

UNDERSTANDING THE DEFINITION OF WASTE

When considering whether a "substance" is "waste" or not, the definition in the National Environmental Management: Waste Act must be considered. This document sets out the Department of Environmental Affairs intended interpretation of the definition of by-product and waste as used in the Act.

Why important?

The provisions of the Waste Act regulates "waste", "waste management activities", "waste information system" and "waste management" in general. The definition therefore determines the scope of application of the Act.

What is not waste?

The following is not regarded as waste for the purposes of the Act:

- (a) A by-product as defined in the Act is not waste;
- (b) Any portion of waste, once re-used, recycled or recovered.

"by-product" means a substance that is produced as part of a process that is primarily intended to produce another substance or product and that has the characteristics of an equivalent virgin product or material;

A "by product" must fulfill the following conditions:

- The substance produced must be produced as part of a process that is primarily intended to produce another substance or product.
- The substance must demonstrate the equivalent chemical and physical characteristic of an equivalent virgin product or material.
- The substance or object can be used directly without any further processing

What is waste?

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

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;*
- (b) which the generator has no further use of for the purposes of production;*
- (c) that must be treated or disposed of; or*
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sector; but –*
 - (i) a by-product is not considered waste; and*
 - (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste."*

"waste" is any substance –

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;*
- (b) which the generator has no further use of for the purposes of production; or*
- (c) that must be treated or disposed of.*

The words "surplus", "unwanted", "rejected", "discarded", "abandoned" or "disposed of" are not defined and the ordinary dictionary meaning should be used. "Surplus" should be interpreted in the context of "unwanted", "rejected", "discarded", "abandoned" or "disposed of".

The fact that waste can be reduced, re-used, recovered and recycled is irrelevant for the purpose of determining whether it is "waste" or not. The usage of the terms "unwanted", "rejected", "discarded", "abandoned" does not mean that "waste" that could have a value is not waste.

If the generator does not need a substance that originated from his/ her production process, further for the purposes of production in his or her own processes, that substance becomes waste.

If the substance that is generated in a process or production requires treatment before it could be re-used or is to be disposed of, it is waste.

*Only once waste is re-used, recycled or recovered does it stop being waste. In other words, waste that can further be used in another process by means of re-use, recycling or recovery is **still** waste in the hands of the person acquiring that substance for the purpose of re-use, recycling or recovery **until** it has undergone the reuse recycling and the recovery process.*

The Minister could also identify a substance as waste by notice in the Gazette.


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