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**NATIONAL ENVIRONMENT
MANAGEMENT ACT**

CHAPTER 72:01

**Act No.
13 of 1994**

Amended by
Act No. 13 of 2008

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Environmental Impact Assessment

CHAPTER 72:01

NATIONAL ENVIRONMENT MANAGEMENT ACT

An Act for the control and management of the environment, and to make provision for connected matters.

[Act No. 13 of 1994 amended by Act No. 13 of 2008.]

[Date of commencement: 27th May, 1994.]

PART I

*Preliminary***1. Short title**

This Act may be cited as the National Environment Management Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Action Plan**” means The Gambia Environment Action Plan described in section 20;

“**Agency**” means the National Environment Agency established under section 9;

“**air quality**” means the concentration prescribed under or pursuant to this Act, of a pollutant in the atmosphere at the point of measurement;

“**ambient air**” means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

“**analysis**” means test or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of the environment or examination of emissions or recordings of noise or sub-sonic vibrations to determine the level or other characteristics of the matter, noise or sub-sonic vibration or its effect on any segment of the environment;

“**analyst**” means a person appointed as such under section 45;

“**beneficial use**” means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits;

“biological diversity” means the variability among living organisms from all sources, including, *inter alia*, terrestrial ecosystems and aquatic ecosystems and the ecological complexes of which they are part and this includes diversity within species, between species and of ecosystems;

“chemical” means a chemical substance in any form whether by itself or in a mixture or preparation whether manufactured or derived from nature and includes industrial chemicals, pesticides, fertilizers and drugs;

“coastal zone” means the zone identified as such by way of regulations;

“Council” means the National Environment Management Council established under section 5;

“developer” means any person who proposes or has undertaken the development of a project;

“effluent” means waste water or other fluid of domestic, agricultural or industrial origin, treated or untreated and discharged directly or indirectly into the environment;

“element”, in relation to the environment, means any of the principal constituent parts of the environment, including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, fish and wildlife;

“environment” means the physical factors of the surroundings of the human being, including land, water, atmosphere, climate, sound, odour, taste, the biological factors of fauna and flora and the social factor of aesthetics and includes both the natural and the built environment;

“environmental audit” means the systematic documentation and periodic and objective evaluation of how well environmental organisation, management and equipment are performing in conserving the environment and its resources;

“environmental impact assessment” means a systematic examination conducted to determine whether or not an activity may have any adverse impacts on the environment;

“environmental impact statement” means the statement described in section 23;

“environmental monitoring” means the continuous or periodic determination of actual and potential effects of any activity or phenomenon on the environment whether short-term or long-term;

“environmental planning” means both long-term and short-term planning that takes into account environmental issues;

“environmental resources” means the resources of the air, the land and the water including their aesthetical qualities;

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“ex situ” means conservation outside the natural habitat of the biological organism;

“Executive Director” means the Executive Director of the Agency;

“genetic resources” means genetic material of actual or potential value;

“good environmental practice” means practice that is in accordance with technical norms and specifications and consistent with the provisions of this Act and any other law;

“hazardous material” means any material which has been identified by the Agency to be a hazardous material under section 36;

“hazardous substance” means any chemical, pesticide, waste, gas, medicine, drug, plant, animal or micro-organism which is injurious to human or animal health or the environment;

“in situ” means conservation within the natural ecosystem and habitat of the biological organism;

“inland zone” means the zone identified as such by way of regulations;

“inspector” means any environmental inspector appointed or designated as such under section 41;

“lead department” means any Ministry, department, parastatal agency, public officer in which or whom any law vests functions of control or management of any segment of the environment;

“local environment plan” means the plan provided for under section 21;

“mixture containing oil” means a mixture with such oil content as may be specified by the Council or, if such oil content is not specified, a mixture with an oil content of one hundred parts or more in one million parts of the mixture;

“noise” means any undesirable sound that is intrinsically objectionable or that can cause adverse effects on human health or the environment;

“occupational air quality” means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere within a structure or underground space in which human activities take place;

“occupier” means a person in occupation or control of premises and, in relation to premises different parts of which are occupied by different persons, the respective persons in occupation or control of each part;

“oil” includes—

- (a) crude oil, diesel oil, fuel oil and lubricating oil; and
- (b) any other description of oil which may be prescribed by the Council;

“owner” means—

- (a) in relation to any premises—
 - (i) the registered proprietor of the premises,
 - (ii) the lessee or sub-lessee of premises, whether registered or not,
 - (iii) the agent or trustee of any of the owners described in subparagraphs (i) and (ii) or where such owner as described in subparagraphs (i) and (ii) cannot be traced or has died, his or her legal personal representative,
 - (iv) the person receiving the rent of the premises whether on his or her own account or as agent or trustee for any other person or as receiver or who would receive the rent if the premises were let to a tenant; and
- (b) in relation to any ship, the person registered as the owner or charterer of the ship or in the absence of registration, the person in actual possession of the ship except that in the case of a ship owned by any country and operated by a company which in that country is registered as the ship’s operator, owner includes that country;

“ozone layer” means the layer of atmospheric ozone above the planetary boundary layer;

“pollutant” means any substance whether liquid, solid or gaseous which directly or indirectly—

- (a) alters the quality of any segment or element of the receiving environment so as to affect any beneficial use adversely; or
- (b) is hazardous or potentially hazardous to health and includes objectionable odours, radioactivity, noise, vibration, temperature change or physical, chemical or biological change to any segment or element of the environment;

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety, or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause a contravention of any condition, limitation or restriction under this Act;

“practicable” means reasonably practicable having regard, among other things, to local conditions and circumstances and to the current state of technical knowledge;

“practicable means” includes the provision and the efficient maintenance of a manufacturing or other plant and the proper use thereof and the supervision by or on behalf of the occupier of any process or operation;

“premises” includes messuages, buildings, lands, and hereditament in every tenure, machinery, plant or vehicle used in connection with any trade carried on at any premises;

“prescribed” means prescribed by or under this Act or continued in operation by this Act or under regulations, standards and guidelines made pursuant to this Act;

“project” means any activity which has or is likely to have an impact on the environment;

“project brief” means a summary statement of a proposed development and its likely environmental effect;

“proprietary information” means information relating to any manufacturing process, trade secret, trade mark, copyright, patent or formula protected by law or by international treaties to which The Gambia is a party;

“radiation” includes ionizing radiations and any other radiation likely to have adverse effects on human or animal health and the environment;

“segment”, in relation to the environment, means any portion of the environment expressed in terms of volume, space, area, quantity, quality or time or any combination thereof;

“soil” includes earth, sand, rock, shales, minerals and the fauna and flora in the soil and derivatives thereof;

“standard” means the limits of pollution established under section 28 or under regulations made pursuant to this Act or any other law;

“sustainable development” means development that meets the needs of this generation without compromising the needs of future generations;

“sustainable use” means present use which does not compromise the ability to use the same resource by future generations;

“Technical Advisory Committee” means the Committee established under section 13 of this Act;

“Technical Working Group” means the Working Group established under section 16;

“trade” means any business or undertaking whether originally carried on at fixed premises or at varying places which results in the discharge of wastes and includes any activity prescribed to be a trade, business or undertaking for the purposes of this Act or any other law;

“vessel” includes ship, boat, floating structure or aircraft;

“**waste**” includes any matter prescribed to be waste and any rejected matter, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to adversely affect the environment;

“**water**” includes drinking water, river, stream, watercourse reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water; and

“**wetland**” means an area permanently or seasonally flooded by water where plants and animals have become adapted.

PART II

General Principles

3. Duty to maintain a decent environment

(1) A person has a duty to maintain and enhance the quality of the environment, including the duty to inform the Agency of activities that affect or are likely to affect the environment adversely.

(2) The Agency shall on its volition or on receipt of information referred to under subsection (1) instruct the person whose activities affect or are likely to affect the environment adversely—

(a) to discontinue the activities; or

(b) subject the activities to environmental monitoring or auditing as may be necessary.

(3) The Agency may instruct any public officer to take measures to prevent or discontinue any act deleterious to the environment.

4. Attorney-General to bring public interest action

(1) Notwithstanding section 3, the Agency may petition the Attorney-General requesting him or her to bring a public interest action if—

(a) a person instructed under section 3, refuses to follow the instructions given; or

(b) the activities of a person have adversely affected or are likely to adversely affect the environment.

(2) Every person has the capacity to bring a public interest action to protect the environment provided that the fiat of the Attorney-General authorising the action is first obtained.

PART III

*Administration***5. Establishment of the National Environment Management Council**

There is hereby established a Council to be known as the National Environment Management Council.

6. Composition of the Council

(1) The Council shall consist of the following—

- (a) the President, who shall be Chairperson and who may designate the Vice-President to act as Chairperson;
- (b) the Minister responsible for natural resources;
- (c) the Minister responsible for agriculture;
- (d) the Minister responsible for local government and lands;
- (e) the Minister responsible for health and social welfare;
- (f) the Minister responsible for finance and economic affairs;
- (g) the Minister responsible for trade, industry and employment; and
- (h) such other person as the President may co-opt.

(2) The Executive Director of the Agency shall be the Secretary to the Council.

7. Functions of the Council

The Council shall—

- (a) be the policy making organ of the Agency;
- (b) co-ordinate all policies, whether by Government or the private sector, which have or are likely to have a significant impact on the environment;
- (c) promote the integration of environmental considerations in all aspects of social and economic planning;
- (d) harmonise the plans and policies of the various sectors dealing with the environment and approve all environmental plans and policies;
- (e) promote the use of renewable sources of energy and the conservation of traditional sources;
- (f) supervise the work of the Agency;
- (g) liaise with Government on all issues affecting the environment;
- (h) establish the terms and conditions of service of the staff of the Agency;

- (i) commission and publish studies on the environment and promote public awareness of the environment;
- (j) adopt standards, guidelines and regulations proposed by the Agency; and
- (k) perform such other matters as Government may assign to the Council.

8. Proceedings of the Council

(1) The Council shall meet at least once in every three months at such times and places as the Chairperson may appoint.

(2) The Chairperson shall preside at all meetings of the Council and in his or her absence, he or she shall designate the Vice-President to preside.

(3) The decisions of the Council shall be carried by majority vote of the members present and voting and in the event of an equality of votes the Chairperson shall have a casting vote.

(4) At every meeting of the Council one half of the members shall constitute a quorum.

(5) The Chairperson may invite a person to attend and participate in the discussions of the Council provided that the person shall not have a right to vote.

(6) Subject to the provisions of this Act, the Council may determine its rules of procedure.

9. Establishment of the Agency

(1) There is hereby established an Agency to be known as the National Environment Agency which shall be the Secretariat of the Council.

(2) The Agency shall be the principal body responsible for the management of the environment and shall co-ordinate all activities of the Government in the field of the environment.

(3) The Agency shall be a body corporate with capacity to sue and be sued in its corporate name.

(4) The Agency shall be composed of the Executive Director and such other members as may be prescribed by the Council.

(5) The Executive Director shall be responsible for managing the affairs of the Agency.

10. Functions of the Agency

The Agency shall perform the following functions—

- (a) implement the policies of the Council on the environment;

- (b) liaise with the various Ministries, departments, and agencies of Government on all issues relating to the environment and ensure that environmental concerns are integrated into all spheres of national planning and project implementation;
- (c) liaise with the private sector, inter-governmental organisations, non-governmental organisations, governmental agencies of other states on all issues relating to the environment;
- (d) prepare proposals for environmental policies and strategies for the Council;
- (e) initiate legislative proposals, standards, guidelines and regulations in accordance with the provisions of this Act;
- (f) review and approve environmental impact assessments submitted in accordance with this Act or any other law;
- (g) undertake studies and submit reports and recommendations to the Council on such matters as are likely to have an impact on the environment;
- (h) promote public awareness of environmental issues through gathering, analysing and disseminating information about the environment and publishing periodic reports on the state of the environment;
- (i) attend to any complaint relating to the environment addressed to it;
- (j) carry out environmental audits and monitoring; and
- (k) carry out such other functions as the Council may assign to it or as may be incidental or conducive to the exercise by the Agency of any powers provided for under this Act.

11. Appointment, removal, etc., of the Executive Director

- (1) The Executive Director shall be appointed by the President after consultation with the Public Service Commission.
- (2) The Executive Director shall have such training and experience as may be prescribed by the Council.
- (3) The Executive Director shall serve for such period as may be determined by the Council unless—
 - (a) he or she resigns in writing addressed to the President; or
 - (b) he or she is removed for—
 - (i) gross misconduct, or
 - (ii) inability to discharge his or her duties whether arising from infirmity of body or mind or for any other cause.

12. Establishment of the Administration and Finance Committee

(1) There is hereby established the Administration and Finance Committee whose members shall be appointed by the Council and shall comprise such members as the Council may determine.

(2) The Committee shall—

- (a) be responsible for the appointment and discipline of staff of the Agency in accordance with the Agency's Manual of Procedure; and
- (b) perform such other functions as may be prescribed in the Agency's Manual of Procedure.

(3) Notwithstanding subsection (2) (a), the Public Service Commission may at the request of the Agency second public servants to the Agency.

13. Establishment of the Technical Advisory Committee

(1) There is hereby established the Technical Advisory Committee which shall be an advisory body to the Agency.

(2) The Technical Advisory Committee shall consist of fifteen members whose expertise shall reflect the various fields of environmental management.

(3) The members of the Technical Advisory Committee shall be appointed by the Council on the advice of the Executive Director and shall serve in a personal capacity for such period and on such terms and conditions as may be specified by the Council.

(4) A member of the Technical Advisory Committee may at any time resign his or her position in writing addressed to the Executive Director.

(5) Whenever a vacancy arises on the Technical Advisory Committee due to any cause, such vacancy shall be filled in accordance with subsection (3).

14. Functions of the Technical Advisory Committee

The Technical Advisory Committee shall advise the Agency on any issue which may be referred to it by the Agency and in particular, it shall—

- (a) review the achievement by the Agency of any goals and targets set by the Council and advise the Agency;
- (b) review and advise the Agency on any environmental impact assessments of major projects;
- (c) review and advise the Agency on any environmental plans;
- (d) review and advise the Agency on any environmental standards, guidelines and regulations made pursuant to this Act; and
- (e) perform such other advisory services to the Agency as are necessary.

15. Proceedings of the Technical Advisory Committee

- (1) The Executive Director shall be Chairperson of the Technical Advisory Committee.
- (2) The Technical Advisory Committee shall meet at such time and place as the Chairperson may appoint.
- (3) The Technical Advisory Committee may, where it deems it necessary, invite any person to attend and participate in the meetings of the Committee provided that such person shall not have a right to vote at such meeting.
- (4) The Executive Director shall designate from among the staff of the Secretariat, a Secretary to the Technical Advisory Committee.
- (5) Subject to the provisions of this Act, the Technical Advisory Committee shall adopt its own procedure.

16. Technical Working Groups

- (1) Where a matter requires specialised technical consideration, the Executive Director may establish a Technical Working Group for the purpose.
- (2) The Technical Working Group shall advise the Agency and conduct its affairs in accordance with the powers and procedures laid down in the instrument of their appointment.

17. Local Environment Committees in Banjul and Kanifing Municipality

- (1) There is hereby established in the City of Banjul established under the Local Government Act—
 - (a) the Banjul Environment Committee which shall be a Committee of the Banjul City Council; and
 - (b) a Ward Environment Committee in each Ward.
[Cap. 33:01.]
- (2) There is hereby established in the Kanifing Municipality, established under the Local Government Act—
 - (a) the Kanifing Environment Committee which shall be a Committee of the Kanifing Municipal Council; and
 - (b) a Ward Environment Committee in each Ward.
[Cap. 33:01.]
- (3) An Environment Committee shall serve for such term and on such conditions as may be prescribed.

18. Local Environment Committees in the Regions

(1) There is hereby established an Area Environment Committee for each Area Council established under the Local Government Act and for each village.

[Cap 33.01.]

(2) The Area Environment Committee shall be a Committee of the Area Council and shall be composed of such members of the Council and the Regional Co-ordinating Committee as may be prescribed.

(3) The Village Environment Committee shall be composed of ten members elected by the adult members of the village community provided that the following shall be represented—

- (a) the village elders;
- (b) the voluntary groups active in the village especially in the field of the environment;
- (c) the women;
- (d) the youth; and
- (e) the extension workers.

(4) A Committee established under this section shall serve for such term and on such conditions as may be prescribed.

19. Functions of the Local Environment Committees

(1) The Area Environment Committee, the Banjul Environment Committee and the Kanifing Environment Committee shall carry out the following functions—

- (a) integrate environmental considerations into all plans, projects, and strategies of the Area Council, the City Council or the Municipal Council, as the case may be;
- (b) co-ordinate the activities of the Agency relating to the management of the environment and natural resources within their jurisdiction;
- (c) initiate and promote by-laws relating to the environment to be adopted by the various municipalities;
- (d) co-ordinate with the Agency and other Ministries dealing with the environment, and co-ordinate the Village or Ward Environment Committees, as the case may be;
- (e) receive reports from Village Environment Committees or Ward Environment Committees, as the case may be;
- (f) integrate the views of the public, through wide consultation, into environmental policies and decisions;
- (g) develop a local environment plan as provided for in section 21; and

- (h) prepare a state of the environment report for the area under its jurisdiction at such intervals and in such form as may be prescribed.
- (2) The Village Environment Committee and the Ward Environment Committee shall—
- (a) carry out public education campaigns and encourage the public to participate in making decisions about the environment;
 - (b) mobilise the people within their jurisdiction on the basis of voluntary self-help to identify and restore degraded resources;
 - (c) introduce and popularise environmentally sound methods of land use;
 - (d) report any activities deleterious to the environment to public officers; and
 - (e) involve all persons within their jurisdiction in decision making.

PART IV

Environmental Planning

20. Planning at the national level

- (1) The Action Plan shall be the key instrument for national environmental planning.
- (2) The Action Plan shall be prepared by the Agency in consultation with the public and revised at least once every ten years and at such other times as may be necessary to take into account new developments and emergent needs.
- (3) The Action Plan shall relate to all matters affecting the environment and shall identify key environmental issues and strategies for preventing, controlling or mitigating any deleterious effects on the environment and shall include the conservation of and sustainable use of natural resources.
- (4) The Agency shall take into account the views of the public in the preparation of the Action Plan through conducting open public consultations.
- (5) The Action Plan and any revision thereto shall be approved by resolution of the National Assembly and shall be a binding document.

21. Planning at the local level

- (1) The unit for environmental planning at the local level shall be—
- (a) the City of Banjul;
 - (b) the Kanifing Municipality; and
 - (c) each Region.
- (2) The Environment Committee of each environmental planning unit shall prepare a local environment plan which shall—
- (a) be in conformity with the Action Plan;

- (b) be binding on all organs, agencies and persons within the planning unit;
- (c) be co-ordinated with plans prepared under the Physical Planning and Development Control Act;
- (d) contain such matters as may be prescribed and shall take into account local concerns and needs expressed through public consultations;
- (e) be approved by the Banjul City Council, Kanifing Municipal Council or the Area Council; and
- (f) be disseminated to the public.

[Cap. 57:08.]

PART V

Environmental Impact Assessment, Audits and Monitoring

22. Submission of project briefs for assessment

(1) A developer of a project provided for under Part A of the Schedule shall be required to submit a project brief to the Agency stating—

- (a) the nature of the project;
- (b) activities that shall be undertaken;
- (c) the possible products and by-products of the activities anticipated;
- (d) the number of people the project shall employ;
- (e) the area of the land, the air or the water that may be affected; and
- (f) any other matters as may be prescribed.

[Part A, Schedule.]

(2) If after considering the project brief, the Agency, in consultation with the lead department, is of the view that the proposed project will not have any adverse impact on the environment, it may approve the project.

(3) If pursuant to the consideration in subsection (2), the Agency determines that the project may have a significant impact on the environment, it shall require that an environmental impact study be made in accordance with the provisions of section 23.

(4) The Agency shall adopt guidelines and regulations for the making of preliminary environmental impact assessments to determine whether an environmental impact study should be made.

(5) In making an environmental impact assessment or environmental impact study under this section, the provisions of Part B of the Schedule shall be taken into account.

[Part B, Schedule.]

(6) A licence or permit required under any law shall not be granted to a person desiring to develop a project specified in Part A of the Schedule unless he or she complies with this section and sections 23 and 24.

23. Environmental impact studies and environmental impact statements

(1) Where the Agency has determined that an environmental impact study be conducted under section 22, the developer shall make an environmental impact statement on completing the study.

(2) The Agency shall make guidelines according to which the environmental impact study shall be made.

(3) Without prejudice to the generality of what may be included in an environmental impact study conducted according to subsection (2), the environmental impact statement shall state—

- (a) a description of the proposed activity or project and of activities it is likely to generate;
- (b) a description of the potentially affected environment including specific information necessary for identifying and assessing the environmental effects of the proposed activity;
- (c) a description of the technology and processes that will be used;
- (d) reasons for selecting the proposed site and rejecting alternative sites;
- (e) environmental impacts of the proposed activity including the direct, indirect, cumulative short-term and long-term effects and the possible alternatives;
- (f) an identification and description of measures proposed for eliminating, minimising or mitigating the anticipated adverse impacts;
- (g) an identification of gaps in knowledge and uncertainties which were encountered in compiling the required information;
- (h) an indication of whether the environment of any other state or areas beyond the limits of national jurisdiction are likely to be affected and the alternatives and mitigating measures;
- (i) a brief description of how the information provided for in this section has been generated; and
- (j) any other matter relevant to environmental assessment that may be prescribed.

- (4) The environmental impact statement shall be submitted to the Agency.
- (5) The environmental impact statement shall be a public document which may be freely consulted by any person, provided that the Agency shall protect any information which it considers to be proprietary.

24. Consideration and review of the environmental impact statement

(1) The Agency shall study the environmental impact statement submitted to it under section 23 and if it deems it to be complete—

- (a) invite public comments on the environmental impact statement in general;
- (b) invite the comments of those persons who are most likely to be affected by the proposed project by specifically drawing attention to the environmental impact statement;
- (c) consider the environmental impact statement and the public comments thereon and request any interested Government department or agency to make further comments;
- (d) consider the environmental impact statement and all the comments made; and
- (e) require the holding of a public hearing if it deems it necessary.

(2) The Agency may decide whether to—

- (a) approve the project if it is satisfied that the project will not have an adverse effect on the environment;
- (b) require that the developer redesign the project taking into account all environmental factors and the comments made;
- (c) reject the project if it has reasonable cause to believe that the project may cause significant injury to the environment; and
- (d) take any other measures that may be prescribed.

(3) In executing its duties under sections 22, 23 and this section, the Agency shall act within reasonable time or within such time frame as may be prescribed.

25. Environmental audits

(1) In executing the project, the developer shall take all practicable measures to ensure that the expectations of the environmental impact assessment are complied with.

(2) The developer shall, within a specified period after the completion of the project or the commencement of its operations, undertake an initial environmental audit of the project and make a report to the Agency.

(3) The Agency shall carry out a periodic audit of each project to ensure that the predictions made in the environmental impact assessment are complied with and the Agency may, in so doing—

- (a) use inspectors in accordance with section 42; and
- (b) require that the developer keeps records and submits reports to the Agency at such periods as the Agency deems necessary on how far the project conforms in operation with the predictions made in the environmental impact assessment.

(4) The developer shall take all reasonable measures to mitigate any undesirable effects of the project not contemplated in the environmental impact assessment and shall report such measures to the Agency.

26. Monitoring of existing projects

(1) The Agency shall monitor the operation of all projects in existence at the date of commencement of this Act with a view to determining their compliance with the provisions of this Act or any regulations made thereunder.

(2) The Agency shall, where it determines that the project does not comply with this Act or any regulations made hereunder, require that the developer take remedial measures in such a manner and period as the Agency shall determine.

(3) The Agency shall require all operators of existing projects covered by Part A of the Schedule to prepare and submit annual reports on how far their projects comply with the provisions of this Act.

[Part A, Schedule.]

27. Monitoring of natural phenomena

The Agency shall monitor natural phenomena which have possible negative impacts on the environment and take or recommend preventive measures.

PART VI

Environmental Standards

28. Establishment of criteria and standards

(1) The Agency shall establish criteria and measurement of environmental quality in general and in particular, of—

- (a) air quality;
- (b) water quality;
- (c) smell;
- (d) noise;
- (e) vibrations;

- (f) radiation;
- (g) soil quality;
- (h) buildings and other structures;
- (i) industrial products;
- (j) materials used in industry, agriculture and for domestic uses;
- (k) effluent; and
- (l) solid waste.

(2) The Agency shall, in consultation with the lead department, establish the minimum standards for environmental quality in general and in particular for—

- (a) air quality, including ambient air quality, occupational air quality and emissions for both stationary and mobile air pollution sources;
- (b) water quality, taking into account different uses including drinking water, water for industry, agriculture, fisheries, wildlife and recreational purposes;
- (c) effluent discharges;
- (d) noise;
- (e) smell;
- (f) vibrations;
- (g) soil quality;
- (h) radiation;
- (i) buildings and other structures;
- (j) industrial products;
- (k) materials used in industry, agriculture and for domestic purposes; and
- (l) solid waste disposal.

PART VII

Environmental Management

29. Incentives for good environmental behaviour and disincentives for bad environmental behaviour

(1) The Agency may propose to the Government for inclusion in the annual budget proposals—

- (a) tax incentives to encourage good environmental behaviour which promote the conservation of natural resources and the prevention or abatement of pollution;

- (b) user fees to ensure that those who use environmental resources pay the proper value for the utilisation of the resources; and
- (c) disincentives, including tax to deter bad environmental behaviour that leads to the unsustainable use of natural resources or that causes pollution.

(2) The Council may, by Order published in the *Gazette*, promulgate other incentives and disincentives not of a fiscal nature.

30. Management of coastal zones, rivers and wetlands

(1) Unless expressly allowed to do so under any law or by the Agency in writing, a person shall not, in relation to the coastal zone, rivers and any other wetlands—

- (a) use, erect, reconstruct, place, alter, extend, remove or demolish any part of any structure in, on, under or over the sea bed;
- (b) excavate, drill, tunnel or otherwise disturb;
- (c) introduce or plant any plant or part of a plant whether alien or indigenous;
- (d) introduce any animal or micro-organism whether alien or indigenous;
- (e) deposit or dump any substance which is likely to have adverse effects on the environment;
- (f) divert a river or lagoon; or
- (g) drain any river, lagoon or wetland.

(2) The Council may make regulations and guidelines for the management of the environment of the coastal zone, rivers and other wetlands and in particular may provide for—

- (a) the development of an overall management plan of the coastal zone taking into account the various sectoral interests;
- (b) measures for the control of coastal erosion;
- (c) the conservation of mangrove ecosystems on the basis of the principle of optimum sustainable yield;
- (d) the harvesting of the minerals of the coastal zone including sand, clay, shells and the restoration of the mineral sites;
- (e) the environmentally sound development of tourism resources, especially the orderly and planned development of building structures along the coast;
- (f) containment of oil spill emergencies;
- (g) the management of freshwater wetlands;

- (h) containment of salt water intrusion into rivers, aquifers and agricultural lands; and
- (i) the exploitation of the offshore areas, including the continental shelf, the territorial sea and the exclusive economic zone.

(3) The Council may declare protected zones in any area of the coastal zone, river or wetland and exclude or restrict human activities, if it thinks that such an area—

- (a) is at great risk from unsustainable human activities; or
- (b) is of ecological, cultural or aesthetic significance.

31. Management of the inland zone

(1) The Agency shall establish environmentally sound management procedures for—

- (a) forests, including reforestation, afforestation, agroforestry, all forms of tree planting and the development of wood plantations;
- (b) soil resources;
- (c) rangelands;
- (d) natural heritage sites; and
- (e) mining operations.

(2) The Agency may restrict or prohibit the use of any method for the exploitation of the natural resources of the inland zone.

(3) The Agency shall take appropriate measures for the development and improvement of the urban environment in consultation with the lead departments.

32. Conservation of biological diversity

The Agency shall, in consultation with the lead department—

- (a) develop national strategies, plans and programmes for the conservation of biological diversity;
- (b) integrate the conservation and sustainable utilisation of ethnic resources in relation to biological diversity in existing government activities and the activities of private persons;
- (c) identify the components of the biological diversity of The Gambia;
- (d) determine which components of biological diversity are threatened with extinction;
- (e) prepare and maintain an inventory of biological diversity;
- (f) determine existing and potential threats to biological diversity and devise measures to remove or mitigate their effects; and

- (g) prohibit or restrict any trade or traffic in any component of biological diversity.

33. Conservation of biological diversity *in situ*

- (1) The Agency shall promote the conservation of biological diversity *in situ*.
- (2) The Agency shall establish guidelines for—
 - (a) land use methods that are compatible with the conservation of biological diversity;
 - (b) the selection and management of protected areas so as to promote the conservation of the various terrestrial and aquatic ecosystems of The Gambia;
 - (c) the selection and management of buffer zones near protected areas;
 - (d) special measures for protection of species, habitats and ecosystems faced with extinction;
 - (e) prohibiting or controlling the introduction of alien species; and
 - (f) identifying and integrating traditional conservation knowledge into the conservation policy.

34. Conservation of biological diversity *ex situ*

- (1) The Agency shall promote the conservation *ex situ* of those components of biological diversity which are threatened with extinction.
- (2) The Agency shall make guidelines for the environmentally sound establishment and management of—
 - (a) germplasm banks;
 - (b) botanical gardens and herbaria;
 - (c) zoos and animal orphanages; and
 - (d) such other facilities as may be prescribed.
- (3) Species conserved *ex situ* may be re-introduced into their native habitats and ecosystems provided that the Agency is satisfied that—
 - (a) the threat to the species no longer exists; and
 - (b) viable populations of the threatened species have been achieved.

35. Access to genetic resources

- (1) The genetic resources of The Gambia shall constitute an essential part of the natural wealth of resources of the people of The Gambia.
- (2) The Council may make regulations and prescribe guidelines regarding access to the genetic resources of The Gambia, including—
 - (a) measures regulating the export of germplasm;

- (b) measures for sharing of benefits derived from germplasm originating from The Gambia; and
- (c) fees to be paid for access to germplasm.

36. Management of the working environment

(1) The Council may prescribe measures for the management and improvement of the working environment.

(2) The Agency shall identify and classify materials, processes and wastes that are dangerous to human or animal health and the environment.

(3) The Council shall make regulations and establish guidelines for the management of the materials, processes and wastes identified in accordance with subsection (2).

37. Protection of the ozone layer

The Council shall make regulations controlling, prohibiting or restricting the manufacture or use of substances that deplete the ozone layer identified in accordance with the Vienna Convention for the Protection of the Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer.

PART VIII*Pollution Control***38. Prohibition of the discharge of materials, substances and oil into the environment**

(1) A person shall not discharge any dangerous material, or substance, oil or mixture containing oil into any waters or any other segment of the environment except in accordance with regulations prescribed by the Council.

(2) A person who discharges any dangerous material or substance, oil or mixture containing oil in any water or other segment of the environment contrary to subsection (1) commits an offence.

(3) Where a person is convicted under subsection (2) the court may in addition to any penalty imposed by it, require that person to—

- (a) pay the cost of the removal of the dangerous substance or material, oil or mixture containing oil, including any cost to Government in restoring the damaged environment; and
- (b) pay the costs incurred by third parties resulting from the discharge.

(4) The owner of a vessel, production or storage facility or motor vehicle from which a discharge occurs contrary to this section has the duty to mitigate the impact of the discharge by—

- (a) giving notice of the discharge to the Agency and other public officers;

- (b) commencing clean-up operations using the best available methods; and
- (c) complying with such directions as the Agency may give.

(5) The Agency may seize the production or storage facility, vessel or motor vehicle until the owner takes mitigation measures.

(6) The Agency may dispose of the production or storage facility, vessel or motor vehicle seized in accordance with subsection (5) to meet the cost of clean-up and restoration measures where the owner, after a passage of a reasonable time, fails to take the necessary measures.

(7) The Agency shall not be liable to a suit for anything done by it in good faith under subsections (5) and (6).

(8) A person who hinders or obstructs the Agency or any person designated by the Agency to act under this section commits an offence and is liable on conviction to a fine of not more than three thousand dalasis or to imprisonment for a term of not more than one year.

39. Prohibition of pollution

(1) A person shall not pollute or permit any other person to pollute the environment in excess of any standards or guidelines established under section 28.

(2) A person who pollutes or permits any other person to pollute the environment in excess of any standards and guidelines established under this Act commits an offence.

(3) In addition to any sentence that may be imposed on a polluter under subsection (2), the court shall require the person to—

- (a) pay the full cost of cleaning up the environment and of removing the effects of the pollution; or
- (b) clean up the environment and remove the effects of the pollution.

(4) Without prejudice to the provisions of subsections (2) and (3), the court may also require the polluter to meet the costs of the pollution to third parties through compensation, restoration or restitution.

40.

[Deleted by Act No. 13 of 2008.]

PART IX

Inspection, Analysis and Records

41. Environmental inspectors

The Agency may, by notification in the *Gazette*, appoint environmental inspectors.

42. Powers and duties of the environmental inspectors

(1) An inspector may, in the performance of his or her duties under this Act or any regulations made thereunder, at all reasonable times and without a warrant—

- (a) enter any land, premises, vessel or vehicle to determine whether the provisions of this Act are being complied with;
- (b) require the production of, inspect, examine and copy licences, registers, records, and other documents required under this Act or any other law relating to the environment and the management of natural resources;
- (c) make examinations and enquiries to determine whether this Act is complied with;
- (d) take samples of any articles or substances to which this Act relates and, as may be prescribed, submit the samples for test or analysis;
- (e) carry out periodic inspections of all establishments within the local limits of his or her jurisdiction whose activities are likely to have significant impact on the environment;
- (f) carry out such other inspections as may be necessary to ensure that the provisions of this Act are being complied with;
- (g) on the instructions of the Executive Director, seize any vessel, motor vehicle, manufacturing plant, equipment or any other thing which he or she believes has been used in committing an offence under this Act;
- (h) on the instructions of the Executive Director, close any manufacturing plant or other activity which pollutes or is likely to pollute the environment contrary to this Act for such period as the Executive Director may determine;
- (i) on the instructions of the Executive Director, issue an improvement notice requiring the occupier of any manufacturing plant or other activity to cease any activities deleterious to the environment which are contrary to this Act or to install new plant or safeguards within such reasonable time as the inspector may determine; and
- (j) arrest any person whom he or she believes has committed an offence under this Act and hand over the person to the police for investigations.

(2) An inspector may at any time install any equipment on any land, premises, manufacturing plant, motor vehicle or vessel for the purpose of monitoring compliance with this Act.

(3) A person who tampers with any installation under subsection (2) commits an offence and is liable on conviction to a fine of not more than one thousand dalasis or to imprisonment for a term of not more than three years.