

Prosecution of Environmental Offences

Prosecution is the institution, or commencement and continuance of a criminal suit; the process of exhibiting formal charges against an offender before a legal tribunal, and pursuing them up to final judgment.

- Criminalization of environmental offences could play a significant role :
 - ✓ to change the behaviour of the offender
 - ✓ to deter future non-compliance
 - ✓ to restore the harm caused by regulatory non-compliance, where appropriate

Under Section 87 of the Environment Protection Act (EPA) 2002, an authorised officer may swear an information and conduct prosecution in respect of an offence under an environmental law. For better enforcement of the EPA, a Prosecution Division was created within the Department of Environment having one of its responsibilities to conduct and initiate criminal proceedings. The Director of Public Prosecutions has delegated the powers to undertake criminal proceedings before the District Courts to the Prosecution Division of the Ministry of Environment and Sustainable Development or any authorised officer designated by the latter.

Since the setting up of the Prosecution Division in 2010, prosecutions were initiated on some 34 cases and they are at the different stages of prosecution as detailed below:

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| No of cases received for prosecution | : | 34 |
| No of Cases lodged in District Courts | : | 9 |
| No of cases for which judgment were obtained | : | 7 |
| No of cases fixed for trials | : | 2 |
| No of cases set aside by ODPP | : | 6 |
| No of cases advice received from ODPP/ discussed : | | 13 (9 cases ODPP advised for prosecution, 4 cases being discused) |
| Ongoing enquiries | : | 12 |

To date, judgment has been obtained on seven cases. The accused were found guilty and were sentenced to pay fines amounting to a total of Rs 50 000. One case concerned failure to pay fixed penalty notice served for depositing vehicle wrecks on a bareland and partly on the road, and one case concerned failure to comply with Eyesore Abatement Notice for unsightly stockpile of old metals on premises. In another case, the accused was operating a plastic industry without a Preliminary Environmental Report Approval from the Ministry of Environment and Sustainable Development. The remaining cases concerned failure to pay fixed penalty notices for overgrowth of vegetation on barelands.