

National Environmental Management Air Quality Act 39 of 2004 (AQA)

Topic: Environment and Air

IN A CALABASH

Introduction

The National Environmental Management: Air Quality Act 39 of 2004 (AQA) is the main environmental management Act which seeks to protect air quality in South Africa.

Before the AQA came into force, air quality was regulated by an Act known as the Atmospheric Pollution Prevention Act 45 of 1965 (APPA). The AQA replaced the APPA and its regulations, in their entirety.

The AQA must be read together with the National Environmental Management Act 107 of 1998 (NEMA).

In particular, the interpretation and application of the AQA must be guided by the national environmental management principles set out under the NEMA.

Objectives of the Act

The objectives of the AQA include–

- the protection of the environment and, in particular, air quality;
- the prevention of air pollution and eco-degradation;
- securing sustainable eco-development while promoting justifiable eco- and social development; and
- enhancing the quality of the ambient air in order to provide a safe environment for the health and wellbeing of all people in South Africa.

Application of the Act and its implication to Tourism

The AQA applies to and impacts on industries who manufacture, mine and operate large plants and factories and whose operations have the potential to pollute the environment and the atmosphere.

Not many participants in the tourism industry operate large manufacturing processes and factories, except perhaps those who operate large kitchens which may make use of

boilers and similar apparatus. With that being said, all participants in the tourism industry need to be mindful of the more general provisions of the AQA, especially those pertaining to noise, dust and odours.

Summary of the provisions of the Act

The AQA establishes–

- a requirement for the development of a national air quality framework;
- a requirement for the development of national, provincial and local ambient air quality and emission standards;
- a procedure for the declaration and management of priority areas where air quality is of particular concern;
- a procedure for the declaration of certain listed activities that require an atmospheric emissions license;
- a procedure for the declaration of controlled emitters and controlled fuels which require specific attention and treatment;
- a listing of specific criminal offences, which must be read with those listed under the NEMA;
- a procedure, which is in a phased format, for the conversion of licenses which were previously held under the APPA to atmospheric emission licenses under the AQA;
- the development of national ambient and emission standards; and
- the development of regulations and norms pertaining to noise levels, odours or dust levels.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Non-compliance with the Act is a criminal offence.

A person convicted of an offence will be liable to a fine of up to five million rand or to imprisonment for a period of up to five years and, in the case of a second or subsequent conviction, to a fine of up to R10 million or imprisonment for a period of up to 10 years or, in both instances, to both a fine and such imprisonment.



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

- All relevant employees to be aware of the applicable provisions of the AQA;
- Listed activities or scheduled processes must be conducted under permit and in compliance with prescribed standards; and
- Control of emissions in line with ambient levels and review of emission levels and attempts to reduce such levels.

FURTHER INFORMATION

Regulator

Department of Environmental Affairs

Website

www.environment.gov.za