

General

100. Limitation of liability

101. Short title and commencement

SCHEDULE 1

SCHEDULE 2

(Arrangement of Sections amended by section 63 of Act 36 of 2014)

CHAPTER 1

INTERPRETATION, OBJECTS AND APPLICATION OF ACT

1. Definitions

(1) In this Act, unless the context indicates otherwise-

“access fee” means a fee that is charged to allow a person to enter coastal public property and includes launching from and entering a vessel launch site with a boat;

(Definition of “access fee” inserted by section 1(a) of Act 36 of 2014)

“admiralty reserve” means any strip of land adjoining the inland side of the high-water mark which, when this Act took effect, was state land reserved or designated on an official plan, deed of grant, title deed or other document evidencing title or land-use rights as “admiralty reserve”, “government reserve”, “beach reserve”, “coastal forest reserve” or other similar reserve;

“adverse effect” means any actual, potential or cumulative impact on the environment that impairs, or may impair, the environment or any aspect of it to an extent that is more than trivial or insignificant;

(Definition of “adverse effect” substituted by section 1(b) of Act 36 of 2014)

“aircraft” means an aircraft as defined in terms of section 1 of the National Environmental Management Act;

“authorisation”

(Definition of “authorisation” deleted by section 1(c) of Act 36 of 2014)

“Biodiversity Act” means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“biodiversity” or **“biological diversity”** has the same meaning ascribed to it in the Biodiversity Act;

“coastal access land” means land designated as coastal access land in terms of section 18(1), read with section 26;

“coastal activities” means activities listed or specified in terms of Chapter 5 of the National Environmental Management Act which take place—

- (a) in the coastal zone; or
- (b) outside the coastal zone but have or are likely to have a direct impact on the coastal zone;
(Definition of “coastal activities” substituted by section 1(d) of Act 36 of 2014)

“coastal authorisation” means an authorisation under this Act, and includes the authorisation to reclaim land in terms of sections 7B and 7C, a coastal waters discharge permit in terms of section 69, a general discharge authorisation in terms of section 69, a dumping permit in terms of section 71, a coastal use permit in terms of section 65 and any other authorisation under this Act, but excludes an environmental authorisation;

(Definition of “coastal authorisation” inserted by section 1(e) of Act 36 of 2014)

“coastal concession”

(Definition of “coastal concession” deleted by section 1(f) of Act 36 of 2014)

“coastal environment” means the environment within the coastal zone;

“coastal lease”

(Definition of “coastal lease” deleted by section 1(g) of Act 36 of 2014)

“coastal management” includes -

- (a) the regulation, management, protection, conservation and rehabilitation of the coastal environment;
- (b) the regulation and management of the use and development of the coastal zone and coastal resources;
- (c) monitoring and enforcing compliance with laws and policies that regulate human activities within the coastal zone; and
- (d) planning in connection with the activities referred to in paragraphs (a), (b) and (c);

“coastal management line” means a line determined by an MEC in accordance with section 25 in order to demarcate an area within which development will be prohibited or controlled in order to achieve the objects of this Act or coastal management objectives;

(Definition of “coastal management line” inserted by section 1(h) of Act 36 of 2014)

“coastal management objective” means a clearly defined objective established by a coastal management programme for a specific area within the coastal zone which coastal management must be directed at achieving;

“coastal management programme” means the national or a provincial or municipal coastal management programme established in terms of Chapter 6;

“coastal planning scheme” means a scheme that—

- (a) reserves defined areas within the coastal zone to be used exclusively or mainly for a specified purpose; and
- (b) prohibits or restricts any use of these areas in conflict with the terms of the scheme;
(Definition of “coastal planning scheme” substituted by section 1(i) of Act 36 of 2014)

“coastal protected area” means a protected area that is situated wholly or partially within the coastal zone and that is managed by, or on behalf of, an organ of state, but excludes any part of such a protected area that has been excised from the coastal zone in terms of section 22;

“coastal protection zone” means the coastal protection zone contemplated in section 16;
(Definition of “coastal protection zone” substituted by section 1(j) of Act 36 of 2014)

“coastal public property” means coastal public property referred to in section 7;

“coastal resources” means any part of -

- (a) the cultural heritage of the Republic within the coastal zone, including shell middens and traditional fish traps; or
- (b) the coastal environment that is of actual or potential benefit to humans;

“coastal set-back line”

(Definition of “coastal set-back line” deleted by section 1(k) of Act 36 of 2014)

“coastal waters” means -

- (a) the internal waters, territorial waters, exclusive economic zone and continental shelf of the Republic referred to in sections 3, 4, 7 and 8 of the Maritime Zones Act, 1994 (Act No.15 of 1994), respectively; and
- (b) an estuary;
(Definition of “coastal waters” substituted by section 1(l) of Act 36 of 2014)

“coastal wetland” means -

- (a) any wetland in the coastal zone; and
- (b) includes -
 - (i) land adjacent to coastal waters that is regularly or periodically inundated by water, salt marshes, mangrove areas, inter-tidal sand and mud flats, marshes, and minor coastal streams regardless of whether they are of a saline, freshwater or brackish nature; and
 - (ii) the water, the subsoil and substrata beneath, and bed and banks of, any such wetland;

“coastal zone” means the area comprising coastal public property, the coastal protection zone, coastal access land, coastal protected areas, the seashore and coastal waters, and includes any aspect of the environment on, in, under and above such area;

(Definition of “coastal zone” substituted by section 1(m) of Act 36 of 2014)

“competent authority” means a competent authority identified in terms of section 24C of the National Environmental Management Act;

“cultural heritage” means any place or object of aesthetic, architectural, historical, scientific, social or spiritual value or significance;

“Department” means the national department responsible for environmental affairs;

“development”, in relation to a place, means any process initiated by a person to change the use, physical nature or appearance of that place, and includes -

- (a) the construction, erection, alteration, demolition or removal of a structure or building;
- (b) a process to rezone, subdivide or consolidate land;
- (c) changes to the existing or natural topography of the coastal zone; and
- (d) the destruction or removal of indigenous or protected vegetation;

“Director-General” means the Director-General of the Department;

“dumping at sea” means -

- (a) any deliberate disposal into the sea of any waste or material other than operational waste from a vessel, aircraft, platform or other man-made structure at sea;
- (b) any deliberate disposal into the sea of a vessel, aircraft, platform or other man-made structure at sea;
- (c) any storage of any waste or other material on or in the seabed, its subsoil or substrata; or
- (d) any abandonment or toppling at site of a platform or other structure at sea, for the sole purpose of deliberate disposal, but “dumping at sea” does not include -
 - (i) the lawful disposal at sea through sea out-fall pipelines of any waste or other material generated on land;
 - (ii) the lawful depositing of any substance or placing or abandoning of anything in the sea for a purpose other than mere disposal of it; or
 - (iii) disposing of or storing in the sea any tailings or other material from the bed or subsoil of coastal waters generated by the lawful exploration, exploitation and associated off-shore processing of mineral resources from the bed, subsoil or substrata of the sea;

“dumping permit” means a permit granted under section 71;

“dynamic coastal processes” means all natural processes continually reshaping the shoreline and near shore seabed and includes -

- (a) wind action;
- (b) wave action;
- (c) currents;
- (d) tidal action; and
- (e) river flows;

“effluent” means -

- (a) any liquid discharged into the coastal environment as waste, and includes any substance dissolved or suspended in the liquid; or
- (b) liquid which is a different temperature from the body of water into which it is being discharged;

“environment” means “environment” as defined in the National Environmental Management Act;

“environmental authorisation” means an authorisation granted in respect of coastal activities by a competent authority in terms of Chapter 5 of the National Environmental Management Act;

“estuary” means a body of surface water—

- (a) that is permanently or periodically open to the sea;
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the body of surface water is open to the sea; or
- (c) in respect of which the salinity is higher than fresh water as a result of the influence of the sea, and where there is a salinity gradient between the tidal reach and the mouth of the body of surface water;

(Definition of “estuary” substituted by section 1(n) of Act 36 of 2014)

“exclusive economic zone” means the exclusive economic zone of the Republic, referred to in section 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994);

“Gazette”, when used in relation to -

- (a) the Minister, means the *Government Gazette*;
- (b) the MEC, means the *Provincial Gazette*; and
- (c) a municipality, means the *Provincial Gazette* of the province in which the municipality is situated;

“general discharge authorisation” means an authorisation under section 69(2);

(Definition of “general authorisation” substituted for the definition of “general discharge authorisation” by section 1(o) of Act 36 of 2014)

“harbour” means a harbour proclaimed in terms of any law and managed by an organ of state;

(Definition of “harbour” inserted by section 1(p) of Act 36 of 2014)

“high-water mark” means the highest line reached by coastal waters, but excluding any line reached as a result of—

- (a) exceptional or abnormal weather or sea conditions; or

- (b) an estuary being closed to the sea;

(Definition of “high-water mark” substituted by section 1(q) of Act 36 of 2014)

“incinerate at sea” means the deliberate combustion of any material on board a vessel, platform or other man-made structure at sea for the purpose of disposing of it by thermal destruction, but does not include the combustion of operational waste from a vessel, aircraft, platform or other man-made structure at sea;

“interests of the whole community” means the collective interests of the community determined by-

- (a) prioritising the collective interests in coastal public property of all persons living in the Republic over the interests of a particular group or sector of society;
- (b) adopting a long-term perspective that takes into account the interests of future generations in inheriting coastal public property and a coastal environment characterised by healthy and productive ecosystems and economic activities that are ecologically and socially sustainable; and
- (c) taking into account the interests of other living organisms that are dependent on the coastal environment;

“issuing authority” means the authority designated in terms of this Act to issue authorisations;

“land development plan” means any plan that is approved in terms of legislation regulating land development and that indicates the desirable uses for areas of land but does not create legal rights to use land;

(Definition of “land development plan” substituted by section 1(r) of Act 36 of 2014)

“Land Survey Act” means the Land Survey Act, 1997 (Act No. 8 of 1997);

“land unit” means a cadastral entity which is capable of registration in the deeds registry in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

(Definition of “land unit” inserted by section 1(s) of Act 36 of 2014)

“land use scheme”, in relation to an area, means a scheme established by or under legislation and that creates or regulates the use of land in that area, and includes a land use scheme, a town planning scheme, a zoning scheme and any other similar instrument that identifies or regulates rights to use land;

“littoral active zone” means any land forming part of, or adjacent to, the seashore that is -

- (a) unstable and dynamic as a result of natural processes; and

- (b) characterised by dunes, beaches, sand bars and other landforms composed of unconsolidated sand, pebbles or other such material which is either unvegetated or only partially vegetated;

“local community” means any community of people living, or having rights or interests, in a distinct geographical area within the coastal zone;

“low-water mark” means the lowest line to which coastal waters recede during spring tides;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“MEC” means the member of the Executive Council of a coastal province who is responsible for the designated provincial lead agency in terms of this Act;

“Minister” means the Minister responsible for environmental affairs;

(Definition of “Minister” substituted by section 1(t) of Act 36 of 2014)

“municipality” -

(a) means a metropolitan, district or local municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); or

(b) in relation to the implementation of a provision of this Act in an area which falls within both a local municipality and a district municipality, means -

(i) the district municipality; or

(ii) the local municipality, if the district municipality, by agreement with the local municipality, has assigned the implementation of that provision in that area to the local municipality;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“National Environmental Management Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“national estuarine management protocol” means the national protocol concerning the management of estuaries contemplated in section 33;

“National Water Act” means the National Water Act, 1998 (Act No. 36 of 1998);

“operational waste”-

- (a) means any waste or other material that is incidental to, or derived from, the normal operation of a vessel, aircraft, platform or other man-made structure and its equipment; and
- (b) excludes any waste or other material that is transported by or to a vessel, aircraft, platform or other man-made structure which is operated for the purpose of disposing of that waste or other material, including any substances derived from treating it on board, at sea;

“organ of state” has the meaning assigned to it in section 239 of the Constitution;

“pollution” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“port” means a port as defined in the National Ports Act, 2005 (Act No. 12 of 2005);

(Definition of “port” inserted by section 1(u) of Act 36 of 2014)

“prescribe” means prescribe by regulation;

“protected area” means a protected area referred to in section 9 of the Protected Areas Act;

“Protected Areas Act” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“provincial lead agency” means a provincial organ of state designated by the Premier of the province in terms of section 38 as the lead agency for coastal management in the province;

“reclamation” means the process of artificially creating new land within coastal waters, and includes the creation of an island or peninsula, but excludes beach replenishment by sand pumping for maintenance purposes;

(Definition of “reclamation” inserted by section 1(v) of Act 36 of 2014)

“sea” means —

- (a) the high seas;
- (b) all coastal waters; and
- (c) land regularly or permanently submerged by sea water, including—
 - (i) the bed, subsoil and substrata beneath those waters; and

- (ii) land flooded by sea water which subsequently becomes part of the bed of coastal waters, including the substrata beneath such land;

(Definition of “sea” substituted by section 1(w) of Act 36 of 2014)

“**seashore**”, subject to section 26, means the area between the low-water mark and the high-water mark;

“**South African aircraft**” means any aircraft registered in the Republic in terms of applicable legislation;

“**South African vessel**” means any vessel registered or deemed to be registered in the Republic in terms of applicable legislation;

“**special management area**” means an area declared as such in terms of section 23;

“**this Act**” includes any regulation made in terms of this Act;

“**traditional council**” means a traditional council established and recognised in terms of section 3 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“**vessel**” means a waterborne craft of any kind, whether self-propelled or not, but does not include any moored floating structure that is not used as a means of transport by water;

“**waste**” means any substance, whether or not that substance can be re-used, recycled or recovered-

- (i) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (ii) that the generator has no further use of, for the purposes of production, reprocessing or consumption; and
- (iii) that is discharged or deposited in a manner that may detrimentally impact on the environment;

“**Waste Assessment Guidelines**” means the guidelines set out in Schedule 2;

(Definition of “Waste Assessment Guidelines” amended by section 1(x) of Act 36 of 2014)

“**wetland**” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates otherwise.

2. Objects of Act

The objects of this Act are-

- (a) to determine the coastal zone of the Republic;
- (b) to provide, within the framework of the National Environmental Management Act, for the co-ordinated and integrated management of the coastal zone by all spheres of government in accordance with the principles of co-operative governance;
- (c) to preserve, protect, extend and enhance the status of coastal public property as being held in trust by the State on behalf of all South Africans, including future generations;
- (d) to secure equitable access to the opportunities and benefits of coastal public property;
(Section 2(d) amended by section 2(a) of Act 36 of 2014)
- (dA) to provide for the establishment, use and management of the coastal protection zone; and
(Section 2(dA) inserted by section 2(b) of Act 36 of 2014)
- (e) to give effect to the Republic's obligations in terms of international law regarding coastal management and the marine environment.

3. State's duty to fulfil environmental rights in coastal environment

In fulfilling the rights contained in section 24 of the Constitution of the Republic of South Africa, the State -

- (a) through its functionaries and institutions implementing this Act, must act as the trustee of the coastal zone; and
- (b) must, in implementing this Act, take reasonable measures to achieve the progressive realisation of those rights in the interests of every person.

4. Application of Act

(1) This Act applies to the Republic, including -

- (a) its coastal waters; and

(Section 4(1)(a) substituted by section 3 of Act 36 of 2014)

(b) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948).

(2) A provision of this Act which relates to dumping and incineration at sea applies to South African aircraft and vessels also when outside the Republic.

5. Application of National Environmental Management Act

(1) This Act must, in relation to coastal management, be read, interpreted and applied in conjunction with the National Environmental Management Act.

(2) This Act must be regarded as a “specific environmental management Act” as defined in section 1 of the National Environmental Management Act.

(3) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from the implementation of this Act.

6. Interpretation and conflicts with other legislation

(Heading of section 6 substituted by section 4(a) of Act 36 of 2014)

(1) If there is a conflict relating to coastal management between a section of this Act and any other legislation existing when this Act takes effect, the section of this Act prevails.

(2) A provision contained in this Act or the National Environmental Management Act, or in regulations made or authorisations issued under either Act, prevails if there is a conflict between that provision and a provision contained in regulations or in an authorisation that has been saved in terms of section 99.

(3) Draft national legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament -

(a) by the Minister only; or

(b) only after the Minister has been consulted on the contents of the draft legislation.

(4) Section 7(2) of this Act shall not affect—

(a) the ownership of an immovable structure, part of an immovable structure, or port or harbour installation or infrastructure; or

(b) the control, use and management of the sea space, including turning basins and channels, within a port or harbour,

existing prior to the commencement of this Act.

(Section 6(4) added by section 4(b) of Act 36 of 2014)

CHAPTER 2 COASTAL ZONE

Part 1 Coastal public property

7. Composition of coastal public property

- (1) Coastal public property consists of—
- (a) coastal waters;
 - (b) land submerged by coastal waters, including—
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;
 - (c) any natural island within coastal waters;
 - (d) the seashore, including—
 - (i) the seashore of a natural or reclaimed island; and
 - (ii) the seashore of reclaimed land;
 - (e) subject to section 66A, any admiralty reserve owned by the State;
 - (f) any land owned or controlled by the State declared under section 8 to be coastal public property;
 - (g) land reclaimed in terms of section 7C; or
 - (h) any natural resources on or in any coastal public property of a category mentioned in paragraphs (a) to (g).
- (2) Notwithstanding the provisions of subsection (1), coastal public property does not include—