

Gauteng	General (Point 1 of the new mandate)	Due to the nature and complexity of environmental legislation, more training should be provided to stakeholders so as to ensure compliance with the legislation.	Noted No amendment required. The national and provincial environmental and conservation authorities that are charged with the responsibility to implement national legislation do have capacity that is dedicated to raising awareness amongst stakeholders of their legislative obligations. These would fall within the responsibility of sections responsible for advocacy, environmental awareness / education or empowerment services. It is acknowledged that awareness-raising and training related to the provisions of these laws would support improved awareness, understanding and compliance.	
	No specific clause No specific section (Point 2 of the new mandate)	The Cooperative arrangement between SAPS and Environmental Management Inspectors should be regulated.	Not supported No amendment required. Chapter 3 of the Constitution provides the framework under which spheres of government and organs of state must give effect to co-operative governance, including, inter alia, that: “co-operate with one another in mutual trust and good faith by -(i) fostering friendly relations; (ii) assisting and supporting one	

			<p>another; (iii) informing one another of, and consulting one another on, matters of common interest; (iv) coordinating their actions and legislation with one another; (v) adhering to agreed procedures; and (vi) avoiding legal proceedings against one another.”.</p> <p>In furtherance of these Constitutional objectives, the EMIs have a Standard Operating Procedure since 2009 to give effect to this collaborative relationship. At this stage it is unnecessary to provide for further regulation of this relationship.</p>	
	<p>Clause 5 Section 24G NEMA (Point 3 of the new mandate)</p>	<p>The public participation as referred to in section 24G should be clearly defined.</p>	<p>Supported</p> <p>Amendment required.</p> <p>Proposed text: <u>“(H) undertake public participation which is appropriate to bring the unlawful commencement, undertaking and/or conducting of an activity to the attention of and to provide interested and affected parties with a reasonable opportunity to comment on the application, which public participation may include appropriate elements of public participation as prescribed</u></p>	

			<p><u>in the Environmental Impact Assessment Regulations and the Section 24G Fine Regulations promulgated in terms of this Act.”.</u></p> <p>Also see revised numbering for section 24G. The full revised text is provided below:</p> <p>Section 24G of the National Environmental Management Act, 1998, is hereby amended—</p> <p>(a) by the substitution in subsection (1) for paragraph (b) of the following paragraphs:</p> <p>“(b) has commenced, undertaken or conducted a waste management activity without a waste management licence in terms of section 20(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)[,];</p> <p>(c) is in control of, or successor in title to, land on which a person—</p> <p>(i) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F(1);</p> <p>or</p> <p>(ii) has commenced with, undertaken or conducted a waste</p>	
--	--	--	--	--

			<p>management activity in contravention of, section 20(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008),</p> <p>the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be[,]—</p> <p><u>(aa)</u> [may] <u>must</u> direct the applicant to—</p> <p>[(i)](A) immediately cease the activity pending a decision on the application submitted in terms of this subsection, <u>except if there are reasonable grounds to believe the cessation will result in serious harm to the environment;</u></p> <p>[(ii)](B) investigate, evaluate and assess the impact of the activity on the environment;</p> <p>[(iii)](C) remedy any adverse effects of the activity on the environment;</p> <p>[(iv)](D) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation;</p> <p>[(v)](E) contain or prevent the movement of pollution or degradation of the environment;</p> <p>[(vi)](F) eliminate any source of pollution or degradation;</p>	
--	--	--	--	--

			<p>[(vii)](G) compile a report containing—</p> <p>[(aa)](AA) a description of the need and desirability of the activity;</p> <p>[(bb)](BB) an assessment of the nature, extent, duration and significance of the consequences for, or impacts on, the environment of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;</p> <p>[(cc)](CC) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for, or impacts on, the environment of the activity; <u>and</u></p> <p>[(dd)](DD) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed, <u>if applicable</u>; <u>and</u></p>	
--	--	--	--	--

			<p><u>(H) undertake public participation which is appropriate to bring the unlawful commencement, undertaking and/or conducting of and activity to the attention of, and to provide, interested and affected parties, with a reasonable opportunity to comment on the application and which required public participation may include appropriate elements of public participation as prescribed in the Environmental Impact Assessment Regulations promulgated in terms of this Act; and</u></p> <p><u>[(viii)](bb) may direct the applicant to compile an environmental management programme and to provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.”;</u></p> <p><i>(b)</i> by the substitution for subsection (4) of the following subsection:</p> <p>“(4) A person contemplated in subsection (1) must pay an administrative fine, which may not</p>	
--	--	--	--	--

			<p>exceed [R5] R10 million and which must be determined by the competent authority, before the Minister, Minister responsible for mineral resources or MEC concerned may act in terms of subsection (2)(a) or (b).”; and</p> <p>(c) by the insertion, in subsection (6)(a), after the words “environmental management inspector’s” of the words “<u>environmental mineral and petroleum inspector’s</u>”.</p>	
	<p>Clause 2 Section 2(qA) NEMA (Point 4 of the new mandate)</p>	<p>Definition of black professionals should include indigenous knowledge practitioners.</p>	<p>Supported</p> <p>Amendment required. Specific recognition for “black professionals” and “indigenous knowledge practitioners” has been incorporated. Based on another comment the term “previously disadvantaged professionals” is also included. Despite legislative provisions in place for a number of years the recognition and promotion of participation by black professional has been identified as a specific challenge in the environmental sector.</p> <p>Proposed amendment (new text) to section 2 NEMA:</p>	

			<p><u>“(qA) The full participation of previously disadvantaged professionals, with specific emphasis on black professionals and indigenous knowledge practitioners, in the environmental management Sector, must be recognised and their participation in the sector promoted.”.</u></p> <p>Consequential amendment to clause 1, section 1 definitions, required to define indigenous knowledge practitioners as follows: “‘indigenous knowledge practitioner’ has the meaning assigned to it in section 1 of the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (Act No. 6 of 2019);”.</p>	
No specific clause No specific section (Point 5 of the new mandate)	Amnesty concerning application fees for licences and permits should be provided for local practitioners or traditional healers that are struggling financially.	Noted	No amendment required. This can be considered in various subordinate legislation where fees are prescribed. The Fees Regulations, 2014 already provide for a waiver of certain fees for environmental authorisation applications.	
Clause Section NEMWA	The definition of waste has resulted in consensus that	Supported, amendment required.		

	(Point 6 of the new mandate)	<p>the definition should be simple and unambiguous. It is currently far too complex and is causing challenges, different interpretations, uncertainty and court cases , if the substance, material, object (etcetera) is unwanted it should be regarded as a waste. Given the proposed amendments to the definition of waste and Schedule 3 – there will be no value in retaining Schedule 3 in the NEMWA and it should be removed in its entirety. Furthermore, the recent outcome of a legal challenge of the definition of waste points to the need for the definition to allow for rational, risk-based beneficiation of waste without the need for any waste management licence or compliance with the National Environmental Management: Waste Act, as the material in question would not be considered a “waste”.</p>	<p>Proposed text:</p> <p>““waste” means—</p> <p>(a) any substance, material or object—</p> <p>(i) that the generator of that substance, material or object has no further use for within its own processes, whether or not it has any commercial value for the generator, but which can be re-used, recycled, recovered or traded in by any person; or</p> <p>(ii) that is rejected, abandoned, discarded or disposed of, either temporary or permanently, or is intended to be discarded or disposed of by the holder of that substance, material or object, regardless of whether or not that substance, material or object has any commercial value for the holder or can be re-used, recycled, recovered or traded in by any person; or</p> <p>(b) any other substance, material or object that may be defined as a waste by the Minister by notice in the Gazette;</p> <p>but any waste or portion of waste, referred to in paragraphs (a) and (b), ceases to be a waste-</p>	
--	------------------------------	--	--	--

			<p>(i) once it is re-used, recycled or recovered or traded in by the holder of that waste or portion of waste in accordance with a condition stipulated in a valid waste management licence, where applicable, or in accordance with an applicable norm or standard made in terms of this Act; or</p> <p>(ii) where the Minister has, in the prescribed manner, excluded the holder of any waste stream or a portion of a waste stream from the definition of waste, enabling the holder thereof to trade in the excluded waste stream or portion of the excluded waste stream, provided that the holder has satisfied the requirements of proving the environmentally safe use of the waste stream or portion of waste stream by it or any other person and committed to provide the Minister with annual reports of the use thereof.”.</p> <p>Consequential amendments: 1. Definitions</p> <p>The following additional definitions will be required if the above definition is accepted.</p>	
--	--	--	--	--

			<p>2.1 On page 30, after line 15 to insert the following new definition: (c) by the insertion after the definition of “commence” of the following definition”:</p> <p>“commercial value’ means the retail value a thing would have if it were offered for sale;”;</p> <p>and</p> <p>2.2 On page 31, after line 10 to insert the following new definition: (m) by the insertion after the definition of “this Act” of the following definition: “trade in’ means buying, selling or bartering;”.</p> <p>2.3 The following transitional provision will be required due to the amendments of the waste definition:</p> <p>NEW CLAUSE Transitional provision due to the amendment of the waste definition “85 (1) Any substance, material or object, which is “waste” in terms of the amended definition “waste”, but was not regarded as such prior to the commencement of the</p>	
--	--	--	--	--

			<p>amended definition, will be regarded as waste from the date of the commencement of the amended provision, unless it is excluded in terms of section 4 from the scope of the principal Act.</p> <p>(2) A person in control of the substance, material or object contemplated in subsection (1), must within 60 days from the date of the commencement of the amended definition of “waste”, either—</p> <p>(a) apply for a waste management licence, if the person conducts an activity, which is listed in terms of section 19(1) of the principal Act;</p> <p>(b) comply with a norm or standard, if the person conducts an activity, which is listed in terms of section 19(3) of the Act, if applicable; or</p> <p>(c) apply for the exclusion of the substance, material or object from the definition of waste in the prescribed manner.”.</p>	
	<p>No specific clause No specific section NEMBA (clauses 41-50) (Point 7 of the new mandate)</p>	<p>There is a need for more training and support from the National Department of Environment, Forestry and Fisheries and the Gauteng Department of Agriculture and Rural Development</p>	<p>Comment noted</p> <p>The nature of the support required is not specified; however, it is acknowledged that awareness-raising and training relating to biotrade would support</p>	

		(GDARD) in relation to the planting of Artemisia and other medicinal plants. There is also a need for more support towards the bio-traditional and informal traditional medicine industry.	improved awareness, understanding and compliance.	
No specific clause Section 1 of NEMBA (Point 8 of the new mandate)	The Bill needs to assist in defining the following terminologies: indigenous communities, equitable, disadvantaged communities, bio-trade, relief, environmental management beneficitation fund (clarity on who has the right to participate and when this fund accounts to the public on monies collected from bioprospecting permits) and how these monies are disbursed to support conservation.	Not supported No indication has been provided on the nature of the interpretation challenges that exist in respect of the interpretation of these concepts. The Department of Forestry, Fisheries and the Environment is unable to propose definitions within a this short space of time, without knowing the reason for the interpretation challenge, considering unintended consequences or potential consequential amendments. Any new proposed definition at this late stage could also become controversial, as the Department does not anticipate support for such proposed definitions that have not been consulted with implementing entities or with the affected industry.		
No specific clause Section 1 of NEMBA (Point 9 of the new	The word “ holder ” is repeatedly used, this term needs to also be clearly	Not supported		

	mandate)	defined. It would also help if the roles of the Minister of environmental affairs is clearly defined and aligned with that of the Minister of health.	No indication has been provided on the nature of the interpretation challenge that exists. Further, no clarity has been provided on the alignment of roles. Section 87(A) of NEMBA specifies the roles of the Minister and MECs as far as they relate to decisions on permit applications.	
	Clause 27 Section 31O of NEMA (Point 10 of the new mandate)	The powers granted to police to assess and audit should be reconsidered.	<p>Not supported No amendment required</p> <p>The Constitution provides that the function of the SAPS is to prevent, combat and investigate crime – they execute these criminal investigation powers in terms of the relevant provisions of the Criminal Procedures Act.</p> <p>On the other hand, the powers that NEMA exclude from the scope of their mandate “non-criminal investigation” types of powers, namely the execution of compliance inspections and the issuance of administrative enforcement notices.</p> <p>However, section 31O(2) of NEMA, does provide for these specific powers to be assigned to a SAPS member, should the Ministers (of Forestry, Fisheries</p>	

			and the Environment and Safety and Security) agree that this is necessary.	
	Clause 38 Section 48 of NEMPAA (Point 11 of the new mandate)	That permission be denied for mining in conservation areas, however there is need for the government to ensure that job opportunities are available to nearby communities.	Noted No amendment required. “Conservation area” is not defined or declared as a “conservation area” in terms of NEMPAA, but core areas thereof are usually declared as a protected area in terms of NEMPAA, which is protected against mining under section 48 of NEMPAA.	
	No specific clause Section 1 of NEMBA (Point 12 of the new mandate)	The concept of animal well-being is proposed to be included in the NEMBA Bill	The comment is noted, but does not relate to the NEMLA Bill. It may be considered a part of the NEMBA Bill in future.	
	Clause 41(c) Section 1 of NEMBA (Point 13 of the new mandate)	The proposed definition of well-being under Section 1 of NEMBA , i.e. “a state where the living conditions of a faunal biological resource are conducive to its health”, is limited and lacks a comprehensive approach that includes all factors influencing animal wellbeing.	Comment accepted, amendment required: <u>The following changes are proposed:</u> 1. <u>Replacement of the definition in clause 41(c) with the following proposed definition:</u> “ well-being ” means the holistic circumstances and conditions of an animal, which are conducive to its physical, physiological and mental health and quality of life,	

			<p>and ability to cope with its environment”;</p> <p>2. Sequential changes:</p> <p>Based on the amended definition, the following sequential amendments are required to replace “faunal biological resource” with “animal”:</p> <ul style="list-style-type: none"> • Clause 44 - Insertion of section 9A in Act 10 of 2004 <p>44. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 9:</p> <p>Prohibition of certain activities</p> <p><u>9A. The Minister may, by notice in the <i>Gazette</i> and subject to such conditions as the Minister may specify in the notice, prohibit any activity that may negatively impact on the well-being of [a faunal biological resource] an animal.”; and</u></p> <ul style="list-style-type: none"> • Amendment of section 97 of Act 10 of 2004, as amended by section 45 of Act 14 of 	
--	--	--	--	--

			<p>2009 and section 30 of Act 14 of 2013</p> <p>Clause 48. Section 97 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the insertion in subsection (1) after paragraph (a) of the following paragraph: <u>“(aA) the well-being of [a faunal biological resource] an animal;”</u>.</p> <p>3. Clause 42 - revised amendment of section 2 of NEMBA:</p> <p>a) Deletion of the proposed amendment to subparagraph (ii); and</p> <p>b) Insertion of a new subparagraph (iiA) after subparagraph (ii): (ii) the use of indigenous biological resources in a sustainable manner; [and] <u>(iiA) the consideration of the well-being of animals in the management, conservation and sustainable use thereof; and...</u></p>	
	<p>Clause 42 Section 2 of NEMBA (Point 14 of the new mandate)</p>	<p>That animal well-being be extended to include the utilisation of species not native to South Africa, as animal well-being does not discriminate if the species is</p>	<p>Comment supported, amendment required.</p> <p>Clause 42 - revised amendment of section 2 of NEMBA:</p>	

		<p>indigenous to South Africa or not. Current wildlife exploitative activities in South Africa is extensive, which includes the use of exotics in a range of areas from tourism-related activities, breeding, trade, consumptive use, conservation to research purposes. The use of exotic animals in these areas leaves the animals vulnerable to compromised animal welfare due to a lack of adequate protection under legislation and regulations</p>	<p>c) Deletion of the proposed amendment to subparagraph (ii); and d) Insertion of a new subparagraph (iiA) after subparagraph (ii): (ii) the use of indigenous biological resources in a sustainable manner; [and] (iiA) <u>the consideration of the well-being of animals in the management, conservation and sustainable use thereof; and...</u></p>	
	<p>Clause 5 Section 24G NEMA (Point 15 and 16 of the new mandate)</p>	<p>Section 24G of the NEMA currently provides flexibility where there is an apparent unlawful commencement of activity. Proposed amendments to remove the discretionary nature of the provisions, include the requirement to undergo public participation processes, and increase the administrative fine to a maximum of R10 million.</p>	<p>Not supported No amendment required</p> <p>The amendments to S24G in relation to:</p> <ul style="list-style-type: none"> • mandatory directive by the Minister, Minister responsible for mineral resources or MEC; • the requirement of the applicant to undertake a public participation process; and • the increase of the maximum penalty from R5 to R10 million; 	

			all emanate directly from the amendments that the Portfolio Committee inserted.	
		<p>The flexibility of the current S24G must be maintained to facilitate the consideration of the level of risk and/or environmental degradation, for example, when making these decisions as there may even have been no environmental impact from the commencement of the activity. These amendments could result in projects ceasing and negative economic and employment impacts; with nothing achieved for the environment. Competitors, for example, may abuse the proposed amendment to halt projects. Regarding the need for public participation, this could be accepted to be required to the same level as conventionally undertaken projects, but the project must not be halted. How an existing project will be managed if the outcome of public participation is unfavourable requires further discussion between</p>	<p>Not supported No amendment required</p> <p>The reason why the directive by the Minister, Minister responsible for mineral resources or MEC has been amended to provide for mandatory directions (including the immediate cessation of the activity) is that the Portfolio Committee was of the opinion that once these competent authorities are informed of the commencement of an illegal activity/offence, that they have a legal duty to ensure that the illegal activity/offence is brought to a halt as quickly as possible. Failure to direct the immediate cessation, would be tantamount to condonation of the continuance of a criminal offence.</p> <p>This amendment was intended to curb the abuse of S24G by some developers who knowingly commence with the activity prior to obtaining an environmental authorization; and budget for a S24G as part of the project costs.</p>	

		<p>the regulator and the regulated from a policy perspective. The proposed amendment should be reconsidered in this light.</p>	<p>Ordering the immediate cessation of the illegal activities would prevent the offender from deriving further financial benefits from allowing them to continue with the offence. The only exception would be if there are reasonable grounds to believe the cessation will result in serious harm to the environment;</p> <p>The Portfolio Committee was also of the view that, since the public participation for S24G applications is currently not a legislative requirement, that such must be specifically provided for in this Amendment Bill.</p>	
	<p>Clauses 12 & 34 Section 28 of NEMA Clause 34 Section 43 of NEMA (Point 17 of the new mandate)</p>	<p>The proposed amendments seek to</p> <ul style="list-style-type: none"> i) increasing the power of compliance officers, and ii) increasing the list of those that have the powers. <p>These intended amendments are not understood as there are sufficient powers already in the legislation.</p> <p>Furthermore, the fact that appeals process will now force activities to stop</p>	<p>Not supported No amendment required</p> <p>The duty to undertake compliance and enforcement with the provisions of NEMA and SEMAs is divided amongst all 3 spheres of government – national, provincial and local. The Constitution allocates municipalities the power to undertake compliance and enforcement in respect of the functional areas set out in Parts B of Schedule 4 and 5 of the Constitution.</p>	

		<p>cannot be supported. Industry can be asked objectively by the Committee for examples of where incorrect compliance notices and/or directives have been issued, mostly because of insufficient process knowledge and/or expertise. Amendments such as these could result in company closures and further dire negative economic and employment consequences. There should be a more rational approach to determining which of the existing compliance provisions should be used to achieve a certain objective of the DEFF in specific compliance matters. This approach would be preferred over blanket approaches that try and apply a one-size-fits-all approach.</p> <p>iii) Environmental transgressions are often brought to the attention of the competent authority by members of the public (whistle-blowers) who report them, and often request</p>	<p>The proposed amendment to provide the municipal manager with the power to issue s28 directives is to enable them to execute their original Constitutional competence; and to align with enforcement mechanisms available to national (Director-General) and provincial (Heads of Departments) functionaries, who are the administrative heads of their institutions. The amendment does not propose to increase the compliance powers given to these functionaries, but merely to recognize local government as a Constitutionally mandated regulator for NEMA and the SEMAs.</p> <p>The purpose of a directive or notice is to get the recipient to undertake remedial/rehabilitation measures to prevent or mitigate harm to the environment. Should the directive or notice be suspended pending the outcome of an appeal, significant pollution or degradation of the environment would occur, without any legal duty on the person to take remedial/rehabilitation measures - this would go against the polluter</p>	
--	--	---	--	--

		<p>EMI inspections for suspect activities /suspected transgressions. After the initial inspection by the competent authority or EMI, the outcome of these inspections (pre-compliance and compliance notices / issuing of section 24G directives and/ or fines) are not divulged to the reporting party, and this can support unwanted and unacceptable bribery and corruption.</p> <p>Compliance must be transparent in order to create awareness around the consequences of committing an offence under the NEMA and send a message to potential transgressors.</p>	<p>pays and the precautionary principles in NEMA.</p> <p>Members of the public who submit complaints regarding alleged non-compliances should be able to obtain a general progress/status quo report from the organ of State that is responsible to respond to their complaint. Calls that are referred from the national hotline, include the details of the relevant case officers to facilitate such follow up.</p> <p>However, it should also be recognized that environmental compliance and enforcement activities often include potentially sensitive information; and legislation, such as the Promotion of Access to Information Act (PAIA) and the Protection of Personal Information Act (POPIA) are there to ensure that the constitutional rights of the complainant as well as the alleged offender are taken into account.</p> <p>Complainants always have the avenue of submitting a PAIA request to request further information.</p>	
--	--	---	---	--

	<p>Clause 26 Section 31M of NEMA (Point 18 of the new mandate)</p>	<p>Any interested and affected party (e.g. whistle-blower who requests an EMI to conduct an inspection on suspicion of an environmental transgression) should be permitted to object to a notice and terms of a notice.</p> <p>What regulations speak to whistle-blowers and stakeholders being provided access to view compliance notices and fines issued, and the requirement of the EMI / competent authority to divulge this information (than through PAIA).</p>	<p>Not supported No amendment required</p> <p>Compliance notices are often required where urgent action is required in order to prevent or minimize harm to the environment.</p> <p>It would be impractical and defeat the objective of a compliance notice if environmental authorities were required to provide each and every possible interest and affected party with an opportunity to make representations/objections to these notices/directives.</p> <p>In addition, the Promotion of Administrative Justice Act (PAJA) defines an “administrative action” as any decision taken, or any failure to take a decision, by an organ of state...which adversely affects the rights of any person and which has a direct, external legal effect.</p> <p>The person’s whose rights are directly impacted upon by the issuance of a compliance notice is the recipient thereof; and the law therefore provide him/her with</p>	
--	--	--	--	--

			an opportunity to make representations and/or objections.	
	No specific clause S31A-Q of NEMA (Point 19 of the new mandate)	<p>In some instances, an EMI will need the cooperation and assistance of SAPS to support and effect arrests - especially in situations that may be dangerous, where EMIs are outnumbered. Lay a charge for an environmental offence at a police station and make arrangements to detain confiscated material.</p> <p>Is there other legislation or policy that guides this cooperation arrangement, and if not, there should be a code-of-conduct or guideline provided to the police that defines and creates awareness around environmental transgressions as well as the EMIs responsibilities and duties to carry out compliance, enforcement, and protection of the environment. This submission is in relation to particular incidents we are experiencing, where SAPS are not cooperating with EMIs, and also that SAPS are not opening cases for</p>	<p>No amendment required</p> <p>The EMI and the SAPS have already entered into a Standard Operating Procedure since 2009 to improve the collaborative working relationship in the investigation of environmental crimes, in the spirit of cooperative governance required in terms of Chapter 3 of the Constitution.</p> <p>In addition, S31O of NEMA accords SAPS members all of the powers of EMIs, except for the powers to issue compliance notices and conduct routine inspections.</p> <p>It is therefore unnecessary to provide for further statutory regulation of this relationship.</p>	

		Environmental crimes in our area. The only other recourse is private prosecution, which requires legal representation, and is not affordable for the average citizen. (section33)		
	No specific clause (Point 20 of the new mandate)	The proposed amendment from “may” to “must” is not supported as it is more prescriptive, where a more cooperative approach is actually needed.	Cannot determine which clause is referred to.	
	Clause 30 Section 34E of NEMA (Point 21 of the new mandate)	Section 34E of NEMA - states that a seized live specimen may be placed in a facility for its continued care, or in the event that it is deemed perishable, a police official may dispose of it in a suitable manner. There is a concern in terms of both the fate and welfare of a live specimen prior to and after the finalisation of a criminal procedure, as the proposed amendment does not afford adequate protection to a seized live specimen. It also does not definitively provide a framework that ensures that the final decision followed a sequential order than	Not supported No amendment required. The reason that this clause was amended is primarily to provide for a level of discretion for the EMI to manage the seized live specimen in the best interests of the animal that has been seized. For example, the seized live specimen may not be able to survive in captivity, for example, Pangolins, or they may have very specific habitat requirements. In these circumstances, it may be in the interests of the animal to be returned to a natural environment, after the EMI has consulted the appropriate conservation/scientific authorities; and taken the	

		<p>results in the best interest of the animal.</p>	<p>appropriate identification samples/photos etc.</p> <p>The specimen could also be diseased or infectious, in which case, the EMI would need to have the animal examined by a vet and/or quarantined. It could also be so badly injured, that the most “humane” manner of management would be to euthanize the specimen. In the case of alien or invasive species, there could also be specimens which are completely prohibited to possess.</p> <p>The EMI requires a level of discretion to deal with these specimens as the circumstances may require and the cross-referencing to the relevant provisions of the Criminal Procedure Act ensures that this is done in terms of an existing regulatory framework.</p> <p>The circumstances are exacerbated by the fact that the EMIs do not own safe keeping facilities, which means that they may not be able to comply with this provision as a result of circumstances beyond their control.</p>	
--	--	--	--	--

