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THE PRESIDENCY

No. 278 10 March 2009

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

No. 59 of 2008: National Environmental Management: Waste Act, 2008.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President)
(Assented to 8 January 2009)

ACT

To reform the law regulating 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; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.

PREAMBLE

WHEREAS everyone has the constitutional right to have an environment that is not harmful to his or her health and well-being and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that—

(a) prevent pollution and ecological degradation;

(b) promote conservation; and

(c) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

AND WHEREAS waste management practices in many areas of the Republic are not conducive to a healthy environment and the impact of improper waste management practices are often borne disproportionately by the poor;

AND WHEREAS poor waste management practices can have an adverse impact locally and globally;

AND WHEREAS sustainable development requires that the generation of waste is avoided or where it cannot be avoided, that it is reduced, reused, recycled or recovered and only as a last resort treated and safely disposed of;

AND WHEREAS the minimisation of pollution and the use of natural resources through vigorous control of cleaner technologies, cleaner production and consumption practices, and waste minimisation are key to ensuring that the environment is protected from the impact of waste;

AND WHEREAS waste under certain circumstances is a resource and offers economic opportunities;

AND WHEREAS waste and management practices relating to waste are matters that—

- require national legislation to maintain essential national standards;
- is correct to be dealt with effectively, require uniform norms and standards that apply throughout the Republic; and
- in order to promote and give effect to the right to an environment that is not harmful to health and well-being, have to apply uniformly throughout the Republic; and
- require strategies, norms and standards which seek to ensure best waste practices within a system of cooperative governance;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

TABLE OF CONTENTS

CHAPTER 1

INTERPRETATION AND PRINCIPLES

1. Definitions
2. Objects of Act
3. General duty of State
4. Application of Act
5. Application of National Environmental Management Act

CHAPTER 2

NATIONAL WASTE MANAGEMENT STRATEGY, NORMS AND STANDARDS

Part 1
National waste management strategy

6. Establishment of national waste management strategy

Part 2
National norms and standards, provincial norms and standards and waste service standards

7. National norms and standards
8. Provincial norms and standards
9. Waste service standards

CHAPTER 3

INSTITUTIONAL AND PLANNING MATTERS

10. Designation of waste management officers
11. Certain organs of state to prepare integrated waste management plans
12. Contents of integrated waste management plans
13. Reporting on implementation of integrated waste management plans

CHAPTER 4

WASTE MANAGEMENT MEASURES

Part 1
Priority wastes

14. Declaration of priority wastes
15. Consequences of declaration of priority wastes

Part 2
General duty

16. General duty in respect of waste management

Part 3
Reduction, reuse, recycling and recovery of waste

17. Reduction, reuse, recycling and recovery of waste
18. Extended producer responsibility

Part 4
Waste management activities

19. Listed waste management activities
20. Consequences of listing waste management activities

Part 5
Storage, collection and transportation of waste

21. General requirements for storage of waste
22. Storage of general waste
23. Waste collection services
24. Collection of waste
25. Duties of persons transporting waste

Part 6
Treatment, processing and disposal of waste

26. Prohibition of incineration and disposal
27. Littering

Part 7
Industry waste management plans

28. Preparation of industry waste management plans by certain persons
29. Preparation of industry waste management plans by organs of state
30. Contents of industry waste management plans
31. Notification of industry waste management plans
32. Consideration of industry waste management plans
33. Specification of measures to be taken
34. Review of industry waste management plans

Part 8
Contaminated land

35. Application of this Part
36. Identification and declaration of investigation areas
37. Consequences of identification and notification of investigation areas
38. Consideration of site assessment reports
39. Orders to remediate contaminated land

41. Transfer of disused mine sites
41. Contaminated land register

Part 9
Other measures

42. Recognition of regulations 5

CHAPTER 5

LICENSING OF WASTE MANAGEMENT ACTIVITIES

43. Licensing authority
44. Co-operative governance in waste management licence applications
45. Application for waste management licences 10
46. Appointment of persons to manage waste management licence applications
47. Procedure for waste management licence applications
48. Factors to be taken into account by licensing authorities
49. Decision of licensing authority on waste management licence applications
50. Issuing of waste management licences 15
51. Contents of waste management licences
52. Transfer of waste management licences
53. Review of waste management licences
54. Variation of waste management licences
55. Renewal of waste management licences 20
56. Revocation and suspension of waste management licences
57. Surrender of waste management licences
58. Waste management officers and officers
59. Criteria for fit and proper persons

CHAPTER 6 25

WASTE INFORMATION

60. Establishment of national waste information system
61. Objects of national waste information system
62. Establishment of provincial waste information systems
63. Powers of information 30
64. Access to information

CHAPTER 7

COMPLIANCE AND ENFORCEMENT

65. Compliance powers of Minister of Water Affairs and Forestry
66. Waste control officers 35
67. Offences
68. Penalties

CHAPTER 8

GENERAL MATTERS

Part 1 40
Regulations

69. Regulations by Minister
70. Regulations by MECs
71. General regulatory powers

Part 2
Consultation process

77. Consultation
78. Public participation

Part 3
Exemptions and appeals

79. Applications for exemption
80. Consideration of applications for exemption
81. Decisions on applications for exemption
82. Review and transfer of exemptions
83. Appeals

CHAPTER 9

MISCELLANEOUS

84. Delegation and assignment
85. Repeal and amendment of laws, and savings
86. Transitional provisions in respect of permits issued in terms of Environment Conservation Act
87. Transitional provisions regarding listed waste management activities
88. Act regarded as specific environmental management Act
89. Short title and commencement

SCHEDULES

1. Waste management activities in respect of which a waste management licence is required
2. Laws repealed or amended

CHAPTER 1

INTERPRETATION AND PRINCIPLES

Definitions

1. In this Act, unless the context indicates otherwise—

"**acceptable exposure**" means the exposure of the maximum permissible concentration of a substance to the environment that will have a minimal negative effect on health or the environment;

"**associated structures and infrastructure**", when referred to in Schedule 1, means any building or infrastructure that is necessary for the functioning of a facility or waste management activity or that is used for an ancillary activity at or near from the facility;

"**best practicable environmental option**" means 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;

"**business waste**" means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, catering or office or governmental administration purposes;

"**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 a regulated waste stream or material;

"**clean production**" means the continuous application of integrated preventative environmental strategies to processes, products and services to increase overall efficiency and to reduce the impact of such processes, products and services on health and the environment;

"**commence**" means the start of any physical activity, including site preparation or any other activity on the site in furtherance of a waste management activity, but does not include any activity required for investigation or feasibility study purposes as long as such investigation or feasibility study does not constitute a waste management activity;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**container**" means any disposable or reusable vessel in which a waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing of that waste and includes bins, bin-liners and skips;

"**contaminated**", in relation to Part 8 of Chapter 4, means the presence in or under any land, site, buildings or structures of a substance or micro-organism above the concentration that is normally present in or under that land, which substance or micro-organism indirectly or indirectly affects or may affect the quality of soil or the environment adversely;

"**decommissioning**", in relation to waste treatment, waste transfer or waste disposal facilities, means the planning for and management and remediation of the closure of a facility that is in operation or that no longer operates;

"**Department**" means the Department of Environmental Affairs and Tourism;

"**disposal**" means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into or onto any land;

"**domestic waste**" means waste, excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreational purposes;

"**environment**" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"**Environment Conservation Act**" means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

"**environmentally sound management**" means the taking of all practicable steps to ensure that waste is managed in a manner that will protect health and the environment;

"**export**" means to take or send waste from the Republic to another country or territory;

"**extended producer responsibility measures**" means measures that extend a person's financial or physical responsibility for a product to the post-consumer stage of the product and includes—

(*a*) waste minimisation programmes;

(*b*) financial arrangements for any fund that has been established to promote the reduction, reuse, recycling and recovery of waste;

(*c*) awareness programmes to inform the public of the impacts of waste emanating from the product on health and the environment; and

(*d*) any other measures to reduce the potential impacts of the product on health and the environment;

"*Gazette*", when used in relation to—

(*a*) the Minister, means the *Government Gazette*; and

(*b*) the MEC, means the *Provincial Gazette* of the province concerned;

"**general waste**" means waste that does not pose an immediate hazard or threat to health or to the environment, and includes—

(*a*) domestic waste;

(*b*) building and demolition waste;

(*c*) business waste; and

(*d*) inert waste;

"**hazardous waste**" means any waste that contains organic or inorganic elements 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;

"**high-risk activity**" means an undertaking, including processes involving substances that present a likelihood of harm to health or the environment;

"**holder of waste**" means any person who imports, generates, stores, accumulates, transports, processes, treats or exports waste or disposes of waste;

"**import**" means any entry into the Republic other than entry for transit;

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

"**industry**" includes commercial activities, commercial agricultural activities, mining activities and the operation of power stations;

"**industry waste management plan**" means a plan referred to in Part 7 of Chapter 4;

"**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 matter or environment with which it may come into contact; and

(c) does not impact negatively on the environment because of its pollutant content and because the toxicity of its leachate is insignificant;

"**integrated waste management plan**" means a plan prepared in terms of section 12;

"**investigation area**" means an area identified as such in terms of section 32;

"**licensing authority**" means an authority referred to in section 43 and that is responsible for implementing the licensing system provided for in Chapter 5;

"**life cycle assessment**" means a process where the potential environmental effects or impacts of a product or service during the life of that product or service is being evaluated;

"**MEC**" means the Member of the Executive Council of a province who is responsible for waste management in the province;

"**minimisation**", when used in relation to waste, means the avoidance of the amount and toxicity of waste that is generated and, in the event where waste is generated, the reduction of the amount and toxicity of waste that is disposed of;

"**Minister**" means the Minister of Environmental Affairs and Tourism;

"**municipality**" means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**Municipal Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"**National Environmental Management Act**" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"**non-substantive**" in relation to the amendment or substitution of a regulation, notice, strategy, licence, approval, or provision thereof, includes—

(a) any clerical mistake, unintentional error or omission;

(b) the correction of any miscalculation (figure); and

(c) the correction of any incorrect description of any person, thing, property or waste management activity;

"**organ of state**" has the meaning assigned to it in section 239 of the Constitution;

"**person**" has the meaning assigned to it in the Interpretation Act, 1957 (Act No. 33 of 1957), and includes an organ of state;

"**pollution**" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"**prescribe**" means prescribe by regulation under this Act;

"**priority waste**" means a waste declared to be a priority waste in terms of section 14;

"**recovery**" means the controlled extraction of a resource or the retrieval of energy from waste to produce a product;

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

"re-use" means to utilise articles from the waste stream again for the same or different purposes without changing the form or properties of the articles;

"specific environmental management Act" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"storage" means the accumulation of waste in a manner that does not constitute the treatment or disposal of that waste;

"sustainable development" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"this Act" includes—

(a) any regulations made in terms of this Act;

(b) any notice or other subordinate legislation promulgated or made in terms of this Act; and

(c) any regulation or directive that remains in force in terms of section 61;

"transit" means the continuous passage from one border of the Republic to another such border without storage other than temporary storage incidental to transport;

"treatment" means any method, technique or process that is designed to—

(a) change the physical, biological or chemical character or composition of a waste; or

(b) remove, separate, or concentrate or recover a hazardous or toxic component of a waste; or

(c) destroy or reduce the toxicity of a waste,

in order to minimise the impact of the waste on the environment, prior to further use or disposal;

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

(a) that is surplus, unwanted, rejected, or 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 sectors, 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 disposal facility" means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premises;

"waste management activity" means any activity listed in Schedule 1 or published by notice in the *Gazette* under section 19 and includes—

(a) the import, export or exportation of waste;

(b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;

(c) the accumulation and storage of waste;

(d) the collection and handling of waste;

(e) the reduction, re-use, recycling and recovery of waste;

(f) the trading in waste;

(g) the transportation of waste;

(h) the transfer of waste;

(i) the treatment of waste; and

(j) the disposal of waste;

"waste management control officer" means a waste management control officer designated under section 58(1);

"waste management licence" means a licence issued in terms of section 49;

"**waste management officer**" means a waste management officer designated in terms of section 10;

"**waste management services**" means waste collection, treatment, recycling and disposal services;

"**waste minimisation programme**" means a programme that is intended to promote the reduced generation and disposal of waste;

"**waste transfer facility**" means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment or waste disposal facility;

"**waste treatment facility**" means any site that is used to accumulate waste for the purpose of storage, recovery, treatment, reprocessing, recycling or sorting of that waste.

Objects of Act

2. The objects of this Act are to—

(a) to protect health, well-being and the environment by providing reasonable measures for—

(i) minimising the consumption of natural resources;

(ii) avoiding and minimising the generation of waste;

(iii) reducing, re-using, recycling and recovering waste;

(iv) treating and safely disposing of waste as a last resort;

(v) preventing pollution and ecological degradation;

(vi) securing ecologically sustainable development while promoting justifiable economic and social development;

(vii) promoting and ensuring the effective delivery of waste services;

(viii) remediating land where contamination presents, or may present, a significant risk of harm to health or the environment; and

(ix) achieving integrated waste management reporting and planning;

(b) to ensure that people are aware of the impact of waste on their health, well-being and the environment;

(c) to provide for compliance with the measures set out in paragraph (a); and

(d) generally, to give effect to section 24 of the Constitution in order to secure an environment that is not harmful to health and well-being.

General duty of State

3. In fulfilling the rights contained in section 24 of the Constitution the State through the organs of state responsible for implementing this Act, must put in place and perform measures that seek to reduce the amount of waste that is generated and, where waste is generated, to ensure that waste is reused, recycled and recovered in an environmentally sound manner before being safely treated and disposed of.

Application of Act

4. (1) This Act does not apply to—

(a) a radioactive waste that is regulated by the Hazardous Substances Act, 1973 (Act No. 15 of 1973), the National Nuclear Regulator Act, 1999 (Act No. 47 of 1999) and the Nuclear Energy Act, 1999 (Act No. 46 of 1999);

(b) residue deposits and residue stockpiles that are regulated under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

(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).

(2) This Act binds all organs of state.

Application of National Environmental Management Act

5. (1) This Act must be read with the National Environmental Management Act, unless the context of this Act indicates that the National Environmental Management Act does not apply.

(2) The interpretation and application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

CHAPTER 2

NATIONAL WASTE MANAGEMENT STRATEGY, NORMS AND STANDARDS

Part 1
National waste management strategy

Establishment of national waste management strategy

6. (1) The Minister must, within two years of the date on which this section takes effect, by notice in the *Gazette* establish a national waste management strategy for achieving the objects of this Act, which must include—

(a) objectives, plans, guidelines, systems and procedures relating to the protection of the environment and the generation (including the avoidance and minimisation of such generation), reuse, recycling, recovery, treatment, disposal, use, control and management of waste in order to achieve the objects of this Act;

(b) mechanisms, systems and procedures for giving effect to the Republic's obligations in terms of relevant international agreements;

(c) practical measures for achieving co-operative governance in waste management matters;

(d) guidelines on raising awareness regarding the impact of waste on health and the environment;

(e) approaches for securing compliance with the requirements of this Act, including the monitoring of compliance; and

(f) any other matter that the Minister considers necessary for achieving the objects of this Act.

(2) The national waste management strategy may include targets for waste reduction.

(3) The national waste management strategy—

(a) binds all organs of state in all spheres of government and all persons to the extent applicable; and

(b) may, subject to section 3 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997), allocate and delineate responsibilities for the implementation of this Act among—

(i) the different spheres of government; and

(ii) different organs of state.

(4) An organ of state must give effect to the national waste management strategy when exercising a power or performing a duty in terms of this Act or any other legislation regulating waste management.

(5) The national waste management strategy—

(a) may differentiate between different geographical areas;

(b) may differentiate between different classes or categories of waste;

(c) may provide for the phasing in of its provisions;

(d) may be amended; and

(e) must be reviewed by the Minister at intervals of not more than five years.

(6) Before publishing the national strategy or any amendment to the strategy, the Minister must follow a consultative process in accordance with sections 72 and 73.

(*b*) Subsection (*a*) need not be complied with if the strategy is amended in a non-substantive manner.

Part 2

National norms and standards, provincial norms and standards and waste service standards

National norms and standards

7. (1) The Minister must, by notice in the *Gazette*, set national norms and standards for the—

(*a*) classification of waste;

(*b*) planning for and provision of waste management services; and

(*c*) storage, treatment and disposal of waste, including the planning and operation of waste treatment and waste disposal facilities.

(2) The Minister may, by notice in the *Gazette*, set national norms and standards for—

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

(*b*) extended producer responsibility;

(*c*) the regionalisation of waste management services; and

(*d*) the remediation of contaminated land and soil quality.

(3) The Minister with the concurrence of the Minister of Finance may, by notice in the *Gazette*, set national standards in respect of tariffs for waste services provided by municipalities.

(4) The norms and standards contemplated in subsection (1)—

(*a*) differentiate between different geographical areas;

(*b*) differentiate between different classes of categories of waste;

(*c*) provide for the phasing in of the provisions; and

(*d*) be amended.

(5) The norms or standards contemplated in subsection (1)(*b*) may—

(*a*) differentiate on an equitable basis between—

(i) different users of waste management services; and

(ii) different types of waste management services;

(*b*) ensure that funds obtained from waste services are used for waste management services; and

(*c*) provide for tariffs to be imposed to provide for waste management infrastructure or facilities.

(6)(*a*) Before publishing a notice in terms of subsection (1), (2) or (3), or any amendment to the notice, the Minister must follow a consultative process in accordance with sections 72 and 73.

(*b*) Paragraph (*a*) need not be complied with if the notice is amended in a non-substantive manner.

Provincial norms and standards

8. (1) The relevant MEC, within his or her jurisdiction, must ensure the implementation of the national waste management strategy and national norms and standards contemplated in sections 6 and 7, respectively.

(2) The relevant MEC, within his or her jurisdiction, may by notice in the *Gazette* set provincial norms and standards that are not in conflict with national norms and standards contemplated in section 7.

(3) The norms and standards contemplated in subsection (2) must, amongst other things, facilitate and advance—

(*a*) planning and provision of waste management services;

(*b*) regionalisation of waste management services within the province;

(*c*) minimisation, re-use, recycling and recovery of waste, with the exception of standards that may have national implications or that may have a significant impact on the national economy; and

(*d*) treatment and disposal of waste, including the planning and operation of waste treatment and waste disposal facilities, licensed by provincial authorities.

(4) The norms and standards contemplated in subsection (2) may—

(*a*) differentiate between different geographical areas in the province;

(*b*) differentiate between different classes or categories of waste;

(c) provide for the phasing in of its provisions; and

(d) be amended.

(5)(a) Before publishing a notice in terms of subsection (2) or any amendment to the notice, the MEC must follow a consultative process in accordance with sections 72 and 73.

(b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive manner.

Waste service standards

9. (1) A municipality must exercise its executive authority to deliver waste management services, including waste removal, waste storage and waste disposal services, in a manner that does not conflict with section 7 or 8 of this Act.

(2) Each municipality must exercise its executive authority and perform its duty in relation to waste services, including waste collection, waste storage and waste disposal services, by—

(a) adhering to all national and provincial norms and standards;

(b) integrating its waste management plans with its integrated development plans;

(c) granting access to all to such services;

(d) providing such services at an affordable price, in line with its tariff policy referred to in Chapter 8 of the Municipal Systems Act;

(e) ensuring sustainable services through effective and efficient management;

(f) keeping separate financial statements, including a balance sheet of the services provided.

(3) In exercising its executive authority as contemplated in subsection (1) a municipality may further provide, amongst other things, for—

(a) local standards for the separation, compacting and storage of solid waste that is collected as part of the municipal service or that is disposed of at a municipal waste disposal facility;

(b) local standards for the management of solid waste that is disposed of by the municipality or at a waste disposal facility owned by the municipality, including requirements in respect of the avoidance and minimisation of the generation of waste and the re-use, recycling and recovery of solid waste;

(c) local standards in respect of the directing of solid waste that is collected as part of the municipal service or that is disposed of by the municipality or at a municipal waste disposal facility to specific waste treatment and disposal facilities; and

(d) local standards in respect of the control of litter.

(4) Whenever the Minister or MEC acts in terms of his Act or relating to a municipality, the Minister or MEC must seek to support and strengthen the municipality's ability to carry out its functions in relation to waste management activities.

(5)(a) Whenever a municipality intends passing a by-law so as to give effect to subsection (1), it must follow a consultative process provided for in Chapter 4 of the Municipal Systems Act.

(b) Paragraph (a) need not be complied with if the by-law is amended in a non-substantive manner.

CHAPTER 3

INSTITUTIONAL AND PLANNING MATTERS

Designation of waste management officers

10. (1) The Minister must designate in writing an officer in the Department as the national waste management officer responsible for co-ordinating matters pertaining to waste management in the national government.

(2) The MEC must designate in writing an officer in the provincial administration as the provincial waste management officer responsible for co-ordinating matters pertaining to waste management in that province.

(3) Each municipality authorised to carry out waste management services by the Municipal Structures Act, 1998 (Act No. 117 of 1998), must designate in writing, a waste management officer from its administration to be responsible for co-ordinating matters pertaining to waste management in that municipality.

(4) A power delegated or a duty assigned to a waste management officer by virtue of subsection (1), (2) or (3), may be sub-delegated or further assigned by that officer to another official in the service of the same administration, subject to such limitations or conditions as may be determined by the Minister, MEC or metro police respectively.

(5) Waste management officers must co-ordinate their activities with other waste management activities in the manner set out in the national waste management strategy established in terms of section 6(1), determined by the Minister by notice in the Gazette.

Certain organs of state to prepare integrated waste management plans

11. (1) The Department and the provincial departments responsible for waste management must prepare integrated waste management plans.

(2) A provincial department may incorporate its integrated waste management plan in any relevant provincial plan.

(3) The Department may incorporate its integrated waste management plan in any relevant national environmental plan.

(4) (a) Each municipality must—

(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 adopting or amending integrated waste management plans if the municipality has failed to comply with the process or procedure; or

(iii) approve the plan or amendment.

(5) The Department and the provincial departments contemplated in subsection (1) must submit their integrated waste management plans to the Minister for approval.

(6) When exercising the power to monitor and support a municipality contemplated in section 31 of the Municipal Systems Act, the MEC for local government, in consultation with the MEC, must ensure that the municipal integrated waste management plans are co-ordinated and aligned with the plans, strategies and programmes of the Department and provincial departments.

(7) (a) Before finalising an integrated waste management plan, the Department and every provincial department contemplated in subsection (1) must follow a consultative process in accordance with sections 72 and 73.

(b) A municipality must, before finalising its integrated waste management plan, follow the consultative process contemplated in section 29 of the Municipal Systems Act, either as a separate process or as part of the consultative process relating to its integrated development plan contemplated in that section.

(8) Subsection (7) need not be complied with if the integrated waste management plan is amended in a non-substantive manner.

Contents of integrated waste management plans

12. (1) An integrated waste management plan must at least—

(*a*) contain a situational analysis that includes—

(i) a description of the population and development profiles of the areas to which the plan relates;

(ii) an assessment of the quantities and types of waste that are generated in the area;

(iii) a description of the services that are provided or that are available for the collection, minimisation, re-use, recycling and recovery, treatment and disposal of waste; and

(iv) the number of persons in the area who are not receiving waste collection services;

(*b*) with the domain of the Department, provincial department or municipality, set out how the Department, provincial department or municipality intends—

(i) to give effect, in respect of waste management, to Chapter 3 of the National Environmental Management Act;

(ii) to give effect to the objects of this Act;

(iii) to identify and address the negative impact of poor waste management practices on health and the environment;

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

(v) in the case of a municipal integrated waste management plan, to address the delivery of waste management services to residential premises;

(vi) to implement the Republic's obligations in respect of any relevant international agreements;

(vii) to give effect to best environmental practice in respect of waste management;

(*c*) within the domain of the Department or provincial department, set out how the Department or provincial department intends to identify the measures that are required and that are to be implemented to support municipalities to give effect to the objects of this Act;

(*d*) set out the priorities and objectives of the Department, provincial department or municipality in respect of waste management;

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

(*f*) set out the approach of the Department, provincial department or municipality to the planning of any new facilities for disposal and decommissioning of existing waste disposal facilities;

(*g*) indicate the financial resources that are required to give effect to the plan;

(*h*) describe how the Department, provincial department or municipality intends to give effect to its integrated waste management plan; and

(*i*) comply with the requirements prescribed by the Minister.

(2) In the preparation of an integrated waste management plan the Department and provincial departments must give proper effect to the requirements contained in Chapter 5 of the Municipal Systems Act insofar as such plan affects a municipality.

Reporting on implementation of integrated waste management plans

13. (1) Annual performance reports on the implementation of the integrated waste management plans must, in the case of—

(*a*) a provincial department, be submitted to the MEC and the Minister for approval; and

(*b*) in the case of the Department, be submitted to the Minister for approval.

(2) The annual performance report that the Department or provincial department must submit in terms of subsection (1) must contain information on the implementation of its integrated waste management plan, including information on—

(*a*) the extent to which the plan has been implemented during the period;

(*b*) the waste management initiatives that have been undertaken during the reporting period;

(*c*) the delivery of waste management services and measures taken to secure the efficient delivery of waste management services, if applicable;

(*g*) the levels of compliance with the plan and any applicable waste management standards;

(*h*) the measures taken to secure compliance with waste management standards;

(*i*) the waste management officers responsible;

(*j*) the actual budget expended on implementing the plan;

(*k*) the measures that have been taken to make any necessary amendments to the plan;

(*l*) in the case of a province, the extent to which municipalities comply with the plan and, in the event of any non-compliance with the plan, the reasons for such non-compliance; and

(*m*) any other requirements as may be prescribed by the Minister.

(3) The annual performance report prepared in terms of section 46 of the Municipal Systems Act must contain information on the implementation of the municipal integrated waste management plan, including the information set out in paragraphs (*a*) to (*l*) of subsection (2), insofar as it relates to the performance of the municipality.

(4) Despite subsections (2) and (3), the Minister may specify in writing a different mechanism for the reporting on integrated waste management plans if necessary to improve the co-ordination of waste management.

CHAPTER 4

WASTE MANAGEMENT MEASURES

Part 1
Priority wastes

Declaration of priority wastes

14. (1) The Minister may, by notice in the *Gazette*, declare a waste to be a priority waste if the Minister on reasonable grounds believes that the waste poses a threat to health, well-being or the environment because of the quantity or composition of the waste, and

(*a*) that specific waste management measures are required to address the threat; or

(*b*) that the imposition of specific waste management measures in respect of the waste may improve reductions in resource recycling and recovery rates or overall health and environmental impacts.

(2) The MEC may in writing request the Minister to declare a waste to be a priority waste in the manner contemplated in subsection (1).

(3) If the declaration under subsection (1) or (2) of a waste as a priority waste is likely to have a significant impact on the national economy, such declaration may only be made after consultation with the Minister of Trade and Industry and the Minister of Finance.

(4) A notice under subsection (1) or (2) must specify the waste management measures that must be taken.

(5) The measures contemplated in subsection (4) may include—

(*a*) a requirement for identified persons falling within a category of persons to prepare an industry waste management plan in terms of section 28 in respect of the declared priority waste;

(*b*) a prohibition on the generation of the priority waste;

(*c*) measures for the management of the priority waste;

(*d*) measures for the minimisation, storage, re-use, recycling and recovering, treatment and disposal of the priority waste;

(*e*) requirements for the registration and monitoring of and reporting on priority waste; and

(*f*) any other measures that the Minister believes are necessary to manage the threat that is presented by the waste or to achieve the objects of this Act.

(6) (*a*) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister must consult with a person or category of persons that may be affected by the notice, and follow a consultative process in accordance with sections 72 and 73.

(*b*) Paragraph (*a*) need not be complied with if the notice is amended in a non-substantive manner.

Consequences of declaration of priority wastes

15. (1) No person may import, manufacture, process, sell or export a priority waste or a product that is likely to result in the generation of a priority waste unless the person or product complies with

(a) the waste management measures contemplated in section 16(1);

(b) an industry waste management plan which has been submitted in accordance with the requirements of a notice referred to in section 28 or 29; or

(c) any other requirement in terms of this Act.

(2) No person may recycle, recover, treat or dispose of a priority waste unless it is in accordance with this Act and the waste management measures contemplated in section 16(1).

Part 2
General duty

General duty in respect of waste management

16. (1) A holder of waste must, within the holder's power, take all reasonable measures to—

(a) avoid the generation of waste and where such generation cannot be avoided, to minimise the toxicity and amounts of waste that are generated;

(b) reduce, re-use, recycle and recover waste;

(c) where waste must be disposed of, ensure that the waste is treated and disposed of in an environmentally sound manner;

(d) manage the waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts;

(e) prevent any employee or any person under his or her supervision from contravening this Act; and

(f) prevent the waste from being used for an unauthorised purpose.

(2) Any person who sells a product that may be used by the public and that is likely to result in the generation of hazardous waste must take reasonable steps to inform the public of the impact of that waste on health and the environment.

(3) The measures contemplated in this section may include measures to—

(a) investigate, assess and evaluate the impact of the waste in question on health or the environment;

(b) cease, modify or control any act or process causing the pollution, degradation or environmental degradation or harm to health;

(c) comply with any norm or standard or prescribed management practice;

(d) eliminate any source of pollution or environmental degradation; and

(e) remedy the effects of the pollution or environmental degradation.

(4) The Minister or MEC may issue regulations to provide guidance on how to discharge this duty or identify specific requirements that must be complied with or a person following a certain process in accordance with sections 32 and 33.

(5) Subsection (4) need not be associated with the regulations contemplated in a norms or standard.

Part 3
Reduction, re-use, recycling and recovery of waste

Reduction, re-use, recycling and recovery of waste

17. (1) Unless otherwise provided for in this Act, any person who undertakes an activity involving the reduction, re-use, recycling or recovery of waste must, before undertaking that activity, ensure that the reduction, re-use, recycling or recovery of the waste

(a) uses less natural resources than disposal of such waste; and

(b) to the extent that it is possible, is less harmful to the environment than the disposal of such waste.

(2) The Minister may, at or consultation with the Minister of Trade and Industry and by notice in the *Gazette*, require any person or category of persons to—

(a) provide for the reduction, re-use, recycling and recovery of products or components of a product manufactured or imported by that person; or

(b) include a determined percentage of recycled material in a product that is produced, imported or manufactured by that person or category of persons.

(4) (a) Before publishing a notice in terms of subsection (2), or any amendment to the notice, the Minister must follow a consultative process in accordance with sections 72 and 73.

(b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive manner.

Extended producer responsibility

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) identify a product or class of products in respect of which extended producer responsibility applies;

(b) specify the extended producer responsibility measures that must be taken in respect of that product or class of products; and

(c) identify the person or category of persons who must implement the extended producer responsibility measures contemplated in paragraph (b).

(2) The Minister may in a notice under subsection (1) specify—

(a) the requirements in respect of the implementation and operation of an extended producer responsibility programme, including the requirements for the reduction, re-use, recycling, recovery, treatment and disposal of waste;

(b) the financial arrangements of a waste minimisation programme with the concurrence of the Minister of Finance;

(c) the institutional arrangements for the administration of a waste minimisation programme;

(d) the percentage of products that must be recovered under a waste minimisation programme;

(e) the labelling requirements in respect of waste;

(f) that the producer of a product or class of products identified in that notice must carry out a life cycle assessment in relation to the product, in such manner or in accordance with such standards or procedures as may be prescribed; and

(g) the requirements that must be complied with in respect of the design, composition or production of a product or packaging, including a requirement that—

(i) clean production measures be implemented;

(ii) the composition, volume or weight of packaging be restricted; and

(iii) packaging be designed so that it can be reduced, re-used, recycled or recovered.

(3) Before publishing a notice under subsection (1) or any amendment to the notice, the Minister must—

(a) consult affected producers;

(b) follow a consultative process in accordance with sections 72 and 73, unless the notice is amended in a non-substantive manner;

(c) take into account the Republic's obligations in terms of any applicable international agreements; and

(d) consider relevant socio-economic information.

Part 4
Waste management activities

Listed waste management activities

19. (1) The Minister may by notice in the *Gazette* publish a list of waste management activities that have or are likely to have a detrimental effect on the environment.

(2) The Minister may amend the list by—

(a) adding other waste management activities to the list;

(b) removing waste management activities from the list; or

(c) making other changes to the particulars on the list.

(5) A notice referred to in subsection (1)

(a) must indicate whether a waste management licence is required to conduct the activity or, if a waste management licence is not required, the requirements or standards that must be adhered to when conducting the activity;

(b) may exclude certain quantities or categories of waste or categories of persons from the application of the notice if the waste in question is—

(i) of such a small quantity or temporary nature that it is unlikely to cause pollution to the environment or harm to human health; or

(ii) adequately controlled by other legislation;

(c) may contain transitional and other special arrangements in respect of waste management activities that are carried out at the time of their listing; and

(d) must determine the date on which the notice takes effect.

(6) Prior to the Minister has published a notice contemplated in subsection (1), Schedule 1 of this Act is applicable.

(7) The MEC, with the concurrence of the Minister, may by notice in the Gazette—

(a) publish a list of waste management activities that have, or are likely to have, a detrimental effect on the environment in the province concerned; and

(b) when necessary, amend the list by—

(i) adding other waste management activities to the list;

(ii) removing waste management activities from the list; or

(iii) making other changes to the particulars on the list.

(8) A list published under subsection (7) by the MEC must include waste management activities listed in Schedule 1 or listed under section 19, if applicable.

(9) A list published under subsection (7) by the MEC applies to the relevant province only.

(10) A notice under subsection (1) or (7)—

(a) may contain transitional and other special arrangements in respect of waste management activities that are carried out at the time of the listing; and

(b) must determine the date on which the notice takes effect.

(11) For the purposes of administrative efficiency the lists published under subsection (1) or (7) or Schedule 1 may divide the waste management activities into different categories.

(12)(a) Before publishing a notice under subsection (1) or (7), or any amendment to such notice, the Minister or MEC, as the case may be, must follow a consultative process in accordance with sections 72 and 73.

(b) Paragraph (a) need not be complied with if the list contemplated in subsection (1) or (7) is amended in a non-substantive manner.

Consequences of listing waste management activities

20. No person may commence, undertake or conduct a waste management activity, except in accordance with—

(a) the requirements or standards determined in terms of section 19(1) for that activity; or

(b) a waste management licence issued in respect of that activity, if a licence is required.

Part 5

Storage, collection and transportation of waste

General requirements for storage of waste

21. Any person who stores waste must at least take steps, unless otherwise provided by this Act, to ensure that—

(a) the containers in which any waste is stored are intact and not corroded or in any other way rendered unfit for the safe storage of waste;

(b) adequate measures are taken to prevent accidental spillage or leaking;

(c) the waste cannot be blown away;

(d) nuisances such as odour, visual impacts and breeding of vectors do not arise; and

(e) pollution of the environment and harm to health are prevented.

Storage of general waste

22. (1) Any person who generates general waste that is collected by a municipality must place the waste in a container approved, designated or provided by the municipality for that purpose and in a location approved or authorised by the municipality.

(2) Waste that is reusable, recyclable or recoverable and that is intended to be reused, recycled or recovered in accordance with this Act or any applicable by-laws need not be placed in a container contemplated in subsection (1).

Waste collection services

23. (1) Waste collection services are subject to—

(a) the need for an equitable allocation of such services to all persons in a municipal area;

(b) the obligation of persons utilising the service to pay any applicable charges;

(c) the right of a municipality to limit the provision of general waste collection services if there is a failure to comply with reasonable conditions set for the provision of such services, but where the municipality takes action to limit the provision of services the limitation must not pose a risk to health or the environment; and

(d) the right of a municipality to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of municipal services.

(2) Every municipality must, subject to this Act, and as far as is reasonably possible, provide containers or receptacles for the collection of recyclable waste that are accessible to the public.

Collection of waste

24. No person may collect waste for removal from premises unless such person is—

(a) a municipality or municipal service provider;

(b) authorised by law to collect that waste, where authorisation is required; or

(c) not prohibited from collecting that waste.

Duties of persons transporting waste

25. (1) The Minister or MEC or a municipality may, by notice in the *Gazette*, require any person or category of persons who transports waste for gain to—

(a) register with the relevant waste management officer in the Department, province or municipality, as the case may be; and

(b) furnish such information as is specified in that notice or as the waste management officer may reasonably require.

(2) Any person engaged in the transportation of waste must take all reasonable steps to prevent any spillage of waste or littering from a vehicle used to transport waste.

(3) Where waste is transported for the purposes of disposal, a person transporting the waste must, before offloading the waste from the vehicle, ensure that the facility or place at which the waste is transported is authorised to accept such waste.

(4) Where hazardous waste is transported for purposes of not final disposal, a person transporting the waste must, before offloading the waste from the vehicle, ensure that the facility or place to which the waste is transported, is authorised to accept such waste and must obtain written confirmation that the waste has been accepted.

(5) In the absence of evidence to the contrary which raises a reasonable doubt, a person who is in control of a vehicle, or in a position to control the use of a vehicle, that is used to transport waste for the purpose of offloading that waste, is considered to wrongly cause that waste to be offloaded at the location where the waste is deposited.

Part 6
Treatment, processing and disposal of waste

Prohibition of unauthorised disposal

26. (1) No person may—

(a) dispose of waste, or knowingly or negligently cause or permit waste to be disposed of, in or on any land, waterbody or at any facility unless the disposal of that waste is authorised by law; or

(b) dispose of waste in a manner that is likely to cause pollution of the environment or harm to health and well-being.

(2) Subsection (1) need not be complied with if—

(a) the waste was generated as a result of normal household activities and

(i) the municipality does not render a waste collection service in that area, and

(ii) the most environmentally and economically feasible option for the management of the waste was adopted; or

(b) the disposal of the waste was done to protect human life or as a result of an emergency beyond that person's control.

Littering

27. (1) An owner of privately owned land to which the general public has access must ensure—

(a) that sufficient containers or places are provided to contain litter that is generated by the public; and

(b) that the litter is disposed of before it becomes a nuisance, a hazard or a complaint or causes a negative impact on the environment.

(2) No person may—

(a) throw, drop, deposit, spill or in any other way distribute any litter into or onto any public place, land, vacant erf, stream, watercourse, street or road, or into any place to which the general public has access, except in a container or a place specifically provided for that purpose; or

(b) allow any person under that person's control to do any of the acts contemplated in paragraph (a).

Part 7
Industry waste management plans

Preparation of industry waste management plans by certain persons

28. (1) Whenever any activity results in the generation of waste that affects more than one province or where such activity is conducted in more than one province, the Minister may by written notice require a person, or by notice in the Gazette require a category of persons or an industry, that generates waste to prepare and submit an industry waste management plan to the Minister for approval.

(2) The MEC may, in respect of any activity within the province concerned that results in the generation of waste, by written notice require a person, or by notice in the Gazette require a category of persons or an industry that generates waste to prepare and submit an industry waste management plan to the MEC for approval.

(3) Despite subsection (2), the MEC may not require a person, category of persons or industry who has submitted an industry waste management in compliance with subsection (1) to prepare and submit an industry waste management plan in respect of the same matter.

(4) When exercising a power under subsection (1) or (2), the Minister or MEC as the case may be, must consider—

(*a*) the impact or potential impact of the waste on health and the environment that is generated by the applicable person, category of persons or industry;

(*b*) the environmentally sensitive nature of a natural resource or the amount of natural resources that is consumed in the manufacturing or production processes that result in the waste; and

(*c*) the manner in which an industry waste management plan may contribute to—

(i) the avoidance or minimisation of the generation of waste;

(ii) the reduction of negative impacts on health and the environment; and

(iii) the conserving of natural resources.

(5) The Minister or MEC must, before exercising a power under subsection (1) or (2), as the case may be, consult the person, category of persons or industry to be affected.

(6) The Minister or MEC, as the case may be, may give directions that an industry waste management plan must be prepared by an independent person for the cost of the person, category of persons or industry contemplated in subsection (1) or (2).

(7) (*a*) A person, category of persons or industry contemplated in subsection (1) or (2) may elect to prepare an industry waste management plan for approval in terms of this Part without being required to do so by the Minister or MEC.

(*b*) Where a person, category of persons or industry submits an industry waste management plan in terms of paragraph (*a*)—

(i) subsections (4), (5) and (6) apply with the changes required by the context; and

(ii) the Minister or MEC to whom the plan is submitted may exercise any of their respective powers set out in this Part in respect of that plan.

Preparation of industry waste management plans by organs of state

29. (1) The Minister may, by notice in writing, require an industry waste management plan to be prepared by an organ of state, excluding a municipality, within a stipulated timeframe.

(2) An MEC may, by notice in writing, require an industry waste management plan to be prepared by the provincial department responsible for environmental affairs, within a stipulated timeframe.

(3) When exercising a power under subsection (1) or (2), the Minister or MEC must consider whether—

(*a*) the diversity, complexity and competitive nature of the industry concerned would make it impractical for a category of persons other than an organ of

state or provincial department responsible for environmental affairs to prepare the plan;

(*b*) the knowledge or experience of the persons who are likely to be affected by the plan in the areas of waste reduction, re-use, recycling and recovery is limited;

(*c*) the persons who are likely to be affected by the plan comprise of small, medium or micro-enterprises; or

(*d*) the person required to prepare a plan in accordance with section 28, or to review or amend the plan in terms of section 32(1), has failed to do so.

(3) The Minister or MEC, as the case may be, may recover the costs of preparing an industry waste management plan from—

(*a*) the person contemplated in section 28 who, after written notice, failed to prepare the plan; or

(*b*) the person who is required to review or amend the plan in terms of section 32(1), but has failed to do so.

(5) Any organ of state or provincial department contemplated in subsection (1) and (3), respectively, may, by written notice, require any person to provide such information as may be necessary to prepare the industry waste management plan.

(6) An organ of state or provincial department contemplated in subsection (1) and (3), respectively, must follow a consultative process in accordance with sections 72 and 74, unless that plan is being prepared as a result of a person who was required to prepare that plan failing to do so, in which case section 31(2) applies.

Contents of industry waste management plans

30. (1) The Minister, in a notice contemplated in section 28(1) or 29(1), or the MEC, in a notice contemplated in section 28(2) or 29(2), must specify the information that must be included in the industry waste management plan.

(2) The information that the Minister or MEC specifies in terms of subsection (1) may include—

(*a*) the amount of waste that is generated;

(*b*) measures to prevent pollution or ecological degradation;

(*c*) targets for waste minimisation through waste reduction, re-use, recycling and recovery;

(*d*) measures or programmes to minimise the generation of waste and the final disposal of waste;

(*e*) measures or actions to be taken to manage waste;

(*f*) the phasing out of the use of specified substances;

(*g*) opportunities for the reduction of waste generation through changes to packaging, product design or production processes;

(*h*) mechanisms for informing the public of the impact of the waste-generating products or packaging on the environment;

(*i*) the allocation of any financial contribution to be made to support cost-effective waste reduction programmes;

(*j*) the period that is required for implementation of the plan;

(*k*) methods for monitoring and reporting; and

(*l*) any other matter that may be necessary to give effect to the objects of this Act.

Notification of industry waste management plans

31. (1) Any person required to produce an industry waste management plan in terms of section 28 must take appropriate steps to bring the contents of a proposed industry waste management plan to the attention of relevant organs of state, interested persons and the public and must follow any directions given by the Minister or MEC, as the case may be, regarding the consultation process that must be followed.

(2) An organ of state required to prepare an industry waste management plan in terms of section 29 as a result of a person who was required to prepare that plan failing to do

so must bring the contents of a proposed industry waste management plan to the attention of relevant organs of state, interested persons and the public.

(3) Any comments submitted in respect of an industry waste management plan must be considered by the person responsible for preparing the plan, and a copy of all comments must be submitted to the Minister or MEC, as the case may be, together with the plan.

Consideration of industry waste management plans

32. (1) The Minister, acting in terms of section 28(13) or 29(1), or the MEC, acting in terms of section 28(2) or 29(2), may on receipt of an industry waste management plan—

(a) approve the plan in writing, with any amendments or conditions, and give directions for the implementation of the plan;

(b) require additional information to be furnished and a revised plan to be submitted within timeframes specified by the Minister or MEC for approval;

(c) require amendments to be made to the plan within timeframes specified by the Minister or MEC; or

(d) reject the plan with reasons if it does not comply with the requirements of a notice in terms of section 28(11) or (2) or 29(1) or (2), as the case may be, or if a consultation process in accordance with section 31 was not followed.

(2) Any failure to comply with a requirement referred to in subsection (1)(b) or (c) within the timeframes specified by the Minister or the MEC is regarded as constituting a failure to submit an industry waste management plan.

(3) An industry waste management plan that has been rejected in terms of subsection (1)(d) may be amended and resubmitted to the Minister or MEC.

(4) On receipt of any information or amendments requested in terms of subsection (1)(b) or (c) or any amended industry waste management plan submitted in terms of subsection (3), for the first time, the Minister or MEC must reconsider the plan.

(5) An approval in terms of sub-section (1)(a) must at least specify the period for which the approval is issued, which period may be extended by the Minister or MEC.

(6) Notice must be given in the relevant Gazette of any industry waste management plan that has been prepared in terms of section 28 and that has been approved by the Minister or MEC, as the case may be.

(7) An industry waste management plan that has been prepared by an organ of state or provincial department responsible for environmental affairs in terms of section 29 and that has been approved by the Minister or MEC, as the case may be, must be published in the relevant Gazette, together with an indication of when and how the plan must be implemented, if applicable.

Specification of measures to be taken

33. (1) If the Minister or MEC rejects an industry waste management plan in terms of section 32 more than once, or if any person who is required in terms of section 28(1) or (2) to prepare an industry waste management plan fails to do so, or if a person fails to review or amend a plan as required by the Minister or the MEC in terms of section 37(1), the Minister or MEC, as the case may be, may, by notice in writing and without any further proceedings being allowed, specify the waste management measures that must be taken by that person to ensure that that person is not unduly advantaged by the failure to submit a plan.

(2) When specifying the waste management measures to be taken in terms of subsection (1), the Minister or MEC, as the case may be, must consider, and to the extent practicable align the measures to be taken with the measures that are set out in any other approved industry waste management plan and that are applicable to the activities of the person whose plan has been rejected more than once or who failed to submit a plan.

Review of industry waste management plans

34. (1) An industry waste management plan that has been required by the Minister in terms of section 28(1)(*a*) or 29(1)(*a*) or by the MEC in terms of section 28(2)(*a*) or 29(2)(*a*) must be reviewed at intervals specified in the approval of at intervals specified by the Minister or MEC by notice in writing or in the relevant *Gazette*.

(2) When specifying a review period for an industry waste management plan prepared by a person, the Minister or MEC, as the case may be, must take cognisance of the review periods that have been specified in any related waste management licence.

Part 8

Contaminated land

Application of this Part

35. This part applies to the contamination of land except if the contamination is—

(*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 in pre-existing contamination.

Identification and notification of investigation areas

36. (1) The Minister or the MEC in respect of an area which falls in the relevant province may, after consultation with the Minister of Water Affairs and Forestry and any other organ of state concerned, by notice in the *Gazette*, identify as investigation areas —

(*a*) land on which high risk activities have taken place or are taking place that are likely as a result to cause land contamination;

(*b*) land that the Minister or MEC, as the case may be, on reasonable grounds believes is contaminated.

(2) A notice under subsection (1) by the Minister applies nationally, and a notice under that subsection by the MEC applies in the relevant province only.

(3) Before publishing a notice under subsection (1)(*b*), or any notice referred to in that subsection, the Minister or MEC, as the case may be, must follow a consultative process in accordance with sections 72 and 73.

(4) Subsection (3) need not be complied with if the notice is amended in a non-substantive manner.

(5) An owner of land that is significantly contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister and MEC of that contamination as soon as that person becomes aware of that contamination.

(6) Despite subsection (1), the Minister or MEC may issue a written notice to a particular person identifying specific land as an investigation area if the Minister or MEC on reasonable grounds believes that the land is or is likely to be contaminated.

Consequences of identification and notification of investigation areas

37. (1) The Minister or MEC, as the case may be, may in respect of an investigation area contemplated in section 36 after consultation with the Minister of Water Affairs and Forestry—

(*a*) cause a site assessment to be conducted in respect of the relevant investigation area; or

(*b*) in a notice published under section 36(1) or issued under section 36(6)—

(i) direct the owner of the investigation area; or

(ii) direct the person who has undertaken or is undertaking the high risk activity or activity that caused or may have caused the contamination of the investigation area;

to cause a site assessment to be conducted by an independent person, at own cost, and to submit a site assessment report to the Minister or MEC within a period specified in the notice.

(2) (a) A site assessment report must comply with any directions that may have been published or given by the Minister or MEC in a notice contemplated in section 36(1)(a) or (b) and must at least include information on whether the investigation area is contaminated.

(b) Where the findings of the site assessment report are that the investigation area is contaminated, the site assessment report must consider relevant information on whether—

(i) the contaminant may cause a risk of impact or has caused an impact on health or the environment;

(ii) the substances present in or on the land are toxic, persistent or mobile and are present in large quantities or high concentrations or pose a combination of combinations;

(iii) there are exposure pathways available to the substances;

(iv) the current or proposed use of the land and adjoining land increases or is likely to increase the risk of health or the environment;

(v) the substances have migrated or are likely to migrate from the land;

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

(vii) any applicable standards have been exceeded; and

(viii) the area should be remediated or any other measures should be taken to manage or prevent the risk.

(3) For the purposes of this section, land may be regarded as being contaminated if any particular aspect of the risk of harm to health or the environment could eventuate only in certain circumstances and those circumstances do not exist at the time but the site assessment is undertaken, but those circumstances are reasonably foreseeable.

Consideration of site assessment reports

38. (1) (a) On receipt of a site assessment report contemplated in section 37, the Minister or MEC, as the case may be, may, after consultation with the Minister of Water Affairs and Forestry and any other organ of state concerned, decide that—

(i) the investigation area is contaminated, presents a risk to health or the environment and must be remediated urgently;

(ii) the investigation area is contaminated, presents a risk to health or the environment, and must be remediated within a specified period;

(iii) the investigation area is contaminated and does not present an immediate risk, but that measures are required to address the monitoring and management of that risk; or

(iv) the investigation area is not contaminated.

(b) If the Minister or MEC, as the case may be, decides that an investigation area is contaminated and requires remediation, the Minister or MEC must declare the land to be a remediation site and make such remediation order as is necessary to remediate that risk.

(c) If the Minister or MEC, as the case may be, decides that the investigation area does not present an immediate risk, but that measures are required to address the monitoring and management of that risk, the Minister or MEC may make an order specifying the measures that must be taken.

(d) Unless otherwise directed, a remediation order under subsection (2), an order under subsection (3) or a directive under section 37(1) must be complied with at the cost of the person against whom the order or directive is issued.

(3) The Minister or MEC, as the case may be, may amend a remediation order if—

(a) ownership of the land is transferred and the new owner in writing assumes responsibility for the remediation; or

(b) new information or evidence warrants an amending the order.

Orders to remediate contaminated land

39. (1) A remediation order issued under section 38(2) or an order issued under section 40(1) must direct the person to whom it is addressed—

(a) the person who is responsible for undertaking the remediation;
(b) the land at which the order applies;
(c) the nature of the contamination;
(d) the measures that must be taken to remediate the land or the standards that must be complied with when remediating the land;
(e) the period within which the order must be complied with;
(f) whether any limitations in respect of the use of the land are imposed;
(g) the measures that must be taken to monitor or manage the risks; and
(h) any other prescribed matter.

(2) Before issuing a remediation order or an amended remediation order the Minister or MEC, as the case may be, must consult with the Minister of Water Affairs and Forestry and any other organ of state concerned.

(3) The Minister or MEC, as the case may be, or a designated official within his or her Department must ensure that the remediation order is complied with.

Transfer of remediation sites

40. (1) No person may transfer contaminated land without informing the person to whom that land is to be transferred that the land is contaminated and, in the case of a remediation site, without first giving the Minister or MEC and complying with any conditions that are specified by the Minister or MEC, as the case may be.

(2) (*a*) For the purposes of presumptive compliance with this section, the Minister may notify the relevant Registrar of Deeds appointed in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), of any land that has been declared as a remediation site.

(*b*) The notification contemplated in paragraph (*a*) must identify the land sufficiently to enable the Registrar of Deeds to enter the necessary information in the registers and documents kept by his or her Office.

Contaminated land register

41. (1) The Minister must keep a national contaminated land register of investigation areas that includes information on—

(a) the owners and any users of investigation areas;
(b) the location of investigation areas;
(c) the nature and origin of the contamination;
(d) whether an investigation area—
  (i) is contaminated, presents a risk to health or the environment, and must be remediated urgently;
  (ii) is contaminated, presents a risk to health or the environment, and must be remediated within a specified period;
  (iii) is contaminated and does not present an imminent or probable risk, but requires action to address the monitoring and management of that risk; or
  (iv) is not contaminated;
(e) the status of any remediation activities on investigation areas; and
(f) restrictions on use that have been imposed on investigation areas.

(2) The Minister may change the status of an investigation area contemplated in subsection (1)(*d*)(iii) as provided for in subsection (3) if monitoring or a remediation order has been complied with or other circumstances exist that justify such a change.

(3) An MEC who has identified an investigation area must furnish the relevant information to the Minister for recording in the national contaminated land register.

Part 9
Other measures

Recognition programmes

42. (1) A waste management officer may establish a programme for the public recognition of significant achievements in the area of waste avoidance, minimisation or other forms of waste management.

(2) The programme contemplated in subsection (1) may contain mechanisms to make the public aware of sound waste management practices.

CHAPTER 5

LICENSING OF WASTE MANAGEMENT ACTIVITIES

Licensing authority

43. (1) The Minister is the licensing authority where—

(*a*) unless otherwise indicated by the Minister by notice in the *Gazette*, the waste management activity involves the establishment, operation, cessation or decommissioning of a facility at which hazardous waste has been or is to be stored, treated or disposed of;

(*b*) the waste management activity involves obligations in terms of an international obligation, including the importation or exportation of hazardous waste;

(*c*) the waste management activity is to be undertaken by—

(i) a national department;

(ii) a provincial department responsible for environmental affairs; or

(iii) a statutory body, excluding any municipality, performing an exclusive competence of the national sphere of government;

(*d*) the waste management activity will affect more than one province or traverse international boundaries; or

(*e*) two or more waste management activities are to be undertaken at the same facility and the Minister is the licensing authority for any one of those activities.

(2) Subject to subsection (1), the MEC of the province in which the waste management activity is being or is to be carried out is the licensing authority.

(3) Despite subsections (1) and (2), the Minister and an MEC may agree that an application or applications for waste management licences regarding any waste management activity—

(*a*) referred to in subsection (1), may be dealt with by the MEC; or

(*b*) in respect of which the MEC has been identified as the licensing authority may be dealt with by the Minister.

Co-operative governance in waste management licence applications

44. (1) For the purposes of issuing a licence for a waste management activity, the licensing authority must, as far as practicable in the circumstances, coordinate or consolidate the application and decision-making processes contemplated in this Chapter with the decision-making process in Chapter 5 of the National Environmental Management Act and other legislation administered by other organs of state, without whose authorisation or approval or consent the activity may not commence or be undertaken or continued.

(2) If the licensing authority decides to issue a licence it may, for the purposes of achieving coordination—

(*a*) issue an integrated licence jointly with the other organs of state contemplated in subsection (1) which licence grants approval in terms of this Act and any other legislation specified in the licence; or

(*b*) issue the licence as part of a consolidated authorisation consisting of different authorisations issued under different legislation by the persons competent to do so, that have been consolidated into a single document in order to ensure

that the conditions that are imposed by each competent authority are comprehensive and mutually consistent.

(3) If an integrated licence contemplated in subsection (2)(a) is to be regarded as a valid authorisation or approval for the purposes of other legislation specified in the integrated licence, then the decision-making process for issuing that integrated licence must comply with both the respective regimes of this Act and of that other legislation.

(4) An integrated licence must—

(a) specify the statutory provisions in terms of which it has been issued;

(b) identify the authority or authorities that have issued it;

(c) indicate to whom applications for any amendment or cancellation of the integrated licence must be made; and

(d) indicate the appeal procedure to be followed.

(5) An integrated licence may be enforced in terms of this Act and any other Act in terms of which it has been issued: Provided that a condition of an integrated licence may only be enforced in terms of the legislation that authorises the imposition of such a condition.

(6) Where an integrated licence procedure or a consolidated authorisation procedure is established in terms of this section, the provisions of this Chapter must be read with the necessary changes as the context may require to enable a single application procedure or combined application procedure to be followed.

(7) An integrated licence must be regarded as an integrated environmental authorisation contemplated in section 24L of the National Environmental Management Act.

Application for waste management licences

45. (1) A person who requires a waste management licence must apply for the licence by lodging an application with the licensing authority.

(2) An application for a waste management licence must be accompanied by—

(a) the prescribed processing fee; and

(b) such documentation and information as may be reasonably required by the licensing authority.

(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 authorised 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.

Appointment of persons to manage waste management licence applications

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

(2) If an applicant is required to appoint an independent person, the applicant must—

(a) take all reasonable steps to verify that the person to be appointed is independent and has expertise in the managing of waste management licence applications; and

(b) provide the appointed person with access to all information at the disposal of the applicant reasonably required for the application, whether or not that information is favourable to the applicant.

Procedure for waste management licence applications

47. (1) The licensing authority

(a) may, by written notice, require the applicant, at the applicant's cost, to obtain and provide it with a specified report with any other information in addition to the information contained in or submitted in connection with the application;

(b) may conduct its own investigation on the likely effect of the waste management activity on health and the environment;

(c) must invite written comments from any organ of state that has an interest in the matter; and

(d) must afford the applicant an opportunity to make representations on any adverse statements or objections to the application.

(2) An applicant must take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.

(3) The steps contemplated in subsection (2) must include the publication of a notice in at least two newspapers circulating in the area in which the waste management activity applied for is to be carried out.

(4) The notice contemplated in subsection (3) must-

(a) describe the nature and purpose of the waste management licence applied for;

(b) give particulars of the waste management activity, including the place where it is or is to be carried out;

(c) state where further information on the waste management activity can be obtained;

(d) stating a reasonable period within which written representations on, or objections to, the application may be submitted, and the address or place where representations or objections must be submitted; and

(e) contain such other particulars as the licensing authority may require.

Factors to be taken into account by licensing authority

48. When considering an application for a waste management licence the licensing authority must take into account all relevant matters including

(a) the need for and desirability of the waste management activity and alternatives to such activity, including similar waste management activities, if any, that have already been licensed;

(b) the pollution caused or likely to be caused by the activity that is the subject of the application, whether alone or together with existing operations or pollution and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions and cultural heritage;

(c) the best practicable environmental options available and alternatives that could be taken

(i) to prevent, control, abate or mitigate pollution; and

(ii) to protect the environment, including health, social conditions, economic conditions and cultural heritage from harm as a result of the undertaking of the waste management activity;

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

(e) any reasons for a decision made in terms of regulations issued under section 24 of the National Environmental Management Act;

(f) whether the applicant is a fit and proper person as contemplated in section 59;

(g) the applicant's submissions;

(h) any submissions received from organs of state, interested persons and the public; and

(i) any conditions the licensing authority may wish to impose relevant to the application.

Decision of licensing authorities on waste management licence applications

49. (1) The licensing authority may in respect of an application for a waste management licence—

(*a*) grant the application;

(*b*) refuse the application; or

(*c*) reject the application if it does not comply with the requirements of this Act.

(2) A decision to grant a application for a waste management licence in respect of a waste disposal facility is subject to the concurrence of the Minister of Water Affairs and Forestry.

(3) Any decision by a licensing authority to grant an application for a waste management licence must be consistent with—

(*a*) this Act, including any integrated waste management plan prepared in terms of this Act;

(*b*) any applicable national environmental management policies and, where the MEC is the licensing authority, any applicable provincial environmental management policies;

(*c*) the national environmental management principles set out in section 2 of the National Environmental Management Act;

(*d*) any applicable industry waste management plan;

(*e*) the objectives of any applicable waste management plan; and

(*f*) any standards or requirements that have been set in terms of this Act for the waste management licence.

(4) After a licensing authority has reached a decision in respect of an application for a waste management licence, it must within 21 days—

(*a*) notify the applicant of the decision and give written reasons for the decision;

(*b*) if the decision is to grant the application, issue a waste management licence; and

(*c*) in a manner determined by the licensing authority, instruct the applicant to notify any persons who have objected to the application of the decision and the reasons for the decision.

(5) An application which is substantially similar to a previous application that has been refused in terms of subsection (4)(*b*) may only be resubmitted if—

(*a*) the new application contains new and material information not previously submitted to the licensing authority; or

(*b*) a period of three years has elapsed since the application was lodged.

(6) An application which is rejected in terms of subsection (4)(*c*) may be amended and resubmitted to the licensing authority for reconsideration.

Issuing of waste management licences

50. (1) A waste management licence is subject to such conditions and requirements—

(*a*) as specified in terms of section 51;

(*b*) as the licensing authority may determine and specify in the licence; and

(*c*) as the Minister or MEC has prescribed for the waste management activity in question.

(2) The licensing authority may issue a single waste management licence where the applicant has applied to undertake more than one waste management activity at the same location.

(3) The issuing of a waste management licence for a waste disposal facility is subject to the inclusion in the licence of any conditions contained in a Record of Decision issued by the Minister of Water Affairs and Forestry regarding any measures that the Minister of Water Affairs and Forestry considers necessary to protect a water resource as defined in the National Water Act, 1998 (Act No. 36 of 1998).

Contents of waste management licences

51. (1) A waste management licence must specify—

(*a*) the waste management activity in respect of which it is issued;

(*b*) the premises or area of operation where the waste management activity may take place;

(*c*) the person to whom it is issued;

(*d*) the period for which the waste management activity may commence;

(c) the period for which the licence is issued and period within which any renewal of the licence must be applied for;
(d) the name of the licensing authority;
(e) the periods at which the licence may be reviewed, if applicable;
(f) the amount and type of waste that may be generated, handled, processed, stored, reduced, reused, recycled, recovered or disposed of;
(g) if applicable, the conditions or terms on which salvaging of waste may be undertaken;
(h) any other operating requirements relating to the management of the waste; and
(i) monitoring, auditing and reporting requirements.

(2) A waste management licence may—

(a) specify conditions in respect of the reduction, re-use, recycling and recovery of waste;
(b) specify conditions for the decommissioning of a waste disposal facility or cessation of the waste management activity;
(c) require the holder of a waste management licence to establish committees for the participation of interested and affected parties;
(d) provide that the licence is subject to the holder of a waste management licence providing an environmental management plan, contemplated in section 11 of the National Environmental Management Act, or the submission of the licensing authority;
(e) require the holder of a waste management licence to undertake remedial work;
(f) specify the financial arrangements that the holder of a waste management licence must make for the undertaking of remediation work during the operation of the waste management activity or on decommissioning of the waste management activity;
(g) require the holder of the waste management licence to comply with all lawful requirements of an environmental management inspector carrying out his or her duties in terms of the National Environmental Management Act, including a requirement that the licence holder must on request submit to the inspector a certified statement indicating—
(i) the extent to which the conditions and requirements of the licence have or have not been complied with;
(ii) particulars of any failure to comply with any of those conditions or requirements;
(iii) the reasons for any failure to comply with any of those conditions or requirements; and
(iv) any action taken or to be taken, to prevent any recurrence of that failure or to mitigate the effects of that failure; and
(h) include any other matters which are necessary for the protection of the environment.

Transfer of waste management licences

52. (1) If ownership of a waste management activity for which a waste management licence was issued is transferred, the holder may, with the permission of a licensing authority, transfer the licence to the new owner of the waste management activity.

(2) A person applying for permission to transfer a waste management licence must lodge the application with the licensing authority.

(3) The application must be in the form required by the licensing authority.

(4) An application for the transfer of a waste management licence must be accompanied by—

(a) the prescribed processing fee; and
(b) such documentation and information as may be reasonably required by the licensing authority.

(5) If the environment, or the rights or interests of other parties are likely to be adversely affected, the Minister or MEC must, before deciding the application for transfer, request the applicant to conduct a consultation process as may be appropriate in the circumstances to bring the application for the transfer of a waste management licence to the attention of relevant organs of state, interested persons and the public.

(6) When considering an application for the transfer of a waste management licence the licensing authority may request any additional information, and must take into

account all relevant matters, including whether the person to whom the licence is to be transferred is a fit and proper person as contemplated in section 59.

(7) If the licensing authority's decision is to grant permission for the transfer of the waste management activity, the licensing authority—

(a) must issue an amended licence which reflects the details of the person to whom the licence is being transferred; and

(b) may make such amendments to the licence as are necessary to ensure that the purpose of any terms of arrangements that are reported in that licence are given effect to.

(8) The transfer of a waste management licence does not relieve the holder of the licence from which the licence was transferred of any liability that the licence holder may have incurred whilst he or she was the holder of that licence.

Review of waste management licences

53. (1) A licensing authority must review a waste management licence at intervals specified in the licence, or when circumstances demand that a review is necessary.

(2) The licensing authority must inform the holder of the waste management licence, in writing, of any proposed review and the reason for such review if the review is undertaken at another interval that is provided for in a waste management licence.

(3) For purposes of the review, a waste management officer may require the holder of the waste management licence to compile and submit a waste impact report contemplated in section 56.

Variation of waste management licences

54. (1) A licensing authority may, by written notice to the holder of a waste management licence, vary the licence—

(a) if it is necessary to do so to prevent pollution;

(b) if it is necessary or desirable for the purposes of achieving waste management standards or environmental requirements;

(c) if it is necessary or desirable to accommodate demands brought about by changes in socio-economic circumstances or it is in the public interest to meet those demands;

(d) to make a non-substantive administrative change;

(e) at the written request of the holder of the waste management licence; or

(f) if it is reviewed in terms of section 53.

(2) The variation of a waste management licence includes—

(a) the inclusion of an additional condition or requirement to the waste management licence;

(b) the substitution of a condition or requirement;

(c) the removal of a condition or requirement; or

(d) the amendment of a condition or requirement.

(3) If a licensing authority receives a request from the holder of a waste management licence in terms of subsection (1)(e), it—

(a) the licensing authority must require the licence holder to take appropriate steps to bring the request to the attention of relevant organs of state, interested persons and the public if the variation of the licence is to authorise an increase in the environmental impact regulated by the waste management licence;

(b) Steps in terms of subsection (3)(a) must include the publication of a notice in at least two newspapers circulating in the area in which the waste management activity governed by the waste management licence is or is to be carried out.

(5) The notice contemplated in subsection (3) must—

(a) describe the nature and purpose of the request;

(b) give particulars of the waste management activity, including the place where it is, or is to be, carried out;

(c) state a reasonable period within which written representations on, or objections to, the request may be submitted, and the address or place where representations or objections must be submitted; and

(d) contain such other particulars as the licensing authority may require.

(6) Sections 47, 48 and 49 apply with the changes required by the context to the variation of a waste management licence.

Renewal of waste management licences

55. (1) A waste management licence may, on application by the holder of the licence, be renewed by the licensing authority.

(2) The holder of a waste management licence must, before the expiry date of the licence and within the period specified in the licence, apply for the renewal of the licence to the licensing authority or the area in which the activity is carried on by lodging an application with the licensing authority in the form required by the licensing authority.

(3) An application for the renewal of a waste management licence must be accompanied by—

(*a*) the prescribed processing fee; and

(*b*) such documentation and information as may reasonably be required by the licensing authority.

(4) If the environment or the rights or interests of other parties are likely to be adversely affected, the licensing authority must, before deciding the application, request the applicant to conduct a consultative process that may be appropriate in the circumstances to bring the application for the renewal of a waste management licence to the attention of relevant organs of state, interested persons and the public.

(5) Sections 47, 48, 49 and 51 apply with the changes required by the context to an application for the renewal of a waste management licence.

(6) If the holder of a waste management licence does not apply for renewal of that licence, the licence holder remains liable for taking all measures that are necessary to ensure that the cessation of the activity that was authorised by the licence is done in a manner that does not result in harm to health or the environment.

Revocation and suspension of waste management licences

56. (1) The licensing authority may, by written notice to the holder of a waste management licence, revoke or suspend that licence if the licensing authority is of the opinion that the licence holder has contravened a provision of this Act or a condition of the licence and such contravention may have, or is having, a significant effect on health or the environment.

(2) The licensing authority may not revoke or suspend a waste management licence before it has—

(*a*) consulted relevant organs of state;

(*b*) afforded the holder of the waste management licence an opportunity to make a submission in respect of the intended revocation or suspension; and

(*c*) in the event that the holder has made a submission contemplated in paragraph (*b*), the licensing authority has considered that submission.

(3) Despite subsection (2), if urgent action is necessary for the protection of the environment, the licensing authority may immediately issue a directive of revocation or of suspension and as soon thereafter as is possible consult with relevant organs of state and give the holder of the waste management licence an opportunity to make a submission.

Surrender of waste management licences

57. (1) A holder of a waste management licence may surrender that licence with the permission of the licensing authority.

(2) In considering a request to surrender a waste management licence, the licensing authority may—

(*a*) request such information as it requires to consider the request; and

(*b*) require the licence holder to take such steps as it considers necessary for the protection of the environment before accepting that surrender of the licence.

(3) The surrender of a waste management licence does not relieve the holder of the licence of any liability that the licence holder may have incurred while he or she was the holder of that licence.

Waste management control officers

58. (1) A waste management officer may require the holder of a waste management licence to designate a waste management control officer, having regard to the size and nature of the waste management activity for which the licence was granted.

(2) A waste management control officer must—

(*g*) works towards the development and introduction of cleaner production technologies and practices to achieve waste minimisation;

(*h*) promptly and submit potential incidents in respect of waste minimisation, including the reduction, recovery, reuse and recycling of waste to the waste management licence holder and the licensing authority;

(*i*) take all reasonable steps to ensure compliance by the holder of the waste management licence with the licence conditions and requirements and the provisions of this Act; and

(*j*) promptly report any non-compliance with any licence conditions or requirements or provisions of this Act to the licensing authority through the most effective means reasonably available.

(2) This section does not affect the liability of the holder of a waste management licence or the liability of that licence holder to comply with the conditions and requirements of the licence.

Criteria for fit and proper persons

59. In order to determine whether a person is a fit and proper person for the purposes of an application in terms of this Chapter, a licensing authority must take into account all relevant facts, including whether—

(*a*) that person has contravened or failed to comply with this Act, the Environment Conservation Act, the National Environmental Management Act or any other legislation applicable to waste management;

(*b*) that person has been a waste management licence or other authorisation has been suspended or revoked or that person has not complied with a material condition of such waste management licence or authorisation;

(*c*) that person is or has been a director or senior manager of a company, trust or entity to whom paragraph (*a*) or (*b*) applies;

(*d*) that person has the ability to comply with this Act and any conditions subject to which the application may be granted; and

(*e*) the management of the waste management activity that is the subject of the application will be in the hands of a technically competent person.

CHAPTER 6

WASTE INFORMATION

Establishment of national waste information systems

60. (1) The Minister must establish a national waste information system for the recording, collection, management and analysis of data and information that must include—

(*a*) data on the quantity and type or classification of waste generated, stored, transported, treated, transformed, collected, reused, recycled, recovered and disposed of; and

(*b*) a register of—

(i) waste management activities that have been licensed;

(ii) the holders of waste management licences authorised to commence the waste management activities contemplated in terms of subparagraph (i); and

(iii) the locations where the licensed waste management activities are or may be conducted.

(2) The waste information system may include information on—

(*a*) the levels and extent of waste management services provided by municipalities;

(*b*) information on compliance with this Act; and

(*c*) any other information that is necessary for the purposes of effective administration of this Act.

(3) The national waste information system may be integrated into or

Objectives of national waste information system

61. The objectives of the national waste information system is to —

(a) store, verify, analyse, evaluate and provide data and information for the protection of the environment and management of waste;

(b) provide information for the development and implementation of any integrated waste management plan required in terms of this Act; and

(c) provide information to organs of state and the public —

(i) for education, awareness raising, research and development purposes;

(ii) for planning, including the prioritisation of regulatory waste minimisation and other interventions;

(iii) for obligations to report in terms of any by-laws;

(iv) for public safety management;

(v) on the status of the generation, collection, reduction, re-use, recycling and recovery, transportation, treatment, and disposal of waste; and

(vi) the impact of waste on health and the environment.

Establishment of provincial waste information system

62. (1) The MEC may establish a provincial waste information system.

(2) A provincial waste information system must at least include the information required by the national information system.

(3) The Minister may, by notice in the *Gazette* and for the purposes of ensuring efficient administration, exempt a category of persons who must furnish information to the provincial waste information system established in terms of subsection (1) from furnishing that information to the national waste information system established in terms of section 60.

(4) If the Minister exercises a power under subsection (3), the MEC is responsible for furnishing that information to the Minister unless otherwise directed by the Minister by notice in the *Gazette*.

Provision of information

63. (1) The Minister may, by notice in the *Gazette* or in writing, require any person to provide, within a reasonable time or on a regular basis, any data, information, documents, samples or materials to the Minister that are reasonably required for the purposes of the national waste information system established in terms of section 60 or the management of waste.

(2) The MEC may, by notice in the *Gazette* or in writing, require any person or organ of state to provide, within a reasonable time or on a regular basis, any data, information, documents, samples or materials to the MEC that are reasonably required for the purposes of a provincial waste information system established in terms of section 62 or the management of waste in the province.

(3) A notice under subsection (1) or (2) may also indicate the manner in which the information must be furnished and, if required, how the information must be verified.

(4) Where the Minister or MEC requires a municipality to furnish data, information, documents, samples or materials in terms of subsection (1) or (2), the municipality concerned may, by notice in the *Gazette* or in writing, require any person or organ of state to provide, within a reasonable time or on a regular basis, such data, information, documents, samples or materials and the verification of such information to the municipality that are reasonably required to discharge its obligations in terms of subsection (1) or (2).

Access to information

64. Information contained in the national waste information system or a provincial waste information system established in terms of section 60 or 62, as the case may be, must be made available by the Minister or MEC, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

CHAPTER 7

COMPLIANCE AND ENFORCEMENT

Compliance powers of Minister or Water Affairs and Forestry

65. (1) Despite the powers conferred on the Minister or MEC by or under this Act, the Minister of Water Affairs and Forestry may exercise any powers conferred on him or her by section 19, 53 and 155 of the National Water Act, 1998 (Act No. 36 of 1998), in respect of a person who contravenes or fails to comply with any condition of a waste management licence, a remediation order or measures specified in terms of section 38(3) that may lead to an impact on a water resource.

(2) The Minister of Water Affairs and Forestry must exercise the powers contemplated in subsection (1) after consultation with the Minister or MEC.

Waste impact reports

66. (1) An environmental management inspector appointed in terms of the National Environmental Management Act may, in writing, require any person to submit a waste impact report in a specified form and within a specified period to the environmental management inspector if the environmental management inspector on reasonable grounds suspects that such person has on one or more occasions contravened or failed to comply with this Act or any conditions of a waste management licence or exemption and that the contravention or failure has or is likely to have a detrimental effect on health or the environment, including social conditions, adverse consequences, ecological conditions or cultural heritage, or has contributed to the degradation of the environment.

(2) A waste management officer may, in writing, require any person to submit a waste impact report in a specified form and with a prescribed period to the waste management officer if a review of a waste management licence is undertaken in terms of section 53.

(3) An environmental management inspector or waste management officer must stipulate the documentation and information that should be included in a report submitted in terms of subsection (1) or (2).

(4) Before making a request in terms of subsection (1) an environmental management inspector must afford the person to whom the request is to be made an opportunity to show cause why a waste impact report should not be required.

(5) A waste management officer may indicate that a waste impact report to be submitted in terms of subsection (1) or (2) must be completed by an independent person.

(6) The costs incurred in completing a waste impact report, including the costs of an independent person, are the liability of the person required to submit the report.

(7) If the person who is required to submit a waste impact report in terms of subsection (1) or (2) fails to submit the report within the specified period, the waste management officer may—

(a) appoint an independent person to compile the report; and

(b) recover the cost of compiling the report from the person required to submit the report.

Offences

67. (1) A person commits an offence if that person—

(a) contravenes or fails to comply with a provision of section 15, 16(1), 17, 18(1), 20 or 21, 26(1), or any order under section 38(2) or (3) or a notice under section 19(2) or 30(1);

(b) contravenes or fails to comply with a provision of section 21, 22(1), 24, 27, 28, 46(2) or 48(1);

(c) fails to submit or to prepare an industry waste management plan when required to do so in terms of section 25;
(d) contravenes or fails to comply with an industry waste management plan;
(e) contravenes or fails to comply with a waste management measure specified in terms of section 14(4) or 24(1)(g);
(f) contravenes or fails to comply with a norm or standard established in terms of this Act;
(g) fails to conduct a site assessment or to submit a site assessment report when required to do so in terms of section 37(1);
(h) contravenes or fails to comply with a condition of, or requirement of, a waste management licence or an integrated licence contemplated in section 44;
(i) fails to submit a waste impact report required in terms of section 60(1) or (2);
(j) contravenes or fails to comply with a condition subject to which exemption from a provision of this Act was granted in terms of section 76(3)(c);
(k) knowingly supplies false or misleading information in any application made in terms of this Act;
(l) knowingly supplies false or misleading information to a waste management officer or environmental management inspector for the purpose of this Act; or
(m) fails to provide the information contemplated in section 29(5) or 63(4).

(2) A person who is in control of a vehicle, or in a position to control the use of a vehicle, that is used to transport waste for the purpose of offloading that waste, is guilty of an offence if that person —

(a) fails to take all reasonable steps to prevent spillage of waste or littering from the vehicle;
(b) intentionally or negligently cause spillage or littering from the vehicle;
(c) dispose of waste at a facility which is not authorised to accept such waste;
(d) fails to ensure that waste is disposed of at a facility that is authorised to accept such waste; or
(e) fails to comply with any duty set out in section 29(4).

Penalties

68. (1) A person convicted of an offence referred to in section 67(*a*), (*c*), or (*e*) is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, or to any other penalty or award that may be imposed or made in terms of the National Environmental Management Act.

(2) A person convicted of an offence referred to in section 67(1)(*b*), (*d*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*) or (*m*) or section 67(2)(*a*), (*b*), (*c*), or (*d*) or (3) is liable to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment, in addition to any other penalty or award that may be imposed or made in terms of the National Environmental Management Act.

(3) Any person convicted of an offence referred to in section 67(1)(*a*) is liable to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

(4) A person who is convicted of an offence in terms of this Act and who persists after conviction in the act or omission that constituted the offence commits a continuing offence and is liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 20 days, or to both such fine and such imprisonment, in respect of each day that person persists with that act or omission.

(5) In the contemplated in subsection (1), (2), (3) or (4) must be determined with due consideration of —

(a) the severity of the offence in terms of its impact or potential impact on health, well-being, safety and the environment; and
(b) the monetary or other benefit that accrued to the convicted person through the commission of the offence.

CHAPTER 8

GENERAL MATTERS

Part 1
Regulations

Regulations by Minister 5

69. (1) The Minister may make regulations regarding –

(a) the identification and categorisation of waste;

(b) the manner in which particular waste types must be dealt with and managed;

(c) the manner in which priority waste must be dealt with and managed;

(d) requirements for monitoring or compliance with this Act or any licence issued in terms of this Act; 10

(e) waste management planning;

(f) the exercise of the duty of care;

(g) measures that are required for the environmentally sound management of waste; 15

(h) health and safety in respect of waste management activities;

(i) measures that must be taken in respect of the implementation of waste minimisation, including the separation of waste at the point of generation and setting of targets or percentage of products that must be recovered, reused, recycled, returnable, depositor take-back programmes; 20

(j) the control of the import or export of waste;

(k) the obligation of producers of a specified product or class of product to carry out a life cycle assessment in relation to the product in such manner or in accordance with such standards or procedures as may be specified;

(l) the requirements that must be complied with in respect of the design, composition or product use of a product or packaging, including requirements in respect of – 25

(i) the restriction of the composition, volume or weight of packaging;

(ii) the reduction, re-use, recycling and recovery of packaging; and

(iii) the use of alternate materials that are less harmful to the environment; 30

(m) the prevention of waste by way of resource use and recycling;

(n) the reduction of waste by –

(i) the adoption of certain manufacturing processes; and

(ii) the use of alternative materials or products;

(o) the financial arrangements of waste minimisation programmes; 35

(p) the institutional arrangements for the administration of waste minimisation programmes;

(q) the control over waste management facilities;

(r) labelling requirements in respect of waste management;

(s) the location, planning and design of waste management activities; 40

(t) the registration of persons transporting waste;

(u) the manner in which a site assessment, in terms of section 37, must be conducted and the person who may conduct such assessments;

(v) the contents of a site assessment report contemplated in section 37, including persons who may undertake such site assessments; 45

(w) the manner in which an application for a waste management licence may be made, including the persons who may manage such applications;

(x) requirements in respect of the funding or financing of a waste management activity;

(y) the nature, form, time period and format of data and information to be submitted in terms of a waste information system established in terms of this Act; 50

(z) the procedure for the institution of appeals against decisions of officials in the performance of their functions in terms of this Act;

(aa) the dissemination of information to the public; 55

(*bbb*) incentives and disincentives to encourage a change in behaviour towards the generation of waste and waste management by all sectors of society;

(*ccc*) matters that must be regulated by a contract between a municipality and any waste management service provider;

(*ddd*) any matter that may or must be prescribed in terms of this Act; and

(*eee*) any other administrative or procedural matter that is necessary for the proper administration and implementation of this Act.

(2) A regulation under subsection (1)(*d*), (*y*), (*z*), (*zz*), (*zzy*) and (*zzz*) may only be made after consultation with the Minister of Trade and Industry.

(3) A regulation under subsection (1)(*z*) and (*zy*), and a regulation in respect of financial incentives and disincentives made under subsection (1)(*bbb*), may only be made with the concurrence of the Minister of Finance.

(4) A regulation under subsection (1)(*zzy*) may only be made after consultation with the Minister for Provincial and Local Government.

(5) A regulation under subsection (1)(*a*), (*c*) and (*zz*) may only be made after consultation with the Minister of Water Affairs and Forestry.

(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.

Regulations by MECs

70. (1) The MEC with the concurrence of the Minister may make regulations for the province concerned in respect of any matter for which the MEC may or must make regulations in terms of this Act, including any matter referred to in section 69(1)(*b*) to (*zz*), inclusive, (*zzy*), (*zz*), (*zzz*), (*a*) to (*zy*), inclusive, and (*z*) to (*bbb*), inclusive.

(2) A regulation in respect to a matter referred to in section 69(1)(*zzy*) may only be made after consultation with the Minister for Provincial and Local Government.

(3) A regulation in respect of a matter referred to in terms of section 69(1)(*b*), (*z*) and (*zy*) may only be made after consultation with the Minister of Water Affairs and Forestry.

General regulatory powers

71. (1) Regulations made under this Act may—

(*a*) restrict or prohibit any act, either absolutely or conditionally;

(*b*) apply—

(i) generally to the Republic or a province, or only in a specified area or category of areas; or

(ii) generally to all persons or only to a specified category of persons;

(*c*) differentiate between different—

(i) areas or a category of areas;

(ii) persons or categories of persons; or

(iii) types, classes or categories of waste;

(*d*) incorporate by reference any guideline, compliance requirements, code of practice or any national or international standard relating to waste management.

(2) Regulations made under this Act may provide that any person who contravenes or fails to comply with a provision thereof commits an offence and is liable on conviction to—

(*a*) imprisonment for a period not exceeding 15 years;

(*b*) an appropriate fine; or

(*c*) both a fine and imprisonment.

(3) Before publishing any regulation under this Act or any amendment to the regulations, the Minister or MEC as the case may be must follow a consultative process in accordance with sections 72 and 73.

(4) Paragraph (c) need not be complied with if the regulations are amended in a non-substantive manner.

Part 2
Consultative process

Consultation

72. (1) Before exercising a power which, in terms of this Act, must be exercised in accordance with this section and section 73, the Minister or MEC must follow such consultative process as may be appropriate in the circumstances.

(2) When conducting the consultations contemplated in subsection (1), the Minister must—

(a) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the powers;

(b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution and subject to the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), consult the MEC responsible for waste management in each province that will be affected by the exercise of the power; and

(c) conduct a public participation process in accordance with section 73.

(3) When conducting the consultations contemplated in subsection (1), the MEC must—

(a) consult all members of the Executive Council whose areas of responsibility will be affected by the exercise of the powers;

(b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution and subject to the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), consult the Minister and all other national organs of state that will be affected by the exercise of the power; and

(c) conduct a public participation process in accordance with section 73.

Public participation

73. (1) Before exercising a power that, in terms of this Act, must be exercised in accordance with this section, the Minister or MEC, as the case may be, must give notice of the process to exercise of the relevant power—

(a) in the *Gazette*; and

(b) in at least one newspaper circulated nationally or, if the exercise of power will only affect a specific area, in at least one newspaper distributed in that area.

(2) The notice must—

(a) invite members of the public to submit to the Minister or MEC, as the case may be, within a stated period of at least 30 days of publication of the notice in the *Gazette*, written representations on or objections to the proposed exercise of power; and

(b) contain sufficient information to enable members of the public to submit representations or objections.

(3) The Minister or MEC, as the case may be, may, in appropriate circumstances, allow any interested person or community to make oral representations or objections to the Minister or MEC or a person designated by the Minister or MEC.

(4) The Minister or MEC, as the case may be, must give due consideration to all representations or objections received or presented before exercising the relevant power.

Part 3
Exemptions and appeals

Applications for exemption

74. (1) Any person may apply in writing for exemption from the application of a provision of this Act to the Minister or, where the MEC is responsible for administering the provision of the Act from which the person or organ of state requests exemption, to the MEC.

(2) An application in terms of subsection (1) must be accompanied by

(a) an explanation of the reasons for the application; and

(b) any appropriate supporting documents.

Consideration of applications for exemption

75. (1) The Minister or MEC, as the case may be, may request an applicant contemplated in section 74 to furnish additional information where such information is necessary for the purposes of determining the Minister or MEC's decision.

(2) If the rights or interests of other parties are likely to be adversely affected by the proposed exemption, the Minister or MEC, as the case may be, must, before deciding the application, request the applicant to

(a) notify the application to the attention of relevant organs of state, interested persons and the public by conducting a public participation process indicated by the Minister or MEC; and

(b) to consider any comments received from the public following such process to the Minister or MEC.

Decisions on applications for exemption

76. (1) The Minister or the MEC, as the case may be, may—

(a) grant an exemption from the application of a provision of this Act; or

(b) refuse to grant such exemption.

(2) Sections 48 and 49(2) to (6) inclusive, apply with the changes required by the context to the consideration of applications for exemptions.

(3) If an application is granted, the Minister or MEC must issue a written exemption notice to the applicant stating

(a) the name, address and telephone number of the person to whom the exemption is granted;

(b) the provision of this Act from which exemption is granted;

(c) the conditions subject to which the exemption is granted. The exemption is granted subject to conditions; and

(d) the period for which exemption is granted. If the exemption is granted for a period.

(4) The Minister or the MEC, as the case may be, may by notice in the *Gazette* exempt an organ of state from a provision of this Act if –

(a) the provision, but for the definition of "person" contained in section 1, clearly should not apply to an organ of state;

(b) the exemption would not defeat the objects of this Act; and

(c) it is in the public interest to grant the exemption.

Review and transfer of exemptions

77. (1) The Minister or MEC may—

(a) from time to time review any exemption granted in terms of section 76; and

(b) on good grounds suspend or withdraw such exemption or amend the exemption or any part thereof.

(2) Before suspending, withdrawing or amending an exemption, the Minister or MEC must give the person to whom the exemption was granted an opportunity to comment in writing on the reasons for the suspension, withdrawal or amendment.

(3) If an exemption has been granted in respect of a waste management activity or part thereof, and ownership of that waste management activity is transferred, the exemption may, with the permission of the Minister or MEC, be transferred by the holder to the successor in title of the waste management activity.

(3) Section 52 applies with the changes required by the context to the transfer of a waste licence.

Appeals

78. (1) An appeal under section 43 of the National Environmental Management Act in respect of a decision made under a power delegated by the Minister or MEC in terms of this Act or another specific environmental management Act where the Minister or MEC is responsible for considering the appeal, may be considered jointly with any other appeal involving a related matter.

(2) Where the Minister or MEC exercises his or her discretion to consider appeals jointly under subsection (1), the Minister or MEC may indicate the process that must be followed to give effect to that decision.

CHAPTER 9

MISCELLANEOUS

Delegation and assignment

79. (1) The Minister or MEC, respectively, may delegate or assign to an official in their respective departments any power or duty conferred on the Minister or MEC by or under this Act, except—

(*a*) the power conferred on the Minister or MEC, respectively, by section 7(2) or 19, 20, 21, 24, 25, 28, 29, 30 or 31; or

(*b*) the duty imposed on the Minister by section 6 or 7(1).

(2) The Minister or MEC must regularly review and, if necessary, amend or withdraw a delegation or assignment under subsection (1).

(3) A delegation or assignment to an official under subsection (1)—

(*a*) is subject to such limitations and conditions as the Minister or MEC may impose;

(*b*) may either be to a specific official or to the holder of a specific post in the relevant department;

(*c*) may authorise that official to sub-delegate or further assign, in writing, the power or duty to another official in the Department or to the holder of a specific post in the Department;

(*d*) does not prevent the exercise of that power or the performance of that duty by the Minister or MEC; and

(*e*) does not divest the Minister or MEC of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(4) The Minister or MEC may confirm, vary or revoke any decision taken by an official as a result of a delegation or subdelegation under this section, subject to any rights that may have become vested as a consequence of that decision.

Repeal and amendment of laws, and savings

80. (1) Subject to subsections (2) and (3) and section 81, the laws set out in Schedule 2 are hereby repealed or amended to the extent set out in the third column thereof.

(2) Any regulation or direction made in terms of a provision of the Environment Conservation Act repealed by section 1 and in force immediately before the date of the coming into effect of this Act, remains in force and is considered to have been made under this Act and anything done under this Act overrides it.

(3) Anything lawfully done under a provision repealed by subsection (1) remains valid until anything done under this Act overrides it.

(4) A person operating a waste disposal facility that was established before the coming into effect of the Environment Conservation Act and that is operational on the date of the coming into effect of this Act may continue to operate the facility until such time as the Minister, by notice in the Gazette, calls upon that person to apply for a waste management licence.

(3) Any criminal proceedings instituted under section 51, 19A or 20(7) of the Environment Conservation Act that have not been finalised on the date of coming into effect of this Act, must be finalised as if those sections had not been repealed.

Transitional provisions in respect of permits issued in terms of Environment Conservation Act

81. (1) Despite the repeal of section 20 of the Environment Conservation Act by this Act, a permit issued in terms of that section remains valid subject to subsections (2) and (3).

(2) The holder of a permit issued in terms of section 20 of the Environment Conservation Act must apply for a waste management licence in terms of this Act when required to do so by the licensing authority, in writing, and within the period stipulated by the licensing authority.

(3) A permit issued in terms of section 20 of the Environment Conservation Act lapses-

(a) if a waste management licence is issued in terms of this Act to the same person in respect of the same waste management activity;

(b) if the holder of the permit did not apply, within the stipulated period, for a waste management licence within the period contemplated in subsection (2); or

(c) if the licensing authority refuses an application contemplated in subsection (2).

(4) If a permit issued in terms of section 20 of the Environment Conservation Act lapses as contemplated in subsection (3)(b) or (c), the permit holder remains liable for taking all measures that are necessary to ensure that the cessation of the activity is done in a manner that does not result in harm to health or the environment.

(5) During the period for which a permit issued in terms of section 20 of the Environment Conservation Act remains valid, the provisions of this Act apply in respect of the holder of such a permit as if that person were the holder of a waste management licence issued in terms of this Act.

(6) Despite the repeal of section 21 of the Environment Conservation Act by this Act, an application for a permit made in terms of section 20 of the Environment Conservation Act that was not decided when section 81 of this Act took effect must be proceeded with in terms of this Act as if that application were an application for a waste management licence in terms of this Act.

Transitional provision regarding listed waste management activities

82. A person who conducts a waste management activity listed in Schedule 1 on the date of coming into effect of this Act, and who immediately before that date lawfully conducted that waste management activity under Government Notice No. 91 of 1 February 2002, may continue with the activity and each time that the Minister by notice in the *Gazette* directs that person to apply for a waste management licence under this Act.

Act regarded as specific environmental management Act

83. This Act must be regarded as a specific environmental management Act for the purposes of the definition of "specific environmental management Act" contained in section 1 of the National Environmental Management Act.

Short title and commencement

84. (1) This Act is called the National Environmental Management: Waste Act, 2008, and takes effect on a date determined by the Minister by proclamation in the *Gazette*.

(2) Different dates may be so determined for different provisions of this Act.

Act No. 59, 2008 NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008

SCHEDULE 1

(Section 19)

Waste management activities in respect of which a waste management licence is required

CATEGORY A

The activities listed under Category A are equivalent to those that require a basic assessment process as stipulated in the environmental impact assessment regulations made under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

Storage and transfer of waste

1. The temporary storage of general waste at a facility, including a waste transfer facility and container yard, that has the capacity to receive in excess of 30 tonnes of general waste per day or that has a throughput capacity in excess of 25m³ per day, including the construction of a facility and associated structures and infrastructure for such storage.

2. The temporary storage of hazardous waste at a facility, including a waste transfer facility and container yard, that has the capacity to receive in excess of three tonnes of hazardous waste per day, including the construction of a facility and associated structures and infrastructure for such storage.

Recycling and recovery

3. The sorting and shredding of general waste at a facility that has the capacity to receive in excess of one ton of general waste per day, including the construction of a facility, associated structures and infrastructure for such sorting or shredding.

4. The recovery of waste, excluding recovery that takes place as an integral part of an internal manufacturing process at a facility, that has the capacity to process in excess of three tonnes of general waste or 100 kilogrammes of hazardous waste per day, including the construction of a facility and associated structures and infrastructure for such recovery.

Treatment of waste

5. The autolysing, physical or physico-chemical treatment of general waste or the autoclaving, drying or microwaving of general waste at a facility that has the capacity to receive in excess of 10 tonnes of general waste per day, including the construction of a facility and associated structures and infrastructure for such treatment.

6. The biological or physicochemical treatment of hazardous waste or the autoclaving, drying or microwaving of hazardous waste, including the construction of a facility and associated structures and infrastructure for such treatment.

7. The treatment of waste in sludge lagoons.

Disposal of waste on land

8. The disposal of inert waste, excluding the disposal of less than 25 tonnes of inert waste for the purposes of levelling and building that has been authorised by or under legislation, including the construction of a facility and associated structures and infrastructure for such disposal.

9. The disposal of general waste to land covering an area of less than 100 m² or 500 m³ in space, including the construction of a facility and associated structures and infrastructure for such disposal.

Storage, treatment and processing of animal waste

10. The storage, treatment or processing of animal manure, including the composting of animal manure, at a facility that has a throughput capacity in excess of 10 tonnes per month, including the construction of a facility and associated structures and infrastructure for such storage, treatment or processing.

11. The processing of waste at biogas installations with a capacity for receiving five tonnes or more per day of animal waste, animal manure, abattoir waste or vegetable waste, including the construction of a facility and associated structures and infrastructure for such processing animal manure and abattoir waste

Expansion or decommissioning of facilities and associated structures and infrastructure

12. The expansion or decommissioning of facilities and associated structures and infrastructure for activities listed in this Schedule

CATEGORY B

The activities listed under Category B are equivalent to those that require an environmental impact assessment process stipulated in the environmental impact assessment regulations made under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

Treatment of waste

1. The treatment of general waste by a method other than biological, physical or physico-chemical treatment at a facility with the capacity to receive in excess of 10 tonnes of general waste per day, including the construction of a facility and associated structures and infrastructure for such treatment

2. The treatment of hazardous waste by a method other than biological or physico-chemical treatment, including the construction of a facility and associated structures and infrastructure for such treatment

3. The incineration of waste, including the construction of a facility and associated structures and infrastructure for the incineration of waste.

Disposal of waste on land

4. The disposal of hazardous waste to land, including the construction of a facility and associated structures and infrastructure for such disposal

5. The disposal of general waste to land covering an area of more than 100 m² or 200 m³ of air space, including the construction of a facility and associated structures and infrastructure for such disposal

SCHEDULE 2

(Section 66)

Laws repealed or amended

No. and year of Law	Short title	Extent of repeal or amendment
Act No. 73 of 1989	Environment Conservation Act, 1989	1. The amendment of section 1 by the deletion of the definitions of "disposal site" and "waste". 2. The repeal of sections 19, 19A, 20, 24, 24A, 24B and 24C. 3. The amendment of section 29 by the substitution for subsection (1) of the following subsection: "(1) Any person who [contravenes a provision of section 20 or 24A or fails to comply therewith, or] fails to comply with a directive issued in terms of section 31A [or 31C or pretends to possess authority in terms of section 31A when that person is not authorised or entitled to do so] is, in the absence of [a] special [reason] circumstances to the contrary which must be proved by the person concerned, guilty of an offence and liable on conviction to a fine [not exceeding R10 000] or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.", and 4. by the substitution for subsection (2) of the following subsection: "(2) Any person who contravenes a provision of section [20(b), 20(c),] 22(2) or 23(2) [or a direction issued under section 20(b)] or fails to comply with a condition of a permit, permission or authorization [or direction] issued [or granted] under the said provisions is guilty of an offence and liable on conviction to a fine [not exceeding R100 000] or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.".
Act No. 79 of 1992	Environment Conservation Amendment Act, 1992	The repeal of sections 8 and 9
Government Notice No. 1986, 1 August 2003		The repeal of the whole.
Government Notice No. 292, 28 January 2005		The repeal of the whole.