

## Legal and institutional requirements in Ghana

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## 1. Legal and institutional requirements in Ghana

### 1.1. The legal framework

The Constitution of the Republic of Ghana from 1992 contains three sections that lay out the general basis for environmental protection:

- Article 36 (9): The State shall take appropriate measures needed to protect and safeguard the national environment for posterity; and shall seek co-operation with other states and bodies for the purposes of protecting the wider international environment for mankind.
- Article 36 (10): The State shall safeguard the health, safety and welfare of all persons in employment, and shall establish the basis for the full deployment of the creative potential of all Ghanaians.
- Article 41 (k): The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen to protect and safeguard the environment.

In addition, a National Environmental Action Plan (NEAP) that was published in 1991 further specifies the environmental policy of Ghana. According to Amoyaw-Osei et al. (2011) the aim of the policy “is to improve the surroundings, living conditions and the quality of life both of the present and future generations”.

In 2012, a National Environmental Policy was published that lists e-waste as a major emerging environmental issue (NEP 2012). In addition, it lays out various ‘operational principles’ that have relevance for further e-waste and car-waste related policies. Amongst others, these are:

- Polluter pays:

Those responsible for environmental damage must be held liable for the repair caused both to the physical and human environments. They must also be held responsible for the costs of preventive measures to reduce or prevent further pollution and environmental damage.

- Waste Management:

Management of waste must minimize and avoid the creation of waste at source and particular attention should be given to toxic and hazardous wastes. Government, municipal and district administrations, must practise recycling, separation at source, waste-to-energy practices and safe disposal of unavoidable waste.

### 1.2. The draft hazardous and electronic waste control and management bill

Starting in 2010, the Ghanaian administration led by the Environmental Protection Agency (EPA) developed a *hazardous and electronic waste control and management bill*. It is still in a draft version and currently awaits reading in parliament. It consists of two parts:

- Part one on hazardous waste and other waste
- Part two on electronic waste

While part one lays out provisions regarding:

- Control of transboundary movement of hazardous wastes and its disposal<sup>1</sup>
- Management of hazardous waste and other waste
- Miscellaneous provisions

Part two introduces:

- An electronic waste levy
- An electronic waste recycling fund
- As well as provisions for electronic waste recycling plants

Generally, many sections of part one implement provisions laid out in the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* that was approved by Ghana in 2003. In addition, it regulates the authorities' means of intervention in case any person or company violates provisions related to storage, transport and disposal of hazardous waste. This also includes – amongst others – issues around sampling and testing, power of search, seizure and arrest, as well as liability for harm caused. Part one also specifies the obligations of the Environmental Protection Agency and requires that

- “Persons involved in the management of hazardous waste [...] shall take the steps that are necessary to prevent pollution from hazardous wastes.”
- “[...] hazardous wastes are not mixed with non-hazardous waste unless the generator, collector, storer, transporter or disposer proves that the mixing is more environmentally sound.”
- “The [Environmental Protection] Agency shall not allow hazardous or other wastes to be transported from the site of generation unless the packaging and containers for their transport are labelled accordingly in a clearly visible form and a movement document shall accompany the transportation.”
- “A person who wants to collect, transport or dispose of hazardous wastes or other wastes shall apply to the [Environmental Protection] Agency in an approved form for a general permit to collect, transport or dispose of hazardous wastes or other waste.”
- “A permit shall be for a maximum period of one year and may be renewed.”
- “The [Environmental Protection] Agency may withdraw a permit if the holder of a permit contravenes a provision of this Act.”
- “A generator, collector, storer, transporter or disposer of hazardous waste and other waste shall maintain an adequate insurance cover in respect of the management of the hazardous waste and other waste.”
- “A person who generates, collects, stores, transports or disposes of hazardous wastes or other wastes is responsible for the health and safety of the employees of that person.”

Part two widely addresses the establishment of an Extended Producer Responsibility scheme (EPR) requiring manufacturers and importers of electronic equipment to register with the Environmental Protection Agency and to pay an electronic waste levy. This levy is planned to be collected by the Customs Division of the Ghana Revenue Authority. According to the draft bill, this

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<sup>1</sup> For the definition of hazardous waste the draft bill makes a reference to the classifications of the Basel Convention.

levy will be fed into an *Electronic Waste Recycling Fund* that is aimed “to provide finance for the management of electronic waste and reduce the adverse impact of electronic waste on human health and the environment”. In particular, the fund shall be used for:

- The construction and maintenance of electronic waste recycling or treatment plants;
- Research into methods of electronic waste preservation, prevention and control;
- Research into electronic waste treatment and recycling;
- Publication of reports; and
- Education of the public on the safe disposal of electronic waste as well as the negative effects of electronic waste.

The fund is envisaged to be managed by the Minister with responsibility for the environment. The current draft bill sets the levy between 0.10 Cedis per device (e.g. compact fluorescent lamp) to 5.00 Cedis per device (e.g. personal computer, TV, refrigerators, air conditioners).

The draft bill also foresees the establishment of an electronic waste recycling plant to be managed by the Environmental Protection Agency. It also allows for establishment of privately owned and operated electronic waste processing plants as well as collection facilities after approval by the Environmental Protection Agency.

In addition, the draft bill requires manufacturers, distributors and wholesalers of electronic equipment to take back used or discarded devices that were manufactured or sold by the entity. Other requirements address the import of used equipment and limit imports to persons holding a permit for such imports granted by the Environmental Protection Agency.

### **1.3. Administrative requirements for enterprises engaging in collection and recycling of e-waste and car-waste**

According to the currently established procedures in Ghana, companies active in e-waste and/or car waste collection and recycling require various permits and documents in order to operate. In particular, all businesses have to conduct an environmental impact assessment for the Environmental Protection Agency (EPA) before starting operation. Furthermore, companies need to obtain the following permits and documents:

- Registration of company (yearly renewal);
- Permit of operation (yearly renewal);
- Permit from the City Authority (Municipal or District Assembly) to operate in their area (yearly renewal);
- Prove that plant, equipment and buildings are insured against fire;
- Permit from the Ghana National Fire Service (NFS) (yearly renewal);
- EPA Permit (yearly renewal).

According to current rules, foreign companies in a joint venture with a Ghanaian company have to prove a minimum investment sum of US\$ 200.000. For foreign companies without Ghanaian partner, this minimum investment sum is US\$ 500.000.

None of these listed requirements is specific to recycling companies or companies active in e-waste and/or car waste management. Nevertheless, it is expected that the passage and enforcement of the *hazardous and electronic waste control and management bill* (see section 1.2) will significantly change registration and operation requirements for companies active in waste management and recycling.

#### **1.4. Administrative requirements for the export of hazardous waste for recycling**

Ghana approved the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* in 2003. Therefore, all exports of hazardous waste for recycling (e.g. used lead-acid-batteries) require notification according to the prior informed consensus procedure laid out in the Convention. In Ghana, the Environmental Protection Agency (EPA) acts as focal point for notifications. To apply for a notification, all notification standard documents (transportation document, movement document...) have to be provided to EPA.

It is noteworthy that transboundary movements of hazardous wastes also require notification in all transit countries. For sea-transport, this also includes all countries the transporting vessel will stop-over for loading/unloading or to take up fuel.

Regarding the export of used lead-acid batteries for recycling, the Environmental Protection Agency publicly announced in early 2014 not to grant any notifications for exporters aiming to ship drained batteries (without acid). The reason for this decision is the fact that proper management of battery-acid is hardly carried out in Ghana so that every export of drained batteries is likely to be associated with environmentally polluting practices (Öko-Institut et al. 2014).



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