

INTERNATIONAL COMMITTEE ON CONTAMINATED LAND

QUESTIONNAIRE ABOUT LEGAL FRAMEWORK FOR SOIL/SITE CONTAMINATION MANAGEMENT

COUNTRY: [SOUTH AFRICA](#)

CONTACT FOR FURTHER INFORMATION:

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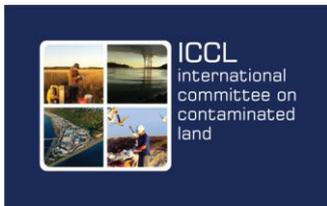
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OVERALL CONTEXT

1. Does your national policy have a specific definition of “contaminated site”, “contaminated soil”? If yes, please provide the definition.
[Yes. The National Environmental Management Waste Act, 2008 \(NEMWA\) define Contaminated as the presence in or under any land, site, buildings or structures of a substance or micro-organism above the concentration that is normally present in or under that land, which substance or micro-organism directly or indirectly affects or may affect the quality of soil or the environment adversely .](#)
2. Is Groundwater included in this definition?
[Yes. The presence of a substance or micro-organism under any land covers the section of groundwater.](#)
3. Does your policy on contaminated sites/land/soil include other definitions (i.e. Brownfield, sediment)?
[No.](#)
4. Which sources are you considering? Industrial operations? Transport? Urban contamination? Etc.
[Mostly industrial operations](#)

LEGAL FRAMEWOK

5. Does your country have legislation with respect to contaminated land management?
[Yes.](#)
 - a. Whatever the situation is, please precise if it's a specific or a common legislation, if integrated in a more general one (including prevention of emissions, soil protection, land planning, environment & health, etc.)
 - b. If there is no legislation, please precise how you tackle the problem.
 - c. What are the main policy objectives?



The objective is to manage contaminated sites in a uniform approach.

- d. What are the foundational principles on which the national policy is based? (E.g. polluter pays, risk-based, fit-for-use, stand-still, transparency, ...).

Polluter pays

6. What is the Chain of Liability for the management of contaminated land?

- a. Polluter? Land owner? Last operator? Occupier?

Land owner and Polluter

- b. Is there any difference between new and historic contamination?

There is no difference between new and historic contamination. However the immediate or sudden contamination are managed and processed in terms of Section 30 (Emergency Incidences) of National Environmental Management Act, 1997.

- c. Can a responsible party pass on the liability to a purchaser? (under statutory law? Contractually?)

Yes. In terms of Section 40 of NEM:WA, the responsible party must inform the purchaser about the status of the site.

- d. Do you separate the obligation to remediate soil pollution and the liability regarding the damage caused by soil pollution and the related remediation measures?

No.

- e. Are you facing specific situations (e.g. privatization of the industrial activities, war impacted areas, ...) needing special programme?

Remediation of Secondary Asbestos pollution

7. Are there any specifications at regional / local level?

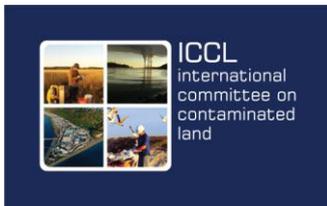
No.

8. Are there specifications for site closure?

On completion of the remediation activities the owner or person must submit a closure report to the Minister for review and evaluation. If the remediation order has been fully complied with the Minister must issue a consent letter to the land owner or person to declare that the remediation objectives have been achieved and the site may be used for intended purpose.

9. Is there any legal requirement to conduct investigation for potential contamination in the sale of the property?

No.



10. Does your national policy have any kind of inventories/registers? If yes, please precise which sites are registered, how are collected the data and if the databases are public.

The Department is in a process of developing contaminated land register that will capture all investigation areas and contaminated sites. The Register is not yet available for the public.

11. What are the strong, weak points and the major bottlenecks with respect to the current regulations in your country?

Strong points: The national policy is retrospective.

Remediation of contaminated land activities are regulated through Waste management activity list that requires a waste management Licence.

Weak points: Industries use international standards for remediation of their sites but we are currently developing our Norms & Standards

Bottlenecks: None

TECHNICAL ISSUES RELATED TO THE LEGAL FRAMEWORK

12. Are there site investigation requirements?

Yes. In terms of the NEMWA, the land owner or person must conduct a site assessment.

13. Is Risk Assessment & Management the main tools?

Yes.

14. Are they specific technical approaches used?

a. For Human Health (HH), Ecosystems, Groundwater (GW), Surface waters (SW), other targets (i.e. buildings, infrastructures, ...please precise).

Yes.

b. On a site by site specific approach, or by derivation of guideline values? If possible, please detail your answer.

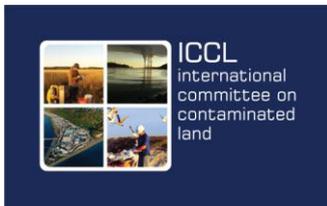
c. Do you take into consideration others sources of pollution in the risk assessment?

Yes

15. If the national policy uses guideline values, please precise the following points:

a. Reasons for derivation of generic values

b. Objectives / levels of implementation (investigation, risk assessment, remediation).



The Department has gazetted the Draft Norms and Standards for Remediation of Contaminated Land and Soil Quality which will clearly indicate the Soil Screening Values of substances/contaminants.

c. Priority substances

The priority substances include but not limited to Metals, Petroleum organics, Petroleum Additives

d. Protocols of derivation (including acceptable risk levels used).

16. What are the drivers for remediation?

a. To what level is clean-up required? (i.e. acceptable risk, land use values, ...)

To an acceptable level fit-for-use

b. Does your national policy use cost-benefits analysis for the choice of the remedial solution?

The Department does not consider cost-benefits analysis for the choice of the remedial solution as independent consultants appointed by responsible person provide a list of preferred remedial methods at their own cost.

17. What are the main treatment techniques used in your countries (including Natural Attenuation)?

Vacuum Enhanced recovery

Bioremediation

Soil Stabilisation

Phytoremediation

Excavation and Disposal as a last resort.

18. Are you considering sustainability in the national approach?

Yes.

a. If yes, how (in particular how the three pillars of sustainability are considered and balanced)?

It works towards the protection of human health and environment, and job creation.

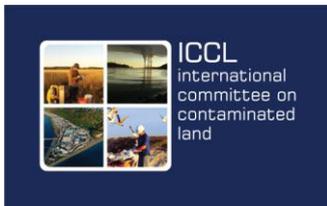
b. If no, explain the reasons and the future challenges.

19. How are bridging the CLM approach with:

Through Inter-governmental committee

a. Land planning programmes?

b. Public health programmes (aggregation of impacts on



FINANCIAL ISSUES

20. What are the specific practices with respect to “Orphan sites”?

None but obviously government must clean up if need be.

21. Do you have an idea of the Annual budget allocated to Soil Contamination Management?

None

- a. How is it divided between public, private and others?
- b. What are the main financial / funding systems in place in your country? (e.g. Financial guarantees, insurance, guaranties, public – private partnerships, special foundation, industrial consortium, ...).
- c. Between the different steps of management (investigation, remediation, monitoring...)?

ORGANISATIONAL ISSUES

22. How stakeholders and in particular communities are involved in the approach?

The communities are Involved in the identification of sites that require remediation or where high risk activities are taking or have taken place.

23. Is there a specific approach for:

- a. Brownfields?
- b. Megasites?
- c. Widespread pollutions
- d. Reuse of excavated soils? In relation with their quality

There is no site specific approach for the aforementioned sites.

24. Does your national policy include any accreditation system for consultants or service providers? If yes, please provide some details.

None

25. Do you have any training / capacity building programme, any management accountability and performance measurement?

Yes

26. How is organized the necessary inter-governmental coordination for CLM (e.g. with Health Protection Department, with the public site owners,



The Department has established an inter-governmental Committee on Remediation of Secondary Asbestos Pollution in South Africa, that include amongst other National Departments, provincial departments and municipalities

CRUCIAL DEVELOPMENTS IN THE FUTURE

Any additional issue to be further developed in the following months/years whatever they are (Research and Development needs, organisational issues, ...).

Establishing of a team of experts to continuously work on soil screen values.

REFERENCES

National Environmental Management Waste Act, 2008

National Environmental Management Act, 1997

Draft Norms and Standards for the remediation of contaminated Land and Soil Quality

www.sawic.org.za