

Several structures have been set up within the Ministry of Environment (MoE) to administer the Environmental Management Act, No 20 of 2004. These are:

- The National Environmental Advisory Committee (NEAC);
- The Directorate of Environment (DoE); and
- The National Environment Management Council (NEMC).

In addition, environmental management is the responsibility of regional administrations and local government authorities (see section 15.2.6).

The Minister of Environment has the overall responsibility for all matters relating to the environment and for the formulation of policy for the promotion, protection and sustainable management of the environment in Tanzania.

15.2.2 The National Environmental Advisory Committee

Part III(a) of the Environmental Management Act (EMA), No 20 of 2004 sets out the composition, powers and functions of the National Environmental Advisory Committee (NEAC). The NEAC is an advisory body to the Minister on all matters relating to the protection and management of the environment and environmental degradation (see Figure 15.1). The NEAC is composed of members reflecting various fields of environmental management from the public and private sectors and civil society.

15.2.3 Director of Environment

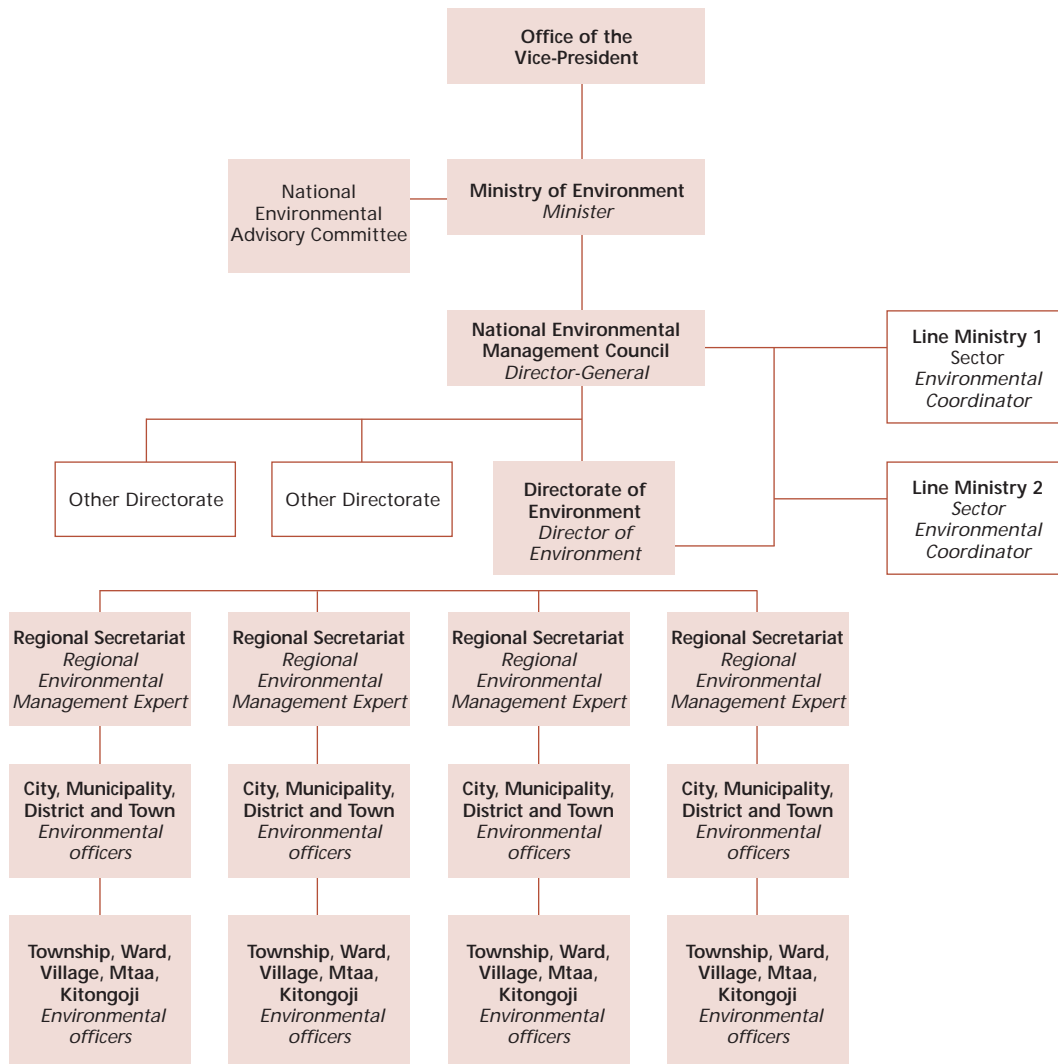
A Division of Environment was initially established under the NEMC Act in 1992, which became a full directorate in 1997 (Figure 15.1). Part III(c) of the EMA sets out the roles and responsibilities for the Director of Environment (DoE) within the Ministry as follows:

- Coordination of various environmental management activities;
- Promotion of the integration of environmental considerations into development policies, plans, programmes, strategies and large development projects through the use of strategic environmental assessment (SEA);
- Provide advice to the government on legislative and other measures for the management of the environment or the implementation of relevant international agreements relating to the environment;
- Monitoring and assessment of activities to ensure that environmental management objectives are being adhered to;
- Prepare State of Environment Reports;
- Coordination of the implementation of the National Environmental Policy (NEP) as well as the environmental aspects of other sector policies.

15.2.4 National Environment Management Council

The National Environment Management Council (NEMC) was initially established in 1983 in terms of the National Environment Management Council Act, No 19 of 1983. Its composition, powers and functions have been rearticulated in Part III(d) of the Environmental Management Act of 2004. The NEMC is a corporate body with all the legal powers of such. Its objectives are to undertake the enforcement, compliance, review and monitoring of Environmental Impact Assessments (EIA), including facilitation of public participation processes in environmental decision-making.

Figure 15.1: Environmental Management Organisational Structure



The functions of the NEMC include:

- Carrying out environmental audits of projects and programmes;
- Carrying out environmental surveys;
- Undertaking and coordinating research;
- Reviewing and making recommendations for approval of environmental impact statements (EISs);
- Enforcement and compliance monitoring of national environmental quality standards;
- Initiation and development of procedures to prevent accidents which may cause environmental pollution and degradation;
- Development of public awareness and environmental education programmes;
- Publication of manuals, codes or guidelines relating to environmental management; and
- Rendering advice when required.

The NEMC comprises a Board, including a Chairman appointed by the Minister, the Director of Environment and 7 other members. The Director-General (D-G) acts in the capacity of Chief Executive Officer.

15.2.5 Intersectoral Cooperation

Intersectoral cooperation is achieved through the establishment of an environmental section in each line ministry, headed by a Sector Environmental Coordinator.²⁵⁸ Each Environmental Section is responsible for:

- Ensuring compliance by the line ministry with the EMA;
- Ensuring all environmental matters contained in other laws falling under the jurisdiction of the sector Ministry are implemented and reported to the DoE;
- Liaising with the DoE and NEMC on all environmental matters in order to achieve cooperation and shared responsibility for environmental governance (Figure 15.1).

Of specific relevance to the administration of EIA, the Environmental Sections must:

- Conduct strategic environmental assessments (SEAs) on sectoral legislation, regulations, public participation and strategies developed by the sector ministry;
- Ensure that sectoral standards are environmentally sound;
- Oversee the preparation and implementation of EIAs for investments in their sector;
- Ensure compliance with various regulations, guidelines and procedures relating to environmental management; and
- Submit a biannual report to the DoE on the state of environmental management in their sector.

15.2.6 Regional and Local Administration

The EMA aims to ensure that environmental management is devolved down to the regional, town and village levels of government through the creation

²⁵⁸ S. 33(1) of the EMA.

of administrative structures responsible for the environment in each tier of government (Figure 15.1).

The regional secretariats are responsible for the coordination of all advice on environmental management in their respective regions as well as for liaison with the DoE and the D-G on the implementation and enforcement of the EMA. The tasks of the Regional Secretariat are performed by the Regional Environmental Management Expert, who acts as the link person between the region and the DoE (Figure 15.1).²⁵⁹

Section 36(1) of the EMA specifies that each city, municipality, district, and town council must appoint an Environmental Management Committee and an Environmental Management Officer who will be responsible for:

- The enforcement of the EMA in his/her area of responsibility;
- Promotion of environmental awareness regarding the conservation and utilisation of natural resources;
- Gathering and managing environmental information;
- Preparing state of environment reports; and
- Monitoring the preparation, review and approval of EIAs.

The EMA also allows for the establishment of township, ward, village, mtaa and kitongoji development committees and officers to manage the natural resources of their areas and to ensure compliance with the EMA (see Figure 15.1). However, these lower tier government committees do not have any responsibility for the EIA process.

15.2.7 Government of Zanzibar

Environmental governance in Tanzania is complicated by the existence of two different types of legislation for the Zanzibar Islands and the Tanzanian Mainland. Although Tanzania is a federal state comprising Tanzania Mainland and Zanzibar, the latter maintains administrative independence in most of its government matters. The National Assembly of the United Republic of Tanzania, which includes members from Zanzibar, legislates on all matters such as foreign affairs, finance, defence, immigration and citizenship. All other matters concerning Zanzibar are within the exclusive jurisdiction of the Zanzibar Government and its legislative body, the House of Representatives. The relevant government institutions responsible for environmental management in Zanzibar are shown in Table 15.1.

²⁵⁹ Part III(f) of the EMA.

Table 15.1: Government Institutions dealing with different aspects of the environment in Zanzibar

Ministry	Institution	Specific Responsibilities
Ministry of Water, Construction, Energy	Department of Environment	Environmental law and setting of environmental standards
Lands and Environment	Department of Lands	Land management, administration, and control
	Department of Urban Planning and Surveying	Urban planning, land use planning, development control and physical standards
Ministry of State for Regional Administration		Coordinates all aspects related to regional and district administration and local government (municipal councils, wards and 'shehias')
Ministry of Agriculture, Resources, Livestock and Fisheries		Agriculture, livestock, natural resources fisheries and forestry

15.3 Policy and Legal Framework for EIA in Tanzania

15.3.1 National Environmental Action Plan

The Ministry of Tourism and Natural Resources took the first step towards incorporating environmental concerns into national planning and development in Tanzania, with the publication of the National Environmental Action Plan in 1994.²⁶⁰ The NEAP identified the following six major national issues in need of urgent attention:

- Land degradation,
- Access to good quality water,
- Pollution,
- Loss of wildlife habitats and biodiversity,
- Deterioration of marine and freshwater systems, and
- Deforestation.

The NEAP laid the foundation for the National Environmental Policy.

15.3.2 National Environmental Policy

The National Environmental Policy (NEP), adopted in 1997, seeks to provide the framework for making the fundamental changes that are needed in order to incorporate environmental considerations into the mainstream of decision-making.²⁶¹ The NEP seeks to provide guidance and planning strategies in determining how actions should be prioritised, and provides for the monitoring and regular review of policies, plans and programmes. It further provides for sectoral and cross-sectoral policy analysis, so that compatibility among sectors and interest groups can be achieved and the synergies between them exploited.

²⁶⁰ Government of the United Republic of Tanzania, 1994. "National Environmental Action Plan: A First Step". Ministry of Tourism, Natural Resources and Environment, Dar es Salaam.

²⁶¹ Government of the United Republic of Tanzania, 1997. "National Environmental Policy." Office of the Vice-President, Dar es Salaam.

The overall objectives of the NEP are, therefore, the following:

- To ensure the sustainability, security and equitable use of resources in meeting the basic needs of present and future generations without degrading the environment or risking health and safety.
- To prevent and control the degradation of land, water, vegetation, and air, which constitute our life support systems.
- To conserve and enhance our natural and man-made heritage, including the biological diversity of Tanzania's unique ecosystems.
- To improve the condition and productivity of degraded areas, as well as rural and urban settlements, in order that all Tanzanians may live in safe, healthy, productive and aesthetically pleasing surroundings.
- To raise public awareness and understanding of the essential links between the environment and development, to promote individual and community participation in environmental action, and
- To promote international cooperation on the environment agenda, and expand participation and contribution to relevant bilateral, sub-regional, regional, and global organisations and programmes, including the implementation of treaties.

15.3.3 Environmental Management Act

The National Environmental Management Act, No 19 of 1983 started the process of regulating environmental management in Tanzania. Although draft EIA guidelines and procedures were produced in 1997 and amended in 2003, the country lacked a coherent code of supporting legislation to enable effective environmental management. Therefore a study was initiated with funding from the World Bank, known as the Institutional and Legal Framework for Environmental Management Project. This culminated in the promulgation of the Environmental Management Act (EMA), No 20 in 2004. The EMA repeals the National Environmental Management Act of 1983.

The EMA (2004) specifies detailed measures for protecting ecological processes, the sustainable utilisation of ecosystems, and environmental protection and is organised into the following parts:

- Part I Preliminary Provisions
- Part II General Principles
- Part III Administrative and Institutional Arrangements
- Part IV Environmental Planning
- Part V Environmental Management
- Part VI Environmental Impact Assessment**
- Part VII Strategic Environmental Assessment**
- Part VIII Pollution Prevention and Control
- Part IX Waste Management
- Part X Environmental Quality Standards
- Part XI Environmental Restoration, Easements and Conservation Orders
- Part XII Analysis and Records
- Part XIII Environmental Information, Education and Research
- Part XIV Public Participation in Environmental Decision-Making
- Part XV International Agreements

- Part XVI Compliance and Enforcement
- Part XVII Environmental Appeals Tribunal
- Part XVIII National Environmental Trust Fund
- Part XIX Financial Provisions
- Part XX General and Transitional Provisions.

The Act seeks to legalise current environmental policy and harmonise the legislation. Of specific interest for EIA practitioners are Parts VI and VII. The EIA procedures that have to be followed in terms of this Act are described in more detail in section 15.4 of this chapter.

15.3.4 Environmental Impact Assessment and Audit Regulations

The EIA and Audit Regulations were published in terms of the EMA, 2004 in Government Notice No 349 on 4th November, 2005. The regulations are divided into 12 parts:

- Part I Preliminary Provisions
- Part II General Prohibition
- Part III Project Registration and Screening
- Part IV The Environmental Impact Assessment
- Part V The Environmental Impact Statement
- Part VI Review Process of Environmental Impact Statement
- Part VII Decision of The Minister
- Part VIII Access to Environmental Impact Statements and Information
- Part IX Period of Validity
- Part X Environmental Audit
- Part XI Monitoring
- Part XII Appeals and General Dispositions.

The regulations also have 4 schedules comprising:

- First Schedule Types of Project Requiring and Requiring EIA
- Second Schedule Project Screening Criteria
- Third Schedule Forms for EIA
- Fourth Schedule Steps for Conducting EIA.

The regulations set out in detail the process to be followed in conducting an EIA, the form and content of EIAs, the review process, decision-making processes and appeals. The EIA steps are elaborated upon in section 15.4 of this Chapter.

15.3.5 Zanzibar Environmental Management for Sustainable Development Act

This Act was developed in 1996 with the objectives of protecting and managing the country's environmental assets such that their capacity to sustain development is unimpaired and Zanzibar's rich environmental endowment is available for present and future generations to enjoy and use. Conservation and sustainable management of indigenous species of Zanzibar, which are rare and endemic, are emphasised in this Act.²⁶²

²⁶² Fom, OH and FK Ali. "Conservation of Biodiversity: A Case Study of Zanzibar, Tanzania."

15.3.6 Permits and Licences

An activity listed in the First Schedule of the EIA and Audit Regulations (see also Appendix 15-1 of this chapter) cannot proceed without obtaining the necessary licence from the relevant licensing authority (line ministry). The licensing authority, however, will not issue a licence without having first received an *Environmental Impact Assessment Certificate* from the MoE. The EIA Certificate can be transferred from one holder to another in the event that the ownership of the project changes hands. However, the Minister must be informed of the transfer within 30 days²⁶³ and all the necessary forms must be completed (see Forms 7 and 8 in the Third Schedule of the EIA and Audit Regulations). The developer must commence with his authorised development within 3 years, otherwise he will have to re-register with the NEMC.

Developers are encouraged to consult the line ministry responsible for their sector project regarding other permitting and licensing requirements.

15.3.7 Offences and Penalties

A range of offences and penalties is set out in Part XVI of the EMA. Those relating to EIA and environmental standards are listed in Table 15.2 below.

Table 15.2: Offences and penalties relating to EIA and environmental quality

Relevant section of EMA	Infringement	Penalty
184	Failure to submit a Project Brief, EIA or making a false statement in an EIA	0.5 -10 million Shillings and/or imprisonment for 2-7 years
186	Contravention of any environmental standards or guidelines where no specific penalty is prescribed	2 – 10 million Shillings and/or imprisonment for 2-7 years
187	Causing pollution contrary to the provisions of the EMA	3 – 50 million Shillings and/or imprisonment for up to 12 years, AND the full cost of clean up of the polluted environment
191	General penalty for non-compliance with any provision in the Act for which no specific penalty is prescribed	50,000 – 50 million Shillings and/or imprisonment for 3 months to 7 years

15.3.8 Fees

The regulations make mention of prescribed fees to accompany the various applications to be made in terms of the EIA process and developers are requested to contact the NEMC to ensure that they are informed of the correct fees to be paid for each step. Fees are also required to access council records of decisions, EIS documents and the register of EIA practitioners.

The developer is responsible for all professional fees, costs and expenses associated with the preparation of an Environmental Impact Study (EIS).

²⁶³ Section 84(2) of the EMA.

15.3.9 Guidelines

Draft EIA guidelines were first presented in 1996 to a wide group of government sectors, parastatal institutions, private sectors, financial institutions, NGOs, representatives of donor communities, and research and academic institutions.²⁶⁴ The current EIA guidelines are the results of these deliberations and constitute five volumes:

- Volume 1: The main document that elaborates the proposed EIA procedure.
- Volume 2: Screening and scoping guidelines.
- Volume 3: Guidelines on report writing.
- Volume 4: Guidelines for EIA review and monitoring.
- Volume 5: A checklist of environmental characteristics (i.e. physical, ecological, land use, cultural and socio-economic characteristics).

In addition, guidelines have been developed for several sectors as shown, with their status, in Table 15.3.

Table 15.3: Sector EIA Guidelines

Guidelines for Sector	Status
Roads (2005)	Being tested
National Parks	In use
Marine Parks and Reserves	Finalised
Mariculture development	Inclusion of EIA in sector's own guidelines
Coastal tourism	Inclusion of EIA in sector's own guidelines

15.3.10 Environmental Standards

In terms of s.140(1) of the EMA, the National Environmental Standards Committee of the Tanzanian Bureau of Standards is required to develop, review and submit to the Minister of Environment, proposals for environmental standards relating to water quality, discharge of effluent, air quality, noise and vibration, sub-sonic vibration, ionising and other radiation, soil quality, noxious smells, light pollution, electro-magnetic waves and microwaves.

However, to date, the Tanzanian Bureau of Standards has only issued effluent standards for a limited number of specified industries. In the meantime, the standards established by the World Bank and World Health Organisation are applied, and most foreign companies or aid agencies apply these or the pollution control standards from their home countries.

15.3.11 Certification of Consultants

Section 83 of the EMA makes provision for regulations to be made regarding the registration of environmental consultants. The Act requires EIAs to be conducted only by experts or firms of experts whose names and qualifications are registered as such by the NEMC. The Environmental

²⁶⁴ National Environmental Management Council, 2002. "Tanzania EIA Procedure and Guidelines, Vols. 1-5. Dar es Salaam.

(Registration of Environmental Experts) Regulations, 2005, published in Government Notice No 348 of 2005, set out the objectives of the certification process, the establishment of the Environmental Experts Advisory Committee, the certification process for environmental experts, the registration process, the code of practice and disciplinary procedures.

In order to conduct an EIA or carry out an environmental audit in Tanzania, the environmental practitioner must be certified as an environmental expert. Applications to the NEMC must be made on the form presented in the First Schedule of the Environmental Experts Regulations, together with the required documentation relating to the applicant's qualifications and three references. The council will make a decision on whether to grant an Environmental Experts Certificate within *60 days* of the date of application and the applicant will be notified within *14 days* of the decision. Once an environmental expert has been certified and has paid the prescribed fee, his/her name will be entered onto a Register of Environmental Experts.

NEMC will register foreign consultants if they can:

- Provide proof of certification or accreditation from other competent certification bodies;
- Demonstrate that they have at least 5 years experience in conducting EIAs;
- Provide two abstracts of previous EIAs or audits conducted during the last 3 years;
- Provide a CV and at least 3 references, one of whom is registered in Mainland Tanzania; and
- Pay the prescribed fee.

If the NEMC is satisfied with the competence of the foreign environmental expert, it shall issue a certificate, which shall only be valid for the duration of the specific EIA or audit of the assignment. The regulations do not specify a time limit for granting a certificate to a foreign consultant, but it should be assumed that the same timeframe as that applied to local consultants will apply i.e. *60 days*.

Consulting firms may apply to be registered as 'Consulting Firms of Environmental Experts'. To qualify, consulting firms must have at least one certified and registered environmental expert and two specialists from different specialisations. If the firm wants to undertake EIAs and environmental audits, they must make two separate applications. The firm's application must be made on the application form contained in the First Schedule of the Environmental Experts Regulations, together with a list of the names of the persons in the company that have been certified and registered, and the kinds of expertise that the firm intends to offer regarding EIAs and/or audits. The certificate granted to a firm must be renewed annually upon the payment of the prescribed fee.

All certified environmental experts will be subject to the Code of Practice and Professional Ethics as prescribed in the Fifth Schedule of the applicable regulations.

15.4 EIA Procedural Framework in Tanzania

The steps required are outlined in the following sub-sections and are shown schematically in Figure 15.2.

15.4.1 Screening

An *EIA* is required for any Type A project listed in the First Schedule of the EIA and Audit Regulations (see Appendix 15-1 of this chapter). These are projects deemed to have a significant adverse effect on the environment and require an in-depth study to determine the scale, extent and significance of the impacts and to identify appropriate mitigation measures.

A *Preliminary Environmental Assessment* is required for projects identified in the First Schedule as Type B projects (see Appendix 15-2 of this chapter). These projects may have a significant impact on the environment but the magnitude of the impacts is not well known and therefore a preliminary assessment is required to determine whether an EIA is required or not (see Figure 15.2).

15.4.2 Scoping and Terms of Reference

The NEMC will determine the scope of the EIA by agreeing with the proponent the following:

- The environmental experts who will conduct the EIA;
- The issues that must be addressed in the EIA and the steps to be followed (as prescribed in Regulations 15-16);
- The public participation process and the interested and affected parties (I&APs) who must be consulted during the EIA process as prescribed in Regulation 17;
- The methodologies to be used to collect and analyse the required data;
- Any other relevant matter.²⁶⁵

15.4.3 Environmental Impact Statement

The EIA is to be prepared in accordance with Parts IV and V of the EIA and Audit Regulations, 2005. The EIS must address all aspects listed in the Terms of Reference and at least the following:

- Introduction, including the proposed location of the project and a general overview;
- Project description including its objectives, the technology, procedures and processes to be used, materials to be used in construction and operation of the project, the products, by-products and wastes generated by the project and the identification and assessment of project alternatives;
- A concise description of the national policy, administrative and legislative framework;
- A description of the environmental baseline conditions, including specific information necessary for identifying and assessing the environmental effects of the project;

²⁶⁵ Section 85(1) of the EMA.

- An assessment of the impacts of the project on the environment, negative and positive, direct and indirect, duration, scale and significance, as well as confidence levels in the predictions;
- Recommended measures to manage or mitigate the environmental impacts;
- An environmental and social management plan;
- An environmental and social monitoring plan;
- Resource evaluation or cost benefit analysis;
- Decommissioning and closure plans;
- Summary and conclusions; and
- Appendices including all supporting documentation including details of the public participation process.

The EIS must also include an executive summary, and a non-technical study must be prepared in both Kiswahili and English as per the requirements specified in Regulation 18 of the EIA and Audit Regulations, setting out the key findings, conclusions and recommendations of the EIS. The EIS must be signed by all members of the EIA team and once completed, 15 copies plus an electronic copy must be submitted to NEMC, together with Form No 2 (of the Third Schedule) and the prescribed fees for evaluation and review.

15.4.4 Review of Environmental Impact Statement

On completion of the EIS, the developer must submit all the required documentation, including Form No 2 of the Third Schedule of the EIA and Audit Regulations to the NEMC for review. The council has *60 days* to carry out its review, which includes some mandatory and discretionary activities. These are shown in Figure 15.2 in solid and dashed boxes respectively.

In conducting its review, the council *may*:

- Set up a cross-sectoral Technical Advisory Committee to assist with the review (s. 87(2));
- Request the proponent to supply additional information (s. 87(3));
- Conduct an inspection and verification visit to the site of the proposed activity at the proponent's cost (s. 88(1));
- Hold public hearings within *30 days* of receiving the EIS (s. 90).

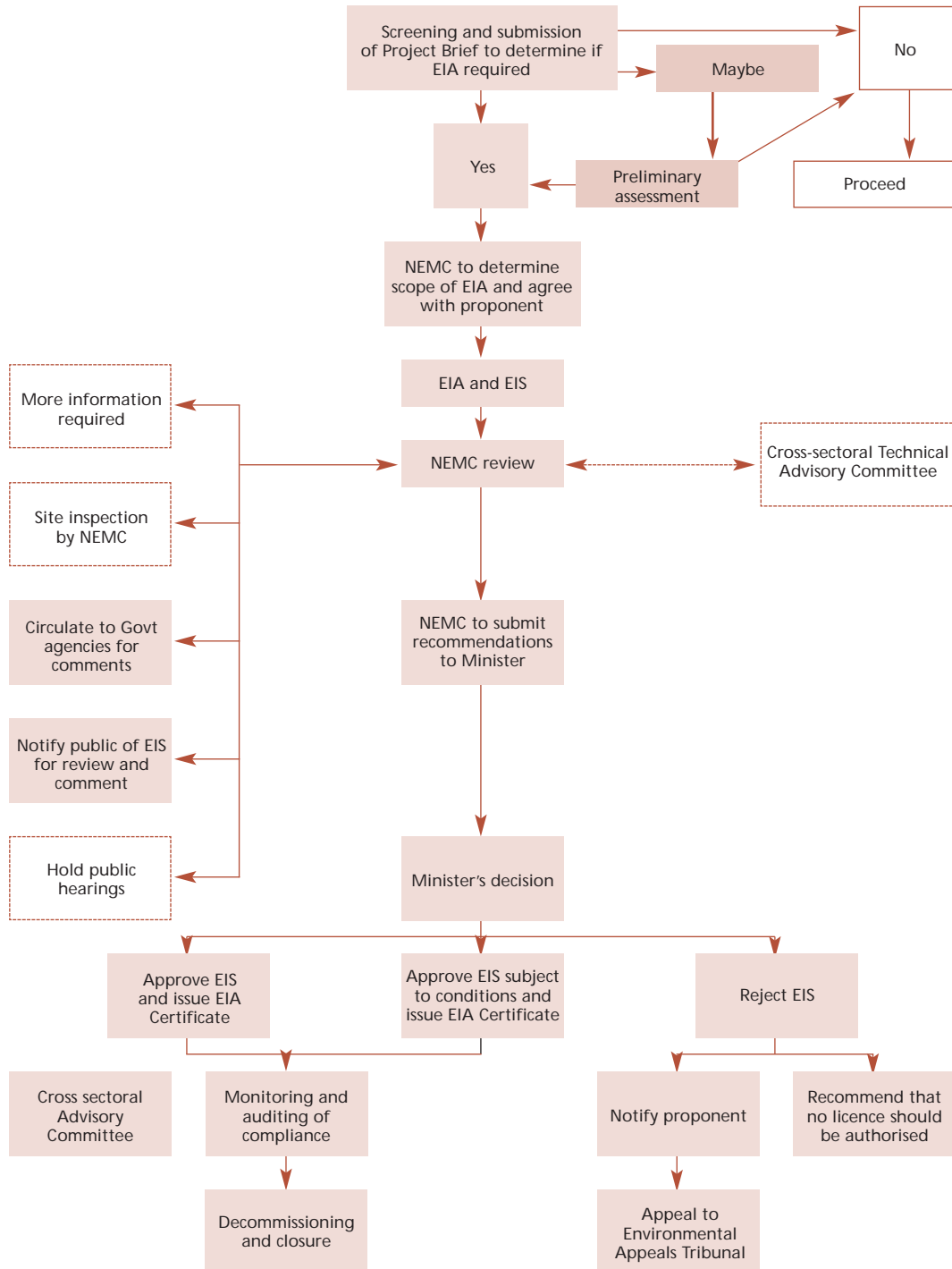
Mandatory tasks of the council include (s.89(2)):

- Circulation of the EIS for written comments from various institutions and government agencies. The documents must be circulated within *14 days* of receipt by NEMC and the relevant agencies have *30 days* to comment;
- Notification of the public of the availability of the EIS for public review and written comment; and
- Solicit oral or written comments from affected parties.

The NEMC's review must be based on the following criteria:

- The balance between short and long-term socio-economic benefits of the project and the detriment to the human and physical environment;
- The nature of the project or undertaking and how it is likely to meet environmental standards;
- The possible mitigation alternatives or other remedial measures;

Figure 15.2: EIA Procedure



- Comments received during public hearings and other consultative processes during the EIA process; and
- Any other criteria as may be prescribed in regulations (s. 88(2)).

Once the NEMC has completed its review, it will submit its recommendations to the Minister of Environment for his/her decision to issue an Environmental Impact Assessment Certificate for the project (with or without conditions), or to reject the EIS (see Figure 15.2). The Minister's decision must be made within *30 days* of receiving the recommendation from the NEMC. The Minister must base his/her decision for rejecting an application for an EIA Certificate on the following factors:

- The validity of the EIS, with an emphasis on the environmental, economic, social and cultural impacts of the project;
- The comments made by the relevant ministries, institutions and other interested parties;
- The report of the chairman of the public hearing, where applicable;
- Advice of the Director of Environment; and
- Any other factors which may be considered important.

The Minister may make regulations specifying certain projects which may cause a threat to the environment.²⁶⁶ The proponents of those projects may then be required to submit an environmental performance bond to the DoE, against the need for future remediation and clean up.

15.4.5 Appeals

Any party aggrieved by the Minister's decision can appeal to the Environmental Appeals Tribunal (EAT) within *30 days* of the Minister's decision being made. There is further recourse to the High Court in the event that the aggrieved party does not receive satisfaction at the EAT. The procedures for appeals are set out in Part XVII of the EMA.

15.4.6 Environmental Monitoring

The NEMC, in consultation with the relevant line ministry or government agency, may undertake inspections to determine the nature and significance of actual impacts on the ground due to the implementation of the project and whether the developer is complying with the required mitigation measures listed in the EIS and/or in the conditions of the EIA Certificate. Persistent non-compliance on the part of the developer could result in the NEMC making a recommendation to the Minister to revoke the EIA Certificate and to institute legal proceedings for any damages which may have occurred as a result of such non-compliance.²⁶⁷ The monitoring requirements and the form and frequency of providing monitoring reports are set out in detail in Part XI of the EIA and Audit Regulations.

²⁶⁶ Section 227 of the EMA.

²⁶⁷ Sections 99 and 100 of the EMA.

15.4.7 Environmental Audits

The NEMC is also responsible for carrying out, or commissioning qualified auditors to carry out environmental audits of the development, including an inspection of all documentation relating to *inter alia*, monitoring data, sampling results, specialist reports etc, which may confirm that the developer is in compliance with all conditions and requirements, and that all reasonable measures are being taken to mitigate any unforeseen negative impacts.²⁶⁸ Audits must be carried out for all projects listed in the First Schedule of the EIA and Audit Regulations within 12 months of the commencement of operations. The frequency of subsequent audits will be determined at the time of the initial audit. The form of the audit and the contents of the audit report are set out in regulations 51 and 52 respectively of the EIA and Audit regulations.

The audit reports must be signed off by the auditors and it is then sent for review by the Cross-Sectoral Advisory Committee (see Figure 15.2)

15.4.8 Decommissioning and Release of Environmental Performance Bond

The proponent is responsible for safe decommissioning of the project, site rehabilitation and ecosystem restoration before a project is closed down. The DoE will not release the environmental performance bond deposited under section 227 of the EMA until the proponent fulfils all environmental obligations of closure.

15.4.9 Strategic Environmental Assessment

Strategic environmental assessments (SEAs) are required in terms of Part VII of the EMA in the following instances:

- When preparing a Bill which is likely to have an effect on the management, conservation and enhancement of the environment or the sustainable management of natural resources;
- When promulgating regulations, policies, programmes and development plans; and
- When any major mineral or petroleum resource is identified or when a major hydro-electric power station or water project is being planned.

The SEA for a policy, Bill, legislation, strategy, programme or plan must contain the following information:

- A full description of the policy, Bill, legislation, strategy, programme or plan being considered;
- The identification, description and assessment of the positive and negative effects of the implementation of the proposed document on the environment and the sustainable management of natural resources;
- The identification, description and assessment of the likely effects of alternative means to meet the objectives of the proposed instrument;
- The identification, description and assessment of a range of practicable measures that could be taken to avoid, mitigate or remedy any adverse

²⁶⁸ Section 101 of the EMA.

effects that may result from the implementation of the proposed policy, Bill, legislation, strategy, programme or plan being considered.²⁶⁹

The SEA must be submitted to the Minister once completed, who will direct the DoE to review the proposed policy, Bill, legislation, strategy, programme or plan. The DoE must then provide the Minister with his opinion, which will be forwarded to the document drafting team for them to incorporate the comments and make the necessary revisions. If, after the document has been revised, the Minister is still of the opinion that the environmental concerns raised during the SEA have not been adequately addressed, he/she must raise an objection within 30 days with the drafting team of said document.

The SEA for a major mining or petroleum project, hydro-electric power station or water development must be undertaken by the responsible sector ministry. The SEA for such a development must include:

- Baseline environmental conditions and status of natural resources;
- Identification of ecologically sensitive and protected areas;
- Identification and description of communities around the area;
- Existing socio-economic conditions;
- Existing economic activities and infrastructure;
- Proposed developments, including long-term scenarios and the cumulative effects of a number of different developments in the same sector;
- Infrastructure and resources required to service these developments;
- Potential environmental and social impacts of the proposed development;
- Recommendations for land reclamation and limitations on development in different areas.²⁷⁰

The SEA will be reviewed by the DoE, who will prepare a report on the adequacy of the SEA and make recommendations to the Minister. If favourable, the Minister will approve the SEA report and will forward his/her comments and recommendations to the ministry responsible for the development.

15.5 Other Relevant Environmental Legislation in Tanzania

Environmental issues cut across a wide variety of sectors and, under the current situation, there are numerous pieces of legislation in Tanzania Mainland and Zanzibar, which have a bearing on the environment and should be considered in EIA decision making. The sectors, titles of the legislative instruments, the responsible agency and the purpose of the legislation are summarised in Table 15.4.

²⁶⁹ Section 104(3) of the EMA.

²⁷⁰ Section 105(2) of the EMA.

TANZANIA

Table 15.4: Other Potentially Applicable Sectoral Requirements

Tanzania Mainland	Zanzibar
<p>Coastal, fisheries and marine resources</p> <ul style="list-style-type: none"> • The Marine Parks and Reserves Act, No 27 of 1994, <i>(includes provisions for Environmental Impact Assessment (EIA)).</i> • National Fisheries Sector Policy and Strategy Statement, 1997. • Fisheries Act, No 22 of 2003 . • Management Plan for the Mangrove Ecosystem in Tanzania, 1991. • The Territorial Sea and Exclusive Economic Zone, 1989 • Deep Sea Fishing Authority Act, 1997. • Wildlife Conservation Act, No. 12 of 1974, as amended <i>(The Act protects wildlife and vegetation by restricting the utilisation of wildlife to licence-holders. The use of sensitive wildlife habitats is restricted during certain times of the year or for specified periods).</i> • Natural Resources Ordinance <i>(The Ordinance created the Natural Resources Board, which is charged with the responsibility of supervising the use and/or exploitation of natural resources).</i> 	<p>Coastal, fisheries and marine resources</p> <ul style="list-style-type: none"> • The Fisheries Legislation (Revised 1988) • The Wild Animals Protection Decree (Cap. 128) • The Wild Birds Protection Decree (Cap. 129)
<p>Planning and urban development</p> <ul style="list-style-type: none"> • Town & Country Planning Ordinance, 1966, Cap. 378 <i>(The Ordinance was intended to establish a land-use planning scheme for designated areas. The National Land Use Planning Commission was established to advise government on land conservation and development).</i> • The Town and Country Planning Decree (Cap. 85) • National Land Use Planning Commission Act, No 3 of 1984. • Land Act, No 4 of 1999. • Village Land Act, No 5 of 1999 <i>(The Act requires each village to identify and register all communal land, and obtain the approval of all members of the village for this identification and registration (Village Assembly, Section 13). A Register of Communal Land (Section 13(6)) is to be maintained by each Village Land Council, and land cannot be allocated to individuals, families, groups for private ownership (Section 12(1)(a)).</i> • Regional Administration Act, 1997 • Local (District and Urban) Authorities Act, No. 7 of 1982 <i>(Local Authorities are empowered to make by-laws regarding the protection of soil, agriculture, water supplies and other natural resources. The Act contains provisions to protect human health and regulate pollution problems).</i> 	<p>Planning and urban development</p> <p>The Administrative Authorities Act, 1981 The Local Government Act, 1986</p>
<p>Maritime zone and transport</p> <ul style="list-style-type: none"> • Merchant Shipping Act, No 21 of 2003 <i>(Atmospheric pollution is addressed only minimally in Tanzanian legislation. The Act prohibits the emission of dark smoke from ships for more than five minutes in any hour within the limits of a port).</i> • The Territorial Sea and Exclusive Economic Zone Act, No 3 of 1989. 	<p>Maritime zone and transport</p> <ul style="list-style-type: none"> • The Dangerous Goods Act (Cap. 160)

Tanzania Mainland	Zanzibar
<p>Agriculture, forestry, land and water</p> <ul style="list-style-type: none"> • The Land (Distribution) Decree, 1966. • Land Act, 4 of 1999 (<i>Private Group Property is given either through Granted Rights in General and Reserved Land (Land Act, Section 19) or through Customary Rights in Village Lands (Village Land Act, Section 22). Provision is also made for holding land by joint occupancy or occupancy in common (Land Act, Part XIII).</i>) • The Public Land Decree (Cap. 93) Removal of Natural Produce Rules. • Forestry Policy, 1993 (<i>The revised policy continues to recognise the important role of forests in the maintenance of the environment, the provision of forestry products, and the protection of watersheds and biodiversity.</i>) • Forest Act, No 14 of 2002. • Plant Protection Act, No 13 of 1997. • National Parks Ordinance, Cap 412. • Water Utilisation (Control & Regulation) Act, No 42 of 1974 as amended in 1981 and 1997 (The Act establishes temporary standards for receiving waters, as well as effluent discharge standards). • Urban Water Supply Act, No 7 of 1981 (The Act gives the National Urban Water Authority powers to monitor and control surface water and groundwater pollution and specifies when such pollution is a punishable offence). • Waterworks Ordinance, Chapter 281 (The Ordinance specifies that the pollution of water supplies constitutes a punishable offence). • Public Health, Sewerage and Drainage Ordinance, Chapter 336. (<i>The Ordinance prohibits the discharge of certain substances into sewers. Violation of the Ordinance is an offence, and penalties may be imposed on offenders.</i>) 	<p>Agriculture, forestry, land and water</p> <ul style="list-style-type: none"> • The Forest Reserve Decree (Cap. 120) and Wood Cutting Decree (Cap. 121) • The Commission of Lands and Environment Act, 1988
<p>Mining</p> <ul style="list-style-type: none"> • Mining Act, No 5 of 1998 and Regulations of 1999 (<i>The Act sets out government policy on all forms of mining and is supported by various regulations covering claims, prospecting rights, mining rights and royalties. Mining licence applicants are required to submit programmes for environmental protection. Each industry is required to establish realistic resource recovery standards and to adhere to them. Mining plans are required to be presented before operations begin.</i>) • Explosive Act, No 56 of 1963. 	<p>Mining</p>