



ENVIRONMENTAL MANAGEMENT ACT No.7 of 2007

Perspectives on the implementation of the EMA

BY:

MINISTRY OF ENVIRONMENT &
TOURISM



Background



- Post-independence process of reforming policies and laws
- Constitutional Requirement for Environmental Protection in Namibia

of the Namibian Constitution: 189 Article 91(c), which defines the functions of the Ombudsman to include:

... the duty to investigate complaints concerning the over-utilisation of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia ...

and Article 95(1), which commits the state to actively promote and maintain the welfare of the people by adopting policies aimed at the: *... maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future ...*

Purpose of the EMA

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- To promote the sustainable management of the environment and the use of natural resources by establishing principles of decision making on matters affecting the environment
- To provide for the process of assessment and control of activities which may have significant effects on the environment among others
- To provide for the establishment of SDAC;
- To provide for the appointment of the Environmental Commissioner & Env. Officers

Principles of Env. Management

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- Principles of Environmental management states among others:
- Assessments must be undertaken for activities which may have significant effects on the environment or the use of natural resources
- Community involvement in natural resources management and the sharing of benefits arising from the use of the resources must be promoted and facilitated;
- Participation of all IAPs must be promoted and decisions must take into account their interests, needs and values

Principles of Env. Management

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- Equitable access to environmental resources must be promoted and the functional integrity of ecological systems must be taken into account to ensure the sustainability of the systems & to prevent harmful effects
- Damage to the environment must be prevented & activities which cause such damage must be reduced, limited or controlled
- Sustainable development must be promoted in all aspects related to the environment

Listed activities

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- PART VII - ENVIRONMENTAL ASSESSMENT
- **Listing of activities and prohibition in respect of listed activities**
- **27. (1) The Minister, after following the consultative process referred to in**
- section 44, may list, by notice in the *Gazette*, *activities which may not be undertaken without Environmental Clearance*
- (2) Activities listed, under subsection (1), include but not limited to :

Listed activities cont....

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- Land use and transformation;
- Water use and disposals;
- Resource removal, including natural living resources;
- Resource renewal;
- Agricultural processes;
- Industrial processes;
- Transportation;
- Energy generation and distribution;

Listed activities.....

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- Energy generation and distribution;
- Waste and sewage disposal; Chemical treatment
- Recreation; and
- Any other area which the Minister considers necessary for the purpose of listing

Environmental plans

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23 (a) Environmental plans :

- Coordinate and harmonise the environmental policies, plans programmes and decisions of various organs of state that exercise the functions that affect the environment or are entrusted with powers and duties aimed at the achievement , promotion, & protection of sustainable environment in order to among others:
 - Minimise the duplication of procedures and functions;
 - Promote consistency in the exercise of functions that may affect the environment;

Assessment process

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- Section 3 of the regulation empowers the proponents to:
- Designate the EAP to manage the assessment process;
- The proponent must provide the EAP with crucial information at his/ her disposals
- Ensure that the assessment process are properly followed

Assessment process.....

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- Section 6 to 24 deals with the assessment process



Implementation of the EMA...

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- EMA came into effect in February 2012
- The regulations was gazzeted

Implementation of the EMA



Environmental commissioner

- **Functions and duties of the EC are, amongst others:**
 - to advice Government bodies on the preparation of environmental plans,
 - review environmental assessment reports,
 - issue environmental clearance certificates and
 - conduct inspections to monitor compliance with the Environmental Management Act.

Implementation of the EMA

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36 Review

- The environmental commissioner reviews the applications in an appropriate manner which includes among others
 - Consulting any person, institution, or authority on any matter concerning the application
 - Carrying out and appointed people to carry out investigations, including a processes of public consultation on matters related to the application
 -

Implementation of the EMA....

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45 External specialist reviewer

- With the approval of the Minister the EC have been appointing external specialist reviewer in instances where:
 - When the knowledge required to review any aspects of the report is not available in the Ministry
 - or
 - When a high level of objectivity is required which is not in the documents submitted

Implementation of the EMA.....

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50 Appeals to the Minister

- 50 (1) Any person aggrieved by the decision of the Environmental Commissioner in the exercise of any power in terms of the EMA may appeal to the Minister against that decision.

51 Appeal to High Court against Minister`s decision

- 50 (1) Any person aggrieved by a decision of the Minister in terms of the EMA 50 (4) or a decision under section 21 to the high court

Implementation of the EMA

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37.Environmental Commissioner`s decision

- After reviewing the assessment report in terms of section 36 the EC have been:
- Upon the payment of the prescribed fees the EC has been issuing environmental clearances;
- Refused applications and provided the proponent with reasons for the refusal;
- EC have been notifying the proponents of the decisions made in terms of 37 (1)

Implementation of the EMA.....

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Implementation of the EMA

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38. Record of decisions

- The EC has been keep record of the decisions made under section 33,34, and 37 .
- Copies of decision made have been made available to members of the public

Implementation of the EMA

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- Management of Environmental clearances

Amendment of environmental clearances have been made;

Transfers of environmental clearances have also been made

Implementation of the EMA

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Review of the EMA Regulations

- Taken note of the discrepancies between the EMA and its regulation;
- Appointed the consultant to review the regulations which includes among others;
 - Identifying the discrepancies in the EMA and its regulations
Review of all forms related to the EMA;
- Final report will be presented at a later stage and will be shared with all of you;

Implementation of the EMA

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- **Challenges**
- **Requests from clients includes among others**
 - Demands that are not practical e.g. borrowing EIA reports ;
 - Requests to be issued with environmental clearances without EIA report and submit the report later;
 - Clients trying to appeal to the environmental Commissioner against the EC decision

Implementation of the EMA....

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45 External specialist reviewer

- When the knowledge required to review any aspects of the report is not available in the Ministry
or
- When a high level of objectivity is required which is not in the documents submitted
 - Water sector will be expected to pay for external specialist reviewer

Implementation of the EMA.....

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Implementation of EMA cont.....

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Management of the Environmental clearance

- Manage the environmental clearance certificate as per the EMA
 - ✦ E.g Amendments, transfers and renewals should be made in the prescribed format
- Comply with the conditions of Environmental Clearance certificate
 - ✦ Comply with the do and don'ts of the EC
- Promote sustainable development
 - ✦ Environmental socio- economic well being should be promoted

Offences

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Offences related to the EMA :

- Undertaking listed activity without an environmental clearance certificate;
- Provide false or misleading information to the Environmental Commissioner;
- Destroy or defaces any document related to the EMA

Penalties

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- Offenders will be liable to a fine or imprisonment



Suspension of the ECC

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- The commissioner may by notice to the ECC holder suspend or cancel the ECC if the holder has:
- Contravened any condition of the certificate;
- Has contravened the EMA;
- Is convicted of an offence in terms of the EMA

Conclusion

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- Principles of environmental management are crucial for sustainable development
- EAP and Proponents among the role players in the EMA implementation
- Assessment should be carried for activities that have impacts on the environment
- ECC may be suspended if the holder contravenes the provision of the EMA
- Our activities must promote sustainable development

Thank
You



Questions welcome

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