

- (4) An advisory appeal panel must give a written report to the Minister or an MEC, setting out its findings and recommendations.
- (5) The decision of the majority of the members of an advisory appeal panel is the decision of the panel, but the chairperson must ensure that any dissenting opinions by members are recorded in the written report of the panel.

78. Determination of appeal by Minister or MEC

- (1) The Minister or an MEC must consider the appeal and may -
 - (a) dismiss the appeal and confirm the decision appealed against;
 - (b) uphold part or all of the appeal and either vary the decision appealed against or set aside the decision and make a new decision; or
 - (c) refer the appeal back to the appeal panel with directions to investigate and consider specific facts or issues and to report back to the Minister or MEC.
- (2) In determining an appeal the Minister or an MEC must have regard to -
 - (a) the objects of this Act;
 - (b) any relevant coastal management objectives; and
 - (c) the findings and recommendations of the appeal panel, but is not bound by them.

CHAPTER 10 ENFORCEMENT

79. Offences

- (1) A person is guilty of a category one offence if that person -
 - (a) discharges effluent originating from a source on land into coastal waters in contravention of section 69;
 - (b) incinerates at sea any waste or material in contravention of section 70;
 - (c) loads, imports or exports any waste or other material to be dumped or incinerated at sea in contravention of section 70;

- (d) dumps any waste at sea in contravention of section 70;
- (e) dumps any waste or other material at sea without a dumping permit in contravention of section 70;
- (f) alters any authorisation;
- (g) fabricates or forges any document for the purpose of passing it off as an authorisation;
- (h) passes off, uses, alters or has in possession any altered or false document purporting to be a coastal authorisation;

(Section 79(1)(h) substituted by section 44(a) of Act 36 of 2014)

- (i) makes any false statement or report, for the purpose of obtaining or objecting to an authorisation;

(Section 79(1)(i) amended by section 44(b) of Act 36 of 2014)

- (j) reclaims land from coastal waters without authorisation of the Minister in terms of sections 7B and 7C;

(Section 79(1)(j) added by section 44(b) of Act 36 of 2014)

- (k) utilises reclaimed land in contravention of sections 7B and 7C;

(Section 79(1)(k) added by section 44(b) of Act 36 of 2014)

- (l) charges fees in contravention of section 13(3)(a) and (b);

(Section 79(1)(l) added by section 44(b) of Act 36 of 2014)

- (m) conducts an activity that is prohibited in terms of section 65(1)(a)(i);

(Section 79(1)(m) added by section 44(b) of Act 36 of 2014)

- (n) fails to comply with a verbal directive issued by the Minister or MEC in terms of section 92(1); or

(Section 79(1)(n) added by section 44(b) of Act 36 of 2014)

- (o) fails to comply with section 96(1).

(Section 79(1)(o) added by section 44(b) of Act 36 of 2014)

- (2) A person is guilty of a category two offence if that person -

- (a) fails to comply with a repair and removal notice issued in terms of section 60;

- (b) hinders or interferes with a duly authorised person exercising a power or performing a duty in terms of this Act;

(Section 79(2)(b) amended by section 44(c) of Act 36 of 2014)

(c) knowingly falsely represents that he or she is a person authorised to exercise powers in terms of this Act;

(d) constructs, maintains or extends any structure, or takes other measures on coastal public property to prevent or promote erosion or accretion of the seashore in contravention of section 15(2);

(Section 79(2)(d) added by section 44(c) of Act 36 of 2014)

(e) fails to comply with a coastal protection notice or access notice issued in terms of section 59;

(Section 79(2)(e) added by section 44(c) of Act 36 of 2014)

(f) conducts an activity without a coastal authorisation required in terms of this Act;

(Section 79(2)(f) added by section 44(c) of Act 36 of 2014)

(g) fails to comply with the conditions of a coastal authorisation;

(Section 79(2)(g) added by section 44(c) of Act 36 of 2014)

(h) fails to comply with section 95(1);

(Section 79(2)(h) added by section 44(c) of Act 36 of 2014)

(i) allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a), or (c) to (h);

(Section 79(2)(i) added by section 44(c) of Act 36 of 2014)

(j) prevents access to coastal public property in contravention of section 13(1A); or

(Section 79(2)(j) added by section 44(c) of Act 36 of 2014)

(k) contravenes any other provision of this Act which is not referred to in subsections (1) or (2).

(Section 79(2)(k) added by section 44(c) of Act 36 of 2014)

(3)

(Section 79(3) deleted by section 44(d) of Act 36 of 2014)

(4)

(Section 79(4) deleted by section 44(d) of Act 36 of 2014)

80. Penalties

- (1) A person who is convicted of a category one offence referred to in section 79(1) may be sentenced to a fine of up to R5 000 000 or to imprisonment for a period of up to ten years, or to both such fine and imprisonment.
- (2) A person who is convicted of a category two offence referred to in section 79(2) may be sentenced on a first conviction for that offence to a fine of up to R2 000 000 or to imprisonment or community service for a period of up to five years, or to both such fine and imprisonment or community service.
- (3)
- (4) A person who is convicted of a category two offence may be sentenced on a second or subsequent conviction for that offence as if he or she has committed a category one offence.
- (5) A court that sentences any person—
 - (a) to community service for an offence in terms of this Act must impose a form of community service which benefits the coastal environment, unless it is not possible to impose such a sentence in the circumstances;
 - (b) for any offence in terms of this Act, may suspend, revoke or cancel a coastal authorisation granted to the offender under this Act.
- (6) If a person is found guilty of an offence in the High Court, the penalty limitations in subsections (1), (2) and (4) do not apply a higher penalty may be imposed.

(Section 80 substituted by section 45 of Act 36 of 2014)

81. Jurisdiction of courts

- (1) Any act or omission in contravention of any of the provisions of this Act which is committed—
 - (a) by any person in, on or above coastal waters;
 - (b) outside coastal waters by any citizen of the Republic or any person ordinarily resident in the Republic; or
 - (c) by any person on board any South African vessel,shall be dealt with and judicial proceedings taken as if such act or omission had taken place in the territory of the Republic.

- (2) Any offence in terms of this Act shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed within the area of jurisdiction of the court in which the prosecution is instituted.

(Section 81 substituted by section 46 of Act 36 of 2014)

82. Actions in relation to coastal zone

The Minister, an MEC or a municipality concerned may -

- (a) institute legal proceedings or take other appropriate measures -
- (i) to prevent damage, or recover damages for harm suffered to coastal public property or the coastal environment; or
 - (ii) to abate nuisances affecting the rights of the public in its use and enjoyment of coastal public property; and
- (b) accept service of legal processes and defend any legal proceedings instituted in connection with coastal public property.

CHAPTER 11 GENERAL POWERS AND DUTIES

Part 1 Regulations

83. Regulations by Minister

- (1) The Minister may make regulations relating to any matter which this Act requires to be dealt with in regulations or that may be necessary to facilitate the implementation of this Act, including, but not limited to, regulations relating to-
- (a) the implementation and enforcement of the national coastal management programme;
 - (b) the sustainable use of coastal resources in order to address poverty in communities dependent on coastal resources for their livelihood;
 - (c) the sustainable use of coastal resources;
 - (d) coastal public property, including regulations concerning -