

REPUBLIC OF SOUTH AFRICA

NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT
AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill
published in Government Gazette No. ... of ... 2011) (The English text is the official text of the
Bill)*

(MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS)

[B - 2012]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

B I L L

To amend the National Environmental Management: Integrated Coastal Management Act so as to amend certain definitions; to clarify coastal public property and the ownership of structures erected on and in coastal public property; to remove the power to exclude areas from coastal public property; to clarify and expand the provisions on reclamation; to clarify definitions and terminology; to simplify the administration of coastal access fee approvals; to simplify and amend powers relating to coastal authorisations, to replace coastal leases and concessions with coastal use permits; to extend the powers of MECs to issue coastal protection notices and coastal access notices; to limit the renewal of dumping permits; to abolish the National Coastal Committee; to clarify the powers of delegation by MECs; to revise offences and increase penalties; to improve coastal authorisation processes; to provide for exemptions; to provide for transitional matters; to effect certain textual alterations; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa as follows:-

Amendment of section 1 of Act 24 of 2008

1. Section 1 of the Integrated Coastal Management Act, 2008 (in this Act referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “adverse effect” of the following definition:

“ **“adverse effect”** means any actual **[or]**, potential or cumulative impact on the environment that impairs, or may impair, the environment or any aspect of it to an extent that is more than trivial or insignificant; **[and, without limiting the**

term, includes any actual or potential impact on the environment that results in—

- (a) a detrimental effect on the health or well-being of a person;
 - (b) an impairment of the ability of any person or community to provide for their health, safety or social and economic needs; or
 - (c) a detrimental effect on the environment due to a significant impact or cumulative effect of that impact taken together with other impacts;];
- (b) by the deletion of the definition of “authorisation”:
["authorisation" means an authorisation under this Act, and includes a coastal waters discharge permit, a general authorisation, a dumping permit, a coastal lease, a coastal concession and any authorisation that is regarded as being an authorisation under this Act, but excludes an environmental authorisation;];
- (c) by the substitution for the definition of “coastal activities” of the following definition:
“ **“coastal activities”** means **[coastal]** activities listed or specified in terms of Chapter 5 of the National Environmental Management Act which take place—
(i) in the coastal zone; or
(ii) outside the coastal zone but have or are likely to have a direct impact on the coastal zone;”;
- (d) by the insertion after the definition of “coastal activities” of the following definition:
“ **“coastal authorisation”** means an authorisation under this Act, and includes the authorisation to reclaim land in terms of section 7A, a coastal waters discharge permit in terms of section 69, a general discharge authorisation in terms of section 69, a dumping permit in terms of section 71, a coastal use permit in terms of section 65 and any other authorisation under this Act, but excludes an environmental authorisation;”;
- (e) by the deletion of the definition of “coastal concession”:
["coastal concession" means a concession awarded in terms of section 65 read with section 95];
- (f) by the deletion of the definition of “coastal lease”:
["coastal lease" means a lease awarded in terms of section 65 read with section 95;]
- (g) by the insertion after the definition of “coastal management” of the following definition:
“ **“coastal management line”** means a line determined by an MEC in accordance with section 25 in order to demarcate an area within which development will be

prohibited or controlled in order to achieve the objects of this Act or coastal management objectives;”;

- (h) by the substitution for the definition of “coastal protection zone” of the following definition:
“ **“coastal protection zone”** means the coastal protection zone contemplated in section ~~[17]~~16;”
- (i) by the deletion of the definition of “coastal set-back line”:
["coastal set-back line" means a line determined by an MEC in accordance with section 25 in order to demarcate an area within which development will be prohibited or controlled in order to achieve the objects of this Act or coastal management objectives;];
- (j) by the substitution for the definition of “coastal waters” of the following definition:
“ **“coastal waters”** means—
(a) **[marine waters that form part of]** the internal waters, **[or]** territorial waters or exclusive economic zone of the Republic referred to in sections 3, **[and]** 4 and 7 of the Maritime Zones Act, 1994 (Act No.15 of 1994), respectively; and
(b) subject to section 26 of this Act, **[any]** an estuary;”;
- (k) by the substitution for the definition of “coastal zone” of the following definition:
“ **“coastal zone”** means the area comprising coastal public property, the coastal protection zone, coastal access land, **[and]** coastal protected areas, the seashore~~[,]~~ and coastal waters **[and the exclusive economic zone]** and includes any aspect of the environment on, in, under and above such area;”
- (l) by the substitution for the definition of “estuary” of the following definition:
“ **“estuary”** means a body of surface water—
(a) **[that is part of a water course]** that is permanently or periodically open to the sea;
(b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the water course is open to the sea; **[or]** and
(c) in respect of which the salinity is **[measurably]** higher than fresh water as a result of the influence of the sea~~;~~, and where there is a salinity gradient between the tidal reach and the mouth of the body of surface water;”;

- (m) by the substitution for the definition of “general authorisation” for the following definition:
“ **“general discharge authorisation”** means an authorisation under section 69(2) [{];
- (n) by the insertion after the definition of “Gazette” of the following definition:
“ **“harbour”** means a port or harbour proclaimed in terms of any law and managed by an organ of state;”;
- (o) by the substitution for the definition of “high-water mark” of the following definition:
“ **“high-water mark”** means the highest line reached by coastal waters, but excluding any line reached as a result of—
(a) exceptional or abnormal [**floods or storms that occur no more than once in ten years**] weather or sea conditions; or
(b) an estuary being closed to the sea;”;
- (p) by the substitution for the definition of “land development plan” of the following definition:
“ **“land development plan”** means any plan that is [**prepared or**] approved in terms of legislation regulating land development and that indicates the desirable uses for areas of land but does not create legal rights to use land;
- (q) by the insertion after the definition of “Land Survey Act” of the following definition:
“ **“land unit”** means a cadastral entity which is capable of registration in the deeds registry in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);”
- (r) by the substitution for the definition of “Minister” of the following definition:
“ **“Minister”** means the Minister [**of Environmental Affairs and Tourism**] responsible for environmental affairs;”;
- (s) by the substitution for the definition of “municipality” of the following definition:
“ **“municipality”**—
(a) means a metropolitan[,] or district [**or local**] municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); or
(b) in relation to the implementation of a provision of this Act in an area which falls within both a local municipality and a district municipality, means—
(i) the district municipality; or

- (ii) the local municipality, if the district municipality, by written agreement with the local municipality, has assigned the implementation of that provision in that area to the local municipality;”
- (t) by the insertion after the definition of “provincial lead agency” of the following definition:
 - “ **“reclamation”** means the process of artificially creating new land from coastal waters, and includes the creation of an island or peninsula; but excludes beach replenishment by sand pumping; and “reclaim” has a corresponding meaning;”
- (u) by the substitution for the definition of “sea” of the following definition:
 - “ **“sea”** means—
 - [“sea” means all marine waters, including—**
 - (a) the high seas;**
 - (b) all marine waters under the jurisdiction of any state; and**
 - (c) the bed, subsoil and substrata beneath those waters, but does not include estuaries;]**
 - (a) the high seas;
 - (b) all coastal waters; and
 - (c) land regularly or permanently submerged by sea water, including—
 - (i) the bed, subsoil and substrata beneath those waters; and
 - (ii) land flooded by sea water which subsequently becomes part of the bed of coastal waters, including the substrata beneath such land;”;
- (v) by the deletion of the word “and” after the definition of “Waste Assessment Guidelines”:
 - “ **“Waste Assessment Guidelines”** means the guidelines set out in Schedule 2; **[and]**”;

Amendment of section 2 of Act 24 of 2008

2. Section 2 of the principal Act is hereby amended—

- (a) by the deletion of the word “and” at the end of paragraph (d): “to secure equitable access to the opportunities and benefits of coastal public property; **[and]**”
- (b) by the insertion after section 2(d) of section 2(dA): “(dA) to provide for the establishment, use and management of the coastal protection zone; and”

Amendment of section 6 of Act 24 of 2008

3. The principal Act is hereby amended by the insertion after section 6 of the following section:

“Purpose of coastal public property

6A. (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.”**

Amendment of section 7 of Act 24 of 2008

4. Section 7 of the principal Act is hereby amended by the substitution of the following section:

“[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 island, whether natural or artificial, within coastal waters, but excluding-**
 - (i) any part of an island that was lawfully alienated before this Act commenced; or**
 - (ii) any part of an artificially created island (other than the seashore of that island) that is proclaimed by the Minister to be excluded from coastal public property;**
- (d) the seashore, but excluding-**
 - (i) any portion of the seashore below the high-water mark which was lawfully alienated before the Sea-Shore Act, 1935 (Act 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; and**
 - (ii) any portion of a coastal cliff that was lawfully alienated before this Act took effect and is not owned by the State;**
- (e) the seashore of a privately owned island within coastal waters;**
- (f) any admiralty reserve owned by the State;**
- (g) any state-owned land declared under section 8 to be coastal public property; or**
- (h) any natural resources on or in-**
 - (i) any coastal public property of a category mentioned in paragraph (a) to (g);**

- (ii) the exclusive economic zone, or in or on the continental shelf as contemplated in sections 7 and 8 of the Maritime Zones Act, 1994 (Act 15 of 1994), respectively; or
- (iii) any harbour, work or other installation on or in any coastal public property of a category mentioned in paragraphs (a) to (h) that is owned by an organ of state.]

- “(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 subsection (2)(f) 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; or
 - (g) any natural resources on or in any coastal public property of a category mentioned in paragraphs (a) to (f).
- (2) Notwithstanding the provisions of subsection (1), coastal public property does not include—
- (a) any immovable structure, or part of an immovable structure, including harbour installations and infrastructure, 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;
 - (e) any portion of a coastal cliff that—
 - (i) was lawfully alienated before this Act took effect; and
 - (ii) is not owned by the state; or
 - (f) any land or structure located within an admiralty reserve that is subject to a lawful lease from the State.”

Insertion of section 7A in act 24 of 2008

5. The principal Act is hereby amended by the insertion after section (7) of the following section:

“ Reclamation of land from coastal waters

- 7A. (1) No person may reclaim land unless authorised by the Minister.**
- (2) The Minister may, on application, approve reclamation and such authorisation may be subject to any conditions or title deed restrictions that the Minister may deem necessary.**
- (3) When the Minister considers an application and imposes any condition or restriction referred to in subsection (2), the Minister must consider:**
- (a) whether the applicant has an authorisation in terms of Chapter 5 of the National Environmental Management Act;**
- (b) whether the purpose of the reclamation is for the development of state infrastructure by an organ of state or for private commercial gain;**
and
- (b) whether there is any alternative land available;**
- (4) Land reclaimed in terms of subsection (2) forms part of state-owned land which may be alienated in terms of the applicable legislation.**
- (5) An application for reclamation must record the purpose for which the land is to be reclaimed.**
- (6) 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.”**
- (7) 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.**

Amendment of section 8 of Act 24 of 2008

6. Section 8 of the principal Act is hereby amended by—

- (a) the substitution for subsection (1) of the following subsection:

“(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 **[in order—**

- (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 facilitate the achievement of any of the objects of this Act: or
(e) to protect people, property and economic activities from risks arising from dynamic coastal processes, including the risk of sea-level rise.] for the purposes set out in section 6A.”;

Amendment of section 11 of Act 24 of 2008

7. Section 11 of the principal Act is hereby amended by—

- (a) the substitution for subsection (2) of the following subsection:
“(2) Subject to subsection (3), [C]coastal public property is inalienable and cannot be sold, attached or acquired by prescription and rights over it cannot be acquired by prescription;”;
- (b) the insertion after subsection (2) of the following subsection:
“(3) No person may use or exploit or claim a right to use or exploit any natural resource in any part of, or that is derived from, coastal public property, unless that person is authorised to do so by national legislation.”.

Amendment of section 13 of Act 24 of 2008

8. Section 13 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
“(3) (a) [No fee may be charged for access to coastal public property without the approval of the Minister].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.
(b) Any person or organ of state may apply to the Minister to charge a fee in excess of the maximum published in terms of subsection (a);
(c) The provisions of subsection (a) shall not apply to fees for the use of facilities or activities which are located on or in coastal public property.”;
- (b) by the substitution for subsection (5) of the following subsection:
“(5) Subsections (3) and (4) do not apply to coastal public property—
(a) [that has been leased] 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 [the sea that forms part of] a harbour [or proclaimed fishing harbour].”.

Amendment of section 14 of Act 24 of 2008

9. Section 14 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
“(1) [If land has a curvilinear boundary extending to, or a Stated distance from, the high-water mark that curvilinear boundary may be substituted by a boundary of another character by following the procedure prescribed by section 34 of the Land Survey Act, provided that in addition to the

requirements of that section the written agreement referred to in that section must be signed by—

- (a) the Minister; and
- (b) the holder of real rights in the land or in land contiguous to it whose rights would be adversely affected by the replacement of the curvilinear boundary.]

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.

- (b) by the deletion of subsections (2), (3) and (4).
- (c) by the substitution for subsection (5) of the following subsection:
 - “(5) If the high-water mark moves inland of the boundary line of a land unit due to the erosion of the coast, sea-level rise or other causes, **[and remains inland of that boundary line for a period of three years,]** the owner of that land unit—”;

- (d) by the substitution for subsection (6) of the following subsection:

“(6) **[If accretion occurs, whether as a result of natural processes or human activities, land which formed part of the seashore when this Act took effect and which subsequently becomes situated inland of the high-water mark as a result of a change in the position of the high-water mark, remains coastal public property, and does not become part of any adjoining property unless the property which is bounded by the high-water mark or extends to a stated distance from the high-water mark.]**

If the high-water mark moves seaward of the boundary line of a land unit due to the accretion of the coast—

- (a) the owner of that land unit bounded by the high-water mark or a stated distance from the high-water mark when this Act took effect, gains ownership of any portion of that land unit that is situated above the high-water mark; or
- (b) the owner of a land unit bounded by a straight line boundary when this Act took effect, gains ownership of that portion of the land unit inland the straight line boundary.”;

Amendment of section 15 of Act 24 of 2008

- 10. Section 15 of the principal Act is hereby amended—
 - (a) by the substitution for subsection (2) of the following subsection:

“(2) No person may construct, maintain or extend a 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, or any other law.”.

Amendment of section 16 of Act 24 of 2008

11. Section 16 of the principal Act is hereby amended—
- (a) by the substitution for the introductory paragraph of subsection (1) of the following paragraph—
- “(1) Subject to subsection (2) and section 26, the coastal protection zone consists of—”;
- (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) Any coastal **[protection]** protected area, or part of such area, which is not coastal public property;”;
- (c) by the substitution for paragraphs (f) of subsection (1) of the following paragraph:
- “(f) any coastal wetland, lake, lagoon, dam or the part of a river which is situated wholly or partially in a land unit referred to in paragraph (d)(i) or (e);”;
- (d) by the substitution for paragraph (i) of subsection (1) of the following paragraph:
- “(i) any land adjacent to an area referred to in subsections (a) to (h) that would be inundated by a 1:**[50]**100 year flood or storm event.”.

Amendment of section 17 of Act 24 of 2008

12. Section 17 of the principal Act is hereby amended—
- (a) by the substitution for subsection (f)(ii) of the following:
- “(ii) temporarily depositing objects and materials washed up by **[the sea or tidal waters]** coastal waters.”

Amendment of section 18 of Act 24 of 2008

13. Section 18 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) Coastal access land **[is]** designated in terms of subsection (1) is automatically subject to a public servitude in favour of the **[local]** municipality within whose area of jurisdiction it is situated and in terms of

which members of the public may use that land to gain access to coastal public property.”;

- (b) by the insertion after subsection (5) of the following subsections—

“(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*;

(7) The MEC may not take any measures under subsection (6) without first consulting the municipality and giving them a reasonable opportunity to make representations.

(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.

(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.”.

Amendment of section 19 of Act 24 of 2008

14. Section 19 of the principal Act is hereby amended by the substitution for the introductory paragraph of the following paragraph:

“Before designating land as coastal access land or withdrawing such designation, a municipality, the MEC or Minister, as the case may be, must—”.

Amendment of title to Part 7 of Act 24 of 2008

15. The title to Part 7 of the principal Act is hereby substituted for the following heading:

“Coastal management [set-back] lines”.

Amendment of heading to section 25 of Act 24 of 2008

16. The heading of section 25 of the principal Act is hereby substituted with the following:

“Establishment of coastal management [set-back] lines”;

Amendment of section 25 of Act 24 of 2008

17. Section 25 of the principal Act is hereby amended by the substitution of the following sections:

- “25. (1) An MEC must **[in regulations published]** by notice in the *Gazette*, ~~—~~
- (a)** establish or change coastal management **[set-back]** lines—
- (i)a)** to protect coastal public property, private property and public safety;
 - (ii)b)** to protect the coastal protection zone;
 - (iii)c)** to preserve the aesthetic values of the coastal zone; or
 - (iv)d)** for any other reason consistent with the objectives of this Act~~;~~ **and**.
- (b)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 **[that]** a coastal **[set-back]** management line.
- (2) Before making or amending **[the regulations]** 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 **[set-back]** 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 **[set-back]** management line has been established must delineate the coastal **[set-back]** 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 **[set-back]** coastal management line in relation to existing cadastral boundaries.
- (4) A coastal **[set-back]** management line may be situated wholly or partially outside the coastal zone.”.

Amendment of section 27 of Act 24 of 2008

18. Section 27 of the principal Act is hereby amended by the substitution of the following section:

- “(1)** When determining or adjusting the inland coastal boundary of coastal public property, the Minister must take into account—
- (a) the dynamic nature of the shoreline;
 - (b) the need to make appropriate allowance for—
 - (i) the periodic natural movements in the high-water mark; and
 - (ii) the erosion and accretion of the seashore;
 - (c) the importance of ensuring the natural functioning of dynamic coastal processes and of extending the coastal boundaries of coastal public property to include the littoral active zone and sensitive coastal ecosystems, including coastal wetlands;
 - (d) the potential effects of projected rises in sea-level; and
 - (e) any other factor that may be prescribed.
- [(2)]** **The Minister may exclude any area from coastal public property for government purposes, by proclamation.**
- (3)** **Before excluding any area from coastal public property in terms of subsection (2), the Minister must consult with interested and affected parties in terms of Part 5 of Chapter 6.**

- (4) The Minister may exclude any area from coastal public property for any other purpose with the ratification of Parliament.
- (5) Land excluded from coastal public property forms part of state owned land.
- (6) The Minister may on application approve the reclamation of land subject to conditions. Such reclaimed land shall, unless excluded from coastal public property in terms of subsection (5), form part of coastal public property.
- (7) For purposes of this section, "government purposes" means the exercise of functions by an organ of state that are in the national interest or in the interest of national security but does not include donation, leases of more than 20 years or alienation by that organ of state.]”

Amendment of section 31 of Act 24 of 2008

19. Section 31 of the principal Act is hereby amended by the substitution of the following paragraph:

“If the Minister, an MEC or a municipality determines or adjusts a coastal boundary in accordance with section 26, a **[local]** municipality within whose area of jurisdiction the coastal boundary is situated must delineate the coastal boundary 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 boundary in relation to existing cadastral boundaries”

Repeal of section 35 of Act 24 of 2008

20. Section 35 of the principal Act is hereby repealed.

- “(1) The Minister must by notice in the *Gazette* establish a National Coastal Committee and determine its powers.
- (2) The Department must provide administrative support to the National Coastal Committee.
- (3) The National Coastal Committee must promote integrated coastal management in the Republic and effective co-operative governance by co-ordinating the effective implementation of this Act and of the national coastal management programme, and in particular must-
 - (a) promote integrated coastal management-
 - (i) within each sphere of government;
 - (ii) between different spheres of government; and
 - (iii) between organs of state and other parties concerned with coastal management;
 - (b) promote the integration of coastal management concerns and objectives into-
 - (i) those environmental implementation plans and environmental management plans referred to in Chapter 3 of the National Environmental Management Act to which they are relevant;
 - (ii) national, provincial and municipal development policies, plans and strategies;
 - (iii) other plans, programmes and policies of organs of state whose activities may create adverse effects on the coastal environment; and

(c) perform any function delegated to it.]”

Repeal of section 36 of Act 24 of 2008

21. Section 36 of the principal Act is hereby repealed.

“(1)The Minister appoints the members of the National Coastal Committee.

- (2) (a) The persons to be appointed in terms of subsection (1) must, by virtue of the office that they hold or their expertise, be able to assist the National Coastal Committee in fulfilling its functions.**
- (b) When appointing persons in terms of subsection (1), the Minister must ensure that the National Coastal Committee includes-**
- (i) persons with expertise in fields relevant to coastal management and coastal ecosystems;**
 - (ii) a representative from each Provincial Coastal Committee;**
 - (iii) one or more members representing municipalities in the coastal zone;**
 - (iv) representatives of national government departments which play a significant role in undertaking or regulating activities that may have an adverse effect on the coastal environment, including representatives of the departments responsible for agriculture, minerals and energy, transport, public works, provincial and local government, land affairs, water affairs and forestry and trade and industry; and**
 - (v) one or more members representing the management authorities of coastal protected areas.**
- (3) The Minister may, on the basis of the criteria referred to in subsection (2), appoint-**
- (a) an alternate member for any member of the National Coastal Committee; and**
 - (b) a replacement for any member who vacates his or her office.**
- (4) The Minister must, with the consent of the Minister of Finance, determine the rate of remuneration and the allowances payable to any member of the National Coastal Committee who is not an employee of an organ of state.]”**

Repeal of section 37 of Act 24 of 2008

22. Section 37 of the principal Act is hereby repealed.

“(1) A member of the National Coastal Committee vacates office if he or she-

- (a) becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the National Coastal Committee;**

- (b) ceases to hold any office necessary for his or her appointment to the National Coastal Committee; or
 - (c) tenders his or her resignation and a Minister accepts it.
- (2) The Minister may terminate membership of a member of the National Coastal Committee where-
- (a) that member fails to perform the duties of a member as required in terms of this Act;
 - (b) that member obstructs or impedes the National Coastal Committee in the performance of its functions in terms of this Act;
 - (c) that member brings the National Coastal Committee into disrepute; or
- (d) such termination is in the interest of the public.]”

Amendment of section 38 of Act 24 of 2008

23. Section 38 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:
- “(3) The Premier may assign **[some]** any of the functions referred to in subsection **[(1)] (2)** to any organ of state other than the lead agency in the province.”.

Amendment of section 39 of Act 24 of 2008

24. Section 39 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) advise the MEC~~[,]~~ and the provincial lead agency **[and the National Coastal Committee]** on matters concerning coastal management in the province.”

Amendment of section 42 of Act 24 of 2008

25. Section 42 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
- “Any **[local]** municipality that has jurisdiction over any part of the coastal zone may establish a coastal committee for the municipality and, subject to subsection (4), determine its powers, which may include the power to establish local subcommittees of the municipal coastal Committee.”

Amendment of section 51 of Act 24 of 2008

26. Section 51 of the principal Act is hereby amended by the substitution for the introductory paragraph of the following paragraph:
- “**[An environmental implementation or environmental management]** Any programme or plan in terms **[of Chapter 3]** of the National Environmental Management Act, any specific environmental management Act, an integrated development plan in terms of the

Municipal Systems Act and a provincial or municipal land development plan must—.”.

Amendment of section 56 of Act 24 of 2008

27. Section 56 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

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

- (a) the Minister, if the scheme applies to an area that extends into the sea further than 500 metres from the high water mark or affects the protection or use of marine living resources; or
- (b) the relevant Minister [of Transport] responsible for navigation of vessels on the sea or vessels entering or leaving a harbour, if the scheme [–
 - (i) affects **[the navigation of vessels on the sea;]** or
 - (ii) restricts such vessels **[entering or leaving a harbour]**.”;

Amendment of section 59 of Act 24 of 2008

28. Section 59 of the principal Act is hereby amended—

- (a) by the substitution for the introductory paragraph of subsection (1) for the following paragraph:

“(1) If the Minister or MEC has reason to believe that a person has, either prior to or after the commencement of this Act, carried out, is carrying out, or intends to carry out, an activity that has, 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—”;

- (b) by the deletion of subsection (3):

[(3) Notwithstanding section 87, the power of the Minister to issue a coastal protection notice in terms of subsection (1) may only be delegated to—

- (a) the MEC, who may subdelegate this power to a municipality in that province; or**
- (b) an official in the Department.]**

- (d) by the substitution for the second (ii) in paragraph (a) of subsection (4), of “(iii)”;

- (e) by the substitution for the introductory paragraph of subsection (5) for the following paragraph:

“If the Minister or MEC has reason to believe that a person has, either prior to or after the commencement of this Act, carried out, is carrying out, or intends to carry out, an activity that is having, or is likely to have, an adverse effect on

the rights of natural persons to gain access to, use and enjoy coastal public property, the Minister or MEC may issue a written coastal access notice to the person—”;

- (f) by the substitution for subsection (6) of the following subsection:

“(6) When issuing a notice contemplated in subsection (5), subsections (2) [~~, (3)~~] and (4) apply with the necessary changes.”.

Amendment of section 60 of Act 24 of 2008

29. Section 60 of the principal Act is hereby amended by the deletion of subsection (3):

[(3) Notwithstanding section 89, the power instead of issuing a notice in accordance with subsection(4)r of the Minister to issue a repair and removal notice in terms of subsection (1) may only be delegated to—

- (a) the MEC, who may subdelegate this power to a municipality in that province; or**
(b) an official in the relevant Department.]

Amendment of section 62 of Act 24 of 2008

30. Section 62 of the principal Act is hereby amended by deletion of subsection (2):

[(2) An organ of state may not authorise land within the coastal protection 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.]

Amendment of section 63 of Act 24 of 2008

31. Section 63 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1)(d) of the following subsection:

“(d) the estuarine management plans, coastal management programmes, coastal management lines and coastal management objectives applicable in the area;”;

- (b) by the deletion of subsection (1)(f):
“[(f) the likely impact of the proposed activity on the coastal environment, including the cumulative effect of its impact together with those of existing activities;]”

- (c) by the deletion of the word “and” at the end of subsection (1)(g):

- “(g) the likely impact of coastal environmental processes on the proposed activity; **[and]**”;
- (c) by the substitution for subsection (1)(h) of the following subsections:
- “(h) **[the objects of this Act, where applicable]**whether the development or activity—
- (aa) is situated within coastal public property and is inconsistent with the objective of conserving and enhancing coastal public property for the benefit of current and future generations;
 - (bb) is situated within the coastal protection zone and is inconsistent with the purpose for which a coastal protection zone is established as set out in section 17;
 - (cc) is situated within coastal access land and is inconsistent with the purpose for which coastal access land is designated as set out in section 18;
 - (dd) is likely to cause irreversible or long-lasting adverse effects to any aspect of the coastal environment that cannot satisfactorily be mitigated;
 - (ee) is likely to be significantly damaged or prejudiced by dynamic coastal processes;
 - (ff) would substantially prejudice the achievement of any coastal management objective; or
 - (gg) would be contrary to the interests of the whole community.”;
- (d) by the insertion after subsection (1)(h) of the following subsections:
- “(i) whether the very nature of the proposed activity or development requires it to be located within coastal public property, the coastal protection zone or coastal access land;
- (j) whether the proposed activity or development will provide important services to the public when using coastal public property, the coastal protection zone, coastal access land or a coastal protected area; and
- (k) the objects of this Act, where applicable.”;
- (e) by the deletion of subsections (2), (3) and (4);
- [(2) The competent authority may not issue an environmental authorisation if the development or activity for which authorisation is sought—**
- (a) is situated within coastal public property and is inconsistent with the objective of conserving and enhancing coastal public property for the benefit of current and future generations;**

- (b)** is situated within the coastal protection zone and is inconsistent with the purpose for which a coastal protection zone is established as set out in section 17;
 - (c)** is situated within coastal access land and is inconsistent with the purpose for which coastal access land is designated as set out in section 18;
 - (d)** is likely to cause irreversible or long-lasting adverse effects to any aspect of the coastal environment that cannot satisfactorily be mitigated;
 - (e)** is likely to be significantly damaged or prejudiced by dynamic coastal processes;
 - (f)** would substantially prejudice the achievement of any coastal management objective: or
 - (g)** would be contrary to the interests of the whole community.
- (3)** Notwithstanding subsection (2), the competent authority may issue an environmental authorisation in respect of an activity or a development that does not meet the criteria referred to in subsection (2)(a), (b) or (c) if—
- (a)** the very nature of the proposed activity or development requires it to be located within coastal public property, the coastal protection zone or coastal access land; or
 - (b)** the proposed activity or development will provide important services to the public when using coastal public property, the coastal protection zone, coastal access land or a coastal protected area.
- (4)** If an application for an environmental authorisation cannot be approved by the competent authority because of a provision of subsection (2), but the competent authority believes that issuing the authorisation would be in the public interest, the competent authority may refer the application for consideration by the Minister in terms of section 64.].

Repeal of section 64 of Act 24 of 2008

32. Section 64 of the principal Act is hereby repealed.

- [64** (1) If an application for an environmental authorisation is referred to the Minister in terms of section 63(4) the Minister may, after consultation with the MEC of the relevant province, issue or authorise the other relevant competent authority to issue the environmental authorisation-
- (a)** if the activity for which the environmental authorisation 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.]

Amendment of heading to Part 4 of Act 24 of 2008

33. The heading to Part 4 of the principal Act is hereby amended by the substitution therefor of the following heading:

“Coastal [leases and coastal concessions] coastal use permits on coastal public property”

Amendment of heading to section 65 of Act 24 of 2008

34. The heading of section 65 of the principal Act is hereby amended by the substitution therefor of the following heading:

“Award of [leases and concessions] coastal use permits on coastal public property”;

Amendment of section 65 of Act 24 of 2008

35. Section 65 of the principal Act is hereby amended by the substitution therefore of the following section:

(1) **[Subject to sections 67 and 95, no person may occupy any part of, or site on, or construct or erect any building, road, barrier or structure on or in coastal public property except under and in accordance with a coastal lease awarded by the Minister in terms of this Chapter.] The Minister may by notice in the Gazette—**

(a) list activities that
(i) are prohibited within coastal public property; or
(ii) require a coastal use permit from the Minister; and
(b) set different user charges for coastal use permits in terms of subsection (1)(a)(ii);
provided that such activities do not require environmental authorisation in terms of Chapter 5 of the National Environmental Management Act.

(2) **[Subject to section 95, no] 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 unless he or she—**

(a) **is empowered by national legislation to do so; or**
(b) **is authorised to do so in terms of—**
(i) **a coastal concession awarded by the Minister in terms of this Chapter; or**
(ii) **an authorisation issued under the Marine Living Resources Act.]**

(a) undertake an activity prohibited in terms of subsection (1)(a)(i) or,
(b) undertake an activity referred to in subsection (1)(a)(ii) without a coastal use permit; or
(c) contravene any conditions determined in a coastal use permit referred to in section 66.

- (3) A coastal **[lease or coastal concession]** use permit in terms of subsection (1)(a)(ii) may be awarded by the Minister either—
- (a) on application; or
 - (b) if the Minister so determines in any specific case, through a prescribed **[bid]** process.
- (4) An application for a coastal **[lease or coastal concession]** use permit must be lodged in the prescribed manner.
- (5) A coastal **[lease or coastal concession]** use permit awarded in terms of this Chapter does not relieve the **[lessee or concessionaire]** holder thereof from the obligation to—
- (a) obtain any other coastal authorisation that may be required in terms of this Act or any other authorisation in terms of other legislation; or
 - (b) comply with any other legislation.

Amendment of heading to section 66 of Act 24 of 2008

36. The following heading is hereby substituted for the heading to section 66 of the principal Act:

“Terms of coastal **[leases and coastal concessions]** use permits”.

Amendment of section 66 of Act 24 of 2008

37. Section 66(1) of the principal Act is hereby amended by—

- (a) the substitution for subsection (1) of the following subsection:
- “[(1)]** A coastal **[lease or coastal concession]** use permit—
- (a) must be awarded for a fixed period of time **[of not more than 20 years]**, but may be renewed once, whereafter a new application must made in terms of section 65(3) and (4);
 - (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]** holder thereof of a **[reasonable rent]** user charge determined by the Minister in terms of section 65(1)(b).
- [(2) A coastal lease or coastal concession on land that is partially or completely submerged by coastal waters may authorise the lessee to use the water either exclusively or for specified purposes.]”.**

Amendment of section 68 of Act 24 of 2008

38. Section 68 of the principal Act is hereby amended by the substitution for section 68 of the following section:

“(1) An issuing authority may amend, revoke, suspend or cancel **[an]** a coastal authorisation issued in terms of this Act—

- (a) the holder of the coastal authorisation contravenes or fails to comply with a condition subject to which the coastal authorisation was issued;
 - (b) it is in conflict with a coastal management programme or 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 coastal 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 as to why the coastal 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 coastal authorisation;
 - (b) suspend the coastal authorisation for a period determined by the issuing authority;
 - (c) cancel the coastal authorisation from a date determined by the issuing authority;
 - (d) alter the terms or conditions of the coastal authorisation; or
 - (e) decide not to amend, revoke, suspend or cancel the coastal authorisation.
- (4) Notwithstanding subsections (2) and (3), the issuing authority may, whenever 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 **[an] a coastal** authorisation amend, revoke, suspend or cancel the coastal authorisation.
- (5) If the issuing authority intends to exercise the powers under subsection (4), subsection (2) shall apply with the necessary changes.
- (6) If the Minister or an issuing authority has reason to believe that it is urgently necessary to exercise powers under subsections (1), (3) or (4) 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] a coastal** authorisation, temporarily suspend the coastal authorisation and then follow the procedure referred to in subsection (3).
- (7) A competent authority, when exercising the power to amend, withdraw or suspend an environmental authorisation in terms of the National Environmental Management Act, must consider the factors referred to in subsections (1), (4), (5) and (6) with the necessary changes."

Amendment of section 69 of Act 24 of 2008

39. Section 69 of the principal Act is hereby amended—

- (a) by the substitution for the term "general authorisation" for the term "general discharge authorisation" wherever it occurs; and

- (b) the deletion of subsection (11):

“[(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 impact on the coastal environment.]”

Amendment of section 70 of Act 24 of 2008

- 40.** Section 70(1) of the principal Act is hereby amended by the substitution for paragraphs (a), (b) and (e) of subsection (1) of the following paragraphs:

“(a) incinerate at sea, including aboard a South African vessel, aircraft, platform or other structure, 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, including aboard a South African vessel, aircraft, platform or other structure **[within the coastal waters or the exclusive economic zone];**

(e) except on the authority of a dumping permit granted under section 71—

- (i) dump at sea, any waste **[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”;

Amendment of section 71 of Act 24 of 2008

- 41.** Section 71 of the principal Act is hereby amended—

- (a) by deletion of the word “or” at the end of paragraph (f) of subsection (3):

“(f) organic material of natural origin; **[or]”;**

- (b) by the insertion of the word “or” at the end of paragraph (g) of subsection (3):

“(g) bulky items primarily comprising iron, steel, concrete and similarly non-harmful material 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; or”;

- (c) by the insertion after paragraph (g) of subsection (3) of the following paragraphs:

“(h) waste or other material which may be prescribed.”; and

- (d) by the substitution for subsection (5) of the following subsection:

“(5) **[A dumping permit may be issued]** The Minister may issue a dumping permit for a [specified] period of not more than two years [but] and may [be renewed once] renew it for a further period of not more than two years, whereafter a new application must be made in terms of subsection (1)”.

Amendment of section 74 of Act 24 of 2008

42. Section 74 of the principal Act is hereby amended—

- (a) By the substitution for the introductory paragraph of subsection (2) for the following paragraph:

“(2) A person who is dissatisfied with any decision taken to issue, refuse, amend, suspend or cancel **[an] a coastal** authorisation, may lodge a written appeal against that decision with—”.

Amendment of section 79 of Act 24 of 2008

43. Section 79 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (h) of subsection (1) of the following paragraph:

“(h) passes off, uses, alters or has in possession any altered or false document purporting to be **[an] a coastal** authorisation; **[or]**”

- (b) by the substitution of the full stop at the end of paragraph (i) of subsection (1) for a semi-colon:

“(i) makes any false statement or report, for the purpose of obtaining or objecting to an authorisation~~;~~”

- (c) by the insertion after paragraph (i) of subsection (1) of the following paragraph:

“(j) reclaims land from coastal waters without authorisation of the Minister in terms of section 7A(1);

(k) utilises reclaimed land in contravention of section 7A (2) or (5)

(l) charges fees in contravention of section 13(3)(a);

- (m) conducts an activity that is prohibited in terms of section 65(1)(a)(i);
- (n) fails to comply with a verbal directive issued by the Minister or MEC in terms of section 92(1);
- or
- (o) fails to comply with section 96(1).”

- (d) by the deletion of the word “or” at the end of paragraph (b) of subsection (2):

“(b) hinders or interferes with a duly authorised person exercising a power or performing a duty in terms of this Act; **[or]**”

- (e) by the insertion after paragraph (c) of subsection (2) of the following paragraphs:

“(d) constructs, maintains or extends any structure, or takes other measures on coastal public property to prevent or promote erosion or accretion of the seashore in contravention of section 15(2);

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

(f) conducts an activity without a coastal authorisation required in terms of this Act; or

(g) fails to comply with the conditions of a coastal authorisation;

(h) fails to comply with section 95(1);

(i) allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a), or (c)-(h), or

(j) contravenes any other provision of this Act which is not referred to in subsection (1) or (2).”

- (f) by the deletion of subsection (3):

[(3) A person who is the holder of an authorisation is guilty of a category three offence if that person—

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

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

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

- (g) by the deletion of subsection (4):

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

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

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

Amendment of section 80 of Act 24 of 2008

44. Section 80 of the principal Act is hereby amended by the substitution for section 80 of the following section:

“(1) A person who is **[guilty] convicted** of a category one offence referred to in section 79(1) may be sentenced to a fine of up to R5 000 000 or to imprisonment for a period of up to ten years, or to both such fine and imprisonment.

(2) A person who is **[guilty] convicted** of a category two offence referred to in section 79(2) may be sentenced on a first conviction for that offence to a fine of up to **[R500 000] R2 000 000** or to imprisonment or community service for a period of up to five years, or to both such fine, imprisonment or community service.

[(3) A person who is guilty of a category three offence referred to in section 79(3) [or (4) may be sentenced on a first conviction for that offence to a fine of up to R50 000 or community service for a period of up to six months or to both such fine and community service].

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

(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] a coastal** authorisation granted to the offender under this Act.”

Amendment of section 81 of Act 24 of 2008

45. Section 81 of the principal Act is hereby amended by substitution for section 81 of the following section:

“81. [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.]

(1) Any act or omission in contravention of any of the provisions of this Act which is committed—

(a) by any person in, on or above coastal waters;

(b) outside coastal waters by any citizen of the Republic or any person ordinarily resident in the Republic; or

(c) by any person on board any South African vessel;

shall be dealt with and judicial proceedings taken as if such act or omission had taken place in the territory of the Republic.

(2) Any offence in terms of this Act shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed within the area of jurisdiction of the court in which the prosecution is instituted.”.

Amendment of section 83 of Act 24 of 2008

46. Section 83 of the principal Act is hereby amended—

(a) by substitution for paragraph (g) of section of the following paragraph:

“(g) the procedures to be followed with the lodging and consideration of applications for coastal authorisations, including—

- (i) the conditions with which applicants must comply before or after the lodging of their applications;
- (ii) the application fees to be paid;
- (iii) the authorities that will be competent to issue the different categories of coastal 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]** coastal authorisations 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 **[leases and coastal concessions]** authorisations.”

(b) by the substitution for paragraph (h) of the following paragraph:

“(h) the contents of coastal authorisations;”;

(c) by the substitution for paragraph (i) – (l) of the following paragraphs:

“(i) the giving of security in respect of any obligation that may arise from carrying out activities authorised by **[permits, coastal leases or coastal concessions]** coastal authorisations, 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 fees to be paid;

(ii) the conditions with which appellants must comply before or after the lodging of their appeals;

[(iii) the powers of, and the procedure to be followed by, an MEC when considering and deciding such appeals;]

(iv) the circumstances in which a temporary stay may be granted in the carrying out of notices in terms of section 59 or 60, or an amendment, revocation, suspension or

- (iii) to appoint the members of the National Coastal Committee;] and
(b) may withdraw by notice in writing any delegation made in terms of a provision of this Act [or of a statute repealed by this Act.]”.

Amendment of section 90 of Act 24 of 2008

50. Section 90 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following subsection:

“(d) establish [~~set-back~~] coastal management lines [to implement or monitor compliance with provincial norms and standards].”.

Amendment of section 91 of Act 24 of 2008

51. Section 91 of the principal Act is hereby amended by the insertion after paragraph (b) of subsection (1) the following paragraph:

“(1) An MEC may delegate any power or duty assigned or delegated to him or her in terms of this Act to—
(a) the head of the provincial lead agency; [or]
(b) any other organ of state, a statutory functionary, a traditional council or a management authority of a special management area, by agreement[.]; or
(c) an official within the MEC’s department.”

Amendment of the heading to section 92 of Act 24 of 2008

52. The heading of section 92 of the principal Act is hereby substituted with the following:

“**Urgent action by Minister or MEC”.**

Amendment of section 92 of Act 24 of 2008

53. Section 92 of the principal Act is hereby amended:

(a) by the substitution for the introductory paragraph in subsection (1) of the following paragraph:

“(1) The Minister or MEC may issue a verbal directive to any responsible person to stay an activity if such activity poses—”; and

(b) by the substitution for paragraph (3) of the following paragraph:

“(3) When issuing a verbal directive contemplated in subsection (1), the provisions of section 59(1)[, (3)] and (4) or 60(1)[, (3)] and (4) apply with the necessary changes.”.

Amendment of section 93 of Act 24 of 2008

54. Section 93 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

“(3) The Minister must prepare and regularly update a national report on the state of the coastal environment **[based on] which must include-**

- (a) information from provincial reports submitted to the Minister in terms of subsection (2) [.] and
(b) a review on the status of each pipeline that discharges effluent into coastal waters in terms of section 69 and its impact on the coastal environment.”;

Insertion of section 94A of Act 24 of 2008

55. The following section is hereby inserted in the principal Act:

“Exemptions

94A(1) The Minister may in writing exempt any person or group of persons or organ of state from a provision of this Act provided that such exemption does not conflict with the objects of the Act.”

(2) An exemption granted in terms of subsection (1) may-

- (a) be subject to conditions;
(b) be subject to payment of a fee; and
(c) be amended or cancelled at any time by the Minister

(3) Before making a decision in terms of this section, the Minister must consult with any organ of state that may be affected by such decision..”.

Amendment of section 95 of Act 24 of 2008

56. The following section is hereby substituted for section 95 of the principal Act:

“Existing leases on, or rights to coastal public property”

[(1) Subject to subsection (3), this Act does not affect the continuation of-

- (a) a lawful lease on 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) in terms of the Seashore Act 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 a lease or right referred to in subsection (1) without obtaining a coastal 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 a person contemplated in subsection (4) for a coastal lease or a 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.]

“(1) In order to enable the Minister to establish the nature and extent of existing uses within the coastal zone, the holder of a lease or right in terms of the Seashore Act, 1935 (Act No. 21 of 1935) or a lease within the admiralty reserve must, within 12 months of the commencement of this section, provide the Minister with a copy of the lease concluded in terms of the Seashore Act.

- (2) A lease under the Seashore Act shall continue for a period of 24 months after the commencement of this section and section 98, unless:
 - (a) the terms of the lease provides for it to lapse earlier; or
 - (b) the lease relates to an activity that is listed in terms of section 65(2) as:
 - (a) prohibited; or

- (b) requiring a permit.
- (3) Unless a person referred to in subsection (2) is directed otherwise by a person acting in terms of this Act, it is not an offence for that person to continue with the activity if that person has made application for a permit under section 65(2) within 24 months of the commencement of this section but has not yet been notified whether the application has been granted or refused.”

Amendment of section 96 of Act 24 of 2008

57. The following section is hereby substituted for section 96 of the principal Act:

- “96. (1) Subject to the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998), and 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]** section, either—
- (a) apply for a coastal **[lease] use permit** if the activity is listed in terms of section 65 (1) 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 **[lease] use permit** in accordance with subsection (1)(a) 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 subsections (1) or (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, under section 60, issue a written repair or removal notice to that person.
- (4) This section does not affect—
- (a) any legal proceedings that commenced prior to the commencement of this Act to enforce any prohibition or restriction on construction or other activities in terms of any other law;
 - (b) any legal proceedings instituted 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; or
 - (c) any rights a person may have in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998).”

Repeal of section 97 of Act 24 of 2008

58. Section 97 of the principal Act is hereby repealed.

“[97.(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 zone, an activity requiring an environmental authorisation;

(b) abstracting water from coastal waters, must be regarded to be the holder of an environmental authorisation that authorises that activity.

(2) Any person referred to in subsection (1) who within 24 months of the commencement of this Act applies for an environmental authorisation that will authorise the continuation of the activity referred to in subsection (1). shall continue to be regarded as the holder of the authorisation until the competent authority decides whether to grant or refuse the application.

(3) This section does not affect—

(a) the powers of an issuing authority under section 68 to amend, revoke, suspend or cancel an authorisation; or

(b) any obligation which a person referred to in subsection (1) may have under section 96(2).]”

Insertion of section 97A in Act 24 of 2008

59. The following section is hereby inserted in the principal Act:

“Withdrawal of previous exclusions

97A. Any exclusion of an area from coastal public property in terms of section 27, prior to the repeal of that section, shall be of no force and effect and shall remain coastal public property to the extent defined in section 7.”.

Amendment of section 101 of Act 24 of 2008

60. Section 101 of the principal Act is hereby amended by the substitution for the following section:

“**101.** This Act is called the National Environmental Management: Integrated Coastal Management Act, ~~2008~~ **[2007]**, and takes effect on a date or dates determined by the President by proclamation in the *Gazette*.”

Commencement

61. This Act takes effect on a date determined by the President by proclamation in the *Gazette*.