

May 8, 2014

Part 8 of the National Environmental Management: Waste Act 59 of 2008

The long awaited Part 8 of the National Environmental Management: Waste Act 59 of 2008 ("**Part 8**"), commenced on 2 May 2014.

Part 8 applies to contaminated land irrespective of when the contamination occurred or from whence it originated.

Part 8 provides for:

1. identification of investigation areas
2. submission of site assessment reports in respect of investigation areas
3. maintenance of a national register of investigation areas, and
4. restriction of the transfer of contaminated land

Investigation areas are classified by means of a government gazette notice identifying:

1. a specific piece of land, or
2. all land on which a category of high risk activities is taking or has taken place.

Landowners **and** land-users are now compelled to notify the Minister and MEC of significantly contaminated land - it is likely that this notification will result in the land becoming an investigation area.

In addition to creating criminal offences , Part 8 is likely to give rise to civil claims as a result of the decrease in value of contaminated land (and possibly any adjoining land) and costs associated with implementing site assessments and remediation or monitoring orders. It should be noted that the national register and site assessment reports are likely to be admissible evidence in such criminal and/or civil proceedings, and that the public could probably gain access to the national register and site assessment reports by means of applications launched in terms of the **Promotion of Access to Information Act (PAIA)**.

The impact of this legislation will have on companies holding substantial property portfolios could be substantial and is likely to require the re-valuation of property required to be listed in the contaminated land register and subsequent re-statement of balance sheet values.

Your Key Contacts



Noor Kapdi

Chief Executive Officer -
Africa, Johannesburg

D +27 11 326 6257

noor.kapdi@dentons.com



Shahid Sulaiman

Senior Partner, Cape Town

D +27 21 686 0740

shahid.sulaiman@dentons.com