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THE PRESIDENCY

No. 631

03 June 2020

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

Act No. 35 of 2019: Hydrographic Act, 2019

OFISI KAMONGAMELI

No. 631

03 June 2020

Kwaziswa lapha bona uMongameli sele agunyaze umThetho olandelako, ogadangiswa lapha ngomnqopho wokuphakela ilwazi mazombe:—

Inomboro 35 ka 2019: UmThetho weHayidrografiki, 2019

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(English text signed by the President)
(Assented to 26 May 2020)

ACT

To provide for the establishment of the Hydrographic Office; to provide for its objects, functions and the manner in which it is to be managed; to provide for the appointment and powers of the Hydrographer and the staff in the Hydrographic Office; to regulate the submission of hydrographic data; to regulate the manner in which hydrographic survey marks and copyrights may be protected; to provide for the limitation of civil liability; to provide for the manner in which the income of the Hydrographic Office must be dealt with; to provide for co-operation agreements and to provide for matters connected therewith.

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

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Definitions

1. In this Act, unless the context otherwise indicates—
- “**Chief of the Navy**” means the officer in command of the South African Navy;
 - “**Department**” means the Department responsible for defence;
 - “**exclusive economic zone**” means the sea beyond the territorial waters of the Republic, but within a distance of two hundred nautical miles from the baselines;
 - “**Hydrographer**” means the person appointed as such in terms of section 5;
 - “**hydrographic data**” means all data obtained from the measurement and description of the physical features of the exclusive economic zone, all internal waters and adjacent terrain, including the depth of the water, configuration and the nature of the topography beneath, the direction and force of currents, heights and

(English text signed by the President)
(Assented to 26 May 2020)

UMTHETHO

Ukuqalelela ukuhlonywa kwe-Ofisi leHayidrografiki; ukuqalelela iminqophalo, imisebenzi nendlela elizokuphathwa ngayo; ukuqalelela ukuqatjiswa namandla weHayidrografa nabasebenzi bange-Ofisini leHayidrografiki; ukulawula ukulethwa kwedatha yehayidrografiki; ukulawula indlela imiphumela yehlolo yehayidrografiki namalungelo wokukhuphela angavikeleka ngayo; ukuqalelela imikhawulo yehlawulo yomonakalo; ukuqalelela indlela ekufanele kusetjenzwe ngayo ngengeniso mali ye-Ofisi leHayidrografiki; ukuqalelela iimvumelwano zokusebenzisana begodu nokuqalelela iindaba ezithintene nakho lokhu.

NGEBANGELO UMENYEZELWE yiPalamende yeRiphabhliki yeSewula Afrika, ngendlela elandelako:—

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Iihlathululo

1. Ngaphandle kwalapho ummango utshwaya okuhlukileko, ngaphakathi koMthetho lo—

“isiKhulu se-Navy esiyiHloko” kuhlathulula isiphathiswa esiyiHloko se-Navy yeSewula Afrika; 25

“umNyango” kuhlathulula umNyango ophethe zokuvikela;

“ingcenywe yelwandle yokurhwebela ngokomthetho kwenarha” kuhlathulula ilwandle elingaphetjheya kwengcenywe yamanzi angaphasi kombuso weRiphabhliki, kodwana aphakathi kwebanga elimakhulu amabili wamamayeli ukusuka emideni lapho ilwandle lithoma khona; 30

times of tides and water stages, location of topographic features and fixed objects for survey and navigation;

“Hydrographic Office” means the office established by section 3;

“hydrographic surveying” means surveying for the purpose of determining hydrographic data; 5

“hydrographic surveyor” means any person who studied and practises the science of hydrography, and who is registered in terms of the Geomatics Profession Act, 2013 (Act No. 19 of 2013);

“internal waters” means all waters landward of the baselines, including all harbours; 10

“Minister” means the Cabinet member responsible for defence;

“nautical publication and nautical chart” means a special purpose map or book, or a specially compiled database from which such a map or book is derived which is authorised by the Hydrographic Office, designed to meet the requirements of marine navigation or other relevant government institutions; 15

“NAVAREA-VII” means that particular area of the world ocean in respect of which the Republic, as a member of the International Maritime Organisation and the International Hydrographic Organisation, has been assigned by those organisations to assume the responsibility of coordinating, compiling and disseminating navigational warnings; 20

“navigational warning” means a broadcast message that conveys navigational information;

“prescribed” means prescribed by regulation;

“this Act” includes any regulations made thereunder; and

“user” means any person who obtains through purchase, or otherwise, information from or products of the Hydrographic Office, or who pays for the services of the Hydrographic Office. 25

Objects of Act

2. The objects of this Act are to—

- (a) provide for the establishment of the Hydrographic Office; 30
- (b) provide for the safety of navigation in the exclusive economic zone and the internal waters of the Republic;
- (c) ensure that hydrographic surveying is done in accordance with the requirements of internationally accepted specifications and standards;
- (d) provide for the appointment of the Hydrographer; and 35
- (e) provide for the powers and duties of the Hydrographer.

Establishment of Hydrographic Office

3. (1) The Hydrographic Office is hereby established as a unit within the South African Navy.

(2) The seat of the Hydrographic Office is determined by the Chief of the Navy in consultation with the Hydrographer. 40

Functions of Hydrographic Office

4. To achieve the objects of this Act, the Hydrographic Office must—

- (a) direct the collection and compilation of hydrographic data;

“iHayidrografa” kuhlathulula umuntu oqatjhelwe umsebenzi wakho lokhu ngokwesigaba 5;

“idatha yehayidrografiki” kuhlathulula yoke idatha etholakele ukusuka ekulinganiseni nehlathululweni yeensetjenzi swa eengcenyeni zelwandle zokurhwebela ngokomthetho kwenarha, nemanzini womzila ophumela ngaphandle kwelwandle emanzini wangaphakathi nalawo ahlukaniswa mbundu, ekufaka hlangana nokutjingga kwamanzi, nehlelo leengcenyane nendlela ingaphasi lamanzi lingayo, iinkomba namandla wamagagasi, ukuphakama neenkhati zamahlelo begodu neengaba zamanzi, indawo yokuhleleka kwezakhi neensetjenzi swa ezingatjhidiko ezimalungana nehloko begodu nokukhamba elwandle;

“i-Ofisi leHayidrografiki” kuhlathulula i-ofisi elihlonywe ngesigaba 3;

“ihloko yehayidrografiki” kuhlathulula ihloko ngomnqopho wokukhetha idatha yehayidrografiki;

“isihloko sehayidrografiki” kuhlathulula nanyana ngimuphi umuntu ofundele bewasebenza ngesayensi yehayidrografi, begodu otlolisiweko ngokwe-*Geomatics Profession Act, 2013* (umThetho weNomboro 19 wee-2013);

“amanzi wangaphakathi” kuhlathulula woke amanzi atjingga esithomeni selwandle, ekufaka hlangana nazo zoke iindawo lapho iinkepe zijama khona ngeqadi;

“uNgqongqotjhe” kuhlathulula ilunga leKhabhinedi eliphathiswe zokuvikela;

“imitloko yokuphepha elwandle kanye nemebhe yobunjalo belwandle” kuhlathulula umebhe wehloko ekhethekileko nofana incwadi nofana ibulungelodatha elibuthelelwe ngokukhethekileko ukusuka lapho umebhe nofana incwadi leyo isuselwa khona nephasiswe li-Ofisi leHayidrografiki, elikhethelwe ukufinyelela iimfuno zokukhamba elwandle ngeenkepe nofana amanye amaziko afaneleko karhulumente;

“i-NAVAREA-VII” kuhlathulula bonyana indawo ethileko yelwandle lomhlaba ngokuphathelele neyeRiphabhliki, njenge lunga leHlangano yeenTjhabatjhaba yamaLwandle kanye neHlangano yezeenTjhabatjhaba yeHayidrografiki, iphiwe igunya ziinhlanganwezo ukwenzela ukuthoma ngeembopho zokuthintanisana, zokubuthelela kanye nokusabalalisa iiyeleliso ngokukhamba elwandle ngeenkepe;

“iiyeleliso ngokukhamba ngeenkepe elwandle” kuhlathulula umlayezo orhatjhwako odlulisa ilwazi ngokukhamba elwandle ngeenkepe;

“okuquntiwako/ okuphakanyisweko” kuhlathulula okuphakanyiswe mthetholawulo;

“umThetho lo” kufaka hlangana nanyana ngimiphi imithetholawulo eyenziwe ngokukhambisana nokungenzasi; begodu

“umsebenzisi” kuhlathulula nanyana ngimuphi umuntu othola ngokuthenga, nofana ngenye indlela, ilwazi elivela nofana ngomkhiqizopahla we-Ofisi leHayidrografiki, nofana obhadalela imisebenzi ye-Ofisi leHayidrografiki.

Iminqopho yomThetho

2. Iminqopho yomThetho lo ku—

- (a) qalelela ukuhlonywa kwe-Ofisi leHayidrografiki;
- (b) qalelela ukuphepha kokukhamba ngesikepe elwandle eengcenyeni zelwandle zokurhwebela ngokomthetho kwenarha kanye nemanzini wangaphakathi weRiphabhliki;
- (c) qinisekisa bonyana ihlolombono lehayidrografiki yenziwa ngokukhambisana neemfuneko zeentjhabatjhaba zamazinga kanye nemininigwana eyamukelekileko;
- (d) qalelela ukuqatjiswa kwehayidrografa; begodu
- (e) nokuqalelela amandla kanye nemisebenzi yeHayidrografa.

Ukuhlonywa kwe-Ofisi leHayidrografiki

3. (1) I-Ofisi leHayidrografiki ngalokhu lihlonywe njenge ngcenyane engaphakathi kweZiko le-Navy yeSewula Afrika.

(2) Ukunziza kwe-Ofisi leHayidrografiki kukhethwa siKhulu esiyiHloko ye-Navy ngokukhululumsana neHayidrografa.

Imisebenzi ye-Ofisi leHayidrografiki

4. Ukwenzela ukuphumelelisa iminqopho yomThetho lo, i-Ofisi leHayidrografiki kufanele—

- (a) linqophise ukubuthelelwa nokuhlanganiswa kwedatha yehayidrografiki;

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- (b) sell to users the nautical publications and nautical charts necessary for the safety of navigation within the exclusive economic zone and the internal waters of the Republic;
- (c) provide services to users in the manner most suitable for the purpose of aiding navigation— 5
 - (i) by consulting with all the relevant maritime safety users in order to ensure that hydrographic surveying is carried out in accordance with the requirements of internationally accepted specifications and standards;
 - (ii) to prepare and issue nautical publications and nautical charts;
 - (iii) to issue sailing directions, lists of lights, notices to mariners and tide tables where applicable, satisfying the needs of safe navigation; and 10
 - (iv) to update the nautical publications and nautical charts;
- (d) maintain uniformity of nautical publications and nautical charts, taking into account the resolutions and recommendations of the International Hydrographic Organisation; 15
- (e) coordinate hydrographic activities in order to ensure that hydrographic data, nautical publications and nautical charts are made available on a world-wide scale as timely, reliably and unambiguously as possible;
- (f) take the necessary steps to ensure that the navigational warnings relating to safe navigation in NAVAREA VII is communicated promptly to persons 20 navigating in NAVAREA VII; and
- (g) represent the Republic at the International Hydrographic Organisation and at the International Maritime Organisation on hydrographic matters and participate in regional and international forums.

Appointments and conditions of service

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5. (1) The Chief of the Navy must appoint the Hydrographer as head of the Hydrographic Office.

(2) The provisions of the Defence Act, 2002 (Act No. 42 of 2002), regarding the appointment, remuneration, terms and conditions of employment and termination of service apply to the Hydrographer and all staff appointed in the Hydrographic Office as 30 contemplated in subsection (5).

(3) The Hydrographer must have practised for at least 10 years as a hydrographic surveyor.

(4) (a) Whenever for any reason the Hydrographer is unable to perform his or her duties for a period of more than one month, the Chief of the Navy must appoint one of 35 the hydrographic surveyors referred to in subsection (5)(b) as acting Hydrographer until the Hydrographer is able to resume those duties.

(b) An acting Hydrographer may exercise all the powers and must perform all the duties of the Hydrographer.

(5) The Hydrographer may, subject to subsection (2) and in consultation with the 40 Chief of the Navy—

- (a) appoint the necessary number of persons who have the required qualifications and experience to work as administrative support staff in the Hydrographic Office; and
- (b) appoint the necessary number of persons as hydrographic surveyors in the 45 Hydrographic Office to assist the Hydrographer to perform his or her functions.

- (b) lithengisele abasebenzisi imitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle edingekako ukwenzela ukuphepha kokukhamba ngesikepe eengcenyeni zelwandle zokurhwebela ngokomthetho kwenarha;
- (c) iqalelele abasebenzisi ngeensiza ezingendlela elungele khulu umnqopho wokusiza ukukhamba elwandle— 5
 - (i) ngokukhulumisana nabo boke abasebenzisi abafaneleko bezokuphepha abakhamba elwandle ukwenzela ukuqinisekisa bonyana ihlolombono yehayidrografiki yenziwa ngokukhambisana neemfuno zeentjhabatjhaba zamazinga kanye neminingwana eyamukelekileko; 10
 - (ii) lilungiselela begodu ikhuphe imitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle;
 - (iii) ukukhupha iinkomba zokukhamba ngesikepe, irhelo lamalerhe, izaziso zabakhambi elwandle kanye namatafula akhombisa ubujamo nobunjalo bammagagasi welwandle lapho kudingeka khona, ukwanelisa iindingo zokuphepha kokukhamba elwandle; begodu 15
 - (iv) nokubuyekeza imitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle.
- (d) ligcine ukufana kwemitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle, ngokuyelela iinsombululo kanye neemphakamiso zeHlangano yezeentjhabatjhaba yeHayidrografiki; 20
- (e) lithintanise imisebenzi yehayidrografiki ukwenzela ukuqinisekisa bonyana idatha yehayidrografiki, imitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle eyenziwa bonyana itholakale ngokunabe komhlaba woke ngesikhathi esifaneleko, ngokuthembekako kanye nangokuzwisisakala ngendlela ekungakghonakala ngayo; 25
- (f) lithathe amagadango afaneleko ukuqinisekisa bonyana iiyeleliso zokukhamba elwandle ezimayelana nokukhamba ngokuphepha e-NAVAREA VII lidluliselwe ngendlela efaneleko ebantwini abakhamba e-NAVAREA VII; begodu
- (g) belijamele iRiphabhliki eHlanganweni yezeentjhabatjhaba yeHayidrografiki kanye neHlanganweni yezeentjhabatjhaba yamaLwandle ngokuphathelelene neendaba zehayidrografiki kanye nokuzibandakanya eembuthanweni weeyingini kanye neweentjhabatjhaba. 30

Ukuqatjiswa nemibandela yomsebenzi

5. (1) IsiKhulu se-Navy esiyiHloko kufanele siqatjhe iHayidrografa njengehloko ye-Ofisi leHayidrografiki. 35

(2) Iinqalelelo ze-*Defence Act*, 2002 (umThetho weNomboro 42 wee-2002), ngokumayelana nokuqatjiswa, isibonelelo, imigomo kanye nemibandela yomsebenzi begodu nokupheliswa kweensiza ezisebenza kuHayidrografa kanye nabo boke abasebenzi abaqatjwe e-Ofisini leHayidrografiki njengokundlalwe esigatjaneni (5). 40

(3) IHayidrografa kufanele kube seyinelemuko leminyaka okungasenani elitjhumini njengehloko limbono sehayidrografiki.

(4) (a) Nanyana kunini ngaphasi kwananyana ngisiphi isizathu lapho iHayidrografa ingakghoni khona ukwenza imisebenzayo isikhathi esingaphezu kwenyanga yinye, isiKhulu se-Navy esiyiHloko kufanele siqatjhe munye wabahlolimbono behayidrografiki okhonjwe esigatjaneni (5)(b) njengomjaphethe oyiHayidrografa ukufikela lapho iHayidrografiki ikghona khona ukuragela phambili nemisebenzayo. 45

(b) UMjaphethe weHayidrografa angasebenzisa woke amandla begodu kufanele enze yoke imisebenzi yeHayidrografa.

(5) Ngokulawulwa sigatjana (2) kanye nemikhulumiswano nesiKhulu se-Navy esiyiHloko, iHayidrografa— 50

- (a) ingakhetha inani elifaneleko labantu abaneemfuneko ezidingekako kanye nelemuko lokusebenza njengabasekeli bezokuphatha e-Ofisini leHayidrografiki; begodu
- (b) ingakhetha nenani elifaneleko labantu ngenjabahlolimbono beHayidrografiki nge-Ofisini leHayidrografiki ukwenzela ukusiza iHayidrografa ukwenza imisebenzayo. 55

Control and management of Hydrographic Office

6. (1) The Hydrographer must govern and control the Hydrographic Office in accordance with and subject to this Act and the Defence Act.
- (2) The Hydrographer must—
- (a) ensure that the functions of the Hydrographic Office determined in section 4 are carried out efficiently and effectively; and 5
 - (b) exercise general control over the performance of the Hydrographic Office's functions.
- (3) The Hydrographer represents the Hydrographic Office and all acts performed by the Hydrographer or on his or her authority in terms of this Act are the acts of the Hydrographic Office. 10

Powers and duties of Hydrographer

7. (1) For the purposes of exercising any power and performing any duty imposed or conferred on him or her by this Act, the Hydrographer may, subject to subsection (2)—
- (a) enter at reasonable hours upon any land, seashore, enclosed place or reserve on land or ocean and internal waters within the jurisdiction of the Republic; 15
 - (b) place or erect a beacon, bench mark, reference mark, temporary flag, signal or other mark upon the land, seashore, enclosed place, reserve on land or ocean and internal waters contemplated in paragraph (a); and
 - (c) maintain the vicinity of any beacon, bench mark, reference mark, temporary flag, signal or other mark upon the land, seashore, enclosed place, reserve on land or ocean and internal waters contemplated in paragraph (a). 20
- (2) The Hydrographer must, before exercising any power or performing any duty contemplated in this section—
- (a) give reasonable notice of the intention to exercise the power or perform the duty to the owner or occupier of the land, enclosed place or reserve on land; 25
 - (b) obtain the necessary consent from the owner or occupier of the land, enclosed place or reserve on land;
 - (c) identify himself or herself to the owner or occupier of the land, enclosed place or reserve on land; and 30
 - (d) inform the owner or occupier about the purpose of his or her visit.
- (3) When exercising any power or performing any duty conferred or imposed on him or her in terms of this section, the Hydrographer must minimise the damage or inconvenience caused by the exercise of that power or performance of that duty.
- (4) The Hydrographer may delegate his or her powers under this section to a hydrographic surveyor employed in the Hydrographic Office. 35
- (5) A delegation under subsection (4) does not prevent the exercise of the delegated powers by the Hydrographer.

Submission of hydrographic data

8. (1) Any person identified by the Hydrographer from time to time by notice in the *Gazette* must communicate and submit any information in his or her possession regarding anything that poses a navigational danger and is relevant to or has an influence on the safety of navigating the area contemplated in section 2(b). 40
- (2) Any person contemplated in subsection (1) who fails to communicate or submit information is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months. 45

Ukulawulwa kanye nokuphathwa kwe-Ofisi leHayidrografiki

6. (1) IHayidrografa kufanele ibuse begodu ilawule i-Ofisi leHayidrografiki ngokukhambisana kanye nokulawulwa mThetho lo kanye ne-*Defence Act*, 2002.

(2) IHayidrografa kufanele—

- (a) iqinisekise bonyana imisebenzi ye-Ofisi leHayidrografiki ekhethwe ngaphakathi kwesigaba 4 yenziwa ngepumelelo nangokuyinzuzo; begodu
- (b) yenze ilawulo zombebele ekwenziweni kwemisebenzi ye-Ofisi leHayidrografiki.

(3) IHayidrografa ijamele i-Ofisi leHayidrografiki kanye nakho koke okwenziwa yiHayidrografa nofana emandlenayo ngokomThetho lo kumisebenzi ye-Ofisi leHayidrografiki.

Amandla kanye nemisebenzi yeHayidrografa

7. (1) Ngokweminqopho yokusebenzisa nanyana ngimaphi amandla kanye nokwenza nanyana ngimuphi umsebenzi athweswe wona nofana alayelwe mThetho lo, ngokulawulwa sigatjana (2), iHayidrografa—

- (a) ingangena ngama-awara azwisisakalako kunanyana ngiyiphi indawo, eqadi kwelwandle, endaweni evalelweko, nofana enarheni ebulingiweko nofana elwandle nemanzini womzila ophumela ngaphandle kwelwandle engaphakathi komkhawulo obuswa yiRiphabhliki;
- (b) ingabeka nofana ihlome itshwayo eliyelalisako, itshwayo lesihlolimbono, iflarha yesikhatjhana, itshwayo nofana elinye itshwayo enarheni, eqadi kwelwandle, endaweni evalelweko, enarheni ebulingiweko nofana emanzini womzila ophumela ngaphandle kwelwandle ohlathululwe endimeni (a); begodu
- (c) ingacina indawo ubuduze bananyana ngiliphi itshwayo, itshwayo lehlolimbono, itshwayo elilayelako, iflarha yesikhatjhana, itshwayo nofana elinye itshwayo enarheni, eqadi kwelwandle, endaweni evalelweko, enarheni ebulingiweko nofana emanzini womzila ophumela ngaphandle kwelwandle ohlathululwe endimeni (a).

(2) Ngaphambi kokusebenzisa nofana ukwenza nanyana ngimuphi umsebenzi ondlalwe esigabenesi, iHayidrografa kufanele—

- (a) iphe isaziso esizwisisakalako sehloso yokusebenzisa amandla nofana ukwenza umsebenzi kumnikazi nofana umhlali wenarha, indawo evalelweko nofana inarha ebulingiweko;
- (b) athole imvumo efaneleko emninini nofana emhlabeni wenarheni, indawo evalelweko nofana inarha ebulingiweko;
- (c) azazise kumnini nofana umhlali wenarheni, indawo evalelweko nofana inarha ebulingiweko; begodu
- (d) azise nomnini nofana umhlali mayelana nomnqopho wevakatjho lakhe.

(3) Lokha nakasebenzisa nanyana ngimaphi amandla nofana enza nanyana ngimuphi umsebenzi alayelwe wona nofana athweswe wona ngokwesigabesi, iHayidrografa kufanele inciphise umonakalo nofana ukuhlangahlangana okungabangwa kusetjenziswa kwamandla lawo nofana ukwenziwa komsebenzi lowo.

(4) IHayidrografa ingadlulisela amandlayo ngaphasi kwesigabesi esihlolimbono seHayidrografiki esiqatjhwe e-Ofisini leHayidrografiki.

(5) Ukudluliselwa kwamandla ngaphasi kwesigatjana (4) akuvimbela ukusetjenziswa kwamandla adluliselwe yiHayidrografa.

Ukulethwa kwedatha yeHayidrografiki

8. (1) Nanyana ngimuphi umuntu okhonjwe yiHayidrografa ngeenkathi ezithileko ngesaziso se*Gazete* kufanele atjho begodu athumele elinye nelinye ilwazi aliphetheko eliphathelene nanye nenye into ebeka ubungozi ekukhambeni elwandle begodu elifanekeliko nofana elinomthelela ekuphepheni kokukhamba eendaweni zelwandle ezihlathululwe esigabeni 2(a).

(2) Nanyana ngimuphi umuntu ohluleka ukubika nofana ukuletha ilwazi ngokukhambisana nesigatjana (1) umlandu ngecala begodu uthweswa ihlawulo nofana uthweswa ukuvalelwa isikhathi esingadluli iinyanga ezisithandathu.

Survey marks

9. (1) Any flag, peg, signal hydrographic beacon, survey reference mark or hydrographic instrument erected in terms of this Act must be constructed or erected under the supervision of the Hydrographer and in the prescribed manner.

(2) Any person who without the authority of the Hydrographer, alters, moves, disturbs or wilfully damages or destroys a flag, peg, signal hydrographic beacon, survey reference mark or hydrographic instrument is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months. 5

(3) The owner of any property damaged by the placing of a flag, peg, signal hydrographic beacon, survey reference mark or hydrographic instrument is entitled to compensation by the Department for such damages. 10

Archiving

10. (1) The Chief of the Navy may determine minimum standards in respect of—

(a) the general management of the information of the Hydrographic Office relating to source documents, original surveys, nautical publications and nautical charts; 15

(b) access to and transfer and control of the nautical publications and nautical charts and any other information relevant to the functioning of the Hydrographic Office;

(c) infrastructural or procedural rules and requirements for securing the integrity and authenticity of the nautical publications and nautical charts and any other information relevant to the functioning of the Hydrographic Office; 20

(d) procedures and technological methods to be used in the storage or archiving of nautical publications and nautical charts and any other information relevant to the functioning of the Hydrographic Office; 25

(e) plans in the event of loss of nautical publications and nautical charts and any other information relevant to the functioning of the Hydrographic Office; and

(f) any other matter required for the adequate protection, management and control of such information.

(2) The Hydrographer is responsible for the proper management, control and care of the information referred to in subsection (1). 30

Copyright

11. (1) The copyright of all nautical publications and nautical charts and any other information produced by the Hydrographic Office vests in the State.

(2) Notwithstanding subsection (1), the President may, by notice in the *Gazette*, in accordance with section 5(6) of the Copyright Act, 1978 (Act No. 98 of 1978), designate the Hydrographer to be responsible for the administration and management of such copyright. 35

Limitation of civil liability

12. (1) In the event of gross negligence or a willful act or omission relating to the use of any nautical publication or nautical charts produced and sold by the Hydrographic Office, the Hydrographic Office or an employee of the Hydrographic Office is liable for— 40

(a) loss or damages resulting from bodily injury;

(b) loss of life; or

(c) damage to property, 45

to any person or to a dependent of such person.

Imiphumela yehlolombono

9. (1) Nanyana ngiyiphi iflarha, itshwayo eliyelelisako lehayidrografiki, itshwayo lehlolombono elilayelako nofana isitjenziwa sehayidrografiki esijanyiswe ngoko-
mThetho lo kufanele yakhiwe nofana ijanyiswe ngaphasi kokubekwa ilihlo
yiHayidrografa, begodu nangendlela ekuphakanyiswe ngayo. 5

(2) Nanyana ngimuphi umuntu onganamvumo yeHayidrografa, otjhugulula, atjhidise, aphazamise nofana owona ngehloso nofana aphule iflarha, iphini, itshwayo eliyelelisako leHayidrografiki, itshwayo lehlolombono elilayelako nofana isisetjenziwa seHayidrografiki umlandu ngokulahlwa licala begodu uthweswa ihlawulo nofana uyavalelwa ejele isikhathi esingadluli iinyanga ezisithandathu. 10

(3) Umnikazi wepahlo eyonwe kubekwa kwefflarha, iphini, itshwayo eliyelelisako lehayidrografiki, itshwayo lehlolombono elilayelako nofana isisetjenziwa sehayidrografiki unelungelo lokuliliswa mNyango mayelana nomonakalo loyo.

Ukubulungwa kwemitlolo

10. (1) IsiKhulu se-Navy esiyiHloko singabeka ubuncani bamazinga ngokuphe-
thelene— 15

- (a) nokuphathwa zombelele kwelwazi le-Ofisi leHayidrografiki elihlobeni nomthombo wemitlolo, imihlolombono yamambala, imitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle;
- (b) nokufinyelela, kanye nokudlulisa begodu nokulawulwa kwemitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle begodu nananyana ngiliphi ilwazi elifaneleko lokusebenza kwe-Ofisi leHayidrografiki; 20
- (c) nemithetho yomthangalasisekelo nofana yekambiso kanye neemfuneko zokuvikela ukudzimelela emgomeni ozibekela wona nokuba nobuqiniso kwemitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle begodu nananyana ngiliphi elinye ilwazi elifaneleko ekusebenzeni kwe-Ofisi leHayidrografiki; 25
- (d) neenkambiso kanye neendlela zetheknoloji ezizokusetjenziwa ekubulungweni nofana ekugcineni kwemitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle kanye nananyana ngiliphi elinye ilwazi elifaneleko ekusebenzeni kwe-Ofisi leHayidrografiki; 30
- (e) namahlelo ngaphasi kobujamo lapho kulahleke khona imitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle kanye nananyana ngiliphi elinye ilwazi elifaneleko lokusebenza kwe-Ofisi leHayidrografiki; begodu 35
- (f) nananyana ngikuphi okhanye okuthogekako mayelana nokuvikeleka okwaneleko, ukuphathwa kanye nokulawulwa kwelwazelo.

(2) IHayidrografa inegunya lokuphathwa okufaneleko, ukulawulwa kanye nokuthogonyelwa kwelwazi elikhonjwe ngaphakathi kwendinyana (1).

Ilungelo lokukhuphela

11. (1) Ilungelo lokukhutjhelwa kwayo yoke imitlolo yokuphepha elwandle kanye nemebehe yobunjalo belwandle kanye nananyana ngiliphi elinye ilwazi elivezwe li-Ofisi leHayidrografiki elihlonywe eNarheni. 40

(2) Nangaphandle kwesigatjana (1), uMongameli ngokusebenzisa isaziso ngaphakathi kweGazede, angakhethe iHayidrografa ezokuqalana nokuphathwa kanye nokulawulwa kwelungelo lokukhuphelelo, ngokukhambisana nesigaba 5(6) se-Copy-right Act, 1978 (umThetho weNomboro 98 we-1978). 45

Imikhawulo yehlawulo yomonakalo

12. (1) Ebujameni lapho kunganakunakwa okukhulu nofana isenzo esihlosiweko nofana ukutjhiywa ngaphandle okuphathelene nokusetjenziwa kwemitlolo yokuphepha elwandle nemebehe yobunjalo belwandle ekhiqizwa beyithengiswe li-Ofisi leHayidrografiki, i-Ofisi leHayidrografiki nofana isisebenzi se-Ofisi leHayidrografiki sikateleleke ngokomthetho kokulandelako— 50

- (a) ukulahlekelwa nofana ukonakalelwa okubangelwe kulimala emzimbeni;
- (b) ukuhlongaka; nofana
- (c) ukonakala kwepahla, 55

komunye nomunye umuntu nofana emuntwini owondliwa mumuntu loyo.

(2) No civil action may be instituted against the Hydrographic Office in respect of any cause of action arising out of or in connection with the content of any nautical publication and nautical chart, if such nautical publication and nautical chart has not been produced and sold by the Hydrographic Office.

Hydrographic Office funding

5

13. (1) The costs and expenses connected with the administration of the affairs and the execution of the functions of the Hydrographic Office must be defrayed from monies appropriated by Parliament to the Department for that purpose.

(2) Any income derived from—

- (a) the production and sale of nautical publications and nautical charts by the Hydrographic Office to users; 10
- (b) the hydrographic services rendered by the Hydrographic Office to users; and
- (c) any other money to which the Hydrographic Office Fund may lawfully become entitled to,

must be paid into the National Revenue Fund.

15

Co-operation agreement

14. The Secretary of Defence must enter into co-operation agreements with the Director-General of the Department of Transport and may enter into such agreements with other interested parties in respect of matters of joint interest that may arise from the execution of this Act.

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Annual report

15. The Hydrographer must annually, within 90 days after the end of the financial year, submit a report in respect of the execution of the functions of the Hydrographic Office to the Chief of the Navy.

Regulations

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16. The Minister may make regulations regarding—

- (a) the manner in which a notice contemplated in section 7(2)(a) must be served or published;
- (b) the general management of the hydrographic data of the Hydrographic Office relating to source documents, original surveys, nautical publications and nautical charts; and 30
- (c) any matter that may or must be prescribed in terms of this Act or any incidental matter of a procedural or administrative nature that the Minister considers necessary to prescribe in order to achieve the objects of this Act.

Transitional arrangements

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17. (1) The person who immediately before the commencement of this Act performed the functions of the Hydrographer continues to do so and is deemed to have been appointed in terms of section 5.

(2) Every person who immediately before the commencement of this Act performed any functions of a member of the staff of the office of the Hydrographer that existed before such commencement, is deemed to have been appointed in terms of section 5. 40

(3) Any action taken by the Hydrographer before the commencement of this Act is regarded to have been taken in terms of this Act.

Short title and commencement

18. This Act is called the Hydrographic Act, 2019, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 45

(2) Akunasigwebo esilizakuthathwa mayelana ne-Ofisi leHayidrografiki ngokuphathelene nananyana ngikuphi okungunobangela wokwenzakeleko ekusukela nofana ekuthintene nalokho ekumumethwe nginanyana ngimiphi imitlolo yeenkomba kanye namatjhadi wokukhamba elwandle, nangabe imitlolo yeenkomba kanye namatjhadi wokukhamba elwandle layo akakakhutjwa bekathengiswa li-Ofisi leHayidrografiki. 5

Ukusizwa ngeemali kwe-Ofisi leHayidrografiki

13. (1) Iindleko kanye neemali ezisetzisizweko ezithintene nokuphathwa kweendaba kanye nokwenziwa kwemisebenzi ye-Ofisi leHayidrografiki kufanele ibhadalwe ngokukhutjwa eemalini iPalamende ezabele umNyango ngomnqopho loyo. 10

(2) Nanyana ngiyiphi imali eyingeniso ebuya— 10

(a) emkhizweni kanye nemthengisweni wemitlolo yokuphepha elwandle kanye nemebhe yobunjalo belwandle li-Ofisi leHayidrografiki ukuya ebasebenzisini; 15

(b) eensizeni zehayidrografiki ezenziwe li-Ofisi leHayidrografiki zenzelwa abasebenzisini; kanye 15

(c) nananyana ngiyiphi enye imali lapho isiKhwama se-Ofisi leHayidrografiki singaba nelungelo layo ngokomthetho kiyo,

kufanele ibhadalwe ngaphakathi kwesiKhwama seNgeniso seNarha.

Iimvumelwano zokusebenzisana

14. UNobhala wezokuVikela kufanele angenele iimvumelwano zokusebenzisana nomNqophisi Zombebele womNyango wezeenThuthi begodu bangangenela iimvumelwanezo namanye amalunga anakareko ngokuphathelene neendaba zekarekohlanganyela engahle ivezwe kusetjenziswa komThetho lo. 20

Umbiko womNyaka

15. IHayidrografa kufanele, ithumele umbiko ngokuphathelene nokwenziwa kwemisebenzi ye-Ofisi leHayidrografiki esiKhulwini se-Navy esiyiHloko, emalangenama-90 ngemva kokuphela komnyakamali. 25

ImiThetholawulo

16. UNgqongqotjhe angenza imithetholawulo mayelana—

(a) nendlela isaziso esindlalwe ngaphakathi kwesigaba 7(2)(a) kufanele sidluliswe nofana sisatjalaliswe ngayo; 30

(b) ukuphathwa zombebele kwedatha yehayidrografiki ye-Ofisi leHayidrografiki ekuhlobene nokutholakala kwemitlolo, imihlolomboono yamambala, imitlolo yeenkomba kanye namatjhadi wokukhamba ngemanzu; begodu

(c) nananyana ngiyiphi indaba engahle nofana ekufanele iphakanyiswe ngokomThetho lo nofana nanyana ngiyiphi indaba engakaqakatheki yekambiso nofana yendlela yokuphathwa leyo uNgqongqotjhe ayithatha njengedingekako bonyana iphakanyiswe ukwenzela ukuphumelelisa iminqopho yomThetho lo. 35

Amahlelo wokudluliselana

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17. (1) Umuntu othe msinyazana ngaphambi kokuthoma komThetho lo wenza imisebenzi yeHayidrografa uragela phambili nokwenza njalo begodu uthathwa njengokuqatjwa ngokwesigaba 5.

(2) Woke umuntu othe msinyazana ngaphambi kokuthoma komThetho wenza nanyana ngimiphi imisebenzi yelunga laba sebenzi be-Ofisi leHayidrografa ebagade ikhona ngaphambi kokuthomokhu, uthathwa njengokuqatjwa ngokwesigaba 5. 45

(3) Nanyana ngiliphi igadango elithethwe yiHayidrografa ngaphambi kokuthoma komThetho lo lithathwa njengelithethwe ngokomThetho lo.

Isihloko esifitjhezana kanye nokuthoma kwawo

18. UmThetho lo ubizwa ngomThetho weHayidrografiki, 2019, begodu uthoma ukusebenza ngelanga eliqinisekise nguMongameli ngokumemezela ngaphakathi kweGazede. 50

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