

## 17. ZIMBABWE

### 17.1 Constitutional Requirement for Environmental Protection in Zimbabwe

The current constitution of Zimbabwe (2000) has no specific clause that provides for the protection of the environment,<sup>288</sup> nor did the Natural Resources Act (1941, Chapter 20:13 now repealed) directly cover Environmental Impact Assessments (EIAs). Consequently EIAs were not a legal requirement in Zimbabwe,<sup>289</sup> and in recognition of this shortcoming, the Government of Zimbabwe (GoZ) published an EIA Policy in 1997 and associated guidelines. This policy was intended to complement any future EIAs and the promulgation of environmental management legislation. In 2002 the GoZ promulgated the Environment Management Act, 2002, (Chapter 20:27),<sup>290</sup> and subsequently has produced a draft National Environmental Policy (2003).<sup>291</sup> This was developed with the purpose of complimenting and enhancing the Environmental Management Act and other complimentary acts pertaining to environmental protection and management and sustainable development. This policy is still in the draft stage and is not yet in effect.

### 17.2 Institutional and Administrative Structure for EIA in Zimbabwe

#### 17.2.1 The Environmental Management Agency

The Environment Management Act, 2002, (Chapter 20:27) provided for the establishment of the Environmental Management Agency (hereafter referred to as the 'Agency'). This Agency was formerly known as the Department for Natural Resources.

#### 17.2.2 Roles and Responsibilities

The Agency is responsible for:

- Developing guidelines for national plans, environmental management plans (EMPs) and local environmental action plans (LEAPs);
- Regulating, monitoring, reviewing and approving environmental impact assessments;
- Regulating and monitoring the management and utilisation of ecologically fragile ecosystems;
- Developing and implementing incentives for the protection of the environment; undertaking any works deemed necessary or desirable for the protection or management of the environment where it appears to be in the best interest of the public or where in the opinion of the Agency, the relevant authority has failed to do so;
- Serving written orders on any persons requiring them to undertake or adopt such measures as are specified in the orders to protect the environment;

<sup>288</sup> Government of the Republic of Zimbabwe 2000. *Constitution of the Republic of Zimbabwe*. Harare, Zimbabwe.

<sup>289</sup> Southern African Institute for Environmental Assessment 2003. *Environmental impact assessment in southern Africa*. Windhoek, Southern African Institute for Environmental Assessment 352pp.

<sup>290</sup> Government of Zimbabwe 2002. *Environmental Management Act (Chapter 20:27)*. Government Printers, Harare, Zimbabwe.

<sup>291</sup> Government of Zimbabwe, 2003. *National Environmental Policy, Second Draft*. Prepared by Ministry of Environment and Tourism. For Discussion and Consultative Purposes Only.

## ZIMBABWE

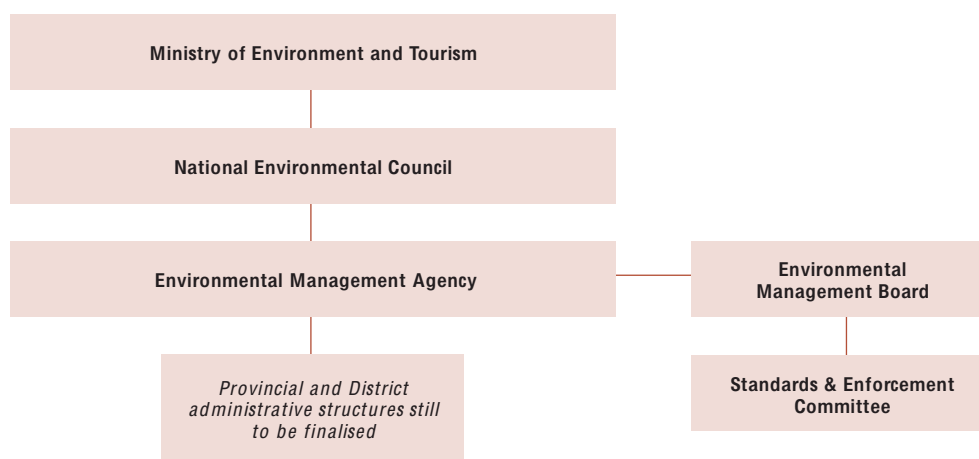
- Carrying out periodic environmental audits of any projects including projects whose implementation started before the fixed date for the purpose of ensuring that their implementation complies with the requirements of the Act.

The Agency is controlled and managed by the *Environmental Management Board* which is composed of experts from the areas of environmental planning and management, environmental economics, ecology, pollution, waste management, soil science, hazardous substances, water and sanitation. In addition, there is a legal representative and a secretary to the Ministry responsible for the environment. Figure 17.1 shows a diagrammatic representation of the organisational structure.

### 17.3 Policy and Legal Framework for EIA

To date the main focus on environmental management in Zimbabwe has been on developing an effective and efficient legal and administrative framework to facilitate management of natural resources.<sup>292</sup> The National Conservation Strategy of 1987 was the first policy document to incorporate the concept of sustainability into development and environmental management. The Environmental Impact Assessment policy published in 1997 by the Ministry of Environment and Tourism (MET) is the current policy governing EIAs.<sup>293</sup> This policy formed the foundation for a law reform process which resulted in the Environmental Management Act, 2002 (Chapter 20:27). The new National Environmental Policy (2003) drawn up after the promulgation of the Act is still in a second draft form and is not yet in effect. The 1997 National Environment Policy is therefore used in conjunction with the Environmental Management Act and the EIA Guidelines published by MET to ensure that EIAs are carried out correctly.

**Figure 17.1: Proposed Organisational Responsibilities and Institutional Arrangements** <sup>294</sup>



<sup>292</sup> Op. Cit. Footnote 289.

<sup>293</sup> Op. Cit. Footnote 289.

<sup>294</sup> Source: Second Draft, National Environmental Policy 2003

### 17.3.1 National Environmental Policy 2003 (Second Draft)

The 2003 National Environmental Policy was developed in line with the National Policy Objective of the GoZ which seeks to “*alleviate poverty and improve the quality of life of the people of Zimbabwe.*”<sup>295</sup> The National Environmental Policy Objective therefore is to “*avoid irreversible environmental damage, maintain essential environmental processes and preserve the broad spectrum of biological diversity so as to sustain the long-term ability of natural resources to meet the basic needs of people, enhance food security, reduce poverty and improve the standard of living of Zimbabweans through long-term economic growth and the creation of employment.*”<sup>296</sup>

The goals of the National Environmental Policy therefore seek to place environmental issues at the centre of efforts to create economic opportunities in Zimbabwe. The specific policy goals are to:

- Conserve biodiversity and maintain the natural resource base and basic environmental processes to enhance environmental sustainability;
- Promote equitable access to and sustainable use of natural and cultural resources with an emphasis on satisfying basic needs, improving people’s standard of living, enhancing food security and reducing poverty;
- Encourage sustainable development by optimising the use of resources and energy and minimising irreversible environmental damage, waste production and pollution through incorporation of provisions for environmental assessment and management in all economic and development activities;
- Promote public participation and a sense of responsibility for the environment through environmental education and awareness and by promoting environmentally sustainable lifestyles;
- Establish and support an effective institutional framework committed to sustainable development and which is able to collate and manage environmental information;
- Promote national interests by cooperating in drawing up and implementing international environmental agreements and collaborating with neighbouring countries on transboundary environmental issues.

The GoZ in the promulgation of the Environmental Management Act sets out a framework of environmental rights and principles within in which the mechanisms for environmental management are expected to be developed. The key principles as outlined below are contained within the second draft of the National Environmental Policy:

- All elements of the environment are linked and inter-related and therefore environmental management must be integrated and the best practicable environmental management option pursued;
- Environmental management must place people and their needs at the forefront of its concern;

<sup>295</sup> Op. Cit. Footnote 291.  
<sup>296</sup> Op. Cit. Footnote 291.

- The participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding skills and capacity necessary for achieving equitable and effective participation;
- Environmental education, awareness and the sharing on knowledge and experience must be promoted in order to increase the capacity of communities to address environmental issues, and engender values, attitudes, skills and behaviour consistent with sustainable environmental management;
- Development must be socially, environmentally and economically sustainable;
- Anticipated negative impacts on the environment and on peoples' environmental rights shall be prevented and where they cannot be altogether prevented, be minimised and remedied;
- Any person who causes pollution or environmental degradation shall meet the cost of remedying such pollution or environmental degradation and any resultant adverse health effects as well as the cost of preventing, controlling and minimising further pollution environmental damage or adverse health effects;
- Global and international responsibilities relating to the environment must be discharged in the national interest;
- Sensitive, vulnerable and highly dynamic or stressed ecosystems require specific attention in management or planning procedures especially where they are subject to significant human resource usage and development pressure.

The 2003 National Environmental Policy covers a range of environmental conservation, social and economic issues and provides a number of guiding principles relating to each section which will aid developers and authorities in implementing developments in an environmentally conscious and sustainable way.

### **17.3.2 The National Environmental Policy (1997)**

The 1997 National Environmental Policy is still being used in conjunction with the Act (see section 17.3.3 below) and the EIA Guidelines when designing and carrying out EIAs. The main principles of the 1997 EIA Policy are:

- That EIA should enhance development through promotion and contribution of environmental sustainability, not inhibit it;
- EIA is a means for project planning and not just project evaluation;
- Throughout the life of the project or development, impacts are monitored and managed;
- The policy depends on the normal regulatory functions of the authorities responsible in order to implement EIA results;
- The project is monitored, evaluated and managed with the involvement and participation of all government agencies with a mandated interest in the project; and
- Particular attention is to be given to the distribution of project costs and benefits.

### 17.3.3 Environmental Management Act (Chapter 20:27)

The Environmental Management Act (Chapter 20:27) was enacted in 2002 (Act 13 of 2002). The Act aims to “*provide for the sustainable management of natural resources and protection of the environment; the prevention of pollution and environmental degradation*”. The Act also provides for the establishment of an Environmental Management Agency and an Environmental Fund. The Act repeals the following former acts:

- Natural Resources Act (Chapter 20:13)
- The Atmospheric Pollution Prevention Act (Chapter 20:03)
- The Hazardous Substances and Article Act (Chapter 15:05)
- Noxious Weeds Act (Chapter 19:07).

The Act also sets out guidelines for the establishment of a Standards and Enforcement Committee. This Committee is responsible for advising the Agency on acceptable standards for water and air quality as well as acceptable methods of waste disposal, including all toxic materials and radioactive materials and acceptable levels of noise and vibration. The Act also sets out details of how to set up and carry out the implementation of National Environmental Plans, EIAs, audits and monitoring of projects as well as conservation and improvement of the environment.<sup>297</sup>

### 17.3.4 The Environmental Impact Assessment Guidelines (1997)

To support the 1997 Environmental Policy, the MET published EIA guidelines to facilitate the implementation of EIAs within specific sectors.<sup>298</sup> These guidelines cover:

- Mining and quarrying,
- Forestry,
- Agriculture,
- Transport,
- Energy,
- Water ,
- Urban infrastructure, and
- Tourism.

For each of these sectors, the guidelines provide examples of major activities that are likely to be undertaken for projects in that sector; the type of environmental impacts; possible measures for managing such impacts; sample terms of reference; and sources of information for use in an EIA study. Government authorities, developers and EIA practitioners use the guidelines, which provide valuable assistance in implementing EIAs and improving the quality of sector-specific EIAs. Due to the comprehensive nature of these guidelines, they have not been included in this chapter.

### 17.3.5 Permits and Licences

Permits for new projects are granted by the Regional, Town and Country Planning Act (Chapter 29:12). This Act differentiates between municipal,

<sup>297</sup> Op. Cit. Footnote 290.

<sup>298</sup> Op. Cit. Footnote 289.

town, and rural district councils and local boards as planning authorities that are required to draw up plans to govern and control local development. These local authorities control development in their areas through the awarding of permits to development projects. In order for a permit to be granted, the proposal should agree with both the local and masterplans of the area which dictate how specific areas of land are to be used. Thus, permits will only be granted and projects approved at a specific location if it falls within a designated land use. In addition, as the local authorities are responsible for implementing the EIA policy, developers seeking permits for new projects should ensure that an EIA is carried out and approved by the relevant authorities.<sup>299</sup>

MET is regarded in terms of the Regional, Town and Country Planning Act as a local authority for parks, wildlife and forest lands. Any developments undertaken in these specific land-use areas require an EIA to be undertaken by the developer. The Mines and Minerals Act regulates mining projects and this Act requires that an EIA is undertaken and the policy condition met for these projects. Permits relating to water abstraction and water storage are granted in accordance with the Water Act.

### 17.3.6 Funding and Fees

Project developers are responsible for preparing EIA reports and for meeting the costs associated with the preparation of the report including the studies, research and compilation of the report. However, unlike other countries in the region, there is no fee for the review of the report or for submitting the report. The GoZ covers the cost of reviewing the report and any monitoring that may be required.<sup>300</sup>

### 17.3.7 Certification of Environmental Assessment Practitioners

EIA practitioners do not require accreditation within Zimbabwe. Typically, for large projects, developers advertise a request for proposals from interested parties; otherwise individuals are informally approached. The Agency does maintain a database of people who have undertaken EIA studies in the past and can make recommendations to developers if they do not know who to approach. The Environmental Forum of Zimbabwe and the World Conservation Union can also provide guidance and recommendations based on their own databases of EIA practitioners. The lack of accreditation is a problem and the need for a formal accreditation process has been recognised.<sup>301</sup> The majority of practitioners are locally based.

## 17.4 EIA Procedural Framework in Zimbabwe

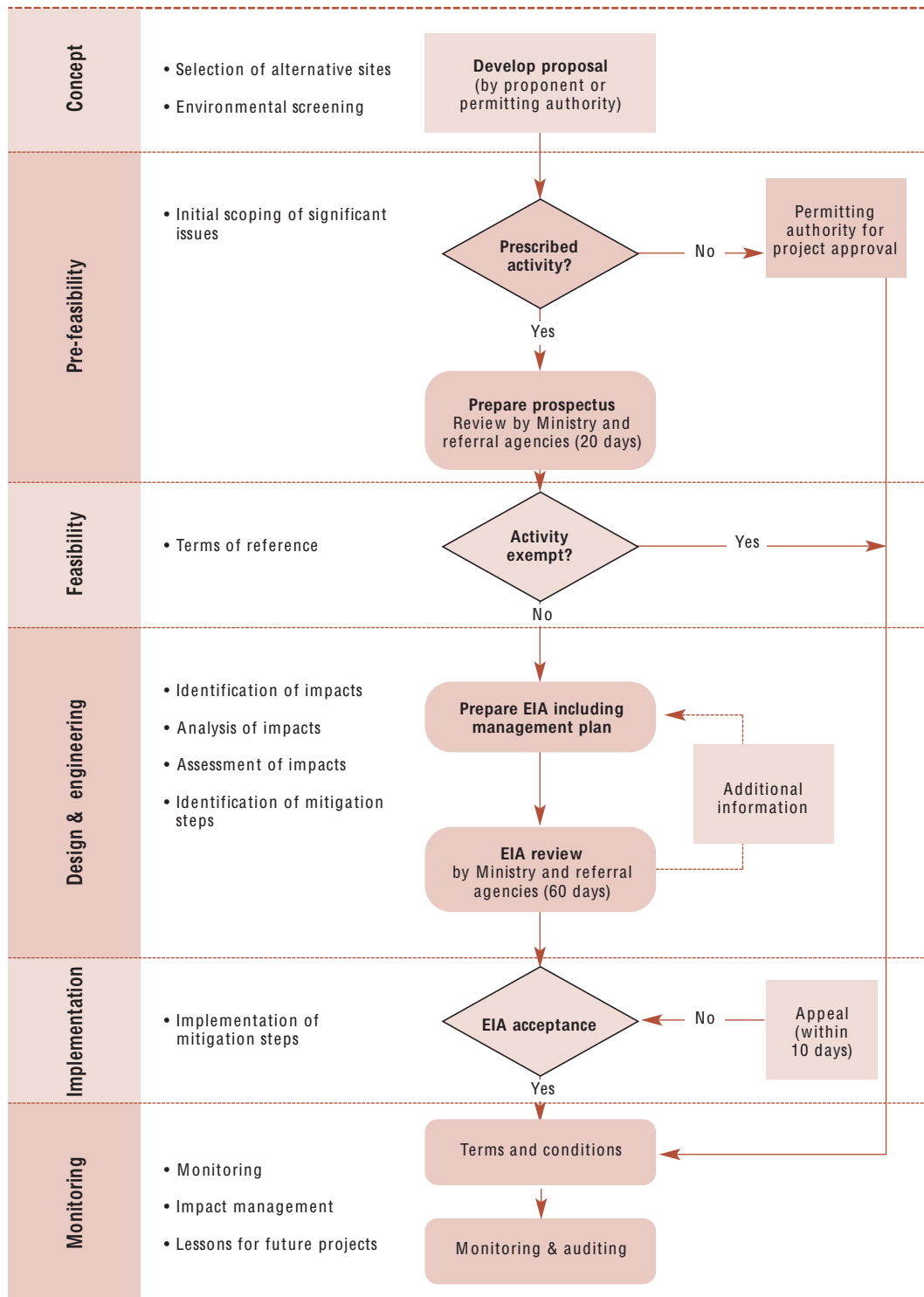
The EIA decision-making process is illustrated in Figure 17.2. The types of projects which require an EIA to be carried out are listed in the First Schedule of the Act and are set out in Appendix 17-1.

<sup>299</sup> Op. Cit. Footnote 289.

<sup>300</sup> Op. Cit. Footnote 289.

<sup>301</sup> Op. Cit. Footnote 289.

Figure 17.2: EIA Process in Zimbabwe



### 17.4.1 Prospectus

Before carrying out the EIA for a prescribed activity, the developer must submit a prospectus to the Director-General containing information regarding the EIA and the project. However, as there are no thresholds specified for any of the prescribed activities, the EIA policy requires any developer to submit a prospectus so that the Director-General of the Agency can determine whether or not an EIA is required. The prospectus is the closest thing to an initial EIA that is required in other countries and must be produced for all First Schedule activities (Appendix 17-1). According to the policy, the developer should be able to prepare the prospectus without help from EIA or environmental specialists. Therefore the prospectus may not contain as much information as an initial EIA. It should, however, contain the following information:

- A description of the proposed project;
- The current status of the project whether it is at the feasibility planning, design or implementation stage; and
- A description of the known or predicted environmental impacts.<sup>302</sup>

The Director-General will then review the prospectus and on completion may ask the developer to submit any further information that the Director-General may require. The Director-General may either:

- Approve the prospectus provided that he is satisfied that the proposed EIA is capable of evaluating the project's impact on the environment and will ask the developer to proceed with the proposed EIA; or
- Reject the prospectus and request a fresh one if he is not satisfied that the EIA adequately addresses the environmental impacts of the project.

### 17.4.2 Contents of an Environmental Impact Assessment Report

If the Director-General approves the prospectus he may also set out certain conditions relating to the scope of the assessment, including the appointment of an independent expert in environmental assessment to prepare the EIA Report. The developer is required to comply with these conditions. EIA reports must contain the following information:

- A detailed description of the proposed project and the activities which will be undertaken during its implementation;
- Reasons for the selection of the proposed site of the project;
- A detailed description of the direct, indirect, cumulative short- and long-term impacts the project will have on the various sections of the environment;
- Specification of the measures proposed for eliminating reducing or mitigating the anticipated adverse effects of the project;
- Identification and description of methods for monitoring and managing the adverse environmental effects;
- An indication of whether the environment of any other country is likely to be affected by the project and the measures that will be taken to minimise any damage to that environment;

<sup>303</sup> Op. Cit. Footnote 290.

- How the developer plans to integrate biological diversity into the project (where applicable); and
- A concise description of the methodology used by the developer when compiling the EIA report.<sup>303</sup>

There are certain projects that may be deemed to be exempt from an EIA after the Agency has reviewed the prospectus according to their screening guidelines. A project will be considered to be exempt from undergoing an EIA if:

- It does not utilise natural resources to such an extent that current and future use of those resources will be affected;
- The potential environmental impacts are minor and can be easily managed;
- The type of project, its environmental impacts and measures for managing these impacts are clearly understood in Zimbabwe;
- The environmental impacts and the measures for managing them have already been clearly incorporated into the project design;
- It will not displace a significant number of people;
- It is not undertaken in environmentally sensitive areas such as national parks, wetlands, productive agricultural lands, sites protected by legislation or sites with rare or endangered species;
- It will not result in significant emissions of pollutants or release of waste materials whose disposal is not covered by existing legislation.

The size of the project and the potential for the displacement of people are considered particularly important criteria.

Every developer shall take all reasonable measures to prevent or mitigate any adverse or undesirable impacts on the environment that may arise through the implementation of the project. The measures taken shall be reported to the Director-General unless they are already contained within the EIA report.

### 17.4.3 Consideration of EIA Report and Issuing of Certificates

The Agency will review the final EIA report or, if the Agency does not have adequate expertise in a particular area, they may ask other government departments to review the report such as for example the Forestry Commission, the Zambezi River Authority and so on. On reviewing the report, the Agency can:

- Approve the project to which the EIA report relates;
- Require the developer to conduct a further EIA for part or the whole of the project;
- Request the developer to supply additional information or complete such as other tasks as the Director-General considers necessary.

The Director-General will consider the following when deciding whether or not to approve a project's EIA:

- The likely impacts of the proposed project as well as the actual impacts on the environment of any existing similar projects;

<sup>303</sup> Op. Cit. Footnote 290.

- The extent to which the project complies with the National Plan as well as any LEAPs; and
- Any consultations with any authorities' organisations, communities, agencies or persons which in his opinion has an interest in the project.

If the project is approved then the Director-General will issue the developer with a certificate which:

- Identifies the project;
- Contains the name and address of the developer, or if the developer is a company the registered office of the company;
- States the date of issue of the certificate and the date of expiry of the certificate;
- Sets out any conditions imposed by the Director-General; and
- Sets out any other matters deemed necessary by the Agency or the Director-General.

Once a certificate has been issued, the developer may then approach the relevant authorities for a *permit* to implement a new project (see section 17.4.7 below). The certificate is valid for two years from the date of issue. It may be extended by not more than a year for a project that has commenced, but is not completed within the stipulated period. However, if the project is not commenced within the two year period then the validity of the certificate expires and a new certificate will need to be applied for. The Director-General will keep a register of certificates which is open to inspection by the public. Transfer of certificates between people is prohibited without prior approval of the Director-General.<sup>304</sup>

The Director-General is also able to amend, suspend or cancel a certificate if new information is provided which indicates that the project is a potential source of pollution or any other threats to the environment which require a new EIA to be conducted. The Director-General may also amend the certificate or any of the conditions under which the certificate was issued including directions on minimising or preventing threats to the environment in the planning, execution and monitoring of the project. The developer must also inform the Director-General if the project is not implemented or if the project is altered within the period of the certificate's validity.

The EIA policy states that the review should be completed within *60 days*. If this deadline is not met, then it can be assumed that the EIA Acceptance has been granted. However, larger projects and developers may seek to obtain official EIA. Acceptance in order to safeguard against possible future repercussions.

In the case of the project being rejected, the developer has *10 days* in which to lodge and appeal with the Ministry.

#### 17.4.4 Environmental Audits of Projects

The Director-General will carry out periodic environmental audits of any project including those commenced before a fixed date for the purposes of

<sup>304</sup> Op. Cit. Footnote 290.

ensuring that the project is in compliance with the Act and any conditions set out by the Agency on their certificate. The developer is also required to keep such records and reports for submission to the Agency as the Director-General may specify.

#### **17.4.5 Inspection of EIA Reports**

Any EIA report will be available for public inspection at any reasonable time at the Director-General's office. The information contained within the report is not to be used by any person for personal benefit other than for civil proceedings under the Act or any other law as a matter relating to the protection of the environment.

#### **17.4.6 Public Consultation Process**

Public participation is a requirement of the EIA process and the policy states that the public should participate in the preparation and review of EIA reports. However, in practice public participation has been more or less limited to consultation with the affected communities. These consultations typically focus on determining the probable impacts and the mitigation measures that will be acceptable to the community involved. Consultation methods include questionnaire surveys, group discussions and informal and formal meetings with community or local leaders. A few large public meetings have been conducted for very large projects, but generally the public is unaware of the importance of the role they can play in the EIA process. Centralisation of the EIA review process also has not promoted public participation.

#### **17.4.7 Quality Assurance**

The quality of the EIAs produced is promoted by the need for the Agency to review and approve the EIA report and the terms of reference (ToR). In addition, the review of the EIA report by various concerned government departments and possibly, by experts invited by the Agency, go a long way to ensuring that the EIAs produced are of acceptable quality. In addition, no projects can be approved before an official EIA Acceptance has been issued.<sup>305</sup>

### **7.5 Other Relevant Environmental Legislation in Zimbabwe**

Environmental issues cut across a wide range of sectors and there are numerous pieces of legislation in Zimbabwe which have a bearing on environmental management and sustainable development. These pieces of legislation should be considered during the EIA decision-making process. The relevant pieces of legislation and the administrative agencies responsible are listed in Table 17.

---

<sup>305</sup> Op. Cit. Footnote 289.

## ZIMBABWE

**Table 17.1: Key Policies and Laws Relating to Environmental Management** <sup>306</sup>

Act or policy	Key elements	Implementing authority
Environmental Management Act (2002)	<p>This Act has repealed</p> <ul style="list-style-type: none"> <li>• The Natural Resources Act (Chapter 20:13),</li> <li>• The Atmospheric Pollution Prevention Act (Chapter 20:03),</li> <li>• The Hazardous Substances and Articles Act (Chapter 15:05) and</li> <li>• The Noxious Weeds Act (Chapter 19:07).</li> </ul> <p>The Act creates a framework for environmental management, makes provision for the formulation of environmental quality standards, (e.g. air, water, noise, effluents, waste and hazardous substances), and develops the National Environmental Action plan.</p> <p>The Bill requires EIAs to be undertaken for prescribed activities, and specifies procedures for the administration of the EIA process.</p>	Ministry of Environment and Tourism
EIA Policy, August 1997	<p>This policy requires that the responsible authorities should not grant permits to projects that are prescribed for EIA before such EIA has been undertaken, reviewed and accepted by the Department of Natural Resources (now Environmental Management Agency). EIA is regarded as part of project planning.</p> <p>This policy is supported by environmental guidelines for various sectors, and led to the promulgation of the Environmental Management Act (Chap 20:27).</p>	Ministry of Environment and Tourism
Second Draft National Environmental Policy Sept 2003	<p>This policy will compliment and enhance the Environmental Management Act (Chap 20:27). It establishes National Environmental Policy goals and principles for environmental conservation, social and economic issues as well as providing mechanisms for environmental management and organisational responsibilities and institutional arrangements.</p> <p>The policy is still under discussion with stakeholders.</p>	Ministry of Environment and Tourism.
Water Act, No. 31 of 1998	<p>The Act regulates the planning and development of water resources, and provides a framework for allocating water permits. The Water (Waste and Effluent Disposal) Regulations of 2000, which are associated with this Act, specify what quality is acceptable in terms of effluent released into rivers.</p>	Ministry of Rural Resources and Water Development
Forest Act, (1949, Chapter 19:05)	<p>The Act provides for demarcating forests and nature reserves, conserving timber resources, regulating trade in forest produce, and regulating the burning of vegetation.</p>	Ministry of Environment and Tourism

<sup>306</sup> Spong, P-J, V Booth and B Walmsley, 2003. Country chapter on Zimbabwe in "EIA in Southern Africa". Southern African Institute for Environmental Assessment, Windhoek, pp297-325.

## ZIMBABWE

Act or policy	Key elements	Implementing authority
Parks and Wildlife Act (1975, Chapter 20:14)	The Act establishes national parks, botanical reserves and gardens, sanctuaries, safari areas and recreational parks provides for the conservation and control of wildlife, fish and plants; and designates specially protected animals and indigenous plants.	Ministry of Environment and Tourism
Communal Land Forest Produce Act (1988, Chapter 19:04)	The Act controls the use of wood resources within communal lands. Such resources in communal lands should be used for domestic purposes by the residents only.	Ministry of Environment and Tourism
Rural District Councils Act (1989, Chapter 29:13)	The Act allows for the establishment of rural district councils responsible for initiating and regulating development in rural areas.	Ministry of Local Government and National Housing
Fertiliser, Farm Feeds and Remedies Act (1953, Chapter 18:12)	The Act provides for the registration of fertilisers, farm feeds, and sterilising plants. It also regulates the importation and sale of fertilisers and farm seeds.	Ministry of Lands and Agriculture
Mines and Minerals Act (1961, Chapter 21:05)	The Act regulates the acquisition of mining rights, prospecting for and extraction of minerals and decommissioning of mining works.	Ministry of Mines and Energy
Trapping of Animals (Control) Act (1974, Chapter 20:21)	The Act prohibits making, possessing or using certain types of traps, and specifies the purposes for which animal trapping is permitted.	Ministry of Environment and Tourism
Locust Control Act (1971, Chapter 19:06)	The Act controls locusts.	Ministry of Lands and Agriculture
Plant Pests and Diseases Act (1959, Chapter 19:08)	The Act provides for the eradication and prevention of the spread of plant pests and diseases.	Ministry of Lands and Agriculture
Prevention of Cruelty to Animals Act (1960, Chapter 19:09)	The Act prohibits activities considered cruel to animals.	Ministry of Environment and Tourism