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GOVERNMENT GAZETTE

STAATSKOERANT

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OFFICE OF THE PRESIDENT

No. 1540.

27 November 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 107 of 1998: National Environmental Management Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1540.

27 November 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 107 van 1998: Wet op Nasionale Omgewingsbestuur, 1998.

*(English text signed by the President.)
(Assented to 19 November 1998.)*

ACT

To provide for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; and to provide for matters connected therewith.

PREAMBLE

WHEREAS many inhabitants of South Africa live in an environment that is harmful to their health and well-being;

everyone has the right to an environment that is not harmful to his or her health or well-being; 5

the State must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;

inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices; 10

sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations;

everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that— 15
prevent pollution and ecological degradation;
promote conservation; and
secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

the environment is a functional area of concurrent national and provincial legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another; 20

AND WHEREAS it is desirable—

that the law develops a framework for integrating good environmental management into all development activities; 25
that the law should promote certainty with regard to decision-making by organs of state on matters affecting the environment;
that the law should establish principles guiding the exercise of functions affecting the environment;
that the law should ensure that organs of state maintain the principles guiding the exercise of functions affecting the environment; 30
that the law should establish procedures and institutions to facilitate and promote co-operative government and intergovernmental relations;
that the law should establish procedures and institutions to facilitate and promote public participation in environmental governance; 35
that the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society;

*(Engelse teks deur die President geteken.)
(Goedgekeur op 19 November 1998.)*

WET

Om voorsiening te maak vir samewerkende omgewingsbestuur deur die daarstelling van beginsels vir die besluitneming oor aangeleenthede rakende die omgewing, instellings wat samewerkende bestuur sal bevorder en prosedures vir die koördinering van omgewingswerkzaamhede wat deur staatsorgane uitgeoefen word; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

NADEMAAL baie inwoners van Suid-Afrika in 'n omgewing woon wat skadelik is vir hul gesondheid en welsyn;

elkeen die reg het op 'n omgewing wat nie skadelik vir sy of haar gesondheid of welsyn is nie;

die Staat die maatskaplike, ekonomiese en omgewingsregte van elkeen moet respekteer, beskerm, bevorder en vervul en daarna moet streef om te voldoen aan die basiese behoeftes van voorheen benadeelde gemeenskappe;

ongelykheid in die verdeling van rykdom en hulpbronne, en die gevolglike armoede, van die belangrike oorsake sowel as gevolg van omgewingskadefike praktyke is;

volhoubare ontwikkeling die integrasie vereis van maatskaplike, ekonomiese en omgewingsfaktore in die beplanning, implementering en evaluering van beslissings ten einde te verseker dat ontwikkeling huidige en toekomstige geslagte dien;

elkeen die reg het op die beskerming van die omgewing, ter wille van huidige en toekomstige geslagte, deur middel van billike wetgewende en ander maatreëls wat—besoedeling en ekologiese agteruitgang voorkom;

bewaring bevorder; en ekologies volhoubare ontwikkeling en die aanwending van natuurlike hulpbronne verseker, terwyl dit regverdigbare ekonomiese en maatskaplike ontwikkeling bevorder;

die omgewing 'n funksionele gebied van konkurrente nasionale en provinsiale wetgewende bevoegdheid is, en alle regeringsfere en alle staatsorgane met mekaar moet saamwerk, oorleg pleeg en ondersteun;

EN NADEMAAL dit wenslik is—

- 25 dat die reg 'n raamwerk ontwikkel vir die inskakeling van goeie omgewingsbestuur in alle ontwikkelingsaktiwiteite;
- dat die reg sekerheid moet bevorder met betrekking tot besluitneming deur staatsorgane oor aangeleenthede rakende die omgewing;
- dat die reg beginsels moet daarstel wat die uitoefening van werkzaamhede, rakende die omgewing, rig;
- 30 dat die reg moet verseker dat staatsorgane die beginsels handhaaf waardeur die uitoefening van werkzaamhede rakende die omgewing gerig moet word;
- dat die reg prosedures en instellings moet instel om regering van samewerking en inter-regeringverhoudings te vergemaklik en te bevorder;
- 35 dat die reg prosedures en instellings moet instel om openbare deelname in omgewingsbestuur te fasiliteer en te bevorder;
- dat die reg deur die Staat afgedwing moet word en dat die reg die afdwinging van omgewingswette deur die burgerlike gemeenskap moet vergemaklik;

IT IS NOW ENACTED by the Parliament of the Republic of South Africa, as follows:—

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Definitions

1. (1) In this Act, unless the context requires otherwise—

- (i) "activities" when used in Chapter 5 means policies, programmes, plans and projects; (i)
- (ii) "Agenda 21" means the document by that name adopted at the United Nations Conference of Environment and Development held in Rio de Janeiro, Brazil in June 1992; (i) 5
- (iii) "best practicable environmental option" means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term; (iv) 10
- (iv) "commercially confidential information" means commercial information, the disclosure of which would prejudice to an unreasonable degree the commercial interests of the holder: Provided that details of emission levels and waste products must not be considered to be commercially confidential notwithstanding any provision of this Act or any other law; (iv) 15
- (v) "Committee" means the Committee for Environmental Co-ordination referred to in section 7; (xv)
- (vi) "community" means any group of persons or a part of such a group who share common interests, and who regard themselves as a community; (x) 20
- (vii) "Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (xii)
- (viii) "Department" means the Department of Environmental Affairs and Tourism; (v)
- (ix) "Director-General" means the Director-General of Environmental Affairs and Tourism; (vi) 25
- (x) "ecosystem" means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit; (vii)
- (xi) "environment" means the surroundings within which humans exist and that are made up of— 30
 - (i) the land, water and atmosphere of the earth;
 - (ii) micro-organisms, plant and animal life;
 - (iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
 - (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being; (xix) 35
- (xii) "environmental implementation plan" means an implementation plan referred to in section 11; (xxii)
- (xiii) "environmental management co-operation agreement" means an agreement referred to in section 35(1); (xxi) 40
- (xiv) "environmental management plan" means a management plan referred to in section 11; (xx)
- (xv) "financial year" means a period commencing on 1 April of any year and ending on 31 March of the following year; (viii)
- (xvi) "Forum" means the National Environmental Advisory Forum referred to in section 3; (ix) 45
- (xvii) "hazard" means a source of or exposure to danger; (xi)
- (xviii) "international environmental instrument" means any international agreement, declaration, resolution, convention or protocol which relates to the management of the environment; (xiv) 50
- (xix) "MEC" means the Member of the Executive Council to whom the Premier has assigned the performance in the province of the functions entrusted to a MEC by or under such a provision; (xvi)
- (xx) "Minister" means the Minister of Environmental Affairs and Tourism; (xvii)
- (xxi) "national department" means a department of State within the national sphere of government; (xviii) 55
- (xxii) "organ of state" means organ of state as defined in the Constitution; (xxvii)
- (xxiii) "person" includes a juristic person; (xxiii)
- (xxiv) "pollution" means any change in the environment caused by— 60
 - (i) substances;
 - (ii) radioactive or other waves; or
 - (iii) noise, odours, dust or heat,

Woordomskrywings

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- (i) “Agenda 21” die dokument met daardie naam wat aanvaar is tydens die Verenigde Nasies se *Conference of Environment and Development* gehou in Rio de Janeiro, Brazilië, in Junie 1992; (ii)
- 5 (ii) “aktiwiteit” wanneer dit in Hoofstuk 5 gebruik word, beleid, programme, planne en projekte; (i)
- (iii) “besoedeling” beteken enige verandering in die omgewing veroorsaak deur—
- 10 (i) stowwe;
- (ii) radio-aktiewe of ander golwe; of
- (iii) geraas, reuke, stof of hitte;
- 15 wat vrygestel word uit enige aktiwiteit, met inbegrip van die opberging of behandeling van afval of stowwe, konstruksie en die voorsiening van dienste, hetsy aangegaan deur enige persoon of staatsorgaan, waar daardie verandering ’n nadelige invloed het op menslike gesondheid of welsyn of op die samestelling, herstelkrag en produktiwiteit van natuurlike of beheerde ekosisteme, of op materiale wat nuttig is vir mense, of wat so ’n uitwerking in die toekoms sal hê; (xxiv)
- 20 (iv) “beste praktiese omgewingsopsie” die opsie wat die meeste voordeel voorsien of wat die minste nadeel veroorsaak vir die omgewing as ’n geheel, teen ’n koste wat vir die gemeenskap aanvaarbaar is, op die kort sowel as die lang termyn; (iii)
- (v) “Departement” die Departement van Omgewingsake en Toerisme; (viii)
- 25 (vi) “Direkteur-generaal” die Direkteur-generaal van Omgewingsake en Toerisme; (ix)
- (vii) “ekosisteem” ’n dinamiese stelsel van plant, dier en gemeenskappe van mikro-organisme en hul nie-lewende omgewing wat as ’n funksionele eenheid op mekaar reageer; (x)
- 30 (viii) “finansiële jaar” die tydperk wat ’n aanvang neem op 1 April van enige jaar en wat eindig op 31 Maart van die daaropvolgende jaar; (xv)
- (ix) “Forum” die Nasionale Omgewingsadviesforum bedoel in artikel 3; (xvi)
- (x) “gemeenskap” ’n groep persone of ’n deel van so ’n groep wat gemeenskaplike belange deel, en wat hulself as ’n gemeenskap beskou; (vi)
- 35 (xi) “gevaar” ’n bron van of blootstelling aan gevaar; (xvii)
- (xii) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996); (vi)
- (xiii) “hierdie Wet” ook die bylae, regulasies en enige kennisgewing wat ingevolge hierdie Wet uitgevaardig is; (xxx)
- 40 (xiv) “internasionale omgewingsdokument” enige internasionale ooreenkoms, verklaring, resoluë, konvensie of protokol wat verband hou met die bestuur van die omgewing; (xviii)
- (xv) “Komitee” die Komitee vir Omgewingskoördinasie soos bedoel in artikel 7; (v)
- 45 (xvi) “LUR” die Lid van die Uitvoerende Raad aan wie die Premier die verrigting van die werksaamhede in die provinsie opgedra het wat aan ’n LUR by of kragtens sodanige bepaling toevertrou word; (xix)
- (xvii) “Minister” die Minister van Omgewingsake en Toerisme; (xx)
- (xviii) “nasionale departement” ’n Staatsdepartement binne die nasionale regeeringsfeer; (xxi)
- 50 (xix) “omgewing” die omgewing waarbinne mense bestaan en wat saamgestel is uit—
- (i) die grond, water en atmosfeer van die aarde;
- (ii) mikro-organismes, plante en dierelewe;
- 55 (iii) enige deel of kombinasie van (i) en (ii) en die verwantskappe onder en tussen hulle; en
- (iv) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van die voorgaande wat menslike gesondheid en welsyn beïnvloed; (xi)
- (xx) “omgewingsbestuursplan” ’n plan bedoel in artikel 11; (xiv)
- 60 (xxi) “omgewingsbestuur-samewerkingsooreenkoms” ’n ooreenkoms bedoel in artikel 35(1); (xiii)
- (xxii) “omgewingsimplementeringsplan” ’n plan bedoel in artikel 11; (xii)

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emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future; (iii) 5

(xxv) "prescribe" means prescribe by regulation in the *Gazette*; (xxx)

(xxvi) "provincial head of department" means the head of the provincial department responsible for environmental affairs; (xxiv)

(xxvii) "regulation" means a regulation made under this Act; (xxv) 10

(xxviii) "state land" means land which vests in the national or a provincial government, and includes land below the high water mark and the Admiralty Reserve, but excludes land belonging to a local authority; (xxvi)

(xxix) "sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations; (xxviii) 15

(xxx) "this Act" includes the schedules, and regulations and any notice issued under the Act. (xiii)

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise. 20

(3) A reasonable interpretation of a provision which is consistent with the purpose of this Act must be preferred over an alternative interpretation which is not consistent with the purpose of this Act.

(4) Neither—

(a) a reference to a duty to consult specific persons or authorities, nor 25

(b) the absence of any reference in this Act to a duty to consult or give a hearing, exempts the official or authority exercising a power or performing a function from the duty to act fairly.

CHAPTER 1

NATIONAL ENVIRONMENTAL MANAGEMENT PRINCIPLES 30

Principles

2. (1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and—

(a) shall apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination; 35

(b) serve as the general framework within which environmental management and implementation plans must be formulated; 40

(c) serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment;

(d) serve as principles by reference to which a conciliator appointed under this Act must make recommendations; and 45

(e) guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment.

(2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably. 50

(3) Development must be socially, environmentally and economically sustainable.

(4) (a) Sustainable development requires the consideration of all relevant factors including the following:

(i) That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied; 55

- (xxiii) "persoon" ook 'n regspersoon; (xxiii)
 (xxiv) "provinsiale departementshoof", die hoof van die provinsiale departement wat vir omgewingsaangeleenthede verantwoordelik is; (xxvi)
 (xxv) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig; (xxvii)
 5 (xxvi) "staatsgrond" die grond wat by die nasionale of 'n provinsiale regering berus, en ook grond onder die hoogwatermerk en die Admiraliteitsreserwe, maar nie ook grond wat aan 'n plaaslike owerheid behoort nie; (xxviii)
 (xxvii) "staatsorgaan" 'n staatsorgaan soos in die Grondwet omskryf; (xxii)
 10 (xxviii) "vertroulike handelsinligting", enige handelsinligting waarvan die openbaarmaking die handelsbelange van die houer in 'n onredelike mate sal benadeel: Met dien verstande dat besonderhede oor bestralingsvlakke en afvalprodukte, ondanks enige bepaling van hierdie Wet en 'n ander wet, nie uitgelê word om handelsvertroulik te wees nie; (iv)
 (xxix) "volhoubare ontwikkeling" die integrasie van maatskaplike, ekonomiese en
 15 omgewingsfaktore in die beplanning, implementering en besluitneming ten einde te verseker dat ontwikkeling huidige en toekomstige geslagte dien; (xxviii)
 (xxx) "voorskryf" by regulasie in die *Staatskoerant* voorskryf. (xxv)
 (2) Woorde wat ontleen is aan die omskrewe woord, het 'n ooreenstemmende
 20 betekenis, tensy dit uit die samehang anders blyk.
 (3) 'n Redelike uitleg van 'n bepaling wat bestaanbaar is met die bedoeling van hierdie Wet, geniet voorrang bo 'n alternatiewe uitleg wat nie met die doel van hierdie Wet bestaanbaar is nie.
 (4) Nóg—
 25 (a) 'n verwysing na 'n plig om met bepaalde persone of owerhede oorleg te pleeg; nóg
 (b) die afwesigheid van enige verwysing in hierdie Wet na 'n plig om oorleg te pleeg of aangehoor te word,
 stel die beampte of owerheid wat 'n bevoegdheid uitoefen of 'n plig verrig, vry van die
 30 verpligting om regverdig op te tree.

HOOFSTUK 1

NASIONALE OMGEWINGSBESTUURSBEGINSELS

Beginnels

2. (1) Die beginsels in hierdie artikel uiteengesit, geld regdeur die Republiek ten
 35 opsigte van die handelinge van alle staatsorgane wat die omgewing betekenisvol kan raak en—
 (a) is van toepassing naas alle ander gepaste en tersaaklike oorwegings met inbegrip van die Staat se verantwoordelikheid om die maatskaplike en
 40 ekonomiese regte in Hoofstuk 2 van die Grondwet te respekteer, te beskerm, te bevorder en te vervul, en in die besonder die basiese behoeftes van kategorieë persone wat deur onbillike diskriminasie benadeel is;
 (b) dien as die algemene raamwerk waarbinne omgewingsbestuurs- en -implementeringsplanne geformuleer moet word;
 (c) dien as riglyne met verwysing waarna enige staatsorgaan 'n werksaamheid
 45 moet verrig wanneer 'n besluit ingevolge hierdie Wet of enige statutêre bepaling betreffende die beskerming van die omgewing geneem word;
 (d) dien as beginsels met verwysing waarna 'n versoener wat kragtens hierdie Wet aangestel is, aanbevelings moet doen; en
 (e) rig die uitleg, administrasie en implementering van hierdie Wet en enige
 50 ander wet wat by die beskerming of bestuur van die omgewing betrokke is.
 (2) Omgewingsbestuur moet mense en hul behoeftes vooropstel, en hul fisiese, sielkundige, ontwikkelings-, kulturele en maatskaplike belange billik dien.
 (3) Ontwikkeling moet maatskaplik, omgewingskundig en ekonomies volhoubaar wees.
 55 (4) (a) Volhoubare ontwikkeling vereis die oorweging van alle tersaaklike faktore met inbegrip van die volgende:
 (i) dat die versteuring van ekosisteme en die verlies van biologiese verskeidenheid vermy word, of, waar dit nie geheel en al vermy kan word nie, dit so klein moontlik gehou of reggestel word;

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- (ii) that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
 - (iii) that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied; 5
 - (iv) that waste is avoided, or where it cannot be altogether avoided, minimised and re-used or recycled where possible and otherwise disposed of in a responsible manner;
 - (v) that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource; 10
 - (vi) that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;
 - (vii) that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and 15
 - (viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied. 20
- (b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.
- (c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons. 25
- (d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination. 30
- (e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.
- (f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured. 35
- (g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge. 40
- (h) Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.
- (i) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment. 45
- (j) The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.
- (k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law. 50
- (l) There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.
- (m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures. 55
- (n) Global and international responsibilities relating to the environment must be discharged in the national interest.
- (o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage. 60

- (ii) dat besoedeling en agteruitgang van die omgewing vermy word, of, waar dit nie geheel en al vermy kan word nie, dit so klein moontlik gehou en reggestel word;
- 5 (iii) dat die versteuring van landskappe en terreine wat die nasie se kulturele erfenis daarstel vermy word, of waar dit nie geheel en al vermy kan word nie, dit so klein moontlik gehou en reggestel word.
- (iv) dat afval vermy word, of, waar dit nie geheel en al vermy kan word nie, dit, waar moontlik, so klein moontlik gehou word en waar moontlike hergebruik of herwin word en andersins op 'n verantwoordelike wyse verwyder word;
- 10 (v) dat die gebruik en ontginning van die nie-herwinbare natuurlike hulpbronne verantwoordelik en billik geskied, en die gevolge van die uitputting van die hulpbron in ag geneem word;
- (vi) dat die ontwikkeling, gebruik en ontginning van herwinbare hulpbronne en die ekosisteme waarvan hulle deel is, nie bo die vlak styg waardeur hul integriteit in gevaar gestel word nie;
- 15 (vii) dat 'n risiko-negatiewe en versigtighedsbenadering gevolg word, wat die perke van huidige kennis rakende die gevolge van besluite en optredes in ag neem; en
- (viii) dat negatiewe inwerkings op die omgewing en op mense se omgewingsregte geantisipeer en verhoed word, en waar dit nie geheel en al verhoed kan word nie, dit so klein moontlik gehou of reggestel word.
- 20 (b) Omgewingsbestuur moet geïntegreerd wees, erkentlik daaraan dat alle elemente van die omgewing verbind en onderling verbind is, en dit moet die uitwerking van besluite op alle aspekte van die omgewing en alle mense in die omgewing in
- 25 aanmerking neem, deur die beste uitvoerbare omgewingsopsie na te streef.
- (c) Omgewingsgeregtigheid moet nagestreef word sodat nadelige omgewingsinwerkings nie versprei word op so 'n wyse dat dit onbillik teen enige persoon diskrimineer nie, veral nie teenoor kwesbare en benadeelde persone nie.
- (d) Billike toegang tot omgewingshulpbronne, -voordele en -dienste, om aan basiese
- 30 menslike behoeftes te voldoen en om menslike welsyn te verseker, moet nagestreef word en spesiale stappe kan gedoen word om toegang daartoe deur kategorieë persone, wat deur onbillike diskriminasie benadeel is, te verseker.
- (e) Verantwoordelikheid vir die omgewingsgesondheids- en -veiligheidsgevolge van 'n beleid, program, projek, produk, proses, diens of aktiwiteit bestaan regdeur sy
- 35 lewensiklus.
- (f) Die deelname van alle belanghebbende en geaffekteerde partye in omgewingsbestuur moet bevorder word, en alle mense moet die geleentheid hê om die begrip, vaardighede en vermoë wat nodig is vir die bereiking van billike en effektiewe deelname, te ontwikkel, en deelname deur kwesbare en benadeelde persone moet
- 40 verseker word.
- (g) Besluite moet die belange, behoeftes en waardes van alle belanghebbende en geaffekteerde partye in ag neem, en ook die erkenning van alle vorme van kennis, met inbegrip van tradisionele en gewone kennis.
- (h) Die welsyn en bemagtiging van die gemeenskap moet bevorder word deur
- 45 gemeenskapsonderrig, die bevordering van omgewingsbewustheid, die deel van kennis en ondervinding en ander gepaste wyses.
- (i) Die sosiale, ekonomiese en omgewingsinwerkings van werksaamhede, met inbegrip van nadele en voordele, moet oorweeg, vasgestel en geëvalueer word en besluite moet gepas wees in die lig van sodanige oorweging en vasstelling.
- 50 (j) Die reg van werkers om te weier om werk te doen wat skadelik vir menslike gesondheid of die omgewing is, en om ingelig te word oor die gevare, moet gerespekteer word.
- (k) Besluite moet op 'n openlike en deursigtige wyse geneem word, en toegang tot inligting moet ooreenkomstig die reg voorsien word.
- 55 (l) Daar moet inter-regeringskoördinasie en harmonisering van beleid, wetgewing en optredes in verband met die omgewing wees.
- (m) Werklike of potensiële botsing van belange tussen staatsorgane moet deur konflikbeslegtingsprosedures opgelos word.
- (n) Wêreld- en internasionale verantwoordelikhede wat met die omgewing verband
- 60 hou, moet in die nasionale belang uitgeoefen word.
- (o) Die omgewing word in openbare trust vir die nasie gehou, die voordelige gebruik van omgewingshulpbronne moet die openbare belang dien en die omgewing moet as die mensdom se gemeenskaplike erfenis beskerm word.

(p) The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.

(q) The vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted. 5

(r) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure. 10

CHAPTER 2

INSTITUTIONS

Part 1: National Environmental Advisory Forum

Establishment, objects and functions of National Environmental Advisory Forum

3. (1) The National Environmental Advisory Forum is hereby established. 15

(2) The object of the Forum is to—

(a) inform the Minister of the views of stakeholders regarding the application of the principles set out in section 2; and

(b) advise the Minister on—

(i) any matter concerning environmental management and governance and specifically the setting and achievement of objectives and priorities for environmental governance; and 20

(ii) appropriate methods of monitoring compliance with the principles set out in section 2.

(3) The Forum may, on its own initiative and after consultation with the Director-General, draw the Minister's attention to any matter concerning environmental management requiring attention, and the Minister may refer matters for consideration by the Forum. 25

Composition

4. (1) The Forum consists of at least 12 but not more than 15 members appointed by the Minister. 30

(2) The Minister appoints persons who represent stakeholders, and persons who have experience, expertise or skills necessary to enable the Forum to carry out its functions: Provided that the Minister must take into account the desirability of appointing women, youth and persons disadvantaged by unfair discrimination and ensuring representation of vulnerable and disadvantaged persons. 35

(3) Before persons contemplated in subsection (2) are appointed, the Minister must—

(a) invite nominations from organised labour, organised business, non-governmental organisations and community-based organisations in a manner that he or she may consider appropriate, and invite nominations from others by notice in the *Gazette*, at least two nationally distributed newspapers, appropriate local newspapers and on the radio specifying a period within which nominations must be submitted; 40

(b) stipulate in such notice, the procedure to be adopted regarding such nominations; and 45

(c) consult with—

(i) the MECs; and

(ii) the Committees of the National Assembly and the National Council of Provinces that scrutinise environmental affairs. 50

(4) The Minister appoints the chairperson of the Forum.

(5) (a) Each member of the Forum designates, with the concurrence of the Minister

(p) Die uitgawes vir die regstelling van besoedeling, omgewingsagteruitgang en gevolglike nadele vir gesondheid en van die voorkoming, beheer of vermindering van verdere besoedeling, omgewingskade of nadelige gesondheidsgevolge moet betaal word deur diegene wat vir die benadeling van die omgewing verantwoordelik is.

5 (q) Die lewensbelangrike rol van vrouens en die jeug in omgewingsbestuur en ontwikkeling moet erken en hul volle deelname daarin moet bevorder word.

(r) Sensitiewe, kwesbare, hoogs dinamiese ekosisteme of ekosisteme onder druk, soos kusstrande, riviermondinge, vleilande en soortgelyke stelsels verg spesiale aandag in bestuur- en beplanningsprosedures, veral waar die stelsels onderworpe is aan 10 beduidende menslike hulpbrongebruik en ontwikkelingsdruk.

HOOFSTUK 2

INSTELLINGS

Deel 1: Nasionale Omgewingsadviesforum

Instelling, oogmerke en werksaamhede van Nasionale Omgewingsadviesforum

- 15 3. (1) Die Nasionale Omgewingsadviesforum word hierby ingestel.
 (2) Die oogmerk van die Forum is om—
 (a) die Minister in te lig omtrent die standpunte van belanghebbendes betreffende toepassing van die beginsels in artikel 2 uiteengesit; en
 (b) die Minister te adviseer oor—
 20 (i) enige aangeleentheid rakende omgewingsbestuur en -beheer en in besonder die stel en bereiking van doelwitte en prioriteite vir omgewingsbeheer; en
 (ii) gepaste metodes om nakoming van die beginsels in artikel 2 uiteengesit te kontroleer.
 25 (3) Die Forum kan, op eie inisiatief en na oorlegpleging met die Direkteur-generaal, die Minister se aandag vestig op enige aangeleentheid betreffende omgewingsbestuur wat aandag verg en die Minister kan aangeleenthede vir oorweging deur die Forum, verwys.

Samestelling

- 30 4. (1) Die Forum bestaan uit minstens 12, maar nie meer as 15 lede nie, wat deur die Minister aangestel word.
 (2) Die Minister stel persone aan wat belanghebbende partye verteenwoordig, en vrouens, jeugdige en persone wat ondervinding, kundigheid of vaardigheid het wat nodig is om die Forum in staat te stel om sy werksaamhede te verrig: Met dien 35 verstande dat die Minister in aanmerking moet neem dat die wenslikheid om persone aan te stel wat deur onbillike diskriminasie benadeel is en dat verteenwoordiging van kwesbare en benadeelde persone verseker moet word.
 (3) Alvorens persone beoog in subartikel (2) aangestel word, moet die Minister—
 40 (a) nominasies uitnoui van die georganiseerde arbeid, georganiseerde besigheid, nie-regeringsorganisasies en gemeenskapsgebaseerde organisasies op 'n wyse wat hy of sy gepas ag, en kan by kennisgewing in die *Staatskoerant* nominasies van ander persone uitnoui asook deur kennisgewing in ten minste twee nasionaal verspreide koerante en in gepaste plaaslike koerante en oor die radio, waarin 'n tydperk waarbinne sodanige nominasies ingedien moet word, gespesifiseer word;
 45 (b) in sodanige kennisgewing, die prosedure voorskryf wat met betrekking tot sodanige nominasies aangeneem moet word; en
 (c) met—
 (i) die LUR'e; en
 50 (ii) die Komitees van die Nasionale Vergadering en die Nasionale Raad van Provinsies wat omgewingsake bestudeer, oorleg pleeg.
 (4) Die Minister stel die voorsitter van die Forum aan.
 (5) (a) Elke lid van die Forum moet met die instemming van die Minister en die 55 organisasie of persoon wat hom of haar genomineer het 'n plaasvervanger aanwys wat

and the organisation or person who nominated him or her, an alternate to take his or her place if he or she is unable to attend a meeting of the Forum.

(b) The Minister may appoint a replacement for a member who vacates his or her office in terms of section 5(3), and the Minister may invite nominations from the sector or organisation that nominated such member.

(6) The replacement must serve for the balance of the term of the person he or she replaces.

Conditions of appointment to Forum

5. (1) A member of the Forum holds office for a period of two years.

(2) At the expiry of his or her term of office a member may be appointed for one further term.

(3) A member or replacement member of the Forum must vacate his or her office if—

- (a) the Minister at any time terminates such term of office for good reason;
- (b) he or she can no longer perform his or her duties on the Forum;
- (c) he or she is convicted of a criminal offence, involving dishonesty, and is sentenced to imprisonment without the option of a fine;
- (d) he or she is absent from more than two consecutive meetings of the Forum without the leave of the chairperson; or
- (e) he or she resigns by way of written notice to the Minister.

(4) Members of the Forum and members of a committee of the Forum may be paid such remuneration and allowances for their services as the Minister may determine with the concurrence of the Minister of Finance.

(5) If any member of the Forum or his or her spouse has a direct or indirect financial interest in any matter before the Forum, he or she shall disclose such interest and may not take part in any discussion regarding such matter.

Functioning of Forum

6. (1) The Minister must—

- (a) lay down rules for the functioning of the Forum, including—
 - (i) by publication in the *Gazette*, a constitution for the Forum which may contain provisions relating to—
 - (aa) advice on matters related to Chapter 6;
 - (bb) participation in meetings relating to international environmental matters;
 - (cc) subcommittees and working groups of the Forum;
 - (ii) the manner and timing of reports by the Forum; and
 - (iii) consultation with the Director-General;
- (b) with the concurrence of the Minister of Finance make available funds for the functioning of the Forum for purposes other than the payment of remuneration referred to in section 5(4), from—
 - (i) money appropriated by Parliament for this purpose; and
 - (ii) funds obtained from donations or grants.

(2) The Director General may—

- (a) designate as many officers and employees as he or she may deem necessary to assist the Forum in the performance of its work; and
- (b) engage persons on contract to assist the Forum in the performance of its work.

(3) The Minister must present an annual report to Parliament on the work of the Forum, including the following:

- (a) the work plan for the next year;
- (b) information and recommendations submitted; and
- (c) financial report and budget.

(4) The meetings of the Forum must be open to the public and all documents considered or produced by the Forum must be available for inspection by the public.

Part 2: Committee for Environmental Co-ordination

Establishment, objects and functions of Committee

7. (1) The Committee for Environmental Co-ordination is hereby established.

sy of haar plek inneem indien hy of sy nie in staat is om 'n vergadering van die Forum by te woon nie.

(b) Die Minister kan 'n plaasvervanger aanstel vir 'n lid wat sy of haar amp ingevolge artikel 5(3) ontruim en die Minister kan nominasies van die sektor of organisasie wat sodanige lid genomineer het, uitnooi.

(6) Die plaasvervanger doen diens vir die oorblywende dienstrydperk van die persoon wat hy of sy vervang.

Voorwaardes van aanstelling in Forum

5. (1) 'n Lid van die Forum beklee sy of haar amp vir 'n tydperk van twee jaar.
- 10 (2) By die verstryking van sy of haar ampstermyn kan 'n lid vir een verdere termyn aangestel word.
- (3) 'n Lid of plaasvervangende lid van die Forum ontruim sy of haar amp indien—
- (a) die Minister te eniger tyd sodanige ampstermyn om goeie rede beëindig;
- (b) hy of sy nie meer sy of haar pligte in die Forum kan verrig nie;
- 15 (c) hy of sy aan 'n misdryf skuldig bevind word waarby oneerlikheid betrokke is, en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word;
- (d) hy of sy sonder verlof van die voorsitter vir meer as twee agtereenvolgende vergaderings van die Forum afwesig is; of
- (e) hy of sy by wyse van skriftelike kennisgewing aan die Minister as lid bedank.
- 20 (4) Daar kan aan lede van die Forum, en lede van 'n komitee van die Forum, sodanige besoldiging en toelaes vir hulle diens betaal word, wat die Minister, met die instemming van die Minister van Finansies, bepaal.
- (5) Indien enige lid van die Forum of sy of haar gade 'n direkte of indirekte finansiële belang by enige aangeleentheid voor die Forum het, moet hy of sy sodanige belang
- 25 bekend maak en mag hy of sy nie aan enige bespreking betreffende sodanige aangeleentheid deelneem nie.

Werkings van Forum

6. (1) Die Minister moet—
- (a) reëls neerlê vir die werking van die Forum, met inbegrip van—
- 30 (i) die instelling van 'n grondwet vir die Forum, by publikasie in die *Staatskoerant*, wat bepalinge kan bevat met betrekking tot—
- (aa) advies oor aangeleenthede wat met Hoofstuk 6 in verband staan;
- (bb) deelname in vergaderings wat met internasionale omgewingsaangeleenthede in verband staan;
- 35 (cc) subkomitees en werkgroepe van die Forum.
- (ii) die wyse en tydstip van verslae deur die Forum; en
- (iii) oorlegpleging met die Direkteur-generaal;
- (b) met die instemming van die Minister van Finansies, fondse beskikbaar stel vir die werking van die Forum vir ander doeleindes as die betaling van besoldiging bedoel in artikel 5(4), vanuit—
- 40 (i) geld deur die Parlement vir dié doel bewillig; en
- (ii) fondse van donasies en skenkings verkry.
- (2) Die Direkteur-generaal kan—
- (a) soveel beamptes en werknemers aanwys as wat hy of sy nodig ag om die Forum in die verrigting van sy werk by te staan; en
- 45 (b) persone op kontrak in diens neem ten einde die Forum in die verrigting van sy werk by te staan.
- (3) Die Minister lê 'n jaarverslag aan die Parlement voor oor die werk van die Forum, met inbegrip van—
- 50 (a) die werksplan vir die volgende jaar;
- (b) inligting en aanbevelings voorgelê; en
- (c) 'n finansiële verslag en begroting.
- (4) Die vergaderings van die Forum moet oop wees vir die publiek en alle dokumente deur die Forum oorweeg of voortgebring moet beskikbaar wees vir insae
- 55 deur die publiek.

Deel 2: Komitee vir Omgewingskoördinasie

Instelling, oogmerke en werksaamhede van Komitee

7. (1) Die Komitee vir Omgewingskoördinasie word hierby ingestel.

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(2) The object of the Committee is to promote the integration and co-ordination of environmental functions by the relevant organs of state, and in particular to promote the achievement of the purpose and objectives of environmental implementation plans and environmental management plans as set out in section 12.

(3) The functions of the Committee shall include the following:

- (a) scrutinising, reporting and making recommendations on the environmental implementation plans submitted to it in accordance with section 15;
- (b) investigating and making recommendations regarding the assignment and delegation of functions between organs of state under this Act or any other law affecting the environment and regarding the practical working arrangements, including memoranda of understanding, between the organs of state represented by members and other organs of state;
- (c) investigating and recommending the establishment of mechanisms in each province, with the concurrence of the MEC, for providing a single point in the province for the receipt of applications for authorisations, licences and similar permissions required for activities under legal provisions concerned with the protection of the environment where such authorisations, licences or permissions are required from more than one organ of state, and procedures for the co-ordinated consideration of such applications by the organs of state concerned;
- (d) making recommendations to co-ordinate the application of integrated environmental management as contemplated in Chapter 5, including co-operation in environmental assessment procedures and requirements and making determinations regarding the prevention of duplication of efforts as contemplated in section 24(4);
- (e) making recommendations aimed at securing compliance with the principles set out in section 2 and national norms and standards contemplated in section 146(2)(b)(i) of the Constitution;
- (f) making recommendations regarding the harmonisation of the environmental functions of all relevant national departments and spheres of government;
- (g) advising the Minister on providing guidelines for the preparation of environmental management plans and environmental implementation plans; and
- (h) endeavouring to ensure compliance with the principle set out in section 2(2) by making appropriate recommendations, requiring reports from its members and advising government on law reform.

Composition of Committee

8. (1) The Committee comprises:

- (a) the Director-General: Environmental Affairs and Tourism, who acts as chairperson;
- (b) the Director-General: Water Affairs and Forestry;
- (c) the Director-General: Minerals and Energy;
- (d) the Director-General: Land Affairs;
- (e) the Director-General: Constitutional Development;
- (f) the Director-General: Housing;
- (g) the Director-General: Agriculture;
- (h) the Director-General: Health;
- (i) the Director-General: Labour;
- (j) the Director-General: Arts, Culture, Science and Technology;
- (k) the provincial heads of department appointed by the Minister with the concurrence of the MEC;
- (l) a representative of the national organisation recognised in terms of section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997), appointed by the Minister with the concurrence of that organisation; and
- (m) any other Director-General appointed by the Minister with the concurrence of the Minister under whose portfolio that Department falls.

(2) (a) The Committee may co-opt persons to assist it in carrying out its functions.

(b) The Committee may invite persons to attend its meetings and to assist it in carrying out its functions.

(2) Die oogmerk van die Komitee is om die inskakeling en koördinasie van omgewingswerkzaamhede deur die ter sake staatsorgane te bevorder, en in die besonder om die bereiking van die doel en oogmerke van omgewingsimplementeringsplanne en omgewingsbestuursplanne, soos in artikel 12 uiteengesit, te bevorder.

5 (3) Die werkzaamhede van die Komitee sluit die volgende in—

- (a) noukeurige ondersoek van, verslagdoening en die doen van aanbevelings oor die omgewingsimplementeringsplanne wat ooreenkomstig artikel 15 aan die Komitee voorgelê is;
- 10 (b) die ondersoek en doen van aanbevelings betreffende die opdra en delegering van werkzaamhede tussen staatsorgane kragtens hierdie Wet of enige ander wet wat die omgewing raak en betreffende die praktiese bedryfsplanne, met inbegrip van aktes van verstandhouding tussen die staatsorgane wat deur lede verteenwoordig word en ander staatsorgane;
- 15 (c) die ondersoek en aanbeveling van die instelling van meganismes in elke provinsie, met die instemming van die LUR, vir die voorsiening van 'n enkele plek in die provinsie vir die ontvangs van aansoeke vir magtigings, lisensies en soortgelyke toestemmings wat vereis word vir aktiwiteite kragtens regsbepalings wat betrekking het op die beskerming van die omgewing waar sodanige magtigings, lisensies of toestemmings van meer as een staatsorgaan vereis word en prosedures vir die gekoördineerde oorweging van sodanige aansoeke deur die betrokke staatsorgane;
- 20 (d) die doen van aanbevelings om die toepassing van geïntegreerde omgewingsbestuur in Hoofstuk 5 bedoel, te koördineer met inbegrip van samewerking in omgewingsevalueringsprosedures en omgewingsevalueringsvereistes, en die doen van vasstellings betreffende die voorkoming van duplisering van pogings soos bedoel in artikel 24(4);
- 25 (e) die doen van aanbevelings wat daarop gemik is om nakoming te verseker van die beginsels in artikel 2 uiteengesit, en nasionale norme en standarde beoog in artikel 146(2)(b)(i) van die Grondwet;
- 30 (f) die doen van aanbevelings betreffende die harmoniëring van die omgewingswerkzaamhede van alle tersaaklike nasionale departemente en regeringsfere;
- (g) advies aan die Minister oor die voorsiening van riglyne vir die voorbereiding van omgewingsbestuursplanne en omgewingsimplementeringsplanne; en
- 35 (h) om te poog om nakoming van die beginsel in artikel 2(2) uiteengesit te verseker deur gepaste aanbevelings te maak waarby verslae van sy lede aangevra word en waarby die regering oor regshervorming ingelig word.

Samestelling van Komitee

8. (1) Die Komitee bestaan uit—

- 40 (a) die Direkteur-generaal: Omgewingsake en Toerisme, wat as voorsitter optree;
- (b) die Direkteur-generaal: Waterwese en Bosbou;
- (c) die Direkteur-generaal: Minerale en Energie;
- (d) die Direkteur-generaal: Grondsake;
- (e) die Direkteur-generaal: Staatkundige Ontwikkeling;
- (f) die Direkteur-generaal: Behuising;
- 45 (g) die Direkteur-generaal: Landbou;
- (h) die Direkteur-generaal: Gesondheid;
- (i) die Direkteur-generaal: Arbeid;
- (j) die Direkteur-generaal: Kuns, Kultuur, Wetenskap en Tegnologie;
- 50 (k) die provinsiale departementshoofde wat deur die Minister, met die instemming van die LUR, aangestel is;
- (l) 'n Verteenwoordiger van die nasionale organisasie erken ingevolge artikel 2 van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997), deur die Minister aangestel met die instemming van daardie organisasie; en
- 55 (m) enige ander Direkteur-generaal wat deur die Minister, met die instemming van die Minister binne wie se portefeulje daardie Departement val, aangestel is.

(2) (a) Die Komitee kan persone koöpteer om hom in die verrigting van sy werkzaamhede by te staan.

60 (b) Die Komitee kan persone uitnooi om sy vergaderings by te woon en om hom in die verrigting van sy werkzaamhede by te staan.

(3) In making the appointments as contemplated in subsection (2)(a), the Committee must give due consideration to representation of the local sphere of government.

(4) Every member of the Committee referred to in subsection (1), must appoint an alternate member with the necessary authority from his or her department or provincial government.

(5) The alternate member appointed under subsection (4) must act in such member's absence or inability to act as member of the Committee.

Meetings of Committee, subcommittees and working groups

9. (1) The Committee meets at least four times a year.

(2) The Director-General determines—

- (a) the procedure for convening meetings of the Committee;
- (b) the quorum for meetings;
- (c) procedures at meetings; and
- (d) records the Committee must keep.

(3) The Director-General furnishes the Minister with copies of the minutes of all meetings, within three weeks of such meetings.

(4) The Committee may establish *ad hoc* and permanent subcommittees to assist the Committee in the performance of its functions, and such subcommittees may include persons who need not necessarily be members of the Committee.

(5) The Committee may establish *ad hoc* working groups to assist a subcommittee in the performance of its functions, and such working groups may include persons who need not necessarily be members of the subcommittee.

(6) Every subcommittee established in terms of subsection (4) must report at each meeting of the Committee on its own activities as well as those of any working groups established in terms of subsection (5) to assist the subcommittee.

Report of Committee

10. (1) The Committee presents an annual report on its activities to the Minister on the following:

- (a) the work of the Committee and the work plan for the next year;
- (b) comments submitted to the Director-General on the environmental implementation and environmental management plans received;
- (c) recommendations made in respect of environmental implementation and environmental management plans received;
- (d) recommendations made in order to secure compliance with the principles set out in section 2 and national norms and standards;
- (e) law reform undertaken and proposed by organs of state represented on the Committee;
- (f) compliance with environmental implementation and management plans by municipalities; and
- (g) any other matter relevant to the co-ordination of policies, plans and programmes that may affect the environment.

(2) At the request of members of the public, the Committee must make copies available of the report contemplated in subsection (1).

(3) The Minister must present an annual report to Parliament on the work of the Committee, including the matters listed in subsection (1).

CHAPTER 3

PROCEDURES FOR CO-OPERATIVE GOVERNANCE

Environmental implementation plans and management plans

11. (1) Every national department listed in Schedule 1 as exercising functions which may affect the environment and every province must prepare an environmental implementation plan within one year of the promulgation of this Act and at least every four years thereafter.

(2) Every national department listed in Schedule 2 as exercising functions involving the management of the environment must prepare an environmental management plan within one year of the promulgation of this Act and at least every four years thereafter.

(3) By die aanstellings beoog in subartikel (2)(a), gee die Komitee behoorlike oorweging aan verteenwoordiging deur die plaaslike regeringsfeer.

(4) Elke lid van die Komitee bedoel in subartikel (1), stel 'n plaasvervangende lid aan met die nodige magtiging van sy of haar departement of provinsiale regering.

- 5 (5) Die plaasvervangende lid kragtens subartikel (4) aangestel, tree op in die afwesigheid van sodanige lid, of wanneer hy of sy nie as lid van die Komitee kan optree nie.

Vergadering van Komitee, subkomitees en werkgroepe

9. (1) Die Komitee vergader ten minste vier keer per jaar.

- 10 (2) Die Direkteur-generaal bepaal—

- (a) die prosedures vir die byeenroeping van vergaderings van die Komitee;
- (b) die kworum vir vergaderings;
- (c) prosedures by vergaderings; en
- (d) rekords wat die Komitee moet byhou.

- 15 (3) Die Direkteur-generaal voorsien die Minister van afskrifte van die notules van alle vergaderings, binne drie weke na sodanige vergaderings.

(4) Die Komitee kan *ad hoc*- en permanente subkomitees instel om die Komitee in die verrigting van sy werksaamhede by te staan, en sodanige subkomitees kan persone insluit wat nie noodwendig lede van die Komitee hoef te wees nie.

- 20 (5) Die Komitee kan *ad hoc*-werkgroepe instel om 'n subkomitee in die verrigting van sy werksaamhede by te staan, en sodanige werkgroepe kan persone insluit wat nie noodwendig lede van die subkomitee hoef te wees nie.

(6) Elke subkomitee ingestel ingevolge subartikel (4) moet by elke vergadering van die Komitee verslag doen oor sy eie werksaamhede asook oor dié van enige werk-

- 25 groep ingevolge subartikel (5) ingestel om die subkomitee by te staan.

Verslag van Komitee

10. (1) Die Komitee lê 'n jaarverslag van sy werksaamhede aan die Minister voor, ten opsigte van die volgende:

- (a) die werk van die Komitee en die werkplan vir die volgende jaar;
- 30 (b) kommentaar wat aan die Direkteur-generaal voorgelê is oor omgewings-implementerings- en -bestuursplanne wat ontvang is;
- (c) aanbevelings wat gedoen is met betrekking tot omgewingsimplementerings- en -bestuursplanne wat ontvang is;
- 35 (d) aanbevelings wat gedoen is ten einde die nakoming van die beginsels uiteengesit in artikel 2 en die nasionale norme en standaarde te verseker;
- (e) regshervorming wat onderneem en aanbeveel is deur staatsorgane wat op die Komitee verteenwoordig is;
- (f) nakoming van omgewingsimplementerings- en -bestuursplanne deur muni-
- 40 (g) enige ander aangeleentheid wat ter sake is in die koördinerings van beleid, planne en programme wat die omgewing mag raak.

(2) Op versoek van lede van die publiek stel die Komitee afskrifte beskikbaar van die verslag bedoel in subartikel (1).

- (3) Die Minister moet jaarliks 'n verslag aan die Parlement voorlê oor die werk van
45 die Komitee, met inbegrip van die aangeleenthede in subartikel (1) gelys.

HOOFSTUK 3

PROSEDURES VIR REGERING VAN SAMEWERKING

Omgewingsimplementerings- en -bestuursplanne

11. (1) Elke nasionale departement wat in Bylae 1 gelys is wat werksaamhede verrig
50 wat die omgewing kan raak, en elke provinsie, moet 'n omgewingsimplementerings-plan voorberei binne een jaar na die afkondiging van hierdie Wet en minstens elke vier jaar daarna.

- (2) Elke nasionale departement wat in Bylae 2 gelys is wat werksaamhede verrig wat die bestuur van die omgewing raak, moet 'n omgewingsbestuursplan voorberei binne
55 een jaar na die afkondiging van hierdie Wet en minstens elke vier jaar daarna.

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(3) Every national department that is listed in both Schedule 1 and Schedule 2 may prepare a consolidated environmental implementation and management plan.

(4) Every organ of state referred to in subsections (1) and (2) must, in its preparation of an environmental implementation plan or environmental management plan, and before submitting such plan take into consideration every other environmental implementation plan and environmental management plan already adopted with a view to achieving consistency among such plans. 5

(5) The Minister may by notice in the *Gazette*—

- (a) extend the date for the submission of any environmental implementation plans and environmental management plans for periods not exceeding 12 months; 10
- (b) on application by any organ of state, or on his or her own initiative with the agreement of the relevant Minister where it concerns a national department, and after consultation with the Committee, amend Schedules 1 and 2.

(6) The Director-General must, at the request of a national department or province assist with the preparation of an environmental implementation plan. 15

(7) The preparation of environmental implementation plans and environmental management plans may consist of the assembly of information or plans compiled for other purposes and may form part of any other process or procedure.

(8) The Minister may issue guidelines to assist provinces and national departments in the preparation of environmental implementation and environmental management plans. 20

Purpose and objects of environmental implementation plans and environmental management plans

12. The purpose of environmental implementation and management plans is to—

- (a) co-ordinate and harmonise the environmental policies, plans, programmes and decisions of the various national departments that exercise functions that may affect the environment or are entrusted with powers and duties aimed at the achievement, promotion, and protection of a sustainable environment, and of provincial and local spheres of government, in order to— 25
 - (i) minimise the duplication of procedures and functions; and 30
 - (ii) promote consistency in the exercise of functions that may affect the environment;
- (b) give effect to the principle of co-operative government in Chapter 3 of the Constitution; 35
- (c) secure the protection of the environment across the country as a whole; 35
- (d) prevent unreasonable actions by provinces in respect of the environment that are prejudicial to the economic or health interests of other provinces or the country as a whole; and
- (e) enable the Minister to monitor the achievement, promotion, and protection of a sustainable environment. 40

Content of environmental implementation plans

13. (1) Every environmental implementation plan must contain:

- (a) a description of policies, plans and programmes that may significantly affect the environment;
- (b) a description of the manner in which the relevant national department or province will ensure that the policies, plans and programmes referred to in paragraph (a) will comply with the principles set out in section 2 as well as any national norms and standards as envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment; 45 50
- (c) a description of the manner in which the relevant national department or province will ensure that its functions are exercised so as to ensure compliance with relevant legislative provisions, including the principles set out in section 2, and any national norms and standards envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment; and 55

(3) Elke nasionale departement wat in beide Bylae 1 en Bylae 2 gelys is, kan 'n gekonsolideerde omgewingsimplementerings- en -bestuursplan voorberei.

(4) Elke staatsorgaan waarna daar in subartikels (1) en (2) verwys word moet, by sy voorbereiding van 'n omgewingsimplementerings- of omgewingsbestuursplan, en voordat sodanige plan voorgelê word, elke ander omgewingsimplementerings- en -bestuursplan wat alreeds aanvaar is, in aanmerking neem, met die oog daarop om konsekwentheid tussen sodanige planne te bereik.

(5) Die Minister kan by kennisgewing in die *Staatskoerant*—

(a) die datum vir die voorlegging van enige omgewingsimplementerings- of -bestuursplan, vir periodes wat nie 12 maande oorskry nie, verleng;

(b) by aansoek deur enige staatsorgaan, of op sy of haar eie inisiatief, met die toestemming van die betrokke Minister waar dit 'n nasionale departement betref, en na oorlegpleging met die Komitee, Bylaes 1 en 2 wysig.

(6) Die Direkteur-generaal moet, op versoek van 'n nasionale departement of provinsie, met die voorbereiding van 'n omgewingsimplementeringsplan bystand verleen.

(7) Die voorbereiding van omgewingsimplementerings- en -bestuursplanne kan bestaan uit die invordering van inligting of planne wat vir ander doeleindes saamgestel is en kan deel uitmaak van enige ander proses of prosedure.

(8) Die Minister kan riglyne uitreik om provinsies en nasionale departemente by te staan in die voorbereiding van omgewingsimplementerings- en -bestuursplanne.

Doel en oogmerke van omgewingsimplementerings- en -bestuursplanne

12. Die doel van omgewingsimplementerings- en -bestuursplanne is om—

(a) omgewingsbeleidsake, planne, programme en besluite van die onderskeie nasionale departemente wat werksaamhede verrig wat die omgewing mag raak of wat met bevoegdhede en pligte toevertrou is met die oog op die bereiking, bevordering en beskerming van 'n volhoubare omgewing, en van provinsiale en plaaslike regeringsfere, te koördineer en te harmonieer, ten einde—

(i) die duplisering van prosedures en werksaamhede so klein moontlik te hou; en

(ii) konsekwentheid in die verrigting van werksaamhede wat die omgewing mag raak, te bevorder;

(b) gevolg te gee aan die beginsels van regering van samewerking bedoel in Hoofstuk 3 van die Grondwet;

(c) die beskerming van die omgewing deur die land as 'n geheel te verseker;

(d) onredelike optredes deur provinsies met betrekking tot die omgewing wat nadelig vir die ekonomiese of gesondheidsbelange van ander provinsies of die land as 'n geheel is, te voorkom; en

(e) die Minister in staat te stel om die bereiking, bevordering en beskerming van 'n volhoubare omgewing te kontroleer.

Inhoud van omgewingsimplementeringsplanne

13. (1) Elke omgewingsimplementeringsplan bevat—

(a) 'n beskrywing van die beleid, planne en programme wat die omgewing beduidend kan raak;

(b) 'n beskrywing van die wyse waarop die betrokke nasionale departement of provinsie sal verseker dat die beleid, planne en programme bedoel in paragraaf (a) sal voldoen aan die beginsels in artikel 2 uiteengesit sowel as enige nasionale norme en standarde beoog kragtens artikel 146(2)(b)(i) van die Grondwet en deur die Minister gestel, of deur enige ander Minister, wat as hulle oogmerk die bereiking, bevordering en beskerming van die omgewing het;

(c) 'n beskrywing van die wyse waarop die betrokke nasionale departement of provinsie sal verseker dat sy werksaamhede verrig word ten einde nakoming van die toepaslike wetgewende bepalings, met inbegrip van die beginsels in artikel 2 uiteengesit, te verseker, en enige nasionale norme en standarde beoog kragtens artikel 146(2)(b)(i) van die Grondwet en deur die Minister gestel, of deur enige ander Minister, wat as hulle oogmerk die bereiking, bevordering en beskerming van die omgewing het; en

- (d) recommendations for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in Chapter 5.
- (2) The Minister may, after consultation with the Committee, make regulations for the purpose of giving effect to subsections (1)(b) and (c).

Content of environmental management plans

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14. Every environmental management plan must contain—

- (a) a description of the functions exercised by the relevant department in respect of the environment;
- (b) a description of environmental norms and standards, including norms and standards contemplated in section 146(2)(b)(i) of the Constitution, set or applied by the relevant department; 10
- (c) a description of the policies, plans and programmes of the relevant department that are designed to ensure compliance with its policies by other organs of state and persons;
- (d) a description of priorities regarding compliance with the relevant department's policies by other organs of state and persons; 15
- (e) a description of the extent of compliance with the relevant department's policies by other organs of state and persons;
- (f) a description of arrangements for co-operation with other national departments and spheres of government, including any existing or proposed memoranda of understanding entered into, or delegation or assignment of powers to other organs of state, with a bearing on environmental management; and 20
- (g) proposals for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in Chapter 5. 25

Submission, scrutiny and adoption of environmental implementation plans and environmental management plans

15. (1) Every environmental implementation plan and every environmental management plan must be submitted to the Committee by a date to be set by the Minister.

(2) (a) The Committee scrutinises every environmental implementation plan and either recommends adoption of such plan or reports to the Minister as well as every other Minister responsible for a department which is represented on the Committee and every Provincial Premier concerned on the extent to which the environmental implementation plan concerned fails to comply with— 30

- (i) the principles in section 2; 35
- (ii) the purpose and objectives of environmental implementation plans; or
- (iii) any relevant environmental management plan,

and specifies changes needed in the environmental implementation plan concerned.

(b) If the Committee recommends adoption of an environmental implementation plan, then the relevant organ of state must adopt and publish its plan in the relevant *Gazette* within 90 days of such approval and the plan becomes effective from the date of such publication. 40

(3) Any difference or disagreement between the Committee and a national department regarding either a failure to submit or the content of an environmental implementation plan may, if it cannot be resolved by agreement between the parties concerned, be referred by the Director-General for determination by the Minister in consultation with the Ministers responsible for the Department of Land Affairs, Department of Water Affairs and Forestry, Department of Minerals and Energy and Department of Constitutional Development. 45

(4) Any difference or disagreement between the Committee and a province regarding either a failure to submit or the content of an environmental implementation plan may, if it cannot be resolved by agreement between the parties concerned, be referred by the Director-General to conciliation in accordance with Chapter 4 and if such conciliation fails, or where the Director-General does not refer the dispute to conciliation, to the Minister with a request for intervention in accordance with section 100 of the Constitution: Provided that such disputes shall be dealt with in accordance with the act contemplated in section 41(2) of the Constitution, once promulgated. 50 55

- (d) aanbevelings ter bevordering van die oogmerke en planne vir die implementering van die prosedures en regulasies bedoel in Hoofstuk 5.
- (2) Die Minister kan, na oorlegpleging met die Komitee, regulasies uitvaardig ten einde aan subartikels (1)(b) en (c) gevolg te gee.

5 Inhoud van omgewingsbestuursplanne

14. Elke omgewingsbestuursplan bevat—

- (a) 'n beskrywing van die werksaamhede wat deur die betrokke departement met betrekking tot die omgewing verrig word;
- 10 (b) 'n beskrywing van die omgewingsnorme en -standaarde, met inbegrip van die norme en standaarde beoog in artikel 146(2)(b)(i) van die Grondwet, wat deur die betrokke departement bepaal of toegepas word;
- (c) 'n beskrywing van die beleid, planne en programme van die betrokke departement wat ontwerp is om nakoming van sy beleid deur ander staatsorgane en persone te verseker;
- 15 (d) 'n beskrywing van prioriteite rakende nakoming van die betrokke departement se beleid deur ander staatsorgane en persone;
- (e) 'n beskrywing van die mate van nakoming van die betrokke departement se beleid deur ander staatsorgane en persone;
- 20 (f) 'n beskrywing van ooreenkomste vir samewerking met ander nasionale departemente en regeringsfere, met inbegrip van bestaande of voorgestelde aktes van verstandhouding wat aangegaan is, of delegering of opdrag van bevoegdhede aan ander staatsorgane wat op omgewingsbestuur betrekking het; en
- 25 (g) voorstelle ter bevordering van die oogmerke en planne vir die implementering van die prosedure en regulasies bedoel in Hoofstuk 5.

Voorlegging, bestudering en aanneming van omgewingsimplementerings- en omgewingsbestuursplanne

- 15 (1) Elke omgewingsimplementeringsplan en elke omgewingsbestuursplan word aan die Komitee voorgelê op 'n datum deur die Minister bepaal te word.
- 30 (2) (a) Die Komitee bestudeer elke omgewingsimplementeringsplan noukeurig en beveel óf aanvaarding van sodanige plan aan óf doen verslag aan die Minister sowel as aan elke ander Minister wat vir 'n departement verantwoordelik is wat in die Komitee verteenwoordig is en elke betrokke Provinsiale Premier oor die mate waarin die betrokke omgewingsimplementeringsplan nie daarin slaag nie om te voldoen aan—
- 35 (i) die beginsels in artikel 2;
- (ii) die doel en oogmerke van die omgewingsimplementeringsplanne; of
- (iii) enige tersaaklike omgewingsbestuursplan,
- en vermeld enige veranderings wat in die betrokke omgewingsimplementeringsplan nodig is.
- 40 (b) Indien die Komitee die aanvaarding van 'n omgewingsimplementeringsplan aanbeveel, moet die betrokke staatsorgaan sy plan aanvaar en in die betrokke *Staatskoerant* publiseer binne 90 dae na sodanige goedkeuring, en die plan tree in werking vanaf die datum van sodanige publikasie.
- (3) Enige geskil of meningsverskil tussen die Komitee en 'n nasionale departement
- 45 betreffende óf 'n versuim om 'n omgewingsimplementeringsplan voor te lê, óf die inhoud daarvan, kan, indien dit nie by ooreenkoms tussen die betrokke partye opgelos kan word nie, deur die Direkteur-generaal verwys word vir vasstelling deur die Minister in oorlegpleging met die Ministers verantwoordelik vir die Departement van Grondskake, die Departement van Waterwese en Bosbou, die Departement van Minerale
- 50 en Energie en die Departement van Staatkundige Ontwikkeling.
- (4) Enige geskil of meningsverskil tussen die Komitee en 'n provinsie betreffende óf 'n versuim om 'n omgewingsimplementeringsplan voor te lê óf die inhoud daarvan, kan, indien dit nie by ooreenkoms tussen die betrokke partye opgelos kan word nie, deur die Direkteur-generaal vir bemiddeling ooreenkomstig Hoofstuk 4 verwys word,
- 55 en indien sodanige bemiddeling misluk, of waar die Direkteur-generaal nie die geskil vir bemiddeling verwys nie, word dit na die Minister verwys met die versoek om ooreenkomstig artikel 100 van die Grondwet toe te tree: Met dien verstande dat met sodanige geskille ooreenkomstig die wet beoog in artikel 41(2) van die Grondwet, sodra afgekondig, gehandel word.

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(5) A national department which has submitted an environmental management plan must adopt and publish its plan in the *Gazette* within 90 days of such submission and the plan becomes effective from the date of such publication.

(6) The exercise of functions by organs of state may not be delayed or postponed on account of—

- (a) the failure of any organ of state to submit an environmental implementation plan;
- (b) the scrutiny of any environmental implementation plan by the Committee;
- (c) the amendment of any environmental implementation plan following scrutiny of the plan by the Committee;
- (d) any difference or disagreement regarding any environmental implementation plan and the resolution of that difference or disagreement; or
- (e) the failure of any organ of state to adopt and publish its environmental implementation or management plan.

Compliance with environmental implementation plans and environmental management plans

16. (1) (a) Every organ of state must exercise every function it may have, or that has been assigned or delegated to it, by or under any law, and that may significantly affect the protection of the environment, substantially in accordance with the environmental implementation plan or the environmental management plan prepared, submitted and adopted by that organ of state in accordance with this Chapter: Provided that any substantial deviation from an environmental management plan or environmental implementation plan must be reported forthwith to the Director-General and the Committee.

(b) Every organ of state must report annually within four months of the end of its financial year on the implementation of its adopted environmental management plan or environmental implementation plan to the Director-General and the Committee.

(c) The Minister may, after consultation with the Committee, recommend to any organ of state which has not submitted and adopted an environmental implementation plan or environmental management plan, that it comply with a specified provision of an adopted environmental implementation plan or submitted environmental management plan.

(2) The Director-General monitors compliance with environmental implementation plans and environmental management plans and may—

- (a) take any steps or make any inquiries he or she deems fit in order to determine if environmental implementation plans and environmental management plans are being complied with by organs of state; and
- (b) if, as a result of any steps taken or inquiry made under paragraph (a), he or she is of the opinion that an environmental implementation plan and an environmental management plan is not substantially being complied with, serve a written notice on the organ of state concerned, calling on it to take such specified steps as the Director-General considers necessary to remedy the failure of compliance.

(3) (a) Within 30 days of the receipt of a notice contemplated in subsection (2)(b), an organ of state must respond to the notice in writing setting out any—

- (i) objections to the notice;
- (ii) steps that will be taken to remedy failures of compliance; or
- (iii) other information that the organ of state considers relevant to the notice.

(b) After considering the representations from the organ of state and any other relevant information, the Director-General must within 30 days of receiving a response referred to in paragraph (a) issue a final notice—

- (i) confirming, amending or cancelling the notice referred to in subsection (2)(b);
- (ii) specify steps and a time period within which steps must be taken to remedy the failure of compliance.

(c) If, after compliance with the provisions of paragraphs (a) and (b) there still remains a difference or disagreement between the organs of state and the Director-General, the organ of state may request the Minister to refer any difference or disagreement between itself and the Director-General regarding compliance with an environmental implementation plan, or the steps necessary to remedy a failure of compliance, to conciliation in accordance with Chapter 4.

(d) Where an organ of state does not submit any difference or disagreement to conciliation in accordance with paragraph (c), or if conciliation fails to resolve the

(5) 'n Nasionale departement wat 'n omgewingsbestuursplan voorgelê het moet sy plan aanneem en in die *Staatskoerant* publiseer binne 90 dae na sodanige voorlegging en die plan tree in werking vanaf die datum van sodanige publikasie.

(6) Die verrigting van werksaamhede deur staatsorgane mag nie vertraag of uitgestel word nie as gevolg van—

- (a) die versuim van 'n staatsorgaan om 'n omgewingsimplementeringsplan voor te lê;
- (b) die bestudering van 'n omgewingsimplementeringsplan deur die Komitee;
- (c) die wysiging van enige omgewingsimplementeringsplan na bestudering van die plan deur die Komitee;
- (d) enige geskil of meningsverskil ten opsigte van 'n omgewingsimplementeringsplan en die bylê van daardie geskil of meningsverskil; of
- (e) die versuim van enige staatsorgaan om sy omgewingsimplementerings- of -bestuursplan aan te neem en te publiseer.

15 Nakoming van omgewingsimplementerings- en -bestuursplanne

16. (1) (a) Elke staatsorgaan verrig elke werksaamheid wat hy mag hê, of wat aan hom opgedra of gedelegeer is by of kragtens enige wet, en wat die beskerming van die omgewing betekenisvol kan raak, hoofsaaklik ooreenkomstig die omgewingsimplementeringsplan of die omgewingsbestuursplan wat deur daardie staatsorgaan ooreen-

20 komstig hierdie Hoofstuk voorberei, voorgelê en aanvaar is: Met dien verstande dat enige wesenlike afwyking van 'n omgewingsimplementerings- of 'n -bestuursplan onverwyld aan die Direkteur-generaal en die Komitee gerapporteer word.

(b) Elke staatsorgaan moet jaarliks, binne vier maande na die einde van sy finansiële jaar, aan die Direkteur-generaal en die Komitee verslag doen oor die implementering

25 van sy aanvaarde omgewingsimplementerings- of -bestuursplan.

(c) Die Minister kan, na oorlegpleging met die Komitee, aan enige staatsorgaan wat nie 'n omgewingsimplementerings- of -bestuursplan voorgelê en aanvaar het nie, aanbeveel om 'n besondere bepaling van 'n aanvaarde omgewingsimplementeringsplan of voorgelegde omgewingsbestuursplan, na te kom.

30 (2) Die Direkteur-generaal kontroleer die nakoming van omgewingsimplemen-terings- en -bestuursplanne en kan—

(a) enige stappe doen of navrae rig wat hy of sy doenlik ag ten einde vas te stel of omgewingsimplementerings- en -bestuursplanne deur staatsorgane nagekom word; en

35 (b) indien hy of sy uit hoofde van stappe wat gedoen is of navrae wat gerig is kragtens paragraaf (a), van oordeel is dat 'n omgewingsimplementerings- en -bestuursplan nie wesenlik nagekom word nie, 'n kennisgewing op die betrokke staatsorgaan beteken en hom versoek om sodanige bepaalde stappe te doen wat die Direkteur-generaal nodig ag om die nie-nakoming reg te stel.

40 (3) (a) Binne 30 dae na ontvangs van 'n kennisgewing beoog in subartikel (2)(b), moet 'n staatsorgaan skriftelik op die kennisgewing reageer, en moet uiteensit—

(i) enige besware teen die kennisgewing;

(ii) enige stappe wat gedoen staan te word om die versuim of nie-nakoming reg te stel; of

45 (iii) enige ander inligting wat die staatsorgaan meen op die kennisgewing betrekking het.

(b) Nadat die verhoë van die staatsorgaan en enige ander tersaaklike inligting oorweeg is, moet die Direkteur-generaal, binne 30 dae vanaf die ontvangs van 'n reaksie bedoel in paragraaf (a), 'n finale kennisgewing uitreik wat—

50 (i) die kennisgewing bedoel in subartikel (2)(b) bevestig, wysig of intrek;

(ii) stappe vermeld en 'n tydperk vermeld waarbinne stappe gedoen moet word om die versuim van nie-nakoming reg te stel.

(c) Indien, na die nakoming van die bepalings van paragrafe (a) en (b), daar steeds 'n geskil of meningsverskil tussen die staatsorgaan en die Direkteur-generaal is, kan die

55 staatsorgaan die Minister versoek om die geskil of meningsverskil tussen hom en die Direkteur-generaal rakende nakoming van 'n omgewingsimplementeringsplan, of die stappe wat nodig is om 'n versuim of nie-nakoming reg te stel, vir versoening ooreenkomstig Hoofstuk 4 te verwys.

(d) Waar 'n staatsorgaan nie enige geskil of meningsverskil vir versoening

60 ooreenkomstig paragraaf (c) verwys nie, of indien versoening nie daarin slaag om die saak op te los nie, kan die Direkteur-generaal, binne 60 dae na die finale kennisgewing

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matter, the Director-General may within 60 days of the final notice referred to in paragraph (b) if the matter has not been submitted to conciliation, or within 30 days of the date of conciliation, as the case may be—

- (i) where the organ of State belongs to the provincial sphere of government, request the Minister to intervene in accordance with section 100 of the Constitution: Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in section 41(2) of the Constitution once promulgated; 5
 - (ii) where the organ of State belongs to the local sphere of government, request the MEC to intervene in accordance with section 139 of the Constitution: Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in section 41(2) of the Constitution once promulgated; or 10
 - (iii) where the organ of state belongs to the national sphere of government refer the matter for determination by the Minister in consultation with the Ministers responsible for the Department of Land Affairs, Department of Water Affairs and Forestry, Department of Minerals and Energy and Department of Constitutional Development. 15
- (4) Each provincial government must ensure that—
- (a) the relevant provincial environmental implementation plan is complied with by each municipality within its province and for this purpose the provisions of subsections (2) and (3) must apply with the necessary changes; and 20
 - (b) municipalities adhere to the relevant environmental implementation and management plans, and the principles contained in section 2 in the preparation of any policy, programme or plan, including the establishment of integrated development plans and land development objectives. 25
- (5) The Director-General must keep a record of all environmental implementation plans and environmental management plans, relevant agreements between organs of state and any reports submitted under subsection (1)(b); and such plans, reports and agreements must be available for inspection by the public. 30

CHAPTER 4**FAIR DECISION-MAKING AND CONFLICT MANAGEMENT****Reference to conciliation**

17. (1) Any Minister, MEC or Municipal Council—
- (a) where a difference or disagreement arises concerning the exercise of any of its functions which may significantly affect the environment, or 35
 - (b) before whom an appeal arising from a difference or disagreement regarding the protection of the environment is brought under any law, may, before reaching a decision, consider the desirability of first referring the matter to conciliation and— 40
- (i) must if he, she or it considers conciliation appropriate either—
 - (aa) refer the matter to the Director-General for conciliation under this Act; or
 - (bb) appoint a conciliator on the conditions, including time-limits, that he, she or it may determine; or
 - (cc) where a conciliation or mediation process is provided for under any other relevant law administered by such Minister, MEC or Municipal Council, refer the matter for mediation or conciliation under such other law; or 45
 - (ii) if he, she or it considers conciliation inappropriate or if conciliation has failed, make a decision: Provided that the provisions of section 4 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), shall prevail in respect of decisions in terms of that Act and laws contemplated in subsection 1(c) thereof. 50
- (2) Anyone may request the Minister, a MEC or Municipal Council to appoint a facilitator to call and conduct meetings of interested and affected parties with the purpose of reaching agreement to refer a difference or disagreement to conciliation in terms of this Act, and the Minister, MEC or Municipal Council may, subject to section 22, appoint a facilitator and determine the manner in which the facilitator must carry out his or her tasks, including time-limits. 55

bedoel in paragraaf (b), indien die saak nie vir versoening verwys is nie, of binne 30 dae vanaf die datum van versoening, na gelang van die geval—

- (i) waar die staatsorgaan tot die provinsiale regeringsfeer behoort, die Minister versoek om ooreenkomstig artikel 100 van die Grondwet toe te tree: Met dien verstande dat met sodanige geskil of meningsverskil ooreenkomstig die wet beoog in artikel 41(2) van die Grondwet, sodra afgekondig, gehandel word;
 - (ii) waar die staatsorgaan tot die plaaslike regeringsfeer behoort, die LUR versoek om ooreenkomstig artikel 139 van die Grondwet toe te tree: Met dien verstande dat so 'n geskil of meningsverskil mee gehandel moet word ooreenkomstig die Wet beoog in artikel 41(2) van die Grondwet; of
 - (iii) waar die staatsorgaan tot die nasionale regeringsfeer behoort, die aangeleentheid vir vasstelling deur die Minister verwys, in oorlegpleging met die Ministers wat verantwoordelik is vir die Departement van Grondsake, Departement van Waterwese en Bosbou, Departement van Minerale en Energie en Departement van Staatkundige Ontwikkeling.
- (4) Elke provinsiale regering moet verseker dat—
- (a) die betrokke provinsiale omgewingsimplementeringsplan deur elke munisipaliteit binne sy provinsie nagekom word, en vir dié doel is die bepalinge van subartikels (2) en (3), met die nodige aanpassings, van toepassing; en
 - (b) munisipaliteite gevolg gee aan die betrokke omgewingsimplementerings- en -bestuursplanne, en die beginsels vervat in artikel 2 in die voorbereiding van 'n beleid, program of plan, met inbegrip van die instelling van geïntegreerde ontwikkelingsplanne en grondontwikkelingsoogmerke.
- (5) Die Direkteur-generaal hou 'n rekord van al die omgewingsimplementerings- en -bestuursplanne, tersaaklike ooreenkomste tussen staatsorgane en enige verslae wat kragtens subartikel (1)(b) voorgelê is, en sodanige planne, verslae en ooreenkomste is ter insae vir die publiek beskikbaar.

HOOFSTUK 4

BILLIKE BESLUITNEMING EN KONFLIKBESTUUR

30 Verwysing vir versoening

17. (1) Enige Minister, LUR of Munisipale Raad—
- (a) waar 'n geskil of meningsverskil ontstaan betreffende die verrigting van enige van sy werksaamhede wat die omgewing beduidend kan raak; of
 - (b) voor wie 'n appèl, wat ontstaan uit 'n geskil of meningsverskil betreffende die beskerming van die omgewing, kragtens enige wet gebring word, kan, alvorens 'n beslissing bereik word, die wenslikheid oorweeg om eers die aangeleentheid vir versoening te verwys en—
- (i) moet, indien hy of sy versoening gepas ag, óf—
 - (aa) die aangeleentheid na die Direkteur-generaal vir versoening kragtens hierdie Wet verwys; of
 - (bb) 'n versoener aanstel op die voorwaardes, met inbegrip van tydsbeperkings, wat hy of sy mag bepaal; of
 - (cc) waar vir 'n versoenings- of bemiddelingsproses kragtens enige ander tersaaklike wet wat deur sodanige Minister, LUR of Munisipale Raad geadministreer word, voorsiening gemaak word, die aangeleentheid vir bemiddeling of versoening kragtens sodanige wet verwys; óf
 - (ii) indien hy of sy versoening nie gepas ag nie, of indien versoening nie geslaag het nie, 'n beslissing maak: Met dien verstande dat die bepalinge van artikel 4 van die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995), geld met betrekking tot beslissings ingevolge daardie Wet en wette beoog in artikel 1(c) daarvan.
- (2) Enigiemand kan die Minister, 'n LUR of Munisipale Raad versoek om 'n fasiliteerder aan te stel om vergaderings van belanghebbende partye en geaffekteerde partye byeen te roep en te hou met die doel om ooreen te kom om 'n geskil of meningsverskil vir versoening ingevolge hierdie Wet te verwys, en die Minister, LUR of Munisipale Raad kan, behoudens artikel 22, 'n fasiliteerder aanstel en die wyse bepaal waarop die fasiliteerder sy of haar take, met inbegrip van tydsbeperkings, moet uitvoer.

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(3) A court or tribunal hearing a dispute regarding the protection of the environment may order the parties to submit the dispute to a conciliator appointed by the Director-General in terms of this Act and suspend the proceedings pending the outcome of the conciliation.

Conciliation

5

18. (1) Where a matter has been referred to conciliation in terms of this Act, the Director-General may, on the conditions, including time-limits, that he or she may determine, appoint a conciliator acceptable to the parties to assist in resolving a difference or disagreement: Provided that if the parties to the difference or disagreement do not reach agreement on the person to be appointed, the Director-General may appoint a person who has adequate experience in or knowledge of conciliation of environmental disputes. 10

(2) A conciliator appointed in terms of this Act must attempt to resolve the matter—

(a) by obtaining such information whether documentary or oral as is relevant to the resolution of the difference or disagreement; 15

(b) by mediating the difference or disagreement;

(c) by making recommendations to the parties to the difference or disagreement; or

(d) in any other manner that he or she considers appropriate.

(3) In carrying out his or her functions, a conciliator appointed in terms of this Act must take into account the principles contained in section 2. 20

(4) A conciliator may keep or cause to be kept, whether in writing or by mechanical or electronic means, a permanent record of all or part of the proceedings relating to the conciliation of a matter.

(5) Where such record has been kept, any member of the public may obtain a readable copy of the record upon payment of a fee as approved by Treasury. 25

(6) Where conciliation does not resolve the matter, a conciliator may enquire of the parties whether they wish to refer the matter to arbitration and may with their concurrence endeavour to draft terms of reference for such arbitration.

(7) (a) The conciliator must submit a report to the Director-General, the parties and the person who referred the matter for conciliation, setting out the result of his or her conciliation, and indicating whether or not an agreement has been reached. 30

(b) In the event of no agreement having been reached, the report may contain his or her recommendations and reasons therefor.

(c) Where relevant, the report must contain the conciliator's comments on the conduct of the parties. 35

(d) The report and any agreement reached as a result of the conciliation must be available for inspection by the public and any member of the public may obtain a copy thereof upon payment of a fee as approved by Treasury.

(8) The Director-General may from time to time with the concurrence of the Minister of Finance, appoint persons or organisations with relevant knowledge or expertise to provide conciliation and mediation services. 40

Arbitration

19. (1) A difference or disagreement regarding the protection of the environment may be referred to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965). 45

(2) Where a dispute or disagreement referred to in subsection (1) is referred to arbitration the parties thereto may appoint as arbitrator a person from the panel of arbitrators established in terms of section 21.

Investigation

20. The Minister may at any time appoint one or more persons to assist either him or her or, after consultation with a Municipal Council or MEC or another national Minister, to assist such a Municipal Council or MEC or another national Minister in the evaluation of a matter relating to the protection of the environment by obtaining such information, whether documentary or oral, as is relevant to such evaluation and to that end— 50

(3) 'n Hof of tribunaal wat 'n dispuut oor die beskerming van die omgewing aanhoor kan die partye beveel om die dispuut aan 'n versoener wat ingevolge hierdie Wet deur die Direkteur-generaal aangestel is, voor te lê, en die verrigtinge ópskort hangende die uitslag van die versoening.

5 Versoening

18. (1) Waar 'n aangeleentheid vir versoening ingevolge hierdie Wet verwys is, kan die Direkteur-generaal, op die voorwaardes, met inbegrip van tydsbeperkings, wat hy of sy mag bepaal, 'n versoener aanwys wat vir die partye aanvaarbaar is ten einde by die oplossing van die geskil of meningsverskil behulpzaam te wees: Met dien verstande
10 dat indien die partye tot die geskil of meningsverskil nie ooreenkoms bereik oor die persoon wat aangestel staan te word nie, die Direkteur-generaal 'n persoon kan aanstel wat gepaste ondervinding het in of kennis het oor die versoening van omgewings-geskille.

(2) 'n Versoener wat ingevolge hierdie Wet aangestel is, moet poog om die saak op
15 te los—

- (a) deur sodanige inligting te bekom, hetsy dokumentêr of mondeling, as wat ter sake is ter oplossing van die geskil of meningsverskil;
- (b) deur die geskil of meningsverskil deur bemiddeling te skik;
- (c) deur aanbevelings aan die partye ten opsigte van die geskil of meningsverskil
20 te doen; of
- (d) op enige ander wyse wat hy of sy geskik ag.

(3) By die verrigting van sy of haar werksaamhede, neem die versoener wat ingevolge hierdie Wet aangestel is, die beginsels in aanmerking in artikel 2 vervat.

(4) Die versoener kan, hetsy skriftelik of deur middel van meganiese of elektroniese
25 wyse, 'n permanente rekord hou of laat hou van die geheel of 'n gedeelte van die verrigtinge wat verband hou met die versoening van 'n aangeleentheid.

(5) Waar sodanige rekord gehou is, kan enige lid van die publiek 'n leesbare afskrif van die rekord bekom by betaling van 'n fooi deur die Tesourie goedgekeur.

(6) Waar versoening nie die saak oplos nie, kan die versoener die partye vra of hulle
30 die saak vir arbitrasie wil verwys en kan in oorleg met hulle poog om die opdrag vir sodanige arbitrasie op te stel.

(7) (a) Die versoener lê 'n verslag aan die Direkteur-generaal, die partye en die persoon wat die saak vir versoening verwys het voor, wat die uitslag van sy of haar versoening uiteensit, en wat aandui of 'n ooreenkoms bereik is al dan nie.

35 (b) In die geval waar geen ooreenkoms bereik is nie, bevat die verslag sy of haar aanbevelings en redes daarvoor.

(c) Waar ter sake, vervat die verslag die versoener se kommentaar oor die gedrag van die partye.

(d) Enige lid van die publiek kan teen betaling van 'n fooi deur die Tesourie
40 goedgekeur, 'n afskrif van die verslag en enige ooreenkoms wat as gevolg van die versoening bereik is, bekom.

(8) Die Direkteur-generaal kan van tyd tot tyd, met die instemming van die Minister van Finansies, persone of organisasies aanstel wat oor relevante kennis of kundigheid beskik om versoening- en bemiddelingsdienste te voorsien.

45 Arbitrasie

19. (1) 'n Geskil of meningsverskil rakende die beskerming van die omgewing kan ingevolge die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965) verwys word vir arbitrasie.

(2) Waar 'n geskil of meningsverskil waarna in subartikel (1) verwys word vir
50 arbitrasie verwys word, kan die partye daartoe 'n persoon as arbiter aanstel uit die paneel arbiters wat ingevolge artikel 21 ingestel is.

Ondersoek

20. Die Minister kan te eniger tyd een of meer persone aanstel om of hom of haar of, na oorlegpleging met 'n Munisipale Raad of LUR of 'n ander nasionale Minister,
55 so 'n Munisipale Raad of LUR of 'n ander nasionale Minister, by te staan by die evaluering van 'n aangeleentheid wat betrekking het op die beskerming van die omgewing deur die verkryging van sodanige inligting, hetsy dokumentêr of mondelings, wat ter sake is vir sodanige evaluering en vir dié doel—

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- (a) the Minister may by notice in the *Gazette* give such person or persons the powers of a Commission of Inquiry under the Commissions Act, 1947 (Act No. 8 of 1947);
- (b) the Minister may make rules by notice in the *Gazette* for the conduct of the inquiry: Provided that the decision of the inquiry and the reasons therefor must be reduced to writing; 5
- (c) the Director-General must designate, subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as many officers and employees of the Department as may be necessary to assist such person and any work may be performed by a person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of Finance may determine. 10

Appointment of panel and remuneration

21. (1) The Minister may, with the concurrence of the Minister of Finance, determine remuneration and allowances, either in general or in any particular case, to be paid from money appropriated by Parliament for that purpose to any person or persons appointed in terms of this Act to render facilitation, conciliation, arbitration or investigation services, who are not in the full-time employment of the State. 15

(2) The Minister may create a panel or panels of persons from which appointment of facilitators and arbitrators in terms of this Act may be made, or contracts entered into in terms of this Act. 20

(3) The Minister may, pending the establishment of a panel or panels in terms of subsection (2), adopt the panel established in terms of section 31(1) of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996).

Relevant considerations, report and designated officer

25

22. (1) Decisions under this Act concerning the reference of a difference or disagreement to conciliation, the appointment of a conciliator, the appointment of a facilitator, the appointment of persons to conduct investigations, and the conditions of such appointment, must be made taking into account—

- (a) the desirability of resolving differences and disagreements speedily and cheaply; 30
- (b) the desirability of giving indigent persons access to conflict resolution measures in the interest of the protection of the environment;
- (c) the desirability of improving the quality of decision-making by giving interested and affected persons the opportunity to bring relevant information to the decision-making process; 35
- (d) any representations made by persons interested in the matter; and
- (e) such other considerations relating to the public interest as may be relevant.

(2) (a) The Director-General shall keep a record and prepare an annual report on environmental conflict management for submission to the Committee and the Forum, for the purpose of evaluating compliance and conflict management measures in respect of environmental laws. 40

(b) The record and report referred to in paragraph (a) may include the following:

- (i) Proceedings under this chapter, including reports of conciliators and agreements reached; 45
- (ii) proceedings under Chapter 7, including complaints, charges and judgements;
- (iii) proceedings under other laws listed in Schedule 3;
- (iv) proceedings by the Human Rights Commission and the Public Protector.

(c) The Director-General shall designate an officer to provide information to the public on appropriate dispute resolution mechanisms for referral of disputes and complaints. 50

(d) The reports, records and agreements referred to in this subsection must be available for inspection by the public.

- (a) kan die Minister by kennisgewing in die *Staatskoerant* sodanige persoon of persone die bevoegdhede verleen van 'n Kommissie van Onderzoek kragtens die Kommissiewet, 1947 (Wet No. 8 van 1947);
- 5 (b) kan die Minister by kennisgewing in die *Staatskoerant* reëls uitvaardig vir die hou van die ondersoek: Met dien verstande dat die beslissing van die ondersoek en die redes daarvoor op skrif gestel moet word;
- (c) moet die Direkteur-generaal, behoudens die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), soveel beamptes en werknemers van die Departement aanwys as wat nodig is om sodanige
- 10 persoon by te staan en enige werk kan verrig word deur 'n persoon anders as sodanige beampte of werknemer teen vergoeding en toelaes wat die Minister, met die instemming van die Minister van Finansies, bepaal.

Aanstelling van paneel en vergoeding

21. (1) Die Minister kan, met die instemming van die Minister van Finansies, vergoeding en toelaes bepaal, of in die algemeen of in 'n besondere geval, wat aan
- 15 enige persoon of persone wat ingevolge hierdie Wet aangestel is om fasiliterings-, versoenings-, arbitrasie- of ondersoekdienste te verleen, en wat nie in die voltydse diens van die Staat is nie, betaal word uit geld wat vir die doel deur die Parlement bewillig word.
- 20 (2) Die Minister kan 'n paneel of panele van persone instel waaruit die aanstelling van fasiliteerders en arbiters ingevolge hierdie Wet gedoen word, of kontrakte ingevolge hierdie Wet aangegaan word.
- (3) Die Minister kan, hangende die aanstelling van 'n paneel of panele ingevolge subartikel (2), die paneel wat ingevolge artikel 31(1) van die Wet op Grondhervorming
- 25 (Huurarbeiders) 1996 (Wet No. 3 van 1996), ingestel is, aanvaar.

Tersaaklike oorwegings, verslag en aangewysde beampte

22. (1) Besluite kragtens hierdie Wet betreffende die verwysing van 'n geskil of meningsverskil vir versoening, die aanstelling van 'n versoener, die aanstelling van 'n fasiliteerder, die aanstelling van persone om ondersoeke te voer, en die voorwaardes
- 30 van sodanige aanstelling, word gedoen met inagneming van—
- (a) die wenslikheid om geskille en meningsverskille spoedig en goedkoop op te los;
 - (b) die wenslikheid om aan behoeftige persone toegang te gee tot konflikbeslegtingsmaatreëls in die belang van die beskerming van die omgewing;
 - 35 (c) die wenslikheid om die gehalte van besluitneming te verbeter deur die geleentheid aan belanghebbende en geaffekteerde persone te bied om tersaaklike inligting tot die besluitnemingsproses by te dra;
 - (d) enige verhoë wat gemaak word deur persone wat 'n belang by die saak het; en
 - 40 (e) sodanige ander oorwegings wat verband hou met die openbare belang wat ter sake mag wees.
- (2) (a) Die Direkteur-generaal moet rekord hou van en 'n jaarlikse verslag opstel oor omgewingskonflikbestuur vir voorlegging aan die Komitee en die Forum, vir die doeleindes daarvan om nakoming- en konflikbestuursmaatreëls vir omgewingswette te
- 45 beoordeel.
- (b) Die rekord en verslag in paragraaf (a) genoem kan die volgende insluit:
- (i) Verrigtinge kragtens hierdie Hoofstuk, met inbegrip van verslae van versoeners en ooreenkomste wat bereik is;
 - (ii) verrigtinge kragtens Hoofstuk 7, met inbegrip van klagtes, aanklagte en vonnisse;
 - 50 (iii) verrigtinge kragtens ander wette in Bylae 3 gelys;
 - (iv) verrigtinge deur die Menseregtekommissie en die Openbare Beskermer.
- (c) Die Direkteur-generaal moet 'n beampte aanwys om inligting aan die publiek te verskaf oor gepaste dispuutbeslegtingsmeganismes vir verwysing van dispute en
- 55 klagtes.
- (d) Die verslae, rekords en ooreenkomste in hierdie subartikel genoem, moet beskikbaar wees vir insae deur die publiek.

CHAPTER 5

INTEGRATED ENVIRONMENTAL MANAGEMENT

General objectives

23. (1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities. 5

(2) The general objective of integrated environmental management is to—

- (a) promote the integration of the principles of environmental management set out in section 2 into the making of all decisions which may have a significant effect on the environment; 10
- (b) identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in section 2; 15
- (c) ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;
- (d) ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment; 20
- (e) ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment; and
- (f) identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management set out in section 2. 25

(3) The Director-General must coordinate the activities of organs of state referred to in section 24(1) and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the co-ordination of procedures.

Implementation 30

24. (1) In order to give effect to the general objectives of integrated environmental management laid down in this Chapter, the potential impact on—

- (a) the environment;
- (b) socio-economic conditions; and
- (c) the cultural heritage, 35

of activities that require authorisation or permission by law and which may significantly affect the environment, must be considered, investigated and assessed prior to their implementation and reported to the organ of state charged by law with authorising, permitting, or otherwise allowing the implementation of an activity.

(2) The Minister may with the concurrence of the MEC, and every MEC may with the concurrence of the Minister, in the prescribed manner— 40

- (a) identify activities which may not be commenced without prior authorisation from the Minister or MEC;
- (b) identify geographical areas in which specified activities may not be commenced without prior authorisation from the Minister or MEC and specify such activities; 45
- (c) make regulations in accordance with subsections (3) and (4) in respect of such authorisations;
- (d) identify existing authorised and permitted activities which must be considered, assessed, evaluated and reported on; and 50
- (e) prepare compilations of information and maps that specify the attributes of the environment in particular geographical areas, including the sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every organ of state charged by law with authorising, permitting or otherwise allowing the implementation of a new activity, or with considering, 55 assessing and evaluating an existing activity:

HOOFSTUK 5

GEÏNTEGREERDE OMGEWINGSBESTUUR

Algemene doelstellings

23. (1) Die doel van hierdie Hoofstuk is om die toepassing van geskikte omgewingsbestuurhulpmiddels te bevorder ten einde geïntegreerde omgewingsbestuur te verseker.

(2) Die algemene doel van geïntegreerde omgewingsbestuur is—

- (a) om die inskakeling van die beginsels van omgewingsbestuur in artikel 2 uiteengesit, te bevorder by die neem van alle beslissings wat 'n beduidende uitwerking op die omgewing kan hê;
- (b) om die werklike en potensiele inwerking op die omgewing, sosio-ekonomiese toestande en kultuurerfenis, die risiko's en gevolge en alternatiewe opsies vir die verligting van aktiwiteite te identifiseer, te voorspel en te evalueer, met die doel om negatiewe inwerkings so min moontlik te hou, voordele so groot moontlik te hou, en die nakoming van die beginsels van omgewingsbestuur in artikel 2 uiteengesit te bevorder;
- (c) om te verseker dat die gevolge van aktiwiteite op die omgewing voldoende oorweging geniet voordat stappe in verband daarmee gedoen word;
- (d) om voldoende en gepaste geleentheid vir openbare deelname in beslissings wat die omgewing mag raak, te verseker;
- (e) om die oorweging van omgewingseienskappe in bestuur en besluitneming, wat die omgewing beduidend kan raak, te verseker; en
- (f) om die mees geskikte metodes van omgewingsbestuur te verseker en in werking te stel ten einde te verseker dat 'n besondere aktiwiteit nagevolg word ooreenkomstig die beginsels van omgewingsbestuur in artikel 2 uiteengesit.

(3) Die Direkteur-generaal koördineer die aktiwiteite van staatsorgane waarna in artikel 24(1) verwys word en verleen aan hulle hulp ten einde gevolg te gee aan die oogmerke van hierdie artikel, en sodanige hulp kan insluit opleiding, die publisering van handleidings en riglyne en die koördinering van prosedures.

Implementering

24. (1) Ten einde gevolg te gee aan die algemene doelstellings van geïntegreerde omgewingsbestuur in hierdie Hoofstuk neergelê, word die potensiele inwerking op—

- (a) die omgewing;
- (b) sosio-ekonomiese toestande; en
- (c) die kultuurerfenis,

van aktiwiteite wat magtiging of toestemming kragtens wet vereis, en wat die omgewing beduidend kan raak, oorweeg, ondersoek en vasgestel, voordat hulle geïmplementeer word, en word meegedeel aan die staatsorgaan wat regtens belas is met die magtiging, toestemming of andersins die toelating van die implementering van 'n aktiwiteit.

(2) Die Minister kan, met die instemming van die LUR, en elke LUR kan, met die instemming van die Minister, op die voorgeskrewe wyse—

- (a) aktiwiteite identifiseer waarmee nie 'n aanvang geneem kan word sonder die vooraf magtiging van die Minister of die LUR nie;
- (b) geografiese gebiede identifiseer waarbinne besondere aktiwiteite nie 'n aanvang kan neem sonder die vooraf magtiging van die Minister of die LUR nie, en sodanige aktiwiteite vermeld;
- (c) regulasies ooreenkomstig subartikel (3) en (4) met betrekking tot sodanige magtigings uitvaardig;
- (d) bestaande gemagtigde en toegelate aktiwiteite identifiseer, wat oorweeg, vasgestel, geëvalueer en waaroor verslag gedoen moet word; en
- (e) die samestelling van inligting en kaarte voorberei wat die eienskappe van die omgewing in besondere geografiese gebiede vermeld, met inbegrip van die sensitiwiteit, omvang, onderlinge verhouding en betekenis van sodanige eienskappe wat in aanmerking geneem moet word deur elke staatsorgaan wat regtens belas is met die magtiging, toestemming of andersins die toelating van die implementering van 'n nuwe aktiwiteit of met die oorweging, vasstelling en evaluering van bestaande aktiwiteite.

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Provided that where authorisation for an activity falls under the jurisdiction of another Minister, a decision in respect of paragraph (a) or (b) must be taken in consultation with such other Minister.

(3) (a) The investigation, assessment and communication of the potential impact of activities contemplated in subsection (1) must take place in accordance with procedures complying with subsection (7). 5

(b) Every Minister and MEC responsible for an organ of state that is charged by law with authorising, permitting, or otherwise allowing an activity contemplated in subsection (1) may prescribe regulations laying down the procedures to be followed and the report to be prepared for the purpose of compliance with paragraph (a). 10

(c) Any regulations made in terms of this subsection or any other law that contemplates the assessment of the potential environmental impact of activities must, notwithstanding any other law, comply with subsection (7).

(d) This section does not affect the validity of any law contemplated in paragraph (c) that is in force at the commencement of this Act, including the provisions and regulations referred to in section 50(2): Provided that paragraph (a) must nevertheless be complied with. 15

(4) Before any regulations are prescribed under this section or any other law that contemplates the assessment of the potential environmental impact of activities, and notwithstanding such other law— 20

(a) a Minister or MEC must submit a draft of such regulations to the Committee;

(b) the Committee must within 30 days of the receipt of such draft regulations—

(i) determine whether the draft regulations would bring about a duplication of effort by persons initiating activities contemplated in subsection (1) in the investigation and assessment of the potential impacts of activities that require authorisation or permission from more than one organ of state; and 25

(ii) approve the draft regulations unless they would bring about such a duplication of effort; or

(iii) specify amendments to be made to such draft regulations in order to avoid such a duplication of effort; 30

(c) a Minister or MEC must—

(i) where such draft regulations have been approved by the Committee, follow the procedure prescribed in section 47; or

(ii) give effect to the amendments specified by the Committee, and thereafter follow the procedure prescribed in section 47. 35

(5) Compliance with the procedure laid down by a Minister or MEC does not remove the need to obtain authorisation for that activity from any other organ of state charged by law with authorising, permitting or otherwise allowing the implementation of the activity. 40

(6) The Minister may make regulations in accordance with subsections (3) and (4) stipulating the procedure to be followed and the report to be prepared in investigating, assessing and communicating potential impacts for the purpose of complying with subsection (1) where—

(a) the activity will affect the interest of more than one province or traverse international boundaries; 45

(b) the activity will affect compliance with obligations resting on the Republic under customary or conventional international law; or

(c) an activity contemplated in subsection (1) is not dealt with in regulations made under subsection (3). 50

(7) Procedures for the investigation, assessment and communication of the potential impact of activities must, as a minimum, ensure the following:

(a) Investigation of the environment likely to be significantly affected by the proposed activity and alternatives thereto;

(b) investigation of the potential impact, including cumulative effects, of the activity and its alternatives on the environment, socio-economic conditions and cultural heritage, and assessment of the significance of that potential impact; 55

(c) investigation of mitigation measures to keep adverse impacts to a minimum, as well as the option of not implementing the activity; 60

Met dien verstande dat waar die magtiging van 'n aktiwiteit onder die jurisdiksie van 'n ander Minister val, 'n besluit met betrekking tot paragraaf (a) of (b) in oorlegpleging met sodanige ander Minister geneem word.

(3) (a) Die ondersoek, vasstelling en kommunisering van die potensiële inwerking van aktiwiteite in subartikel (1) bedoel, moet plaasvind in ooreenstemming met prosedures wat aan subartikel (7) voldoen.

(b) Elke Minister en LUR verantwoordelik vir 'n staatsorgaan wat regtens belas word met die magtiging, permittering of die toelating andersins van 'n aktiwiteit in subartikel (1) bedoel, kan regulasies voorskryf waarin die prosedures wat gevolg moet word en die verslag wat voorberei moet word om aan paragraaf (a) te voldoen, bepaal word.

(c) 'n Regulasie wat ingevolge hierdie subartikel of enige ander wet gemaak is en wat die vasstelling van die potensiële omgewingsinwerking of aktiwiteit beoog, moet, ondanks enige ander wet, aan subartikel (7) voldoen.

(d) Hierdie artikel raak nie die geldigheid van enige wet in paragraaf (c) bedoel wat van krag is by die inwerkingtreding van hierdie Wet nie, met inbegrip van die bepalings en regulasies in artikel 50(2) genoem: Met dien verstande dat paragraaf (a) nogtans aan voldoen moet word.

(4) Alvorens enige regulasies voorgeskryf word kragtens hierdie artikel of enige ander wet wat die vasstelling of die potensiële omgewingsinwerking van aktiwiteite beoog, en ondanks sodanige ander wet—

(a) moet 'n Minister of LUR 'n konsep van sodanige regulasies aan die Komitee voorlê;

(b) moet die Komitee binne 30 dae na die ontvangs van sodanige konsep-regulasies—

(i) bepaal of die konsepregulasies duplisering sal meebring van pogings deur persone wat aktiwiteite beoog in subartikel (1) inisieer in die ondersoek en vasstelling van die potensiële inwerkings van aktiwiteite wat magtiging of toestemming van meer as een staatsorgaan vereis; en

(ii) die konsepregulasies goedkeur, tensy hulle sodanige duplisering van 'n poging sal meebring; of

(iii) wysigings vermeld wat aan sodanige konsepregulasies aangebring moet word ten einde sodanige duplikasie van 'n poging te vermy;

(c) moet 'n Minister of LUR—

(i) waar sodanige konsepregulasies deur die Komitee goedgekeur is, die prosedure volg wat in artikel 47 voorgeskryf word; of

(ii) gevolg gee aan die wysigings wat deur die Komitee vermeld word, en daarna die prosedure in artikel 47 voorgeskryf, volg.

(5) Nakoming van die prosedures wat deur 'n Minister of LUR neergelê is, verwyder nie die noodsaaklikheid om magtiging vir daardie aktiwiteit te verkry nie van enige ander staatsorgaan wat met die magtiging, toestemming of andersins die toelating van die implementering van die aktiwiteit belas is nie.

(6) Die Minister kan regulasies in ooreenstemming met subartikels (3) en (4) uitvaardig wat die prosedure neerlê wat gevolg moet word en die verslag wat voorberei moet word in die ondersoek, vasstelling en kommunisering van potensiële inwerkings vir die doeleindes van nakoming van subartikel (1) waar—

(a) die aktiwiteit die belang van meer as een provinsie sal raak of internasionale grense deurkruis;

(b) die aktiwiteit nakoming van die verpligtinge wat op die Republiek rus kragtens gewoontereg of konvensionele internasionale reg, sal raak; of

(c) met die aktiwiteit beoog in subartikel (1) nie in die regulasies, wat kragtens subartikel (3) uitgevaardig word, gehandel word nie.

(7) Prosedures vir die ondersoek, vasstelling en kommunisering van die potensiële inwerking van aktiwiteite, moet minstens die volgende verseker:

(a) Die ondersoek van die omgewing wat waarskynlik beduidend deur die voorgestelde aktiwiteit en alternatiewe daartoe geraak staan te word;

(b) die ondersoek van die potensiële inwerking, met inbegrip van kumulatiewe gevolge, van die aktiwiteit en sy alternatiewe op die omgewing, sosio-ekonomiese toestande en kultuurerfenis, en die vasstelling van die beduidenheid van daardie potensiële inwerking;

(c) die ondersoek van versagtingsmaatreëls ten einde nadelige inwerkings so min moontlik te hou, asook die opsie om nie die aktiwiteit in werking te stel nie;

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- (d) public information and participation, independent review and conflict resolution in all phases of the investigation and assessment of impacts;
- (e) reporting on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information; 5
- (f) investigation and formulation of arrangements for the monitoring and management of impacts, and the assessment of the effectiveness of such arrangements after their implementation;
- (g) co-ordination and co-operation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state; 10
- (h) that the findings and recommendations flowing from such investigation, and the general objectives of integrated environmental management laid down in this Act and the principles of environmental management set out in section 2 are taken into account in any decision made by an organ of state in relation to the proposed policy, programme, plan or project; and 15
- (i) that environmental attributes identified in the compilation of information and maps as contemplated in subsection (2)(e) are considered.

CHAPTER 6

INTERNATIONAL OBLIGATIONS AND AGREEMENTS 20

Incorporation of international environmental instruments

25. (1) Where the Republic is not yet bound by an international environmental instrument, the Minister may make a recommendation to Cabinet and Parliament regarding accession to and ratification of an international environmental instrument, which may deal with the following: 25

- (a) Available resources to ensure implementation;
- (b) views of interested and affected parties;
- (c) benefits to the Republic;
- (d) disadvantages to the Republic;
- (e) the estimated date when the instrument is to come into effect; 30
- (f) the estimated date when the instrument will become binding on the Republic;
- (g) the minimum number of states required to sign the instrument in order for it to come into effect;
- (h) the respective responsibilities of all national departments involved;
- (i) the potential impact of accession on national parties; 35
- (j) reservations to be made, if any; and
- (k) any other matter which in the opinion of the Minister is relevant.

(2) Where the Republic is a party to an international environmental instrument the Minister, after compliance with the provisions of section 231(2) and (3) of the Constitution, may publish the provisions of the international environmental instrument in the *Gazette* and any amendment or addition to such instrument. 40

(3) The Minister may introduce legislation in Parliament or make such regulations as may be necessary for giving effect to an international environmental instrument to which the Republic is a party, and such legislation and regulations may deal with *inter alia* the following— 45

- (a) the co-ordination of the implementation of the instrument;
- (b) the allocation of responsibilities in terms of the instrument, including those of other organs of state;
- (c) the gathering of information, including for the purposes of compiling and updating reports required in terms of the instrument and for submission to Parliament; 50
- (d) the dissemination of information related to the instrument and reports from international meetings;
- (e) initiatives and steps regarding research, education, training, awareness raising and capacity building; 55
- (f) ensuring public participation;

- (d) openbare inligting en deelname, onafhanklike hersiening en konfliktoplossing in alle fases van die ondersoek en vasstelling van inwerkings;
- (e) verslagdoening oor gebrekkige kennis, die geskiktheid van voorspelbare metodes en onderliggende aannames, en onsekerhede wat by die samestelling van die vereiste inligting teëgekom word;
- (f) die ondersoek en formulering van ooreenkomste vir die monitering en bestuur van inwerkings en die vasstelling van die doeltreffendheid van sodanige ooreenkomste na hul implementering;
- (g) die koördinerings- en samewerking tussen staatsorgane by die oorweging van vasstellings waar 'n aktiwiteit binne die jurisdiksie van meer as een staatsorgaan val;
- (h) dat die bevindings en aanbevelings wat uit sodanige ondersoek voortspruit, en die algemene doelstellings van geïntegreerde omgewingsbestuur in hierdie Wet neergelê, en die beginsels van omgewingsbestuur in artikel 2 uiteengesit, in aanmerking geneem word by enige besluit wat geneem word deur 'n staatsorgaan in verband met die voorgestelde beleid, program, plan of projek; en
- (i) dat omgewingseienskappe wat in die samestelling van inligting geïdentifiseer is, en kaarte soos beoog in subartikel (2)(e) oorweeg word.

HOOFTUK 6

INTERNASIONALE VERPLIGTINGE EN OOREENKOMSTE

Inkorporasie van internasionale omgewingsdokumente

25. (1) Indien die Republiek nog nie gebonde is aan 'n internasionale omgewingsdokument nie, kan die Minister 'n aanbeveling aan die Kabinet en die Parlement doen rakende die toetrede tot en bekragtiging van 'n internasionale omgewingsdokument, welke aanbeveling oor die volgende kan handel:

- (a) Beskikbare hulpbronne ten einde implementering te verseker;
- (b) standpunte van belanghebbende partye en partye wat geraak word;
- (c) voordele vir die Republiek;
- (d) nadele vir die Republiek;
- (e) die beraamde datum wanneer die dokument in werking gaan tree;
- (f) die beraamde datum wanneer die dokument op die Republiek bindend sal word;
- (g) die minimum aantal state wat vereis word om die dokument te onderteken sodat dit in werking gestel word;
- (h) die onderskeie verantwoordelikhede van alle nasionale departemente wat betrokke is;
- (i) die potensiele inwerking van toetrede op nasionale partye;
- (j) voorbehoude wat gemaak staan te word, indien enige; en
- (k) enige ander aangeleentheid wat na die oordeel van die Minister ter sake is.

(2) Waar die Republiek 'n party tot 'n internasionale omgewingsdokument is, kan die Minister, na voldoening aan die bepalings van artikel 231(2) en (3) van die Grondwet, die bepalings van die internasionale omgewingsdokument en enige wysiging of byvoeging tot sodanige dokument in die *Staatskoerant* publiseer.

45 (3) Die Minister kan wetgewing in die Parlement indien of sodanige regulasies uitvaardig as wat nodig is om aan 'n internasionale omgewingsdokument waartoe die Republiek 'n party is, gevolg te gee, en sodanige wetgewing en regulasies kan, *inter alia*, met die volgende handel:

- (a) die koördinerings- en implementering van die dokument;
- (b) die toewysing van verantwoordelikhede ingevolge die dokument, met inbegrip van die verantwoordelikhede van ander staatsorgane;
- (c) die insameling van inligting, asook, vir die doel om verslae saam te stel en by te werk wat ingevolge die dokument en vir voorlegging aan die Parlement vereis word;
- (d) die verspreiding van inligting wat verband hou met die dokument en verslae van internasionale vergaderings;
- (e) inisiatiewe en stappe betreffende navorsing, onderrig, opleiding, bewusmaking en die opbou van vermoëns;
- (f) openbare deelname, en om toe te sien dat dit plaasvind;

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- (g) implementation of and compliance with the provisions of the instrument, including the creation of offences and the prescription of penalties where applicable; and
- (h) any other matter necessary to give effect to the instrument.

(4) The Minister may prior to a recommendation referred to in subsection (1), publish a notice in the *Gazette*, stating his or her intention to make such recommendation and inviting written comments. 5

Reports

26. (1) The Minister must report to Parliament once a year regarding international environmental instruments for which he or she is responsible and such report may include details on— 10

- (a) participation in international meetings concerning international environmental instruments;
- (b) progress in implementing international environmental instruments to which the Republic is a party; 15
- (c) preparations undertaken in respect of international instruments to which the Republic is likely to become a party;
- (d) initiatives and negotiations within the region of Southern Africa;
- (e) the efficacy of co-ordination mechanisms; and
- (f) legislative measures that have been taken and the time frames within which it is envisaged that their objectives will be achieved. 20

(2) (a) The Minister must initiate an Annual Performance Report on Sustainable Development to meet the government's commitment to Agenda 21.

(b) (i) The Annual Performance Report must cover all relevant activities of all national departments and spheres of government. 25

(ii) All relevant organs of state must provide information to the Minister by a date to be determined by the Minister for the purposes of the report referred to in paragraph (a) and this may consist of an assembly of information compiled for other purposes.

(c) The Minister may appoint persons as he or she considers necessary to act as a Secretariat to ensure preparation of the report. 30

(d) The purpose of the report shall be to—

- (i) provide an audit and a report of the government's performance in respect of Agenda 21;
- (ii) review procedures for co-ordinating policies and budgets to meet the objectives of Agenda 21; and 35
- (iii) review progress on a public educational programme to support the objectives of Agenda 21.

Application

27. (1) This Chapter applies to any international environmental instrument whether the Republic became a party to it before or after the coming into force of this Act. 40

(2) The provisions of any international environmental instrument published in accordance with this section are evidence of the contents of the international environmental instrument in any proceedings or matter in which the provisions of the instrument come into question.

CHAPTER 7

45

COMPLIANCE, ENFORCEMENT AND PROTECTION

Part I: Environmental hazards

Duty of care and remediation of environmental damage

28. (1) Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the 50

- (g) die implementering van en nakoming van die bepalings van die dokument, met inbegrip van die skepping van misdrywe en die voorskryf van strawwe waar van toepassing; en
- (h) enige ander aangeleentheid wat nodig is om aan die dokument gevolg te gee.
- (4) Voordat 'n aanbeveling in subartikel (1) genoem, gedoen word, kan die Minister by kennisgewing in die *Staatskoerant* sy of haar voorneme om sodanige aanbeveling te doen bekend maak en 'n uitnodiging rig vir geskrewe kommentaar.

Verslae

- 10 26. (1) Die Minister doen een maal per jaar aan die Parlement verslag oor internasionale omgewingsdokumente waarvoor hy of sy verantwoordelik is en sodanige verslag kan inligting insluit oor—
- (a) die deelname aan internasionale vergaderings wat verband hou met internasionale omgewingsdokumente;
- 15 (b) die vordering met die implementering van internasionale omgewingsdokumente waartoe die Republiek 'n party is;
- (c) die voorbereiding wat onderneem word met betrekking tot internasionale dokumente waartoe die Republiek waarskynlik 'n party sal word;
- (d) inisiatiewe en onderhandelings in die streek van Suider-Afrika;
- 20 (e) die doeltreffendheid van koördineringsmeganismes; en
- (f) wetgewende maatreëls wat getref is en die tydskele waarbinne dié maatreëls hul beoogde doelstellings sal bereik.
- (2) (a) Die Minister moet 'n Jaarlikse Prestasieverslag op Volhoubare Ontwikkeling inisieer ten einde aan die regering se verbondenheid aan Agenda 21 uitvoering te gee.
- 25 (b) (i) Die Jaarlikse Prestasieverslag moet alle tersaaklike bedrywighede van alle nasionale departemente en regeringsfere omvat.
- (ii) Alle tersaaklike staatsorgane moet aan die Minister verslag doen op 'n datum deur die Minister bepaal te word vir die doeleindes van die verslag in paragraaf (a) genoem en dit kan bestaan uit 'n versameling van inligting wat vir ander doeleindes
- 30 saamgestel is.
- (c) Die Minister kan die persone aanstel wat hy of sy nodig ag om as 'n sekretariaat te dien ten einde te sorg vir die voorbereiding van die verslag.
- (d) Die doel van die verslag is om—
- (i) 'n oudit en 'n verslag van die regering se werkverrigting ten opsigte van
- 35 Agenda 21 te verskaf;
- (ii) prosedures vir die koördinering van beleid en begrotings om die doelstellings van Agenda 21 te bereik, te hersien; en
- (iii) vooruitgang met 'n openbare opvoedkundige program om die doelstellings van Agenda 21 te bereik, te hersien.

40 Toepassing

27. (1) Hierdie Hoofstuk is van toepassing op enige internasionale omgewingsdokument, hetsy die Republiek voor of na die inwerkingtreding van hierdie Wet 'n party daartoe geword het.
- (2) Die bepalings van enige internasionale omgewingsdokument wat gepubliseer is ooreenkomstig hierdie artikel, is getuienis van die inhoud van die internasionale
- 45 omgewingsdokument in enige verrigtinge of aangeleentheid waarin die bepaling van die dokument ter sprake kom.

HOOFSTUK 7

NAKOMING, AFDWINGING EN BESKERMING

50 Deel 1: Omgewingsgevaar

Plig tot sorg en regstelling van omgewingskade

28. (1) Enigiemand wat beduidende besoedeling of agteruitgang van die omgewing veroorsaak, veroorsaak het of kan veroorsaak, moet redelike stappe doen om die voorkoming, voortdoring of herhaling daarvan te voorkom, of, in soverre sodanige

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environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.

(2) Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures, include an owner of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which—

- (a) any activity or process is or was performed or undertaken; or
- (b) any other situation exists,

which causes, has caused or is likely to cause significant pollution or degradation of the environment.

(3) The measures required in terms of subsection (1) may include measures to—

- (a) investigate, assess and evaluate the impact on the environment;
- (b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment;
- (c) cease, modify or control any act, activity or process causing the pollution or degradation;
- (d) contain or prevent the movement of pollutants or the causant of degradation;
- (e) eliminate any source of the pollution or degradation; or
- (f) remedy the effects of the pollution or degradation.

(4) The Director-General or a provincial head of department may, after consultation with any other organ of state concerned and after having given adequate opportunity to affected persons to inform him or her of their relevant interests, direct any person who fails to take the measures required under subsection (1) to—

- (a) investigate, evaluate and assess the impact of specific activities and report thereon;
- (b) commence taking specific reasonable measures before a given date;
- (c) diligently continue with those measures; and
- (d) complete them before a specified reasonable date:

Provided that the Director-General or a provincial head of department may, if urgent action is necessary for the protection of the environment, issue such directive, and consult and give such opportunity to inform as soon thereafter as is reasonable.

(5) The Director-General or a provincial head of department, when considering any measure or time period envisaged in subsection (4), must have regard to the following:

- (a) the principles set out in section 2;
- (b) the provisions of any adopted environmental management plan or environmental implementation plan;
- (c) the severity of any impact on the environment and the costs of the measures being considered;
- (d) any measures proposed by the person on whom measures are to be imposed;
- (e) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people;
- (f) any other relevant factors.

(6) If a person required under this Act to undertake rehabilitation or other remedial work on the land of another, reasonably requires access to, use of or a limitation on use of that land in order to effect rehabilitation or remedial work, but is unable to acquire it on reasonable terms, the Minister may—

- (a) expropriate the necessary rights in respect of that land for the benefit of the person undertaking the rehabilitation or remedial work, who will then be vested with the expropriated rights; and
- (b) recover from the person for whose benefit the expropriation was effected all costs incurred.

(7) Should a person fail to comply, or inadequately comply, with a directive under subsection (4), the Director-General or provincial head of department may take reasonable measures to remedy the situation.

(8) Subject to subsection (9), the Director-General or provincial head of department may recover all costs incurred as a result of it acting under subsection (7) from any or all of the following persons—

besoedeling of agteruitgang regtens gemagtig word of nie redelikerwys vermy of gestop kan word nie, om enige sodanige besoedeling of agteruitgang so min moontlik te hou of te herstel.

- (2) Sonder om die algemeenheid van die plig in subartikel (1) te beperk, sluit die persone op wie subartikel (1) 'n plig opleë om redelike stappe te doen, in 'n eenaar van grond of 'n perseel, 'n persoon in beheer van grond of 'n perseel of 'n persoon wat 'n reg het om grond of 'n perseel te gebruik waarop of waarin—

- (a) 'n bedrywigheid of proses plaasvind of plaasgevind het of verrig word of verrig is; of
 - (b) enige ander toestand bestaan wat beduidende besoedeling of agteruitgang van die omgewing veroorsaak, dit veroorsaak het of waarskynlik sal veroorsaak.
- (3) Die maatreëls in subartikel (1) vereis, kan maatreëls insluit om—
- (a) die inwerking op die omgewing te ondersoek, vas te stel en te evalueer;
 - (b) werknemers in te lig en op te voed oor die omgewingsrisiko's verbonde aan hulle werk en die wyse waarop hul take verrig moet word ten einde te verhoed dat beduidende besoedeling of agteruitgang van die omgewing veroorsaak word;
 - (c) enige handeling of proses wat besoedeling of agteruitgang veroorsaak, te staak, te temper of te beheer;
 - (d) die beweging van besoedelende stof of die oorsaak van agteruitgang in bedwang te hou of te voorkom;
 - (e) enige bron van die besoedeling of agteruitgang uit te skakel; of
 - (f) die gevolge van die besoedeling of agteruitgang reg te stel.

- (4) Die Direkteur-generaal of 'n provinsiale departementshoof kan, na oorlegpleging met enige ander betrokke staatsorgaan en nadat voldoende geleentheid aan persone wat geraak word, gegee is om hom of haar van hul betrokke belange in te lig, enige persoon wat versuim om die vereiste stappe kragtens subartikel (1) te doen, gelas om—

- (a) die inwerking van bepaalde aktiwiteite te ondersoek, te evalueer en vas te stel en daaroor verslag te doen;
- (b) te begin om bepaalde redelike stappe voor 'n gegewe datum te doen;
- (c) daardie stappe ywerig voort te sit; en
- (d) om dit voor 'n redelike datum, wat vermeld word, te voltooi;

- Met dien verstande dat die Direkteur-generaal of 'n provinsiale departementshoof, indien dringende optrede nodig is om die omgewing te beskerm, sodanige lasgewing kan uitreik en oorleg pleeg en sodanige geleentheid bied om inligting te verskaf as wat so spoedig daarna redelik is.

- (5) Die Direkteur-generaal of 'n provinsiale departementshoof moet, wanneer 'n stap of tydperk beoog in subartikel (4) oorweeg word, die volgende in aanmerking neem—

- (a) die beginsels in artikel 2 uiteengesit;
- (b) die bepalinge van enige aanvaarde omgewingsbestuursplan of omgewings-implementeringsplan;
- (c) die felheid van enige inwerking op die omgewing en die koste van die voorgestelde stappe;
- (d) enige stappe wat voorgestel word deur die persoon op wie die stappe ingestel gaan word;
- (e) die wenslikheid dat die Staat sy aanspreeklikheid na verhouding verdeel word onder die betrokke persone;
- (f) enige ander tersaaklike faktore.

- (6) Indien 'n persoon wat kragtens hierdie Wet vereis word om rehabilitasie en ander herstelwerk op die grond van 'n ander te doen, redelike toegang tot, gebruik van of 'n beperking op gebruik van daardie grond verlang ten einde rehabilitasie of herstelwerk te bewerkstellig, maar nie in staat is om dit op redelike voorwaardes te bekom nie, kan die Minister—

- (a) die nodige regte ten opsigte van daardie grond tot voordeel van die persoon wat die rehabilitasie- of herstelwerk onderneem, onteien, op wie die onteienende regte dan sal oorgaan; en
- (b) alle koste wat aangegaan is, van die persoon tot wie se voordeel die onteiening bewerkstellig is, verhaal.

- (7) Sou 'n persoon versuim om gehoor te gee aan 'n opdrag of nie genoegsaam gehoor gee aan 'n opdrag kragtens subartikel (4) nie, kan die Direkteur-generaal of provinsiale departementshoof redelike stappe doen om die situasie reg te stel.

- (8) Behoudens subartikel (9), kan die Direkteur-generaal of provinsiale departementshoof alle koste wat aangegaan is as gevolg van sy of haar optrede kragtens subartikel (7), verhaal van enige van of al die volgende persone—

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- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;
- (b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title; 5
- (c) the person in control of the land or any person who has or had a right to use the land at the time when—
 - (i) the activity or the process is or was performed or undertaken; or
 - (ii) the situation came about; or 10
- (d) any person who negligently failed to prevent—
 - (i) the activity or the process being performed or undertaken; or
 - (ii) the situation from coming about: 15

Provided that such person failed to take the measures required of him or her under subsection (1).

(9) The Director-General or provincial head of department may in respect of the recovery of costs under subsection (8), claim proportionally from any other person who benefited from the measures undertaken under subsection (7).

(10) The costs claimed under subsections (6), (8) and (9) must be reasonable and may include, without being limited to, labour, administrative and overhead costs. 20

(11) If more than one person is liable under subsection (8), the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1) and (4).

(12) Any person may, after giving the Director-General or provincial head of department 30 days' notice, apply to a competent court for an order directing the Director-General or any provincial head of department to take any of the steps listed in subsection (4) if the Director-General or provincial head of department fails to inform such person in writing that he or she has directed a person contemplated in subsection (8) to take one of those steps, and the provisions of section 32(2) and (3) shall apply to such proceedings with the necessary changes. 30

(13) When considering any application in terms of subsection (12), the court must take into account the factors set out in subsection (5).

Protection of workers refusing to do environmentally hazardous work

29. (1) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having refused to perform any work if the person in good faith and reasonably believed at the time of the refusal that the performance of the work would result in an imminent and serious threat to the environment. 35

(2) An employee who has refused to perform work in terms of subsection (1) must as soon thereafter as is reasonably practicable notify the employer either personally or through a representative that he or she has refused to perform work and give the reason for the refusal. 40

(3) Subsection (1) applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure or otherwise remedied the matter concerned. 45

(4) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (1).

(5) No person may threaten to take any action contemplated by subsection (1) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (1). 50

Control of emergency incidents

30. (1) In this section—

- (a) "incident" means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or 55

- (a) enige persoon wat verantwoordelik is of was, of wat direk of indirek bygedra het tot die besoedeling of agteruitgang of die potensiële besoedeling of agteruitgang;
- 5 (b) die eienaar van die grond op die tydstip wat die besoedeling of agteruitgang of die potensiaal vir besoedeling of agteruitgang voorgekom het, of daardie eienaar se regsopvolger;
- (c) die persoon in beheer van die grond of enige persoon wat 'n reg het om die grond te gebruik op die tydstip wat—
- 10 (i) die werksaamheid of die proses verrig of onderneem word of is; of
- (ii) die situasie ontstaan het; of
- (d) enige persoon wat nalatig versuim het om te voorkom dat—
- (i) die werksaamheid of die proses verrig of onderneem word; of
- (ii) die situasie ontstaan:

Met dien verstande dat sodanige persoon versuim het om die stappe te doen wat

15 kragtens subartikel (1) van hom of haar vereis word.

(9) Die Direkteur-generaal of provinsiale departementshoof kan, met betrekking tot die verhaal van koste kragtens subartikel (8), na verhouding eis van enige persoon wat deur die stappe wat kragtens subartikel (7) gedoen is, bevoordeel is.

(10) Die koste wat kragtens subartikels (6), (8) en (9) verhaal word, moet redelik

20 wees en kan, sonder dat dit daartoe beperk word, arbeids-, administratiewe en bokoste insluit.

(11) Indien meer as een persoon kragtens subartikel (8) aanspreeklik is, moet die rol as bewaarder wat die omgewing in openbare trust vir die nasie hou, vervul ooreen-

25 komstig die graad waarin elkeen verantwoordelik was vir die skade aan die omgewing wat ontstaan uit elkeen se versuim om die maatreëls kragtens subartikels (1) en (4) vereis, te tref.

(12) Enige persoon kan, nadat die Direkteur-generaal of provinsiale departements-

30 hoof 30 dae kennis gegee is, by 'n bevoegde hof aansoek doen om 'n bevel wat die Direkteur-generaal of enige provinsiale departementshoof opdrag gee om enige stappe te doen wat in subartikel (4) gelys word, indien die Direkteur-generaal of provinsiale departementshoof versuim om sodanige persoon skriftelik in kennis te stel dat hy of sy die persoon beoog in subartikel (8) gelas het om een van daardie stappe te doen, en dan geld die bepalinge van artikel 32(2) en (3) met die nodige veranderinge op sodanige verrigtinge.

35 (13) Wanneer 'n aansoek ingevolge subartikel (12) oorweeg word, neem die hof die faktore in subartikel (5) uiteengesit, in aanmerking.

Beskerming van werkers wat weier om gevaarlike omgewingswerk te doen

29. (1) Ondanks die bepalinge van enige ander wet, kan geen persoon sivielregtelik en strafregtelik aanspreeklik gehou of ontslaan, gedissiplineer, benadeel of geteister

40 word op grond daarvan dat hy of sy geweier het om enige werk te verrig nie indien die persoon te goeder trou en redelikerwys ten tyde van die weiering geglo het dat die verrigting van die werk 'n dreigende en ernstige bedreiging vir die omgewing tot gevolg sou hê.

(2) 'n Werknemer wat ingevolge subartikel (1) geweier het om werk te verrig moet

45 so spoedig daarna as wat redelik doenlik is, die werkgewer inlig, hetsy persoonlik, hetsy deur 'n verteenwoordiger, dat hy of sy aldus geweier het om werk te verrig en die redes vir die weiering verstrek.

(3) Subartikel (1) is van toepassing ongeag of die persoon wat weier om te werk enige ander toepaslike eksterne of interne prosedure gebruik of uitgeput het of

50 andersins die betrokke aangeleentheid reggestel het.

(4) Niemand mag enigiemand bevoordeel of beloof om enigiemand te bevoordeel om nie sy of haar regte ingevolge subartikel (1) uit te oefen nie.

(5) Niemand mag dreig om enige stappe beoog in subartikel (1) teen 'n persoon te doen nie omdat daardie persoon sy of haar reg ingevolge subartikel (1) uitgeoefen het

55 of beoog om dit uit te oefen.

Beheer van noodvoorvalle

30. (1) In hierdie artikel beteken—

- (a) “voorval” 'n onverwagse skielike gebeurtenis, met inbegrip van ernstige uitstraling, brand of ontploffing, wat lei tot ernstige gevaar vir die publiek of

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potentially serious pollution of or detriment to the environment, whether immediate or delayed.

- (b) "responsible person" includes any person who—
 - (i) is responsible for the incident;
 - (ii) owns any hazardous substance involved in the incident; or
 - (iii) was in control of any hazardous substance involved in the incident at the time of the incident;
- (c) "relevant authority" means—
 - (i) a municipality with jurisdiction over the area in which an incident occurs;
 - (ii) a provincial head of department or any other provincial official designated for that purpose by the MEC in a province in which an incident occurs;
 - (iii) the Director-General;
 - (iv) any other Director-General of a national department.

(2) Where this section authorises a relevant authority to take any steps, such steps may only be taken by—

- (a) the person referred to in subsection (1)(c)(iv) if no steps have been taken by any of the other persons listed in subsection (1)(c);
- (b) the person referred to in subsection (1)(c)(iii) if no steps have been taken by any of the persons listed in subsection (1)(c)(i) and (c)(ii);
- (c) the person referred to in subsection (1)(c)(ii) if no steps have been taken by the person listed in subsection (1)(c)(i):

Provided that any relevant authority may nevertheless take such steps if it is necessary to do so in the circumstances and no other person referred to in subsection (1)(c) has yet taken such steps.

(3) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer must forthwith after knowledge of the incident, report through the most effective means reasonably available—

- (a) the nature of the incident;
- (b) any risks posed by the incident to public health, safety and property;
- (c) the toxicity of substances or by-products released by the incident; and
- (d) any steps that should be taken in order to avoid or minimise the effects of the incident on public health and the environment to—
 - (i) the Director-General;
 - (ii) the South African Police Services and the relevant fire prevention service;
 - (iii) the relevant provincial head of department or municipality; and
 - (iv) all persons whose health may be affected by the incident.

(4) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, as soon as reasonably practicable after knowledge of the incident—

- (a) take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety and property of persons;
- (b) undertake clean-up procedures;
- (c) remedy the effects of the incident;
- (d) assess the immediate and long-term effects of the incident on the environment and public health;

(5) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, within 14 days of the incident, report to the Director-General, provincial head of department and municipality such information as is available to enable an initial evaluation of the incident, including—

- (a) the nature of the incident;
- (b) the substances involved and an estimation of the quantity released and their possible acute effect on persons and the environment and data needed to assess these effects;
- (c) initial measures taken to minimise impacts;
- (d) causes of the incident, whether direct or indirect, including equipment, technology, system, or management failure; and

potensieel ernstige besoedeling van of nadeel vir die omgewing, hetsy onmiddellik of vertraag;

(b) "verantwoordelik persoon", ook iemand wat—

(i) vir die voorval verantwoordelik is;

(ii) enige gevaarlike stof wat by die voorval betrokke is, besit; of

(iii) in beheer was van die gevaarlike stof wat ten tyde van die voorval by die voorval betrokke was;

(c) "betrokke owerheid"—

(i) 'n munisipaliteit met jurisdiksie oor die gebied waarbinne 'n voorval plaasvind;

(ii) 'n provinsiale departementshoof of enige ander provinsiale beampte wat vir daardie doel deur die LUR aangestel is in 'n provinsie waarbinne die voorval plaasvind;

(iii) die Direkteur-generaal;

(iv) enige ander Direkteur-generaal van 'n nasionale departement.

(2) Waar hierdie artikel 'n betrokke owerheid magtig om enige stappe te doen, kan sodanige stappe slegs gedoen word deur—

(a) die persoon bedoel in subartikel (1)(c)(iv) indien geen stappe gedoen is deur enige van die ander persone wat in subartikel (1)(c) gelys is nie;

(b) die persoon bedoel in subartikel (1)(c)(iii) indien geen stappe gedoen is deur enige van die persone wat in subartikel (1)(c)(i) en (c)(ii) gelys is nie;

(c) die persoon bedoel in subartikel (1)(c)(ii) indien geen stappe gedoen is deur die persoon wat in subartikel (1)(c)(i) gelys is nie:

Met dien verstande dat enige betrokke owerheid buitendien sodanige stappe kan doen indien die omstandighede dit noodsaak en geen ander persoon bedoel in subartikel (1)(c) reeds sodanige stappe gedoen het nie.

(3) Die verantwoordelike persoon, of sy of haar werkgewer, indien die voorval gedurende die loop van daardie persoon se diens plaasgevind het, moet onverwyld, na kennis van die voorval—

(a) die aard van die voorval;

(b) enige risiko's wat deur die voorval vir die openbare gesondheid, veiligheid en eiendom opgelewer word;

(c) die giftigheid van die stowwe of afvalprodukte wat deur die voorval vrygestel word; en

(d) enige stappe wat gedoen moet word ten einde die gevolge van die voorval op openbare gesondheid en die omgewing te vermy of so klein moontlik te hou, op die mees doeltreffende manier redelikerwys beskikbaar, rapporteer aan—

(i) die Direkteur-generaal;

(ii) die Suid-Afrikaanse Polisiediens of die betrokke brandbestrydingsdiens;

(iii) die betrokke provinsiale departementshoof of munisipaliteit; en

(iv) alle persone wie se gesondheid deur die voorval geraak kan word.

(4) Die verantwoordelike persoon, of indien die voorval gedurende die loop van daardie persoon se diens plaasgevind het, sy of haar werkgewer moet, so spoedig redelik doenlik nadat hy of sy van die voorval te wete gekom het—

(a) alle redelike stappe doen om die gevolge van die voorval in bedwang te hou en so min moontlik te hou, met inbegrip van die voorval se gevolge op die omgewing en enige risiko's wat deur die voorval opgelewer word ten opsigte van die gesondheid, veiligheid en eiendom van persone;

(b) opruimingsprosedures onderneem;

(c) die uitwerking van die voorval herstel;

(d) die onmiddellike en langtermyn gevolge van die voorval op die omgewing en openbare gesondheid, vasstel.

(5) Die verantwoordelike persoon, of indien die voorval gedurende die loop van daardie persoon se diens plaasgevind het, sy of haar werkgewer moet, binne 14 dae na die voorval, aan die Direkteur-generaal, provinsiale departementshoof en munisipaliteit die beskikbare inligting rapporteer ten einde 'n voorlopige evaluering van die voorval te bewerkstellig, met inbegrip van—

(a) die aard van die voorval;

(b) die stowwe wat betrokke is en 'n beraming van die hoeveelheid stowwe wat vrygestel is en hul moontlike akute uitwerking op persone en die omgewing en inligting wat nodig is om hierdie gevolge vas te stel;

(c) aanvanklike stappe wat gedoen is om die inwerkings so klein moontlik te hou;

(d) oorsake van die voorval, hetsy direk of indirek, met inbegrip van toerusting-, tegnologie-, en stelselweiering en bestuursversuim; en

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- (e) measures taken and to be taken to avoid a recurrence of such incident.
- (6) A relevant authority may direct the responsible person to undertake specific measures within a specific time to fulfil his or her obligations under subsections (4) and (5): Provided that the relevant authority must, when considering any such measure or time period, have regard to the following: 5
- (a) the principles set out in section 2;
 - (b) the severity of any impact on the environment as a result of the incident and the costs of the measures being considered;
 - (c) any measures already taken or proposed by the person on whom measures are to be imposed, if applicable; 10
 - (d) the desirability of the state fulfilling its role as custodian holding the environment in public trust for the people;
 - (e) any other relevant factors.
- (7) A verbal directive must be confirmed in writing at the earliest opportunity, which must be within seven days. 15
- (8) Should—
- (a) the responsible person fail to comply, or inadequately comply with a directive under subsection (6);
 - (b) there be uncertainty as to who the responsible person is; or
 - (c) there be an immediate risk of serious danger to the public or potentially serious detriment to the environment, 20
- a relevant authority may take the measures it considers necessary to—
- (i) contain and minimise the effects of the incident;
 - (ii) undertake clean-up procedures; and
 - (iii) remedy the effects of the incident. 25
- (9) A relevant authority may claim reimbursement of all reasonable costs incurred by it in terms of subsection (8) from every responsible person jointly and severally.
- (10) A relevant authority which has taken steps under subsections (6) or (8) must, as soon as reasonably practicable, prepare comprehensive reports on the incident, which reports must be made available through the most effective means reasonably available to— 30
- (a) the public;
 - (b) the Director-General;
 - (c) the South African Police Services and the relevant fire prevention service;
 - (d) the relevant provincial head of department or municipality; and 35
 - (e) all persons who may be affected by the incident.

Part 2: Information, enforcement and compliance**Access to environmental information and protection of whistle-blowers**

31. (1) Access to information held by the State is governed by the statute contemplated under section 32(2) of the Constitution: Provided that pending the promulgation of such statute, the following provisions shall apply: 40
- (a) every person is entitled to have access to information held by the State and organs of state which relates to the implementation of this Act and any other law affecting the environment, and to the state of the environment and actual and future threats to the environment, including any emissions to water, air or soil and the production, handling, transportation, treatment, storage and disposal of hazardous waste and substances; 45
 - (b) organs of state are entitled to have access to information relating to the state of the environment and actual and future threats to the environment, including any emissions to water, air or soil and the production, handling, transportation, treatment, storage and disposal of hazardous waste held by any person where that information is necessary to enable such organs of state to carry out their duties in terms of the provisions of this Act or any other law concerned with the protection of the environment or the use of natural resources; 50
 - (c) a request for information contemplated in paragraph (a) can be refused only: 55

- (e) stappe wat gedoen is en gedoen moet word ten einde, 'n herhaling van sodanige voorval te voorkom.
- (6) 'n Betrokke owerheid kan die verantwoordelike persoon opdrag gee om bepaalde stappe binne 'n bepaalde tyd te doen ten einde sy of haar verpligtinge kragtens subartikels (4) en (5) te volvoer: Met dien verstande dat die betrokke owerheid, wanneer enige sodanige stap of tydperk oorweeg word, die volgende in aanmerking moet neem—
- (a) die beginsels in artikel 2 uiteengesit;
- (b) die felheid van enige inwerking op die omgewing as gevolg van die voorval en die koste van die voorgestelde stappe;
- (c) enige stappe wat reeds gedoen is en wat voorgestel word deur die persoon teen wie die stappe ingestel gaan word, indien van toepassing;
- (d) die wenslikheid van die Staat om sy rol as bewaarder wat die omgewing in openbare trust vir die nasie hou, te vervul;
- (e) enige ander faktor wat ter sprake is.
- (7) 'n Mondelinge opdrag moet skriftelik bevestig word by die eerste geleentheid, wat binne sewe dae moet wees.
- (8) Sou—
- (a) die verantwoordelike persoon versuim om 'n opdrag kragtens subartikel (6) na te kom, of sodanige opdrag nie genoegsaam nakom nie;
- (b) daar onsekerheid bestaan oor wie die verantwoordelike persoon is; of
- (c) daar 'n onmiddellike risiko van ernstige gevaar vir die publiek bestaan of potensieel ernstige nadeel vir die omgewing bestaan,
- kan enige betrokke owerheid die stappe doen wat hy nodig ag om—
- (i) die gevolge van die voorval in bedwang te hou en so klein moontlik te hou;
- (ii) opruimingsprosedures te onderneem; en
- (iii) die uitwerking van die voorval reg te stel.
- (9) 'n Betrokke owerheid kan van elke verantwoordelike persoon gesamentlik en afsonderlik terugbetaling eis van alle redelike uitgawes deur hom ingevolge subartikel (8) aangegaan.
- (10) 'n Betrokke owerheid wat stappe kragtens subartikel (6) of (8) gedoen het, moet, so gou redelik doenlik, omvattende verslae oor die voorval opstel, welke verslae op die mees doeltreffende wyse redelikerwys beskikbaar, beskikbaar gestel word aan—
- (a) die publiek;
- (b) die Direkteur-generaal;
- (c) die Suid-Afrikaanse Polisie diens en die betrokke brandbestrydings diens;
- (d) die betrokke provinsiale departementshoof of munisipaliteit; en
- (e) alle persone wat deur die voorval geraak kan word.

Deel 2: Inligting, afdwinging en nakoming

40 Toegang tot omgewingsinligting en beskerming van verklikkers

31. (1) Toegang tot inligting wat deur die Staat gehou word, word gereël deur die wet beoog kragtens artikel 32(2) van die Grondwet: Met dien verstande dat hangende die afkondiging van sodanige wet, die volgende bepalings van toepassing is:

- (a) enigiemand is geregtig op toegang tot inligting wat deur die Staat en staatsorgane gehou word en wat verband hou met die toepassing van hierdie Wet en enige ander wet wat die omgewing raak, en met die toestand van die omgewing en werklike en toekomstige bedreigings vir die omgewing, met inbegrip van enige storting in die water, of op die grond of enige uitlating in die lug en die vervaardiging, hantering, vervoer, behandeling, berging en verwydering van gevaarlike afval en stowwe;
- (b) staatsorgane is geregtig op toegang tot inligting wat verband hou met die toestand van die omgewing en werklike en toekomstige bedreigings vir die omgewing, met inbegrip van enige stortings in die water, of op die grond of enige uitlating in die lug en die vervaardiging, hantering, vervoer, behandeling, berging en verwydering van gevaarlike afval wat deur enige persoon gehou word waar daardie staatsorgane daardie inligting nodig het om hul pligte te verrig ingevolge die bepalings van hierdie Wet of enige ander wet wat betrokke is by die beskerming van die omgewing of die benutting van natuurlike hulpbronne;
- (c) 'n versoek om inligting beoog in paragraaf (a) kan slegs geweier word—

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- (i) if the request is manifestly unreasonable or formulated in too general a manner;
- (ii) if the public order or national security would be negatively affected by the supply of the information; or
- (iii) for the reasonable protection of commercially confidential information; 5
- (iv) if the granting of information endangers or further endangers the protection of the environment; and
- (v) for the reasonable protection of personal privacy.

(2) Subject to subsection (3), the Minister may make regulations regarding access by members of the public to privately held information relating to the implementation of this Act and any other law concerned with the protection of the environment and may to this end prescribe the manner in which such information must be kept: Provided that such regulations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. 10

(3) The Minister must take into account— 15

- (a) the principles set out in section 2;
- (b) the provisions of subsection (1)(c);
- (c) the provisions of international law and foreign law; and
- (d) any other relevant considerations.

(4) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5); 20

(5) Subsection (4) applies only if the person concerned— 25

- (a) disclosed the information concerned to—
 - (i) a committee of Parliament or of a provincial legislature;
 - (ii) an organ of state responsible for protecting any aspect of the environment or emergency services;
 - (iii) the Public Protector 30
 - (iv) the Human Rights Commission;
 - (v) any attorney-general or his or her successor;
 - (vi) more than one of the bodies or persons referred to in subparagraphs (i) to (v);
- (b) disclosed the information concerned to one or more news media and on clear and convincing grounds believed at the time of the disclosure— 35
 - (i) that the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or 40
 - (ii) giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for non-disclosure;
- (c) disclosed the information concerned substantially in accordance with any applicable external or internal procedure, other than the procedure contemplated in paragraph (a) or (b), for reporting or otherwise remedying the matter concerned; or 45
- (d) disclosed information which, before the time of the disclosure of the information, had become available to the public, whether in the Republic or elsewhere. 50

(6) Subsection (4) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.

(7) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (4). 55

(8) No person may threaten to take any action contemplated by subsection (4) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (4).

- (i) indien die versoek klaarblyklik onredelik is of in 'n te algemene wyse geformuleer is;
 - (ii) indien die openbare orde of nasionale veiligheid deur die voorsiening van die inligting benadeel sal word;
 - 5 (iii) vir die redelike beskerming van vertroulike handelsinligting;
 - (iv) indien die verlening van die inligting die beskerming van die omgewing bedreig of verder bedreig; en
 - (v) vir die redelike beskerming van persoonlike privaatheid.
- (2) Behoudens subartikel (3) kan die Minister regulasies uitvaardig betreffende
10 toegang deur lede van die publiek tot inligting wat privaat gehou word en wat verband hou met die toepassing van hierdie Wet en enige ander wet wat betrokke is by die beskerming van die omgewing en kan vir dié doel die wyse voorskryf waarop sodanige inligting gehou sal word: Met dien verstande dat sodanige regulasies redelik en geregverdig is in 'n oop en demokratiese gemeenskap wat gebaseer is op menswaardigheid, gelykheid en vryheid.
- (3) Die Minister neem in aanmerking—
- (a) die beginsels in artikel 2 uiteengesit;
 - (b) die bepalings van subartikel (1)(c);
 - (c) die bepalings van internasionale reg en vreemde reg; en
 - 20 (d) enige ander relevante oorwegings.
- (4) Ondanks die bepalings van enige ander wet, kan geen persoon sivilregtelik of strafregtelik aanspreeklik gehou word of ontslaan, gedissiplineer, benadeel of geteister word nie omdat hy of sy enige inligting openbaar gemaak het, indien die persoon te goeder trou en redelikerwys ten tyde van die openbaarmaking geglo het dat hy of sy
25 inligting oor 'n omgewingsrisiko openbaar gemaak het en dat die openbaarmaking ooreenkomstig subartikel (5) gemaak is.
- (5) Subartikel (4) is slegs van toepassing indien die betrokke persoon—
- (a) die betrokke inligting openbaar gemaak het aan—
 - (i) 'n komitee van die Parlement of 'n provinsiale wetgewer;
 - 30 (ii) 'n staatsorgaan wat verantwoordelik is vir die beskerming van enige aspek van die omgewing of nooddienste;
 - (iii) die Openbare Beskermer;
 - (iv) die Menseregtekommissie;
 - (v) enige prokureur-generaal of sy of haar opvolger;
 - 35 (vi) meer as een van die liggame of persone bedoel in subparagrafe (i) tot (v);
 - (b) die betrokke inligting openbaar gemaak het aan een of meer nuusmedia en op duidelike en oortuigende gronde ten tyde van die openbaarmaking geglo het—
 - 40 (i) dat die openbaarmaking nodig was om 'n dreigende en ernstige bedreiging vir die omgewing te voorkom, om te verseker dat die bedreiging vir die omgewing behoorlik en tydig ondersoek word of om homself of haarself teen ernstige of onherstelbare skade van vergelding te beskerm; of
 - 45 (ii) met behoorlike inagneming van die belangrikheid van 'n oop, aanspreeklike en deelnemende administrasie, dat die openbare belang in openbaarmaking van die inligting duidelik enige behoefte vir nie-openbaarmaking oortref;
 - (c) die betrokke inligting substantief openbaar gemaak het ooreenkomstig enige toepaslike eksterne of interne prosedure, anders as die prosedure beoog in paragraaf (a) of (b), vir die rapportering of andersins regstelling van die betrokke aangeleentheid; of
 - 50 (d) inligting openbaar maak wat, voor die tyd van openbaarmaking van die inligting, vir die publiek beskikbaar geword het, ongeag of dit in die Republiek of elders is.
- (6) Subartikel (4) is van toepassing ongeag of die persoon wat die betrokke inligting openbaar maak enige ander toepaslike eksterne of interne prosedure gebruik of uitgeput het, om die betrokke aangeleentheid te rapporteer of andersins reg te stel.
- (7) Niemand mag enige persoon bevoordeel of belowe om hom of haar te bevoordeel
60 nie omdat hy of sy nie sy of haar reg ingevolge subartikel (4) uitgeoefen het nie.
- (8) Niemand mag dreig om teen 'n persoon op te tree soos beoog in subartikel (4) omdat daardie persoon sy reg ingevolge subartikel (4) uitgeoefen het of beoog om dit uit te oefen nie.

Legal standing to enforce environmental laws

32. (1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or any other statutory provision concerned with the protection of the environment or the use of natural resources—

- (a) in that person's or group of person's own interest;
- (b) in the interest of, or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of or on behalf of a group or class of persons whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment.

(2) A court may decide not to award costs against a person who, or group of persons which, fails to secure the relief sought in respect of any breach or threatened breach of any provision including a principle of this Act or any other statutory provision concerned with the protection of the environment or the use of natural resources if the court is of the opinion that the person or group of persons acted reasonably out of a concern for the public interest or in the interest of protecting the environment and had made due efforts to use other means reasonably available for obtaining the relief sought.

(3) Where a person or group of persons secures the relief sought in respect of any breach or threatened breach of any provision of this Act or any other statutory provision concerned with the protection of the environment, a court may on application—

- (a) award costs on an appropriate scale to any person or persons entitled to practise as advocate or attorney in the Republic who provided free legal assistance or representation to such person or group in the preparation for or conduct of the proceedings; and
- (b) order that the party against whom the relief is granted pay to the person or group concerned any reasonable costs incurred by such person or group in the investigation of the matter and its preparation for the proceedings.

Private prosecution

33. (1) Any person may—

- (a) in the public interest; or
- (b) in the interest of the protection of the environment,

institute and conduct a prosecution in respect of any breach or threatened breach of any duty, other than a public duty resting on an organ of state, in any national or provincial legislation or municipal bylaw, or any regulation, licence, permission or authorisation issued in terms of such legislation, where that duty is concerned with the protection of the environment and the breach of that duty is an offence.

(2) The provisions of sections 9 to 17 of the Criminal Procedure Act, 1977 (Act 51 of 1977) applicable to a prosecution instituted and conducted under section 8 of that Act must apply to a prosecution instituted and conducted under subsection (1): Provided that if—

- (a) the person prosecuting privately does so through a person entitled to practise as an advocate or an attorney in the Republic;
- (b) the person prosecuting privately has given written notice to the appropriate public prosecutor that he or she intends to do so; and
- (c) the public prosecutor has not, within 28 days of receipt of such notice, stated in writing that he or she intends to prosecute the alleged offence,
 - (i) the person prosecuting privately shall not be required to produce a certificate issued by the Attorney-General stating that he or she has refused to prosecute the accused; and
 - (ii) the person prosecuting privately shall not be required to provide security for such action.

Regsbevoegdheid om omgewingswette af te dwing

32. (1) Enige persoon of groep persone kan gepaste regshulp aanvra met betrekking tot enige oortreding of dreigende oortreding van enige bepaling van hierdie Wet, met inbegrip van 'n beginsel in Hoofstuk 1 vervat, of enige ander statutêre bepaling rakende die beskerming van die omgewing of die benutting van natuurlike hulpbronne—
- (a) in daardie persoon of groep persone se eie belang;
 - (b) in die belang van, of namens, 'n persoon wat, om praktiese redes, nie in staat is om sodanige verrigtinge aanhangig te maak nie;
 - (c) in die belang van of namens 'n groep of klas persone wie se belange geraak word;
 - (d) in die openbare belang; en
 - (e) in die belang van die beskerming van die omgewing.
- (2) 'n Hof kan besluit om nie koste teen 'n persoon, of 'n groep persone toe te ken wat nie daarin slaag nie om die regshulp te verkry wat aangevra word met betrekking tot enige oortreding of dreigende oortreding van enige bepaling, met inbegrip van 'n beginsel van hierdie Wet, of enige ander statutêre bepaling wat betrokke is by die beskerming van die omgewing of die benutting van natuurlike hulpbronne nie, indien die hof van oordeel is dat die persoon of groep persone redelik opgetree het as gevolg van 'n besorgdheid vir die openbare belang of die beskerming van die omgewingsbelang en behoorlik pogings aangewend het om ander maniere te gebruik om dié regshulp te verkry.
- (3) Waar 'n persoon of groep persone die regshulp verkry wat met betrekking tot enige oortreding of dreigende oortreding van enige bepaling van hierdie Wet of enige ander statutêre bepaling wat betrokke is by die beskerming van die omgewing, kan 'n hof op aansoek—
- (a) koste toeken op 'n gepaste skaal aan enige persoon of persone wat geregtig is om as advokaat of prokureur in die Republiek te praktiseer en wat gratis regshulp of verteenwoordiging vir sodanige persoon of groep persone in die voorbereiding vir of voer van die verrigtinge verskaf het; en
 - (b) beveel dat die party teen wie die regshulp toegeken is, aan die betrokke persoon of groep persone enige redelike koste betaal wat deur sodanige persoon of groep aangegaan is in die ondersoek van die saak en die voorbereiding vir die verrigtinge.

Private vervolging

33. (1) Enigiemand kan—
- (a) in die openbare belang; of
 - (b) in belang van die beskerming van die omgewing
- 'n vervolging instel en voer met betrekking tot enige oortreding of dreigende oortreding van enige plig, anders as 'n openbare plig wat by 'n staatsorgaan berus, in enige nasionale of provinsiale wetgewing of munisipale verordening, of enige regulasie, lisensie, toestemming of magtiging uitgereik ingevolge sodanige wetgewing, waar daardie plig betrokke is by die beskerming van die omgewing en die oortreding van daardie plig 'n misdaad is.
- (2) Die bepalinge van artikels 9 tot 17 van die Strafproseswet, 1977 (Wet No. 51 van 1977), wat van toepassing is op 'n vervolging ingestel en gevoer kragtens artikel 8 van daardie Wet, is van toepassing op 'n vervolging ingestel en gevoer kragtens subartikel (1): Met dien verstande dat, indien—
- (a) die persoon wat privaat vervolg, dit deur 'n persoon doen wat geregtig is om as 'n advokaat of 'n prokureur in die Republiek te praktiseer;
 - (b) die persoon wat privaat vervolg skriftelik aan die betrokke staatsaanklaer kennis gegee het dat hy of sy beoog om dit aldus te doen; en
 - (c) die staatsaanklaer nie binne 28 dae vanaf ontvangs van sodanige kennisgewing, skriftelik verklaar het dat hy of sy beoog om oortreding van die beweerde misdryf te vervolg nie—
- (i) daar nie van die persoon wat privaat vervolg, vereis word om 'n sertifikaat voor te lê wat uitgereik is deur die Prokureur-generaal wat verklaar dat hy of sy geweier het om die beskuldigde te vervolg nie; en
 - (ii) daar nie van die persoon wat privaat vervolg, vereis word om sekuriteit vir sodanige geding te voorsien nie.

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(3) The court may order a person convicted upon a private prosecution brought under subsection (1) to pay the costs and expenses of the prosecution, including the costs of any appeal against such conviction or any sentence.

(4) The accused may be granted an order for costs against the person prosecuting privately, if the charge against the accused is dismissed or the accused is acquitted or a decision in favour of the accused is given on appeal and the court finds either: 5

(a) that the person instituting and conducting the private prosecution did not act out of a concern for the public interest or the protection of the environment; or

(b) that such prosecution was unfounded, trivial or vexatious.

(5) When a private prosecution is instituted in accordance with the provisions of this Act, the Attorney-General is barred from prosecuting except with the leave of the court concerned. 10

Criminal proceedings

34. (1) Whenever any person is convicted of an offence under any provision listed in Schedule 3 and it appears that such person has by that offence caused loss or damage to any organ of state or other person, including the cost incurred or likely to be incurred by an organ of state in rehabilitating the environment or preventing damage to the environment, the court may in the same proceedings at the written request of the Minister or other organ of state or other person concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused. 15 20

(2) Upon proof of such amount, the court may give judgement therefor in favour of the organ of state or other person concerned against the convicted person, and such judgement shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court. 25

(3) Whenever any person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order the award of damages or compensation or a fine equal to the amount so assessed. 30

(4) Whenever any person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may, upon application by the public prosecutor or another organ of state, order such person to pay the reasonable costs incurred by the public prosecutor and the organ of state concerned in the investigation and prosecution of the offence. 35

(5) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, and the act or omission of the manager, agent or employee occurred because the employer failed to take all reasonable steps to prevent the act or omission in question, then the employer shall be guilty of the said offence and, save that no penalty other than a fine may be imposed if a conviction is based on this sub-section, liable on conviction to the penalty specified in the relevant law, including an order under subsections (2), (3) and (4), and proof of such act or omission by a manager, agent or employee shall constitute *prima facie* evidence that the employer is guilty under this subsection. 40 45

(6) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer. 50

(3) Die hof kan 'n persoon wat skuldig bevind is, by 'n private vervolging, wat kragtens subartikel (1) ingestel is, beveel om die kostes en uitgawes van die vervolging, met inbegrip van die koste van enige appèl teen sodanige skuldigbevinding of enige vonnis, te betaal.

5 (4) Die beskuldigde kan 'n kostebevel verleen word teen die persoon wat privaat vervolg indien die aanklag teen die beskuldigde laat vaar is of die beskuldigde ontslaan is of 'n beslissing op appèl ten gunste van die beskuldigde gegee word en die hof bevind—

10 (a) of dat die persoon wat die private vervolging instel of voer, nie as gevolg van 'n besorgdheid vir die openbare belang of die belang van die omgewing opgetree het nie;

(b) of dat sodanige vervolging ongegrond, beuselagtig of kwelsugtig was.

(5) Wanneer 'n private vervolging ooreenkomstig die bepalings van hierdie Wet ingestel word, is die Prokureur-generaal, behalwe met verlof van die betrokke hof, belet
15 om te vervolg.

Strafregtelike verrigtinge

34. (1) Wanneer iemand ook al aan 'n misdaad wat kragtens enige bepaling wat in Bylae 3 gelys word, skuldig bevind word, en dit blyk dat sodanige persoon deur daardie misdaad verlies of skade veroorsaak het aan enige staatsorgaan of ander persoon, met
20 inbegrip van die koste wat aangegaan is of wat waarskynlik aangegaan sal word deur 'n staatsorgaan om die omgewing te herstel of skade aan die omgewing te voorkom, kan die hof in dieselfde verrigtinge op die skriftelike versoek van die Minister of ander staatsorgaan of ander betrokke persoon, en in die teenwoordigheid van die persoon wat skuldig bevind is, summier en sonder pleitstukke ondersoek instel na die bedrag van die
25 verlies of skade aldus veroorsaak.

(2) By bewys van sodanige bedrag, gee die hof uitspraak daarvoor ten gunste van die staatsorgaan of ander betrokke persoon teen die persoon wat skuldig bevind is, en sodanige uitspraak het dieselfde krag en uitwerking en is uitvoerbaar op dieselfde wyse asof dit in 'n siviele geding gegee is wat behoorlik voor 'n bevoegde hof ingestel is.

30 (3) Wanneer iemand ook al skuldig bevind word aan 'n misdaad wat in Bylae 3 gelys is, kan die hof wat sodanige persoon skuldig bevind, summier ondersoek instel na en die geldelike waarde vasstel van enige voordeel wat bekom is of wat waarskynlik bekom staan te word deur sodanige persoon voortspruitend uit sodanige misdaad, en, bykomend tot enige ander straf wat ten opsigte van daardie misdaad opgelê word, kan
35 die hof skadevergoeding of vergoeding toeken of 'n boete oplê gelyk aan die bedrag aldus vasgestel.

(4) Wanneer iemand ook al skuldig bevind word aan 'n misdaad kragtens enige bepaling wat in Bylae 3 gelys is, kan die hof wat sodanige persoon skuldig bevind, by aansoek deur die staatsaanklaer, of 'n ander staatsorgaan, sodanige persoon beveel om
40 die redelike koste, deur die betrokke staatsaanklaer en die staatsorgaan in die ondersoek en vervolging van die misdaad aangegaan, te betaal.

(5) Wanneer ook al enige bestuurder, verteenwoordiger of werknemer enige handeling verrig of nalaat om sodanige handeling te verrig, welke handeling hy of sy namens die werknemer as taak moes doen of hom of haar moes weerhou om te doen,
45 en kragtens 'n bepaling wat in Bylae 3 gelys is, 'n misdaad sou uitmaak vir die werkgewer om te verrig of na te laat om te verrig, en die handeling of versuim van die bestuurder, verteenwoordigers of werknemer plaasgevind het omdat die werkgewer nagelaat het om alle redelike stappe te doen om die handeling of versuim wat ter sprake is, te voorkom, dan is die werkgewer skuldig aan gemelde misdaad en, behalwe dat
50 geen straf anders as 'n boete opgelê mag word nie indien die skuldigbevinding gebaseer is op hierdie subartikel, strafbaar by skuldigbevinding met 'n straf in die betrokke wet vermeld, met inbegrip van 'n bevel kragtens subartikels (2), (3) en (4) en bewys van sodanige handeling of versuim deur 'n bestuurder, verteenwoordiger of werknemer stel *prima facie*-getuienis daar dat die werkgewer kragtens hierdie subartikels skuldig is.

55 (6) Wanneer ook al 'n bestuurder, verteenwoordiger of werknemer 'n handeling verrig of versuim om 'n handeling te verrig wat sy of haar taak was om namens die werkgewer te doen of wat hy of sy hom of haar namens die werkgewer van moes weerhou om te doen en wat kragtens 'n bepaling wat in Bylae 3 gelys is, 'n misdaad sou wees vir die werkgewer om te verrig of na te laat om te verrig, is hy of sy skuldig
60 en strafbaar ten opsigte daarvan asof hy of sy die werkgewer was.

(7) Any person who is or was a director of a firm at the time of the commission by that firm of an offence under any provision listed in Schedule 3 shall himself or herself be guilty of the said offence and liable on conviction to the penalty specified in the relevant law, including an order under subsection (2), (3) and (4), if the offence in question resulted from the failure of the director to take all reasonable steps that were necessary under the circumstances to prevent the commission of the offence: Provided that proof of the said offence by the firm shall constitute prima facie evidence that the director is guilty under this subsection. 5

(8) Any such manager, agent, employee or director may be so convicted and sentenced in addition to the employer or firm. 10

(9) In subsection (7) and (8)—

- (a) "firm" shall mean a body incorporated by or in terms of any law as well as a partnership; and
- (b) "director" shall mean a member of the board, executive committee, or other managing body of a corporate body and, in the case of a close corporation, a member of that close corporation or in the case of a partnership, a member of that partnership. 15

(10) (a) The Minister may amend Part (a) of Schedule 3 by regulation.

(b) An MEC may amend Part (b) of Schedule 3 in respect of the province of his or her jurisdiction by regulation. 20

CHAPTER 8

ENVIRONMENTAL MANAGEMENT CO-OPERATION AGREEMENTS

Conclusion of agreements

35. (1) The Minister and every MEC and municipality, may enter into environmental management co-operation agreements with any person or community for the purpose of promoting compliance with the principles laid down in this Act. 25

(2) Environmental management co-operation agreements must—

- (a) only be entered into with the agreement of—
 - (i) every organ of state which has jurisdiction over any activity to which such environmental management co-operation agreement relates; 30
 - (ii) the Minister and the MEC concerned;
- (b) only be entered into after compliance with such procedures for public participation as may be prescribed by the Minister; and
- (c) comply with such regulations as may be prescribed under section 45. 35

(3) Environmental management co-operation agreements may contain— 35

- (a) an undertaking by the person or community concerned to improve on the standards laid down by law for the protection of the environment which are applicable to the subject matter of the agreement;
- (b) a set of measurable targets for fulfilling the undertaking in (a), including dates for the achievement of such targets; and 40
- (c) provision for—
 - (i) periodic monitoring and reporting of performance against targets;
 - (ii) independent verification of reports;
 - (iii) regular independent monitoring and inspections;
 - (iv) verifiable indicators of compliance with any targets, norms and standards laid down in the agreement as well as any obligations laid down by law; 45
- (d) the measures to be taken in the event of non-compliance with commitments in the agreement, including where appropriate penalties for non-compliance and the provision of incentives to the person or community.

- (7) Enigiemand wat 'n direkteur is of was van 'n regspersoon toe daardie regspersoon 'n misdaad gepleeg het kragtens 'n bepaling wat in Bylae 3 gelys is, is self skuldig aan die gemelde misdaad en by skuldigbevinding strafbaar met die straf by die betrokke wet vermeld, met inbegrip van 'n bevel kragtens subartikels (2), (3) en (4),
- 5 indien die betrokke misdaad die gevolg was van die direkteur se versuim om alle redelike stappe te doen wat onder die omstandighede nodig was om die pleging van die misdaad te voorkom: Met dien verstande dat bewys van die gemelde misdaad deur die regspersoon *prima facie*-getuienis daargestel dat die direkteur kragtens hierdie subartikel skuldig is.
- 10 (8) Enige sodanige bestuurder, verteenwoordiger, werknemer of direkteur kan, bykomend tot die werkgewer of regspersoon, aldus skuldig bevind en gevonnissen word.
- (9) In subartikels (7) en (8)—
- (a) beteken "regspersoon" enige liggaam wat ingevolge enige wet ingelyf is en ook 'n vennootskap; en
- 15 (b) beteken "direkteur" 'n lid van die raad, uitvoerende komitee, of ander bestuursliggaam van 'n regspersoon en, in geval van 'n beslote korporasie, 'n lid van daardie beslote korporasie of in geval van 'n vennootskap, 'n lid van daardie vennootskap.
- (10) (a) Die Minister kan Deel (a) van Bylae 3 by regulasie wysig.
- 20 (b) 'n LUR kan Deel (b) van Bylae 3 met betrekking tot 'n provinsie van sy of haar jurisdiksie, by regulasie wysig.

HOOFSTUK 8

OMGEWINGSBESTUUR-SAMEWERKINGSOOREENKOMSTE

Sluiting van ooreenkomste

- 25 35. (1) Die Minister en elke LUR en munisipaliteit kan omgewingsbestuur-samewerkingsooreenkomste met enige persoon of gemeenskap aangaan met die doel om nakoming van die beginsels wat in hierdie Wet neergelê is, te bevorder.
- (2) Omgewingsbestuur-samewerkingsooreenkomste moet—
- (a) slegs aangegaan word met die instemming van—
- 30 (i) elke staatsorgaan wat jurisdiksie het oor enige werksaamheid ten opsigte waarvan sodanige omgewingsbestuur-samewerkingsooreenkoms betrekking het;
- (ii) die betrokke Minister en LUR;
- (b) slegs aangegaan word na nakoming van sodanige prosedures vir openbare deelname wat die Minister mag voorskryf; en
- 35 (c) voldoen aan sodanige regulasies as wat kragtens artikel 45 voorgeskryf kan word.
- (3) Omgewingsbestuur-samewerkingsooreenkomste kan—
- (a) 'n onderneming deur die betrokke persoon of gemeenskap bevat om te verbeter op die standarde wat wetlik neergelê is vir die beskerming van die omgewing wat van toepassing is op die inhoud van die ooreenkoms;
- 40 (b) 'n stel meetbare doelwitte bevat ten einde die onderneming in paragraaf (a) te volvoer, met inbegrip van die datums vir die bereiking van sodanige doelwitte;
- (c) voorsiening bevat vir—
- (i) periodieke monitering en verslagdoening oor uitvoering teenoor doelwitte;
- (ii) onafhanklike verifikasie van verslae;
- (iii) gereelde onafhanklike kontrolering en inspeksies;
- 50 (iv) kontroleerbare aanwysers van die nakoming van enige doelwitte, norme en standarde wat in die ooreenkoms neergelê is, asook enige verpligtinge wat by wet neergelê is;
- (d) die maatreëls wat gedoen staan te word in geval van nie-nakoming van verpligtings ingevolge die ooreenkoms, met inbegrip van strawwe waar
- 55 gepas vir nie-nakoming en die verskaffing van belonings aan die persoon of gemeenskap.

CHAPTER 9**ADMINISTRATION OF ACT****Expropriation**

36. (1) The Minister may purchase or, subject to compensation, expropriate any property for environmental or any other purpose under this Act, if that purpose is a public purpose or is in the public interest: Provided that the Minister must consult the Minister of Minerals and Energy before any mineral rights are expropriated. 5

(2) The Expropriation Act, 1975 (Act No. 63 of 1975) applies to all expropriations under this Act and any reference to the Minister of Public Works in that Act must be read as a reference to the Minister for purposes of such expropriation. 10

(3) Notwithstanding the provisions of subsection (2), the amount of compensation and the time and manner of payment must be determined in accordance with section 25 (3) of the Constitution, and the owner of the property in question must be given a hearing before any property is expropriated.

Reservation

15

37. The Minister may reserve State land with the consent of the Minister authorised to dispose of the land, and after consultation with any other Minister concerned, for environmental or other purposes in terms of this Act, if that purpose is a public purpose or is in the public interest.

Intervention in litigation

20

38. The Minister may intervene in litigation before a court in any matter under this Act.

Agreements

39. The Director-General may enter into agreements with organs of state in order to fulfil his or her responsibilities. 25

Appointment of employees on contract

40. (1) The Director-General may appoint employees on contract outside the provisions of the Public Service Act, 1994 (Proclamation No 103 of 1994), when this is necessary to carry out the functions of the Department.

(2) The Director-General must, from time to time, and after consultation with the Department of Public Service and Administration, determine the conditions of employment of such employees. 30

(3) Such employees must be remunerated from money appropriated for that purpose by Parliament.

Assignment of powers

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41. (1) In this section "assignment" means an assignment as contemplated in section 99 of the Constitution.

(2) The Minister must record all assignments referred to in subsection (1) in a Schedule to this Act and may amend that Schedule.

Delegation

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42. (1) The Minister may delegate a power, function or duty vested in him or her to—

(a) a named officer of the Department; or

(b) the holder of an office in the Department or, after consultation with the relevant Minister or MEC, the holder of an office of any other national department, provincial administration or municipality. 45

HOOFTUK 9

ADMINISTRASIE VAN WET

Onteiening

36. (1) Die Minister kan eiendom aankoop of, onderhewig aan vergoeding, enige
5 eiendom onteien vir omgewingsdoeleindes- of enige ander doel kragtens hierdie Wet,
indien daardie doel 'n openbare doel is of in die openbare belang is: Met dien verstande
dat die Minister met die Minister van Minerale en Energie moet oorleg pleeg voordat
mineraalregte onteien word.

(2) Die Onteieningswet, 1975 (Wet No. 63 van 1975), is van toepassing op alle
10 onteienings kragtens hierdie Wet en enige verwysing na die Minister van Openbare
Werke in daardie Wet, moet gelees word as 'n verwysing na die Minister vir doeleindes
van sodanige onteiening.

(3) Ondanks die bepalings van subartikel (2), moet die bedrag van vergoeding en die
15 tydstop en wyse van betaling ooreenkomstig artikel 25(3) van die Grondwet bepaal
word, en die eienaar van die eiendom ter sprake moet aangehoor word voordat enige
eiendom onteien word.

Reservering

37. Die Minister kan, met die toestemming van die Minister wat gemagtig word om
Staatsgrond te vervreem, en na oorlegpleging met enige ander betrokke Minister,
20 staatsgrond vir omgewingsdoeleindes of ander doeleindes kragtens hierdie Wet
reserveer, indien daardie doel 'n openbare doel is of in die openbare belang is.

Toetrede tot gedingvoering

38. Die Minister kan in gedingvoering voor 'n hof, in enige aangeleentheid kragtens
hierdie Wet, toetree.

25 Ooreenkomste

39. Die Direkteur-generaal kan ooreenkomste met staatsorgane aangaan ten einde sy
of haar verpligtinge te volvoer.

Aanstelling van werknemers op kontrak

40. (1) Die Direkteur-generaal kan werknemers op kontrak buite die bepalings van
die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), aanstel wanneer dit nodig
is om die werksaamhede van die Departement uit te voer.

(2) Die Direkteur-generaal moet van tyd tot tyd, en na oorlegpleging met die
Departement van die Staatsdiens en Administrasie, die diensvoorwaardes van sodanige
werknemers bepaal.

35 (3) Sodanige werknemers word vergoed uit geld wat vir daardie doel deur die
Parlement bewillig is.

Opdra van bevoegdhede

41. (1) In hierdie artikel beteken "opdra" 'n opdrag beoog in artikel 99 van die
Grondwet.

40 (2) Die Minister moet alle opdragte bedoel in subartikel (1) in 'n Bylae tot hierdie
Wet aanteken en hy of sy kan daardie Bylae wysig.

Delegering

42. (1) Die Minister kan 'n bevoegdheid, werksaamheid of plig wat by hom of haar
berus, deleger aan—

- 45 (a) 'n benoemde amptenaar van die Departement; of
(b) die bekleër van 'n amp in die Departement of, na oorlegpleging met die
betrokke Minister of LUR, die bekleër van 'n amp van enige ander nasionale
departement, provinsiale administrasie of munisipaliteit.

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- (2) A delegation referred to in subsection (1)—
- (a) must be in writing;
 - (b) may be made subject to conditions;
 - (c) does not prevent the exercise of the power, function or duty by the Minister himself or herself; and 5
 - (d) may be withdrawn by the Minister.
- (3) The Director-General may delegate a power, function or duty vested in him or her by or under this Act to—
- (a) a named officer of the Department;
 - (b) the holder of an office in the Department; or 10
 - (c) after consultation with a provincial head of department, an officer in a provincial administration or municipality.
- (4) The Director-General may permit a person to whom a power, function or duty has been delegated by the Director-General to delegate further that power, function or duty.
- (5) A delegation referred to in subsection (3) and the permission referred to in subsection (4)— 15
- (a) must be in writing;
 - (b) may be made subject to conditions;
 - (c) does not prevent the exercise of the power, function or duty by the Director-General himself or herself; and 20
 - (d) may be withdrawn by the Director-General.

Appeal to Minister

43. (1) Any affected person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act.
- (2) An appeal under subsection (1) must be noted and must be dealt with in the 25 manner prescribed.

Regulations in general

44. (1) The Minister may make regulations—
- (a) dealing with any matter which under this Act must be dealt with by regulation; and 30
 - (b) generally, to carry out the purposes and the provisions of this Act.
- (2) The Minister may make different regulations under this Act in respect of different activities, provinces, geographical areas and owners or classes of owners of land.
- (3) The Minister may by regulation provide that infringements of certain regulations constitute criminal offences and prescribe penalties for such offences. 35

Regulations for management co-operation agreements

45. (1) The Minister may make regulations concerning—
- (a) procedures for the conclusion of environmental management co-operation agreements, which must include procedures for public participation;
 - (b) the duration of agreements; 40
 - (c) requirements relating to the furnishing of information;
 - (d) general conditions and prohibitions;
 - (e) reporting procedures;
 - (f) monitoring and inspection.
- (2) An MEC or municipal council may substitute his or her or its own regulations or bylaws, as the case may be, for the regulations issued by the Minister under subsection (1) above: Provided that such provincial regulations or municipal bylaws must cover the matters enumerated in subsection (1), and comply with the principles laid down in this Act. 45

Model environmental management bylaws

46. (1) The Minister may make model bylaws aimed at establishing measures for the 50

- (2) 'n Delegering bedoel in subartikel (1)—
- (a) moet skriftelik wees;
 - (b) kan aan sekere voorwaardes onderhewig gestel word;
 - (c) verhoed nie die uitoefening van die bevoegdheid, werksaamheid of plig deur die Minister self nie; en
 - (d) kan deur die Minister ingetrek word.
- (3) Die Direkteur-generaal kan 'n bevoegdheid, werksaamheid of plig wat by hom of haar kragtens hierdie Wet berus, deleger aan—
- (a) 'n genoemde amptenaar van die Departement;
 - (b) die bekleër van 'n amp in die Departement;
 - (c) na oorlegpleging met 'n provinsiale departementshoof, 'n amptenaar in 'n provinsiale administrasie of munisipaliteit.
- (4) Die Direkteur-generaal kan 'n persoon aan wie 'n bevoegdheid, werksaamheid of plig deur hom of haar gedelegeer is, toelaat om daardie bevoegdheid, werksaamheid of plig verder te deleger.
- (5) 'n Delegering bedoel in subartikel (3) en die toestemming bedoel in subartikel (4)—
- (a) moet skriftelik wees;
 - (b) kan aan voorwaardes onderhewig gestel word;
 - (c) verhoed nie die uitoefening van die bevoegdheid, werksaamheid of plig deur die Direkteur-generaal self nie; en
 - (d) kan deur die Direkteur-generaal ingetrek word.

Appèl na Minister

43. (1) Enige persoon wat geraak word, kan na die Minister appelleer teen 'n beslissing wat gemaak is deur enige persoon wat optree kragtens 'n bevoegdheid wat gedelegeer is kragtens hierdie Wet.
- (2) 'n Appèl kragtens subartikel (1) moet aangeteken word en op die voorgeskrewe wyse hanteer word.

Algemene regulasies

44. (1) Die Minister kan regulasies uitvaardig—
- (a) wat handel met enige aangeleentheid wat kragtens hierdie Wet by regulasie hanteer moet word; en
 - (b) in die algemeen, om die doelstellings en die bepalinge van hierdie Wet uit te voer.
- (2) Die Minister kan verskillende regulasies kragtens hierdie Wet uitvaardig met betrekking tot verskillende werksaamhede, provinsies, geografiese gebiede en eienaars of klasse van eienaars van grond.
- (3) Die Minister kan by regulasie voorsiening maak dat oortredings van sekere regulasies misdade daarstel en kan strawwe vir sodanige misdade voorskryf.

40 Regulasies vir bestuursamewerkingsooreenkomste

45. (1) Die Minister kan regulasies uitvaardig betreffende—
- (a) prosedures vir die sluit van omgewingsbestuur-samewerkingsooreenkomste, wat openbare deelname moet insluit;
 - (b) die duur van die ooreenkomste;
 - (c) vereistes wat verband hou met die verskaffing van inligting;
 - (d) algemene voorwaardes en verbodsbepalinge;
 - (e) verslagdoeningsprosedures;
 - (f) kontrolering en inspeksie.
- (2) 'n LUR of munisipale raad kan die regulasie wat deur die Minister kragtens subartikel (1) uitgevaardig is, vervang deur hulle eie regulasies of verordeninge, na gelang van die geval: Met dien verstande dat sodanige regulasies of munisipale verordeninge die aangeleenthede in subartikel (1) genoem, moet dek, en die beginsels van hierdie Wet neergelê, moet nakom.

Model omgewingsbestuursverordeninge

46. (1) Die Minister kan model verordeninge uitvaardig wat daarop gemik is om

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management of environmental impacts of any development within the jurisdiction of a municipality, which may be adopted by a municipality as municipal bylaws.

(2) Any municipality may request the Director-General to assist it with the preparation of bylaws on matters affecting the environment and the Director-General may not unreasonably refuse such a request. 5

(3) The Director-General may institute programmes to assist municipalities with the preparation of bylaws for the purposes of implementing this Act.

(4) The purpose of the model bylaws referred to in subsection (1) must be to—

- (a) mitigate adverse environmental impacts;
- (b) facilitate the implementation of decisions taken, and conditions imposed as a result of the authorisation of new activities and developments, or through the setting of norms and standards in respect of existing activities and developments; and 10
- (c) ensure effective environmental management and conservation of resources and impacts within the jurisdiction of a municipality in co-operation with other organs of state. 15

(5) The model bylaws referred to in subsection (1) must include measures for environmental management, which may include—

- (a) auditing, monitoring and ensuring compliance; and
- (b) reporting requirements and the furnishing of information. 20

Procedure for making regulations

47. (1) Before making any regulations under this Act, a Minister or MEC must—

- (a) publish a notice in the relevant *Gazette*—
 - (i) setting out the draft regulations; and
 - (ii) inviting written comments to be submitted on the proposed regulations within a specified period mentioned in the notice; and 25
- (b) consider all comments received in accordance with paragraph (a)(ii).

(2) The Minister must, within 30 days after promulgating and publishing any regulations under this Act, table the regulations in the National Assembly and the National Council of Provinces, and an MEC must so table the regulations in the relevant provincial legislature or, if Parliament or the provincial legislature is then not in session, within 30 days after the beginning of the next ensuing session of Parliament or the provincial legislature. 30

(3) In considering regulations—

- (a) tabled in the National Assembly, a committee of the National Assembly must consider and report to the National Assembly; 35
- (b) tabled in the National Council of Provinces, a committee of the National Council of Provinces must consider and report to the National Council of Provinces; and
- (c) tabled in a provincial legislature, a committee of that provincial legislature must consider and report to the provincial legislature, 40

whether the regulations—

- (i) are consistent with the purposes of this Act;
- (ii) are within the powers conferred by this Act;
- (iii) are consistent with the Constitution; and 45
- (iv) create offences and prescribe penalties for such offences that are appropriate and acceptable.

(4) The National Council of Provinces may by resolution reject the regulations within 30 days after they have been tabled in the National Council of Provinces, and such rejection must be referred to the National Assembly for consideration. 50

(5) (a) The National Assembly, after considering any rejection of a regulation by the National Council of Provinces; and

(b) the relevant provincial legislature, may by resolution within 60 days after they have been tabled disapprove of the regulations, and may suspend its disapproval for any period and on any conditions to allow the Minister or MEC to correct a defect. 55

maatreëls in te stel vir die bestuur van omgewingsinwerkings van enige ontwikkeling binne die jurisdiksie van 'n munisipaliteit, en wat deur 'n munisipaliteit as munisipale verordeninge aangeneem kan word.

(2) Enige munisipaliteit kan die Direkteur-generaal versoek om hom by te staan met die voorbereiding van verordeninge oor aangeleenthede wat die omgewing raak en die Direkteur-generaal weier nie sodanige versoek onredelik nie.

(3) Die Direkteur-generaal kan programme instel om munisipaliteite by te staan met die voorbereiding van verordeninge vir doeleindes van die implementering van hierdie Wet.

10 (4) Die doel van model verordeninge bedoel in subartikel (1) is om—

(a) nadelige omgewingsinwerkings te versag;

(b) die implementering van beslissings wat geneem is, en voorwaardes wat opgelê is as gevolg van die magtiging van nuwe werksaamhede en ontwikkelings, of deur die stel van norme en standaarde met betrekking tot bestaande werksaamhede en ontwikkelings te fasiliteer; en

15 (c) doeltreffende omgewingsbestuur en bewaring van hulpbronne en inwerkings binne die jurisdiksie van 'n munisipaliteit, in samewerking met ander staatsorgane, te verseker.

(5) Die model verordeninge bedoel in subartikel (1), sluit maatreëls in vir 20 omgewingsbestuur, met inbegrip van—

(a) ouditering, kontrolering en die versekering van nakoming; en

(b) die verslagdoening van vereistes en die verskaffing van inligting.

Prosedure vir uitvaardiging van regulasies

47. (1) Voordat enige regulasies kragtens hierdie Wet uitgevaardig word, moet die 25 Minister of LUR—

(a) 'n kennisgewing in die *Staatskoerant* publiseer wat—

(i) die konsepregulasies uiteensit; en

30 (ii) skriftelike kommentaar uitnooi wat ten opsigte van die voorgestelde regulasies binne 'n bepaalde tydperk in die kennisgewing vermeld, voorgelê kan word; en

(b) alle kommentaar wat ooreenkomstig paragraaf (a)(ii) ontvang is, oorweeg.

(2) Die Minister moet, binne 30 dae na die afkondiging en publisering van enige regulasies kragtens hierdie Wet, die regulasies in die Nasionale Vergadering en die Nasionale Raad van Provinsies ter tafel lê, en die LUR moet die regulasies in die 35 betrokke provinsiale wetgewer ter tafel lê, of, indien die Parlement of die betrokke provinsiale wetgewer nie dan in sitting is nie, binne 30 dae na die begin van die eersvolgende sitting van die Parlement of die betrokke provinsiale wetgewer.

(3) By die oorweging van regulasies—

40 (a) wat in die Nasionale Vergadering ter tafel gelê is, moet 'n komitee van die Nasionale Vergadering oorweeg en aan die Nasionale Vergadering verslag doen;

(b) wat in die Nasionale Raad van Provinsies ter tafel gelê is, moet 'n komitee van die Nasionale Raad van Provinsies oorweeg en aan die Nasionale Raad van Provinsies verslag doen; en

45 (c) wat in 'n provinsiale wetgewer ter tafel gelê is, moet 'n komitee van daardie provinsiale wetgewer oorweeg en aan die provinsiale wetgewer verslag doen—

of die regulasies—

(i) bestaanbaar is met die doel van hierdie Wet;

50 (ii) binne die bevoegdhede is deur hierdie Wet opgedra;

(iii) bestaanbaar is met die Grondwet; en

(iv) misdade skep en strawwe voorskryf wat vanpas en aanvaarbaar is.

(4) Die Nasionale Raad van Provinsies kan by resoluë die regulasies afkeur binne 30 dae nadat dit in die Nasionale Raad van Provinsies ter tafel gelê is, en sodanige 55 afkeuring moet verwys word na die Nasionale Vergadering vir oorweging.

(5) (a) Die Nasionale Vergadering, nadat dit enige afkeuring van 'n regulasie deur die Nasionale Raad van Provinsies oorweeg het; en

60 (b) die betrokke provinsiale wetgewer, kan by resoluë die regulasies afkeur binne 60 dae nadat dit ter tafel gelê is, en kan sodanige afkeuring vir enige tydperk en op enige voorwaardes opskort om die Minister of LUR die geleentheid te bied om 'n defek reg te stel.

(6) If the National Assembly or provincial legislature disapproves of any regulation, the regulation lapses, but without affecting—

- (a) the validity of anything done in terms of the regulation before it lapsed; or
- (b) a right or privilege acquired or an obligation or liability incurred before it lapsed.

5

CHAPTER 10

GENERAL AND TRANSITIONAL PROVISIONS

State bound

48. This Act is binding on the State except in so far as any criminal liability is concerned.

10

Limitation of liability

49. Neither the State nor any other person is liable for any damage or loss caused by—

- (a) the exercise of any power or the performance of any duty under this Act; or
- (b) the failure to exercise any power, or perform any function or duty under this Act,

15

unless the exercise of or failure to exercise the power, or performance or failure to perform the duty was unlawful, negligent or in bad faith.

Repeal of laws

50. (1) Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14A, 14B, 14C, 15, 27A and 38 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), are hereby repealed.

20

(2) Sections 21, 22 and 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and the notices and regulations issued pursuant to sections 21 and 22 and in force on the commencement date of this Act are repealed with effect from a date to be published by the Minister in the *Gazette*, which date may not be earlier than the date on which regulations or notices made or issued under section 24 of this Act are promulgated and the Minister is satisfied that the regulations and notices under sections 21 and 22 have become redundant.

25

Savings

51. Anything done or deemed to have been done under a provision repealed by this Act—

30

- (a) remains valid to the extent that it is consistent with this Act until anything done under this Act overrides it; and
- (b) subject to paragraph (a) is considered to be an action under the corresponding provision of this Act.

35

Short title

52. This Act is called the National Environmental Management Act, 1998.

Commencement

53. This Act comes into operation on a date fixed by the President in the *Gazette*.

(6) Indien die Nasionale Vergadering of provinsiale wetgewer enige regulasie afkeur, verval die regulasie, maar sonder dat—

- (a) die geldigheid van enigiets gedoen ingevolge die regulasies voordat dit verval het; of
- 5 (b) 'n reg of privilegie verkry of 'n verpligting of aanspreeklikheid opgeloopt voordat dit verval het, geraak word.

HOOFTUK 10

ALGEMENE EN OORGANGSBEPALINGS

10 Staat gebonde

48. Hierdie Wet is bindend op die Staat behalwe vir insoverre dit enige strafregtelike aanspreeklikheid betref.

Beperking van aanspreeklikheid

49. Nóg die Staat nóg enige ander persoon is aanspreeklik vir enige skade of verlies veroorsaak deur—

- (a) die uitoefening van enige bevoegdheid of die verrigting van enige plig kragtens hierdie Wet; of
- (b) die versuim om enige bevoegdheid uit te oefen, of enige werksaamheid of plig te verrig kragtens hierdie Wet,
- 20 tensy die uitoefening van, of versuim om die bevoegdheid uit te oefen, of verrigting of versuim om die plig te verrig, onregmatig, nalatig of te kwader trou was.

Herroeping van wette

50. (1) Artikels 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14A, 14B, 14C, 15, 27A en 38 van die Wet op Omgewingsbewing, 1989 (Wet No. 73 van 1989), word hierby

25 herroep.

(2) Artikels 21, 22 en 26 van die Wet op Omgewingsbewing, 1989 (Wet No. 73 van 1989), en die kennisgewings en regulasies uitgereik uit hoofde van artikels 21 en 22 en wat van krag is op die datum van inwerkingtreding van hierdie Wet, word herroep met ingang van 'n datum wat deur die Minister in die *Staatskoerant* gepubliseer staan te

30 word, welke datum nie vroeër mag wees nie as die datum waarop regulasies of kennisgewings uitgevaardig of uitgereik kragtens artikel 24 van hierdie Wet afgekondig word en die Minister oortuig is dat die regulasies en kennisgewings kragtens artikels 21 en 22 oorbodig geword het.

Voorbehoude

35 51. Enigiets wat gedoen is of wat geag word gedoen te gewees het kragtens 'n bepaling wat by hierdie Wet herroep is—

- (a) bly van krag in die mate dat dit bestaanbaar is met hierdie Wet totdat enigiets gedoen kragtens hierdie Wet dit omverwerp; en
- (b) word behoudens paragraaf (a), geag 'n handeling kragtens die ooreenstem-
- 40 mende bepaling van hierdie Wet te wees.

Kort titel

52. Hierdie Wet heet die Wet op Nasionale Omgewingsbestuur, 1998.

Inwerkingtreding

53. Hierdie Wet tree in werking op 'n datum wat deur die President by kennisgewing

45 in die *Staatskoerant* bepaal word.

SCHEDULE 1**Section 11(1)****National departments exercising functions which may affect the environment**

- * Department of Environmental Affairs and Tourism
- * Department of Land Affairs
- * Department of Agriculture
- * Department of Housing
- * Department of Trade and Industry
- * Department of Water Affairs and Forestry
- * Department of Transport
- * Department of Defence

BYLAE 1**Artikel 11(1)****Nasionale departemente wat werksaamhede verrig wat die omgewing kan raak**

- * Departement van Omgewingsake en Toerisme
- * Departement van Grondsake
- * Departement van Landbou
- * Departement van Behuising
- * Departement van Handel en Nywerheid
- * Departement van Waterwese en Bosbou
- * Departement van Vervoer
- * Departement van Verdediging

SCHEDULE 2**Section 11(2)****National departments exercising functions that involve the management of the environment**

- * Department of Environmental Affairs and Tourism
- * Department of Water Affairs and Forestry
- * Department of Minerals and Energy
- * Department of Land Affairs
- * Department of Health
- * Department of Labour

BYLAE 2**Artikel 11(2)**

Nasionale departemente wat werksaamhede verrig waarby die bestuur van die omgewing betrokke is

- * Departement van Omgewingsake en Toerisme
- * Departement van Waterwese en Bosbou
- * Departement van Minerale en Energie
- * Departement van Grondsake
- * Departement van Gesondheid
- * Departement van Arbeid

Act No. 107, 1998 NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

SCHEDULE 3**(Section 34)****Part (a): National Legislation**

No. and year of law	Short title	Relevant provisions
Act No. 36 of 1947	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies	Section 18(1)(l) in so far as it relates to contraventions of sections 7 and 7bis
Act No. 71 of 1962	Animal Protection	Sections 2(1) and 2A
Act No. 45 of 1965	Atmospheric Pollution Prevention	Section 9
Act No. 15 of 1973	Hazardous Substances	Section 19(1)(a) and (b) in so far as it relates to contraventions of sections 3 and 3A
Act No. 57 of 1976	National Parks	Section 24(1)(b)
Act No. 63 of 1976	Mountain Catchment Areas	Section 14 in so far as it relates to contraventions of section 3
Act No. 63 of 1977	Health	Section 27
Act No. 73 of 1980	Dumping at Sea Control	Sections 2(1)(a) and 2(1)(b)
Act No. 6 of 1981	Marine Pollution (Control and Civil Liability)	Section 2(1)
Act No. 43 of 1983	Conservation of Agricultural Resources	Sections 6 and 7
Act No. 2 of 1986	Marine Pollution (Prevention of Pollution from Ships)	Section 3A
Act No. 73 of 1989	Environment Conservation	Section 29(2)(a) and (4)
Act No. 18 of 1998	Marine Living Resources	Section 58(1) in so far as it relates to contraventions of sections 43(2), 45, and 47, and section 58(2) in so far as it relates to contraventions of international conservation and management measures
Act No. 36 of 1998	National Water	Section 151(i) and (j)

BYLAE 3**(Artikel 34)****Deel (a): Nasionale Wetgewing**

No. en jaar van wet	Kort titel	Relevante bepalinge
Wet No. 36 van 1947	Wet op Misstowwe, Veevoedsel, Landboumiddels en Veemiddels	Artikel 18(1)(l) in soverre dit betrekking het op oortredings van artikels 7 en 7bis
Wet No. 71 van 1962	Dierebeskermingswet	Artikels 2(1) en 2A
Wet No. 45 van 1965	Wet op Voorkoming van Lugbesoedeling	Artikel 9
Wet No. 15 van 1973	Wet op Gevaarhoudende Stowwe	Artikel 19(1)(a) en (b) in soverre dit betrekking het op oortredings van artikels 3 en 3A
Wet No. 57 van 1976	Wet op Nasionale Parke	Artikel 24(1)(b)
Wet No. 63 van 1976	Wysigingswet op Bergopvanggebiede	Artikel 14 in soverre dit betrekking het op oortredings van artikel 3
Wet No. 63 van 1977	Wet op Gesondheid	Artikel 27
Wet No. 73 van 1980	Wet op Beheer van Storting ter See	Artikels 2(1)(a) en 2(1)(b)
Wet No. 6 van 1981	Wet op Mariene Besoedeling (Beheer en Siviele Aanspreeklikheid)	Artikel 2(1)
Wet No. 43 van 1983	Wet op die Bewaring van Landbouhulpbronne	Artikels 6 en 7
Wet No. 2 van 1986	Wet op Mariene Besoedeling (Voorkoming van Besoedeling deur Skepe)	Artikel 3A
Wet No. 73 van 1989	Wet op Omgewingsbewaring	Artikels 29(2)(a) en (4)
Wet No. 18 van 1998	Wet op Lewende Marine Hulpbronne	Artikel 58(1) in soverre dit betrekking het op oortredings van artikels 43(2), 45 en 47, en artikel 58(2) in soverre dit betrekking het op oortredings van internasionale bewarings- en bestuursmaatreëls
Wet No. 36 van 1998	Nasionale Waterwet	Artikel 151(i) en (j)

Act No. 107, 1998 NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998**Part (b): Provincial Legislation**

No. and year of law	Short title	Relevant provisions
Ordinance No. 8 of 1969	Orange Free State Conservation	Section 40(1)(a) in so far as it relates to contraventions of sections 2(3), 14(2), 15(a), 16(a) and 33
Ordinance No. 9 of 1969	Orange Free State Townships	Section 40(1)(a)(ii)
Ordinance No. 15 of 1974	Natal Nature Conservation	Section 55 in so far as it relates to section 37(1), to section 49 in respect of specially protected game and to section 51 in respect of specially protected game, section 109 in so far as it relates to section 101, to section 102 and to section 104, section 154 in so far as it relates to section 152; section 185 in so far as it relates to section 183, and section 208 in so far as it relates to section 194 and to section 200
Ordinance No. 19 of 1974	Cape Nature and Environmental Conservation	Section 86(1) in so far as it relates to contraventions of sections 26, 41(1)(b)(ii) and (c)-(e), 52(a), 57(a), 58(b) and 62(1)
Ordinance No. 12 of 1983	Transvaal Nature Conservation	Sections 16A, 42, 84, 96 and 98
Ordinance No. 15 of 1985	Cape Land Use Planning	Section 46(1) in so far as it relates to sections 23(1) and 39(2)
Ordinance No. 15 of 1986	Transvaal Town Planning and Townships	Sections 42, 93 and 115
Act No. 5 of 1998	KwaZulu Natal Planning and Development	Section 48
Act No. 29 of 1992	KwaZulu Nature Conservation	Section 67 in so far as it relates to sections 59(1), 59(2), 60(1) and 62(1); section 86 in so far as it relates to sections 76, 77 and 82; and section 110 in so far as it relates to section 109

Deel (b): Provinsiale Wetgewing

No. en jaar van wet	Kort titel	Relevante bepalinge
Ordonnansie No. 8 van 1969	Oranje-Vrystaat Bewaring	Artikel 40(1)(a) in soverre dit betrekking het op oortredings van artikels 2(3), 14(2), 15(a), 16(a) en 33
Ordonnansie No. 9 van 1969	Oranje-Vrystaat Dorpsgebiede	Artikel 40(1)(a)(ii)
Ordonnansie No. 15 van 1974	Natal Natuurbewaringsordonnansie	Artikel 55 in soverre dit betrekking het op artikel 37(1), op artikel 49 met betrekking tot spesiaal beskermde wild en op artikel 51 met betrekking tot spesiaal beskermde wild, artikel 109 in soverre dit betrekking het op artikel 101, op 102 en op artikel 104, artikel 154 in soverre dit betrekking het op artikel 152; artikel 185 in soverre dit betrekking het op artikel 183, en artikel 208 in soverre dit betrekking het op artikel 194 en op artikel 200
Ordonnansie No. 19 van 1974	Kaap Natuur- en Omgewingsbewaring	Artikel 86(1) in soverre dit betrekking het op oortredings van artikels 26, 41(1)(b)(ii) en (c)-(e), 52(a), 57(a), 58(b) en 62(1)
Ordonnansie No. 12 van 1983	Transvaal Natuurbewaring	Artikels 16A, 42, 84, 96 en 98
Ordonnansie No. 15 van 1985	Kaap Grondgebruikbeplanning	Artikel 46(1) in soverre dit betrekking het op oortredings van artikels 23(1) en 39(2)
Ordonnansie No. 15 van 1986	Transvaal Dorpsbeplanning en Dorpe	Artikels 42, 93 en 115
Wet No. 5 van 1998	KwaZulu Beplanning en Ontwikkeling	Artikel 48
Wet No. 29 van 1992	KwaZulu Omgewingsbewaring	Artikel 67 in soverre dit betrekking het op artikels 59(1), 59(2), 60(1) en 62(1); artikel 86 in soverre dit betrekking het op artikels 76, 77 en 82; en artikel 110 in soverre dit betrekking het op artikel 109

