

- (a) any foreign state that is likely to be affected by the proposed dumping at sea; and
  - (b) the International Maritime Organisation.
- (3) The Minister must-
- (a) as far as reasonably possible in the circumstances, follow any recommendations received from the International Maritime Organisation when imposing permit conditions regarding the procedures to be followed in conducting the loading or dumping at sea of the relevant quantity of waste or other material; and
  - (b) inform the International Maritime Organisation of any action taken under this section within a reasonable period thereafter.

### **73. National action list**

- (1) The Minister must progressively and subject to available resources, develop a national action list to provide a mechanism for screening waste and other material on the basis of their potential effect on human health and the marine environment.
- (2) The national action list must -
  - (a) be developed in accordance with the Waste Assessment Guidelines set out in Schedule 2; and
  - (b) contain the prescribed information.

## **CHAPTER 9 APPEALS**

### **74. Appeals**

- (1) A person to whom a coastal protection notice or coastal access notice in terms of section 59 or a repair and removal notice in terms of section 60, has been issued, may lodge a written appeal against that notice with-
  - (a) the Minister, if the notice was issued by an MEC or by a person exercising powers which have been delegated by the Minister to such person in terms of this Act; or
  - (b) the MEC of the province concerned, if the notice was issued by a municipality in that province or by a person exercising powers delegated by the MEC in terms of this Act.

- (2) A person who is dissatisfied with any decision taken to issue, refuse, amend, suspend or cancel a coastal authorisation, may lodge a written appeal against that decision with—  
*(Words preceding section 74(2)(a) substituted by section 43 of Act 36 of 2014)*
- (a) the Minister, if the decision was taken by a person exercising powers which have been delegated by the Minister to such person in terms of this Act; or
  - (b) the MEC of the province concerned, if the decision was taken by -
    - (i) a person exercising powers granted or delegated to the MEC that have been delegated by the MEC;
    - (ii) a provincial organ of state; or
    - (iii) a municipality in that province.
- (3) An appeal made under subsection (1) or (2) must -
- (a) be lodged within 30 days of the appellant being given the notice in terms of section 59 or 60, or being notified of the decision, or if the appellant is not given a notice or notified of the decision, within 60 days of the relevant decision being announced;
  - (b) state clearly the grounds of the appeal;
  - (c) state briefly the facts on which the appellant relies and include any relevant information that was not placed before the decision-maker and which the appellant believes should be considered on appeal; and
  - (d) comply with any other requirements that may be prescribed.
- (4) An appeal under this section does not suspend an authorisation or an exemption, or any provision or condition of an authorisation, or any notice issued under Chapter 7, unless the Minister or MEC directs otherwise.
- (5) The Minister or MEC may, on good cause shown, extend the period within which an appeal may be lodged in terms of this Chapter.
- (6) The Minister or MEC may dismiss an appeal that he or she considers to be trivial, frivolous or manifestly without merit.
- (7) Appeals against a decision involving an environmental authorisation must be dealt with in terms of the National Environmental Management Act.

**75. Advisory Appeal panel**

- (1) The Minister or an MEC may appoint an advisory appeal panel to consider and advise the Minister or the MEC on an appeal.
- (2) An advisory appeal panel must consist of an uneven number of members.
- (3) The members appointed by the Minister or an MEC must -
  - (a) have suitable qualifications and experience in relation to the matters that must be considered in the appeal; and
  - (b) be committed to the objects of this Act.
- (4) A person may not be appointed as a member of the appeal panel if he or she -
  - (a) was involved in any way in the making of the decision appealed against;
  - (b) or any spouse, partner or close family member of that person has a personal or private interest in the appeal;
  - (c) is an unrehabilitated insolvent;
  - (d) has, as a result of improper conduct, been removed from an office of trust; or
  - (e) has been declared by a court to be mentally ill or disordered.
- (5) The Minister, with the consent of the Minister of Finance, or the MEC, with the consent of the member of the provincial executive council responsible for finance, must determine the rate of remuneration and the allowances payable to any member of an advisory appeal panel who is not an employee of an organ of state.

**76. Interim orders by Minister or MEC**

- (1) The Minister or an MEC may, at any time after an appeal has been lodged, make any interim order pending the determination of the appeal, that he or she considers equitable or appropriate to achieve the objects of this Act.
- (2) Without limiting the generality of subsection (1) an interim order may -
  - (a) preserve existing rights or an existing state of affairs between the parties to the proceedings;

- (b) provide for interim protection of the coastal environment;
  - (c) suspend or temporarily stay a notice or any part of it; or
  - (d) deal with procedural issues.
- (3) The Minister or an MEC may make an interim order at his or her own initiative, or in response to an application by the appeal panel or a party to the appeal proceedings.
- (4) If a party to the proceedings applies for an interim order, the Minister or an MEC must give the parties to the proceedings a reasonable opportunity to make oral or written submissions, but may make an interim order pending the making of submissions by the parties, if the Minister or an MEC has reason to believe that doing so would be just or desirable in order to protect the coastal environment.

#### **77. Proceedings of advisory appeal panel**

- (1) The chairperson of an advisory appeal panel decides when and where the panel meets.
- (2) An advisory appeal panel must give the appellant, the person who made the decision or gave the notice appealed against, and any other interested and affected parties, a reasonable opportunity of making written submissions, and may allow oral representations to be made.
- (3) An advisory appeal panel -
- (a) must act fairly;
  - (b) may determine its own procedures;
  - (c) may convene hearings and make orders concerning preliminary and procedural matters;
  - (d) may summon and examine witnesses on oath;
  - (e) must, in considering the merits of an appeal, have regard to -
    - (i) the objects of this Act; and
    - (ii) any relevant coastal management objectives or standards and relevant policies; and
    - (iii) guidelines published or endorsed by the Department or the provincial lead agency concerned.

- (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;