



# ENVIRONMENTAL ALERT

## IN THIS ISSUE

### SIGNIFICANTLY REDUCED TIME PERIODS TO SUBMIT INDUSTRY WASTE MANAGEMENT PLANS FOR PAPER AND PACKAGING, ELECTRICAL AND ELECTRONIC AND LIGHTING INDUSTRIES

The Minister of Environmental Affairs (Minister) published a notice to the paper and packaging, electrical and electronic and lighting industries (Affected Industries) in terms of the National Environmental Management: Waste Act, No 59 of 2008 (Waste Act) to prepare and submit to the Minister an industry waste management plan (IWMP) for approval on Friday 12 August 2016 (Notice).

# SIGNIFICANTLY REDUCED TIME PERIODS TO SUBMIT INDUSTRY WASTE MANAGEMENT PLANS FOR PAPER AND PACKAGING, ELECTRICAL AND ELECTRONIC AND LIGHTING INDUSTRIES

*There are material differences between the Notice and the notice of intention to require the Affected Industries to prepare and submit an IWMP that was circulated for comment by the Minister on 24 July 2015.*

*The Notice has expressly extended the pool of entities required to submit and prepare or subscribe to an IWMP from producers under the Draft Notice to all producers, recyclers, collectors, processors, reclaimers, recycling advocacy associations or entrepreneurs "in relation to a waste stream".*



**The Minister of Environmental Affairs (Minister) published a notice to the paper and packaging, electrical and electronic and lighting industries (Affected Industries) in terms of the National Environmental Management: Waste Act, No 59 of 2008 (Waste Act) to prepare and submit to the Minister an industry waste management plan (IWMP) for approval on Friday 12 August 2016 (Notice).**

Onerous contents for an IWMP are imposed in the Waste Act and Notice. This includes how Affected Industries will prioritise reduction, re-use and recycling and then recovery of waste and implement measures to give effect to best environmental management practice. Incentives and financial contribution that will be applied to encourage end users to practice good waste management and measures to increase national awareness are also required. Social responsibility issues and methods to include the formal sector in the plan would need to be addressed.

There are material differences between the Notice and the notice of intention to require the Affected Industries to prepare and submit an IWMP that was circulated for comment by the Minister on 24 July 2015 (Draft Notice). Most notably, the timeframes for registration with the Minister and preparation and submission of IWMPs for approval to the Minister have been reduced significantly.

The Notice considers all entities engaged in the commercial manufacture, conversion, refurbishment or import of new and/or used paper and packaging materials, lighting equipment, electrical and electronic equipment or imported of goods wrapped in primary or secondary

packaging material as "producers" and requires them to register with the Minister within 30 days of commencement of the Notice. This effectively halves the 60-day time period allowed for such registration under the Draft Notice.

More importantly, the Notice has expressly extended the pool of entities required to submit and prepare or subscribe to an IWMP from producers under the Draft Notice to all producers, recyclers, collectors, processors, reclaimers, recycling advocacy associations or entrepreneurs "in relation to a waste stream" (Affected Entities). Such entities must prepare and submit an IWMP to the Minister for approval within three months from the publication of the Notice or subscribe formally to an IWMP submitted. The Notice does not expressly indicate within which time period a subscription to a submitted IWMP must be made.

The time period to prepare and submit IWMPs is substantially shorter than the 12-month time period proposed under the Draft Notice. Compliance with this timeline could prove extremely difficult, given that:

- any proposed IWMP must be subjected to a public participation process before it may be submitted to the Minister for approval;

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CONTINUED

*A failure by Affected Entities to comply with the new shortened time periods for registration and the preparation and submission or subscription to an IWMP is an offence which may lead to a fine and/or imprisonment of up to 15 years.*

- some of the Affected Entities regulated under the Notice are small businesses or informal operators which will not have the expertise or financial resources to develop IWMPs, leaving them solely dependent on third parties developing an IWMP which they must subscribe to timeously; and
- the Notice has unexpectedly extended the pool of Affected Entities required to submit and prepare or subscribe to an IWMP.

A failure by Affected Entities to comply with the new shortened time periods for registration and the preparation and submission or subscription to an IWMP is an offence which may lead to a fine and/or imprisonment of up to 15 years.

*Tracy-Lee Erasmus and Sandra Gore*



Cliffe Dekker Hofmeyr

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**2012** 1<sup>st</sup> by M&A Deal Flow  
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