



Legislative Update: Responding to Waste Management Challenges

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INTRODUCTION

- What challenges are we referring to?
- National environmental management legislation and regulatory environment
- NEMA / MPRDA Amendments
- One Environmental Management System
- Amendments to NEM: Waste Act



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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 sound sustainable development.
- Since 2009, certain implementation challenges with respect to some provisions of the NEMWA were identified by the Department and stakeholders.
- The challenges related to; regulatory certainty, institutional capacity, interpretation, and administration.
- What challenges are associated with implementation of legislation?



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PROBLEM STATEMENT

- Waste management has traditionally suffered **from pervasive under-pricing**, which means that the costs of waste management are not fully internalised and waste disposal is preferred over other options.
- This represents a **market failure** in that waste and recyclable materials are undervalued which results in more waste ending up on our streets, rivers and landfill sites.
- By apportioning the **right value to waste, more markets and trade** in recyclable goods will be created, resulting in **more jobs** and more **enterprise development**.



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CHALLENGES

- Stakeholders have raised implementation challenges associated with the 2008 Waste Act, which can be summarised as follows;
 - Interpretation of the definitions of “by-product”, “recovery”, “re-use” and “waste”;
 - Streamlining the processing and approval of the integrated waste management plans and industry waste management plans;
 - Institutional mechanism for implementation of the waste hierarchy of Re-use, Recycle and Recover and management of IWMPs and waste streams – establishment of a waste management bureau to facilitate the above; and
 - Transitional Provisions.



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OBJECTS OF THE NEM: WASTE AMENDMENT ACT

- Provide certainty, remove ambiguity and provide congruency and alignment with regard to the interpretation and understanding of definitions and key concepts such as waste definition.
- The National Environmental Management: Waste Amendment Act, 2014 addresses the processing and approval processes regarding the integrated waste management plans and the industry waste management plans.



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AMENDMENTS

- Deleted the definitions of “by-product”,
- Amended the definition of “waste” in order to provide for legal clarity on what can be regarded as waste,
- Clarified the “recovery” and “re-use” of waste,
- “**Recovery**” means the controlled extraction [**of a material**] or retrieval of [**energy**] and any substance, [**or**] material or object from waste to produce a product, and
- “**Re-use**” means to utilise articles from the waste stream [**again**] for a similar or different purpose without changing the form or properties of the articles.



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AMENDMENTS ...2

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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AMENDMENTS ...3

But any portion of waste ceases to be waste -

- (i) Once an application for its re-use, recycling or recovery has been approved or, after such an 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 the prescribed manner, exempted a particular process that generates that waste from definition of waste;
- (iv) where the Minister has, in the prescribed manner, excluded any portion of a waste stream containing that portion of waste from the definition of waste.



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AMENDMENTS ...4

Other amendments

- Providing for the MECs to act in concurrence with the Minister when requesting certain persons to compile industry waste management plans dealing with those activities resulting the generation of waste.
- Clarify the spheres of government required to compile an integrated waste management plan, i.e. Provincial Departments and Municipalities.
- Introduces a principle section empowering the Minister in concurrence with the Minister of Finance to provide for a pricing strategy and the introduction of waste charges.
- Provides for transitional arrangements for existing industry waste management plans to be regularised.



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REGULATORY TOOLS

- The following regulatory tools have been developed;
 - National Pricing Strategy for Waste Management
 - Regulations for residue deposits and stockpiles
 - Regulations for exclusion of waste from schedule 3 of the Act
 - Waste Act, Activity List amendment
 - Implementation Guideline
- There is also a process of looking at improving these through a NEMLA 4



NEW DEVELOPMENTS

- Legislative reform
 - Amendments to waste legislation
 - Development of regulations for effective implementation
- Institutional reform
 - Formation of entities that have been
 - Internal Committee on IndWMPs
- Alignment of systems for recycling economy
 - Redesigning the waste revenue collection systems
 - National Pricing Strategy for Waste Management is also there to guide the process



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CONCLUSION

- The Amendment Act, 2014 provides the following;
 - More clarity and certainty
 - Less ambiguity with respect to interpretation
 - The Minister to define new wastes or exclude wastes
 - A comprehensive list of wastes as a new Schedule 3
 - A regulatory mechanism for the re-use, recycling and recovery of waste streams
 - Opportunities to promote the recycling economy within a legal framework
 - End of waste
 - “There is enough for everyone”



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THANK YOU

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