

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 10 February 2004.)*

ACT

To amend the Environment Conservation Act, 1989, so as to enable the Minister of Environmental Affairs and Tourism to make regulations regarding financial matters relating to identified waste types and regarding product control for waste management; to provide for the transfer of the administration of waste disposal sites from the Minister of Water Affairs and Forestry to the Minister of Environmental Affairs and Tourism; and to provide for matters connected therewith.

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

Substitution of section 20 of Act 73 of 1989, as substituted by section 9 of Act 79 of 1992

1. The following section is hereby substituted for section 20 of the Environment Conservation Act, 1989 (hereinafter referred to as the principal Act):

"Waste management

20. (1) No person may establish, provide or operate a disposal site without a permit issued by the Minister in terms of subsections (1) to (9).

(2) A person who wishes to provide or operate a disposal site must apply for a permit referred to in subsection (1) in the prescribed form, supplying such information as may be prescribed.

(3) The Minister may-

- (a) issue a permit subject to such conditions as he or she considers fit;
- (b) alter or cancel any permit or condition in a permit;
- (c) refuse to issue a permit.

(4) The Minister may exempt any person or category of persons from having to obtain a permit, subject to such conditions as he or she considers fit.

(5) The Minister may require further information from the applicant for the purpose of enabling him or her to make a decision on an application.

(6) The issuing of a waste disposal, site permit is subject to -

- (a) the concurrence of the Minister of Water Affairs and Forestry; and
- (b) the inclusion therein of the 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);

- (c) In the event of concurrence or conditions not being obtained as contemplated in paragraphs (a) and (b) within a reasonable time the matter shall be referred to the Fair Decision Making and Conflict Management provisions contained in Chapter 4, sections 17 to 22, of the National Environmental Management Act, 1998 (Act No. 107 of 1998), by the Minister.

(7) The Minister must maintain a register in which details of every disposal site for which a permit has been issued shall be recorded.

(8) The Minister may, by notice in the *Gazette*, issue directions with regard to—

- (a) the control and management of disposal sites in general;
- (b) the control and management at certain disposal sites or disposal sites handling particular types of waste; and
- (c) the procedure to be followed before any disposal site may be withdrawn from use or utilized for another purpose.

(9) Subject to the provisions of any other law, no person shall discard waste or dispose of it in any other manner, except—

- (a) at a disposal site for which a permit has been issued in terms of this section; or
- (b) in a manner or by means of a facility or method and subject to such conditions as the Minister may prescribe.

(10) Anything done in terms of this section by the Minister of Water Affairs and Forestry prior to the commencement of the Environment Conservation Amendment Act, 2003, shall be deemed to have been done by the Minister."

Amendment of section 24 of Act 73 of 1989 as substituted by section 13 of Act 79 of 1992

2. Section 24 of the principal Act is hereby amended by the addition of the following paragraph:

"(1) imposition of compulsory charging, deposits or related financial measures on waste types or specified items in waste types with the concurrence of the Minister of Finance."

Insertion of sections 24B and 24C in Act 73 of 1989

3. The following sections are hereby inserted in the principal Act after section 24A:

"Regulations regarding products

24B. The Minister may make regulations with regard to the prohibition, control, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment or on human health.

Procedure for making regulations

24C. (1) Before making a regulation under section 24(1) or 24B the Minister must—

- (a) publish a notice in the *Gazette* setting out the draft regulations;
- (b) notify the Presiding Officer of both Houses of Parliament of such publication; and
- (c) invite written comments on the draft regulations to be submitted to the Minister within a period of 30 days of publication of such notice.

(2) Prior to publishing final regulations the Minister must consider the comments referred to in subsection (1).

(3) Any regulation made under section 24(1) or 24B is not subject to the publication for comment requirements contained in section 32."

Short title and commencement

4. (1) This Act is called the Environment Conservation Amendment Act, 2003.
- (2) Section 1 comes into effect on a date determined by the President by proclamation in the *Gazette*.