

National Environmental Management: Waste Management Act 59 of 2008 (Waste Act)

Topic: Environmental

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Introduction

The Waste Act aims to regulate the management of waste in South Africa in order to protect our health and the environment. The Waste Act provides reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development.

Objectives of the Act

The overarching objectives of the Waste Act are–

- to ensure the sound environmental management of waste;
 - to provide for the utilisation of environmentally-sound methods that maximise the utilisation of valuable resources and encourage resource conservation and recovery;
 - to reduce risk to human health and prevent the degradation of the environment;
 - to encourage and, in some cases, compel the use of mechanisms that promote pollution prevention and cleaner production, volume reduction at source, recycling, recovery and reuse of materials and resources;
 - to set guidelines and targets for waste avoidance and volume reduction, including providing guidelines and targets for source reduction and waste minimisation measures;
 - to encourage waste reduction measures such as composting, recycling, re-use, recovery and green charcoal process;
 - to set standards and processes for the proper and effective collection, treatment and disposal of waste in environmentally sound waste management facilities;
 - to ensure the proper segregation, collection, transportation, storage, treatment and disposal of waste through the formulation and adoption of the best environmental practice in ecological waste management;
 - to control the export, import, transit, reuse, recovery, treatment and disposal of waste to ensure that all relating operations will be undertaken in an environmentally sound manner.
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Application of the Act and its implication to Tourism

All generators of waste products must comply with the Act. The Waste Act does not apply to–

- radioactive waste;
 - residue deposits and residue stockpiles;
 - the disposal of explosives; or
 - the disposal of animal carcasses.
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Summary of the provisions of the Act

Whilst the Waste Act regulates the generation, storage, management, control and disposal of waste products in South Africa, it should be kept in mind that, in terms of the Constitution, local authorities (municipalities) have certain waste-regulating functions, including the power to promulgate and enforce by-laws concerning waste disposal, waste and refuse removal, refuse dumps and solid waste disposal.

Due to this division and separation of powers, one may find that there are different standards which pertain to waste as between local authority laws and national or provincial laws.

General Duty in respect of Waste Management

The Waste Act places a general duty on a holder of waste to–

- avoid the generation of waste and where such generation cannot be avoided, to minimise the toxicity and amounts of waste that are generated;
- reduce, re-use, recycle and recover waste;
- where waste must be disposed of, ensure that the waste is treated and disposed of in an environmentally sound manner;
- 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;
- prevent any employee or any person under his or her supervision from contravening the Act; and
- prevent the waste from being used for an unauthorised purpose.

Furthermore 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.

Storage of Waste

The Waste Act states that any person who stores waste must, at least, take steps to ensure that–

- 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;
- adequate measures are taken to prevent accidental spillage or leaking;
- the waste cannot be blown away;

- nuisances such as odour, visual impacts and breeding of vectors (organisms that can spread disease, e.g. insects) do not arise; and
- pollution of the environment and harm to health are prevented.

Recovery, Re-use and Recycling of Waste

The Waste Act states that before a person undertakes an activity involving the reduction, re-use, recycling or recovery of waste, that person must ensure that such activity uses less natural resources than used in the disposal of such waste and, to the extent that it is possible, is less harmful to the environment than the disposal of such waste.

The Minister also has a right to require any person or category of persons who manufacture or import a product to provide for the reduction, re-use, recycling and recovery of products or components of such a product or to include a certain percentage of recycled material in such a product.

Waste permits

Where a person generates waste which exceeds a prescribed volume, the generator must apply for a waste license, which will involve conducting an environmental impact assessment.

Once a license is granted, it must be displayed in the area where the waste is stored. A waste license is usually subject to certain terms and conditions to be complied with at all times.

All waste disposal sites and waste removal contractors have to be registered with the DEA. Waste can only be disposed of at these authorised sites.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Non-compliance with the Act is a criminal offence and any person found may be liable for a penalty of between R5–R10 million or imprisonment for a period ranging from 5–10 years or to both a fine and a prison sentence. Certain damages and remedial orders may also be issued to such person, who will then have to repair the damage or take remedial measures at his or her own cost.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

In order to ensure compliance with the Act, it is important to do the following:

- Make sure that waste is reduced and recycled, where possible;
- Where more waste is being generated than necessary, embark on a waste minimisation strategy;
- Where waste is over a volume as prescribed under the Listed Activities Regulations, apply for a waste generator permit in respect of the site;
- All waste must be correctly stored;
- All waste should be removed by a registered waste contractor and dumped and disposed of in the correct and registered landfill site;
- Waste Control procedures and policies must be in place;
- A waste classification system must be in place;
- There should be different bins for different waste streams;
- Bins must be in good order and condition;
- Areas where waste is kept must be clean and free from odour and vectors; and
- Disposal and removal of waste must be done by a registered waste contractor or service provider who disposes of the waste onto a registered landfill site or waste dump.

FURTHER INFORMATION

Regulator

Department of Environmental Affairs

Websites

www.deat.gov.za

www.environment.gov.za