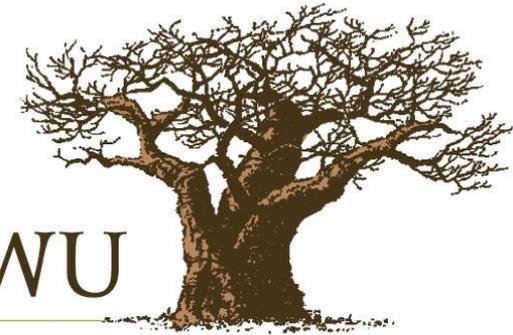




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IMBEWU

Sustainability Legal Specialists (Pty) Ltd



NOVEMBER 2021 SUSTAINABILITY NEWSLETTER

For a copy of the Safety, Health and Environmental (SHE) Legislation Update, please go to:

https://imbewu.co.za/wp-content/uploads/2021/12/SHE_Leg_Nov21.pdf

NATIONAL

GENERAL

Urgent court application filed to block Shell's seismic survey – Applicants, including Greenpeace Africa, Natural Justice, Border Deep Sea Angling Association and the Kei Mouth Ski Boat Club, have filed an urgent application to stop Shell from proceeding with a seismic survey to detect oil and gas reserves off the Wild Coast. Concerns have been raised regarding the effects on local marine life and whether Shell has obtained the required environmental authorisations.

Source: Fin24 dated 30 November 2021

<https://www.news24.com/fin24/companies/industrial/environmental-organisations-file-urgent-court-application-to-block-shells-seismic-survey-20211130>

Plans to build new coal-fired power plants halted by lawsuit – Environmental activists have filed a lawsuit against the National Energy Regulator of South Africa (NERSA) and Minister of Mineral Resources, Gwede Mantashe, to halt the planned construction of 1500 megawatt capacity coal-fired power plants. Nicole Loser, Programme Head of Pollution and Climate Change at the Centre for Environmental Rights stated that “New coal-fired power flies in the face of our constitutional right to an environment not harmful to health and wellbeing, not only for the present generations but for the future ones too.”

Source: News24 dated 17 November 2021

<https://www.news24.com/fin24/economy/mantashe-nersa-sued-over-plans-to-build-new-coal-power-plants-20211117>

High Court ruling regarding BEE ownership of mines not appealed – The High Court struck down key provisions introduced into the mining charter in 2018 including the rule stipulating the 26% black investor ownership target. The ministry said it would enforce mining rules according to the court ruling and would consider other options to promote transformation within the mining sector.

Source: Mining Weekly dated 23 November 2021

<https://www.miningweekly.com/article/south-africa-wont-appeal-court-ruling-on-black-mining-ownership-2021-11-23>

Uthaka Energy's appeal bid to overturn interdict dismissed – The Constitutional Court has, for the second time, stopped an attempt by Uthaka Energy to appeal a court interdict issued in the Pretoria High Court in March. The interdict prohibits Uthaka Energy from starting any mining operations at the proposed Yzermyn coal mine until such time as six pending high court cases have been concluded. The proposed mine is situated in the Strategic Water Source Area in the grasslands and wetlands of the Wakkerstroom area which, along with only 22 other water sources, produces more than 50% of South Africa's freshwater.

Source: Daily Maverick dated 17 November 2021

<https://www.dailymaverick.co.za/article/2021-11-17-concourt-dismisses-uthaka-energys-appeal-bid-against-mpumalanga-coal-mining-interdict/>

Supreme Court of Appeals (SCA) ruling finds that the transfer of water use rights is permitted – The SCA recently ruled in three cases that section 25 of the National Water Act (NWA) allows for the transfer of water use entitlements in certain circumstances. This is particularly relevant in the agricultural sector where it is generally accepted that water use rights transfer to the successor in title on conclusion of a merger or acquisition transaction.

Source: Sunday Times Live dated 12 November 2021

<https://www.timeslive.co.za/news/south-africa/2021-11-12-sca-passes-landmark-decision-on-transfer-of-water-use-rights/>

\$8.5bn green financing deal supported by the South African Wind Energy Association (SAWEA) – At the COP26 conference held in November, a financing deal was announced comprising of bilateral grants, concessional loans, guarantees and private investment in support of South Africa's transition to greener power production. SAWEA supports the deal and feels it will help accelerate the uptake of green energy in South Africa.

Source: Knowledia dated 10 November 2021

<https://news.knowledia.com/ZA/en/articles/sawea-supports-85bn-green-financing-deal-f89a6e36b7b52d158348f023fcf0b7f7daf7f59b>

INTERNATIONAL

GENERAL

Scotland bans the use of the most problematic plastic products – Scotland will be the first UK nation to enforce the ban on certain single use plastic products. The legislation applies to plastic cutlery, plates, straws, beverage stirrers and balloon sticks among others. Lorna Slater, Circular Economy Minister said, “We are turning promise into action and banning some of the most problematic single-use plastic items in Scotland”.

Source: Climate Action dated 16 November 2021

https://www.climateaction.org/news/scotland-to-enforce-ban-on-single-use-plastic-items-from-june-2022?vgo_ee=38IEG%2Fy2McmquoOEHyk4J7tyvx6SylZEBb9EGtM3cv4%3D

Shumba Energy secure equity commitment of \$80 million for solar project – Shumba Renewables, the company's green unit said it expects to receive full funding for its planned 100-megawatt solar project by the second quarter of 2022. Managing Director of Shumba Energy stated “We believe that as much as coal will play its role, in the long term, renewable energy is where we want to be.”

Source: Bloomberg Green dated 10 November 2021

<https://www.bloomberg.com/news/articles/2021-11-10/coal-company-sees-first-equity-for-renewables-shift-in-botswana>

VACANCIES

CANDIDATE ATTORNEY AND JUNIOR ASSOCIATE: Warburton Attorneys Inc, a Johannesburg based law firm specialising in environmental law, is expanding and is inviting suitable applicants to submit their CVs for positions that are currently available at the candidate attorney and junior associate levels. The ideal applicants should already have a Master's degree in environmental law; however, we will consider applicants who are in the process of obtaining their Masters degree in environmental law. Consideration will also be given to applicants who can readily demonstrate that they have extensive experience in the application of environmental law in the South African context. Excellent written and verbal communication skills and a keen interest in environmental law are absolute requirements.

If you meet the above requirements, then please submit a CV together with a short cover letter and your academic record to sam@warburtons.co.za

PARALEGAL: IMBEWU Sustainability Legal Specialists (Pty) Ltd, a Johannesburg based environmental law consultancy, is looking for a para-legal with excellent IT skills and a keen and demonstrable interest in environmental law. Excellent written and verbal communication skills are an absolute requirement for the role.

If you meet the above requirements, then please submit a CV together with a short cover letter and your academic record to sam@imbewu.co.za.

UPCOMING EVENTS

WEBINARS AND TRAINING COURSES

IMBEWU intends conducting a 2½ hour webinar focusing on certain key aspects associated with proposed wind energy projects in South Africa such as:

- An update on, and lessons learnt from recent NEMA appeals and judicial review applications against the issuing of environmental authorisations;
- The effect of NEMA appeals and judicial reviews on the REIPPPP bidding process;
- An in-depth analysis and discussion of applicable appeal decisions made by the Environment Minister during 2020 and 2021; and
- The legal effect of the non-approval, by the Competent Authority, of draft EMPRs and layout plans at the same time as the granting of an environmental authorisation.

Kindly indicate via return email if you would be interested in participating in the webinar, the cost of which is currently estimated to be R1 250.00 which will include copies of all the Environment Minister's wind energy related appeal decisions referred to during the webinar. Once we are satisfied that there is sufficient interest in the webinar, we will proceed to finalise the programme, set a date and open the registration process.

IMBEWU'S ONLINE Safety, Health & Environmental (SHE) Legal Register Platform. This new SHE Legal Register offering is contemporary and streamlined for easy online access with secure passwords, regular updates, easy navigation, explanations of SHE legislation relevant to your operation, access to a comprehensive searchable SHE legislation database and user-specific functions such as bookmarks.

For more information contact sam@imbewu.co.za or visit <https://imbewu.co.za/she-electronic-legal-registers/>

Happy Holidays and thank you for your ongoing support! Please note that our offices will be closing at 12h00 on the 24th of December and will reopen on 5 January 2022. We wish you all a happy and healthy year ahead.

DISCLAIMER: The information contained in IMBEWU's Sustainability Newsletter and Legislation Update has been obtained from sources believed to be reliable. IMBEWU does not warrant the accuracy, completeness or adequacy of such information.

If you would no longer like to receive IMBEWU's Newsletter and Legislation Update please email admin@imbewu.co.za