(c) take into account any other applicable coastal management programmes.

(2) A coastal zoning 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 zoning scheme applies, if the zoning scheme –

(i) applies to 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) applies to 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 zoning scheme only applies within that protected area;

(c) the MEC, after consultation with the Minister and with any authority that is responsible for managing an area to which the zoning scheme applies, if the zoning scheme is not one referred to in paragraphs (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 zoning scheme applies, if the zoning 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 zoning scheme only applies within that management area.

(3) A coastal zoning scheme established by –

(a) the Minister takes precedence over any other coastal zoning 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 zoning scheme except one established by the Minister;
(c) an MEC takes precedence over any other coastal zoning 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 zoning 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.

(4) A coastal zoning 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 Cabinet member responsible for merchant shipping, if the scheme –

(i) affects the navigation of vessels on the sea; or

(ii) restricts vessels entering or leaving a harbour.

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

56. Coastal zoning and land use schemes of municipalities

(1) Subject to section 55(5), a coastal zoning scheme of a municipality may form, and be enforced as part of, any land use scheme adopted by the municipality.

(2) A municipality must not adopt a land use scheme that is inconsistent with a coastal zoning scheme made in terms of this Act and if there is a conflict between a municipal land use scheme established after the commencement of this Act and a coastal zoning scheme made in terms of this Act, the coastal zoning scheme shall prevail.

CHAPTER 7
PROTECTION OF COASTAL RESOURCES

Part 1: Assessing, avoiding and minimising adverse effects

57. Duty to avoid causing adverse effects on coastal environment

(1) Section 28 of the National Environmental Management Act applies, subject to any
necessary changes, to any impact caused by any person on the coastal environment and that has an adverse effect on the coastal environment and for the purpose of such application a reference in section 28 to —

(a) “significant pollution or degradation of the environment”, must be read as including an adverse effect on the coastal environment;

(b) “environment” must be read as including the coastal environment; and

(c) “environmental management plan” must be read as including a coastal management programme applicable in the area concerned.

(2) For the purposes of subsection (1) —

(a) the Minister may, by notice in the Gazette, determine that an impact or activity described in the notice must be presumed, until the contrary is proved, to result in an adverse effect; and

(b) the persons to whom section 28 (1) and (2) of the National Environmental Management Act applies must be regarded as including —

(i) a user of coastal public property;
(ii) the owner, occupier, person in control of, or user of land or premises on which an activity that caused or is likely to cause an adverse effect occurred, is occurring or is planned;
(iii) the owner or person in charge of a vessel, aircraft or platform or structure at sea, or the owner or driver of a vehicle, in respect of which any activity that caused or is likely to cause an adverse effect occurred, is occurring or is planned;
(iv) the operator of a pipeline that ends in the coastal zone; or
(v) any person who produced a substance which caused, is causing or is likely to cause an adverse effect.

53. Authorisation of activities causing adverse effects

(1) An organ of State that is empowered by any law to authorise or grant consent for any activity within the Republic that may cause an adverse effect on the coastal environment shall not grant such an authorisation or consent unless he or she has investigated the matter thoroughly and is satisfied that -
(a) the activity –
   (i) is unlikely to cause irreversible or long-lasting adverse effects to any aspect
       of the coastal environment that cannot satisfactorily be mitigated;
   (ii) will not substantially prejudice the achievement of any objective set out in
        the national coastal management programme or any applicable provincial
        coastal management programme or municipal coastal management
        programme; and
(b) the terms and conditions on which any such authorisation or consent are issued
    are consistent with the attainment of the relevant coastal management objectives.

(2) Before granting an authorisation or consent referred to in subsection (1), the organ of
    State concerned must undertake a public participation process in accordance with
    Part 5 of Chapter 6.

59. Measures to stop or mitigate adverse effects

(1) If the Minister has reason to believe that a person is carrying out, or intends to carry out,
    an activity that is having, or is likely to have, an adverse effect on the coastal environment,
    then subject to subsection (2), he or she may issue a written coastal protection notice to the
    person responsible for that activity –

(a) prohibiting the activity if it is not already prohibited in terms of this Act; and

(b) instructing that person -

   (i) to take appropriate steps in terms of this Act or any other applicable legislation
       to protect the environment;

   (ii) to investigate and evaluate the impact of an activity on an aspect of the coastal
        environment in accordance with Chapter 5 of the National Environmental
        Management Act; or

   (iii) to stop or postpone the activity for a reasonable period to allow for the
        investigation to be carried out and for the Minister or MEC to evaluate the
        report.
(2) Before exercising a power to issue a coastal protection notice under subsection (1), the Minister must—

(a) consult with any other organ of state that authorised or is competent to authorise, the undertaking of the activity or proposed activity concerned; and

(b) give the person to whom the coastal protection notice is to be addressed an opportunity of making representations.

(3) The power of the Minister to issue a coastal protection notice in terms of subsection (1) is delegated to the MEC but may be exercised by the Minister in accordance with section 96.

(4) A coastal protection notice in terms of subsection (1)—

(a) must state—

(i) the reasons for the notice;

(ii) the period within which anything required by the notice must be carried out; and

(ii) that the person to whom it is addressed may appeal against the notice in terms of Chapter 9;

(b) may instruct the person to whom it is addressed, among other matters -

(i) to build, maintain or demolish any specified works;

(ii) to close a public access or prevent unauthorised access to coastal public property at a specified place;

(iii) to plant, cultivate, preserve or stop damaging indigenous vegetation at a specified place;

(iv) to stop altering the geographical features of land at a specified place;

(v) to build or maintain any specified works at a specified place to protect land from wind erosion;

(vi) to rehabilitate land at a specified place;

(vii) to remove stock from land; or

(viii) to take measures to protect indigenous fauna.
60. Repair or removal of structures within the coastal zone

(1) The MEC or the Minister, may issue a written repair and removal notice to any person responsible for a structure on or within the coastal zone if that structure -

(a) is having or is likely to have an adverse effect on the coastal environment, by virtue of its existence, because of its condition, or because it has been abandoned; or

(b) has been erected, constructed or upgraded in contravention of any law including this Act.

(2) Before exercising a power to issue a repair and removal notice under subsection (1), the Minister or MEC must--

(a) consult with any other organ of state that authorised or is competent to authorise, the undertaking of the activity or proposed activity concerned; and

(b) give the person to whom the coastal protection notice is to be addressed an opportunity of making representations.

(3) The power of the Minister to issue a repair and removal notice in terms of subsection (1) is delegated to the MEC but may be exercised by the Minister in accordance with section 96.

(4) A repair and removal notice in terms of subsection (1) –

(a) must state:

(i) the reasons for the notice; and

(ii) that the person to whom it is addressed may appeal against the notice in terms of Chapter 9; and

(b) may instruct the person responsible for the structure:

(i) to remove the structure from the coastal zone or place where it is situated within a specified period;

(ii) to rehabilitate the site and as far as is reasonable, to restore it to a natural state;

(iii) to repair the structure to the satisfaction of the Minister, MEC or municipality within the time stated in the notice; or
(iv) to take any other appropriate steps in terms of this Act or any other applicable legislation to secure the removal or repair of the structure.

(5) If a person responsible for a structure referred to in subsection (1) cannot be found readily, instead of issuing a notice in accordance with subsection (4), the MEC or the Minister may –

(a) publish a notice that complies with the provisions of subsection (3) once in the Gazette and once a week for two consecutive weeks in a newspaper circulating in the area in which the structure in question is situated; and

(b) affix a copy of the notice to the structure in question during the period of advertisement.

61. Failure to comply with certain notices

If a person fails to comply with a notice issued in terms of section 59(1) or section 60(1) which requires that person to carry out any specific action, or if the person responsible is not identified after publication of a notice in terms of section 60(5), the MEC or the Minister who issued the notice may instruct appropriate persons to –

(a) carry out what is required by the notice, and

(b) recover from the person to whom the notice was addressed, or in the circumstances referred to in section 60(4) from any person subsequently found to be responsible for the structure, the costs reasonably incurred in carrying out the required action.

Part 2: Regulation of coastal buffer zone

62. Implementation of land use legislation in coastal buffer zone

(1) An organ of state that is responsible for implementing national, provincial and municipal legislation that regulates the planning or development of land must apply that legislation in relation to land in the coastal buffer zone in a way that gives effect to the purposes for which the buffer zone is established as set out in section 17.
(2) An organ of state may not authorise land within the coastal buffer zone to be used for any activity that may have an adverse effect on the coastal environment without first considering an environmental impact assessment report.

63. Activities that are prohibited in the coastal buffer zone except in exceptional circumstances

(1) Subject to subsection (2) and section 101, the activities listed in Part A of Schedule 3 are prohibited within the coastal buffer zone.

(2) The Minister may grant an applicant a special permit to carry out an activity mentioned in subsection (1) in a specific area, if –
   (a) the socio-economic benefits of the activity outweigh the potential adverse effects on the coastal environment; and
   (b) the activity would be in the interests of the whole community.

(3) Before granting a special permit in terms of subsection (2), the Minister must –
   (a) consider an environmental impact assessment report on the proposed activity; and
   (b) consult with interested and affected parties.

(4) A special permit must be subject to appropriate conditions to minimise any adverse effects on the coastal environment.

64. Activities in coastal buffer zone that require a permit

(1) Subject to subsection (2), no person may undertake an activity listed in Part B of Schedule 3 or a development that involves such an activity, within the coastal buffer zone except under and in accordance with a coastal use permit.

(2) Subsection (1) does not apply to an activity or a development –
   (a) that is authorised in terms of a special permit issued under section 63 (2); or
   (b) that has been exempted from the provisions of this section in regulations prescribed by the Minister.
Part 3: Regulation of activities within coastal public property and exclusive economic zone

65. Activities within coastal public property and exclusive economic zone that require a permit

(1) Subject to subsection (2), no person may undertake on coastal public property or within the exclusive economic zone an activity listed in Part C of Schedule 3, or a development that involves such an activity, except under and in accordance with, a coastal use permit.

(2) Subsection (1) does not apply to an activity or a development carried out on coastal public property or within the exclusive economic zone if that activity or development –
   (a) is expressly authorised by a provincial or municipal coastal management programme applicable in the area; or
   (b) has been exempted from the provisions of this section in terms of –
      (i) a regulation; or
      (ii) a provincial or municipal coastal management programme applicable in the area.

66. Prohibition of controlled commercial activities without permit

(1) The Minister may, by notice in the Gazette, declare any activity that takes place partially or wholly within coastal public property or the exclusive economic zone and that involves the charging of any person for experiencing or using any aspect of the environment, to be a controlled commercial activity.

(2) No person may carry out a controlled commercial activity except under and in accordance with a coastal use permit.

Part 3: Permits

67. Issuing of permits

(1) An application for a coastal use permit must be made to the issuing authority designated in regulations prescribed by the Minister.
(2) Before deciding whether or not to issue a coastal use permit the issuing authority must consider a report that assesses the environmental, heritage and socio-economic impacts of the proposed activity and its implications in relation to the factors listed in subsection (3)(a) to (e) inclusive.

(3) When deciding an application for a coastal use permit, the issuing authority must take into account all relevant factors, including –

(a) the representations made by the applicant and by interested and affected parties;
(b) the interests of the whole community;
(c) the coastal management programmes and coastal management objectives applicable in the area; (d) the socio-economic impact if the activity is authorised and if it is not; and
(e) the likely impact of the proposed activity on the coastal environment.

(4) The issuing authority may only authorise an activity or a development within the buffer zone that is likely to have an adverse effect on the coastal environment or that is inconsistent with the purpose for which a buffer zone is established as set out in section 17 if –

(a) the very nature of the proposed activity or development requires it to be located within the coastal buffer zone; or
(b) the proposed activity or development will provide services necessary or convenient for the public when using coastal public property or a coastal protected area.

(5) The issuing authority must not issue a coastal use permit if –

(a) the development or activity for which authorisation is sought –

(i) is likely to cause irreversible or long-lasting adverse effects to any aspect of the coastal environment that cannot satisfactorily be mitigated;
(ii) would substantially prejudice the achievement of any coastal management objective; or
(iii) would be contrary to the interests of the whole community;

(b) an authority whose consent is required for the issue of the coastal use permit, refuses to give that consent.
(6) If an application for a coastal use permit cannot be approved by the issuing authority because of a provision of subsection (5), but the issuing authority believes that issuing the permit would be in the public interest, the issuing authority may refer the application for consideration by the Minister in terms of section 69.

(7) The issuing authority must ensure that the terms and conditions of any permit are consistent with any applicable coastal management programmes and promote the attainment of coastal management objectives in the area concerned.

68. Integration with authorisations under other legislation

(1) The competent authority for the purposes of issuing a special permit or a coastal use permit to undertake an activity listed in Schedule 3, or a development that involves such an activity, must as far as practicable in the circumstances, co-ordinate or consolidate its application and decision-making processes with those of other organs of state without whose approval or consent the activity or development may not be undertaken.

(2) If the competent authority decides to issue a special permit or a coastal use permit it may—

(a) act jointly with the other organs of state referred to in (1) and issue a single integrated special permit or an integrated coastal use permit that grants approval for the proposed activity or development for the purposes of this Act and of any other legislation specified in the permit; or

(b) issue the special permit or coastal use permit as part of a consolidated authorisation consisting of authorisations issued under different legislation by the persons competent to do so, that have been consolidated into a single document in order to ensure that the terms and conditions imposed by each competent authority are comprehensive and mutually consistent.

(3) If an integrated permit is to be regarded as a valid authorisation or approval for the purposes of other legislation specified in the integrated permit, then the decision-making process for issuing that integrated permit must comply with both the requirements of this Act and of that other legislation.
(4) An integrated permit –
(a) must specify the statutory provisions in terms of which it has been issued;
(b) must identify the authority or authorities that have issued it; and
(c) if it is to be regarded as an approval or an authorisation under other legislation,
   must state this and identify each such approval or authorisation; and
(d) must indicate to whom applications for any amendment or cancellation of the
    integrated permit must be made.

(5) Unless an integrated permit provides otherwise, any provisions of it is enforceable
both in terms of this Act and in terms of any other statutory provision in terms of
which it was issued, except that a provision that could not lawfully have been
included in a permit issued exclusively under other legislation cannot be enforced
under that legislation.

(6) The Minister may prescribe that an environmental authorisation may be regarded as a
coastal use permit for the purposes of this Act, either generally or in specific
circumstances.

69. Minister may grant permits in the interests of the whole community

(1) If an application for a permit is referred to the Minister in terms of section 67(6) the
Minister may, after consultation with the MEC of the relevant province, issue or
authorise the issue of the permit –
(a) if the activity for which the permit is required is overwhelmingly in the interests
of the whole community despite the adverse effect it is likely to cause to the
coastal zone; and
(b) on condition that any irreversible or long-lasting adverse effects must be
   mitigated as far as is reasonably possible.

(2) Before deciding the application, the Minister may require the applicant to furnish
additional information, including the results of any further studies undertaken.
Part 4: Coastal land leases and coastal concessions on coastal public property

70. Award of leases and concessions on coastal public property

(1) Subject to sections 72 and 100, no person may occupy any part of, or site on, or construct or erect any building, road, or structure on or in, coastal public property except under and in accordance with a coastal land lease awarded by the Minister in terms of this Chapter.

(2) Subject to section 100, no person may claim an exclusive right to use or exploit any specific coastal resource in any part of, or that is derived from, coastal public property except under and in accordance with –
   (a) a coastal concession awarded by the Minister in terms of this Chapter; or
   (b) an authorisation issued under the Marine Living Resources Act.

(3) A coastal land lease or coastal concession may be awarded by the Minister either –
   (a) on application by a person; or
   (b) if the Minister so determines in any specific case, through a prescribed bid process.

(4) An application for a coastal land lease or coastal concession must be lodged in the prescribed manner.

(5) A coastal land lease or coastal concession awarded in terms of this Chapter does not relieve the lessee or concessionaire from the obligation –
   (a) to obtain any other authorisation that may be required in terms of other legislation; or
   (b) to comply with any other legislation.

71. Terms of coastal land leases and coastal concessions

(1) A coastal land lease or coastal concession –
   (a) must be awarded for a fixed period of time of not more than 20 years;
   (b) is subject to any prescribed conditions or as may be determined by the Minister in any specific case; and
   (c) must provide for the payment by the lessee or concessionaire of a reasonable rent or royalty.
(2) A coastal land lease or coastal concession on land that is partially or completely submerged by coastal waters may authorise the lessee to use the water above that land either exclusively or for specified purposes.

Part 5: General provisions

72. Temporary occupation of land within coastal zone
(1) The, MEC or the Minister may direct that land within the coastal zone be temporarily occupied to build, maintain or repair works to implement a coastal management programme, or to respond to pollution incidents or emergency situations, and may for this purpose –

(a) take from the land stone, gravel, sand, earth or other material;

(b) deposit materials on it; and

(c) construct and use temporary works on it, including roads.

(2) The powers of the Minister in terms of subsection (1) are delegated to the MEC but may be exercised by the Minister in accordance with section 96.

(3) If the land is private property, the MEC or Minister acting in terms of subsection (1) must, before occupying the land, give the occupier and the owner of the land reasonable notice, in writing, of the intention to occupy and such occupation shall be considered a deprivation.

73. Amendment, suspension or cancellation of authorisations
(1) An issuing authority may amend, revoke, suspend or cancel an authorisation issued in terms of this Act, if –

(a) the holder of the authorisation contravenes or fails to comply with a condition subject to which the authorisation was issued;
(b) it is in conflict with a coastal management programme or in the opinion of the Minister, will significantly prejudice the attainment of a coastal management objective;
(c) changes in circumstances require such amendment, revocation, suspension or cancellation; or
(d) it is necessary to meet the Republic's international obligations.

(2) An issuing authority must by written notice delivered to the holder of the authorisation, or sent by registered post to the holder's last known address, request the holder to make written representations within a period of 30 days from the date of the notice, why the authorisation should not be amended, revoked, suspended or cancelled, as the case may be.

(3) After the expiry of the period referred to in subsection (2) the issuing authority must consider the matter in the light of all relevant circumstances, including any representations made by the holder and may -
(a) revoke the authorisation;
(b) suspend the authorisation for a period determined by the Minister;
(c) cancel the authorisation from a date determined by the Minister;
(d) alter the terms or conditions of the authorisation; or
(e) decide not to amend, revoke, suspend or cancel the authorisation.

(4) Notwithstanding the provisions of subsections (2) and (3), the Minister may, whenever he or she is of the opinion that it is in the interests of the promotion, protection or utilisation on a sustainable basis of the coastal zone, at any time by written notice to the holder of a authorisation amend, revoke, suspend or cancel the authorisation.

(5) If the Minister intends to exercise the powers under sub-regulation (4), then the provisions of subsection (2) apply with the relevant changes.
(6) If the Minister or an issuing authority has reason to believe that it is necessary to exercise powers under subsections (3) or (4) urgently in order to protect the coastal environment or human health and well-being, the Minister or issuing authority may, by notice to the holder of an authorisation, temporarily suspend the authorisation and then follow the procedure in subsection (2).

CHAPTER 8

MARINE AND COASTAL POLLUTION CONTROL

74. Discharge of effluent into coastal waters

(1) No person shall discharge effluent that originates from a source on land into coastal waters except in terms of a general authorisation referred to in subsection (2) or a coastal waters discharge permit issued under this section by the Minister after consultation with the member of the Cabinet responsible for water affairs.

(2) The Minister, after consultation with the member of the Cabinet responsible for water affairs, may by notice in the Gazette generally authorise all, or a category of persons to discharge effluent into coastal waters.

(3) Any person who wishes to discharge effluent into coastal waters in circumstances that are not authorised under a general authorisation referred to in subsection (2) must apply to the Department for a coastal waters discharge permit.

(4) Any person who at the commencement of this Act is discharging effluent into coastal waters and who is not authorised to do so in terms of a general authorisation under subsection (2) must apply to the Department for a coastal waters discharge permit and send a copy of the application to the Department of Water Affairs –

(a) within 24 months of the date of commencement of this Act if the discharge is in terms of a licence or authorisation under the National Water Act; or

(b) within 36 months of the date of commencement of this Act if the discharge is a continuation of an existing lawful water use in terms of sections 32 or 33 of the National Water Act.

(5) Unless a person referred to in subsection (4) is directed otherwise by a person acting in terms of this Act or the National Water Act, it is not an offence for that person to discharge effluent that originates from a source on land into coastal waters if –
(a) that person has made an application under subsection (4) but has not yet been notified if the application has been granted or refused; or

(b) the applicable period referred to in subsection (4)(a) or (b) has not yet expired.

(6) A person who discharges effluent into coastal waters –

(a) must not waste water;

(b) may only do so to the extent that it is not reasonably practicable to return any freshwater in that effluent to the water resource from which it was taken;

(c) must discharge the effluent subject to any condition contained in the relevant authorisation;

(d) must comply with any applicable waste standards or water management practices prescribed under this Act or under section 23 of the National Water Act, unless the conditions of the relevant authorisation provide otherwise; and

(e) must register the discharge with the Department of Water Affairs and Forestry.

(7) The Minister and the member of the Cabinet responsible for water affairs, must, when deciding whether or not to issue a general authorisation referred to in subsection (2) or to grant an application for a coastal waters discharge permit, take into account all relevant factors, including—

(a) the interests of the whole community;

(b) the socio-economic impact if the disposal is authorised, as well as if it is not;

(c) the coastal management programmes applicable in the area;

(d) the likely impact of the proposed disposal on the coastal environment;

(e) the Republic’s obligations under international law;

(f) the factors listed in section 27 of the National Water Act; and

(f) any other factors that may be prescribed.

(8) The Minister must not grant an application in terms of subsection (3) for a coastal waters discharge permit if doing so is likely –

(a) to cause irreversible or long-lasting adverse effects that cannot satisfactorily be mitigated;

(b) to prejudice significantly the achievement of any objective set out in the national coastal management programme or the applicable provincial coastal management programme; or
(c) to be contrary to the interests of the whole community.

(9) The Director-General in consultation with director-general of the department responsible for water affairs must within five years of the date of commencement of this Act jointly review all authorisations issued before the commencement of this Act that authorise the discharge of effluent into coastal waters in order to determine the extent to which they comply with the requirements of this Act and of other legislation administered by those Departments, and must make recommendations to the Minister and to the member of the Cabinet responsible for water affairs as to whether or not—
(a) the discharge should be prohibited;
(b) in the case of a discharge into the sea, whether or not a permit should be issued under subsection (1);
(c) in the case of a discharge into an estuary whether or not the discharge should be authorised in terms of:
   (i) a permit issued under subsection (1) and a permit issued under the National Water Act; or
   (ii) an integrated permit referred to in section 72 of the Act and as envisaged in section 18(4) of the National Water Act.

(10) The Minister and the member of the Cabinet responsible for water affairs must within five years of the commencement of this Act decide whether or not to issue a permit or permits referred to in subsection (10) and the conditions that will apply to any permits issued, but before doing so, must give the holders of authorisations issued prior to the commencement of this Act a reasonable opportunity of making representations.

(11) An organ of state that issues a permit under subsection (1) must report every three years in the prescribed form to the National Coastal Committee on the status of each pipeline that discharges effluent into coastal waters and its impacts on the coastal environment.

75. Prohibition of incineration or dumping at sea
(1) Subject to subsection (2), no person may—
(a) incinerate at sea any waste or other material—
(i) within the coastal waters or the exclusive economic zone; or
(ii) aboard a South African vessel;
(b) import into the Republic any waste or other material to be dumped or incinerated at sea within the coastal waters or the exclusive economic zone;
(c) export from the Republic any waste or other material to be dumped or incinerated at sea –
   (i) on the high seas; or
   (ii) in an area of the sea under the jurisdiction of another state;
(d) load any waste or other material to be dumped or incinerated at sea onto any vessel, aircraft, platform or other structure at any place in the Republic, including the exclusive economic zone, unless the master of the vessel, aircraft, platform or other structure produces written proof that the dumping at sea of that waste or other material has been authorised in terms of a dumping permit granted under section 76;
(e) except on the authority of a dumping permit granted under section 76 –
   (i) dump at sea any waste or other material within the coastal waters or the exclusive economic zone; or
   (ii) dump from a South African vessel, aircraft, platform or other man-made structure at sea, any waste or other material on the high seas; or
(f) dump from a South African vessel, aircraft, platform or other man-made structure at sea, any waste or other material in any area of the sea under the jurisdiction of another state, except under and in accordance with the written permission of that state.

(2) A person who incinerates, or dumps without a dumping permit, waste or other material at sea shall not be convicted of contravening subsection (1)(e)(i) or (ii) if that person proves –
   (a) that adverse weather conditions necessitated the dumping or incineration at sea in order to secure the safety of human life or of the vessel, aircraft, platform or structure in question; or
   (b) that there was a danger to human life or a real threat to the vessel, aircraft, platform or structure in question, that there appeared to be no reasonable alternative to dumping or incineration at sea, and that it is probable that the adverse effects arising from the dumping or incineration at sea were less than would otherwise have occurred; and
(c) that in either case, the dumping or incineration at sea was conducted in a manner that minimised any actual or potential adverse effects and was without delay reported to the Department.

76. Dumping permits

(1) A person who wishes to dump at sea any waste or other material must –
   (a) apply in writing to the Minister in the form stipulated by the Minister for a dumping permit that authorises the waste or other material to be loaded aboard a vessel, aircraft, platform or other structure and to be dumped at sea; and
   (b) pay the prescribed fee.

(2) When deciding an application for a dumping permit, the Minister shall have regard to the following –
   (a) the Waste Assessment Guidelines set out in Schedule 2;
   (b) any coastal management programme applicable in the area;
   (c) the likely impact of the proposed dumping on the ecology and marine resources;
   (d) the interests of the whole community; and
   (e) any other factors that may be prescribed.

(3) The Minister may not grant a dumping permit that authorises the dumping of any waste or other material other than –
   (a) dredged material;
   (b) sewage sludge;
   (c) fish waste, or material resulting from industrial fish processing operations;
   (d) vessels and platforms or other man-made structures at sea;
   (e) inert, inorganic geological material;
   (f) organic material of natural origin; or
   (g) bulky items primarily comprising iron, steel, concrete and similarly non-harmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping at sea.

(4) The Minister must not issue a dumping permit if –
   (a) the waste or other material proposed for dumping contains –
(i) levels of radioactivity greater than as defined by the International Atomic
Energy Agency and adopted by the contracting parties to the Protocol to the
Convention on the Prevention of Marine Pollution by Dumping of Wastes and
Other Matter adopted on 7 November 1996);
(ii) material which is capable of creating floating debris or otherwise contributing
to the pollution of the marine environment and which could be removed from
the material proposed for dumping;
(b) dumping the waste or other material in question—
(i) is likely to cause irreversible or long-lasting adverse effects that cannot
satisfactorily be mitigated;
(ii) would cause a serious obstacle to fishing or navigation;
(iii) would prejudice the achievement of any objective set out in the national
coastal management programme or the applicable provincial coastal
management programme;
(iv) would be contrary to the obligations of the Republic under international law;
or
(v) would be contrary to the interests of the whole community.

(5) A dumping permit may not be issued for a period exceeding twelve months and shall
automatically lapse at the end of the period for which it was issued.

77. Emergencies

(1) The Minister may in relation to any application for a dumping permit referred to in
section 76 dispense with any prescribed procedure, including any consultation and
public participation processes, if—
(a) the dumping at sea of a quantity of any particular waste or other material is
necessary, in the opinion of the Minister, to avert an emergency that poses an
unacceptable risk to the environment or to human health or safety; and
(b) there is no other feasible solution.

(2) Before issuing a permit in the circumstances contemplated in subsection (1), the
Minister must consult with—
(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.

78. 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

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

(2) A person who is dissatisfied with any decision taken to issue, refuse, amend, suspend or
    cancel an authorisation, may lodge a written appeal against that decision with—
    (a) the Minister, if the decision was taken by:
        (i) a person exercising powers granted to the Minister by this Act that have
been delegated by this Act or by the Minister;

(ii) a national organ of state, either acting alone or jointly with other organs of state in accordance with section 68; 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

(ii) a municipality in that province.

(3) A written 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 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 extend the period within which appeals may be lodged and may accept an appeal delivered out of time if he or she considers it is equitable to do so.

(6) The Minister or MEC may dismiss an appeal that he or she considers to be trivial, frivolous or manifestly without merit.

80. Appeal Panels

(1) The Minister or an MEC may appoint an appeal panel to consider and advise the
Minister or the MEC on an appeal.

(2) The Minister or MEC must –

(a) appoint members of the appeal panel on the basis of their integrity and their expertise in relation to the matters that must be considered in deciding the appeal;

(b) not appoint a person who was involved in any way in the making of the decision appealed against;

(c) not appoint a person if that person, or any spouse, partner or close family member of that person, has a personal or private interest in the appeal.

(3) 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 appeal panel who is not an employee of an organ of state.

(4) No person may institute an action against a member of an appeal panel for anything that the member said, did, or omitted to do, while acting in good faith with the intention of performing his or her functions as a member.

81. Interim orders by Minister or MEC

(1) The Minister or 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 purposes 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;

(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 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 MEC has reason to believe that doing so would be just or desirable in order to protect the coastal environment.

82. **Proceedings of appeal panels**

(1) The chairperson of an appeal panel decides when and where the panel meets.

(2) An 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 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) is not bound by any rules of evidence and may consider whatever information that it believes to be relevant; and

(f) must, in considering the merits of an appeal, have regard to:

(i) the purpose of this Act;

(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.

(4) An appeal panel must give a written report to the Minister or MEC setting out its findings and recommendations.

(5) The decision of the majority of the members of an 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.

83. Determination of appeal by Minister or MEC

(1) The Minister or 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 MEC must have regard to -

(a) the purpose of this Act and any relevant coastal management objectives; and

(b) the findings and recommendations of the appeal panel, but is not bound by them.

CHAPTER 10
ENFORCEMENT

84. Offences

(1) A person is guilty of a category one offence if that person –

(a) undertakes an activity listed in Part A of Schedule 3 without a special permit under subsection 63(2);

(b) undertakes an activity listed in Part C of Schedule 3, or a development that involves such an activity, without a coastal use permit in terms of section 65;

(c) discharges effluent originating from a source on land into coastal waters in contravention of section 74;

(d) incinerates at sea any waste or material in contravention of section 75(1);

(e) loads, imports or exports any waste or other material to be dumped or incinerated at sea in contravention of section 75(1);

(f) dumps any waste at sea in contravention of section 75(1);

(g) dumps any waste or other material at sea without a dumping permit in
contravention of section 75(2).

(h) alters any permit, coastal land lease or coastal concession;

(i) fabricates or forges any document for the purpose of passing it as a permit, lease or concession;

(j) passes, uses, alters or has in possession any altered or false document purporting to be a permit, lease or concession; or

(k) knowingly makes any false statement or report, for the purpose of obtaining or objecting to, a permit, lease or concession.

(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) undertakes an activity listed in Part B of Schedule 3, or a development that involves such an activity, without a coastal use permit in terms of section 63; or

(c) undertakes a controlled commercial activity in contravention of section 66.

(3) A person who is the holder of an authorisation is guilty of a category two offence if that person –

(a) contravenes or fails to comply with a condition subject to which the authorisation has been issued or awarded;

(b) performs an activity for which the authorisation was issued or awarded otherwise than in accordance with any conditions subject to which the authorisation was issued or awarded; or

(c) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a) or (b).

(4) A person is guilty of a category three offence if that person –

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

(b) contravenes any other provision of this Act which is not referred to in sub-regulations (1), (2) or (3).

85. Penalties

(1) A person who is guilty of a category one offence referred to in section 84 may be sentenced to a fine of up to five million Rand or imprisonment for a period of up to ten years, or to both a fine and such imprisonment.
(2) A person who is guilty of a category two offence referred to in section 84 may be sentenced on a first conviction for that offence to a fine of up to R500,000 (five hundred thousand Rands) or to imprisonment or community service for a period of up to five years, or to a combination of a fine, imprisonment and community service.

(3) A person who is guilty of a category three offence referred to in section 84 may be sentenced on a first conviction for that offence to a fine of up to R20,000 (twenty thousand Rands) or community service for a period of up to six months or to both a fine and such service.

(4) A person who is guilty of a category two or three offence may be sentenced on a second conviction for that offence as if he or she has committed a category one or two offence, respectively.

(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 an authorisation or permit granted to the offender under this Act.

86. Jurisdiction of courts
(1) A magistrate’s court has jurisdiction in the prosecution of any offence in terms of this Act and to impose any penalty provided for in this Act.

(2) If a person is charged with the commission of an offence in terms of this Act on, in or above coastal waters, a court whose area of jurisdiction abuts on the coastal waters has jurisdiction in the prosecution of the offence.

87. Actions in relation to coastal public property
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 MINISTERIAL POWERS AND DUTIES

Part 1: Regulations

88. 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 elimination of 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, charges, rents and royalties 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 zoning 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 authorisation of uses of the coastal zone that do not conform with
the relevant coastal zoning 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 paragraph (ix) and the methods that should be used to
do so;

(g) the procedures to be followed with the lodging and consideration of
applications for 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 authorisation;

(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 permits may be
issued;

(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;
(x) the bid process to be followed for the award of coastal land leases and coastal concessions;
(h) the contents of authorisations;
(i) the giving of security in respect of any obligation that may arise from carrying out activities authorised by permits, coastal land leases or coastal concessions, and the form of such security;
(j) the procedure to be followed in connection with the lodging and consideration of appeals in terms of Chapter 9, including -
   (i) the period within which appeals must be lodged;
   (ii) the fees to be paid;
   (iii) the conditions with which appellants must comply before or after the lodging of their appeals;
(iv) the powers of, and the procedure to be followed by, an MEC when considering and deciding such appeals;
(v) 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 permits, leases or concessions in terms of section 73;
(k) methods, procedures and conditions of enforcing compliance with permits, including integrated permits referred to in section 68;
(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 permit, coastal land lease or coastal concession;
(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; and

(q) methods, procedures and conditions for obtaining access to relevant information, including entry to private property.

(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 charges 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 levies, fees, charges, rents or royalties;

(b) the member of the Cabinet responsible for water affairs before making any regulations concerning estuaries;

(c) the MEC before making any regulations concerning the coastal zone within that province.

89. Regulations by MECs

(1) The MEC of a province may in 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 buffer 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) the granting of permission for the erection, placing, alteration or extension of a structure that is wholly or partially seaward of a coastal set-back 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;
(f) the implementation within the province of any national norm, framework or standard referred to in section 88(f);

(g) any other matter referred to in section 88, 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.

90. 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 section 88 or 89.

(2) Subsection (1) need not be applied to a minor or a mere technical amendment to regulations.

(3) Regulations made in terms of section 88 or 89 may –

(a) restrict, prohibit or control any act that may have an adverse effect on coastal environment, either absolutely or conditionally;

(b) apply –

(i) generally throughout the Republic or province, as the case may be, or only in a specified area or category of areas;

(ii) generally to all persons or only to a specified category of persons;

(iii) generally to all prohibited activities or only to a specified activity or category of activities; or

(iv) generally to all wastes or other materials or only to specified waste or other material or a category of waste or other material;

(c) differentiate between –

(i) different areas or categories of areas;

(ii) different persons or categories of persons;

(iii) different activities or categories of activities; or

(iv) different wastes or other materials or categories of wastes 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 two years;
(ii) an appropriate fine; or
(iii) both a fine and imprisonment.

91. Amendment of Schedules 2 and 3
The Minister must by notice in the Gazette amend –

(a) Schedule 2 as may be necessary to ensure that it continues to give effect to the Republic’s obligations under international law; and

(b) Schedule 3 after consultation with any organ of state that is responsible for authorising any development or activity that the Minister proposes to include in, or delete from, that Schedule.

\[ Part 2: \text{Powers to be exercised by Minister and MEC} \]

92. Powers to be exercised by Minister
(1) The Minister must exercise the powers granted to the MEC in terms of section 22 to excise all or part of a protected area from the coastal buffer zone or in terms of section 23 to declare a special management area, if all or any part of that area –
   (a) extends into the sea for more than 500 metres from the high water mark;
   (b) is a national protected area as defined in the Protected Areas Act;
   (c) straddles a boundary between two provinces; or
   (d) extends up to, or straddles, the borders of the Republic of South Africa.

(2) If subsection (1) applies, references in sections 22, 23, 24, 25, 26, and 27 to the MEC must be read as reference to the Minister and the reference in section 23 to the Minister must be read as a reference to the MEC.

93. Directives by MEC to municipalities
(1) If an MEC has reason to believe that a municipality is not taking adequate 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, the MEC may in writing direct the municipality to take specified measures to do so.

(2) The MEC must not give 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

94. 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) the MEC, by agreement with the MEC; or
   (c) any other organ of state, statutory functionary, or management authority of a special management area, by agreement with that organ of state, statutory functionary 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;
   (b) must be in writing;
   (c) may include the power to sub-delegate; and
   (d) 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, organ of state or statutory functionary.

(4) The Minister may confirm, vary or revoke any decision made using a power granted by a
delegation or sub-delegation 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;
   (ii) to publish notices in the Gazette; or
   (iii) to appoint the members of the National Coastal Committee; or
(b) may withdraw by notice in writing any delegation in terms of a provision of this Act or of a statute repealed by this Act.

95. Enforcement by Minister

(1) If the Minister has reason to believe that an MEC is not taking adequate measures to prevent or remedy adverse effects on coastal public property, to implement or monitor compliance with national norms and standards, or to give effect to the national coastal management programme, the Minister may in writing request the MEC to take specified measures to do so.

(2) If the MEC does not comply with a request under subsection (1) the Minister may exercise any powers given to the Minister by this Act in order to take any measures referred to in the request, including the power –
(a) to issue coastal protection notices and repair and removal notices delegated to the MEC in terms of sections 59 (3) and 60 (2) 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 72.

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

96. Delegation by MECs

(1) The MEC may delegate any power or duty assigned or delegated to the MEC in terms of this Act to –
   (a) the head of the provincial lead agency; or
   (b) any other organ of state or a statutory functionary, by agreement with that organ of
state or statutory functionary.

(2) A delegation in terms of subsection (1) –
   (a) is subject to any limitations, conditions and directions the MEC may impose;
   (b) must be in writing;
   (c) may include the power to sub-delegate; 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 made using a power granted by a
degregation or sub-delegation 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; or
   (b) may withdraw any delegation by notice in writing.

**Part 4: General matters**

97. **Information and reporting on coastal matters**

(1) The Minister must progressively, and within the available resources of the Department,
make available and accessible to the public sufficient information 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) An 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) immediately 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 based on provincial reports submitted to the Minister in terms of subsection (2).

98. 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.

CHAPTER 12
MISCELLANEOUS MATTERS

99. Existing leases on, or rights to, coastal public property

(1) This Act does not, subject to subsection (3), affect the continuation of –

(a) a lawful lease on land or premises that forms part of coastal public property, including a port or harbour, that existed when this Act took effect; or

(b) a vested right to use or exploit any specific coastal resource on or in coastal public property, including a right to prospect for or mine minerals, or to explore for or exploit petroleum resources that existed when this Act took effect.

(2) The holder of a lease or right referred to in subsection (1) must within 24 months of the commencement of this Act –

(a) notify the Minister, in writing, of the existence of that lease or right; and

(b) provide the Minister with a copy of any documents evidencing that lease or right.

(3) A person may undertake any activity authorised by lease or right referred to in subsection (1) without obtaining a coastal land lease or a coastal concession in terms of Chapter 7 for a maximum period of –

(a) 48 months after the commencement of this Act if the holder of that lease or right
complies with subsection (2); or

(b) 24 months after the commencement of this Act if the holder of that lease or right does not comply with subsection (2).

(4) After the end of the period referred to in subsection (3), no person may continue with or carry out an activity that was permitted under that lease or right except in terms of a coastal lease or a coastal concession awarded to that person in terms of Chapter 7.

(5) An application by such person for a coastal lease or coastal concession -

(a) must –

(i) be considered taking into account the existing lease or right and any losses or hardships the applicant and other persons may suffer; and

(ii) be decided within six months from the date the application was lodged;

(b) may be refused if –

(i) the activity applied for would have or is likely to have serious adverse effects on the coastal environment; or

(ii) the Minister has reason to believe that granting the application would be inconsistent with the objects of the Act or would prejudice the attainment of a coastal management objective.

100. Unlawful structures on coastal public property

(1) Subject to subsection (4), a person, who before this Act took effect, had unlawfully constructed a building or other structure on coastal public property or who, when this Act took effect, occupied a building or other structure unlawfully built on coastal public property must, within 12 months of the commencement of this Act, either –

(a) apply for a coastal land lease in terms of Chapter 7; or

(b) demolish the building or structure and as far as reasonably possible, restore the site to its condition before the building or other structure was built.

(2) If a person referred to in subsection (1) applies for a coastal land lease in accordance with subsection (1) and the application is refused by the Minister, that person must demolish the building or structure and, within a reasonable period, as determined by the Minister when refusing the application, as far as reasonably possible restore the site to its condition before the building or other structure was built.
(3) If a person who in terms of subsection (2) is obliged to demolish the building or structure and to restore the site to its original condition, fails to do so within the period specified by the Minister, the Minister or the MEC may issue a written repair and removal notice to that person under section 60.

(4) This section does not affect –

(a) any legal proceedings commenced prior to the commencement of this Act to enforce any prohibition or restriction on construction or other activities within the coastal conservation area as defined in the Nature Conservation Act 10 of 1987 of the former Republic of Ciskei or the Environment Conservation Decree 9 of 1992 of the former Republic of the Transkei; or

(b) any legal proceedings commenced after the commencement of this Act to enforce any notice served prior to the commencement of this section that required the addressee to vacate or demolish any building or structure that was constructed unlawfully on the seashore, within the admiralty reserve, or within the coastal conservation areas referred to in paragraph (a).

101. Existing lawful activities in coastal buffer zone

(1) For a period of 24 months after the commencement of this Act, any person who, when this Act commenced was lawfully engaged in –

(a) carrying out, in the coastal buffer zone, an activity:

(i) listed in Part A of Schedule 3 must be regarded as being the holder of a special permit issued under section 63(2) that authorises the carrying out of that activity;

(ii) listed in Part B of Schedule 3 must be regarded as being the holder of a coastal use permit issued under section 63 that authorises the carrying out of that activity;

(b) abstracting water from coastal waters must be regarded to be the holder of a coastal use permit issued under section 65 that authorises that activity.

(2) Any person referred to in subsection (1), who within 24 months of the commencement of this Act applies to the Minister for special permit or to the relevant issuing authority for a coastal use permit that will authorise the continuation of the activity referred to in subsection (1), shall continue to be regarded as the
holder of the special permit or coastal use permit applied for until the Minister or the issuing authority decides whether to grant or refuse the application.

(3) During the 24 month period referred to in subsection (1), the Minister may issue a special permit and the relevant issuing authority may issue coastal use permit authority to any person referred to in subsection (1), even if that person has not applied for it, provided that before doing so the Minister or issuing authority gives that person a reasonable opportunity to make representations.

(4) This section does not affect –
   (a) the powers of a competent authority under section 73 to amend, suspend or cancel an authorisation;
   (b) any obligation which a person referred to in subsection (1) may have under section 100(2); or
   (c) the lapsing of a lease or right under section 100(3).

102. Repeal and amendment of legislation

The legislation referred to in Schedule 1 is repealed and amended to the extent indicated in the third column of that Schedule.

103. Savings

(1) Any regulation made in terms of the Sea-shore Act, 1935 (Act 21 of 1935), must, to the extent that it is consistent with this Act, be regarded as having been made in terms of this Act.

(2) Anything else done in terms of legislation repealed in terms of section 102 which can or must be done in terms of this Act must be regarded as having been done in terms of this Act.

(3) The White Paper for Sustainable Coastal Development in South Africa of April 2000 must be regarded as the national coastal management programme until a national coastal management programme has been adopted in accordance with section 41.
104 Limitation of liability

(1) Subject to subsection (2), neither the State nor any other person is liable for any damage or loss caused by a person who -
   (a) exercises a power or performs a duty in terms of this Act;
   (b) acts in the mistaken belief that they are validly exercising a power or performing a duty in terms of this Act; or
   (c) fails to exercise any power or perform any duty in terms of this Act.

(2) Subsection (1) does not protect the State or any other person from liability if the person who caused the damage or loss acted negligently or in bad faith.

105. Short title

This Act is the Integrated Coastal Management Act, 2006, and takes effect on a date or dates determined by the President by proclamation.
# SCHEDULE 1

## LAWS REPEALED AND AMENDED

<table>
<thead>
<tr>
<th>Number and year of the law</th>
<th>Short title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 of 1935</td>
<td>Sea-shore Act (as amended)</td>
<td>Repeal the whole</td>
</tr>
<tr>
<td>73 of 1980</td>
<td>Control of Dumping at Sea Act (as amended)</td>
<td>Repeal the whole</td>
</tr>
<tr>
<td>10 of 1987 (of the former Ciskei)</td>
<td>Nature Conservation Act</td>
<td>Repeal sections 41 to 46 inclusive. Amend section 1 by deleting the definition of “coastal conservation area” and replacing it with: “coastal buffer zone” has the same meaning as in the National Environmental Management: Coastal Zone Act, 2002” Replace all references to “coastal conservation area” in the Act with references to “coastal buffer zone”</td>
</tr>
<tr>
<td>9 of 1992 (of the former Transkei)</td>
<td>Environmental Conservation Decree</td>
<td>Repeal Sections 39 and 40. Amend section 1 by deleting the definition of “coastal conservation area” and replacing it with: “coastal buffer zone” has the same meaning as in the National Environmental Management: Coastal Zone Act, 2002” Replace all references to “coastal conservation area” in the Act with references to “coastal buffer zone”</td>
</tr>
<tr>
<td>15 of 1994</td>
<td>Maritime Zones Act (as amended)</td>
<td>Amend section 8(2) by deleting the phrase “unalienated State land” and replacing it with “the common property of the people of the Republic”</td>
</tr>
<tr>
<td>107 of 1998</td>
<td>National Environmental Management Act, 1998</td>
<td>Amend the definition of “specific environmental management Acts” in section 1 by deleting the word “and” where it appears after subparagraph</td>
</tr>
</tbody>
</table>
(i) and inserting a new subparagraph (iii) after subparagraph (ii) to read:
“the National Environmental Management: Integrated Coastal Management Act, 2006;”
Amend part (a) of Schedule 3, by inserting at the end of that part the following:

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Act No # of 2006
Integrated Coastal Management Bill
Sections 93 and 101
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SCHEDULE 2

GUIDELINES FOR THE ASSESSMENT OF WASTES OR OTHER MATERIAL THAT MAY BE CONSIDERED FOR DUMPING AT SEA

(“the Waste Assessment Guidelines”)

GENERAL

1. This Schedule sets out guidelines for reducing the necessity for dumping at sea in accordance with Schedule II to the Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters adopted on 7 November 1996.

WASTE PREVENTION AUDIT

2. The initial stages in assessing alternatives to dumping at sea should, as appropriate, include an evaluation of—
   (a) the types, amounts and relative hazard of wastes generated;
   (b) details of the production process and the sources of wastes within that process; and
   (c) the feasibility of the following waste reduction/prevention techniques:
      (i) product reformulation;
      (ii) clean production technologies;
      (iii) process modification;
      (iv) input substitution; and
      (v) on-site, closed-loop recycling.

3. In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant for a permit is expected to formulate and implement a waste prevention strategy, in collaboration with the relevant local, provincial and national agencies, which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal decisions must assure compliance with any resulting waste reduction and prevention requirements.

4. For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local, provincial and national agencies involved with the control of point and
non-point sources of pollution. Until this objective is met, the problems of contaminated dredged material may be addressed by using disposal management techniques at sea or on land.

**CONSIDERATION OF WASTE MANAGEMENT OPTIONS**

5. Applications to dump wastes or other material must demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:
   (a) re-use;
   (b) off-site recycling;
   (c) destruction of hazardous constituents;
   (d) treatment to reduce or remove the hazardous constituents; and
   (e) disposal on land, into air and in water.

6. The Minister must refuse to grant a permit if it is established that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping at sea and the alternatives.

**CHEMICAL, PHYSICAL AND BIOLOGICAL PROPERTIES**

7. A detailed description and characterization of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterized that proper assessment cannot be made of its potential impacts on human health and the environment, that waste may not be dumped.

Characterization of the wastes and their constituents must take into account –
   (a) origin, total amount, form and average composition;
   (b) properties: physical, chemical, biochemical and biological;
   (c) toxicity;
   (d) persistence: physical, chemical and biological; and
   (e) accumulation and biotransformation in biological materials or sediments.

**ACTION LIST**

8. In selecting substances for consideration in the Action List referred to in section 78,
the Minister must give priority to toxic, persistent and bioaccumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogenes, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogenes). An Action List can also be used as a trigger mechanism for further waste prevention considerations.

9. The Action List must specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action List will result in three possible categories of waste:
   (a) wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping at sea through the use of management techniques or processes;
   (b) wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping at sea; and
   (c) wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping at sea can be determined.

DUMP-SITE SELECTION

10. The Minister must require at least the following information before deciding whether or not to approve a site for dumping at sea:
   (a) the physical, chemical and biological characteristics of the water-column and the seabed;
   (b) the location of amenities, values and other uses of the sea in the area under consideration;
   (c) the assessment of the constituent fluxes associated with dumping at sea in relation to existing fluxes of substances in the marine environment;
   (d) the economic and operational feasibility; and
   (e) any relevant coastal management objectives.

ASSESSMENT OF POTENTIAL EFFECTS

11. Assessment of potential effects should lead to a concise statement of the expected
consequences of the sea or land disposal options, i.e., the “Impact Hypothesis”. It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

12. The assessment for dumping at sea must integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes, and proposed disposal techniques and specify the potential effects on the environment, human health, living resources, amenities and other legitimate uses of the sea. It must define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

13. An analysis of each disposal option must be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option may not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping at sea option to be less preferable, a permit for dumping may not be given.

14. Each assessment must conclude with a statement supporting a decision to issue or refuse a permit for dumping at sea.

MONITORING

15. Monitoring is used to verify that permit conditions are met - compliance monitoring - and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health - field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

PERMIT AND PERMIT CONDITIONS

16. A decision to issue a permit may only be made if all impact evaluations are completed and the monitoring requirements are determined. The conditions of the permit must ensure, as far as practicable, that adverse effects are minimized and the benefits maximized. A dumping permit issued must contain data and information specifying –
(a) the types and sources of materials to be dumped;
(b) the location of the dump-site(s);
(c) the method of dumping at sea; and
(d) monitoring and reporting requirements.

17. The Minister must review permits for dumping at sea at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.
SCHEDULE 3

ACTIVITIES THAT MAY NOT BE UNDERTAKEN IN THE COASTAL ZONE WITHOUT A PERMIT UNDER THIS ACT

PART A: ACTIVITIES THAT ARE PROHIBITED WITHIN THE COASTAL BUFFER ZONE UNLESS A SPECIAL PERMIT HAS BEEN GRANTED UNDER SECTION 63(2).

A.1 The construction or alteration of railways, highways or inter-city roads, or service areas associated with such railways, highways or roads.

A.2 Mining or quarrying.

A.3 The construction of aerial high-tension cables.

A.4 The disposal of solid waste, rubble, unprocessed sewage or any other effluent likely to cause an adverse effect on the coastal environment.

PART B: ACTIVITIES THAT MAY NOT BE CARRIED OUT WITHIN THE COASTAL BUFFER ZONE WITHOUT A COASTAL USE PERMIT UNDER SECTION 64.

B.1 The draining or reclaiming of any coastal wetland.

B.2 The erection, construction, placing, or any significant alteration or extension of a building or structure.

B.3 The construction or any significant alteration or extension of a road.

B.4 The winning of stones, gravel, or sand.

B.5 The ploughing or cultivation of land which has not at any time during the preceding ten years been cultivated.

B.6 The clearing of indigenous vegetation other than cultivated indigenous vegetation.

B.7 The breeding, cultivation or farming of marine living resources or aquatic animals or aquatic plants.

B.8 The stabilization or destabilization of dunes.

B.9 The landing or use of aircraft.
PART C: ACTIVITIES THAT MAY NOT BE CARRIED OUT WITHIN COASTAL PUBLIC PROPERTY OR THE EXCLUSIVE ECONOMIC ZONE WITHOUT A COASTAL USE PERMIT UNDER SECTION 65.

C.1 The erection, construction, placing, alteration or extension of a building or structure on or in any coastal public property, including an artificial reef, or any structure designed to prevent coastal erosion or to promote accretion of the seashore.

C.2 The disturbance of any coastal public property in a manner that has or is likely to have an adverse effect on the coastal environment, including any excavations, dredging, draining, drilling or tunnelling.

C.3 The destruction, damage or disturbance of any coastal public property in a manner that has or is likely to have an adverse effect on biodiversity or habitat.

C.4 The breeding, cultivation or farming of marine living resources or aquatic animals or aquatic plants.

C.5 The introduction of any species of alien invasive plant, exotic or non-endemic animal, exotic or non-endemic pathogens or living modified organism into coastal public property or into a place from which it is likely to invade coastal public property.

C.6 The occupation of any coastal public property.

C.7 The abstraction of water from coastal waters for agricultural, commercial or industrial purposes, including for aquaculture and desalination, or in a manner that is likely to have an adverse effect.

C.8 The removal of any sand, stones, minerals or other natural material –

(i) for commercial purposes;

(ii) in such quantities that the material would have a commercial value; or

(iii) in a manner that may have an adverse effect on any aspect of the coastal environment;

C.9 The carrying on of any other activity which in terms of a coastal management programme is prohibited without a permit.

C.10 The stabilization or destabilization of dunes.

C.11 The landing or use of aircraft.