

Waste Reclaimers and South African Environmental Law

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List of abbreviations

CoJ	City of Johannesburg
DEAT	Department of Environmental Affairs and Tourism
DWAF	Department of Water Affairs and Forestry
ECA	Environmental Conservation Act 73 of 1989
IDP	Integrated Development Plan
Ind.WMP	Industry Waste Management Plan
IWMP	Integrated Waste Management Plan
IP&WM	Integrated Pollution and Waste Management Policy (2000)
MRF	Material Recovery Facility
MPRDA	Mineral and Petroleum Resources Development Act 28 of 2002
NEMA	National Environmental Management Act 107 of 1998
NEM:WA	National Environmental Management: Waste Act 59 of 2008
NWMS	National Waste Management Strategy (2011)
OHSA	Occupational Health and Safety Act 85 of 1993
PACSA	Packaging Council of South Africa
SAWPA	South African Waste Pickers Association
SEMA	Specific Environmental Management Act
WIS	Waste Information System
WRDM	West Rand District Municipality

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Abstract

In South Africa thousands of unemployed people earn a living by recovering recyclable materials from the municipal stream, garbage bins and garbage dumps. In so doing their activities are also beneficial to the environment because raw materials and energy are saved and pollution is reduced. However, waste reclamation in South Africa seems not to be adequately regulated, supported nor formally recognised by authorities. This study aims to investigate the extent to which South African Environmental law enables and regulates waste reclamation, whether directly and/or indirectly, with a view to improving the regulatory policy and legislative framework pertaining to waste reclamation. In this regard the study considers key policy and legislation pertaining to waste management in South Africa. To this end the *Minimum Requirements for Waste Disposal by Landfill* as published by the then Department of Water Affairs and Forestry serve as a guideline for the formalisation and control of waste reclamation at landfills. However, there is a need to formulate regulations under NEM: WA to regulate waste reclamation inside and even outside landfills. Moreover, the Department of Water and Environmental Affairs also needs to formulate standard model waste reclamation by-laws which would be adapted by municipalities to suit local circumstances.

The long term view of government is to phase out waste reclamation at landfills in favour of waste separation at source. In order to realise this objective it is important for government, especially at local level, to integrate waste reclaimers in the formal waste management programmes by virtue of their experience in recovery of recyclables from the waste stream, and these programmes must be included in municipal IWMPs and IDPs for implementation.

Keywords: waste reclamation, environmental law, separation at source, waste re-use, recovery and recycling

Opsomming

In Suid-Afrika verdien duisende werklose mense inkomste deur herwinbare materiale vanuit die munisipale stroom, vullisblikke en vullisstortterreine in te win. Hierdie aktiwiteite is voordelig vir die omgewing aangesien daar op grondstowwe en energie bespaar word en besoedeling verminder word. In Suid-Afrika word die herwinning van afval egter nie doeltreffend gereguleer nie, en word ook nie formeel deur owerhede ondersteun of herken nie. Hierdie studie onderneem 'n ondersoek om vas te stel tot watter mate, hetsy direk of indirek, bestaande afvalbestuursbeleide en die wetgewing op die omgewing waarbinne afvalherwinners funksioneer, inwerk, met die uiteindelijke doel om hulle omstandighede te verbeter. In hierdie opsig beskou hierdie studie sleutel beleide en -wetgewing wat met vullisherwinning verband hou in Suid-Afrika. Die *Minimum Vereistes vir Afvalverwydering by Vullisstortterreine* soos uiteengesit in die destydse Departement van Waterwese en Bosbou dien vir hierdie doeleindes as riglyne vir die formalisering en bestuur van afvalherwinning by vullisstortterreine. Dit is egter nodig om riglyne onder die *Wet op Nasionale Omgewingsbestuur: Afval* te formuleer om sodoende afvalherwinning binne en rondom vullisstortterreine te reguleer. Verder moet die Departement van Waterwese en Omgewingsake ook standaardmodel-afvalherwinningsbywette formuleer wat deur die munisipaliteite aangewend kan word wat by die plaaslike omstandighede pas.

In die langtermyn bevestig die regering om hulpbronontginning uit afval wat by vullisstortterreine plaasvind, uit te faseer. Maar vir hierdie doelstelling om bereik te word, is dit belangrik vir die regering - veral op plaaslike vlak - om afvalherwinning binne die formele afvalbestuursprogramme te integreer, met byvoorbeeld die ontginning van hulpbronne uit afval onder andere. Programme as sulks moet by munisipale Geïntegreerde Afvalbestuursprogramme en Geïntegreerde Ontwikkelingsprogramme ingesluit word vir implementering.

Sleutelwoorde: hulpbronontginning, omgewingsreg, skeidingby plek van oorsprong, afvalhergebruik, afvalterugwinning en herwinning.

Chapter 1: Contextualising the problem

1.1 Introduction

There are no formalised systems for source separation of waste in South Africa and as a result large quantities of recyclables end up in landfill sites where they are salvaged by waste reclaimers.¹ Waste reclaimers are people engaged in collecting recyclable materials which they gather from waste that has been dumped at landfill sites and elsewhere, which they then use or sell for subsistence and survival.² Coming from disadvantaged backgrounds of poverty, unemployment and illiteracy, these people strive to earn a legitimate livelihood from salvaging and selling recyclable materials from waste.

Not only does waste reclamation provide an income for reclaimers, but it is also beneficial to the environment as valuable resources which would have gone to waste are salvaged and recycled. Pollution is reduced, and the life span of the landfill site is extended because the amount of waste that is disposed is reduced. Therefore, waste reclamation could save municipalities money and other resources which could have been used to commission new landfill sites. Waste reclamation could also provide a steady income to sustain waste reclaimers.³ In sum then, waste reclamation could be beneficial both to the reclaimer and to the environment.

Currently it seems as if waste reclamation *per se* is not adequately regulated by statute. However, as waste reclamation can be beneficial to the environment, it is necessary to determine how the South African environmental law framework enables and regulates it, whether directly or indirectly. Section 24 of the Constitution⁴ affirms the right of all citizens to an environment that is not harmful

1 DEAT 2005 *National Waste Management Strategy Implementation Project* 9.

2 The term waste reclaimer is defined in more detail in Chap 2.

3 Samson 2008 *Reclaiming livelihoods* 41.

4 *Constitution of the Republic of South Africa* of 1996 (herein after referred to as the Constitution). The legal framework within which waste is regulated in South Africa is discussed in more detail in chap 3.

to their health or well being and enjoins the state to put in place measures that will protect the environment for the benefit of present and future generations. In this regard it will be argued in this mini-dissertation that waste reclaimers, as the people who actually sort through waste to recover recyclables from the waste stream, have a role to play in waste management and sustainable development⁵ as espoused by section 24 of the Constitution.

The *National Environmental Management Act*⁶ also emphasises the need for sustainable development and states among others, that waste be avoided, or alternatively be minimised, reused or recycled.⁷ This seems to further open up possibilities for waste reclaimers to participate in waste management in the formal sector. NEMA is the framework legislation under which the *National Environmental Management: Waste Act*⁸ was promulgated. The latter was enacted to give effect to section 24 of the Constitution to regulate waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and environmental degradation and to secure ecologically sustainable development, among others.⁹

In view of the potential role that waste reclaimers could have in waste management and sustainable development, the research question that underlies this study is: to what extent does South African environmental law enable and regulate waste reclamation directly and/or indirectly? To answer this question, this study will first set out the broad legal framework within which waste is regulated in South Africa, with particular emphasis on regulation of waste reclamation. An endeavour will then be made to identify regulatory mechanisms whereby waste reclaimers can be integrated into the formal waste management system. In the final instance the study is concluded with recommendations to improve the regulation of waste reclaimers.

5 Sustainable development is defined in s 1 of NEMA as "... the integration of social, economic and environmental factors into planning, implementation and decision making so as to ensure that development serves present and future generations".

6 Act 107 of 1998 (hereinafter referred to as NEMA).

7 S 2(4)(a)(iv) of NEMA.

8 Act 59 of 2008 (hereinafter referred to as NEM:WA).

9 See short title of NEM:WA.

Chapter 2: Waste reclamation in perspective

2.1 Introduction

In order to establish the extent to which South African environmental law regulates waste reclamation it is necessary that clarity be gained regarding the precise meaning of the term 'waste reclaimer' so as to put the concept of waste reclamation into perspective. It is necessary to define this term as many terms are used to denote waste reclaimers, depending on factors such as the local language and the material that they collect.¹⁰ Therefore in this chapter the term 'waste reclaimer' is explained. A brief profile of waste reclaimers is presented, in which some of the defining characteristics of the term are highlighted. In addition, this chapter explores the potential benefits of waste reclamation, both to the environment and to the waste reclaimer, and also highlights some concerns associated with waste reclamation, especially at landfill sites.

2.2 Defining the term 'waste reclaimer'

Before defining the term 'waste reclaimer,' it is necessary to elucidate the concepts of 'formal sector' and 'informal sector' in waste management in order to contextualise the phrase and to understand the milieu within which waste reclaimers act. According to Scheinberg¹¹ the informal sector in waste management refers to individuals, families and private sector (micro) enterprises whose activities are neither organised, sponsored, financed, contracted, recognised, managed, taxed nor reported on by the formal solid waste authorities. On the other hand Van de Klundert and Lardinois¹² define the formal sector in waste management as those corporations, institutions, firms, and individuals who operate registered and/or incorporated businesses with official business licences, an organised labour force governed by labour laws, some degree of capital investment, and generally more technology.

10 See Samson *Reclaiming Reusable and Recyclable Materials in Africa 2*.

11 Scheinberg *et al Economic Aspects*.

12 Van de Klundert and Lardinois Date unknown <http://www.gdrc.org/uem/waste/swm-finge1.htm>.

From the definitions of the 'formal sector' and 'informal sector' in waste management above, it can be deduced that the formal sector enjoys more support and recognition from the government and waste management authorities than the informal sector.

Waste reclaimers function in the informal sector of waste management. They are people who collect recyclable materials gathered from waste at landfill sites and elsewhere, which they then sell for a living.¹³ However, a formal and universally accepted name to refer to waste reclaimers has yet to be identified. They are, *inter alia*, also referred to as waste collectors, scavengers, salvagers, scrap pickers, rag pickers or trash pickers.¹⁴ At the first world conference focusing on waste pickers held in Bogota, Columbia in 2008 it was decided to use the term waste picker (English for 'reciclador' in Spanish or 'catador' in Portuguese) because the term 'waste picker' was seen to aptly capture waste reclaimers' activities at the bottom of the waste recycling chain.¹⁵ For the purpose of this dissertation the term 'waste reclaimer' will, however, be used because this is the term that is most frequently used in government policy documents. Waste reclaimers range from poverty stricken people who sort through household and trade refuse in search of food and recyclables, to informal collectors of recyclables who sell their wares to middle men, and also include organised pickers who belong to cooperatives, unions, or associations.¹⁶ Samson states that:

Waste reclaimers generate their livelihoods and sustain themselves and their families by retrieving reusable and recyclable materials from the waste stream – typically from streets, open spaces, garbage bins and garbage dumps. Historically their work has been considered informal and often illegal. Nevertheless they form an essential service and are an integral, although frequently unacknowledged part of the waste management systems in the cities where they work...¹⁷

-
- 13 Theron 2010 <http://www.inclusivecities.org/toolbox/organising-waste-pickers-south-africa-web.pdf>.
- 14 Some of the names ascribed to waste pickers, such as 'scavengers' are perceived by them as derogatory – Samson 2009 *Refusing to be cast aside 2*.
- 15 Bonner 2008 <http://www.wiego.org/sites/wiego.org/files/Bonner-wastepickers.pdf>.
- 16 Medina 1997 <http://wiego.org/sites/wiego.org/files/publications/file/Medina-wastepickers.pdf>.
- 17 Samson *Refusing to be cast aside 3*.

Thus waste reclamation takes place in a variety of settings which include source separation at the place of generation, retrieval of recyclable materials from commercial and residential containers, recovery of recyclables from refuse dumped on the streets, public spaces, vacant lots and municipal landfill sites.

There are no accurate statistics of the number of waste reclaimers in South Africa, but the number is estimated to be 88 000.¹⁸ The majority of waste reclaimers in South Africa are black and they range in age from youngsters of school going age to elderly people of both sexes. A study conducted on waste reclaiming in the streets of Cape Town found that the majority of waste reclaimers were Africans and Coloureds ranging in age from 30 – 60 (Salt River – Woodstock area), 50 – 80 (Khayelitsha) and 23 - 70 (Phillipi – Gugulethu).¹⁹

Across different countries and regions worldwide the context within which waste reclaimers function and shared characteristics reflected by waste reclaimers include:²⁰

- They are subject to social stigma, face poor working conditions, and are frequently harassed.²¹
- Profitability of waste reclaiming is dependent on what markets are prepared to pay for recyclables.²²
- Waste reclaiming is often a family enterprise.²³
- In some cities waste pickers are migrants.²⁴

18 Anon 2011 <http://www.mywaste.co.za/articles/view/11>.

19 Benson and Vanqa-Mgijima 2009 <http://www.inclusivecities.org/toolbox/organising-on-the-web.pdf>.

20 WIEGO 2011 <http://wiego.org/informal-economy/occupational-goups/waste-pickers>.

21 See Hallows and Munnik *Wasting the Nation* 157 158. See also Benson and Vanqa-Mgijima 2009 <http://www.inclusivecities.org/toolbox/organising-on-the-web.pdf>.

22 Westerhoff 2010 <http://washafrika.wordpress.com/2010/10/07/south-africarecycling-plan-will-affect-informal-wastecollectors> states that reclaimers earn about R3000 a month on average.

23 See Chamane 2009 South African Labour Bulletin 23 who states that it is not uncommon to see both parents of a household work at the dumpsite as reclaimers so as to feed and pay for their children' school fees.

24 See for example Benson and Vanqa-Mgijima 2009 <http://www.inclusivecities.org/toolbox/raising-on-the-web.pdf> where it is stated that about 70% of female reclaimers in the streets of Cape Town are migrants from the former homelands of Ciskei and Transkei.

- Waste reclaiming appears to be chaotic work but is in fact organised.²⁵
- Waste reclaimers are often not part of public solid waste management systems.²⁶
- Waste reclaiming is easily learned and does not require literacy.
- Non organised waste reclaimers are often recruited by middle men.²⁷

If the context within which waste reclaimers function and the characteristics displayed by them are taken into consideration, the term waste reclaimer can be defined to read as follows: 'a waste reclaimer is a person who strives to generate an income in the informal waste management sector by reclaiming recyclable materials from the waste stream'. This definition would include any person irrespective of race, gender or age, who engages in the particular activity of collecting waste in the informal waste management sector. Despite the fact that waste reclaimers usually come from a disadvantaged background this cannot influence the definition to exclude those who are more privileged but who want to partake in the sector.

2.2.1 *Benefits of waste reclamation*

If waste reclamation is properly regulated and integrated into formal waste management systems it would hold certain benefits not only for individual waste reclaimers, but also for society. Attention is drawn to the most pertinent of these benefits.

2.2.1.1 Saving on raw materials

By engaging in reclamation of recyclable materials such as paper, cardboard, plastics, glass, tins and other materials waste reclaimers save on raw materials that would have been used in producing or manufacturing new commodities. In

25 For example reclaimers themselves organise their own workspace, working either in groups or individually. Each workspace is often clearly demarcated by the large white sacks filled with recyclables – see Samson *Reclaiming livelihoods* 19.

26 Mywaste 2011 <http://www.mywaste.co.za/articles/view/11>. See also Samson *Reclaiming livelihoods* 17.

27 Samson *Reclaiming livelihoods* 23.

Mexico, for example, the use of wood fibre to make paper has been reduced drastically due to usage of recycled waste paper supplied mostly by waste reclaimers to the Mexican paper industry, and this has helped in the preservation of natural forests.²⁸

Thus the activities of waste reclaimers in this regard are in line with NEMA principles on sustainable development.²⁹ Also, in the example cited in the preceding paragraph, waste reclaimers save on energy that would have been used in processing wood fibre into paper. This is because processing of recycled material usually requires less energy than extracting and processing virgin materials.³⁰

2.2.1.2 Contribution to public health and sanitation

In many developing countries, especially in residential areas inhabited by the poor such as informal settlements and squatter camps, there is often no formal refuse removal system in place. In such areas waste reclaimers have the potential to contribute significantly to proper waste management and environmental health by collecting, sorting, selling and even processing waste materials.³¹ Thus public health and environmental cleanliness can be improved by removal of waste especially from those areas that are not serviced regularly by the municipality.

28 Medina 1997 <http://wiego.org/sites/wiego.org/files/publications/file/Medina-wastepickers.pdf>.

29 See for example principle 2(4)(a)(v) which states that sustainable development requires the consideration of all relevant factors, including "...that the use and exploitation of non-renewable resources is responsible and equitable, and thus takes into account the consequences of the depletion of the resource.

30 Scheinberger *et al* *Economic Aspects* 99. This accords with principle 2(4)(a)(vi) of NEMA which cautions against overexploitation of renewable resources such as energy.

31 Günsilius <http://www.transwaste.eu/file/001441.pdf>. Reduction of pollution in this manner by waste reclaimers is in line with principle 2(4)(a)(iv) of NEMA amongst others, which advocates for minimization, re-use and recycling of waste.

2.2.1.3 Reduction of waste stream to the land fill site

By reclaiming recyclable materials from the waste stream, waste reclaimers reduce the amount of waste that goes to the land fill and municipal dumps. Less waste to the land fill results in less decomposition of waste and consequently less methane gas released into the atmosphere and less water and soil pollution.³²

Moreover, reduction of waste that is disposed of at the landfill site reduces the municipality's costs regarding collection, transportation and disposal of waste. It also extends the life span of the land fill site, thus saving the municipality the cost of having to identify alternative sites, do site investigations and develop new landfill sites.³³

2.2.1.4 Contribution to sustainable livelihoods

Samson is of the view that waste reclaiming is a potential source of sustained income for the poor and states that:

In the context of high and increasing unemployment people are taking the initiative to sustain themselves by reclaiming materials from the municipal waste stream. Reclaimers consume salvaged materials in their own homes, vend materials for re-use in the informal economy and sell recyclable materials to middle men who supply them as inputs to producers in the formal economy. As reclaiming allows people to sustain themselves by re-inserting reclaimed commodities into circuits of reproduction, exchange and production in both the formal and informal economies it represents a diverse livelihood strategy for people with few prospects of securing wage labour.³⁴

A 1988 World Bank study estimates that one percent of the urban population in developing countries earns a living through waste picking, which includes women and children who would otherwise not find employment in the formal sector.³⁵ Consequently waste reclamation can also be seen as a poverty alleviation

32 Scheinberg *et al* *Economic Aspects* 99. See also Günsilius <http://www.transwaste.eu/file/001441.pdf>. Methane gas is a major contributor to global warming.

33 Medina 1997 <http://wiego.org/sites/wiego.org/files/publications/file/Medina-wastepickers.pdf>.

34 Samson *Reclaiming livelihoods* 41.

35 WIEGO 2011 <http://wiego.org/informal-economy/occupational-groups/waste-pickers>.

strategy for the poor and destitute. Waste reclaimers tend to have low incomes but they can obtain decent earnings if not exploited by middlemen.³⁶

2.2.2 *Some concerns associated with waste reclamation*

There are, however, some concerns associated with waste reclamation. It is highlighted in the *National Waste Management Strategy Implementation* report³⁷ that:

- Many municipalities do not recognise nor acknowledge waste reclaimers at their landfill sites as the reclaimers often work there illegally and/or without permission.
- The recyclable materials reclaimed at landfill sites are often of inferior quality as they are mixed with other organic waste such as discarded foodstuffs and thus become contaminated.
- Reclaimers are often exploited by middlemen and thus earn low income.
- Waste reclaimers tend to interfere with landfill operations such as covering and compaction of waste as they share their work space with landfill compactors and other dangerous machinery. This may also put their lives at risk from accidents.
- Waste reclaimers create aesthetic problems at landfills as they often stack their recyclables haphazardly and also leave the working area littered with loose papers and plastics, thus contributing to wind blown litter.
- Lack of ablution facilities for waste reclaimers at landfills results in unhygienic conditions in and around the site.
- Reclaimers often eat contaminated food scavenged from the waste stream thus putting their health and lives at risk.

36 Medina 1997 <http://wiego.org/sites/wiego.org/files/publications/file/Medina-wastepickers.pdf>.

37 DEAT 2005 *National Waste Management Strategy Implementation Project* 15-16. The department is now called the Department of Water and Environmental Affairs. In my work as a manager in the waste management section at the Mafikeng Local Municipality I also have personal knowledge of some of these conditions.

- Waste reclaimers often erect shacks at or near landfill sites which become informal settlements where no municipal services are available. This too results in unhygienic and unhealthy conditions.
- Creation of open fires by reclaimers contribute to landfill fires and air pollution.
- Exposure to chemicals and toxic substances that might be illegally dumped at the landfill sites (e.g. health care waste and abattoir waste) put reclaimers lives at risk.
- There are no reliable statistics on the quantities of waste salvaged by waste reclaimers.

In the light of the concerns highlighted above it is understandable that the government is not in favour of waste reclamation at landfill sites.³⁸ However, a total ban on reclamation at the landfill site without designing viable alternatives is not desirable as it takes away the livelihood of reclaimers. This poses a challenge to all stakeholders as to how recyclable waste can be diverted away from landfill sites and whether there are mechanisms available for supporting waste reclamation under much healthier and safer conditions.

It has been indicated in chapter two that waste reclamation is currently being undertaken in the informal sector. Now that the reality of waste reclamation has been depicted, it is necessary to determine the extent of the legal framework within which waste is regulated in South Africa with special emphasis on waste reclamation.

Chapter 3: The policy and legal framework pertaining to waste reclamation

3.1 Introduction

It has been indicated in the introduction to this mini-dissertation that waste reclamation *per se* seems not to be adequately regulated by statute. It is,

38 See par 3.3.1 below for example, where it is stated in the IP&WM policy that government's long term view is to phase out waste reclamation at land fills.

however, hypothesised that waste reclamation does fit into the scheme of waste management in general and should be included in the formal waste management structure. This submission is based on an analysis of the definition of waste management as contained in NEM:WA which defines a 'waste management activity' as being inclusive of the 'reduction, re-use, recycling and recovery'³⁹ of waste. 'Recycle' on the other hand is defined as:

...a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material.⁴⁰

Through this definition the activities of waste reclaimers are placed firmly in the waste management system as role players in recycling by virtue of the fact that they are the people who actually recover recyclable materials from the waste stream. Consequently waste reclamation could find its legal niche within the general legal framework as it applies to waste management in South Africa. Waste Management in South Africa is regulated by a wide range of legislation, administered by various government departments at national, provincial and local spheres as shown in figure 1 below.⁴¹

39 The emphasis is mine. Recovery of waste is an activity undertaken daily by waste reclaimers who then sell the recovered recyclables.

40 S 1.

41 The *Environmental Conservation Act 73* of 1989 (hereinafter referred to as the ECA), although repealed, is included here because landfill permits issued in terms of section 20, which among others specify whether reclaiming is permitted on the landfill site or not, are still valid as NEMA preserves anything done under the ECA which is not inconsistent with its provisions (see s 51 of NEMA).

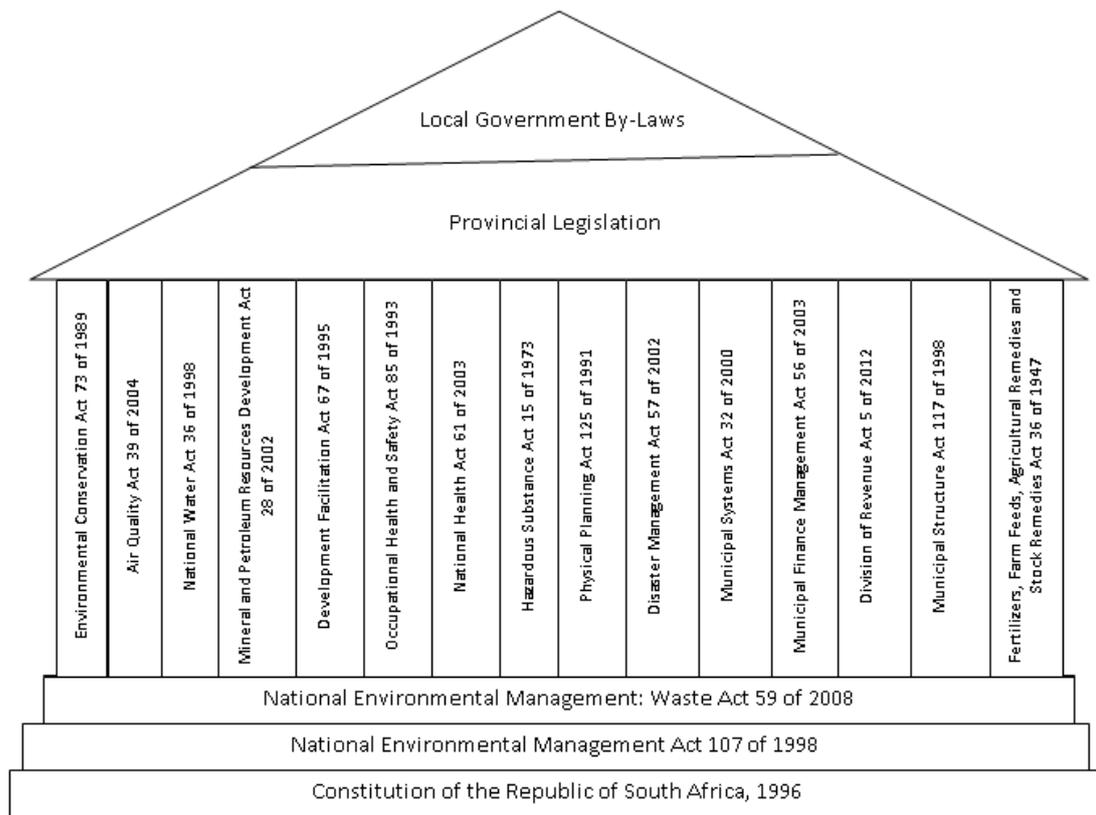


Figure 1: Legislative Framework for Waste Management⁴²

In this chapter section 24 of the Constitution, which is the foundation of the system of environmental regulation and policy in South Africa, will be discussed briefly in as far as it may have an impact on waste reclamation. An overview of the government's environmental policy as contained in the *Integrated Pollution and Waste Management Policy (IP&WM)*,⁴³ the *Polokwane Declaration on Waste Management*, the Department of Water Affairs and Forestry (DWAFF)'s *Minimum Requirements on Waste Disposal by Landfills* well as the *National Waste Management Strategy (NWMS)*⁴⁴ will be given to reflect the government's view on waste reclamation. NEMA will then be overviewed, with emphasis on the sustainability principles contained in section 2 in as far as they have an impact on

42 Figure adapted from DEA 2011 *Waste Management: Councillor Induction Programme 4*.

43 See DEAT 2000 *White Paper on Integrated Pollution and Waste Management*.

44 See DEA 2011 *National Waste Management Strategy*.

waste reclamation. NEM:WA, which is the waste sector legislation promulgated under NEMA, will be briefly discussed to establish the extent to which this Act regulates waste reclamation.

3.2 Constitution

The Constitution serves as a framework within which South Africa's environmental legislation must operate as it allocates responsibilities for environmental governance amongst different spheres of government⁴⁵ and further specifies values that environmental governance must adhere to.⁴⁶ As Feris⁴⁷ observes, the clearest mandate for environmental governance in the South African context is to be found in section 24 of the Constitution which states that:

Everyone has the right -

- (a) to an environment that is not harmful to their health or well being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

According to Du Plessis⁴⁸ the substantive content of section 24 causes the constitutional environmental right to establish an enforceable defensive right and a right on state performance. Currie and de Waal⁴⁹ concur and state that section 24(b) specifically mandates the state to take measures to realise the right to an environment that is not harmful to health and well-being as contained in section 24(a).

45 See schedule 4 and 5 of the Constitution.

46 Feris 2010 *PELJ* 75 states that decision makers in environmental governance should adhere to values such as transparency, accountability, public participation, amongst others, which are contained in s 195 of the Constitution.

47 Feris 2010 *PELJ* 76.

48 Du Plessis *Fulfilment* 243.

49 Currie and De Waal *Bill of Rights Handbook* 522.

Waste reclamation can be a tool that the government can use to realise the right to an environment that is not harmful to health and wellbeing. In effect it can be a tool in achieving the constitutional goal of creating a community based on human dignity, equality and freedom. Not only does waste reclamation provide an income opportunity for large numbers of poor people, thereby alleviating their poverty and contributing to their human dignity, but it also protects natural resources and the environment by recovering up to 20% of municipal wastes, thereby reducing greenhouse gases that emanate from disposal of waste especially at landfill sites, as well as pollution of underground water sources.⁵⁰ The carbon benefit of waste reclamation comes from reducing waste disposal, using less energy and saving on raw materials.⁵¹ Therefore it can be argued, firstly, that waste reclamation can contribute to a clean and healthy environment as contemplated in section 24 (a) if it is properly regulated and supported by government and the formal business sector.

Secondly, by reducing the carbon footprint resulting from waste disposal, it could be argued that waste reclamation has the potential to promote sustainable development as contemplated in section 24(b). NEMA defines sustainable development as:

...the integration of social, economic and environmental considerations into planning, implementation and decision-making so as to ensure that development serves present and future generations.⁵²

In essence, the notion of sustainable development attempts to integrate environmental protection, economic development and social upliftment into decision making.⁵³ One of the key elements of sustainable development is the exploitation of natural resources in a sustainable, prudent or rational manner.⁵⁴ Through their activities waste reclaimers can contribute towards the achievement of this goal. This is because sustainability can only be achieved if energy and

50 Gunsilius <http://www.transwaste.eu/file/001441.pdf>.

51 Scheinberger *et al* *Economic Aspects* 99.

52 S 1.

53 Glazewski *Environmental Law* 12.

54 Sands *Principles* 253.

resources are conserved by reducing waste, thereby also minimizing pollution and environmental degradation.⁵⁵ Moreover, section 2 of NEMA contains sustainability principles which are relevant to the activities of waste reclaimers.⁵⁶ In view of the above, it could be argued that waste reclamation falls under "other measures" as per section 24.

3.3 The policy framework

It has been indicated above that waste reclamation can serve an important purpose in pursuance of the objectives of section 24 of the Constitution. In light thereof it is necessary to determine to what extent current government policy provides for waste reclaimers. In this discussion the *Integrated Pollution and Waste Management Policy*,⁵⁷ the *Polokwane Declaration on Waste Management*, the *Minimum Requirements on Waste Disposal by Landfill* and the *National Waste Management Strategy*,⁵⁸ which are government policy documents on waste management, are considered to establish government's view on waste reclamation.

3.3.1 Integrated Pollution and Waste Management Policy

The IP&WM policy sets out the vision, principles, strategic goals and objectives to be used by government so as to combat pollution and manage waste properly.⁵⁹ The policy notes that the focus to date in South Africa has been on waste disposal and impact control and that this resulted in inadequate resource recovery and a general lack of commitment to recycling.⁶⁰

Yet, the policy does not mention nor acknowledge the role currently played by waste reclaimers in recycling apart from citing the negative aspects of waste

55 Bosman "Integrated Waste Management" 707.

56 See par 3.4 below for a discussion of NEMA principles on sustainability which are relevant to waste reclamation.

57 Hereinafter referred to as the IP&WM.

58 Hereinafter referred to as the NWMS.

59 DEAT 2000 *White Paper on Pollution and Waste Management* 10.

60 DEAT 2000 *White Paper on Pollution and Waste Management* 23.

reclaiming at landfill sites. Moreover, the policy notes that there is no legislation, policy or waste management culture that promotes waste reclamation or makes it financially viable.⁶¹ Samson⁶² concurs and adds that although there may not be policy or legislation that deals specifically with reclaimers it is important to interrogate existing waste management legislation and policy to explore how it shapes and affects the environment within which waste reclaimers function, which is what this mini-dissertation proposes to achieve.

Perusal of the IP&WM policy shows clearly that the government is not supportive of waste reclamation at landfill sites and views it as an example of environmentally and socially unacceptable practices which disrupts operations at the landfill site and expose waste reclaimers to hazardous waste which could affect their health adversely.⁶³

Consequently the long term objective of government as spelt out in the IP&WM policy is to phase out waste reclaiming at landfill sites completely.⁶⁴ In the meantime, however, government intends to formalise and control existing waste reclamation at landfill sites, through agreements between waste reclaimers and landfill owners such as municipalities. Moreover, waste reclaiming will not be allowed to commence on landfills where it is not currently taking place.⁶⁵

Due to the many problems associated with waste reclaiming at landfill sites it is understandable that the government is not in favour of this practice. However, as many waste reclaimers eke out a living on waste disposal sites, it is necessary that the government engage them with a view to finding alternative ways whereby they can continue with their activities in a safer and healthier environment.

61 DEAT 2000 *White Paper on Pollution and Waste Management* 23.

62 Samson *Reclaiming reusable and recyclable materials* 16.

63 DEAT 2000 *White Paper on Pollution and Waste Management* 23.

64 DEAT 2000 *White Paper on Pollution and Waste Management* 36.

65 DEAT 2000 *White Paper on Pollution and Waste Management* 38. See par 3.3.3 below on formalization of waste reclamation at landfill sites as outlined in the *Minimum Requirements*.

3.3.2 *The Polokwane Declaration on Waste Management*

The *Polokwane Declaration on Waste Management*⁶⁶ is an agreement whereby government, the business sector and civil society commit themselves to the two goals of reducing waste generation and disposal by 50% and 25% respectively by 2012, and to develop a plan for zero waste by 2022.

It is submitted that waste reclaimers, as part of civil society, can be important role players alongside government and industry in ensuring that the targets of the Polokwane Declaration are achieved through waste recovery at source, thus ensuring that less waste goes to the landfill sites. Bosman⁶⁷ is also of the view that recovery of recyclables such as plastics, glass, paper, cardboard, metal and rubber can achieve significant volume reduction of up to 30 – 40% of domestic refuse.

3.3.3 *Minimum Requirements for Waste Disposal by Landfill*

The *Minimum Requirements for Waste Disposal by Landfill* forms part of the Department of Water Affairs and Forestry (DWAFF)'s Waste Management Series which lays down guidelines for waste disposal by landfill, among others.⁶⁸ This document aims *inter alia*, to ensure safe and controlled working conditions at those landfill sites where waste reclamation is allowed.⁶⁹ Uncontrolled waste reclamation at the working face of the landfill is unacceptable as it poses a danger to waste reclaimers, interferes with proper operation of the landfill and makes it difficult to compact and cover waste, among others.⁷⁰ However, the *Minimum Requirements* acknowledge that since landfills represent an important resource base for a section of the population, informal waste reclamation cannot be eliminated but should where possible be controlled to minimize safety and

66 This agreement was entered into at the first National Waste Summit hosted by the Department of Environmental Affairs and Tourism at Polokwane in 2001. See DEAT 2001 http://www.environment.gov.za/projProg/EasteMgmt/Polokwane_declare.htm.

67 Bosman "Integrated Waste Management" 710.

68 DWAFF 1998 *Minimum Requirements V*.

69 DWAFF 1998 *Minimum Requirements* 10-14.

70 DWAFF 1998 *Minimum Requirements A* 10-14.

health risks.⁷¹ At face value it might appear that this statement is at odds with the policy thrust of the IP&WM which seeks to phase out waste reclamation at landfill sites as a long term objective.⁷² However, the government's position on this matter is clarified by the *Minimum Requirements* document, which states that:

... although the Department of Water Affairs and Forestry and the Department of Environmental Affairs strongly support waste separation at source for further re-use, recycling and recovery, they recognise that waste salvaging takes place at landfills in South Africa and that it may be the only form of livelihood for local families. The intention in setting requirements for professionalising waste salvaging practices is to control salvaging and protect the dignity and health of salvagers until salvaging is phased out.⁷³

According to this policy it is a minimum requirement that any waste reclamation operation be formalised in the operational plan of the landfill by the operator. This would include regular consultation with, and registration of reclaimers, provision of appropriate safety measures such as separation of reclaimers from waste compaction and covering activities by usage of separate cells and provision of appropriate protective clothing, among others.⁷⁴

Non compliance with *Minimum Requirements* was at issue in *Ubisse v Enviro-fill (Pty) Ltd.*⁷⁵ In this case the plaintiff, a female waste reclaimer, sustained injuries after her leg was run over by a landfill compactor while reclaiming waste at the Rooikraal Landfill site, which was owned by the Ekurhuleni Metropolitan Municipality but out sourced to the defendant, Enviro-fill to manage. The plaintiff claimed damages from the defendant, arguing that the injuries she sustained were due to the negligence of the defendant or its employees. The defendant denied liability on the basis that the plaintiff entered the landfill at her own risk, among others. The defendant stated that there was an informal agreement between themselves and the leaders of the reclaimers, whereby reclaimers from the adjacent squatter settlement were allowed to do informal reclaiming at

71 DWAF 1998 *Minimum Requirements* A 10-14.

72 See par 3.3.1 above.

73 DWAF 2005 *Minimum Requirements* fn1 iii.

74 DWAF 1998 *Minimum Requirements*.

75 2010 ZAGP 165 (JHC) (hereinafter referred to as the *Ubisse* case).

specific times provided they abided by the rules laid down by the defendant, one of which was that they enter the landfill at their own risk.

The court observed that:

Thousands of people in South Africa earn a living by picking up waste on landfills. People go onto landfills and search through the waste for recyclable items, such as iron or copper that may be recovered or reclaimed from waste. Items found are sold to dealers in such recyclable materials. The Minimum Requirements acknowledge this occurrence and distinguish between 'uncontrolled salvaging' and 'controlled reclamation' at landfills. It is *inter alia* stated that uncontrolled salvaging at the working face of a landfill is unacceptable for safety and health reasons and because it interferes with the proper operation of the facility. It is recognised that it is usually very difficult to eliminate salvaging once it takes place at a landfill and that any attempts to achieve this usually involve confrontation and the need for ongoing policing. It is also recognised that, because landfills represent an important resource base for a sector of the population, informal salvaging cannot be eliminated. A minimum requirement is, however stated to be that informal salvaging should be 'formalised and controlled' to minimise safety and health risks.⁷⁶

The Court⁷⁷ stated that the *Minimum Requirements* applied to the operation of the Rooikraal Landfill site in terms of the permit and proceeded to summarise the relevant provisions of the *Minimum Requirements*, noting, among others that:

- Waste reclamation must be formalised and controlled and should be included in the operational plan.
- Reclaimers must be registered and controlled by a committee that is accountable to the permit holder.
- Waste reclamation must be separated from compaction and covering.
- In terms of the *Occupational Health and Safety Act*⁷⁸ the operator of the landfill site is responsible for the well being of the reclaimers. Reclaimers must be issued with reflective tunics, gloves and boots with protective soles.
- There must be regular meetings between the operator and the reclaimer.

76 Par 5.

77 Par 3-7.

78 Act 85 of 1993.

The court found that the defendant has not complied with some of the key *Minimum Requirements* and that the steps taken by the defendant to guard against foreseeable harm to reclaimers were inadequate, flawed, often not adhered to by the reclaimers and was therefore insufficient to reduce the risk of injury. The court also accepted that access to the landfill was in the interest of the reclaimers as it advanced the socio-economic interests of thousands of poor people from the nearby townships who had no other source of income. Thus the social value of permitting reclamation was, according to the court, beyond question. The court found that the defendant was negligent and ruled in favour of the plaintiff.

It can be deduced from the above discussion that the *Minimum Requirements* discourage uncontrolled reclamation at landfill sites but takes the socio-economic realities of the waste reclaimers into account by setting guidelines for formalised, controlled reclamation in those instances where the permit holder of the landfill allows waste reclaimers on site. Also, in such instances the permit holder or operator becomes responsible for the health and safety of the reclaimers.

3.3.4 *National Waste Management Strategy (NWMS)*

The NWMS is a legislative requirement of the NEM: WA, and aims to achieve the objects of this Act.⁷⁹ This strategy binds organs of state and affected persons and they are therefore obliged to give effect to it.⁸⁰ The NWMS is premised on the waste management hierarchy, which consists of options for waste management during the life cycle of waste. These are arranged in descending order of priority, with disposal being the least preferred option which should be resorted to only after the other options have been exhausted. It seems clear that in terms of this waste management hierarchy waste reclaimers should be playing a prominent role in the waste management system as the people who actually ensure that recyclables are sorted and removed from the waste stream prior to disposal. The waste management hierarchy is depicted in the figure below:

79 S 6(1) of NEM:WA.

80 Ss 6(3) and (4) of NEM:WA.



Figure 2: Waste Management Hierarchy⁸¹

Waste reclaiming clearly falls within the scope of the objectives of Goal 1 of the NWMS which deals with promotion of waste minimization, re-use, recycling and recovery. In a submission to the government commenting on the NWMS, Hugo⁸² is of the view that many municipalities as well as government departments dealing with waste management lack the skills and capacities to effectively engage with waste reclaimers, who form an unacknowledged but critical part of waste management systems in South African cities. He therefore recommends that the NWMS include a commitment to build capacity of municipal and government officials working in waste management departments so as to enable them to, *inter alia*, research how recycling is currently conducted within the municipalities and to understand the challenges and needs of the reclaimers so as to come up with appropriate interventions which will benefit the reclaimers, the government as well as the environment.

The government seems to have strategically acknowledged this, because in the final draft of the NWMS it undertakes to:

81 Figure sourced from DEA 2011 *National Waste Management Strategy* 18.
82 Hugo 2011 "Implementing the National Waste Management Strategy".

...provide guidance to municipalities and industry on measures to improve the working conditions of waste reclaimers, establish Material Recovery Facilities and expand the role of SMEs and cooperatives in domestic waste collection services.⁸³

However, the NWMS does not provide any details regarding this guidance, nor does it outline how or when this objective is to be achieved.

Goal 3 of the NWMS deals with "Growing the Contribution of the Waste Sector to the Green Economy." The objectives of this goal as outlined in the NWMS are:

...to stimulate job creation and broaden participation by SMEs and marginalised communities in the waste sector. These objectives include the creation of decent work through formalising the role of waste pickers and expanding the role of SMEs and cooperatives in waste management...⁸⁴

In this regard the DEA intends to create jobs in the waste management sector through, among others extending and formalising jobs in the various stages of the recycling value chain, including collection, sorting, re-use and repair, product recovery, processing and manufacturing of recyclable materials.⁸⁵

The NWMS shows that the government is beginning to realize the positive role that could be played by waste reclaimers in recycling and that if waste reclaiming can be supported and integrated in the waste management system, it can contribute to job creation and sustainable development.

3.4 National Environmental Management Act (NEMA)

NEMA was promulgated to give effect to section 24 of the Constitution, among others, and is the framework legislation that regulates environmental matters.⁸⁶

The aim of NEMA is to provide for cooperative environmental governance by, among others, establishing principles for decision making on matters affecting the

83 DEA 2011 *National Waste Management Strategy* 27.

84 DEA 2011 *National Waste Management Strategy* 27.

85 DEA 2011 *National Waste Management Strategy* 27.

86 See Nel and Du Plessis 2001 *SAJELP* 2 for a discussion of NEMA as framework legislation.

environment, which apply throughout the Republic to the actions of all organs of state that may significantly affect the environment.⁸⁷

NEMA endorses recycling as one of the key elements to attain sustainable development by stating that sustainable development requires the consideration of all relevant factors including "...that waste be avoided, or where it cannot be altogether avoided, be minimized, and re-used or recycled".⁸⁸ Furthermore, NEMA states that:

... the vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted.⁸⁹

As already pointed out women and the youth constitute a significant number of waste reclaimers.⁹⁰ Although waste reclamation is not expressly mentioned in the text of NEMA, these principles indicate that NEMA indirectly supports waste reclamation. In addition to the above, other NEMA principles that are relevant to waste reclaimers include the preventive principle, which, according to Glazewski,⁹¹ is reflected in the NEMA precept that the negative impacts on the environment and on people's environmental rights must be anticipated and prevented, and where they cannot be altogether prevented, are minimized and remedied. In this regard it has already been pointed out that waste reclamation, if supported by government and industry and performed in a safe and healthy environment, has potential to minimize the negative impacts of pollution of the environment by, amongst others, reducing the amount of waste that is disposed in landfills, thereby reducing the potential for pollution of the environment.⁹² Moreover, NEMA provides for a general duty of care for the environment which states that:

87 S 2 of NEMA.

88 S 2(4)(a)(iv) of NEMA.

89 S 2(4)(q) of NEMA.

90 See profile of waste reclaimers in par 2.2 above.

91 Glazewski *Environmental Law* 142. See also s2(4)(a)(viii) of NEMA.

92 See par 2.2.1 above which outlines the benefits of waste reclamation.

Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided, or stopped, to minimise and rectify such pollution or degradation of the environment.⁹³

Therefore waste reclaimers, in their quest to recover recyclable materials that could pollute the environment if disposed of at landfills or dumped illegally at quarries or other open spaces, need to be supported, especially by municipalities, who are in most instances owners of the land where disposal of waste takes place. One of the measures that government can take as a duty of care is to educate waste reclaimers about the potential risks of their work, both to themselves and to the environment, and to advise them on ways of carrying out their task in an environmentally safe manner as required by NEMA.⁹⁴ This accords with the view of Du Plessis on the need for environmental education beyond the bounds of formal education institutions, when she states that:

...environmental education should therefore not be viewed as an obligation or aspect belonging only to the curricula of educational centres such as schools, universities or other training colleges, but should focus on the sharing of methods and knowledge with rights and duty holders on a vast array of environmental aspects...⁹⁵

Currently there is no uniform approach to waste reclamation, especially at municipal landfills, where waste reclamation is supported at some municipal landfills, tolerated in others, while in some there is an outright ban.⁹⁶ This state of affairs seems to be in conflict with the NEMA principle which states that "there must be intergovernmental co-ordination and harmonisation of policies and actions relating to the environment."⁹⁷ While it is understandable that a 'one size fits all' approach is not desirable due to the fact that circumstances are not similar in municipalities, intergovernmental coordination and harmonisation in policies

93 S 28(1). According to Glazewski *Environmental Law* 150 what constitutes 'significant pollution' must be considered in the light of the constitutional right to an environment that is not detrimental to health or well-being.

94 See s 28(3)(b).

95 Du Plessis *Fulfilment* 135.

96 See Samson *Reclaiming livelihoods* 41-44.

97 S 2(4)(l) of NEMA.

that impact on waste reclamation is warranted to ensure a degree of uniformity and consistency as far as waste reclamation in South Africa is concerned.

3.5 National Environmental Management: Waste Act (NEM:WA)

The NEM:WA is a specific environmental management Act promulgated under NEMA to regulate waste management in South Africa, thus the principles of NEMA apply to this Act.⁹⁸ The Act also subscribes to the hierarchy of waste management which states that waste must be avoided, or where it cannot be avoided, that it be reduced, re-used, recycled or recovered, and be disposed of only as a last resort.⁹⁹ The objects of the Act include:

- (a) to protect health, well-being and the environment by providing reasonable measures for:-
 - (i) minimising the consumption of natural resources
 - (ii) avoiding and minimising generation of waste
 - (iii) reducing, re-using, recycling and recovering waste
 - (iv) treating and safely disposing of waste as a last resort
 - (v) preventing pollution and ecological degradation
 - (vi) securing ecologically sustainable development while promoting justifiable economic and social development...¹⁰⁰

It is submitted that waste reclaimers could contribute to the objects of the Act because by recovering recyclable materials and selling these to recycling industries they save on raw materials (resources and energy). Recovery of recyclables that are destined for disposal also has potential to reduce pollution and environmental degradation. To this end Bosman states that:

...when (waste reclamation) is well organised and managed in a more formal system, the reclaimers are no longer 'scavengers' contributing to the problems of waste management, but are entrepreneurs who assist in the sustainable management of waste and contribute to the economic growth of the country.¹⁰¹

98 DEA *The National Environmental Management Waste Act*.

99 Kidd *Environmental Law* 178. See also 3.3.4 above for a discussion on the waste management hierarchy.

100 S 2.

101 Bosman "Integrated Waste Management"730.

In the Act waste is defined as:

...any substance, whether or not that substance can be reduced, re-used, recycled or recovered –

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purpose of production;
- (c) that must be treated or disposed of; (d) that is identified as a waste by the Minister by notice in the Gazette and include waste generated by the mining, medical or other sector, but –
 - (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste.¹⁰²

The implication of this section can thus be that the material that is recovered, accumulated or stored for sale by the reclaimers can no longer be regarded as waste.

Chapter 2 of the Act, *inter alia* makes provision for the Minister to set norms and standards for the minimisation, re-use, recycling and recovery of waste, including the separation of waste at the point of generation.¹⁰³ To this end the Minister has promulgated the *National Domestic Waste Collection Standards* in 2011.¹⁰⁴ These standards encourage source separation of recyclables and require metropolitan and secondary cities to make the necessary arrangements for households to separate recyclable waste and put same in separate containers for collection. Municipalities must provide the necessary infrastructure for collection of recyclables and encourage community involvement in recycling.¹⁰⁵

The idea of source separation of waste is laudable as it seeks to move recovery of recyclables away from landfills where the recyclable materials are already contaminated and where recovery takes place under unsafe and unhygienic conditions. Therefore recovery of waste at source seems to be a better option as

102 S 1.

103 S 7.

104 As per GN 21 in GG 33935 of 21 January 2011.

105 See Chap 4 of the National Domestic Waste Collection Standards.

recyclables would still be uncontaminated and of higher value. However, waste reclaimers, who already have considerable experience in recovery of recyclables from the waste stream, are not mentioned in the *National Domestic Waste Collection Standards*. It is submitted that for waste separation at source initiatives to succeed efforts must be made to involve waste reclaimers.¹⁰⁶

Chapter 3 of the Act deals with institutional matters, which include the obligation of all three spheres of government to prepare integrated waste management plans (IWMPs).¹⁰⁷ The IWMP of a municipality must be submitted to the MEC for approval and be included in the municipal Integrated Development Plan (IDP).¹⁰⁸ The Act sets out the mandatory contents of the IWMP and these must include details of how the municipality intends to reach its waste minimisation, re-use, recycling and recovery targets.¹⁰⁹ This seems to offer municipalities an opportunity to involve waste reclaimers in formal waste recycling initiatives such as waste separation at source and in the operation of material recovery facilities by including such details in the IWMPs.¹¹⁰

Chapter 4 of the Act covers Waste Management Measures, which includes a general duty that is placed on all waste holders¹¹¹ to *inter alia* reduce, re-use, recycle and recover waste. This part of the Act also provides for the crafting of Industry Waste Management Plans (Ind IWMPs). Ind IWMPs are based on the principle of extended producer responsibility, which means that the producers of products covered take full or partial responsibility for managing the waste arising from their products.¹¹² This includes waste minimisation programmes, promotion

106 See Chap 4 about how the City of Johannesburg pilot project of separation at source initially failed due to exclusion of waste reclaimers.

107 S 11.

108 In terms of s 35(1) of the *Municipal Structures Act* 32 of 2000 the IDP of a municipality is the main strategic planning instrument which guides and informs all planning and development decisions of the municipality.

109 S 12.

110 See Chap 4 where IWMPs of selected municipalities are overviewed to see how they provide for waste reclaimers to participate in waste recycling initiatives.

111 A waste holder is defined as a person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste.

112 Macfarlane (ed) *Waste Revolution Handbook* (alive2green Capetown 2012).

of reduce, re-use, recycling and recovery of waste.¹¹³ As part of their extended producer responsibility obligations the Packaging Council of South Africa (PACSA) sent a delegation of South African waste reclaimers in June 2011 on a study tour to Brazil as a capacity building initiative so that they could learn how their counterparts in other countries are carrying out their business. This is because the PACSA is a major producer of waste packaging material, which is mainly recovered from the waste stream by waste reclaimers.¹¹⁴

NEM:WA seems to acknowledge that waste reclaiming does take place at landfills as it states that "a waste management licence must specify, if applicable, the conditions in terms of which salvaging of waste may be undertaken".¹¹⁵ This implies that if waste reclaiming is going to be allowed at the landfill, the owner of the landfill, such as a municipality must specify clearly when applying for a waste management licence as provided for in chapter 5, how waste reclaiming is going to be controlled at the landfill. According to Samson¹¹⁶ this marks the first instance where waste reclamation is specifically provided for in a South African statute.

In this chapter the key legislation that regulates waste reclamation in South Africa was overviewed to establish the extent to which environmental legislation regulate waste reclaimers in South Africa. It was clear that despite the fact that waste reclaimers are not recognised statutorily, some government policy documents do acknowledge, and to a certain extent provide for the reality of waste reclaimers functioning in the field of waste management. The next chapter considers possibilities for formal recognition and integration of waste reclaimers into the formal waste sector.

113 S 1 of NEM:WA.

114 Macfarlane (ed) *Waste Revolution Handbook* (alive2green Capetown 2012).

115 S 51(1)(i). This is in concert with the minimum requirement for formal and controlled waste reclamation as outlined in 3.3.3 above.

116 Samson *Reclaiming livelihoods 2*.

Chapter 4: Recognition of waste reclamation in South Africa

4.1 Introduction

Waste collection and removal in South Africa is primarily a local government function that is rendered by municipalities.¹¹⁷ In terms of NEM:WA¹¹⁸ each municipality must exercise executive authority and perform its duty in relation to waste services, including waste collection, storage and disposal in a manner that does not conflict with national or provincial norms and standards. Some of the government policy documents discussed in the previous chapter, as well as some provisions of NEM:WA seems to pave the way for municipalities and other entities responsible for waste management in South Africa to look at mechanisms for integrating waste reclaimers in formal waste management systems. This is in line with the NEM:WA requirement that every holder of waste must take all reasonable measures to reduce, re-use, recycle and recover waste.¹¹⁹

In this chapter the extent of recognition and integration of waste reclaimers in the formal waste sector is assessed by over viewing the Integrated Waste Management Plans (IWMPs) of a metropolitan municipality, a district municipality, a local municipality as well as an Industry Waste Management Plan (Ind.WMP). These entities are required, among others, to provide details of how they intend to reduce, re-use, recover and recycle waste in their integrated waste management plans.¹²⁰ Efforts taken to organise waste reclaimers in South Africa with a view to formalising and making waste reclaiming safer and more productive will also be discussed briefly, taking into consideration some best practices from other countries where waste reclaiming is well established.

117 See Schedule 5(b) of the Constitution.

118 Ss 9(1) and (2).

119 S 16(1)(b) of NEM:WA.

120 See ss 11-13 and 28-30 of NEM:WA.

4.2 Recognition and integration of waste reclaimers in the formal waste management sector

In this discussion IWMPs of the City of Johannesburg (CoJ) Metropolitan Municipality, West Rand District Municipality and Mahikeng Local Municipality will be overviewed to evaluate the extent to which waste reclaimers are recognised and regulated at different levels of municipalities. The Ind.WMP of the Packaging and Paper Industry will also be considered to see whether this industry recognises the role played by waste reclaimers in recycling of its products.

4.2.1 Recognition and integration by municipalities at different levels

4.2.1.1 The City of Johannesburg (CoJ) Metropolitan Municipality

The CoJ IWMP acknowledges that informal recycling (waste reclamation) is prevalent and uncoordinated, which results in problems such as poor data management, unsustainable business practices as well as many health and safety issues.¹²¹ However the CoJ recognises the positive role that waste reclaimers can play in the realisation of its goal of sustainable waste minimization, re-use, recovery and recycling.¹²² The following are some of the objectives outlined in the CoJ IWMP to realize this goal:

- Development of programmes to encourage separation at source.
- Identify and implement all potential waste diversion mechanisms that can be employed in order to reduce waste quantities disposed at the landfill site.
- *Evaluate and implement appropriate mechanisms to formalize informal salvaging at the working face of the landfill site.*¹²³
- Ensure that waste minimization, re-use, recycling and recovery procedures and practices are adopted by all sectors of society.

121 CoJ 2011 *Integrated Waste Management Plan* 43.

122 CoJ 2011 *Integrated Waste Management Plan* 47.

123 The emphasis is mine. This is in line with Minimum Requirements as well as s 51(1)(i) of NEM:WA.

- Create sustainable employment through local entrepreneur development in waste minimization, re-use, recycling and recovery.
- Development and implementation of appropriate regulatory instruments¹²⁴

The government regards separation at source as the preferred method of waste minimisation as it seeks to divert waste away from the landfill site.¹²⁵ However, even in source separation waste reclaimers have a role to play. This point is illustrated by attempts by the CoJ to introduce a pilot project of source separation by engaging a private company to collect recyclables from selected residential units. Waste reclaimers saw this as an invasion of their turf and entered these pilot sites to remove the recyclables, but created a nuisance in the process as they only took the items that they want and left the rest, thus littering the place. The CoJ resolved this situation by issuing them with identity tags and allowing them to participate in the separation at source pilot project.¹²⁶

The CoJ aims to achieve a 20% reduction of domestic and commercial waste streams disposed to the landfills by 2015, and one of the activities identified in the IWMP to reach this target is to develop and implement a Reclaimers' Management System which includes:

- Registration of reclaimers at landfill sites
- Issue of Personal Protective Equipment (PPE) to registered reclaimers
- Training of reclaimers on health and safety issues on an ongoing basis¹²⁷

4.2.1.2 West Rand District Municipality (WRDM)

The WRDM comprises four local municipalities namely Mogale City, Merafong, Randfontein and Westonaria Local Municipalities, and is situated in Gauteng

124 CoJ 2011 *Integrated Waste Management Plan* 48.

125 DWAF 2005 *Minimum Requirements* fn1 iii; DEA 2011 *National Waste Management Strategy* 6 are some of the documents that articulates this view.

126 CoJ 2011 *Integrated Waste Management Plan* 48.

127 CoJ 2011 *Integrated Waste Management Plan* 51.

Province.¹²⁸ There are five landfill sites situated within the WRDM, which are Luipaardsvlei and Magaliesburg landfills (situated in Mogale City), Uitvalfonteinlandfill (situated in Randfontein), Libanon landfill (situated in Westonaria) and Rooipoort landfill situated in Merafong), and informal recycling by waste reclaimers takes place in all them.¹²⁹

The *status quo* report of the IWMP concedes that there is no capacity within the local municipalities of the WRDM to drive and develop waste minimization and recycling initiatives.¹³⁰ This concurs with the observation of Hugo¹³¹ that waste management officials in the public sector lack appropriate skills to engage waste reclaimers and craft appropriate strategies which will benefit waste reclaimers. The *status quo* report also highlights that recycling initiatives in the WRDM are small as compared to the increasing amounts of waste generated in the area, and therefore proposes the following action plans to address this situation:

- Encourage the establishment of recycling companies and buy back centres in the WRDM and provide the necessary support to ensure sustainability of the programmes. It seems establishment of recycling companies and buy back centres will benefit waste recalimers because they will have sufficient markets to sell their wares and this may render them less vulnerable to be exploited by middle men.
- Encourage separation of waste at source. As pointed out above waste reclaimers also have a role to play in separation of waste at residential and business premises.¹³²
- A registration facility for waste reclaimers must be established to ensure proper monitoring. It seems this action is aimed at formalising waste reclamation at the landfill sites within the WRDM and limits the influx of unregistered reclaimers for proper control and for safety reasons.

128 WRDM 2010 *Integrated Waste Management* 26.

129 WRDM 2010 *Integrated Waste Management* 71-103.

130 WRDM 2010 *Integrated Waste Management* 130.

131 Hugo 2011 "Implementing the National Waste Management Strategy". See par 3.3.4 above.

132 See par 4.2.1.1 above.

- There must be an official dedicated to waste recycling, who will identify, monitor, and evaluate recycling opportunities and initiatives within the WRDM. It seems this activity is aimed at addressing the lack of capacity within the local municipalities to engage waste reclaimers and to design specific programmes to assist them.

Moreover, in its action plans as outlined in the IWMP the WRDM undertakes to formalise recycling initiatives at waste disposal facilities by initiating a pilot programme of construction of a Material Recovery Facility (MRF) at the Westonia Local Municipality. Existing waste reclaimers will be roped in to operate the MRF.¹³³ The IWMP provides a budget and detailed projections for achieving these deliverables. However, it will be critical to train and build capacity of waste reclaimers so that they are able to operate and manage buy-back centres and MRFs efficiently. A similar project initiated by the Tshwane Metropolitan Municipality in partnership with DEAT,¹³⁴ whereby three buy back centres were built and put under the management of waste reclaimers collapsed due to inability of waste reclaimers to manage the project.¹³⁵

4.2.1.3 Mahikeng Local Municipality

According to the Mahikeng Local Municipality draft IWMP recovery of recyclable materials takes place primarily at the landfill site, with the number of waste reclaimers varying from month to month. Recyclable materials collected by waste reclaimers are bought by recycling companies and transported for processing in Gauteng.¹³⁶ Waste reclamation at the Mahikeng Landfill is permitted on condition that it does not interfere with daily operational activities of the site.¹³⁷

The Mahikeng Local Municipality IWMP notes that lack of formalised and controlled waste reclamation leads to many problems such as health and safety

133 WRDM 2010 *Integrated Waste Management* 189.

134 Now called the Department of Water and Environmental Affairs.

135 Samson 2010 *Organising reclaimers* 5-6.

136 Mafikeng Local Municipality 2012 *Integrated Waste Management Plan* 17.

137 Mafikeng Landfill Permit Landfill Permit No 16/2/7/D410/D2/Z1/P498 of 2004.

risks, low rates of material recovery as well as littering and aesthetic problems, amongst others. It observes that without a meaningful intervention from the municipality it is unlikely that any significant recovery of recyclables will occur.¹³⁸ As a result one of the strategic goals identified in the IWMP is "Effective waste minimisation, re-use, recycling and recovery of waste" and one of the objectives to achieve this goal is to ensure that "...an appropriate and safe waste reclamation program is in place".¹³⁹ The following are some of the activities outlined in the Mahikeng Local Municipality WMP to realise this objective:

- To conduct a logistics and planning exercise to determine the best possible physical layout and organisational arrangement for informal reclaimers. This implies that the municipality should among others facilitate the formation of a reclaimers' committee that will assist the municipality to register current reclaimers with a view to control uncoordinated and informal reclaiming, and curb the influx of unregistered new reclaimers.
- Build a reclamation point adjacent to the landfill. This implies that the municipality must construct a material recovery facility (MRF) which would ensure that reclaimers can get access to recyclable materials in a healthier and safer environment. However, this option is costlier due to the fact that the waste residue still has to be transported to the work face of the landfill.
- Liaise with and assist existing reclaimers to organise themselves into cooperatives. This would empower the reclaimers to unite and negotiate better deals with recyclers and even bid for waste recycling contracts advertised by the municipality.
- Train and equip reclaimers e.g. on health and safety issues, literacy and numeracy skills, etc.¹⁴⁰

The Mahikeng Local Municipality IWMP has been adopted by Council¹⁴¹ but has not yet been approved by the MEC in charge of the environment and therefore no

138 Mafikeng Local Municipality 2012 *Integrated Waste Management Plan* 17.

139 Mafikeng Local Municipality 2012 *Integrated Waste Management Plan* 44.

140 Mafikeng Local Municipality 2012 *Integrated Waste Management Plan* 74.

141 See Resolution A.18/03/2012 of 29 March 2012.

budgetary provisions have yet been made to realise some of these objectives. Nevertheless, the aim of this discussion is to show that waste reclaimers are beginning to receive recognition formally in the municipality's planning tools.

The above discussion shows that some municipalities are beginning to realize the value that reclaimers can add to their waste management systems and are moving towards formal recognition of waste reclaimers as evidenced by inclusion of waste reclamation in municipal IWMPs. However, not all municipalities formally recognise nor acknowledge waste reclaimers, for instance the City of Tshwane, City of Cape Town as well as Ethekewini (Durban) Metropolitan Municipalities are some of the municipalities that do not provide for waste reclamation in their current IWMPs.

4.2.2 Recognition by Industry

The Paper and Packaging Industry is one of the major consumers of recyclables collected by waste reclaimers such as metal, plastics, glass and paper. The Packaging Council of South Africa (PACSA) submitted the Industry Waste Management Plan (Ind.WMP) for the Packaging and Paper Industry to the Minister of Water and Environmental Affairs in 2011 for approval as required by NEM:WA.¹⁴² The key objective of the Ind.WMP is to increase recycling rate for packaging and paper from 44% to 51% over the five year period of the Plan.¹⁴³ PACSA aims to achieve this through source separation of recyclable materials as well as innovative collection methods that involve both the formal and informal collectors. To this end the Ind.WMP aims "...to combine the vitality and flexibility of the informal collectors with the organisational and financial strength of the formal sector to create a system that will benefit all".¹⁴⁴

PACSA wishes to increase employment opportunities in the recycling industry as it projects to create permanent employment opportunities for 13 000 people, including waste reclaimers currently working under unhygienic conditions at

142 S 28.

143 Packaging and Paper Industry Integrated Waste Management Plan 3.

144 Packaging and Paper Industry Integrated Waste Management Plan 7.

landfill sites. It also aims to train and capacitate waste reclaimers due to the prominent role they are likely to play in the execution of its Ind.WMP and to this end led a delegation of waste reclaimers to Brazil in June 2011 so that they could learn how their counterparts operate and are organised in other countries.¹⁴⁵

4.3 Organising Waste Reclaimers

In view of opportunities that are beginning to open up for waste reclaimers to work in partnership with municipalities and industry in the recycling sector, waste reclaimers need to be organised so as to advance their interests as a unified, strong collective. According to Samson¹⁴⁶ in countries across the developing world reclaimers have successfully formed cooperatives which manage the sale of their materials and have negotiated a better collective position for reclaimers in the municipal waste management systems and recycling industry. Brazil is an example of a country where waste reclaiming has made tremendous strides due to efficient organising. Dias and Alves¹⁴⁷ state that in the last two decades the number of waste reclaimers who have organised themselves into cooperatives has increased, and this has served as a leverage for organised waste reclaimers to solicit support from the federal, state and local government. This has also made it easier for the municipalities to integrate the waste reclaimers into the formal waste sector by entering into formal agreements with them as partners in waste recovery and recycling.

In Columbia waste reclaimers, who had organised themselves into an association, took the battle for recognition of their right to equal treatment to the constitutional court in *ARB v Capital District of Bogota*.¹⁴⁸ In this case the Association of Waste Reclaimers (ARB) in Bogota, Columbia, approached the Constitutional Court on behalf of waste reclaimers seeking inclusion of waste reclaimers in the rendering of waste management services by the municipality in Bogota. This was after the municipality sought to privatise waste collection and

145 Packaging and Paper Industry Integrated Waste Management Plan 8.

146 Samson 2010 *Organisingreclaimers* 10.

147 Dias and Alves 2008 *Integration of the Informal Recycling Sector* 84-85.

148 Case No T-724/03 of 20/08/2003.

recycling, which had traditionally been rendered by waste reclaimers. Moreover, waste reclaimers were excluded from the bidding process. The Association of Waste Reclaimers requested the court to set aside the bidding process until affirmative action measures protecting waste reclaimers were in place. This application succeeded and the court affirmed that Article 13 of the Columbian Constitution requires the state to promote equal treatment of marginalised, vulnerable groups and that in failing to protect the rights of waste reclaimers, which are a vulnerable and marginalised group, the authorities violated their rights under that article. The court consequently ordered the municipality to include measures to protect the waste reclaimers in future bidding processes, and to include their participation in waste collection during the contract that had been awarded.

Waste reclaimers in South Africa are also beginning to organise themselves. Samson states that after the top down attempts of the Tshwane Metropolitan Municipality to formalise recycling in Tshwane failed to bear fruit, waste reclaimers took the initiative to organise themselves into a Network comprising members of waste reclaimers' committees of the seven landfills in the City of Tshwane. This initiative has helped waste reclaimers to share information, identify new buyers, and to begin initiatives to standardise prices for recyclables, remove the middleman, and negotiate prices with the recyclers directly, among others.¹⁴⁹

Reclaimers at other landfills, realizing the power of organising of the Network, have started to organise themselves into cooperatives with the aim for buying their own infrastructure and machinery and to access government funding.¹⁵⁰ The Mooi River Reclaiming Cooperative is an example of how waste reclaimers can

149 Samson 2010 *Organising reclaimers* 15.

150 For example in Tshwane the waste reclaimers at the Ondertepoort landfill have formed a cooperative in 2009. See Samson 2010 *Organising reclaimers* 15. In Pietermaritzburg waste reclaimers at the New England landfill have also formed the Hlanganani Ma Afrika Waste Pickers Cooperative in 2010, which has 74 members. See groundwork 2012 <http://www.groundwork.org.za>. Groundwork is an environmental justice organization working with communities around South Africa on environmental justice and human rights issues.

organise themselves to maximise their profits and access government funding. This cooperative was formed by ten unemployed people who decided to reclaim waste for a living and in 2010 received a United Nations Seed Award for Entrepreneurship in Sustainable Development in recognition of creating a source of collective income through the environmentally friendly activity of reclaiming plastics, paper, cardboard and glass to be recycled.¹⁵¹

In recognition of the efforts of the Mooi River Reclaiming Cooperative the government has decided to formalise reclaiming at the Mooi River landfill by allocating a sum of R600 000 to construct an MRF, among others, which will formally employ waste reclaimers at this landfill so that they can work under healthier and safer conditions. Moreover, on the 5th August 2012 the KZN MEC for Economic Development and Tourism, accompanied by both the District and Local Municipality mayors, visited the Mooi River Landfill where the cooperative is active to pledge their support for the waste reclaimers' initiatives.¹⁵²

Although some municipalities still regard waste reclaimers with suspicion and do not recognise their role in waste management and recycling, the tide is beginning to change and it is up to waste reclaimers to organise themselves and work hard to change negative perceptions about their work. This will enable them to access funding from municipalities. In this regard groundWork states that:

It is critical that waste picker co-operatives are supported by the state. This can be done by providing training for cooperatives, ensuring that the local municipalities set in place practices and bylaws that ensure that waste picker cooperatives are benefitting from local municipal business in waste, that the Integrated Waste Management Plans for municipalities recognise the important role of waste pickers, that MRFs are developed in cooperation with waste cooperatives and that waste pickers are seen as part of the 'green economy that responds to peoples' needs'....¹⁵³

As a further impetus to organising waste pickers in South Africa, the South African Waste Pickers Association (SAWPA) was formed in 2009 as a movement of people working on waste dumps and in streets collecting recyclable waste and

151 Groundwork 2012 <http://www.groundwork.org.za>.

152 Groundwork 2012 <http://www.groundwork.org.za>.

153 Groundwork 2012 <http://www.groundwork.org.za>.

earning an income from selling this waste material for recycling. SAWPA has the following aims and objectives:

- To unite waste pickers of South Africa
- To represent waste pickers at local and international fora
- To ensure strong and accountable leadership at all levels of the association
- To encourage waste reclaimers to be proud of their work
- To struggle for a healthy, safe and secure working environment for all waste reclaimers
- To struggle against discrimination and harassment from municipal authorities and police
- To work towards a situation of zero waste through increased recycling and other environmentally friendly processes, with waste reclaimers playing a central role
- To help make the country clean and green¹⁵⁴

Some municipalities are beginning to recognise the positive role played by waste reclaimers in waste recycling as is reflected by the IWMPs discussed in this chapter. Therefore it behoves waste reclaimers to organise themselves properly so that they can use the opportunities that may present themselves maximally and thereby increase their productivity and income while contributing to a clean and healthy environment.

Chapter 5: Conclusion

The aim of this study was to determine to what extent the body of South African environmental law and policy enables and regulates waste reclamation either directly or indirectly, with a view to integrate waste reclamation in the formal waste management sector and to improve regulation thereof. The study commenced with a brief overview of waste reclamation in perspective and proceeded to consider the legal framework and policy pertaining to waste

154 Groundwork SAWPA Provincial Coordinators Meeting 13-14 April 2011.

reclamation in South Africa. The study then considered the issue of recognition and integration of waste reclaimers in the formal waste management sector.

The study found that an estimated 88 000 waste reclaimers work in the informal sector in waste management in South Africa and that their activities are seldom sponsored, financed, contracted, recognised nor reported on by authorities in the formal waste management sector, which tends to marginalise and render them vulnerable to exploitation by middle men.¹⁵⁵ Nevertheless, they take the initiative to sustain themselves and their families by retrieving reusable and recyclable materials from the municipal waste stream. In view of these characteristics the term 'wastereclaimer,' for the purpose of this study, was defined as:

...a person who strives to generate an income in the informal waste management sector by reclaiming recyclable materials from the waste stream.¹⁵⁶

This study identified several benefits that can be derived if waste reclamation is properly regulated and integrated into the formal waste management sector and also highlighted some of the concerns associated with waste reclamation, especially those encountered at landfill sites, which pertain mostly to health and safety considerations.¹⁵⁷

The study then considered the policy and legal framework pertaining to waste management in South Africa, with a view to determine the extent to which they enable and regulate waste reclamation. From an analysis of this policy and legal framework it can be deduced that section 24 of the Constitution, as well as the government waste management policies enable waste reclamation in general in South Africa as it has potential to advance the right to an environment that is not detrimental to health and wellbeing, as well as sustainable development.

Furthermore, it became evident from perusal of policy and legislative framework that while government is not supportive of waste reclamation at landfills, it is

155 See 2 above.

156 See 2.2 above.

157 See 2.2.1 and 2.2.2 above.

sensitive to the plight of the many people who eke out a living at landfills and therefore has set out guidelines, as contained in the *Minimum Requirements*, for municipalities and other landfill owners to formalise and control waste reclamation at landfills as an interim measure so as to safeguard the health and safety of reclaimers.¹⁵⁸ However, these guidelines seem not to be adequate to control waste reclamation at the landfills, due to continuing health and safety concerns. The longer term view of government is to phase out waste reclamation and integrate the waste reclaimers in the formal waste sector.¹⁵⁹ Therefore waste reclaiming at landfills is regulated, directly and/or indirectly by several policy documents as well as NEM:WA. However waste reclamation outside the landfill site is not regulated at all.

Perusal of IWMPs of different categories of municipalities showed that some municipalities are indeed beginning to recognise the valuable role that waste reclaimers can play in the formal waste management sector.¹⁶⁰ The IWMPs of the City of Johannesburg Metropolitan Municipality, West Rand District Municipality and Mahikeng Local Municipality show that these municipalities are developing various programs that are geared at integrating waste reclaimers in prospective waste management projects such as separation at source and operation of material recovery facilities.¹⁶¹ However, there is still a long way to go before waste reclamation in South Africa can reach the level of organisation, recognition and development enjoyed by their counterparts in countries where waste reclamation is already well established, such as Brazil and Columbia.¹⁶² Nevertheless, South African waste reclaimers have begun to organise themselves so that they can also be counted, as evidenced by the formation of the South African Waste Pickers Association (SAWPA) in 2009.

It is necessary to improve the regulation of waste reclamation so as to safeguard the health and safety of waste reclaimers and to turn waste reclamation into a

158 See 3.3.3 above.

159 See 3.3.1 and 3.3.4 above.

160 See 4.2 above.

161 See 4.2.1.1 - 4.2.1.3 above.

162 See 4.3 above.

profitable enterprise. For this to happen the government must promulgate waste reclamation regulations under NEM:WA, which will, among others, spell out the rights and obligations of landfill owners, operators and reclaimers at landfills, and also regulate waste reclamation outside landfills. It is also necessary that waste reclamation must be included in municipal by-laws. Currently waste reclamation is not provided for in most municipal by-laws, thus municipalities deal with it in an arbitrary and *ad hoc* manner. There must be clear guidelines which govern waste reclamation, not only at landfills but in all settings where it occurs. In this regard it is recommended that the Department of Water and Environmental Affairs must draft a model by-law that regulates waste reclamation. Individual municipalities should then be encouraged to adapt the model by-law to suit local circumstances.

It is also important that waste reclamation be integrated into the formal waste management systems of municipalities through partnerships between municipalities, industry and waste reclaimers through their associations or cooperatives. In this way it will be possible for municipalities to involve waste reclaimers in waste recycling initiatives such as separation of waste at source. This can be achieved, for example, through collection of recyclables from the households and/or trade premises by the municipality or service provider, who then transport these to a material recovery facility (MRF) that is manned by waste reclaimers. The reclaimers then sort and bale the recyclables into paper, plastics, tins and glass, which are to be weighed and collected by the recycling companies.

It is further recommended that the national Waste Information System (WIS) must make provision for documenting recyclable waste recovered by waste reclaimers. Therefore municipalities, who provide the WIS with waste statistics, must investigate and document the volumes of recyclables recovered by waste reclaimers in their local areas, with a view to forwarding these to the WIS. In this way it will be possible to accurately document the contribution of waste reclaimers to the national targets of waste minimisation as set out in the Polokwane Declaration as well and the NWMS, among others.

Moreover, municipalities, in conjunction with industry, must capacitate waste reclaimers by training them in literacy, numeracy and business skills, and also provide them with subsidies and the necessary capital as an incentive to maximise their outputs in waste recovery and recycling. They must also assist waste reclaimers to form cooperatives or associations that can effectively negotiate with government and industry and partner them in waste management projects. In this way the government's objective of phasing out waste reclamation at landfills will be progressively realised as less waste will go to landfills if waste reclaimers are actively involved in source separation.

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