

Legal Update

Environmental news

February 2016

New waste disposal regime - Resolution 631 dated 17th March 2015 (the “Resolution”) issued by the Ministry for the Environment and Sustainable Development (“MADS”)

- Based on Article 28 of Decree 3930 of 2010, as amended by Article 1 of Decree 4728 of 2010, MADS has set a limit for the maximum amount of waste that can be dumped in bodies of surface water and public sewage systems. It has also redefined the way in which it will analyse and report on industrial, commercial or service activities in respect of waste disposal.
- The new regulations will affect the following sectors: agribusiness, farming, mining, hydrocarbons, food and drink manufacturers, goods production and manufacturing, the services sector and any other industrial, commercial or public services conducting sewage activities.
- The parameters have been redefined. Monitoring is now based on the percentage of load removal (Kg/Day) rather than concentration value (mg/L). This change of focus aims to give a greater level of control, so that the impact of what is being dumped can be evaluated rather than the efficiency of the treatment process.
- The new system does not apply to any waste that is dumped in marine waters or in the ground, in these instances the relevant persons must continue to comply with Decree 1076 of 2015.
- The Resolution came into force on 1st January 2016 and dumping permits that are granted retrospectively must be in compliance with the Resolution from the date that it was introduced.

However, the Resolution allows for a transition period in relation to permits that were granted by the environmental authorities prior to 1 January 2016, namely:

- a) In respect of generators that had a valid dumping licence on the date that the Resolution came into force, and which were complying with the terms, conditions and obligations imposed under the licence, they must comply with the new rules within 2 years of the date of the Resolution, i.e. before April 2017.
- b) In respect of any generators that had a valid dumping licence on the date that the Resolution came into force, and which were complying with the terms, conditions and obligations imposed under the licence, and which further opted to implement a “Conversion to Clean Technology in Waste Management Plan”, the deadline will be extended for a further 3 years, i.e. the new rules must be applied before April 2020.

- c) In respect of any generators that had a valid dumping licence on the date that the Resolution came into force, but which were not complying with the terms, conditions and obligations imposed under the licence, they must comply with the new dumping regulations within 18 months of the date that the Resolution came into force, i.e. before October 2016.
- d) In respect of any waste generator that was not complying with the terms, conditions and obligations imposed under its licence but which has opted to implement a "Conversion to Clean Technology in Waste Management Plan", the deadline is extended for 2 years i.e. the new rules must be applied before October 2018.
- e) Any Implementation Plans which were approved before the Resolution came into force must be amended and new approvals sought within 6 months from the date that the Resolution was published. This means that any such plans had to be amended and approved by October 2015.

Having complied with the relevant steps, all generators of any waste that is disposed of in surface water or in public sewer systems must invoke the new regulations within the relevant timeframes. If they fail to do so, they could be liable for environmental sanctions.

Please note that there is an inconsistency in the drafting of the regulations in relation to the system for the calculation of the various deadlines, as the Article refers to both the publication (April 2015) and the coming into force (January 2016) of the Resolution, which in the case of the Resolution are different. For this reason, the dates mentioned above are subject to confirmation. We have raised a query with MADS and as soon as we receive a definitive response we will update this alert.

For more information, please contact either of the following environmental lawyers:

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