

- (4) A voluntary coastal officer who is exercising powers or performing functions in terms of this Act must produce his or her identity card at the request of a member of the public.

## **CHAPTER 6 COASTAL MANAGEMENT**

### ***Part 1***

#### ***National coastal management programme***

#### **44. Preparation and adoption of national coastal management programme**

- (1) The Minister -
- (a) must within four years after this Act takes effect, prepare and adopt a national coastal management programme for managing the coastal zone;
  - (b) must review the programme at least once every five years; and
  - (c) may, when necessary, amend the programme.
- (2) Before adopting a programme contemplated in subsection (1)(a), the Minister must by notice in the *Gazette* invite members of the public to submit to the Minister, within 30 days of such notice, written representations on or objections to the programme.
- (3) The Minister must, within 60 days of the adoption of the national coastal management programme or of any substantial amendment to it-
- (a) give notice to the public -
    - (i) of the adoption of the programme; and
    - (ii) that copies of, or extracts from, the programme are available for public inspection at specified places; and
  - (b) publicise a summary of the programme.

#### **45. Contents of national coastal management programme**

- (1) The national coastal management programme must-
- (a) be a policy directive on integrated coastal management; and

- (b) provide for an integrated, co-ordinated and uniform approach to coastal management by organs of state in all spheres of government, non-governmental organisations, the private sector and local communities.
- (2) The national coastal management programme must include the following components -
- (a) A national vision for coastal management in the Republic, including the sustainable use of coastal resources;
  - (b) national coastal management objectives;
  - (c) priorities and strategies to achieve those objectives;
  - (d) performance indicators to measure progress with the achievement of those objectives;
  - (e) norms and standards for the management of-
    - (i) the coastal zone generally;
    - (ii) the specific components of the coastal zone; and
  - (f) a framework for co-operative governance to implement measures concerning coastal management that -
    - (i) identifies the responsibilities of different organs of state, including their responsibilities in relation to marginalised or previously disadvantaged communities that are dependent on coastal resources for their livelihood; and
    - (ii) facilitates co-ordinated and integrated coastal management.

## ***Part 2***

### ***Provincial coastal management programmes***

#### **46. Preparation and adoption of provincial coastal management programmes**

- (1) The MEC of each coastal province -
- (a) must within four years of the commencement of this Act, prepare and adopt a provincial coastal management programme for managing the coastal zone in the province;
  - (b) must review the programme at least once every five years; and

- (c) may, when necessary, amend the programme.
- (2) Before adopting a programme contemplated in subsection (1)(a), the MEC must by notice in the *Gazette* invite members of the public to submit to the MEC, within 30 days of such notice, written representations on or objections to the programme.
- (3) The MEC must, within 60 days of the adoption of the provincial coastal management programme or of any substantial amendment to it-
- (a) give notice to the public -
    - (i) of the adoption of the programme; and
    - (ii) that copies of, or extracts from, the programme are available for public inspection at specified places; and
  - (b) publicise a summary of the programme.
- (4) If the province has a provincial land development plan or an integrated development plan, programme or strategy, its coastal management programme may form part of that plan, programme or strategy.

#### **47. Contents of provincial coastal management programmes**

- (1) A provincial coastal management programme must -
- (a) be a provincial policy directive for the management of the coastal zone in the province;
  - (b) provide for an integrated, coordinated and uniform approach to coastal management in the province; and
  - (c) be consistent with -
    - (i) the national coastal management programme; and
    - (ii) the national estuarine management protocol.
- (2) A provincial coastal management programme must include-
- (a) a vision for the management of the coastal zone in the province, including the sustainable use of coastal resources;

- (b) the coastal management objectives for the coastal zone in the province and for specific parts of the coastal zone;
  - (c) priorities and strategies -
    - (i) to achieve the coastal management objectives of the province;
    - (ii) to assist in the achievement of the national coastal management objectives as applicable in the province;
    - (iii) to develop estuarine management plans for estuaries in the province; and
  - (d) performance indicators to measure progress with the achievement of those objectives.
- (3) A provincial coastal management programme may include a programme of projected expenditure and investment by the provincial government in order to implement the provincial coastal management programme.

### ***Part 3***

#### ***Municipal coastal management programmes***

#### **48. Preparation and adoption of municipal coastal management programmes**

- (1) A coastal municipality -
- (a) must, within four years of the commencement of this Act, prepare and adopt a municipal coastal management programme for managing the coastal zone or specific parts of the coastal zone in the municipality;
  - (b) must review any programme adopted by it at least once every five years; and
  - (c) may, when necessary, amend the programme.
- (2) Before adopting a programme contemplated in subsection (1)(a), a municipality must by notice in the *Gazette* invite members of the public to submit written representations on or objections to the programme in accordance with the procedure contemplated in Chapter 4 of the Municipal Systems Act.
- (3) A municipality must, within 60 days of the adoption of the municipal coastal management programme or of any substantial amendment to it-
- (a) give notice to the public -

- (i) of the adoption of the programme; and
  - (ii) that copies of, or extracts from the programme are available for public inspection at specified places; and
- (b) publicise a summary of the programme.
- (4) A municipality may prepare and adopt a coastal management programme as part of an integrated development plan and spatial development framework adopted in accordance with the Municipal Systems Act and if it does so, compliance with the public participation requirements prescribed in terms of the Municipal Systems Act for the preparation and adoption of integrated development plans will be regarded as compliance with public participation requirements in terms of this Act.

#### **49. Contents of municipal coastal management programmes**

- (1) A municipal coastal management programme must-
- (a) be a coherent municipal policy directive for the management of the coastal zone within the jurisdiction of the municipality; and
  - (b) be consistent with -
    - (i) the national and provincial coastal management programmes; and
    - (ii) the national estuarine management protocol.
- (2) A municipal coastal management programme must include -
- (a) a vision for the management of the coastal zone within the jurisdiction of the municipality, including the sustainable use of coastal resources;
  - (b) the coastal management objectives for the coastal zone within the jurisdiction of the municipality;
  - (c) priorities and strategies -
    - (i) to achieve the coastal management objectives of the municipality; and
    - (ii) to assist in the achievement of the national and provincial coastal management objectives as may be applicable in the municipality;

- (iii) to address the high percentage of vacant plots and the low occupancy levels of residential dwellings;
  - (iv) to equitably designate zones as contemplated in section 56(1)(a)(i) for the purposes of mixed cost housing and taking into account the needs of previously disadvantaged individuals;
  - (v) to address coastal erosion and accretion; and
  - (vi) to deal with access issues.
- (d) performance indicators to measure progress with the achievement of those objectives.
- (3) A municipal coastal management programme may include -
- (a) a programme of projected expenditure and investment by the municipality in coastal management infrastructure or in order to implement any coastal management programme;
  - (b) a description of specific areas within the coastal zone that require special coastal management, and management strategies for those areas;
  - (c) estuarine management plans; and
  - (d) any other matter that may be prescribed.

## **50. By-laws**

A municipality may administer its coastal management programme and may make by-laws to provide for the implementation, administration and enforcement of the coastal management programme.

### ***Part 4***

#### ***Co-ordination and alignment of plans and coastal management programmes***

## **51. Alignment of certain plans with coastal management programmes**

Any programme or plan in terms of the National Environmental Management Act, any specific environmental management Act, an integrated development plan in terms of the Municipal Systems Act and a provincial or municipal land development plan must-

*(Words preceding section 51(a) substituted by section 28 of Act 36 of 2014)*

- (a) be aligned with the national coastal management programme and any applicable provincial coastal management programme;

- (b) contain those provisions of the national coastal management programme and any applicable provincial coastal management programme that specifically applies to it; and
- (c) give effect to the national coastal management programme and any applicable provincial coastal management programme.

**52. Ensuring consistency between coastal management programmes and other statutory plans**

- (1) For the purposes of this section, “statutory plan” means a plan, policy or programme adopted by an organ of state that may affect coastal management, and without limitation, may include -
  - (a) an environmental implementation or environmental management plan prepared in terms of Chapter 3 of the National Environmental Management Act;
  - (b) an integrated development plan adopted by a municipality in terms of the Municipal Systems Act;
  - (c) the national biodiversity framework referred to in section 38 of the Biodiversity Act and a bioregional plan prepared in terms of that Act;
  - (d) a provincial or municipal land development plan;
  - (e) a provincial strategic policy and plan concerned with promoting sustainable development; and
  - (f) the national estuarine management protocol.
- (2) The Minister must ensure that there is consistency between the national coastal management plan and other statutory plans adopted by a national organ of state.
- (3) The MEC must ensure that there is consistency between the provincial coastal management plan and other statutory plans adopted by either a national or a provincial organ of state.
- (4) Each municipality in the coastal zone must ensure that its integrated development plan (including its spatial development framework) is consistent with other statutory plans adopted by either a national or a provincial organ of state.
- (5) If there is a conflict between the provisions of a coastal management programme and the provisions of another statutory plan, the person responsible under subsections (2), (3) or (4) to ensure consistency must discuss the conflict with the organ of state responsible for that statutory plan in order to resolve the conflict, failing which the conflict must be dealt with in accordance with Chapter 4 of the National Environmental Management Act.

- (6) Conflicts between a coastal management programme and other statutory plans must be resolved in a manner that best promotes the objects of this Act.
- (7) Once the parties referred to in subsection (5) have resolved the conflict they must make appropriate amendments to one or more of such conflicting plans.

## **Part 5**

### ***Public participation***

#### **53. Consultation and public participation**

- (1) Before exercising a power, which this Act requires to be exercised in accordance with this section, the Minister, MEC, municipality or other person exercising that power must -
  - (a) consult with all Ministers, MEC's or municipalities whose areas of responsibilities will be affected by the exercise of the powers in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution;
  - (b) publish or broadcast his or her intention to do so in a manner that is reasonably likely to bring it to the attention of the public; and
  - (c) by notice in the *Gazette* -
    - (i) invite members of the public to submit, within no less than 30 days of such notice, written representations or objections to the proposed exercise of power; and
    - (ii) contain sufficient information to enable members of the public to submit representations or objections.

## **Part 6**

### ***Review of coastal management programmes***

#### **54. Powers of Minister to review coastal management programmes**

- (1) The Minister may at any time review any provincial coastal management programme.
- (2) The Minister must, in reviewing the provincial coastal management programme, determine whether or not it -
  - (a) meets the requirements specified in section 47;



- (b) is consistent with the national coastal management programme;
  - (c) gives adequate protection to coastal public property; and
  - (d) provides an appropriate policy framework for establishing an effective and efficient system of coastal management.
- (3) If the Minister believes that a provincial coastal management programme does not meet all the criteria referred to in subsection (2), the Minister must by notice to the MEC of the province concerned, require the MEC to amend or replace the provincial coastal management programme within a reasonable period, which must be specified in the notice.
- (4) An MEC who receives a notice in terms of subsection (3) must amend or replace the provincial coastal management programme by following the same procedure used to prepare and adopt it in terms of this Act, except that the new or amended coastal management programme may not be finally adopted without the consent of the Minister.
- (5)
- (a) The Minister may request an MEC to review a municipal coastal management programme under section 55.
  - (b) If the MEC is unable or unwilling to review the municipal coastal management programme within a reasonable period, the Minister may do so, in which case section 55 applies with the necessary changes.

## **55. Review of municipal coastal management programmes**

- (1) The MEC may at any time review a municipal coastal management programme.
- (2) The MEC must, in reviewing the municipal coastal management programme, determine whether or not it -
- (a) meets the requirements specified in section 49;
  - (b) is consistent with the national and the provincial coastal management programmes;
  - (c) gives adequate protection to coastal public property; and
  - (d) was prepared in a manner that allowed for effective participation by interested and affected parties.

- (3) If, after considering the advice of the Provincial Coastal Committee, the MEC believes that a municipal coastal management programme does not meet all the criteria referred to in subsection (2), the MEC must, by notice to the municipality concerned, require the municipality to amend or replace the municipal coastal management programme within a reasonable period, which must be specified in the notice.
- (4) A municipality that receives a notice in terms of subsection (3), must amend or replace the municipal coastal management programme by following the same procedure used to prepare and adopt it in terms of this Act except that the new or amended coastal management programme may not be finally adopted without the consent of the MEC.

### ***Part 7***

#### ***Coastal planning schemes***

##### **56. Planning schemes for areas within coastal zone**

- (1) A coastal planning scheme is a scheme that facilitates the attainment of coastal management objectives by -
  - (a) defining areas within the coastal zone or coastal management area which may -
    - (i) be used exclusively or mainly for specified purposes or activities; or
    - (ii) not be used for specified purposes or activities; and
  - (b) prohibiting or restricting activities or uses of areas that do not comply with the rules of the scheme.
- (2) A coastal planning scheme must-
  - (a) be established by notice in the *Gazette*;
  - (b) be consistent with -
    - (i) this Act;
    - (ii) the national coastal management programme;
    - (iii) the applicable provincial coastal management programme; and
    - (iv) any estuarine management plan applicable in the area; and

- (c) take into account any other applicable coastal management programmes.
- (3) A coastal planning scheme may be established and implemented for an area within the coastal zone by -
- (a) the Minister, after consultation with the MEC and with any authority that is responsible for managing an area to which the planning scheme applies, if the planning scheme applies to -
    - (i) an area of coastal public property and is established to protect and control the use of marine living resources or to implement national norms or standards; or
    - (ii) an area of the coastal zone that straddles the border between two provinces, or adjoins or straddles the borders of the Republic of South Africa;
  - (b) the person in which the authority to manage a coastal protected area is vested, if the planning scheme only applies within that protected area;
  - (c) the MEC, after consultation with the Minister and any authority that is responsible for managing an area to which the planning scheme applies, if the planning scheme is not one referred to in paragraph (a) or (b) and applies to an area of the coastal zone within the province;
  - (d) the municipality, in consultation with the MEC and after consultation with any authority that is responsible for managing an area to which the planning scheme applies, if the planning scheme is not one referred to in paragraphs (a) or (b) and applies to an area falling within its jurisdiction; and
  - (e) the management authority of a special management area, in consultation with the MEC and after consultation with the municipality, if the planning scheme only applies within that management area.
- (4) A coastal planning scheme established by -
- (a) the Minister takes precedence over any other coastal planning scheme;
  - (b) the person in which the authority to manage a coastal protected area is vested, takes precedence within that protected area over any other coastal planning scheme except one established by the Minister;
  - (c) an MEC takes precedence over any other coastal planning scheme except one established by the Minister or the management authority for a coastal protected area; or

(d) a municipality takes precedence over any other coastal planning scheme except one established by the Minister or the MEC, or established within a coastal protected area by the management authority for that protected area.

(5) A coastal planning scheme may only be established with the consent of—

(a) the Minister, if the scheme applies to an area that extends into the sea further than 500 metres from the high-water mark or affects the protection or use of marine living resources; or

(b) the relevant Minister responsible for navigation of vessels on the sea or vessels entering or leaving a port or harbour, if the scheme affects or restricts such vessels.

*(Section 56(5) substituted by section 29 of Act 36 of 2014)*

(6) A coastal planning scheme may not create any rights to use land or coastal waters.

## **57. Coastal planning and land use schemes of municipalities**

(1) Subject to section 56(5), a coastal planning scheme of a municipality may form, and be enforced as part of, any land use scheme adopted by the municipality.

(2)

(a) A municipality may not adopt a land use scheme that is inconsistent with a coastal planning scheme established in terms of this Act.

(b) If there is a conflict between a municipal land use scheme established after the commencement of this Act and a coastal planning scheme made in terms of this Act, the coastal planning scheme shall prevail.

## **CHAPTER 7**

### **PROTECTION OF COASTAL ENVIRONMENT**

#### ***Part 1***

#### ***Assessing, avoiding and minimising adverse effects***

## **58. Duty to avoid causing adverse effects on coastal environment**

(1)

(a) Section 28 of the National Environmental Management Act applies, subject to the necessary changes, to any impact caused by any person and that has an adverse effect on the coastal environment.

(b) For the purposes of the application of section 28 a reference in that section to -