

The Environmental Management Act of Namibia and its Regulations

The Environmental Management Act (EMA)(Act No. 7 of 2007) was promulgated in Government Notice No. 232. It commenced on 6 February 2012 (Government Notice 28) and all activities that may not be undertaken without an Environmental Clearance Certificate (ECC) were listed together with the Environmental Impact Assessment Regulations of the Act (Government Notice 29 and 30).

The Environmental Management Act aims to promote the sustainable management of the environment and the use of natural resources by establishing principles for decision making on matters affecting the environment; to establish the Sustainable Development Advisory Council; to provide for the appointment of the Environmental Commissioner and environmental officers; to provide for a process of assessment and control of activities which may have significant effects on the environment; and to provide for incidental matters.

The EMA Regulations list all activities that requires an ECC before being undertaken. A person may not undertake such a listed activity, unless the person is a holder of an ECC in relation to that activity.

Any person who contravenes this law commits an offence and is on conviction liable to a fine not exceeding N\$500 000 or to imprisonment for a period not exceeding 25 years or to both such fine and such imprisonment.

Listed Activities:

ENERGY GENERATION, TRANSMISSION AND STORAGE ACTIVITIES

1. The construction of facilities for -
 - (a) the generation of electricity;
 - (b) the transmission and supply of electricity;
 - (c) refining of gas, oil and petroleum products; and
 - (d) nuclear reaction, including production, enrichments, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and waste.

WASTE MANAGEMENT, TREATMENT, HANDLING AND DISPOSAL ACTIVITIES

- 2.1 The construction of facilities for waste sites, treatment of waste and disposal of waste.
- 2.2 Any activity entailing a scheduled process referred to in the Atmospheric Pollution Prevention Ordinance, 1976.
- 2.3 The import, processing, use and recycling, temporary storage, transit or export of waste.

MINING AND QUARRYING ACTIVITIES

- 3.1 The construction of facilities for any process or activities which requires a licence, right or other form of authorisation, and the renewal of a licence, right or other form of authorisation, in terms of the Minerals (Prospecting and Mining Act), 1992.
- 3.2 Other forms of mining or extraction of any natural resources whether regulated by law or not.
- 3.3 Resource extraction, manipulation, conservation and related activities.

3.4 The extraction or processing of gas from natural and non-natural resources, including gas from landfill sites.

3.5 The extraction of peat.

FORESTRY ACTIVITIES

4. The clearance of forest areas, deforestation, afforestation, timber harvesting or any other related activity that requires authorisation in term of the Forest Act, 2001 (Act No. 12 of 2001) or any other law.

LAND USE AND DEVELOPMENT ACTIVITIES

5.1 The rezoning of land from -

(a) residential use to industrial or commercial use;

(b) light industrial use to heavy industrial use;

(c) agricultural use to industrial use; and

(d) use for nature conservation or zoned open space to any other land use.

5.2 The establishment of land resettlement schemes.

5.3 Construction of veterinary protected area or game proof and international boundary fences.

TOURISM DEVELOPMENT ACTIVITIES

6. The construction of resorts, lodges, hotels or other tourism and hospitality facilities.

AGRICULTURE AND AQUACULTURE ACTIVITIES

7.1 Construction of facilities for aquaculture production, including mariculture and algae farms where the structures are not situated within an aquaculture development zone declared in terms of the Aquaculture Act, 2002.

7.2 The declaration of an area as an aquaculture development zone in terms of the Aquaculture Act, 2002.

7.3 The genetic modification of any organism with the purpose of fundamentally changing the inherent characteristics of that organism.

7.4 The import, processing and transit of genetically modified organisms.

7.5 Pest control.

7.6 The release of genetically modified organisms into the environment where an environmental assessment is required by law.

7.7 The release of any organism outside its natural area of distribution that is to be used for biological pest control.

7.8 The introduction of alien species into local ecosystems.

WATER RESOURCE DEVELOPMENTS

- 8.1 The abstraction of ground or surface water for industrial or commercial purposes.
- 8.2 The abstraction of groundwater at a volume exceeding the threshold authorised in terms of a law relating to water resources.
- 8.3 Any water abstraction from a river that forms an international boundary.
- 8.4 Construction of canals and channels including the diversion of the normal flow of water in a riverbed and water transfer schemes between water catchments and impoundments.
- 8.5 Construction of dams, reservoirs, levees and weirs.
- 8.6 Construction of industrial and domestic wastewater treatment plants and related pipeline systems.
- 8.7 Irrigation schemes for agriculture excluding domestic irrigation.
- 8.8 Construction and other activities in water courses within flood lines.
- 8.9 Construction and other activities within a catchment area.
- 8.10 Reclamation of land from below or above the high-water mark of the sea or associated inland waters.
- 8.11 Alteration of natural wetland systems.
- 8.12 The release of brine back into the ocean by desalination plants.

HAZARDOUS SUBSTANCE TREATMENT, HANDLING AND STORAGE

- 9.1 The manufacturing, storage, handling or processing of a hazardous substance defined in the Hazardous Substances Ordinance, 1974.
- 9.2 Any process or activity which requires a permit, licence or other form of authorisation, or the modification of or changes to existing facilities for any process or activity which requires an amendment of an existing permit, licence or authorisation or which requires a new permit, licence or authorisation in terms of a law governing the generation or release of emissions, pollution, effluent or waste.
- 9.3 The bulk transportation of dangerous goods using pipeline, funiculars or conveyors with a throughout capacity of 50 tons or 50 cubic meters or more per day.
- 9.4 The storage and handling of a dangerous goods, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic meters at any one location.
- 9.5 Construction of filling stations or any other facility for the underground and aboveground storage of dangerous goods, including petrol, diesel, liquid, petroleum, gas or paraffin.

INFRASTRUCTURE

- 10.1 The construction of-
 - (a) oil, water, gas and petrochemical and other bulk supply pipelines;
 - (b) public roads;
 - (c) railways and harbours;
 - (d) airports and airfields;

- (e) any structure below the high water mark of the sea;
- (f) cableways;
- (g) communication networks including towers, telecommunication and marine telecommunication lines and cables;
- (h) motor vehicle and motorcycle racing and test tracks;
- (i) the outdoor racing sites of motor powered vehicles including -
 - (i) motorcars;
 - (ii) trucks;
 - (iii) motorcycles;
 - (iv) quad bikes;
 - (v) boats; and
 - (vi) jet skis;
- (j) masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding -
 - (i) flag poles; and
 - (ii) lightning conductor poles.

10.2 The route determination of roads and design of associated physical infrastructure where -

- (a) it is a public road;
- (b) the road reserve is wider than 30 meters; or
- (c) the road caters for more than one lane of traffic in both directions.

OTHER ACTIVITIES

11.1 Construction of military demonstration and testing sites,

11.2 Construction of cemeteries, camping, leisure and recreation sites.