

IWMSA Central Branch Seminar 17 April 2015, Plastics SA, Midrand

Implementation of Waste Act and Waste Amendment Act: Status Quo and Way Forward



Chemicals and Waste Management



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OVERVIEW

- Introduction
- Background
- Waste Amendment Act
- Regulations
- National Pricing Strategy for Waste
- Waste Management Bureau
- Transitional arrangements
- Way Forward
- Conclusion



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INTRODUCTION

- The presentation is intended to provide recent developments and status quo on Waste Act and the Waste Amendment Act implementation
- National environmental management legislation and regulatory environment
- Streamlining application systems and legislation
- NEMA / MPRDA / NWA Amendments
- Amendments to NEM: Waste Act



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BACKGROUND

- The National Environmental Management: Waste Act, 2008 regulates waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sound sustainable development.
- Since 2009, certain implementation challenges with respect to some provisions of the NEMWA were identified by the Department and stakeholders.
- The challenges related to; regulatory certainty, institutional capacity, interpretation, and administration.



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BACKGROUND ...2

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



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WASTE AMENDMENT ACT

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



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WASTE AMENDMENT ACT ...CONT 2

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



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WASTE AMENDMENT ACT ...CONT 3

New definition of waste; **'waste' means -**

- (a) Any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and includes all wastes as defined in Schedule 3 to this Act; or
- (b) Any other substance, material or object that is not included in Schedule 3 that may be defined as a waste by the Minister by notice in the gazette,



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WASTE AMENDMENT ACT ...CONT 4

But any portion of waste ceases to be waste -

- (i) Once an application for its re-use, recycling or recovery has been approved or, after such an approval, once it is, or has been, re-used, recycled or recovered;
- (ii) Where approval is not required, once a waste is, or has been, re-used, recycled or recovered;
- (iii) Where the Minister has, in the prescribed manner, exempted a particular process that generates that waste from definition of waste;
- (iv) where the Minister has, in the prescribed manner, excluded any portion of a waste stream containing that portion of waste from the definition of waste.



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WASTE AMENDMENT ACT ...CONT 5

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



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REGULATIONS

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



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NATIONAL PRICING STRATEGY

- In terms of the Waste Amendment Act, 2014, the Minister of Environmental Affairs with concurrence of Minister of Finance to publish a pricing strategy within 3 months of commencement of the Waste Amendment Act.



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CONTENTS OF PRISING STRATEGY ...2

- Basis and guiding methodology/ies for setting waste management charges;
- This must include funding of:
 - implementation of IndWMP for specific waste streams
 - re-use, recycling or recovery of waste in previously disadvantaged communities
 - identification, further development and promotion of best practices in the minimisation, re-use, recycling and recovery of waste



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CONTENTS OF PRICING STRATEGY ...3

- implementation of approved guidelines, norms and standards for the minimisation, re-use, recycling and recovery of waste
- the monitoring of the implementation and impact of industry waste management plans
- the creation and the monitoring of the impacts of incentives and disincentives for the minimisation, re-use, recycling and recovery of waste
- the management of the disbursements of incentives for the minimisation, re-use, recycling and recovery of waste



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PRICING STRATEGY ...4

- The Pricing strategy may differentiate on the following basis:
 - in respect of different geographic areas
 - socio-economic aspects within the area in question
 - the physical attributes of each area
 - the demographic attributes of each area
 - in respect of different types of uses
 - the manner in which the waste is generated or disposed of
 - whether it is re-used, recycled or recovered
 - whether any previously disadvantaged group is impacted upon or derives any benefit therefrom



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RATES FOR THE PRICING STRATEGY ...5

- Characteristics of the waste disposed of;
- Volume of the waste disposed of;
- Toxicity of the waste disposed of;
- Nature and extent of the impact on the environment caused by the waste disposed of; or
- Extent of approved deviation from prescribed waste standards or management practices



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CONSULTATION ON THE STRATEGY ...6

- Minister must published on the 2nd February 2015 a notice in GG
 - Setting out the proposed strategy
 - Inviting written comments on the proposed strategy
 - Specify the address and date by which to submit comments
 - Minimum commenting period of 60 days
 - Minister to consider comments and publish final notice in the GG for implementation.



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WASTE MANAGEMENT BUREAU

- The Waste Amendment Act, 2014 established the Waste Management Bureau; and
 - Provides for the determination of policy;
 - Provides for the Minister's oversight in relation to the Waste Management Bureau;
 - Provides for the objects, functions, funding, financial management, reporting and auditing, immovable property of the Waste Management Bureau;
 - Provides for the employees of the Waste Management Bureau;
- The model for the Bureau is based on the South African Social Security Agency (SASSA) that is in terms of the SASSA, Act No. 9 of 2004.



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WASTE MANAGEMENT BUREAU ...2

In terms of section 34D, the objects of the Bureau are to—

(a) function as a specialist implementing agent within the Department in respect of matters delegated to the Bureau in terms of this Act;

(b) promote and facilitate minimisation, re-use, recycling and recovery of waste;

(c) manage the disbursement of incentives and funds derived from waste management charges contemplated in sections 13B and 34D for the minimisation, reuse, recycling, recovery, transport, storage, treatment and disposal of waste and the implementation of industry waste management plans;



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WASTE MANAGEMENT BUREAU ...3

The objects of the Bureau also include to—

(d) monitor implementation of industry waste management plans and the impact of incentives and disincentives;

(e) progressively build capacity within the Bureau to provide specialist support for the development and implementation of municipal waste management plans and capacity building programmes; and

(f) support and advise on the development of waste management plans, tools, instruments, processes, systems, norms, standards and municipal waste management plans and capacity building programmes.



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WASTE MANAGEMENT BUREAU ...4

In the event of absence of,

- a functional Bureau or
- a Chief Executive Officer,

the powers and duties of the Bureau revert to the Director-General of the Department contemplated in section 34G(1)

In terms of section 34G, ss 1, the DG is accounting authority for the Bureau

The Director-General must exercise those powers and perform those duties until,

- the Bureau is functional or
- the Chief Executive Officer is appointed.



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TRANSITIONAL ARRANGEMENTS

- The Amendment Act, 2014 provides the following;
 - Transitional elements for existing industry waste management plans approved prior to commencement of the Act.
 - A transitional period of six months from the commencement of the Act for the plans to be regularised
 - Revision, amendment and alignment and for re-submission of industry waste management plans for approval



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WAY FORWARD

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



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CONCLUSION

In conclusion we have seen the following through the recent amendments and developments,

1. Legislative reform

- Amendments to waste legislation
- Development of regulations for effective implementation

2. Institutional reform

- Formation of entities that have been empowered to guide recycling
- IndWMPs being key in the recycling economy

3. Alignment of systems for recycling economy

- Redesigning the waste revenue collection systems

The National Pricing Strategy for Waste Management is also there to guide the process



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Kgauta Mokoena
Chief Director: Chemicals and Waste Policy,
Monitoring and Evaluation

Tel: 012 399 9825

Fax: 086 606 4104

E-mail: Kmokoena@environment.gov.za

<http://sawic.environment.gov.za>



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www.environment.gov.za

