

ENVIRONMENTAL AUDITS AND ENVIRONMENTAL IMPACTS ASSESSMENT

EMCA 1999 SECTION 58. Application for an Environmental Impact Assessment

License

(1) Notwithstanding any approval, permit or license granted under this Act or any other law in force in Kenya, any person, being a proponent of a project, shall before for an financing, commencing, proceeding with, carrying out, executing or conducting or causing to be financed, commenced, proceeded with, carried out, executed or conducted by another person any undertaking specified in the Second Schedule to this Act, submit a project report to the Authority, in the prescribed form, giving the prescribed information and which shall be accompanied by the prescribed fee.

(2) The proponent of a project shall undertake or cause to be undertaken at his own expense an environmental impact assessment study and prepare a report thereof where the Authority, being satisfied, after studying the project report submitted under subsection (1), that the intended project may or is likely to have or will have a significant impact on the environment, so directs.

(3) The environmental impact assessment study report prepared under this subsection shall be submitted to the Authority in the prescribed form, giving the prescribed information and shall be accompanied by the prescribed fee.

EMCA 1999 SECTION 68. Environmental audit

(1) The Authority shall be responsible for carrying out environmental audit of all activities that are likely to have significant effect on the environment.

(2) An environmental inspector appointed under this Act may enter any land or premises for the purposes of determining how far the activities carried out on that land or premises conform to the statements made in the environmental impact assessment study report issued in respect of that land or those premises under section 58(2). **[Rev. 2012] No. 8 of**

1999

(3) The owner of the premises or the operator of a project for which an environmental impact assessment study report has been made shall keep accurate records and make annual reports to the Authority describing how far the project conforms in operation with the statements made in the environmental impact assessment study report submitted under section 58(2).

(4) The owner of premises or the operator of a project shall take all reasonable measures to mitigate any undesirable effects not contemplated in the environmental impact assessment study report submitted under section 58(2) and shall prepare and submit an environmental audit report on those measures to the Authority annually or as the Authority may, in writing, require.

121. Records to be kept

(1) The Director-General shall, by notice in the *Gazette*, prescribe the activities for which records shall be kept for the purposes of this Act, the contents of such records and the manner in which they shall be kept.

(2) The records kept in accordance with subsection (1) of this section and any other records available at the site of an establishment or undertaking shall be made available at such reasonable time to any environmental inspector for the purpose of—

- (a) An environmental audit;
- (b) Environmental monitoring and evaluation;
- (c) Pollution control;
- (d) Inspection;
- (e) Any other purpose that may be prescribed by the Director-General from time to time.

137. Offences relating to inspection

Any person who—

- (a) Hinders or obstructs an environmental inspector in the exercise of his duties under this Act or regulations made thereunder;

- (b) Fails to comply with a lawful order or requirement made by an environmental inspector in accordance with this Act or regulations made thereunder;
- (c) Refuses an environmental inspector entry upon any land or into any premises, vessel or motor vehicle which he is empowered to enter under this Act or regulations made thereunder;
- (d) impersonates an environmental inspector;
- (e) Refuses an environmental inspector access to records or documents kept pursuant to the provisions of this Act or regulations made thereunder;
- (f) fails to state or wrongly states his name or address to an environmental inspector in the cause of his duties under this Act or regulations made thereunder;
- (g) Misleads or gives wrongful information to an environmental inspector under this Act or regulations made thereunder;
- (h) fails, neglects or refuses to carry out an improvement order issued under this Act by an environmental inspector, commits an offence and shall, on conviction be liable to imprisonment for a term not exceeding twenty four months, or to a fine of not more than five hundred thousand shillings, or both.

138. Offences relating to Environmental Impact Assessment

Any person who—

- (a) Fails to submit a project report contrary to the requirements of section 58 of this Act;
- (b) fails to prepare an environmental impact assessment report in accordance with the requirements of this Act or regulations made Thereunder (c) fraudulently makes false statements in an environmental impact assessment report submitted under this Act or regulations made thereunder, commits an offence and is liable on conviction to imprisonment for a term not exceeding twenty four months or to a fine of not more than two million shillings or to both such imprisonment and fine.

139. Offences relating to records

Any person who—

- (a) Fails to keep records required to be kept under this Act;
 - (b) Fraudulently alters any records required to be kept under this Act;
 - (c) Fraudulently makes false statements in any records required to be kept under this Act;
- commits an offence and is liable upon conviction to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than eighteen months or to both such fine and imprisonment.

140. Offences relating to standards

Any person who—

- (a) contravenes any environmental standard prescribed under this Act;
- (b) contravenes any measure prescribed under this Act;
- (c) uses the environment or natural resources in a wasteful and destructive manner contrary to measures prescribed under this Act, commits an offence and shall be liable upon conviction, to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than twenty-four months or to both such fine and imprisonment.

141. Offences relating to hazardous wastes, materials, chemicals and radioactive substances

Any person who—

- (a) Fails to manage any hazardous waste and materials in accordance with this Act;
- (b) Imports any hazardous waste contrary to this Act;
- (c) Knowingly mislabels any waste, pesticide, chemical, toxic substance or radioactive matter;
- (d) fails to manage any chemical or radioactive substance in accordance with this Act;
- (e) Aids or abets illegal trafficking in hazardous waste, chemicals, toxic substances and pesticides or hazardous substances;
- (f) disposes of any chemical contrary to this Act or hazardous waste within Kenya;

(g) Withholds information or provides false information about the management of hazardous wastes, chemicals or radioactive substances, commits an offence and shall, on conviction, be liable to a fine of not less than one million shillings, or to imprisonment for a term of not less than two years, or to both.

142. Offences relating to pollution

(1) Any person who—

(a) Discharges any dangerous materials, substances, oil, oil mixtures into land, water, air, or aquatic environment contrary to the provisions of this Act;

(b) pollutes the environment contrary to the provisions of this Act;

(c) discharges any pollutant into the environment contrary to the provisions of this Act, commits an offence and shall on conviction, be liable to a fine not exceeding five hundred thousand shillings.

(2) In addition to any sentence that the Court may impose upon a polluter under subsection (1) of this Section, the Court may direct that person to—

(a) Pay the full cost of cleaning up the polluted environment and of removing the pollution;

(b) Clean up the polluted environment and remove the effects of pollution to the satisfaction of the Authority.

(3) Without prejudice to the provisions of subsections (1)(2) of this section, the court may direct the polluter to meet the cost of the pollution to any third parties through adequate compensation, restoration or restitution.

143. Offences relating to Environmental restoration orders, easements and conservation orders

Any person who—

(a) Fails, neglects or refuses to comply with an environmental restoration order made under this Act;

(b) Fails, neglects or refuses to comply with an environmental easement, issued under this Act;

(c) Fails, neglects or refuses to comply with an environmental conservation order made under this Act,
commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred thousand shillings, or to both.

144. General penalty

Any person who commits an offence against any provision of this Act or of regulations made thereunder for which no other penalty is specifically provided is liable, upon conviction, to imprisonment for a term of not more than eighteen months or to a fine of not more than three hundred and fifty thousand shillings or both such fine and imprisonment.

Don't wait for the government officers to enforce the non-compliance with the law. Please book for the **Environmental Impact assessment** and **Environmental audits** now. Our **prices** are in the prices tab. You can also **get in touch** for any enquiry.