



**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
REPUBLIC OF SOUTH AFRICA**

DIRECTORATE ENFORCEMENT

**Everything You Need To Know About The
ENVIRONMENTAL MANAGEMENT INSPECTORATE**

What is the Environmental Management Inspectorate?

The Environmental Management Inspectorate is a network of environmental enforcement officials from different government departments (national, provincial and municipal). The Inspectorate was created when an amendment to the National Environmental Management Act, 107 of 1998 (“NEMA”) came into effect on 1 May 2005. The new Chapter 7 of NEMA now provides for Environmental Management Inspectors (EMIs) to be designated by the Minister and MECs.

How will the Inspectorate step up enforcement of environmental legislation?

With the establishment of the Environmental Management Inspectorate, environmental enforcement officials will for the first time be part of a national network, sharing intelligence, experience, standardised training and procedures. For the first time, environmental enforcement will have a distinctive national identity with a national profile.

This national EMI network will break through the traditional separation between environmental media, and will include park rangers and conservation officers, air quality officers, marine and coastal enforcement officers, pollution and waste enforcement officials and officials monitoring urban developments.

In addition to standardising enforcement powers, the amendment to NEMA also provides for extensive new powers for EMIs (see below), as well as a set of new criminal offences and other enforcement provisions. New criminal offences include:

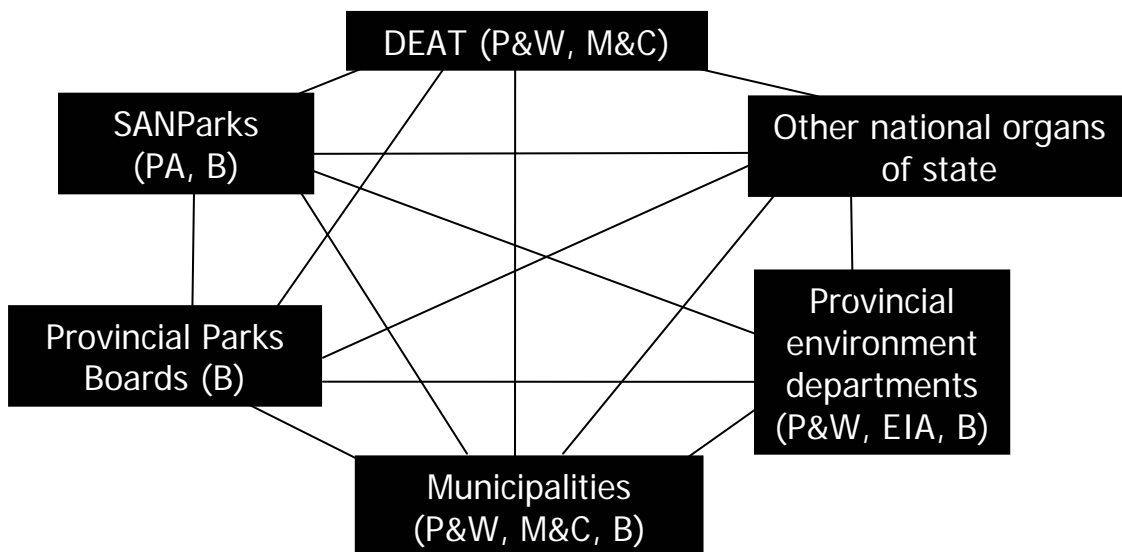
- hindering or interfering with an EMI’s duties, or pretending to be an EMI;
- giving false information to an EMI, or refusing to comply with an EMI’s request; and
- failure to comply with a compliance notice, which can be issued by certain EMIs when that EMI has reasonable grounds for believing that a person has not

complied with environmental legislation, or with a term of a permit issued under that legislation.

If a person fails to comply with a compliance notice issued by an EMI (which has to be done in writing in accordance with a prescribed procedure), the Minister or relevant MEC may revoke or vary that person's permit, take the necessary steps and recover the costs from the offender, and refer the matter to the National Prosecuting Authority for prosecution.

The amendment to NEMA also contains new forfeiture provisions: a court convicting a person of an offence in terms of NEMA may declare any item including but not limited to any specimen, container, vehicle, vessel, aircraft or document that was used for the purpose of or in connection with the commission of the offence and was seized under NEMA, to be forfeited to the State.

The Environmental Management Inspectorate



Areas of enforcement

P&W = pollution and waste

B = biodiversity

PA = protected areas

M&C = marine and coastal

EIA = environmental impact assessment

Who can be designated as an EMI?

The following officials may be designated as EMIs:

- officials employed by the Department of Environmental Affairs and Tourism;

- officials employed by provincial environment departments, or other provincial organs of state;
- municipal officials; and
- officials employed by “other organs of state”

The legislation does not provide for members of the public, volunteers or representatives of non-governmental organisations to be EMIs.

What are EMIs’ mandates and functions?

EMIs must monitor compliance with and enforce the specific environmental legislation they have been mandated to enforce in their designations by the Minister.

The first EMIs have been mandated to enforce a range of legislation depending on their particular functions, including:

- NEMA;
- the National Environmental Management: Air Quality Act, 39 of 2004;
- the National Environmental Management: Biodiversity Act, 10 of 2004; and
- the National Environmental Management: Protected Areas Act, 57 of 2004 (“Protected Areas Act”).

What are their powers and responsibilities?

EMIs can be conferred with a range of powers, from powers of:

- inspection (entering premises, seizing evidence);
- investigation (questioning witnesses; copying documents; inspect and remove articles or substances; taking photographs; taking samples; removing waste)
- enforcement (search, seizure, roadblocks, arrest); and
- administrative powers (issuing compliance notices).

Not all EMIs will have the same powers, or all of the above powers. EMIs are organised into a ranking system from Grade 1 to 5, depending on experience, qualifications and seniority. A Grade 1 EMI has more powers than any other grade EMI.

What training will they receive?

With the advice and support of the United States Environmental Protection Agency and the Environment Agency of England and Wales in the United Kingdom, DEAT is currently preparing high-quality training that must be attended by all EMIs. This training will cover the following topics:

- legal background to and implications of being an EMI, including an overview of environmental, constitutional, criminal and administrative law;
- principles of integrated environmental management;
- basic health and safety, and dealing with hostile situations;
- carrying out routine inspections;

- conducting thorough investigations and collecting evidence that will stand up in court;
- legal requirements for search and seizure and arrest;
- giving evidence in court;
- how to use the EMI network and resources for efficient enforcement.

Have any EMIs been designated, and who are they?

The Minister of Environmental Affairs the Tourism, Marthinus van Schalkwyk, designated the first 26 EMIs on [DATE] 2005. This first group of EMIs consists of officials from the Department of Environmental Affairs and Tourism and officials from the special investigation unit in South African National Parks (SANParks).

When will other EMIs be designated, and how many will there be?

It is expected that both the Minister and MECs will designate up to 600 EMIs within the next 3 to 6 months. A large of group of EMIs will be designated among SANParks officials when the Protected Areas Act comes into effect later this year.

How can the public recognise an EMI?

Although EMIs will wear distinctive EMI clothing, they will continue to be identified as employed by a specific institution. For example, EMIs in the Gauteng Department of Agriculture, Conservation and Environment will wear the Gauteng provincial coat of arms on their EMI clothing. EMIs will also be issued with standard identity cards.

How can the Environmental Management Inspectorate be contacted?

At the moment, there is no central contact point for the Inspectorate or EMIs, and members of the public must therefore contact the institutions employing EMIs (e.g. the national Department of Environmental Affairs and Tourism, SANParks, or the Free State Department of Environmental Affairs and Tourism) directly.

Another option is to call the Department of Environmental Affairs and Tourism's toll-free tip-off line on 0800 701 701, from where your tip-off will be referred to EMIs in the appropriate department.

Will EMIs be bound by a Code of Conduct?

Yes – such a code is already under development. Fundamental principles of such a Code of Conduct include:

- A firm but fair approach to offenders
- The highest ethical standards
- Respect for human rights
- Close cooperation with other EMIs and other enforcement agencies

- Effectiveness and efficiency

What is the role of the SAPS in the Environmental Management Inspectorate?

The South African Police Services (SAPS) will continue to play a crucial role in enforcing environmental legislation, and EMIs will work very closely with police officials in the investigation of environmental crimes. In terms of NEMA, all police officers also have the powers of an EMI.

Are EMIs the same as the Green Scorpions?

Although not an official title, the Environmental Management Inspectorate is popularly known as the “Green Scorpions”. However, it is important to note that the Inspectorate is structured in a fundamentally different way to the Directorate of Special Operations based within the National Prosecuting Authority (NPA) – the Scorpions.

Firstly, EMIs do not only focus on criminal offences under environmental legislation, but also have administrative tools at their disposal, particularly by way of issuing a compliance notice to offenders.

Secondly, whereas the Scorpions have both investigators and prosecutors within their team, the Environmental Management Inspectorate does not prosecute criminal cases in court. EMIs have all the powers required to investigate criminal offences, gather evidence and bring offenders before court, all cases will continue to be handed over to prosecutors of the NPA to prosecute. The Department of Environmental Affairs and Tourism is already working closely with the NPA to provide information, training and support to prosecutors to ensure the effective and successful prosecutions of environmental crimes.

The Environmental Management Inspectorate: Protecting Your Environmental Rights