsidiary for advantage, resulting in environmental harm, courts may pierce the corporate veil and attribute liability to shareholders of the subsidiary, for environmental damage caused by the subsidiary.

4.5 To what extent may lenders be liable for environmental wrongdoing and/or remediation costs?

NEMA and the NWA extend the net of liability to include persons who 'indirectly contribute to' or benefit from pollution or degradation. Whilst the ambit of this terminology has not been tested in courts, it is possible that in certain circumstances, liability may extend to include a lender, but in the absence of direct intervention, this is unlikely.

5 Contaminated Land

5.1 What is the approach to liability for contamination (including historic contamination) of soil or groundwater?

The fact that soil or groundwater contamination occurred before a new land owner takes ownership does not exempt the new owner from taking steps to remedy such environmental damage. Both NEMA and the NWA provide that land owners may be liable for historic contamination, which occurred prior to taking ownership. The owner could attempt to recover a share of remediation costs from any prior polluter.

The Waste Act also provides, if the authorities declare land a remediation site, that remediation costs may be recovered for historic contamination from persons "responsible for undertaking the remediation". The Act does not specify from whom such costs are recoverable and a land occupier could be liable, particularly if high risk activities are undertaken which may contribute to the contamination These provisions do not yet have the force of law.

5.2 How is liability allocated where more than one person is responsible for the contamination?

NEMA and the NWA provide for apportionment of costs incurred by a government agency in remedying environmental pollution amongst persons responsible for the pollution, according to the degree to which each is responsible for the environmental harm.

5.3 If a programme of environmental remediation is 'agreed' with an environmental regulator can the regulator come back and require additional works or can a third party challenge the agreement?

Yes this is possible, but there is no specific provision for this.

5.4 Does a person have a private right of action to seek contribution from a previous owner or occupier of contaminated land when that owner caused, in whole or in part, contamination; and to what extent is it possible for a polluter to transfer the risk of contaminated land liability to a purchaser?

It would be possible to institute a claim for damages against a predecessor-in-title if it could be proved that the loss occasioned to the new owner was caused by the predecessor's failure to take measures to alleviate environmental harm.

5.5 Does the government have authority to obtain from a polluter, monetary damages for aesthetic harms to public assets, e.g. rivers?

Yes, damages are limited to what is required to remediate the polluted land.

6 Powers of Regulators

6.1 What powers do environmental regulators have to require production of documents, take samples, conduct site inspections, interview employees, etc.?

NEMA creates broad search and seizure powers for inspectors appointed under the statute. Inspectors are empowered to question persons regarding acts or omissions which may constitute environmental offences, require production of documents, remove specimens, and take samples. These powers must be exercised in a procedurally fair manner. These powers were extended by providing that inspectors be regarded as peace officers, with powers assigned to peace officers or police officials who are not commissioned officers under the Criminal Procedures Act, 1997. Further, amendments introduced by the National Environmental Laws Second Amendment Act, 2013 extend these powers by providing inspectors with the legal mandate to seize, without a warrant, any items including vehicles, vessels, aircraft or other transport mechanisms, used in the commissioning of an offence under NEMA.

The NWA provides that the DWEA may request any data, information, documents, samples or materials reasonably required for monitoring purposes or protection of water resources, be provided to it.

Various other environmental statutes also provide wide powers of search and seizure for inspectors appointed under those Acts.

7 Reporting / Disclosure Obligations

7.1 If pollution is found on a site, or discovered to be migrating off-site, must it be disclosed to an environmental regulator or potentially affected third parties?

NEMA does not oblige a person to report pollution to an environmental regulator, unless it constitutes an "emergency incident". In such circumstances, responsible persons must report the incident and all relevant information to the Director-General of DWEA, police, head of the relevant provincial government department and all persons whose health may be affected.

Under the National Building Regulations, persons who own significantly contaminated land must notify the relevant authority as soon as they become aware of it. Similar provisions are proposed in the Waste Act.

7.2 When and under what circumstances does a person have an affirmative obligation to investigate land for contamination?

Where an emergency incident occurs, responsible persons must take certain steps under NEMA, including assessing immediate and long-term effects of the incident and the extent and existence of contamination.

The National Building Regulations require an authority, with a reasonable belief that land upon which a building is to be erected is contaminated, to inform the owner, who must undertake a site assessment. Similar provisions are proposed in the Waste Act relating to contaminated land.

7.3 To what extent is it necessary to disclose environmental problems, e.g. by a seller to a prospective purchaser in the context of merger and/or takeover transactions?

There is no statutory obligation to make any disclosures. Parties usually perform due diligence investigations to assess any potential environmental liability relevant to the transaction.

8 General

8.1 Is it possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities, and does making a payment to another person under an indemnity in respect of a matter (e.g. remediation) discharge the indemnifier's potential liability for that matter?

It is common for commercial transactions to incorporate environmental indemnities to limit exposure for actual or potential environmental-related liabilities.

The polluter remains liable in statute for any contamination or pollution, but could require any loss occasioned following successful prosecution to be made good by the indemnifier.

8.2 Is it possible to shelter environmental liabilities off balance sheet, and can a company be dissolved in order to escape environmental liabilities?

There is no specific legislation regulating dissolution of companies with particular reference to environmental liabilities. However, normal company law principles apply and any outstanding creditors, including those with environmental or delictual claims for harm caused by the company, could apply to court to prevent the dissolution.

As set out below, parent companies of subsidiaries which have caused environmental damage can be held liable, where the subsidiary has been dissolved.

For environmental harm caused by mining activities, the MPRDA imposes strict liability on company directors or close corporation members for environmental damage caused by the entity they represented, even if they no longer represent such entity or the entity no longer exists.

8.3 Can a person who holds shares in a company be held liable for breaches of environmental law and/or pollution caused by the company, and can a parent company be sued in its national court for pollution caused by a foreign subsidiary/affiliate?

The NWA and NEMA provides that, any person "in control" of land, or who has benefited from pollution, may be liable for pollution arising from the land. There is no case law on whether this extends to parent companies.

Delictual or tortious liability may theoretically be attributed to a foreign parent company for damage caused to persons or property by operations, plans, policies, procedures or investments it proposed, or for omissions it directly caused a South African subsidiary to make, provided that all the delictual liability elements are present. There is, however, no decided case law on this in South Africa.

8.4 Are there any laws to protect "whistle-blowers" who report environmental violations/matters?

The Protected Disclosures Act, 2000, has procedures for disclosure of information by employees in both public and private sectors regarding unlawful or irregular conduct by their employers. Disclosure of information regarding damage or likely damage to the environment is specifically protected, as are persons making such disclosures. Remedies are available to employees who suffer detriment by making a protected disclosure.

NEMA also makes provisions for protection of employees who disclose information they believe is evidence of an environmental risk.

8.5 Are group or "class" actions available for pursuing environmental claims, and are penal or exemplary damages available?

The Constitution provides for class action, as does NEMA; however, there are no Rules of Court to assist with such action. Penal or exemplary damages are not awarded to claimants.

8.6 Do individuals or public interest groups benefit from any exemption from liability to pay costs when pursuing environmental litigation?

The NEMA states that a court may decide not to award costs against individuals or groups who fail to secure the relief sought when pursuing environmental litigation if the court is of the opinion that the person or group of persons "acted reasonably out of concern for the public interest or in the interest of protecting the environment" and had made due efforts to use other means reasonably available for obtaining the relief sought.

Where an individual or group of persons secures the relief sought in environmental litigation, the court may award costs to the individual or group of persons (including their legal representatives) and order that the party against whom relief is granted pay any reasonable costs incurred by the individual or group of persons in investigating the matter and its preparation for the proceedings.

9 Emissions Trading and Climate Change

9.1 What emissions trading schemes are in operation in South Africa and how is the emissions trading market developing there?

South Africa is a party to the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

It is categorised as a developing country under the Kyoto Protocol and does not have specified commitments to reduce or cap its carbon emissions.

However, of the three mechanisms available for countries to meet emission reduction targets under the Kyoto Protocol, namely International Emissions Trade, Joint Implementation, and the Clean Development Mechanism ("CDM"), South Africa is involved in several CDM Projects.

The Johannesburg Stock Exchange opened to trading in credit emission reductions during 2008.

9.2 Aside from the emissions trading schemes mentioned in question 9.1 above, is there any other requirement to monitor and report greenhouse gas emissions?

The Air Quality Act requires the authorities, when issuing atmospheric emissions licences, to specify the greenhouse gas emission measurements, monitoring and reporting requirements in the licence.

The Regulations of the Air Quality Act distinguish between two kinds of emissions monitoring, namely: (i) continuous emission monitoring; and (ii) periodic emission monitoring. Depending on the nature of the activity involved and the impact of that activity on air quality, either one of these emission monitoring requirements will be required.

Holders of atmospheric emission licences are also required to annually submit an emissions monitoring report to the licensing authority.

9.3 What is the overall policy approach to climate change regulation in South Africa?

South Africa has not committed to targets or timetables under the Kyoto Protocol.

South Africa has not yet enacted a national legislation or regulations/policy directly pertaining to climate change. It however has a number of initiatives under way or mechanisms in place to address challenges of climate change.

For example, in November 2010, the government published for comment a National Climate Change Response Green Paper. The public comment period closed on 11 February 2011. The overarching objective of the Green Paper is to align South Africa's climate change policy with international principles and to ensure a coordinated, coherent, efficient and effective response to the global challenge of climate change. The Green Paper is generally the first step in law or policy making. As a result, the Green Paper is currently a statement of intent.

Following the publication of the Green Paper, the government published the National Climate Change Response White Paper, which was released in October 2011. According to the White Paper, within two years of its publication, all government departments will be required to review the policies, strategies, legislation, regulations

and plans falling within their jurisdictions to ensure their "full alignment" with the national climate change response. The South African government will then determine the adjustments that need to be made and identify any legislative or regulatory measures which are deemed to be necessary.

In addition to the Green Paper and the White Paper, South Africa has regulations regarding the establishment of a Designated National Authority ("DNA") for the Clean Development Mechanism ("CDM"). These regulations were published in terms of NEMA and empower the DNA, which falls under the DoE, to consider and approve applications for CDM projects that will result in carbon reductions. The application process to be followed and the manner in which decisions will be taken are set out in the regulations.

South Africa has also published a Renewable Energy Procurement Programme to facilitate the construction of renewable energy by Independent Power Producers ("IPPs") and has successfully completed the First and Second Rounds of the competitively bid procurement process for the IPPs to supply power in terms of the Renewable Energy Procurement Programme. Following the First Round, 28 IPPs were announced as Preferred Bidders in December 2011. The Preferred Bidders named in the First Round included 18 solar photovoltaic ("PV") projects, eight onshore winds projects and two concentrated solar power ("CSP") projects. Financial Close was reached on the First Round in November 2012 and Power Purchase Agreements entered into power. After the Second Round, 19 IPPs were announced as Preferred Bidders in May 2012. The Preferred Bidders named in the Second Round included nine solar photovoltaic projects, seven onshore wind projects, two small hydro projects and one concentrated solar power project. Financial Close for the Second Round was reached on 9 May 2013 and the Power Purchase Agreements entered into power. Following the Third Round, 17 IPPs were announced as Preferred Bidders in November 2013. The Preferred Bidders named in the Third Round included six photovoltaic projects, seven wind projects, two concentrated solar power projects, one landfill gas project and one biomass project. South Africa is currently preparing for Financial Close with the Preferred Bidders for the Third Round of the procurement process.

10 Asbestos

10.1 Is South Africa likely to follow the experience of the US in terms of asbestos litigation?

There have been more asbestos-related claims recently. However, claims directly against employers are extinguished by occupational compensation legislation and South Africa does not have a litigious culture on the scale of the US.

10.2 What are the duties of owners/occupiers of premises in relation to asbestos on site?

The applicable regulations do not require the removal of asbestos from workplaces, but include control measures which employers must take for asbestos-containing materials, and also for exposure, spraying, demolition and disposal of asbestos.

The regulations require regular assessment of potential exposure of employees to asbestos.

The Regulations for the Prohibition of the Use, Manufacturing, Import, Export of Asbestos and Asbestos Containing Material regulate any dealings with asbestos products that may have a substantial detrimental effect on the environment or human health, by requiring registration of such activities. Employers are also required to notify the authorities of any work that exposes or is likely to expose any person to asbestos dust in terms of the Asbestos Regulations, 2002.

11 Environmental Insurance Liabilities

11.1 What types of environmental insurance are available in the market, and how big a role does environmental risks insurance play in South Africa?

The different types of environmental insurance available are:

- environmental impairment liability policies; and
- directors' and officers' liability insurance.

Whilst many companies are beginning to realise the potential of environmental liability, environmental risks are poorly covered and investing in appropriate risk management measures, principally through insurance policies, is still fairly limited.

11.2 What is the environmental insurance claims experience in South Africa?

At this stage, the environmental insurance claims experience is fairly limited.

12 Updates

12.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Environment Law in South Africa.

Listed Waste Management Activities

In November 2013, the DWEA published an amended list of waste management activities in terms of the Waste Act. This list amends the thresholds for the storage of general and hazardous waste at facilities which require a waste management licence and makes the storage of general waste in lagoons a listed waste management activity which requires a basic assessment process to be undertaken as part of the waste management licence application process. The storage of hazardous waste in lagoons is now an activity which requires a scoping and environmental impact reporting process to be undertaken as part of the waste management licence application process.

The amended list of waste management activities also introduces a third category of listed waste management activities. To this extent, any person wishing to commence, undertake or conduct a waste management activity listed in the third category, must comply with three standards which were published by the DWEA in 2013, namely:

- Norms and Standards for Storage of Waste, 2013; or
- Standards for Extraction, Flaring or Recovery of Landfill Gas, 2013; and
- Standards for Scrapping or Recovery of Motor Vehicles, 2013.

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Claire Tucker is a partner at Bowman Gilfillan and the head of the environmental practice area at the firm. She practises in regulatory and environmental law and is widely published on these matters.
Claire Tucker has worked on a wide range of regulatory matters, including the drafting of legislation, High Court review applications and the interpretation and application of statutes, as well as commercial and transactional advice. She also practises in and advises on environmental issues such as atmospheric pollution prevention, waste regulation, water, land use planning and environmental impact assessments. She has a particular interest in the socio-economic aspects of the constitutional right to a clean environment.
She is currently advising the South African National Treasury and the Department of Energy, which are running the first international independent power producer procurement process for renewable energy in South Africa, on all aspects of the design, implementation and drafting of the procurement process documents, and implementation of the process, as well as the evaluation of bids and negotiation with Preferred Bidders.
She worked for two years in London, at Leigh Day and Co, on plaintiff actions against multinational corporations causing damage to people and the environment in developing countries, particularly on the *Cape plc asbestos* case and the *Thor Chemicals* case.

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Athi Jara is an associate at Bowman Gilfillan and is part of the Energy and Environmental, Natural Resources and Climate Change practice areas in the Corporate Department. She practises in regulatory and environmental law.
She specialises in regulatory, mining, energy and public procurement law and has advised a broad range of clients on various aspects of these legal practice areas.
She is currently assisting with advising the South African National Treasury and the Department of Energy, which are running the first international independent power producer procurement process for renewable energy in South Africa, on all aspects of the design, implementation and drafting of the procurement process documents, and implementation of the process, as well as the evaluation of bids and negotiation with Preferred Bidders.
Athi plans on pursuing her LL.M. in the near future.

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Bowman Gilfillan is widely regarded as one of the premier corporate law firms in Africa, with offices in Johannesburg and Cape Town. The firm has an association with Coulson Harney in Nairobi. Employing 311 specialised lawyers (including 120 partners), with a total staff of 630, the firm is recognised for its professionalism and superior legal services.

Bowman Gilfillan's **Environment, Natural Resources and Climate Change team** has developed an extensive, in-depth and practical knowledge of the legal system and policy framework (within which the environment is regulated in South Africa). The team works closely with all levels of government and other relevant stakeholders, and enjoys strong professional relationships with the various environmental regulatory authorities in South Africa.

Bowman Gilfillan's committed and diverse team of corporate attorneys, years of experience in the industry and supreme legal expertise, comprise a winning formula that has earned it a series of accolades, including South African Law Firm of the Year at the PLC Which lawyer? Law Firm Awards 2010 and South African Law Firm of the Year at the Who's Who Law Firm Awards 2010.

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