




NATIONAL ENVIRONMENTAL MANAGEMENT:
WASTE AMENDMENT BILL, 2013 [B32B of 2013]
Presentation to the Select committee on 28 February
2013



Legal Authorisations and Compliance Inspectorate




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BACKGROUND

- The National Environmental Management: Waste Act, 2008 regulates waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development.
- Since 2009, certain implementation challenges with respect to some provisions of the NEMWA were identified by the department and stakeholders
- These relate to: regulatory certainty, institutional implementation capacity, interpretation, and administration.
- The waste sector has been identified as having significant potential for job creation and contributing to the macro economy



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NATIONAL WASTE STATISTICS

- The Waste Information Baseline Study which was commissioned by the Department of Environmental Affairs (DEA) in 2011 showed that:
 - of the **108 million** tons of waste generated in South Africa, only **10%** was recycled.
 - Approximately **97 million** tons of waste was disposed at landfills
- DEA study 2012/13 shows waste collection service delivery to be 65%
- Unlicensed municipal waste disposal sites: 50%
- Potential contribution of the waste sector to the green economy is in excess of R50 billion and is increasing as more technologies are introduced on scale.
- Job creation contribution currently at 10 000 per annum



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Household waste composition excl paper



Plastics = 14%
 Glass = 3%
 Cans = 4%
 Garden refuse = 29%
 Non-compostable food waste = 12%
 Compostable food waste = 25%
 Unrecyclable general waste = 13%



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COMPARISON

Country	% of waste Recycled	% of waste Processed WTE	% of waste ends up in Landfills
Germany	65%	33%	2%
Netherlands	59%	38%	3%
Belgium	63%	33.5%	3.5%
Sweden	49%	47.5%	3.5%
Denmark	42%	54%	4%
South Africa	10%	2%	88%

WASTE TO ENERGY PROJECTS

Mamelodi – 20MW (By 2016)
 Ekurhuleni – 40MW (By 2016)
 City of Johannesburg - >50MW (By 2017)
 Ethekeweni – 15MW currently 40MW
 proposed



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CHALLENGES IN THE WASTE SECTOR

- A policy and regulatory environment that does not provide the policy certainty for industry to invest significantly in waste management technologies.
- A policy and regulatory environment that does not effectively promote the waste management hierarchy. This has limited the economic potential of the waste management sector, which has an estimated turnover of approximately R50 billion per annum.
- Absence of large scale recycling infrastructure to enable waste separation, waste diversion, recycling and recovery
- Growing pressure on outdated waste management infrastructure, with declining levels of capital investment and maintenance.



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ADDRRESING THE CHALLENGES

1. Need to provide an Institutional Mechanism for implementation of the waste hierarchy of Reuse, Recycle and Recover and management of waste management plans and waste streams which has been a regulatory gap – establishment of a **Waste Management Bureau**
2. Need to enhance and harmonise the definitions to address ambiguity and lack of clarity:
“waste”, “by-product”, “recovery”, “re-use”
3. Need to provide a comprehensive list of wastes to provide certainty
3. Need to streamline the processing and approval of the integrated waste management plans and industry waste management plans;
4. Provisions to improve current regime for the funding of industry waste management plans



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OBJECTIVES OF NEMWA BILL

- Establishment of a Waste Management Bureau to provide for institution capacity for the implementation of waste management plans and associated waste charges
- Provide certainty, remove ambiguity and provide congruency and alignment with regard to the interpretation and understanding of definitions and key concepts eg. the “Waste” definition.
- to address the processing and approval processes regarding the integrated waste management plans and the industry waste management plans.



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Amendments: Definitions

- Clause 1 (amends s1 of the Waste Act)
- Delete the definitions “building and demolition waste”, “business waste”, “domestic waste”, “general waste”, “hazardous waste”, “inert waste”, “residue deposits” and “residue stockpiles” and insert them in Schedule 3
- Delete definition of “by-product”
- Amend the definition of “waste” in order to provide legal clarity on what can be regarded as a waste, as well as to clarify the “recovery” and “re-use” of waste.



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Amendments: Definitions

- **'recovery'** means the controlled extraction **[of a material]** or retrieval of **[energy]** any substance, [or] material or object from waste **[to produce a product]**;
- **'re-use'** means to utilise the whole, a portion of or a specific part of any [articles] substance, material or object from the waste stream **[again]** for a similar or different purpose without changing the form or properties of such [the] [articles] substance, material or object;

New Definition of Waste

" **'waste'** means—

- (a) any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and includes all wastes as defined in Schedule 3 to this Act; or
- (b) any other substance, material or object that is not included in Schedule 3 that may be defined as a waste by the Minister by notice in the *Gazette*,



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Waste definition (continue)

but any waste or portion of waste, referred to in paragraphs (a) and (b), ceases to be a waste—

- (i) once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been, re-used, recycled or recovered;
- (ii) where approval is not required, once a waste is, or has been, re-used, recycled or recovered;
- (iii) where the Minister has, in terms of section 74, exempted any waste or a portion of waste generated by a particular process from the definition of waste; or
- (iv) where the Minister has, in the prescribed manner, excluded any waste stream or a portion of a waste stream from the definition of waste.

New Waste Definition

Provides for:

- more clarity and certainty
- less ambiguity with interpretation
- the Minister to define new wastes or exclude wastes through a prescribed manner
- a comprehensive list of wastes as a new Schedule 3
- for a regulatory mechanism for the reuse, recycling and recovery of waste streams
- for opportunities to promote the recycling economy within a legal framework
- for the end of waste



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Amendments

- Clause 2 amends section 4 of the Waste Act to include the disposal of animal carcasses within the scope of the Waste Act.

Amendments

- Clauses 3, 4 and 5 amend sections 11, 12 and 13 of the NEMWA to clarify that the Department of Environmental Affairs is no longer required to compile an integrated waste management plan, because in terms of section 6 of the Waste Act, the Department is required to compile a national waste management strategy which sets out in detail how the objectives of the NEMWA must be achieved, as well as targets.
- The amendments intend to avoid duplication.

Amendments

- Municipalities are required to submit their integrated waste management plans to the MECs responsible for waste management only for endorsement and not for approval.
- The municipalities' integrated waste management plans must be approved as part of the IDPs in terms of the process set out in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as part of their integrated development plans.
- These amendments are intended for the alignment of processes and to also avoid duplication.

Amendments

- Clause 6 inserts a new Chapter 3A in the NEMWA empowering the Minister responsible for environmental affairs to, in concurrence of the Minister of Finance, publish a pricing strategy to achieve the objectives of the NEMWA in relation to waste management or any waste stream, within three months of the commencement of the NEMWA.

Amendments

- The pricing strategy is to contain the basis and a guiding methodology or methodologies for setting waste management charges.

Waste management charges will be used for:

- the funding of the implementation of industry waste management plans for those activities that generate specific waste streams.

Amendments

Waste management charges will be used for:

- the re-use, recycling or recovery of waste in previously disadvantaged communities;
- the identification, further development and promotion of best practices in the minimisation, re-use, recycling and recovery of waste;

Amendments

Waste management charges will be used for:

- the implementation of approved guidelines, norms and standards for the minimisation, re-use, recycling and recovery of waste;
- the monitoring of the implementation and impact of industry waste management plans;

Amendments

Waste management charges will be used for:

- the creation and the monitoring of the impacts of incentives and disincentives for the minimisation, re-use, recycling and recovery of waste; or the management of the disbursements of incentives for the minimisation, re-use, recycling and recovery of waste.

Amendments

A new section 13B. has been inserted which stipulates that an Act of Parliament (Money Bill) is to give effect to necessary elements of the pricing strategy contemplated in section 13A, is to be tabled within 3 months of the publication of the pricing strategy in the *Gazette*.

The Bill sets out the framework as to what the Bill will contain.

Amendments

- Clause 7 amends section 28 of the NEMA to ensure that when the Minister calls for industry waste management plans, he or she consults with the MECs affected by the waste in question or where the waste activity is conducted.
- The MEC has the power to call for the development of industry waste management plans in instances where the waste management activity only affects that province, but must do so in concurrence with the Minister.

Amendments

- Industry waste management plans must be developed in accordance with the pricing strategy contemplated in the new Chapter 3A and the Act in the newly inserted section 34B

Other Amendments

- Clauses 8, 9, 10, 11 and 12 amend sections 29, 30, 32, 33 and 34 of the NEMWA to provide for consequential amendments. However clause 10(c) inserts a new subsection (5A) that the Minister and the MEC must follow the consultation processes as set out in sections 72 and 73, as is appropriate under the circumstances before considering the industry waste management plan for approval.



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Waste Management Bureau

- Amended Bill provides for the establishment of an institutional mechanism for the implementation of the objectives of the Act including the facilitation and implementation of waste management plans through the establishment of a Waste Management Bureau without a Board - with a CEO reporting to the Director General in the department as **Accounting Authority**
- Employees employed under the same conditions as public servants, except for certain specialists referred to in the Bill, where the Minister in concurrence with the Minister of Finance can determine special remuneration.
- Provides for the Objects, Form, Functions, Funding , Financial Management, Reporting and Auditing; Governance and Administration of the Bureau.



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Objectives of the Bureau

- manage the disbursement of incentives and funds derived and allocated from waste charges for the minimisation, reuse, recycling, recovery, transport, treatment and disposal of waste
- monitor implementation of waste management plans and the impact of incentives provided;
- function as an implementing agent for the Department in respect of matters delegated to the Bureau in terms of this Act;
- provide specialist support and advice in the development of waste management plans, and other tools, instruments, processes and systems, including norms or standards and the building of municipal waste management capacity
- to provide specialist support for the progressive realisation of capacity to assist municipalities to develop and implement integrated waste management plans



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Transitional Arrangements

- Provides for transitional elements for existing industry waste management plans approved prior to commencement of this Act
- Provides for a transitional period of six months from the commencement of the Act for plans to be regularised
- Provides for revision, amendment and alignment and for re-submission of industry waste management plans for approval



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COMMENCEMENT DATE

- The Bill enters into force immediately on the date of publication in the *Gazette* by the President.

