

- (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 -

- (i) public access to coastal public property;
 - (ii) the rehabilitation of coastal public property;
 - (iii) fees, costs and rents for the use of coastal public property; and
 - (iv) research conducted within, or in respect of, coastal public property;
- (e) the type and format of data to be submitted to the Department or other organs of state for the purposes of monitoring the coastal environment and the implementation of this Act or maintaining a coastal information system;
- (f) the establishment of national norms, standards and frameworks to implement this Act, including systems, guidelines, protocols, procedures, standards and methods, concerning -
- (i) the content and regular revision of the coastal management programmes of provinces and municipalities;
 - (ii) the implementation and enforcement of coastal management programmes;
 - (iii) the monitoring of the implementation of coastal management programmes and the performance of any functions contemplated in this Act, including indicators to evaluate effectiveness and progress;
 - (iv) the amendment of coastal planning schemes;
 - (v) the quality of coastal public property and coastal ecosystems;
 - (vi) the factors that must be taken into account when deciding applications;
 - (vii) the circumstances in which exemption may be given from compliance with a coastal management programme;
 - (viii) the uses of the coastal zone that do not conform with the relevant coastal planning scheme;
 - (ix) the outcomes that must be achieved by managing and treating all or any category of effluent, discharges from storm-water drains, or waste or other material, before it is discharged or deposited on or in coastal public property or in a place within the coastal zone from where it is likely to enter coastal public property, including those relating to the kind, quantity and characteristics of effluent, waste or other material that may be discharged or deposited;

- (x) who should monitor and analyse effluent, waste or other material referred to in subparagraph (ix) and the methods that should be used to do so;
 - (xi) the appointment, training, powers and supervision of voluntary coastal officers;
 - (xii) public safety and behaviour on coastal public property; or
 - (xiii) any activity which has an adverse effect on the coastal environment.
- (g) the procedures to be followed with the lodging and consideration of applications for coastal authorisations, including—
- (i) the conditions with which applicants must comply before or after the lodging of their applications;
 - (ii) the application fees to be paid;
 - (iii) the authorities that will be competent to issue the different categories of coastal authorisations;
 - (iv) the consultation procedures to be followed with organs of state and other interested and affected parties;
 - (v) the authorities whose consent is required before coastal authorisations may be issued; and
 - (vi) the procedures for objecting to such applications;
 - (vii) the powers of issuing authorities when considering and deciding such applications;
 - (viii) the factors that must be taken into account when deciding applications;
 - (ix) the circumstances in which applications must be refused or may be approved and guidelines as to the conditions on which permits may or must be issued; and
 - (x) the process to be followed for the award of coastal authorisations;
(Section 83(1)(g) substituted by section 47(a) of Act 36 of 2014)
- (h) the contents of coastal authorisations;
(Section 83(1)(h) substituted by section 47(b) of Act 36 of 2014)

- (i) the giving of security in respect of any obligation that may arise from carrying out activities authorised by coastal authorisations, and the form of such security;
(Section 83(1)(i) substituted by section 47(b) of Act 36 of 2014)
- (j) the procedure to be followed in connection with the lodging and consideration of appeals in terms of Chapter 9, including—
 - (i) the fees to be paid;
 - (ii) the conditions with which appellants must comply before or after the lodging of their appeals;
 - (iii)
 - (iv) the circumstances in which a temporary stay may be granted in the carrying out of notices in terms of section 59 or 60, or an amendment, revocation, suspension or cancellation of coastal authorisations in terms of section 68;
(Section 83(1)(j) substituted by section 47(b) of Act 36 of 2014)
- (k) methods, procedures and conditions of enforcing compliance with coastal authorisations;
(Section 83(1)(k) substituted by section 47(b) of Act 36 of 2014)
- (l) the issuing and contents of notices to persons who have contravened or failed to comply with—
 - (i) a provision of this Act;
 - (ii) a coastal management programme; or
 - (iii) a condition of a coastal authorisation;
(Section 83(1)(l) substituted by section 47(b) of Act 36 of 2014)
- (m) training, education and public awareness programmes on the protection, conservation and enhancement of the coastal environment and the sustainable use of coastal resources;
- (n) the presence and use of vehicles and aircraft within the coastal zone;
- (o) the presence and recreational use of vessels on coastal waters;
- (p) the seizing, removal and disposal of vehicles, vessels, aircraft or property suspected of being used in the commission of an offence under this Act and of coastal resources suspected of having been illegally obtained;

- (q) methods, procedures and conditions for obtaining access to relevant information, including entry to private property; and
- (r) the issuing and contents of coastal authorisations.

(Section 83(1)(r) substituted by section 47(c) of Act 36 of 2014)

- (2) The Minister must obtain the consent of the Minister of Finance before making any regulation that-
 - (a) will entail the expenditure of funds in future years; or
 - (b) prescribes application fees for, or other monies in relation to, dumping permits or coastal waters discharge permits.
- (3) The Minister must consult with -
 - (a) the Minister of Finance before making any regulations imposing fees, costs or rents;
 - (b) the Minister responsible for water affairs before making any regulations concerning estuaries; or
 - (c) the MEC and municipalities before making any regulations concerning the coastal zone within that province.

84. Regulations by MECs

- (1) The MEC of a province may, after consultation with the Minister, make regulations that are consistent with any national norms or standards that may have been prescribed, relating to -
 - (a) the implementation and enforcement of the coastal management programme of the province;
 - (b) the management of the coastal protection zone within the province;
 - (c) the use of coastal public property for recreational purposes;
 - (d) the impounding, removal and disposal of vehicles, vessels, aircraft or property found abandoned on coastal public property;
 - (e) coastal management lines, including the granting of permission for the erection, placing, alteration or extension of a structure that is wholly or partially seaward of a coastal management line and the process to be followed for acquiring such permission, including the authority by whom, the circumstances in which and the conditions on which such permission may be given;

(Section 84(1)(e) substituted by section 48(a) of Act 36 of 2014)

- (f) the implementation within the province of any national norm, framework or standard referred to in section 83(1)(f);
 - (g) the management of special management areas; or
 - (h) any other matter referred to in section 83(1), other than in paragraph (f) of that section, that may be necessary to facilitate the implementation of this Act in the province.
- (2) Any regulation which will entail the expenditure of funds in future years may be made only with the concurrence of the MEC responsible for finance in the province.
- (3) The Minister, after consultation with the relevant MEC, must make regulations in terms of subsections (1)(b), (c), (d) and (e), if such regulations relate to any part of an area that—
- (a) is a national protected area as defined in the Protected Areas Act;
 - (b) straddles a coastal boundary between two provinces; or
 - (c) extends up to, or straddles, the borders of the Republic.

(Section 84(3) added by section 48(b) of Act 36 of 2014)

85. General provisions applicable to regulations

- (1) The Minister or MEC must publish draft regulations for public comment and must take any submissions received into account before making any regulations in terms of sections 83 or 84.
- (2) Subsection (1) need not be applied in the case of a minor or a mere technical amendment to regulations.
- (3) Regulations made in terms of section 83 or 84 may-
- (a) restrict, prohibit or control any act that may have an adverse effect on the coastal environment, either absolutely or conditionally;
 - (b) apply generally -
 - (i) throughout the Republic or province, as the case may be, or only in a specified area or category of areas;
 - (ii) to all persons or only to a specified category of persons;
 - (iii) to all prohibited activities or only to a specified activity or category of activities; or

- (iv) to all types of waste or other materials or only to specified waste or other material or a category of waste or other material;
- (c) differentiate between different -
- (i) areas or categories of areas;
 - (ii) persons or categories of persons;
 - (iii) activities or categories of activities; or
 - (iv) types of wastes or other materials or categories of types of waste or other materials;
- (d) provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to—
- (i) imprisonment for a period not exceeding five years;
 - (ii) an appropriate fine not exceeding R2 million; or
 - (iii) both such fine and imprisonment.

(Section 85(3)(d) substituted by section 49 of Act 36 of 2014)

86. Amendment of Schedule 2

The Minister may by notice in the *Gazette* amend Schedule 2 so as to ensure that it continues to give effect to the Republic's obligations under international law.

Part 2

Powers to be exercised by MEC

(Heading of Part 2 of Chapter 11 substituted by section 50 of Act 36 of 2014)

87.

(Section 87 repealed by section 51 of Act 36 of 2014)

88. Directives by MEC to municipalities

- (1) An MEC may in writing direct a municipality to take specified measures if the MEC is satisfied that the municipality is not taking adequate measures to -
- (a) prevent or remedy adverse effects on the coastal environment;

- (b) adopt or implement a municipal coastal management programme; or
 - (c) give effect to the provincial coastal management programme.
- (2) The MEC may not issue a directive under subsection (1) without first consulting with the municipality and giving it a reasonable opportunity to make representations.
- (3) If the municipality does not comply with a directive under subsection (1) the MEC may use any powers granted to the MEC under this Act to take measures to prevent or remedy adverse effects on the coastal environment, to implement or monitor compliance with provincial norms and standards, or to give effect to the provincial coastal management programme.

Part 3

Delegations and enforcement

89. Delegation by Minister

- (1) The Minister may delegate any power or duty assigned to the Minister in terms of this Act to -
- (a) the Director-General or to other officials in the Department;
 - (b) an MEC, by agreement with that MEC; or
 - (c) any other organ of state, statutory functionary, traditional council or management authority of a special management area, by agreement with that organ of state, statutory functionary, traditional council or management authority.
- (2) A delegation in terms of subsection (1) -
- (a) is subject to any limitations, conditions and directions the Minister may impose;
 - (b) is subject to consultation with the relevant MEC if the organ of state to whom the power or duty is delegated is a municipality;
 - (c) must be in writing;
 - (d) may include the power to subdelegate; and
 - (e) does not divest the Minister of the responsibility concerning the exercise of the power or the performance of the duty.

- (3) The Minister must give notice in the *Gazette* of any delegation of a power or duty to an MEC, an organ of state, a statutory functionary, a traditional council or a management authority of a special management area.
- (4) The Minister may confirm, vary or revoke any decision made taken in consequence of a delegation or subdelegation in terms of a provision of this Act or of a statute repealed by this Act.
- (5) The Minister—
 - (a) may not delegate a power or duty vested in the Minister—
 - (i) to make regulations; or
 - (ii) to publish notices in the *Gazette*; and
 - (b) may withdraw by notice in writing any delegation made in terms of a provision of this Act.
(Section 89(5) substituted by section 52 of Act 36 of 2014)

90. Enforcement by Minister

- (1) The Minister may in writing request an MEC to take specified measures if the Minister is satisfied that the MEC is not taking adequate measures to -
 - (a) prevent or remedy adverse effects on coastal public property;
 - (b) implement or monitor compliance with national norms and standards;
 - (c) give effect to the national coastal management programme; or
 - (d) establish coastal management lines.
(Section 90(1)(d) substituted by section 53 of Act 36 of 2014)
- (2) If the MEC does not comply with a request under subsection (1) the Minister may exercise any powers given to the MEC by this Act in order to take any measures referred to in the request, including the power-
 - (a) to issue coastal protection or coastal access notices and repair and removal notices delegated to the MEC in terms of sections 59 and 60, respectively;
 - (b) to take measures and to recover costs in terms of section 61; and

(c) to allow temporary occupation of land within the coastal zone and to take other measures in terms of section 67.

(3) The Minister may not take any measures under subsection (2) without first consulting with the MEC and giving the MEC a reasonable opportunity to make representations.

91. Delegation by MECs

(1) An MEC may delegate any power or duty assigned or delegated to him or her in terms of this Act to -

(a) the head of the provincial lead agency;

(Section 91(1)(a) amended by section 54 of Act 36 of 2014)

(b) any other organ of state, a statutory functionary, a traditional council or a management authority of a special management area, by agreement; or

(Section 91(1)(b) amended by section 54 of Act 36 of 2014)

(c) an official within the MEC's department.

(Section 91(1)(c) added by section 54 of Act 36 of 2014)

(2) A delegation in terms of subsection (1) -

(a) is subject to any limitations, conditions and directions that the MEC may impose;

(b) must be in writing;

(c) may include the power to subdelegate; and

(d) does not divest the MEC of the responsibility concerning the exercise of the power or the performance of the duty.

(3) The MEC may confirm, vary or revoke any decision taken as a consequence of a delegation or subdelegation in terms of this section.

(4) The MEC -

(a) may not delegate a power or duty vested in the MEC -

(i) to make regulations; or

(ii) to publish notices in the *Gazette*; or

- (iii) to appoint the members of the Provincial Coastal Committee contemplated in section 39; and

- (b) may withdraw any delegation by notice in writing.

Part 4

General matters

92. Urgent action by Minister or MEC

(Heading of section 92 substituted by section 55(a) of Act 36 of 2014)

- (1) The Minister or MEC may issue a verbal directive to any responsible person to stop an activity if such activity poses—

(Words preceding section 92(1)(a) substituted by section 55(b) of Act 36 of 2014)

- (a) an immediate risk of serious danger to the public or property; or
 - (b) an immediate risk of serious damage, or potentially significant detriment, to the environment.
- (2) Subject to subsection (3), a verbal directive contemplated in subsection (1) must be confirmed in writing at the earliest opportunity, which must be within seven days.
 - (3) When issuing a verbal directive contemplated in subsection (1), the provisions of section 59(1) and (4) or 60(1) and (4) apply with the necessary changes.

(Section 92(3) substituted by section 55(c) of Act 36 of 2014)

93. Information and reporting on coastal matters

- (1) The Minister must progressively, and within the available resources of the Department, make sufficient information available and accessible to the public concerning the protection and management of the coastal zone to enable the public to make an informed decision of the extent to which the State is fulfilling its duty in terms of section 3.
- (2) The MEC must -
 - (a) prepare a report on the state of the coastal environment in the province every four years, which must contain any information prescribed by the Minister;
 - (b) update the report once applicable information pertaining to the coastal environment under the jurisdiction of the MEC becomes available; and
 - (c) submit the report and every update to the Minister.

- (3) The Minister must prepare and regularly update a national report on the state of the coastal environment, which must include—
- (a) information from provincial reports submitted to the Minister in terms of subsection (2); and
 - (b) a review on the status of each pipeline that discharges effluent into coastal waters in terms of section 69 and its impact on the coastal environment and progress on any other national responsibilities in this Act.

(Section 93(3) substituted by section 56 of Act 36 of 2014)

94. Co-ordination of actions between provinces and municipalities

The MEC must -

- (a) liaise with coastal municipalities in the province to co-ordinate actions taken in terms of this Act by provincial organs of state in the province with actions taken by municipalities; and
- (b) monitor compliance by such municipalities with this Act.

94A. Exemptions

- (1) The Minister may in writing exempt any person or group of persons or organ of state from a provision of this Act, provided that such exemption does not conflict with the objects of the Act.
- (2) An exemption granted in terms of subsection (1) may—
 - (a) be subject to conditions;
 - (b) be subject to payment of a fee; and
 - (c) be amended or cancelled at any time by the Minister.
- (3) Before making a decision in terms of this section, the Minister must consult with any organ of state that may be affected by such decision.

(Section 94A inserted by section 57 of Act 36 of 2014)

CHAPTER 12 MISCELLANEOUS MATTERS

Part 1