

MISPLACING NEMA? A CONSIDERATION OF SOME PROBLEMATIC ASPECTS OF SOUTH AFRICA'S NEW EIA REGULATIONS

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Summary

In mid-2006, new Regulations governing environmental impact assessment were published in terms of the *National Environmental Management Act* 107 of 1998. It is argued in this article that the old Regulations under the *Environment Conservation Act* 73 of 1989, which were replaced, had proved inadequate not because of any inherent deficiency, but because they were never properly implemented and because they were instead subjected to much inaccurate criticism. The article then canvasses the old Regulations and considers criticisms thereof, before canvassing the new Regulations and assessing differences between the old and the new. Various specific concerns and potential shortcomings are raised and considered; and various interpretations are offered of problematic provisions. A prognosis for the success and/or failure of the new Regulations is then put forward in the context of the South African government's present approach to economic growth, environmental protection and the enforcement of environmental legislation. Finally, it is argued that there are danger signs that the new Regulations will be as misunderstood and misapplied as were the old Regulations and that the fundamental principles of the *National Environmental Management Act* are likely not to be adhered to in the implementation of the new Regulations.

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