

# Proposed Amendments to the National Environmental Management: Waste Bill

## Section 1

**"best practicable environmental option"** means **[the most reasonable measure for providing the greatest positive impact and least negative impact on health and the environment;]** the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

**"building and demolition waste"** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition.

**"hazardous waste"** means any waste that contains organic or inorganic elements **[of]** or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;

**"incineration"** means any method, technique or process to convert waste to flue gases and residues by means of oxidation;

**"inert waste"** means waste that –

- (a) does not undergo any significant physical, chemical or biological transformation after disposal;
- (b) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- (c) ...

**"recycle"** means a process where waste is reclaimed for further use, **[and includes]** which process involves the separation of waste from a waste stream for further use and the processing of the separated material as a product or raw material;

**"waste"** means any substance, whether or not that substance can be reduced, re-used, recycled or recovered –

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) **[where]** which the generator has no further use of for the purposes of production, **reprocessing or consumption**;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, but –
  - (i) ...
  - (ii) ...

## Section 4(1)(e)

- ...
- (c) the disposal of explosives that is regulated by the Explosives Act, 2003 (Act No. 15 of 2003);  
or
- (d) the disposal of animal carcasses that is regulated by the Animal Health Act, 2002 (Act No. 7 of 2002); **[or]**
- [(e) organic waste that emanates from agricultural activities or forestry.]**

## Section 7(2)(a)

- (a) the minimization, re-use, recycling and recovery of waste, including the separation of waste at the point of generation;

#### Section 11(6)

- (4) (a) Each municipality must **[include in its integrated waste management plan]** –
- (i) submit its integrated waste management plan to the MEC for approval; and
  - (ii) include the approved integrated waste management plan in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act.
- (b) The MEC may within 30 days of receiving an integrated waste management plan or an amendment to an integrated waste management plan–
- (i) request a municipality to adjust the plan or the amendment in accordance with the MEC's proposal if the plan or amendment –
    - (aa) does not comply with a requirement of this Act; or
    - (bb) is in conflict with, or is not aligned with, or negates any relevant integrated waste management plan or the national waste management strategy; or
  - (ii) request a municipality to comply with a specific provision of this Act relating to the process of drafting or amending integrated waste management plans if the municipality has failed to comply with the process or provision; or
  - (iii) approve the plan or amendment.

#### Section 12(1)(b)(iv)

- (iv) to provide for the implementation of waste minimisation, re-use, recycling or recovery targets and initiatives;

#### Section 12(1)(e)

- (e) establish targets for the collection, minimisation, re-use and recycling of waste;

*(This insertion requires that the existing paragraphs (e), (f) and (g) be renumbered as (f), (g) and (h)).*

#### Section 18

- (1) The Minister after consultation with the Minister of Trade and Industry may in order to give effect to the objects of this Act, by notice in the Gazette –
- (a) ...

#### Section 35

- (1) This part of the applies to the contamination of land even if the contamination–
- (a) occurred before the commencement of this Act;
  - (b) originated on land other than land referred to in section 38;
  - (c) arises or is likely to arise at a different time from the actual activity that caused the contamination; or
  - (d) arises through an act or activity of a person that results in a change to pre-existing contamination.
- (2) This part does not apply to banks which held land before the commencement of this Act and which land is sold for the purposes of foreclosure: Provided that the land is sold without delay.

**Section 37(2)(b)(vi)**

- (vi) the acceptable exposure for human and environmental receptors in that environment have [has] been exceeded;

**Section 45**

- (3) A person who requires a waste management licence for a waste management activity which involves the treatment of waste by incineration must submit, together with any documentation or information contemplated in subsection (2), information on –
- (a) the types of waste that will be incinerated;
  - (b) the existence of any incinerators in the jurisdiction of the licensing authority which are authorized to incinerate waste which is substantially similar to that waste; and
  - (c) alternative environmentally sound methods, if any, that could be used to treat that waste.

**Section 46**

- (1) The licensing authority may~~],~~ by written notice to an applicant require that applicant, or by notice in the Gazette require applicants, at own cost, to appoint an independent and suitably qualified person to manage an application.

**Section 48**

- (d) any increased health and environmental risks that may arise as a result of the location where the waste management activity will be undertaken;

(The remaining paragraphs will need to be renumbered).

**Section 51(1)**

- (i) if applicable, the conditions in terms of which salvaging of waste may be undertaken;

(The remaining paragraphs will need to be renumbered).

**Section 68**

- [(6) A fine contemplated in subsection (2) may not exceed an amount prescribed in terms of legislation regulating maximum fines for criminal offences.]

**Section 69**

**section 69(1)(i)**

- (i) measures that must be taken in respect of the implementation of waste minimization, including the separation of waste at the point of generation and the setting of targets or percentage of products that must be recovered under a re-use, recycling, refundable deposit or take-back programme;*

- (6) Any regulation which pertains to the treatment of waste by means of incineration must be submitted to the National Assembly 30 days prior to publication.

**Section 84**

This Act is called the National Environmental Management: Waste Act, 2007, and comes into effect on a date determined by the **[President] Minister** by proclamation in the Gazette.