



**COUNTRY  
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## **Dominican Republic ENVIRONMENT**

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This country-specific Q&A provides an overview of environment laws and regulations applicable in Dominican Republic.

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# DOMINICAN REPUBLIC ENVIRONMENT



## 1. What is the environmental framework and the key pieces of environmental legislation in your jurisdiction?

The main legal instrument in the Dominican Republic is our Constitution, whose article No. 67 enshrines the protection of the environment stating, *"The duties of the State are to prevent pollution, protect and maintain the environment for the benefit of present and future generations."*

Likewise, law No. 64-00 on Environment and Natural Resources establishes the standards for the conservation, protection, improvement and restoration of the environment and natural resources, ensuring their sustainable use. It also, it establishes a general framework on information and participation in environmental matters, and responsibility for environmental damage in the Dominican Republic. Moreover, there is a complementary regulatory framework with a compendium of regulations for environmental authorizations.

Additionally, there are several special laws for protected areas, solid waste, mining, renewable energy, biodiversity, and climate change, among others, that strengthen the regulatory framework in all sectors to which the environment is closely linked.

## 2. Who are the primary environmental regulatory authorities in your jurisdiction? To what extent do they enforce environmental requirements?

In 2000, the Ministry for the Environment and Natural Resources was established endowing it with the authority to enforce environmental regulations on a national scale. For effective administration, the Ministry is bolstered by various sub-ministries, regional directorates, and other relevant entities collaborating towards common objectives. The Ministry is the agency in charge of elaborating, executing, and overseeing national policies related to the environment and natural resources in the

country. One of its main functions is the elaboration of the National Policy on Environment and Natural Resources, which leads to define the guidelines and objectives that will guide the actions and decisions on environmental matters at the national level.

Additionally, the National Council for Climate Change and Clean Development Mechanism (CNCCMDL) which was established by Decree No. 601-08 to work conjunctly along with various institutions in the Dominican Republic's development sectors to address global climate change. Chaired by the president, the Council comprises representatives from the public sector, private sector, and civil society organizations.

It plays a pivotal role in implementing the Clean Development Mechanism (CDM). This mechanism allows emission reduction projects in developing countries to earn certified emission reduction credits (CERs), each equivalent to one ton of CO<sub>2</sub>. Not only does it encourage sustainable development and emission reductions but also serves as the primary source of income for the Adaptation Fund of the United Nations Framework Convention on Climate Change (UNFCCC). This strategic integration ensures a comprehensive approach to combating climate change while supporting vulnerable nations in adapting to its adverse effects.

## 3. What is the framework for the environmental permitting regime in your jurisdiction?

The compendium of regulations for environmental authorizations frames environmental authorizations into four categories: A (environmental license); B (environmental permit); C (environmental certificate); and D (minimum impact registration certificate) based on the characteristics of the project.

- Category A: A proposed project is classified in this category when it may produce adverse impacts on the environment, either due to its characteristics or because it is in or near environmentally sensitive areas, and whose

magnitude and extent must be determined during the study. This type of project includes preventive, mitigating and/or compensatory measures for the identified impacts, establishing the Environmental Management and Adaptation Program necessary for the project to be executed. An Environmental Impact Study is required for this category of project, as established by Law No. 64-00.

- Category B: A proposed project is classified in this category when the impacts are well known or moderate, and whose effects can be eliminated or minimized through the adoption of necessary mitigation, prevention, or compensation measures, which are established in the Environmental Management and Adaptation Program. An Environmental Impact Declaration (DIA) is required for this category of project, as established by Law No. 64-00.
- Category C: A proposed project is classified in this category if the result of its diagnosis indicates that these impacts are well known or that its execution does not cause significant negative environmental impacts. For this type of project, it is only necessary to establish the corresponding mitigation measures to comply with existing environmental regulations, as established by Law No. 64-00.
- Category D: A proposed project is classified in this category if the result of its diagnosis indicates that human activities are classified as having low environmental impact or low environmental risk. Compliance with existing environmental regulations is required, as established by Law No. 64-00.

#### **4. Can environmental permits be transferred between entities in your jurisdiction? If so, what is the process for transferring?**

Yes, you can transfer an environmental permit amending the beneficiary or holder of an environmental authorization.

To obtain the transfer of the permit, documentation evidencing it must be submitted to the Ministry, and subsequently, an administrative fee should be paid. Based on the complexity time for approval takes between 3 to 6 months.

#### **5. What rights of appeal are there against**

#### **regulators with regards to decisions to grant environmental permits?**

Law No. 107-13 on the Rights of People in Their Relations with the Administration and Administrative Procedure and supplementary with sectoral and common law, gives the owner the possibility to appeal for reconsideration and hierarchy in administrative headquarters and contiguous-administrative appeal in court.

The Ministry holds the discretionary authority to reject a submitted project if it is found to be non-compliant with current regulations. Such rejection must be thoroughly justified.

#### **6. Are environmental impact assessments (EIAs) for certain projects required in your jurisdiction? If so, what are the main elements of EIAs and to what extent can EIAs be challenged?**

Yes, Environmental Impact Assessments (EIAs) are mandatory when applying for an environmental license in the Dominican Republic. The main elements of EIAs typically include a comprehensive analysis of the project's potential environmental impacts, mitigation measures, and a description of the existing environmental conditions in the area. The Ministry issues the Terms of Reference (ToR), outlining all environmental characteristics required in the EIA submission.

The Ministry holds the authority to challenge EIAs if they believe the information provided does not align with legal requirements or the environmental conditions of the area. Any challenges made by the Ministry must be supported by a report from the technical team, ensuring a thorough and objective evaluation of the assessment.

#### **7. What is the framework for determining and allocating liability for contamination of soil and groundwater in your jurisdiction, and what are the applicable regulatory regimes?**

Law No. 64-00 establishes that the government, society, and each inhabitant of the country are responsible for the protection of contamination of soil and groundwater. This responsibility has a special character for those who hold environmental authorization as stated on Chapter II and Chapter III of the aforementioned law.

In addition, Law No. 64-00 also created the Attorney

General's Office for the Defense of the Environment and Natural Resources, as a specialized branch of the Attorney General's Office to represent and defend the interests of the State and society in this matter.

**8. Under what circumstances is there a positive obligation to investigate land for potential soil and groundwater contamination? Is there a positive obligation to provide any investigative reports to regulatory authorities?**

According to Law No. 368-22 on Land Management, Land Use and Human Settlements, there is an affirmative obligation to investigate the land for possible soil and groundwater contamination in any activity requiring the circumstances listed in Article No. 34.

**9. If land is found to be contaminated, or pollutants are discovered to be migrating to neighbouring land, is there a duty to report this contamination to relevant authorities?**

Any natural or legal person with an interest can file a complaint before the Ministry of the Environment which has the obligation to investigate and verify the presented allegations.

**10. Does the owner of land that is affected by historical contamination have a private right of action against a previous owner of the land when that previous owner caused the contamination?**

Yes, he could file a claim before the General Attorney's Office for Environmental Defense and Natural Resources. This claim must be in accordance with a report made by the technical team suggested by the Ministry of Environment to provide the Attorney General of Environment with the tools to issue the corresponding sanction and the measures to mitigate the environmental damage.

Additionally, the purchaser may opt for a civil lawsuit for restitution, damages, or both, depending on the case. In this case, the main legal framework will be the Dominican Civil Code.

**11. What are the key laws and controls**

**governing the regulatory regime for waste in your jurisdiction?**

In the Dominican Republic the General Law No. 225-20 on Integral Management and Co-processing of Solid Waste is an integral part of the regulatory framework for waste management. This law operates under the broader scope of key regulations and laws governing environmental protection and waste management. The Ministry of Environment in collaboration with the Department of Integral Waste Management, plays a crucial role in overseeing compliance with Law 225-20.

Alongside Law No. 225-20, other pertinent regulations contribute to the comprehensive waste management landscape in the country, such as Law No. 64-00 on Environmental and Natural Resources, the General Regulation on Solid Waste Management (Resolution No. 1-2017), Law No. 253-12 on the Comprehensive Management of Solid and Hazardous Waste, and the General Environmental Regulations (Resolution No. 724-07) derived from Law No. 64-00 on the Environment and Natural Resources.

**12. Do producers of waste retain any liabilities in respect of the waste after having transferred it to another person for treatment or disposal off-site (e.g. if the other person goes bankrupt or does not properly handle or dispose of the waste)?**

In accordance with the General Law No. 225-20 on Integral Management and Co-processing of Solid Waste, waste generators or producers bear ongoing responsibilities throughout the entire waste management lifecycle, extending from its initial generation to the ultimate disposal and final disposition. Even after transferring waste to another entity for treatment or disposal off-site, the original generators maintain a degree of liability. This responsibility persists irrespective of circumstances such as the receiving party's bankruptcy or inadequate handling and disposal practices. It underscores the continued obligation of waste generators to ensure the proper and lawful management of the waste they produce, reinforcing the principle of cradle-to-grave responsibility within the waste management framework.

**13. To what extent do producers of certain products (e.g. packaging/electronic devices) have obligations regarding the take-back of waste?**

Manufacturers of certain products, such as packaging or electronic devices, have waste recovery obligations under Law 225-20, specifically in Article 62 which establishes the extended liability regime. This regime applies to waste from priority products, which include among others, containers and packaging, as well as electrical and electronic products. This implies that the manufacturers of such products are obliged to assume additional responsibilities in the management and recovery of waste generated by their products, as established by the relevant regulations.

**14. What are the duties of owners/occupiers of premises in relation to asbestos, or other deleterious materials, found on their land and in their buildings?**

The Dominican Republic has adhered to several conventions such as the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade of 2004, and we are also signatories of C162 Asbestos Convention of 1986 from the International Labour Organization (ILO), that relate to the administration of asbestos and other deleterious materials.

**15. To what extent are product regulations (e.g. REACH, CLP, TSCA and equivalent regimes) applicable in your jurisdiction? Provide a short, high-level summary of the relevant provisions.**

The Dominican Republic does not have this type of product regulation.

**16. What provisions are there in your jurisdiction concerning energy efficiency (e.g. energy efficiency auditing requirements) in your jurisdiction?**

The National Energy Commission (CNE) is the public institution of the Dominican government in charge of the promotion and development of Energy Efficiency (EE) projects. Its strategic objective is to ensure that EE and Renewable Energy (RE) acquire a growing role in the country's energy model.

In 2023 the Dominican Republic made great advances towards energy efficiency with Decree No. 158-23 that instates the implementation of energy savings and efficiency policies. It declares with a high national priority the implementation of an energy saving and

efficiency policy in all public administration institutions.

Moreover, the Ministry of Energy and Mines (MEM) and the Government of the United States, through its Agency for International Development (USAID) have been developing a "National Awareness and Communication Plan on Energy Efficiency and Savings", which will be promoted by the MEM with technical assistance from the USAID.

**17. What are the key policies, principles, targets, and laws relating to the reduction of greenhouse gas emissions (e.g. emissions trading schemes) and the increase of the use of renewable energy (such as wind power) in your jurisdiction?**

In the Dominican Republic, key policies and laws related to the reduction of greenhouse gas emissions and the promotion of renewable energy, such as wind power, include: the General Law on Environment and Natural Resources (Law 64-00), which sets out the basic rules for protecting the environment and managing natural resources across the country.

Additionally, Law No. 57-07 on Incentives for the Development of Renewable Energy Sources and their Special Regimes, recognizes the importance of renewable energies in mitigating climate change and establishes incentives for their development. The Dominican Republic is part of international agreements like the United Nations Framework Convention on Climate Change and the Kyoto Protocol. By joining these agreements, the country promises to take steps to reduce greenhouse gas emissions, mainly by backing renewable energies.

Moreover, Law 57-07 also talks about promoting the production of electricity from sources like solar power, wind energy, biomass, and biogas. It even considers smaller hydroelectric plants and other alternative energies that help the environment and cut down on imported fuels.

**18. Does your jurisdiction have an overarching "net zero" or low-carbon target and, if so, what legal measures have been implemented in order to achieve this target.**

The Dominican Republic hasn't officially set a nationwide target for "net zero" emissions or ultra-low carbon emissions. Nevertheless, the country has been actively developing policies and strategies to tackle climate



change and curb greenhouse gas emissions. Among these efforts are laws and regulations like the General Law on Environment and Natural Resources (Law 64-00) and the Incentives for the Development of Renewable Energy Sources Law (Law 57-07). These legal frameworks form part of the country's broader initiatives to combat climate change and encourage sustainable environmental practices.

While these laws and policies do include specific measures aimed at reducing emissions and promoting the adoption of clean energy technologies, they haven't specifically zeroed in on achieving an overarching "net zero emissions" goal.

**19. To what extent does your jurisdiction regulate the ability for products or companies to be referred to as "green", "sustainable" or similar terms? Who are the regulators in relation to greenwashing allegations?**

There are no express provisions that categorize products or companies as "green" or "sustainable". However, Law No. 225-20 indicates that the production and use of materials like foam, and single-use materials are taxed unfriendly to the environment. This is a way of weakening the interest in their use because of the rise in the cost that it would imply.

Regarding greenwashing allegations, the main regulatory entity would be the Procuraduría Especializada de Medio Ambiente y Recursos Naturales (Environmental Prosecutor's Office). This entity is responsible for investigating and taking legal action in cases of alleged greenwashing or any other violation of environmental laws in the Dominican Republic.

**20. Are there any specific arrangements in relation to anti-trust matters and climate change issues?**

Regarding anti-trust matters, according to the peer review conducted by the Organisation for Economic Co-operation and Development (OECD) with the support of the Inter-American Development Bank (IDB), a general lack of competition culture has been identified. Law No. 42-08 on Defense of Competition has important limitations, such as the absence of a generalized merger control regime, fines for anticompetitive practices that do not have a sufficient deterrent effect, and short deadlines for investigations. However, no specific provisions related to climate change were mentioned in the context of competition in the Dominican Republic.

**21. Have there been any notable court judgments in relation to climate change litigation over the past three years?**

No, in the last three years, we have had no relevant court judgments in relation to climate change.

However, we could highlight two decisions of our Constitutional Court No. TC/0368/14 and No. TC/0651/16 that declares the Doha Amendment to the Kyoto Protocol of the United Nations Framework Convention on Climate Change of 2012 and the "Paris Agreement", arising from the Twenty-First Meeting of the United Nations on Climate Change of 2015 in accordance with our Constitution.

**22. In light of the commitments of your jurisdiction that have been made (whether at international treaty meetings or more generally), do you expect there to be substantial legislative change or reform in the relation to climate change in the near future?**

Considering the commitments made by the jurisdiction, both at international treaty meetings and more generally, legislative reforms that promote resilience to climate change, encourage emissions mitigation, and support the transition to a more sustainable economy in the Dominican Republic are likely to be sought. Reports from the Director of the National Meteorological Office, highlight the urgency and severity of climate change impacts in the Dominican Republic, which is likely to generate increased attention and action by policy makers and legislators. Extreme natural events and increasing carbon dioxide emissions are clear signals of the need for stronger measures to address climate change and its impacts.

**23. To what extent can the following persons be held liable for breaches of environmental law and/or pollution caused by a company: (a) the company itself; (b) the shareholders of the company; (c) the directors of the company; (d) a parent company; (e) entities (e.g. banks) that have lent money to the company; and (f) any other entities?**

- A and D: companies are fully responsible for actions carried out against the environment whenever there is an express provision.

Parent company responsibilities depend on their bylaws or agreement.

- B and C: in principle, shareholders and directors have a veil that separates their actions and personal finances from corporate ones.
- E and F: third parties are not responsible for the legal breaches of those to whom they provide services.

However, in particular cases, the responsibility for these facts may reach the previously mentioned subjects.

**24. To what extent can: (a) a buyer assume any pre-acquisition environmental liabilities in an asset sale/share sale; and (b) a seller retain any environmental liabilities after an asset sale/share sale in your jurisdiction?**

- A and D: companies are fully responsible for actions carried out against the environment whenever there is an express provision. Parent company responsibilities depend on their bylaws or agreement.
- B and C: in principle, shareholders and directors have a veil that separates their actions and personal finances from corporate ones.
- E and F: third parties are not responsible for the legal breaches of those to whom they provide services.

However, in particular cases, the responsibility for these facts may reach the previously mentioned subjects.

**25. What duties to disclose environmental information does a seller have in a transaction? Is environmental due diligence commonplace in your jurisdiction?**

Environmental due diligence is not mandatory by Environmental Law 64-00. However, everyday environmental due diligence is more common in our jurisdiction.

**26. What environmental risks can be covered by insurance in your jurisdiction, and what types of environmental insurance policy are commonly available? Is**

**environmental insurance regularly obtained in practice?**

No, environmental insurance is not regularly obtained in practice.

By Law you must have: Civil liability towards third parties; at least 10 % of the value of the environmental management and adaptation plan, in favor of the Ministry of Environment and Natural Resources; and protection in case of contractual breaches, for large-scale projects.

**27. To what extent are there public registers of environmental information kept by public authorities in your jurisdiction? If so, what is the process by which parties can access this information?**

In practice, it is more efficient to make an information request based on the Law General of Free Access to Public Information. The Ministry must grant a response within a maximum period of 15 business days.

However, the Ministry of the Environment is obliged to publish a report every 2 years on the state of the environment and the country's natural resources.

**28. To what extent is there a requirement on public bodies in your jurisdiction to disclose environmental information to parties that request it?**

Law No. 200-04 General of Free Access to Public Information, every person has the right to request and receive complete, truthful, adequate, and timely information, from any public entity of the Dominican State, and from all companies, public limited companies, or public limited companies with state participation.

**29. Have there been any significant updates in environmental law in your jurisdiction in the past three years? Are there any material proposals for significant updates or reforms in the near future?**

Decree 253-23 Regulation for the Comprehensive Management of Waste Electrical and Electronic Devices within the Framework of Extended Producer Responsibility that aims to establish and regulate the responsibilities of actors involved in the comprehensive management of Waste Electrical and Electronic

Equipment (WEEE), in line with the Law No. 225-20 on Comprehensive Management and Co-processing of Solid Waste.

Resolution CNE-AD-0003-2023 on the Inclusion of energy storage with batteries that states the need to include electric energy storage with batteries for energy generation projects from variable renewable sources.

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