

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—

- (a) any—
 - (i) immovable structure, or part of an immovable structure; or
 - (ii) installation or infrastructure located in a port or harbour,

whether located on land or the seabed, lawfully constructed by an organ of state.
- (b) any portion of the seashore below the high-water mark, which was lawfully alienated before the Sea-shore Act, 1935 (Act No. 21 of 1935), took effect, or which was lawfully alienated in terms of that Act, and which has not subsequently been re-incorporated into the seashore;
- (c) any part of an island that was lawfully alienated before this Act commenced; or
- (d) any portion of a coastal cliff that—
 - (i) was lawfully alienated before this Act took effect; and
 - (ii) is not owned by the State.

(Section 7 substituted by section 5 of Act 36 of 2014)

7A. Purpose of coastal public property

- (1) Coastal public property is established for the following purposes:
 - (a) To improve public access to the seashore;
 - (b) to protect sensitive coastal ecosystems;
 - (c) to secure the natural functioning of dynamic coastal processes;
 - (d) to protect people, property and economic activities from risks arising from dynamic coastal processes, including the risk of sea-level rise; or
 - (e) to facilitate the achievement of any of the objects of this Act.

(Section 7A inserted by section 6 of Act 36 of 2014)

7B. Reclamation of land for state infrastructure

- (1) No organ of state may reclaim land for the development of state infrastructure unless authorised by the Minister.
- (2) The Minister may, on application, approve reclamation in terms of this section.
- (3) An application for reclamation must be—
 - (a) accompanied by—
 - (i) a detailed plan of how the land will be developed and utilised for the benefit of the State;
 - (ii) an assessment of whether there is any alternative land available and why such land cannot be used;
 - (iii) an explanation of the purpose for which the land is to be reclaimed;
 - (iv) detailed information on how development will be funded; and
 - (v) any other relevant information;
 - (b) submitted to the Minister for pre-approval prior to any application for an environmental authorisation in terms of Chapter 5 of the National Environmental Management Act; and
 - (c) published by notice in the *Gazette* for public comment by the Minister for a period of no less than 60 days.
- (4) If an environmental authorisation is refused, a pre-approval in terms of subsection (3)(b) becomes invalid.
- (5) If an environmental authorisation is granted, the applicant must resubmit to the Minister the application, the environmental authorisation and other documents related to the reclamation for a final decision.
- (6) A final decision made by the Minister in terms of subsection (5) must be tabled in Parliament within 60 days of the decision.
- (7) Any land reclaimed for the development of state infrastructure vests in the organ of state applying for such reclamation.
- (8) Unless authorised by the Minister, land reclaimed in terms of subsection (2) may not be utilised other than in accordance with the purpose stated in the original application and conditions of the authorisation.

- (9) The Minister may, when approving a reclamation application, make the approval subject to any conditions or title deed restrictions.
- (10) 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 7B inserted by section 6 of Act 36 of 2014)

7C. Reclamation of land for purposes other than state infrastructure

- (1) An application for reclamation for purposes other than the development of state infrastructure as contemplated in section 7B will only be considered in exceptional circumstances which are not contrary to the purpose of coastal public property as set out in section 7A.
- (2) An application for reclamation in terms of this section must be accompanied by—
 - (a) details of how the land will be developed and its use;
 - (b) an assessment of whether there is any alternative land available and why such land cannot be used;
 - (c) information on whether the land and structures will be accessible to the public;
 - (d) information on whether the development is in the interests of the whole community;
 - (e) detailed information on how the development will be funded; and
 - (f) any other relevant information.
- (3) An application for reclamation must be submitted to the Minister for pre-approval prior to any application for an environmental authorisation in terms of Chapter 5 of the National Environmental Management Act.
- (4) The Minister must—
 - (a) follow the consultation process in section 53 prior to pre-approving an application for reclamation; and
 - (b) submit a pre-approval for reclamation to Parliament for ratification.
- (5) In the event that—

- (a) Parliament fails to ratify the pre-approval, the Minister's pre-approval as envisaged in subsection (3) becomes invalid; or
 - (b) the environmental authorisation is refused, a pre-approval in terms of subsection (3) and a ratification in terms of subsection (4)(b) becomes invalid.
- (6) In the event that Parliament ratifies the pre-approval, application may be made for an environmental authorisation in terms of Chapter 5 of the National Environmental Management Act.
- (7) If an environmental authorisation is granted, the applicant must resubmit to the Minister the application, the environmental authorisation, the ratified pre-approval and other documents related to the reclamation for a final decision.
- (8) A final decision made by the Minister in terms of subsection (7) must be tabled in Parliament within 60 days of the decision.
- (9) Land reclaimed in terms of this section—
- (a) may not be sold under any circumstances;
 - (b) must be subject to a lease as prescribed by the Minister; and
 - (c) may not be subleased without the written authorisation of the Minister.
- (10) Unless authorised by the Minister, land reclaimed in terms of this section may not be utilised other than in accordance with the purpose stated in the original application and conditions of the authorisation.
- (11) The Minister may, when approving a reclamation application, make the approval subject to any conditions.

(Section 7C inserted by section 6 of Act 36 of 2014)

8. Extending coastal public property

- (1) The Minister may, by notice in the *Gazette*, declare in the manner contemplated in subsection (2) any state-owned land as coastal public property for the purposes set out in section 7A.

(Section 8(1) substituted by section 7 of Act 36 of 2014)

- (2) Before declaring state-owned land as coastal public property in terms of subsection (1), the Minister must -

- (a) consult with interested and affected parties; and
 - (b) obtain the concurrence of the Minister, or of the MEC of the province, responsible for managing that state-owned land.
- (3) The declaration of state-owned land as coastal public property in terms of subsection (1) may only be withdrawn by the Minister by notice in the *Gazette* with the prior approval of Parliament.
- (4) This section does not affect the application of section 26.

9. Acquisition of private land by State

- (1) The Minister, acting with the concurrence of the Minister of Land Affairs, may acquire private land for the purpose of declaring that land as coastal public property, by-
- (a) purchasing the land;
 - (b) exchanging the land for other land; or
 - (c) if no agreement is reached with the owner, by expropriating the land in accordance with the Expropriation Act, 1975 (Act No. 63 of 1975).
- (2) Land may be acquired in terms of this section only if it is being expropriated for a purpose set out in section 8(1).

10.

(Section 10 repealed by section 8 of Act 36 of 2014)

11. Ownership of coastal public property

- (1) The ownership of coastal public property vests in the citizens of the Republic and coastal public property must be held in trust by the State on behalf of the citizens of the Republic.
- (2) Coastal public property is inalienable and cannot be sold, attached or acquired by prescription and rights over it cannot be acquired by prescription.

(Commencement date of section 11: Still to be proclaimed)

12. State public trustee of coastal public property

The State, in its capacity as the public trustee of all coastal public property, must-

- (a) ensure that coastal public property is used, managed, protected, conserved and enhanced in the interests of the whole community; and
- (b) take whatever reasonable legislative and other measures it considers necessary to conserve and protect coastal public property for the benefit of present and future generations.

13. Access to coastal public property

- (1) Subject to this Act and any other applicable legislation, any natural person in the Republic -
 - (a) has a right of reasonable access to coastal public property; and
 - (b) is entitled to use and enjoy coastal public property, provided such use-
 - (i) does not adversely affect the rights of members of the public to use and enjoy the coastal public property;
 - (ii) does not hinder the State in the performance of its duty to protect the environment; and
 - (iii) does not cause an adverse effect.
- (1A) Subject to subsections (2) and (3), no person may prevent access to coastal public property.
(Section 13(1A) inserted by section 9(a) of Act 36 of 2014)
- (2) This section does not prevent prohibitions or restrictions on access to, or the use of, any part of coastal public property -
 - (a) which is or forms part of a protected area;
 - (b) to protect the environment, including biodiversity;
 - (c) in the interests of the whole community;
 - (d) in the interests of national security; or
 - (e) in the national interest.
- (3)
 - (a) No access fee may be charged for access to coastal public property without the approval of the Minister.

- (b) The Minister may by notice in the *Gazette* publish maximum fees for access to coastal public property or infrastructure located therein, payable by persons in general or a category of persons.
- (c) Any person or organ of state may apply to the Minister to charge a fee in excess of the maximum published in terms of paragraph (b).
- (d) The provisions of paragraph (a) shall not apply to fees for the use of facilities or activities which are located on or in coastal public property.

(Section 13(3) substituted by section 9(b) of Act 36 of 2014)

- (4) The Minister, before granting approval for the imposition of a fee, must require a public participation process in accordance with Part 5 of Chapter 6 to enable interested and affected parties to make representations.
- (5) Subsections (3) and (4) do not apply to coastal public property—
 - (a) for which a coastal use permit has been issued in terms of section 65; or
 - (b) that is, or forms part of, a protected area, or a port or harbour.

(Section 13(5) substituted by section 9(c) of Act 36 of 2014)

14. Position of high-water mark

- (1) No person may replace the high-water mark curvilinear boundary with a straight line boundary in terms of section 34 of the Land Survey Act.

(Section 14(1) substituted by section 10(a) of Act 36 of 2014)
- (2)

(Section 14(2) deleted by section 10(b) of Act 36 of 2014)
- (3)

(Section 14(3) deleted by section 10(b) of Act 36 of 2014)
- (4)

(Section 14(4) deleted by section 10(b) of Act 36 of 2014)
- (5) If the high-water mark is landward of a straight line boundary of a coastal land unit when this Act took effect, or the high-water mark moves landward of a straight line boundary of a coastal land unit due to the erosion of the coast, sea-level rise or other causes, the owner of that coastal land unit—

(Words preceding section 14(5)(a) substituted by section 10(c) of Act 36 of 2014)

- (a) loses ownership of any portion of that coastal land unit that is situated below the high-water mark to the extent that such land unit becomes coastal public property; and

(Section 14(5)(a) substituted by section 10(d) of Act 36 of 2014)

- (b) is not entitled to compensation from the State for that loss of ownership,

unless the movement of the high-water mark was caused by an intentional or negligent act or omission by an organ of state and was a reasonably foreseeable consequence of that act or omission.

- (6)

(Section 14(6) deleted by section 10(e) of Act 36 of 2014)

15. Measures affecting erosion and accretion

- (1) No person, owner or occupier of land adjacent to the seashore or other coastal public property capable of erosion or accretion may require any organ of state or any other person to take measures to prevent the erosion or accretion of the seashore or such other coastal public property, or of land adjacent to coastal public property, unless the erosion is caused by an intentional act or omission of that organ of state or other person.

- (2) No person may construct, maintain or extend any structure, or take other measures on coastal public property to prevent or promote erosion or accretion of the seashore except as provided for in this Act, the National Environmental Management Act or any other specific environmental management Act.

(Section 15(2) substituted by section 11 of Act 36 of 2014)

Part 2

Coastal protection zone

16. Composition of coastal protection zone

- (1) Subject to subsection (2) and section 26, the coastal protection zone consists of-

(Words preceding section 16(1)(a) substituted by section 12(a) of Act 36 of 2014)

- (a) land falling within an area declared in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), as a sensitive coastal area within which activities identified in terms of section 21(1) of that Act may not be undertaken without an authorisation;

- (b) any part of the littoral active zone that is not coastal public property;

- (c) any coastal protected area, or part of such area, which is not coastal public property;

(Section 16(1)(c) substituted by section 12(b) of Act 36 of 2014)

- (d) any land unit situated wholly or partially within one kilometre of the high-water mark which, when this Act came into force-
 - (i) was zoned for agricultural or undetermined use; or
 - (ii) was not zoned and was not part of a lawfully established township, urban area or other human settlement;
 - (e) any land unit not referred to in paragraph (d) that is situated wholly or partially within 100 metres of the high-water mark;
 - (f) any coastal wetland, lake, lagoon or dam which is situated wholly or partially within a land unit referred to in paragraph (d)(i) or (e);
 - (fA) the part of a river which is situated within a land unit referred to in paragraph (d)(i) or (e);
(Section 16(1)(fA) inserted by section 12(c) of Act 36 of 2014)
 - (g) any part of the seashore which is not coastal public property, including all privately owned land below the high-water mark;
 - (h) any admiralty reserve which is not coastal public property; or
 - (i) any land adjacent to an area referred to in paragraphs (a) to (h) that would be inundated by a 1:100 year flood or storm event.
(Section 16(1)(i) substituted by section 12(d) of Act 36 of 2014)
- (2) An area forming part of the coastal protection zone, except an area referred to in subsection (1)(g) or (h), may be excised from the coastal protection zone in terms of section 26.

17. Purpose of coastal protection zone

The coastal protection zone is established for enabling the use of land that is adjacent to coastal public property or that plays a significant role in a coastal ecosystem to be managed, regulated or restricted in order to-

- (a) protect the ecological integrity, natural character and the economic, social and aesthetic value of coastal public property;
- (b) avoid increasing the effect or severity of natural hazards in the coastal zone;
- (c) protect people, property and economic activities from risks arising from dynamic coastal processes, including the risk of sea-level rise;

- (d) maintain the natural functioning of the littoral active zone;
- (e) maintain the productive capacity of the coastal zone by protecting the ecological integrity of the coastal environment; and
- (f) make land near the seashore available to organs of state and other authorised persons for -
 - (i) performing rescue operations; or
 - (ii) temporarily depositing objects and materials washed up by coastal waters.

(Section 17(f)(ii) substituted by section 13 of Act 36 of 2014)

Part 3

Coastal access land

18. Designation of coastal access land

- (1) Each municipality whose area includes coastal public property must within four years of the commencement of this Act, make a by-law that designates strips of land as coastal access land in order to secure public access to that coastal public property.
- (2) Coastal access land designated in terms of subsection (1) is automatically subject to a public servitude in terms of which members of the public may use that land to gain access to coastal public property.

(Section 18(2) substituted by section 14(a) of Act 36 of 2014)

- (3) A municipality must implement subsection (1) subject to -
 - (a) the other provisions of this Act, including-
 - (i) any prohibitions or restrictions referred to in section 13(2); and
 - (ii) the national and applicable provincial coastal management programmes; and
 - (b) any other applicable national or provincial legislation.
- (4) No land within a port or harbour, defence or other strategic facility may be designated as coastal access land without the consent of the Minister responsible for that facility.

(Section 18(4) substituted by section 14(b) of Act 36 of 2014)

- (5) Subject to section 19, a municipality may, on its own initiative or in response to a request from an organ of state or any other interested and affected party, withdraw the designation of any land as coastal access land.
- (6) If a municipality fails to designate strips of land as coastal access land in terms of subsection (1), the MEC, and failing the MEC, the Minister, may designate such access land by notice in the *Gazette*.
(Section 18(6) added by section 14(c) of Act 36 of 2014)
- (7) The MEC may not take any measures under subsection (6) without first consulting the municipality and giving it a reasonable opportunity to make representations.
(Section 18(7) added by section 14(c) of Act 36 of 2014)
- (8) The Minister may not take any measures under subsection (6) without first consulting the municipality and the relevant MEC and giving them a reasonable opportunity to make representations.
(Section 18(8) added by section 14(c) of Act 36 of 2014)
- (9) Each municipality approving the rezoning, subdivision or development of a land unit within or abutting on coastal public property must ensure that adequate provision is made in the conditions of approval to secure public access to that coastal public property.
(Section 18(9) added by section 14(c) of Act 36 of 2014)

19. Process for designating and withdrawing designation of coastal access land

Before designating land as coastal access land or withdrawing any such designation, a municipality, the MEC or Minister, as the case may be, must-

(Words preceding section 19(a) substituted by section 15 of Act 36 of 2014)

- (a) assess the potential environmental impacts of doing so;
- (b) consult with interested and affected parties in accordance with Part 5 of Chapter 6; and
- (c) give notice of the intended designation or withdrawal of the designation to the owner of the land.

20. Responsibilities of municipalities with regard to coastal access land

- (1) A municipality in whose area coastal access land falls, must -
- (a) signpost entry points to that coastal access land;
- (b) control the use of, and activities on, that land;

- (c) protect and enforce the rights of the public to use that land to gain access to coastal public property;
 - (d) maintain that land so as to ensure that the public has access to the relevant coastal public property;
 - (e) where appropriate and within its available resources, provide facilities that promote access to coastal public property, including parking areas, toilets, boardwalks and other amenities, taking into account the needs of physically disabled persons;
 - (f) ensure that the provision and use of coastal access land and associated infrastructure do not cause adverse effects to the environment;
 - (g) remove any public access servitude that is causing or contributing to adverse effects that the municipality is unable to prevent or to mitigate adequately;
 - (h) describe or otherwise indicate all coastal access land in any municipal coastal management programme and in any municipal spatial development framework prepared in terms of the Municipal Systems Act;
 - (i) perform any other actions that may be prescribed; and
 - (j) report to the MEC within two years of this Act coming into force on the measures taken to implement this section.
- (2) A municipality may make by-laws for the proper implementation of subsection (1).

Part 4 ***Coastal waters***

21. Control and management of coastal waters

An organ of state that is legally responsible for controlling or managing any activity on or in coastal waters, must control and manage that activity -

- (a) in the interests of the whole community; and
- (b) in accordance with the Republic's obligations under international law.

Part 5 ***Coastal protected areas***

22. Excision of protected areas from coastal protection zone

- (1) Subject to section 87, the MEC may by notice in the *Gazette* declare that with effect from a specified date the whole or any part of a protected area that is not coastal public property, will not form part of the coastal protection zone.
- (2) The MEC may only publish a notice referred to in subsection (1) after consultation with the management authority of the protected area, if he or she on reasonable grounds believes that doing so will not prejudice the effective management of the coastal zone.
- (3) The Minister, after consultation with the relevant MEC, must exercise the powers and perform the functions granted to the MEC in this section, if such power relates 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 22(3) added by section 16 of Act 36 of 2014)

Part 6

Special management areas

23. Declaration of special management areas

- (1) The Minister may, after consultation with the MEC, by notice in the *Gazette*-
 - (a) declare an area that is wholly or partially within the coastal zone to be a special management area; or
 - (b) withdraw or amend any declaration made in terms of paragraph (a).
- (2) Before declaring an area to be a special management area, the Minister must give interested and affected parties an opportunity to make representations in accordance with Part 5 of Chapter 6.
- (3) An area may be declared as a special management area only if environmental, cultural or socio-economic conditions in that area require the introduction of measures which are necessary in order to more effectively -
 - (a) attain the objectives of any coastal management programme in the area;
 - (b) facilitate the management of coastal resources by a local community;

- (c) promote sustainable livelihoods for a local community; or
 - (d) conserve, protect or enhance coastal ecosystems and biodiversity in the area.
- (4) The Minister may prescribe specified activities which are prohibited in special management areas taking into account the purpose for which the special management area was declared.

24. Management of special management areas

- (1) The Minister may, by notice in the *Gazette*, appoint a manager for each special management area.
- (2) The manager must have sufficient expertise and capacity to manage the special management area in a manner that will achieve the objectives for which it was established and may be -
- (a) a juristic person constituted for that purpose;
 - (b) an organ of state;
 - (c) a traditional council; or
 - (d) any other person with appropriate expertise and capacity.
- (3) Before authorising the manager to begin managing the special management area, the Minister must make regulations that -
- (a) define the duties and powers of the manager; and
 - (b) prescribe rules to facilitate the achievement of the objectives for which the special management area was declared.

Part 7

Coastal management lines

(Title to Part 7 of Chapter 2 substituted by section 17 of Act 36 of 2014)

25. Establishment of coastal management lines

- (1) An MEC must by notice in the *Gazette* establish or change coastal management lines—
- (a) to protect coastal public property, private property and public safety;
 - (b) to protect the coastal protection zone;

- (c) to preserve the aesthetic values of the coastal zone; or
 - (d) for any other reason consistent with the objectives of this Act.
- (1A) An MEC may, in regulations published in the *Gazette*, prohibit or restrict the building, erection, alteration or extension of structures that are wholly or partially seaward of a coastal management line.
- (1B) When establishing coastal management lines in terms of subsection (1), the MEC must consider the location of immovable property and the ownership and zonation of vacant land.
- (2) Before making or amending a notice referred to in subsection (1), or making the regulations referred to in subsection (1A), the MEC must—
- (a) consult with any local municipality within whose area of jurisdiction the coastal management line is, or will be, situated; and
 - (b) give interested and affected parties an opportunity to make representations in accordance with Part 5 of Chapter 6.
- (3) A local municipality within whose area of jurisdiction a coastal management line has been established must delineate the coastal management line on a map or maps that form part of its zoning scheme in order to enable the public to determine the position of the coastal management line in relation to existing cadastral boundaries.
- (4) A coastal management line may be situated wholly or partially outside the coastal zone.
- (5) The Minister, after consultation with the relevant MEC, must exercise the powers and perform the functions granted to the MEC in this section, if such power relates 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 25 substituted by section 18 of Act 36 of 2014)

CHAPTER 3 BOUNDARIES OF COASTAL AREAS

26. Determination and adjustment of coastal boundaries

Prepared by: