



**PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT,  
CONSERVATION & TOURISM**

**REPORT ON PUBLIC HEARINGS ON THE NATIONAL ENVIRONMENTAL  
MANAGEMENT LAWS SECOND AMENDMENT BILL B13 - 2013**

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## 1. INTRODUCTION

The Portfolio Committee on Economic Development, Environment, Conservation and Tourism held Public Hearings on the 22<sup>nd</sup> August 2013 throughout the province on the National Environmental Management Laws Second Amendment Bill [B13-2013], to solicit views and input from relevant stakeholders and members of the public in line with provisions in the Constitution. In Ngaka Modiri Molema District the attendance was one hundred and seventy eight (178), Dr Kenneth Kaunda District the attendance was seventy four (74), In Dr Ruth Segomotsi Mompoti District the attendance was three hundred (300) and in Bojanala District the attendance was two hundred and twelve (212).

## 2. EXECUTIVE SUMMARY

The Portfolio Committee received a presentation on the Bill on 06 August 2013 from the Department of Environmental Affairs. The proposed amendments were initiated as part of the National Environmental Management Laws Amendment Bill. The decision to split the Bill was made in September 2012, due the fact that the First Amendment Bill was dealing with biodiversity amendments that were urgent to address challenges relating to the permitting system and the implementation of the new threatened or protected Species Regulations.

The Second Amendment Bill, however, proposes amendments to certain provisions under the NEMA and new additions to enable the provisions relating to environmental management planning, integrated environmental management and compliance and enforcement.

### **3. OBJECTIVE**

The objective of the Bill is to;

- 3.1 To amend certain definitions to provide clarity and remove ambiguity.
- 3.2 To change the timeframes for the preparation of environmental implementation plans and environmental management plans from 4 years to 5 years to enable the elected government the opportunity to implement its priorities.
- 3.3 To insert a new section requiring the Department, provincial departments responsible for environmental affairs and on a voluntary basis, the metropolitan and district municipalities to prepare and publish environmental outlook reports; which will feed into the national report.

### **4. PRESENTATION OF THE BILL BY THE PORTFOLIO COMMITTEE**

The Portfolio Committee presented the Bill to the communities and indicated the following additions to the Bill:

- Clause 1(b): The definition of 'commencement' only made provision for the instance where the activity involves construction. Now it includes activity' that could be a plan, policy, programme or process.
- Clause 1(e): The definition of 'environmental assessment practitioner' now includes officials that are responsible for the review of the instruments used for environmental planning, management, as well as the coordination of strategic environmental assessments, and, environmental management programmes.
- The definition of Specific Environmental Management Act (SEMA) is amended to include the Intergrated Coastal Management Act, 2008; Waste Act, 2008 and the World Heritage Convention Act, 1999 as SEMAs.
- Clause 2: Section 11 of the principal Act stipulates that any department exercising a function involving the management of the environment or a

function that may affect the environment must prepare an environmental plan within one year of the promulgation of the Act and at intervals of not more than four years thereafter.

- Time periods have been changed to five years to coincide with government planning periods and it has been clarified that the provincial department responsible for the environment is also responsible for the plans.
- Clause 3: A new section has been inserted to provide for the preparation and publication of 4-yearly environmental outlook reports by the national, provincial and municipalities in order to track the state of the environment and the effectiveness of the environmental management system. The preparation, publication, procedure, format and content of these reports will be determined by the Minister.
- Clause 4: A new section has been inserted to promote or facilitate the mainstreaming of integrated, environmentally sustainable and sound management considerations into business processes, practices, technology and decision-making across the country.
- Clause 4 (a) and (b): Section 24 has been amended to enable the use of spatial tools, norms and standards and environmental management instruments in decision-making as an alternative to the environmental authorization procedure.
- Clause 5 (a) and (b): Provides the Minister and MECs with a legal mandate to identify those activities that may commence without environmental authorizations. Minister may prohibit the granting of environmental authorization in a particular geographical area to ensure the protection of the environment.
- The Minister or MECs are provided with a legal mandate to develop regulations, norms and standards laying down the procedure for the preparation, evaluation of spatial tools and the criteria or conditions for such instruments.

- **Clause 6(d):** Provides clarity that any activity relating to a matter that has been declared a national priority by Cabinet, e.g. the renewable energy plan projects, must be processed by the national Department.
- **Clause 6(e):** in exceptional circumstances where the MEC either unreasonably or due to capacity challenges fails to take a decision within prescribed time frames the Minister may take the decision. Minister is obliged to report annually to Parliament on the exercise of this power.
- **Clause 9:** The Minister of Environmental Affairs, The Minister of Mineral Resources and the MEC responsible for Environmental Affairs are given powers.
- The administrative fine has been increased from R1million to R5million.
- Criminal prosecution may still be instituted despite the fact that a person has applied for an environment.
- The amendment also gives the Minister of Environmental Affairs and Minister of Mineral Resources can defer a decision until the criminal investigation has been concluded.
- **Clause 10:** provides clarity on the exemptions that are allowed or not allowed under the Act.
- **Clause 11: Duty of Care Directives:** The environmental management inspectors are experiencing challenges when issuing a duty of care directive. The amendment will de-link the duty of care requirement from the power to issue a directive.
- **Clause 13 and 14:** introduce the definitions of an 'incident' and an 'emergency situation'.
- **Clause 15:** Provides the environmental management inspector with powers to search and seize any other mechanism of transport.
- **Clause 16 -19 and 25:** All offenses are classified under a new section 49.
- **Clause 20 and 21:** The Minister has a legal mandate to develop regulations to control products that may have a detrimental effect on the environment.

- Clause 22: The Minister and MECs are required to table any regulations developed under the Act before the final publication to Parliament and relevant provincial legislatures respectively.

## 5. CONCERNS AND INPUTS BY THE PUBLIC

- 5.1 A concern was raised that municipalities award tenders for environmental cleaning but those companies end up not disposing the refuse and the community ends up burning the garbage.
- 5.2 There are lots of young people who have studied environmental related studies yet there are less opportunities for them to work.
- 5.3 Medical waste from clinics is still found in landfills where children play and some livestock grazes. That is unhealthy and unsafe.
- 5.4 Legislation such as the Waste Act prohibits the burning of refuse but people continue to start veld fires and burn their waste.
- 5.5 In some instances, the livestock and community drink water from one source and this is unhygienic as animals can carry diseases.
- 5.6 The waste in some areas reaches schools and puts learners' health at risk.
- 5.7 The Bill seems to be silent on the role of local government in ensuring that environmental management takes place.
- 5.8 The Bill is silent on the matter of whether there is a minimum legal distance from industrial operation e.g mining from the residential areas. Licensing for mines should be done in adherence with environmental laws
- 5.9 A concern was raised as to whether people or companies who recycle the waste on a voluntary basis, can be remunerated in any way by the department.
- 5.10 Communities in rural areas who are under tribal authority wanted to know whether tribal authorities check with the municipality and department before they grant land in the villages.
- 5.11 Environmental authorisation powers are mainly given to Ministers and MECs but not those political heads at a local government level.

5.12 Communities requested that there should be land audits as well as health and safety inspections in municipalities.

## **6. RESPONSE BY THE COMMITTEE**

6.1 Waste removal is the competency of local government. However, according to a municipality's by-laws, there should be an area/zone that is designated for waste disposal especially in rural or semi-urban areas.

6.2 The burning of any waste is prohibited as it causes global warming and climate change.

6.3 Medical waste is hazardous and legally, it should not be disposed in open landfills. There could be germs that spread through medical waste this should be reported.

6.4 The department intends to introduce seven (7) Environmental Management Inspectors in Bojanala, who will help monitor and evaluate if the environmental management is adhered to in municipalities. There will be Environmental Assessment Practitioners too who will deal with all complaints.

6.5 There are opportunities in environmental management and as it is a specialized field they are still few interested people who can approach the department to find out where the vacancies are.

6.6 Municipalities sign service level agreements with service providers and give them programmes of how waste should be removed in the municipalities. It is the duty of the community to also voice their complaints if this is not what is happening as it should.



## 7. RECOMMENDATIONS BY THE COMMITTEE

7.1 The Committee recommends that the Department of Environmental Affairs in conjunction with Department of Health launch an investigation into how clinics and hospitals around the province dispose the medical waste to avoid a hazardous and unhealthy situation in communities.

7.2 The Committee recommends that the Department should have stringent measures to ensure adherence to environment management and penalties are enforced upon those that do not adhere to the provisions of the Act.

## 8. CONCLUSION

The Committee concurs with the amendment of the National Environmental Management Laws Second Amendment Bill [B13 - 2013]. The Committee hopes that the Bill will encourage all sectors of society to take responsible steps towards preserving the environment and reversing the effects of global warming and climate change.



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10 SEPTEMBER 2013