

Mines could pay dearly for environmental oversight

Speaking to Mining Weekly, legal firm Norton Rose environmental law specialist Tina Costas said that South Africa's mining industry continues to experience the challenges posed by the plethora of legislation at national, provincial and local levels, and that the industry is facing potential costly consequences for noncompliance.

"Although the legislation governing environmental requirements embodies the concept of sustainable development and is progressive [...] the legislation is fragmented; there are frequent changes and often it is not clear exactly what is required to achieve compliance," she said

Irrespective of existing uncertainties, Costas said, mining companies face compliance challenges in that they are still required to take reasonable precautions to prevent environmental pollution and degradation from occurring during mining operations. "Mining houses should be aware of mining requirements [...] be familiar with legal obligations, and take all reasonable measures to prevent pollution and damage to the environment," says Costas. In addition to the potential costs arising from noncompliance and damage to the environment, mining companies also face the threat of having to face class actions brought by applicants where the question of law and fact is common to that class.

The courts have recognised that class actions are available in South African law, and a recent Constitutional Court judgment has opened the door for mineworkers to recover damages from negligent mine owners for occupational injury or diseases. Overall, Costas told Mining Weekly she believes mining companies should look beyond the increasingly changing legislation and compliance issues, as they are shaping the way in which mines will do business in the future. "Companies need to become aware of their duties, familiarise themselves with the law, be proactive and strategise," she concludes.

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