

### 16.1 Constitutional Requirements for Environmental Protection in Zimbabwe

The current constitution of Zimbabwe (2000) has no specific clause that provides for the protection of the environment<sup>1</sup>. However, section 4 of the Environmental Management Act (EMA), (Chapter 20:27), 2002, affords every citizen of Zimbabwe the following environmental rights:

- The right to live in a clean environment that is not harmful to their health;
- Access to environmental information;
- The right to protect the environment for the benefit of present and future generations; and
- The 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.

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

#### 16.2.1 Ministry of Environment and Natural Resources Management

The ministry with overall responsibility for the Environment is the Ministry of Environment and Natural Resources Management (MENRM)<sup>2</sup>, formerly known as the Ministry of Environment and Tourism. The general functions of the Minister of Environment and Natural Resources Management 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;

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<sup>1</sup> Government of the Republic of Zimbabwe 2000. *Constitution of the Republic of Zimbabwe*. Harare, Zimbabwe.

<sup>2</sup> Ministry names as listed on the official parliamentary website [www.parlzim.gov.zw](http://www.parlzim.gov.zw)

- 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 which international and regional conventions and treaties on the environment that Zimbabwe should become a party to and secure their incorporation into domestic law.<sup>3</sup>

Environmental management is regulated by three related agencies in the MENRM: the National Environmental Council, the Environmental Management Agency and the Environmental management Board.

### **16.2.2 National Environmental Council**

The functions of the National Environmental Council (see Figure 16.1) 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.<sup>4</sup>

### **16.2.3 The Environmental Management Agency**

The Environment Management Act, 2002, (Chapter 20:27) provides 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.

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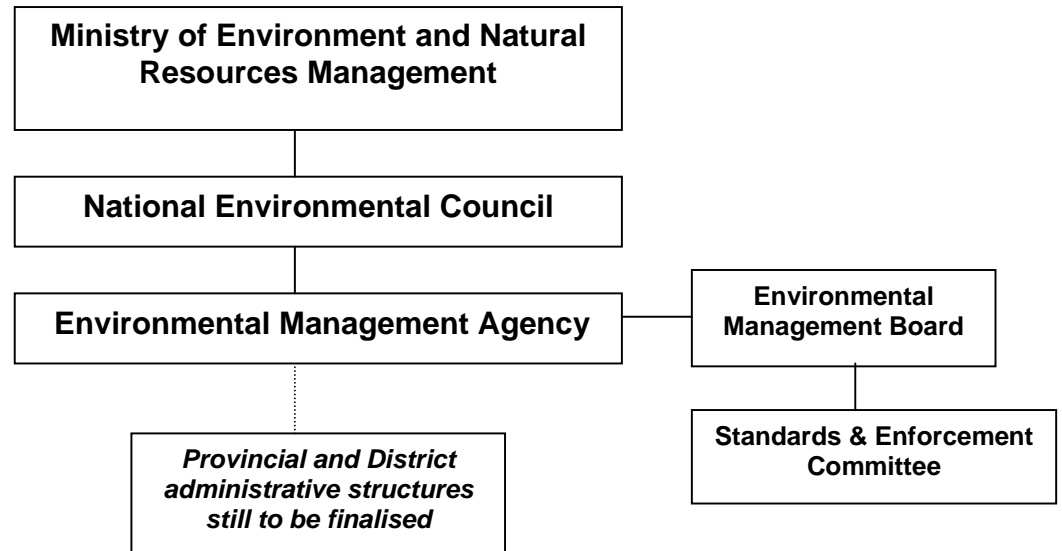
<sup>3</sup> Zimbabwe Environmental Law Association, 2003. Summary of the Environmental Management Act (Chapter 20:27) for Use by Community Groups. November 2003, ([www.zela.org](http://www.zela.org)).

<sup>4</sup> Op. Cit. Footnote 3.

The Agency is responsible for:

- The formulation of quality standards on air, water, soil, noise, vibration, radiation and waste management;
- Assisting and participating in any matters pertaining to the management of the environment such as:
  - Developing guidelines for National Plans, environmental management plans (EMPs) and local environmental action plans (LEAPs);
  - regulating and monitoring the collection, disposal, treatment and recycling of waste;
  - monitoring and regulating the discharge or emission of pollutants or hazardous substances into the environment;
  - keeping records in the forms of registers of all licences and permits issued under the law;
  - monitoring and regulating the control of invasive alien species
  - regulating, monitoring, reviewing and approving environmental impact assessments;
  - regulating and monitoring the management and utilisation of ecologically fragile ecosystems;
  - making by-laws within the jurisdiction of local authorities;
  - advising government on conventions and treaties which should be incorporated into national law;
  - coordinating the production of a five year environmental report;
  - developing and implementing incentives for the protection of the environment;
  - 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.;
  - regulating and monitoring access by any person to biological and genetic resources;
  - making recommendations to the Minister regarding the formulation of any regulations.

**FIGURE 16.1: PROPOSED ORGANISATIONAL RESPONSIBILITIES AND INSTITUTIONAL ARRANGEMENTS<sup>5</sup>**



#### 16.2.4 Environmental Management Board

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 16.1 shows a diagrammatic representation of the organisational structure.

### 16.3 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>6</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 then Ministry of Environment

<sup>5</sup> Source: Second Draft, National Environmental Policy 2003

<sup>6</sup> Spong, P-J, Booth, V and Walmsley B (2003). Country Chapter on Zimbabwe in 'EIA in Southern Africa.' Southern African Institute for Environmental Assessment, Windhoek, Namibia.

and Tourism (MET) is the current policy governing EIAs.<sup>7</sup> This Policy formed the foundation for a law reform process which resulted in the Environmental Management Act, 2002 (Chapter 20:27), as amended in March 2006. The new National Environmental Policy (2003) drawn up after the promulgation of the original 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, the new EIA Regulations (SI No 7 of 2007) and the EIA Guidelines published by the ministry to ensure that EIAs are carried out correctly.

### 16.3.1 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>8</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>9</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;

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<sup>7</sup> OP. Cit. Footnote 6.

<sup>8</sup> Government of Zimbabwe, 2003. National Environmental Policy. Second Draft. Prepared by the Ministry of Environment and Tourism. For discussion and consultative purposes only.

<sup>9</sup> Op. Cit. Footnote 8.

- Promote national interests by cooperating in drawing up and implementing international environmental agreements and collaborating with neighbouring countries on trans-boundary environmental issues.

The GoZ in the promulgation of the Environmental Management Act set 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;
- 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.

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

The 1997 National Environmental Policy is still being used in conjunction with the Act (see section 16.3.3 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.

### **16.3.3 Environmental Management Act (Chapter 20:27)**

The Environmental Management Act (Chapter 20:27) was enacted in 2002 (Act 13 of 2002) and was amended on 25<sup>th</sup> March 2006. 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 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.<sup>10</sup>

The provisions of the EMA which relate to EIAs in particular are set out in section 97 of the Act and summarised below.

- A person who proposes to embark on any of the projects listed in the First Schedule (Appendix 16-1) 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 (see section 16.4.1);
- It is an offence for any person to knowingly 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 (see also Appendix 16-1):

- 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.<sup>11</sup>

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<sup>10</sup> Op. Cit. Footnote 3.

<sup>11</sup> Op. Cit. Footnote 3.

### 16.3.4 Regulations

In 2007, several Statutory Instruments (SI) were passed in terms of section 140 of the EMA (Chapter 20:27). These regulations are significant in that they operationalise the Act in the sectors which they cover. They provide for the specific procedures to be followed in complying with the provisions of the Act. More importantly, they incorporate the modern principles of environmental management such as polluter pays, public participation, preventive principle, environmental rights and so on. The following information was obtained from the Zimbabwe Environmental Law Association website ([www.zela.org/site/newsletter.asp](http://www.zela.org/site/newsletter.asp)).

#### **Environmental Management (Environmental Impact Assessments and Ecosystems Protection) Regulations, Statutory Instrument No. 7 of 2007**

The Environmental Management (Environmental Impact Assessments and Ecosystems Protection) Regulations, deal with the regulation of the Environmental Impact Assessment (EIA) process and protection of ecosystems. Part 11 of the Act provides that no industrial project shall be implemented without an EIA having been done. These regulations provide the method of doing the EIA. The developer has to submit a prospectus to the Agency (see section 16.4.1) which issues a licence if satisfied by the contents of the prospectus. The prospectus has to contain details of the environmental impacts of the project and the measures to be taken to contain or mitigate against such impacts. In preparing an EIA, a developer is obliged to consult widely with all stakeholders. The Agency will not issue a licence if it is not satisfied that the developer consulted with all stakeholders in the preparation of the prospectus. It should also be noted that projects which began before the Act was promulgated are subject to periodic environmental audits by the Agency.

Regrettably, the regulations do not provide specifically for the manner in which the consultation of stakeholders should be done nor who the stakeholders are. There is also no measure to ensure that the concerns of the stakeholders are incorporated in the prospectus.

#### **Waste and Solid Waste Disposal Regulations, Statutory Instrument No. 6 of 2007**

The Waste and Solid Waste Disposal Regulations, regulate the disposal of effluent and solid waste. It prohibits any person from disposing waste into a public stream or ground water without a licence. Furthermore, every generator of waste (except households) is now required to come up with a waste management plan by 31st December each year which deals with quantity of waste, components of the waste, goals for reduction of the quantity and pollutant discharges of the waste, transportation and disposal of the waste and adoption of environmentally sound management of the wastes. It is an offence for any waste generator to fail to produce the waste management plan.

**Hazardous Substances, Pesticides and Toxic Substances Regulations, Statutory Instrument No. 12 of 2007**

The Hazardous Substances, Pesticides and Toxic Substances Regulations provide for the labelling, packaging, repackaging and sale of hazardous substances or articles containing hazardous substances in Zimbabwe. The regulations prescribe conditions which have to be observed by employers over the handling of hazardous substances at the workplace, conditions for transporting hazardous substances and procedures to be followed when there is an accidental spillage of hazardous substances in Zimbabwe.

The Agency is empowered to issue spot fines to any person who violates the law. In addition, any person whose substances affect the environment is liable to pay for the cost of restoring the environment i.e. the polluter pays principle. The offender is also liable to pay compensation for any damage caused by the offence to any person.

**16.3.5 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>12</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.

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<sup>12</sup> Op. Cit. Footnote 6.

### **16.3.6 Permits and Licences**

In the past, permits for new projects were granted by the Regional, Town and Country Planning Act (Chapter 29:12). Under the new EIA Regulations (SI No 7 of 2007), this has changed, and local authorities can only issue licences to developers after first having sight of the licence from the Agency confirming that an approved EIA has been done.

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.

The waste disposal licence is issued by the Agency and it is renewable on an annual basis. The licence holder is obliged to pay inspection fees and environmental fees to the Agency. One does not require a licence for household/domestic waste disposal nor for application of inorganic fertilizers for agricultural production.

### **16.3.7 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.

The GoZ requires a fee to be paid for the review of the EIA by the Agency. These fees change quarterly and therefore people are advised to consult the Agency regarding the fee tariffs.

### **16.3.8 Environmental Quality Standards**

One of the committees of the Environmental Management Board is the Standards and Enforcement Committee (see Figure 16.1). 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.

Sections 55-86 of the EMA deal with environmental quality standards for:

- Water pollution (s. 57-59)
- Air quality (s. 63-68)
- Waste management (s. 69-76)
- Noise (s. 80-81)
- Noxious smells (s. 82)
- Littering (s. 83)
- Radioactive wastes (s. 84).

These sections empower the Minister (on the recommendations of the Standards and Enforcement Committee) to prescribe emission limits and quality standards for the various pollutants and emissions listed. The relevant sections also required owners or operators of polluting facilities/activities to obtain a licence from the Environmental Management Board and penalties, fines and measures of recourse for non-compliance are outlined.

The Statutory Instruments on waste and solid waste (SI No 6 of 2007) and hazardous substances (SI No 12 of 2007) now provide regulations to give effect to the legal prescriptions relating to pollution and waste.

The Standards and Enforcement Committee is currently developing draft guidelines for air quality.

### **16.3.9 Certification of Environmental Assessment Practitioners**

EIA practitioners do not require accreditation within Zimbabwe, but they do need to register with the Agency, which maintains a database of all consultants who have undertaken EIA studies in Zimbabwe. The lack of accreditation is a problem and the need for a formal accreditation process has been recognised.<sup>13</sup> The majority of practitioners are locally based.

## **16.4 EIA Procedural Framework in Zimbabwe**

The EIA decision making process is illustrated in Figure 16.2. 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 16-1.

### **16.4.1 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 16-1). 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>14</sup>

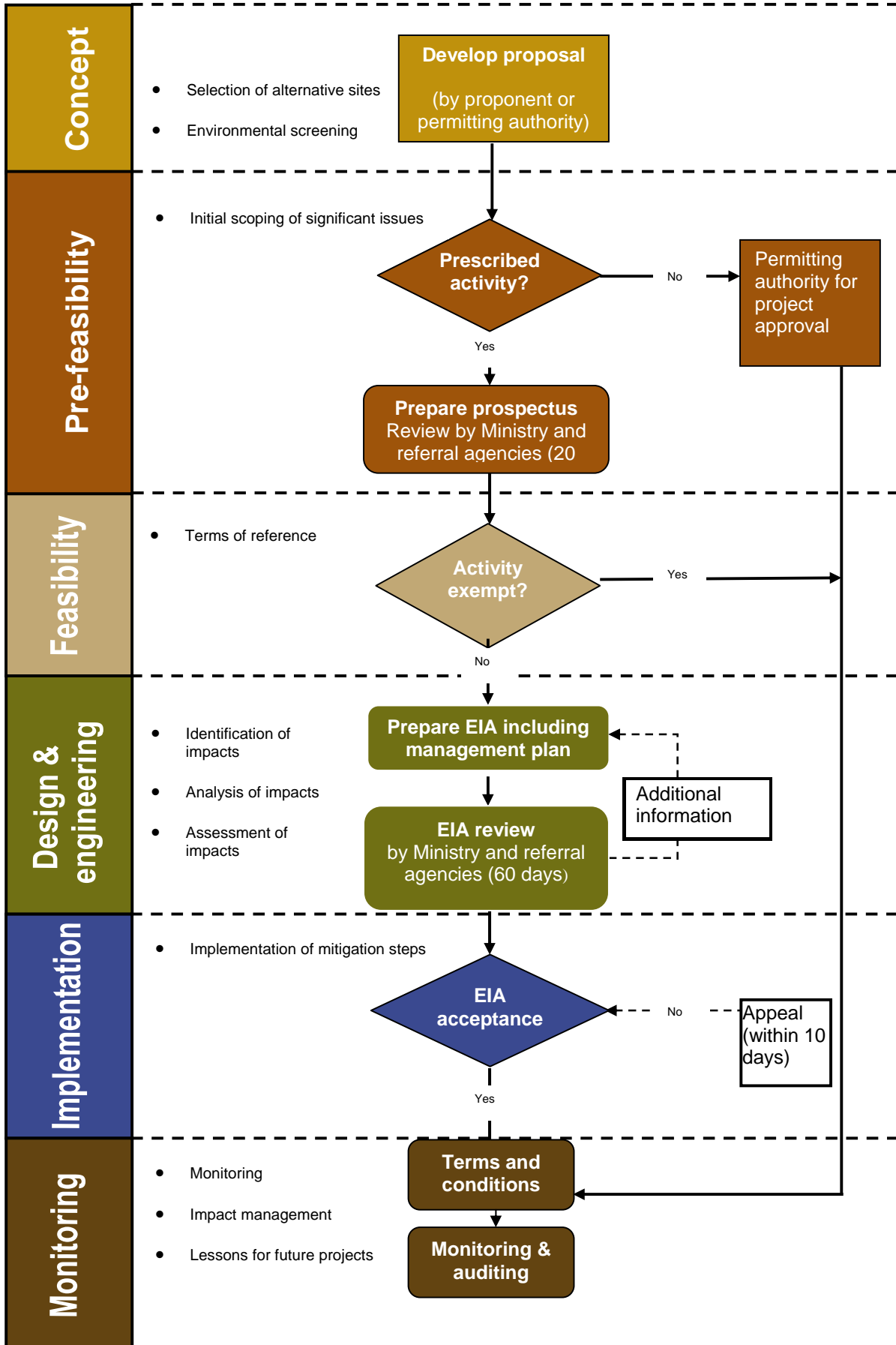
The Director-General will then review the prospectus and on completion may ask the developer to submit any further information that the Director-General may require. The Director-General may either:

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<sup>13</sup> Op. Cit. Footnote 6.

<sup>14</sup> Government of Zimbabwe, 2002. Environmental Management Act (Chapter 20:27). Government Printers, Harare.

FIGURE16.2: EIA PROCESS IN ZIMBABWE



- 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.

#### **16.4.2 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;
- 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>15</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;

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<sup>15</sup> Op. Cit. Footnote 14.

- 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.

#### **16.4.3 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 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;

- The extent to which the project complies with the National Plan as well as any LEAPs;
- 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 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;
- 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 16.4.7 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>16</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 seek to obtain official EIA Acceptance in order to safeguard against possible future repercussions.

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<sup>16</sup> Op. Cit. Footnote 14.

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

#### **16.4.4 Appeals**

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, who in turn, will refer it to the Administrative Court, which will decide whether to confirm, vary or set aside the decision or action appealed against (s. 130 of the EMA).

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 (s. 129 of the EMA).

#### **16.4.5 Environmental Audits of Projects**

Section 106 of the EMA allows the Director-General to carry out periodic environmental audits of any project including those which commenced before a fixed date for the purposes of 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.

#### **16.4.6 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.

#### **16.4.7 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.

### 16.4.8 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>17</sup>

## 16.5 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 16.1 below:

**Table 16.1: Key Policies and Laws Relating to Environmental Management<sup>18</sup>**

| Act or policy                       | Key elements   | Implementing authority <sup>19</sup>                             |
|-------------------------------------|--|--|
| 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, make provision for the formulation of environmental quality standards, (e.g. air, water, noise, effluents, waste and hazardous substances), and develop 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 Natural Resources Management (MENRM) |
| EIA Policy, August 1997             | 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.   | Ministry of Environment and Natural Resources Management (MENRM) |

<sup>17</sup> Op. Cit. Footnote 6.

<sup>18</sup> Op. Cit. Footnote 6.

<sup>19</sup> Ministry names from official parliamentary website [www.parlzim.gov.zw](http://www.parlzim.gov.zw)

| Act or policy   | Key elements  | Implementing authority <sup>19</sup>                              |
|---|---|---|
|   | This Policy is supported by Environmental Guidelines for various sectors, and led to the promulgation of the Environmental Management Act (Chap 20:27)  |   |
| Second Draft National Environmental Policy Sept 2003          | 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 mechanism for Environmental Management and Organisational Responsibilities and Institutional Arrangements. The Policy is still under discussion with stakeholders. | Ministry of Environment and Natural Resources Management (MENRM)  |
| Water Act, No. 31 of 1998                                     | 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.  | Ministry of Water Resources and Development                       |
| Forest Act, (1949, Chapter 19:05)                             | The Act provides for demarcating forests and nature reserves, conserving timber resources, regulating trade in forest produce, and regulating the burning of vegetation.  | Ministry of Environment and Natural Resources Management (MENRM)  |
| 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 Natural Resources Management (MENRM)  |
| 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 Natural Resources Management (MENRM)  |
| 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, Urban and Rural Development         |
| 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 Agriculture, Mechanisation and Irrigation Development |
| 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 Mining Development                          |
| 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 Natural Resources Management (MENRM)  |
| Locust Control Act (1971, Chapter 19:06)                      | The Act controls locusts.   | Ministry of Agriculture, Mechanisation and Irrigation Development |
| 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 Agriculture, Mechanisation and Irrigation Development |
| Prevention of Cruelty to Animals Act (1960, Chapter 19:09)    | The Act prohibits activities considered cruel to animals.   | Ministry of Environment and Natural Resources Management (MENRM)  |

## APPENDIX 16-1

### **Environmental Management Act (Chapter 20:27) First Schedule: Projects that Require Environmental Impact Assessment.**

- 1. Dams and man-made lakes**
- 2. Drainage and irrigation**
  - a. Drainage of wetland or wildlife habitat;
  - b. Irrigation schemes
- 3. Forestry**
  - a. Conversion of forest land to other land use;
  - b. 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 of the Parks and Wildlife Estate.
- 4. Housing developments.**
- 5. Industry**
  - a. Chemical plants;
  - b. Iron and steel smelters and plants;
  - c. Smelters other than iron and steel;
  - d. Petrochemical plants;
  - e. Cement plants;
  - f. Lime plants;
  - g. Agro-industries;
  - h. Pulp and paper mills;
  - i. Tanneries;
  - j. Breweries;
  - k. Industries involving the use, manufacture, handling, storage, transport or disposal of hazardous or toxic materials.
- 6. Infrastructure**
  - a. Highways;
  - b. Airports and airport facilities;
  - c. New railway routes and branch lines;
  - d. New towns or townships;
  - e. Industrial sites for medium and heavy industries.
- 7. Mining and quarrying**
  - a. Mineral prospecting;

- b. Mineral mining;
- c. Ore processing and concentrating;
- d. Quarrying

**8. Petroleum production storage and distribution**

- a. Oil and gas exploration and development;
- b. Pipelines;
- c. Oil and gas separation, processing, handling and storage facilities;
- d. Oil refineries

**9. Power generation and transmission**

- a. Thermal power stations;
- b. Hydropower schemes;
- c. High-voltage transmission lines

**10. Tourist, resorts and recreational developments**

- a. Resort facilities and hotels;
- b. Marinas;
- c. Safari operations.

**11. Waste treatment and disposal**

- a. Toxic and hazardous waste: incineration plants, recovery plants (off-site), wastewater treatment plants (off-site), landfill facilities, storage facilities (off site);
- b. Municipal solid waste: incineration, composting and recycling/recovery plants, landfill facilities
- c. Municipal sewage: waste treatment plants, outfalls into aquatic systems, effluent water irrigation schemes.

**12. Water supply**

- a. Ground water development for industrial agricultural or urban water supply
- b. Major canals
- c. Cross-drainage water transfers
- d. Major pipelines
- e. Water withdrawals from rivers or reservoirs.

## ACRONYMS

|              |  |
|--------------|--|
| <b>EIA</b>   | Environmental Impact Assessment                          |
| <b>EMA</b>   | Environmental Management Act                             |
| <b>EMP</b>   | Environmental Management Plan                            |
| <b>GoZ</b>   | Government of Zimbabwe                                   |
| <b>EMP</b>   | Environmental Management Plan                            |
| <b>LEAP</b>  | Local Environmental Action Plan                          |
| <b>MENRM</b> | Ministry of Environment and Natural Resources Management |
| <b>MET</b>   | Ministry of Environment and Tourism (old name)           |
| <b>NGO</b>   | Non-governmental Organisation                            |
| <b>SAIEA</b> | Southern African Institute for Environmental Assessment  |
| <b>SI</b>    | Statutory Instrument                                     |
| <b>ToR</b>   | Terms of Reference                                       |

## USEFUL CONTACTS

| Official and title                    | Ministry   | Address  | Telephone             | Fax                        |
|---------------------------------------|--|--|-----------------------|----------------------------|
| Director-General                      | Environmental Management Agency, MENRM   | Makombe Complex, Cnr Herbert Chitepo and Harare Street, Harare     | (+263-4) 705661/4     | (+263-4) 705671/793123     |
| Chief Ecologist                       | Environmental Management Agency, MENRM   | Makombe Complex, Cnr Herbert Chitepo and Harare Street, Harare     | (+263-4) 705661/4     | (+263-4) 705671/793123     |
| Senior Ecologist                      | Environmental Management Agency, MENRM   | Makombe Complex, Cnr Herbert Chitepo and Harare Street, Harare     | (+263-4) 705661/4     | (+263-4) 705671/793123     |
| Provincial Natural Resources Officers | All provincial Staff can be contacted c/o the Environmental Management Agency, MENRM | c/o Makombe Complex, Cnr Herbert Chitepo and Harare Street, Harare | c/o (+263-4) 705661/4 | c/o (+263-4) 705671/793123 |