

## **RIA for Waste Economy: IDENTIFYING HOW TO STREAMLINE WASTE COMPLIANCE REGULATIONS TO STIMULATE THE GROWTH OF THE WASTE SECTOR AND JOB CREATION**

The waste sector has been identified in both national (NPC, 2011; DEA, 2011b; RSA, 2010; DTI, 2010; EDD, 2011; RSA, 2011a) and Western Cape Provincial (Western Cape Government, 2013) strategy and policy documents to be a sector which can contribute towards South Africa's economic growth and the creation of green jobs. The Western Cape Provincial Government has however identified that “the rate of growth in the waste sector may be limited by existing policies and regulations” (DEDAT, 2013). Therefore, the purpose of the Regulatory Impact Assessment (RIA) for the Waste Economy in the Western Cape is to conduct a Regulatory Impact Assessment (RIA) for the waste economy in the Western Cape. To this end, the Western Cape Government (WCG) aims to create an effective mechanism to streamline all compliance regulations that impact on businesses in the province, and in so doing, create an enabling environment for stimulating public and private waste sector growth and job creation.

The waste economy RIA project has been divided into three key phases: phase one includes an analysis of existing legislation and initiatives, the second phase captures interviews with waste economy stakeholders and documents practical cases from the Western Cape waste community and lastly the final phase provides an overview of possible solutions and recommendations based on the outcomes of phase one and two.

The desktop analysis of existing legislation provides an assessment of National, Provincial and Local Government legislation, policies and regulations and uncovers the potential influence legislation has on the waste economy in the Western Cape. From a National perspective, all waste management activities (beyond only disposal of waste as was the case under the Environment Conservation Act, 1989) are now regulated by law under the National Environmental Management: Waste Act, 2008 (NEM:WA). This review highlights the implications of NEM: WA and those related to a large number of ‘peripheral’ pieces of legislation, regulation and rules applicable to the waste sector. While many of these ‘peripheral’ pieces of legislation may not be known to the waste sector, they do have the potential to result in conflict or

contradiction with specific waste and environmental legislation, particularly as it relates to older legislation.

Notable issues which have been identified in the review of legislation and which have the potential to constrain waste businesses, amongst others, include the:

- Definition of waste and by-products
- EIA and licencing requirements
- Industry Waste Management Plans (Ind WMP)

Gaps are identified in the Western Cape legislation and there is currently also a lack of provincial norms and standards relating to waste management which could guide uniformity at municipal level. While on the other hand municipal by-laws possess a myriad of restrictions on service providers and possible entrepreneurs. In addition, a number of waste by-laws ascribe ownership of waste to the municipality which may result in the municipality acting as 'gatekeeper' of the waste and thereby limiting the abilities of other stakeholders to make a meaningful contribution to the waste sector.

Case studies have been presented and the outcomes of interviews/ focus groups which were held with key stakeholders in the Western Cape Waste Economy are provided in the second section of the report to determine the impact of legislation, policies, strategies and by-laws on the growth and development of businesses in the waste sector. The main issues hampering growth in the waste economy in the Western Cape that have been identified are:

- Interpretation of the law by officials at all three spheres of government
- Cost and time associated with the bureaucratic processes associated with Environment authorisations
- Municipal financial management
- Ownership of waste as this impacts on feedstock agreements between business and municipalities
- Zoning and rezoning of land is a barrier, especially where activity is not listed in the regulations.
- Inconsistencies between different regulations

The review is concluded in phase three of the project which provides an overarching view of possible solutions and recommendations. These solutions and recommendations are grouped into four areas namely:

- Streamlining of the regulatory environment
- Scope for development of norms and standards
- Mechanisms to reduce the burden of new legislation
- General recommendations

The study suggests that a number of the legislative barriers identified by businesses entering the waste economy are perceived rather than actual barriers. Nevertheless, from the perspective of small businesses in particular, there are very real challenges that need to be addressed. Growing the waste economy requires navigating a host of environmental and financial laws and regulations, and compliance with the various requirements is hampering the sustainability and growth of especially small businesses in the waste sector.

The RIA for the Waste Economy in the Western Cape in effect provides a systemic appraisal of the impacts of waste regulation. In addition, it highlights areas where the desired objectives of regulations may result in risks and costs to stakeholders and may thereby exceed the intended benefits. Moreover, it provides a platform from which interventions to address the unintended consequences of regulation can be based on.

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