

**SUMMARY OF THE
ENVIRONMENTAL MANAGEMENT ACT
(CHAPTER 20:27) FOR USE BY COMMUNITY
GROUPS**

**Produced by
Zimbabwe Environmental Law Association
(ZELA)**

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FOREWORD

This summary of the Environmental Management Act (Chapter 20:27) was produced by the Zimbabwe Environmental Law Association with support from the FORD Foundation, Southern Africa. The Zimbabwe Environmental Law Association advocates for the integration of the law in environmental management to achieve equitable and just use of natural resources and environmental conservation.

The Environmental Management Act (Chapter 20:27) No. 13 of 2002 was a result of extensive consultations by the Ministry of Environment and Tourism. It forms a broad legal statement on environmental management throughout Zimbabwe. This is the first consolidated piece of legislation on environmental matters in the country.

This summary is an attempt by ZELA to assist communities in rural and urban areas, industry, businesses, NGOs, local authorities and individuals to understand and appreciate their environmental duties and obligations. This summary is drafted in a simple way making it user friendly. The summary is also translated into Shona and Ndebele to ensure that all people appreciate what values the law places on them to sustainably utilize and protect the environment.

Environmental Law Reform Context

In 1992 the Ministry of Environment and Tourism initiated a process of environmental law reforms. The reforms were also necessary in the light of the Rio Earth Summit at which Zimbabwe participated in 1992. This long process culminated in the passage of the Environmental Management Act (Chapter 20:27), No. 13 of 2002. The reforms were aimed at coming up with laws that are more useful in protecting the environment while allowing people to use it to meet their development needs today and in the future. Some of the reasons why environmental law reforms were necessary include the following;

- Environmental laws were old and no longer in tune with the way people live and use the environment around them;
- The old laws did not consider the relationship between the different components of the environment e.g air, water and land;
- There were overlaps, duplication and sometimes conflicts between laws which were being managed by different Ministries; and
- The fines for causing environmental damage were very low resulting in companies and individuals committing environmental crimes and easily paying the fines instead of finding ways to avoid the damage.
- Environmental issues were not being regarded as part of rights to which people should be entitled.

People should understand that the Environmental Management Act is a general legislative framework. It does not cover each and every environmental aspect. It is a framework law that will be complemented by other laws and policies that are not in conflict with it. However, where there are conflicts this Act will take precedence. At the same time, this law will be supported by the setting up of the proposed institutions and the passage of regulations by the Minister. Nevertheless, the Act provides the general environmental principles that should be followed in environmental management.

SUMMARY OF THE ENVIRONMENTAL MANAGEMENT ACT

Environmental Rights (Section 4)

The law affords every person the following rights;

- ✓ Right to live in a clean environment that is not harmful to their health
- ✓ Access to environmental information
- ✓ Right to protect the environment for the benefit of present and future generations,
- ✓ Right to participate in the implementation of legislation and policies that prevent pollution, environmental degradation and sustainable management and use of natural resources while promoting justifiable economic and social development.

Principles of Environmental Management (Section 4)

Section 4 (2): The following principles apply to the activities of all persons and all government agencies in environmental management;

- ✓ All elements of the environment are linked and environmental management must be integrated;
- ✓ People and their needs should be put at the forefront of environmental management;
- ✓ All people should participate in environmental governance;
- ✓ Communities must be made aware of environmental aspects through environmental education;
- ✓ Development must be socially, environmentally and economically sustainable;
- ✓ Negative effects on the environment and people's rights that are anticipated should be prevented and where it is not possible to prevent the negative impacts, they should be minimized and remedied;
- ✓ Any person who causes pollution or environmental degradation shall meet the cost of correcting such environmental pollution or degradation; and
- ✓ National interests should be followed in complying with international treaties, standards and other responsibilities.

Environmental Quality Standards (Section 55 – 86)

Water Pollution (Section 57)

- ✓ It is an offence for any person to discharge or apply poison or toxic, noxious or obstructing matter, radioactive waste or other pollutants into the aquatic environment (water environment).
- ✓ It is also an offence to permit or instruct another person to dump or discharge the above matter into water.

- ✓ If a person is found guilty of polluting water he/she will be liable to the following;
 - Sentenced to five years in prison or to pay a fine or to both the fine and imprisonment.
 - Held responsible for; paying the cost of removing any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants.
 - Pay the cost of restoring the damaged environment which may be incurred by a government agency.
- ✓ **Section 58:** All owners or operators of irrigation projects, sewage systems, industrial production workshops or any undertaking that discharge effluents or pollutants is required to submit accurate information about the quantity and quality of the effluent they produce to the Environmental Management Board if the Board demands such information.
- ✓ **Section 59:** All effluents and pollutants from industries or other trade should be discharged into an existing sewerage system in terms of a licence issued by the responsible local authority.
- ✓ **Section 59 (2):** Before discharging effluents or other pollutants into the sewerage system the industry or trade shall install an appropriate plant for treating such effluent.

Air Quality Standards (Section 63)

- ✓ **Section 63 (2):** It is an offence for any person to emit substances that cause air pollution. In order to constitute an offence the emission would be in excess of the prescribed amount of emission for a particular source.

If a person is found guilty of this offence he/she will be sentenced to;

- Five years in prison or less or a fine of not more than fifteen million dollars or both such fine and such imprisonment.
- Pay the cost of removing the pollution and any cost that may be incurred by a government agency in restoring the environment as a result of the pollution.
- Give to other affected people (third parties) reparation, restoration, restitution or compensation after determination by a court.

Licensing of Emissions (Section 64- 67)

- Every owner or operator of a trade or any establishment should have a licence to emit a substance which causes or that is likely to cause air pollution.
- To issue a licence the Environmental Management Board looks at possible effects of the emission on air quality, consider existing licences affecting the

same air resource and consider the needs of residents, human settlements and other industrial and commercial activities.

Emission by Motor Vehicles and Other Conveyances (Section 68)

- ✓ It is an offence for any operator of a motor vehicle, train, boat, aircraft and any other similar conveyance to pollute the environment by contravening prescribed emission standards.

The following are the penalties for contravention of the motor vehicle pollution provisions;

- If the person is convicted of the offence for the first time, he/she will be liable to a fine not exceeding \$1 000 (level 3)
- If the person is being convicted for the second time or subsequent offences, he/she will be liable to a fine not exceeding \$10 000 (level 6). If he/she fails to pay the fine he/she will be imprisoned for a period of not more than six months.
- A police officer may give a written warning to a transport operator who admits that he is guilty of polluting the air to take steps or work to prevent the pollution. This is only in cases where the operator has not previously been found guilty of the same offence.
- The police are also empowered in terms of Section 68 (3) (b) to cause a person guilty of polluting the environment with his/her transport to deposit a sum of money that does not exceed \$1 000 (level 3). Such person will not be required to appear in court to answer the charge of having committed the offence. The money received by the police will form part of the funds of the agency.

Standards for Waste Management (Section 69)

- ✓ No person is allowed to discharge or dispose of any waste whether generated in Zimbabwe or from another country that will cause pollution of the environment or make people ill.
- ✓ No person is allowed to transport any waste without a valid licence issued by the Board to transport the waste
- ✓ Waste should be disposed of at a waste disposal site in terms of a licence.
- ✓ Every person whose activities generate waste is required to employ measures that minimize wastes. The specified measures are;
 - ❖ Treatment
 - ❖ Reclamation

- ❖ Recycling.
- ✓ Any person who contravenes this law will be guilty of an offence and liable to imprisonment of not more than five years or to a fine.

Waste licences (Section 71)

- ✓ Any person who intends to transport wastes within Zimbabwe or to operate a wastes disposal site or plant, or to generate waste of a prescribed type and quantity shall apply for a waste licence to the Environmental Management Board.

Discharge of hazardous Waste, Substances, Chemicals and Materials (Section 73)

- ✓ No person is allowed to discharge any hazardous substance, chemical, oil or a mixture containing oil into any water or the environment against the law.

A person who is convicted of this offence will be required to;

- ❖ Pay the costs of removing the hazardous substance, chemical, oil or a mixture containing oil.
- ❖ Pay the cost incurred by a government agency or organ in the restoration of the environment that was damaged by the discharge.
- ❖ Pay the cost of other person's/third parties affected through reparations, restoration, restitution or compensation for the loss suffered.

The owner or operator of a production or storage facility or transport conveyance that would have caused the discharge shall immediately;

- ❖ Notify the Environmental Management Board or relevant government officers about the discharge
- ❖ Clean-up the discharge using the best clean-up methods.
- ❖ Comply with directions relating to the matter issued by the Environmental Management Board.

Pesticides and Toxic Substances (Section 76)

- ✓ Any person who intends to manufacture, import or to process a new pesticide or toxic substance must apply to the Board to register the pesticide or toxic substance.
- ✓ It is an offence for any person to do any of the following;
 - ❖ Use or dispose into the environment a pesticide or toxic substance contrary to the requirements of the law.

- ❖ Change the composition of a pesticide or toxic substance contrary to requirements of the law.
- ❖ Detach, alter or destroy any labeling on a pesticide or toxic substance contrary to the law.
- ✓ It is illegal to sell, to offer for sale, import or to receive, to deliver or offer to deliver to any person any pesticide or toxic substance that he/she knows is not registered in terms of this Act.

Standards for Noise (Section 80 – 81)

- ✓ No person is allowed to emit noise in excess of the noise emission standards. The noise standards will be recommended by the Standards and Enforcement Committee and the Agency.
- ✓ A person who is found guilty of the offence will be sentenced to twelve months in prison or to a fine or to both the fine and the jail term.
- ✓ Exemption to exceed the standard noise levels can be issued upon a request for a temporary permit for activities such as fireworks, demolitions, firing ranges and specific heavy industry undertakings.

Standards for Control of Noxious Smells (Section 82)

- ✓ The Standards and Enforcement Committee is required to recommend to the Environmental Management Board the procedures to be prescribed for measuring and determination of noxious smells.
- ✓ The Committee will also set the minimum standards for the control of environmental pollution by noxious smells.

Prohibition against Littering (Section 83)

- ✓ It is an offence for any person to discard, dump or leave any litter on any of the following places;
 - ❖ Land
 - ❖ Water surface
 - ❖ Street
 - ❖ Road
 - ❖ Site
 - ❖ or at any place
- ✓ Persons are only allowed to discard litter in a container provided for that purpose or a place that has been set aside for that purpose.

- ✓ An owner of a motor vehicle, train and aircraft (transport conveyance) is required to make sure that no person throws litter from his/her transport conveyance.
- ✓ It is an offence for any person to dump, discard or leave litter in the mentioned places and not at the designated site, place or container.
- ✓ The penalty for this offence is a fine not exceeding \$1 000 (level three)

Radioactive Materials (Section 84)

- ✓ Any person who intends to possess, use, mine, import, transport, process or dispose radioactive material or source of ionizing radiation must apply to the Environmental Management Board for a licence.
- ✓ It is an offence to import, possess, use, mine, transport, process or dispose radioactive material or other sources of dangerous ionising radiation without a licence.

National Environmental Plans (Section 87-96)

A National Plan is a document that outlines the strategies and measures for the protection, restoration, rehabilitation and for the general management of the environment in Zimbabwe.

- ✓ The Minister is required to prepare a National Environmental Plan.
- ✓ The purpose of the plan is to facilitate and co-ordinate strategies, measures, plans and activities relating to the environment.
- ✓ The national plan can include;
 - Protection of ecological processes, natural systems and preservation of biotic diversity
 - Promotion of sustainable utilization of species and ecosystems
 - Prevention and mitigation of activities contributing to global climate change and protection of the ozone layer
 - Implementation of international conventions to which Zimbabwe is a party
 - Protection of the environment against pollution and against the harmful and uncontrolled use of hazardous substances
- ✓ **Section 95:** Every local authority is expected to prepare its own environmental action plan for the area under its jurisdiction.

Environmental Impact Assessments, Audit and Monitoring of Projects (Section 97)

- ✓ A person who proposes to embark on any of scheduled projects is expected to submit an environmental impact assessment report to the Director-General.
- ✓ The developer can only embark on the project if he/she has obtained a certificate from the Director-General
- ✓ The developer is expected to submit a prospectus to the Director-General with information on the assessment and the project
- ✓ It is an offence for any person to knowingly (intentionally) implement a project without a certificate showing that an environmental impact assessment has been carried out.

Some of the sectors in which environmental impact assessments should be carried out are as follows;

- ❖ dams and man made lakes,
- ❖ Drainage and irrigation,
- ❖ Housing developments
- ❖ Industry
- ❖ Mining and quarrying
- ❖ Petroleum production, storage and distribution
- ❖ Power generation and transmission
- ❖ Tourist, resorts and recreational developments
- ❖ Waste treatment and disposal
- ❖ Water supply
- ❖ Conversion of forest land into other use
- ❖ Conversion of natural woodland to other use within the catchment area of reservoirs used for water supply, irrigation or hydropower generation or in areas adjacent to the Parks and Wildlife Estate
- ❖

Environmental Audits of Projects (Section 106)

- ✓ The Director-General or other authorities he/she may choose can carry out or cause to be carried out periodic environmental audits of projects to ensure that their implementation complies with the requirements of the Act.

Section 107: Every developer of a project should take reasonable measures to prevent or to mitigate any undesirable effect on the environment that may arise from the implementation of the project.

Protection of Wetlands

- ✓ **Section 113:** The Minister may declare any wetlands to be an ecologically sensitive area and impose limitations on development in or around the area.

No person is allowed to do the following activities without the permission of the Board or the Minister;

- Reclaim or drain any wetlands
- Disturb any wetlands by drilling or tunneling to cause an adverse impact on any wetland or affect animals or plants therein
- Introduce any exotic animal or plant species into the wetland.

Conservation and Improvement of the Environment

Section 114: The Minister may order an owner, occupier or user of any land to undertake measures or steps to protect the environment. Such order may relate to the following;

- Construction of soil or water works
- Preservation and protection of the beds, banks or course of a public stream
- Prohibiting or limiting the cutting down of vegetation
- Disposal of chemical residue, effluent, waste or hazardous substances
- Reducing or minimizing pollution of any kind
- Rehabilitation of a mining site

Control of Invasive Alien Species (Section 118)

- ✓ Every responsible person has a duty to clear or cause to be cleared any invasive alien species growing on land over which he/she is responsible and to report to an inspector about the alien species.
- ✓ A responsible person is defined as any of the following people;
 - The occupier of land, or the registered owner of such land
 - In the case of a mine, the holder of such a location
 - If it is State land over which grazing or other rights have been granted to a person, the holder of such rights
 - For communal land, the occupier or person who has use of such land, or the Chief or headman who has jurisdiction over the land, or all or any of the inhabitants of the nearest village
 - In the case of commonage or town lands or roads, the local authority under whose control or within whose jurisdiction such land, road or other area is situate
- ✓ It is an offence for any responsible person to fail to clear or cause to be cleared any invasive alien species.

- ✓ It is also an offence for any person to place any invasive species or the seeds in any river, stream or irrigation canal or on any road or land

Types of Invasive Alien Species

- Wild oat, Water lettuce, Dodder, Water hyacinth, Moonflower cactus, Cherry-pie, Jointed cactus or jointed pear, Azolla; and
- Water-fern is an alien species throughout the country except in Lake Kariba
- Kariba weed or water fern is an alien species throughout Zimbabwe except on the waters of Lake Kariba.

Environment Fund (Section 48)

- ✓ An Environmental Fund will be established to be managed and controlled by the Minister as a Trustee.
- ✓ The funds will be sourced from environmental levies, moneys that may be allocated to the fund by an Act of Parliament, donations, loans and any other financial assistance that may be made towards environmental issues.
- ✓ The fund will be administered by the Agency in accordance with the Minister's directions.

The objectives of establishing the fund are to;

- Standardise environmental management services and quality maintenance
- Make grants to local authorities and their approved agents to assist those who need to access natural resources without affecting the environment
- To finance the improvement of environmental management services in other serviced areas
- Promote research and development relating to the environment
- Facilitate and encourage technology transfer from other countries
- Rehabilitate degraded environments
- Clean up polluted environments
- Promote environmental awareness of environmental management issues
- Any object which the Minister may prescribe by statutory instrument

KEY INSTITUTIONS

National Environmental Council (Section 7 - 8)

The functions of the National Environmental Council are;

- to give advise on policy formulation and directions on the implementation of the Environmental Management Act,
- to give advise on national goals and objectives for the protection of the environment
- to promote co-operation among public departments, local authorities, private sector, NGOs, and other organizations that deal with environmental issues,
- to review and recommend to the Minister guidelines for environmental management plans and environmental action plan, and
- to review the national environmental plan

Environmental Management Agency (Section 9)

The Environmental Management Agency will have the following duties;

- ✓ to formulate quality standards on air, water, soil, noise, vibration, radiation and waste management,
- ✓ to assist and participate in any matters pertaining to the management of the environment such as;
 - developing guidelines for preparation of the National Plan, environmental management plans and local environmental actions plans
 - regulate and monitor the collection, disposal, treatment and recycling of waste
 - monitor and regulate discharge or emission of pollutants or hazardous substances into the environment
 - keep records in the forms of registers of all licences and permits issued under the law
 - monitor and regulate the control of invasive alien species
 - to regulate, monitor, review and approve environmental impact assessments
 - regulate the utilization of ecologically fragile ecosystems
 - to make model by-laws within the jurisdiction of local authorities
 - to advise government on conventions and treaties which should be incorporated into national law
 - coordinate the production of a five year environmental report
 - carry out periodic audits of projects
 - regulate and monitor access by any person to biological and genetic resources
 - to recommend to the Minister the formulation of any regulations

Environment Management Board (Section 11)

- ✓ The main duty of the Environment Management Board is to control and manage the Environmental Management Agency.
- ✓ The Board is empowered to establish committees in which it may vest some of its functions as it thinks fit.
- ✓ It is empowered to have direct access to every Minister
- ✓ **Section 28:** The Board has the power to summon witnesses and take evidence at hearings.
- It has the power to appoint a Director-General who will be responsible for managing the affairs and activities of the Environmental Management Agency, but the appointment will be done with the approval of the Minister.

Powers of Officers and Inspectors (Section 37)

In order to enforce the law, inspectors are given the following rights;

- To enter any land, premises, vessel, vehicle or any place in Zimbabwe to determine whether the provisions of the law are being complied with.
- **Section 37 (2):** An inspector is not mandated to use the right to enter any private dwelling except with the consent of the occupier or with a warrant issued by the Agency
- Inspectors and officers are empowered to examine any activity which the officer or inspector reasonably considers to be detrimental to the environment or natural resources
- They can take or remove samples of any substance or article for purposes of testing or analysis
- Seize any article, vessel, plant, equipment or other thing that is reasonably believed to have been used in the commission of an offence in terms of the Act
- Require the production of, inspect, examine or make copies of any permit, licence, records or other documents as required by the law

Standards and Enforcement Committee (Section 55)

- ✓ This is a Committee of the Environmental Management Board.

Its functions are as follows;

- Advise the Environmental Management Board on criteria and procedures to be followed for measuring water quality
- Recommend the minimum water quality standards for different uses such as drinking water, water for industrial use, agricultural use, recreational purposes, fisheries, wildlife and any prescribed use of water
- Analyse and submit to the Board conditions for discharge of effluent into the environment

- Prepare and recommend to the Board, guidelines or regulations for the preservation of fishing areas, aquatic areas, water sources and reservoirs
- Identify and recommend to the Board areas of research on the effect of water pollution on the environment, human beings, flora and fauna
- Advise the Board to carry out investigations of actual or suspected water pollution
- Collect, maintain and interpret data from industries and local authorities on the pre-treatment, nature and levels of effluents
- Recommend to the Board measures necessary for the treatment of effluent before being discharged into the sewerage system
- Recommend to the Board measures necessary for the treatment of effluent before being discharged into the water

Minister's functions (Section 5)

The general functions of the Minister of Environment and Tourism are to;

- Regulate the management of the environment and to promote, co-ordinate and monitor the protection of the environment and the control of pollution
- Regulate the activities of all government agencies and other agencies on their impact on the environment
- To lay before Parliament a report on the state of the environment at the end of every five years
- Monitor the environment and trends in the utilization of natural resources and the impact of such utilization on the environment
- To co-ordinate the promotion of public awareness and education on environmental management
- To ensure that persons and institutions that are responsible for causing environmental harm will meet the cost of remedying that harm
- To formulate and cause to be implemented policies for environmental management
- To recommend to government international and regional conventions and treaties on the environment that Zimbabwe should become a party to and secure their incorporation into domestic law

Administrative Court (Section 130)

- ✓ Any appeal against the decision or an order of the Minister of Environment made in terms of this Act will be made to the Administrative Court.
- ✓ The decision of the Administrative Court can be to confirm, vary or set aside the decision or action appealed against.

Appeals against Decision of Authorities (Section 129)

- Any person who is aggrieved by the decision or action of an inspector is allowed to appeal against that decision to the Director-General of the Agency.

- **Section 130:** Any person who is not satisfied with the decision or action of any authority can appeal against that decision or action in writing to the Minister.

INTERNATIONAL OBLIGATIONS AND COMMITMENTS

- ✓ The Minister has a duty to recommend to Cabinet and Parliament to sign or ratify international environmental instruments.
- ✓ In making a recommendation the Minister is expected to consider the following factors;
 - Resources that are available to ensure implementation
 - Views of interested and affected parties
 - Benefits to the nation
 - Disadvantages to the nation
 - Estimated date when the instrument is to come into effect
 - The minimum number of governments and states required to sign the instrument in order for it to come into effect
 - The respective responsibilities of all national departments involved