

## Environmental Compliance and Enforcement in South Africa: Legal Perspectives

by *A Paterson and LJ Kotze*

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400 pages

(Soft cover)

Any book that is prefaced with a foreword by Albie Sachs has my immediate attention. It is sheer bliss to read his writing, which is every bit as excellent, engaging and candid as the content and the delivery of his flawless addresses. Hopefully this book will leave an indelible impression and help to give effect to his call for 'practical and hands-on implementation' of environmental law.

In his words,

'to the extent that this book provides thoughtful and practical ways of ensuring that constitutional and legislative protections of the environment can be achieved, it not only serves to protect the environment. It gives a boost to the whole constitutional endeavour'.

Hear, hear!

The first chapter of the book highlights the problem –

'the absence of a cohesive, coherent and politically supportive compliance and enforcement effort'

in South Africa – and sets up the challenge for the content of the book. It is stated that the key objective of the book

'is to promote a critical understanding in the legislature, the executive, the judiciary, the private sector, scholars and citizens of the current environmental compliance and enforcement regime in South Africa' (at 3).

'It furthermore seeks to promote debate around the key challenges and the anomalies inherent therein, and possible solutions for their resolution' (at 4).

It is my view that the book does fulfil its main purpose.

A number of the chapters seem to have been written mainly with the objective of influencing government rather than for the wider audience described above, which would include legal practitioners and the so-called 'private sector'. Chapter 2 on the Legal Context is not very helpful to lawyers, being more of an introductory nature for other readers, in that it sets out very basic principles that one should certainly be familiar with after the completion of a law degree. To the extent that the interrelationship between these principles and institutions and environmental law and management in SA is explained, it is useful in providing some background to practitioners who do not practise in the field of environmental law. An experienced legal practitioner who is not an environmental expert would probably start gaining real value from the book after about page 51, with the section entitled 'Overview of Key Environmental Compliance Enforcement Mechanisms Used in South Africa'.

The contributions of current and previous senior officials from the Enforcement Directorate of the National Department of Environmental Affairs add enormous value to the book and provide a depth of practical experience of, and insight into, the enforcement of environmental laws that is sorely needed in South Africa.

Since the chapters are written by various contributing authors,

there is some repetition. For example, the Specific Environmental Management Acts (SEMA's) are enumerated and explained many times over. However, if a reader is simply dipping into the book and reading only selected chapters then it may be useful that important principles are reiterated, especially for readers who are not familiar with this area of law. Nevertheless, eliminating some of the repetition with the more frequent use of cross-referencing would have made the book easier to read. In addition, some of the chapters could have been edited to flow more easily into each other. For example, chapter 8 on Access to Information should have preceded chapter 7 so that the two crucially important chapters on Administrative Justice and Administrative Measures, though they are covered under different 'themes' in the book, could follow on directly from each other.

The many references to environmentally related case law throughout the book are extremely useful, especially for practitioners who may not be aware of the relevant case law. From this perspective the book is an essential point of reference. The chapters on Common Law Remedies for Environmental Protection (chapter 13) and Administrative Measures (chapter 9) and the entire Theme on The Interface with Constitutional Rights should be liberally referred to by the legal profession. Business and industry will also be pleased with the inclusion of the two thoroughly researched and well-written chapters on Voluntary Compliance Measures and Incentive-Based Measures (chapters 11 and 12).

This book should be prescribed reading for university students embarking on a course in environmental law and/or administrative law, and for any attorney involved in an environmental legal matter related to enforcement and compliance. It makes an invaluable contribution to legal practice and environmental management in South Africa. Most importantly, this book has for the first time collated and crystallised the law and practice of environmental compliance and enforcement in South Africa. As is stated in the introduction, there is no other book of its kind.

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